SUBSTITUTE FOR

SENATE BILL NO. 995

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 section 12 (MCL 247.662), as amended by 2002 PA 498.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

(3) An amount equal to 1% of the total amount returned to the county road commissions from the Michigan transportation fund during the prior calendar year shall be withheld annually from the counties' November monthly distribution provided for in section 17,

and the amount shall be returned to the county road commissions for snow removal purposes as provided in section 12a.

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) ~~Not~~ **BEGINNING NOVEMBER 1, 2008, NOT** to exceed ~~30%~~ **50%** per

year of the amount returned to a county for use on the county primary road system may be expended, with or without matching, on the county local road system of that county. Not to exceed 15% per year of the amount returned to a county for expenditure on the county local road system may be used, with or without matching, on the county primary road system of that county, and not to exceed an additional 15% per year of the amount returned to a county for expenditure on the county local road system, may, in case of an emergency or with the approval of the state transportation department, be expended, with or without matching, on the county primary road system of that county. An amount returned to a county for and on account of county local roads, under this section, in excess of the total amount paid into the county treasury each year by all of the townships of that county for and on account of the county local roads pursuant to section 14(6) may be transferred to and expended on the county primary road system of that county.

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

(11) Not more than 5% per year of the funds returned to a county for the county primary road system and the county local road system shall be expended for the maintenance, improvement, or

acquisition of appurtenant roadside parks and motor parkways.

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

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

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

(15) Money distributed from the Michigan transportation fund

may be expended for construction purposes on county local roads only to the extent matched by money from other sources. However, Michigan transportation funds may be expended for the construction of bridges on the county local roads in an amount not to exceed 75% of the cost of the construction of local road bridges. This subsection does not apply to section 11b.

(16) Notwithstanding any other provision of this act, at least 90% of the state revenue returned annually to the county road commission from the Michigan transportation fund less the amounts described in subdivisions (a) to (e) shall be expended annually by the county road commission for the preservation of highways, roads, streets, and bridges, and for the payment of contractual contributions pledged for the payment of bonds or portions of bonds, debt service requirements for the payment of bonds or portions of bonds, and debt service requirements for the payment of notes and loans or portions of notes and loans issued or received after July 1, 1983, for the purpose of providing funds for the preservation of highways, roads, streets, and bridges. If an appropriate certificate is filed under subsection (19) but only to the extent necessary, this subsection shall not prohibit the use of any amount of state revenue returned annually to the county road commissions for the payment of contractual contributions pledged for the payment of bonds, for debt service requirements for the payment of bonds, and for debt service requirements for the payment of notes or loans, whenever issued or received, as specified under subsection (8). The amounts which are deducted from the state revenue returned to a county road commission from the Michigan

transportation fund, for the purpose of the calculation required by this subsection are as follows:

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

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

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

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

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

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

other provision of this act, except as provided in this subsection, a county road commission shall expend annually at least 90% of the federal revenue distributed to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges. A county road commission may expend in a year less than 90% of the federal revenue distributed to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges, if that year is part of a 3-year period in which at least 90% of the total federal revenue distributed in the 3-year period to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is expended on the preservation of highways, roads, streets, and bridges. If a county road commission expends in a year less than 90% of the federal revenue distributed to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges and that year is not a part of a 3-year period in which at least 90% of the total federal revenue distributed in the 3-year period to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is expended on the preservation of highways, roads, streets, and bridges, the county road commission shall expend in each year subsequent to the 3-year period 100%, or less in 1 year if sufficient for the purposes of this subsection, of the federal revenue distributed to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges until the average percentage spent on the preservation of highways, roads, streets, and bridges in the 3-year period and the subsequent years, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is at least 90%. A year may be included in only one 3-year period for the purposes of this subsection. The requirements of this subsection shall be waived if compliance would cause the county road commission to be ineligible according to federal law for federal revenue, but only to the extent necessary to make the county road commission eligible according to federal law for that revenue. For the purpose of the calculations required by this subsection, the amount expended on urban routes by a county road commission for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system shall be deducted from the total federal revenue distributed to the use of the county road commission.

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

issued or the obligation to pay debt service on the bonds or notes.

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

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

(21) In addition to the financial compliance audits required by law, the department of treasury shall conduct performance audits and make investigations of the disposition of all state funds

received by county road commissions, county boards of commissioners, or any other county governmental agency acting as the county road authority, for transportation purposes to determine compliance with the terms and conditions of this act. Performance audits shall be conducted according to government auditing standards issued by the United States general accounting office. The department of treasury shall provide 6 months notice to the county road commission or county board of commissioners, as applicable, of the standards to be used for audits performed under this subsection prior to the fiscal year in which the audit is conducted. The department shall notify the county road commission or county board of commissioners of any subsequent changes to the standards. County road commissions or county boards of commissioners, as applicable, shall make available to the department of treasury the pertinent records for the audit.