MEMORANDUM

HOUSE FISCAL AGENCY

DATE: May 1, 2008

TO: House Appropriations Subcommittee on Transportation, House Transportation Committee

FROM: William E. Hamilton

RE: The Michigan Department of Transportation's 2008-2012 Five-Year Transportation Program

Summary

On February 28, 2008, the State Transportation Commission approved the Michigan Department of Transportation's 2008-2012 Five-Year Transportation Program. The program, also referred to as the "Five Year Plan," was then transmitted to the Legislature in compliance with boilerplate Section 307 of the FY 2007-08 transportation appropriations act, 2007 PA 240.

The 2008-2012 Five-Year Transportation Program identifies a total of $6.31 billion in state highway investments over the program period. However, the document indicates that estimated program funding will not be sufficient to sustain stated program goals. The highway preservation element of the program will not be able to sustain state pavement condition at desired levels; after 2008 statewide trunkline pavement condition will deteriorate faster than the program can preserve it. In addition, estimated available funding during the Five-Year Transportation Program period does not provide for the construction of a number of previously identified critical state trunkline capacity improvement projects.

The balance of this memo provides background on the development of the Five-Year Transportation Program and the projected funding shortfall in the state trunkline highway program.

Background on the Five Year Road and Bridge Program

The Michigan Department of Transportation published its first "Five Year Road and Bridge Program" in February 1999. This document, often referred to as the "Five Year Plan," was developed by the department following the 1998 passage of a state gas tax increase, and the reauthorization of the federal-aid transportation program (TEA-21), both of which brought increased funding for state transportation programs. The first Five Year Program identified statewide road and bridge program goals, as well as specific state trunkline road and bridge projects by region, for fiscal years 1999 through 2003. The statewide program goals, described in detail below, have guided the development of subsequent Five-Year Programs.

Each year the department has updated the Five-Year Program to reflect planned road and bridge projects for each subsequent five-year period. Starting in 2004, the department has included aviation, transit, and rail programs in the document, re-titled as the "Five-Year Transportation Program."

Although the first Five-Year Program was published as a department initiative, the Legislature soon made the document a required report through appropriation act boilerplate. Section 307 of 1999 PA 136, the FY 1999-2000 transportation appropriation act, required the department to provide to the Legislature and the House and Senate Fiscal Agencies, by February 1 of each year, "its rolling 5-year plan listing by county or by county road commission all highway construction projects for the fiscal year and all expected projects for the ensuing fiscal years." Similar language has been included in each subsequent appropriation act through the current fiscal year.[1]

[1] The State Budget Office was added as a listed report recipient in 2001 PA 59, the FY 2001-02 transportation appropriations act. The report due date was changed to March 1 of each year in 2007 PA 129, the FY 2007-08 transportation appropriations act.

In the FY 2004-05 transportation appropriation act (2004 PA 361), the Legislature added a second sentence to the Section 307 reporting requirement: "The legislature shall approve the 5-year plan before it is implemented." In her bill-signing statement, Governor Granholm indicated that, based on the advice of the Attorney General, legislative approval of the Five Year Plan violated the separation of powers doctrine of Section 2, Article III of the 1963 Michigan Constitution, and was therefore unenforceable. The legislative approval sentence has not been included in subsequent appropriations acts.

The projects listed in the Five-Year Transportation Program are generally projects which the department intends to develop through construction; it is not a "wish list." Projects are selected through an annual "call for projects," and based on the application asset management principles. However, some projects shown on one Five-Year Transportation Program may be dropped from subsequent Programs if the project is cancelled or deferred for various reasons, including environmental clearance problems, community opposition, or lack of funding.

Development and Approval of the 2008-2012 Five-Year Transportation Program

The department presented its draft 2008-2012 Five-Year Transportation Program to the State Transportation Commission in November 2007. The department then conducted a series of "public input meetings" at locations across the state. The final Program was presented to the Commission on February 28, 2008; a formal vote was not recorded.[2] On March 1, 2008, the Five-Year Transportation Program was sent to the Legislature in accordance with the Section 307 reporting requirement. Although the Program is a multi-modal program, the balance of this memo will be limited to a discussion of the proposed state trunkline highway program.

2008-2012 Five-Year Transportation Program – The Proposed Highway Program

The state trunkline highway program as described in the 2008-2012 Five-Year Transportation Program would total $6.31 billion over the five-year period. The Highway Program includes routine maintenance as well as capital preservation, safety, and capacity improvement projects. As shown on the "Five Year Highway Program By Work Category" slide on page 5 of this memo, Highway Program expenditures would be $1.477 billion in 2008, $1.202 billion in 2009, $1.230 billion in 2010, $1.140 billion in 2011, and $1.257 billion in 2012.[3]

The state Highway Program would be supported with an estimated $4.2 billion in federal-aid revenue, with the balance from state-restricted revenue.[4] State-restricted revenue used to support the Program includes an estimated $232 million in bond proceeds, including $76 million related to the *Jobs Today* bond program, and $150 million in bonds related to the Governor's *Economic Stimulus* program. The proceeds from these bond sales would be used to support the 2007-08 capital highway program. The use of bond proceeds in the first year of the Program is the primary reason for higher program level in that first year. Available revenue in subsequent years of the Program is reduced by increased in debt service and by anticipated annual increases in routine maintenance.

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[2] Although the State Transportation Commission meeting minutes indicate that a motion to approve the Program was made and seconded, a formal vote was not recorded. In 2007, the Commission had approved the 2007-2011 Program on a unanimous voice vote. Meeting minutes from prior years indicate that the Five Year Program has been variously "approved," "supported," or "accepted" by the Commission. In most years the State Transportation Commission action was made by voice vote; in one year by record roll call vote; in one year (in addition to 2008), no vote was recorded.

[3] The slides on pages 5, 6, and 7 of this memo were reproduced from the department's Five-Year Transportation Program presentation.

[4] Needless to say, there is some uncertainty in any projection of future revenue over a five-year period. While the House Fiscal Agency has not reviewed the revenue estimates in detail, they appear reasonable in relation to prior years' actual revenue. The department's revenue estimates are based on projections of current revenue sources and do not include additional revenue from possible increases in tax rates for dedicated transportation taxes, such as motor fuel, or vehicle registration taxes.

The use of bond financing from 2001 though 2007 "front-loaded" the capital highway program and helped the department to meet its state trunkline pavement performance goals (90% in "good" condition) in 2007. However, as shown on the "Pavement Condition" slide (page 6 below), state trunkline pavement condition, which peaks at 92% "good" in 2007, is anticipated to decline in subsequent years. At the investment levels assumed in the Program, the department's road preservation program will be unable to keep pace with anticipated pavement deterioration.

The department indicates that it would need an estimated $450 million in additional annual revenue in order to maintain state trunkline pavement at the "90% good" benchmark.

The "Highway Investment" slide identifies only $329 million for capacity improvement and new road projects. This program element would be $179 million in 2008, falls to $12 million in 2009, and is $52 million, $25 million, and $61 million in 2010, 2011, and 2012, respectively. This level of funding is not sufficient to advance to construction a number of capacity improvement projects currently under study.[5] For several major capacity improvement projects, the Five-Year Transportation Program indicates that design, right of way acquisition, or construction phases will be "deferred pending reasonable assurance of achieving and sustaining statewide system condition goals and the identification of additional funding."

Pavement and Bridge Condition Performance Goals

The first Five-Year Program, for years 1999 through 2003, identified state trunkline road pavement condition goals and bridge condition goals – goals that were first established in 1997 and 1998.[6] The goal for state trunkline freeway pavement condition was 95% in "good" condition by 2007, and for non-freeway trunklines, 85% in "good" condition by 2007. In public discussions these two goals are sometimes condensed into a single abbreviated goal of 90% in "good" condition. The department's classification of pavement as "good" or "poor" is based on a remaining service life model.

The department had adopted a similar goal for state trunkline bridges: 95% of state trunkline freeway bridges, and 85% of state trunkline non-freeway bridges in "good" condition by 2008.

Potential Funding Shortfall

As noted above, the department's Five-Year Transportation Program assumes the investment of $6.31 billion in the state trunkline road and bridge program over the 2008-2012 period. The Program assumes $4.215 billion in federal-aid revenue, and approximately $3.386 billion in baseline State Trunkline Fund (STF) revenue from motor fuel taxes and vehicle registration taxes by way of the Michigan Transportation Fund.[7]

The revenue estimates used in the program are based on current state and federal revenue sources. The program does not assume any new revenue sources or increases in baseline tax rates.

The source of federal funds made available to state highway programs is the Highway Account of the federal Highway Trust Fund. As discussed on page 18 of the Five-Year Transportation Program, "*Recent estimates for receipts deposited into the Highway Account of the Highway Trust Fund and outlays paid from the Highway Account project that the account will end FY 2009 with a negative $4.3 billion year-end balance.*" The Program further notes that "*If the Highway Account runs out of money near the end of FY 2009, as is currently projected, reimbursements to states will slow dramatically…*" The Program discussion concludes by indicating that "*Should Congress reduce Highway Account spending, it could*

[5] As one example, the completed Environmental Impact Statement (EIS) for the widening of I-75 in Oakland County (8 Mile Road to M-59) estimated the cost of that project to be $572 million (2005 dollars).

[6] The department presented the goals to the State Transportation Commission in 1997 and 1998. It is not clear from the Commission minutes if the goals were formally adopted as Commission policy.

[7] The federal and state revenue sources add to more than the proposed highway program; the revenue available for the highway program is net of various costs such as administration and debt service.

have a substantial impact on [the state's] road and bridge program investment levels in the five year program."

The Program also discusses potential inability of the state to provide the required match – typically 20% – for federal aid projects. Page 19 of the Program states that "*due to declining state revenues for transportation, the department anticipates an inability to match a portion of federal-aid expected to be available beginning in 2010.*" The department anticipates that based on current revenue estimates there will be a shortfall of $328 million in state funds necessary to match a portion of federal aid over the 2010-2012 period. If the department is unable to provide necessary state matching funds, it may be unable to access all available federal aid – as much as $1.8 billion over the final three years of the 2008-2012 Program– a three year average of $620 million. This potential loss of federal funds is shown on the "Highway Program with State Stimulus Package and Inability to Match Federal Aid" slide on page 7 of this memo.

This potential loss of federal funds would clearly have a significant impact on the department's ability to carry out the Highway Program as presented in the Five-Year Transportation Program.

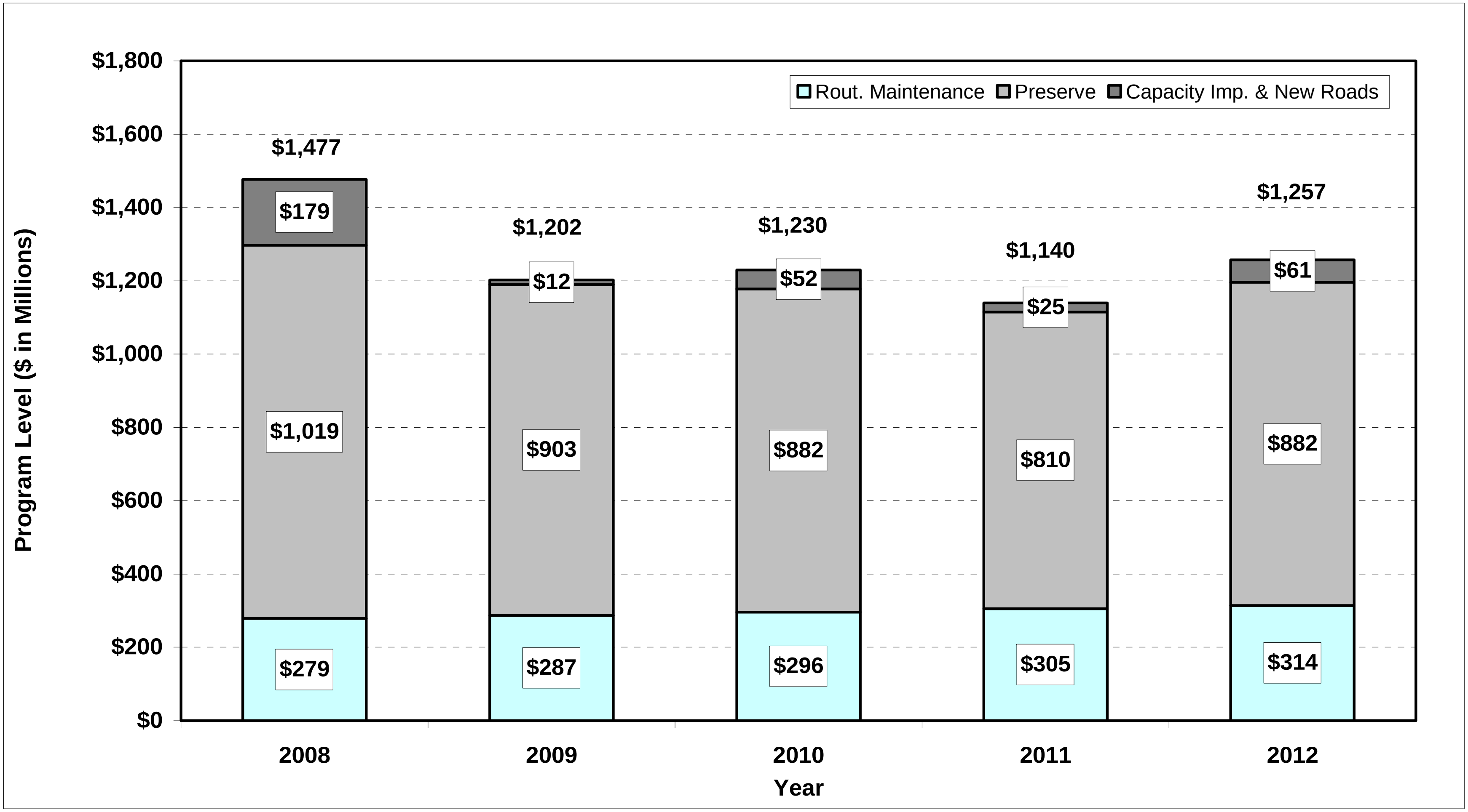
Sources

The slides, "Five Year Highway Program, "Statewide Pavement Condition," and "Highway Program with State Stimulus Package" on the following pages, were provided by the Department from the 2008-2012 Five Year Transportation Program and are found on pages 25, 53, and 20 of the Program respectively.

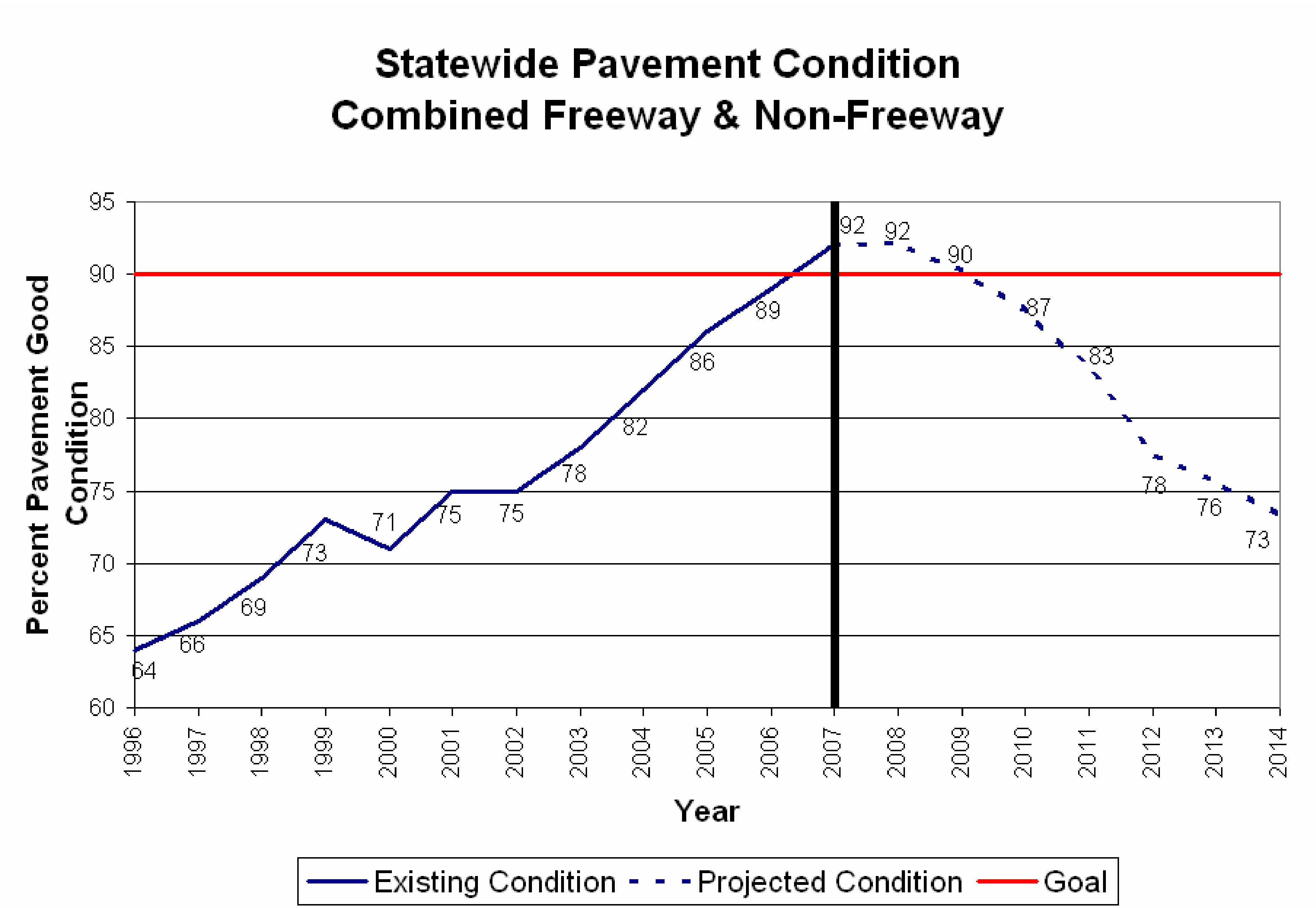
Note that the slide "Statewide Pavement Condition" represents state trunkline pavement condition only. The Five Year Transportation Program includes road systems under state jurisdiction only and not road and street systems of local units of government.

The entire Five Year Transportation Program is available from the department's website at
http://www.michigan.gov/mdot/0,1607,7-151-9621_14807_14810---,00.html

FY2008 to FY2012
Five Year Highway Program
By Work Category



Note: 1. Routine Maintenance consists of many activities including pothole filling, snow plowing, sweeping, and grass cutting.
2. Capital Preventive Maintenance (CPM) program is included in the Preserve category of Five Year Transportation Program. The previous edition (Volume VII) combined CPM and Routine Maintenance under Maintenance category.


Statewide Pavement Condition
Combined Freeway & Non-Freeway
Percent Pavement Good Condition
95
90
85
80
75
70
65
60
64
66
69
73
71
75
75
78
82
86
89
92
92
90
87
83
78
76
73
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010
2011
2012
2013
2014
Year
Existing Condition
Projected Condition
Goal

Highway Program with State Stimulus Package

and Inablity to Match Federal Aid (2010 - 2012)