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To: Transportation; Ways and Means

COMMITTEE SUBSTITUTE
 FOR
 HOUSE BILL NO. 315

1 AN ACT TO AUTHORIZE THE ISSUANCE OF \$25,000,000.00 IN STATE
 2 GENERAL OBLIGATION BONDS TO PROVIDE FUNDS FOR THE LOCAL SYSTEM
 3 BRIDGE REPLACEMENT AND REHABILITATION PROGRAM AND THE LOCAL SYSTEM
 4 ROAD PROGRAM; TO AMEND SECTION 65-37-13, MISSISSIPPI CODE OF 1972,
 5 TO DELETE THE PROVISIONS THAT REQUIRE THE LEGISLATURE TO
 6 APPROPRIATE MONIES DURING THE 2006 REGULAR SESSION TO THE LOCAL
 7 SYSTEM BRIDGE REPLACEMENT AND REHABILITATION FUND; TO AMEND
 8 SECTIONS 65-18-9 AND 65-18-11, MISSISSIPPI CODE OF 1972, TO CREATE
 9 THE LOCAL SYSTEM ROAD FUND; TO AUTHORIZE THE STATE ENGINEER TO
 10 ALLOCATE MONIES IN THE FUND TO EACH COUNTY FOR CONSTRUCTING AND
 11 RECONSTRUCTING LOCAL SYSTEM ROADS; TO CREATE A NEW SECTION TO BE
 12 CODIFIED AS SECTION 65-37-12, MISSISSIPPI CODE OF 1972, TO PROVIDE
 13 THAT A COUNTY THAT FAILS TO EXPEND MONIES ALLOCATED TO IT UNDER
 14 THE LOCAL SYSTEM BRIDGE REPLACEMENT AND REHABILITATION PROGRAM
 15 WITHIN FIVE YEARS SHALL FORFEIT SUCH MONIES TO OTHER ELIGIBLE
 16 COUNTIES UNDER THE PROGRAM; AND FOR RELATED PURPOSES.

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

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

21 (a) "Accreted value" of any bonds means, as of any date
 22 of computation, an amount equal to the sum of (i) the stated
 23 initial value of such bond, plus (ii) the interest accrued thereon
 24 from the issue date to the date of computation at the rate,
 25 compounded semiannually, that is necessary to produce the
 26 approximate yield to maturity shown for bonds of the same
 27 maturity.

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

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

30 **SECTION 2.** (1) The Department of Finance and
 31 Administration, at one time, or from time to time, may declare by
 32 resolution the necessity for issuance of general obligation bonds
 33 of the State of Mississippi to provide funds for the Local System
 34 Bridge Replacement and Rehabilitation Fund created under Section

35 65-37-13 and the Local System Bridge Replacement and
36 Rehabilitation Fund created under Section 65-18-9. Upon the
37 adoption of a resolution by the Department of Finance and
38 Administration, declaring the necessity for the issuance of any
39 part or all of the general obligation bonds authorized by this
40 section, the Department of Finance and Administration shall
41 deliver a certified copy of its resolution or resolutions to the
42 commission. Upon receipt of such resolution, the commission, in
43 its discretion, may act as the issuing agent, prescribe the form
44 of the bonds, advertise for and accept bids, issue and sell the
45 bonds so authorized to be sold and do any and all other things
46 necessary and advisable in connection with the issuance and sale
47 of such bonds. The total amount of bonds issued under Sections 1
48 through 16 of this act shall not exceed Twenty-five Million
49 Dollars (\$25,000,000.00).

50 (2) Twenty Million Dollars (\$20,000,000.00) of the proceeds
51 of bonds issued pursuant to Sections 1 through 16 of this act
52 shall be deposited into the Local System Bridge Replacement and
53 Rehabilitation Fund created under Section 65-37-13, and Five
54 Million Dollars (\$5,000,000.00) of the bonds issued pursuant to
55 Sections 1 through 16 of this act shall be deposited into the
56 Local System Road Fund created under Section 65-18-19. Any
57 investment earnings on bonds issued pursuant to Sections 1 through
58 16 of this act shall be used to pay debt service on bonds issued
59 under Sections 1 through 16 of this act, in accordance with the
60 proceedings authorizing issuance of such bonds.

61 **SECTION 3.** The principal of and interest on the bonds
62 authorized under Sections 1 through 16 of this act shall be
63 payable in the manner provided in this section. Such bonds shall
64 bear such date or dates, be in such denomination or denominations,
65 bear interest at such rate or rates (not to exceed the limits set
66 forth in Section 75-17-101, Mississippi Code of 1972), be payable
67 at such place or places within or without the State of

68 Mississippi, shall mature absolutely at such time or times not to
69 exceed twenty-five (25) years from date of issue, be redeemable
70 before maturity at such time or times and upon such terms, with or
71 without premium, shall bear such registration privileges, and
72 shall be substantially in such form, all as shall be determined by
73 resolution of the commission.

74 **SECTION 4.** The bonds authorized by Sections 1 through 16 of
75 this act shall be signed by the chairman of the commission, or by
76 his facsimile signature, and the official seal of the commission
77 shall be affixed thereto, attested by the secretary of the
78 commission. The interest coupons, if any, to be attached to such
79 bonds may be executed by the facsimile signatures of such
80 officers. Whenever any such bonds shall have been signed by the
81 officials designated to sign the bonds who were in office at the
82 time of such signing but who may have ceased to be such officers
83 before the sale and delivery of such bonds, or who may not have
84 been in office on the date such bonds may bear, the signatures of
85 such officers upon such bonds and coupons shall nevertheless be
86 valid and sufficient for all purposes and have the same effect as
87 if the person so officially signing such bonds had remained in
88 office until their delivery to the purchaser, or had been in
89 office on the date such bonds may bear. However, notwithstanding
90 anything herein to the contrary, such bonds may be issued as
91 provided in the Registered Bond Act of the State of Mississippi.

92 **SECTION 5.** All bonds and interest coupons issued under the
93 provisions of Sections 1 through 16 of this act have all the
94 qualities and incidents of negotiable instruments under the
95 provisions of the Uniform Commercial Code, and in exercising the
96 powers granted by Sections 1 through 16 of this act, the
97 commission shall not be required to and need not comply with the
98 provisions of the Uniform Commercial Code.

99 **SECTION 6.** The commission shall act as the issuing agent for
100 the bonds authorized under Sections 1 through 16 of this act,

101 prescribe the form of the bonds, advertise for and accept bids,
102 issue and sell the bonds so authorized to be sold, pay all fees
103 and costs incurred in such issuance and sale, and do any and all
104 other things necessary and advisable in connection with the
105 issuance and sale of such bonds. The commission is authorized and
106 empowered to pay the costs that are incident to the sale, issuance
107 and delivery of the bonds authorized under Sections 1 through 16
108 of this act from the proceeds derived from the sale of such bonds.
109 The commission shall sell such bonds on sealed bids at public
110 sale, and for such price as it may determine to be for the best
111 interest of the State of Mississippi, but no such sale shall be
112 made at a price less than par plus accrued interest to the date of
113 delivery of the bonds to the purchaser. All interest accruing on
114 such bonds so issued shall be payable semiannually or annually;
115 however, the first interest payment may be for any period of not
116 more than one (1) year.

117 Notice of the sale of any such bonds shall be published at
118 least one time, not less than ten (10) days before the date of
119 sale, and shall be so published in one or more newspapers
120 published or having a general circulation in the City of Jackson,
121 Mississippi, and in one or more other newspapers or financial
122 journals with a national circulation, to be selected by the
123 commission.

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

129 **SECTION 7.** The bonds issued under the provisions of Sections
130 1 through 16 of this act are general obligations of the State of
131 Mississippi, and for the payment thereof the full faith and credit
132 of the State of Mississippi is irrevocably pledged. If the funds
133 appropriated by the Legislature are insufficient to pay the

134 principal of and the interest on such bonds as they become due,
135 then the deficiency shall be paid by the State Treasurer from any
136 funds in the State Treasury not otherwise appropriated. All such
137 bonds shall contain recitals on their faces substantially covering
138 the provisions of this section.

139 **SECTION 8.** Upon the issuance and sale of bonds under the
140 provisions of Sections 1 through 16 of this act, the commission
141 shall transfer the proceeds of any such sale or sales to the Local
142 System Bridge Replacement and Rehabilitation Fund created under
143 Section 65-37-13 and the Local System Road Fund created under
144 Section 65-18-9 as provided under Section 2(2) of House Bill No.
145 315, 2006 Regular Session. The proceeds of such bonds shall be
146 disbursed solely upon the order of the Department of Finance and
147 Administration under such restrictions, if any, as may be
148 contained in the resolution providing for the issuance of the
149 bonds.

150 **SECTION 9.** The bonds authorized under Sections 1 through 16
151 of this act may be issued without any other proceedings or the
152 happening of any other conditions or things other than those
153 proceedings, conditions and things which are specified or required
154 by Sections 1 through 16 of this act. Any resolution providing
155 for the issuance of bonds under the provisions of Sections 1
156 through 16 of this act shall become effective immediately upon its
157 adoption by the commission, and any such resolution may be adopted
158 at any regular or special meeting of the commission by a majority
159 of its members.

160 **SECTION 10.** The bonds authorized under the authority of
161 Sections 1 through 16 of this act may be validated in the Chancery
162 Court of the First Judicial District of Hinds County, Mississippi,
163 in the manner and with the force and effect provided by Chapter
164 13, Title 31, Mississippi Code of 1972, for the validation of
165 county, municipal, school district and other bonds. The notice to
166 taxpayers required by such statutes shall be published in a

167 newspaper published or having a general circulation in the City of
168 Jackson, Mississippi.

169 **SECTION 11.** Any holder of bonds issued under the provisions
170 of Sections 1 through 16 of this act or of any of the interest
171 coupons pertaining thereto may, either at law or in equity, by
172 suit, action, mandamus or other proceeding, protect and enforce
173 any and all rights granted under Sections 1 through 16 of this
174 act, or under such resolution, and may enforce and compel
175 performance of all duties required by Sections 1 through 16 of
176 this act to be performed, in order to provide for the payment of
177 bonds and interest thereon.

178 **SECTION 12.** All bonds issued under the provisions of
179 Sections 1 through 16 of this act shall be legal investments for
180 trustees and other fiduciaries, and for savings banks, trust
181 companies and insurance companies organized under the laws of the
182 State of Mississippi, and such bonds shall be legal securities
183 which may be deposited with and shall be received by all public
184 officers and bodies of this state and all municipalities and
185 political subdivisions for the purpose of securing the deposit of
186 public funds.

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

190 **SECTION 14.** The proceeds of the bonds issued under Sections
191 1 through 16 of this act shall be used solely for the purposes
192 therein provided, including the costs incident to the issuance and
193 sale of such bonds.

194 **SECTION 15.** The State Treasurer is authorized, without
195 further process of law, to certify to the Department of Finance
196 and Administration the necessity for warrants, and the Department
197 of Finance and Administration is authorized and directed to issue
198 such warrants, in such amounts as may be necessary to pay when due
199 the principal of, premium, if any, and interest on, or the

200 accreted value of, all bonds issued under Sections 1 through 16 of
201 this act; and the State Treasurer shall forward the necessary
202 amount to the designated place or places of payment of such bonds
203 in ample time to discharge such bonds, or the interest thereon, on
204 the due dates thereof.

205 **SECTION 16.** Sections 1 through 16 of this act shall be
206 deemed to be full and complete authority for the exercise of the
207 powers therein granted, but Sections 1 through 16 of this act
208 shall not be deemed to repeal or to be in derogation of any
209 existing law of this state.

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

212 65-37-13. (1) There is created in the State Treasury a
213 special fund to be designated as the "Local System Bridge
214 Replacement and Rehabilitation Fund." The fund shall consist of
215 such monies as the Legislature appropriates pursuant to subsection
216 (2) of this section and such other monies as the Legislature may
217 designate for deposit into the fund. Monies in the fund may be
218 expended upon legislative appropriation in accordance with the
219 provisions of Sections 65-37-1 through 65-37-15.

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

228 (b) During the regular legislative session held in
229 calendar year 1999, if the official General Fund revenue estimate
230 for the succeeding fiscal year for which appropriations are being
231 made reflects a growth in General Fund revenues of two percent
232 (2%) or more for the succeeding fiscal year, then the Legislature

233 shall appropriate Ten Million Dollars (\$10,000,000.00) from the
234 State General Fund for deposit into the Local System Bridge
235 Replacement and Rehabilitation Fund.

236 (c) Except as otherwise provided in this paragraph (c),
237 during each regular legislative session held in calendar years
238 2001 through 2008, if the official General Fund revenue estimate
239 for the succeeding fiscal year for which appropriations are being
240 made reflects a growth in General Fund revenues of two percent
241 (2%) or more for the succeeding fiscal year, then the Legislature
242 shall appropriate Twenty Million Dollars (\$20,000,000.00) from the
243 State General Fund for deposit into the Local System Bridge
244 Replacement and Rehabilitation Fund. However, during the regular
245 legislative sessions held in calendar years 2003, 2004, 2005 and
246 2006, the Legislature shall not be required to appropriate funds
247 for deposit into the Local System Bridge Replacement and
248 Rehabilitation Fund.

249 (3) Such monies as are deposited into the fund under the
250 provisions of this section may be expended upon requisition
251 therefor by the State Aid Engineer in accordance with the
252 provisions of Sections 65-37-1 through 65-37-15. The Office of
253 State Aid Road Construction shall be entitled to reimbursement
254 from monies in the fund, upon requisitions therefor by the State
255 Aid Engineer, for the actual expenses incurred by the office in
256 administering the provisions of the local system bridge
257 replacement and rehabilitation program. Unexpended amounts
258 remaining in the fund at the end of a fiscal year shall not lapse
259 into the State General Fund, and any interest earned on amounts in
260 the fund shall be deposited to the credit of the fund.

261 (4) Monies in the Local System Bridge Replacement and
262 Rehabilitation Fund shall be allocated and become available for
263 distribution to counties in accordance with the formula prescribed
264 in Section 65-37-3 beginning January 1, 1995, on a
265 project-by-project basis. Monies in the Local System Bridge

266 Replacement and Rehabilitation Fund may not be used or expended
267 for any purpose except as authorized under Sections 65-37-1
268 through 65-37-15.

269 (5) Monies in the Local System Bridge Replacement and
270 Rehabilitation Fund may be credited to a county in advance of the
271 normal accrual to finance certain projects, subject to the
272 approval of the State Aid Engineer and subject further to the
273 following limitations:

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

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

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

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

288 **SECTION 18.** Section 65-18-9, Mississippi Code of 1972, is
289 amended as follows:

290 65-18-9. (1) The State Aid Engineer shall allocate annually
291 the amount of the state aid road allocation of a county that is
292 requested by such county for use in the construction,
293 reconstruction and paving of local system roads in the county if
294 the county has met the requirements of this chapter; provided,
295 however, that the State Aid Engineer shall not allocate more than
296 twenty-five percent (25%) of the annual state aid road allocation
297 of a county for such purposes.

298 (2) The State Aid Engineer shall allocate annually the
299 amount of the Local System Bridge Replacement and Rehabilitation
300 Program allocation of a county that is requested by such county
301 for use in the construction, reconstruction and paving of local
302 system roads in the county if:

303 (a) The State Aid Engineer has certified, pursuant to
304 Section 65-37-7, that all the local system bridges within the
305 county have a sufficiency rating of greater than fifty (50) or
306 that all such bridges within the county with a sufficiency rating
307 of fifty (50) or less are currently under contract for replacement
308 or rehabilitation; and

309 (b) The county has met the requirements of this
310 chapter.

311 (3) There is created in the State Treasury a special fund to
312 be designated as the "Local System Road Fund." The fund shall
313 consist of the monies directed to be deposited into the fund under
314 the provisions of Section 2(2) of this act and such other monies
315 as the Legislature may designate for deposit into the fund. The
316 State Aid Engineer shall allocate annually to each county monies
317 in the fund according to state aid road formula under Section
318 27-65-75(4). Monies allocated to a county under this subsection
319 shall be used by a county in the construction, reconstruction and
320 paving of local system roads in the county if the county meets the
321 requirements of this chapter.

322 (4) The State Aid Engineer shall establish specific designs
323 and standards to be followed by such counties in the construction,
324 reconstruction and paving of local system roads. The specific
325 designs and standards shall be based upon policies on geometric
326 design of local rural roads, highways and streets adopted and
327 published by the American Association of State Highway and
328 Transportation Officials.

329 **SECTION 19.** Section 65-18-11, Mississippi Code of 1972, is
330 amended as follows:

331 65-18-11. (1) In order for a county to be eligible to
332 utilize its Local System Bridge Replacement and Rehabilitation
333 Program allocation, or any of its state aid road funds, or any of
334 the monies allocated to it from the Local System Road Fund, for
335 the Local System Road Program, a county must meet the following
336 conditions:

337 (a) The county has employed a county engineer, together
338 with such other technical assistance as is necessary to carry out
339 the duties of this chapter, the same as provided under the
340 provisions of Section 65-9-15, for its state aid road system and,
341 through its official minutes, has authorized the county engineer
342 to perform the necessary engineering services connected with the
343 Local System Road Program. The county engineer shall prepare the
344 necessary plans and designs for all construction projects,
345 including state aid projects and projects provided under this
346 chapter. He also shall provide engineering supervision for the
347 construction of such projects and shall approve all estimate
348 payments made on the projects. Engineering cost for any project
349 performed under the Local System Road Program may be paid from any
350 funds allocated to a county under the program; however, the
351 maximum fee paid to an engineer shall not exceed twelve percent
352 (12%) of the final construction cost. No such cost shall be
353 reimbursed to the county before the letting of the project; and

354 (b) The county has presented a plan for the
355 construction, reconstruction and paving of a local system road
356 which plan has been made and approved by the county engineer of
357 the county, showing the specific road or project to be improved,
358 stating the condition of the existing roadbed, drainage and
359 bridges and outlining the type of construction or reconstruction
360 to be made and the designs and specifications therefor, including
361 the paving of the road and the sources of revenue to be used and
362 the sources and types of material to be used thereon. The plan

363 shall be presented to the State Aid Engineer for the initial
364 approval of the beginning of a project to receive monies.

365 (2) After the initial approval of the plan and plans as
366 specified in subsection (1)(b) of this section has been made by
367 the State Aid Engineer, the county shall be eligible to receive
368 all funds made available to the county under the Local System Road
369 Program to be used exclusively for the construction,
370 reconstruction or paving of the local system road. The project
371 may be done either by contract or by using county equipment and
372 employees. It shall be according to the original plan or any
373 amendments thereto which have been approved by the State Aid
374 Engineer. The board may use county equipment and employees if the
375 construction can be accomplished at a more reasonable cost than
376 can be achieved by contract.

377 **SECTION 20.** The following shall be codified as Section
378 65-37-12, Mississippi Code of 1972:

379 65-37-12. (1) Whenever any county that is eligible for
380 expenditure of monies allocated to it from and after July 1, 2006,
381 under the provisions of Sections 65-37-1 through 65-37-15, fails
382 for a continuous period of five (5) years to expend monies
383 allocated to it, then the amount of such funds that has been
384 unexpended for such period of time shall be forfeited and shall no
385 longer be available to the county for expenditure. Monies that
386 are forfeited by a county under this section shall be reallocated
387 pro rata between all other eligible counties in accordance with
388 the formula established in Section 65-37-3. The State Aid
389 Engineer shall give written notice to the board of supervisors of
390 a county at least ninety (90) days before such forfeiture takes
391 place.

392 (2) Notwithstanding the provisions of subsection (1) of this
393 section, the State Aid Engineer, for good cause shown, may allow a
394 county that is subject to forfeiture of monies under subsection

395 (1) of this section, an additional eighteen (18) months to expend
396 funds subject to forfeiture.

397 **SECTION 21.** This act shall take effect and be in force from
398 and after July 1, 2006.