

MEMORANDUM



DATE: June 30, 2003
TO: House Committee on Transportation
FROM: William E. Hamilton
RE: Mackinac Bridge Bill Package

Summary

On May 6, 2003, a package of five bills regarding the Mackinac Bridge Authority was introduced in the Michigan House of Representatives:¹

HB 4627 would amend Section 7 of 1952 PA 214 (the Mackinac Bridge Authority's authorizing statute) to forgive certain "advances" made by the state of Michigan to the Mackinac Bridge Authority. As of September 30, 2002, there remained a balance of \$12,306,172 advanced from the State Trunkline Fund, and \$ 53,250,000 advanced from the Michigan Transportation Fund (MTF). Subsection 5 indicates that the advance made by the state under the authority of the Motor Fuel Tax Act (from the MTF) are repaid or forgiven effective March 1, 2003.

HB 4627 would also strike language which would have caused the bridge to become toll-free after the payment of all bonds and advances. In addition, beginning on October 1, 2003, HB 4627 would roll back bridge tolls to the rates charged in FY 2001-02 - prior to a May 1, 2003 toll increase. As a result, the toll for an automobile would be reduced from \$2.50 to \$1.50 per crossing. The bill would freeze tolls at the FY 2001-02 rates through September 30, 2008.

HB 4628 would amend Section 163 of 2000 PA 403, the Motor Fuel Tax Act, to strike language which would have caused the bridge to become toll-free after repayment of funds advanced to the Mackinac Bridge Authority from the MTF. As noted above, the balance of this advance at September 30, 2002 was \$53,250,000.

HB 4629 would amend Section 2 of 1952 PA 214 to provide continuing legal authority for the Mackinac Bridge Authority - including authority to assess tolls - after the Mackinac Bridge Authority's liabilities are met and bonds have been paid in full or otherwise discharged. This bill would permanently limit tolls to the rates assessed on January 1, 2003 - prior to a May 1, 2003 toll increase. This limitation on tolls would appear to be in conflict with toll limitation language of HB 4627, to which HB 4629 is tie-barred.

HB 4630 would amend Section 12 of 1952 PA 214 to provide, effective July 1, 2003, for the toll-free passage of authorized emergency vehicles, as defined in Section 2 of the Michigan Vehicle Code, while in the process of responding to an emergency. Current law does not provide for any toll-free usage - other than by Mackinac Bridge Authority operating vehicles.

HB 4631 would amend Section 11 of 1951 PA 51 to provide for the annual appropriation of not less than \$5.25 million from the State Trunkline Fund (STF) to the Mackinac Bridge Authority, to be used to reduce the toll charged. This appropriation would begin in the fiscal year starting October 1, 2003 (FY 2003-04). The bill would make this appropriation the fifth order of priority for STF appropriations, after debt service, transfers to the Transportation Economic Development Fund and Rail Grade Crossing account, and STF operating expenses.

¹ On May 7, 2003 similar bills were introduced in the Senate. The Senate bills correspond to the House bills as follows: HB 4627 (SB 468), HB 4628 (SB 466), HB 4629 (SB 464), HB 4630 (SB 467), HB 4631, (SB 465).

Fiscal impacts: HB 4627 and HB 4629 would reduce tolls to rates in effect prior to a May 1, 2003 toll increase. The proposed toll rate rollback would reduce revenue to the Mackinac Bridge Authority, a component unit of the State of Michigan, by approximately \$6.0 million per year from the amounts which would have been raised under the May 1, 2003 toll structure.² By eliminating toll charges for emergency vehicles, HB 4630 would also reduce revenue to the Mackinac Bridge Authority, although by an immaterial amount (approximately \$1,000).

In forgiving repayment of \$65.6 million in advances, and in providing for continued legal existence of the Mackinac Bridge Authority, including the ability to charge tolls, HBs 4627, 4628, and 4629 would lift a financial constraint from the Mackinac Bridge Authority. However, it was not clear if the Mackinac Bridge Authority was legally obligated to repay the advances. Forgiveness of the advances would represent neither revenue to the Mackinac Bridge Authority, nor an expenditure to the state of Michigan.

The appropriation proposed in HB 4631 of not less than \$5.25 million per year from the State Trunkline Fund to the Mackinac Bridge Authority would effectively transfer funds from one state agency, the Michigan Department of Transportation, to another state agency, the Mackinac Bridge Authority. It would not result in a net change in state revenue.

The balance of this paper is intended to provide the members of the Michigan House of Representatives with a description of the status of the Mackinac Bridge in Michigan law - including legal authority for the imposition of bridge tolls. The memo also discusses long-term maintenance costs of the bridge and possible financing options.

History

The Mackinac Bridge is a remarkable engineering achievement, a tourist attraction, and a symbol of the entire state of Michigan – as well as a major transportation link between Michigan’s upper and lower peninsulas. Over 4.7 million vehicles crossed the bridge in the 2001-02 fiscal year. At approximately 5 miles in length, the bridge is the third-longest suspension bridge in the world.

Interest in spanning the Straits of Mackinac with a bridge began in the late 1800s and continued throughout the first half of the 20th Century.³ During that time, several feasibility and engineering studies were conducted. But real progress on actual construction of the bridge began in 1950 when the legislature enacted 1950 (Ex Sess) PA 21 to create the Mackinac Bridge Authority.

The Mackinac Bridge Authority was authorized to conduct all preliminary investigations deemed necessary or advisable and was charged with reporting to the legislature on both the physical and financial feasibility of the bridge project. A subsequent statute, 1952 PA 214, authorized the Mackinac Bridge Authority to “*construct... operate, maintain, improve, and repair*” a bridge linking the upper and lower peninsulas of Michigan. The Mackinac Bridge Authority continues in existence today under the authority of the two statutes noted above. See Appendix 1 for a summary of statutes affecting the Mackinac Bridge.

Act 214 authorized the Mackinac Bridge Authority to issue revenue bonds for the purpose of paying the cost of the bridge project. In 1953, \$99.8 million in Mackinac Bridge Authority bonds were issued and construction of the bridge initiated. The bridge was open to traffic on November 1, 1957.

The bonds issued were revenue bonds – secured by the toll revenue to be collected after the completion of the bridge. The bonds were not general obligations of the state of Michigan. No federal funds were used in the construction of the bridge and although the bridge connects I-75 in Mackinaw City with I-75 in St Ignace, the bridge is not part of the Interstate Highway System.

² Based on Mackinac Bridge Authority revenue estimates.

³ A more detailed description of the history of the bridge as well as bridge specifications and traffic crossing data can be found on the Mackinac Bridge Authority’s web site <http://www.mackinacbridge.org>

Authority for Tolls and Toll History

As noted above, the Mackinac Bridge Authority was created in law by 1950 (Ex Sess) PA 21 (MCL 254.301 et. seq.) and was given authority to build the bridge through 1952 PA 214 (MCL 254.311 et. seq.). Section 7 of Act 214 authorizes the Authority to set the rates of tolls for the bridge. At the time the bridge was open to traffic, the toll for an automobile crossing was set at \$3.25 with higher tolls for cars pulling trailers and for trucks. These tolls were increased twice in 1961 – first to \$3.50, and then to \$3.75. The \$3.75 rate was in effect from May 1, 1961 through December 31, 1968. The toll was decreased to \$1.50 per car effective January 1, 1969. That rate continued in effect through May 1, 2003. On December 19, 2002, the Mackinac Bridge Authority voted to increase the tolls effective May 1, 2003. Effective May 1, 2003, the toll for cars became \$2.50 per crossing.⁴

Toll revenue generated over \$10.5 million in FY 2001-02. Toll revenue has been fairly consistent – approximately \$10.0 million per year since 1996. The Mackinac Bridge Authority estimates that the May 1, 2003 toll structure will increase toll revenue by \$6.0 million per year – to approximately \$16.5 million per year. Toll revenue is credited to the operating fund of the Mackinac Bridge Authority.

Use of the bridge tolls is restricted by statute. Section 7 of Act 214 indicates that the toll rates are to be set to provide sufficient funds to *"pay all expenses of operating, repairing, and maintaining the bridge"* and to *"make possible the prompt payment of principle and interest on all bonds herein authorized..."* However, this section only authorizes the collection of bridge tolls *"until such time as principal and interest on the bonds herein authorized are paid in full"*. Once the bonds – and *"all advances made therefore"* – have been paid, this section requires that *"the bridge shall be maintained and operated by the state as a free bridge."*

Section 2 of Act 214 also provides that *"the corporate existence of the authority shall continue until all of its liabilities have been met and the bonds, including refunding bonds, have been paid in full or otherwise discharged..."* The section goes on to state that *"when all such liabilities and bonds have been discharged in full, all rights and properties of the authority shall pass to and be vested in the state."*

Although Mackinac Bridge bonds were retired on July 1, 1986, advances provided to the Mackinac Bridge Authority under the authority of both Act 214 and 1967 (Ex Sess) PA 5 are still outstanding. As a result, the Mackinac Bridge Authority has continued in existence and has continued to charge tolls since 1986. These two advances are discussed further below.

Operating Advance from the State Trunkline Fund

1952 PA 214 authorized the Mackinac Bridge Authority to issue bonds for the construction of the Mackinac Bridge. Act 214 was subsequently amended by 1953 PA 141. Act 141 provided for an annual "advance" not to exceed \$417,000 for bridge operating expenditures. This amount, appropriated from the State Trunkline Fund (STF), was equivalent to the annual state subsidy of the Mackinac car ferries prior to the construction of the bridge. These advances were intended to offset operating costs of the bridge so that tolls could be dedicated to repayment of the bridge bonds – thereby making the bonds more attractive to prospective investors.⁵ PA 141 provided for the annual appropriation of these advances *"until the cost of the bridge, including the principal and interest on the bonds issued hereunder and all advances made therefore shall have been fully paid."* These advances from the STF were made from 1958 through 1986 -

⁴ In all cases cited above, the toll structure included higher fares for cars with trailers and for various configurations of trucks. A breakdown of these various rates has not been included in this publication.. A history of bridge tolls is included in the Mackinac Bridge Authority's information Bulletin dated November 2002 available at http://www.michigan.gov/documents/Informational_bulletin_50313_7.pdf

⁵ See "History of the Mackinac Bridge" on the Mackinac Bridge Authority website at http://www.michigan.gov/mdot/0,1607,7-151-9618_11016_11029---,00.html

the year the bonds were paid off - and came to a total of \$12.3 million. The Mackinac Bridge Authority has made no repayments against this advance.

Advances from Michigan Transportation Fund to Reduce Bridge Tolls

Bridge tolls were initially \$3.25 per car and were subsequently increased twice in 1961 - to \$3.50 and then to \$3.75. In 1967, there was concern that the bridge tolls were too high and negatively affected development in the Upper Peninsula. 1967 (Ex Sess) PA 5 (MCL 207.191) amended the Motor Fuel Tax Act to appropriate \$3.5 million per year from Motor Fuel Tax revenue (effectively from the Michigan Transportation Fund) to help repay the bonds and lower bridge tolls at the same time.⁶ The Act specifically stated that the appropriation be used to “*pay the principal, interest, and incidental costs for the outstanding bonds previously issued by the Mackinac Bridge Authority.*” The Act stated legislative intent that the Mackinac Bridge Authority use the appropriation to reduce tolls “*as near as possible to \$1.50 per passenger car....*” The Act also provided that upon retirement of all outstanding bonds “*this appropriation shall cease.*”

Effectively the Legislature and Governor agreed to appropriate \$3.5 million per year for bond repayment in exchange for a reduction in bridge tolls to \$1.50 per car. Fares were reduced to \$1.50 on January 1, 1969. The annual \$3.5 million appropriation continued from 1969 through 1986 – the year the bonds were paid off - and amounted to a total of \$63.0 million. Total date, \$9,750,000 has been repaid leaving a balance of \$53,250,000.⁷

Advance Repayment

Both 1952 PA 214, and 1967 (Ex Sess) PA 5 (subsequently incorporated into 2000 PA 403), authorize the Mackinac Bridge Authority to collect tolls until such time as both bonds and *advances* are paid off. Once the bonds and advances are paid off, both statutes require that the bridge “*shall be maintained and operated as a free bridge.*”

However, the two advances noted above are apparently not legal obligations of the Mackinac Bridge Authority; they are not recorded as liabilities in the Mackinac Bridge Authority's financial statements or as receivables by the State of Michigan.⁸ Repayment is made at the discretion of the Mackinac Bridge Authority board based on budgetary considerations. There is little likelihood that the advances will be repaid in the near future and thus little likelihood that the bridge will become toll-free.

In December 2002, Representatives Shackleton and Allen introduced House Resolution No. 685 which expressed the intent of the Michigan House of Representatives that the advances provided to the Mackinac Bridge Authority under 1952 PA 214 and 1967 (Ex Sess) PA 5 be forgiven and that the bridge should become a free bridge. The resolution also indicated that this was the intent of the legislature that “*the state enter into negotiations with the appropriate parties to determine the shared financial responsibilities for the bridge.*” The resolution was adopted by the Michigan House of Representatives on December 12, 2002.

⁶ 1967 PA 5 Extra Session amended 1927 PA 150 – the original Motor Fuel Tax Act. The Motor Fuel Tax Act was recodified under 2000 PA 403. The Sections dealing with the Mackinac Bridge were brought into the new act as Sections 161 to 164 (MCL 207.1161 to 207.1164) and continue to have the force of law.

⁷ The Authority made a \$7.5 million repayment in FY 1993, a \$1.0 million repayment in FY 1995, and annual \$250,000 payments starting in FY 1998. See Appendix 2 of this document.

⁸ See Notes 2 and 3 to the audited Financial Statements of the Mackinac Bridge Authority for the fiscal year ended September 30, 2002, as well as Note 18 of the State of Michigan Comprehensive Annual Financial Report (CAFR) for the fiscal year ended September 30, 2002.

Bridge Repair Needs

For at least the next 20 years the Mackinac Bridge will have major capital repair needs. The bridge is, after all, almost 50 years old. The Mackinac Bridge Authority is currently in the early years of a multi-year painting program estimated to cost \$73.0 million. Other planned preservation and improvement projects are anticipated to cost over \$30.0 million during the next ten years. The Authority anticipates that sometime between 2015 and 2018 it will have to begin the replacement and retrofit of the bridge deck. That project is estimated to cost approximately \$189.6 million - almost twice the bridge's original construction cost of \$99.8 million.

In 2002 the Mackinac Bridge Authority concluded that the bridge toll structure then in effect would not be sufficient to fund these capital projects.⁹ On December 19, 2002 the Mackinac Bridge Authority voted to increase the tolls effective May 1, 2003. For cars and light (four-tire) trucks the toll would increase from \$1.50 per crossing to \$2.50 – a 67% increase.

Availability of Federal Funds

Most major state road and bridge projects are funded in part with federal funds – which generally provide 80% to 90% of project cost. Some have asked whether federal funds might be available to the Mackinac Bridge Authority to offset the costs of bridge rehabilitation work. There are two problems with using federal funds for the Mackinac Bridge projects. First of all, using federal funds would require that the bridge conform to current federal standards. The bridge was built in 1957 and the Authority believes that conformance to current federal standards would be too costly. In addition, the state already uses 100% of available federal funds. Using federal funds for the Mackinac Bridge would simply redirect those funds from other projects in the state.¹⁰

Although federal funds are not used for Mackinac Bridge capital projects, it is considered in the bridge inventory formula which is used to allocate federal bridge funds between the various states in accordance with 23 USC 144. The Mackinac Bridge, including the approach causeways, represents approximately 4.4% of the total Michigan bridge area used in the formula. This 4.4% would equate to \$5.3 million of the approximately \$120.0 million in federal bridge funds annually allocated to Michigan. There is, however, nothing in federal or state law that requires that these funds be used for the Mackinac Bridge.

There is one other point to note with regard to federal funds and the Mackinac Bridge. Although Michigan receives more federal bridge program funds because of the inclusion of the Mackinac Bridge in the bridge inventory formula, the state does not receive more federal funds overall. If the Mackinac Bridge were excluded from the bridge inventory formula, Michigan would receive less from the federal bridge program but more in Minimum Guarantee funds. This is because under the Transportation Equity Act for the 21st Century (TEA-21) states are guaranteed a minimum return on contributions to the federal highway trust fund.¹¹ In total, Michigan receives no additional federal money because of the Mackinac Bridge.

⁹ The Authority estimated average operating costs of \$6.5 million per year through 2013, and capital infrastructure costs of \$9.0 million per year through the same period. The total estimated annual costs of \$15.5 million would exceed projected annual toll revenue of \$10.5 million (under existing toll rates) by \$5.0 million per year.

¹⁰ We note that federal participation in construction or reconstruction, resurfacing, restoring, or rehabilitating toll roads, bridges, tunnels, and ferries is governed by Title 23 USC Section 129.

¹¹ It is not clear how the Minimum Guarantee program will be treated under a new federal aid program after TEA-21 expires in September 2003. On May 27, 2003 the House adopted, HCR No. 14, to memorialize the Congress of the United State to include funding of Mackinaw Bridge capital costs in legislation reauthorizing the federal-aid highway program (TEA-21).

Mackinac Bridge Task Force

In 1986, the year Mackinac Bridge bonds were retired, Governor Blanchard issued Executive Order 1986-14 which provided for the creation of a task force to, among other things, make recommendations regarding the bridge fare structure and allocation of toll revenues. The task force report recommended that the revenue from bridge tolls continue to be utilized for the operation and maintenance of the bridge. The task force also recommended that the Mackinac Bridge Authority remain in existence “*and continue to operate and maintain the bridge in the future.*”

Summary

Over the last five fiscal years (FYs 1997-98 through 2001-02) the Mackinac Bridge Authority’s operating costs – including routine maintenance – have averaged \$7.3 million per year, while revenue from tolls and fees have averaged \$10.6 million. At September 30, 2002 the Mackinac Bridge Authority had an unrestricted fund balance of \$20.4 million. Although the Mackinac Bridge Authority’s financial position would appear to be relatively healthy, the long-term financial position is more problematic. In 2000, the Mackinac Bridge Authority identified a 21-year, \$254.7 million capital maintenance program. This program, which started in 2001 and is expected to continue through 2021, includes such major projects as bridge repainting, and bridge deck replacement.

The Authority anticipated that needed infrastructure improvements – averaging \$9.0 million per year through 2013 – would increase annual expenditures to approximately \$15.5 million per year - \$5.0 million more than annual projected revenues under the existing toll structure. The Mackinac Bridge Authority concluded that it could not finance that capital program under the toll structure then in place and subsequently approved a fare increase effective May 1, 2003. On May 1, 2003 the toll for automobiles increased from \$1.50 to \$2.50 – a 67% increase – with comparable increases for other types of vehicles.

Statutes Affecting the Mackinac Bridge

1950 (Ex Sess) PA 21 (MCL 254.301 et. seq.)

Creates Mackinac Bridge Authority

1952 PA 214 (MCL 254.311 et. seq.)

Authorizes the Mackinac Bridge Authority to construct bridge

Amended by 1953 PA 141 to provide up to \$417,000 per year from STF until bridge bonds are retired

1967 (Ex Sess)PA 5

Amends Motor Fuel Tax Act (1927 PA 150) to provide annual \$3.5 million (effectively from MTF) until bridge bonds are retired. Sections subsequently recodified in Motor Fuel Tax Act, 2000 PA 403 (MCL 207.1161 – 207-1164)

Mackinaw Bridge Authority Advances

Operating Advances from STF

\$417,000 annual appropriation from 1958 through 1986

Authorized by 1953 PA 141 (amendment to 1952 PA 214)

Balance at 9/30/2002 \$12,306,172 (No repayments made)

Advances from MTF (to lower bridge tolls)

\$3,500,000 annual appropriation from 1958 through 1986

Authorized by 1967 (Ex Sess) PA 5 amendment to Motor Fuel Tax Act

Total Advances \$ 63,000,000

Repayments \$ 9,750,000

Balance at 9/30/2002 \$ 53,250,000