HOUSE BILL NO. 587

To: Transportation

MISSISSIPPI LEGISLATURE

By: Representatives McCoy, Gadd

REGULAR SESSION 2001

AN ACT TO CREATE A COUNTY FEEDER ROAD PROGRAM TO BE ADMINISTERED BY THE STATE AID ENGINEER; TO CREATE A SPECIAL FUND IN THE STATE TREASURY IN WHICH MAY BE DEPOSITED A PORTION OF A COUNTY'S STATE AID ROAD MONIES WHICH MAY BE USED TO ASSIST THE COUNTY IN THE CONSTRUCTION, RECONSTRUCTION AND PAVING OF COUNTY ROADS NOT ON THE STATE AID ROAD SYSTEM AND BRIDGES NOT ELIGIBLE FOR THE LOCAL BRIDGE PROGRAM; TO ESTABLISH CRITERIA THAT COUNTIES MUST MEET IN ORDER TO BE ELIGIBLE TO PARTICIPATE IN THE PROGRAM; TO AMEND SECTIONS 65-9-1 AND 65-9-17, MISSISSIPPI CODE OF 1972, TO AUTHORIZE COUNTIES TO EXPEND NOT TO EXCEED FIFTY PERCENT OF STATE AID ROAD FUNDS ALLOCATED TO THEM FOR PROJECTS UNDER THE COUNTY FEEDER ROAD PROGRAM; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Sections 1 through 11 of this act shall be known and may be cited as the "County Feeder Road Program."

SECTION 2. For the purposes of Sections 1 through 11 of this act, the term "feeder road" means a road that is included on the county road system as designated under Section 65-7-4 that (a) is not on the state aid road system; and (b) provides access to the state aid system, the federal aid system or the designated state highway system. The term "feeder road" includes all drainage related structures except bridges that are eligible for replacement or rehabilitation under the Local System Bridge Replacement and Rehabilitation Program (Sections 65-37-1 through 65-37-15). The term "feeder road" does not include a road or highway on the designated state highway system.

SECTION 3. (1) There is established a County Feeder Road Program which shall be administered by the State Aid Engineer for the purpose of assisting the counties of this state in the construction, reconstruction and paving of feeder roads.

(2) Routes on which projects are performed under Sections 1 through 11 of this act are not eligible for inclusion on the state...
aid system except in accordance with the provisions of Section 65-9-1 et seq.

SECTION 4. The County Feeder Road Program shall be administered by the State Aid Engineer. In administering the program, the State Aid Engineer shall have the following powers and duties:

(a) To supervise the use of all funds made available to counties under the County Feeder Road Program for use on feeder roads in the State of Mississippi;

(b) To authorize expenditure of monies credited to each county that participates in the County Feeder Road Program but only when the county has complied with the provisions of Sections 1 through 11 of this act and only when the county is eligible for expenditure of monies under the program;

(c) To keep and compile records of all expenditures on feeder roads for which money is disbursed under the provisions of Sections 1 through 11 of this act, which records must be kept separate and apart from other state aid records;

(d) To approve the construction of feeder roads, including roadbeds, grades and drainage, before authorizing the release of funds under Sections 1 through 11 of this act;

(e) To establish such rules and regulations as the State Aid Engineer determines as desirable and necessary to implement the provisions of the County Feeder Road Program; and

(f) To report to the Legislature, no later than January 1 of each year, how monies in the County Feeder Road Fund created under Section 5 of this act were spent in each county, what projects were approved and constructed, the number of miles constructed or improved and the cost per mile for such construction and improvement.

SECTION 5. (1) There is created in the State Treasury a special fund to be known and designated as the "County Feeder Road Fund." The fund shall be administered by the State Aid Engineer
and shall consist of the monies deposited therein as provided under Section 65-9-1. Monies in the fund may be expended or authorized for expenditure by the Office of State Aid Road Construction only for the purpose of constructing, reconstructing and paving, feeder roads as defined in Section 2 of this act. However, the Office of State Aid Road Construction shall be entitled to reimbursement from monies in the fund, upon requisitions therefor by the State Aid Engineer, for the actual expenses incurred by the office in administering the provisions of Sections 2 through 11 of this act.

(2) Monies in the County Feeder Road Fund credited to a county shall be allocated and become available for distribution to a county beginning January 1, 2001, on a project-by-project basis. Monies in the County Feeder Road Fund may not be used or expended for any purpose except as authorized under Sections 2 through 11 of this act.

SECTION 6. The State Aid Engineer shall establish specific designs and standards to be followed by counties in the construction, reconstruction and paving of feeder roads. The specific designs and standards shall be based upon policies on geometric design of local rural roads, highways and streets adopted and published by the American Association of State Highway and Transportation Officials.

SECTION 7. (1) In order for a county to be eligible for the expenditure of monies under the County Feeder Road Program, a county must meet the following conditions:

(a) The county has employed a county engineer, together with such other technical assistance as is necessary to carry out the duties of Sections 2 through 11 of this act, the same as provided under the provisions of Section 65-9-15, for its state aid road system and, through its official minutes, has authorized the county engineer to perform the necessary engineering services connected with the County Feeder Road Program. The county
engineer shall prepare the necessary plans and designs for all
construction projects, including state aid projects and projects
provided under Sections 2 through 11 of this act. He also shall
provide engineering supervision for the construction of such
projects and shall approve all estimate payments made on the
projects. Engineering cost for any project performed under the
County Feeder Road Program may be paid from any funds allocated to
a county under the program; however, the maximum fee paid to an
gineer from the County Feeder Road Fund shall not exceed twelve
percent (12%) of the final construction cost. No such cost shall
be reimbursed to the county before the letting of the project; and

(b) The county has presented a plan for the
construction, reconstruction and paving of a feeder road which
plan has been made and approved by the county engineer of the
county, showing the specific road or project to be improved,
stating the condition of the existing roadbed, drainage and
bridges and outlining the type of construction or reconstruction
to be made and the designs and specifications therefor including
the paving of the road and the sources of revenue to be used and
the sources and types of material to be used thereon. The plan
shall be presented to the State Aid Engineer for the initial
approval of the beginning of a project to receive monies.

(2) After the initial approval of the plan and plans as
specified in subsection (1)(b) of this section has been made by
the State Aid Engineer, the State Aid Engineer shall finally
approve or disapprove all contracts advertised and let by any
board of supervisors for the construction or reconstruction of
feeder roads and he shall approve or disapprove any or all force
account estimates for such construction. If disapproved, he shall
give a notice to the county of his disapproval and state each
reason, and he shall give the county time to cure the defects, or
such parts thereof as may be necessary to cure, so that the county
may receive money credited to it under the County Feeder Road Program.

All proposals covering work to be performed by any county with its own forces on feeder roads and all force account estimates submitted for approval shall be on forms prepared for the purpose by the State Aid Engineer. Such forms shall be in such detail and based upon such cost accounting rules and regulations as may be prescribed from time to time by the State Aid Engineer, but in no event shall the purchase of any road machinery or other general equipment out of the feeder road funds be allowed or permitted by such rules and regulations. Force account estimates may include a reasonable rental for machinery or equipment, and the reasonableness of the rental so estimated and as actually paid shall be subject at all times to modification, revision, approval, or disapproval of the State Aid Engineer and under the cost accounting rules and regulations promulgated by him.

SECTION 8. The county shall agree, at its own expense, to acquire all rights-of-way and relocate or make adjustments to public utilities for each feeder road program project within the county as may be necessary in the manner provided by law for the acquisition of rights-of-way and the uniform policy for accommodation of utility facilities within the rights-of-way of state aid roads as adopted by the State Aid Engineer under authority of Section 65-9-1 et seq. Rights-of-way may be acquired by gift, purchase, deed, dedication or eminent domain; however, no part of the costs of rights-of-way or utility adjustments may be paid from funds provided under the County Feeder Road Program.

SECTION 9. Contracts for the construction of county feeder road projects must be advertised and let by the board of supervisors of the county in the manner required by law. Before advertising for bids, plans and specifications covering the proposed work shall be prepared by the county engineer and filed
in the chancery clerk's office of the county. Copies of the plans
and specifications shall be subject to inspection during regular
office hours and shall be made available to all prospective
bidders upon such terms and conditions as may be required by the
board and its county engineer.

SECTION 10. Whenever any county fails to expend or obligate
by contract any of the monies allocated to it under the provisions
of Sections 2 through 11 of this act, within three (3) years after
the allocation is made, then such county shall no longer be
entitled to participate in the County Feeder Road Program; and the
balance of such monies previously allocated to it under the County
Feeder Road Program shall be transferred back to the State Aid
Road Fund and credited to the county for allocation to the county
in accordance with Section 65-9-1 et seq.

SECTION 11. It shall be the duty of the several boards of
supervisors to properly maintain all feeder roads in their
respective counties after construction of any such roads under
Sections 2 through 11 of this act. It shall be the duty of the
State Aid Engineer and his assistants to make annual maintenance
inspections of completed projects, and such other periodic
maintenance inspections as the State Aid Engineer shall deem
necessary. If essential maintenance is not properly and regularly
 carried on, in the opinion of the State Aid Engineer, then notice
thereof shall be given in writing to the board in default, and if
such maintenance is not done and continued within sixty (60) days
from date of such notice, then, and in such event, the State Aid
Engineer may proceed to have done the necessary maintenance and
repair work on such road and charge the same to any funds
allocated to such county under the provisions of Sections 2
through 11 of this act. If such failure to maintain continues,
then such county shall be no longer eligible for monies under the
County Feeder Road Program until proper maintenance is resumed by
it, and notice of such withdrawal of feeder road funds shall be
duly given the State Auditor and State Treasurer; however, such
ineligibility shall not affect payment from the County Feeder Road
Fund of progress or final estimates on contracts awarded before
notice of such ineligibility.

Feeder roads that have been hard surfaced through the use of
feeder road funds shall be eligible for feeder road funds to
provide one or more seal courses, as required. Feeder roads in
which the grading and drainage structures were constructed under
the County Feeder Road Program and which have been subsequently
hard surfaced by the county through the use of county funds under
the supervision of the county engineer shall likewise be eligible
for feeder road funds to provide one or more seal courses as
required, provided that the hard surfacing and underlying base
were constructed in accordance with the then prevailing feeder
road standards and specifications. The county shall furnish the
State Aid Engineer with sufficient engineering data, including
borings and tests, if necessary, to substantiate the required
thickness and quality of the base and surfacing. The correction
of base defects and pavement breaks may be made part of the plans
and contract documents for each sealing project.

Feeder roads that were constructed in accordance with the
then prevailing feeder road standards and specifications shall be
eligible for feeder road funds for maintenance, repair and
reconstruction, subject to the prior written approval of such work
by the State Aid Engineer and subject to the work being completed
in accordance with the prior written approval.

SECTION 12. Section 65-9-1, Mississippi Code of 1972, is
amended as follows:

65-9-1. The board of supervisors of each county, now having
full jurisdiction over all roads, ferries, and bridges in its
respective county not maintained as state highways, is hereby
fully authorized and empowered to construct and maintain the same
(including designated state highways not yet taken over by the
highway department); and all such roads under the jurisdiction of
the several boards of supervisors are hereby designated, defined, and declared to be either (a) "feeder" or "local *** roads" or (b) "state aid roads."

State aid roads are hereby defined as that group or class of roads composing the main collector and distributor routes feeding into local trade areas or into the state highway network, which are not designated as state highways by the Legislature, and particularly those essential to the conservation and development of natural resources, of economic and social value, and encouraging desirable land utilization, having in addition the following characteristics, to wit: roads (including bridges and ferries) which

(a) Connect communities within the individual counties and with those of adjoining counties and/or which also connect with the state highway system to form a complete network of secondary or collector routes.

(b) Carry heavy volumes of traffic serving most of the following interests of the counties, to wit:

(1) Agricultural
(2) Business
(3) Educational
(4) Industrial

The State Aid Engineer shall see that the criteria imposed herein are explicitly followed in the designation and in the construction of the state aid roads in each county. The State Aid Engineer shall promulgate regulations pursuant to the Administrative Procedures Act to require the development of a network of intercounty roads and to provide for a review process within the state aid division for the designation of said state aid roads. Such regulations shall also establish standards for state aid route designation. The State Aid Engineer is hereby authorized and directed to withhold funds from such counties until
the state aid roads therein are designated and constructed
according to the characteristics set forth herein.

All other roads under the jurisdiction of the several boards
of supervisors are hereby declared to be "feeder roads" or
"local roads."

State aid roads in the several counties shall be eligible for
state aid in the manner and under the terms and conditions
hereinafter set out. State aid shall consist of any sum or
sums provided by the Legislature to supplement funds furnished by
the several counties for the purpose of constructing, improving,
widening, straightening, surfacing, or reconstructing roads on the
state aid system, and shall be available to the several counties
in such proportion as may be fixed and determined by law. Upon
resolution duly adopted by the board of supervisors of any county
and filed with the State Aid Engineer, an amount not to exceed
fifty percent (50%) of the monies allocated to the county from the
State Aid Road Fund may be transferred to the County Feeder Road
Fund and credited to the county for expenditure by the county on
feeder roads of the county in accordance with the County Feeder
Road Program created under Sections 1 through 11 of House Bill No.
, 2001 Regular Session.

SECTION 13. Section 65-9-17, Mississippi Code of 1972, is
amended follows:

65-9-17. (1) When any county shall have met the
requirements of this chapter and shall have become eligible for
state aid, the State Aid Engineer, as soon as practicable, shall
notify such county in writing of such eligibility and that its
proportionate part of any state funds allocated to it for state
aid may be utilized for construction in the manner provided by
law, and such notice shall also be given in writing to the
Department of Finance and Administration and to the State
Treasurer.
(2) State aid funds shall be allocated to each county for use on state aid system roads in accordance with the provisions of Section 27-65-75. State aid funds allocated to a county also may be expended by a county for projects under the County Feeder Road Program as provided under Section 65-9-1.

(3) State aid funds may be credited to a county in advance of the normal accrual to finance certain state aid improvements, subject to the approval of the State Aid Engineer and subject further to the following limitations:

   (a) That the maximum amount of state aid funds that may be advanced to any county shall not exceed ninety percent (90%) of the state aid funds estimated to accrue to such county during the remainder of the term of office of the board of supervisors of such county.

   (b) That no advance credit of funds will be made to any county when the unobligated balance in the State Aid Road Fund is less than One Million Dollars ($1,000,000.00).

   (c) That such advance crediting of funds be effected by the State Aid Engineer at the time of the approval of the plans and specifications for the proposed improvements.

It is the intent of this provision to utilize to the fullest practicable extent the balance of state aid funds on hand at all times.

(4) State aid funds shall be available to such county to the following extent and in the following manner:

   (a) On state aid projects, other than those on or off the federal aid secondary system to be partially financed with federal funds, state aid funds credited to such county in the State Aid Road Fund shall be available to cover the cost of such project. Upon the awarding of a contract for such state aid project, the board of supervisors of any county will, by an official order of the board, authorize the State Aid Engineer to set up the project fund for such project from that county's state aid funds.
aid fund in the State Treasury. The amount of the project fund will cover the estimated cost of the project, including the contractor's payments and any other costs authorized under this chapter to be paid from state aid funds. Withdrawals from the project fund will be made by requisitions prepared by the State Aid Engineer, based on estimates and other supporting statements and documents prepared or approved by the county engineer, such requisitions, accompanied by such estimates and statements, to be directed to the Department of Finance and Administration, which will issue warrants in payment thereof. Requisitions may be drawn to cover the final cost of the project accepted by the boards of supervisors of the counties affected and the State Aid Engineer, even though such cost exceeds the aforesaid estimated project fund. Whenever, in the opinion of the State Aid Engineer, it should appear that any such estimate or statement of account has been improperly allowed or that any road construction project is not proceeding in accordance with the plans, specifications and standards set up therefor, then, in such event, due notice in writing shall be given the board of supervisors of such county and the contractor on such project, if any, stating the reason why such account should not have been allowed or why such project is not progressing satisfactorily; and if, within thirty (30) days from the date of such notice in writing, such error or default is not corrected to the satisfaction of the State Aid Engineer, all state aid funds theretofore allocated to such eligible county shall be immediately withdrawn and notice given the Department of Finance and Administration and the State Treasurer that such county has become ineligible therefor. Such county shall remain ineligible until it again becomes eligible by satisfying the State Aid Engineer as to its eligibility.

(b) On state aid projects on the federal aid secondary system which are to be partially financed with federal funds, state aid funds credited to such county in the State Aid Road Fund
shall be available to cover the sponsor’s share of the cost of
such project. At the same time, the State Treasurer, on order
from the board of supervisors, shall transfer an amount up to one
hundred percent (100%) of such cost from the credit of such county
in the State Aid Road Fund to the credit of such county in the
State Highway Fund, earmarked for such project.

(c) State aid road funds credited to a county in the
State Aid Road Fund shall also be available to cover the sponsor’s
cost of any other project of such county which is partially
financed with federal funds available through federal "safer
off-system" road funds and/or other federal road funds allocated
to the counties as provided for in accordance with Section
65-9-29(2). On order from the board of supervisors of such
county, the State Treasurer shall transfer an amount up to one
hundred percent (100%) of such cost from the credit of such county
in the State Aid Road Fund to the credit of such county in the
State Highway Fund, earmarked for such project.

(d) Up to one-third (1/3) of state aid road funds
credited to a county in the State Aid Road Fund may be available
to match federal bridge replacement monies or other federal funds,
or both, to construct, replace, inspect or post bridges and to
conduct pavement management surveys on county roads which are not
on the state aid system. To implement such projects, the State
Treasurer shall, as requested in an order from the board of
supervisors of the county, make transfers out of the credit of
such county in the State Aid Road Fund.

(5) The State Treasurer is hereby authorized to continue to
receive and deposit all funds from the federal government made
available by it, either by existing law or by any law which may be
passed hereafter, to the credit of the State Highway Fund, and the
Treasurer shall notify the commission of the amounts so received.

All accounts against the above-mentioned funds shall be
certified to by the Executive Director of the Mississippi
Department of Transportation, who shall request the Department of
Finance and Administration to issue its warrant on the State
Treasurer for the amount of the accounts; and the Treasurer shall
pay same if sufficient funds are available, all in the manner
prescribed herein or as may be required by law.

(6) The board of supervisors of each county is hereby
authorized and empowered to pay funds into the State Treasury in
the manner above set out, and to use and expend such funds for the
purposes set out in this chapter. For the purpose of providing
such funds, the board of supervisors is hereby authorized and
empowered to use and expend any county road and bridge funds,
including revenue received from any gasoline taxes paid to such
county, or any funds available in the General Fund, or to issue
road and bridge bonds of such county in any lawful amount in the
manner and method and subject to the restrictions, limitations and
conditions, and payable from the same sources of revenue, now
provided by law.

SECTION 14. This act shall take effect and be in force from
and after July 1, 2001.