

(B) The underwriting rule under this subparagraph is for a paid claim history that totals not less than the amount in subparagraph (i)(A) exclusive of weather-related claims and totals not less than the amount in subparagraph (i)(B) including weather-related claims.

(C) The underwriting rule under this subparagraph applies to an insured who has had a home insurance policy with the insurer for a continuous minimum period of time as determined by the insurer that may be any period of time between 5 and 10 years.

(f) The number of residences within the dwelling are inconsistent with the policy forms approved by the commissioner for the insurer.

(g) The unoccupancy of a dwelling for more than 60 days, if there is evidence of an intent to vacate or keep the premises vacant or unoccupied, as to the applicant or insured.

(h) The existence of an adjacent physical hazard, if the hazard presents a significant risk of loss directly related to the perils insured or to be insured against for which a rate surcharge is not applicable. For purposes of this subdivision only, residential property or traffic patterns shall not be considered to cause a significant risk of loss. Nonrenewals based upon an adjacent physical hazard shall be due to a change in the hazard from that which existed at the original date of issuance of the policy.

(i) The failure of the insured or applicant to purchase an amount of insurance in excess of 80% of the replacement cost of the property to be insured under a replacement cost policy, if both of the following conditions are met:

(i) The purchase of an amount of insurance in excess of 80% of the replacement cost is a condition for sale of the policy.

(ii) The insurer offers in this state at least 1 form of a replacement cost policy for which the insurer requires only a minimum amount of insurance equal to 80% of the replacement cost of the dwelling as a condition of purchase.

(j) One or more incidents involving a threat, harassment, or physical assault by the insured or applicant for insurance on an insurer employee, agent, or agent employee while acting within the scope of his or her employment so long as a report of the incident was filed with an appropriate law enforcement agency.

(3) If an insurer establishes an underwriting rule based upon the relationship between the market value and replacement cost pursuant to subsection (2)(d), all the following shall apply as to the repair cost policy:

(a) The insurer shall offer for sale a repair cost policy with deductibles, terms and conditions, perils insured against, and types and amounts of coverage, which are substantially equivalent to the deductibles, terms and conditions, perils insured against, and types and amounts of coverage provided by the replacement cost policy of the insurer at least equivalent to the HO-2 form replacement cost policy filed and in effect in this state for the principal rating organization as of October 1, 1979.

(b) The insurer shall not utilize an underwriting rule based upon the relationship between the market value and replacement cost for the repair cost policy.

(4) The rates of an insurer for a repair cost policy shall be established so that the premium for a repair cost policy shall not exceed 105% of the premium for an amount of insurance equal to 80% of the replacement cost of the dwelling under the equivalent replacement cost policy described in subsection (3)(a). Premiums for dwellings with identical replacement costs shall vary on a schedule determined by the insurer in accordance with the market value of the dwellings.

(5) Off-premises claims may be aggregated for the purposes of subsection (2)(f), irrespective of the location of the insured dwelling. All claims other than off-premises

losses utilized in a determination for purposes of subsection (2)(f) shall be aggregated only as to an insured dwelling. The minimum dollar amounts prescribed in subsection (2)(f)(i) shall be adjusted on January 1, 2006, and on January 1 every sixth year thereafter, to reflect the aggregate annual average percentage change in the consumer price index since the previous adjustment, rounded to the nearest hundred dollars. As used in this subsection, “consumer price index” means the consumer price index for all urban consumers in the U.S. city average, as most recently reported by the United States department of labor, bureau of labor statistics, and after certification by the commissioner in an administrative bulletin.

500.2118 Automobile insurance; condition of maintaining insurer’s certificate of authority; basis of underwriting rules.

Sec. 2118. (1) As a condition of maintaining its certificate of authority, an insurer shall not refuse to insure, refuse to continue to insure, or limit coverage available to an eligible person for automobile insurance, except in accordance with underwriting rules established pursuant to this section and sections 2119 and 2120.

(2) The underwriting rules that an insurer may establish for automobile insurance shall be based only on the following:

(a) Criteria identical to the standards set forth in section 2103(1).

(b) The insurance eligibility point accumulation in excess of the amounts established by section 2103(1) of a member of the household of the eligible person insured or to be insured, if the member of the household usually accounts for 10% or more of the use of a vehicle insured or to be insured. For purposes of this subdivision, a person who is the principal driver for 1 automobile insurance policy shall be rebuttably presumed not to usually account for more than 10% of the use of other vehicles of the household not insured under the policy of that person.

(c) With respect to a vehicle insured or to be insured, substantial modifications from the vehicle’s original manufactured state for purposes of increasing the speed or acceleration capabilities of the vehicle.

(d) Failure by the person to provide proof that insurance required by section 3101 was maintained in force with respect to any vehicle which was both owned by the person and driven or moved by the person or by a member of the household of the person during the 6-month period immediately preceding application. Such proof shall take the form of a certification by the person on a form provided by the insurer that the vehicle was not driven or moved without maintaining the insurance required by section 3101 during the 6-month period immediately preceding application.

(e) Type of vehicle insured or to be insured, based on 1 of the following, without regard to the age of the vehicle:

(i) The vehicle is of limited production or of custom manufacture.

(ii) The insurer does not have a rate lawfully in effect for the type of vehicle.

(iii) The vehicle represents exposure to extraordinary expense for repair or replacement under comprehensive or collision coverage.

(f) Use of a vehicle insured or to be insured for transportation of passengers for hire, for rental purposes, or for commercial purposes. Rules under this subdivision shall not be based on the use of a vehicle for volunteer or charitable purposes or for which reimbursement for normal operating expenses is received.

(g) Payment of a minimum deposit at the time of application or renewal, not to exceed the smallest deposit required under an extended payment or premium finance plan customarily used by the insurer.

(h) For purposes of requiring comprehensive deductibles of not more than \$150.00, or of refusing to insure if the person refuses to accept a required deductible, the claim experience of the person with respect to comprehensive coverage.

(i) Total abstinence from the consumption of alcoholic beverages except when such beverages are consumed as part of a religious ceremony. However, an insurer shall not utilize an underwriting rule based on this subdivision unless the insurer has been authorized to transact automobile insurance in this state prior to January 1, 1981, and has consistently utilized such an underwriting rule as part of the insurer's automobile insurance underwriting since being authorized to transact automobile insurance in this state.

(j) One or more incidents involving a threat, harassment, or physical assault by the insured or applicant for insurance on an insurer employee, agent, or agent employee while acting within the scope of his or her employment so long as a report of the incident was filed with an appropriate law enforcement agency.

500.2121 Home insurance; criteria for selecting dwellings for inspection; inspection program; filing inspection criteria; disapproval of inspection criteria; liability.

Sec. 2121. (1) If an insurer uses an inspection of a dwelling to determine whether the insured or applicant is an eligible person for home insurance, criteria for selecting dwellings for inspection shall not be based upon any of the following:

(a) Location, whether by political subdivision, census tract, zip code, neighborhood, or area which may be described as a block, set of blocks, or by street coordinates.

(b) The age of the dwelling or the age of its plumbing, heating, electrical, or structural components, or of any other components which form a part of the dwelling.

(c) The market value of a dwelling, unless the value is used as a minimum value above which all dwellings will be inspected.

(d) The amount of insurance, unless the amount is used as a minimum above which all dwellings will be inspected.

(e) Race, color, creed, marital status, sex, national origin, residence, age, disability, or lawful occupation.

(2) If an insurer establishes an inspection program that provides for inspection of a portion of its existing business on a periodic basis, the inspection program shall not be based upon any of the criteria in subsection (1)(a), (c), or (e).

(3) Criteria for selecting dwellings for inspection shall be filed with the commissioner for informational purposes only. The commissioner, after a hearing held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, shall disapprove the further use of inspection criteria, if the commissioner finds that the criteria are inconsistent with the provisions of this chapter.

(4) There shall be no civil liability, other than contractual liability where applicable, on the part of, and a cause of action of any nature shall not arise against, the commissioner, an insurer, an inspection bureau, or an authorized representative, agent, employee, affiliate of the commissioner, an insurer, or an inspection bureau or any licensed insurance agent, for acts or omissions related solely to the physical condition of the property in an inspection conducted for insurance purposes pursuant to this chapter.

500.2930 Basic property insurance; amount of premium; surcharge; establishment of rates; filing rates and policy forms.

Sec. 2930. (1) The premium for basic property insurance of any risk by the pool shall be equal to the rate for identical insurance established by a licensed rating organization for identical insurance within this state plus a uniform surcharge approved by the commissioner.

(2) The pool shall establish rates for any basic property insurance that is without rates established by a licensed rating organization or that the pool, with the approval of the commissioner, determines should be otherwise rated in order to better effectuate the purposes of this chapter. The pool shall file with the commissioner for his or her approval each rate and each policy form to be issued by it. The pool, acting as agent for participating members, shall file policy forms for basic property insurance to be issued by participating members under the provisions of this chapter. Rates and policy forms shall be filed in accordance with this chapter as the commissioner designates.

500.2930a Rates charged in territory for home insurance; rating territories; change in rates; review of rates; limitation on premium for repair cost policy; development of plans, rules, classifications, and manual; minimum policy forms; filing rates and policy forms; report.

Sec. 2930a. (1) Except as otherwise provided in subsection (4)(c), rates charged in each territory by the pool for home insurance shall be equal to the weighted average of the 10 voluntary market insurer groups with the largest premium volume in this state. Rating territories for home insurance established by the pool shall be the same as those utilized by the largest number of insurers by premium volume writing home insurance in this state. Any change in the rates for an HO-2 form replacement cost policy by those insurers that would produce a change in excess of 5% in the HO-2 pool rates for any territory shall be reflected as soon as reasonably practicable in the HO-2 pool rates. HO-2 pool rates shall be reviewed at least annually, but shall not be revised more often than quarterly.

(2) In addition to the provisions of subsection (1), the premium established for the repair cost policy offered by the pool shall not exceed the premium for an amount of insurance equal to 80% of the replacement cost of the property under the replacement cost policy of the pool equivalent to the HO-2 form replacement cost policy filed and in effect in this state for a licensed rating organization. Premiums for dwellings with identical replacement costs shall vary on a schedule determined by the pool in accordance with the insured value of the dwelling.

(3) The pool or any other association or organization designated by the pool shall develop statistical plans, rating rules, classifications, territory rating plans, and manuals of classification for home insurance issued on behalf of the pool consistent with this section.

(4) The pool shall offer at least the following home insurance policy forms:

(a) An HO-2 form replacement cost policy equivalent to the HO-2 form replacement cost policy filed and in effect in this state for a licensed rating organization.

(b) A repair cost policy providing the deductibles, terms and conditions, perils insured against, and types and amounts of coverage equivalent to those provided by the HO-2 replacement cost policy filed and in effect for a licensed rating organization.

(c) An HO-3 form replacement cost policy equivalent to the HO-3 form replacement cost policy filed and in effect in this state for a licensed rating organization. The rates established by the pool for the HO-3 form replacement cost policy offered pursuant to this

subdivision shall be calculated to generate a total premium sufficient to cover the expected losses and expenses of the pool related to the HO-3 replacement cost policy that the pool will likely incur during the period for which the premium is applicable. The premium shall include an amount to cover incurred but not reported losses for the period and shall be adjusted for any excess or deficient premiums from previous periods. Excesses or deficiencies from previous periods shall be fully adjusted in a single period or over several periods in a manner provided for in the plan of operation. Rates established by the pool under this subdivision shall not be based upon the weighted average methodology provided for in subsection (1).

(5) Rates and policy forms shall be filed in accordance with such provisions of this chapter as the commissioner designates.

(6) The commissioner shall report in writing to the senate and house of representatives standing committees on insurance issues by July 1, 2005 on the effect in chapter 29 that the amendatory act that added this subsection has had on home insurance premiums in this state.

Approved July 2, 2002.

Filed with Secretary of State July 3, 2002.

[No. 493]

(SB 1268)

AN ACT to amend 1951 PA 51, entitled “An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to 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, critical 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; and to repeal acts and parts of acts,” by amending section 18e (MCL 247.668e), as amended by 1985 PA 201.

The People of the State of Michigan enact:

247.668e Bonds of governmental unit; maturities; interest; measuring maximum annual principal and interest requirements; certification of state transportation commission concerning average annual debt service requirements for certain obligations; “maintenance” defined.

Sec. 18e. Except for bonds issued under section 18c, bonds issued by a governmental unit under this act shall be serial bonds with periodic maturities, or term bonds, with mandatory redemption requirements, or both serial and term bonds, the aggregate of which shall not exceed 30 years, the first of which shall fall due not more than 5 years from the date of issuance. Maturities shall be as established by the resolution or ordinance authorizing the bonds or notes, without regard to the useful lives of the projects financed from the proceeds of the bonds or notes. The bonds shall bear interest, taking into account any discount or premium on the sale of the bonds, at a rate not exceeding the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, may be made redeemable before maturity on those terms and conditions, and with the premium as shall be provided by the proceedings authorizing their issuance. Outstanding and authorized bonds issued pursuant to this act may be treated as a single issue for the purpose of fixing maturities. If pursuant to 1952 PA 175, MCL 247.701 to 247.707, or in 1943 PA 143, MCL 141.251 to 141.254, the maximum annual principal and interest requirements on bonds issued by governmental units are required to be measured by reference to amounts received from the motor vehicle highway fund, the requirements shall be measured by the receipts from the motor vehicle highway fund, the Michigan transportation fund, or both funds, and if pursuant to this act the maximum annual principal and interest requirements on bonds or notes issued by governmental units are required to be measured by reference to amounts received from the Michigan transportation fund, the requirements shall be measured by the receipts from the motor vehicle highway fund, the Michigan transportation fund, or both funds. The state transportation commission shall certify, which certification shall, for purposes of the validity of bonds, notes, and other obligations, be conclusive as to the matters stated therein, to the state treasury on or before the issuance of any bonds, notes, or other obligations payable from and secured by a lien on the state trunk line fund, issued after July 1, 1983, pursuant to section 18b or 18d for purposes other than the maintenance of highways, roads, streets, and bridges and for purposes other than the purposes specified in section 11(2)(b), (c), (d), (g), (h), and (i) that its average annual debt service requirements payable from and secured by a lien on the state trunk line fund for all bonds, notes, and other obligations, or portions of bonds, notes, and other obligations issued after July 1, 1983, for purposes other than the maintenance of highways, roads, streets, and bridges and other than for the purposes specified in section 11(2)(b), (c), (d), (g), (h), and (i), including the bonds, notes, or other obligations to be issued does not exceed 10% of the state revenue appropriated to the state trunk line fund, less the amounts described in section 11(2)(a) to (i) during the last completed state fiscal year. The state transportation commission shall certify, which certification shall, for purposes of the validity of bonds, notes, or other obligations, be

conclusive as to the matters stated in the certification, to the state treasury on or before the issuance of any bonds, notes, or other obligations issued after December 31, 2001, pursuant to section 18b(9) in anticipation of the receipt of grants from the United States or any agency or instrumentality of the United States for distributions to the credit of the state trunk line fund, and not payable from taxes deposited in the state trunk line fund, for purposes other than the preservation of highways, roads, streets, and bridges and for purposes other than the purposes specified in section 11(2)(b), (c), (f), and (i), that its average annual debt service requirements for all bonds, notes, and other obligations, or portions of bonds, notes, or other obligations issued after December 31, 2001, pursuant to section 18b(9) and not payable from taxes deposited in the state trunk line fund, for purposes other than the preservation of highways, roads, streets, and bridges and other than the purposes specified in section 11(2)(b), (c), (f), and (i), including the bonds, notes, or other obligations to be issued, do not exceed 10% of the federal revenue distributed to the credit of the state trunk line fund during the last completed state fiscal year. If the purpose for which the bonds, notes, or other obligations is issued is changed after the issuance of the bonds, notes, or other obligations, the change shall be made in a manner to maintain compliance with the certification required by the preceding sentence, as of the date the certificate was originally issued, but no change shall invalidate or otherwise affect the bonds, notes, or other obligations with respect to which the certificate was issued, or the obligation to pay debt service on the bonds, notes, or other obligations. As used in this section, "maintenance" means maintenance as defined in section 11(4).

This act is ordered to take immediate effect.

Approved July 2, 2002.

Filed with Secretary of State July 3, 2002.

[No. 494]

(SB 1016)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 33, 657, 658, 660, 661, and 662 (MCL 257.33, 257.657, 257.658, 257.660, 257.661, and 257.662), section 33 as amended by 1997 PA 56, sections 657 and 660 as amended by 2000 PA 82, section 658 as amended by 1984 PA 328, and section 662 as amended by 2000 PA 131, and by adding section 13c.

The People of the State of Michigan enact:

257.13c “Electric personal assistive mobility device” defined.

Sec. 13c. “Electric personal assistive mobility device” means a self-balancing nontandem 2-wheeled device, designed to transport only 1 person at a time, having an electrical propulsion system with average power of 750 watts or 1 horsepower and a maximum speed on a paved level surface of not more than 15 miles per hour.

257.33 “Motor vehicle” defined.

Sec. 33. “Motor vehicle” means every vehicle that is self-propelled, but for purposes of chapter 4 of this act motor vehicle does not include industrial equipment such as a forklift, a front-end loader, or other construction equipment that is not subject to registration under this act. Motor vehicle does not include an electric patrol vehicle being operated in compliance with the electric patrol vehicle act. Motor vehicle does not include an electric personal assistive mobility device.

257.657 Rights and duties of persons riding bicycle, electric personal assistive mobility device, or moped or operating low-speed vehicle.

Sec. 657. Each person riding a bicycle, electric personal assistive mobility device, or moped or operating a low-speed vehicle upon a roadway has all of the rights and is subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in this article and except as to the provisions of this chapter which by their nature do not have application.

257.658 Riding on seat of bicycle, motorcycle, or moped; number of persons; crash helmets; rules; requirements for autocycle.

Sec. 658. (1) A person propelling a bicycle or operating a motorcycle or moped shall not ride other than upon and astride a permanent and regular seat attached to that vehicle.

(2) A bicycle or motorcycle shall not be used to carry more persons at 1 time than the number for which it is designed and equipped.

(3) A moped or an electric personal assistive mobility device shall not be used to carry more than 1 person at a time.

(4) A person operating or riding on a motorcycle, and any person less than 19 years of age operating a moped on a public thoroughfare shall wear a crash helmet on his or her head. Crash helmets shall be approved by the department of state police. The department of state police shall promulgate rules for the implementation of this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Rules in effect on June 1, 1970, shall apply to helmets required by this act. This subsection does not apply to a person operating or riding in an autocycle if the vehicle is equipped with a roof which meets or exceeds standards for a crash helmet.

(5) A person operating or riding in an autocycle shall wear seat belts when on a public highway in this state.

257.660 Bicycles, electric personal assistive mobility device, low-speed vehicles, motorcycles, or mopeds; operation on roadway; use of bicycle path; passing; operation of bicycle or moped on sidewalk; operation of low-speed vehicle on highway, road, or street; exception; regulation of electric personal assistive mobility device.

Sec. 660. (1) A person operating a bicycle, electric personal assistive mobility device, low-speed vehicle, or moped upon a roadway shall ride as near to the right side of the

roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction. A motorcycle is entitled to full use of a lane and a motor vehicle shall not be driven in such a manner as to deprive a motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated 2 abreast in a single lane.

(2) A person riding a bicycle, electric personal assistive mobility device, motorcycle, or moped upon a roadway shall not ride more than 2 abreast except on a path or part of a roadway set aside for the exclusive use of those vehicles.

(3) Where a usable and designated path for bicycles is provided adjacent to a roadway, a bicycle rider or an electric personal assistive mobility device operator may, by local ordinance, be required to use that path. Where a usable and designated path for bicycles is provided adjacent to a roadway, a bicycle rider who is less than 16 years of age shall use that path unless accompanied by an adult.

(4) A person operating a motorcycle, moped, low-speed vehicle, electric personal assistive mobility device, or bicycle shall not pass between lines of traffic, but may pass on the left of traffic moving in his or her direction in the case of a 2-way street, or on the left or right of traffic in the case of a 1-way street, in an unoccupied lane.

(5) A person operating a bicycle or an electric personal assistive mobility device on a sidewalk constructed for the use of pedestrians shall yield the right of way to a pedestrian and shall give an audible signal before overtaking and passing the pedestrian.

(6) A moped or low-speed vehicle shall not be operated on a sidewalk constructed for the use of pedestrians.

(7) A low-speed vehicle shall be operated at a speed of not to exceed 25 miles per hour and shall not be operated on a highway, road, or street with a speed limit of more than 35 miles per hour except for the purpose of crossing that highway, road, or street. The state transportation department may prohibit the operation of a low-speed vehicle on any highway under its jurisdiction if it determines that the prohibition is necessary in the interest of public safety.

(8) This section shall not apply to a police officer in the performance of his or her official duties.

(9) An electric personal assistive mobility device shall be operated at a speed not to exceed 15 miles per hour and shall not be operated on a roadway with a speed limit of more than 25 miles per hour except to cross that roadway.

(10) The governing body of a county, city, village, an entity created under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or township may, by ordinance, which is based on the health, safety, and welfare of the citizens, regulate the operation of electric personal assistive mobility devices on sidewalks, roadways, or crosswalks. Except as otherwise provided in this subsection, a governing body of a county, city, village, an entity created under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or township may prohibit the operation of electric personal assistive mobility devices in an area open to pedestrian traffic adjacent to a waterfront or on a trail under their jurisdiction or in a downtown or central business district. Signs indicating the regulation shall be conspicuously posted in the area where the use of an electric personal assistive mobility device is regulated.

(11) Operation of an electric personal assistive mobility device is prohibited in a special charter city and a state park under the jurisdiction of the Mackinac Island state park commission.

(12) Operation of an electric personal assistive mobility device may be prohibited in a historic district.

(13) The department of natural resources may by order regulate the use of electric personal assistive mobility devices on all lands under its control.

257.661 Carrying package, bundle, or article on bicycle, electric personal assistive mobility device, moped, or motorcycle.

Sec. 661. A person operating a bicycle, electric personal assistive mobility device, moped, or motorcycle shall not carry any package, bundle, or article that prevents the driver from keeping both hands upon the handlebars of the vehicle.

257.662 Bicycles or electric personal assistive mobility device; equipment; violation as civil infraction.

Sec. 662. (1) A bicycle or an electric personal assistive mobility device being operated on a roadway between 1/2 hour after sunset and 1/2 hour before sunrise shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear which shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(2) A bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(3) An electric personal assistive mobility device shall enable the operator to bring it to a controlled stop.

(4) A person shall not sell, offer for sale, or deliver for sale in this state a bicycle or a pedal for use on a bicycle, either of which was manufactured after January 1, 1976, unless it is equipped with a type of reflex reflector located on the front and rear surfaces of the pedal. The reflector elements may be either integral with the construction of the pedal or mechanically attached, but shall be sufficiently recessed from the edge of the pedal, or of the reflector housing, to prevent contact of the reflector element with a flat surface placed in contact with the edge of the pedal. The pedal reflectors shall be visible from the front and rear of the bicycle during the nighttime from a distance of 200 feet when directly exposed to the lower beam head lamps of a motor vehicle.

(5) A person shall not sell, offer for sale, or deliver for sale in this state a bicycle manufactured after January 1, 1976 or an electric personal assistive mobility device unless it is equipped with either tires which have reflective sidewalls or with wide-angle prismatic spoke reflectors. If the bicycle or the electric personal assistive mobility device is manufactured with reflective sidewalls, the reflective portion of the sidewall shall form a continuous circle on the sidewall, and may not be removed from the tire without removal of tire material. If the bicycle is equipped with wide-angle prismatic spoke reflectors, the reflectors of the front wheel shall be essentially colorless or amber, and the reflectors on the rear wheel shall be essentially colorless or red. Reflective sidewalls or spoke reflectors shall cause the bicycle to be visible from all distances from 100 feet to 600 feet when viewed under lawful low beam motor vehicle head lamps under normal atmospheric conditions.

(6) A person who violates subsection (1) or (2) is responsible for a civil infraction.

This act is ordered to take immediate effect.

Approved July 2, 2002.

Filed with Secretary of State July 3, 2002.

[No. 495]**(HB 5819)**

AN ACT to amend 1980 PA 299, entitled “An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending sections 2012 and 2014 (MCL 339.2012 and 339.2014), as amended by 1992 PA 103.

The People of the State of Michigan enact:

339.2012 Persons exempted.

Sec. 2012. (1) The following persons are exempt from the requirements of this article:

(a) A professional engineer employed by a railroad or other interstate corporation, whose employment and practice is confined to the property of the corporation.

(b) A designer of a manufactured product, if the manufacturer of the product assumes responsibility for the quality of the product.

(c) An owner doing architectural, engineering, or surveying work upon or in connection with the construction of a building on the owner’s property for the owner’s own use to which employees and the public are not generally to have access.

(d) A person not licensed under this article who is planning, designing, or directing the construction of a detached 1- and 2-family residence building not exceeding 3,500 square feet in calculated floor area. For purposes of this subdivision, detached 1- and 2-family residence building does not include an adult foster care home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(e) A person who is licensed to engage in the practice of architecture, professional engineering, or professional surveying in another state while temporarily in this state to present a proposal for services.

(2) As used in this section:

(a) “Calculated floor area” means that portion of the total gross area measured to the outside surfaces of exterior walls intended to be habitable space.

(b) “Habitable space” means space in a building used for living, sleeping, eating, or cooking. Habitable space does not include a heater or utility room, a crawl space, a basement, an attic, a garage, an open porch, a balcony, a terrace, a court, a deck, a bathroom, a toilet room, a closet, a hallway, a storage space, and other similar spaces not used for living, sleeping, eating, or cooking.

339.2014 Prohibited conduct; penalties.

Sec. 2014. A person is subject to the penalties set forth in article 6 who commits 1 of the following:

(a) Uses the term “architect”, “professional engineer”, “land surveyor”, “professional surveyor”, or a similar term in connection with the person’s name unless the person is licensed in the appropriate practice under this article.

(b) Presents or attempts to use as the person’s own the license or seal of another.

(c) Attempts to use an expired, suspended, or revoked license.

(d) Uses the words “architecture”, “professional engineering”, “land surveying”, “professional surveying”, or a similar term in a firm name without authorization by the appropriate board.

(e) Submits to a public official of this state or a political subdivision of this state for approval, a permit or a plan for filing as a public record, a specification, a report, or a land survey that does not bear 1 or more seals of a licensee as required by this article. This subdivision does not apply to a public work costing less than \$15,000.00 or a residential building containing not more than 3,500 square feet of calculated floor area. As used in this subdivision, “calculated floor area” means that term as defined in section 2012(2)(a).

This act is ordered to take immediate effect.

Approved July 2, 2002.

Filed with Secretary of State July 3, 2002.

[No. 496]

(HB 5380)

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts,” by amending sections 16901, 16902, 16903, 16904a, 16905, 16906, 16908, and 16909 (MCL 324.16901, 324.16902, 324.16903, 324.16904a, 324.16905, 324.16906, 324.16908, and 324.16909), sections 16901 and 16903 as amended and section 16904a as added by 1997 PA 17 and section 16908 as amended by 1995 PA 268, and by adding sections 16903b and 16903c; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.16901 Definitions.

Sec. 16901. As used in this part:

(a) “Abandoned scrap tires” means an accumulation of scrap tires on property where the property owner is not, as determined by the department, responsible in whole or in part for the accumulation of the scrap tires. For the purposes of this subdivision, an owner who purchased or willingly took possession of an existing scrap tire collection site shall be considered by the department to be responsible in whole or in part for the accumulation of the scrap tires.

(b) “Bond” means a performance bond from a surety company authorized to transact business in this state, a certificate of deposit, a cash bond, or an irrevocable letter of credit, in favor of the department.

(c) “Collection site” means a site, other than a disposal area licensed under part 115, a racecourse, or a feed storage location, that contains any of the following:

(i) One or more pieces of adjacent real property where 500 or more scrap tires are accumulated and that is not associated with a retail operation as provided in subparagraph (ii), an automotive recycler as provided in subparagraph (iii), or a commercial contractor as provided in subparagraph (iv).

(ii) One or more pieces of adjacent real property where 1,500 or more scrap tires are accumulated if that property is owned or leased by a person who is a retailer and is not associated with an automotive recycler as provided in subparagraph (iii).

(iii) One or more pieces of adjacent real property where 2,500 or more scrap tires are accumulated if that property is owned or leased by a person who is an automotive recycler as defined in section 2a of the Michigan vehicle code, 1949 PA 300, MCL 257.2a.

(iv) One or more pieces of adjacent real property where more than 150 cubic yards of scrap tire processed material is accumulated if that property is owned or leased by a commercial contractor that is authorized to use the scrap tire processed material as an aggregate replacement in a manner approved by a designation of inertness for scrap tires or is otherwise authorized for such use by the department under part 115.

(d) “Department” means the department of environmental quality.

(e) “End-user” means any of the following:

(i) A person who possesses a permit to burn tires under part 55.

(ii) The owner or operator of a landfill that is authorized under the landfill’s operating license to use scrap tires.

(iii) A person who converts scrap tires into scrap tire processed material used to manufacture other products that are sold in the market but does not manufacture the products that are sold in the market.

(f) “Feed storage location” means a location on 1 or more pieces of adjacent real property containing a commercially operated farming operation where not more than 3,000 scrap tires are used for the purpose of securing stored feed.

(g) “Fund” means the scrap tire regulatory fund created in section 16908.

(h) “Landfill” means a landfill as defined in section 11504 that is licensed under part 115.

(i) “Racecourse” means a commercially operated track for go-carts, vehicles, off-road recreational vehicles, or motorcycles that uses not more than 3,000 scrap tires for bumpers along the track for safety purposes.

(j) “Retailer” means a person who sells or offers for sale new, retreaded, or remanufactured tires to consumers in this state.

(k) “Scrap tire” means a tire that is no longer being used for its original intended purpose including, but not limited to, a used tire, a reusable tire casing, or portions of tires. Scrap tire does not include a vehicle support stand.

(l) “Scrap tire hauler” means a person who, as part of a commercial business, transports scrap tires. Except as otherwise provided in this section, a person who transports more than 7 scrap tires in any truckload shall be considered to be in the commercial business of transporting scrap tires. Scrap tire hauler does not include any of the following:

(i) A person who is not operating a commercial business who is transporting his or her own tires to a location authorized in section 16902(1).

(ii) A member of a nonprofit service organization who is participating in a community service project and is transporting scrap tires to a location authorized in section 16902(1).

(iii) The owner of a farm as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472, who transports only scrap tires that originated from his or her farm operation or is intended for use in a feed storage location.

(iv) A solid waste hauler as defined in part 115 that is transporting solid waste to a disposal area licensed under part 115.

(m) “Scrap tire processed material” means rubber material derived from tires that is marketable and no larger than 2 inches by 2 inches in size. Scrap tire processed material also includes rubber material derived from tires that is larger than 2 inches by 2 inches if the rubber material was produced by a scrap tire processor pursuant to a written contract that provides for the quantity and the quality of the material and a time frame in which the volume of material is to be provided, and the contract is made available to the department upon request.

(n) “Scrap tire processor” means a person who is authorized by this part to accumulate scrap tires and is engaged in the business of buying or otherwise acquiring scrap tires and reducing their volume by shredding or otherwise facilitating recycling or resource recovery techniques for scrap tires.

(o) “Scrap tire recycler” means a person who is authorized by this part to accumulate scrap tires, who acquires scrap tires, and who converts scrap tires into a product that is sold or reused in a manner authorized by this part.

(p) “Solid waste hauler” means a solid waste hauler as defined in part 115 who transports less than 25% by weight or volume of scrap tires along with other solid waste in any truckload.

(q) “Tire” means a continuous solid or pneumatic rubber covering encircling the wheel of a tractor or other farm machinery or of a vehicle.

(r) “Tire storage area” means a location within a collection site where tires are accumulated.

(s) “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks and excepting a mobile home as defined in section 2 of the mobile home commission act, 1987 PA 96, MCL 125.2302.

(t) “Vehicle support stand” means equipment used to support a stationary vehicle consisting of an inflated tire and wheel that is attached to another wheel.

324.16902 Delivery of scrap tire; limitations.

Sec. 16902. (1) A person shall deliver a scrap tire only to a collection site registered under section 16904, a disposal area licensed under part 115, an end-user, a scrap tire processor, a tire retailer, or a scrap tire recycler, that is in compliance with this part.

(2) A person who by contract, agreement, or otherwise arranges for the removal of scrap tires shall do so with a solid waste hauler or a scrap tire hauler who is registered pursuant to section 16905(1) and who by contract, agreement, or otherwise is obligated to deliver the scrap tires to the destination as identified in section 16905(3)(c).

(3) Subsection (2) does not do any of the following:

(a) Prohibit a person who is not operating a commercial business from transporting his or her scrap tires to a site authorized by subsection (1).

(b) Prohibit a member of a nonprofit service organization who is participating in a community service project from transporting scrap tires to a site authorized by subsection (1).

(c) Prohibit the owner of a farm as defined in section 2 of the Michigan right to farm act, 1982 PA 93, MCL 286.472, from transporting scrap tires that originated from his or her farm operation to a location authorized by subsection (1).

(d) Prohibit a solid waste hauler as defined in part 115 from transporting solid waste to a disposal area licensed under part 115.

324.16903 Accumulation of scrap tires by owner or operator of collection site; compliance.

Sec. 16903. (1) A person who owns or operates a collection site where less than 2,500 scrap tires have been accumulated that are not stored in a building or stored in a covered vehicle shall comply with all of the following:

(a) Only tires shall be accumulated in a tire storage area.

(b) Except as provided in subdivision (e), the tires shall be accumulated in piles no greater than 15 feet in height with horizontal dimensions no greater than 200 by 40 feet.

(c) Except as provided in subdivision (e), the tires shall not be within 20 feet of the property line or within 60 feet of a building or structure.

(d) Except as provided in subdivision (e), there shall be a minimum separation of 30 feet between tire piles. The open space between tire piles shall at all times be free of rubbish, equipment, and other materials.

(e) Tire piles shall be accessible to fire fighting equipment. If the requirement of this subdivision is met, the local fire department that serves the jurisdiction in which the collection site is located may approve a variance from the requirements of subdivisions (b), (c), and (d). Such an approval, if granted, shall be in writing.

(f) Tires, including shredded tires, shall be isolated from other stored materials that may create hazardous products if there is a fire, including, but not limited to, lead acid batteries, fuel tanks, solvent barrels, and pesticide containers.

(g) The collection site shall be subject to an annual inspection and additional inspections at any reasonable time by the local fire department that serves the jurisdiction in which the collection site is located.

(h) All persons employed to work at the collection site shall be trained in emergency response operations. The owner or operator of the collection site shall maintain training records and shall make these records available to the local fire department that serves the jurisdiction in which the collection site is located.

(i) Except as provided in section 16903b, the person who owns a collection site shall maintain a performance bond in favor of the department. The amount of the bond shall be not less than the sum of \$25,000.00 per quarter acre, or fraction thereof, of outdoor tire storage area, and notwithstanding the limitation provided in subsection (1), \$2.00 per square foot of tire storage area in a building. However, for collection sites with fewer than 2,500 tires, the bond shall not exceed \$2,500.00. A bond is not required under this subdivision for a qualifying tire chip storage area. A person who elects to use a certificate of deposit as bond shall receive any accrued interest on that certificate of deposit upon release of the bond by the department. A person who elects to post cash as bond shall accrue interest on that bond at the annual rate of 6%, to be accrued quarterly, except that the interest rate payable to an applicant shall not exceed the rate of interest accrued on the state common cash fund for the quarter in which an accrual is determined. Interest shall be paid to the applicant upon release of the bond by the department. Any interest greater than 6% shall be deposited into the fund. The department may utilize a bond required under this part for removing scrap tires from a collection site, for other costs of cleanup at the collection site, and for costs of fire suppression and costs associated with

responding to a fire or an emergency at a collection site, in case of an emergency at the collection site, insolvency of the collection site owner, or if the owner or operator of the collection site fails to comply with the requirements of this section and does not cause the removal of the tires at the direction of a court of competent jurisdiction. As used in this subdivision, “qualifying tire chip storage area” means 1 or more locations within a collection site where tire chips are stored if all of the following conditions are met:

(i) The tire chips are marketable and no larger than 2 inches by 2 inches in size.

(ii) The tire chips are stored in accordance with the requirements of section 16903.

(iii) Not less than 75% of the scrap tires, by weight or volume, that are stored at the collection site each calendar year are removed from the collection site to an approved market during that year, and the collection site owner or operator certifies compliance with this subparagraph on a form approved by the department.

(iv) The areas of the scrap tire collection site that are used for storage of the tire chips are not larger than a total of 1 acre and those areas are indicated on a survey by a registered professional engineer submitted to the department as part of the collection site registration.

(2) A person who owns or operates a collection site where at least 2,500 but less than 100,000 scrap tires have been accumulated that are not stored in a building shall comply with all of the following:

(a) All of the requirements of subsection (1).

(b) The tire storage area shall be completely enclosed with a fence that is at least 6 feet tall with lockable gates and that is designed to prevent easy access.

(c) An earthen berm not less than 5 feet in height shall completely enclose the tire storage area except to allow for necessary ingress and egress from roadways and buildings.

(d) The collection site shall contain sufficient drainage so that water does not pool or collect on the property.

(e) The approach road to the tire storage area and on-site access roads to the tire storage area shall be of all-weather construction and maintained in good condition and free of debris and equipment so that it is passable at all times for fire fighting equipment vehicles.

(f) Tire storage areas shall be mowed regularly or otherwise kept free of weeds, vegetation, and other growth at all times.

(g) An emergency procedures plan shall be prepared and displayed at the collection site. The plan shall include telephone numbers of the local fire and police departments. The plan shall be reviewed by the local fire department prior to being posted.

(h) Scrap tires shall not be accumulated in excess of 10,000 cubic yards of scrap tires per acre.

(3) A person who owns or operates a collection site where 100,000 or more scrap tires have been accumulated that are not stored in a building shall comply with all of the requirements of subsections (1) and (2) and that person shall operate as a scrap tire processor.

324.16903b Performance bond; exemptions; noncompliance; “site requirements” defined.

Sec. 16903b. (1) Subject to subsections (2) and (3), the owner of a collection site that processes tires who has been in compliance with the site requirements for at least 1 year is exempt from the requirement to obtain a performance bond under section 16903(1)(i).

(2) The exemption provided for in subsection (1) applies to tire storage areas at the collection site containing not more than the sum of the highest number of scrap tires accumulated at the collection site during the previous 1-year period plus 10% of the amount of the scrap tires that were removed to an end-user from the collection site during the previous 1-year period.

(3) If the department determines that the owner of a collection site is not in compliance with the site requirements, the department shall deliver to the owner of the collection site a notice of noncompliance. If within 60 days after receipt of that notice the owner does not bring the collection site into compliance with the site requirements, the owner shall comply with section 16903(1)(i). Once an owner is required to obtain a performance bond in compliance with section 16903(1)(i), the performance bond shall be maintained unless the owner brings the collection site into compliance with the site requirements and maintains compliance with the site requirements for a 1-year period.

(4) As used in this section, “site requirements” means the requirements of section 16903(1)(a), (b), (c), (d), (e), and (f).

324.16903c Maintenance limiting mosquito breeding; requirements; violation; penalty; payment default.

Sec. 16903c. (1) The owner or operator of a collection site shall ensure that tires at a collection site are maintained in a manner that limits the potential of mosquito breeding by complying with 1 or more of the following:

(a) The tires shall be covered by plastic sheets or other impermeable barriers to prevent the accumulation of precipitation.

(b) The tires shall be chemically treated to eliminate mosquito breeding.

(c) The tires shall be baled, shredded, or chipped into pieces no larger than 4 inches by 6 inches and stored in piles that allow complete water drainage.

(2) A person who violates this section is responsible for the payment of a civil fine of not more than \$400.00.

(3) A default in the payment of a civil fine or costs ordered under this section or an installment of the fine or costs may be remedied by any means authorized under the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948.

324.16904a End user; exemption.

Sec. 16904a. (1) Except as provided in subsection (2), an end-user is exempt from this part for scrap tires stored on the site of the end-user if not less than 75% of the scrap tires, by weight or volume, that are stored on site each calendar year are recycled or used for resource recovery during that year, and the end-user annually certifies his or her compliance with this section on a form approved by the department.

(2) All end-users shall comply with the requirements of section 16906.

324.16905 Scrap tire hauler; registration; form; content; presentment; display of number; maintenance and availability of records; disposal at other site prohibited; original record; copy.

Sec. 16905. (1) By January 31 of each year, a scrap tire hauler shall annually register with the department on a form provided by, and containing the information required by, the department. A scrap tire hauler who does not provide all of the information required by the department shall not be considered registered under this part.

(2) A scrap tire hauler when transporting scrap tires shall have in his or her possession a copy of the current unexpired scrap tire hauler registration and shall present it upon demand of a peace officer. The scrap tire hauler registration number issued by the department shall be visibly displayed on a vehicle transporting scrap tires.

(3) A scrap tire hauler shall maintain a record of each load of scrap tires he or she transports on forms approved by the department. These records shall be maintained for a period of 3 years and shall be made available, upon request, to the department or to a peace officer at reasonable hours. These records shall contain at least the following information:

(a) The name, address, telephone number, authorized signature, and registration number of the scrap tire hauler.

(b) The name, address, telephone number, and authorized signature of the person who contracts for the removal of the scrap tires.

(c) The name, address, telephone number, and, upon delivery, the authorized signature of the owner or operator of the collection site, landfill, end-user, scrap tire processor, tire retailer, or scrap tire recycler, where the tires are to be delivered.

(d) The date of removal and the number of scrap tires being transported.

(4) A scrap tire hauler shall not dispose of scrap tires at a location other than the location identified on the record required by subsection (3)(c).

(5) The original record as required by subsection (3) shall be in the possession of the scrap tire hauler during the actual transportation of the scrap tires. A copy of the record provided for in subsection (3) shall be provided to the person who contracts for the removal of scrap tires at the time of removal of the tires from the originating location. A copy shall also be provided to the registered scrap tire collection site, the landfill, end-user, scrap tire processor, tire retailer, or scrap tire recycler to which the scrap tires are delivered at the time of delivery.

324.16906 Records.

Sec. 16906. (1) A person, other than a property owner removing 7 or fewer scrap tires from his or her property, who by contract, agreement, or otherwise arranges for the removal of scrap tires from a property under his or her control, including an end-user, shall maintain at the site of removal all records obtained from a registered scrap tire hauler pursuant to section 16905(5) and all records received from an owner, operator, or authorized agent of a location pursuant to subsection (3). A person who by contract, agreement, or otherwise arranges for the removal of scrap tires from a property under his or her control has no affirmative duty to obtain these records and shall not be held liable for the failure to receive such records. These records shall be maintained at the site of removal for a period of 3 years and shall be made available to the department upon request during normal business hours.

(2) A person, other than a solid waste hauler or a scrap tire hauler who receives scrap tires, including an end-user, shall maintain a record of all scrap tires received from a scrap tire hauler by contract, agreement, or otherwise. These records shall be maintained for a period of 3 years and shall be made available upon request to the department or a peace officer at reasonable hours. These records shall contain all of the information required of a scrap tire hauler in section 16905(3).

(3) Upon delivery of scrap tires by a scrap tire hauler by contract, agreement, or otherwise to a location authorized under section 16902, the owner, operator, or authorized agent of that location shall sign the record, indicating acceptance of the scrap tires, and

provide a copy of the signed record to the person delivering the scrap tires and shall within 30 days forward a copy of the signed record to the person who by contract, agreement, or otherwise arranged for the removal of the scrap tires being delivered.

324.16908 Scrap tire regulatory fund; creation; sources of money; investments; interest and earnings; no reversion to general fund; use of money in fund; grants report to legislature.

Sec. 16908. (1) The scrap tire regulatory fund is created in the state treasury. The fund shall receive money as provided by law and any gifts or contributions to the fund. The state treasurer shall direct the investment of the fund. Interest and earnings of the fund shall be credited to the fund. Money in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(2) Money in the fund shall be used, upon appropriation, for all of the following purposes:

(a) For administrative costs of the department associated with this part including the implementation and enforcement of this part. However, money shall not be expended under this subdivision for the employment of more than the following:

(i) For state fiscal year 2002, 13.5 full-time equated positions.

(ii) For state fiscal year 2003, 12 full-time equated positions.

(iii) For state fiscal year 2004 and each subsequent state fiscal year, 11 full-time equated positions.

(b) For the administrative costs of the secretary of state associated with the collection of the tire disposal surcharge pursuant to section 806 of the Michigan vehicle code, 1949 PA 300, MCL 257.806.

(c) For the cleanup or collection of abandoned scrap tires and scrap tires at collection sites. The department shall give priority to funding activities under this subdivision at collection sites in which the scrap tires were accumulated prior to January 1, 1991 and to collection sites that pose an imminent threat to public health, safety, welfare, or the environment. The department shall make every effort to assure that all abandoned scrap tires accumulated at collection sites prior to January 1, 1991 are cleaned up or collected by September 31, 2009.

(3) Money expended under subsection (2)(c) may be expended for both of the following:

(a) Not more than \$500,000.00 each year for reimbursement grants to users of scrap tire processed material to support the development of increased markets for scrap tire material other than tire-derived fuel usage. A grant issued under this subsection shall be for projects that demonstrate new uses for scrap tire processed material in manufactured products, such as placement of scrap tire processed material in modified asphalt, molded rubber products, extruded rubber products, and aggregate replacement materials. A grant under this subdivision shall reimburse the scrap tire processed material user up to 50% of the cost of purchasing scrap tire processed material, but shall not exceed a reimbursed cost of \$50.00 per ton. However, the scrap tire processed material purchased shall be purchased from Michigan scrap tire processors that produce scrap tire processed material under a grant issued under subsection (2)(c).

(b) For grants to end-users who receive scrap tires or tire chips. However, as a condition of a grant under this subdivision, an end-user who receives a grant under this subdivision shall agree to purchase 1 ton of scrap tires or tire chips for every 1 ton of scrap tires or tire chips received as a result of the grant. The purchases shall be at the minimum rate of the established statewide market price.

(4) Applications for grants under subsection (3) shall be submitted on a form approved by the department and containing the information required by the department. For grants under subsection (3)(a), the department shall publish criteria upon which the grants will be issued and shall make that information available to grant applicants.

(5) Not later than 4 years after the effective date of the amendatory act that added this subsection, the department shall prepare an assessment of the impact that the grants under subsection (3)(a) have had on the reduction in the surplus of scrap tires in the state and on the establishment of new end uses for scrap tires. A copy of this assessment shall be provided to the standing committees of the senate and the house of representatives with jurisdiction over subject matter pertaining to natural resources and the environment.

(6) The department shall annually report to the standing committees of the senate and house of representatives with jurisdiction over subject matter pertaining to natural resources and the environment on the utilization of revenues of the fund.

324.16909 Violation as misdemeanor; penalties; separate violations; authority of officer; penalties inapplicable; conditions.

Sec. 16909. (1) A person who violates this part when fewer than 50 tires are involved is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$200.00 or more than \$500.00, or both.

(2) A person who violates this part when 50 or more tires are involved is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not less than \$500.00 or more than \$10,000.00, or both, for each violation.

(3) A person convicted of a second or subsequent violation of this part is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than \$1,000.00 or more than \$25,000.00, or both, for each violation.

(4) In addition to any other penalty provided for in this section, the court may order a person who violates this part to perform not more than 100 hours of community service.

(5) For any violation of this part, each day that a violation continues may constitute a separate violation.

(6) A peace officer may issue an appearance ticket as described and authorized by sections 9c to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c to 764.9g, to a person who is in violation of this part.

(7) This section does not apply to a violation of section 16903c.

(8) The penalties provided for in this section shall not be applied against a person in violation of section 16903(1)(a), (b), (c), (d), (f), or (i) if the person is in compliance with these provisions within 60 days after the effective date of the amendatory act that added this subsection and the person maintains compliance with those provisions. This subsection does not apply to a person who, prior to the effective date of the amendatory act that added this subsection, was convicted under this section.

Repeal of § 324.16902a.

Enacting section 1. Section 16902a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.16902a, is repealed.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 1324 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved July 2, 2002.

Filed with Secretary of State July 3, 2002.

Compiler's note: Senate Bill No. 1324, referred to in enacting section 2, was filed with the Secretary of State July 3, 2002, and became P.A. 2002, Act No. 497, Eff. Oct. 1, 2002.

[No. 497]

(SB 1324)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 806 (MCL 257.806), as amended by 2001 PA 268.

The People of the State of Michigan enact:

257.806 Certificate of title or duplicate certificate of title; special expeditious treatment; special identifying number; fees; payment and disposition of tire disposal surcharge.

Sec. 806. (1) A fee of \$10.00 shall accompany each application for a certificate of title required by this act or for a duplicate of a certificate of title. An additional fee of \$5.00 shall accompany an application if the applicant requests that the application be given special expeditious treatment.

(2) A fee of \$10.00 shall accompany an application for a special identifying number as provided in section 230.

(3) In addition to paying the fees required by subsection (1), until December 31, 2007, each person who applies for a certificate of title, a salvage vehicle certificate of title, or a scrap certificate of title, under this act shall pay a tire disposal surcharge of \$1.50 for each certificate of title or duplicate of a certificate of title that person receives. The secretary of state shall deposit money received under this subsection into the scrap tire regulatory fund created in section 16908 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.16908.

Effective date.

Enacting section 1. This amendatory act takes effect 90 days after the date of its enactment.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5380 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved July 2, 2002.

Filed with Secretary of State July 3, 2002.

Compiler's note: House Bill No. 5380, referred to in enacting section 2, was filed with the Secretary of State July 3, 2002, and became P.A. 2002, No. 496, Imd. Eff. July 3, 2002.

[No. 498]**(HB 5383)**

AN ACT to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to 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, critical 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; and to repeal acts and parts of acts," by amending sections 1b, 10c, 10h, 11, 11c, 12, 18b, 18e, and 20a (MCL 247.651b, 247.660c, 247.660h, 247.661, 247.661c, 247.662, 247.668b, 247.668e, and 247.670a), section 1b as amended by 1989 PA 188, section 10c as amended by 1990 PA 73, section 10h as amended by 1982 PA 438, section 11 as amended by 2000 PA 188,

sections 11c and 12 as amended by 1997 PA 79, and sections 18b and 18e as amended by 1985 PA 201.

The People of the State of Michigan enact:

247.651b Cost of maintaining state trunk line highways; preservation of aesthetic and historic character of abutting national historic landmark; service plaza prohibited.

Sec. 1b. (1) The state transportation department shall bear the entire cost of maintaining, in accordance with standards and specifications of the department, all state trunk line highways including highways within incorporated cities and villages except that the cost of maintaining additional width for local purposes as provided in section 1c shall be borne by the city or village.

(2) Notwithstanding any provision of law to the contrary, as part of the construction or reconstruction of a state trunk line highway which abuts a location designated as a national historic landmark pursuant to the national historic preservation act, Public Law 89-665, 80 Stat. 915, and 36 C.F.R. part 65, the department may include within the project, expenditures deemed necessary to mitigate the adverse impact of the state trunk line highway on the aesthetic and historic character of that abutting area. The installation or maintenance of lighting to preserve the aesthetic and historic character of the abutting area shall not impose a duty on the department to provide or maintain lighting for the improved portion of the highway designed for vehicular travel.

(3) The state transportation department shall not use funds allocated under this act for the development or construction of a service plaza.

247.660c Definitions.

Sec. 10c. As used in this act:

(a) “Urban or rural area” means a contiguous developed area, including the immediate surrounding area, where transportation services should reasonably be provided presently or in the future; the area within the jurisdiction of an eligible authority; or for the purpose of receiving funds for public transportation, a contiguous developed area having a population of less than 50,000 population that has an urban public transportation program approved by the state transportation department and for which the state transportation commission determines that public transportation services should reasonably be provided presently or in the future.

(b) “Eligible authority” means an authority organized pursuant to the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426.

(c) “Eligible governmental agency” means a county, city, or village or an authority created pursuant to 1963 PA 55, MCL 124.351 to 124.359; the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512; 1967 (Ex Sess) PA 8, MCL 124.1 to 124.13; 1951 PA 35, MCL 124.1 to 124.13; the public transportation authority act, 1986 PA 196, MCL 124.451 to 124.479; or the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(d) “Transit vehicle” means a bus, rapid transit vehicle, railroad car, water vehicle, taxicab, or other type of public transportation vehicle or individual unit, whether operated singly or in a group which provides public transportation.

(e) “Transit vehicle mile” means a transit vehicle operated for 1 mile in public transportation service including demand actuated and line-haul vehicle miles.

(f) “Demand actuated vehicle” means a bus or smaller transit vehicle operated for providing group rides to members of the general public paying fares individually, and on demand rather than in regularly scheduled route service.

(g) “Demand actuated vehicle mile” means a demand actuated vehicle operated for 1 mile in service to the general public.

(h) “Public transportation”, “comprehensive transportation”, “public transportation service”, “comprehensive transportation service”, “public transportation purpose”, or “comprehensive transportation purpose” means the movement of people and goods by publicly or privately owned water vehicle, bus, railroad car, aircraft, rapid transit vehicle, taxicab, or other conveyance which provides general or special service to the public, but not including charter or sightseeing service or transportation which is exclusively for school purposes. Public transportation, public transportation services, or public transportation purposes; and comprehensive transportation, comprehensive transportation services, or comprehensive transportation purposes as defined in this subdivision are declared by law to be transportation purposes within the meaning of section 9 of article IX of the state constitution of 1963.

(i) “State transportation commission” means the state transportation commission established in section 28 of article V of the state constitution of 1963.

(j) “Governmental unit” means the state transportation department, the state transportation commission, a county road commission, a city, or a village.

(k) “Department” or “department of transportation” means the state transportation department, which may be referred to administratively as the department of transportation.

(l) “Preservation” means an activity undertaken to preserve the integrity of the existing roadway system. Preservation does not include new construction of highways, roads, streets, or bridges, a project that increases the capacity of a highway facility to accommodate that part of traffic having neither an origin nor destination within the local area, widening of a lane width or more, or adding turn lanes of more than 1/2 mile in length. Preservation includes, but is not limited to, 1 or more of the following:

(i) Maintenance.

(ii) Capital preventive treatments.

(iii) Safety projects.

(iv) Reconstruction.

(v) Resurfacing.

(vi) Restoration.

(vii) Rehabilitation.

(viii) Widening of less than the width of 1 lane.

(ix) Adding auxiliary weaving, climbing, or speed change lanes.

(x) Modernizing intersections.

(xi) Adding auxiliary turning lanes of 1/2 mile or less.

(m) “Maintenance” means routine maintenance or preventive maintenance, or both. Maintenance does not include capital preventive treatments, resurfacing, reconstruction, restoration, rehabilitation, safety projects, widening of less than 1 lane width, adding auxiliary turn lanes of 1/2 mile or less, adding auxiliary weaving, climbing, or speed-change lanes, modernizing intersections, or the upgrading of aggregate surface roads to hard surface roads. Maintenance of state trunk line highways does not include street-lighting except for freeway lighting for traffic safety purposes.

(n) “Routine maintenance” means actions performed on a regular or controllable basis or in response to uncontrollable events upon a highway, road, street, or bridge. Routine maintenance includes, but is not limited to, 1 or more of the following:

- (i) Snow and ice removal.
- (ii) Pothole patching.
- (iii) Unplugging drain facilities.
- (iv) Replacing damaged sign and pavement markings.
- (v) Replacing damaged guardrails.
- (vi) Repairing storm damage.
- (vii) Repair, replacement, or operation of traffic signal systems.
- (viii) Emergency environmental cleanup.
- (ix) Emergency repairs.
- (x) Emergency management of road closures that result from uncontrollable events.
- (xi) Cleaning streets and associated drainage.
- (xii) Installing traffic signs and signal devices.
- (xiii) Mowing roadside.
- (xiv) Control of roadside brush and vegetation.
- (xv) Cleaning roadside.
- (xvi) Repairing lighting.
- (xvii) Grading.

(o) “Preventive maintenance” means a planned strategy of cost-effective treatments to an existing roadway system and its appurtenances that preserve assets by retarding deterioration and maintaining functional condition without significantly increasing structural capacity. Preventive maintenance includes, but is not limited to, 1 or more of the following:

- (i) Pavement crack sealing.
- (ii) Micro surfacing.
- (iii) Chip sealing.
- (iv) Concrete joint resealing.
- (v) Concrete joint repair.
- (vi) Filling shallow pavement cracks.
- (vii) Patching concrete.
- (viii) Shoulder resurfacing.
- (ix) Concrete diamond grinding.
- (x) Dowel bar retrofit.
- (xi) Bituminous overlays of 1-1/2 inches or less in thickness.
- (xii) Restoration of drainage.
- (xiii) Bridge crack sealing.
- (xiv) Bridge joint repair.
- (xv) Bridge seismic retrofit.
- (xvi) Bridge scour countermeasures.
- (xvii) Bridge painting.

(xviii) Pollution prevention.

(xix) New treatments as they may be developed.

(p) “County road commission” means the board of county road commissioners elected or appointed pursuant to section 6 of chapter IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county with a population of 2,000,000 or more with an elected county executive that does not have a board of county road commissioners, the county executive for ministerial functions and the county commission provided for in section 14(1)(d) of 1966 PA 293, MCL 45.514, for legislative functions.

(q) “Capital preventive treatments” means any preventive maintenance category project on state trunk line highways that qualifies under the department’s capital preventive maintenance program.

247.660h Report by state transportation commission to legislature, governor, and auditor general; contents; audit of financial transactions and accounts related to certain distributions from comprehensive transportation fund; cost; submission of audit report and management letter to department; minimum audit standards and requirements; task force.

Sec. 10h. (1) By May 1 of each year, the state transportation commission shall report to each member of the legislature, the governor, and the auditor general its recommendations for a transportation program which the state transportation commission acts on under section 10e(10). The report shall specify the following:

(a) The estimated amount of money in the comprehensive transportation fund to be distributed in the following fiscal year and the amount of money in the comprehensive transportation fund to be distributed to each eligible authority, each intercity carrier, each eligible governmental agency, and the state transportation department; the estimated amount of money in the state trunk line fund to be distributed to the state transportation department for the preservation, as defined in section 10c, of state trunk line highways; and the estimated amount of money in the state trunk line fund to be distributed to the state transportation department for all other purposes in the following fiscal year. The report shall further subdivide the money to be distributed to each eligible authority, each intercity carrier, each eligible governmental agency, the state transportation department from the comprehensive transportation fund, the state transportation department from the state trunk line fund for the preservation of state trunk line highways, and the state transportation department from the state trunk line fund for all other purposes specifying how much of that money is proposed to be expended for either capital acquisitions, including demonstration projects, or for operating expenses, including demonstration projects.

(b) An account of all expenditures of funds distributed from the state trunk line fund and the comprehensive transportation fund to the state transportation department, eligible authorities, intercity carriers, and eligible governmental agencies, and the progress made by the state transportation department, eligible authorities, intercity carriers, and eligible governmental agencies in carrying out the approved transportation programs in the preceding fiscal year through the use of those funds. The progress report shall be made based on information supplied to the state transportation department on forms authorized by the federal department of transportation. For those eligible authorities, intercity carriers, and eligible governmental agencies not receiving federal funds pursuant to the urban mass transportation act of 1964, Public Law 88-365, the progress report shall be made upon forms supplied by the state transportation department.

The progress report shall also contain the whole amount of the expenses of the state transportation department for the fiscal year.

(c) Each project certified to be eligible for a multiyear funding commitment.

(d) The status of all multiyear funding commitments.

(e) An account of the state transportation department's compliance in the preceding year with the requirements of section 11(2) and (3). The report shall also specify the justification for a waiver of the requirement of section 11(3), if that requirement was waived.

(2) The financial transactions and accounts related to distributions made from the comprehensive transportation fund to an eligible authority created under the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, shall be audited pursuant to that act. The cost of the audit shall be paid by the eligible authority. The financial transactions and accounts related to distributions made from the fund to an eligible governmental agency, other than a county, shall be audited in accordance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a. The financial transactions and accounts related to distributions made from the fund to a county which is an eligible governmental agency shall be audited in accordance with 1919 PA 71, MCL 21.41 to 21.55. The financial transactions and accounts relative to distributions made to an intercity carrier shall be audited by an independent certified public accountant in accordance with instructions promulgated by the department of treasury. A copy of the complete audit report and management letter shall be submitted by the eligible authority, intercity carrier, or eligible governmental agency to the state transportation department. The department of treasury shall develop minimum audit standards and requirements.

(3) There is hereby established a task force composed of the Michigan public transit association, the Michigan motorbus association, the Michigan rail users and supporters association, the Michigan railroad association, a representative of a state-owned or leased short line railroad, and the office of auditor general or a certified public accountant appointed by the auditor general, to assist the department in the development of the progress report requirements outlined in subsection (1)(b).

247.661 State trunk line fund; separate fund; appropriation; purposes; order of priority; expenditures; deductions; borrowing by county road commissions, cities, and villages; limitation; approval; notice; borrowing by state transportation commission; procedures for implementation and administration of loan program; expenditure for administrative expenses; conduct of performance audits; revised municipal finance act inadmissible.

Sec. 11. (1) A fund to be known as the state trunk line fund is established and shall be set up and maintained in the state treasury as a separate fund. The money deposited in the state trunk line fund is appropriated to the state transportation department for the following purposes in the following order of priority:

(a) For the payment, but only from money restricted as to use by section 9 of article IX of the state constitution of 1963, of bonds, notes, or other obligations in the following order of priority:

(i) For the payment of contributions required to be made by the state highway commission or the state transportation commission under contracts entered into before July 18, 1979, under 1941 PA 205, MCL 252.51 to 252.64, which contributions have been pledged before July 18, 1979, for the payment of the principal and interest on bonds issued

under 1941 PA 205, MCL 252.51 to 252.64, for the payment of which a sufficient sum is irrevocably appropriated.

(ii) For the payment of the principal and interest upon bonds designated “State of Michigan, State Highway Commissioner, Highway Construction Bonds, Series I”, dated September 1, 1956, in the aggregate principal amount of \$25,000,000.00, issued pursuant to former 1955 PA 87 and the resolution of the state administrative board adopted August 6, 1956, for the payment of which a sufficient sum is irrevocably appropriated.

(iii) For the payment of the principal and interest on bonds issued under section 18b for transportation purposes other than comprehensive transportation purposes as defined by law and the payment of contributions of the state highway commission or state transportation commission to be made pursuant to contracts entered into under section 18d, which contributions are pledged to the payment of principal and interest on bonds issued under the authorization of section 18d and contracts executed pursuant to that section. A sufficient portion of the fund is irrevocably appropriated to pay, when due, the principal and interest on bonds or notes issued under section 18b for purposes other than comprehensive transportation purposes as defined by law, and to pay the annual contributions of the state highway commission and the state transportation commission as are pledged for the payment of bonds issued pursuant to contracts authorized by section 18d.

(b) For the transfer of funds appropriated pursuant to section 10(1)(g) to the transportation economic development fund, but the transfer shall be reduced each fiscal year by the amount of debt service to be paid in that year from the state trunk line fund for bonds, notes, or other obligations issued to fund projects of the transportation economic development fund, which amount shall be certified by the department.

(c) For the transfer of funds appropriated pursuant to section 10(1)(a) to the railroad grade crossing account in the state trunk line fund for expenditure to meet the cost, in whole or in part, of providing for the improvement, installation, and retirement of new or existing safety devices or other rail grade crossing improvements at rail grade crossings on public roads and streets under the jurisdiction of this state, counties, or cities and villages. Projects shall be selected for funding in accordance with the following:

(i) Not more than 50% or less than 30% of these funds and matched federal funds shall be expended for state trunk line projects.

(ii) In prioritizing projects for these funds, in whole or in part, the department shall consider train and vehicular traffic volumes, accident history, traffic control device improvement needs, and the availability of funding.

(iii) Consistent with the other requirements for these funds, the first priority for funds deposited pursuant to this subdivision for rail grade crossing improvements and retirement shall be to match federal funds from the railroad-highway grade crossing improvement program or other comparable federal programs.

(iv) If federal funds from the railroad-highway grade crossing improvement program or other comparable federal programs have been exhausted, funds deposited pursuant to this subdivision shall be used to fund 100% of grade crossing projects that receive the highest priority of unfunded projects pursuant to criteria established by the department.

(v) State railroad grade crossing funds shall not be used, either as 100% of project cost or to match federal railroad-highway grade crossing improvement funds, for a crossing that is determined by the department pursuant to the criteria established by the department to be a lower priority than other projects that have not yet been funded. However, if sufficient funds are available, these state railroad grade crossing account funds may be used for not more than 50% of a project’s cost for a crossing that is

determined by the department pursuant to the criteria established by the department to be a lower priority if the balance of not less than 50% of the project's cost is provided by the road authority, railroad, or other sources.

(vi) The type of railroad grade crossing improvement, installation, relocation, or retirement of grade crossing surfaces, active and passive traffic control devices, pavement marking, or other related work shall be eligible for these railroad grade crossing account funds in the same manner as the project type eligibility provided by the federal funds from the railroad-highway grade crossing improvement program, except for the following:

(A) For new railroad crossings, these funds may be used for the crossing surface, active and passive traffic control devices, pavement marking, and other improvements necessitated by the new crossing.

(B) These funds may be used for the modification, relocation, or modernization of railroad grade crossing facilities necessitated by roadway improvement projects.

(C) If the department and the road authority with jurisdiction over a public road or street crossing formally agree that the grade crossing should be eliminated by permanent closing of the public road or street, the road authority making the closing shall receive \$5,000.00 from the railroad grade crossing account. In addition, any connecting road improvements necessitated by the grade crossing closure are reimbursable on an actual cost basis not to exceed \$10,000.00 per crossing closed. The physical removal of the crossing, roadway within railroad rights of way and street termination treatment will be negotiated between the road authority and railroad company. The funds provided to the road authority as a result of the crossing closure will be credited to its account representing the same road or street system on which the crossing is located.

(d) For the total operating expenses of the state trunk line fund for each fiscal year as appropriated by the legislature.

(e) For the preservation of state trunk line highways and bridges.

(f) For the opening, widening, improving, construction, and reconstruction of state trunk line highways and bridges, including the acquisition of necessary rights of way and the work incidental to that opening, widening, improving, construction, or reconstruction. Those sums in the state trunk line fund not otherwise appropriated, distributed, determined, or set aside by law shall be used for the construction or reconstruction of the national system of interstate and defense highways, referred to in this act as "the interstate highway system" to the extent necessary to match federal aid funds as the federal aid funds become available for that purpose; and, for the construction and reconstruction of the state trunk line system.

(g) The state transportation department may enter into agreements with county road commissions and with cities and villages to perform work on a highway, road, or street. The agreements may provide for the performance by any of the contracting parties of any of the work contemplated by the contract including engineering services and the acquisition of rights of way in connection with the work, by purchase or condemnation by any of the contracting parties in its own name, and for joint participation in the costs, but only to the extent that the contracting parties are otherwise authorized by law to expend money on the highways, roads, or streets. The state transportation department also may contract with a county road commission, city, and village to advance money to a county road commission, city, and village to pay their costs of improving railroad grade crossings on the terms and conditions agreed to in the contract. A contract may be executed before or after the state transportation commission borrows money for the purpose of advancing money to a county road commission, city, or village, but the contract shall be executed before the advancement of any money to a county road commission, city, or village by the

state transportation commission, and shall provide for the full reimbursement of any advancement by a county road commission, city, or village to the state transportation department, with interest, within 15 years after advancement, from any available revenue sources of the county road commission, city, or village or, if provided in the contract, by deduction from the periodic disbursements of any money returned by the state to the county road commission, city, or village.

(h) For providing inventories of supplies and materials required for the activities of the state transportation department. The state transportation department may purchase supplies and materials for these purposes, with payment to be made out of the state trunk line fund to be charged on the basis of issues from inventory in accordance with the accounting and purchasing laws of this state.

(2) Notwithstanding any other provision of this act, at least 90% of state revenue appropriated annually to the state trunk line fund less the amounts described in subdivisions (a) to (i) shall be expended annually by the state transportation department for the preservation of highways, roads, streets, and bridges and for the payment of debt service on bonds, notes, or other obligations described in subsection (1)(a) issued after July 1, 1983, for the purpose of providing funds for the preservation of highways, roads, streets, and bridges. Of the amounts appropriated for state trunk line projects, the department shall, where possible, secure warranties of not less than 5-year full replacement guarantee for contracted construction work. If an appropriate certificate is filed under section 18e but only to the extent necessary, this subsection shall not prohibit the use of any amount of money restricted as to use by section 9 of article IX of the state constitution of 1963 and deposited in the state trunk line fund for the payment of debt service on bonds, notes, or other obligations pledging for the payment thereof money restricted as to use by section 9 of article IX of the state constitution of 1963 and deposited in the state trunk line fund, whenever issued, as specified under subsection (1)(a). The amounts which are deducted from the state trunk line fund for the purpose of the calculation required by this subsection are as follows:

(a) Amounts expended for the purposes described in subsection (1)(a) for the payment of debt service on bonds, notes, or other obligations issued before July 2, 1983.

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

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

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

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

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

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

(f) Amounts expended pursuant to contracts entered into before January 1, 1983.

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

(h) Amounts appropriated for deposit in the transportation economic development fund and the rail grade crossing account pursuant to section 10(1)(g) and 10(1)(a).

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

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

(4) Notwithstanding any other provision of this section, the state transportation department may loan money to county road commissions, cities, and villages for paying capital costs of transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963 from the proceeds of bonds or notes issued pursuant to section 18b or from the state trunk line fund. Loans made directly from the state trunk line fund shall be made only after provision of funds for the purposes specified in subsection (1)(a) to (f). Loans described in this subsection are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(5) County road commissions, cities, and villages may borrow money from the proceeds of bonds or notes issued under section 18b or the state trunk line fund for the purposes set forth in subsection (4) that shall be repayable, with interest, from 1 or more of the following:

(a) The money to be received by the county road commission, city, or village from the Michigan transportation fund, except to the extent the money has been or may in the future be pledged by contract in accordance with 1941 PA 205, MCL 252.51 to 252.64, or has been or may in the future be pledged for the payment of the principal and interest upon notes issued pursuant to 1943 PA 143, MCL 141.251 to 141.254, or has been or may in the future be pledged for the payment of principal and interest upon bonds issued under section 18c or 18d, or has been or may in the future be pledged for the payment of the principal and interest upon bonds issued pursuant to 1952 PA 175, MCL 247.701 to 247.707.

(b) Any other legally available funds of the city, village, or county road commission, other than the general funds of the county.

(6) Loans made pursuant to subsection (4) if required by the state transportation department may be payable by deduction by the state treasurer, upon direction of the state transportation department, from the periodic disbursements of any money returned by the state under this act to the county road commission, city, or village, but only after sufficient money has been returned to the county road commission, city, or village to provide for the payment of contractual obligations incurred or to be incurred and principal

and interest on notes and bonds issued or to be issued under 1941 PA 205, MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL 247.701 to 247.707, or section 18c or 18d. The interest rates and payment schedules of any loans made from the proceeds of bonds or notes issued pursuant to section 18b shall be established by the state transportation department to conform as closely as practicable to the interest rate and repayment schedules on the bonds or notes issued to make the loans. However, the state transportation department may allow for the deferral of the first payment of interest or principal on the loans for a period of not to exceed 1 year after the respective first payment of interest or principal on the bonds or notes issued to make the loans.

(7) The amount borrowed by a county road commission, city, or village pursuant to subsection (5) shall not be included in, or charged against, any constitutional, statutory, or charter debt limitation of the county, city, or village and shall not be included in the determination of the maximum annual principal and interest requirements of, or the limitations upon, the maximum annual principal and interest incurred under 1941 PA 205, MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL 247.701 to 247.707, or section 18c or 18d.

(8) The county road commission, city, or village is not required to seek or obtain the approval of the electors, the municipal finance commission or its successor agency, or, except as provided in this subsection, the department of treasury to borrow money pursuant to subsection (5). The borrowing is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or to section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5. The state transportation department shall give at least 10 days' notice to the state treasurer of its intention to make a loan under subsection (4). If the state treasurer gives notice to the director of the state transportation department within 10 days of receiving the notice from the state transportation department, that, based upon the then existing financial or credit situation of the county road commission, city, or village, it would not be in the best interests of the state to make a loan under subsection (4) to the county road commission, city, or village, the loan shall not be made unless the state treasurer, after a hearing, if requested by the affected county road commission, city, or village, subsequently gives notice to the director of the state transportation department that the loan may be made on the conditions that the state treasurer specifies.

(9) The state transportation commission may borrow money and issue bonds and notes under, and pursuant to the requirements of, section 18b to make loans to county road commissions, cities, and villages for the purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963, as provided in subsection (4). A single issue of bonds or notes may be issued for the purposes specified in subsection (4) and for the other purposes specified in section 18b. The house and senate transportation appropriations subcommittees shall be notified by the department if there are extras and overruns sufficient to require approval of either the state administrative board or the commission, or both, on any contract between the department and a local road agency or a private business.

(10) The director of the state transportation department, after consultation with representatives of the interests of county road commissions, cities, and villages, shall establish, by intergovernmental communication, procedures for the implementation and administration of the loan program established under subsections (4) to (9).

(11) Not more than 10% per year of all of the funds received by and returned to the state transportation department from any source for the purposes of this section may be expended for administrative expenses. The department shall be subject to section 14(5) if more than 10% per year is expended for administrative expenses. As used in this subsection, "administrative expenses" means those expenses that are not assigned

including, but not limited to, specific road construction or preservation projects and are often referred to as general or supportive services. Administrative expenses shall not include net equipment expense, net capital outlay, debt service principal and interest, and payments to other state or local offices which are assigned, but not limited to, specific road construction projects or preservation activities.

(12) Any performance audits of the department shall be conducted according to government auditing standards issued by the United States general accounting office.

(13) Contracts entered into to advance money to a county road commission, city, or village under subsection (1)(g) are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

247.661c Construction and maintenance projects to be performed by contract awarded by competitive bidding; other method; findings; report.

Sec. 11c. All federal aid construction projects, all other projects of the department concerning highways, streets, roads, and bridges, whose cost exceeds \$100,000.00 for construction or preservation as defined in section 10c, shall be performed by contract awarded by competitive bidding unless the department shall affirmatively find that under the circumstances relating to those projects, some other method is in the public interest. All of those findings shall be reported to the state transportation commission 90 days before work is commenced and promptly in writing to the appropriations committees of the senate and house of representatives. However, in a case in which the department determines emergency action is required, the reports need not be filed before work is commenced but shall be promptly filed. Local road agencies that make a decision not to perform construction or preservation projects exceeding \$100,000.00 shall contract for this work through competitive bidding.

247.662 Return to county treasurers of amount distributed to county road commissions; manner, purposes, terms, and conditions; state-wide purchasing pools; expenditures; definitions; certification concerning average annual debt service requirements for bonds or notes; representation of charter county in certain transactions; expenditure for administrative expenses; conduct of performance audits.

Sec. 12. (1) The amount distributed to the county road commissions shall be returned to the county treasurers in the manner, for the purposes, and under the terms and conditions specified in this section. The department and the county road association of Michigan shall jointly develop incentives for counties to establish statewide purchasing pools for the more efficient use of Michigan transportation funds.

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

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

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

(5) An amount equal to 4% of the total amount returned to the county road commissions from the Michigan transportation fund shall be returned to the county road commissions in the same percentages as provided in subsection (7). All money returned to the county road commissions as provided in this subsection shall be expended by the county road commissions for the preservation, construction, acquisition, and extension of county local road systems and shall be in addition to the amounts provided in subsection (7).

(6) Seventy-five percent of the remainder of the total amount to be returned to the counties shall be expended by each county road commission for the preservation, construction, acquisition, and extension of the county primary road system, including the acquisition of a necessary right of way for the system, work incidental to the system, and a roadside park or motor parkway appurtenant to the system, and shall be returned to the counties as follows:

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

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

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

(7) The balance of the remainder of the total amount to be returned to counties shall be expended by each county road commission for the preservation, construction, acquisition, and extension of the county local road system as defined by this act, including the acquisition of a necessary right of way for the system, work incidental to the system, and a roadside park or motor parkway appurtenant to the system, and shall be returned to the counties as follows:

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

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

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

(a) For the payment of contributions required to be made by a board of county road commissioners under a contract entered into under 1941 PA 205, MCL 252.51 to 252.64, which contributions have been pledged for the payment of the principal and interest on

bonds issued under that act, or for the payment of total debt service requirements upon notes issued by a board of county road commissioners under 1943 PA 143, MCL 141.251 to 141.254.

(b) For the payment of principal and interest upon bonds issued under section 18c, and the payment of contributions of a board of county road commissioners to be made pursuant to contracts entered into under section 18d, which contributions are pledged to the payment of principal and interest on bonds issued after June 30, 1957, under the authorization of section 18c and contracts executed pursuant to its provisions.

(c) For the payment of principal and interest upon loans received pursuant to section 11(7), to the extent other funds have not been made available for that payment.

(9) Not to exceed 30% per year of the amount returned to a county for use on the county primary road system may be expended, with or without matching, on the county local road system of that county. Not to exceed 15% per year of the amount returned to a county for expenditure on the county local road system may be used, with or without matching, on the county primary road system of that county, and not to exceed an additional 15% per year of the amount returned to a county for expenditure on the county local road system, may, in case of an emergency or with the approval of the state transportation department, be expended, with or without matching, on the county primary road system of that county. An amount returned to a county for and on account of county local roads, under this section, in excess of the total amount paid into the county treasury each year by all of the townships of that county for and on account of the county local roads pursuant to section 14(6) may be transferred to and expended on the county primary road system of that county.

(10) Not less than 20% per year of the funds returned to a county by this section shall be expended for snow and ice removal, the construction or reconstruction of a new highway or existing highway, and the acquisition of a necessary right of way for those highways, and work incidental to those highways, or for the servicing of bonds issued by the county for these purposes. Surplus funds may be expended for the development, construction, or repair of an off-street parking facility.

(11) Not more than 5% per year of the funds returned to a county for the county primary road system and the county local road system shall be expended for the maintenance, improvement, or acquisition of appurtenant roadside parks and motor parkways.

(12) Funds returned to a county shall be expended by the county road commission for the purposes provided in this section and shall be deposited by the county treasurer in a designated county depository, in a separate account to the credit of the county road fund, and shall be paid out only upon the order of the county road commission, and interest accruing on the money shall become a part of, and be deposited with the county road fund.

(13) In a county to which the funds are returned the function of the county road commission shall be limited to the formation of policy and the performance of the official duties imposed by law and delegated by the county board of commissioners. A member of the county road commission shall not be employed individually in any other capacity for other duties with the county road commission.

(14) A county road commission may enter into an agreement with a county road commission of an adjacent county and with a city or village to perform work on a highway, road, or street, and with the state transportation department with respect to a state trunk line and connecting links of the state trunk line within the limits of the county or adjacent to the county. The agreement may provide for the performance by each contracting party of the work contemplated by the contract including engineering services and the acquisition of rights of way in connection with the work contemplated, by purchase or

condemnation, by any of the contracting parties in its own name and the agreement may provide for joint participation in the costs.

(15) Money distributed from the Michigan transportation fund may be expended for construction purposes on county local roads only to the extent matched by money from other sources. However, Michigan transportation funds may be expended for the construction of bridges on the county local roads in an amount not to exceed 75% of the cost of the construction of local road bridges. This subsection does not apply to section 11b.

(16) Notwithstanding any other provision of this act, at least 90% of the state revenue returned annually to the county road commission from the Michigan transportation fund less the amounts described in subdivisions (a) to (e) shall be expended annually by the county road commission for the preservation of highways, roads, streets, and bridges, and for the payment of contractual contributions pledged for the payment of bonds or portions of bonds, debt service requirements for the payment of bonds or portions of bonds, and debt service requirements for the payment of notes and loans or portions of notes and loans issued or received after July 1, 1983, for the purpose of providing funds for the preservation of highways, roads, streets, and bridges. If an appropriate certificate is filed under subsection (19) but only to the extent necessary, this subsection shall not prohibit the use of any amount of state revenue returned annually to the county road commissions for the payment of contractual contributions pledged for the payment of bonds, for debt service requirements for the payment of bonds, and for debt service requirements for the payment of notes or loans, whenever issued or received, as specified under subsection (8). The amounts which are deducted from the state revenue returned to a county road commission from the Michigan transportation fund, for the purpose of the calculation required by this subsection are as follows:

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

(b) Amounts expended for the administrative costs of the county road commission.

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

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

(e) Amounts expended in urban areas as determined pursuant to section 12b.

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

urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges, if that year is part of a 3-year period in which at least 90% of the total federal revenue distributed in the 3-year period to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is expended on the preservation of highways, roads, streets, and bridges. If a county road commission expends in a year less than 90% of the federal revenue distributed to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges and that year is not a part of a 3-year period in which at least 90% of the total federal revenue distributed in the 3-year period to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is expended on the preservation of highways, roads, streets, and bridges, the county road commission shall expend in each year subsequent to the 3-year period 100%, or less in 1 year if sufficient for the purposes of this subsection, of the federal revenue distributed to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, until the average percentage spent on the preservation of highways, roads, streets, and bridges in the 3-year period and the subsequent years, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is at least 90%. A year may be included in only one 3-year period for the purposes of this subsection. The requirements of this subsection shall be waived if compliance would cause the county road commission to be ineligible according to federal law for federal revenue, but only to the extent necessary to make the county road commission eligible according to federal law for that revenue. For the purpose of the calculations required by this subsection, the amount expended on urban routes by a county road commission for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system shall be deducted from the total federal revenue distributed to the use of the county road commission.

(18) A county road commission shall certify, which certification shall, for purposes of the validity of bonds and notes, be conclusive as to the matters stated therein, to the state transportation department on or before the issuance of any bonds or notes issued after July 1, 1983, pursuant to 1943 PA 143, MCL 141.251 to 141.254, 1941 PA 205, MCL 252.51 to 252.64, or section 18c or 18d, for purposes other than the preservation of highways, roads, streets, and bridges and purposes other than the purposes specified in subsection (16)(c) that its average annual debt service requirements for all bonds and notes or portions of bonds and notes issued after July 1, 1983, for purposes other than the preservation of highways, roads, streets, and bridges and other than for the purposes specified in subsection (16)(c), including the bond or note to be issued does not exceed 10% of the funds returned to the county road commission pursuant to this act, less the amounts specified in subsection (16)(a), (b), and (c) during the last completed fiscal year of the county road commission. If the purpose for which the bonds or notes are issued is changed after the issuance of the notes or bonds, the change shall be made in such a manner to maintain compliance with the certification required by this subsection, as of the date the certificate was originally issued, but no such change shall invalidate or otherwise affect

the bonds or notes with respect to which the certificate was issued or the obligation to pay debt service on the bonds or notes.

(19) In each charter county to which funds are returned under this section, the responsibility for road improvement, preservation, and traffic operation work, and the development, construction, or repair of off-road parking facilities and construction or repair of road lighting shall be coordinated by a single administrator to be designated by the county executive who shall be responsible for and shall represent the charter county in transactions with the state transportation department pursuant to this act.

(20) Not more than 10% per year of all of the funds received by and returned to a county from any source for the purposes of this section may be expended for administrative expenses. A county that expends more than 10% for administrative expenses in a year shall be subject to section 14(5) unless a waiver is granted by the department of treasury. As used in this subsection, “administrative expenses” means those expenses that are not assigned including, but not limited to, specific road construction or preservation projects and are often referred to as general or supportive services. Administrative expenses shall not include net equipment expense, net capital outlay, debt service principal and interest, and payments to other state or local offices which are assigned, but not limited to, specific road construction projects or preservation activities.

(21) In addition to the financial compliance audits required by law, the department of treasury shall conduct performance audits and make investigations of the disposition of all state funds received by county road commissions, county boards of commissioners, or any other county governmental agency acting as the county road authority, for transportation purposes to determine compliance with the terms and conditions of this act. Performance audits shall be conducted according to government auditing standards issued by the United States general accounting office. The department of treasury shall provide 6 months notice to the county road commission or county board of commissioners, as applicable, of the standards to be used for audits performed under this subsection prior to the fiscal year in which the audit is conducted. The department shall notify the county road commission or county board of commissioners of any subsequent changes to the standards. County road commissions or county boards of commissioners, as applicable, shall make available to the department of treasury the pertinent records for the audit.

247.668b State transportation commission; bonds and notes.

Sec. 18b. (1) The state transportation commission may borrow money and issue notes or bonds for the following purposes:

(a) To pay all or any portion of or to make loans, grants, or contract payments to pay all or any portion of any capital costs for the purposes described in section 9 of article IX of the state constitution of 1963.

(b) To pay the principal or the principal and interest on notes and, if the state transportation commission considers refunding to be expedient, to refund bonds payable from money in the state trunk line fund or the comprehensive transportation fund or received or to be received from the motor vehicle highway fund or the Michigan transportation fund regardless of when the refunded bonds were issued, by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption or are to be paid, redeemed, or surrendered at the time of issuance of the refunding bonds; and to issue new bonds partly to refund bonds or pay notes then outstanding and partly for any other transportation purpose authorized by this act.

(c) To pay all costs relating to the issuance of the bonds or notes described in this section, including, but not limited to, legal, engineering, accounting, and consulting services,

interest on bonds or notes for such period as determined by the state transportation commission in the resolution authorizing the bonds or notes and a reserve for payment of principal, interest, and redemption premiums on the bonds or notes in an amount determined by the state transportation commission in the resolution authorizing the bonds or notes.

(2) The refunding bonds described in subsection (1)(b) shall be sold and the proceeds and the earnings or profits from the investment of those proceeds applied in whole or in part to the purchase, redemption, or payment of the principal or the principal and interest of the bonds to be refunded and the refunding bonds issued by the state transportation commission under subsection (1)(b) and the costs described in subsection (1)(c). Refunding notes or bonds shall be considered to be issued for the same purpose or purposes for which the notes or bonds to be refunded were issued.

(3) The notes or bonds authorized by this section shall be issued only after authorization by resolution of the state transportation commission, which resolution shall contain the following:

(a) An irrevocable pledge providing for the payment of the principal and interest on the notes or bonds from money which is restricted as to use by section 9 of article IX of the state constitution of 1963 and which is deposited or to be deposited in the comprehensive transportation fund, in the case of bonds or notes issued for comprehensive transportation purposes as defined by law, or in the state trunk line fund, in the case of bonds or notes issued for transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963, or in the case of notes or bonds, if the resolution authorizing the notes or bonds provides, from money received or to be received by the state transportation department from the proceeds of bonds or renewal notes to be issued after the date of the resolution or from money received or to be received from the proceeds of the grants described in subsection (9). If the resolution authorizing the bonds or notes so provides, a portion of the principal or interest on the bonds or notes may be secured by an irrevocable pledge of money deposited in the comprehensive transportation fund or the state trunk line fund, and the balance of the principal and interest secured by an irrevocable pledge of the proceeds of bonds or renewal notes or money received or to be received from the proceeds of the grants described in subsection (9).

(b) A brief statement describing the projects for which the notes or bonds are to be issued and in the case of notes or bonds to pay notes or refund bonds, a description of the notes or bonds to be paid or refunded. For purposes of this section and section 18k, in connection with bonds issued to fund the loan program established under section 11(6) to (11), the loan program shall constitute the project, and it shall not be necessary to specify the particular item or costs of a particular item to be financed from any particular loan made under the loan program.

(c) The estimated cost of the projects or refunding or refinancing.

(d) The detail of the notes or bonds including the date of issue, maturity date or dates of the bonds or notes, the maximum interest rate, the dates of payment of interest, the paying agents, the transfer agent or agents, the provisions for registration, the redemption provisions, and the manner of execution or, as provided in subsection (11)(d), the limitations within which such detail may be determined by the person designated by the commission.

(4) If after the issuance of notes or bonds, the state transportation commission determines that a project for which the notes or bonds are to be issued should be changed, the state transportation commission, by resolution, adopted after the 30 days' notice of intention to adopt the resolution has been given to the appropriations committees of the

senate and the house of representatives, shall amend the resolution authorizing the bonds or notes to change the description of the project or projects or to substitute a different project or projects for the project for which the notes or bonds were issued and shall make other revisions in the resolution authorizing the notes or bonds with respect to cost as may be necessary to permit the change in or substitution of a project or projects.

(5) Before October 1, 1979, the total amount of bonds and notes issued pursuant to this section for comprehensive transportation purposes as defined by law shall not exceed an amount as will be serviced as to maximum principal and interest requirements by a sum equal to the amount deposited to the credit of the general transportation fund for the fiscal year ending September 30, 1977. After September 30, 1979, the total amount of bonds and notes issued pursuant to this section for comprehensive transportation purposes as defined by law shall not exceed an amount as will be serviced, out of state funds only, as to maximum annual principal and interest requirements by an amount equal to 50% of the total amount of money from taxes, the use of which money is restricted by section 9 of article IX of the state constitution of 1963, and which money is deposited in the state treasury to the credit of the comprehensive transportation fund during the state fiscal year immediately preceding the issuance of the bonds or notes.

(6) The total amount of bonds and notes issued pursuant to this section for transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963 shall not exceed an amount as will be serviced as to the maximum principal and interest requirements by a sum equal to 50% of the total of the amount of money received from taxes, the use of which is restricted by section 9 of article IX of the state constitution of 1963 and which is deposited in the state treasury to the credit of the state trunk line fund during the state fiscal year immediately preceding the issuance of the bonds or notes.

(7) The principal or principal and interest or the portion of principal or interest of bonds or notes which are issued in anticipation of the issuance of bonds or renewal notes or of federal grants as provided in subsection (9) and which do not pledge for their payment money in the state trunk line fund or the comprehensive transportation fund or money received or to be received by the state transportation department from the Michigan transportation fund or the motor vehicle highway fund shall not be considered to be principal and interest requirements subject to the limitation set forth in subsections (5) and (6). The principal of and interest on notes or bonds refunded or for the refunding of which refunding bonds have been sold, whether the bonds to be refunded are to be retired at the time of delivery of the refunding bonds or not, shall not be considered to be principal and interest requirements subject to the limitation set forth in subsections (5) and (6).

(8) In computing the maximum annual principal and interest requirements under subsection (6), the total outstanding maximum annual contributions required to be made by the state highway commission and the state transportation commission pursuant to contracts entered into under the authorization of section 18d, which contributions are pledged to the payment of bonds issued under section 18d, shall be included in the amount.

(9) The state transportation commission may borrow money and issue notes or bonds in anticipation of the receipt of grants from the United States of America or any agency or instrumentality thereof and may pledge for the payment of the principal, interest, and redemption premiums on such notes or bonds 1 or more of the following:

(a) The proceeds of any grant and any investment earnings or gain on the grant.

(b) If deemed advisable by the state transportation commission, money which is restricted as to use by section 9 of article IX of the state constitution of 1963, and which

is deposited or to be deposited in the comprehensive transportation fund, in the case of bonds or notes issued for comprehensive transportation purposes as defined by law, or in the state trunk line fund, in the case of bonds or notes issued for transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963.

(c) If deemed advisable by the state transportation commission, money received or to be received by the state from the sale of the bonds or notes described in this section to be issued after the issuance of the notes or bonds described in this subsection and any investment earnings or gain thereon.

(10) Bonds or notes may be issued under this section as separate issues or series with different dates of issuance, but the aggregate of the bonds or notes shall be subject to the limitations set forth in this section.

(11) The state transportation commission in determining to issue bonds or notes may do 1 or more of the following:

(a) Authorize and enter into insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase obligations, remarketing agreements, reimbursement agreements, and any other transactions to provide security to assure timely payment of any bonds or notes.

(b) Authorize payment from the proceeds of the bonds or notes or other funds available, of the cost of issuance, including, but not limited to, fees for placement, fees or charges for insurance, letters of credit, lines of credit, remarketing agreements, reimbursement agreements, or purchase or sales agreements or commitments, or other agreements to provide security to assure timely payment of bonds or notes.

(c) Authorize principal and interest to be payable from 1 or more of the following:

(i) Money described in subsection (3)(a).

(ii) Proceeds of bonds or notes.

(iii) Earning on proceeds of bonds or notes or other funds held for payment of bonds or notes.

(iv) Proceeds of any other security provided to assure timely payment of the bonds or notes.

(v) Proceeds of federal grants and other money described in subsection (9).

(vi) Any combination of the sources described in subparagraphs (i) to (v).

(d) Authorize or provide for a person designated by the state transportation commission, but only within limitations which shall be contained in the authorization resolution of the state transportation commission, to do 1 or more of the following:

(i) Sell and deliver and receive payment for bonds or notes.

(ii) Refund bonds or notes by the delivery of new bonds or notes, whether or not the bonds or notes to be refunded have matured or are subject to redemption prior to maturity on the date of delivery of the refunding bonds or notes.

(iii) Deliver bonds or notes partly to refund bonds or notes and partly for any other authorized purposes.

(iv) Buy, hold without cancellation, or sell bonds or notes so issued.

(v) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, optional or mandatory redemption or tender rights and obligations to be exercised by the state transportation commission or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(e) In connection with outstanding bonds, notes, or other obligations issued under this act, or in connection with the issuance or proposed issuance of bonds, notes, or other indebtedness, the state transportation commission may authorize by resolution the execution and delivery of agreements providing for interest rate exchanges or swaps, hedges, or similar agreements. The obligations of this state under the agreements, including termination payments, may be made payable from and secured by a pledge of the same sources of funds as the bonds, notes, or other obligations in connection with which the agreements are entered into, or from any other sources of funds available as a payment source of bonds, notes, or other obligations issued under this act. In calculating debt service on bonds, notes, and other obligations, the payments and receipts under the agreements authorized by this subsection, without regard to termination payments, and the payment obligations under the bonds, notes, or other obligations in connection with which the agreements are entered into, shall be aggregated and treated as a single obligation.

(f) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(g) The issuance of bonds and notes under this section is subject to the agency financing reporting act.

If additionally secured as provided in this subsection, the bonds or notes, notwithstanding other provisions of this act, may be made payable or subject to purchase on demand or prior to maturity at the option of the holder at the time and in the manner as determined by the state transportation commission or the designated person as provided in the resolution authorizing the bonds or notes. Any bonds or notes authorized by this section may bear no interest or interest at a rate or rates which may be variable but which shall be subject to the limitations provided in section 18e as provided in the resolution authorizing the obligations. If bonds or notes are subject to payment or purchase on demand or prior to maturity at the option of the holder, and the obligation of the state to make payment or effect purchases on demand or prior to maturity, at the option of the holder is limited to the proceeds of 1 or more of the additional security devices described in this subsection and is not payable from constitutionally restricted funds deposited in the comprehensive transportation fund or the state trunk line fund, for purposes of computing maximum annual principal and interest requirements under subsections (5) and (6), the principal and interest on the bonds or notes subject to payment or purchase on demand or prior redemption at the option of the holder shall be disregarded and the maximum annual principal and interest requirements which would arise with respect to the repayment of the proceeds of the additional security device shall be substituted therefor.

247.668e Bonds of governmental unit; maturities; interest; measuring maximum annual principal and interest requirements; certification of state transportation commission concerning average annual debt service requirements for certain obligations; "preservation" defined.

Sec. 18e. Except for bonds issued under section 18c, bonds issued by a governmental unit under this act shall be serial bonds with periodic maturities, or term bonds, with mandatory redemption requirements, or both serial and term bonds, the aggregate of which shall not exceed 30 years, the first of which shall fall due not more than 5 years from the date of issuance. Maturities shall be as established by the resolution or ordinance authorizing the bonds or notes, without regard to the useful lives of the projects financed from the proceeds of the bonds or notes. The bonds shall bear interest, taking into account

any discount or premium on the sale of the bonds, at a rate not exceeding the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, may be made redeemable before maturity on those terms and conditions, and with the premium as shall be provided by the proceedings authorizing their issuance. Outstanding and authorized bonds issued pursuant to this act may be treated as a single issue for the purpose of fixing maturities. If pursuant to 1952 PA 175, MCL 247.701 to 247.707, or in 1943 PA 143, MCL 141.251 to 141.254, the maximum annual principal and interest requirements on bonds issued by governmental units are required to be measured by reference to amounts received from the motor vehicle highway fund, the requirements shall be measured by the receipts from the motor vehicle highway fund, the Michigan transportation fund, or both funds, and if pursuant to this act the maximum annual principal and interest requirements on bonds or notes issued by governmental units are required to be measured by reference to amounts received from the Michigan transportation fund, the requirements shall be measured by the receipts from the motor vehicle highway fund, the Michigan transportation fund, or both funds. The state transportation commission shall certify, which certification shall, for purposes of the validity of bonds, notes, and other obligations, be conclusive as to the matters stated in the certification, to the state treasury on or before the issuance of any bonds, notes, or other obligations payable from and secured by a lien on the state trunk line fund, issued after July 1, 1983, pursuant to section 18b or 18d for purposes other than the preservation of highways, roads, streets, and bridges and for purposes other than the purposes specified in section 11(2)(b), (c), (d), (g), (h), and (i) that its average annual debt service requirements payable from and secured by a lien on the state trunk line fund for all bonds, notes, and other obligations, or portions of bonds, notes, and other obligations issued after July 1, 1983, for purposes other than the preservation of highways, roads, streets, and bridges and other than for the purposes specified in section 11(2)(b), (c), (d), (g), (h), and (i), including the bonds, notes, or other obligations to be issued does not exceed 10% of the state revenue appropriated to the state trunk line fund, less the amounts described in section 11(2)(a) to (i) during the last completed state fiscal year. The state transportation commission shall certify, which certification shall, for purposes of the validity of bonds, notes, or other certification, to the state treasury on or before the issuance of any bonds, notes, or other obligations issued after December 31, 2001, pursuant to section 18b(9) in anticipation of the receipt of grants from the United States or any agency or instrumentality of the United States for distributions to the credit of the state trunk line fund, and not payable from taxes deposited in the state trunk line fund, for purposes other than the preservation of highways, roads, streets, and bridges and for purposes other than the purposes specified in section 11(2)(b), (c), (f), and (i), that its average annual debt service requirements for all bonds, notes, and other obligations, or portions of bonds, notes, or other obligations issued after December 31, 2001, pursuant to section 18b(9) and not payable from taxes deposited in the state trunk line fund, for purposes other than the preservation of highways, roads, streets, and bridges and other than the purposes specified in section 11(2)(b), (c), (f), and (i), including the bonds, notes, or other obligations to be issued, do not exceed 10% of the federal revenue distributed to the credit of the state trunk line fund during the last completed state fiscal year. If the purpose for which the bonds, notes, or other obligations is issued is changed after the issuance of the bonds, notes, or other obligations, the change shall be made in a manner to maintain compliance with the certification required by the preceding sentence, as of the date the certificate was originally issued, but no change shall invalidate or otherwise affect the bonds, notes, or other obligations with respect to which the certificate was issued, or the obligation to pay debt service on the bonds, notes, or other obligations. As used in this section, "preservation" means preservation as defined in section 10c.

247.670a Contract for preservation of county local road system within township.

Sec. 20a. A board of county road commissioners in a county having a population of not less than 500,000 and the township board of a township having a population of not less than 40,000, as determined by the most recent statewide federal census, and which in the prior year and the contract year will have levied a property tax of not less than 1 mill on each dollar of assessed valuation of the township for the improvement or preservation of county roads within the township, may exercise the provisions of this section only by entering into a written contract of not more than 1 year providing for the preservation by the township of all or any part of the county local road system within that township, subject to, but not limited to, the following conditions:

(a) The contract shall specify the total amount of money that shall be annually expended by the contracting township for the preservation of the local road system or part thereof. The contracting road commission may pay not more than 75% of the amount specified in the contract to the contracting township annually. The contracting road commission shall not pay more than 66% of an amount equal to the average annual amount of funds expended by the county road commission on the local road system located within the contracting township for construction and preservation purposes over the previous 5-year period from local road funds received by the county under this act. Any funds expended by the contracting road commission on the local road system located within the contracting township in excess of 66% shall be matched by the contracting township. The amount paid the contracting township shall not directly or indirectly include moneys transferred from the primary fund allocation to the county as set forth in section 12(8).

(b) The contracting township shall keep separate accounts and accurate and uniform records on all road preservation work and funds, and shall file with the state highway commission and the contracting county road commission on or before April 1 of each year, on forms to be provided by the state highway commission, a report showing the disposition of funds received and expended for road purposes. The failure of a contracting township to apply moneys returned pursuant to this act to the purposes herein prescribed shall result in the forfeiture by the contracting county of any and all funds to which it may have been entitled under this act and all funds so forfeited shall thereafter be apportioned among the other county road commissions in the same manner and proportion as hereinbefore provided for the distribution of the motor vehicle highway fund.

(c) The contract shall require the contracting township to provide insurance covering the contracting road commission's liability for failure to preserve the local roads specified in the contract.

(d) The contracting road commission shall determine and specify the equipment and personnel necessary to provide the preservation as set forth in the contract, and the contract shall not take effect until the contracting township has acquired the necessary equipment and personnel so specified.

(e) As used in this section, the term "preservation" shall be construed to include the same meaning as set forth in section 10c. If the contracting parties intend to give a different meaning than as set forth in section 10c, the contract shall so specify.

This act is ordered to take immediate effect.

Approved July 2, 2002.

Filed with Secretary of State July 3, 2002.

[No. 499]**(HB 5396)**

AN ACT to amend 1951 PA 51, entitled “An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to 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, critical 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; and to repeal acts and parts of acts,” by amending section 9a (MCL 247.659a), as amended by 1998 PA 308.

The People of the State of Michigan enact:

247.659a Definitions; transportation asset management council; creation; charge; membership; appointments; staff and technical assistance; requirements and procedures; technical advisory panel; multiyear program; funding; records on road and bridge work performed and funds expended; report.

Sec. 9a. (1) As used in this section:

(a) “Asset management” means an ongoing process of maintaining, upgrading, and operating physical assets cost-effectively, based on a continuous physical inventory and condition assessment.

(b) “Bridge” means a structure including supports erected over a depression or an obstruction, such as water, a highway, or a railway, for the purposes of carrying traffic or other moving loads, and having an opening measuring along the center of the roadway of

more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of openings for multiple boxes where the clear distance between openings is less than 1/2 of the smaller contiguous opening.

(c) “Central storage data agency” means that agency or office chosen by the council where the data collected is stored and maintained.

(d) “Council” means the transportation asset management council created by this section.

(e) “County road commission” means the board of county road commissioners elected or appointed pursuant to section 6 of chapter IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county with a population of 2,000,000 or more with an elected county executive that does not have a board of county road commissioners, the county executive for ministerial functions and the county commission provided for in section 14(1)(d) of 1966 PA 293, MCL 45.514, for legislative functions.

(f) “Department” means the state transportation department.

(g) “Federal-aid eligible” means any public road or bridge that is eligible for federal aid to be spent for the construction, repair, or maintenance of that road or bridge.

(h) “Local road agency” means a county road commission or designated county road agency or city or village that is responsible for the construction or maintenance of public roads within the state under this act.

(i) “Multiyear program” means a compilation of road and bridge projects anticipated to be contracted for by the department or a local road agency during a 3-year period.

(j) “State planning and development regions” means those agencies required by section 134(b) of title 23 of the United States Code, 23 U.S.C. 134, and those agencies established by Executive Directive 1968-1.

(2) In order to provide a coordinated, unified effort by the various roadway agencies within the state, the transportation asset management council is hereby created within the state transportation commission and is charged with advising the commission on a statewide asset management strategy and the processes and necessary tools needed to implement such a strategy beginning with the federal-aid eligible highway system, and once completed, continuing on with the county road and municipal systems, in a cost-effective, efficient manner. Nothing in this section shall prohibit a local road agency from using an asset management process on its non-federal-aid eligible system. The council shall consist of 10 voting members appointed by the state transportation commission. The council shall include 2 members from the county road association of Michigan, 2 members from the Michigan municipal league, 2 members from the state planning and development regions, 1 member from the Michigan townships association, 1 member from the Michigan association of counties, and 2 members from the department. Nonvoting members shall include 1 person from the agency or office selected as the location for central data storage. Each agency with voting rights shall submit a list of 2 nominees to the state transportation commission from which the appointments shall be made. The Michigan townships association shall submit 1 name, and the Michigan association of counties shall submit 1 name. Names shall be submitted within 30 days after the effective date of the 2002 amendatory act that amended this section. The state transportation commission shall make the appointments within 30 days after receipt of the lists.

(3) The positions for the department shall be permanent. The position of the central data storage agency shall be nonvoting and shall be for as long as the agency continues to serve as the data storage repository. The member from the Michigan association of counties shall be initially appointed for 2 years. The member from the Michigan townships

association shall be initially appointed for 3 years. Of the members first appointed from the county road association of Michigan, the Michigan municipal league, and the state planning and development regions, 1 member of each group shall be appointed for 2 years and 1 member of each group shall be appointed for 3 years. At the end of the initial appointment, all terms shall be for 3 years. The chairperson shall be selected from among the voting members of the council.

(4) The department shall provide qualified administrative staff and the state planning and development regions shall provide qualified technical assistance to the council.

(5) The council shall develop and present to the state transportation commission for approval within 90 days after the date of the first meeting such procedures and requirements as are necessary for the administration of the asset management process. This shall, at a minimum, include the areas of training, data storage and collection, reporting, development of a multiyear program, budgeting and funding, and other issues related to asset management that may arise from time to time. All quality control standards and protocols shall, at a minimum, be consistent with any existing federal requirements and regulations and existing government accounting standards.

(6) The council may appoint a technical advisory panel whose members shall be representatives from the transportation construction associations and related transportation road interests. The asset management council shall select members to the technical advisory panel from names submitted by the transportation construction associations and related transportation road interests. The technical advisory panel members shall be appointed for 3 years. The asset management council shall determine the research issues and assign projects to the technical advisory panel to assist in the development of statewide policies. The technical advisory panel's recommendations shall be advisory only and not binding on the asset management council.

(7) Beginning October 1, 2003, the department, each county road commission, and each city and village of this state shall annually prepare and publish a multiyear program, based on long-range plans, and developed through the use of the asset management process described in this section. Projects contained in each local road agency's annual multiyear program shall be consistent with the goals and objectives of the local road agency's long-range plan. A project, funded in whole or part, with state or federal funds, shall be included in any local road agency's multiyear plan.

(8) Funding necessary to support the activities described in this section shall be provided by an annual appropriation from the Michigan transportation fund to the state transportation commission.

(9) The department and each local road agency shall keep accurate and uniform records on all road and bridge work performed and funds expended for the purposes of this section, according to the procedures developed by the council. Each local road agency and the department shall annually report to the council the mileage and condition of the road and bridge system under their jurisdiction and the receipts and disbursements of road and street funds in the manner prescribed by the council, which shall be consistent with any current accounting procedures. An annual report shall be prepared by the staff assigned to the council regarding the results of activities conducted during the preceding year and the expenditure of funds related to the processes and activities identified by the council. The report shall also include an overview of the activities identified for the succeeding year. The council shall submit this report to the state transportation commission, the legislature, and the transportation committees of the house and senate by May 2 of each year.

This act is ordered to take immediate effect.
Approved July 2, 2002.
Filed with Secretary of State July 3, 2002.

[No. 500]

(SB 1314)

AN ACT to amend 2001 PA 34, entitled “An act relative to the borrowing of money and the issuance of certain debt and securities; to provide for tax levies and sinking funds; to prescribe powers and duties of certain departments, state agencies, officials, and employees; to impose certain duties, requirements, and filing fees upon political subdivisions of this state; to authorize the issuance of certain debt and securities; to prescribe penalties; and to repeal acts and parts of acts,” by amending sections 317, 403, 611, and 701 (MCL 141.2317, 141.2403, 141.2611, and 141.2701).

The People of the State of Michigan enact:

141.2317 Interest rate exchange or swap, hedge, or similar agreement; definitions.

Sec. 317. (1) For the purpose of more effectively managing its debt service, a municipality may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance or proposed issuance of debt or in connection with its then outstanding debt.

(2) In connection with entering into an interest rate exchange or swap, hedge, or similar agreement, a municipality may create a reserve fund for the payment of the exchange or swap, hedge, or similar agreement.

(3) An agreement entered into pursuant to this section shall not be included within the total debt of a municipality for any statutory or charter or other debt limitation purpose.

(4) If an interest rate exchange or swap, hedge, or similar agreement described in this section is entered into by a municipality in connection with debt that was not approved by the voters of the municipality, or in connection with a refunding of debt not originally approved by the voters of the municipality, 1 or more of the following apply:

(a) The interest under the agreement constitutes a limited tax full faith and credit pledge from general funds of the municipality.

(b) Subject to any existing contracts, the interest under the agreement shall be payable from any available money or revenue sources, including revenues that shall be specified by the agreement, securing the municipal security in connection with which the agreement is entered into.

(5) If an interest rate exchange or swap, hedge, or similar agreement described in this section is entered into by a municipality in connection with debt that was approved by the voters of the municipality, or in connection with a refunding of debt originally approved by the voters of the municipality, the municipality’s interest payment obligation under the agreement shall be considered to be additional interest on the debt, shall constitute an unlimited tax full faith and credit pledge of the municipality, and the municipality shall levy all of the following:

(a) The full amount of taxes required, or in the case of a variable rate obligation the amount reasonably estimated to be required, for the payment of principal and interest on

the municipal securities without limitation as to rate or amount and in addition to other taxes that the municipality may be authorized to levy.

(b) The full amount of taxes required, or in the case of a variable rate obligation the amount reasonably estimated to be required, for the payment of the municipality's net interest obligation under an interest rate exchange or swap, hedge, or similar agreement entered into under this section.

(c) The amounts levied under subdivisions (a) and (b) shall be reduced by any surplus funds on hand in the debt retirement fund in excess of a reasonable reserve as determined by the municipality's chief financial officer.

(6) For purposes of this section, "net interest obligation" means the amount of interest payable by a municipality in a given year under an agreement entered into under this section minus any interest payment received by a municipality from the other party to the agreement in the same period under the agreement, but not less than zero. Termination payments shall constitute interest to the extent that the treatment does not cause the interest rate on the debt to exceed the limits established by this act.

(7) A municipality shall not enter into an agreement under this section unless all of the following conditions are met:

(a) The governing body of the municipality has, by resolution or ordinance, expressly approved the agreement and acknowledged the potential risks associated with the agreement.

(b) The counterparty to the agreement has been assigned a rating of "A" or better, or other rating as the department may determine, by a nationally recognized rating agency at the time the agreement is entered into.

(c) The length of the agreement does not extend beyond the final maturity date of the debt issued in connection with the agreement.

(d) The municipality shall not have waived its right to a jury trial.

(e) The municipality has created a debt management plan.

(f) The municipality has created a swap management plan.

(8) An agreement entered into under this section shall be described in the municipality's annual audit report filed under section 303(1).

(9) As used in this section:

(a) "Debt management plan" means a written debt management plan of the municipality that includes, but is not limited to, the following:

(i) Total amount of debt of the municipality.

(ii) Total amount of variable rate debt of the municipality.

(iii) Analysis of the effect of rising interest rates on variable rate holdings of the municipality.

(iv) Analysis of risk in maintaining variable risk holdings.

(b) "Swap management plan" means a written management plan that includes, but is not limited to, all of the following:

(i) Analysis of the benefits and costs of entering into swap agreements.

(ii) Analysis of the risk associated with entering into swap agreements.

(iii) Analysis of early termination, involuntary termination, default, and cost considerations associated with swap agreements.

(iv) System in place to monitor the status of all outstanding swap agreements.

141.2403 Resolution authorizing municipal security; tax levy provision; operating expenditures; limitation; set aside of taxes collected; tax installments; capital improvements; debt service charges.

Sec. 403. (1) If a municipality issues a municipal security in anticipation of the collection of the taxes for the next succeeding fiscal year, the resolution authorizing a municipal security shall contain an irrevocable provision for the levying of a tax in the next succeeding fiscal year for the purpose for which the municipal security is to be made and the repayment of the municipal security from the receipt of taxes.

(2) A municipality may issue the short-term municipal security described in subsection (1) to pay for operating expenditures. As used in this section, “operating expenditures” means 1 or more of the following:

(a) Necessary operating expenditures of the municipality that could not reasonably have been foreseen and adequately provided for in the tax levy for the then current fiscal year.

(b) Payment of an expenditure in the then current fiscal year that cannot be funded because of a delay in or failure of receipt of budgeted revenue.

(c) Payment of budgeted expenditures in the then current fiscal year that precede budgeted revenues.

(3) The amount of the municipal securities issued under this section to pay operating expenditures shall not exceed 50% of the operating tax levy for the current fiscal year, or if the operating tax levy for the next succeeding fiscal year is determined, then 50% of the levy for the next succeeding fiscal year. The authorizing resolution shall provide that from the first collections of the operating taxes for the next succeeding fiscal year, there shall be set aside in a special fund to be used for the payment of principal and interest on the tax anticipation municipal security, a portion of each dollar that is not less than 125% of the percentage that the principal amount of the municipal security bears to the amount of the operating taxes until the amount set aside is sufficient for the payment. If a municipality collects its taxes in installments and issues a municipal security in anticipation of more than 1 installment, the requirements of the preceding sentence shall apply to each installment of taxes. The collection of the taxes to be set aside shall not be used for any other purpose. If the municipality determines that issuing municipal securities for this purpose will result in a deficiency in the funds available to pay the necessary operating expenditures of the next succeeding fiscal year, the municipality shall levy additional taxes in the future from within constitutional, charter, and statutory limits to prevent a continuation of the deficiency from year to year.

(4) A municipality may issue a short-term municipal security described in subsection (1) to pay for 1 or more capital improvements that can be legally and properly provided for in the budget of the municipality for the fiscal year in which the municipality issues the short-term municipal security. The principal amount of the municipal security issued for this purpose shall not exceed the sum set forth in the authorizing resolution to be levied for the improvement. The authorizing resolution shall provide that from the first collection of taxes for the next succeeding fiscal year, there shall be set aside in a special fund to be used for the payment of principal and interest on the short-term municipal security that percentage of the collection that the tax levied for capital outlay bears to the total levy, and until the amount set aside is sufficient for the payment, collection of the taxes to be set aside shall not be used for any other purpose.

(5) A municipality may issue the short-term municipal security described in subsection (1) to pay debt service charges or obligations on municipal securities or agreements described in section 317(5).