

**HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 881**

A bill to create the Michigan broadband development authority; to create funds and accounts; to authorize the issuing of bonds and notes; to prescribe the powers and duties of the authority; and to provide incentives for the development of broadband services.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2 "Michigan broadband development authority act".

3       Sec. 2. The legislature finds that certain areas of this  
4 state are not being adequately served with broadband services and  
5 that, for the benefit of the people of this state and the  
6 improvement of their health, welfare, and living conditions, the  
7 improvement of the economic and educational welfare of this  
8 state, and the improvement of its public safety and security, it  
9 is essential that broadband infrastructure be expanded to provide

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

2

1 broadband services throughout this state and that the private  
2 sector should be encouraged to invest in the deployment of broad-  
3 band services and networks and that financing by this authority  
4 will encourage broadband investment. This act shall provide a  
5 method to assure that economic, technological, and logistical  
6 integrated broadband services are provided throughout this state  
7 on a nondiscriminatory basis. The provision of affordable broad-  
8 band services and networks will assure the long-term growth of  
9 and the enhancement and delivery of services by the educational,  
10 medical, commercial, and governmental entities within this state,  
11 including, but not limited to, municipalities and counties,  
12 public safety facilities, judicial and criminal facilities, tele-  
13 medical facilities, schools, colleges, universities, hospitals,  
14 libraries, community centers, businesses, nonprofit organiza-  
15 tions, and residential properties. To increase the speed and  
16 availability at which affordable broadband services become avail-  
17 able in this state, it is declared to be a valid public purpose  
18 to assist in the financing and refinancing of the private and  
19 public sectors' development of a statewide broadband  
20 infrastructure. It is further declared to be a valid public pur-  
21 pose for the authority created under this act to issue bonds and  
22 notes to provide for financing or refinancing to broadband devel-  
23 opers and broadband operators, to make loans and provide joint  
24 venture and partnership arrangements subject to section 7(2) and  
25 (3) to broadband developers and broadband operators, to enter  
26 into contracts for the lease or management of all or portions of  
27 the broadband infrastructure, and to enter into joint venture and

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

3

1 partnership arrangements and partnerships with persons that will  
2 acquire, construct, develop, create, maintain, own, and operate  
3 all or portions of the broadband infrastructure. The legislature  
4 finds that the authority created and powers conferred by this act  
5 constitute a necessary program and serve a necessary public  
6 purpose.

7 Sec. 3. As used in this act:

8 (a) "Authority" means the Michigan broadband development  
9 authority created under section 4.

10 (b) "Board" means the board of directors of the authority.

11 (c) "Capital reserve fund requirement" means the fund amount  
12 requirement that may be established in the resolution authorizing  
13 notes or bonds for which a capital reserve fund has been estab-  
14 lished under section 8. The required amount shall not exceed the  
15 maximum amount of principal and interest maturing and becoming  
16 due in a succeeding calendar year on the notes or bonds secured  
17 in whole or in part by the fund.

18 (d) "Broadband developer" means a person selected by the  
19 authority to acquire, construct, develop, and create any part of  
20 the broadband infrastructure.

21 (e) "Broadband infrastructure" means all facilities, hard-  
22 ware, and software and other intellectual property necessary to  
23 provide broadband services in this state, including, but not  
24 limited to, voice, video, and data.

25 (f) "Broadband operator" means a person selected by the  
26 authority to operate any part of the broadband infrastructure.

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

4

1       (g) "Broadband services" means those services, including,  
2 but not limited to, voice, video, and data, that provide capacity  
3 for transmission in excess of 200 kilobits per second in at least  
4 1 direction regardless of the technology or medium used, includ-  
5 ing, but not limited to, wireless, copper wire, fiber optic  
6 cable, or coaxial cable. If voice transmission capacity is  
7 offered in conjunction with other services utilizing transmission  
8 in excess of 200 kilobits per second, the voice transmission  
9 capacity may be less than 200 kilobits per second.

10       (h) "Development costs" means the costs associated with the  
11 broadband infrastructure that have been approved by the authority  
12 and include, but are not limited to, all of the following:

13       (i) The costs for the planning, acquiring, leasing, con-  
14 structing, maintaining, and operating of the broadband  
15 infrastructure.

16       (ii) Payments for options to purchase, deposits on contracts  
17 of purchase, and payments for the purchases of properties for the  
18 broadband infrastructure.

19       (iii) Financing, refinancing, acquisition, demolition, con-  
20 struction, rehabilitation, and site development of new and exist-  
21 ing buildings.

22       (iv) Carrying charges during construction.

23       (v) Purchases of hardware, software, facilities, or other  
24 expenses related to the broadband infrastructure.

25       (vi) Legal, organizational, and marketing expenses, project  
26 manager and clerical staff salaries, office rent, and other  
27 incidental expenses.

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

5

1       (vii) Payment of fees for preliminary feasibility studies  
2 and advances for planning, engineering, and architectural work.

3       (viii) Any other costs and expenses necessary for the acqui-  
4 sition, construction, maintenance, and operation of all or por-  
5 tions of the broadband infrastructure.

6       (i) "Person" means an individual, corporation, limited or  
7 general partnership, joint venture, or limited liability  
8 company. Except to the extent that state authorities, police,  
9 fire, and other public safety organizations, judicial entities,  
10 medical entities, schools, colleges, universities, hospitals, and  
11 libraries may constitute state entities, person does not include  
12 this state.

13       Sec. 4. (1) The Michigan broadband development authority is  
14 created as a public body corporate and politic within the depart-  
15 ment of treasury.

16       (2) The authority may do all of the following:

17       (a) Assist through financing and refinancing the expansion  
18 of broadband infrastructure services to residential, commercial,  
19 public, and nonprofit customers in this state.

20       (b) Authorize the issuance of bonds and notes to finance or  
21 refinance the private and public sectors' development of the  
22 broadband infrastructure.

23       (c) Authorize the making of loans and joint venture and  
24 partnership arrangements subject to section 7(2) and (3) to  
25 broadband developers and broadband operators.

26       (d) Authorize the imposition and collection of rents,  
27 charges, and fees for the services furnished by the broadband

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

6

1 infrastructure in conjunction with financing entered into by the  
2 authority.

3 (e) Enter into joint venture and partnership arrangements  
4 and partnerships subject to section 7(2) and (3) to acquire, con-  
5 struct, maintain, and operate the broadband infrastructure.

6 (f) Assist broadband developers and operators with all other  
7 matters necessary for the acquisition, construction, maintenance,  
8 and operation of the broadband infrastructure.

9 (g) Continuously evaluate all types of technologies in order  
10 to encourage the widest deployment of broadband services and  
11 broadband infrastructure in this state.

12 (h) Make broadband services to schools and libraries a pri-  
13 ority under authority financing programs.

14 (i) Insure that the financing and refinancing of the devel-  
15 opment of broadband services under this act includes provisions  
16 that small businesses and that each region of this state have an  
17 equal opportunity to receive financing and refinancing.

18 Sec. 5. The authority shall exercise its duties indepen-  
19 dently of the state treasurer. The budgeting, procurement, and  
20 related administrative functions of the authority shall be per-  
21 formed under the direction and supervision of the state  
22 treasurer.

23 Sec. 6. (1) The authority shall exercise its duties through  
24 its board of directors.

25 (2) The board shall be made up of the following members:

26 (a) The president and CEO of the Michigan economic  
27 development corporation.

**SB881, As Passed House, March 13, 2002**

Sub. SB 881 (H-4) as amended March 13, 2002

7

1 (b) The state treasurer.

2 (c) The executive director of the Michigan state housing  
3 development authority.

4 (d) Eight members with knowledge, skill, or experience in  
5 the academic, business, technology, or financial fields appointed  
6 by the governor with the advice and consent of the senate. Not  
7 more than 2 of the 8 appointed members shall be, during their  
8 term on the board, employees of this state. The 2 members of the  
9 board who are employees of the state under this subdivision shall  
10 not hold any other positions with the state during their term on  
11 the board. Six of the 8 appointed members shall serve for fixed  
12 terms. Not more than 3 of the 6 appointed members serving for  
13 fixed terms shall be members of the same political party. Of the  
14 6 fixed-term members first appointed, 2 shall be appointed for a  
15 term that expires December 31, 2003, 2 shall be appointed for a  
16 term that expires December 31, 2004, and 2 shall be appointed for  
17 a term that expires December 31, 2005. Upon completion of each  
18 fixed term, a member shall be appointed for a term of 4 years.  
19 The 2 appointed members serving without a fixed term shall serve  
20 at the pleasure of the governor. The 8 appointed members shall  
21 serve until a successor is appointed. A vacancy in a fixed-term  
22 membership shall be filled for the balance of the unexpired term  
23 in the same manner as the original appointment. [As used in this  
subdivision, "members of the same political party" includes a person who,  
in the determination of the governor, is currently a member of the same  
political party and a person who was a member of the same political party  
at any time within the immediately preceding 2 years, as attested by the  
person to be appointed.]

24 (3) Each member of the board serving under subsection  
25 (2)(a), (b), and (c) may appoint a representative to serve in his  
26 or her absence.

**SB881, As Passed House, March 13, 2002**

S02567'01 \* (H-4)



**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

8

1           (4) Except for the board president, who shall serve as the  
2 board's chief executive officer pursuant to subsection (5), and  
3 vice president, members of the board shall serve without compen-  
4 sation but may receive reasonable reimbursement for necessary  
5 travel and expenses incurred in the discharge of their duties.  
6 The board shall establish reasonable compensation for the board  
7 president and vice president.

8           (5) The governor shall designate 1 member of the board to  
9 serve as its chairperson who shall serve at the pleasure of the  
10 governor. Of the 2 board members serving without a fixed term at  
11 the pleasure of the governor, the governor shall designate 1  
12 member to serve as the board's president and chief executive  
13 officer and the other member to serve as its vice president.

14           (6) A majority of the serving members of the board shall  
15 constitute a quorum of the board for the transaction of  
16 business. Actions of the board shall be approved by a majority  
17 vote of the members present at a meeting. The business of the  
18 board shall be conducted in compliance with the open meetings  
19 act, 1976 PA 267, MCL 15.261 to 15.275.

20           (7) A record or portion of a record, material, information,  
21 or other data received, prepared, used, or retained by the  
22 authority in connection with an application to or project related  
23 to the broadband infrastructure assisted by the authority that  
24 relates to trade secrets, commercial, financial, or proprietary  
25 information submitted by the applicant, and which is requested in  
26 writing by the applicant and acknowledged in writing by the  
27 president of the authority to be confidential, is not subject to

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

9

1 the freedom of information act, 1976 PA 442, MCL 15.231 to  
2 15.246. As used in this subsection, "trade secrets, commercial,  
3 financial, or proprietary information" means information that has  
4 not been publicly disseminated or that is unavailable from other  
5 sources, the release of which might cause the applicant signifi-  
6 cant competitive harm.

7 (8) The authority may employ or contract for legal, finan-  
8 cial, and technical experts, and officers, agents, and employees,  
9 permanent and temporary, as the authority requires, and shall  
10 determine their qualifications, duties, and compensation. The  
11 board may delegate to 1 or more agents or employees those powers  
12 or duties with any limitations that the board considers proper.

13 (9) The members of the board and officers and employees of  
14 the authority are subject to 1968 PA 317, MCL 15.321 to 15.330,  
15 or 1968 PA 318, MCL 15.301 to 15.310.

16 (10) A member of the board or officer, employee, or agent of  
17 the authority shall discharge the duties of his or her position  
18 in a nonpartisan manner, with good faith, and with that degree of  
19 diligence, care, and skill that an ordinarily prudent person  
20 would exercise under similar circumstances in a like position.  
21 In discharging the duties of his or her position, a member of the  
22 board or an officer, employee, or agent of the authority, when  
23 acting in good faith, may rely upon the opinion of counsel for  
24 the authority, upon the report of an independent appraiser  
25 selected with reasonable care by the board, or upon financial  
26 statements of the authority represented to the member of the  
27 board or officer, employee, or agent of the authority to be

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

10

1 correct by the president or the officer of the authority having  
2 charge of its books or account, or stated in a written report by  
3 a certified public accountant or firm of certified public account-  
4 tants to fairly reflect the financial condition of the  
5 authority.

6 Sec. 7. (1) The powers of the authority shall include all  
7 those necessary to carry out and effectuate the purposes of this  
8 act, including, but not limited to, all of the following:

9 (a) To borrow money and issue bonds and notes to fund opera-  
10 tions of the authority, to finance or refinance part or all of  
11 the development costs of the broadband infrastructure, to refi-  
12 nance existing debt for technology that constitutes a part of or  
13 is related to the broadband infrastructure, and to secure bonds  
14 and notes by mortgage, assignment, or pledge of any of its reve-  
15 nues and assets.

16 (b) To invest any money of the authority at the authority's  
17 discretion, in any obligations determined proper by the authori-  
18 ty, and name and use depositories for its money.

19 (c) To enter into joint venture and partnership arrangements  
20 subject to subsections (2) and (3) with persons that will  
21 acquire, construct, develop, maintain, and operate all or por-  
22 tions of the broadband infrastructure.

23 (d) To be designated the state program manager for federal  
24 telecommunications assistance, to represent this state in negoti-  
25 ations with the federal government regarding telecommunications  
26 assistance, and to receive and distribute federal funding,

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

11

1 including loans, grants, and other forms of funding and  
2 assistance on this state's behalf.

3 (e) To receive and distribute state or local funding includ-  
4 ing grants, loans, general appropriations, or an appropriation  
5 made for the purposes under subsection (4).

6 (f) To make loans and to enter into any joint venture and  
7 partnership arrangements subject to subsections (2) and (3) with  
8 broadband developers and broadband operators that will acquire,  
9 construct, maintain, and operate all or portions of the broadband  
10 infrastructure.

11 (g) To provide operating assistance to make broadband serv-  
12 ices more affordable to broadband developers, broadband opera-  
13 tors, and broadband customers, in conjunction with broadband  
14 infrastructure financed by the authority.

15 (h) To impose and collect charges, fees, or rentals for the  
16 services furnished by those portions of the broadband infrastruc-  
17 ture financed by the authority under this act.

18 (i) To set construction, operation, and financing standards  
19 for the broadband infrastructure in connection with authority  
20 financing and to provide for inspections to determine compliance  
21 with those standards.

22 (j) To acquire from any person interests in real or personal  
23 property necessary for the operation of the authority.

24 (k) To procure insurance against any loss in connection with  
25 the broadband infrastructure and any other property, assets, or  
26 activities of the authority.

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

12

1       (l) To sue and be sued, to have a seal, and to make,  
2       execute, and deliver contracts, conveyances, and other  
3       instruments necessary to the exercise of the authority's powers.

4       (m) To enforce financial, operational, warranty, security,  
5       lease, and guaranty terms and conditions established under  
6       financings by the authority. The authority may under this sub-  
7       section acquire, construct, develop, lease, create, and maintain  
8       all or portions of the broadband infrastructure and acquire from  
9       any person interests in real and personal property.

10       (n) To make and amend bylaws.

11       (o) To indemnify and procure insurance indemnifying any mem-  
12       bers of the board of the authority from personal liability by  
13       reason of their service as a board member.

14       (p) To investigate, evaluate, and assess the current broad-  
15       band infrastructure and the future broadband infrastructure needs  
16       of this state and to encourage and participate in aggregation  
17       strategies for the broadband services of all public entities and  
18       nonprofit corporations in this state to maximize the interconnec-  
19       tivity and efficiencies of the broadband infrastructure.

20       (2) Notwithstanding any other provision of this act, the  
21       authority shall not make loans to, or enter into any joint ven-  
22       ture and partnership arrangements or participation with, any gov-  
23       ernmental entity or nonprofit organization except in connection  
24       with the financing or refinancing of development costs for that  
25       allocable portion of the broadband infrastructure used or to be  
26       used exclusively by governmental entities or nonprofit  
27       organizations, including, but not limited to, universities,

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

13

1 colleges, hospitals, school districts, public safety agencies,  
2 judicial organizations, libraries, cities, townships, and  
3 counties. No allocable portion of the broadband infrastructure  
4 financed by a loan to a governmental entity or a nonprofit organ-  
5 ization shall be used to serve residential, business, or other  
6 commercial customers.

7 (3) Notwithstanding any other provision of this act, except  
8 in connection with financing or refinancing under subsection (2)  
9 or enforcement procedures authorized under subsection (1)(n), the  
10 authority shall acquire real or personal property constituting  
11 portions of the broadband infrastructure only in connection with  
12 the participation of persons other than governmental entities or  
13 nonprofit organizations through joint ventures and partnership  
14 arrangements, or other co-ownership arrangements and only if the  
15 participation is necessary to assure availability of financing or  
16 refinancing derived from the issuance by the authority of bonds  
17 or notes, the interest on which is exempt from taxation under the  
18 United States internal revenue code, and the financing derived  
19 from the tax-exempt bonds or notes is allocated only to those  
20 development costs relating to that portion of the broadband  
21 infrastructure that is to be used by governmental bodies or non-  
22 profit organizations.

23 (4) The authority shall establish a seed capital loan pro-  
24 gram to make capital loans to persons planning to apply to the  
25 authority for financing of broadband infrastructure. Priority  
26 for the seed capital loan program shall be given for developments  
27 targeted to underserved areas. During the initial 2 years of

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

14

1 operations, the authority shall designate a minimum of  
2 \$500,000.00 to be targeted to rural underserved areas and a mini-  
3 mum of \$500,000.00 targeted to urban underserved areas.  
4 Community economic development programs and small providers shall  
5 be given a preference to receive loans under this subsection.  
6 The terms and conditions for the seed capital loans shall be  
7 established by the authority. As used in this act, "underserved  
8 areas" means geographical areas of this state identified by the  
9 authority as having the greatest need for broadband development.  
10 In identifying underserved areas, the authority shall consider  
11 the area's economic conditions, including, but not limited to,  
12 family income, affordability of access, lack of options avail-  
13 able, low percentage of residents subscribing, and any other cri-  
14 teria considered important by the authority in determining  
15 whether an area is underserved.

16 (5) As part of an application for financing under this act,  
17 the broadband developer and broadband operator shall file with  
18 the authority a participation plan for small and minority owned  
19 businesses and a community wide outreach plan to educate the  
20 public of the availability of broadband services. The authority  
21 shall not approve an application unless a plan is submitted under  
22 this subsection.

23 Sec. 8. (1) A reserve capital account is created under the  
24 jurisdiction and control of the authority and shall be adminis-  
25 tered by the authority to secure notes and bonds of the  
26 authority. The authority shall credit to the reserve capital  
27 account the proceeds of the sale of notes or bonds to the extent

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

15

1 provided for in the authorizing resolution of the authority, and  
2 any other money that is made available to the authority for the  
3 purpose of the reserve capital account.

4 (2) In the resolution authorizing the issuance of notes or  
5 bonds, the authority may establish a capital reserve fund for the  
6 payment of the principal and interest of notes or bonds, for the  
7 purchase or redemption of the notes or bonds, or for the payment  
8 of a redemption premium required to be paid when the notes or  
9 bonds are redeemed before maturity. The authority shall not use  
10 a capital reserve fund for an optional purchase or optional  
11 redemption of notes or bonds if the use would reduce the total of  
12 the money in the capital reserve fund to less than the capital  
13 reserve fund requirement established for the fund.

14 (3) In addition to, or in lieu of, depositing money in the  
15 reserve capital account or in a capital reserve fund, the author-  
16 ity may obtain or pledge letters of credit, insurance policies,  
17 surety bonds, guarantees, or other security arrangements if the  
18 security arrangements are approved by the state treasurer. The  
19 amount available under letters of credit, insurance policies,  
20 surety bonds, guarantees, or other security arrangements pledged  
21 to the capital reserve fund shall be credited toward the capital  
22 reserve fund requirement for the fund.

23 (4) Income or interest earned by the reserve capital account  
24 may be transferred by the authority to other funds or accounts of  
25 the authority.

26 (5) Income or interest earned by a capital reserve fund may  
27 be transferred by the authority to other funds or accounts of the



**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

16

1 authority to the extent that the transfer does not reduce the  
2 total of the amount of money and security arrangements authorized  
3 under subsection (3) in the fund below the capital reserve fund  
4 requirement for that fund.

5       Sec. 9. (1) The authority shall accumulate in a capital  
6 reserve fund an amount equal to the capital reserve fund require-  
7 ment for that fund. If at any time the amount of a capital  
8 reserve fund falls below the capital reserve fund requirement for  
9 that fund, the authority shall transfer from the reserve capital  
10 account to the capital reserve fund an amount equal to the capi-  
11 tal reserve fund requirement. If a deficiency exists in more  
12 than 1 capital reserve fund and the amount in the reserve capital  
13 account is not sufficient to fully restore the capital reserve  
14 funds, the money in the reserve capital account shall be allo-  
15 cated between the deficient capital reserve funds pro rata  
16 according to the amounts of the deficiencies. If at any time the  
17 reserve capital account has been exhausted and the amount of the  
18 capital reserve fund is insufficient to meet the capital reserve  
19 fund requirement, the authority on or before September 1 shall  
20 certify to the governor the amount necessary to restore the capi-  
21 tal reserve fund to an amount equal to the capital reserve fund  
22 requirement for that fund. The governor shall include in his or  
23 her annual budget the amount certified under this subsection by  
24 the authority.

25       (2) This state is not liable on notes or bonds of the  
26 authority and the notes and bonds are not a debt of this state.

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

17

1 The notes and bonds shall contain on their face a statement of  
2 the limitation contained under this section.

3 Sec. 10. (1) The authority may issue notes and bonds as  
4 provided under this act to do all of the following:

5 (a) Pay the development costs associated with acquiring,  
6 leasing, constructing, maintaining, and operating the broadband  
7 infrastructure.

8 (b) Make loans to persons for development costs.

9 (c) Make loans to persons to make purchases related to the  
10 broadband infrastructure.

11 (d) Make loans to persons to refinance existing debt of the  
12 authority or other persons incurred in connection with the acqui-  
13 sition or development of technology that constitutes a part of or  
14 is related to the broadband infrastructure.

15 (e) Pay the interest on bonds and notes of the authority.

16 (f) Establish reserves to secure the bonds and notes of the  
17 authority.

18 (g) Make other expenditures necessary to carry out the  
19 authority's duties under this act, including the payment of the  
20 authority's operating expenses.

21 (2) The authority may issue renewal notes, issue bonds to  
22 pay notes, and refund bonds by the issuance of new bonds, whether  
23 or not the bonds to be refunded have matured. The refunding  
24 bonds shall be sold and the proceeds applied to the purchase,  
25 redemption, or payment of the bonds to be refunded. The author-  
26 ity may issue instruments separate from the obligations described  
27 in this subsection that establish a contractual right in the

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

18

1 holder of the instrument to require mandatory tender for purchase  
2 of the obligations to which the instrument applies for a period  
3 of time and subject to provisions as the authority may  
4 determine.

5 (3) Except as otherwise provided by the authority or this  
6 act, every note or bond issue of the authority shall be a general  
7 obligation of the authority payable out of revenues or money of  
8 the authority, subject only to agreements with the holders of  
9 particular notes or bonds pledging any particular receipts or  
10 revenues.

11 (4) Whether or not the notes or bonds are of a form or char-  
12 acter as to be negotiable instruments, the notes or bonds are  
13 negotiable instruments within the meaning of the uniform commer-  
14 cial code, 1962 PA 174, MCL 440.1101 to 440.11102.

15 Sec. 11. (1) The notes and bonds shall be authorized by  
16 resolution of the authority and mature at the time provided in  
17 the resolution. The notes and bonds shall be in a form, bear  
18 interest at a rate or rates, be in the denominations, carry reg-  
19 istration privileges, be payable, and be subject to the terms of  
20 redemption as provided in the resolution.

21 (2) The notes and bonds of the authority may be sold by the  
22 authority at public or private sales at prices as the authority  
23 determines.

24 Sec. 12. A resolution relating to authorizing notes or  
25 bonds may contain any of the following provisions, which shall be  
26 a part of the contract with the holders of the notes or bonds:

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

19

1       (a) Pledging all or any part of the revenues of the  
2 authority, and all or any part of the money received in payment  
3 of loans and interest on loans, and other money received or to be  
4 received to secure the payment of the notes or bonds.

5       (b) Pledging all or any part of the assets of the authority,  
6 including mortgages and obligations obtained by the authority in  
7 connection with its programs, to secure the payment of the notes  
8 or bonds.

9       (c) Pledging any loan, grant, or contribution from a govern-  
10 ment entity.

11       (d) The use and disposition of the gross income from con-  
12 tracts and leases of the authority.

13       (e) The setting aside of reserves or sinking funds and the  
14 regulation and disposition of reserves or sinking funds.

15       (f) Limitations on the purpose to which the proceeds of sale  
16 of notes or bonds may be applied and pledging proceeds to secure  
17 the payment of the notes or bonds.

18       (g) Limitations on the issuance of additional notes or  
19 bonds, the terms upon which additional notes or bonds may be  
20 issued and secured, and the refunding of outstanding or other  
21 notes or bonds.

22       (h) The procedure, if any, by which the terms of any con-  
23 tract with noteholders or bondholders may be amended or abro-  
24 gated, the amount of notes or bonds the holders of which shall  
25 consent to the amendment or abrogation, and the manner in which  
26 the consent is to be given.

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

20

1           (i) Vesting in a trustee or trustees property, rights,  
2 powers, and duties in trust as the authority may determine, which  
3 may include any of the rights, powers, and duties of the trustee  
4 appointed by the bondholders under this act and limiting or abro-  
5 gating the right of the bondholders to appoint a trustee under  
6 this section or limiting the rights, powers, and duties of the  
7 trustee.

8           (j) Establishing a contractual right to require mandatory  
9 tender for purchase of the notes or bonds in an instrument sepa-  
10 rate from the notes or bonds. The instrument may be issued or  
11 sold by the authority to investors.

12           (k) Except as otherwise prohibited by this act, any other  
13 provision that may affect the security or protection of the notes  
14 or bonds.

15           (l) Delegating to an officer or other employee of the  
16 authority, or an agent designated by the authority, for a period  
17 of time as the authority determines, the power to cause the  
18 issue, sale, and delivery of the notes or bonds within limits on  
19 those notes or bonds established by the authority as to any of  
20 the following:

21           (i) The form.

22           (ii) The maximum interest rate or rates.

23           (iii) The maturity date or dates.

24           (iv) The purchase price.

25           (v) The denominations.

26           (vi) The redemption premiums.

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

21

1           (vii) The nature of the security.

2           (viii) The selection of the applicable interest rate index.

3           (ix) Other terms and conditions with respect to issuance of  
4 the notes or bonds as the authority shall prescribe.

5           Sec. 13. (1) Any pledge made by the authority is valid and  
6 binding from the date that the pledge is made.

7           (2) The money or property pledged and received by the  
8 authority shall immediately be subject to the lien of the pledge  
9 without any physical delivery or further act and the lien of the  
10 pledge is valid and binding against all parties having claims in  
11 tort, contract, or otherwise against the authority, irrespective  
12 of whether the parties have notice of the lien.

13           (3) The resolution or any other instrument by which a pledge  
14 is created need not be recorded.

15           Sec. 14. The members of the board or any person executing  
16 the notes or bonds under this act are not liable personally on  
17 the notes or bonds or subject to any personal liability or  
18 accountability by reason of the issuance of the notes or bonds.

19           Sec. 15. Subject to any agreements with noteholders or  
20 bondholders, the authority has the power to use any funds avail-  
21 able to purchase notes or bonds of the authority at a price  
22 determined by the authority.

23           Sec. 16. This state pledges and agrees with the holders of  
24 any notes or bonds issued under this act, that this state will  
25 not limit or alter the rights vested in the authority to fulfill  
26 the terms of any agreements made with the holders, or in any way  
27 impair the rights and remedies of the holders until the notes or

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

22

1 bonds, together with earned interest, with interest on any unpaid  
2 installments of interest, and all costs and expenses in connec-  
3 tion with any action or proceeding by or on behalf of the hold-  
4 ers, are fully met and discharged. The authority is authorized  
5 to include this pledge and agreement of this state in any agree-  
6 ment with the holders of notes or bonds under this act.

7       Sec. 17. (1) The authority may issue notes or bonds that  
8 are expressly stated not to be general obligations of the author-  
9 ity but that constitute limited obligations of the authority pay-  
10 able solely from and secured solely by the revenues, money, and  
11 property as the authority may specify.

12       (2) The notes or bonds designated as limited obligations  
13 under this section shall not be payable from or secured by the  
14 reserve capital account, and any reserve fund established for the  
15 limited obligation notes or bonds shall not constitute a capital  
16 reserve fund under this act.

17       Sec. 18. (1) If the authority defaults in the payment of  
18 principal or interest of any notes or bonds when due, whether at  
19 maturity or upon call for redemption, and the default continues  
20 for a period of 30 days, or if the authority fails or refuses to  
21 comply with this act, or defaults in any agreement made with the  
22 holders of any notes or bonds, the holders of 25% in aggregate  
23 principal amount of the notes or bonds then outstanding may apply  
24 to the circuit court of Ingham county for the appointment of a  
25 trustee to represent the holders of the notes or bonds.

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

23

1           (2) A trustee appointed under this act may, and upon the  
2 written request of the holders of 25% in aggregate principal  
3 amount of the notes or bonds shall, do any of the following:

4           (a) Enforce all rights of the noteholders or bondholders,  
5 including the right to require the authority to perform its  
6 duties under this act.

7           (b) Bring suit upon the notes or bonds.

8           (c) Require the authority to account as if it were the  
9 trustee of an express trust for the holders of the notes or  
10 bonds.

11           (d) Enjoin any acts or things that may be unlawful or in  
12 violation of the rights of the holders of the notes or bonds.

13           (e) Declare all the notes or bonds due and payable.

14           (3) Before declaring the principal of notes or bonds due and  
15 payable, the trustee shall first give 30 days' notice in writing  
16 to the governor, to the authority, and to the attorney general.

17           (4) The trustee has all of the powers necessary or appropri-  
18 ate for the general representation of bondholders or noteholders  
19 in the enforcement and protection of their rights.

20           (5) An action under this section shall be brought in the  
21 circuit court for the county of Ingham.

22           Sec. 19. (1) Money of the authority shall be held by the  
23 authority and deposited in a financial institution approved by  
24 the state treasurer, which financial institution may give secur-  
25 ity for the deposits.

26           (2) The authority may, subject to the approval of the state  
27 treasurer, contract with the holders of any of its notes or bonds



**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

24

1 as to the custody, collection, securing, investment, and payment  
2 of money of the authority, of any money held in trust or other-  
3 wise for the payment of notes or bonds, and to carry out the  
4 contract. Money held in trust or otherwise for the payment of  
5 notes or bonds or in any way to secure notes or bonds and depos-  
6 its of money may be secured in the same manner as money of the  
7 authority.

8 (3) The authority may enter into an interest rate exchange  
9 or swap, hedge, or similar agreement or agreements in connection  
10 with the issuance of its notes or bonds or in connection with its  
11 then outstanding notes or bonds.

12 Sec. 20. The notes and bonds of the authority are securi-  
13 ties in which public officers and bodies of this state and munic-  
14 ipalities and municipal subdivisions, insurance companies and  
15 associations and other persons carrying on an insurance business,  
16 banks, trust companies, savings banks and savings associations,  
17 savings and loan associations, investment companies, administra-  
18 tors, guardians, executors, trustees and other fiduciaries, and  
19 any other person who is now or may be authorized to invest in  
20 bonds or other obligations of this state, may properly and  
21 legally invest funds, including capital, in their control or  
22 belonging to them.

23 Sec. 21. The authority, at its discretion, may recommend an  
24 issuance of full faith and credit bonds to the legislature for a  
25 vote of the people.

26 Sec. 22. This state covenants with the purchasers and all  
27 subsequent holders and transferees of notes and bonds issued by

**SB881, As Passed House, March 13, 2002**

Senate Bill No. 881

25

1 the authority, in consideration of the acceptance of and payment  
2 for the notes and bonds, that the notes and bonds of the authori-  
3 ty, issued under this act and the income from the notes and bonds  
4 and all its fees, charges, grants, revenues, receipts, and other  
5 money received or to be received, pledged to pay or secure the  
6 payment of the notes or bonds shall at all times be free and  
7 exempt from all state, city, county, or other taxation provided  
8 by the laws of this state, except for estate and gift taxes and  
9 taxes on transfers.

10       Sec. 23. The property of the authority and its income and  
11 operation are exempt from all taxation by this state or any of  
12 its political subdivisions.

13       Sec. 24. The authority shall submit an annual report no  
14 later than March 1 of each year relating to its activities for  
15 the preceding calendar year to the governor, the speaker of the  
16 house of representatives, the majority leader of the senate, and  
17 to each member of the house and senate committees with oversight  
18 over utility and energy issues.

19       Sec. 25. Except to the extent necessary to maintain,  
20 improve, complete, or expand within the defined service area, an  
21 element of the broadband infrastructure already acquired or  
22 financed under this act, the authority shall not enter into new  
23 partnerships or other joint ventures arrangements or provide new  
24 loans or joint venture and partnership arrangements after  
25 December 31, 2008.