

By: Representatives Pierce, Maples, Ryals

To: Transportation; County  
Affairs

## HOUSE BILL NO. 845

1 AN ACT TO CREATE THE LOCAL SYSTEM ROAD PROGRAM TO BE  
2 ADMINISTERED BY THE STATE AID ENGINEER TO ASSIST COUNTIES IN THE  
3 CONSTRUCTION, RECONSTRUCTION AND PAVING OF COUNTY ROADS NOT ON THE  
4 STATE AID ROAD SYSTEM; TO REQUIRE THE STATE AID ENGINEER TO  
5 ALLOCATE THE AMOUNT OF THE STATE AID ROAD ALLOCATION OF A COUNTY  
6 THAT IS REQUESTED BY SUCH COUNTY FOR USE IN THE CONSTRUCTION,  
7 RECONSTRUCTION AND PAVING OF LOCAL SYSTEM ROADS IF THE COUNTY  
8 MEETS CERTAIN REQUIREMENTS; TO LIMIT THE AMOUNT OF SUCH ALLOCATION  
9 TO NOT MORE THAN 25% OF THE STATE AID ROAD ALLOCATION OF THE  
10 COUNTY; TO REQUIRE THE STATE AID ENGINEER TO ALLOCATE THE AMOUNT  
11 OF THE LOCAL SYSTEM BRIDGE REPLACEMENT AND REHABILITATION PROGRAM  
12 ALLOCATION OF THE COUNTY THAT IS REQUESTED BY SUCH COUNTY FOR USE  
13 IN THE CONSTRUCTION, RECONSTRUCTION AND PAVING OF LOCAL SYSTEM  
14 ROADS IN THE COUNTY IF THE STATE AID ENGINEER HAS CERTIFIED THAT  
15 ALL OF THE LOCAL SYSTEM BRIDGES WITHIN THE COUNTY HAVE A  
16 SUFFICIENCY RATING OF GREATER THAN 50 OR THAT ALL SUCH BRIDGES  
17 WITHIN THE COUNTY WITH A SUFFICIENCY RATING OF 50 OR LESS ARE  
18 CURRENTLY UNDER CONTRACT FOR REPLACEMENT OR REHABILITATION, AND  
19 THE COUNTY MEETS CERTAIN OTHER REQUIREMENTS; TO ESTABLISH CERTAIN  
20 REQUIREMENTS THAT A COUNTY MUST MEET IN ORDER TO BE ELIGIBLE TO  
21 USE STATE AID ROAD FUNDS FOR THE LOCAL SYSTEM ROAD PROGRAM; TO  
22 AMEND SECTIONS 65-9-1, 65-9-17 AND 65-37-7, MISSISSIPPI CODE OF  
23 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

25 SECTION 1. This act shall be known and may be cited as the  
26 "Local System Road Program."

27 SECTION 2. For the purposes of this act, the term "local  
28 system road" means a road that is included on the county road  
29 system as designated under Section 65-7-4 that (a) is functionally  
30 classified as a local rural road in accordance with policies on  
31 geometric design of highways and streets adopted and published by  
32 the American Association of State Highway and Transportation  
33 Officials; (b) provides access to the state aid system, the  
34 federal aid system or the designated state highway system; and (c)  
35 has an average daily traffic count of four hundred (400) vehicles  
36 or less. The term "local system road" includes all drainage  
37 related structures except bridges that are included on the



38 National Bridge Inspection Inventory maintained by the Office of  
39 State Aid Road Construction. The term "local system road" does  
40 not include a road or highway on the designated state highway  
41 system.

42 SECTION 3. (1) There is established a Local System Road  
43 Program which shall be administered by the State Aid Engineer for  
44 the purpose of assisting the counties of this state in the  
45 construction, reconstruction and paving of local system roads.

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

49 SECTION 4. The Local System Road Program shall be  
50 administered by the State Aid Engineer. In administering the  
51 program, the State Aid Engineer shall have the following powers  
52 and duties:

53 (a) To supervise the use of all funds made available  
54 for the purposes of this act for use on local system roads in the  
55 State of Mississippi;

56 (b) To allocate to each county that county's share of  
57 all monies made available under the provisions of this act but  
58 only when the county has complied with the provisions of this act  
59 and only when the county is eligible for the allocation of monies  
60 under the Local System Road Program;

61 (c) To keep and compile records of all expenditures on  
62 local system roads to which money is disbursed under the  
63 provisions of this act, which records must be kept separate and  
64 apart from other state aid records;

65 (d) To approve the construction of local system roads,  
66 including roadbeds, grades and drainage, before authorizing the  
67 release of funds under this act;

68 (e) To establish such rules and regulations as the  
69 State Aid Engineer determines as necessary to implement the  
70 provisions of the Local System Road Program; and



71 (f) To report to the Legislature, no later than January  
72 1 of each year, on the Local System Road Program. Such report  
73 shall include what projects were approved and constructed, the  
74 number of miles constructed or improved and the cost per mile for  
75 such construction and improvement.

76 SECTION 5. (1) The State Aid Engineer shall allocate  
77 annually the amount of the state aid road allocation of a county  
78 that is requested by such county for use in the construction,  
79 reconstruction and paving of local system roads in the county if  
80 the county has met the requirements of this act; however, the  
81 State Aid Engineer shall not allocate more than twenty-five  
82 percent (25%) of the annual state aid road allocation of a county  
83 for such purposes.

84 (2) The State Aid Engineer shall allocate annually the  
85 amount of the Local System Bridge Replacement and Rehabilitation  
86 Program allocation of a county that is requested by such county  
87 for use in the construction, reconstruction and paving of local  
88 system roads in the county if:

89 (a) The State Aid Engineer has certified, pursuant to  
90 Section 65-37-7, that all the local system bridges within the  
91 county have a sufficiency rating of greater than fifty (50) or  
92 that all such bridges within the county with a sufficiency rating  
93 of fifty (50) or less are currently under contract for replacement  
94 or rehabilitation; and

95 (b) The county has met the requirements of this act.

96 (3) The State Aid Engineer shall establish specific designs  
97 and standards to be followed by such counties in the construction,  
98 reconstruction and paving of local system roads. The specific  
99 designs and standards shall be based upon policies on geometric  
100 design of local rural roads, highways and streets adopted and  
101 published by the American Association of State Highway and  
102 Transportation Officials.



103           SECTION 6. (1) In order for a county to be eligible to  
104 utilize its Local System Bridge Replacement and Rehabilitation  
105 Program allocation or any of its state aid road funds for the  
106 Local System Road Program, a county must meet the following  
107 conditions:

108           (a) The county has employed a county engineer, together  
109 with such other technical assistance as is necessary to carry out  
110 the duties of this act, the same as provided under the provisions  
111 of Section 65-9-15, for its state aid road system and, through its  
112 official minutes, has authorized the county engineer to perform  
113 the necessary engineering services connected with the Local System  
114 Road Program. The county engineer shall prepare the necessary  
115 plans and designs for all construction projects, including state  
116 aid projects and projects provided under this act. He also shall  
117 provide engineering supervision for the construction of such  
118 projects and shall approve all estimate payments made on the  
119 projects. Engineering cost for any project performed under the  
120 Local System Road Program may be paid from any funds allocated to  
121 a county under the program; however, the maximum fee paid to an  
122 engineer shall not exceed twelve percent (12%) of the final  
123 construction cost. No such cost shall be reimbursed to the county  
124 before the letting of the project; and

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



136           (2) After the initial approval of the plan and plans as  
137 specified in subsection (1)(b) of this section has been made by  
138 the State Aid Engineer, the county shall be eligible to receive  
139 all funds made available to the county under the Local System Road  
140 Program to be used exclusively for the construction,  
141 reconstruction or paving of the local system road. The project  
142 may be performed either by contract or by using county equipment  
143 and employees. The project shall be performed according to the  
144 original plan or any amendments thereto which have been approved  
145 by the State Aid Engineer. The board may use county equipment and  
146 employees if the construction can be accomplished at a more  
147 reasonable cost than can be achieved by contract.

148           SECTION 7. All rights-of-way and adjustments for utilities  
149 necessary for Local System Road Program projects must be acquired  
150 or performed by the boards of supervisors in the manner provided  
151 by law for the acquisition of rights-of-way, including gift,  
152 purchase, deed, dedication and eminent domain; however, no part of  
153 the cost of such rights-of-way may be paid from Local System Road  
154 Program funds.

155           SECTION 8. Contracts for the construction of local system  
156 road projects must be advertised and let by the board of  
157 supervisors of the county in the manner required by law. Before  
158 advertising for bids, plans and specifications covering the  
159 proposed work shall be prepared by the county engineer and filed  
160 in the chancery clerk's office of the county. Copies of the plans  
161 and specifications shall be subject to inspection during regular  
162 office hours and shall be made available to all prospective  
163 bidders upon such terms and conditions as may be required by the  
164 board and its county engineer.

165           SECTION 9. The boards of supervisors shall properly maintain  
166 all roads constructed under the Local System Road Program in their  
167 respective counties. The board and its county engineer shall make  
168 annual maintenance inspections of completed projects to determine



169 if essential maintenance is being carried on and the board shall  
170 record on its official minutes the determinations made from such  
171 maintenance inspections.

172 SECTION 10. Section 65-9-1, Mississippi Code of 1972, is  
173 amended as follows:

174 65-9-1. The board of supervisors of each county, now having  
175 full jurisdiction over all roads, ferries, and bridges in its  
176 respective county not maintained as state highways, is hereby  
177 fully authorized and empowered to construct and maintain the same  
178 (including designated state highways not yet taken over by the  
179 highway department); and all such roads under the jurisdiction of  
180 the several boards of supervisors are hereby designated, defined,  
181 and declared to be either (a) "feeder" or "local farm roads" or  
182 (b) "state aid roads."

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

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

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

- 198 (1) Agricultural;  
199 (2) Business;  
200 (3) Educational;  
201 (4) Industrial.



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

214           All other roads under the jurisdiction of the several boards  
215 of supervisors are hereby declared to be "local farm roads" and  
216 not affected in anywise by this chapter.

217           State aid roads in the several counties shall be eligible for  
218 state aid in the manner and under the terms and conditions  
219 hereinafter set out. Local system roads (as defined in Section 2  
220 of House Bill No. \_\_\_\_\_, 2001 Regular Session) in the several  
221 counties shall be eligible for state aid in the manner and under  
222 the terms and conditions set out in the Local System Road Program  
223 established in Sections 1 through 9 of House Bill No. \_\_\_\_\_, 2001  
224 Regular Session. State aid, by way of funds to be expended on  
225 state aid roads and local system roads (as defined in Section 2 of  
226 House Bill No. \_\_\_\_\_, 2001 Regular Session), shall consist of any  
227 sum or sums provided by the Legislature to supplement funds  
228 furnished by the several counties for the purpose of constructing,  
229 improving, widening, straightening, surfacing, or reconstructing  
230 roads on the state aid system or for the purpose of the  
231 construction, reconstruction and paving of roads on the Local  
232 System Road Program, and shall be available to the several  
233 counties in such proportion as may be fixed and determined by law.



234 SECTION 11. Section 65-9-17, Mississippi Code of 1972, is  
235 amended as follows:

236 65-9-17. (1) When any county shall have met the  
237 requirements of this chapter and shall have become eligible for  
238 state aid, the State Aid Engineer, as soon as practicable, shall  
239 notify such county in writing of such eligibility and that its  
240 proportionate part of any state funds allocated to it for state  
241 aid may be utilized for construction in the manner provided by  
242 law, and such notice shall also be given in writing to the  
243 Department of Finance and Administration and to the State  
244 Treasurer.

245 (2) State aid funds shall be allocated to each county for  
246 use on state aid system roads or roads on the Local System Road  
247 Program in accordance with the provisions of Section 27-65-75.

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

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

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

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

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





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

268 (a) On state aid projects, other than those on or off  
269 the federal aid secondary system to be partially financed with  
270 federal funds, state aid funds credited to such county in the  
271 State Aid Road Fund shall be available to cover the cost of such  
272 project. Upon the awarding of a contract for such state aid  
273 project, the board of supervisors of any county will, by an  
274 official order of the board, authorize the State Aid Engineer to  
275 set up the project fund for such project from that county's state  
276 aid fund in the State Treasury. The amount of the project fund  
277 will cover the estimated cost of the project, including the  
278 contractor's payments and any other costs authorized under this  
279 chapter to be paid from state aid funds. Withdrawals from the  
280 project fund will be made by requisitions prepared by the State  
281 Aid Engineer, based on estimates and other supporting statements  
282 and documents prepared or approved by the county engineer, such  
283 requisitions, accompanied by such estimates and statements, to be  
284 directed to the Department of Finance and Administration, which  
285 will issue warrants in payment thereof. Requisitions may be drawn  
286 to cover the final cost of the project accepted by the boards of  
287 supervisors of the counties affected and the State Aid Engineer,  
288 even though such cost exceeds the aforesaid estimated project  
289 fund. Whenever, in the opinion of the State Aid Engineer, it  
290 should appear that any such estimate or statement of account has  
291 been improperly allowed or that any road construction project is  
292 not proceeding in accordance with the plans, specifications and  
293 standards set up therefor, then, in such event, due notice in  
294 writing shall be given the board of supervisors of such county and  
295 the contractor on such project, if any, stating the reason why  
296 such account should not have been allowed or why such project is  
297 not progressing satisfactorily; and if, within thirty (30) days  
298 from the date of such notice in writing, such error or default is



299 not corrected to the satisfaction of the State Aid Engineer, all  
300 state aid funds theretofore allocated to such eligible county  
301 shall be immediately withdrawn and notice given the Department of  
302 Finance and Administration and the State Treasurer that such  
303 county has become ineligible therefor. Such county shall remain  
304 ineligible until it again becomes eligible by satisfying the State  
305 Aid Engineer as to its eligibility.

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

315 (c) State aid road funds credited to a county in the  
316 State Aid Road Fund shall also be available to cover the sponsor's  
317 cost of any other project of such county which is partially  
318 financed with federal funds available through federal "safer  
319 off-system" road funds and/or other federal road funds allocated  
320 to the counties as provided for in accordance with Section  
321 65-9-29(2). On order from the board of supervisors of such  
322 county, the State Treasurer shall transfer an amount up to one  
323 hundred percent (100%) of such cost from the credit of such county  
324 in the State Aid Road Fund to the credit of such county in the  
325 State Highway Fund, earmarked for such project.

326 (d) Up to one-third (1/3) of state aid road funds  
327 credited to a county in the State Aid Road Fund may be available  
328 to match federal bridge replacement monies or other federal funds,  
329 or both, to construct, replace, inspect or post bridges and to  
330 conduct pavement management surveys on county roads which are not  
331 on the state aid system. To implement such projects, the State



332 Treasurer shall, as requested in an order from the board of  
333 supervisors of the county, make transfers out of the credit of  
334 such county in the State Aid Road Fund.

335 (e) Up to twenty-five percent (25%) of the state aid  
336 road funds credited to a county in the State Aid Road Fund may be  
337 available for projects authorized under the Local System Road  
338 Program. Withdrawals from the fund for the Local System Road  
339 Program will be made by requisitions prepared by the State Aid  
340 Engineer, based on estimates and other supporting statements and  
341 documents prepared or approved by the county engineer; such  
342 requisitions, accompanied by such estimates and statements, to be  
343 directed to the Department of Finance and Administration, which  
344 will issue warrants in payment thereof. Requisitions may be drawn  
345 to cover the final cost of the local system road project accepted  
346 by the boards of supervisors of the counties affected and the  
347 State Aid Engineer even though such cost exceeds the estimated  
348 project fund. Whenever, in the opinion of the State Aid Engineer,  
349 it appears that any such estimate or statement of account has been  
350 improperly allowed or that any road construction project is not  
351 proceeding in accordance with the plans, specifications and  
352 standards set up therefor, then due notice in writing shall be  
353 given the board of supervisors of such county and the contractor  
354 on such project, if any, stating the reason why such account  
355 should not have been allowed or why such project is not  
356 progressing satisfactorily. If within thirty (30) days from the  
357 date of the notice in writing, the error or default is not  
358 corrected to the satisfaction of the State Aid Engineer, all state  
359 aid funds allocated to the eligible county shall be immediately  
360 withdrawn and notice given the Department of Finance and  
361 Administration and the State Treasurer that the county has become  
362 ineligible therefor. The county shall remain ineligible until it  
363 again becomes eligible by satisfying the State Aid Engineer as to  
364 its eligibility.



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

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

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

389 SECTION 12. Section 65-37-7, Mississippi Code of 1972, is  
390 amended as follows:

391 65-37-7. (1) In order for a county to be eligible for the  
392 expenditure of funds under the provisions of Sections 65-37-1  
393 through 65-37-15, the board of supervisors of the county shall  
394 meet the following conditions:

395 (a) On or before January 1, 1995, and on or before  
396 January 1 of each year thereafter, the board of supervisors shall  
397 present to the State Aid Engineer on a form to be prepared by the



398 State Aid Engineer, a four-year plan of bridge replacement and  
399 rehabilitation for the county. The plan shall identify the  
400 project or projects and shall contain a detailed plan prepared and  
401 approved by the engineer for the county. The plan shall specify  
402 the condition of the existing bridges included in the project, the  
403 drainage requirements, the type of replacement or rehabilitation  
404 to be made and the design and specifications therefor. Four-year  
405 plans may be modified each year or more often as necessary  
406 provided that the modifications are submitted to the State Aid  
407 Engineer.

408 (b) The county shall agree to employ a qualified  
409 engineer and such other technical experts as may be necessary to  
410 perform all engineering services required for the projects. The  
411 engineer shall be required to inspect the construction of the  
412 projects and to approve all estimate payments made on the  
413 projects.

414 (c) The county and municipalities shall agree to  
415 construct, at their own expense, the base and surface of all  
416 approaches providing necessary connections to each bridge project  
417 within their respective jurisdictions, including the base and  
418 surface for culvert projects whenever fill material is placed as  
419 part of the contract.

420 (d) The county and municipalities shall agree, at their  
421 own expense, to acquire all rights-of-way and relocate or make  
422 adjustments to public utilities for each bridge project within  
423 their respective jurisdictions as may be necessary in the manner  
424 provided by law for the acquisition of rights-of-way and the  
425 uniform policy for accommodation of utility facilities within the  
426 rights-of-way of state aid roads as adopted by the State Aid  
427 Engineer under authority of Section 65-9-1 et seq. Rights-of-way  
428 may be acquired by gift, purchase, deed, dedication or eminent  
429 domain; however, no part of the costs of rights-of-way or utility



430 adjustments may be paid from funds provided under Sections 65-37-1  
431 through 65-37-15.

432 (2) A county shall not be eligible for the expenditure of  
433 monies allocated to it under Sections 65-37-1 through 65-37-15 and  
434 the State Aid Engineer shall not certify the use or expenditure of  
435 such monies on any bridge that has a sufficiency rating of greater  
436 than fifty (50), as determined by National Bridge Inspection  
437 standards, unless the State Aid Engineer certifies that all  
438 bridges on the local road system within the county for which funds  
439 may be made available under Sections 65-37-1 through 65-37-15 have  
440 a sufficiency rating of greater than fifty (50) or that all such  
441 bridges in the county with a sufficiency rating of less than fifty  
442 (50) are currently under contract for replacement or  
443 rehabilitation. When the State Aid Engineer certifies that all  
444 such bridges of a county have a sufficiency rating of greater than  
445 fifty (50) or that all such bridges within the county with a  
446 sufficiency rating of fifty (50) or less are currently under  
447 contract for replacement or rehabilitation, then that county shall  
448 be eligible for the expenditure of funds allocated to it under  
449 Sections 65-37-1 through 65-37-15 for:

450 (a) The maintenance and replacement of other drainage  
451 related structures in accordance with designs and standards  
452 prescribed for such projects by the Office of State Aid Road  
453 Construction, or

454 (b) The Local System Road Program established pursuant  
455 to Sections 1 through 9 of House Bill No. \_\_\_\_\_, 2001 Regular  
456 Session.

457 SECTION 13. This act shall take effect and be in force from  
458 and after July 1, 2001.

