

By: Senator(s) Little, Robertson, Albritton, Browning, Butler, Carmichael, Chamberlin, Dawkins, Dearing, Flowers, Frazier, Gollott, Gordon, Harden, Horhn, Hyde-Smith, Jackson (11th), Jackson (32nd), Jordan, King, Kirby, Mettetal, Moffatt, Morgan, Simmons, Thomas, Walley, Walls, Williamson

To: Finance

SENATE BILL NO. 3173

1 AN ACT TO AUTHORIZE THE ISSUANCE OF \$20,000,000.00 IN STATE
 2 GENERAL OBLIGATION BONDS TO PROVIDE FUNDS FOR THE LOCAL SYSTEM
 3 BRIDGE REPLACEMENT AND REHABILITATION FUND; TO AMEND SECTION
 4 65-37-13, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
 5 LEGISLATURE SHALL NOT BE REQUIRED TO APPROPRIATE FUNDS DURING THE
 6 2004 REGULAR SESSION FOR DEPOSIT INTO THE LOCAL SYSTEM BRIDGE
 7 REPLACEMENT AND REHABILITATION FUND; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** As used in Sections 1 through 16 of this act, the
 10 following words shall have the meanings ascribed herein unless the
 11 context clearly requires otherwise:

12 (a) "Accreted value" of any bonds means, as of any date
 13 of computation, an amount equal to the sum of (i) the stated
 14 initial value of such bond, plus (ii) the interest accrued thereon
 15 from the issue date to the date of computation at the rate,
 16 compounded semiannually, that is necessary to produce the
 17 approximate yield to maturity shown for bonds of the same
 18 maturity.

19 (b) "State" means the State of Mississippi.

20 (c) "Commission" means the State Bond Commission.

21 **SECTION 2.** (1) The Department of Finance and
 22 Administration, at one time, or from time to time, may declare by
 23 resolution the necessity for issuance of general obligation bonds
 24 of the State of Mississippi to provide funds for the Local System
 25 Bridge Replacement and Rehabilitation Fund created under Section
 26 65-37-13. Upon the adoption of a resolution by the Department of
 27 Finance and Administration, declaring the necessity for the
 28 issuance of any part or all of the general obligation bonds
 29 authorized by this section, the Department of Finance and

30 Administration shall deliver a certified copy of its resolution or
31 resolutions to the commission. Upon receipt of such resolution,
32 the commission, in its discretion, may act as the issuing agent,
33 prescribe the form of the bonds, advertise for and accept bids,
34 issue and sell the bonds so authorized to be sold and do any and
35 all other things necessary and advisable in connection with the
36 issuance and sale of such bonds. The total amount of bonds issued
37 under Sections 1 through 16 of this act shall not exceed Twenty
38 Million Dollars (\$20,000,000.00).

39 (2) The proceeds of bonds issued pursuant to Sections 1
40 through 16 of this act shall be deposited into the Local System
41 Bridge Replacement and Rehabilitation Fund created under Section
42 65-37-13. Any investment earnings on bonds issued pursuant to
43 Sections 1 through 16 of this act shall be used to pay debt
44 service on bonds issued under Sections 1 through 16 of this act,
45 in accordance with the proceedings authorizing issuance of such
46 bonds.

47 **SECTION 3.** The principal of and interest on the bonds
48 authorized under Sections 1 through 16 of this act shall be
49 payable in the manner provided in this section. Such bonds shall
50 bear such date or dates, be in such denomination or denominations,
51 bear interest at such rate or rates (not to exceed the limits set
52 forth in Section 75-17-101, Mississippi Code of 1972), be payable
53 at such place or places within or without the State of
54 Mississippi, shall mature absolutely at such time or times not to
55 exceed twenty-five (25) years from date of issue, be redeemable
56 before maturity at such time or times and upon such terms, with or
57 without premium, shall bear such registration privileges, and
58 shall be substantially in such form, all as shall be determined by
59 resolution of the commission.

60 **SECTION 4.** The bonds authorized by Sections 1 through 16 of
61 this act shall be signed by the chairman of the commission, or by
62 his facsimile signature, and the official seal of the commission

63 shall be affixed thereto, attested by the secretary of the
64 commission. The interest coupons, if any, to be attached to such
65 bonds may be executed by the facsimile signatures of such
66 officers. Whenever any such bonds shall have been signed by the
67 officials designated to sign the bonds who were in office at the
68 time of such signing but who may have ceased to be such officers
69 before the sale and delivery of such bonds, or who may not have
70 been in office on the date such bonds may bear, the signatures of
71 such officers upon such bonds and coupons shall nevertheless be
72 valid and sufficient for all purposes and have the same effect as
73 if the person so officially signing such bonds had remained in
74 office until their delivery to the purchaser, or had been in
75 office on the date such bonds may bear. However, notwithstanding
76 anything herein to the contrary, such bonds may be issued as
77 provided in the Registered Bond Act of the State of Mississippi.

78 **SECTION 5.** All bonds and interest coupons issued under the
79 provisions of Sections 1 through 16 of this act have all the
80 qualities and incidents of negotiable instruments under the
81 provisions of the Uniform Commercial Code, and in exercising the
82 powers granted by Sections 1 through 16 of this act, the
83 commission shall not be required to and need not comply with the
84 provisions of the Uniform Commercial Code.

85 **SECTION 6.** The commission shall act as the issuing agent for
86 the bonds authorized under Sections 1 through 16 of this act,
87 prescribe the form of the bonds, advertise for and accept bids,
88 issue and sell the bonds so authorized to be sold, pay all fees
89 and costs incurred in such issuance and sale, and do any and all
90 other things necessary and advisable in connection with the
91 issuance and sale of such bonds. The commission is authorized and
92 empowered to pay the costs that are incident to the sale, issuance
93 and delivery of the bonds authorized under Sections 1 through 16
94 of this act from the proceeds derived from the sale of such bonds.
95 The commission shall sell such bonds on sealed bids at public

96 sale, and for such price as it may determine to be for the best
97 interest of the State of Mississippi, but no such sale shall be
98 made at a price less than par plus accrued interest to the date of
99 delivery of the bonds to the purchaser. All interest accruing on
100 such bonds so issued shall be payable semiannually or annually;
101 however, the first interest payment may be for any period of not
102 more than one (1) year.

103 Notice of the sale of any such bonds shall be published at
104 least one time, not less than ten (10) days before the date of
105 sale, and shall be so published in one or more newspapers
106 published or having a general circulation in the City of Jackson,
107 Mississippi, and in one or more other newspapers or financial
108 journals with a national circulation, to be selected by the
109 commission.

110 The commission, when issuing any bonds under the authority of
111 Sections 1 through 16 of this act, may provide that bonds, at the
112 option of the State of Mississippi, may be called in for payment
113 and redemption at the call price named therein and accrued
114 interest on such date or dates named therein.

115 **SECTION 7.** The bonds issued under the provisions of Sections
116 1 through 16 of this act are general obligations of the State of
117 Mississippi, and for the payment thereof the full faith and credit
118 of the State of Mississippi is irrevocably pledged. If the funds
119 appropriated by the Legislature are insufficient to pay the
120 principal of and the interest on such bonds as they become due,
121 then the deficiency shall be paid by the State Treasurer from any
122 funds in the State Treasury not otherwise appropriated. All such
123 bonds shall contain recitals on their faces substantially covering
124 the provisions of this section.

125 **SECTION 8.** Upon the issuance and sale of bonds under the
126 provisions of Sections 1 through 16 of this act, the commission
127 shall transfer the proceeds of any such sale or sales to the Local
128 System Bridge Replacement and Rehabilitation Fund created in

129 Section 65-37-13. The proceeds of such bonds shall be disbursed
130 solely upon the order of the Department of Finance and
131 Administration under such restrictions, if any, as may be
132 contained in the resolution providing for the issuance of the
133 bonds.

134 **SECTION 9.** The bonds authorized under Sections 1 through 16
135 of this act may be issued without any other proceedings or the
136 happening of any other conditions or things other than those
137 proceedings, conditions and things which are specified or required
138 by Sections 1 through 16 of this act. Any resolution providing
139 for the issuance of bonds under the provisions of Sections 1
140 through 16 of this act shall become effective immediately upon its
141 adoption by the commission, and any such resolution may be adopted
142 at any regular or special meeting of the commission by a majority
143 of its members.

144 **SECTION 10.** The bonds authorized under the authority of
145 Sections 1 through 16 of this act may be validated in the Chancery
146 Court of the First Judicial District of Hinds County, Mississippi,
147 in the manner and with the force and effect provided by Chapter
148 13, Title 31, Mississippi Code of 1972, for the validation of
149 county, municipal, school district and other bonds. The notice to
150 taxpayers required by such statutes shall be published in a
151 newspaper published or having a general circulation in the City of
152 Jackson, Mississippi.

153 **SECTION 11.** Any holder of bonds issued under the provisions
154 of Sections 1 through 16 of this act or of any of the interest
155 coupons pertaining thereto may, either at law or in equity, by
156 suit, action, mandamus or other proceeding, protect and enforce
157 any and all rights granted under Sections 1 through 16 of this
158 act, or under such resolution, and may enforce and compel
159 performance of all duties required by Sections 1 through 16 of
160 this act to be performed, in order to provide for the payment of
161 bonds and interest thereon.

162 **SECTION 12.** All bonds issued under the provisions of
163 Sections 1 through 16 of this act shall be legal investments for
164 trustees and other fiduciaries, and for savings banks, trust
165 companies and insurance companies organized under the laws of the
166 State of Mississippi, and such bonds shall be legal securities
167 which may be deposited with and shall be received by all public
168 officers and bodies of this state and all municipalities and
169 political subdivisions for the purpose of securing the deposit of
170 public funds.

171 **SECTION 13.** Bonds issued under the provisions of Sections 1
172 through 16 of this act and income therefrom shall be exempt from
173 all taxation in the State of Mississippi.

174 **SECTION 14.** The proceeds of the bonds issued under Sections
175 1 through 16 of this act shall be used solely for the purposes
176 therein provided, including the costs incident to the issuance and
177 sale of such bonds.

178 **SECTION 15.** The State Treasurer is authorized, without
179 further process of law, to certify to the Department of Finance
180 and Administration the necessity for warrants, and the Department
181 of Finance and Administration is authorized and directed to issue
182 such warrants, in such amounts as may be necessary to pay when due
183 the principal of, premium, if any, and interest on, or the
184 accreted value of, all bonds issued under Sections 1 through 16 of
185 this act; and the State Treasurer shall forward the necessary
186 amount to the designated place or places of payment of such bonds
187 in ample time to discharge such bonds, or the interest thereon, on
188 the due dates thereof.

189 **SECTION 16.** Sections 1 through 16 of this act shall be
190 deemed to be full and complete authority for the exercise of the
191 powers therein granted, but Sections 1 through 16 of this act
192 shall not be deemed to repeal or to be in derogation of any
193 existing law of this state.

194 **SECTION 17.** Section 65-37-13, Mississippi Code of 1972, is
195 amended as follows:

196 65-37-13. (1) There is created in the State Treasury a
197 special fund to be designated as the "Local System Bridge
198 Replacement and Rehabilitation Fund." The fund shall consist of
199 such monies as the Legislature appropriates pursuant to subsection
200 (2) of this section and such other monies as the Legislature may
201 designate for deposit in the fund. Monies in the fund may be
202 expended upon legislative appropriation in accordance with the
203 provisions of Sections 65-37-1 through 65-37-15.

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

212 (b) During the regular legislative session held in
213 calendar year 1999, if the official General Fund revenue estimate
214 for the succeeding fiscal year for which appropriations are being
215 made reflects a growth in General Fund revenues of two percent
216 (2%) or more for the succeeding fiscal year, then the Legislature
217 shall appropriate Ten Million Dollars (\$10,000,000.00) from the
218 State General Fund for deposit into the Local System Bridge
219 Replacement and Rehabilitation Fund.

220 (c) Except as otherwise provided in this paragraph (c),
221 during each regular legislative session held in calendar years
222 2001 through 2008, if the official General Fund revenue estimate
223 for the succeeding fiscal year for which appropriations are being
224 made reflects a growth in General Fund revenues of two percent
225 (2%) or more for the succeeding fiscal year, then the Legislature
226 shall appropriate Twenty Million Dollars (\$20,000,000.00) from the

227 State General Fund for deposit into the Local System Bridge
228 Replacement and Rehabilitation Fund. However, during the regular
229 legislative sessions held in calendar years 2003 and 2004, the
230 Legislature shall not be required to appropriate funds for deposit
231 into the Local System Bridge Replacement and Rehabilitation Fund.

232 (3) Such monies as are deposited in the fund under the
233 provisions of this section may be expended upon requisition
234 therefor by the State Aid Engineer in accordance with the
235 provisions of Sections 65-37-1 through 65-37-15. The Office of
236 State Aid Road Construction shall be entitled to reimbursement
237 from monies in the fund, upon requisitions therefor by the State
238 Aid Engineer, for the actual expenses incurred by the office in
239 administering the provisions of the local system bridge
240 replacement and rehabilitation program. Unexpended amounts
241 remaining in the fund at the end of a fiscal year shall not lapse
242 into the State General Fund, and any interest earned on amounts in
243 the fund shall be deposited to the credit of the fund.

244 (4) Monies in the Local System Bridge Replacement and
245 Rehabilitation Fund shall be allocated and become available for
246 distribution to counties in accordance with the formula prescribed
247 in Section 65-37-4 beginning January 1, 1995, on a
248 project-by-project basis. Monies in the Local System Bridge
249 Replacement and Rehabilitation Fund may not be used or expended
250 for any purpose except as authorized under Sections 65-37-1
251 through 65-37-15.

252 (5) Monies in the Local System Bridge Replacement and
253 Rehabilitation Fund may be credited to a county in advance of the
254 normal accrual to finance certain projects, subject to the
255 approval of the State Aid Engineer and subject further to the
256 following limitations:

257 (a) That the maximum amount of such monies that may be
258 advanced to any county shall not exceed ninety percent (90%) of

259 the funds estimated to accrue to such county during the remainder
260 of the term of office of the board of supervisors of such county;

261 (b) That no advance credit of funds will be made to any
262 county when the unobligated balance in the Local System Bridge
263 Replacement and Rehabilitation Fund is less than One Million
264 Dollars (\$1,000,000.00); and

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

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

271 **SECTION 18.** This act shall take effect and be in force from
272 and after its passage.