

By: Representatives Busby, Mangold, Sykes,
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To: Transportation

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1122

1 AN ACT TO AMEND SECTIONS 65-37-1, 65-37-3, 65-37-7, 65-37-11
2 AND 65-37-15, MISSISSIPPI CODE OF 1972, TO REVISE THE LOCAL SYSTEM
3 BRIDGE REPLACEMENT AND REHABILITATION PROGRAM'S DEFINITION OF
4 DEFICIENT BRIDGE; TO BRING FORWARD SECTIONS 65-37-5, 65-37-9 AND
5 65-37-13, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE
6 AMENDMENT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 65-37-1, Mississippi Code of 1972, is
9 amended as follows:

10 65-37-1. (1) There is established a local system bridge
11 replacement and rehabilitation program to be administered by the
12 State Aid Engineer for the purpose of assisting counties and
13 municipalities in the replacement and rehabilitation of certain
14 bridges located on local road systems in the counties and in
15 incorporated municipalities within the counties. In order to be
16 eligible under this program, a bridge must be * * * considered
17 deficient as determined by the National Bridge Inspection
18 Standards * * * and must be included on the latest annual official
19 bridge inventory maintained by the Office of State Aid Road
20 Construction, excluding bridge inventories on the state aid road



21 system, the municipal urban system or the rural major collector
22 system.

23 (2) In the replacement or rehabilitation of bridges pursuant
24 to this chapter, consideration may be given to utilizing timber
25 products on some projects, provided that such projects using
26 timber products will be comparable in cost to, and can be
27 constructed to meet current standards for, similar projects using
28 concrete and steel.

29 (3) The provisions of this chapter shall not be construed to
30 permit routes on which projects are performed under this chapter
31 to be eligible for inclusion on the state aid road system except
32 in accordance with the provisions of * * * Section 65-9-1 et seq.

33 **SECTION 2.** Section 65-37-3, Mississippi Code of 1972, is
34 amended as follows:

35 65-37-3. (1) For the purposes of this section, the
36 following terms shall have the meanings ascribed to them in this
37 subsection:

38 (a) "Deficient bridge" means a bridge that is eligible
39 for replacement or rehabilitation as determined by the National
40 Bridge Inspection Standards * * * and that is included on the
41 latest annual official bridge inventory prepared by the Office of
42 State Aid Road Construction as a bridge having a * * * National
43 Bridge Inspection Standards condition rating of fair or less,
44 excluding bridges on the state aid road system, the municipal
45 urban system and the rural major collector system.



46 (b) "Local system road miles" means all highways, roads
47 and streets within a county, including highways, roads and streets
48 within incorporated municipalities of the county, that are not
49 included on the designated state highway system.

50 (2) From the funds on deposit and credited to the Local
51 System Bridge Replacement and Rehabilitation Fund created in
52 Section 65-37-13, each county shall be allocated a percentage of
53 such funds as they become available, which percentage shall be
54 based:

55 (a) One-half (1/2) on the proportion that the total
56 number of deficient bridges in the county bears to the total
57 number of deficient bridges in all counties of the state; and

58 (b) One-half (1/2) on the proportion that the total
59 number of local system road miles in the county bears to the total
60 number of local system road miles in all counties of the state.

61 **SECTION 3.** Section 65-37-7, Mississippi Code of 1972, is
62 amended as follows:

63 65-37-7. (1) In order for a county to be eligible for the
64 expenditure of funds under the provisions of Sections 65-37-1
65 through 65-37-15, the board of supervisors of the county shall
66 meet the following conditions:

67 (a) On or before January 1, 1995, and on or before
68 January 1 of each year thereafter, the board of supervisors shall
69 present to the State Aid Engineer on a form to be prepared by the
70 State Aid Engineer, a four-year plan of bridge replacement and



71 rehabilitation for the county. The plan shall identify the
72 project or projects and shall contain a detailed plan prepared and
73 approved by the engineer for the county. The plan shall specify
74 the condition of the existing bridges included in the project, the
75 drainage requirements, the type of replacement or rehabilitation
76 to be made and the design and specifications therefor. Four-year
77 plans may be modified each year or more often as necessary
78 provided that the modifications are submitted to the State Aid
79 Engineer.

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

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

92 (d) The county and municipalities shall agree to
93 acquire all rights-of-way and relocate or make adjustments to
94 public utilities for each bridge project within their respective
95 jurisdictions as may be necessary in the manner provided by law



96 for the acquisition of rights-of-way and the uniform policy for
97 accommodation of utility facilities within the rights-of-way of
98 state aid roads as adopted by the State Aid Engineer under
99 authority of Section 65-9-1 et seq. Rights-of-way may be acquired
100 by gift, purchase, deed, dedication or eminent domain. The only
101 costs that may be paid from funds provided under Sections 65-37-1
102 through 65-37-15 for right-of-way acquisition shall be the actual
103 cost paid by the county to the landowner for the land acquired as
104 certified to the State Aid Engineer by the attorney for the board
105 of supervisors. The only cost that may be paid from funds
106 provided under Sections 65-37-1 through 65-37-15 for utility
107 adjustments shall be the actual cost paid by the county for
108 utility adjustments pursuant to contract let by the county as
109 certified to the State Aid Engineer by order of the board of
110 supervisors.

111 (2) A county shall not be eligible for the expenditure of
112 monies allocated to it under Sections 65-37-1 through 65-37-15 and
113 the State Aid Engineer shall not certify the use or expenditure of
114 such monies on any bridge that * * * is not considered deficient
115 as determined by National Bridge Inspection standards, unless the
116 State Aid Engineer certifies that all bridges on the local road
117 system within the county for which funds may be made available
118 under Sections 65-37-1 through 65-37-15 * * * that are deficient
119 are currently under contract for replacement or rehabilitation.
120 When the State Aid Engineer certifies that all * * * deficient



121 bridges within the county * * * are currently under contract for
122 replacement or rehabilitation, then that county shall be eligible
123 for the expenditure of funds allocated to it under Sections
124 65-37-1 through 65-37-15 for:

125 (a) The maintenance and replacement of other
126 drainage-related structures in accordance with designs and
127 standards prescribed for such projects by the Office of State Aid
128 Road Construction;

129 (b) The Local System Road Program established pursuant
130 to Sections 65-18-1 through 65-18-17; and

131 (c) The matching of federal funds for expenditure on
132 state aid roads and bridge replacement in accordance with Section
133 65-9-29.

134 (3) (a) Except as otherwise provided in paragraph (d) of
135 this subsection (3), when a county has failed to expend the monies
136 allocated to it under the Local System Bridge Replacement and
137 Rehabilitation Program, as described in Sections 65-37-1 through
138 65-37-15, for an uninterrupted period of two (2) successive fiscal
139 years, the county shall forfeit and no longer be entitled to the
140 outstanding cumulative balance on hand of the monies that were
141 allocated to it under the program before that period of time.

142 (b) The county is eligible to receive funds allocated
143 to it in fiscal years occurring after that period of time that
144 caused a forfeiture under the provisions of paragraph (a) of this



145 subsection (3), unless it so forfeits monies again under that
146 provision.

147 (c) Monies forfeited each fiscal year under the
148 provisions of this subsection (3) shall be reallocated annually
149 among only those counties that are determined by the State Aid
150 Engineer to have Local System Bridge Replacement and
151 Rehabilitation Program projects that are ready for construction
152 but are not being undertaken due to lack of funds.

153 (d) Before a forfeiture of funds may occur under the
154 provisions of paragraph (a) of this subsection (3), the State Aid
155 Engineer shall give written notice to the board of supervisors of
156 the county at least ninety (90) days before the forfeiture, and
157 for good cause shown, he may allow the county an additional twelve
158 (12) months to expend the funds subject to the forfeiture.

159 **SECTION 4.** Section 65-37-11, Mississippi Code of 1972, is
160 amended as follows:

161 65-37-11. (1) The board of supervisors of each county and
162 the governing authorities of each municipality shall be
163 responsible for properly maintaining all bridges replaced or
164 repaired in their respective jurisdictions and for performing
165 National Bridge Inspection Standard (NBIS) compliant inspections
166 under the provisions of this chapter.

167 (2) The State Aid Engineer and his assistants shall make
168 annual maintenance inspections of completed bridge projects
169 and * * * ensure that NBIS compliant inspections are performed as



170 the State Aid Engineer deems necessary. If at any time the State
171 Aid Engineer is of the opinion that a county or municipality has
172 not provided NBIS compliant bridge inspections or proper
173 maintenance as required by subsection (1) of this section, he
174 shall give written notice thereof to the board of supervisors of
175 the county or the governing authorities of the municipality of
176 default and direct such maintenance as may be necessary to be
177 performed. If within sixty (60) days of the receipt of such
178 notice the board of supervisors or governing authorities have not
179 performed such maintenance as may be necessary, then the county or
180 municipality shall not thereafter be eligible to participate in
181 the Local System Bridge Replacement and Rehabilitation Program.

182 (3) Whenever any county fails to be eligible for the
183 expenditure of monies allocated to it under the provisions of this
184 chapter for a continuous period of two (2) years because it has
185 failed to properly maintain bridges under the Local System Bridge
186 Replacement and Rehabilitation Program, then the county shall
187 forfeit and no longer be entitled to any part of the monies in the
188 Local System Bridge Replacement and Rehabilitation Fund
189 theretofore allocated to it. The balance of the monies
190 theretofore allocated to it shall be reallocated pro rata among
191 all other eligible counties in accordance with the formula
192 established in Section 65-37-3.

193 **SECTION 5.** Section 65-37-15, Mississippi Code of 1972, is
194 amended as follows:



195 65-37-15. Notwithstanding any other provisions of this
196 chapter, when all deficient bridges of a county * * * have been
197 replaced or are under contract for replacement or rehabilitation,
198 then monies in the Local System Bridge Replacement and
199 Rehabilitation Fund created under Section 65-37-13, that are
200 allocated to a particular county may be expended for (a) the
201 purpose of paying the principal, interest and debt service on any
202 bonds, notes or obligations issued or incurred by that county
203 before the effective date of this chapter for the purpose of
204 replacing or rehabilitating any bridge or drainage-related
205 structure on any highway, road or street under the jurisdiction of
206 that county, (b) on bridges in the State Aid Road System, or (c)
207 if bridges in the State Aid Road System of that county are in
208 sufficient repair, such monies may be utilized for the repair of
209 roads on the State Aid Road System or local system roads, upon
210 presentation to the State Aid Engineer of a resolution duly
211 adopted and entered on the minutes of the board of supervisors of
212 such county requesting such expenditure and reciting in the
213 resolution such information as may be necessary for the State Aid
214 Engineer to determine that the county is eligible for expenditure
215 of funds under the provisions of this section.

216 **SECTION 6.** Section 65-37-5, Mississippi Code of 1972, is
217 brought forward as follows:

218 65-37-5. In administering the provisions of this chapter,
219 the State Aid Engineer shall have the following powers and duties:



220 (a) To supervise the use of all funds made available
221 under this chapter for local bridge replacement and rehabilitation
222 projects on local road systems;

223 (b) To review and certify all projects for which funds
224 are authorized to be made available under this chapter for local
225 bridge replacement and rehabilitation projects on local road
226 systems;

227 (c) To requisition monies in the Local System Bridge
228 Replacement and Rehabilitation Fund and pay and distribute those
229 monies on a project-by-project basis in accordance with the
230 allocation formula established by Section 65-37-3;

231 (d) To insure that each four-year plan submitted by a
232 county to the State Aid Engineer and the funds allocated to a
233 county under this chapter provide for an equitable distribution of
234 projects and funds among the county and incorporated
235 municipalities located therein based upon the number and costs of
236 deficient bridges in both the county and the municipalities;

237 (e) To establish and require specific designs and
238 standards to be followed by the counties in replacing and
239 rehabilitating bridges under this chapter, which designs and
240 standards shall equal or exceed the design and standards
241 prescribed for bridges on the state aid road system;

242 (f) To maintain an accurate record of all local bridge
243 replacement and rehabilitation funds allocated to counties and of
244 the number of bridges replaced or rehabilitated, their location



245 and the costs for each project. Such records shall be kept
246 separate from other records of the Office of State Aid Road
247 Construction;

248 (g) To periodically notify the counties of bridges
249 eligible for replacement and rehabilitation under the provisions
250 of this chapter;

251 (h) To adopt and promulgate such rules and regulations
252 as may be necessary or desirable for the purpose of implementing
253 the provisions of this chapter; and

254 (i) To file annually with the Legislature a report
255 detailing how monies in the Local System Bridge Replacement and
256 Rehabilitation Fund were spent during the preceding fiscal year in
257 each county, including in the incorporated municipalities of each
258 county, the number of projects approved and constructed, the
259 length of bridges completed and the cost per foot of each bridge
260 constructed.

261 **SECTION 7.** Section 65-37-9, Mississippi Code of 1972, is
262 brought forward as follows:

263 65-37-9. Engineering costs for any project performed under
264 Sections 65-37-1 through 65-37-15, including the salaries or fees
265 of the engineer, may be paid from the Local Bridge Replacement
266 Rehabilitation Fund allocations to a county; however, the maximum
267 fee paid to an engineer from the fund shall not exceed twelve
268 percent (12%) of the final construction cost, with the methods of
269 payment to be approved by the State Aid Engineer under regulations



270 promulgated by the State Aid Engineer. No such costs shall be
271 paid to an engineer before the letting of the project.

272 **SECTION 8.** Section 65-37-13, Mississippi Code of 1972, is
273 brought forward as follows:

274 65-37-13. (1) There is created in the State Treasury a
275 special fund to be designated as the "Local System Bridge
276 Replacement and Rehabilitation Fund." The fund shall consist of
277 monies that the Legislature appropriates under subsection (2) of
278 this section, the proceeds of bonds issued under Section 10 of
279 Chapter 557, Laws of 2009, and any other monies that the
280 Legislature may designate for deposit into the fund. Monies in
281 the fund may be expended upon legislative appropriation in
282 accordance with the provisions of Sections 65-37-1 through
283 65-37-15.

284 (2) (a) During each regular legislative session held in
285 calendar years 1995, 1996, 1997 and 1998, if the official General
286 Fund revenue estimate for the succeeding fiscal year for which
287 appropriations are being made reflects a growth in General Fund
288 revenues of three percent (3%) or more for that succeeding fiscal
289 year, then the Legislature shall appropriate Twenty-five Million
290 Dollars (\$25,000,000.00) from the State General Fund for deposit
291 into the Local System Bridge Replacement and Rehabilitation Fund.

292 (b) During the regular legislative session held in
293 calendar year 1999, if the official General Fund revenue estimate
294 for the succeeding fiscal year for which appropriations are being



295 made reflects a growth in General Fund revenues of two percent
296 (2%) or more for the succeeding fiscal year, then the Legislature
297 shall appropriate Ten Million Dollars (\$10,000,000.00) from the
298 State General Fund for deposit into the Local System Bridge
299 Replacement and Rehabilitation Fund.

300 (c) Except as otherwise provided in this paragraph (c),
301 during each regular legislative session held in calendar years
302 2001 through 2017, if the official General Fund revenue estimate
303 for the succeeding fiscal year for which appropriations are being
304 made reflects a growth in General Fund revenues of two percent
305 (2%) or more for the succeeding fiscal year, then the Legislature
306 shall appropriate Twenty Million Dollars (\$20,000,000.00) from the
307 State General Fund for deposit into the Local System Bridge
308 Replacement and Rehabilitation Fund. However, during the regular
309 legislative sessions held in calendar years 2003, 2004, 2005,
310 2006, 2007, 2008, 2009, 2010, 2011, 2014, 2015 and 2016 the
311 Legislature shall not be required to appropriate funds for deposit
312 into the Local System Bridge Replacement and Rehabilitation Fund.

313 (3) Monies that are deposited into the fund under the
314 provisions of this section may be expended upon requisition
315 therefor by the State Aid Engineer in accordance with the
316 provisions of Sections 65-37-1 through 65-37-15. The Office of
317 State Aid Road Construction shall be entitled to reimbursement
318 from monies in the fund, upon requisitions therefor by the State
319 Aid Engineer, for the actual expenses incurred by the office in



320 administering the provisions of the Local System Bridge
321 Replacement and Rehabilitation Program. Unexpended amounts
322 remaining in the fund at the end of a fiscal year shall not lapse
323 into the State General Fund, and any interest earned on amounts in
324 the fund shall be deposited to the credit of the fund.

325 (4) Monies in the Local System Bridge Replacement and
326 Rehabilitation Fund shall be allocated and become available for
327 distribution to counties in accordance with the formula prescribed
328 in Section 65-37-3 beginning January 1, 1995, on a
329 project-by-project basis. Monies in the Local System Bridge
330 Replacement and Rehabilitation Fund may not be used or expended
331 for any purpose except as authorized under Sections 65-37-1
332 through 65-37-15.

333 (5) Monies in the Local System Bridge Replacement and
334 Rehabilitation Fund may be credited to a county in advance of the
335 normal accrual to finance certain projects, subject to the
336 approval of the State Aid Engineer and subject further to the
337 following limitations:

338 (a) That the maximum amount of such monies that may be
339 advanced to any county shall not exceed ninety percent (90%) of
340 the funds estimated to accrue to such county during the remainder
341 of the term of office of the board of supervisors of such county;

342 (b) That no advance credit of funds will be made to any
343 county when the unobligated balance in the Local System Bridge



344 Replacement and Rehabilitation Fund is less than One Million
345 Dollars (\$1,000,000.00); and

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

349 It is the intent of this provision to utilize to the fullest
350 practicable extent the balance of monies in the Local System
351 Bridge Replacement and Rehabilitation Fund on hand at all times.

352 **SECTION 9.** This act shall take effect and be in force from
353 and after July 1, 2019.

