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To: Transportation; Ways and Means

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; AND FOR RELATED PURPOSES.

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

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

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

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

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

25 **SECTION 2.** (1) The Department of Finance and
 26 Administration, at one time, or from time to time, may declare by
 27 resolution the necessity for issuance of general obligation bonds
 28 of the State of Mississippi to provide funds for the Local System
 29 Bridge Replacement and Rehabilitation Fund created under Section
 30 65-37-13 and the Local System Bridge Replacement and
 31 Rehabilitation Fund created under Section 65-18-9. Upon the

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

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

56 **SECTION 3.** The principal of and interest on the bonds
57 authorized under Sections 1 through 16 of this act shall be
58 payable in the manner provided in this section. Such bonds shall
59 bear such date or dates, be in such denomination or denominations,
60 bear interest at such rate or rates (not to exceed the limits set
61 forth in Section 75-17-101, Mississippi Code of 1972), be payable
62 at such place or places within or without the State of
63 Mississippi, shall mature absolutely at such time or times not to
64 exceed twenty-five (25) years from date of issue, be redeemable

65 before maturity at such time or times and upon such terms, with or
66 without premium, shall bear such registration privileges, and
67 shall be substantially in such form, all as shall be determined by
68 resolution of the commission.

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

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

94 **SECTION 6.** The commission shall act as the issuing agent for
95 the bonds authorized under Sections 1 through 16 of this act,
96 prescribe the form of the bonds, advertise for and accept bids,
97 issue and sell the bonds so authorized to be sold, pay all fees

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

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

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

124 **SECTION 7.** The bonds issued under the provisions of Sections
125 1 through 16 of this act are general obligations of the State of
126 Mississippi, and for the payment thereof the full faith and credit
127 of the State of Mississippi is irrevocably pledged. If the funds
128 appropriated by the Legislature are insufficient to pay the
129 principal of and the interest on such bonds as they become due,
130 then the deficiency shall be paid by the State Treasurer from any

131 funds in the State Treasury not otherwise appropriated. All such
132 bonds shall contain recitals on their faces substantially covering
133 the provisions of this section.

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

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

155 **SECTION 10.** The bonds authorized under the authority of
156 Sections 1 through 16 of this act may be validated in the Chancery
157 Court of the First Judicial District of Hinds County, Mississippi,
158 in the manner and with the force and effect provided by Chapter
159 13, Title 31, Mississippi Code of 1972, for the validation of
160 county, municipal, school district and other bonds. The notice to
161 taxpayers required by such statutes shall be published in a
162 newspaper published or having a general circulation in the City of
163 Jackson, Mississippi.

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

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

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

185 **SECTION 14.** The proceeds of the bonds issued under Sections
186 1 through 16 of this act shall be used solely for the purposes
187 therein provided, including the costs incident to the issuance and
188 sale of such bonds.

189 **SECTION 15.** The State Treasurer is authorized, without
190 further process of law, to certify to the Department of Finance
191 and Administration the necessity for warrants, and the Department
192 of Finance and Administration is authorized and directed to issue
193 such warrants, in such amounts as may be necessary to pay when due
194 the principal of, premium, if any, and interest on, or the
195 accreted value of, all bonds issued under Sections 1 through 16 of
196 this act; and the State Treasurer shall forward the necessary

197 amount to the designated place or places of payment of such bonds
198 in ample time to discharge such bonds, or the interest thereon, on
199 the due dates thereof.

200 **SECTION 16.** Sections 1 through 16 of this act shall be
201 deemed to be full and complete authority for the exercise of the
202 powers therein granted, but Sections 1 through 16 of this act
203 shall not be deemed to repeal or to be in derogation of any
204 existing law of this state.

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

207 65-37-13. (1) There is created in the State Treasury a
208 special fund to be designated as the "Local System Bridge
209 Replacement and Rehabilitation Fund." The fund shall consist of
210 such monies as the Legislature appropriates pursuant to subsection
211 (2) of this section and such other monies as the Legislature may
212 designate for deposit into the fund. Monies in the fund may be
213 expended upon legislative appropriation in accordance with the
214 provisions of Sections 65-37-1 through 65-37-15.

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

223 (b) During the regular legislative session held in
224 calendar year 1999, if the official General Fund revenue estimate
225 for the succeeding fiscal year for which appropriations are being
226 made reflects a growth in General Fund revenues of two percent
227 (2%) or more for the succeeding fiscal year, then the Legislature
228 shall appropriate Ten Million Dollars (\$10,000,000.00) from the

229 State General Fund for deposit into the Local System Bridge
230 Replacement and Rehabilitation Fund.

231 (c) Except as otherwise provided in this paragraph (c),
232 during each regular legislative session held in calendar years
233 2001 through 2008, if the official General Fund revenue estimate
234 for the succeeding fiscal year for which appropriations are being
235 made reflects a growth in General Fund revenues of two percent
236 (2%) or more for the succeeding fiscal year, then the Legislature
237 shall appropriate Twenty Million Dollars (\$20,000,000.00) from the
238 State General Fund for deposit into the Local System Bridge
239 Replacement and Rehabilitation Fund. However, during the regular
240 legislative sessions held in calendar years 2003, 2004, 2005 and
241 2006, the Legislature shall not be required to appropriate funds
242 for deposit into the Local System Bridge Replacement and
243 Rehabilitation Fund.

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

256 (4) Monies in the Local System Bridge Replacement and
257 Rehabilitation Fund shall be allocated and become available for
258 distribution to counties in accordance with the formula prescribed
259 in Section 65-37-4 beginning January 1, 1995, on a
260 project-by-project basis. Monies in the Local System Bridge
261 Replacement and Rehabilitation Fund may not be used or expended

262 for any purpose except as authorized under Sections 65-37-1
263 through 65-37-15.

264 (5) Monies in the Local System Bridge Replacement and
265 Rehabilitation Fund may be credited to a county in advance of the
266 normal accrual to finance certain projects, subject to the
267 approval of the State Aid Engineer and subject further to the
268 following limitations:

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

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

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

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

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

285 65-18-9. (1) The State Aid Engineer shall allocate annually
286 the amount of the state aid road allocation of a county that is
287 requested by such county for use in the construction,
288 reconstruction and paving of local system roads in the county if
289 the county has met the requirements of this chapter; provided,
290 however, that the State Aid Engineer shall not allocate more than
291 twenty-five percent (25%) of the annual state aid road allocation
292 of a county for such purposes.

293 (2) The State Aid Engineer shall allocate annually the
294 amount of the Local System Bridge Replacement and Rehabilitation

295 Program allocation of a county that is requested by such county
296 for use in the construction, reconstruction and paving of local
297 system roads in the county if:

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

304 (b) The county has met the requirements of this
305 chapter.

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

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

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

326 65-18-11. (1) In order for a county to be eligible to
327 utilize its Local System Bridge Replacement and Rehabilitation

328 Program allocation, or any of its state aid road funds, or any of
329 the monies allocated to it from the Local System Road Fund, for
330 the Local System Road Program, a county must meet the following
331 conditions:

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

349 (b) The county has presented a plan for the
350 construction, reconstruction and paving of a local system road
351 which plan has been made and approved by the county engineer of
352 the county, showing the specific road or project to be improved,
353 stating the condition of the existing roadbed, drainage and
354 bridges and outlining the type of construction or reconstruction
355 to be made and the designs and specifications therefor, including
356 the paving of the road and the sources of revenue to be used and
357 the sources and types of material to be used thereon. The plan
358 shall be presented to the State Aid Engineer for the initial
359 approval of the beginning of a project to receive monies.

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

372 **SECTION 20.** This act shall take effect and be in force from
373 and after July 1, 2006.