MN HOUSE RESEARCH

Transportation Bonding

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Overview

One of the ways in which the state pays for transportation infrastructure is through bonds. Bonds are a finance mechanism where money is borrowed from investors with a promise of repayment over an agreed-upon schedule and interest rate. In transportation, Minnesota primarily uses two forms of state bonding: (1) **general obligation (G.O.) bonds** for various types of transportation infrastructure, such as local roads, transit facilities, and airports; and (2) **trunk highway bonds** for the state's trunk highway system. While both are forms of general obligation bonding—backed by the full faith, credit, and taxing powers of the state—they differ in their constitutional underpinnings, allowed uses of bond proceeds, and sources of debt repayment.

This brief describes transportation-related bonding, outlining its primary forms and providing information on uses. It is limited to state (as opposed to local or federal) bonding. For a general overview of bonding and capital investment, including state constitutional limitations, see the Minnesota House Research Department brief *Capital Investment and State Bonding*, January 2019.

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Background

In general terms, bonding is a project-financing mechanism in which investors provide money to a bond issuer in exchange for scheduled repayment over time with interest. Bonds are one of the tools used by the state (and political subdivisions) to fund capital projects.

The Minnesota Constitution plays an important role in state bonding, restricting and imposing conditions on bonding. A key requirement in the constitution is that proceeds from general obligation bonding are limited to a purpose that is:

- **public** (that is, designed to achieve a public policy goal);
- **authorized** by the constitution; and
- **clearly specified** in law (i.e., the legislation providing for bonding must "distinctly specify the purposes" for those bonds). Minn. Const. art. XI, §§ 4, 5, 7.

Some other features of bonding are outlined as follows.

- **Bonds are a form of debt.** While often conceptualized as *funding* for projects, bonds are not really a revenue source. Since bonds must be repaid with interest, they reflect debt financing rather than generating additional permanent revenue.

- **Bonds enable additional projects to be undertaken sooner and reduce available funds in the future.** One of the primary effects of bonding is to accelerate when some projects are initiated (but not how many total projects can generally be done over time). While bonds allow financing additional projects sooner, debt service payments in the ensuing years reduce the amount of funds that would otherwise be available at that time.

- **The state pledges its full faith, credit, and taxing powers** as backing to general obligation bonds.[1] This is a commitment on the part of the state to repay all bonds issued.

- **Bonds must have a term of no longer than 20 years.**[2] Minn. Const. art. XI, § 7.

Forms of State Transportation-Related Bonding

Minnesota law provides for several different types of state bonds, and each carries distinct requirements. Most relevant to transportation are various forms of "general obligation" bonding, which involve an unlimited pledge of revenue for repayment. Other types of bonds, such as appropriation bonds, revenue bonds, and lease revenue bonds, are not discussed here as they are not typically used by the state to finance transportation projects.

[1] Some other forms of bonding lack a state pledge, but are not regularly used in transportation are not discussed here.

[2] This requirement does not apply to some forms of bonding.

The key forms of transportation-related bonds are summarized below and outlined in subsequent sections.

Types of Transportation-Related Bonding

Type	Uses	Primary Entities Involved	Votes for Bill Passage
General obligation (G.O.) bonds	Transportation capital projects (such as local roads, railroad crossings, and transit facilities); also, various nontransportation capital	Various state agencies such as MnDOT; Metropolitan Council; local government (as grant recipients)	Three-fifths
Trunk highway bonds	Trunk highway system only	MnDOT	Simple majority
Airport bonding	Airports and air navigation facilities	MnDOT; local government (as grant recipients)	Simple majority
Railroad bonding	Rail-related, which can include rehabilitation of privately owned rail facilities	MnDOT; local government and private railroad companies (as grant recipients)	Simple majority

Notes
"MnDOT" is the Minnesota Department of Transportation.
Minn. Const. art. XI § 5 (a), (e), (g), (i), art. XIV § 11; Minn. Stat. §§ 174.50-174.51.

General Obligation versus Trunk Highway Bonds

The Minnesota Constitution establishes a notable distinction between (1) general obligation bonds for most transportation facilities, and (2) bonds issued for the state's trunk highway system. There is generally a firewall between the two bonding types that dictates use of one or the other to finance a given project.

- **General obligation (G.O.) bonds** are available for a variety of transportation capital such as local roads and bridges, ports, bus facilities, and light rail projects. The bond proceeds cannot be used for projects on the trunk highway system. Minn. Const. art. XI, § 5 (a).

- **Trunk highway bonds** are constitutionally limited to capital projects that are part of, or functionally related to, the trunk highway system (i.e., interstates, U.S. highways, and state highways under the jurisdiction of the Minnesota Department of Transportation). The bonds cannot be used for purposes outside of the trunk highway system. Minn. Const. arts. XI, § 5 (e); XIV, § 11.

G.O. Bonds for Public Lands and Buildings

The Minnesota Constitution limits general obligation bonding to a specific list of allowed purposes. A major authorized purpose is "to acquire and to better public land and buildings and other public improvements of a capital nature." Minn. Const. art. XI, § 5 (a). This is the constitutional authority for a wide variety of G.O. bonds issued by the state, including:

- local road systems;
- various transportation capital projects, including highway-rail grade crossing separations, passenger and commuter rail lines, and bus facilities; and
- a wide range of nontransportation capital projects, such as state higher education facilities, civic buildings, and wastewater infrastructure.

A note on terminology: While each type of transportation-related bonding can be considered a general obligation of the state, the term "G.O. bonds" as used in this brief refers to the constitutionally identified "public land and buildings" purpose. These bonds are also referred to as "paragraph (a)" bonds when drawing bonding distinctions, because the authorizing language is found in the state constitution at paragraph (a) of article XI, section 5.

Features. There are several distinguishing aspects of G.O. bonds, most of which are constitutional prerequisites.

- **Bond-financed land or property must be publicly owned.** Public ownership includes the state and local units of government. It does not include ownership by the federal government, Indian tribes, nonprofit organizations, or other private entities. Ownership can take the form of a long lease or easement if particular conditions are met.

- **The financed project costs must be capital in nature.** A capital project refers in general to acquisition or betterment of longer-lived fixed assets, meeting the requirements of "capital" under generally accepted accounting principles. Improvements must be substantial, extend the useful life or substantially increase the value of the fixed asset, and not be predictable or recurring.

- **Legislation authorizing bond issuance requires at least a three-fifths vote** in each body of the legislature. This is a higher vote threshold for passage relative to most legislation, which typically requires a simple majority (i.e., over 50 percent).

- **G.O. bond proceeds cannot be used for the trunk highway system.** Any bond proceeds used for a trunk highway project must be through trunk highway bonds, which are discussed below.

- **The bonds are backed by a pledge of statewide property taxes** under a constitutional provision. In practice, however, the debt service (principal and interest due) on G.O. bonds is paid from the General Fund via regular transfers following a mechanism established in state law. Minn. Const. art. XI, § 7; Minn. Stat. § 16A.641. (Because of the General Fund transfer provision, it has not been necessary to levy the tax to pay G.O. bonds since the repeal of the state property tax in 1967.)

Local Road and Bridge Bonding

State statutes establish a subset of G.O. bonds. They are known as "local road and bridge bonds" although there is not a constitutional distinction from G.O. bonds. The difference is instead statutory (mainly relating to provisions on distinct accounting funds of the state). Local road and bridge bonds are backed in the same manner as other G.O. bonds; debt service is paid from the General Fund.

Bond proceeds are mainly used for two state programs: the Local Road Improvement program and the Local Bridge Rehabilitation and Replacement program. Both are administered by the Minnesota Department of Transportation (MnDOT) following a combination of statutory provisions, administrative rules, and agency practices. Minn. Stat. §§ 174.50, 174.52. Aspects of each program are highlighted below.

Use of Local Road and Bridge Bonding

Program	Description	Project Selection	Recent Appropriations
Local Road Improvement	Aid for construction and maintenance of local roads	Competitive evaluation; legislative specification	2020: $75 M 2018: $35 M 2017: $25.3 M 2015: $4.3 M
Local Bridge Replacement and Rehabilitation	Aid for construction, improvement, and removal of county, city, and town bridges	Prioritized master list; legislative specification	2020: $30 M 2018: $5 M 2017: $16.5 M 2015: $7.4 M

Notes
Amounts are in millions.
Amounts exclude appropriations for specified projects.

Trunk Highway Bonds

Trunk highway bonds are a specialized and constitutionally distinct form of bonding.[3] They are authorized through a combination of provisions in the Minnesota Constitution. Minn. Const. arts. XI, §§ 4-7; XIV, § 11.

[3] They are sometimes described as "general obligation trunk highway bonds," as this form of bonding is also a general obligation of the state rather than being backed by a specific income stream or form of collateral.

Features. The key characteristic of trunk highway bonds is that bond proceeds are constitutionally limited solely to capital projects that are part of, or functionally related to, the trunk highway system. Generally, other forms of bonding must be used to finance non-trunk highway projects or project components (e.g., on local roads). Allowable uses are discussed further below.

Trunk highway bonds are also differentiated through various features.

- **Passage of legislation authorizing trunk highway bonds requires a simple majority** in each legislative body. This is the same vote threshold as is typical for bills, so the additional votes required in G.O. bond legislation are not necessary. (Legislation containing both trunk highway and G.O. bonding authority faces the higher three-fifths vote requirement.)

- **Bond proceeds are normally administered by MnDOT.** MnDOT has jurisdiction over the state's trunk highway system. The department uses trunk highway bonds as one of the fiscal tools for trunk highway construction projects that maintain and improve the system.

- **Debt service is paid from the Trunk Highway Fund.** The Trunk Highway Fund is a constitutionally established state accounting fund that largely consists of revenue from dedicated transportation-related taxes (that is, portions of the motor fuels tax, registration tax, and motor vehicle sales tax) and federal aid. Payment of principal and interest on trunk highway bonds have the first claim on Trunk Highway Fund revenues, and the debt is backed by a pledge of state property taxes. Minn. Const. art. XIV, § 6.

- **MnDOT maintains a debt management policy specifically for trunk highway bonding.** Following a directive in state statute, MnDOT has established a policy on trunk highway bonding. It includes a maximum recommended level of debt based on state revenue to the trunk highway system. Debt management is discussed further in Appendix 2.

Permissible uses. Trunk highway bonds are permitted for capital projects that are strictly on the trunk highway system, but the matter can become less clear in various other circumstances. Bond counsel opinions[4] and executive branch guidance[5] lay out some of the factors used to evaluate whether a project, or project components, can be paid with trunk highway bond proceeds. In determining whether project activity qualifies for trunk highway bonding, some of the relevant considerations include:

[4] Bond counsel are attorneys who provide legal opinions on issuance of bonds, and can therefore shape some aspects of state bonding policies. See Appendix 1 for more information.

[5] In particular, see *Minnesota Management and Budget Guidance Relating to Permitted Uses of State Trunk Highway Bond Proceeds*, Minnesota Management and Budget, Dec. 8, 2008, https://mn.gov/mmb/assets/Permitted-Uses-of-State-Trunk-Hwy-Proceeds_tcm1059-128893.pdf (accessed Aug. 31, 2020).

- a predominant purpose that supports the trunk highway system, although this does not necessarily exclude a degree of work on local roads or transit-related facilities depending on specific circumstances;
- whether the expenditures are capital in nature (but potentially including labor costs for those working solely on the project as well as capitalized equipment);
- the nature of the work in construction, maintenance (facility upkeep or preservation), or improvement (permanent additions that increase value);
- physical location of the capital facilities, such as being within trunk highway right-of-way;
- the expected life of the project;
- ownership of the facilities, which for the most part will be owned by the state and managed by MnDOT; and
- net benefits to the trunk highway system, such as through safety, mobility, or operational improvements.

Uses that are less likely to be considered permissible for trunk highway bond proceeds include:

- operating expenditures, such as for minor repairs and general administrative overhead;
- preliminary or general studies to determine the necessity of a project; and
- project components that are not necessary to accommodate trunk highway work or the trunk highway system.

Depending on the circumstances, different elements of a project can sometimes be funded through a combination of trunk highway bonds and other state bonding. For instance, 2018 capital legislation included both trunk highway bonds and state transportation bonds for an interstate highway interchange project that included improvements to local roads.[6]

Airport Bonding

A separate constitutional provision authorizes bonding "to construct, improve and operate airports and other air navigation facilities." Minn. Const. art. XI, § 5 (g).

Despite the specific constitutional authority, bonding for airport facilities is not widely treated as distinct. Legislative practices have not drawn a distinction between bonding for airports projects and G.O. bonds. There is not a statutory program specific to funding airports via bond proceeds. Legislative proposals in recent years have not specifically referenced the airport bonding authority, instead referring more generally to all of the relevant bonding sections in the constitution. As necessary, Minnesota Management and Budget (MMB) differentiates projects between G.O. bonds and airport bonding.

[6] This is the Rockford Road/I-494 Bridge project. Laws 2018, ch. 214, art. 1, § 16, subd. 12.

As with G.O. bonds, airport bonds are backed by the full faith and credit of the state, and debt service is paid from the General Fund.

Railroad Bonding

Bonding for railroad infrastructure is authorized under two constitutional provisions. The first is through G.O. bonds, as discussed previously. That is, public rail infrastructure projects are among those that can be financed via G.O. bonds in the same manner as other transportation capital facilities.

Second, the constitution provides for bonding in a provision that is specific to railroads. It authorizes bonds "to improve and rehabilitate railroad rights-of-way and other rail facilities whether public or private, provided that bonds issued and unpaid shall not at any time exceed $200,000,000 par value…" Minn. Const. art. XI, § 5 (i).

When discussing railroad-related bonding, experts commonly reference the two authorizing provisions based on their respective citations in the constitution. In this context G.O. bonds are referred to as "section 5(a)" or "paragraph (a)" bonds, whereas the railroad-specific purpose is termed "section 5(i)" or "paragraph (i)" bonds.

Among the distinctions in the two constitutional authorizations, section 5(i) bonds:

- can be used for privately owned rail facilities; and
- are subject to a cap in total outstanding debt.

From a recent analysis by MMB, projects categorized as using section 5(i) bonds are projected to total at least $15.0 million against the $200 million ceiling. However, this amount is likely to change. First, the estimation currently includes projects that MMB and MnDOT might ultimately recategorize under as section 5(a) (so that project costs would not count against the debt ceiling). Second, the analysis does not take into account recently enacted authorizations in 2020 legislation. Laws 2020, 5th spec. sess., ch. 3, art. 2, § 2.

Based on a 2001 memo from bond counsel, further differentiation between the two sources of constitutional authority is outlined in the table below.[7]

Railroad Bonding Comparison

Feature	Section 5(a) – G.O. Bonds	Section 5(i) – Railroad-Specific
Basic purposes	To acquire and better publicly owned land and buildings	To improve and rehabilitate publicly or privately owned rail facilities
Improvement and/or rehabilitation	Authorized if publicly owned	Authorized

[7] It is worth noting that the memo is not necessarily binding on future interpretations by bond counsel.

Feature	Section 5(a) – G.O. Bonds	Section 5(i) – Railroad-Specific
“Soft” costs (for sited project)	Authorized	Authorized
Acquisition of land and right-of-way	Authorized if publicly owned	Not authorized[i]
New stations and facilities	Authorized if publicly owned	Not authorized[i]
Acquisition of vehicles or rolling stock	Not authorized	Not authorized
Debt limits	Not constitutionally specified[ii, iii]	$200 million limit
Votes for bill passage	Three-fifths (60%)	Simple majority

Notes

[i] Depending on the specific circumstances, limited acquisition might be authorized when it is secondary to a predominant purpose of improvement or rehabilitation.

[ii] Other restrictions are not constitutional in nature, such as in debt management policies and market responses (e.g., through the state’s credit rating).

[iii] There is a constitutional limitation on authorizing debt by local units of government related to railroads. Minn. Const. art. XI, § 12.

Project-Specific and Programmatic Purposes

Transportation bonding legislation can be viewed as generally utilizing two methods to meet the constitutional requirement to specify the purpose for authorized bonding.

- **Project-specific** bonding identifies an actual sited project and often outlines the nature of the work authorized to be performed using bond proceeds (e.g., design, engineering, environmental analysis, land acquisition, and construction). Examples in the transportation area include projects for light rail and commuter rail lines, local roads and bridges, and facilities at an airport.

- **Programmatic** bonding provides funds for a capital program without specifying the actual projects to be funded. A program can be established by law or administratively through the policies of a department.

Historically, trunk highway bonding legislation has been almost entirely programmatic in nature. In recent years the legislature has authorized trunk highway bonds mainly for state road construction generally as well as for the Trunk Highway Bridge Improvement program and the Corridors of Commerce program. Programs for other modes and systems include the Local Road Improvement program, the Local Bridge Replacement and Rehabilitation program, and the Port Development Assistance program.

Instances of specific bond-financed projects as well as transportation programs are outlined below.

Summary of Example Transportation Projects and Programs

Project/Program	Description	Minn. Stat. §
Project-Specific		
Arterial bus rapid transit lines	Specified list of arterial bus rapid transit routes	N/A
Central Corridor Light Rail Transit (LRT) / Green Line	Light rail transit line between downtowns of Minneapolis and St. Paul	N/A
Local road improvements	Specific local road projects	N/A
Northstar Commuter Rail	Commuter rail line between Big Lake and downtown Minneapolis	N/A
Railroad crossing separations	Grade separation at specified highway-rail crossings	N/A
Programmatic		
Corridors of Commerce	MnDOT program for trunk highway improvements to expand capacity and improve movement of freight	161.088
Greater Minnesota transit	MnDOT-administered aid for Greater Minnesota transit capital projects	174.24
Local Bridge Replacement and Rehabilitation	MnDOT grant program for replacement and improvement of county, city, and town bridges	174.50
Local Road Improvement program	MnDOT grant program for construction and maintenance of county, city, and town roads and bridges	174.52
Minnesota Rail Service Improvement (MRSI) program	MnDOT aid program for rail system improvements and rehabilitation	222.50
Port Development Assistance program	MnDOT aid program for infrastructure and capacity improvements to ports	457A
Railroad crossings	Highway-rail grade crossing warning device projects	No statutory program
Transit capital improvement	Metropolitan Council-administered funds for Twin Cities metropolitan area transitway projects in legislatively specified corridors and for some specified transit facilities	No statutory program

In a number of cases, the legislature has specified the purpose in law using a mixture of the two methods. For instance, an appropriation from bond proceeds is made for a program—such as the Local Bridge Rehabilitation and Replacement program—but riders direct a portion of the funds to be used on a named bridge project.[8] Legislation has also created a hybrid by listing a

[8] For instance, 2017 legislation included a $115.9 million appropriation for the Local Road Improvement program but riders directed the bulk of the funds to specific projects, leaving about $25.3 million undesignated and available for discretionary allocation under the program. Laws 2017, 1st spec. sess., ch. 8, art. 1, § 15, subd. 3.

set of projects for which the bond proceeds funds must or can be used, with no further breakout in amounts for each project.[9] Funding for specified projects can potentially utilize a large share of the total programmatic funding made available.

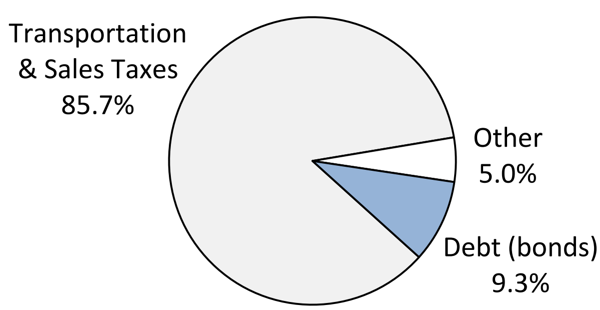
Bonding and Transportation Finance

This section provides a brief introduction to bonding in the context of transportation finance, which involves intricacies in constitutional provisions and distribution formulas. For more detailed finance discussions: see the Minnesota House Research Department briefs *Highway Finance*, January 2021; *Motor Vehicle Sales Tax*, January 2021; *Trunk Highway System*, January 2021; and *Aeronautics System*, January 2020.

Highways. In fiscal year 2019, proceeds from bonding totaled $206.8 million for state and local road projects. This amount represents expenditures on projects in the fiscal year.[10] The following charts summarize state funding for highway systems, with bonding treated as a form of funding. For both the trunk highway and local road systems, bond proceeds form a measurable but relatively minor share of state funding. (Note that federal and local funding sources are not included or discussed further.)

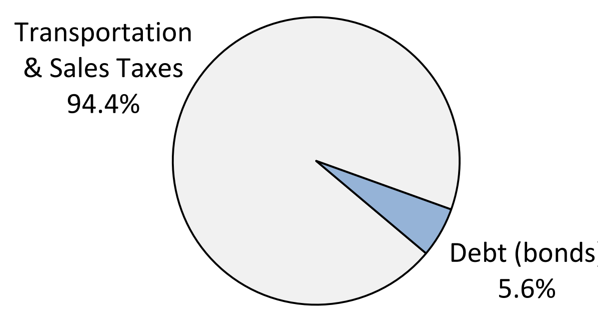
State Funding - Trunk Highways

FY 2019 ($1.57 billion), incl. TH bonding



State Funding - Local Roads

FY 2019 ($1.01 billion), incl. TH bonding



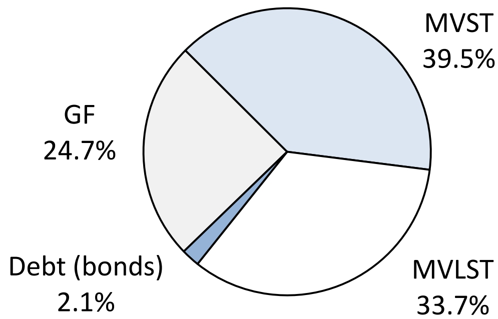
Transit. For both the Twin Cities metropolitan area and Greater Minnesota, bonding forms a small share of state transit funding sources. From 2010 to 2019, bond proceeds expenditures statewide totaled $133.3 million, or a little over 3 percent of state funding. The charts below highlight sources of state transit funding, again treating bond proceeds as a form of funding. In order to help account for significant year-to-year variability in bonding, the charts provide

[9] An example is a 2014 appropriation for transit capital that listed several transitway projects in the Twin Cities metropolitan area but did not specify amounts for each project. Laws 2014, ch. 294, art. 1, § 17.

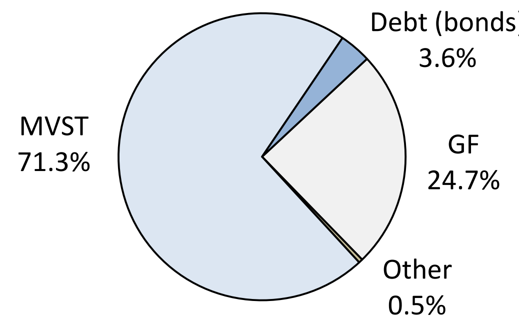
[10] Project *expenditures* from bond proceeds (spending activity on a project) are distinct from both legislative *appropriations* (authorizing spending) and *authorizations* to issue bonds (permitting bonds to be sold). For more information, see Appendix 1.

estimated totals over a ten-year period (so the totals cannot be directly compared to the preceding highway funding charts).[11]

Est. State Funding - Greater MN Transit
2010-19 ($675.6 million), incl. bonding



Est. State Funding - Metro Area Transit
2010-19 ($3.32 billion), incl. bonding



Notes: "GF" refers to the General Fund; "MVST" refers to the motor vehicle sales tax; and "MVLST" refers to motor vehicle lease sales tax revenue.

Bonding Amounts and Uses

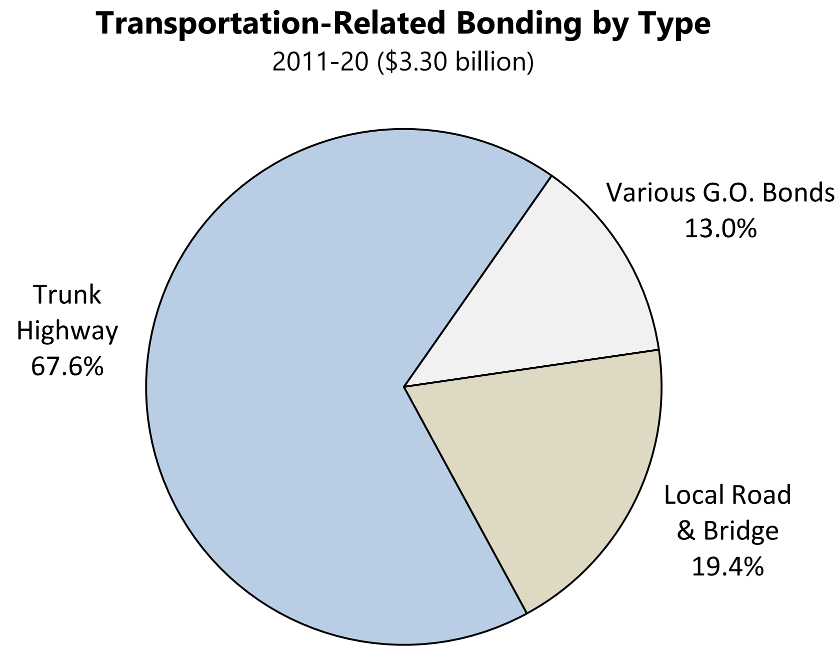
Recent Bonding History

Appropriations of transportation-related bond proceeds totaled nearly $3.30 billion over a ten-year period of 2011 to 2020. The amount has varied rather sporadically year to year, including some years in which no bond legislation was enacted (2013, 2016, and 2019).

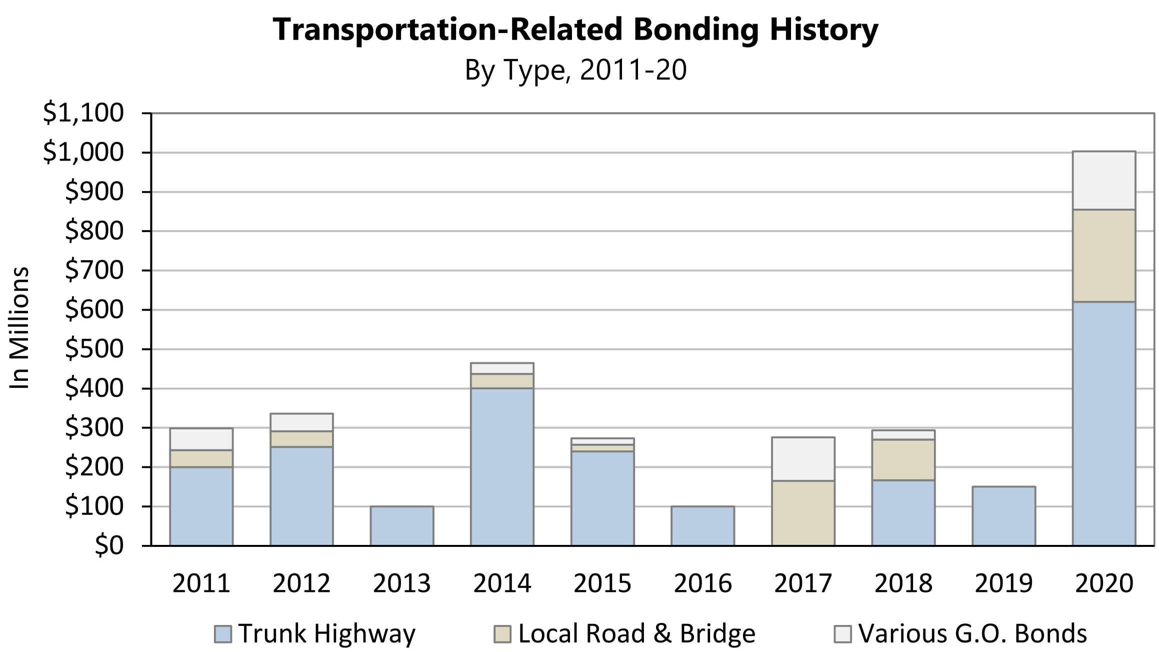
The graphs below provide a breakout by the primary forms of bonding over 2011 to 2020. The first shows the overall split among bonding types. Combining all bonding types over this period, transportation-related bonding averaged $329.6 million annually. The majority—at around three-quarters—was in the form of trunk highway bonds. The subsequent graph shows bonding levels on a yearly basis.[12]

[11] Funds for both capital and transit system operating purposes are included. Amounts are approximate due to conversion to a calendar year basis.

[12] Some trunk highway bonds were appropriated in 2019 and 2020 but the bonding provision was first enacted in a prior year.



Notes: "Various G.O. Bonds" includes railroad and airports bonding. Source: Minnesota House Research Department.



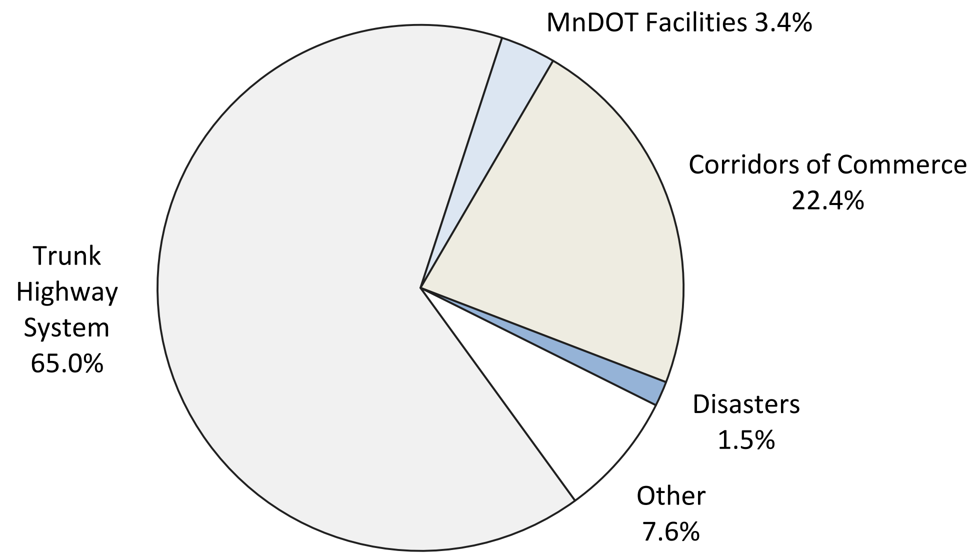
Notes: Year is the initial fiscal year in which bond proceeds are made available (i.e., appropriated). In most years, trunk highway bonds include appropriations in 2008 or 2017 legislation made for multiple subsequent years. Amounts exclude: (1) direct appropriations from the General Fund or Trunk Highway Fund (whether or not made in capital investment legislation); (2) some bicycle/pedestrian parks and trails facilities; (3) some bond sale expenses; and (4) most canceled funds. Source: Minnesota House Research Department.

Trunk Highway Bonds

Bonding for the trunk highway system can be further categorized by the purposes identified in the enacting legislation. From 2011 to 2020, nearly two-thirds of trunk highway bond proceeds were directed to the highway system without further specification. In essence, MnDOT determines the uses based on the agency's regular project selection process. Of the remaining proceeds, a large portion was appropriated for the Corridors of Commerce program, which contains statutory provisions that include requirements for how projects are selected. The following chart summarizes the uses of recent trunk highway bonding.

Trunk Highway Bonding by Purpose

2011-20 ($2.23 billion)



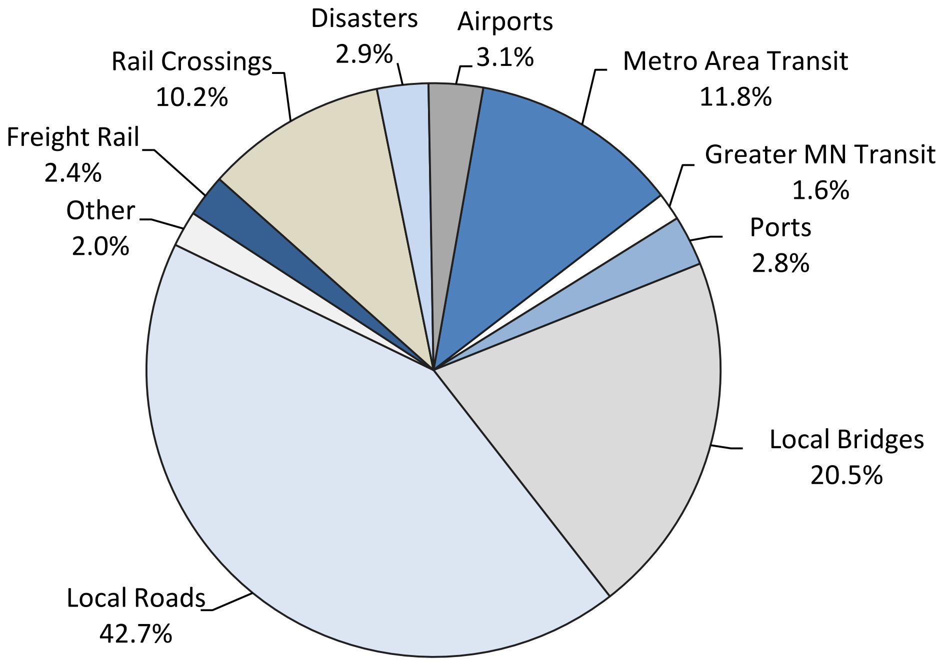
Non-Trunk Highway Bonds

Over the 2011 to 2020 period, appropriations of bond proceeds for transportation projects outside the trunk highway system averaged about $106.7 million annually.[13] The chart below provides a breakout of non-trunk highway bonding for transportation. Bonding-supported transportation modes include:

- roads and bridges, the largest category at about 63.2 percent of bond proceeds;
- transit, totaling roughly 13.4 percent of the funds; and
- rail, with highway-rail grade crossing improvement and separation projects accounting for 12.6 percent of the funds.

[13] The annual average climbs to $152.4 million when only counting those years in which transportation-related G.O. bond proceeds were appropriated (that is, excluding 2013, 2016, and 2019, when there were no additional appropriations).

Non-Trunk Highway Transportation Bonding
2011-20 ($1.07 billion)



Notes: “Freight Rail” includes MRSI program and specified rail projects; “Metro Area Transit” includes transit capital improvement program as well as specified bus rapid transit, light rail, and transit station projects; “Rail crossings” includes railroad warning devices and specified grade separation projects. Amounts exclude (1) direct appropriations from the General Fund (whether or not made in capital investment legislation), (2) some bicycle/pedestrian parks and trails facilities, (3) some bond sale expenses, and (4) most canceled funds.

Appendix 1: Supplemental Background

This appendix provides some additional detail on bonding features and concepts.

Legislative Process

In recent years, transportation-related bonding has traditionally been enacted through two legislative avenues.

- **Capital investment bills**. Each year legislators introduce stand-alone bills that propose bonding for a specific project or set of related projects (often located in the bill author's legislative district). However, enacted capital investment legislation is generally comprehensive in nature: it encompasses all of that year's bonding for transportation as well as numerous other areas of state bonding (sometimes with the exception of trunk highway bonds, discussed below).

- **Transportation budgets.** Recent trunk highway bonding provisions are found in both capital investment legislation and transportation finance legislation (e.g., as part of the biennial transportation budget). Trunk highway bonding legislation only requires a simple majority of votes for enactment, and its inclusion in either type of bill is based on considerations such as the preferences of legislators and the specifics of the projects or programs being funded.

Authorizations and Appropriations

Enacted bonding legislation contains both an *authorization* to issue bonds and *appropriations* of bond proceeds. The bond sale authorization permits the state to create an identified debt obligation (administered through Minnesota Management and Budget), whereas each appropriation provides authority to a named agency to expend a specific amount of funds for an identified purpose (using the bond proceeds money obtained from sale of the bonds). In each law enacted, the sum total for the bond proceeds appropriations equals the authorization amount.

Delayed Appropriations

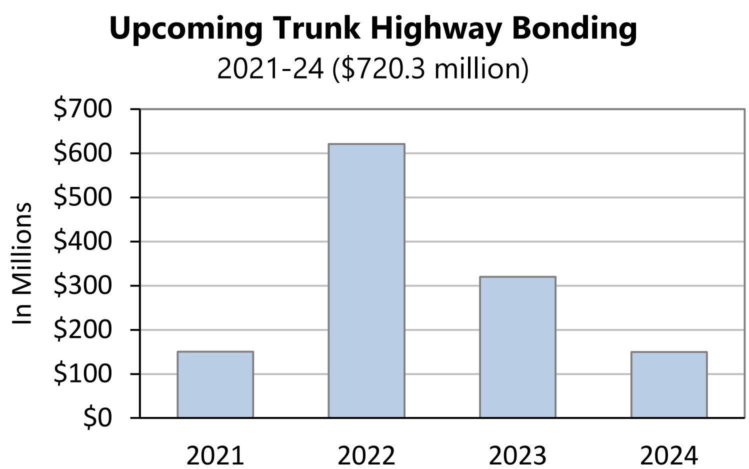
Generally, both bonding authorization and appropriations are made for the year in which the legislation is enacted. However, there are cases in transportation where the legislation delays bond proceeds appropriations to a series of subsequent fiscal years. Three fairly recent examples are noteworthy:

- legislation in 2008 authorized $1.86 billion in trunk highway bonds, and much of the appropriated amounts were initially spread over the following ten years[14];

[14] The time span was shortened in subsequent legislation.

- a 2017 law provided a total of $940 million in trunk highway bonds for state road construction as well as the Corridors of Commerce program, making the funds available over fiscal years 2018-21; and
- a 2018 law provided $400 million in trunk highway bonds for the Corridors of Commerce program, with the funds made available over fiscal years 2022-24. Laws 2008, ch. 152, art. 2; Laws 2017, 1st spec. sess., ch. 3, art. 2; Laws 2018, ch. 214, art. 1, § 16, subd. 11.

The following chart shows the annual amounts of impending trunk highway bonds resulting from delayed appropriations. There are no bond proceeds appropriated after fiscal year 2024.



Debt Issuance

Authorized debt can be *issued* or *unissued*. "Issued" debt identifies bonds that have been sold on the bond market, whereas "unissued" debt refers to bonds that are authorized in law but have not yet been sold.

Many bond-financed projects take multiple years to complete, so that all funds need to be made available at the start of the project and project activity can cross state fiscal years. Further, projects might encounter delays, or come in under budget. As a result, debt is not issued entirely in the first year of bond authorization and appropriation. Instead, bonds authorized in a given year are normally sold over a period of subsequent years. Each bond sale is based on the anticipated total cash needed to pay upcoming costs of all the various bond-financed projects until the next bond sale.

The current unissued debt for state general obligation bonding is estimated to total about $3.22 billion, after accounting for additional authorizations in 2020. This total includes numerous projects that are unrelated to transportation. Trunk highway bonds amount to $1.34 billion.[15]

[15] See *General Obligation Bonds Authorized, Issued and Unissued*, Minnesota Management and Budget, Aug. 2020, https://mn.gov/mmb-stat/debt-management/bonding/AboutStateBonds/Table%20C2%20AuthUniss_082020.pdf (accessed Dec. 10, 2020); *Historical Bond Authorizations*, Minnesota Management and Budget, Oct. 2020, https://mn.gov/mmb-stat/debt-

Unissued trunk highway debt is from a combination of (1) unsold bonds from prior appropriations, and (2) appropriations for upcoming years.

Capital Budgets

Unlike other areas of state budgeting, legislation that appropriates bond proceeds does not establish a base for subsequent capital investment bills. Bonding for a particular program, such as the Local Road Improvement program, can vary without regard to prior funding levels. MMB uses an average of prior bonding to estimate debt service in its forecasts of revenue and expenditures.

Bond Counsel

Bond counsel are specialized attorneys retained by the unit of government issuing the bonds. They act in a third-party role to confirm that the bonds are binding obligations and to identify their tax treatment. Bond counsel opinions provide validation and information for the private market, serving to assure investors that the bonds are legal obligations and to confirm their tax status.

A bond counsel opinion is typically a necessary condition of investors in order to sell the bonds. To issue an "unqualified legal opinion" objectively verifying the validity of the bonds, bond counsel will essentially need to conclude that a court is reasonably expected to find that the bonds are legally valid. Depending on timing with the legislative process, bond counsel feedback or formal opinions can potentially be obtained prior to final enactment of bonding legislation.

management/Capital%20Projects/Bond%20Authorizations/Bond%20Authorizations%20Historic%20Ave102020.pdf (accessed Dec. 10, 2020).

Appendix 2: Debt Management

State Guidelines

Minnesota Management and Budget (MMB) maintains advisory debt guidance for state capital budgeting and planning activities, to assist with the state's credit rating, and to provide information to the bond market.[16] The Capital Investment Guidelines are MMB policies that recommend restrictions on the level and some terms of state borrowing. The guidelines apply to general obligation bonding in its various forms, including both G.O. bonds for public lands and buildings and trunk highway bonds (along with other forms of debt in some cases). Thus the guidelines are for debt issued for transportation along with projects in other areas, including higher education, human services, natural resources, and grants to political subdivisions.

The three debt guidelines are stated as follows:

1) "Total tax-supported principal outstanding shall be 3.25% or less of total state personal income."
2) "Total amount of principal (both issued and authorized but unissued) for state general obligations, state moral obligations, equipment capital leases, and real estate capital leases are not to exceed 6% of state personal income."
3) "40% of general obligation debt shall be due within five years and 70% within ten years, if consistent with the useful life of the financed assets and/or market conditions."[17]

The first two guidelines seek to restrict additional borrowing based on existing and anticipated debt levels. Each guideline limits state debt based on a comparison to personal income (arguably as a measure for state capacity to repay that debt), and each incorporates various forms of debt, including general obligation bonding, appropriation bonds, and lease revenue bonds.

There are also differences. Guideline #1 is comparatively narrow in focus, accounting for current outstanding debt. Guideline #2 is broader: it recognizes outstanding debt along with debt that is authorized but not yet issued, and it also includes some additional forms of state liabilities (like moral obligations and leases). Guideline #3 seeks to ensure that debt is paid down relatively quickly so that the state preserves long-term flexibility.

[16] For further discussion and background, see *Minnesota's Debt Management Policies and Guidelines,* Minnesota House Fiscal Analysis, Jan. 2011, https://www.house.leg.state.mn.us/fiscal/files/11debtmanagement.pdf (accessed Aug. 31, 2020).

[17] See *Debt Capacity Forecast*, Minnesota Management and Budget, Feb. 27, 2020, https://mn.gov/mmb-stat/debt-management/bonding/debt-capacity-reports/2020/DCF%20February%202020%20Final.pdf (accessed Aug. 31, 2020).

MnDOT Debt Management Policy

In addition to general state guidelines, MnDOT maintains a departmental policy on trunk highway bonds.[18] This follows a statutory requirement. Minn. Stat. § 167.60. MnDOT's policy is to restrict trunk highway borrowing so that debt service on trunk highway bonds necessitates no more than 20 percent of annual state revenue to the Trunk Highway Fund. (Recall that the revenue primarily comes from the motor fuels tax, registration tax, and a portion of the motor vehicle sales tax, with comparatively smaller amounts from state sales taxes and miscellaneous sources.)

The policy is advisory, serving as a guide to the agency and the legislature in financial management and capital budgeting.

MnDOT estimates in the November 2020 forecast that the percentage of Trunk Highway Fund revenue used for debt service on trunk highway bonds will peak at 17.1 percent in fiscal year 2024.[19] Put another way, the estimate indicates that there is some capacity for additional trunk highway bonds before reaching the 20 percent limit under the agency's debt management policy.

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[18] See *Debt Management*, Minnesota Department of Transportation, Apr. 17, 2013, http://www.dot.state.mn.us/policy/financial/fm007.html (accessed Aug. 31, 2020).

[19] See *Transportation Funds Forecast November 2020*, Minnesota Department of Transportation, Dec. 4, 2020, http://www.dot.state.mn.us/funding (accessed Dec. 10, 2020).