HOUSE BILL NO. 845

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

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

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

SECTION 2. For the purposes of this act, the term "local system road" means a road that is included on the county road system as designated under Section 65-7-4 that (a) is functionally classified as a local rural road in accordance with policies on geometric design of highways and streets adopted and published by the American Association of State Highway and Transportation Officials; (b) provides access to the state aid system, the federal aid system or the designated state highway system; and (c) has an average daily traffic count of four hundred (400) vehicles or less. The term "local system road" includes all drainage related structures except bridges that are included on the
National Bridge Inspection Inventory maintained by the Office of State Aid Road Construction. The term "local system road" does not include a road or highway on the designated state highway system.

SECTION 3. (1) There is established a Local System 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 local system roads.

(2) Routes on which projects are performed under 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 Local System 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 for the purposes of this act for use on local system roads in the State of Mississippi;

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

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

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

(e) To establish such rules and regulations as the State Aid Engineer determines as necessary to implement the provisions of the Local System Road Program; and
(f) To report to the Legislature, no later than January 1 of each year, on the Local System Road Program. Such report shall include 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) The State Aid Engineer shall allocate annually the amount of the state aid road allocation of a county that is requested by such county for use in the construction, reconstruction and paving of local system roads in the county if the county has met the requirements of this act; however, the State Aid Engineer shall not allocate more than twenty-five percent (25%) of the annual state aid road allocation of a county for such purposes.

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

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

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

(3) The State Aid Engineer shall establish specific designs and standards to be followed by such counties in the construction, reconstruction and paving of local system 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 6. (1) In order for a county to be eligible to utilize its Local System Bridge Replacement and Rehabilitation Program allocation or any of its state aid road funds for the Local System 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 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 Local System Road Program. The county engineer shall prepare the necessary plans and designs for all construction projects, including state aid projects and projects provided under 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 Local System Road Program may be paid from any funds allocated to a county under the program; however, the maximum fee paid to an engineer 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 local system 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 county shall be eligible to receive all funds made available to the county under the Local System Road Program to be used exclusively for the construction, reconstruction or paving of the local system road. The project may be performed either by contract or by using county equipment and employees. The project shall be performed according to the original plan or any amendments thereto which have been approved by the State Aid Engineer. The board may use county equipment and employees if the construction can be accomplished at a more reasonable cost than can be achieved by contract.

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

SECTION 8. Contracts for the construction of local system 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 9. The boards of supervisors shall properly maintain all roads constructed under the Local System Road Program in their respective counties. The board and its county engineer shall make annual maintenance inspections of completed projects to determine
if essential maintenance is being carried on and the board shall
record on its official minutes the determinations made from such
maintenance inspections.

SECTION 10. 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 farm 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 "local farm roads" and not affected in anywise by this chapter.

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. Local system roads (as defined in Section 2 of House Bill No. ____, 2001 Regular Session) in the several counties shall be eligible for state aid in the manner and under the terms and conditions set out in the Local System Road Program established in Sections 1 through 9 of House Bill No. ____, 2001 Regular Session. State aid, by way of funds to be expended on state aid roads and local system roads (as defined in Section 2 of House Bill No. ____, 2001 Regular Session), 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 or for the purpose of the construction, reconstruction and paving of roads on the Local System Road Program, and shall be available to the several counties in such proportion as may be fixed and determined by law.
SECTION 11. Section 65-9-17, Mississippi Code of 1972, is amended as 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 or roads on the Local System Road Program in accordance with the provisions of Section 27-65-75.

(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 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.

(e) Up to twenty-five percent (25%) of the state aid road funds credited to a county in the State Aid Road Fund may be available for projects authorized under the Local System Road Program. Withdrawals from the fund for the Local System Road Program 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 local system road project accepted by the boards of supervisors of the counties affected and the State Aid Engineer even though such cost exceeds the estimated project fund. Whenever, in the opinion of the State Aid Engineer, it appears 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 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. If within thirty (30) days from the date of the notice in writing, the error or default is not corrected to the satisfaction of the State Aid Engineer, all state aid funds allocated to the eligible county shall be immediately withdrawn and notice given the Department of Finance and Administration and the State Treasurer that the county has become ineligible therefor. The county shall remain ineligible until it again becomes eligible by satisfying the State Aid Engineer as to its eligibility.
(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 12. Section 65-37-7, Mississippi Code of 1972, is amended as follows:

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

(a) On or before January 1, 1995, and on or before January 1 of each year thereafter, the board of supervisors shall present to the State Aid Engineer on a form to be prepared by the
State Aid Engineer, a four-year plan of bridge replacement and rehabilitation for the county. The plan shall identify the project or projects and shall contain a detailed plan prepared and approved by the engineer for the county. The plan shall specify the condition of the existing bridges included in the project, the drainage requirements, the type of replacement or rehabilitation to be made and the design and specifications therefor. Four-year plans may be modified each year or more often as necessary provided that the modifications are submitted to the State Aid Engineer.

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

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

(d) The county and municipalities shall agree, at their own expense, to acquire all rights-of-way and relocate or make adjustments to public utilities for each bridge project within their respective jurisdictions 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 Sections 65-37-1 through 65-37-15.

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

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

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

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