SENATE BILL NO. 3167

AN ACT TO AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION TO UPDATE THE STATE RAIL PLAN AND REVIEW POTENTIAL RECOMMENDATIONS FOR NEEDED RAIL PROJECTS IN THE STATE; TO AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION TO CONSTRUCT AND OWN A RAIL LINE, OR A PORTION THEREOF, THAT CONNECTS TO THE RAIL LINE OF A RAILROAD CORPORATION; TO AUTHORIZE THE COMMISSION TO SELL OR LEASE SUCH LINE TO A RAILROAD CORPORATION; TO AUTHORIZE BONDS ISSUED PURSUANT TO THIS ACT TO FUND THE CONSTRUCTION OF SUCH RAIL LINE; TO CREATE A BOND SINKING FUND WITHIN THE RAILROAD REVITALIZATION FUND INTO WHICH SHALL BE DEPOSITED CERTAIN LEASE AND LOAN PAYMENTS AND THE PROCEEDS OF CERTAIN SALES; TO PROVIDE THAT MONEY IN SUCH ACCOUNT SHALL BE UTILIZED TO PAY THE DEBT SERVICE ON THE BONDS ISSUED PURSUANT TO THIS ACT; TO PROVIDE FOR THE ISSUANCE OF $100,000,000.00 IN STATE GENERAL OBLIGATION BONDS TO FUND THE RAIL PROJECTS AUTHORIZED UNDER THIS ACT; TO AMEND SECTIONS 57-43-1, 57-43-3, 57-43-5, 57-43-7, 57-43-9, 57-43-11 AND 57-43-13, MISSISSIPPI CODE OF 1972, TO EXPAND THE USES FOR WHICH FUNDS IN THE RAILROAD REVITALIZATION FUND MAY BE UTILIZED; TO PROVIDE THAT GRANTS MADE FROM THE RAILROAD REVITALIZATION FUND SHALL INCLUDE AS A CONDITION THAT, AS A PREREQUISITE TO RECEIVING A GRANT, A RAILROAD CORPORATION SHALL AGREE NOT TO ABANDON ANY SECTION OF RAIL LINE UPON WHICH SUCH GRANT IS SPENT FOR A PERIOD OF NOT LESS THAN 10 YEARS; TO AUTHORIZE COUNTIES AND MUNICIPALITIES TO ENTER INTO AGREEMENTS WITH THE MISSISSIPPI TRANSPORTATION COMMISSION TO RECEIVE A PORTION OF CERTAIN PAYMENTS TO THE RAILROAD REVITALIZATION FUND; TO AUTHORIZE THE MISSISSIPPI TRANSPORTATION COMMISSION TO LOAN MONIES FROM THE RAILROAD REVITALIZATION FUND TO RAILROAD CORPORATIONS FOR CERTAIN RAILROAD PROJECTS THAT THE COMMISSION HAS DETERMINED ARE IN THE PUBLIC INTEREST; TO PROVIDE FOR THE RATE OF INTEREST ON LOANS MADE BY THE COMMISSION; TO PROVIDE THAT AS A CONDITION OF THE RECEIPT OF SUCH A LOAN THAT THE RAILROAD CORPORATION AGREE NOT TO ABANDON ANY SECTION OF RAIL LINE ON WHICH THE PROCEEDS OF SUCH LOAN ARE TO BE SPENT UNTIL THE LOAN HAS BEEN REPAYED; AND FOR RELATED PURPOSES.

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

SECTION 1. Railroads that carry persons or property for hire are an important component of the infrastructure of the State of Mississippi. Railroads, for the public good and general welfare, develop and promote trade, commerce, industry and employment opportunities and promote the general welfare of the state by
creating a climate favorable to the location of new industry, trade and commerce and the expansion of existing industry, trade and commerce within the State of Mississippi. Because of the fact that municipalities historically developed around the presence of a railroad, they are today, as a result of the presence of railroads, often confronted with problems, such as traffic congestion resulting from roadway/railway grade crossings, increased traffic usage at roadway/railroad grade crossings and increased noise. In many situations, the only effective remedies to such problems are to reroute all or part of the rail line running through the municipality, to separate the railroad grade crossings from the roadways and/or to close one or more of the roadway/railroad grade crossings. It is, therefore, in the public interest and is vital to the public welfare of the people of Mississippi, and it is declared to be the public purpose of this chapter to develop a program within the State of Mississippi with respect to railroads to encourage and assist in the maintenance and improvement of the existing railroad infrastructure, the amelioration or elimination of the problems resulting from the presence of railroads within highly populated and highly trafficked sections of the municipalities of Mississippi, the development, expansion and promotion of trade and commerce within the state, the creation and promotion of industrial development within the state, the separation or closing of roadway/railroad grade crossings and other railroad revitalization, rehabilitation, relocation and industrial development projects and such other railroad projects that are in the public interest and are vital to the public welfare of the people of Mississippi, the economic development of the state and the safety of the people of Mississippi.

SECTION 2. The Mississippi Transportation Commission, in cooperation with the railroad corporations operating in the State of Mississippi, shall periodically update the State Rail Plan.
The State Rail Plan shall include a review of potential recommendations for needed railroad revitalization, rehabilitation, relocation, maintenance, improvement and economic or industrial development projects within the state and shall include recommendations for the development of such projects. The Mississippi Transportation Commission may promulgate rules to ensure appropriate allocations of monies in the Railroad Revitalization Fund to railroad projects authorized under this chapter and shall consider such criteria as public interest, economic benefit, financial viability, cost effectiveness, continuity of Mississippi's railroad infrastructure and public safety.

SECTION 3. (1) To further the public purposes of this chapter, the Mississippi Transportation Commission is authorized to conduct feasibility studies with regard to railroad projects authorized under this chapter and, pursuant to information gathered in such studies, select routes and locations, perform preliminary engineering, acquire necessary rights-of-way and property, and otherwise plan, develop, construct and own a rail line, or portion thereof, that connects to the rail line of a railroad corporation. Such planning, development and construction of the rail line shall be accomplished using all the authority and powers granted to the Mississippi Transportation Commission pursuant to Section 65-1-1 et seq., and shall be accomplished in cooperation and in agreement with the railroad corporation to which the state-owned rail line connects. The Mississippi Transportation Commission may enter into an agreement with such connecting railroad corporation for the lease, lease/sale or sale of the rail line for commercial operations on such terms and conditions and with such safeguards as will best promote and protect the public interest. To that end, the Mississippi Transportation Commission is hereby authorized to transfer possession and/or title to such state-owned rail line and
rights-of-way by deed, lease, contract or other customary business
instrument. Funds for the projects authorized under this section
may be provided by proceeds derived from the issuance of bonds
pursuant to Sections 5 through 19 of this act.

(2) If the Mississippi Transportation Commission develops
and constructs a rail line pursuant to the authority granted it in
this section from the proceeds of bonds issued pursuant to
Sections 5 through 19 of this act, and enters into an agreement
for the lease/sale of such rail line, the lease term of any
lease/sale agreement entered into pursuant to this section shall
terminate no later than the date of the maturity of the bonds
issued to fund such project. The lease payments paid by the
connecting railroad over a period of time, not to exceed the
maturity of the bonds issued to fund the project, shall be in an
amount sufficient to retire the bonds issued to fund the project.
At the end of the lease term or the date on which all such bonds
are retired, whichever is the earlier to occur, the Mississippi
Transportation Commission shall sell the state-owned rail line to
the connecting railroad for a price that, when combined with the
total amount of lease payments, shall be an amount not less than
the proceeds of the bonds issued to fund the project. All lease
payments shall be deposited into the sinking fund account created
pursuant to Section 4 of this act.

(3) In the event that the Mississippi Transportation
Commission develops and constructs such rail line with the
proceeds of bonds issued pursuant to Sections 5 through 19 of this
act and enters into an agreement for the sale of such rail line,
the terms of any sale agreement entered into pursuant to this
section shall include a purchase price and shall be in an amount
not less than an amount sufficient to retire the bonds issued to
accomplish the project. Such purchase price payment shall be
deposited into the sinking fund account created pursuant to
Section 4 of this act.
(4) Where the rental payments and monetary consideration provided in a lease/sale agreement will be sufficient to repay fully the proceeds of the bond issuance or where the monetary consideration for a sale of the rail line is sufficient to repay fully the proceeds of the bonds issued to fund the project, contracts for the sale or lease/sale of the rail line may be negotiated and consummated without the necessity of advertising and obtaining competitive bids. In no event shall the Mississippi Transportation Commission sell to the connecting railroad corporation a state-owned rail line until all the principal of and interest on the bonds issued to fund the project have been repaid.

SECTION 4. For the purpose of providing for the payment of the principal of and interest upon bonds issued under the provisions of Sections 5 through 19 of this act, there is hereby created within the Railroad Revitalization Fund a bond sinking fund account. Such sinking fund account shall consist of the money required to be deposited into such fund by this chapter and such other amount as shall be paid into such fund by appropriation or other authorization by the Legislature. Funds required in excess of the amounts available in such sinking fund account to pay the principal of and interest upon bonds issued under the provisions of Sections 5 through 19 of this act shall be appropriated from the State General Fund.

SECTION 5. (1) The Mississippi Transportation Commission, at one time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for all costs incurred or to be incurred by the Mississippi Transportation Commission or the Mississippi Department of Transportation in performing the projects authorized under this chapter. Bonds authorized by this section may be issued only upon a determination by the State Bond Commission, acting in conjunction with the State Bond Advisory Division, that such issuance would not result in a downgrade of
the rating applicable to State of Mississippi general obligation bonds. Upon the adoption of a resolution by the Mississippi Transportation Commission, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the Mississippi Transportation Commission shall deliver a certified copy of its resolution or resolutions to the State Bond Commission. In the event the State Bond Commission first makes a finding that the issuance of such bonds as specified in the resolution is not anticipated to result in a downgrade of the rating applicable to State of Mississippi general obligation bonds, the State Bond Commission, in its discretion, may act as the issuing agent, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. In the event the State Bond Commission fails to make the above referenced finding with respect to the issuance of such bonds as specified in the resolution of the Mississippi Transportation Commission, the State Bond Commission shall return the resolution to the Mississippi Transportation Commission with a certified statement declaring the issuance of such bonds to be unauthorized at such time. The total amount of bonds outstanding under Sections 5 through 19 of this act shall not, at any one time, exceed One Hundred Million Dollars ($100,000,000.00).

(2) Any investment earnings on bond proceeds deposited into the Railroad Revitalization Fund pursuant to this act shall be used to pay debt service on bonds issued under Sections 5 through 19 of this act, in accordance with the proceedings authorizing issuance of such bonds.

SECTION 6. The principal of and interest on the bonds authorized under Sections 5 through 19 of this act shall be payable in the manner provided in this section. Such bonds shall bear such date or dates, be in such denomination or denominations,
bear interest at such rate or rates (not to exceed the limits set forth in Section 75-17-101, Mississippi Code of 1972), be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times not to exceed twenty-five (25) years from date of issue, be redeemable before maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the State Bond Commission.

SECTION 7. The bonds authorized by Sections 5 through 19 of this act shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be affixed thereto, attested by the Secretary of the State Bond Commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials designated to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until their delivery to the purchaser, or had been in office on the date such bonds may bear. However, notwithstanding anything herein to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.

SECTION 8. All bonds and interest coupons issued under the provisions of Sections 5 through 19 of this act have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code, and in exercising the powers granted by Sections 5 through 19 of this act, the State
Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

SECTION 9. The State Bond Commission may act as the issuing agent for the bonds authorized under Sections 5 through 19 of this act, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The State Bond Commission is authorized and empowered to pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under Sections 5 through 19 of this act from the proceeds derived from the sale of such bonds. The State Bond Commission shall sell such bonds on sealed bids at public sale, and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to the date of delivery of the bonds to the purchaser.

All interest accruing on such bonds so issued shall be payable semiannually or annually; however, the first interest payment may be for any period of not more than one (1) year.

Notice of the sale of any such bond shall be published at least one time, not less than ten (10) days before the date of sale, and shall be so published in one or more newspapers published or having a general circulation in the City of Jackson, Mississippi, and in one or more other newspapers or financial journals with a national circulation, to be selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of Sections 5 through 19 of this act, may provide that bonds, at the option of the state, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.
SECTION 10. The bonds issued under the provisions of Sections 5 through 19 of this act shall be payable from the bond sinking fund account in the Railroad Revitalization Fund and are general obligations of the State of Mississippi, and for the payment thereof the full faith and credit of the State of Mississippi is irrevocably pledged. If the funds available in the bond sinking fund account in the Railroad Revitalization Fund and any funds appropriated by the Legislature for such purpose are insufficient to pay the principal of and the interest upon such bonds as they become due, the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

SECTION 11. Upon the issuance and sale of bonds under the provisions of Sections 5 through 19 of this act, the State Bond Commission shall transfer the proceeds of any such sale or sales to an account in the Railroad Revitalization Fund created pursuant to Section 57-43-1 which account shall be allocated to loan agreements and railroad projects. The proceeds of such bonds shall be disbursed solely upon the order of the Mississippi Transportation Commission under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

SECTION 12. The bonds authorized under Sections 5 through 19 of this act may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by Sections 5 through 19 of this act. Any resolution providing for the issuance of bonds under the provisions of Sections 5 through 19 of this act shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may
be adopted at any regular or special meeting of the State Bond
Commission by a majority of its members.

SECTION 13. The bonds authorized under the authority of
Sections 5 through 19 of this act may be validated in the Chancery
Court of the First Judicial District of Hinds County, Mississippi,
in the manner and with the force and effect provided by Chapter
13, Title 31, Mississippi Code of 1972, for the validation of
county, municipal, school district and other bonds. The notice to
taxpayers required by such statutes shall be published in a
newspaper published or having a general circulation in the City of
Jackson, Mississippi.

SECTION 14. Any holder of bonds issued under the provisions
of Sections 5 through 19 of this act or of any of the interest
coupons pertaining thereto may, either at law or in equity, by
suit, action, mandamus or other proceeding, protect and enforce
any and all rights granted under Sections 5 through 19 of this
act, or under such resolution, and may enforce and compel
performance of all duties required by Sections 5 through 19 of
this act to be performed, in order to provide for the payment of
bonds and interest thereon.

SECTION 15. All bonds issued under the provisions of
Sections 5 through 19 of this act shall be legal investments for
trustees and other fiduciaries, and for savings banks, trust
companies and insurance companies organized under the laws of the
State of Mississippi, and such bonds shall be legal securities
which may be deposited with and shall be received by all public
officers and bodies of this state and all municipalities and
political subdivisions for the purpose of securing the deposit of
public funds.

SECTION 16. Bonds issued under the provisions of Sections 5
through 19 of this act and income therefrom shall be exempt from
all taxation in the State of Mississippi.
SECTION 17. The proceeds of the bonds issued under Sections 5 through 19 of this act shall be used solely for the purposes therein provided, including the costs incident to the issuance and sale of such bonds.

SECTION 18. The State Treasurer is authorized, without further process of law, to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants, in such amounts as may be necessary to pay when due the principal of, premium, if any, and interest on, or the accreted value of, all bonds issued under Sections 5 through 19 of this act; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

SECTION 19. Sections 5 through 19 of this act shall be deemed to be full and complete authority for the exercise of the powers therein granted, but this act shall not be deemed to repeal or to be in derogation of any existing law of this state.

SECTION 20. Section 57-43-1, Mississippi Code of 1972, is amended as follows:

57-43-1. (1) There is hereby established in the State Treasury a * * * fund to be designated as the "Railroad Revitalization Fund" to be maintained for and dedicated to the purpose of providing grants, loans and/or funding for the purposes established in this chapter. The Railroad Revitalization Fund shall consist of monies collected as a result of the locomotive fuel tax, proceeds of bonds issued pursuant to this chapter, appropriations from the Legislature, and, in the discretion of the Mississippi Transportation Commission, federal funds available for the purposes of this chapter. Except for federal funds and any funds determined by the Mississippi Transportation Commission to be otherwise deposited, all monies received by the Mississippi
Transportation Commission to carry out the purposes of this chapter shall be deposited into the Railroad Revitalization Fund.

(2) Monies (including interest earnings) in the Railroad Revitalization Fund shall be expended either separately or in combination with any available federal funds for one or more of the following:

(a) Railroad research, railroad planning and railroad administration costs incurred by the Mississippi Transportation Commission directly attributable to railroad projects authorized under this chapter;

(b) Assistance to railroads for the revitalization, rehabilitation, relocation, improvement, maintenance or repair of rail lines;

(c) Construction, improvement, rehabilitation, maintenance or repair of railroad facilities, excluding the purchase, improvement, maintenance or repair of rolling stock of a railroad;

(d) Railroad-related projects that develop, expand and/or promote economic and industrial development within the state;

(e) Separation or closing of roadway/railroad grade crossings; and

(f) Such other railroad projects that are authorized under this chapter.

(3) Except as may be specifically designated otherwise, funds appropriated or otherwise provided by the Legislature for rail line assistance shall be deposited in the Railroad Revitalization Fund. Any monies received by the Mississippi Transportation Commission by agreements, grants, gifts or other means from railroad corporations, the United States government (unless determined by the Mississippi Transportation Commission to be otherwise allocated as provided in subsection (1) of this section, individuals, companies or other business entities,
municipalities, counties, local railroad authorities or regional railroad authorities, the Mississippi Development Authority, economic development districts created pursuant to Section 19-5-99, county port authorities, county development commissions or other federal, state or local governmental agencies for the purposes set forth in this chapter, * * * shall be credited to the Railroad Revitalization Fund. Any money remaining in the fund at the end of any fiscal year shall not lapse into the State General Fund and any interest received from investment of monies in the fund shall be credited to the fund and shall not be deposited into the State General Fund.

(4) Use of the Railroad Revitalization Fund for railroad research, planning and administration costs incurred by the Mississippi Transportation Commission, including, but not limited to, the development and periodic update of the State Rail Plan, that are directly attributable to * * * projects authorized under this chapter shall be limited to an annual amount not to exceed Twenty-five Thousand Dollars ($25,000.00) * * *.

(5) As used in this chapter:

(a) "Loan agreement" means a loan agreement by and between the Mississippi Transportation Commission and a railroad corporation with respect to the loan of proceeds of bonds to finance railroad projects.

(b) "Railroad" means a railroad that carries persons or property for hire and is designated as a public highway by Section 184, Mississippi Constitution of 1890.

(c) "Railroad corporation" means a company engaged in the business of operating a railroad and may be a Mississippi railroad corporation organized under the provisions of Title 77, Chapter 9, Article 3, Mississippi Code of 1972, or a foreign corporation authorized to do business in this state.

(d) "Railroad projects" means one (1) of the projects described in Section 57-43-1(2).
SECTION 21. Section 57-43-3, Mississippi Code of 1972, is amended as follows:

57-43-3. The Mississippi Transportation Commission may enter into agreements with railroads, the United States government, persons, municipalities, counties, local railroad authorities, regional railroad authorities, the Mississippi Development Authority, economic development districts created pursuant to Section 19-5-99, county port authorities or county development commissions or other federal, state or local governmental agencies for carrying out the purposes of this chapter. *

SECTION 22. Section 57-43-5, Mississippi Code of 1972, is amended as follows:

57-43-5. The Mississippi Transportation Commission may accept federal funds to carry out the provisions of this chapter. All federal grants received under provisions of this chapter shall be deposited into the Railroad Revitalization Fund and shall be expended for the purposes set forth in the federal grants. The Mississippi Transportation Commission, upon a finding that sufficient federal grants for railroad projects authorized under this chapter are not available, and with the approval of the Department of Finance and Administration, may make grants to railroad corporations in a total amount not to exceed Two Million Dollars ($2,000,000.00) from the Railroad Revitalization Fund. However, such grants may be made using proceeds of the bonds authorized by Sections 5 through 19 of this act. Any grant made to a railroad corporation pursuant to this section shall include a condition that, as a prerequisite to its receipt of any such grant monies, the railroad corporation agrees not to abandon any section of rail line on which such grant monies are spent for a period of not less than ten (10) years.

SECTION 23. Section 57-43-7, Mississippi Code of 1972, is amended as follows:
57-43-7. Agreements between a railroad corporation and the Mississippi Transportation Commission which do not require repayment to the Railroad Revitalization Fund of all or a portion of the monies loaned to such railroad corporation pursuant to Section 57-43-11 to be made by the railroad, shall require that the railroad establish and maintain a separate railroad corporation fund to which a specified portion of the revenue derived from the revitalized, rehabilitated, relocated or improved rail line shall be credited and that these funds shall be used by the railroad for the revitalization, rehabilitation, relocation, improvement or maintenance of rail lines within the state, or the closing or separation of roadway/railroad grade crossings within the state. The terms and conditions governing the use of monies in the special railroad corporation fund shall be stipulated in the agreement. The agreement shall also stipulate a penalty for use of the funds in a manner other than as set forth in the agreement.

SECTION 24. Section 57-43-9, Mississippi Code of 1972, is amended as follows:

57-43-9. (1) The board of supervisors of a county or the governing authority of a municipality may, with the approval of the Mississippi Transportation Commission, appropriate funds from the county or municipal general fund to the Railroad Revitalization Fund. Such funds shall be used in accordance with this chapter only for the purposes set forth in this chapter with respect to rail lines within the county from which the county or municipal funds are provided. *

(2) The board of supervisors of a county and the governing authority of a municipality may enter into an agreement with the Mississippi Transportation Commission to receive a portion of the payments made by a railroad corporation to the Railroad Revitalization Fund pursuant to this chapter. The amount received by a county or municipality shall not exceed the amount
appropriated to the Railroad Revitalization Fund by the county or
municipality pursuant to this chapter.

SECTION 25. Section 57-43-11, Mississippi Code of 1972, is
amended as follows:

57-43-11. (1) ** To further the purposes of this
chapter, the Mississippi Transportation Commission may enter into
agreements with railroad corporations, whereby the Mississippi
Transportation Commission may loan monies from the Railroad
Revitalization Fund to a railroad corporation in such amounts as
are necessary to accomplish a railroad project authorized under
this chapter that has been determined by the Mississippi
Transportation Commission as being in the public interest.

(2) If the monies loaned to a railroad corporation in
accordance with this section are the proceeds of bonds issued
pursuant to Sections 5 through 19 of Senate Bill No. 3167, 2001
Regular Session, the rate of interest on such loan shall be at a
rate that is sufficient, when combined with the payment of
principal, to retire the bonds issued to fund such loan when such
loan is paid in full. The Mississippi Transportation Commission
shall not make any such loan unless it determines in its
discretion, that the railroad corporation that is seeking such
loan shall provide sufficient security to ensure complete and full
repayment of the loan and interest. Such sufficient security may
include, but not be limited to, deeds of trust, mortgages and
other security agreements. The loan agreement regarding the loan
of the proceeds of bonds issued pursuant to Sections 5 through 19
of Senate Bill No. 3167, 2001 Regular Session, shall require
repayment of such loan to the sinking fund established in Section
4 of Senate Bill No. 3167, 2001 Regular Session.

(3) If the monies loaned to a railroad corporation in
 accordance with this section are derived from a source other than
from the proceeds of bonds issued pursuant to Sections 5 through
19 of Senate Bill No. 3167, 2001 Regular Session, the Mississippi
Transportation Commission may require such security from the railroad corporation that is seeking such loan as the commission deems appropriate. Any loan of funds derived from the locomotive fuel tax shall be made at no interest, provided payments are made in accordance with the agreement.

Any portion of a loan outstanding during any delinquency shall bear interest at the legal rate on the entire balance due. In the event that a railroad corporation is not repaying a loan extended under this chapter in accordance with the terms of the loan agreement or arrangements satisfactory to the Mississippi Transportation Commission have not been made to repay the loan within a period of time after same is due and payable, as determined by the commission, the commission shall determine that there is a default, shall enter an order to that effect upon its official minutes, and send a certified copy of said order by certified mail, postage prepaid, to the railroad corporation. If said default is not satisfied in full within thirty (30) days following notification of default by the commission, the railroad corporation shall be required to pay in accordance with the default provisions of the loan agreement, and the Mississippi Transportation Commission may also exercise any other rights it may have pursuant to such loan agreement at law or equity. Any such agreement between the Mississippi Transportation Commission and a railroad corporation regarding a loan from the Railroad Revitalization Fund shall also include a condition that, as a prerequisite to its receipt of such loan, the railroad corporation agree not to abandon any section of rail line on which the proceeds of such loan are to be spent until the loan has been repaid in accordance with the loan agreement.

SECTION 26. Section 57-43-13, Mississippi Code of 1972, is amended as follows:

57-43-13. For the purposes of achieving a reduction in the number of public roadway/railroad grade crossings in this state,
a separate account within the Railroad Revitalization Fund is hereby * * * established and entitled the Mississippi Grade Crossing Closure Account. The Mississippi Grade Crossing Closure Account is to be administered by the same agency responsible for administering the Railroad Revitalization Fund. * * * Funding for this account shall be derived from thirty-five percent (35%) of collections from the locomotive fuel tax for the previous year. This account will be cumulative. Funds not obligated for expenditure in any fiscal year will continue to accrue to succeeding fiscal years; unexpended amounts remaining in such account at the end of a fiscal year shall not lapse into the State General Fund; and any interest earned on amounts in such account shall be deposited to the credit of such account. The Mississippi Transportation Commission, in cooperation with the railroads operating in Mississippi, shall promulgate rules to ensure equitable allocation of these funds to public roadway/railroad grade crossing closure projects throughout the state and shall consider the proportionate number of main line track miles of each railroad and the number of public roadway/railroad grade crossings on each railroad's main line. Funds from the Mississippi Grade Crossing Closure Account shall be limited to the following purposes: financial aid for closure of public roadway/railroad grade crossings; realignment of construction costs of roadways being rerouted to facilitate a closure of a public roadway/railroad grade crossing; monies to match federal or other funds for a grade separation eliminating an at-grade crossing of a public roadway and railroad. The Mississippi Transportation Commission shall consider all requests from the state's diagnostic review of public roadway/railroad grade crossings and from individual railroads for expenditure of funds for these limited purposes and shall establish uniform criteria and guidelines relating to such crossings and the expenditure of funds.
SECTION 27. Sections 1 through 19 of this act shall be codified in Chapter 43, Title 57, Mississippi Code of 1972.

SECTION 28. This act shall take effect and be in force from and after July 1, 2001.