

By: Representative Green

To: Transportation; County  
Affairs

## HOUSE BILL NO. 1270

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 TWENTY-FIVE PERCENT OF THE STATE AID ROAD  
10 ALLOCATION OF THE COUNTY; TO REQUIRE THE STATE AID ENGINEER TO  
11 ALLOCATE THE AMOUNT OF THE LOCAL SYSTEM BRIDGE REPLACEMENT AND  
12 REHABILITATION PROGRAM ALLOCATION OF THE COUNTY THAT IS REQUESTED  
13 BY SUCH COUNTY FOR USE IN THE CONSTRUCTION, RECONSTRUCTION AND  
14 PAVING OF LOCAL SYSTEM ROADS IN THE COUNTY IF THE STATE AID  
15 ENGINEER HAS CERTIFIED THAT ALL OF THE LOCAL SYSTEM BRIDGES WITHIN  
16 THE COUNTY HAVE A SUFFICIENCY RATING OF GREATER THAN FIFTY OR THAT  
17 ALL SUCH BRIDGES WITHIN THE COUNTY WITH A SUFFICIENCY RATING OF  
18 FIFTY OR LESS ARE CURRENTLY UNDER CONTRACT FOR REPLACEMENT OR  
19 REHABILITATION, AND THE COUNTY MEETS CERTAIN OTHER REQUIREMENTS;  
20 TO ESTABLISH CERTAIN REQUIREMENTS THAT A COUNTY MUST MEET IN ORDER  
21 TO BE ELIGIBLE TO USE STATE AID ROAD FUNDS FOR THE LOCAL SYSTEM  
22 ROAD PROGRAM; TO AMEND SECTIONS 65-9-1, 65-9-17 AND 65-37-7,  
23 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
24 PURPOSES.

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

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

28 SECTION 2. The following words and phrases shall have the  
29 meanings ascribed in this section unless the context clearly  
30 indicates otherwise:

31 (a) "Local system road" means a road that is included  
32 on the county road system as designated under Section 65-7-4 that:

33 (i) Is functionally classified as a local rural  
34 road in accordance with policies on geometric design of highways  
35 and streets adopted and published by the American Association of  
36 State Highway and Transportation Officials;

(ii) Provides access to the state aid system, the federal aid system or the designated state highway system; and

(iii) Has an average daily traffic count of four hundred (400) vehicles or less.

(b) "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 the 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, but 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 the county for use in the construction, reconstruction and paving of local system roads in the county if:

(a) The State Aid Engineer has certified, under 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 the 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 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. The cost shall not 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, 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, including the paving of the road and the sources of revenue to be used and the sources and types of material to be used. 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 to the plan 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 the 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 the 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 the 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,

233 improving, widening, straightening, surfacing, or reconstructing  
234 roads on the state aid system or for the purpose of the  
235 construction, reconstruction and paving of roads on the Local  
236 System Road Program, and shall be available to the several  
237 counties in such proportion as may be fixed and determined by law.

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

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

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

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

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

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



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

267 It is the intent of this provision to utilize to the fullest  
268 practicable extent the balance of state aid funds on hand at all  
269 times.

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

272 (a) On state aid projects, other than those on or off  
273 the federal aid secondary system to be partially financed with  
274 federal funds, state aid funds credited to such county in the  
275 State Aid Road Fund shall be available to cover the cost of such  
276 project. Upon the awarding of a contract for such state aid  
277 project, the board of supervisors of any county will, by an  
278 official order of the board, authorize the State Aid Engineer to  
279 set up the project fund for such project from that county's state  
280 aid fund in the State Treasury. The amount of the project fund  
281 will cover the estimated cost of the project, including the  
282 contractor's payments and any other costs authorized under this  
283 chapter to be paid from state aid funds. Withdrawals from the  
284 project fund will be made by requisitions prepared by the State  
285 Aid Engineer, based on estimates and other supporting statements  
286 and documents prepared or approved by the county engineer, such  
287 requisitions, accompanied by such estimates and statements, to be  
288 directed to the Department of Finance and Administration, which  
289 will issue warrants in payment thereof. Requisitions may be drawn  
290 to cover the final cost of the project accepted by the boards of  
291 supervisors of the counties affected and the State Aid Engineer,  
292 even though such cost exceeds the aforesaid estimated project  
293 fund. Whenever, in the opinion of the State Aid Engineer, it  
294 should appear that any such estimate or statement of account has  
295 been improperly allowed or that any road construction project is  
296 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.

330 (d) Up to one-third (1/3) of state aid road funds  
331 credited to a county in the State Aid Road Fund may be available  
332 to match federal bridge replacement monies or other federal funds,  
333 or both, to construct, replace, inspect or post bridges and to  
334 conduct pavement management surveys on county roads which are not  
335 on the state aid system. To implement such projects, the State  
336 Treasurer shall, as requested in an order from the board of  
337 supervisors of the county, make transfers out of the credit of  
338 such county in the State Aid Road Fund.

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

363 aid funds allocated to the eligible county shall be immediately  
364 withdrawn and notice given the Department of Finance and  
365 Administration and the State Treasurer that the county has become  
366 ineligible. The county shall remain ineligible until it again  
367 becomes eligible by satisfying the State Aid Engineer as to its  
368 eligibility.

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

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

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

393 SECTION 12. Section 65-37-7, Mississippi Code of 1972, is  
394 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

428 provided by law for the acquisition of rights-of-way and the  
429 uniform policy for accommodation of utility facilities within the  
430 rights-of-way of state aid roads as adopted by the State Aid  
431 Engineer under authority of Section 65-9-1 et seq. Rights-of-way  
432 may be acquired by gift, purchase, deed, dedication or eminent  
433 domain; however, no part of the costs of rights-of-way or utility  
434 adjustments may be paid from funds provided under Sections 65-37-1  
435 through 65-37-15.

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

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

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

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