

**CRAM LEGISLATIVE PRIORITIES  
2009-2010**



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## **PREFACE**

The effectiveness of the County Road Association of Michigan (CRAM) in developing reasonable statewide transportation policies depends directly on the willingness of road commission officials to work through the Association on all matters that impact the members. Therefore, any road commission person, agency and/or organization(s) seeking legislation or proposing Legislative Priorities that will have an impact on the membership should work through the Association.

Whenever a legislative bill is publicly introduced that will have an impact statewide on road commissions, CRAM staff will analyze it, determine its effect on road commission operations, and formulate a position based on CRAM's Legislative Priorities or from past positions taken by the General Policy Committee (GPC) and/or Board of Directors.

The responsibility within CRAM to develop and maintain policies and positions on legislative proposals which would affect county home rule or county executive legislation and distribution of fuel and vehicular tax monies either through the internal or external formula rests with the Association's GPC and the Board of Directors. The GPC meets at least two-times per year to review and recommend CRAM's positions on specific bills before the legislature. Recommendations on legislation and/or Draft CRAM Policies are forwarded from the GPC to the Board of Directors for further review and concurrence.

The GPC also conducts an annual review of the CRAM Legislative Priorities, including recommendations from regional councils or individual members. In turn, CRAM's Legislative Priorities, including recommended amendments, will be reviewed by the Legislative Review Committee (LRC) then forwarded to the GPC for review before review, debate and a final vote at CRAM'S annual business meeting.

## **CRAM LEGISLATIVE PRIORITIES 2009-2010**

### **Act 51 of 1951 - Needs Study/Distribution Formula**

1. The Michigan Transportation Fund (MTF), Act 51 of 1951 provides for the distribution of over \$2.0 billion of fuel taxes and vehicle registration fees collected in Michigan. After deductions of 1 cent of the 1997 gas tax increase for bridges, \$43 million for state debt service and deductions for other state agencies, public transit, economic development and local bridge programs, the balance is distributed by formula; state-39.1%, counties-39.1%, and cities and villages-21.8%.

CRAM supports calling on the legislature to establish a comprehensive and independent needs study that takes into consideration the identified capital and maintenance needs, transportation investment and maintenance priorities, relative use of transportation systems, responsibilities for the identified needs including economic development needs, transportation funding options, historical transportation financing patterns as they relate to total statewide fiscal resources, and strategies for maximizing the returns on transportation investments.

Until the study is complete, the current external formula shall be maintained. There shall be no change in the internal formula until it is studied and reviewed by the CRAM General Policy Committee. In addition, the \$43 million allocated to MDOT for their debt service and the \$33 million allocated to the Local Program Fund that both come off the top of the MTF should be eliminated and run the \$76 million through the formula.

### **State Fuel Tax Rate**

2. The needs of those who depend on the Michigan Transportation System continue to grow. In addition, the cost of equipment, material and personnel continue to increase since the gas tax was last increased in 1997. Road commissions have been forced to defer capital improvements and maintenance on roads, bridges and culverts, and to make reductions in staffing. The annual growth of the Michigan Transportation Fund (MTF) revenue has not kept pace with the cost increases for construction and maintenance. The erosion of our basic funding source also limits our ability to undertake proper long-range planning. Local road agencies are not able to keep pace with necessary transportation needs.

CRAM supports legislation to increase road funding to the "better" level according to the Transportation Task Force report. Michigan's fuel tax should be indexed to a formula similar to the one used prior to 1982 utilizing the "Maintenance Index" published by the Federal Highway Administration.

### **Increase the Diesel Tax Rate**

3. In 1997 the Michigan Legislature approved legislation increasing the gas tax rate from 15 cents to 19 cents. While legislation was also introduced to increase the diesel tax rate (last raised in 1984) to 19 cents, it failed to pass in the Senate.

CRAM supports legislation to increase road funding to the "better" level according to the Transportation Task Force report and should a future gas tax increase be approved, the diesel tax rate should be increased expeditiously to equal any future gas tax rate. All revenue generated shall be distributed according to the current formula in Act 51 of 1951.

## **Alternative Future Road Funding**

4. County Road Commissions are heavily dependent upon fuel tax revenue. Their ability to pay for road repairs, maintenance and construction is at risk as fuel (tax) revenue declines. Purchase power has steadily eroded over the years as the gas tax has not kept pace with inflation. The fuel efficiency of new vehicles, especially hybrids and alternative fuel vehicles, continues to increase resulting in less gas tax revenue.

In order to address the long term financial needs of the Michigan transportation system, alternative future road funding sources will have to be identified.

CRAM supports a study of alternatives to fuel taxes and road funding and legislation that collects revenue in an equitable manner across all of the road user groups. Revenue sources could include a variety of user charges: i.e., fuel taxes (including both gas and diesel), vehicle fees, mileage fees, Hybrid alternative fuel vehicles, toll roads, development impact fees, general tax revenue, sales tax, public and private partnerships, etc.

### **Act 51 of 1951 - 90% Preservation Requirement**

5. Act 51 of 1951 requires local road agencies to spend 90% of its Michigan Transportation Funds (MTF) on preservation of roads under their jurisdiction. As a result of Michigan's lower than average investment in roads, more money needs to be invested in capital improvements in order to provide for the necessary long-term repairs to the roads. With the increase in state and federal funds and the need to increase spending on reconstruction and capacity improvements of existing roads, the 90% limitation should be reduced or eliminated.

CRAM supports legislation to amend the language of state law to reduce or eliminate the requirement that local road agencies spend 90% of its MTF on preservation allowing road commissions the flexibility to meet the needs of their community.

### **1% Non-motorized Requirement**

6. Act 51 of 1951 requires that not less than 1% of a local road agency's Michigan Transportation Funds (MTF) shall be expended for construction or improvement of non-motorized transportation services and facilities.

CRAM recognizes the need to address non-motorized transportation services and facilities. However, other state, federal and local funding sources are currently available and routinely utilized by local road agencies for such non-motorized transportation improvements. In addition, current funding from the MTF is not adequate and additional flexibility is needed to maintain the existing roadway surfaces on the local and primary road systems.

CRAM supports legislation to allow local road agencies the flexibility to utilize MTF and other state, federal or local funding sources to satisfy non-motorized expenditures equivalent to 1% of the agency's Michigan Transportation Funds.

## **Primary/Local Road Fund Transfers**

7. The Michigan Transportation Fund (MTF) formula, as part of Public Act 51 of 1951, provides for the distribution of specific monies to be expended on primary and local roads. As part of this distribution, road commissions are permitted to transfer, with board approval, up to thirty percent (30%) of the funds for primary roads to the local system. In order to promote more participation by townships and others, and maximize limited state or federal funding in improvements of the local road system, changes to this language are vital.

CRAM supports legislation to amend the language of Public Act 51 of 1951 to allow individual road commissions the flexibility to transfer up to fifty percent (50%) of the funds for primary roads to the local system if required to match other local funds.

## **State Maintenance Contracts**

8. Currently 64 county road agencies have a State Maintenance Contract with the Michigan Department of Transportation to provide a variety of maintenance activities on state roads. County road agencies provide a cost effective solution for providing maintenance on state roads. The Michigan Department of Transportation could realize even greater savings if all 83 county road agencies were under contract. This concept would be consistent with other states. In the state of Wisconsin, the Wisconsin Department of Transportation (WISDOT) contracts out 100% of their maintenance to their county road agencies.

CRAM encourages all 83 county road agencies to have a State Maintenance Contract with the Michigan Department of Transportation in order to provide additional cost saving to the state and have a more effective voice in the crafting of future contracts.

## **Federal Funding - State Distribution**

9. Currently, federal funds distributed to Michigan under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users (SAFETEA-LU) are shared on a 75/25 basis between state and local agencies. Some local road agencies would like the option of selling federal aid allocated to them for state transportation revenues from the Michigan Department of Transportation (MDOT).

CRAM opposes legislation that will reduce the federal funds made available to local road agencies as a result of any negotiated agreements between individual local road agencies and MDOT that allows the local road agency to exchange its federal aid to MDOT for State Transportation Funds (STF) with the approval of the Rural Transportation Task Force or Metropolitan Planning Organization. However, funds received from the negotiated agreement shall be used on the project identified in the TIP for which the federal funds would have been utilized.

CRAM supports legislation that amends Act 51 of 1951 to allow local road agencies to buy and sell federal aid among themselves.

## **Federal Funding - Revenue Aligned Budget Authority (RABA)**

10. With passage of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users (SAFETEA-LU), Congress and the President agreed to distribute unanticipated revenues to the Highway Trust Fund to specific programs as provided for in SAFETEA-LU and then distributed to the states.

CRAM opposes any proposal to use additional unanticipated revenues from the Highway Trust Fund outside of the SAFETEA-LU formula.

## **Federal Funding - Michigan's Donor Status**

11. Michigan is a donor state (sending more gas tax revenues to Washington than is returned to the state) to the Federal Highway Trust Fund. In order to provide a better balance between the donor and donee states, CRAM supports legislation that allows donor states to not be required to provide a local match for the use of federal funds.

## **Federal Funding - Alternate or Emergency Routes**

12. It has been a long-standing tradition of the state to set aside only 25% of each year's federal aid for local jurisdictions for use on their federal aid eligible roads. This tradition has been in place for over 40 years—long before the state began to transfer older state highway roads to county road commissions and long before the federal government established the National Highway System. Many of these former state roads and current county road commission roads have been designated by the state as alternate or emergency routes and must be maintained and improved to a higher standard without additional funding.

The federal government has also mandated the creation and designation of the National Highway System and has provided special dedicated funding for these roads. However, the Michigan Department of Transportation has refused to share these funds with county road commissions unless these funds are counted against the 25% federal set aside for county and municipal roads and streets.

CRAM supports efforts to seek additional federal funding, outside of the Public Act 51 mandated 25%, for eligible county road commissions with state designated alternate or emergency routes including but not limited to National Highway System Funds for National Highway System eligible roads under county road commission jurisdiction.

## **Non-competitive Bidding When Using Federal Funds**

13. Act 51 of 1951 requires all federal aid construction projects whose cost exceeds \$100,000.00 for construction shall be performed by contract awarded by competitive bidding unless the department shall affirmatively find that under the circumstances relating to those projects, some other method is in the public interest. Currently, the Michigan Department of Transportation (MDOT) policy allows local road agencies, when using federal aid, to do road projects using their labor and equipment, however, their policy limits projects to \$100,000 or less. Historically, the maximum amount of a project has been \$300,000. Federal regulations allow local road agencies, when using federal aid to do road projects using their labor and equipment, with appropriate justification, without regard to amount or type of work.

CRAM supports efforts to have MDOT increase the threshold to \$500,000. If MDOT does not amend their rules, CRAM supports legislation that increases the project amount to \$500,000.

## **Local Agency Bridge Program**

14. There are over 10,400 bridges in Michigan with more than 5,600 of them on the county road system. In a study of county roads and bridges, it was determined that nearly 35% of these bridges are deficient. Based on a review of data submitted by MDOT to the Federal Highway Administration, 25% of the federal funding that MDOT receives is based on local agencies' deficient bridges. However, MDOT currently distributes 15% of the available federal bridge funds to the Local Agency Bridge Fund for use by county and municipal road authorities.

CRAM supports legislation to set aside 25% of all federal bridge funds, received by the state, for deposit into the Local Agency Bridge Fund for county, city and village bridges.

## **Transportation Economic Development Fund**

**15.** The legislature has created the Transportation Economic Development Fund (TEDF) to provide funding for road improvements that result in economic development opportunities. A significant portion of the funds are appropriated from the Michigan Transportation Fund (MTF). The TEDF has provided a significant economic impact as a result of the use of these funds improving Michigan's roads.

CRAM supports the continuation and increase of the appropriation to the TEDF and opposes any effort to divert funds for any reason.

CRAM supports legislative language that requires debt service to be paid by the TEDF categories that have incurred the debt.

### **Transportation Economic Development Fund - Category D**

**16.** After several years of rapidly rising costs for road construction and maintenance, and faced with flat or declining revenues, county road commissions are struggling to maintain their existing all-season county road systems in reasonably good condition for our motorists.

CRAM supports the use of federal and state Transportation Economic Development Fund Category D funds for eligible activities that serve to preserve established primary all-season roads.

### **Township Matching Program**

**17.** While a substantial portion of road commission revenue comes from state and federal sources, it is not sufficient to maintain the level of spending necessary to properly maintain county roads. CRAM applauds townships for contributing nearly \$100 million annually to road commissions for road and bridge projects.

In order to encourage townships to participate in road improvement projects, CRAM supports the creation of a program that would allow townships to have input in the selection of mutually funded county projects in townships.

### **State Highway Road Closures**

**18.** CRAM supports and promotes the safe and efficient management of our state's transportation system. Public safety agencies of the state are the responding agencies for administering assistance at traffic accident scenes and must make necessary closures or detour decisions affecting the traveling public and adjacent roadway systems.

Therefore, CRAM supports efforts to bring the appropriate agencies together to explore the development of guidelines for road closure/detours of state highways as well as for the identification of funding mechanism for the repair of damaged infrastructure caused from closures/detours on adjacent roadway systems when such roadways are not designed and built to carry heavier loads and volumes associated with detoured traffic, including the use of National Highway System federal aid.

## **Speed Limits**

**19.** Realistic speed limits provide for a uniform, safe, and orderly movement of traffic. To accomplish that, current law provides that county road commissions, townships, and the Michigan State Police are responsible for setting speed limits on county roads.

CRAM supports legislation to establish the prima facie speed limit for unpaved roads at 45 mph unless otherwise posted.

CRAM supports local input, however, opposes all legislation that would remove or otherwise diminish the role of the Michigan State Police or remove the use of traffic studies and sound engineering principles from the process of establishing speed limits on county roads.

## **Overweight/Oversize Permits**

**20.** In order to protect roads in Michigan, the legislature has established weight limits for vehicles traveling on roads in Michigan. In addition, they have provided local agencies the authority to reduce weight limits at certain times. The law also allows local agencies to establish a process to permit vehicles that are overweight and oversize to travel on locally designated roads.

CRAM opposes any legislation that would exempt any vehicles from meeting legal weight limits on county roads.

## **Haul Route Permits**

**21.** Repetitive loadings that do not exceed the maximum legal loading allowed on a road by current statute may lead to premature failure of the road or result in routine or capital preventative maintenance in excess of current levels. A road agency's ability to maximize the useful service life of a road and minimize public costs by seeking advance bonds, deposits, fees or other restoration agreements are currently limited by existing law.

CRAM supports legislation allowing road agencies to issue permits and to require bonds, deposits and fees or other agreements to recover costs, or repair damage to public roads resulting from intensive repetitive trucking.

## **Seasonal Roads**

**22.** Many rural county road commissions have roads that are seasonal in use and have no year-round residents living on them. Michigan law provides that road commissions may designate such roads as seasonal roads. From time to time property owners decide to occupy year-round existing homes or build new homes on roads designated as seasonal roads and then demand the road be upgraded and maintained year round. There is a need for a uniform policy or guidelines in the statute that addresses such changes in land use.

CRAM supports legislation to require the disclosure, on real property transfers, that the property involved in the transfer is located on a seasonal road. The legislation should also require that the purchaser be notified that, according to law, the road will not be maintained from November to April.

## **Snowmobile Crossings**

**23.** Snowmobiling and the revenue created from this sport has grown to be a \$1 billion dollar industry contributing significantly to the economic vitality of the northern regions of the State of Michigan. The use of studded tracks has gathered industry support in efforts to enhance safety through improved handling capability. Studded tracks have contributed to the deterioration of road surfaces at defined trail/roadway crossings.

CRAM supports the formation of an interagency task force comprised of legislative representatives, roadway agencies, Michigan Department of Natural Resources, Tourism Bureau, Michigan Chamber of Commerce, Michigan Snowmobile Association as well as other interested parties to identify sources for the funding and repair of damaged highway crossings, identify all trail crossings through a statewide permit process, and that any funding made available for trail/roadway crossings be shared by county road commissions and the Michigan Department of Transportation.

## **Dead Animals on Roadway**

**24.** Local road agencies are called to remove large dead animals, in most cases, dead deer, from the roadway. Historically, the process was simple, pull the animal far enough off the road so as not to interfere with travel on the road. Increasingly there is the demand that dead animals be removed completely from the right-of-way and disposed of in landfills or other designated areas. This is creating a substantial financial burden on local road agencies in terms of landfill and labor costs. CRAM believes there should be a statewide policy developed in cooperation with state and local officials to provide consistent direction on how to deal with this issue. The liability and responsibility for removing dead animals from the roadway and right-of-way needs to be addressed.

CRAM supports legislation to deal with the “dead animal” issue with consideration to assigning the responsibility to the Department of Natural Resources. A simple ecological way should be provided to dispose of carcasses. The state should provide a disposal system in each county. Local agencies that choose to pick up animals from roadways should be reimbursed from funds other than dedicated transportation revenues.

## **Land Development**

**25.** Currently road commissions have the opportunity for input on roads when property is platted according to the Land Division Act. However, there are many cases where property is developed through the Condominium Act, the Land Division Act, and county or township zoning of Planned Unit Developments (PUD) and the road commission’s role is limited to recommendations on how roads connect to county roads and cannot require improvements beyond the immediate location of the development. Some developments create traffic problems on existing roads servicing the development causing the need for road commissions to make improvements to those roads in order to accommodate the development. The implementation of Access Management along roadways creates a safer transportation system with a longer effective service life.

CRAM supports legislation that allows each road commission the opportunity to review and approve all new development having access to county roads, including the right to require the developer to make off-site improvements to the public road system.

CRAM also supports legislation requiring townships or developers of site condominiums, land divisions, and Planned Unit Developments adjacent to existing county roads to provide a dedication of right-of-way along the existing road frontage in accordance with the road commission’s right-of-way standard.

CRAM supports state and local efforts to develop effective Access Management plans for roadways throughout the state.

## **Wetland Banking**

**26.** The Michigan Department of Transportation, county road commissions, and cities and villages improve and maintain many miles of roadway every year in the State of Michigan. When transportation projects are adjacent to wetland areas, mitigation is legislatively required. However, mitigation of the wetlands in the roadway right-of-way is a very costly and time-consuming operation without significantly improving the wildlife habitat. CRAM supports good environmental practices, however, current restrictions on the use of wetland banks make it difficult to fully utilize the opportunities wetland banking offers.

CRAM supports liberalization of the state and federal wetland banking practices to allow for the most efficient use of transportation funds.

## **Highway Liability**

**27.** In recent years the legislature has acted to limit local road agencies' exposure to liability. Additional legislation is necessary to more accurately define the improved portion of a highway to further limit road commission liability. Local road agencies recognize their responsibility to properly maintain the traveled portion of the road.

CRAM supports legislation that will continue to reduce road commission liability by limiting the definition of improved portion of the highway to the physical structure of the traveled portion, of the paved or unpaved roadbed actually designed for public vehicular travel and not include shoulders, curbs, vegetation, trees, utility poles, medians, sidewalks, crosswalks, culverts, guardrails, barriers, traffic control devices, signs, lighting, mailboxes, or other installation or condition located outside of the improved portion of the highway designed for vehicular travel.

## **Minerals on State Owned Land**

**28.** The Michigan Department of Natural Resources (MDNR) is charging royalties on materials, such as sand and gravel, removed from state owned lands. Local road agencies have in many cases been allowed access to these materials, without cost, for public road purposes. Based on proposed lease agreements developed by the MDNR, there would be a substantial cost for gravel used for road projects.

CRAM supports legislation to exempt road authorities from paying royalty charges for materials to be used for road maintenance, construction, or reconstruction that are mined and processed from state, county or private owned pits with state owned mineral rights.

## **Permitting - MDEQ**

**29.** The Michigan Department of Environmental Quality (MDEQ) has increasingly required permits for activities that are exempt as defined by MCLA 324.30305(2)(k) "the road work exemption." The most recent court case regarding this is the Oceana County Road Commission vs. MDEQ. There are more recent examples of the MDEQ requiring a permit for exempt activities of other road commissions. The increased cost of projects and time consumed is not an efficient expenditure of public funds. The only options that remain for county road commissions are to get permits for exempt activities or go to court on a case- by-case basis.

CRAM supports meeting with MDEQ officials to discuss and refine various definitions and develop a new Memorandum of Understanding. CRAM supports a training program that could be set up by the

MDEQ regarding the proper treatment of wetlands in various situations. This would allow county road commissions to perform more activities in an exempt manner as long as the road commission had a certified person on staff to insure proper protective measures are taken.

CRAM supports broadening the exemptions to include other activities that are currently not exempt.

## **Off-road Vehicles (ORV) in Public Road Right of Way**

**30.** The Natural Resources and Environmental Protection Act MCL 324.81131 currently allows a local unit of government to pass an ordinance allowing ORVs to travel on a county road. The local unit of government does not include a county road commission nor does it require that concurrence be granted by the county road commission, which in fact is the only level of government which has the operational responsibility and liability regarding any items of concern within the county road right of way.

Due to the popularity of the use of ORVs in northern lower Michigan and the Upper Peninsula, many county boards are adopting local ordinances which allow ORV traffic on county roads.

Many of these ordinances allow the blanket use of all county roads in lieu of the chosen access routes to trails, as defined by the statute. Furthermore, ordinances can be adopted with little or no communication or positive acknowledgment from the local county road commission, and also with little or no regard as to the geometry or alignment of the roadway, traffic volumes, surface conditions, width of roadway and shoulders, which ultimately ignores ensuring the safety of the motoring public as well as the ORV riders themselves.

The additional costs for maintenance and repair of roads due to the introduction of off-road vehicles will take away funds from other items of work.

CRAM supports legislation which would require county road commissions, by virtue of their knowledge, jurisdiction of, and expertise in local roads to approve or deny any section of roadway that is proposed for ORV traffic based on a study and analysis of the above mentioned criteria.

## **Term Limits**

**31.** In 1992, the electorate in Michigan voted to amend the state Constitution by supporting term limits for state elected officials. As a result, representatives are limited to three two-year terms, while senators are limited to two four-year terms. Many have argued that the result of term limits has been a drain on state elected officials who have the experience and knowledge to effectively run the state. Many now believe that the term limits imposed in Michigan are too short.

CRAM supports amending the Constitution to allow for longer term limits for state legislators to provide continuity and consistency, and to reduce the need for reorientation.