

# HOUSE BILL No. 4211

February 3, 2005, Introduced by Rep. Stakoe and referred to the Committee on Transportation.

A bill 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 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 10o and 12 (MCL 247.660o and 247.662), section 10o as amended by 2000 PA 188 and section 12 as amended by 2002 PA 498.

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

1           Sec. 10o. (1) Twenty-three to twenty-seven percent of the DOT-  
2 FHWA highway research, planning, and construction federal funds  
3 appropriated to this state from the federal government for road and  
4 bridge construction shall be allocated to programs administered by  
5 local jurisdictions after deduction of the following:

6           (a) Funds that are specifically allocated at the federal level  
7 to the state or local jurisdictions.

8           (b) Funds allocated by the department to the state and to  
9 local jurisdictions through a competitive process.

10          (2) Federal aid excluded from the calculation of funding  
11 allocated to programs administered by local jurisdictions in  
12 subsection (1) includes, but is not limited to, congestion  
13 mitigation and air quality funds, federal bridge funds,  
14 transportation enhancement funds, funds distributed at the

1 discretion of the United States secretary of transportation, and  
2 congressionally designated funds.

3 (3) The funds shall be distributed to eligible local agencies  
4 for transportation purposes in a manner consistent with state and  
5 federal law.

6 (4) It is the intent of the legislature that federal aid to  
7 highways allocated to local jurisdictions in subsection (1) be  
8 distributed in a manner that produces a 25% average allocation of  
9 applicable funds to programs for local jurisdictions in each fiscal  
10 year through the fiscal year ending September 30, 2000. Beginning  
11 in the fiscal year ending September 30, 1999, the average  
12 allocation of applicable federal aid to highway funds to programs  
13 for local jurisdictions shall be the average of the amount  
14 distributed to local jurisdictions under subsection (1) and  
15 similarly calculated distributions in each succeeding fiscal year.  
16 The average allocation percentage described in this subsection  
17 shall be adjusted to reflect any voluntary agreements made by the  
18 department with local jurisdictions regarding the state buyout of  
19 local federal aid.

20 **(5) FUNDS INTENDED FOR DISTRIBUTION TO A COUNTY ROAD**  
21 **COMMISSION UNDER THIS SECTION PURSUANT TO A FEDERALLY APPROVED**  
22 **GRANT APPLICATION FROM A CITY, VILLAGE, OR TOWNSHIP SHALL BE**  
23 **DISTRIBUTED TO THE CITY, VILLAGE, OR TOWNSHIP UPON THE DEPARTMENT'S**  
24 **APPROVAL. THE DEPARTMENT SHALL APPROVE DISTRIBUTION OF THE FUNDS**  
25 **UPON A DETERMINATION THAT THE GRANT APPLICATION MEETS FEDERAL**  
26 **GUIDELINES.**

27 Sec. 12. (1) The amount distributed to the county road

1 commissions shall be returned to the county treasurers in the  
2 manner, for the purposes, and under the terms and conditions  
3 specified in this section. The department and the county road  
4 association of Michigan shall jointly develop incentives for  
5 counties to establish statewide purchasing pools for the more  
6 efficient use of Michigan transportation funds.

7 (2) Each county road commission shall be reimbursed in an  
8 amount up to \$10,000.00 per year for the sum paid to a licensed  
9 professional engineer employed or retained by the county road  
10 commission in the previous year. The sum shall be returned to each  
11 county road commission certified by the state transportation  
12 department as complying with this subsection regarding the  
13 employment of an engineer.

14 (3) An amount equal to 1% of the total amount returned to the  
15 county road commissions from the Michigan transportation fund  
16 during the prior calendar year shall be withheld annually from the  
17 counties' November monthly distribution provided for in section 17,  
18 and the amount shall be returned to the county road commissions for  
19 snow removal purposes as provided in section 12a.

20 (4) An amount equal to 10% of the total amount returned to the  
21 county road commissions from the Michigan transportation fund shall  
22 be returned to each county road commission having county primary,  
23 or county local road, or both, mileage in the urban areas as  
24 determined pursuant to section 12b. This sum shall be distributed  
25 pursuant to section 12b. The return shall be in addition to the  
26 amounts provided in subsections (6) and (7) and for the purposes  
27 stated in those subsections.

1           (5) An amount equal to 4% of the total amount returned to the  
2 county road commissions from the Michigan transportation fund shall  
3 be returned to the county road commissions in the same percentages  
4 as provided in subsection (7). All money returned to the county  
5 road commissions as provided in this subsection shall be expended  
6 by the county road commissions for the preservation, construction,  
7 acquisition, and extension of county local road systems and shall  
8 be in addition to the amounts provided in subsection (7).

9           (6) Seventy-five percent of the remainder of the total amount  
10 to be returned to the counties shall be expended by each county  
11 road commission for the preservation, construction, acquisition,  
12 and extension of the county primary road system, including the  
13 acquisition of a necessary right of way for the system, work  
14 incidental to the system, and a roadside park or motor parkway  
15 appurtenant to the system, and shall be returned to the counties as  
16 follows:

17           (a) Three-fourths of the amount in proportion to the amount  
18 received within the respective county during the 12 months next  
19 preceding the date of each monthly distribution, as specific taxes  
20 upon registered motor vehicles under the Michigan vehicle code,  
21 1949 PA 300, MCL 257.1 to 257.923.

22           (b) One-tenth of the amount in the same proportion that the  
23 total mileage in the county primary road system of each county  
24 bears to the total mileage in all of the county primary road  
25 systems of the state.

26           (c) One eighty-third of the remaining 15% of the amount to  
27 each county.

1           (7) The balance of the remainder of the total amount to be  
2 returned to counties shall be expended by each county road  
3 commission for the preservation, construction, acquisition, and  
4 extension of the county local road system as defined by this act,  
5 including the acquisition of a necessary right of way for the  
6 system, work incidental to the system, and a roadside park or motor  
7 parkway appurtenant to the system, and shall be returned to the  
8 counties as follows:

9           (a) Sixty-five percent of the amount in the same proportion  
10 that the total mileage in the county local road system of each  
11 county bears to the total mileage in all of the county local road  
12 systems of the state.

13           (b) Thirty-five percent of the amount in the same proportion  
14 that the total population outside of incorporated municipalities in  
15 each county bears to the total population outside of incorporated  
16 municipalities in all of the counties of the state, according to  
17 the most recent statewide federal census as certified at the  
18 beginning of the state fiscal year.

19           (8) Money deposited in, or becoming a part of the county road  
20 funds of a board of county road commissioners shall be expended  
21 first for the payment of principal and interest on the bonds, for  
22 the payment of contractual contributions pledged for the payment of  
23 bonds, for debt service requirements for the payment of contractual  
24 contributions pledged for the payment of bonds, and for debt  
25 service requirements for the payment of notes and loans in the  
26 following order of priority:

27           (a) For the payment of contributions required to be made by a

1 board of county road commissioners under a contract entered into  
2 under 1941 PA 205, MCL 252.51 to 252.64, which contributions have  
3 been pledged for the payment of the principal and interest on bonds  
4 issued under that act, or for the payment of total debt service  
5 requirements upon notes issued by a board of county road  
6 commissioners under 1943 PA 143, MCL 141.251 to 141.254.

7 (b) For the payment of principal and interest upon bonds  
8 issued under section 18c, and the payment of contributions of a  
9 board of county road commissioners to be made pursuant to contracts  
10 entered into under section 18d, which contributions are pledged to  
11 the payment of principal and interest on bonds issued after June  
12 30, 1957, under the authorization of section 18c and contracts  
13 executed pursuant to its provisions.

14 (c) For the payment of principal and interest upon loans  
15 received pursuant to section 11(7), to the extent other funds have  
16 not been made available for that payment.

17 (9) Not to exceed 30% per year of the amount returned to a  
18 county for use on the county primary road system may be expended,  
19 with or without matching, on the county local road system of that  
20 county. Not to exceed 15% per year of the amount returned to a  
21 county for expenditure on the county local road system may be used,  
22 with or without matching, on the county primary road system of that  
23 county, and not to exceed an additional 15% per year of the amount  
24 returned to a county for expenditure on the county local road  
25 system, may, in case of an emergency or with the approval of the  
26 state transportation department, be expended, with or without  
27 matching, on the county primary road system of that county. An

1 amount returned to a county for and on account of county local  
2 roads, under this section, in excess of the total amount paid into  
3 the county treasury each year by all of the townships of that  
4 county for and on account of the county local roads pursuant to  
5 section 14(6) may be transferred to and expended on the county  
6 primary road system of that county.

7 (10) Not less than 20% per year of the funds returned to a  
8 county by this section shall be expended for snow and ice removal,  
9 the construction or reconstruction of a new highway or existing  
10 highway, and the acquisition of a necessary right of way for those  
11 highways, and work incidental to those highways, or for the  
12 servicing of bonds issued by the county for these purposes. Surplus  
13 funds may be expended for the development, construction, or repair  
14 of an off-street parking facility.

15 (11) Not more than 5% per year of the funds returned to a  
16 county for the county primary road system and the county local road  
17 system shall be expended for the maintenance, improvement, or  
18 acquisition of appurtenant roadside parks and motor parkways.

19 (12) Funds returned to a county shall be expended by the  
20 county road commission for the purposes provided in this section  
21 and shall be deposited by the county treasurer in a designated  
22 county depository, in a separate account to the credit of the  
23 county road fund, and shall be paid out only upon the order of the  
24 county road commission, and interest accruing on the money shall  
25 become a part of, and be deposited with the county road fund.

26 (13) In a county to which the funds are returned the function  
27 of the county road commission shall be limited to the formation of



1 policy and the performance of the official duties imposed by law  
2 and delegated by the county board of commissioners. A member of the  
3 county road commission shall not be employed individually in any  
4 other capacity for other duties with the county road commission.

5 (14) A county road commission may enter into an agreement with  
6 a county road commission of an adjacent county and with a city or  
7 village to perform work on a highway, road, or street, and with the  
8 state transportation department with respect to a state trunk line  
9 and connecting links of the state trunk line within the limits of  
10 the county or adjacent to the county. The agreement may provide for  
11 the performance by each contracting party of the work contemplated  
12 by the contract including engineering services and the acquisition  
13 of rights of way in connection with the work contemplated, by  
14 purchase or condemnation, by any of the contracting parties in its  
15 own name and the agreement may provide for joint participation in  
16 the costs.

17 (15) Money distributed from the Michigan transportation fund  
18 may be expended for construction purposes on county local roads  
19 only to the extent matched by money from other sources. However,  
20 Michigan transportation funds may be expended for the construction  
21 of bridges on the county local roads in an amount not to exceed 75%  
22 of the cost of the construction of local road bridges. This  
23 subsection does not apply to section 11b.

24 (16) Notwithstanding any other provision of this act, at least  
25 90% of the state revenue returned annually to the county road  
26 commission from the Michigan transportation fund less the amounts  
27 described in subdivisions (a) to (e) shall be expended annually by

1 the county road commission for the preservation of highways, roads,  
2 streets, and bridges, and for the payment of contractual  
3 contributions pledged for the payment of bonds or portions of  
4 bonds, debt service requirements for the payment of bonds or  
5 portions of bonds, and debt service requirements for the payment of  
6 notes and loans or portions of notes and loans issued or received  
7 after July 1, 1983, for the purpose of providing funds for the  
8 preservation of highways, roads, streets, and bridges. If an  
9 appropriate certificate is filed under subsection (19) but only to  
10 the extent necessary, this subsection shall not prohibit the use of  
11 any amount of state revenue returned annually to the county road  
12 commissions for the payment of contractual contributions pledged  
13 for the payment of bonds, for debt service requirements for the  
14 payment of bonds, and for debt service requirements for the payment  
15 of notes or loans, whenever issued or received, as specified under  
16 subsection (8). The amounts which are deducted from the state  
17 revenue returned to a county road commission from the Michigan  
18 transportation fund, for the purpose of the calculation required by  
19 this subsection are as follows:

20 (a) Amounts expended for the purposes described in subsection  
21 (8) for bonds, notes, loans, or other obligations issued or  
22 received before July 2, 1983.

23 (b) Amounts expended for the administrative costs of the  
24 county road commission.

25 (c) Amounts expended for capital outlay projects for equipment  
26 and buildings, and for the payment of contractual contributions  
27 pledged for the payment of bonds, for debt service requirements for

1 the payment of bonds, and for debt service requirements for the  
2 payment of notes and loans issued or received after July 1, 1983,  
3 for the purpose of providing funds for capital outlay projects for  
4 equipment and buildings.

5 (d) Amounts expended for projects vital to the economy of the  
6 local area or the safety of the public in the local area. Before  
7 these amounts can be deducted, the governing body over the county  
8 road commission or the county road commission, as applicable, shall  
9 pass a resolution approving these projects. This resolution shall  
10 state which projects will be funded and the cost of each project. A  
11 copy of each approved resolution shall be forwarded immediately to  
12 the department.

13 (e) Amounts expended in urban areas as determined pursuant to  
14 section 12b.

15 (17) As used in this subsection, "urban routes" means those  
16 portions of 2-lane county primary roads within an urban area which  
17 has average daily traffic in excess of 15,000. Notwithstanding any  
18 other provision of this act, except as provided in this subsection,  
19 a county road commission shall expend annually at least 90% of the  
20 federal revenue distributed to the use of the county road  
21 commission for highways, roads, streets, and bridges, less the  
22 amount expended on urban routes for other than preservation  
23 purposes and the amount expended for hard-surfacing of gravel roads  
24 on the federal-aid system, on the preservation of highways, roads,  
25 streets, and bridges. A county road commission may expend in a year  
26 less than 90% of the federal revenue distributed to the use of the  
27 county road commission for highways, roads, streets, and bridges,

1 less the amount expended on urban routes for other than  
2 preservation purposes and the amount expended for hard-surfacing of  
3 gravel roads on the federal-aid system, on the preservation of  
4 highways, roads, streets, and bridges, if that year is part of a 3-  
5 year period in which at least 90% of the total federal revenue  
6 distributed in the 3-year period to the use of the county road  
7 commission for highways, roads, streets, and bridges, less the  
8 amount expended on urban routes for other than preservation  
9 purposes and the amount expended for hard-surfacing of gravel roads  
10 on the federal-aid system, is expended on the preservation of  
11 highways, roads, streets, and bridges. If a county road commission  
12 expends in a year less than 90% of the federal revenue distributed  
13 to the use of the county road commission for highways, roads,  
14 streets, and bridges, less the amount expended on urban routes for  
15 other than preservation purposes and the amount expended for hard-  
16 surfacing of gravel roads on the federal-aid system, on the  
17 preservation of highways, roads, streets, and bridges and that year  
18 is not a part of a 3-year period in which at least 90% of the total  
19 federal revenue distributed in the 3-year period to the use of the  
20 county road commission for highways, roads, streets, and bridges,  
21 less the amount expended on urban routes for other than  
22 preservation purposes and the amount expended for hard-surfacing of  
23 gravel roads on the federal-aid system, is expended on the  
24 preservation of highways, roads, streets, and bridges, the county  
25 road commission shall expend in each year subsequent to the 3-year  
26 period 100%, or less in 1 year if sufficient for the purposes of  
27 this subsection, of the federal revenue distributed to the use of

1 the county road commission for highways, roads, streets, and  
2 bridges, less the amount expended on urban routes for other than  
3 preservation purposes and the amount expended for hard-surfacing of  
4 gravel roads on the federal-aid system, on the preservation of  
5 highways, roads, streets, and bridges until the average percentage  
6 spent on the preservation of highways, roads, streets, and bridges  
7 in the 3-year period and the subsequent years, less the amount  
8 expended on urban routes for other than preservation purposes and  
9 the amount expended for hard-surfacing of gravel roads on the  
10 federal-aid system, is at least 90%. A year may be included in only  
11 one 3-year period for the purposes of this subsection. The  
12 requirements of this subsection shall be waived if compliance would  
13 cause the county road commission to be ineligible according to  
14 federal law for federal revenue, but only to the extent necessary  
15 to make the county road commission eligible according to federal  
16 law for that revenue. For the purpose of the calculations required  
17 by this subsection, the amount expended on urban routes by a county  
18 road commission for other than preservation purposes and the amount  
19 expended for hard-surfacing of gravel roads on the federal-aid  
20 system shall be deducted from the total federal revenue distributed  
21 to the use of the county road commission.

22 (18) A county road commission shall certify, which  
23 certification shall, for purposes of the validity of bonds and  
24 notes, be conclusive as to the matters stated therein, to the state  
25 transportation department on or before the issuance of any bonds or  
26 notes issued after July 1, 1983, pursuant to 1943 PA 143, MCL  
27 141.251 to 141.254, 1941 PA 205, MCL 252.51 to 252.64, or section

1 18c or 18d, for purposes other than the preservation of highways,  
2 roads, streets, and bridges and purposes other than the purposes  
3 specified in subsection (16)(c) that its average annual debt  
4 service requirements for all bonds and notes or portions of bonds  
5 and notes issued after July 1, 1983, for purposes other than the  
6 preservation of highways, roads, streets, and bridges and other  
7 than for the purposes specified in subsection (16)(c), including  
8 the bond or note to be issued does not exceed 10% of the funds  
9 returned to the county road commission pursuant to this act, less  
10 the amounts specified in subsection (16)(a), (b), and (c) during  
11 the last completed fiscal year of the county road commission. If  
12 the purpose for which the bonds or notes are issued is changed  
13 after the issuance of the notes or bonds, the change shall be made  
14 in such a manner to maintain compliance with the certification  
15 required by this subsection, as of the date the certificate was  
16 originally issued, but no such change shall invalidate or otherwise  
17 affect the bonds or notes with respect to which the certificate was  
18 issued or the obligation to pay debt service on the bonds or notes.

19 (19) In each charter county to which funds are returned under  
20 this section, the responsibility for road improvement,  
21 preservation, and traffic operation work, and the development,  
22 construction, or repair of off-road parking facilities and  
23 construction or repair of road lighting shall be coordinated by a  
24 single administrator to be designated by the county executive who  
25 shall be responsible for and shall represent the charter county in  
26 transactions with the state transportation department pursuant to  
27 this act.

1           (20) Not more than 10% per year of all of the funds received  
2 by and returned to a county from any source for the purposes of  
3 this section may be expended for administrative expenses. A county  
4 that expends more than 10% for administrative expenses in a year  
5 shall be subject to section 14(5) unless a waiver is granted by the  
6 department of treasury. As used in this subsection, "administrative  
7 expenses" means those expenses that are not assigned including, but  
8 not limited to, specific road construction or preservation projects  
9 and are often referred to as general or supportive services.  
10 Administrative expenses shall not include net equipment expense,  
11 net capital outlay, debt service principal and interest, and  
12 payments to other state or local offices which are assigned, but  
13 not limited to, specific road construction projects or preservation  
14 activities.

15           (21) In addition to the financial compliance audits required  
16 by law, the department of treasury shall conduct performance audits  
17 and make investigations of the disposition of all state funds  
18 received by county road commissions, county boards of  
19 commissioners, or any other county governmental agency acting as  
20 the county road authority, for transportation purposes to determine  
21 compliance with the terms and conditions of this act. Performance  
22 audits shall be conducted according to government auditing  
23 standards issued by the United States general accounting office.  
24 The department of treasury shall provide 6 months notice to the  
25 county road commission or county board of commissioners, as  
26 applicable, of the standards to be used for audits performed under  
27 this subsection prior to the fiscal year in which the audit is

1 conducted. The department shall notify the county road commission  
2 or county board of commissioners of any subsequent changes to the  
3 standards. County road commissions or county boards of  
4 commissioners, as applicable, shall make available to the  
5 department of treasury the pertinent records for the audit.

6 (22) FUNDS THAT ARE FEDERAL IN ORIGIN AND THAT ARE INTENDED  
7 FOR DISTRIBUTION TO A COUNTY ROAD COMMISSION BECAUSE THE FUNDS WERE  
8 AWARDED PURSUANT TO A GRANT APPLICATION BY A CITY, VILLAGE, OR  
9 TOWNSHIP SHALL BE DISTRIBUTED TO THE CITY, VILLAGE, OR TOWNSHIP  
10 IMMEDIATELY AFTER THE DEPARTMENT'S APPROVAL. THE DEPARTMENT SHALL  
11 GRANT APPROVAL IF THE DEPARTMENT DETERMINES THAT THE GRANT  
12 APPLICATION WAS CONSISTENT WITH FEDERAL GUIDELINES.