Legislative Analysis

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REPEAL OF TRANSPORTATION ECONOMIC DEVELOPMENT FUND

House Bills 5165 & 5166
Sponsor: Rep. Wayne Schmidt
Committee: Transportation and Infrastructure

Complete to 12-19-13

SUMMARY OF HOUSE BILLS 5165 & 5166 AS INTRODUCED 12-4-13

House Bill 5165 would repeal 1987 PA 231 (MCL 247.901 et seq.), the act which created the Transportation Economic Development Fund (TEDF) and defined TEDF programs. The effective date of repeal would be October 1, 2013.

House Bill 5166 would amend Section 10, Subsection 1(j), of 1951 PA 51 (Act 51) to eliminate the earmark of certain state-restricted transportation revenue to the TEDF. The bill would also amend Section 10, Subsection (3), to eliminate the current earmark of certain federal-aid highway funds to the TEDF. These changes to Section 10 of Act 51 are described in additional detail below.

Redirection of state restricted transportation revenue
Section 10, Subsection 1 of Act 51 governs the distribution of Michigan Transportation Fund (MTF) revenue to other state restricted transportation funds and program accounts, including the TEDF, as well as the distribution of MTF revenue to local road agencies – county road commissions, cities, and villages.

Section 10 Subsection 1(h) currently provides for two earmarks of MTF revenue to the TEDF: an earmark of $36.775 million to the State Trunkline Fund (STF) for subsequent deposit to the TEDF; and a $3.5 million earmark to the STF for subsequent deposit to the TEDF, to be used for the TEDF Targeted Industry program – a program frequently referenced as "Category A."

House Bill 5166 would eliminate the $3.5 million MTF earmark to the STF/TEDF Targeted Industries [Category A] program. By eliminating this earmark, these funds would remain in the MTF for distribution to the State Trunkline Fund (STF), to county road commissions, and to cities and villages in accordance with the distribution formula of Section 10, Subsection 1(j). To the extent that the stated effective date of the bill is October 1, 2013, this change would affect transportation appropriations in 2013-14 and subsequent fiscal years.

The bill would also strike language which earmarks $36.775 million from the MTF to the STF for subsequent deposit to the TEDF. Instead, these funds would be earmarked to the STF "with first priority for the allocation to debt service on bonds issued to funds transportation economic development projects until the debt service on those bonds has been retired." Current TEDF debt service is approximately $10.0 million and, according to department debt service schedules, will remain between $9.1 million and $12.0 million through 2024. It is our understanding that TEDF-related bonds will not be fully retired until 2027. As a result, the $36.775 million would effectively be earmarked to the STF through 2027 after which the funds would remain in the MTF for distribution to the STF, to county road commissions, and to cities and villages in accordance with the distribution formula of Section 10, Subsection (1)(j). Until TEDF bonds are retired, the net amount available to the STF from this earmark for state trunkline programs would be $36.775 million, less the amount of required TEDF debt service.

The redirection of the $36.775 million earmark would begin with the stated effective date of the bill, October 1, 2013 and would affect transportation appropriations in 2013-14 and subsequent fiscal years.

Redirection of federal-aid highway funds

Section 10, Subsection 3 currently earmarks certain federal-aid highway funds to the TEDF. Specifically, the subsection earmarks 31.5% of the federal categorical program "Minimum Guarantee" funds to two TEDF programs. The Minimum Guarantee program was subsequently renamed "Equity Bonus" with the federal transportation program reauthorization in 2005 (SAFETEA-LU). However, with the reauthorization of the federal-aid highway program in 2012 (MAP-21), Equity Bonus disappeared as a separate program. It is our understanding that the department has continued to earmark a portion of federal-aid highway funds, specifically from the federal Surface Transportation Program (STP) categorical program, to the TEDF program.

The amount of this earmark has varied from year to year; however, in 2011, the last year of Equity Bonus funds, $19.9 million in federal funds were earmarked for the TEDF, $9.5 million for the "Category C" Program (urban county congestion relief); and $10.4 million for "Category D" program (secondary all-season roads in rural counties).

House Bill 5166 would eliminate the earmark of these federal funds to the TEDF and would instead allocate this "money" to the STF. However, we note that two references in this subsection appear to be erroneous. Current law earmarks 31.5% "of the funds appropriated to the state from the federal government "pursuant to 23 USC 157 commonly known as minimum guarantee funds…." However, Section 1519 of Public Law 112-141 of the 112th Congress, the reauthorization of the federal surface transportation program known as MAP-21, repealed Section 157 of 23 USC effective July 6, 2012. The subsection also refers to Public Law 105-178, the Transportation Equity Act for the 21st Century (TEA-21). TEA-21 is an older federal authorizing statute which expired in 2005. As a result, the earmark of federal funds in both current law and under the provisions of House Bill 5166 appears to be ineffective.

FISCAL IMPACT:

The TEDF, established in 1987 PA 231, is, to some extent, a targeted transportation program. The stated purpose of the fund is "*enhancing this state's ability to compete in* *an international economy, serving as a catalyst of the economic growth of this state, and to improve the quality of life in the rural and urban areas of this state*." Public Act 231 established five categorical programs within the TEDF, each with defined program objectives and eligible recipients.

In eliminating the TEDF, and in redirecting funds currently earmarked to the TEDF, House Bills 5165 and 5166 would eliminate a targeted transportation program. State restricted funds currently earmarked for the TEDF would be redistributed by formula. Specifically, the current TEDF earmark of $3.5 million would distributed according to the current formula of Section 10, Subsection 1(j) – to the STF, to county road commissions, and to cities and villages.

The current TEDF earmark of $36.775 million would be earmarked to the STF with first priority debt service on TEDF bonds until those bonds were retired. As a result, House Bill 5166 would increase net STF revenue by $36.775 million, less TEDF debt service, through 2027 when TEDF bonds are scheduled to be retired. After 2027, the current $36.775 million TEDF earmark would remain in the MTF for distribution in accordance with the formula of Section 10, Subsection (1)(j) – to the STF, to county road commissions, and to cities and villages.

The revenue redirection proposed in the two bills would have no impact on total state revenue; they would simply effect a shift between state-restricted funds and between state and local road programs.

Because the references to federal statute are unclear, the impact of House Bill 5166 on the distribution of federal funds within the state cannot be readily estimated.

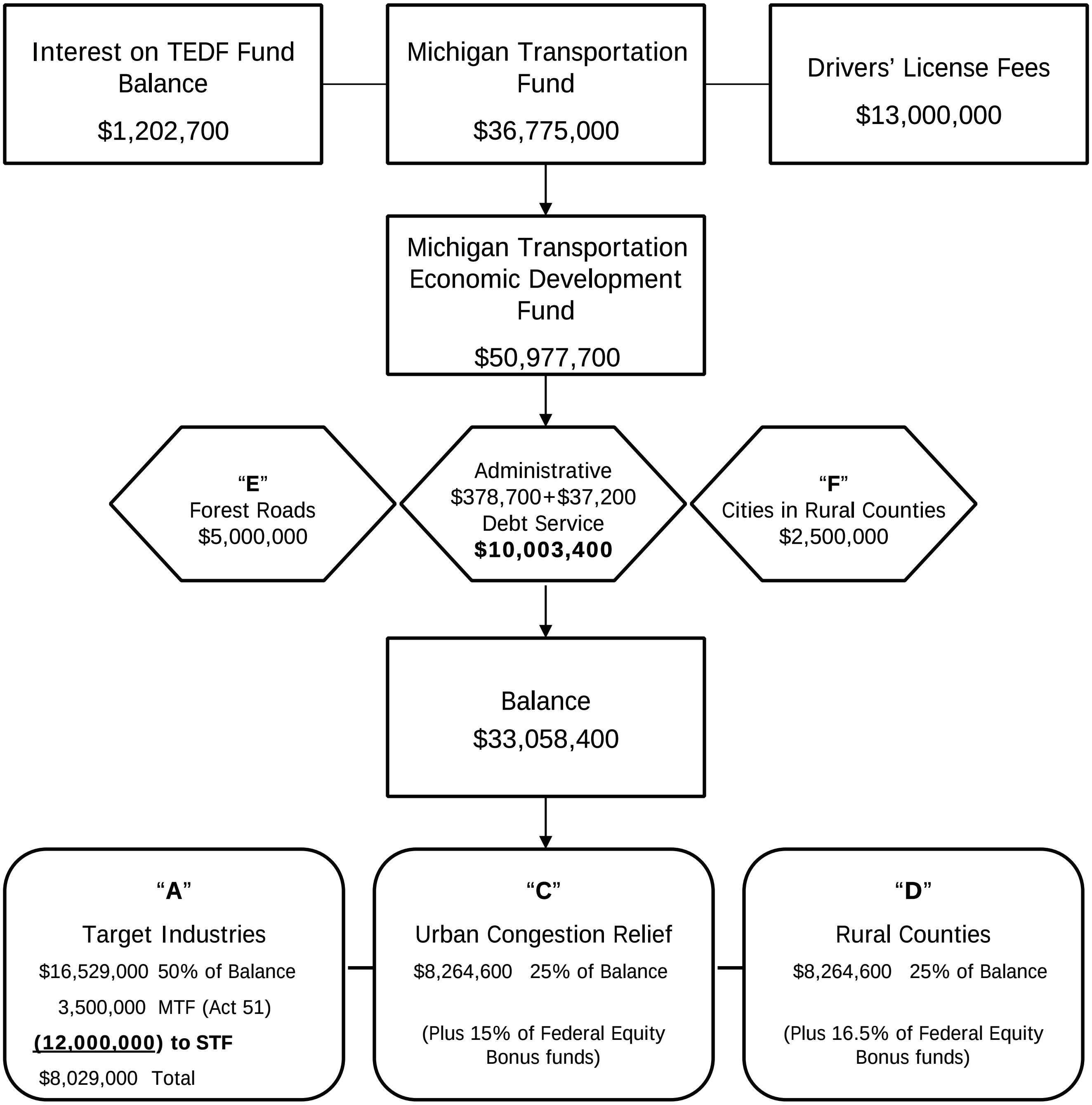
Attached (on the following page) is a chart showing the current distribution of funds to the TEDF.

Fiscal Analyst: William E. Hamilton

■ 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.

Transportation Economic Development Fund

Fiscal Year 2013-14 as Appropriated



December 3, 2013