

HOUSE BILL No. 4466

March 26, 2003, Introduced by Reps. Stakoe, LaJoy, Vander Veen, Taub, Hummel, Ruth Johnson, Stahl, Hune, Emmons, Gaffney, Huizenga, Nofs, Stewart, Amos, Garfield, DeRoche, Middaugh, Palsrok, Ehardt and Moolenaar 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, critical 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
2 DOT-FHWA highway research, planning, and construction federal
3 funds appropriated to this state from the federal government for
4 road and bridge construction shall be allocated to programs
5 administered by local jurisdictions after deduction of the
6 following:

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

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

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

1 transportation enhancement funds, funds distributed at the
2 discretion of the United States secretary of transportation, and
3 congressionally designated funds.

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

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

21 (5) **Funds intended for distribution to a county road**
22 **commission under this section pursuant to a federally approved**
23 **grant application from a city, village, or township shall be**
24 **distributed to the city, village, or township upon the**
25 **department's approval. The department shall approve distribution**
26 **of the funds upon a determination that the grant application**
27 **meets federal guidelines.**

1 Sec. 12. (1) The amount distributed to the county road
2 commissions shall be returned to the county treasurers in the
3 manner, for the purposes, and under the terms and conditions
4 specified in this section. The department and the county road
5 association of Michigan shall jointly develop incentives for
6 counties to establish statewide purchasing pools for the more
7 efficient use of Michigan transportation funds.

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

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

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

1 addition to the amounts provided in subsections (6) and (7) and
2 for the purposes stated in those subsections.

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

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

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

25 (b) One-tenth of the amount in the same proportion that the
26 total mileage in the county primary road system of each county
27 bears to the total mileage in all of the county primary road

1 systems of the state.

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

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

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

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

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

1 for debt service requirements for the payment of notes and loans
2 in the following order of priority:

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

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

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

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

1 local road system, may, in case of an emergency or with the
2 approval of the state transportation department, be expended,
3 with or without matching, on the county primary road system of
4 that county. An amount returned to a county for and on account
5 of county local roads, under this section, in excess of the total
6 amount paid into the county treasury each year by all of the
7 townships of that county for and on account of the county local
8 roads pursuant to section 14(6) may be transferred to and
9 expended on the county primary road system of that county.

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

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

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

1 shall become a part of, and be deposited with the county road
2 fund.

3 (13) In a county to which the funds are returned the function
4 of the county road commission shall be limited to the formation
5 of policy and the performance of the official duties imposed by
6 law and delegated by the county board of commissioners. A member
7 of the county road commission shall not be employed individually
8 in any other capacity for other duties with the county road
9 commission.

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

23 (15) Money distributed from the Michigan transportation fund
24 may be expended for construction purposes on county local roads
25 only to the extent matched by money from other sources. However,
26 Michigan transportation funds may be expended for the
27 construction of bridges on the county local roads in an amount

1 not to exceed 75% of the cost of the construction of local road
2 bridges. This subsection does not apply to section 11b.

3 (16) Notwithstanding any other provision of this act, at
4 least 90% of the state revenue returned annually to the county
5 road commission from the Michigan transportation fund less the
6 amounts described in subdivisions (a) to (e) shall be expended
7 annually by the county road commission for the preservation of
8 highways, roads, streets, and bridges, and for the payment of
9 contractual contributions pledged for the payment of bonds or
10 portions of bonds, debt service requirements for the payment of
11 bonds or portions of bonds, and debt service requirements for the
12 payment of notes and loans or portions of notes and loans issued
13 or received after July 1, 1983, for the purpose of providing
14 funds for the preservation of highways, roads, streets, and
15 bridges. If an appropriate certificate is filed under
16 subsection (19) but only to the extent necessary, this subsection
17 shall not prohibit the use of any amount of state revenue
18 returned annually to the county road commissions for the payment
19 of contractual contributions pledged for the payment of bonds,
20 for debt service requirements for the payment of bonds, and for
21 debt service requirements for the payment of notes or loans,
22 whenever issued or received, as specified under subsection (8).
23 The amounts which are deducted from the state revenue returned to
24 a county road commission from the Michigan transportation fund,
25 for the purpose of the calculation required by this subsection
26 are as follows:

27 (a) Amounts expended for the purposes described in subsection

1 (8) for bonds, notes, loans, or other obligations issued or
2 received before July 2, 1983.

3 (b) Amounts expended for the administrative costs of the
4 county road commission.

5 (c) Amounts expended for capital outlay projects for
6 equipment and buildings, and for the payment of contractual
7 contributions pledged for the payment of bonds, for debt service
8 requirements for the payment of bonds, and for debt service
9 requirements for the payment of notes and loans issued or
10 received after July 1, 1983, for the purpose of providing funds
11 for capital outlay projects for equipment and buildings.

12 (d) Amounts expended for projects vital to the economy of the
13 local area or the safety of the public in the local area. Before
14 these amounts can be deducted, the governing body over the county
15 road commission or the county road commission, as applicable,
16 shall pass a resolution approving these projects. This
17 resolution shall state which projects will be funded and the cost
18 of each project. A copy of each approved resolution shall be
19 forwarded immediately to the department.

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

22 (17) As used in this subsection, "urban routes" means those
23 portions of 2-lane county primary roads within an urban area
24 which has average daily traffic in excess of 15,000.

25 Notwithstanding any other provision of this act, except as
26 provided in this subsection, a county road commission shall
27 expend annually at least 90% of the federal revenue distributed

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

1 use of the county road commission for highways, roads, streets,
2 and bridges, less the amount expended on urban routes for other
3 than preservation purposes and the amount expended for
4 hard-surfacing of gravel roads on the federal-aid system, is
5 expended on the preservation of highways, roads, streets, and
6 bridges, the county road commission shall expend in each year
7 subsequent to the 3-year period 100%, or less in 1 year if
8 sufficient for the purposes of this subsection, of the federal
9 revenue distributed to the use of the county road commission for
10 highways, roads, streets, and bridges, less the amount expended
11 on urban routes for other than preservation purposes and the
12 amount expended for hard-surfacing of gravel roads on the
13 federal-aid system, on the preservation of highways, roads,
14 streets, and bridges until the average percentage spent on the
15 preservation of highways, roads, streets, and bridges in the
16 3-year period and the subsequent years, less the amount expended
17 on urban routes for other than preservation purposes and the
18 amount expended for hard-surfacing of gravel roads on the
19 federal-aid system, is at least 90%. A year may be included in
20 only one 3-year period for the purposes of this subsection. The
21 requirements of this subsection shall be waived if compliance
22 would cause the county road commission to be ineligible according
23 to federal law for federal revenue, but only to the extent
24 necessary to make the county road commission eligible according
25 to federal law for that revenue. For the purpose of the
26 calculations required by this subsection, the amount expended on
27 urban routes by a county road commission for other than

1 preservation purposes and the amount expended for hard-surfacing
2 of gravel roads on the federal-aid system shall be deducted from
3 the total federal revenue distributed to the use of the county
4 road commission.

5 (18) A county road commission shall certify, which
6 certification shall, for purposes of the validity of bonds and
7 notes, be conclusive as to the matters stated therein, to the
8 state transportation department on or before the issuance of any
9 bonds or notes issued after July 1, 1983, pursuant to 1943
10 PA 143, MCL 141.251 to 141.254, 1941 PA 205, MCL 252.51 to
11 252.64, or section 18c or 18d, for purposes other than the
12 preservation of highways, roads, streets, and bridges and
13 purposes other than the purposes specified in subsection (16)(c)
14 that its average annual debt service requirements for all bonds
15 and notes or portions of bonds and notes issued after July 1,
16 1983, for purposes other than the preservation of highways,
17 roads, streets, and bridges and other than for the purposes
18 specified in subsection (16)(c), including the bond or note to be
19 issued does not exceed 10% of the funds returned to the county
20 road commission pursuant to this act, less the amounts specified
21 in subsection (16)(a), (b), and (c) during the last completed
22 fiscal year of the county road commission. If the purpose for
23 which the bonds or notes are issued is changed after the issuance
24 of the notes or bonds, the change shall be made in such a manner
25 to maintain compliance with the certification required by this
26 subsection, as of the date the certificate was originally issued,
27 but no such change shall invalidate or otherwise affect the bonds

1 or notes with respect to which the certificate was issued or the
2 obligation to pay debt service on the bonds or notes.

3 (19) In each charter county to which funds are returned under
4 this section, the responsibility for road improvement,
5 preservation, and traffic operation work, and the development,
6 construction, or repair of off-road parking facilities and
7 construction or repair of road lighting shall be coordinated by a
8 single administrator to be designated by the county executive who
9 shall be responsible for and shall represent the charter county
10 in transactions with the state transportation department pursuant
11 to this act.

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

26 (21) In addition to the financial compliance audits required
27 by law, the department of treasury shall conduct performance

1 audits and make investigations of the disposition of all state
2 funds received by county road commissions, county boards of
3 commissioners, or any other county governmental agency acting as
4 the county road authority, for transportation purposes to
5 determine compliance with the terms and conditions of this act.
6 Performance audits shall be conducted according to government
7 auditing standards issued by the United States general accounting
8 office. The department of treasury shall provide 6 months notice
9 to the county road commission or county board of commissioners,
10 as applicable, of the standards to be used for audits performed
11 under this subsection prior to the fiscal year in which the audit
12 is conducted. The department shall notify the county road
13 commission or county board of commissioners of any subsequent
14 changes to the standards. County road commissions or county
15 boards of commissioners, as applicable, shall make available to
16 the department of treasury the pertinent records for the audit.

17 **(22) Funds that are federal in origin and that are intended**
18 **for distribution to a county road commission because the funds**
19 **were awarded pursuant to a grant application by a city, village,**
20 **or township shall be distributed to the city, village, or**
21 **township immediately after the department's approval. The**
22 **department shall grant approval if the department determines that**
23 **the grant application was consistent with federal guidelines.**