

By: Senator(s) Gollott, Hewes

To: Local and Private

SENATE BILL NO. 3058

1 AN ACT TO AMEND SECTIONS 2, 3 AND 4 OF CHAPTER 931, LOCAL AND  
2 PRIVATE LAWS OF 1993, AS LAST AMENDED BY CHAPTER 988, LOCAL AND  
3 PRIVATE LAWS OF 1996, TO AUTHORIZE THE GOVERNING AUTHORITIES OF  
4 THE CITY OF BILOXI TO PROVIDE FOR ANNUAL COST-OF-LIVING INCREASES  
5 FOR CURRENT AND FUTURE RETIRED MEMBERS OF THE BILOXI DISABILITY  
6 AND RELIEF FUND FOR FIREMEN AND POLICEMEN, AND BENEFICIARIES  
7 THEREOF, IN AN AMOUNT EQUAL TO 3% OF THE ANNUAL RETIREMENT  
8 ALLOWANCE; TO PROVIDE THAT THE COST-OF-LIVING INCREASES SHALL BE  
9 PAID IN ONE ADDITIONAL ANNUAL PAYMENT OR IN 12 EQUAL MONTHLY  
10 INSTALLMENTS, AS ELECTED BY THE RETIREE; TO PROVIDE THAT THE  
11 MAXIMUM CUMULATIVE PERCENTAGE OF ALL ANNUAL COST-OF-LIVING  
12 INCREASES RECEIVED UNDER THIS ACT SHALL NOT EXCEED 30% OF THE  
13 ANNUAL RETIREMENT ALLOWANCE, UNLESS THE GOVERNING AUTHORITIES  
14 AUTHORIZE THE PAYMENT OF ADDITIONAL ANNUAL COST-OF-LIVING  
15 INCREASES ABOVE 30% AND CERTAIN CONDITIONS ARE MET; TO PROVIDE  
16 THAT THE COST-OF-LIVING INCREASES AUTHORIZED UNDER THIS ACT SHALL  
17 BE SUSPENDED IF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AT ANY  
18 TIME DETERMINES THAT CONTINUING THE PAYMENT OF THE COST-OF-LIVING  
19 INCREASES WOULD MAKE THE DISABILITY AND RELIEF FUND ACTUARIALLY  
20 UNSOUND; TO PROVIDE THAT THE COST-OF-LIVING INCREASES AUTHORIZED  
21 UNDER THIS ACT SHALL NOT BE IMPLEMENTED UNLESS THE DISABILITY AND  
22 RELIEF FUND CURRENTLY IS ACTUARIALLY SOUND AND WILL REMAIN  
23 ACTUARIALLY SOUND IF THE COST-OF-LIVING INCREASES ARE MADE; TO  
24 PROVIDE THAT IF THE COST-OF-LIVING INCREASES AUTHORIZED UNDER THIS  
25 ACT WOULD MAKE THE DISABILITY AND RELIEF FUND ACTUARIALLY UNSOUND,  
26 THE GOVERNING AUTHORITIES ARE AUTHORIZED TO PROVIDE FOR A REDUCED  
27 VERSION OF THE COST-OF-LIVING INCREASES THAT WOULD LEAVE THE FUND  
28 ACTUARIALLY SOUND; TO AUTHORIZE THE GOVERNING AUTHORITIES TO USE  
29 ANY AVAILABLE FUNDS TO SUPPLEMENT THE DISABILITY AND RELIEF FUND  
30 TO MAKE IT ACTUARIALLY SOUND; AND FOR RELATED PURPOSES.

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

32 SECTION 1. Sections 2, 3 and 4 of Chapter 931, Local and  
33 Private Laws of 1993, as amended by Chapter 979, Local and Private  
34 Laws of 1995, as amended by Chapter 988, Local and Private Laws of  
35 1996, are amended as follows:

36 Section 1. (1) Subject to the provisions of Section 3, the  
37 governing authorities of the City of Biloxi, Mississippi, in their  
38 discretion, are authorized to take any of the following actions:

39           (a) Establish an additional payment for each retired  
40 member and beneficiary of the Biloxi Disability and Relief Fund  
41 for Firemen and Policemen who is now or hereafter entitled to  
42 receive benefits under any provision of Section 21-29-101,  
43 Mississippi Code of 1972. The amount of the additional payment  
44 shall be equal to the annual percentage change in the Consumer  
45 Price Index set by the United States government, not to exceed  
46 three percent (3%) per annum, and shall be computed based upon the  
47 amount of the benefits received by the members and beneficiaries  
48 in the fiscal year of the disability and relief fund before the  
49 effective date of the resolution of the governing authorities of  
50 the city establishing the additional payments.

51           (b) Provide that the additional payments authorized in  
52 paragraph (a) shall be either automatically made each year, made  
53 for a specified number of years, or authorized on an annual basis  
54 by the governing authorities of the city.

55           (c) Provide that the additional payments authorized in  
56 paragraph (a) shall cease or shall not be made for any subsequent  
57 fiscal year, regardless of whether a prior action of the governing  
58 authorities of the city called for the payments to be made  
59 automatically or without additional authorization by the governing  
60 authorities.

61           (d) Provide that if the governing authorities of the  
62 city choose to reinstate the additional payments authorized in  
63 paragraph (a) after ceasing them for a period of time, the  
64 percentage increase shall not be compounded during the interim  
65 period unless specifically directed by the governing authorities.

66           (e) Provide that the additional payments authorized by  
67 paragraph (a) may be based upon a percentage specified by the  
68 governing authorities of the city, regardless of the maximum  
69 percentage allowed in paragraph (a), if the governing authorities  
70 also transfer sufficient monies to the Public Employees'

71 Retirement System to fund the increase at the specified  
72 percentage.

73 (f) Provide that the additional payments authorized in  
74 paragraph (a) shall automatically cease if continuing the  
75 additional payments could make the disability and relief fund  
76 actuarially unsound; however, before ceasing the payments, the  
77 Board of Trustees of the Public Employees' Retirement System shall  
78 notify the governing authorities of the city and give them the  
79 opportunity to transfer sufficient funds, if the governing  
80 authorities choose to do so, to make the additional payments while  
81 keeping the disability and relief fund actuarially sound.

82 (g) Use funds from any available source to supplement  
83 the disability and relief fund to make the fund actuarially sound,  
84 and transfer those funds to the Board of Trustees of the Public  
85 Employees' Retirement System for that purpose.

86 (2) After the governing authorities of the city \* \* \* have  
87 adopted a resolution to establish the additional payments  
88 authorized under subsection (1) of this section and the advisory  
89 board provided for in Section 21-29-105, Mississippi Code of 1972,  
90 has adopted a resolution supporting the establishment of the  
91 additional payments, and after the Board of Trustees of the Public  
92 Employees' Retirement System has received these resolutions and  
93 received the most recent actuarial study of the disability and  
94 relief fund and the certified statement from the actuarial firm,  
95 pursuant to Section 3 \* \* \*, that the fund will remain actuarially  
96 sound if the additional payments are made, then the board of  
97 trustees shall make the payments to the persons authorized and  
98 entitled to receive the payments.

99 (3) Persons eligible to receive the payments authorized  
100 under this section shall receive such payments in one (1)  
101 additional payment, except that such person may elect by an  
102 irrevocable agreement on a form prescribed by the Board of  
103 Trustees of the Public Employees' Retirement System to receive

104 such payments in not less than equal monthly installments not to  
105 exceed six (6) months during the remaining months of the current  
106 fiscal year. In the event of death of a person or a beneficiary  
107 thereof receiving monthly benefits, any remaining amounts shall be  
108 paid in a lump sum to the estate of the retired member or  
109 beneficiary.

110 (4) After the effective date of Senate Bill No. 3058, 2001  
111 Regular Session, all new cost-of-living increases for retirees of  
112 the Biloxi Disability and Relief Fund for Firemen and Policemen  
113 and beneficiaries thereof shall be made under Section 6 and not  
114 under this section. All cost-of-living increases previously made  
115 under this section shall continue to be paid each year, but no new  
116 or additional cost-of-living increases shall be made under this  
117 section after the effective date of Senate Bill No. 3058, 2001  
118 Regular Session.

119 Section 2. (1) Subject to the provisions of Section  
120 3 \* \* \*, the governing authorities of the City of Biloxi,  
121 Mississippi, are authorized, in their discretion, to provide for  
122 the payment of minimum monthly benefits in any amount determined  
123 by the governing authorities to all persons now or hereafter  
124 entitled to receive benefits under any provision of Section  
125 21-29-101 et seq., Mississippi Code of 1972.

126 (2) After the governing authorities of the city \* \* \* have  
127 adopted a resolution to establish the minimum monthly benefits  
128 authorized under subsection (1) of this section, specifying the  
129 amount of the minimum monthly benefits in the resolution, and the  
130 advisory board provided for in Section 21-29-105, Mississippi Code  
131 of 1972, has adopted a resolution supporting the payment of the  
132 specified amount of the minimum monthly benefits, and after the  
133 Board of Trustees of the Public Employees' Retirement System has  
134 received these resolutions and received the most recent actuarial  
135 study of the disability and relief fund and the certified  
136 statement from the actuarial firm, pursuant to Section 3 \* \* \*,

137 that the fund will remain actuarially sound if the minimum monthly  
138 benefits are paid, then the board of trustees shall pay those  
139 benefits to the persons authorized and entitled to receive the  
140 payments.

141 Section 3. Payment of the additional payments authorized  
142 under Section 1 \* \* \* or the minimum monthly benefits authorized  
143 under Section 2 \* \* \*, or both, shall not be established unless  
144 the Biloxi Disability and Relief Fund for Firemen and Policemen is  
145 actuarially sound, as shown by the most recent actuarial study  
146 required by Section 21-29-119, Mississippi Code of 1972, and the  
147 fund will remain actuarially sound if the additional payments  
148 authorized under Section 1 \* \* \* or the minimum monthly benefits  
149 authorized under Section 2 \* \* \*, or both, are made, as shown by a  
150 certified statement from the actuarial firm that prepared the most  
151 recent actuarial study.

152 Section 4. (1) Subject to the provisions of subsection (2)  
153 of this section, the governing authorities of the City of Biloxi,  
154 Mississippi, in their discretion, are authorized to provide that  
155 members of the Biloxi Disability and Relief Fund for Firemen and  
156 Policemen under the provisions of Section 21-29-101 et seq.,  
157 Mississippi Code of 1972, who retire after April 7, 1995, shall  
158 receive creditable service in the fund at the time of retirement  
159 for lawfully credited unused, uncompensated annual leave and sick  
160 leave earned under the vacation and sick leave policies of the  
161 city, in amounts equal to the amounts authorized for members of  
162 the Public Employees' Retirement System.

163 (2) Creditable service for unused, uncompensated leave as  
164 authorized under subsection (1) of this section shall not be  
165 provided unless the Biloxi Disability and Relief Fund for Firemen  
166 and Policemen is actuarially sound, as shown by the most recent  
167 actuarial study required by Section 21-29-119, Mississippi Code of  
168 1972, and the fund will remain actuarially sound if creditable  
169 service for unused, uncompensated leave as authorized under

170 subsection (1) of this section is provided, as shown by a  
171 certified statement from the actuarial firm that prepared the most  
172 recent actuarial study.

173 (3) After the governing authorities of the city \* \* \* have  
174 adopted a resolution to provide creditable service for unused,  
175 uncompensated leave as authorized under subsection (1) of this  
176 section and the advisory board provided for in Section 21-29-105,  
177 Mississippi Code of 1972, has adopted a resolution supporting the  
178 providing of creditable service for unused, uncompensated leave,  
179 and after the Board of Trustees of the Public Employees'  
180 Retirement System has received these resolutions and received the  
181 most recent actuarial study of the disability and relief fund and  
182 the certified statement from the actuarial firm that the fund will  
183 remain actuarially sound if creditable service for unused,  
184 uncompensated leave is provided, then the board of trustees shall  
185 provide creditable service for unused, uncompensated leave to  
186 members of the disability and relief fund at the time of  
187 retirement in accordance with subsection (1) of this section, and  
188 such creditable service shall be used in calculating the members'  
189 retirement benefits under Section 21-29-101 et seq., Mississippi  
190 Code of 1972.

191 (4) Except to limit creditable service reported to the  
192 disability and relief fund for the purpose of computing a member's  
193 retirement benefits provided under Section 21-29-101 et seq.,  
194 Mississippi Code of 1972, nothing in this section shall limit or  
195 otherwise restrict the power of the governing authorities of the  
196 city \* \* \* to adopt such vacation and sick leave policies as they  
197 deem necessary.

198 Section 5. (1) Subject to the provisions of subsection (2)  
199 of this section, the governing authorities of the City of Biloxi,  
200 Mississippi, in their discretion, are authorized to provide that  
201 for the purpose of computing retirement benefits of members of the  
202 Biloxi Disability and Relief Fund for Firemen and Policemen under

203 the provisions of Section 21-29-101 et seq., Mississippi Code of  
204 1972, who retire after April 11, 1996, earned compensation may  
205 include all or a portion of any payment made to a member upon  
206 termination of employment for up to thirty (30) days of unused,  
207 accumulated personal leave.

208 (2) The inclusion within earned compensation of those  
209 payments as provided in subsection (1) of this section shall not  
210 be authorized by the governing authorities unless the disability  
211 and relief fund is actuarially sound, as shown by the most recent  
212 actuarial study required by Section 21-29-119, Mississippi Code of  
213 1972, and the disability and relief fund will remain actuarially  
214 sound if the inclusion of such payments is authorized, as shown by  
215 a certified statement from the actuarial firm that prepared the  
216 most recent actuarial study.

217 (3) After the governing authorities of the city have adopted  
218 a resolution to include within earned compensation payments as  
219 provided under subsection (1) of this section, and after the Board  
220 of Trustees of the Public Employees' Retirement System has  
221 received the most recent actuarial study of the disability and  
222 relief fund and the certified statement from the actuarial firm  
223 that the disability and relief fund will remain actuarially sound  
224 if the inclusion of such payments is authorized, then the board of  
225 trustees may include such payments within the earned compensation  
226 of members at the time of retirement, in accordance with  
227 subsection (1) of this section, when calculating the members'  
228 retirement benefits under the provisions of Section 21-29-101 et  
229 seq., Mississippi Code of 1972.

230 (4) Nothing in this section shall limit or otherwise  
231 restrict the power of the governing authorities of the city to  
232 adopt such vacation and sick leave policies as they deem  
233 necessary.

234 Section 6. (1) Subject to the provisions of subsection (2)  
235 of this section, the governing authorities of the City of Biloxi,

236 Mississippi, in their discretion, are authorized to provide for  
237 cost-of-living increases for each retired member of the Biloxi  
238 Disability and Relief Fund for Firemen and Policemen, or any  
239 beneficiary thereof, who is now or hereafter entitled to receive a  
240 retirement allowance under any provision of Section 21-29-101 et  
241 seq., Mississippi Code of 1972, in accordance with the following  
242 provisions:

243 (a) Any person who is receiving a retirement allowance  
244 on the effective date of Senate Bill No. 3058 , 2001 Regular  
245 Session, shall receive a cost-of-living increase on December 1,  
246 2001, or on July 1, 2001, as provided in paragraph (d) of this  
247 subsection, in an amount equal to three percent (3%) of the annual  
248 retirement allowance. In subsequent years, in addition to and  
249 cumulative to the cost-of-living increase received in the year  
250 2001, any such person or beneficiary thereof shall receive a  
251 cost-of-living increase on December 1 or July 1 of the year, as  
252 provided in paragraph (d) of this subsection, in an amount equal  
253 to three percent (3%) of the annual retirement allowance for each  
254 full fiscal year in retirement after June 30, 2001. The  
255 cost-of-living increases provided for under this paragraph (a)  
256 shall be in addition to and cumulative to any cost-of-living  
257 increases previously received under the provisions of Section 1.  
258 For the purposes of this section, "fiscal year" means the period  
259 from July 1 of any year through June 30 of the following year.

260 (b) Any person who retires on or after the effective  
261 date of Senate Bill No. 3058 , 2001 Regular Session, or any  
262 beneficiary thereof, who has received a monthly retirement  
263 allowance for at least one (1) full fiscal year, shall receive a  
264 cost-of-living increase on December 1 or July 1 of the year, as  
265 provided in paragraph (d) of this section, in an amount equal to  
266 three percent (3%) of the annual retirement allowance for each  
267 full fiscal year in retirement.

268           (c) Notwithstanding the provisions of paragraph (b) of  
269 this subsection, any person who, before the effective date of  
270 Senate Bill No. 3058, 2001 Regular Session, retired under the  
271 Biloxi Disability and Relief Fund for Firemen and Policemen and  
272 later was reemployed by the City of Biloxi or employed by any  
273 other municipality or other governmental entity in a position that  
274 caused the person to stop receiving a retirement allowance from  
275 the disability and relief fund during the person's period of  
276 reemployment or subsequent employment, who retires from his or her  
277 reemployment or subsequent employment after the effective date of  
278 Senate Bill No. 3058, 2001 Regular Session, and is again receiving  
279 a retirement allowance from the disability and relief fund, shall  
280 begin receiving the cost-of-living increases authorized under  
281 this section in the year that the person retires from his or her  
282 reemployment or subsequent employment, if more than one (1) full  
283 fiscal year has passed since the person's initial retirement from  
284 the City of Biloxi. In the year that the person retires from his  
285 or her reemployment or subsequent employment, the person or  
286 beneficiary thereof shall receive a cost-of-living increase on  
287 December 1 or July 1 of the year, as provided in paragraph (d) of  
288 this subsection, in an amount equal to three percent (3%) of the  
289 annual retirement allowance. In subsequent years, in addition to  
290 and cumulative to the cost-of-living increase received in the year  
291 of retirement, any such person or beneficiary thereof shall  
292 receive a cost-of-living increase on December 1 or July 1 of the  
293 year, as provided in paragraph (d) of this subsection, in an  
294 amount equal to three percent (3%) of the annual retirement  
295 allowance for each full fiscal year after June 30 of the year of  
296 retirement.

297           (d) The cost-of-living increases authorized under this  
298 section shall be paid in one (1) payment in December of each year  
299 to any person who is receiving a retirement allowance on December  
300 1 of that year, unless an election is made as follows: Any person

301 or beneficiary thereof who is receiving a retirement allowance on  
302 July 1, 2001, or July 1 of any fiscal year thereafter, may elect  
303 by an irrevocable agreement in writing filed in the office of the  
304 Public Employees' Retirement System not less than thirty (30) days  
305 before July 1 of the appropriate year, to begin receiving the  
306 cost-of-living increases authorized under this section in twelve  
307 (12) equal monthly installments beginning July 1, 2001, or July 1  
308 of any fiscal year thereafter. This irrevocable agreement shall  
309 be binding on the retiree and subsequent beneficiaries. Payment  
310 of those monthly installments shall not extend beyond the month in  
311 which a retirement allowance is due and payable. If a person who  
312 is receiving a retirement allowance that will terminate upon the  
313 person's death, is receiving the cost-of-living increases in one  
314 (1) payment and dies on or after July 1 but before December 1, the  
315 beneficiary or estate of the person shall receive in a single  
316 payment a fractional part of the cost-of-living increase based on  
317 the number of months in which a retirement allowance was received  
318 during the fiscal year.

319 (e) Except as otherwise provided in paragraph (f) of  
320 this subsection, the maximum cumulative percentage of all annual  
321 cost-of-living increases received by a retiree or beneficiary  
322 thereof under this section shall not exceed thirty percent (30%)  
323 of the annual retirement allowance. Any cost-of-living increases  
324 previously received by a retiree or beneficiary thereof under the  
325 provisions of Section 1 shall not be included in determining when  
326 the cumulative percentage of the cost-of-living increases received  
327 under this section has reached thirty percent (30%). After the  
328 cumulative percentage of the cost-of-living increases received by  
329 a retiree or beneficiary thereof under this section has reached  
330 thirty percent (30%), the retiree or beneficiary thereof shall  
331 continue to receive the cost-of-living payments each year in an  
332 amount equal to thirty percent (30%) of the annual retirement  
333 allowance for as long as the retiree or beneficiary thereof is

334 entitled to receive a retirement allowance, unless additional  
335 annual cost-of-living increases are authorized under paragraph (f)  
336 of this subsection or cost-of-living increases are suspended under  
337 paragraph (g) of this subsection.

338 (f) Notwithstanding the provisions of paragraph (e) of  
339 this subsection, the governing authorities of the city, by  
340 resolution adopted by the city council, may authorize the payment  
341 of additional annual cost-of-living increases after the cumulative  
342 percentage of the cost-of-living increases received by a retiree  
343 or beneficiary thereof under this section has reached thirty  
344 percent (30%), if the governing authorities have examined the  
345 actual impact of inflation upon the retirement and cost-of-living  
346 benefits being paid at that time, examined the effect of paying  
347 additional annual cost-of-living increases on the actuarial  
348 soundness of the disability and relief fund, and determined that  
349 municipal finances will permit the payment of additional annual  
350 cost-of-living increases above a cumulative percentage of thirty  
351 percent (30%). In addition, any payment of additional annual  
352 cost-of-living increases after the cumulative percentage has  
353 reached thirty percent (30%) shall be subject to subsection (2) of  
354 this section and paragraph (g) of this subsection.

355 (g) The cost-of-living increases authorized under this  
356 section shall be suspended, either in whole or in part as  
357 determined to be necessary by the governing authorities of the  
358 city and the Board of Trustees of the Public Employees' Retirement  
359 System, if the board of trustees at any time determines that  
360 continuing the payment of the cost-of-living increases would make  
361 the disability and relief fund actuarially unsound; however,  
362 before suspending the cost-of-living increases, the board of  
363 trustees shall notify the governing authorities of the city and  
364 give them the opportunity to transfer sufficient funds, if the  
365 governing authorities choose to do so, to make the cost-of-living

366 increases while keeping the disability and relief fund actuarially  
367 sound.

368 (2) (a) The cost-of-living increases authorized under this  
369 section shall not be implemented unless the Biloxi Disability and  
370 Relief Fund for Firemen and Policemen is actuarially sound, as  
371 shown by the most recent actuarial study required by Section  
372 21-29-119, Mississippi Code of 1972, and the fund will remain  
373 actuarially sound if the cost-of-living increases authorized under  
374 this section are made, as shown by a certified statement from the  
375 actuarial firm that prepared the most recent actuarial study.

376 (b) After the governing authorities of the city have  
377 adopted a resolution to establish the cost-of-living increases  
378 authorized under this section and the advisory board provided for  
379 in Section 21-29-105, Mississippi Code of 1972, has adopted a  
380 resolution supporting the cost-of-living increases, and after the  
381 Board of Trustees of the Public Employees' Retirement System has  
382 received these resolutions and received the most recent actuarial  
383 study of the disability and relief fund and the certified  
384 statement from the actuarial firm, under paragraph (a) of this  
385 subsection, that the fund will remain actuarially sound if the  
386 cost-of-living increases are made, then the board of trustees  
387 shall make the cost-of-living increases to the persons authorized  
388 and entitled to receive the cost-of-living increases.

389 (c) If the certified statement of the actuary under  
390 paragraph (a) of this subsection concludes that the cost-of-living  
391 increases authorized under this section cannot be implemented  
392 because they would make the disability and relief fund actuarially  
393 unsound, then the governing authorities of the city are authorized  
394 to provide for a reduced version of the cost-of-living increases  
395 authorized under this section that would leave the disability and  
396 relief fund actuarially sound, as determined by a certified  
397 statement of the actuary.

398       (3) After the effective date of Senate Bill No. 3058, 2001  
399 Regular Session, all new cost-of-living increases for retirees of  
400 the Biloxi Disability and Relief Fund for Firemen and Policemen  
401 and beneficiaries thereof shall be made under this section and not  
402 under Section 1. All cost-of-living increases previously made  
403 under Section 1 shall continue to be paid each year, but no new or  
404 additional cost-of-living increases shall be made under Section 1  
405 after the effective date of Senate Bill No. 3058, 2001 Regular  
406 Session.

407       Section 7. The governing authorities of the City of Biloxi,  
408 Mississippi, in their discretion, are authorized to use funds from  
409 any available source to supplement the Biloxi Disability and  
410 Relief Fund for Firemen and Policemen to make the fund actuarially  
411 sound, and transfer those funds to the Board of Trustees of the  
412 Public Employees' Retirement System for that purpose.

413       Section 8. The provisions of this act are supplemental to  
414 the provisions of Section 21-29-101 et seq., Mississippi Code of  
415 1972, and if there is any conflict between the provisions of this  
416 act and any provision of Section 21-29-101 et seq., Mississippi  
417 Code of 1972, the provisions of this act shall control.

418       SECTION 2. This act shall take effect and be in force from  
419 and after its passage.