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 or on the state aid road 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; provided, however, that 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 done either by contract or by using county equipment and
employees. It shall be 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. It shall be the duty of the several boards of
supervisors to properly maintain all local system roads in their
respective counties after construction of any such roads under Sections 1 through 9 of Senate Bill No. 2318, 2001 Regular Session. 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 the Local System Road Program. If such failure to maintain continues, then such county shall be no longer eligible for monies under the Local System Road Program until proper maintenance is resumed by it, and notice of such withdrawal of local system road funds shall be duly given the State Auditor and State Treasurer; however, such ineligibility shall not affect payment under the Local System Road Program of progress or final estimates on contracts awarded before notice of such ineligibility.

Local system roads that have been hard surfaced through the use of local system road funds shall be eligible for local system road funds to provide one or more seal courses, as required. Local system roads in which the grading and drainage structures were constructed under the Local System 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 local system 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 local system 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.

Local system roads that were constructed in accordance with the then prevailing local system road standards and specifications shall be eligible for local system 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 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 Senate Bill No. 2318, 2001 Regular Session) in the several counties shall be eligible for state aid in the manner and under the terms and conditions established in Sections 1 through 9 of Senate Bill No. 2318, 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 Senate Bill No. 2318, 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 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
to 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.

(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 Senate Bill No. 2318, 2001 Regular Session.

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