

**SENATE  
STATE OF MINNESOTA  
NINETY-FIRST SESSION**

**S.F. No. 3878**

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DATE	D-PG	OFFICIAL STATUS
03/02/2020	5126	Introduction and first reading Referred to Transportation Finance and Policy
03/11/2020	5386a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety Finance and Policy
03/16/2020		Withdrawn and re-referred to Finance

1.1 A bill for an act

1.2 relating to transportation; providing for deposit of certain revenues and security

1.3 for certain federal loans; establishing accounts; appropriating money; amending

1.4 Laws 2010, chapter 351, section 69; proposing coding for new law in Minnesota

1.5 Statutes, chapter 169.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. **[169.882] DEPOSIT OF CERTAIN REVENUES; SECURITY FOR LOAN.**

1.8 Subdivision 1. Security for federal loan agreement. A loan entered into by the

1.9 commissioners of transportation and management and budget pursuant to Laws 2010, chapter

1.10 351, section 69, and any interest thereon shall be payable solely from and secured by the

1.11 revenues transferred to the TIFIA loan fund established for this purpose in subdivision 3

1.12 and investment income thereon. The loan is not public debt, and the full faith, credit, and

1.13 taxing powers of the state are not pledged for its payment. The loan and the interest thereon

1.14 shall not be paid, directly or indirectly, in whole or in part, from a tax of statewide application

1.15 on any class of property, income, transaction, or privilege.

1.16 Subd. 2. Nondedicated transportation permit fees defined; fees credited to special

1.17 revenue account. (a) For the purposes of this section, "nondedicated transportation permit

1.18 fees" means fees collected from the permits issued by the commissioner of transportation

1.19 under section 169.86, subdivision 5, but does not include the fee described in section 169.86,

1.20 subdivision 5, paragraph (i).

1.21 (b) Notwithstanding section 169.86, subdivision 5, during any fiscal year in which a

1.22 loan is entered into and remains outstanding under subdivision 1 and Laws 2010, chapter

1.23 351, section 69, all nondedicated transportation permit fees must be credited to the

2.1 nondedicated permit fees account in the special revenue fund, which is established in the  
2.2 state treasury.

2.3 (c) Money credited to the nondedicated permit fees account must be transferred to the  
2.4 TIFIA loan fund established in subdivision 3, at the times and in the amounts determined  
2.5 by the commissioners of transportation and management and budget to be necessary to  
2.6 provide for the payment and security of a loan entered into pursuant to Laws 2010, chapter  
2.7 351, section 69, costs of issuance, refinancing costs, and necessary administrative expenses  
2.8 associated with the loan.

2.9 (d) Any money in the nondedicated permit fees account not required to be transferred  
2.10 to the TIFIA loan fund must be annually transferred to the trunk highway fund. If a loan is  
2.11 not entered into and outstanding under subdivision 1, all nondedicated transportation permit  
2.12 fees must be credited to the trunk highway fund.

2.13 Subd. 3. **TIFIA loan fund established.** There is established in the state treasury a TIFIA  
2.14 loan fund. Money in the fund is appropriated to the commissioner of management and  
2.15 budget to pay the principal and interest on a loan authorized under subdivision 1 and Laws  
2.16 2010, chapter 351, section 69, costs of issuance, refinancing costs, and necessary  
2.17 administrative expenses associated with the loan. For purposes of this subdivision, TIFIA  
2.18 means the Transportation Infrastructure Finance and Innovation Act of 1998, established  
2.19 in United States Code, title 23, chapter 6.

2.20 Subd. 4. **Covenants and agreements.** (a) The commissioners of transportation and  
2.21 management and budget may, for and on behalf of the state, enter into such covenants and  
2.22 agreements not inconsistent with this section as may be necessary or desirable to facilitate  
2.23 the execution and delivery of a loan agreement authorized under subdivision 1 and Laws  
2.24 2010, chapter 351, section 69, on terms favorable to the state, including but not limited to  
2.25 covenants and agreements relating to the payment of and security for the loan agreement  
2.26 and disclosure of information required by the federal government and federal and state  
2.27 securities laws.

2.28 (b) Such covenants and agreements of the commissioners of transportation and  
2.29 management and budget constitute an enforceable contract of the state, and the state shall  
2.30 pledge and agree with the holders of any loan agreement that the state will not limit or alter  
2.31 the rights vested in the commissioners of transportation and management and budget to  
2.32 fulfill the terms of any such covenants or agreements made with the holders of the loan  
2.33 agreement or in any way impair the rights and remedies of the holders until the loan  
2.34 agreement, together with the interest thereon, with interest on any unpaid installments of

3.1 interest, and all costs and expenses in connection with any action or proceeding by or on  
 3.2 behalf of such holders, are fully met and discharged.

3.3 (c) The commissioners of transportation and management and budget are authorized to  
 3.4 include this pledge and agreement of the state in any covenant or agreement with the holders  
 3.5 of such loan agreement.

3.6 (d) Such covenants may also include covenants to seek increased nondedicated  
 3.7 transportation permit fees so long as any loan agreement issued pursuant to this section is  
 3.8 outstanding.

3.9 (e) A loan entered into pursuant to Laws 2010, chapter 351, section 69, shall be treated  
 3.10 like certificates of indebtedness under sections 16A.672 to 16A.675.

3.11 Subd. 5. **Applicability.** Subdivision 2 does not apply to any permit described in section  
 3.12 169.86, subdivision 5, that is determined by the attorney general or a court of competent  
 3.13 jurisdiction to be a tax.

3.14 Subd. 6. **Waiver of immunity.** The waiver of immunity by the state provided for by  
 3.15 section 3.751, subdivision 1, applies to the loan, any certificates of indebtedness, and any  
 3.16 ancillary contracts to which the commissioners of transportation and management and  
 3.17 budget are parties under this section.

3.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.19 Sec. 2. Laws 2010, chapter 351, section 69, is amended to read:

3.20 **Sec. 69. TIFIA PILOT PROGRAM.**

3.21 (a) The commissioner of transportation may conduct a pilot program to apply for and  
 3.22 receive financial assistance under the Transportation Infrastructure Finance and Innovation  
 3.23 Act of 1998 (TIFIA), United States Code, title 23, chapter 6, or through other federal  
 3.24 transportation loan, grant, or credit assistance programs. The assistance may include but is  
 3.25 not limited to loans, loan guarantees, and lines of credit. The commissioner may enter into  
 3.26 agreements to repay the financial assistance subject to the availability of state money or  
 3.27 other dedicated revenue or resources, with the approval of ~~Minnesota~~ the commissioner of  
 3.28 management and budget.

3.29 (b) The pilot program under this section is available for ~~one transportation project~~  
 3.30 identified by the commissioner a project in Nicollet County to expand a trunk highway from  
 3.31 two lanes to four lanes and that was the subject of an Infrastructure for Rebuilding America

4.1 (INFRA) grant application submitted by the commissioner of transportation to the United  
4.2 States Department of Transportation on February 24, 2020.

4.3 (c) Upon completion of the transportation project under the pilot program, the  
4.4 commissioner shall submit a report on the pilot program to the chairs and ranking minority  
4.5 members of the house of representatives and senate committees having jurisdiction over  
4.6 transportation policy and finance. At a minimum, the report must: describe the transportation  
4.7 project undertaken and each financing mechanism utilized; analyze the effectiveness of  
4.8 each financing mechanism; evaluate the costs, risks, and benefits of additional participation  
4.9 in federal financial assistance programs; and provide any recommendations for related  
4.10 legislative changes. The report may be submitted electronically, and is subject to Minnesota  
4.11 Statutes, section 3.195, subdivision 1.

4.12 (d) An amount sufficient to repay the financial assistance as specified in paragraph (a)  
4.13 is annually appropriated from the TIFIA loan fund created in Minnesota Statutes, section  
4.14 169.882.

4.15 **EFFECTIVE DATE.** This section is effective the day following final enactment.