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To: Highways and
Transportation; County
Affairs

SENATE BILL NO. 2318

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; provided,
81 however, that the State Aid Engineer shall not allocate more than
82 twenty-five percent (25%) of the annual state aid road allocation
83 of a county 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 done either by contract or by using county equipment and
143 employees. It shall be according to the original plan or any
144 amendments thereto which have been approved by the State Aid
145 Engineer. The board may use county equipment and employees if the
146 construction can be accomplished at a more reasonable cost than
147 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 Senate Bill No. 2318, 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 Senate Bill No. 2318, 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 Senate Bill No. 2318, 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 aforesaid
348 estimated project fund. Whenever, in the opinion of the State Aid
349 Engineer, it should appear that any such estimate or statement of
350 account has been improperly allowed or that any road construction
351 project is not proceeding in accordance with the plans,
352 specifications and standards set up therefor, then, in such event,
353 due notice in writing shall be given the board of supervisors of
354 such county and the contractor on such project, if any, stating
355 the reason why such account should not have been allowed or why
356 such project is not progressing satisfactorily; and if, within
357 thirty (30) days from the date of such notice in writing, such
358 error or default is not corrected to the satisfaction of the State
359 Aid Engineer, all state aid funds theretofore allocated to such
360 eligible county shall be immediately withdrawn and notice given
361 the Department of Finance and Administration and the State

362 Treasurer that such county has become ineligible therefor. Such
363 county shall remain ineligible until it again becomes eligible by
364 satisfying the State Aid Engineer as to 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 Senate Bill No. 2318, 2001 Regular
456 Session.

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