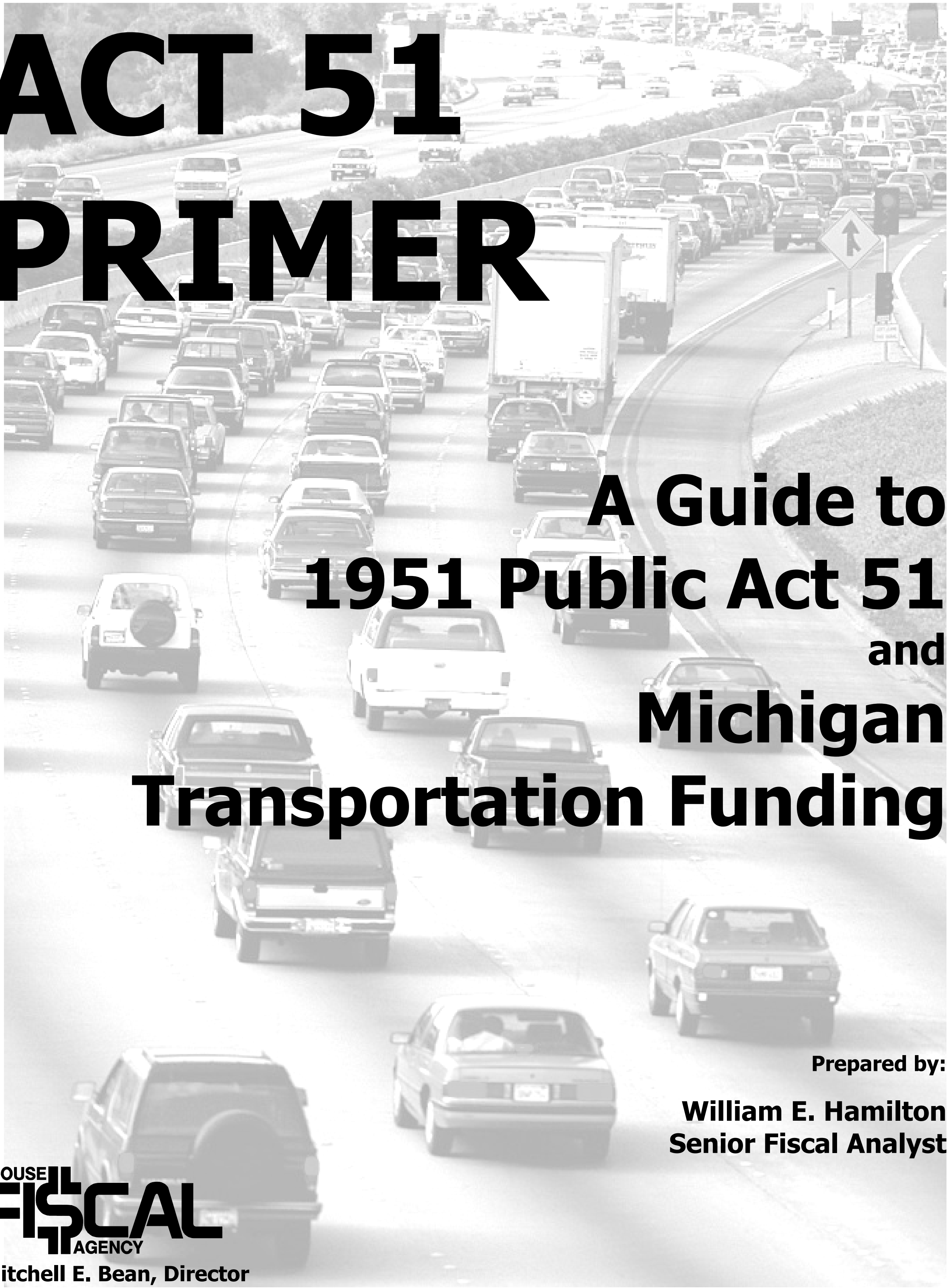

# ACT 51 PRIMER

## A Guide to 1951 Public Act 51 and Michigan Transportation Funding

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# FOREWORD

Public Act 51 of 1951 (Act 51) governs state appropriations for most Michigan transportation programs, including state and local highway programs and state and local public transportation programs. This report was prepared as a primer on Act 51 and how Act 51 controls state transportation funding.

This report:

- Describes transportation revenue sources governed by Act 51.
- Describes transportation programs governed by Act 51.
- Discusses recent legislative activity related to Act 51.

For the balance of this report, Public Act 51 of 1951 will be referenced simply as "Act 51." References to other public acts will follow the Legislative Service Bureau Legal Division style guide, e.g., 1949 PA 300. Abbreviations for House Bill (HB), Senate Bill (SB) and Fiscal Year (FY) are used throughout this report.

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# ACT 51 GOVERNS APPROPRIATIONS

### *Michigan Transportation Fund (MTF) Distribution*

Public Act 51 of 1951, often referred to simply as "Act 51," governs state appropriations for most Michigan transportation programs.[1] Act 51 channels state restricted transportation revenue into special revenue funds, and directs how those funds are spent.

There are two primary sources of state-generated transportation revenue: motor fuel taxes, and vehicle registration taxes. These two revenue sources are expected to generate approximately $2.0 billion for state transportation programs in FY 2006-07.[2] Act 51 creates the Michigan Transportation Fund (MTF) as the main collection and distribution fund for this state-generated transportation revenue.

Act 51 directs MTF revenue to other state transportation funds, to special program accounts, and to local units of government. Primary recipients of MTF revenue are:

- **State Trunkline Fund (STF)**
  For construction and preservation of state trunkline roads and bridges and administration of the Michigan Department of Transportation (MDOT).

- **Local Road Agencies**
  For local road and street programs of 83 county road commissions and 533 incorporated cities and villages.

- **Comprehensive Transportation Fund (CTF)**
  For public transportation programs including capital and operating assistance to the state's 79 public transit agencies.

The effect of the Act 51 distribution formula is to allocate state restricted transportation revenue between highway programs and public transportation programs, and highway program funds between MDOT and local road agencies.[3]

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[1] Pubic Act 51 of 1951 as amended is compiled as MCL 247.651 et. seq.

[2] Based on FY 2006-07 revenue estimate made by Michigan Department of Treasury Economic and Revenue Forecasting Division (ERFD) January 31, 2007.

[3] For purposes of this report, the term "Highway programs" refers to the road and bridge construction and preservation programs of the Michigan Department of Transportation and local road agencies. "Public transportation programs" are programs which provide operating or capital assistance to the state's public transit agencies, or which help support intercity bus, rail passenger, and rail freight service. The above description greatly simplifies the fairly complicated Act 51 MTF distribution formula. See Appendices A and E for a more detailed breakdown of the MTF distribution.

### *Other Act 51 Provisions*

In addition to creating the MTF and providing a formula for the distribution of MTF funds, Act 51:

- Directs how STF and CTF funds are spent. Act 51 prescribes fixed dollar amounts or percentage allocations for various STF and CTF programs and/or determines the priority order for funding those programs.

- Provides internal formulas which direct how local road agencies can spend their distribution of MTF money. For example, Act 51 prescribes how much county road commissions can spend on county local roads versus county primary roads, and limits how much can be spent on construction versus preservation.

- Allocates federal highway funds between MDOT and local road agencies. After excluding certain federal program categories, Act 51 directs that an average of 75% of federal highway funds be allocated to MDOT and 25% to local road agencies.

- Creates a number of compliance and reporting requirements for MDOT and local road agencies—the rules for spending state transportation funds.

**Note on Act 51 and Annual Appropriations Acts**

In this report we state that "Act 51 governs appropriations," and that the Act 51 distribution of state restricted and federal transportation revenue is reflected in annual state appropriations acts. However, it is not clear whether appropriations acts are necessary to effect this distribution.

In a 1979 opinion in *County Road Association v Board of State Canvassers*, the Michigan Court of Appeals wrote that Article IX, Section 9, of the 1963 Constitution, and Act 51, "are self-executing and make transportation tax legislation unique." The Court indicated that the State Treasurer would have to make disbursements from the MTF required by Section 17 of Act 51 "regardless of what the appropriation act . . . had provided."

In order to provide a better understanding of Act 51, the balance of this report will review the revenue and major programs that comprise the annual state transportation budget and which are subject to the provisions Act 51.

# TRANSPORTATION REVENUE

Michigan's FY 2006-07 state transportation budget (2006 PA 345, Article 18, as enacted) of $3.4 billion has three main sources of revenue: state, federal, and local.

**Table 1**
**Revenue Supporting Michigan's FY 2006-07 Transportation Budget**

| | Revenue | % of Total Gross |
|---|---:|---:|
| State Funds | $2,225,029,000 | 64.6% |
| Federal Funds | 1,169,336,300 | 34.0% |
| Local Funds | 47,500,000 | 1.4% |
| **Gross Appropriation** | **$3,441,865,300** | **100.0%** |

### *State Funds*

State-generated revenue sources comprise the largest part of the state transportation budget—$2.2 billion for FY 2006-07. Nearly all of this state-generated transportation revenue comes from state motor fuel taxes and vehicle registration taxes.

Motor fuel taxes, which include the state's 19-cent per gallon gasoline excise tax as well as diesel fuel taxes, account for about half of all state-generated transportation revenue. By itself, the 19-cent per gallon gas tax is expected to produce approximately $907.0 million for state transportation programs in FY 2006-07. State motor fuel excise taxes are authorized in the Motor Fuel Tax Act (2000 PA 403).

Vehicle registration taxes, collected by the Michigan Secretary of State, are the other major source of state transportation revenue. Revenue from these taxes is estimated at $916.7 million for FY 2006-07. These taxes are established in the Michigan Vehicle Code (1949 PA 300).

Both state motor fuel taxes and vehicle registration taxes are state restricted revenue. Article IX, Section 9 of the 1963 Michigan Constitution provides that these revenue sources "*shall, after payment of necessary collection expenses, be used exclusively for transportation purposes . . .*"

State restricted transportation revenue is first credited to the MTF and then distributed to other funds and programs. Generally speaking, all of the state-generated revenue in the transportation budget is restricted revenue. The state transportation budget includes no state General Fund revenue.[4]

[4] Section 10 of Act 51 (MCL 47.660) establishes the MTF and identifies the following taxes for deposit to the MTF: the Motor Fuel Tax Act (2000 PA 403), Sections 801 to 810 of the Michigan Vehicle Code (1949 PA 300), and the Motor Carrier Act (1933 PA 254). Although Section 10 of Act 51 prohibits the deposit of money from any other source, including the state General Fund, to the MTF, revenue from the Motor Carrier Fuel Tax Act (1980 PA 119) is also credited to the MTF.

**Table 2**
**Appropriated Revenue Sources**
**Michigan's FY 2006-07 Transportation Budget**

| | Revenue Estimate | | % of Appropriated State Revenue | % of Total Revenue |
|---|---|---|---|---|
| State Gasoline Tax (at 19 cents/gallon) | $907,000,000 | [1] | | |
| Less: Recreation Improvement Fund | (17,964,000) | [2] | | |
| **Gasoline Tax Subtotal** | **$889,036,000** | | **36.96%** | **25.83%** |
| State Diesel Fuel Taxes | $152,500,000 | | 6.85% | 4.43% |
| LP Gas Tax | 600,000 | | 0.03% | 0.02% |
| Vehicle Title and Registration Fees | 916,700,000 | | 41.20% | 26.63% |
| Interest/Other | 7,200,000 | | .32% | .21% |
| **Subtotal** | **$1,966,036,000** | [3] | **88.36%** | **57.12%** |
| Auto-Related Sales Tax | 75,500,000 | [4] | 3.39% | 2.19% |
| Drivers' License Fees | 13,000,000 | [5] | 0.58% | 0.38% |
| Miscellaneous, Interest, Other | 76,615,000 | | 3.44% | 2.23% |
| **Estimated State Revenue** | **$2,131,151,000** | | | |
| Revenue/Appropriation Difference | 93,878,000 | | | |
| **Appropriated State Revenue** | **$2,225,029,000** | [6] | **100.00%** | **64.65%** |
| Federal Revenue | 1,169,336,300 | [7] | | 33.97% |
| Local Revenue | 47,500,000 | [7] | | 1.38% |
| **Total Appropriated Revenue** | **$3,441,865,300** | | | **100.00%** |

***NOTES:***

*1 The 19-cent/gallon gasoline tax generates $48.8 million per 1 cent of tax.*

*2 1994 PA 451 (MCL 324.71101) directs 2% of the gasoline tax, less collection costs, to the Recreation Improvement Fund to reflect recreational uses of gasoline in watercraft, off-road vehicles, and snowmobiles.*

*3 This subtotal represents the estimated revenue for credit to the Michigan Transportation Fund (MTF).*

*4 The Comprehensive Transportation Fund (CTF) receives a portion of auto-related sales tax collections.*

*5 The Transportation Economic Development Fund (TEDF) receives a portion of certain drivers' license fee revenue.*

*6 The difference between estimated state revenue shown on this table and appropriated revenue is due to vetoes ($302,000), amounts reserved for Capital Outlay ($19,550,000), and revised revenue estimates. The enacted budget was based on Michigan Department of Treasury ERFD estimates at January 12, 2006; ERFD estimates were revised downward on January 31, 2007. Based on revised estimates, net MTF revenue, after deduction for the Recreation Improvement Fund, is $78.2 million less than estimates on which the budget was based.*

*7 Federal and local revenue estimates were made by MDOT.*

### *Federal Funds*

The other major source of revenue for Michigan's transportation budget is the federal government. Major federal support for state transportation programs began in 1956 with the passage of the Federal-aid Highway Act.

In recent years, federal-aid programs for transportation have been authorized and defined by multi-year authorization acts including the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA); the Transportation Equity Act for the 21st Century (TEA-21) enacted in June of 1998; and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), signed into law August 10, 2005.[5]

Federal transportation funds are distributed to the states through several program categories; states must administer the programs in accordance with federal requirements.

SAFETEA-LU authorizes federal aid for both highway and public transportation programs.

Federal funds in the Michigan transportation budget averaged approximately $870.0 million per year for the five fiscal years (FY 1997-98 through FY 2001-02) following enactment of TEA-21—approximately one third (1/3) of the state transportation budget.

Federal transportation funds are primarily generated from motor fuel taxes—including an 18.4-cent per gallon federal gasoline excise tax. For every gallon of gasoline pumped, the Michigan motorist pays a 19 cent Michigan excise tax and an 18.4 cent federal excise tax—a total of over 37 cents per gallon.[6]

SAFETEA-LU authorized the federal transportation program for a five-year period ending September 2009.

**Note on Federal Funds**

Unlike the Act 51 distribution of MTF revenue, which is a formula allocation to all eligible road agencies, the federal-aid highway program is a reimbursement program. Federal funds participate only in capital improvement projects on federal-aid eligible roads and bridges; federal funds may not be used for routine or reactive maintenance.

Federal-aid projects are selected through a federally-mandated planning process that requires participation of local units of government. In urbanized areas, applicable metropolitan planning organizations administer the planning process. For local federal-aid projects in non-urbanized areas, the process is conducted by ad hoc rural task forces made up of local units of government.

Of the state's 119,570 road miles, approximately 33,504 are on the federal-aid system. Of the federal-aid system miles, 9,681 miles are state trunkline highways and 23,823 miles are under local jurisdiction. All but 14 miles of the state trunkline system is on the federal-aid system.

Because a number of federal-aid eligible roads in Michigan are under jurisdiction of local road agencies (county road commissions, cities, and villages), Section 10 of Act 51 (MCL 247.660) requires that an average of 25% of certain federal-aid program categories be allocated for local road agency projects. There is no required amount or percentage allocation to any particular local road agency.

Most federal-aid highway programs participate in 80% of eligible project cost.

[5] These reauthorization acts amend various sections of federal law dealing with transportation, primarily Title 23 of the U.S. Code (Highways), and Title 49 of the U.S. Code (Transportation).

[6] These excise taxes are taxes levied based on volume—in this case based on gallons of gasoline. Michigan also levies a 6% sales tax based on the dollar amount of the gasoline purchase; it is one of just eight states to do so. The state sales tax on motor fuel is not constitutionally dedicated to transportation, although the Constitution (Article IX, Section 9) does allow up to 25% of the sa les tax on sales of motor fuels, motor vehicles, and motor vehicle parts and accessories to be used for comprehensive transportation. The Sales Tax Act currently dedicates a share of the motor vehicle-related sales tax to the Comprehensive Transportation Fund (CTF).

### *Local Funds*

Funds from local units of government represent the final revenue source in the state transportation budget. Section 1c of Act 51 (MCL 247.651c) requires that incorporated cities and villages participate in the cost of construction or reconstruction of state trunkline highways within cities and villages. This provision recognizes that state trunklines also serve strictly local traffic.

Local units also provide funds for local non-highway work done in conjunction with certain construction projects (water and sewer work, sidewalks, etc.). These local funds are reflected in the budget.

Public transit agencies also provide local matching funds for certain Federal Transit Administration grant programs. Appropriated revenue from local sources in the state transportation budget for FY 2006-07 is $47.5 million—approximately 1% of the enacted budget.

**Note on Local Funds**

The FY 2006-07 state transportation budget appropriates $47.5 million in local revenue. This appropriation provides MDOT with the authority to receive and expend local funds; it does not represent all of the funds expended directly by local units of government on local transportation programs.

Local units of government such as counties, cities, villages, townships, and public transportation authorities expend millions more in locally-generated funds on local highway and public transportation programs.

# TRANSPORTATION PROGRAMS

There are three major program areas in the state transportation budget: Highway Construction and Preservation Program, Public Transportation Program, and Aeronautics Program[7]

**Table 3**
**Appropriations: Transportation Programs**
**Michigan's FY 2006-07 Transportation Budget**

| | Appropriation | % of Total Gross |
|---|---|---|
| Highway Programs | $3,084,211,500 | 89.63% |
| Public Transportation | 341,981,700 | 9.94% |
| Aeronautics | 14,934,000 | 0.43% |
| **Gross Appropriations** | **$3,441,127,200** | **100.0 %** |

The Highway and Public Transportation programs are governed by Act 51 and will be discussed further below. The Aeronautics program is governed by the State Aeronautics Code and is not discussed further in this document.

### *Highway Construction and Preservation*

Highway construction and preservation (including routine maintenance) programs represent approximately 90% of the state transportation budget—approximately $3.1 billion for FY 2006-07. This program is carried out in part by the State of Michigan through MDOT, and in part by local road agencies. As a result, Act 51 divides highway funds—both state-generated and federal funds—between MDOT and local road agencies.

**Table 4**
**Appropriations: Highway Programs**
**Michigan's FY 2006-07 Transportation Budget**

| | MDOT | Local Road Agencies | Total |
|---|---|---|---|
| State Funds | $835,187,200 | $1,111,126,100 | $1,946,313,300 |
| Federal Funds | 848,209,200 | 259,689,000 | 1,107,898,200 |
| Local Funds | 30,000,000 | 0 | 30,000,000 |
| **Total** | **$1,713,396,400** | **$1,370,815,100** | **$3,084,211,500** |
| Percentage | 55.5% | 44.5% | |

***NOTE:*** *Local road agencies are county road commissions, cities, and villages. In some cases, the classification of appropriations as "MDOT" or "Local Road Agency" for this table is based on the judgment of the HFA analyst.*

[7] Although Aeronautics programs represent less than 1% of the state Transportation budget ($14.9 million in FY 2006-07), additional funds for Aeronautics Airport Improvement Programs appear in the Capital Outlay budget.

As noted previously, Act 51 provides a formula for the distribution of state-generated MTF funds between MDOT and local road agencies. The Department's share of the MTF distribution is credited to the State Trunkline Fund (STF) for construction and maintenance of state trunkline highways and for MDOT administration. The local share of MTF funds is distributed to county road commissions, cities and villages for construction and maintenance of roads controlled by those units of government. Act 51 also directs how federal highway funds are distributed. After excluding funds related to some specific federal highway programs, Act 51 requires that federal funds, on average, be allocated 75:25 between MDOT and local road agencies.

**Note on State/Local Distribution**

This breakdown of highway funds, 55.5% to the state and 44.5% to local road agencies, reflects the total Act 51 distribution of all state and federal highway funds in the state transportation budget, and not just the final Act 51 formula distribution of MTF funds: 39.1% to the state, 39.1% to county road commissions, and 21.8% to cities and villages.

For FY 2006-07, MDOT's share of appropriated highway funds will be approximately $1.7 billion—about 56% of all the highway funds in the transportation budget.

Local road agencies (county road commissions and incorporated cities and villages) receive the remaining 44% of the appropriated highway funds—approximately $1.4 billion for FY 2006-07.

### *Road Jurisdiction*

Discussion of the allocation of highway funds between the state and local units of government leads to the subject of road jurisdiction. Act 51 allocates highway funds between MDOT and local road agencies because in Michigan there are three separate governmental entities which have responsibility for the state's roads:

- State of Michigan (MDOT).
- 83 County Road Commissions.[8]
- 533 incorporated cities and villages.

The state has jurisdictional responsibility for 9,695 miles of state trunkline highways. State trunklines are generally the state's heaviest traveled roads or are roads with a statewide purpose. State trunklines include all the interstate highways, plus the "M" and "US" numbered highways.

Although state trunklines represent only 8% of the state's road miles, they carry approximately 51% of the traffic. This is one rationale for Act 51 directing the largest share of highway funds to the state.

**Note on Townships**

Townships do not have jurisdiction over public roads in the Michigan; there are no "township roads" recognized in state law. Furthermore, townships are not legally required to contribute to the construction, reconstruction, or maintenance of county roads. However, Section 14 (6) of Act 51 does permit townships to contribute to the cost of maintenance or improvement of the local county road system, and many townships do provide such funding to supplement county road commission funds.

Furthermore, Section 12(15) of Act 51 limits how much MTF revenue a county road commission can spend on local county road construction (50% of project cost), and local county road bridge construction (75% of project cost). Costs not covered by MTF revenue must be provided by other sources—often from township contributions.

Michigan townships contributed approximately $96.7 million for local county road improvements in FY 2004-05—the most recent complete year of data.

[8] For this document, all 83 county road agencies are referred to as "road commissions." In fact, Wayne County does not have a separate road commission; Wayne County roads are managed by the Wayne County Department of Public Services under the authority of the Wayne County Board of Commissioners.

The state's 83 county road commissions are responsible for 88,961 miles of county roads. County roads represent 74% of the state's public roads but account for only 31% of the state's traffic.

Cities and villages are responsible for 20,914 miles of municipal streets, representing about 17% of the state's public route miles and 18% of total state traffic.

Similarly, only 4,414 (41%) of Michigan's 10,817 bridges (non-culvert) are on state trunkline highways, with the balance on local roads. Since many of the state trunkline bridges are on multi-lane expressways, they carry more traffic than local bridges. State trunkline bridges represent 75% of total bridge deck area and 81% of average daily traffic.

**Table 5**
**Michigan Road Jurisdictions**

| | Route Miles | | Vehicle Miles | |
|---|---|---|---|---|
| | Miles | % of Total | Traveled | % of Total |
| State Trunklines | 9,695 | 8.1% | 52.6 billion | 51.0% |
| County Roads | 88,961 | 74.4% | 31.7 billion | 30.8% |
| City/Village Streets | 20,914 | 17.5% | 18.8 billion | 18.2% |
| **Total** | **119,570** | **100.0%** | **103.1 billion** | **100.0%** |

*Source: 2005 data from MDOT Bureau of Transportation Planning, Asset Management Division*

**Table 6**
**Michigan Bridges**

| | Structures | | Deck Area (In Square Meters) | | Average Daily Traffic | |
|---|---|---|---|---|---|---|
| State Trunkline | 4,414 | 40.8% | 4,554,000 | 75.1% | 72,400,000 | 81.2% |
| County Roads | 5,611 | 51.9% | 1,069,000 | 17.6% | 11,800,000 | 13.2% |
| City and Village | 792 | 7.3% | 440,000 | 7.3% | 5,000,000 | 5.6% |
| **Total** | **10,817** | **100%** | **6,063,000** | **100%** | **89,200,000** | **100%** |

*Source: MDOT Bridge Operation Unit, National Bridge Inventory data as of August, 2006*

## *Public Transportation*

Public Transportation programs in the state transportation budget are funded primarily from the Comprehensive Transportation Fund (CTF) and from federal funds. Act 51 establishes the CTF and allocates 10% of MTF revenue (after various statutory deductions) to the CTF. This transfer from the MTF to the CTF is the CTF's largest revenue source; it is estimated at $167.9 million for FY 2006-07.

Because the CTF receives its 10% share of MTF revenue after various statutory deductions from the MTF, the CTF's effective share of total MTF revenue is actually 8%. The most significant of these statutory deductions from the MTF is the earmark of 4 cents of the 19-cent per gallon gasoline excise tax for state and local highway programs.

The CTF also receives a statutory allocation, made in the General Sales Tax Act, of a portion of the sales tax collected on motor fuels, motor vehicles, and motor vehicle parts and accessories. This revenue source, estimated at $75.5 million for FY 2006-07, is credited directly to the CTF without first passing through the MTF.

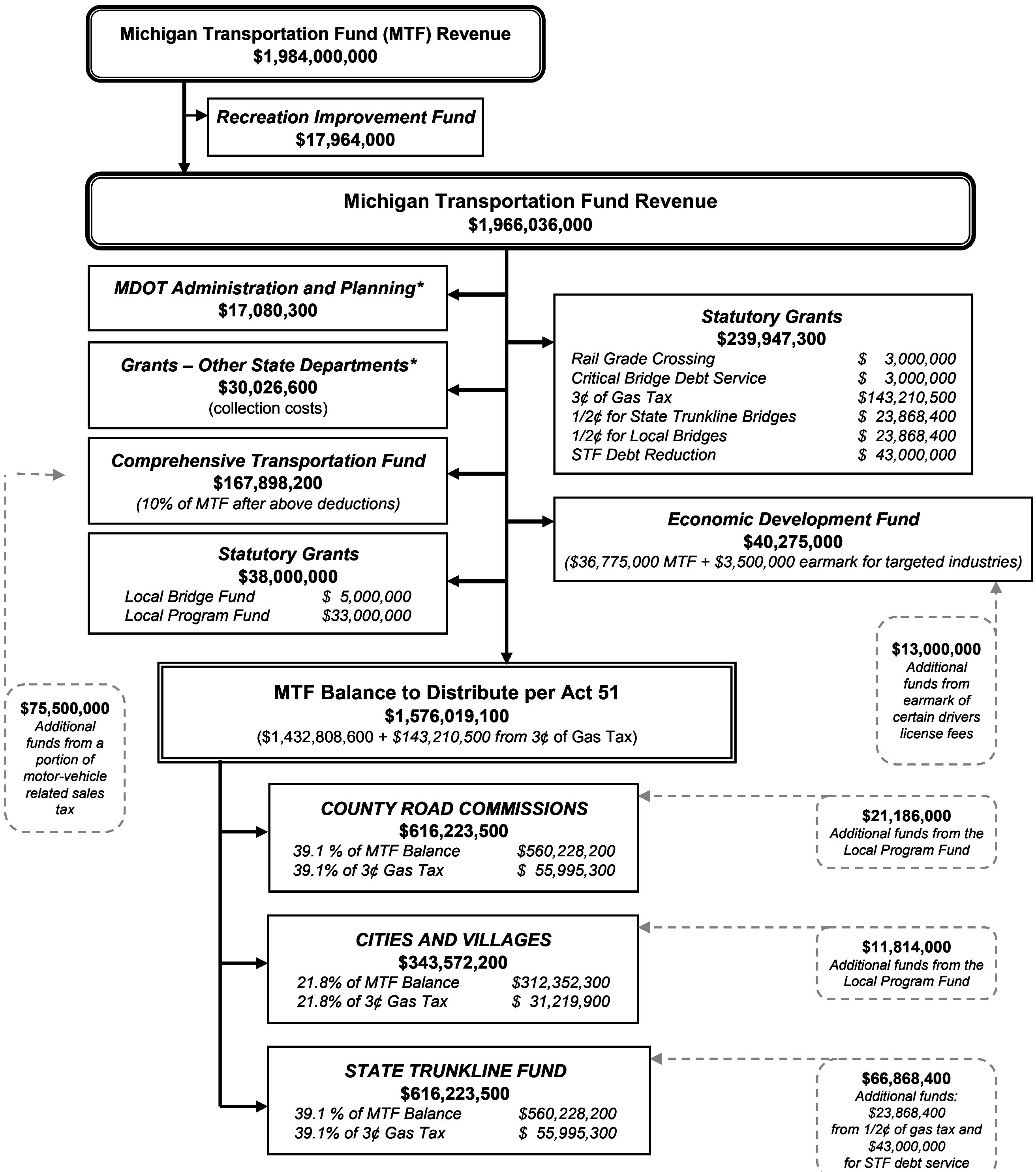
Act 51 establishes the priority order for CTF appropriations and earmarks CTF funds for certain public transportation programs. Most of the budget's public transportation funds are used to provide operating and capital assistance to Michigan's 79 public transit agencies. In addition, public transportation funds help support intercity bus, rail passenger and rail freight service, and administration of the MDOT's public transportation programs.

# APPENDICES

# APPENDIX A

## FY 2006-07 Estimate of Current Transportation Tax Revenue and Distribution per Act 51

**Figure 1**



# APPENDIX B
## Transportation Funds

### *Michigan Transportation Fund (MTF)*
Section 10 of Act 51 creates the Michigan Transportation Fund as the primary collection and distribution fund for state restricted transportation revenue. Approximately 90% of state-generated transportation revenue—primarily from motor fuel taxes (the 19-cent per gallon gasoline excise tax and diesel fuel taxes) and motor vehicle registration taxes—is first credited to the Michigan Transportation Fund (MTF). Act 51 provides a formula for the distribution of MTF revenue to other state transportation funds, to special program accounts, and to local road agencies.

The three primary recipients of MTF funds are:

- **State Transportation Fund (STF)**
  For state highway construction and preservation of state trunkline roads and bridges and for administration of the MDOT.

- **Local road agencies** (county road commissions, and incorporated cities and villages)
  For local road/street programs.

- **Comprehensive Transportation Fund (CTF)**
  For state and local public transportation programs—primarily capital and operating assistance for Michigan's 79 public transit agencies.

The MTF does not carry a year-end fund balance; all funds are distributed each year in accordance with the Act 51 formula.

### *State Transportation Fund (STF)*
This fund is created in Section 11 of Act 51 for construction and maintenance of the state trunkline system of roads and bridges and for administration of MDOT. About 90% of STF funds come from the formula distribution of MTF revenue noted above. Permit fees, interest income, and other miscellaneous revenue comprise the remaining 10%.

At the end of the fiscal year, unspent STF funds lapse back into the STF balance. Section 11 indicates that STF funds not otherwise appropriated shall be used to match federal funds for the construction or reconstruction of the interstate highway system, as necessary, and for the construction and reconstruction of the state trunkline highway system.

### *Comprehensive Transportation Fund (CTF)*
This fund is created in Act 51 for public transportation purposes. Most CTF funds are used to provide capital and operating support for Michigan's 79 public transit agencies. The CTF also

helps support intercity bus, rail passenger, and rail freight service, as well as administration of MDOT's public transportation programs.

The largest source of CTF revenue (approximately 70%) comes from a 10% share of net MTF revenue after various statutory deductions from the MTF. The MTF distribution to the CTF is estimated to be $167.9 million in FY 2006-07. The other major source of CTF funds is an earmark in the General Sales Tax Act of a portion of the sales tax on motor fuels, motor vehicles, and motor vehicle-related products (estimated to be $75.5 million in FY 2006-07).

At the end of the fiscal year, unspent CTF funds lapse back into the CTF balance and are available for appropriation in subsequent fiscal years for public transportation purposes.

### *State Aeronautics Fund (SAF)*

The State Aeronautics Fund (SAF) is dedicated to aviation development, safety regulation, and air service promotion under the State Aeronautics Code. Aeronautics administrative and regulatory costs are funded with Transportation budget appropriations. Airport Improvement Program projects, which are funded from federal grants as well as SAF and local matching funds, are authorized through Capital Outlay appropriations.

The SAF is funded primarily through aviation fuel taxes and aircraft registration fees—estimated to be $7.0 million for FY 2006-07. In addition, the SAF receives revenue from an earmark of Airport Parking Tax revenue. The earmark of $6.0 million per year was effected through enactment of 2002 PA 680 (HB 4454) which amended 1987 PA 248, the Airport Parking Tax Act. Public Act 680 requires that these SAF funds be used exclusively for safety and security projects at state airports, including debt service on CTF bonds issued for airport safety and security projects.

At the end of the fiscal year, unspent SAF funds lapse back into the SAF balance and are available for appropriation in subsequent fiscal years for aeronautics programs.

### *Other Transportation Funds*

**Transportation Economic Development Fund (TEDF)**[9]

This fund was created in 1987, through 1987 PA 231 (MCL 247.901), to assist in financing road and street projects in support of economic growth. The TEDF is funded, in part, from a distribution from the MTF in accordance with Act 51 ($36,775,000 plus an additional $3,500,000 dedicated to targeted industries). The fund also receives a portion of drivers' license fees (approximately $13.0 million per year).

TEDF funds do not lapse, but are carried forward in the fund for eligible transportation economic development projects.

**Local Bridge Fund**

A fund established in 2004 in Section 10 (5) of Act 51 and dedicated for the Local Bridge Program for the preservation, improvement, or reconstruction of local road agency bridges. The Local Bridge Program replaced the Critical Bridge Program originally established in

[9] The abbreviation EDF is also used for this fund.

Section 11b of Act 51. The Local Bridge Fund receives an annual earmark of one-half the revenue from one-cent of the gasoline excise tax, plus an additional annual $5.0 million earmark of MTF revenue.

**Blue Water Bridge Fund (BWBF)**
A subsidiary fund of the STF, the Blue Water Bridge Fund is used to account for debt service, loan repayments, and operating costs of the Blue Water Bridge. The BWBF revenue comes primarily from bridge tolls and the lease of space on the bridge plaza.

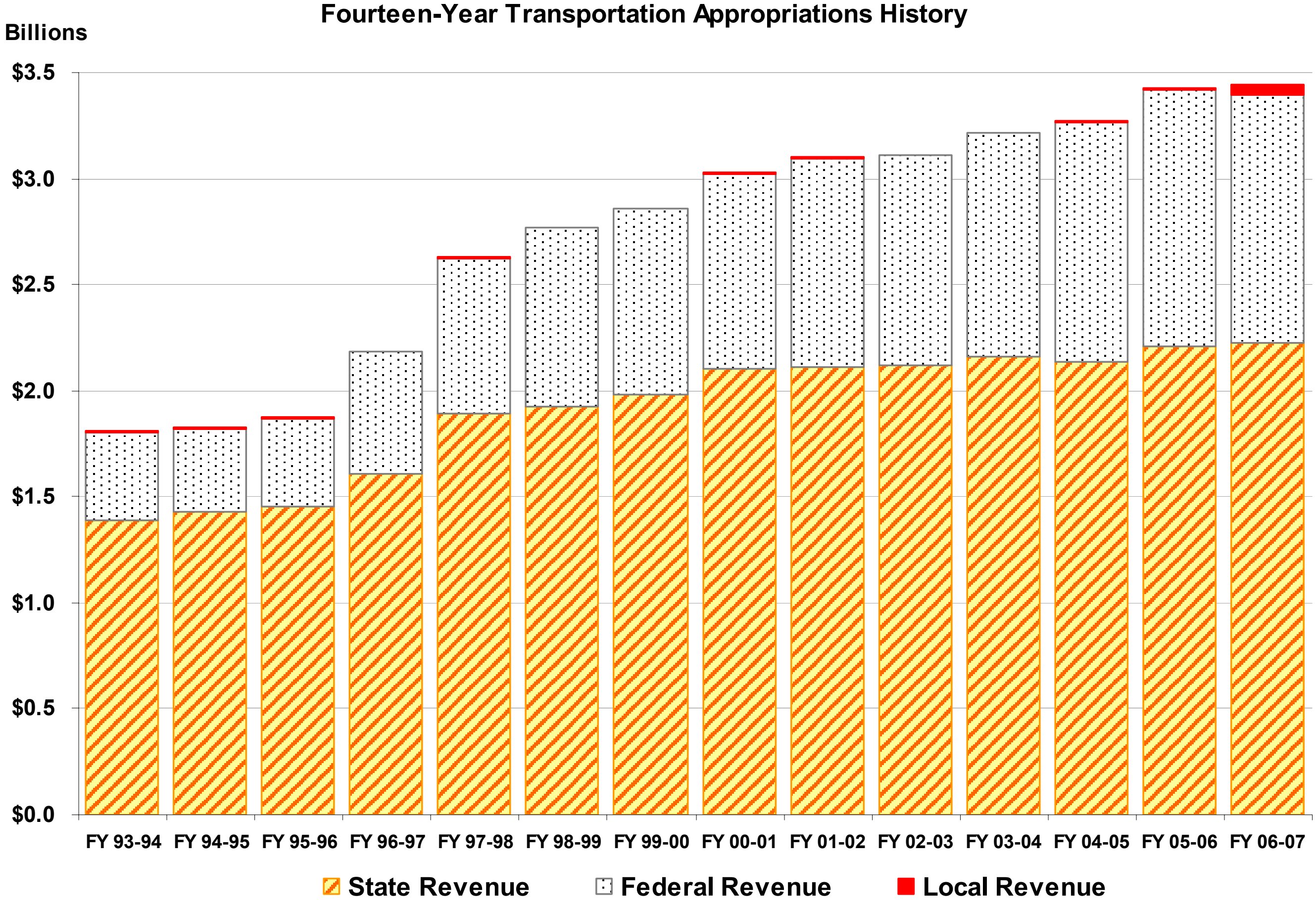
# APPENDIX C
## Appropriations History

Figure 3 shows a fourteen-year history of state transportation appropriations. Appropriations represent spending authority and not actual expenditures made or revenue received. Nonetheless, appropriations do reflect anticipated actual revenue. For example, the budgetary increase between FY 1996-97 and FY 1997-98 reflects the increase in the state gasoline excise tax. See Appendix D for an analysis of actual revenue.

During a period of increasing transportation revenue, the number of MDOT employees was declining—from 3,838 full-time equated positions in 1994, to 3,036 in 2006. This decrease was primarily due to early retirement programs in FY 1997-98 and FY 2001-02.

**Figure 2**

**Fourteen-Year Transportation Appropriations History**



# APPENDIX D
## Transportation Revenue History

### *State Restricted Revenue*

Figure 4 shows an 11-year history of MTF revenue; Figure 5 shows major sources of MTF revenue over the same period.

**Figure 3**

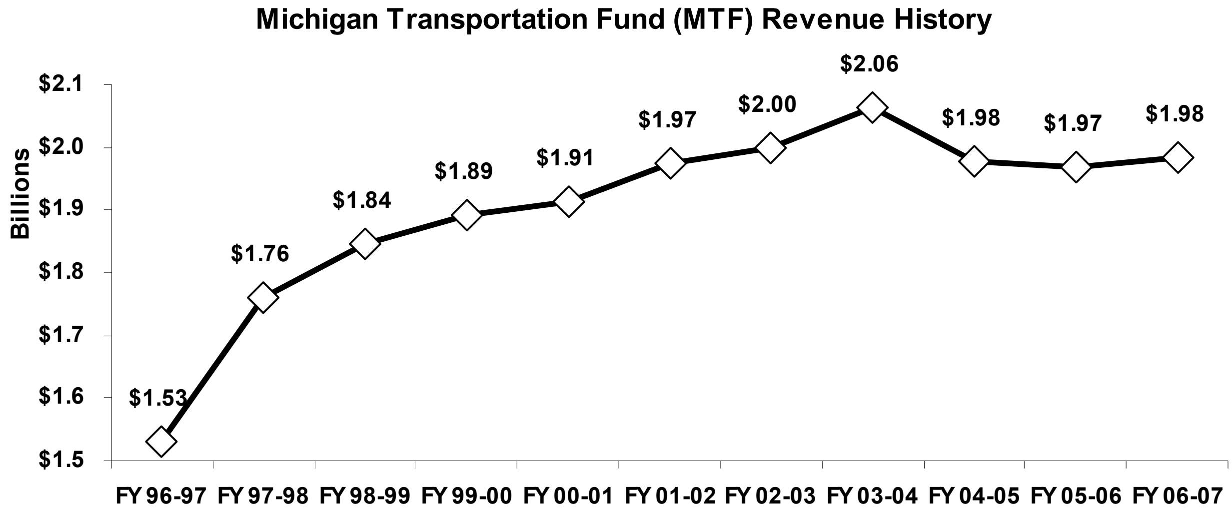
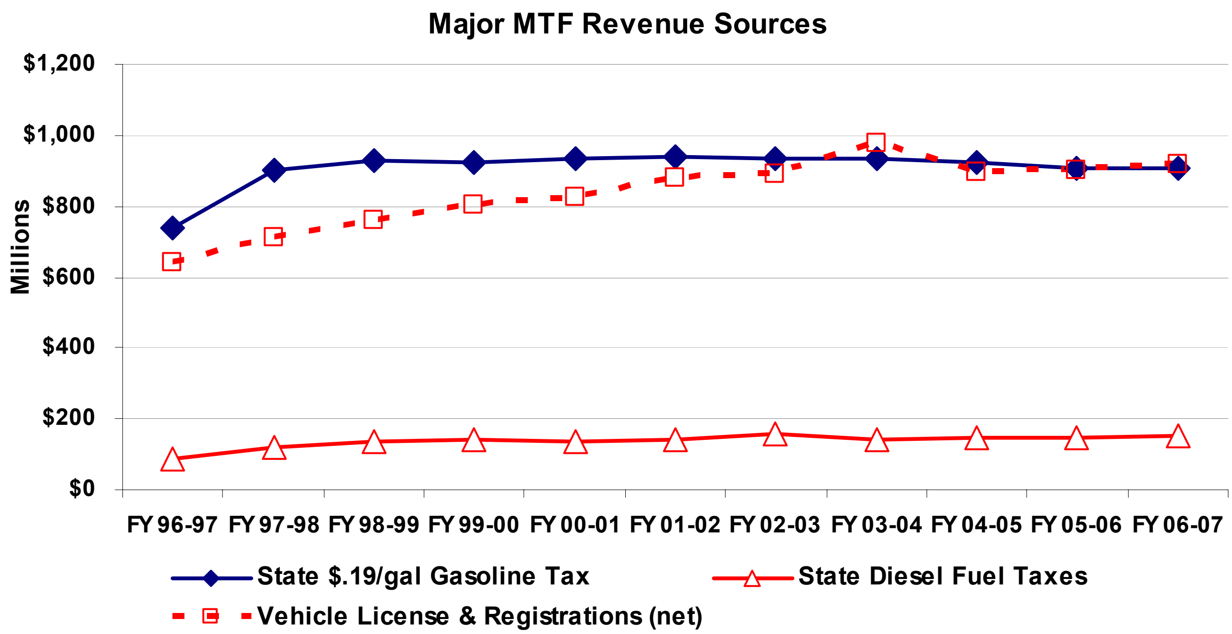



**Figure 4**



Gas tax revenue has remained relatively static since FY 1997-98, while revenue from vehicle registration taxes has increased. Vehicle registration taxes have become a more significant share of MTF revenue and are currently estimated to exceed revenue from the gasoline excise tax. Figure 6 and Table 7 show the distribution of MTF revenue by major recipient over the same 11-year period.

**Figure 5**

**MTF Revenue by Major Recipient**

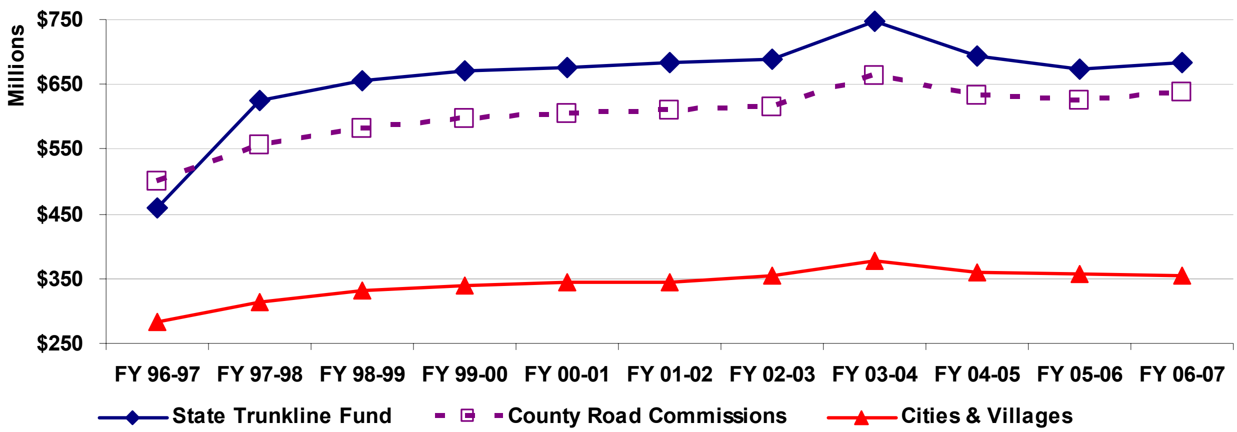



**Table 7**
**MTF Revenue by Major Recipient**
**Michigan's FY 2006-07 Transportation Budget**

| | State Trunkline Fund | County Road Commissions | Cities & Villages | Total |
|---|---|---|---|---|
| FY 96-97 | $459.3 | $499.1 | $282.4 | **$1,240.7** |
| FY 97-98 | $625.0 | $555.5 | $314.5 | **$1,495.0** |
| FY 98-99 | $655.7 | $582.1 | $330.5 | **$1,568.3** |
| FY 99-00 | $670.7 | $596.2 | $338.5 | **$1,605.4** |
| FY 00-01 | $677.3 | $604.1 | $343.7 | **$1,625.1** |
| FY 01-02 | $684.1 | $609.8 | $344.1 | **$1,638.0** |
| FY 02-03 | $689.7 | $615.9 | $353.4 | **$1,659.1** |
| FY 03-04 | $747.8 | $663.7 | $378.7 | **$1,790.1** |
| FY 04-05 | $693.5 | $632.8 | $360.5 | **$1,686.8** |
| FY 05-06 | $674.5 | $624.5 | $356.6 | **$1,655.7** |
| FY 06-07 | $683.1 | $637.4 | $355.4 | **$1,675.9** |

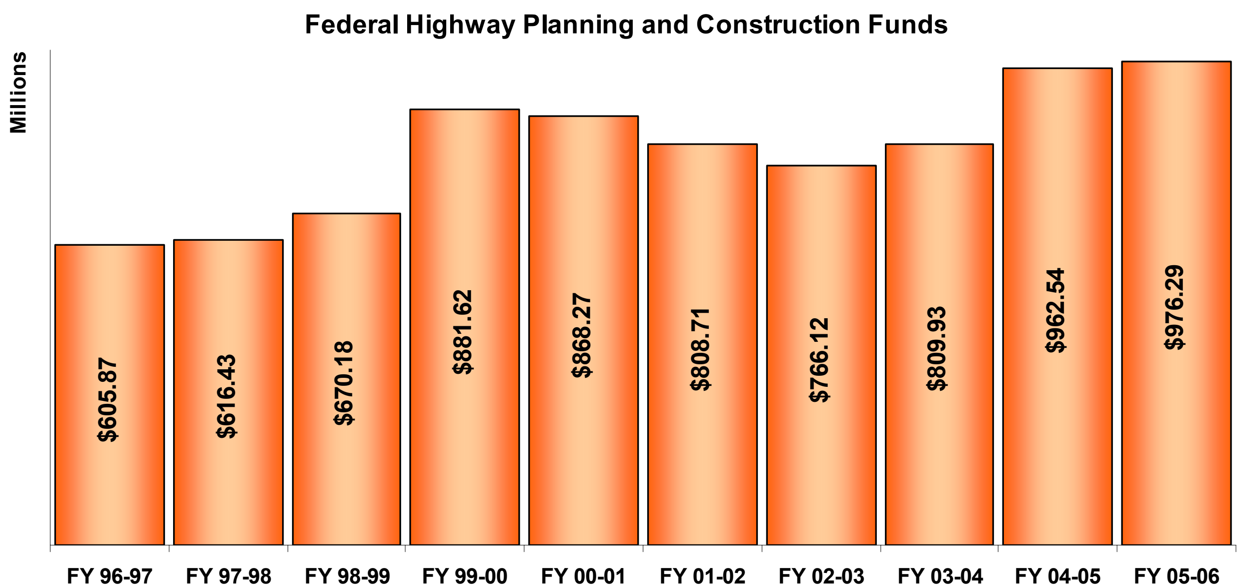
The last significant increase in state restricted transportation revenue occurred in 1997. In July 1997, in response to widespread public concern over the quality of Michigan roads, the state Legislature passed a transportation funding package which included a 4-cent per gallon gas tax increase and increases to commercial truck registration fees. This funding package added over $200.0 million per year for Michigan transportation.

### *Federal Revenue*

In June of 1998, Congress enacted TEA-21—the reauthorization of federal-aid transportation programs. The Transportation Equity Act for the 21st Century (TEA-21) increased total federal funding for state transportation programs as well as Michigan's share of those programs. Between FY 1993-94 and 1996-97, Michigan's share of federal transportation funds averaged $440.0 million per year. During the five years following the enactment of TEA-21 (FY 1997-98 to FY 2001-02), Michigan's share of federal transportation funds averaged $870.0 million per year—an annual average increase of $430.0 million.

See Figure 7 for a history of federal-aid highway funds expended for Michigan road and bridge programs.

**Figure 6**



# APPENDIX E
## Transportation Funding: Legislative History 1992–2002

This section reviews significant legislative changes to Act 51 and to other acts affecting transportation funding since 1992—the year the first "Build Michigan" program was enacted.

### *Build Michigan*

In 1992, many believed that state restricted transportation revenue (from motor fuel taxes and vehicle registration taxes) was not sufficient to maintain the state's road systems. However, there was not enough political support for a fuel tax increase. Build Michigan involved the sale of $253.6 million in bonds. The bond proceeds were used primarily to match federal aid for state trunkline construction projects. Approximately $30.0 million of bond proceeds were used for local critical bridge projects. Authorization for this bond program was made through an amendment to Act 51—1992 PA 224 (SB 803).

Build Michigan also raised additional revenue for the MTF through a change in the collection point of the motor fuel excise taxes. Under the previous method of taxation, the Motor Fuel Tax on gasoline and diesel fuel was collected from retailers (truck stops and services stations). Public Act 225 of 1992 (SB 843) made fuel suppliers the sole collection point for the tax on gasoline, and the collection point for a portion of the tax on diesel fuel.

At the same time, Act 51 was amended by 1992 PA 223 (SB 802) to direct this additional revenue—estimated at $33.0 million per year—to local road agencies (county road commissions and cities and villages) through creation of the Local Program Fund earmark. An additional $45.0 million per year was appropriated for the Local Program Fund from the STF for FY 1992-93, FY 1993-94, and FY 1994-95. Public Act 223 also extended the MTF formula sunset to September 30, 1998.

### *Build Michigan II*

This 1997 transportation program involved several legislative actions:

**1997 PA 79** (SB 303)
Amended the Act 51 MTF distribution formula to earmark 1 cent of the 4-cent gas tax increase to state trunkline bridges, and the remaining 3 cents of the gas tax increase to the MTF balance for distribution to the state (39.1%), county road commissions (39.1%), and cities and villages (21.8%). Public Act 79 added a $43.0 million earmark from the MTF for STF debt service and a $3.5 million earmark from the MTF to the Transportation Economic Development Fund for the Target Industries Program ("category A").

Public Act 79 also authorized the FY 1996-97 supplemental appropriation of $20.0 million from the MTF to the STF, county road commissions, and cities and villages (bypassing the CTF). The appropriation was made in 1997 PA 108 (SB 302).

Public Act 79 made a number of other amendments to Act 51, including provisions regarding pavement management systems, life cycle cost analysis, small and minority business assistance, the phase-out of certain MTF grants to other state departments, pavement warranties, appropriation of CTF funds, local bus operating assistance, performance audits of local road agencies, and limitations on administrative costs.

**1997 PA 80** (SB 581)
Amended the Michigan Vehicle Code to increase commercial truck registration fees by 30% within each weight class, increase fees for oversized and overweight vehicles, and change registration taxes for commercial vans and pickups from vehicle weight to an ad valorem tax based on vehicle list price. These changes were initially estimated to increase transportation revenue by $44.9 million.[10]

**1997 PA 83** (HB 4872)
Amended the Motor Fuel Tax Act to increase the gasoline excise tax by 4 cents—from 15 cents to 19 cents per gallon. This increase was effective August 1, 1997. Public Act 83 also reduced the "evaporation allowance" given to suppliers in computing the tax. The 4-cent per gallon gas tax increase generates approximately $200.0 million per year in additional state transportation revenue.

**1997 PA 110** (SB 225)
Amended the Management and Budget Act to appropriate $69.0 million from the Budget Stabilization Fund for distribution to the state, county road commissions, and cities and villages according the 39.1%/39.1%/21.8% formula.

**1997 PA 117** (SB 174)
The enacted FY 1997-98 Transportation budget appropriated $50.0 million from the Comprehensive Transportation Fund (CTF) balance—including $25.0 million for distribution to the state, county road commissions, and cities and villages for road programs through the 39.1%, 39.1%, 21.8% formula.

The Governor's road "rationalization" proposal, which would have had the state take over jurisdiction of some roads from local road agencies, was not adopted.

There was no bonding associated with Build Michigan II as originally proposed and enacted. In June 2001, however, the State Transportation Commission authorized the sale of $400.0 million in federal revenue grant anticipation notes ("GARVEE notes"). The official statement for the note sale indicated that the bonds would be used to "advance and accelerate the completion of the Build Michigan II highway program." The sale of these notes was completed in July 2001. An additional $200 million in GARVEE notes were sold in September 2002.

[10] Based on a July 23, 1997, House Fiscal Agency analysis of the fiscal impact of the 1997 Transportation Package.

## *1998 PA 308 (SB 1156)*

### *Act 51 Study Committee Recommendations*

Public Act 308 of 1998 extended the Act 51 funding formula sunset to September 30, 2000, and added Section 10(1) to require that an average of 25% of federal highway funds, excluding certain program categories, be allocated to local road agencies.

Public Act 308 also established an Act 51 study committee to "review transportation funding options, transportation investment priorities, and potential strategies for maximizing returns on transportation investments." The Act also required that the committee report to the Governor, the State Transportation Commission, and the Legislature "on the identified needs including economic development needs, transportation funding options, historical transportation financing patterns as they relate to statewide fiscal resources, and strategies for maximizing the returns on transportation investments."

The Transportation Funding Study Committee was appointed on February 17, 1999, and included four members of the Michigan Legislature (State Representatives Rick Johnson and Thomas Kelly, and State Senators Phillip Hoffman and Joe Young, Jr.) as well as five non-legislative members. The Study Committee submitted its final recommendations in a letter dated May 19, 2000. With the exception of Senator Joe Young, Jr., all Study Committee members signed the recommendation letter. Senator Young submitted a minority report.[11]

### *Asset Management*

The Act 51 Funding Study Committee report did not recommend revisions to either the "external" formula, which distributes MTF funds between the state and local road agencies, or the "internal" formula, which determines how the local share of the MTF is distributed to particular local road agencies. Instead, the report recommended that "a long-term, planned asset management process be extended to statewide use for transportation facilities."

The Study Committee recommended that Act 51's MTF and federal-aid distribution formula not be changed "until implementation of an asset management process, which may result in future distribution changes." The recommendation continues: "While not proposing a specific formula revision at this time, we recognize that a proposed asset management-based formula could result in a funding distribution which focuses on the function or use of a road, while taking into account the base level of funding needed for routine maintenance."

The Study Committee made twelve additional recommendations related to implementation of a statewide transportation asset management process.

Public Act 499 of 2002 (HB 5396) established a Transportation Asset Management Council within the State Transportation Commission. Under Act 499, the Asset Management Council 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." The focus of the

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[11] The minority report can be found at http://www.senate.state.mi.us/dem/sd01/minorityreport.html. The Study Committee's recommendations are contained in a report dated June 1, 2000, entitled "Transportation Funding for the 21st Century." See http://www.mdot.state.mi.us/ACT51/finalreports/index.htm for the complete report.

Council's activity was to be the federal-aid eligible highway system. This represents almost all of the state trunkline system (9,681 miles) as well as over 23,000 miles of roads under the jurisdiction of local road agencies.

The Act requires that starting on October 1, 2003, all state road agencies prepare and publish an annual multi-year program, based on long-range plans and developed through the use of the asset management process described by the Act. The Act also requires that the Council report to the State Transportation Commission, the Legislature, and the House and Senate committees on transportation by May 2 of each year.

The Council was appointed by the State Transportation Commission in September of 2002. The Council is comprised of ten voting members: two each from the County Road Association, the Michigan Municipal League, state planning and development regions, and the Department. The Michigan Township Association and the Michigan Association of Counties have one member each.

The Asset Management Council met for the first time on October 8, 2002, and approved a work program in January 2003. The work program was approved by the State Transportation Commission in February 2003. In May 2003, the Council issued its first Annual Report.

## *Build Michigan III*

***Program Description***

In his January 2000 State of the State message, Governor Engler outlined a proposed road improvement program. Build Michigan III was subsequently identified as a program of 60 highway projects located throughout the state. These projects were selected by MDOT in cooperation with the Michigan Economic Development Corporation to meet current economic development needs, or to address congestion or safety concerns. The State Transportation Commission approved the list of projects in October 2000.[12]

The estimated total cost of Build Michigan III projects was identified as $981.9 million. Funding for the program was to be provided by a $100.0 million transfer from the Countercyclical Budget and Economic Stabilization Fund (BSF) to the State Trunkline Fund (STF), approximately $100.0 million in local funds, and through the sale of up to $900.0 million in state transportation revenue bonds.

As originally proposed, debt service on Build Michigan III bonds was to be provided from four sources:

- A 16-year annual $35.0 million appropriation from the BSF (FY 2001 to FY 2016).
- $8.0 million in additional revenue from proposed changes in the diesel fuel taxes.
- $5.0 million from the Target Industries (Category A) of the Transportation Economic Development Fund (TEDF).
- Redirection of future STF revenue.

[12] This list was subsequently amended by the Commission in March 2002.

The projects did not involve the use of federal funding. Most Build Michigan III projects would have been eligible for federal funding—had sufficient federal funding been available.

***Legislative History***
Parts of the Build Michigan III legislative program were enacted:

- The proposed $100 million transfer from the BSF to the STF was made at the end of FY 1999-2000, and was appropriated from the STF for Build Michigan III projects. This transfer was authorized by 2000 PA 189 (SB 1275) which amended Section 358 of the Management and Budget Act (MCL 18.1358), and by boilerplate Section 602 of 2000 PA 292 (supplemental SB 968).

- Public Act 189 of 2000 also provided for an annual $35.0 million appropriation from the BSF to the STF for a 16-year period starting in FY 2000-2001 and continuing through the fiscal year ending September 30, 2016. This transfer from the BSF to the STF was made in two fiscal years only—FY 2000-01 and FY 2001-02. Because of a shortfall in state GF/GP revenue, the $35.0 million appropriation was suspended for FY 2002-03 by 2002 PA 504 (HB 5883), and there have been no subsequent transfers from the BSF to the STF.

***Build Michigan III Current Status***
On October 26, 2000, the State Transportation Commission authorized the Department to begin the process of issuing up to $900.0 million in STF bonds for the Build Michigan III program. The Department made an initial sale of $308.2 million in Build Michigan III bonds in July 2001—approximately 1/3 of the amount authorized. Since then, the Department has not offered additional Build Michigan III bonds for sale. Some projects which were originally identified as Build Michigan III projects have been completed under other named programs.

## *Preserve First*

On January 32, 2003, Governor Granholm announced the deferral of four Build Michigan III capacity improvement projects. On April 7, 2003, the Department indicated that 34 capacity improvement projects, including the four announced by the Governor, would be deferred.[13] Thirteen of the deferred projects were part of the Build Michigan III program, i.e., at least some phase of the project had been previously identified as a Build Michigan III project. The Department indicated that these capacity improvement projects would be deferred until the Department believed it could meet and sustain its stated goal of 95% of freeways and 85% of non-freeway trunklines in "good" condition by 2007.[14]

The Preserve First program also involved advancing a number of preservation projects from the 2004 to the 2003 construction season, and the development of $350.0 million to $400.0 million in new preservation projects over a three year period, 2004 to 2007. These

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[13] The Department's press release described 34 separate projects. However, in many cases these projects were comprised of several phases or elements, each of which is shown separately on the Department's Road and Bridge Program documents. The Department subsequently identified 49 separate project work phases which would be deferred in the Preserve First initiative.

[14] In July 2003, the Governor announced that she was recommending that the Department resume work on 17 of the 34 projects, although the announcement did not specifically indicate that the projects would be advanced to the construction phase. As of October 2006, construction has been completed on 3 of the 17 projects, with other projects at various stages of development.

projects would include capital preventive maintenance projects, highway reconstruction and rehabilitation projects, and bridge rehabilitation projects. Funds needed to develop these projects would come from the deferral of capacity improvement projects as well as from bonding.

There was no legislation directly related to the Preserve First Program.

## *Jobs Today*

In March 2005, Governor Granholm announced the Jobs Today Initiative. The transportation element of this program involved the issuance of bonds to accelerate state trunkline road projects. In January 2006, the State Transportation Commission approved a preliminary resolution authorizing the sale up to up to $630.0 million in bonds for the program. The Department anticipates selling $315.0 million in 2007, with an additional sale in 2008 or 2009.

## *Local Jobs Today*

On March 7, 2006, the Governor announced a new transportation initiative, "Local Jobs Today." The announcement identified three elements of the program: a "Local Federal Fund [grant] Program" which would provide the 20% non-federal match for certain local federal-aid construction projects; an "Advance Construct Local Loan Program" which would loan money to local road agencies in order to advance certain local federal-aid construction projects; and a local transit agency capital grant program.

The first two elements of the program, the Local Federal Fund [grant] Program and the Advance Construct Local Loan Program, were initiated primarily as a result of the large number of local project earmarks contained in the reauthorization of the federal-aid transportation program. SAFETEA-LU contained 169 earmarks for Michigan projects with a total value of $526.9 million. Many of these projects were for roads under the jurisdiction of local road agencies.

### *Local Federal Fund (grant) Program*

Under this program MDOT will use up to $80.0 million in State Trunkline Fund (STF) bond proceeds to provide the 20% non-federal match for road projects under the jurisdiction of local road agencies. The entire $80.0 million in state funds could provide the match for up to $320.0 million in federal funds. The Department has indicated that this would be a grant program; the local units would not have to repay the funds provided.

### *Advance Construct Local Loan Program*

The other element of Local Jobs Today Program would be a loan program. The Department would loan money to local road agencies to advance projects—primarily projects earmarked under SAFETEA-LU. Federal funds earmarked in SAFETEA-LU are released incrementally over the five-year life of the federal program. By providing up-front funding, the program would allow local agencies to construct projects in 2006 or 2007 which they would otherwise have to postpone.

The local road agencies would repay the loans, including interest, from federal funds received over the life of SAFETEA-LU. Although the primary object of this program is advancement of projects earmarked in SAFETEA-LU, the Department indicated that a secondary priority would be to advance other local projects approved for federal funding in the Transportation Improvement Program (TIP)—first projects planned for construction in 2007 advanced to 2006, and if sufficient funding was available, projects programmed for 2008 would be advanced to 2007.

The program was effected through three pieces of legislation: House Bill 6003 (2006 PA 141) and Senate Bill 1132 (2006 PA 139) amended Section 11e of Act 51 to create a Local Federal Match Program within the State Trunkline Fund to receive proceeds from bond sales, not to exceed $80.0 million, to be used for federal high priority projects, or for the advancement of 2007 projects into 2006, or 2008 projects into 2007. Senate Bill 1192 (2006 PA 140) added new section 11f to establish criteria for project selection.

## *Other Legislative Actions Affecting Transportation Funding—2000 through 2006*

### *Amendments to Act 51*

**2000 PA 188** (SB 1274)
Repealed the sunset date for the Act's MTF distribution formulas; the current formulas will continue indefinitely unless amended by statute. In addition, PA 188 clarified language regarding the fund source for the Local Program Fund, and amended Section 10 regarding the allocation of federal aid to local jurisdictions.

**2001 PA 259** (SB 563)
Amended Act 51 by adding new Section 1i. This section permits the Department to conduct not more than four pavement demonstration projects—notwithstanding life cycle cost analysis. The Act requires an annual report to Legislature by February 1 of each year.

**2002 PA 498** (HB 5383)
Amended the definitions section of Act 51 (10c) to provide a uniform definition of "maintenance" and "preservation." The Act also changes a number of references in Act 51 from "maintenance" to "preservation."

**2002 PA 499** (HB 5396)
Amended Act 51 to provide for the creation of an Asset Management Council within the State Transportation Commission. This Asset Management Council is described in detail in the discussion of 1998 PA 308 above.

**2002 PA 639** (HB 6523)
Amended Section 11 of Act 51 to expand permitted uses of the rail grade crossing account, including increasing the amounts which may be paid to local road agencies for closure of grade crossings.

**2003 PA 151** (SB 539)
Amended Section 10 of Act 51 to limit MTF appropriations to the Department of State to $20.0 million, allowed MTF appropriations to the Department of Treasury, and redirected $10.0 million MTF from CTF to STF for FY 2004-05 only. The bill was tie-barred to SB 554 (2003 PA 152), which amended Michigan Vehicle Code vehicle registration administration fees.

**2004 PA 9** (SB 334)
Amended Section 13 of Act 51 regarding transfers from city major street fund to local street fund.

**2004 PA 384** (HB 5319)
Establishes a Local Bridge Fund within the state treasury and establishes criteria for the Local Bridge Program. Earmarks $5.0 million plus one-half cent of gasoline tax to fund. The act effectively replaces the previous Critical Bridge Fund/Program with the Local Bridge Fund/Program.

**2005 PA 5** (HB 4197)
Amends Section 20a regarding contracts between townships and county road commissions concerning maintenance of local county roads in townships.

**2005 PA 45** (HB 4602)
Amends Section 10c regarding the definition of "maintenance" to exclude "installing traffic signs and signal devices" as one of the activities within the definition of "routine maintenance."

**2006 PA 82** (HB 4555)
Amends Section 10k regarding use of MTF funds for non-motorized trails.

**2006 PA 139** (SB 1132)
**2006 PA 140** (SB 1192)
**2006 PA 141** (HB 6003)
Establishes local match program within Act 51. See above description of Local Jobs Today program.

**2006 PA 178** (HB 5979)
Amends Section 10 to allow one-time $11.0 million MTF appropriation for new registration license plates.

**2006 PA 338** (SB 1182)
Amends Section 13 regarding MTF transfers from city major street funds to local street funds.

***Amendments to Diesel Fuel Taxes***
In December 2002 the Legislature passed, and the Governor signed into law, a three-bill package which simplified the collection of diesel motor fuel taxes in Michigan:

**2002 PA 667** (HB 5734)
Amended the Motor Carrier Fuel Tax Act

**2002 PA 668** (HB 5735)
Amended the Motor Fuel Tax Act

**2002 PA 669** (HB 5736)
Amended the Use Tax Act

The bills only changed the method for assessing and collecting diesel motor fuel taxes. The effective tax rate for diesel fuel purchased or consumed in Michigan remained at

15 cents per gallon. Language in the bills as introduced which would have increased the rate to 19 cents per gallon—the same tax rate as for gasoline purchases—was stripped from the bills. In addition, HB 5733, which would have amended Act 51 to earmark diesel motor fuel tax revenue to a new commercial highway fund, was not reported from committee. For an analysis of the fiscal impacts of the diesel fuel tax package, see the House Fiscal Agency analysis of HB 5734 (2001-2002 Regular Legislative Session) at the Michigan Legislature website http://www.michiganlegislature.org.

### *Tax Differential for Bio-Diesel and Ethanol*

In 2006, the Legislature passed two bills to create a lower tax rate for bio-diesel and ethanol:

**2006 PA 268** (SB 1074)
Amended the Motor Fuel Tax to establish a 12-cent per gallon tax for both ethanol and bio-diesel; those fuels had previously been taxed at 19-cent per gallon and 15-cent per gallon, respectively. The bill would require the Legislature to appropriate up to $2.5 million (presumably from the state General Fund) to the MTF to make up the revenue loss.

**2006 PA 346** (SB 1362)
Similarly amended the Motor Carrier Fuel Tax Act.

# APPENDIX F

## Public Act 51 of 1951—Outline Summary

Article IX, Section 9 of the Michigan Constitution dedicates motor fuel excise taxes and vehicle registration fees to transportation purposes. Act 51 allocates this revenue to specific transportation funds and programs.

Public Act 51 of 1951:

- Establishes principal state transportation programs.

- Creates three special revenue funds (MTF, STF, and CTF) and prescribes how funds are to be distributed.

- Provides a number of legislative requirements with regard to state and local transportation programs.

Tables 8 through 11 provide a summary of some of the provisions of 1951 PA 51 which, in the judgment of the House Fiscal Agency analyst, are of particular significance and/or ongoing interest and concern to state legislators. This is not intended as a comprehensive index to Act 51.

These tables recognize amendments through 2006 PA 338 and identify section numbers as they appear in the Act. Corresponding sections of the Michigan Compiled Laws begin with Section 247.651.

**Table 8**
**Public Act 51 of 1951—General Provisions**

| Section | Subject | Description | Notes |
|---|---|---|---|
| 1-9 | Establishes system of road jurisdiction and classification | Provides for identification of state trunkline highway system; county primary and local roads; city/village major and local streets (also see Sec 12c below) | Other statutes governing establishment and jurisdiction of the state highway system (including jurisdictional transfers) are: 1909 PA 203, 1925 PA 12, and 1969 PA 296 |
| 1c | Requires city/ village participation in construction cost of state trunklines within city/village limits | Provides a sliding scale based on population for city/village share of costs not reimbursed by federal aid | In part, the basis for local funds appropriated in state transportation budgets |
| 1g | Pavement Management System (PMS) | Requires Department to develop PMS on National Highway System | Added by 1997 PA 79 |
| 1h | Life cycle cost analysis | Requires Department to develop and implement life cycle cost analysis for pavement projects over $1 million, and design and award paving projects utilizing material having the lowest life cycle cost | Added by 1997 PA 79 |
| 1i | Pavement demonstration projects | Permits the Department to conduct not more than four pavement demonstration projects—notwithstanding life cycle cost analysis; requires an annual report to Legislature by February 1 of each year | Added by 2001 PA 259 |
| 9a | Asset Management Council | Provides for an asset management council within the State Transportation Commission with the charge of advising the Commission on a statewide asset management strategy—beginning with the federal-aid system; requires an annual report to the Legislature by May 2 of each year | Added by 2002 PA 499; Asset Management Council appointed by State Transportation Commission in September 2002 |
| 9b | MBE program | Provides for Minority Business Enterprise (MBE) program | |
| 10(2) | Small business enterprise and empowerment zones | Requires state to develop programs to assist small businesses in qualifying to bid | |

**Table 8**
**Public Act 51 of 1951—General Provisions**

| Section | Subject | Description | Notes |
|---|---|---|---|
| 10(3) | Federal funds earmarked for Transportation Economic Development Fund (TEDF) | Earmarks 31.5% of federal Minimum Guarantee funds to TEDF | 16.5% rural counties; 15.0% urban counties |
| 10c | Definitions | Provides definitions of terms used in the Act including definitions of "preservation" and "maintenance" | Definitions of "preservation" and "maintenance" added by 2002 PA 498 |
| 10o | Federal aid allocation to local road agencies | Requires 25% average allocation of federal funds to local road agencies; excludes certain programs, e.g., federal bridge funds; requires that allocation percentage be adjusted to reflect voluntary agreements between Department and local jurisdictions regarding state buyout of federal aid | Language added by 1998 PA 308 (SB 1156), and amended by 2000 PA 188 (SB 1274) |
| 11c | Competitive bidding | Requires competitive bidding for construction or preservation contracts over $100,000; permits Department to use some other method if found to be in the public interest; includes reporting requirement | |
| 12(21) and 13(11) | Audits | Requires Treasury performance audits of local road agencies | Added by 1997 PA 79 |
| 12c | County primary roads within city or village limits | Provides for transfer process | Jurisdictional transfers also subject of 1969 PA 296 |
| 13a | Advance purchase of right-of-way | Permits right-of-way acquisition in advance of construction programming; requires that revenue from rental or sale of property so acquired be expended for highway purposes | |
| 14 | Local road agencies; biennial plans and separate accounting | Requires biennial primary and major street programs based on long-range plans; requires separate accounting of road and street funds and annual report to the Department; permits use of funds raised by counties or townships for county local road system | |
| 14a | Drain assessments | Requires assessments to Department or county road commissions to be based on pro-rata share of storm water | |

**Table 8**
**Public Act 51 of 1951—General Provisions**

| Section | Subject | Description | Notes |
|---|---|---|---|
| 15 | Local road agencies, Act 51 report | Requires county road commissions, cities, and villages to file annual report showing distribution of MTF funds | Additional reporting requirements regarding roads within townships added by 1999 PA 50 |
| 15a | Inter-governmental highway corridor planning | Provides for establishment of committees, where applicable, for the purpose of developing corridor plans | Added by 1997 PA 79 |
| 15b | Mowing | Provides mowing requirements | Added by 1997 PA 79 |
| 16 | Forfeiture of funds | Provides for forfeiture if funds are not applied within one year | |
| 17 | MTF; monthly distribution and reporting | Provides for monthly distribution of MTF revenue to road agencies; requires Department to furnish report on MTF revenue and distribution | Report due 120 days after end of fiscal year |
| 17a | Office of Commission Audits | Establishes internal audit function | |
| 18a through 18l | Bonding | Provides bonding authority to State Transportation Commission payable from state restricted transportation revenue—not general obligations of the state; bonds may be issued in anticipation of federal revenue; 18k requires that State Transportation Commission provide House and Senate Appropriations Committees with a list of bond projects 30 days prior to issuance of bonds | Total bond amount limited by debt service; may not exceed 50% of constitutionally-restricted transportation revenue |
| 18d | Contracts between road agencies | Provides for contracts between road agencies for highway construction or reconstruction | Many local agency construction projects administered by the Department through contracts with local road agencies |
| 19 | County road system | Requires that county road commissions complete takeover of public roads outside cities and villages within one year of the effective date of the Act | No roads are currently under township jurisdiction |
| 20 | Township contributions | Provides for township contributions for county roads within townships or widening of state trunklines within township | Allows up to six mills |

**Table 8**
**Public Act 51 of 1951—General Provisions**

| Section | Subject | Description | Notes |
|---|---|---|---|
| 20a | Township maintenance of county roads | Provides that townships may contract for maintenance of county local roads within township | In townships with populations >15,000 |
| 25 | Truck Safety Fund | Provides for Truck Safety Fund administered by the Office of Highway Safety Planning within the Department of State Police | Added by 1988 PA 348 |

**Table 9**
**Public Act 51 of 1951—Michigan Transportation Fund (MTF)**

| Section | Subject | Description | Notes |
|---|---|---|---|
| 10(1) | Establishes MTF | MTF is collection/distribution fund for motor fuel taxes and vehicle registration fees | MTF represents 90% of state transportation revenue |
| 10(1) | Necessary administrative expenses from MTF | Requires appropriation of necessary expenses of administration and enforcement—based on established cost allocation methods, actual costs | |
| | | **MTF Distribution Formula** | |
| 10(1) (a) | $3,000,000 (maximum) | Rail grade crossing account by way of STF | Section 11(1) requires 30% to 50% for state trunkline projects |
| 10(1) (b) | $3,000,000 (minimum) | Local bridge fund for debt service | See 10(5) |
| 10(1) (c) | $.03 of gas tax | STF, counties, cities and villages through formula distribution | Approximately $150 million |
| 10(1) (d) | Half cent of gas tax | For state bridges by way of STF | Approximately $25 million |
| 10(1) (d) | Half cent of gas tax | Local bridge fund established in 10(5) | Approximately $25 million |
| 10(1) (e) | $43,000,000 | STF debt service | |
| 10(1) (f) | 10% to CTF | Provision for distribution provided in Section 10e | FY 2006-07 estimate $175.3 million |
| 10(1) (g) | $5,000,000 | Local bridge fund established in 10(5) | |
| 10(1) (h) | $36,775,000 | Transportation Economic Development Fund by way of STF | First priority for debt service |
| 10(1) (h) | $3,500,000 | Transportation Economic Development Fund by way of STF | Designated for targeted industries |
| 10(1)(i) and 11e | $33,000,000 | Local Program Fund | 64.2% counties; 35.8% cities/villages; clarified by 2000 PA 188 (SB 1274) |
| 10(1)(j) | MTF Balance | Formula distribution for MTF revenue after statutory deductions: 39.1% STF, 39.1% counties, 21.8% cities/villages | Not less than 1% to non-motorized (Sec. 10k); Sec. 10a adjusts for jurisdictional transfers |

**Table 9**
**Public Act 51 of 1951—Michigan Transportation Fund (MTF)**

| Section | Subject | Description | Notes |
|---|---|---|---|
| 10(5) | $5,000,000 | Establishes Local bridge fund | Added by 2004 PA 384 (HB 5319) |
| 12, 12a, 12b, and 13 | MTF Distribution to Local Road Agencies | Provides internal formula for distribution of MTF revenue to county road commissions, cities and villages | Includes provision for snow payments |
| 10(1) (h) and 11e(1) | $33,000,000 | Local Program Fund | 64.2% counties; 35.8% cities/villages; 2000 PA 188 (SB 1274) clarifies |

**Table 10**
**Public Act 51 of 1951—Comprehensive Transportation Fund (CTF)**

| Section | Subject | Description | Notes |
|---|---|---|---|
| 10b | Establishes CTF | Establishes CTF as separate fund in state treasury; identifies revenue from MTF (Section 10(1)(f)) and certain Sales Tax Act revenue | Section 10b(e) requires state to pay 66 2/3% of non-federal share of capital grants |
| | | **CTF Funding Priorities** | |
| 10e(2) | Bond payments | | |
| 10e(3) | Administration | Department's cost of CTF administration | |
| 10e(4)(a) | Local bus operating | Up to 50% for urban systems (populations >100,000); up to 60% for non-urban systems (populations <100,000); not less than 50% for ferry service; guarantees funding at 1997 levels | Transit agencies must offer preferential fares for elderly and persons with disabilities |
| 10e(4)(b) | Intercity passenger/freight | 10% minimum | |
| 10e(4)(c)(I) | Specialized services | $3,600,000 (minimum) | Services designed for elderly and persons with disabilities |
| 10e(4)(c)(ii) | Local bus capital | $8,000,000 (minimum) | May be used to match federal funds;<br>Sec. 10b(e) requires state to pay 66 2/3% of non-federal share of capital grants |
| 10e(4)(c)(iii) | Local bus; new service | No specified amount | |
| 10e(4)(c)(iv) | Municipal credit; see 10l | $2,000,000 (minimum) | Plus $2 million from Section 10l earmark of RTCC bus operating to municipalities in SMART/DDOT region; distributed based on population |
| 10e(4)(c)(v) | Public transit development | No specified amount | |
| 10e(4)(c)(vi) | Other public transit as approved by commission | No specified amount | |
| 10e(22) | CTF balance | Appropriates CTF balance if greater than $50 million for local bus capital | |

**Table 11**
**Public Act 51 of 1951—State Trunkline Fund (STF)**

| Section | Subject | Description | Notes |
|---|---|---|---|
| 11(1) | Establishes STF | Establishes STF as separate fund in state treasury | |
| 11(1) | Fund priorities | Bonds, TEDF, rail crossing, operating expense, preservation, construction/reconstruction | |
| 11(1) (c) | Rail grade crossing account | Defines program; funding provided from annual $5.0 million MTF grant | 2002 PA 639 amended this section to broaden permitted uses of funds and increased incentives for crossing closures |
| 11(2) | 90% for preservation | Requires that 90% of STF funds after certain exclusions be expended for preservation of road system—effectively a limitation on new construction | |
| 11(2) | Warranties on construction | Requires five-year minimum warranties on state trunkline construction projects where possible | Added by 1997 PA 79 |
| 11(11) | Administration limit | Limits MDOT's administrative expense to 10% of funds received | |
| | | **Local Federal Match Fund** | |
| 11e(2) | Establishes Local Federal Match Fund | Establishes as separate fund within STF for purposes of receiving up to $80 million in bond proceeds | Provides for Local Jobs Today program; 2006 PA 139 (SB 1132), 2006 PA 141 (HB 6003) |
| 11e(3) and 11f | Program criteria | Establishes criteria for local federal match program | Added by: 2006 PA 140 (SB 1192) |

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