

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Warren, Johnson and Casperson

ENROLLED SENATE BILL No. 445

AN ACT to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to promote safe and efficient travel for motor vehicle drivers, bicyclists, pedestrians, and other legal users of roads, streets, and highways; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, local bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending sections 10b, 10c, 10d, 10e, 10h, 10l, and 10n (MCL 247.660b, 247.660c, 247.660d, 247.660e, 247.660h, 247.660l, and 247.660n), section 10b as amended by 1982 PA 438, section 10c as amended by 2010 PA 257, section 10e as amended by 2008 PA 487, section 10h as amended by 2002 PA 498, section 10l as amended by 1987 PA 234, and section 10n as amended by 2002 PA 329.

The People of the State of Michigan enact:

Sec. 10b. (1) A fund to be known as the comprehensive transportation fund is established and shall be set up and maintained in the state treasury as a separate fund. In addition to the money distributed to the comprehensive transportation fund pursuant to this act, the money authorized to be credited to the comprehensive transportation fund pursuant to section 25 of the general sales tax act, 1933 PA 167, MCL 205.75, shall be deposited in the comprehensive transportation fund and is appropriated to the department for the purposes described in section 10e.

(2) The comprehensive transportation fund shall be administered by the department in accordance with this act.

(3) The general functions of the department in the administration of funds for comprehensive transportation services shall include the following:

(a) Establishing public transportation procedures and administrative practices for which there is a clear requirement for uniformity statewide.

(b) Planning and providing for the current and long-range development of a system of public transportation in areas for which an eligible authority or eligible governmental agency does not exist.

(c) Investigating public transportation conditions and making recommendations for improvement to the state transportation commission for forwarding to the legislature.

(d) Encouraging, coordinating, and administering grants for research and demonstration projects to develop the application of new ideas and concepts in public transportation facilities and services as applied to state as opposed to nationwide problems.

(e) Performing each function necessary to comply fully with present or future federal transportation acts.

(f) Except as provided in section 8 of the regional transit authority act, administering and distributing money from the comprehensive transportation fund and the proceeds of notes and bonds sold for public transportation purposes. If money is raised by an eligible authority or an eligible governmental agency for a public transportation capital outlay project funded pursuant to sections 3, 5, and 6 of the urban mass transportation act of 1964, 49 USC 1602, 1604, and 1605, or federal law codified in 23 USC 101 to 407, this state shall pay not less than 66-2/3% of the local match. This state shall not expend money as a local match or otherwise, and an eligible authority or eligible governmental agency shall not expend money distributed pursuant to this act, as a local match or otherwise, for the preliminary or final construction engineering plans or the construction of a subway system within the area of the southeastern Michigan transportation authority until that expenditure is approved by concurrent resolution of the legislature. The concurrent resolution shall be approved on a record roll call vote of each house. This state shall not expend money for the construction, operation, or maintenance of a commuter boat service system within a county which is a member of the southeastern Michigan transportation authority until approved by concurrent resolution of the legislature. The concurrent resolution shall be approved on a record roll call vote of each house.

(g) Applying for, receiving, and accepting any grant, gift, contribution, loan, or other assistance in the form of money, property, labor, and any other form from a public or private source, including assistance from an agency or instrumentality of the United States and doing each thing as is necessary to apply for, receive, and administer that assistance in accordance with the laws of this state.

(h) Promulgating rules for the implementation and administration of the comprehensive transportation fund, pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(i) Issuing bonds or notes for public transportation purposes in accordance with this act.

(j) Making direct expenditures, loans, grants, or guaranteeing lease costs to public and private corporations for public transportation purposes using the comprehensive transportation fund or using as appropriate, the proceeds of notes and bonds authorized by section 18b.

Sec. 10c. As used in this act:

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

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

(c) "Eligible governmental agency" means a county, city, or village or an authority created under 1963 PA 55, MCL 124.351 to 124.359; the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512; 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536; 1951 PA 35, MCL 124.1 to 124.13; the public transportation authority act, 1986 PA 196, MCL 124.451 to 124.479; or the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

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

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

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

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

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

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

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

(k) “Department” or “department of transportation” means the state transportation department, the principal department of state government created under section 350 of the executive organization act of 1965, 1965 PA 380, MCL 16.450.

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

(i) Maintenance.

(ii) Capital preventive treatments.

(iii) Safety projects.

(iv) Reconstruction.

(v) Resurfacing.

(vi) Restoration.

(vii) Rehabilitation.

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

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

(x) Modernizing intersections.

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

(xii) Installing traffic signs in new locations, installing signal devices in new locations, and replacing existing signal devices.

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

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

(i) Snow and ice removal.

(ii) Pothole patching.

(iii) Unplugging drain facilities.

(iv) Replacing damaged sign and pavement markings.

(v) Replacing damaged guardrails.

(vi) Repairing storm damage.

(vii) Repair or operation of traffic signs and signal systems.

(viii) Emergency environmental cleanup.

- (ix) Emergency repairs.
- (x) Emergency management of road closures that result from uncontrollable events.
- (xi) Cleaning streets and associated drainage.
- (xii) Mowing roadside.
- (xiii) Control of roadside brush and vegetation.
- (xiv) Cleaning roadside.
- (xv) Repairing lighting.
- (xvi) Grading.

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

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

(p) "County road commission" means the board of county road commissioners elected or appointed pursuant to section 6 of chapter IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county with a population of 750,000 or more with an elected county executive that does not have a board of county road commissioners, the county executive for ministerial functions and the county commission provided for in section 14(1)(d) of 1966 PA 293, MCL 45.514, for legislative functions. In addition, if a board of county road commissioners is dissolved as provided in section 6 of chapter IV of 1909 PA 283, MCL 224.6, county road commission includes the county board of commissioners of the county.

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

(r) "Public transit region" means that term as defined in the regional transit authority act.

(s) "Regional transit authority" means an authority created under the regional transit authority act.

Sec. 10d. The comprehensive transportation fund shall be distributed to eligible authorities for public transportation purposes, distributed to eligible governmental agencies which are not within the jurisdiction of an eligible authority for public transportation purposes, distributed to a regional transit authority, for public transportation purposes, and expended by the department for public transportation purposes. A distribution to an eligible governmental agency located within the jurisdiction of an eligible authority for public transportation purposes may be made directly if the eligible governmental agency was providing public transportation service on January 3, 1973. Except for an eligible governmental agency that was providing public transportation service on January 3, 1973, distribution for public transportation purposes may be made directly to an eligible governmental agency located within the jurisdiction of an eligible governmental agency or eligible authority that is providing public transportation service on the date of the

creation of the comprehensive transportation fund, only if approved by the eligible governmental agency or eligible authority in which the eligible governmental agency is located. Further, except for an eligible governmental agency or eligible authority in whose jurisdiction is located an eligible governmental agency that was providing public transportation service on January 3, 1973, a distribution may be made directly to an eligible governmental agency or eligible authority in whose jurisdiction is located an eligible governmental agency that is providing public transportation service on the date of the creation of the comprehensive transportation fund, only if approved by the eligible governmental agency located within the eligible governmental agency or eligible authority. A county that withdraws from an eligible authority shall not be considered to be within the jurisdiction of the eligible authority.

Sec. 10e. (1) The comprehensive transportation fund is appropriated for each fiscal year in the following order of priority.

(2) The first priority is to pay, but only from money restricted as to use by section 9 of article IX of the state constitution of 1963, the principal and interest on bonds or notes issued under section 18b for comprehensive transportation purposes as defined by law. A sufficient portion of the comprehensive transportation fund is irrevocably appropriated to pay, when due, the principal and interest on those bonds and notes.

(3) After making or setting aside payments required by subsection (2), the second priority of the comprehensive transportation fund is the payment of the department's cost in administering the comprehensive transportation fund. The amount to be expended pursuant to this subsection shall not exceed the costs appropriated for the administration of the fund in the fiscal year ending September 30, 1987, as adjusted annually on October 1, by the change for the preceding 12 months in the Detroit consumer price index for urban wage earners and shall be appropriated annually by the legislature.

(4) After making or setting aside payments required by subsections (2) and (3), the balance of the comprehensive transportation fund shall be expended each fiscal year as appropriated annually by the legislature pursuant to the state transportation program approved by the commission as follows:

(a) The third priority shall be the payment of operating grants to eligible authorities and eligible governmental agencies according to the following formulations and subject to the following requirements:

(i) For the fiscal year ending September 30, 1998, and for each fiscal year thereafter, each eligible authority and eligible governmental agency that provides public transportation services in urbanized areas under 49 USC 5307, with a Michigan population greater than 100,000 shall receive a grant of up to 50% of their eligible operating expenses as defined by the department.

(ii) For the fiscal year ending September 30, 1998, and each fiscal year thereafter, each eligible authority and eligible governmental agency that provides public transportation services in urbanized areas with a Michigan population less than or equal to 100,000 and nonurbanized areas under 49 USC 5311, shall receive a grant of up to 60% of their eligible operating expenses as defined by the department. For purposes of receiving a grant under this subparagraph in nonurbanized areas, eligible costs of services provided by water vehicle shall be reimbursed at not less than 50% of the portion of the costs not eligible for reimbursement by the federal government.

(iii) Funds shall not be distributed to an eligible authority or eligible governmental agency under this act unless the eligible authority or eligible governmental agency provides or agrees to provide preferential fares for public transportation services to persons 65 years of age or over or persons with disabilities riding in off peak periods of service. As used in this section, "person with disabilities" means an individual with a disability as that term is defined in 61 FR 56424 (November 1, 1996) and 49 CFR part 27. The preferential fares shall not be higher than 50% of the regular 1-way single fare.

(iv) Eligible authorities and eligible governmental agencies shall not engage in charter service using vehicles, facilities, or equipment funded under this act except on an incidental basis as defined by 49 CFR part 604.

(v) Notwithstanding any other provision of this subsection, for the fiscal year ending September 30, 1998, each eligible authority and eligible governmental agency shall receive a distribution from the comprehensive transportation fund not less than the distribution received for eligible operating expenses for the fiscal year ending September 30, 1997. Beginning with the fiscal year ending September 30, 1998 and each fiscal year thereafter, each eligible authority and eligible governmental agency shall receive a distribution from the comprehensive transportation fund for eligible operating expenses not less than the distribution received for the fiscal year ending September 30, 1997. As it relates to this subsection the ratio between comprehensive transportation funds and local funds in the fiscal year ending September 30, 1989 shall be maintained for all fiscal years by the eligible authority and eligible governmental agency. Reductions in this ratio shall require a proportionate reduction in the comprehensive transportation funds provided for any fiscal year.

(vi) Each eligible authority and eligible governmental agency receiving comprehensive transportation funds shall prepare and submit to the department a quarterly report of the progress made in carrying out its local transportation program within 40 days after the end of each fiscal year quarter. The progress report shall be made on forms authorized

by the United States department of transportation under the provisions of the surface transportation and uniform relocation assistance act of 1987, Public Law 100-17, 101 Stat. 132.

(vii) The department shall periodically adjust or redistribute comprehensive transportation funds previously distributed under this subdivision.

(b) For the fiscal year ending September 30, 1997, and each fiscal year thereafter, not less than 10% shall be distributed by the department for intercity passenger and intercity freight transportation purposes.

(c) For the fiscal year ending September 30, 1997, and each fiscal year thereafter, funds remaining in the fund after payment of the amounts required by subdivisions (a) and (b) shall be distributed by the department for public transportation purposes. For the fiscal year ending September 30, 1998, and each fiscal year thereafter, funds shall be made available to match all projects for eligible authorities and eligible governmental agencies that are approved for federal funding as provided by federal law and for which an approved transportation improvement program (TIP) and state transportation improvement plan (STIP) exist. Funds distributed under this subdivision shall be expended pursuant to specific line item appropriation for, but are not limited to, the following public transportation purposes:

(i) The specialized services assistance program. The specialized services assistance program shall be funded with not less than \$3,600,100.00 from funds distributed under this subdivision. Funds shall be distributed according to guidelines developed by the department based upon the following considerations:

(A) Proposals for coordinated specialized services assistance funding shall be developed jointly between existing eligible authorities or eligible governmental agencies that provide public transportation services and the area agencies on aging or any other organization representing specialized services interests, as defined in this subdivision. Plans shall be reviewed and approved by the bureau of urban and public transportation of the department. Upon approval, the department shall release the funds to the eligible authority or eligible governmental agency which shall then allocate the funds to the area agency on aging or any other organization representing specialized services interests, as defined in this subdivision for the purchase of services as approved in the plan by the department.

(B) If an eligible authority or eligible governmental agency does not exist to provide public transportation service in a county, coordinated proposals for specialized services assistance funding may be submitted by the area agency on aging or any other organization representing specialized services interests, as defined in this subdivision. The proposals shall be reviewed and approved by the bureau of urban and public transportation of the department. Upon approval, the department shall release the funds to the area agency on aging or any other organization representing specialized services interests, as defined in this subdivision for the purchase of services as approved in the plan by the department.

(C) For the purposes of this program, "specialized services" means public transportation primarily designed for persons with disabilities or persons who are 65 years of age or older.

(ii) Local bus capital. For the fiscal year ending September 30, 1998 and each fiscal year thereafter, not less than \$8,000,000.00 will be distributed for either matching federal funds for local bus capital or 100% capital projects for eligible authorities and eligible governmental agencies that are not eligible to receive federal capital formula funds under section 5307 of the federal intermodal surface transportation efficiency act, Public Law 102-240, or any successor act.

(iii) Local bus new services.

(iv) Not less than \$2,000,000.00 in each fiscal year for the credit program established under section 10L.

(v) Public transportation development.

(vi) Other public transportation programs approved by the commission.

(d) The unappropriated and unencumbered balance of the comprehensive transportation fund lapses at the end of each fiscal year and reverts to the comprehensive transportation fund for appropriation in the following fiscal year.

(5) Eligible authorities and eligible governmental agencies shall receive capital grants each fiscal year by the annual process described in this section. Amounts received by an eligible authority or eligible governmental agency pursuant to this subsection shall be expended by that authority or agency solely for capital projects that have been approved by the state transportation commission. Any funds approved by distribution to an eligible authority or eligible governmental agency pursuant to this section that have not been encumbered by that agency or authority for an approved capital project by the end of the following fiscal year in which the funds were approved shall not be expended by the authority or agency and be available for distribution from the comprehensive transportation fund for the purposes described in this section.

(6) The department, in carrying out the policy of the state transportation commission, shall annually prepare and distribute by December 1, instructions to eligible governmental agencies, eligible authorities, and intercity carriers to enable the preparation of a local transportation program. Eligible governmental agencies, eligible authorities, and intercity carriers shall give public notice of their intent to apply for money in the comprehensive transportation fund to the residents of the counties, townships, villages, and cities affected by the local transportation program and shall make their application available for a period of 30 days. All comments received by the eligible governmental agency, eligible authority, or intercity carrier shall be transmitted to the department.

(7) On or before March 1 of each year, each intercity carrier, eligible authority, and eligible governmental agency shall submit to the department its local transportation program for the next succeeding fiscal year. The format for each local transportation program shall be as prescribed by the federal transportation improvement program insofar as practical and shall include project descriptions, funding sources, and justification for each line item, and summary budgets based on distributions anticipated under subsection (4). The program shall contain at a minimum the contemplated routes, hours of service, estimated transit vehicle miles, costs of public transportation services, and projected capital improvements or projects as exclusively determined by the eligible authority or eligible governmental agency. The costs of service and capital improvements or projects shall be in sufficient detail to permit the department to evaluate and approve the annual public transportation program. Determination of individual projects to be included in the local transportation programs other than those provided in this subsection shall be made by the governing body of the eligible authority or eligible governmental agency.

(8) On or before March 1 of each year, the department shall prepare and file for public inspection and review the department transportation program. The department transportation program shall be prepared on similar format to the local transportation programs, and shall include a summary description of projects, with funding sources and project justifications for each line item for the fiscal year immediately succeeding the fiscal year in which the program is submitted. In addition, the department transportation program shall include summary, nondetailed budget and project descriptions and justifications excluding projects contained in a local transportation program.

(9) On or before April 1 of each year, the department shall prepare and file with the commission the proposed state transportation program for the next succeeding fiscal year. The proposed state transportation program shall contain the local transportation programs of each intercity carrier, eligible authority and eligible governmental agency, the department transportation program, and the programs for the expenditure of the state trunk line fund as they may have been supplemented, amended, or modified since their original filing. The state transportation program shall include the estimated amount of money in the funds described in this subsection by revenue source, project justifications, project descriptions funding sources, and budget summaries.

(10) On or before May 1 of each year, the state transportation commission shall act on the state transportation program for the fiscal year commencing on the following October 1. In considering approval of the proposed projects of each intercity carrier, eligible authority, or eligible governmental agency, other than projects that are to be funded pursuant to subsection (5), the state transportation commission shall consider whether the projects comply with state law, are within funds allocated in this section, whether they may be funded within the approved budgets, whether there are intercity carriers, eligible authorities, and eligible governmental agencies responsible to implement the projects, and the recommendations of the department on individual projects. Upon making those determinations, the state transportation commission shall approve the projects which best meet the criteria of this subsection.

(11) By October 1, the department and each intercity carrier, eligible authority, or eligible governmental agency shall enter into a contractual agreement or standardized grant memorandum of agreement, which may cover 1 or more projects to be made from this section in the applicable fiscal year to the intercity carrier, eligible authority, or eligible governmental agency from the comprehensive transportation fund.

(12) After a multiyear public transportation program is approved by the state transportation commission, the department may enter into a grant-in-aid instrument with an eligible authority, intercity carrier, or eligible governmental agency obligating the state to a minimum level of funding for approved projects to be available over the multiyear period of the program. This obligation shall be binding upon the department as long as the provisions and conditions of the state transportation commission approved program are carried out as agreed.

(13) Contracts and grant memorandum agreements may be audited by the state transportation commission's office of commission audits using rules promulgated by the United States general accounting office and the terms and conditions of the respective contracts and agreements. Third party agreements are subject to the review and approval of the department.

(14) Funds distributed by the department may pay 100% of the portion of the cost not eligible for reimbursement by the federal government for eligible capital projects authorized by the state transportation commission using comprehensive transportation funds or the proceeds of notes and bonds issued under section 18b. Priority for funding obligation shall be given to capital projects for which federal funds have been authorized.

(15) All approved local bus new services initiated by eligible authorities and eligible governmental agencies not in their fourth year or beyond of funding on October 1, 1988, shall be funded from subsection (4)(c)(iii). Local bus new services shall be funded under subsection (4)(c)(iii) in the following percentages of eligible operating expenses as determined by the department:

- (a) Startup 100%.
- (b) First year 90%.
- (c) Second year 80%.
- (d) Third year 70%.

(e) Fourth year and each year thereafter, as determined by and from funds provided under subsection (4)(a). The balance of eligible operating expenses shall be met from local revenue sources including farebox. The department shall pay up to 100% of eligible capital expenses during the startup and first 3 years of service, after the third year, the department shall participate in eligible capital expenses in the same percentage as for other eligible authorities and eligible governmental agencies. For the purposes of this subsection, eligible operating and capital expenses means those expenses determined by the department as applicable to existing eligible authorities and eligible governmental agencies. The department shall prioritize annually all requests for comprehensive transportation funds to institute new services under this subsection. First priority shall be given to eligible authorities and eligible governmental agencies who have not completed their first 3 years of service by October 1, 1998. New services initiated by eligible authorities and eligible governmental agencies under this subsection shall meet all of the requirements of section 10.

(16) The department shall pay up to 80% of the portion of the cost not eligible for reimbursement by the federal government for intercity passenger operating assistance projects authorized by the commission for the first 2 years of new services. For the third year, eligible costs shall be reimbursed at up to 60% of the portion of the cost not eligible for reimbursement by the federal government. After the third year, eligible costs shall be reimbursed at up to 50% of the portion of the cost not eligible for reimbursement by the federal government. Eligible costs of services provided as of September 30, 1981, shall be reimbursed at up to 50% of the portion of the cost not eligible for reimbursement by the federal government. However, the amount of funds from the comprehensive transportation fund when added to federal funds and local funds shall not exceed the total operating assistance project cost.

(17) A vehicle purchased, leased, or rented after November 15, 1976, by an eligible authority or eligible governmental agency with funds made available under this act and not already committed under a contract in existence on November 15, 1976, shall not be used to provide service on a fixed schedule and fixed route for which a passenger fee is charged unless the vehicle is accessible to a person using a wheelchair from a roadway level or curb level, and has accommodations in which 1 or more wheelchairs can be secured.

(18) A vehicle used to provide demand actuated service shall not be purchased, leased, or rented by an eligible authority or eligible governmental agency after October 1, 1978, with funds made available under this act unless the eligible authority or eligible governmental agency has submitted a plan to the department describing the service to be provided by the demand actuated service to persons 65 years of age or older and persons with disabilities within the applicable service area and that plan has been approved by the department. The department shall approve the plan as submitted or modified or shall reject the plan within 60 days after the plan is submitted. A plan that describes the service to be provided by the demand actuated service shall not be approved by the department unless that plan provides the following:

(a) That demand actuated service will be provided to persons 65 years of age or older and persons with disabilities residing in the entire service area subject to the plan.

(b) That as a minimum, demand actuated service will be provided to persons 65 years of age or older and persons with disabilities during the same hours as service is provided to all other persons in the service area subject to the plan.

(c) That the average time period required for demand actuated service to persons 65 years of age or older and persons with disabilities from the initiation of a service request to arrival at the destination is equal to the average time period required for demand actuated service provided to all other persons in the service area subject to the plan.

(d) That the eligible authority or eligible governmental agency submitting the plan has established a local advisory council with not less than 50% of its membership representing persons 65 years of age or older and persons with disabilities within the service area subject to the plan and that the local advisory council has had an opportunity to review and comment upon the plan before its submission to the department. Each eligible authority or eligible governmental agency jointly with the area agency on aging shall approve at least 1 or the equivalent of 12% of the membership of the local advisory council. Each advisory council comment shall be included in the plan when submitted to the department.

(19) Notwithstanding subsection (18), a plan required by subsection (18) that is not approved or rejected by the department within 60 days after submission shall be considered approved as submitted.

(20) Subsections (17), (18), and (19) shall not apply to vehicles or facilities used to transport persons by rail, air, or water or to vehicles of common carriers licensed by the department.

(21) After January 1, 1979, the department shall submit an annual report to the legislature detailing the service provided in the prior year for persons 65 years of age or older and persons with disabilities by fixed route service and demand actuated service. This report shall include a record of passenger usage and shall be submitted by April 1 of each year.

(22) Notwithstanding any other provision of this section, for each fiscal year that begins after September 30, 2009, the governor and the state budget director shall include in the annual budget submitted to the legislature for the ensuing fiscal period under section 18 of article V of the state constitution of 1963 an appropriation from a fund or funds other than the comprehensive transportation fund to a street railway organized under the nonprofit street railway act, 1867 PA 35, MCL 472.1 to 472.27, of a sum equal to the difference between the annual operating expenses of the street

railway and revenue received by the street railway during the same annual period, including, but not limited to, tax increment revenues received by the street railway under section 23 of the nonprofit street railway act, 1867 PA 35, MCL 472.23. The appropriation submitted in the budget under this section shall not exceed 8% of the total private investment in the street railway as determined by the department. A street railway is not an eligible authority or eligible governmental agency for purposes of subdivision (4)(a).

(23) For each eligible authority and each eligible governmental agency within a public transit region, a regional transit authority shall apply for, receive, and disburse funds under section 8 of the regional transit authority act.

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

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

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

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

(d) The status of all multiyear funding commitments.

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

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

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

Sec. 10l. (1) Subject to subsections (2) and (3), for each 12-month period beginning October 1, 1987, and each 12-month period thereafter, \$2,000,000.00 shall be returned from the distribution under section 10e(4)(a) by each eligible authority organized or continued under the regional transit authority act as a credit to those cities, villages, and townships within the authority that receive credits under this section or that are eligible to receive credits as of October 1, 2001 if the city, village, or township applies to the authority for the credit in accordance with procedures and

standards established by the authority. The return of money in terms of a credit shall be based upon the population of each city, village, or township within the authority.

(2) For each 12-month period described in subsection (1), a city, village, or township described in subsection (1) may apply to the authority to use its credit for public transportation purposes within the authority's jurisdiction. However, the money returned as a credit to any city, village, or township that provides public transportation service for that city, village, or township shall be used exclusively toward reducing the operating deficit of that service. Any service provided by the city, township, or village utilizing the credit received under this section shall be operated by the authority returning the money in terms of a credit on a contractual basis with each city, village, or township or with a combination of cities, villages, and townships. If a city, township, or village has not applied to the authority to utilize its credit pursuant to this subsection by the last day of the 12-month period, that municipality's share of the money credited pursuant to subsection (1) shall be used by the authority for an expenditure within the county within which the city, village, or township lies.

(3) A city, village, or township that has applied for and received approval from the authority for use of its credit pursuant to subsection (2) shall have 1 year after the end of the period in which the application was made to actually expend that credit. A credit not actually expended by the city, village, or township by the last day of the year after the end of the period in which the application was made shall be used by the authority for an expenditure within the county within which the city, village, or township lies.

(4) Notwithstanding any other section of this or any other act, each authority authorized by this section to return money in terms of a credit shall have the final decision as to what constitutes a proper expenditure, a public transportation service, or a public transportation purpose under subsections (2) and (3).

(5) The expenditure of the amounts required to be expended under subsections (2) and (3) shall not be conditioned on an expenditure by a county in which the expenditure is required to be expended.

(6) An authority shall retain the ability to coordinate services between contracting cities, villages, and townships or groups of cities, villages, or townships.

(7) As used in this section, "operating deficit" means the operating cost of a public transportation service less the revenues generated by the service.

Sec. 10n. (1) Funds from the comprehensive transportation fund may be distributed to a trustee, or to the Michigan municipal bond authority as created under the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1076, that is authorized to receive the funds under a borrowing resolution adopted by an eligible authority. The issuance of the notes of an eligible authority in anticipation of payment of proceeds from the comprehensive transportation fund shall be authorized by a borrowing resolution of the eligible authority under the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, or a regional transit authority under the regional transit authority act. The issuance of the notes under this section is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and shall be subject to the prior approval of the state transportation commission. Failure of the commission to take action within 35 days after receipt of notification from the eligible authority of intent to issue the notes, constitutes approval by the state transportation commission. The eligible authority may only issue the notes in anticipation of funds to be received during its current fiscal year at any time before the eligible authority's receipt of the funds from the comprehensive transportation fund. The principal amount of notes for which the funds to be received from the comprehensive transportation fund are pledged shall not exceed 85% of the amount remaining to be received by the eligible authority from the comprehensive transportation fund in the current fiscal year. The pledge of 100% of the funds the eligible authority expects to receive from the comprehensive transportation fund shall be secured by a direct transfer of the pledge funds from the comprehensive transportation fund to the trustee or the Michigan municipal bond authority that is authorized to receive the funds by the borrowing resolution adopted by the eligible authority. The notes of the eligible authority shall not be in any way a debt or a liability of this state and shall not create or constitute any indebtedness, liability, or obligations of this state or be or constitute a pledge of the full faith and credit of this state. Each note shall contain on its face a statement to the effect that the eligible authority is obligated to pay the principal of and the interest on the note only from funds of or due to the eligible authority and that this state is not obligated to pay that principal or interest and that neither the faith in credit nor the taxing power of this state is pledged to the payment of the principal of or the interest on the note. The notes shall mature not more than 13 months from the date of issuance, shall bear interest at a fixed or variable rate or rates of interest per annum, and, in addition to other security required by this section, may be secured by letter or line of credit issued by a financial institution or as provided in the borrowing resolution.

(2) The issuance of notes under this section is subject to the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 909 of the 96th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

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Governor