

# HOUSE BILL NO. 5369

October 06, 2021, Introduced by Reps. Carra and Eisen and referred to the Committee on Transportation.

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 11, 12, and 13 (MCL 247.661, 247.662, and 247.663), section 11 as amended by 2015 PA 175, section 12 as amended by 2020 PA 152, and section 13 as amended by 2020 PA 153, and by adding section 13c.

**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

1 deposited in the state trunk line fund is appropriated to the  
2 department for the following purposes in the following order of  
3 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 former 1955 PA 87 and the resolution of the state administrative  
20 board adopted August 6, 1956, for the payment of which a sufficient  
21 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 contracts entered  
29 into under section 18d. A sufficient portion of the fund is

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

7 (b) For the transfer of money appropriated under section  
8 ~~10(1)(i)~~**10(1)(j)** to the transportation economic development fund  
9 **created in section 2 of 1987 PA 231, MCL 247.902**, but the transfer  
10 ~~shall~~**must** be reduced each fiscal year by the amount of debt  
11 service to be paid in that year from the state trunk line fund for  
12 bonds, notes, or other obligations issued to fund projects of the  
13 transportation economic development fund **created in section 2 of**  
14 **1987 PA 231, MCL 247.902**, ~~which in an amount shall~~**that must** be  
15 certified by the department.

16 (c) For the transfer of money appropriated under section  
17 10(1)(a) to the rail grade crossing account in the state trunk line  
18 fund for expenditure for rail grade crossing improvement purposes  
19 at rail grade crossings on public roads and streets under the  
20 jurisdiction of this state, counties, cities, or villages. The  
21 department shall select projects for funding in accordance with the  
22 following:

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

26 (ii) In prioritizing projects for this money, in whole or in  
27 part, the department shall consider train and vehicular traffic  
28 volumes, accident history, traffic control device improvement  
29 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~~**this** state to the local  
19 road 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~~ **Except if a contract is entered into under section**  
6 **13c, of** the amounts appropriated for state trunk line projects, the  
7 department shall, where possible, secure pavement warranties for  
8 full replacement or appropriate repair for contracted construction  
9 work on pavement projects whose cost exceeds \$2,000,000.00 and  
10 projects for new construction or reconstruction undertaken after  
11 ~~the effective date of the 2015 amendatory act that amended this~~  
12 ~~subsection.~~ **April 1, 2016.** The department shall compile and make  
13 available to the public an annual report of all warranties that  
14 were secured under this subsection and all pavement projects whose  
15 costs exceed \$2,000,000.00 where a warranty was not secured as  
16 provided in subsection (14). If an appropriate certificate is filed  
17 under section 18e but only to the extent necessary, this subsection  
18 does not prohibit the use of any amount of money restricted as to  
19 use by section 9 of article IX of the state constitution of 1963  
20 and deposited in the state trunk line fund for the payment of debt  
21 service on bonds, notes, or other obligations pledging for the  
22 payment thereof money restricted as to use by section 9 of article  
23 IX of the state constitution of 1963 and deposited in the state  
24 trunk line fund, whenever issued, as specified under subsection  
25 (1) (a). The amounts that are deducted from the state trunk line  
26 fund for the purpose of the calculation required by this subsection  
27 are as follows:

28 (a) Amounts expended for the purposes described in subsection  
29 (1) (a) for the payment of debt service on bonds, notes, or other



1 obligations issued before July 2, 1983.

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

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

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

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

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

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

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

28 (g) Amounts expended for the purposes described in subsection  
29 (5).

1 (h) Amounts appropriated for deposit in the transportation  
2 economic development fund **created in section 2 of 1987 PA 231, MCL**  
3 **247.902**, and the rail grade crossing account ~~pursuant to~~**under**  
4 section 10(1) (a) and ~~(h)~~**(j)**.

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

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

22 (4) Notwithstanding any other provision of this section, the  
23 department may loan money to a local road agency for paying capital  
24 costs of transportation purposes described in the second paragraph  
25 of section 9 of article IX of the state constitution of 1963 from  
26 the proceeds of bonds or notes issued pursuant to section 18b or  
27 from the state trunk line fund. Loans made directly from the state  
28 trunk line fund ~~shall~~**may** be made only after provision of money for  
29 the purposes specified in subsection (1) (a) to (f). Loans described

1 in this subsection are not subject to the revised municipal finance  
2 act, 2001 PA 34, MCL 141.2101 to 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 1941 PA 205, MCL 252.51 to 252.64, or has been or may in the future  
11 be pledged for the payment of the principal and interest upon notes  
12 issued under 1943 PA 143, MCL 141.251 to 141.254, or has been or  
13 may in the future be pledged for the payment of principal and  
14 interest upon bonds issued under section 18c or 18d, or has been or  
15 may in the future be pledged for the payment of the principal and  
16 interest upon bonds issued under 1952 PA 175, MCL 247.701 to  
17 247.707.

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. 12. (1) The amount distributed to the county road  
2 commissions must be returned to the county treasurers in the  
3 manner, for the purposes, and under the terms and conditions  
4 specified in this section. The department and the ~~Country~~**County**  
5 Road Association of Michigan shall jointly develop incentives for  
6 counties to establish statewide purchasing pools for the more  
7 efficient use of Michigan transportation funds.

8           (2) Each county road commission ~~shall~~**must** be reimbursed in an  
9 amount up to \$10,000.00 per year for the sum paid to a licensed  
10 professional engineer employed or retained by the county road  
11 commission in the previous year. The sum must be returned to each  
12 county road commission certified by the department as complying  
13 with this subsection regarding the employment of an engineer.

14           (3) An amount equal to 1% of the total amount returned to the  
15 county road commissions from the Michigan transportation fund  
16 during the prior calendar year must be withheld annually from the  
17 counties' November monthly distribution provided for in section 17,  
18 and the amount must be returned to the county road commissions for  
19 snow removal purposes as provided in section 12a.

20           (4) An amount equal to 10% of the total amount returned to the  
21 county road commissions from the Michigan transportation fund must  
22 be returned to each county road commission having county primary,  
23 or county local road, or both, mileage in the urban areas as  
24 determined under section 12b. This sum ~~shall~~**must** be distributed as  
25 provided in section 12b. The return must be in addition to the  
26 amounts provided in subsections (6) and (7) and for the purposes  
27 stated in those subsections.

28           (5) An amount equal to 4% of the total amount returned to the  
29 county road commissions from the Michigan transportation fund must



1 be returned to the county road commissions in the same percentages  
2 under subsection (7). All money returned to the county road  
3 commissions ~~as provided in~~ **under** this subsection must be expended  
4 by the county road commissions for the preservation, construction,  
5 acquisition, and extension of county local road systems and is in  
6 addition to the amounts provided in subsection (7).

7 (6) Except as otherwise provided in subsection (23), 75% of  
8 the remainder of the total amount to be returned to the counties  
9 must be expended by each county road commission for the  
10 preservation, construction, acquisition, and extension of the  
11 county primary road system, including the acquisition of a  
12 necessary right of way for the system, work incidental to the  
13 system, and a roadside park or motor parkway appurtenant to the  
14 system, and must be returned to the counties as follows:

15 (a) Three-fourths of the amount in proportion to the amount  
16 received within the respective county during the 12 months next  
17 preceding the date of each monthly distribution, as specific taxes  
18 upon registered motor vehicles under the Michigan vehicle code,  
19 1949 PA 300, MCL 257.1 to 257.923.

20 (b) One-tenth of the amount in the same proportion that the  
21 total mileage in the county primary road system of each county  
22 bears to the total mileage in all of the county primary road  
23 systems of this state.

24 (c) One eighty-third of the remaining 15% of the amount to  
25 each county.

26 (7) Except as otherwise provided in subsection (23), the  
27 balance of the remainder of the total amount to be returned to  
28 counties must be expended by each county road commission for the  
29 preservation, construction, acquisition, and extension of the

1 county local road system as defined by this act, including the  
2 acquisition of a necessary right of way for the system, work  
3 incidental to the system, and a roadside park or motor parkway  
4 appurtenant to the system, and must be returned to the counties as  
5 follows:

6 (a) Sixty-five percent of the amount in the same proportion  
7 that the total mileage in the county local road system of each  
8 county bears to the total mileage in all of the county local road  
9 systems of this state.

10 (b) Thirty-five percent of the amount in the same proportion  
11 that the total population outside of incorporated municipalities in  
12 each county bears to the total population outside of incorporated  
13 municipalities in all of the counties of this state, according to  
14 the most recent statewide federal census as certified at the  
15 beginning of the state fiscal year.

16 (8) Money deposited in, or becoming a part of the county road  
17 funds of a board of county road commissioners must be expended  
18 first for the payment of principal and interest on the bonds, for  
19 the payment of contractual contributions pledged for the payment of  
20 bonds, for debt service requirements for the payment of contractual  
21 contributions pledged for the payment of bonds, and for debt  
22 service requirements for the payment of notes and loans in the  
23 following order of priority:

24 (a) For the payment of contributions required to be made by a  
25 board of county road commissioners under a contract entered into  
26 under 1941 PA 205, MCL 252.51 to 252.64, that have been pledged for  
27 the payment of the principal and interest on bonds issued under  
28 that act, or for the payment of total debt service requirements  
29 upon notes issued by a board of county road commissioners under

1 1943 PA 143, MCL 141.251 to 141.254.

2 (b) For the payment of principal and interest on bonds issued  
3 under section 18c, and the payment of contributions of a board of  
4 county road commissioners made under contracts entered into under  
5 section 18d that are pledged to the payment of principal and  
6 interest on bonds issued after June 30, 1957, under the  
7 authorization of section 18c and contracts executed under section  
8 18c.

9 (c) For the payment of principal and interest upon loans  
10 received under section 11(5), to the extent other funds have not  
11 been made available for that payment.

12 (9) Beginning November 1, 2008, no more than 50% per year of  
13 the amount returned to a county for use on the county primary road  
14 system may be expended, with or without matching, on the county  
15 local road system of that county. Except as otherwise provided in  
16 this subsection, beginning September 30, 2010, no more than 30% per  
17 year of the amount returned to a county for use on the county  
18 primary road system may be expended, with or without matching, on  
19 the county local road system of that county. An additional amount,  
20 not to exceed 20% per year of the amount returned to a county for  
21 use on the county primary road system, may be expended on the  
22 county local road system of that county if there is an emergency or  
23 if the county road commission determines that an additional 20% may  
24 be expended on the county local road system. The county road  
25 commission may attach any conditions to its determination if the  
26 determination is for nonemergency purposes, including, but not  
27 limited to, a requirement that the additional 20% expended on the  
28 county local road system only be used to supplement money from  
29 other sources. No more than 15% per year of the amount returned to

1 a county for expenditure on the county local road system may be  
2 used, with or without matching, on the county primary road system  
3 of that county, and not to exceed an additional 15% per year of the  
4 amount returned to a county for expenditure on the county local  
5 road system, may, in case of an emergency or with the approval of  
6 the county road commission, be expended, with or without matching,  
7 on the county primary road system of that county. An amount  
8 returned to a county for and on account of county local roads under  
9 this section that is in excess of the total amount paid into the  
10 county treasury each year by all of the townships of that county  
11 for and on account of the county local roads ~~pursuant to~~ **under**  
12 section 14(6) may be transferred to and expended on the county  
13 primary road system of that county.

14 (10) Not less than 20% per year of the money returned to a  
15 county by this section must be expended for snow and ice removal,  
16 the reconstruction of an existing highway if not in conflict with  
17 its asset management plan as provided in section 9a, and the  
18 acquisition of a necessary right of way for those highways, and  
19 work incidental to those highways, or for the servicing of bonds  
20 issued by the county for these purposes. A county may expend  
21 surplus money for the development, construction, or repair of an  
22 off-street parking facility.

23 (11) Not more than 5% per year of the money returned to a  
24 county for the county road system must be expended for the  
25 maintenance, improvement, or acquisition of appurtenant roadside  
26 parks and motor parkways.

27 (12) Money returned to a county must be expended by the county  
28 road commission for the purposes provided in this section and must  
29 be deposited by the county treasurer in a designated county

1 depository, in a separate account to the credit of the county road  
2 fund, and must be paid out only on the order of the county road  
3 commission, and interest accruing on the money must become a part  
4 of, and be deposited with the county road fund.

5 (13) In a county to which money is returned under this  
6 section, the function of the county road commission is limited to  
7 the formation of policy and the performance of the official duties  
8 imposed by law and delegated by the county board of commissioners.  
9 A member of the county road commission ~~shall~~**must** not be employed  
10 individually in any other capacity for other duties with the county  
11 road commission.

12 (14) A county road commission may enter into an agreement with  
13 a county road commission of an adjacent county and with a city or  
14 village to perform work on a highway, road, or street, and with the  
15 department with respect to a state trunk line highway and  
16 connecting links of the state trunk line highway within the limits  
17 of the county or adjacent to the county. The agreement may provide  
18 for the performance by each contracting party of the work  
19 contemplated by the contract including engineering services and the  
20 acquisition of rights of way in connection with the work  
21 contemplated, by purchase or condemnation, by any of the  
22 contracting parties in its own name and the agreement may provide  
23 for joint participation in the costs.

24 (15) Money distributed from the Michigan transportation fund  
25 may be expended for construction purposes on county local roads  
26 only to the extent matched by money from other sources. However,  
27 Michigan transportation funds may be expended for the construction  
28 of bridges on the county local roads in an amount not to exceed 75%  
29 of the cost of the construction of local road bridges. The match

1 may exceed 75% of the cost of construction in the case of a public  
2 emergency.

3 (16) Notwithstanding any other provision of this act, at least  
4 90% of the state revenue returned annually to the county road  
5 commission from the Michigan transportation fund less the amounts  
6 described in subdivisions (a) to (e) must be expended annually by  
7 the county road commission for the preservation of highways, roads,  
8 streets, and bridges, and for the payment of contractual  
9 contributions pledged for the payment of bonds or portions of  
10 bonds, debt service requirements for the payment of bonds or  
11 portions of bonds, and debt service requirements for the payment of  
12 notes and loans or portions of notes and loans issued or received  
13 after July 1, 1983, for the purpose of providing money for the  
14 preservation of highways, roads, streets, and bridges. If an  
15 appropriate certificate is filed under subsection (18) but only to  
16 the extent necessary, this subsection does not prohibit the use of  
17 any amount of state revenue returned annually to the county road  
18 commissions for the payment of contractual contributions pledged  
19 for the payment of bonds, for debt service requirements for the  
20 payment of bonds, and for debt service requirements for the payment  
21 of notes or loans, whenever issued or received, as specified under  
22 subsection (8). The amounts that are deducted from the state  
23 revenue returned to a county road commission from the Michigan  
24 transportation fund, for the purpose of the calculation required by  
25 this subsection are as follows:

26 (a) Amounts expended for the purposes described in subsection  
27 (8) for bonds, notes, loans, or other obligations issued or  
28 received before July 2, 1983.

29 (b) Amounts expended for the administrative costs of the

1 county road commission.

2 (c) Amounts expended for capital outlay projects for equipment  
3 and buildings, and for the payment of contractual contributions  
4 pledged for the payment of bonds, for debt service requirements for  
5 the payment of bonds, and for debt service requirements for the  
6 payment of notes and loans issued or received after July 1, 1983,  
7 for the purpose of providing funds for capital outlay projects for  
8 equipment and buildings.

9 (d) Amounts expended for projects vital to the economy of the  
10 local area or the safety of the public in the local area. Before  
11 these amounts can be deducted, the governing body over the county  
12 road commission or the county road commission, as applicable, ~~shall~~  
13 **must** pass a resolution approving these projects. This resolution  
14 must state the projects that will be funded and the cost of each  
15 project. A copy of each approved resolution must be forwarded  
16 immediately to the department.

17 (e) Amounts expended in urban areas as determined under  
18 section 12b.

19 (17) As used in this subsection, "urban routes" means those  
20 portions of 2-lane county primary roads within an urban area that  
21 have average daily traffic in excess of 15,000. Notwithstanding any  
22 other provision of this act, except as provided in this subsection,  
23 a county road commission shall annually expend at least 90% of the  
24 federal revenue distributed to the county road commission for  
25 highways, roads, streets, and bridges, less the amount expended on  
26 urban routes for purposes other than preservation and the amount  
27 expended for hard-surfacing of gravel roads on the federal-aid  
28 system, on the preservation of highways, roads, streets, and  
29 bridges. A county road commission may expend in 1 year less than

1 90% of the federal revenue distributed to the county road  
2 commission for highways, roads, streets, and bridges, less the  
3 amount expended on urban routes for purposes other than  
4 preservation and the amount expended for hard-surfacing of gravel  
5 roads on the federal-aid system, on the preservation of highways,  
6 roads, streets, and bridges, if that year is part of a 3-year  
7 period in which at least 90% of the total federal revenue  
8 distributed in the 3-year period to the county road commission for  
9 highways, roads, streets, and bridges, less the amount expended on  
10 urban routes for purposes other than preservation purposes and the  
11 amount expended for hard-surfacing of gravel roads on the federal-  
12 aid system, is expended on the preservation of highways, roads,  
13 streets, and bridges. If a county road commission expends in 1 year  
14 less than 90% of the federal revenue distributed to the county road  
15 commission for highways, roads, streets, and bridges, less the  
16 amount expended on urban routes for purposes other than  
17 preservation and the amount expended for hard-surfacing of gravel  
18 roads on the federal-aid system, on the preservation of highways,  
19 roads, streets, and bridges and that year is not a part of a 3-year  
20 period in which at least 90% of the total federal revenue  
21 distributed in the 3-year period to the county road commission for  
22 highways, roads, streets, and bridges, less the amount expended on  
23 urban routes for purposes other than preservation and the amount  
24 expended for hard-surfacing of gravel roads on the federal-aid  
25 system, is expended on the preservation of highways, roads,  
26 streets, and bridges, the county road commission shall expend in  
27 each year subsequent to the 3-year period 100%, or less in 1 year  
28 if sufficient for the purposes of this subsection, of the federal  
29 revenue distributed to the county road commission for highways,



1 roads, streets, and bridges, less the amount expended on urban  
2 routes for purposes other than preservation and the amount expended  
3 for hard-surfacing of gravel roads on the federal-aid system, on  
4 the preservation of highways, roads, streets, and bridges until the  
5 average percentage spent on the preservation of highways, roads,  
6 streets, and bridges in the 3-year period and the subsequent years,  
7 less the amount expended on urban routes for purposes other than  
8 preservation and the amount expended for hard-surfacing of gravel  
9 roads on the federal-aid system, is at least 90%. A year may be  
10 included in only one 3-year period for the purposes of this  
11 subsection. The requirements of this subsection are waived if  
12 compliance would cause the county road commission to be ineligible  
13 for federal revenue under federal law, but only to the extent  
14 necessary to make the county road commission eligible for that  
15 revenue under federal law. For the purpose of the calculations  
16 required by this subsection, the amount expended on urban routes by  
17 a county road commission for purposes other than preservation and  
18 the amount expended for hard-surfacing of gravel roads on the  
19 federal-aid system must be deducted from the total federal revenue  
20 distributed to the use of the county road commission.

21 (18) A county road commission shall certify to the department  
22 on or before the issuance of any bonds or notes issued after July  
23 1, 1983, under 1943 PA 143, MCL 141.251 to 141.254, 1941 PA 205,  
24 MCL 252.51 to 252.64, or section 18c or 18d, for purposes other  
25 than the preservation of highways, roads, streets, and bridges and  
26 purposes other than the purposes specified in subsection (16) (c)  
27 that its average annual debt service requirements for all bonds and  
28 notes or portions of bonds and notes issued after July 1, 1983, for  
29 purposes other than the preservation of highways, roads, streets,

1 and bridges and other than for the purposes specified in subsection  
2 (16) (c), including the bond or note to be issued does not exceed  
3 10% of the money returned to the county road commission under this  
4 act, less the amounts specified in subsection (16) (a), (b), and (c)  
5 during the last completed fiscal year of the county road  
6 commission. If the purpose for which the bonds or notes are issued  
7 is changed after the issuance of the notes or bonds, the change  
8 must be made in a manner that maintains compliance with the  
9 certification required by this subsection, as of the date the  
10 certificate was originally issued, but the change does not  
11 invalidate or otherwise affect the bonds or notes with respect to  
12 which the certificate was issued or the obligation to pay debt  
13 service on the bonds or notes. A certification under this  
14 subsection is conclusive as to the matters stated in the  
15 certification for purposes of the validity of bonds and notes.

16 (19) In each charter county to which funds are returned under  
17 this section, the responsibility for road improvement,  
18 preservation, and traffic operation work, and the development,  
19 construction, or repair of off-road parking facilities and  
20 construction or repair of road lighting must be coordinated by a  
21 single administrator designated by the county executive who ~~shall~~  
22 ~~be-is~~ responsible for and ~~shall represent~~ **represents** the charter  
23 county in transactions with the department under this act.

24 (20) Not more than 10% per year of all of the money received  
25 by and returned to a county from any source for the purposes of  
26 this section may be expended for administrative expenses. A county  
27 that expends more than 10% for administrative expenses in a year is  
28 subject to section 14(5) unless a waiver is granted by the  
29 department of treasury. As used in this subsection, "administrative

1 expenses" means expenses that are not assigned including, but not  
2 limited to, specific road construction or preservation projects and  
3 are often referred to as general or supportive services.

4 Administrative expenses do not include net equipment expense, net  
5 capital outlay, debt service principal and interest, and payments  
6 to other state or local offices that are assigned, but not limited  
7 to, specific road construction projects or preservation activities.

8 (21) In addition to the financial compliance audits required  
9 by law, the department may conduct performance audits and make  
10 investigations of the disposition of all state money received by  
11 county road commissions, county boards of commissioners, or any  
12 other county governmental agency acting as the county road  
13 authority, for transportation purposes to determine compliance with  
14 the terms and conditions of this act. Performance audits must be  
15 conducted according to government auditing standards issued by the  
16 United States General Accounting Office. The department shall  
17 develop performance audit procedures and reporting requirements  
18 sufficient to determine whether money expended under this section  
19 was expended in compliance with this act by September 1, 2012 and  
20 shall report to the transportation committees of the senate and  
21 house of representatives no later than October 1, 2012 on the  
22 additional audit procedures and reporting requirements. The  
23 department shall provide notice to the county road commission,  
24 county board of commissioners, or any other county governmental  
25 agency acting as the county road authority, as applicable, of the  
26 standards to be used for audits performed under this subsection.  
27 The notice must be provided 6 months ~~prior to~~ **before** the fiscal  
28 year in which the audit is conducted. The department shall notify  
29 the county road commission, county board of commissioners, or any

1 other county governmental agency acting as the county road  
 2 authority of any subsequent changes to the standards. County road  
 3 commissions, county boards of commissioners, or any other county  
 4 governmental agencies acting as county road authorities, as  
 5 applicable, shall make available to the department the pertinent  
 6 records for the audit. Performance audits may be performed at the  
 7 discretion of the department or on receiving a request from the  
 8 speaker of the house of representatives or the senate majority  
 9 leader.

10 (22) ~~Of~~ **Except if a contract is entered into under section**  
 11 **13c, of** the amounts appropriated for a county primary or local road  
 12 system under this section, where possible, a county road commission  
 13 shall secure pavement warranties for full replacement or  
 14 appropriate repair for contracted construction work on pavement  
 15 projects whose cost exceeds \$2,000,000.00 and projects for new  
 16 construction or reconstruction undertaken after April 1, 2016, if  
 17 allowed by the Federal Highway Administration and the department. A  
 18 county road commission shall submit a proposed warranty program to  
 19 the department for approval no later than April 1, 2016. If a  
 20 proposed warranty program submitted under this subsection is  
 21 approved by the department, the county road commission shall  
 22 implement the program no later than 1 year after the approval. A  
 23 county road commission shall include a list of all warranties that  
 24 were secured under this subsection and indicate whether any of  
 25 those warranties were redeemed with the report required under  
 26 section 14(3), and shall also list all pavement projects whose cost  
 27 exceeds \$2,000,000.00 for which a warranty was not secured. The  
 28 list must include, but is not limited to, all of the following  
 29 information:

1 (a) The type of project.

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

3 (c) The expected lifespan of the project.

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

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

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

11 (23) Once the asset management plan for a county as described  
12 in section 9a has been approved, amounts distributed to a county  
13 under this section ~~shall~~**must** be expended toward attainment of the  
14 condition goals in the asset management plan and as otherwise  
15 required by this act.

16 (24) A county road commission may use a portion of the amount  
17 returned to the county under this section for the payment of debt  
18 service on bonds, notes, or other obligations.

19 Sec. 13. (1) The amount distributed to cities and villages  
20 must be returned to the treasurers of the cities and villages in  
21 the manner, for the purposes, and under the terms and conditions  
22 specified in this section. The amount received by a newly  
23 incorporated municipality must be in place of any other direct  
24 distribution of money from the Michigan transportation fund. The  
25 population of a newly incorporated municipality as determined under  
26 this section must be added to the total population of all  
27 incorporated cities and villages in this state in computing the  
28 amounts to be returned under this section to each municipality in  
29 ~~the~~**this** state. Major street mileage, local street mileage, and

1 equivalent major mileage, if applicable, must be determined by the  
2 department before the next month for which distribution is made  
3 following the effective date of incorporation of a newly  
4 incorporated municipality.

5 (2) From the amount available for distribution to cities and  
6 villages during each December, an amount equal to 0.7% of the total  
7 amount returned to all cities and villages under subsections (3)  
8 and (4) during the previous calendar year must be withheld. The  
9 amount withheld must be used to partially reimburse cities and  
10 villages located in counties that are eligible for snow removal  
11 funds under section 12a and that have costs for winter maintenance  
12 on major and local streets that are greater than the statewide  
13 average. The distributions must be made annually during February  
14 and must be calculated separately for the major and local street  
15 systems but may be paid in a combined warrant. The distribution to  
16 a city or village must be equal to 1/2 of its winter maintenance  
17 expenditures after deducting the product of its total earnings  
18 under subsections (3) and (4) multiplied by 2 times the average  
19 municipal winter maintenance factor. Winter maintenance  
20 expenditures must be determined from the street financial reports  
21 for the most current fiscal years ending before July 1. A city or  
22 village that does not submit a street financial report for the  
23 fiscal year ending before July 1 by the subsequent December 31 is  
24 ineligible for the winter maintenance payment that is to be based  
25 on that street financial report. The department shall determine the  
26 average municipal winter maintenance factor annually by dividing  
27 the total expenditures of all cities and villages on winter  
28 maintenance of streets and highways by the total amount earned by  
29 all cities and villages under subsections (3) and (4) during the 12

1 months. If the sum of the distributions to be made under this  
2 subsection exceeds the amount withheld, the distributions to each  
3 eligible city and village must be reduced proportionately. If the  
4 sum is less than the amount withheld, the balance must be added to  
5 the amount available for distribution under subsections (3) and (4)  
6 during the next month. The distributions are for use on the major  
7 and local street systems respectively and are subject to the same  
8 provisions as money returned under subsections (3) and (4).

9 (3) Seventy-five percent of the remaining amount to be  
10 returned to the cities and villages, after deducting the amounts  
11 withheld under subsection (2), must be returned 60% in the same  
12 proportion that the population of each bears to the total  
13 population of all cities and villages, and 40% in the same  
14 proportion that the equivalent major mileage in each bears to the  
15 total equivalent major mileage in all cities and villages. The  
16 amount returned under this subsection must be used by each city and  
17 village for the following purposes in the following order of  
18 priority:

19 (a) For the payment of contributions required to be made by a  
20 city or village under the provisions of contracts previously  
21 entered into under 1941 PA 205, MCL 252.51 to 252.64, that have  
22 been previously pledged for the payment of the principal and  
23 interest on bonds issued under that act; or for the payment of the  
24 principal and interest upon bonds issued by a city or village under  
25 1952 PA 175, MCL 247.701 to 247.707.

26 (b) Payment of obligations of the city or village on highway  
27 projects undertaken by the city or village jointly with the  
28 department.

29 (c) For the payment of principal and interest on loans

1 received under section 11(5), to the extent other money has not  
2 been made available for that payment.

3 (d) Except as otherwise provided in this subdivision, for the  
4 preservation, construction, acquisition, and extension of the major  
5 street system as defined by this act including the acquisition of a  
6 necessary right of way for the system, work incidental to the  
7 system, and an appurtenant roadside park or motor parkway, of the  
8 city or village and for the payment of the principal and interest  
9 on that portion of the city's or village's general obligation bonds  
10 that are attributable to the construction or reconstruction of the  
11 city's or village's major street system. However, once an asset  
12 management plan described in section 9a has been approved, funds  
13 ~~shall~~**must** be used for the preservation, construction, and  
14 acquisition of the street system as provided in subsection (16) or  
15 for an emergency as described in section 11c. Not more than 5% per  
16 year of the money returned to a city or village by this subsection  
17 ~~shall~~**may** be expended for the preservation or acquisition of  
18 appurtenant roadside parks and motor parkways. Surplus money may be  
19 expended for the development, construction, or repair of off-street  
20 parking facilities, and the construction or repair of street  
21 lighting, and transfer to the local street system under subsection  
22 (6).

23 (e) For capital outlay projects for equipment and buildings,  
24 contributions pledged for the payment of loans and for the payment  
25 of contractual debt service requirements for the payment of bonds  
26 for the purpose of providing money for capital outlay projects for  
27 equipment and buildings necessary to the development and  
28 maintenance of the road system ~~so long as~~**if** amounts allocated  
29 under this subdivision are used for transportation purposes.



1           (4) The remaining amount to be returned to incorporated cities  
2 and villages must be expended in each city or village for the  
3 preservation, construction, acquisition, and extension of the local  
4 street system of the city or village, including the acquisition of  
5 a necessary right of way for the system, work incidental to the  
6 system, and subject to subsection (5), for the payment of the  
7 principal and interest on the portion of the city's or village's  
8 general obligation bonds that are attributable to the construction  
9 or reconstruction of the city's or village's local street system.  
10 However, once an asset management plan described in section 9a has  
11 been approved, funds ~~shall~~**must** be used for the preservation,  
12 construction, and acquisition of the street system as provided in  
13 subsection (16) or for an emergency as described in section 11c.  
14 The amount returned under this subsection must be returned to the  
15 cities and villages 60% in the same proportion that the population  
16 of each bears to the total population of all incorporated cities  
17 and villages in this state, and 40% in the same proportion that the  
18 total mileage of the local street system of each bears to the total  
19 mileage in the local street systems of all cities and villages of  
20 this state. The payment of the principal and interest on bonds  
21 issued by a city or village under 1952 PA 175, MCL 247.701 to  
22 247.707, and after that payment, the payment of debt service on  
23 loans received under section 11(5), must have priority in the  
24 expenditure of money returned under this subsection.

25           (5) Money distributed to each city and village for the  
26 maintenance and preservation of its local street system under this  
27 act represents the total responsibility of this state for local  
28 street system support. Money distributed from the Michigan  
29 transportation fund must not be expended for construction purposes

1 on city and village local streets except to the extent matched from  
2 local revenues including other money returned to a city or village  
3 by this state under the state constitution of 1963 and statutes of  
4 this state, from money that can be raised by taxation in cities and  
5 villages for street purposes within the limitations of the state  
6 constitution of 1963 and statutes of this state, from special  
7 assessments, or from any other source.

8 (6) Money returned under this section to a city or village  
9 must be expended on the major and local street systems of that city  
10 or village. However, the first priority is the major street system.  
11 Money returned for expenditure on the major street system must be  
12 expended in the priority order provided in subsection (3) except  
13 that surplus money may be transferred for preservation of the local  
14 street system. Major street money transferred for use on the local  
15 street system must not be used for construction but may be used for  
16 preservation. A city or village shall not transfer more than 50% of  
17 its annual major street funding for the local street system unless  
18 it has adopted and is following an asset management process for its  
19 major and local street systems and adopts a resolution with a copy  
20 to the department setting forth all of the following:

21 (a) A list of the major streets in that city or village.

22 (b) A statement that the city or village is adequately  
23 maintaining its major streets.

24 (c) The dollar amount of the transfer.

25 (d) The local streets to be funded with the transfer.

26 (e) A statement that the city or village is following an asset  
27 management process for its major and local street systems.

28 (7) A city or village that has not adopted an asset management  
29 plan shall obtain the concurrence of the department to transfer

1 more than 50% of its major street funding to its local street  
 2 system. The department may provide for pilot projects that would  
 3 allow a city or village that has adopted an asset management plan  
 4 under subsection (6) to combine their local and major street funds  
 5 into 1 street fund and to submit a single report to the department  
 6 on the expenditure of money on the local and major street systems.

7 (8) Not more than 10% per year of all of the money returned to  
 8 a city or village from any source for the purposes of this section  
 9 may be expended for administrative expenses. A city or village that  
 10 expends more than 10% for administrative expenses in a year is  
 11 subject to section 14(5).

12 (9) In each city and village to which money is returned under  
 13 this section, the responsibility for street preservation and the  
 14 development, construction, or repair of off-street parking  
 15 facilities and construction or repair of street lighting ~~shall~~**must**  
 16 be coordinated by a single administrator designated by the  
 17 governing body who ~~shall be~~**is** responsible for and ~~shall represent~~  
 18 **represents** the municipality in transactions with the department  
 19 under this act.

20 (10) Cities and villages may provide for consolidated street  
 21 administration. A city or a village may enter into an agreement  
 22 with other cities or villages, the county road commission, or with  
 23 the state transportation commission for the performance of street  
 24 or highway work on a road or street within the limits of the city  
 25 or village or adjacent to the city or village. The agreement may  
 26 provide for any of the contracting parties to perform the work  
 27 contemplated by the contracts including services and acquisition of  
 28 rights of way, by purchase or condemnation in its own name. The  
 29 agreement may provide for joint participation in the costs if

1 appropriate.

2 (11) Interest earned on money returned to a city or a village  
3 for purposes provided in this section must be credited to the  
4 appropriate street fund.

5 (12) In addition to the financial compliance audits required  
6 by law, the department may conduct performance audits and make  
7 investigations of the disposition of all state money received by  
8 cities and villages for transportation purposes to determine  
9 compliance with the terms and conditions of this act. Performance  
10 audits must be conducted according to government auditing standards  
11 issued by the United States General Accounting Office. The  
12 department shall develop all performance audit procedures and  
13 reporting requirements sufficient to determine whether money  
14 expended under this section was expended in compliance with this  
15 act by September 1, 2012 and shall report to the transportation  
16 committees of the senate and house of representatives no later than  
17 October 1, 2012 on the additional audit procedures and reporting  
18 requirements. The audit procedures must include a review of the  
19 road fund balance of the city or village. The cities and villages  
20 shall report their road fund balances by fund balance component.  
21 The department shall assist cities and villages to ensure that road  
22 fund balances are consistently classified and are in compliance  
23 with the audit and reporting requirements of this section. The  
24 department shall provide notice to cities and villages of the  
25 standards to be used for audits under this subsection ~~prior to~~  
26 **before** the fiscal year in which the audit is conducted. The  
27 department shall notify cities and villages of any subsequent  
28 changes to the standards. Cities and villages shall make available  
29 to the department the pertinent records for the audit. Performance

1 audits may be performed at the discretion of the department or on  
2 receiving a request from the speaker of the house of  
3 representatives or the senate majority leader.

4 (13) ~~Of~~ **Except if a contract is entered into under section**  
5 **13c, of** the amounts appropriated for a city or village major or  
6 local street system under this section, where possible, a city or  
7 village shall secure pavement warranties for full replacement or  
8 appropriate repair for contracted construction work on pavement  
9 projects whose cost exceeds \$2,000,000.00 and projects for new  
10 construction or reconstruction undertaken after April 1, 2016 if  
11 allowed by the Federal Highway Administration and the department. A  
12 city or village shall submit a proposed warranty program to the  
13 department for approval no later than February 1, 2017. If a  
14 proposed warranty program submitted under this subsection is  
15 approved by the department, the city or village shall implement the  
16 program no later than 1 year after the approval. A city or village  
17 shall include a list of all warranties that were secured under this  
18 subsection and indicate whether any of those warranties were  
19 redeemed with the report required under section 14(3), and shall  
20 also list all pavement projects whose cost exceeds \$2,000,000.00  
21 for which a warranty was not secured. The list ~~shall~~ **must** include,  
22 but is not limited to, all of the following information:

23 (a) The type of project.

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

25 (c) The expected lifespan of the project.

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

28 (e) If the project failed to meet or is not meeting its  
29 expected lifespan, the cause of the failure and the cost to replace

1 or repair the project.

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

4 (14) With the approval of the director of the department, a  
5 city may use up to 20% of the amount received by that city under  
6 this section for public transit purposes if more than 10,000,000  
7 passengers used public transit within that city during the previous  
8 fiscal year.

9 (15) A city or village may use a portion of the amount  
10 returned to the city or village under this section for the payment  
11 of debt service on bonds, notes, or other obligations.

12 (16) Once the asset management plan for a city or village as  
13 described in section 9a has been approved, amounts distributed to a  
14 city or village under this section ~~shall~~**must** be expended toward  
15 attainment of the condition goals in the asset management plan and  
16 as otherwise required by this act.

17 (17) As used in this section:

18 (a) "Administrative expenses" means expenses that are not  
19 assigned under this section, including, but not limited to,  
20 specific road construction or maintenance projects, and are often  
21 referred to as general or supportive services. Administrative  
22 expenses do not include net equipment expense, net capital outlay,  
23 debt service principal and interest, or payments to other state or  
24 local offices that are assigned, but not limited to, specific road  
25 construction projects or maintenance activities.

26 (b) "Equivalent major mileage" means the sum of 2 times the  
27 state trunk line mileage certified by the department as of March 31  
28 of each year, as being within the boundaries of each city and  
29 village having a population of 25,000 or more, plus the major

1 street mileage in each city and village, multiplied by the  
2 following factor:

3 (i) 1.0 for cities and villages of 2,000 or less population.

4 (ii) 1.1 for cities and villages from 2,001 to 10,000  
5 population.

6 (iii) 1.2 for cities and villages from 10,001 to 20,000  
7 population.

8 (iv) 1.3 for cities and villages from 20,001 to 30,000  
9 population.

10 (v) 1.4 for cities and villages from 30,001 to 40,000  
11 population.

12 (vi) 1.5 for cities and villages from 40,001 to 50,000  
13 population.

14 (vii) 1.6 for cities and villages from 50,001 to 65,000  
15 population.

16 (viii) 1.7 for cities and villages from 65,001 to 80,000  
17 population.

18 (ix) 1.8 for cities and villages from 80,001 to 95,000  
19 population.

20 (x) 1.9 for cities and villages from 95,001 to 160,000  
21 population.

22 (xi) 2.0 for cities and villages from 160,001 to 320,000  
23 population.

24 (xii) For cities over 320,000 population, a factor of 2.1  
25 increased successively by 0.1 for each 160,000 population increment  
26 over 320,000.

27 (c) "Population" means the population according to the most  
28 recent statewide federal census as certified at the beginning of

1 the state fiscal year, except that, if a municipality has been  
2 newly incorporated since completion of the census, the population  
3 of the municipality for purposes of the distribution of money  
4 before completion of the next census is the population as  
5 determined by special federal census, if there is a special federal  
6 census, and if not, by the population as determined by the official  
7 census in connection with the incorporation, if there is such a  
8 census and, if not, by a special state census to be taken at the  
9 expense of the municipality by the secretary of state under section  
10 6 of the home rule city act, 1909 PA 279, MCL 117.6.

11 **Sec. 13c. (1) Beginning 90 days after the effective date of**  
12 **the amendatory act that added this section, subject to subsections**  
13 **(2) and (3), the department must, and a local road agency may, if**  
14 **undertaking a new construction or full reconstruction of a highway**  
15 **segment or bridge, obtain a contract that provides for a contractor**  
16 **to design, build, operate, preserve, and maintain the highway**  
17 **segment or bridge for not less than 10 years after the project is**  
18 **completed.**

19 (2) The standards required for the designing, building,  
20 operating, preserving, and maintaining of a highway segment or  
21 bridge under a contract described in subsection (1) may be  
22 negotiated between the department or local road agency and the  
23 contractor.

24 (3) A contract described in subsection (1) may provide for the  
25 financing of the project and must provide, at a minimum, for both  
26 of the following:

27 (a) If the contractor breaches the contract, the department or  
28 local road agency may either withhold payments or renegotiate the  
29 terms of the contract with the contractor.



1           (b) The lowest contract payment made during any 1 year of the  
2 contract term must be not less than 10% of the highest contract  
3 payment made during any 1 year of the contract term.

4           (4) As used in this section:

5           (a) "Local road agency" means that term as defined in section  
6 9a.

7           (b) "Operate" does not include operating tolling on a highway  
8 segment or bridge.