House Legislative Analysis Section

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

ELIMINATE TRANSPORTATION FUND SUNSET DATE

Senate Bill 1274 with House committee amendments
First Analysis (6-7-00)

Sponsor: Sen. Philip E. Hoffman
House Committee: Transportation
Senate Committee: Appropriations

THE APPARENT PROBLEM:

Some $1.7 billion in state transportation revenues are distributed each year by the formulas of Public Act 51 of 1951. In addition, the state transportation budget bill distributes another $1 billion in federal aid to surface transportation. The Public Act 51 formulas, initiated nearly half a century ago, rely on jurisdictional boundaries and designated road "legal" systems. The funds go to the Department of Transportation, county road commissions, and cities and villages for maintenance and construction of roads, and for support of public transit systems.

Some have observed that the formulas are outdated and unnecessarily rigid. They note that the highway is but one mode in an interconnected transportation system that, in Michigan, includes air, rail, marine, transit, and non-motorized vehicles. Consequently, importance must be placed upon intermodalism--an especially urgent consideration given the demography of the state. Advocates of intermodalism argue the distribution rules do not allow the funding flexibility required to respond to the rapidly changing needs of today's transportation customers. Further, some more narrowly focused on road funding also have cited the formula's rigidity. They argue that the formula needs to be modernized in order to allocate the transportation fund's road money to the problem areas of the state where it can do the most good for the greatest number of people. For example, when the state shares transportation funds with local road agencies under the current allocation rules, the money is allocated based on road miles (sometimes called route miles), rather than lane miles. Consequently, a one-mile stretch of an eight-lane highway receives the same amount of funding as a one-mile stretch of a two-lane highway.

To review these concerns, two study committees have convened during the past year. One committee attended to transportation funding matters, overall; a second focused on transit. Both committees issued reports, and a citizen's advisory panel reviewed the committees' recommendations. Those recommendations -- 19 in all -- suggest ways to change the design and management of the assets in the state's existing transportation system, and also suggest that subsequently, consideration be given to ways the state might change the allocation rules for money in the state transportation fund. (See *BACKGROUND INFORMATION*, below.)

In contrast to those who cite the need for changes in the ways the state transportation system is managed and funded, some have argued that the state's first priority must be to eliminate the Michigan Transportation Fund sunset provision. The sunset -- September 30, 2000 -- should be removed from Public Act 51 in order to ensure a high bond rating (and consequently a low interest rate) when the state sells road construction bonds. They point out that if the sunset provision is not eliminated, or at the very least extended, there is an uncertain financial future for road-building and repair in the state. In particular, this uncertainty could trouble the financial markets on Wall Street where Michigan must sell its debt in order to raise money for the Build Michigan III program. To sell bonds with low interest repayment rates, there must be a dedicated stream of revenue to pay them off. Continuity in the distribution of revenue from the Michigan Transportation Fund can reassure the market that the state's dedication to road projects is programmatically sound. To this end, legislation has been proposed to eliminate the sunset provision.

THE CONTENT OF THE BILL:

Senate Bill 1274 would amend Public Act 51 of 1951 to eliminate the sunset for the Michigan Transportation Fund formula. Under current law, if a distribution formula is not enacted into law for the time period beginning October 1, 2000, money in the Michigan

Transportation Fund could only be apportioned and appropriated to pay the principal and interest due on state and local transportation bonds and notes.

In addition, Senate Bill 1274 would eliminate the sunset provision in Section 11 of the act, which governs the State Transportation Fund distribution.

The bill also would specify the method of distribution of $33,000,000 from the Michigan Transportation Fund to the Local Program Fund. The local program fund was first established through Public Act 223 of 1992 as a device to "pass through" state funds earmarked for local distribution (in which 64.2 percent of local funds are distributed to county road commissions, and 35.8 percent to cities and villages). To make the grant to local units under that law, $33 million was taken "off-the-top" of the Michigan Transportation Fund (MTF) for deposit in the State Transportation Fund (STF), and then subsequently deposited in the Local Program Fund. However, five years after the law was enacted, Public Act 79 of 1997 altered the language of the distribution provision to suggest that the $33 million come directly from the STF. Despite the suggested shift in the source of funds, the transportation appropriation acts since 1997 have continued to fund the grant to local units from the MTF. Senate Bill 1274 would clarify that the Local Program Fund appropriation is to be made from the MTF, as has been the custom.

In addition, Senate Bill 1274 would allow a township with a population of 20,000 or more in a county with a population of 2,000,000 or more, and without an elected board of county road commissioners, to assume jurisdiction over roads within the township, and to receive the funds for those roads directly from the state. Under the current statutory formula, townships do not directly receive funding from the state for roads.

Finally, Senate Bill 1274 would alter the provision of the act concerning the distribution of federal aid to local road agencies. Currently, Section 10o of Public Act 51 allocates 23 to 27 percent of federal highway funds to programs administered by local jurisdictions (although the section excludes certain specific federal aid programs from the allocation calculation). Section 10o(4) also indicates that "it is the intent of the legislature that federal aid to highways allocated to local jurisdictions under subsection (1) be distributed in a manner that produces a 25 percent average allocation of applicable funds to programs for local jurisdictions in each fiscal year through the fiscal year ending September 30, 2000." Senate Bill 1274 would <u>not</u> change this date. However, the bill would add language to allow local units to exchange their allocation of federal aid with the Department of Transportation in return for state trunk line funds without causing a reallocation of federal funds to local units, in order to maintain the 25 percent average allocation. Specifically, the new language would specify in subsection (4) "the average allocation in the subsection shall be adjusted to reflect any voluntary agreements made by the department with local jurisdictions regarding the state buyout of local federal aid."

MCL 247.660 et al.

HOUSE COMMITTEE ACTION:

The House Transportation Committee adopted several amendments to the Senate-passed version of the bill. Specifically, the changes would:

-Eliminate the section added to the bill on the Senate floor that would have prohibited a township that had no road agency on the effective date of the bill from establishing a road agency, or from using transportation funds to hire additional township employees to perform the function of a road agency;

-Substantially alter the provision that allows townships to receive local road money so that section 10(1)i(ii) of the bill would read "39.1 percent to the county road commissions of the state, except that a township with a population of 20,000 or more in a county with a population of 2,000,000 or more based on the most recent statewide federal census or standard metropolitan statistical area estimates that does not have an elected board of county road commissioners, that chooses to assume jurisdiction over roads within that township may receive the funds for those roads directly from the state";

-Remove the provision that would have directed an appropriation by the legislature from the state trunk line fund to supplement the institutional road program for university roads; and,

-Alter the provision concerning the distribution of federal aid to local road agencies, by adding language to allow local units to exchange their allocation of federal aid with the Department of Transportation in return for state trunk line funds without causing a reallocation of federal funds to local units, in order to maintain the 25 percent average allocation. Specifically, the new language would specify in subsection (4) that "the average allocation in the subsection shall be adjusted to reflect any voluntary agreements made by the department with local jurisdictions regarding the state buyout of local federal aid."

BACKGROUND INFORMATION

Transportation Funding Study Committee. On June 1, 2000 the report entitled "Transportation Funding for the 21st Century" was issued by the Michigan Transportation Funding Study Committee. The nine-member committee (representing commerce, labor, agriculture, manufacturing, and tourism, as well as members of the legislature) was appointed by the governor under Public Act 308 of 1998. Charged to review the state's transportation funding system and make recommendations to improve it, the committee met 22 times over a year, and heard testimony from hundreds of stakeholders in the road system. The committee's findings were reviewed by a broad-based, 24-member Citizens Advisory Panel before the report was issued. A copy of the complete written testimony is available upon request. Further, the complete written testimony, as well as meeting minutes and transcripts, are also available at the committee web site: http://www.mdot.state.mi.us/act51/act51study/index.htm.

Public Act 51 Transit Committee. As the study committee met to consider changes in the funding system, a second committee was underway, under the direction of the Department of Transportation. That committee, called the Public Act 51 Transit Committee, issued a report on April 27, 2000. Its mission was to move the state- and federally-subsidized local mass transit systems from a cost-based reimbursement regime to a customer-oriented, performance-based program; to achieve necessary legislative reforms that would enhance a state transportation system focused on maximum potential, efficiency, and effectiveness; and to encourage remedies that achieved public and private partnerships, local support and the elimination of costly duplicate services in making mass transit services an attractive modal choice for Michigan's citizens. Copies of written testimony offered before the Transit Committee also are available upon request, and the meeting minutes are available at www.mdot.state.mu.us/act51/transit.

The Public Act 51 Transit Committee's recommendations were reviewed by the Transportation Funding Study Committee. The funding committee generally approves the transit committee's recommendations with certain clarifications and modifications that are noted on pages 19 - 21 of the funding committee's report.

Transportation Funding Study Committee Recommendations. Citing an overarching recommendation that a *long-term, planned asset management process be extended to statewide use for transportation facilities,* the committee report offers 12 recommendations. ("Asset management", a generic term used in the public and private sectors by managers who seek systematic program review and improvement, customarily involves six steps: data collection; performance modeling; development of alternatives; decision-making and program development; implementation; and monitoring.) The report also offers seven additional recommendations to increase the level of interaction among transportation and other agencies, and to retain the revenue raised in the transportation sector for expenditure on transportation infrastructure. The 19 recommendations, briefly stated, follow.

The 12 asset management recommendations suggest:

-system performance measures, along with associated standards and criteria , be selected by the Technical Advisory Panel for all elements of the roadway infrastructure;

-road and bridge data for all jurisdictions be collected and maintained in a statewide Geographic Information System (GIS), under the direction of a Technical Advisory Panel, and through the coordination of existing resources;

-a systematic, statewide review of National Functional Classification (NFC) designations be conducted for roads under all jurisdictions to ensure they are appropriately designated according to their use, per federal regulations;

-the asset management process include standards, criteria, and performance measures for the designation of an all-season road system, serving all significant points of loading origin and essential commodity haul routes, and composed of routes from all jurisdictions as needed for connectivity and continuity;

-the asset management process be a vehicle to provide incentives to reward additional regional coordination and planning among and between road and transit agencies;

-that the Technical Advisory Panel develop a uniform definition of maintenance, and that the legislature revise current transportation laws to incorporate the definition;

-that any asset management-based formula take into account the need for a base level of funding for the routine maintenance of all roads;

-that roadway assets be managed so as to maximize performance at the lowest life-cycle cost, including agency first cost, lifetime maintenance cost, and user costs;

-that all road agencies seek warranties from construction contractors where appropriate. Legislation should encourage experimentation with warranties covering the design and construction of roads and bridges, without mandating warranty details or particular applications;

-that the distribution percentages to road agencies in the current formula be continued unchanged until implementation of an asset management process, which may result in future distribution changes. Any future distribution changes should be phased in, to accommodate planned construction;

-that a Technical Advisory Panel be responsible for oversight of the components of the asset management process; and

-that the legislature evaluate the Technical Advisory Panel's periodic performance reports and take appropriate action.

<u>The 7 recommendations concerning agency coordination and revenue</u> suggest:

-local officials coordinate with state and local road agencies as part of the planning process. Land development and transportation should be considered together, to maximize the utility of existing infrastructure and the effectiveness of new investment;

-the three units of government that have the ability to levy ad valorem taxes for roads--counties, municipalities, and townships--be represented on county road commissions;

-a system be implemented to explore alternative ways of generating transportation user fees. To this end, the governor should create a special committee to look at alternative sources of revenue that could become viable alternatives to existing revenue resources;

-the legislature simplify the total diesel fuel tax collection system;

-that transfers from the Michigan Transportation Fund, the State Trunk Line Fund, and the Comprehensive Transportation Fund to other state government departments be eliminated;

-in the next two years, all road agencies begin to allow competitive bidding by pre-qualified bidders on all road maintenance for an amount of work that exceeds a financial threshold to be determined by the appropriate parties; and

-that the committee concurs with the recommendations of the Public Act 51 Transit Committee report, with clarifications and modifications noted on pages 19 through 21 of the report.

FISCAL IMPLICATIONS:

The House Fiscal Agency notes that Public Act 51 of 1951 governs appropriations for approximately $2 billion in state-restricted transportation revenue. If Public Act 51 were not amended to extend or repeal the current sunset provision, there may not be statutory authority for Michigan Transportation Fund (MTF) appropriations -- except for debt service -- after September 30, 2000. The would result in a decrease in revenue for public transportation programs (which are primarily local programs) of about $200 million each year. Failure to extend or repeal the sunset would also result in a decrease of about $1.8 billion in revenue available for highway programs, of which about 60 percent is for local programs and 40 percent for state programs.

Further, the agency notes that to the extent that Senate Bill 1274 retains the current distribution formula there would be no change in state or local revenues; and to the extent the bill provides the same fund source for the Local Program Fund as is in the current appropriations act there would be no effect on state or local revenues.

Finally, the inclusion of a few eligible townships in Wayne County in the distribution would not affect total local revenue, but could cause a redistribution of funds from the county to those townships that elected to take over jurisdiction of the roads within their geographic boundaries. (6-5-00)

ARGUMENTS:

For:

This legislation is necessary in order to allow the state and local road agencies to continue receiving transportation funds after September 30, 2000. The bill would eliminate the sunset of the statutory rules, or formula, that govern the distribution of state transportation revenue after it is deposited in the Michigan Transportation Fund. However, the formula itself would remain unchanged: the state would continue to control 39.1 percent of road funding; counties (and potentially a few Wayne county townships) would continue to get 39.1 percent; and, villages and cities would split up the rest.

For:

The Michigan Transportation Fund sunset should be eliminated to ensure a high bond rating and a low interest rate on road bonds. If the sunset provision is not eliminated, or at the very least extended, there is an uncertain financial future for road-building and repair in the state. This uncertainty would trouble the financial markets on Wall Street where Michigan must sell its debt in order to raise money for the Build Michigan III program. To sell bonds with low interest repayment rates, there must be a dedicated stream of revenue to pay them off. Continuity in MTF distribution will assure the market that Michigan's dedication to road projects is programmatically sound.

According to a Senate Fiscal Agency analysis dated 5-30-00, Build Michigan III is a five-year, $930 million transportation package. The agency notes that based on information provided to date, the package includes a proposed $100 million appropriation from the general fund during fiscal year 1999-2000, and $830 million in bond proceeds. Debt service payment on the bonds is expected to begin in fiscal year 2001-2002, and a portion of the debt service payments on the bonds would be provided from an annual $35 million appropriation from the Budget Stabilization Fund as proposed in Senate Bill 1275, and $8 million from changes to diesel fuel taxation in the state, as proposed by House Bills 5806 and 5807.

The state's ability to demonstrate a commitment to bond repayment is the key component to earning a high bond rating and accompanying low interest rate. Although the actual debt service payments for the bonding portion of the Build Michigan III program will not be known until the bonds have been sold, since it will be contingent on the term, interest rate, and sale costs of the bonds, a strong road building program without periodic interruptions to debate the sunset provision in the transportation fund will bring stability and continuity to the program.

Against:

This bill does a grave injustice to the scores of citizens who participated in the transportation planning process. As the *Oakland Press* noted on 5-31-00, "a year of hearings and study on transportation funding for the state's roads, bridges and buses has resulted in a bill that is virtually the same as existing law. The process was meant to come up with a new way to distribute the nearly $3 billion in road funds. But the competing interests of county and state forced the state Senate to scuttle substantive changes, at least temporarily, and rely on the current law." This legislation has virtually no relation to the comprehensive transportation studies undertaken by two separate committees, and reviewed by a 24-member citizens' advisory panel. Not one of the 19 major recommendations offered in the Transportation Funding Study Committee Report is addressed by this bill. Consideration of this important legislation has progressed far too hurriedly, without regard to the substantive policy changes that may well be necessary to ensure improvement in the state transportation system.

Response:

Although this legislation does not address the recommendations of the study committee, another piece of legislation--House Bill 5809--has been drafted to incorporate many of the committee's suggestions. That bill will be the subject of ongoing deliberations during the legislature's summer recess, and the intent is to report that bill from committee following careful consideration of the study committee's report.

POSITIONS:

The Department of Transportation supports the bill. (6-6-00)

The Michigan Road Builders Association supports the bill. (6-6-00)

The City of Lansing supports the bill. (6-6-00)

AUC, Michigan's Heavy Construction Association, supports the bill. (6-6-00)

The Michigan Environmental Council opposes the bill. (6-6-00)

The County of Wayne opposes the bill. (6-6-00)

The County Road Association of Michigan supports the bill if it is amended to eliminate the provision concerning transportation funds for townships in Wayne County. (6-6-00)

Analyst: J. Hunault

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.