

# HOUSE BILL No. 5375

December 11, 2003, Introduced by Rep. Koetje and referred to the Committee on Government Operations.

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 section 10e (MCL 247.660e), as amended by 1998 PA

87.

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

- 1       Sec. 10e. (1) The comprehensive transportation fund is
- 2 appropriated for each fiscal year in the following order of
- 3 priority.
- 4       (2) The first priority is to pay, but only from money
- 5 restricted as to use by section 9 of article IX of the state
- 6 constitution of 1963, the principal and interest on bonds or
- 7 notes issued under section 18b for comprehensive transportation
- 8 purposes as defined by law. A sufficient portion of the
- 9 comprehensive transportation fund is irrevocably appropriated to
- 10 pay, when due, the principal and interest on those bonds and
- 11 notes.
- 12       (3) After making or setting aside payments required by
- 13 subsection (2), the second priority of the comprehensive
- 14 transportation fund is the payment of the department's cost in
- 15 administering the comprehensive transportation fund. The amount

1 to be expended pursuant to this subsection shall not exceed the  
2 costs appropriated for the administration of the fund in the  
3 fiscal year ending September 30, 1987, as adjusted annually on  
4 October 1, by the change for the preceding 12 months in the  
5 Detroit consumer price index for urban wage earners and shall be  
6 appropriated annually by the legislature.

7 (4) After making or setting aside payments required by  
8 subsections (2) and (3), the balance of the comprehensive  
9 transportation fund shall be expended each fiscal year as  
10 appropriated annually by the legislature pursuant to the state  
11 transportation program approved by the commission as follows:

12 (a) The third priority shall be the payment of operating  
13 grants to eligible authorities and eligible governmental agencies  
14 according to the following formulations and subject to the  
15 following requirements:

16 (i) For the fiscal year ending September 30, 1998, and for  
17 each fiscal year thereafter, each eligible authority and eligible  
18 governmental agency which provides public transportation services  
19 in urbanized areas under ~~Public Law 103-272, 49 U.S.C. 5307~~ **49**  
20 **USC 5307**, with a Michigan population greater than 100,000 shall  
21 receive a grant of up to 50% of their eligible operating expenses  
22 as defined by the state transportation department.

23 (ii) For the fiscal year ending September 30, 1998, and each  
24 fiscal year thereafter, each eligible authority and eligible  
25 governmental agency which provides public transportation services  
26 in urbanized areas with a Michigan population less than or equal  
27 to 100,000 and nonurbanized areas under ~~Public Law 103-272, 49~~

1 ~~U.S.C. 5311~~ **49 USC 5311**, shall receive a grant of up to 60% of  
 2 their eligible operating expenses as defined by the state  
 3 transportation department. For purposes of receiving a grant  
 4 under this subparagraph in nonurbanized areas, eligible costs of  
 5 services provided by water vehicle shall be reimbursed at not  
 6 less than 50% of the portion of the costs not eligible for  
 7 reimbursement by the federal government.

8 (iii) Funds shall not be distributed to an eligible authority  
 9 or eligible governmental agency under this act unless the  
 10 eligible authority or eligible governmental agency provides or  
 11 agrees to provide preferential fares for public transportation  
 12 services to persons 65 years of age or over or persons with  
 13 disabilities riding in off peak periods of service. As used in  
 14 this section, "person with disabilities" means an individual with  
 15 a disability as that term is defined in ~~61 F.R.P. 56424~~ **61 FR**  
 16 **56424** (November 1, 1996) and ~~49 C.F.R.~~ **49 CFR** part 27. The  
 17 preferential fares shall not be higher than 50% of the regular  
 18 1-way single fare.

19 (iv) Eligible authorities and eligible governmental agencies  
 20 shall not engage in charter service using vehicles, facilities,  
 21 or equipment funded under this act except on an incidental basis  
 22 as defined by ~~49 C.F.R.~~ **49 CFR** part 604.

23 (v) ~~Notwithstanding any other provision of this subsection,~~  
 24 ~~for the fiscal year ending September 30, 1998, each eligible~~  
 25 ~~authority and eligible governmental agency shall receive a~~  
 26 ~~distribution from the comprehensive transportation fund not less~~  
 27 ~~than the distribution received for eligible operating expenses~~

1 ~~for the fiscal year ending September 30, 1997.~~ Beginning with  
2 the fiscal year ending September 30, 1998 and each fiscal year  
3 thereafter, each eligible authority and eligible governmental  
4 agency shall receive a distribution from the comprehensive  
5 transportation fund for eligible operating expenses not less than  
6 the distribution received for the fiscal year ending  
7 September 30, 1997. As it relates to this subsection the ratio  
8 between comprehensive transportation funds and local funds in the  
9 fiscal year ending September 30, 1989 shall be maintained for all  
10 fiscal years by the eligible authority and eligible governmental  
11 agency. Reductions in this ratio shall require a proportionate  
12 reduction in the comprehensive transportation funds provided for  
13 any fiscal year.

14 (vi) Each eligible authority and eligible governmental agency  
15 receiving comprehensive transportation funds shall prepare and  
16 submit to the department a quarterly report of the progress made  
17 in carrying out its local transportation program within 40 days  
18 after the end of each fiscal year quarter. The progress report  
19 shall be made on forms authorized by the United States department  
20 of transportation under ~~the provisions of~~ the surface  
21 transportation and uniform relocation assistance act of 1987,  
22 Public Law 100-17, 101 Stat. 132.

23 (vii) The department shall periodically adjust or  
24 redistribute comprehensive transportation funds previously  
25 distributed under this subdivision.

26 (b) For the fiscal year ending September 30, 1997, and each  
27 fiscal year thereafter, not less than 10% shall be distributed by

1 the department for intercity passenger and intercity freight  
2 transportation purposes.

3 (c) For the fiscal year ending September 30, 1997, and each  
4 fiscal year thereafter, funds remaining in the fund after payment  
5 of the amounts required by subdivisions (a) and (b) shall be  
6 distributed by the department for public transportation  
7 purposes. For the fiscal year ending September 30, 1998, and  
8 each fiscal year thereafter, funds shall be made available to  
9 match all projects for eligible authorities and eligible  
10 governmental agencies that are approved for federal funding as  
11 provided by federal law and for which an approved transportation  
12 improvement program (TIP) and state transportation improvement  
13 plan (STIP) exist. Funds distributed under this subdivision  
14 shall be expended pursuant to specific line item appropriation  
15 for, but are not limited to, the following public transportation  
16 purposes:

17 (i) The specialized services assistance program. The  
18 specialized services assistance program shall be funded with not  
19 less than \$3,600,100.00 from funds distributed under this  
20 subdivision. Funds shall be distributed according to guidelines  
21 developed by the department based upon the following  
22 considerations:

23 (A) Proposals for coordinated specialized services assistance  
24 funding shall be developed jointly between existing eligible  
25 authorities or eligible governmental agencies that provide public  
26 transportation services and the area agencies on aging or any  
27 other organization representing specialized services interests,

1 as defined in this subdivision. Plans shall be reviewed and  
2 approved by the bureau of urban and public transportation of the  
3 department. Upon approval, the department shall release the  
4 funds to the eligible authority or eligible governmental agency  
5 which shall then allocate the funds to the area agency on aging  
6 or any other organization representing specialized services  
7 interests, as defined in this subdivision for the purchase of  
8 services as approved in the plan by the department.

9 (B) If an eligible authority or eligible governmental agency  
10 does not exist to provide public transportation service in a  
11 county, coordinated proposals for specialized services assistance  
12 funding may be submitted by the area agency on aging or any other  
13 organization representing specialized services interests, as  
14 defined in this subdivision. The proposals shall be reviewed and  
15 approved by the bureau of urban and public transportation of the  
16 department. Upon approval, the department shall release the  
17 funds to the area agency on aging or any other organization  
18 representing specialized services interests, as defined in this  
19 subdivision for the purchase of services as approved in the plan  
20 by the department.

21 (C) For the purposes of this program, "specialized services"  
22 means public transportation primarily designed for persons with  
23 disabilities or persons who are 65 years of age or older.

24 (ii) Local bus capital. For the fiscal year ending September  
25 30, 1998 and each fiscal year thereafter, not less than  
26 \$8,000,000.00 will be distributed for either matching federal  
27 funds for local bus capital or 100% capital projects for eligible

1 authorities and eligible governmental agencies that are not  
2 eligible to receive federal capital formula funds under section  
3 5307 of the federal intermodal surface transportation efficiency  
4 act, ~~Public Law 102-240, or any successor act~~ **49 USC 5307.**

5 (iii) Local bus new services.

6 (iv) Not less than \$2,000,000.00 in each fiscal year for the  
7 credit program established under section 101.

8 (v) Public transportation development.

9 (vi) Other public transportation programs approved by the  
10 commission.

11 (d) The unappropriated and unencumbered balance of the  
12 comprehensive transportation fund lapses at the end of each  
13 fiscal year and reverts to the comprehensive transportation fund  
14 for appropriation in the following fiscal year.

15 (5) Eligible authorities and eligible governmental agencies  
16 shall receive capital grants each fiscal year by the annual  
17 process described in this section. Amounts received by an  
18 eligible authority or eligible governmental agency pursuant to  
19 this subsection shall be expended by that authority or agency  
20 solely for capital projects which have been approved by the state  
21 transportation commission. Any funds approved by distribution to  
22 an eligible authority or eligible governmental agency pursuant to  
23 this section which have not been encumbered by that agency or  
24 authority for an approved capital project by the end of the  
25 following fiscal year in which the funds were approved shall not  
26 be expended by the authority or agency and be available for  
27 distribution from the comprehensive transportation fund for the



1 purposes described in this section.

2       (6) The department, in carrying out the policy of the state  
3 transportation commission, shall annually prepare and distribute  
4 by December 1, instructions to eligible governmental agencies,  
5 eligible authorities, and intercity carriers to enable the  
6 preparation of a local transportation program. Eligible  
7 governmental agencies, eligible authorities, and intercity  
8 carriers shall give public notice of their intent to apply for  
9 money in the comprehensive transportation fund to the residents  
10 of the counties, townships, villages, and cities affected by the  
11 local transportation program and shall make their application  
12 available for a period of 30 days. All comments received by the  
13 eligible governmental agency, eligible authority, or intercity  
14 carrier shall be transmitted to the department.

15       (7) On or before March 1 of each year, each intercity  
16 carrier, eligible authority, and eligible governmental agency  
17 shall submit to the department its local transportation program  
18 for the next succeeding fiscal year. The format for each local  
19 transportation program shall be as prescribed by the federal  
20 transportation improvement program insofar as practical and shall  
21 include project descriptions, funding sources, and justification  
22 for each line item, and summary budgets based on distributions  
23 anticipated under subsection (4). The program shall contain at a  
24 minimum the contemplated routes, hours of service, estimated  
25 transit vehicle miles, costs of public transportation services,  
26 and projected capital improvements or projects as exclusively  
27 determined by the eligible authority or eligible governmental

1 agency. The costs of service and capital improvements or  
2 projects shall be in sufficient detail to permit the state  
3 transportation department to evaluate and approve the annual  
4 public transportation program. Determination of individual  
5 projects to be included in the local transportation programs  
6 other than those provided in this subsection shall be made by the  
7 governing body of the eligible authority or eligible governmental  
8 agency.

9 (8) ~~On or before March 1 of each year~~ **As required under 23**  
10 **USC 134, 23 USC 135, sections 5303 through 5305, and 49 USC 5303**  
11 **through 5305**, the department shall, **on a biennial basis**, prepare  
12 and file for public inspection and review the ~~department~~ **state**  
13 transportation **improvement** program. The ~~department~~ **state**  
14 transportation **improvement** program shall be prepared on similar  
15 format to the local transportation programs, and shall include a  
16 ~~summary~~ description of projects, with funding sources and  
17 project justifications for each line item for the fiscal year  
18 immediately succeeding the fiscal year in which the program is  
19 submitted. In addition, the department transportation program  
20 shall include summary, nondetailed budget **information** and project  
21 descriptions and justifications excluding projects contained in a  
22 local transportation program.

23 (9) ~~On or before April 1 of each year~~ **Within 30 days after**  
24 **receiving approval of the state transportation improvement**  
25 **program prepared and filed pursuant to subsection (8) and 23 USC**  
26 **135**, the department shall ~~prepare and~~ file with the commission  
27 the ~~proposed~~ state transportation **improvement** program. ~~for the~~

1 ~~next succeeding fiscal year.~~ The ~~proposed~~ state transportation  
2 **improvement** program shall contain the local transportation  
3 programs of each intercity carrier, eligible authority and  
4 eligible governmental agency, the department transportation  
5 program, and the programs for the expenditure of the state trunk  
6 line fund as they may have been supplemented, amended, or  
7 modified since their original filing. The state transportation  
8 **improvement** program shall include the estimated amount of money  
9 in the funds described in this subsection by revenue source,  
10 project justifications, project descriptions funding sources, and  
11 budget summaries.

12       (10) On or before May 1 of each year, the state  
13 transportation commission shall act on the state transportation  
14 program for the fiscal year commencing on the following  
15 October 1. In considering approval of the proposed projects of  
16 each intercity carrier, eligible authority, or eligible  
17 governmental agency, other than projects which are to be funded  
18 pursuant to subsection (5), the state transportation commission  
19 shall consider whether the projects comply with state law, are  
20 within funds allocated in this section, whether they may be  
21 funded within the approved budgets, whether there are intercity  
22 carriers, eligible authorities, and eligible governmental  
23 agencies responsible to implement the projects, and the  
24 recommendations of the department on individual projects. Upon  
25 making those determinations, the state transportation commission  
26 shall approve the projects which best meet the criteria of this  
27 subsection.

1       (11) By October 1, the department and each intercity carrier,  
2 eligible authority, or eligible governmental agency shall enter  
3 into a contractual agreement or standardized grant memorandum of  
4 agreement, which may cover 1 or more projects to be made from  
5 this section in the applicable fiscal year to the intercity  
6 carrier, eligible authority, or eligible governmental agency from  
7 the comprehensive transportation fund.

8       (12) After a multiyear public transportation program is  
9 approved by the state transportation commission, the state  
10 transportation department may enter into a grant-in-aid  
11 instrument with an eligible authority, intercity carrier, or  
12 eligible governmental agency obligating the state to a minimum  
13 level of funding for approved projects to be available over the  
14 multiyear period of the program. This obligation shall be  
15 binding upon the state transportation department as long as the  
16 provisions and conditions of the state transportation commission  
17 approved program are carried out as agreed.

18       (13) Contracts and grant memorandum agreements may be audited  
19 by the state transportation commission's office of commission  
20 audits using rules promulgated by the United States general  
21 accounting office and the terms and conditions of the respective  
22 contracts and agreements. Third party agreements are subject to  
23 the review and approval of the department.

24       (14) Funds distributed by the department may pay 100% of the  
25 portion of the cost not eligible for reimbursement by the federal  
26 government for eligible capital projects authorized by the state  
27 transportation commission using comprehensive transportation

1 funds or the proceeds of notes and bonds issued under section  
2 18b. Priority for funding obligation shall be given to capital  
3 projects for which federal funds have been authorized.

4 (15) All approved local bus new services initiated by  
5 eligible authorities and eligible governmental agencies not in  
6 their fourth year or beyond of funding on October 1, 1988, shall  
7 be funded from subsection (4)(c)(iii). Local bus new services  
8 shall be funded under subsection (4)(c)(iii) in the following  
9 percentages of eligible operating expenses as determined by the  
10 department:

11 (a) Startup 100%.

12 (b) First year 90%.

13 (c) Second year 80%.

14 (d) Third year 70%.

15 (e) Fourth year and each year thereafter, as determined by  
16 and from funds provided under subsection (4)(a). The balance of  
17 eligible operating expenses shall be met from local revenue  
18 sources including farebox. The department shall pay up to 100%  
19 of eligible capital expenses during the startup and first 3 years  
20 of service, after the third year, the department shall  
21 participate in eligible capital expenses in the same percentage  
22 as for other eligible authorities and eligible governmental  
23 agencies. For the purposes of this subsection, eligible  
24 operating and capital expenses means ~~those~~ expenses determined  
25 by the department ~~as~~ **to be** applicable to existing eligible  
26 authorities and eligible governmental agencies. The department  
27 shall prioritize annually all requests for comprehensive

1 transportation funds to institute new services under this  
2 subsection. First priority shall be given to eligible  
3 authorities and eligible governmental agencies who have not  
4 completed their first 3 years of service by October 1, 1998. New  
5 services initiated by eligible authorities and eligible  
6 governmental agencies under this subsection shall meet all of the  
7 requirements of section 10.

8 (16) The department shall pay up to 80% of the portion of the  
9 cost not eligible for reimbursement by the federal government for  
10 intercity passenger operating assistance projects authorized by  
11 the commission for the first 2 years of new services. For the  
12 third year, eligible costs shall be reimbursed at up to 60% of  
13 the portion of the cost not eligible for reimbursement by the  
14 federal government. After the third year, eligible costs shall  
15 be reimbursed at up to 50% of the portion of the cost not  
16 eligible for reimbursement by the federal government. Eligible  
17 costs of services provided as of September 30, 1981, shall be  
18 reimbursed at up to 50% of the portion of the cost not eligible  
19 for reimbursement by the federal government. However, the amount  
20 of funds from the comprehensive transportation fund when added to  
21 federal funds and local funds shall not exceed the total  
22 operating assistance project cost.

23 (17) A vehicle purchased, leased, or rented after  
24 November 15, 1976, by an eligible authority or eligible  
25 governmental agency with funds made available under this act,  
26 which funds were not already committed under a contract in  
27 existence on November 15, 1976, shall not be used to provide

1 service on a fixed schedule and fixed route for which a passenger  
2 fee is charged unless the vehicle is accessible to a person using  
3 a wheelchair from a roadway level or curb level, and has  
4 accommodations in which 1 or more wheelchairs can be secured.

5 (18) A vehicle shall not be purchased, leased, or rented by  
6 an eligible authority or eligible governmental agency after  
7 October 1, 1978, with funds made available under this act which  
8 vehicle is used to provide demand actuated service unless the  
9 eligible authority or eligible governmental agency has submitted  
10 a plan to the state transportation department describing the  
11 service to be provided by the demand actuated service to persons  
12 65 years of age or older and persons with disabilities within the  
13 applicable service area and that plan has been approved by the  
14 department. The department shall approve the plan as submitted  
15 or modified or shall reject the plan within 60 days after the  
16 plan is submitted. A plan which describes the service to be  
17 provided by the demand actuated service shall not be approved by  
18 the department unless that plan provides the following:

19 (a) That demand actuated service will be provided to persons  
20 65 years of age or older and persons with disabilities residing  
21 in the entire service area subject to the plan.

22 (b) That as a minimum, demand actuated service will be  
23 provided to persons 65 years of age or older and persons with  
24 disabilities during the same hours as service is provided to all  
25 other persons in the service area subject to the plan.

26 (c) That the average time period required for demand actuated  
27 service to persons 65 years of age or older and persons with

1 disabilities from the initiation of a service request to arrival  
2 at the destination is equal to the average time period required  
3 for demand actuated service provided to all other persons in the  
4 service area subject to the plan.

5 (d) That the eligible authority or eligible governmental  
6 agency submitting the plan has established a local advisory  
7 council with not less than 50% of its membership representing  
8 persons 65 years of age or older and persons with disabilities  
9 within the service area subject to the plan and that the local  
10 advisory council has had an opportunity to review and comment  
11 upon the plan before its submission to the department. Each  
12 eligible authority or eligible governmental agency jointly with  
13 the area agency on aging shall approve at least 1 or the  
14 equivalent of 12% of the membership of the local advisory  
15 council. Each advisory council comment shall be included in the  
16 plan when submitted to the department.

17 (19) Notwithstanding subsection (18), a plan required by  
18 subsection (18) which is not approved or rejected by the state  
19 transportation department within 60 days after submission shall  
20 be considered approved as submitted.

21 (20) Subsections (17), (18), and (19) shall not apply to  
22 vehicles or facilities used to transport persons by rail, air, or  
23 water or to vehicles of common carriers licensed by the state  
24 transportation department.

25 (21) After January 1, 1979, the department shall submit an  
26 annual report to the legislature detailing the service provided  
27 in the prior year for persons 65 years of age or older and



1 persons with disabilities by fixed route service and demand  
2 actuated service. This report shall include a record of  
3 passenger usage and shall be submitted by April 1 of each year.

4 (22) Notwithstanding any other provision of this section, if  
5 the unreserved balance of the comprehensive transportation fund  
6 as of September 30, 1997 is greater than \$50,000,000.00, then the  
7 entire unreserved balance minus \$50,000,000.00 shall be  
8 appropriated for the fiscal year ending September 30, 1998 only  
9 to local bus transit authorities for discretionary capital  
10 expenditures. These funds shall be distributed to individual  
11 authorities in the same proportion provided for in ~~the~~  
12 ~~provisions of section 10e(4)(a)(i)~~ **subsection (4)(a)(i)** except  
13 that the costs of services provided by water vehicle shall not be  
14 eligible for reimbursement.