

By: Representatives Lane, Eaton, Akins,
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To: Ways and Means

HOUSE BILL NO. 1492
(As Sent to Governor)

1 AN ACT TO AUTHORIZE THE ISSUANCE OF STATE GENERAL OBLIGATION
2 BONDS IN THE AMOUNT OF \$5,000,000.00 TO PROVIDE FUNDS TO ASSIST
3 WAYNE COUNTY, CLARKE COUNTY AND LAUDERDALE COUNTY, AND
4 MUNICIPALITIES LOCATED WITHIN SUCH COUNTIES, IN PAYING COSTS
5 ASSOCIATED WITH CONSTRUCTION AND IMPROVEMENT OF RAILROAD LINES AND
6 RELATED FACILITIES LOCATED IN SUCH COUNTIES AND WHICH CONSTITUTE
7 PART OF A COOPERATIVE PLAN OF SUCH COUNTIES FOR THE IMPROVEMENT OF
8 RAIL TRANSPORTATION, AND TO ASSIST TISHOMINGO COUNTY AND ALCORN
9 COUNTY, AND MUNICIPALITIES LOCATED WITHIN SUCH COUNTIES, IN PAYING
10 COSTS ASSOCIATED WITH CONSTRUCTION AND IMPROVEMENT OF BRIDGES,
11 VIADUCTS AND OVERPASSES SPANNING RAILROAD LINES AND RELATED
12 RAILROAD FACILITIES; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** As used in Sections 1 through 17 of this act, the
15 following words shall have the meanings ascribed herein unless the
16 context clearly requires otherwise:

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

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

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

26 (d) "This act" means Sections 1 through 17 of this act.

27 **SECTION 2.** (1) (a) A special fund, to be designated as the
28 "2006 Railroad Lines and Bridges Improvements Fund," is created
29 within the State Treasury. The fund shall be maintained by the
30 State Treasurer as a separate and special fund, separate and apart
31 from the General Fund of the state. Unexpended amounts remaining
32 in the fund at the end of a fiscal year shall not lapse into the

33 State General Fund, and any interest earned or investment earnings
34 on amounts in the fund shall be deposited into such fund.

35 (b) Monies deposited into the fund shall be allocated
36 and disbursed as follows:

37 (i) Two Million Dollars (\$2,000,000.00) shall be
38 disbursed, in the discretion of the Mississippi Development
39 Authority, to assist Wayne County, Clarke County and Lauderdale
40 County, and municipalities located within such counties, in paying
41 costs associated with construction and improvement of railroad
42 lines and related facilities, including projects necessary to
43 ensure safety and structural integrity of rail lines and rail
44 beds, located in such counties and which constitute part of a
45 cooperative plan of such counties for the improvement of rail
46 transportation; provided, however:

47 1. Not more than One Million Dollars
48 (\$1,000,000.00) may be disbursed for such purposes in any fiscal
49 year; and

50 2. No bonds shall be issued for the projects
51 described in this paragraph (b)(i) until the Mississippi
52 Development Authority is provided proof that the owner or operator
53 of the railroad line has incurred debt or has otherwise dedicated
54 funds or a combination of debt and funds in the amount of not less
55 than Four Million Dollars (\$4,000,000.00) for capital
56 improvements, capital investments or capital upgrades on such
57 railroad line.

58 (ii) Three Million Dollars (\$3,000,000.00) shall
59 be disbursed, in the discretion of the Mississippi Development
60 Authority, to assist Tippah County, Union County, Tishomingo
61 County and Alcorn County, and municipalities located within such
62 counties, in paying costs associated with construction and
63 improvement of bridges, viaducts and overpasses, including
64 approaches thereto, spanning railroad lines and related railroad
65 facilities and paying the cost of other railroad line

66 improvements; provided, however, not more than One Million Five
67 Hundred Thousand Dollars (\$1,500,000.00) may be disbursed for such
68 purposes in any fiscal year.

69 (c) If the owner or operator of a railroad line that is
70 benefitted from assistance provided under this section sells such
71 railroad line within ten (10) years of the date the assistance was
72 provided, then such owner or operator shall repay to the State of
73 Mississippi the amount of assistance provided under this section
74 that benefitted the railroad line as follows:

75 (i) If the railroad line is sold within one (1)
76 year of such assistance, one hundred percent (100%) of the amount
77 of the assistance;

78 (ii) If the railroad line is sold within two (2)
79 years of such assistance, ninety percent (90%) of the amount of
80 the assistance;

81 (iii) If the railroad line is sold within three
82 (3) years of such assistance, eighty percent (80%) of the amount
83 of the assistance;

84 (iv) If the railroad line is sold within four (4)
85 years of such assistance, seventy percent (70%) of the amount of
86 the assistance;

87 (v) If the railroad line is sold within five (5)
88 years of such assistance, sixty percent (60%) of the amount of the
89 assistance;

90 (vi) If the railroad line is sold within six (6)
91 years of such assistance, fifty percent (50%) of the amount of the
92 assistance;

93 (vii) If the railroad line is sold within seven
94 (7) years of such assistance, forty percent (40%) of the amount of
95 the assistance;

96 (viii) If the railroad line is sold within eight
97 (8) years of such assistance, thirty percent (30%) of the amount
98 of the assistance;

99 (ix) If the railroad line is sold within nine (9)
100 years of such assistance, twenty percent (20%) of the amount of
101 the assistance; and

102 (x) If the railroad line is sold within ten (10)
103 years of such assistance, ten percent (10%) of the amount of the
104 assistance.

105 (d) Monies in the special fund may be used to reimburse
106 reasonable actual and necessary costs incurred by the Mississippi
107 Development Authority in providing assistance related to a project
108 for which funding is provided under this act. The Mississippi
109 Development Authority shall maintain an accounting of actual costs
110 incurred for each project for which reimbursements are sought.
111 Reimbursements under this paragraph (c) shall not exceed Fifteen
112 Thousand Dollars (\$15,000.00) in the aggregate. Reimbursements
113 under this paragraph (c) shall satisfy any applicable federal tax
114 law requirements.

115 (2) Amounts deposited into such special fund shall be
116 disbursed to pay the costs of the projects described in subsection
117 (1) of this section. Promptly after the commission has certified,
118 by resolution duly adopted, that the projects described in
119 subsection (1) of this section shall have been completed,
120 abandoned, or cannot be completed in a timely fashion, any amounts
121 remaining in such special fund shall be applied to pay debt
122 service on the bonds issued under this act, in accordance with the
123 proceedings authorizing the issuance of such bonds and as directed
124 by the commission.

125 **SECTION 3.** (1) The commission, at one time, or from time to
126 time, may declare by resolution the necessity for issuance of
127 general obligation bonds of the State of Mississippi to provide
128 funds for all costs incurred or to be incurred for the purposes
129 described in Section 2 of this act. Except as otherwise provided
130 in Section 2(1)(b) of this act, upon the adoption of a resolution
131 by the Mississippi Development Authority, declaring the necessity

132 for the issuance of any part or all of the general obligation
133 bonds authorized by this section, the Mississippi Development
134 Authority shall deliver a certified copy of its resolution or
135 resolutions to the commission. Upon receipt of such resolution,
136 the commission, in its discretion, may act as the issuing agent,
137 prescribe the form of the bonds, advertise for and accept bids,
138 issue and sell the bonds so authorized to be sold and do any and
139 all other things necessary and advisable in connection with the
140 issuance and sale of such bonds. The total amount of bonds issued
141 under this act shall not exceed Five Million Dollars
142 (\$5,000,000.00); provided, however, that not more than Two Million
143 Five Hundred Thousand Dollars (\$2,500,000.00) of bonds may be
144 issued in any fiscal year.

145 (2) Any investment earnings on amounts deposited into the
146 special fund created in Section 2 of this act shall be used to pay
147 debt service on bonds issued under this act, in accordance with
148 the proceedings authorizing issuance of such bonds.

149 **SECTION 4.** The principal of and interest on the bonds
150 authorized under this act shall be payable in the manner provided
151 in this section. Such bonds shall bear such date or dates, be in
152 such denomination or denominations, bear interest at such rate or
153 rates (not to exceed the limits set forth in Section 75-17-101,
154 Mississippi Code of 1972), be payable at such place or places
155 within or without the State of Mississippi, shall mature
156 absolutely at such time or times not to exceed twenty-five (25)
157 years from date of issue, be redeemable before maturity at such
158 time or times and upon such terms, with or without premium, shall
159 bear such registration privileges, and shall be substantially in
160 such form, all as shall be determined by resolution of the
161 commission.

162 **SECTION 5.** The bonds authorized by this act shall be signed
163 by the chairman of the commission, or by his facsimile signature,
164 and the official seal of the commission shall be affixed thereto,

165 attested by the secretary of the commission. The interest
166 coupons, if any, to be attached to such bonds may be executed by
167 the facsimile signatures of such officers. Whenever any such
168 bonds shall have been signed by the officials designated to sign
169 the bonds who were in office at the time of such signing but who
170 may have ceased to be such officers before the sale and delivery
171 of such bonds, or who may not have been in office on the date such
172 bonds may bear, the signatures of such officers upon such bonds
173 and coupons shall nevertheless be valid and sufficient for all
174 purposes and have the same effect as if the person so officially
175 signing such bonds had remained in office until their delivery to
176 the purchaser, or had been in office on the date such bonds may
177 bear. However, notwithstanding anything herein to the contrary,
178 such bonds may be issued as provided in the Registered Bond Act of
179 the State of Mississippi.

180 **SECTION 6.** All bonds and interest coupons issued under the
181 provisions of this act have all the qualities and incidents of
182 negotiable instruments under the provisions of the Uniform
183 Commercial Code, and in exercising the powers granted by this act,
184 the commission shall not be required to and need not comply with
185 the provisions of the Uniform Commercial Code.

186 **SECTION 7.** The commission shall act as the issuing agent for
187 the bonds authorized under this act, prescribe the form of the
188 bonds, advertise for and accept bids, issue and sell the bonds so
189 authorized to be sold, pay all fees and costs incurred in such
190 issuance and sale, and do any and all other things necessary and
191 advisable in connection with the issuance and sale of such bonds.
192 The commission is authorized and empowered to pay the costs that
193 are incident to the sale, issuance and delivery of the bonds
194 authorized under this act from the proceeds derived from the sale
195 of such bonds. The commission shall sell such bonds on sealed
196 bids at public sale, and for such price as it may determine to be
197 for the best interest of the State of Mississippi, but no such

198 sale shall be made at a price less than par plus accrued interest
199 to the date of delivery of the bonds to the purchaser. All
200 interest accruing on such bonds so issued shall be payable
201 semiannually or annually; however, the first interest payment may
202 be for any period of not more than one (1) year.

203 Notice of the sale of any such bonds shall be published at
204 least one time, not less than ten (10) days before the date of
205 sale, and shall be so published in one or more newspapers
206 published or having a general circulation in the City of Jackson,
207 Mississippi, and in one or more other newspapers or financial
208 journals with a national circulation, to be selected by the
209 commission.

210 The commission, when issuing any bonds under the authority of
211 this act, may provide that bonds, at the option of the State of
212 Mississippi, may be called in for payment and redemption at the
213 call price named therein and accrued interest on such date or
214 dates named therein.

215 **SECTION 8.** The bonds issued under the provisions of this act
216 are general obligations of the State of Mississippi, and for the
217 payment thereof the full faith and credit of the State of
218 Mississippi is irrevocably pledged. If the funds appropriated by
219 the Legislature are insufficient to pay the principal of and the
220 interest on such bonds as they become due, then the deficiency
221 shall be paid by the State Treasurer from any funds in the State
222 Treasury not otherwise appropriated. All such bonds shall contain
223 recitals on their faces substantially covering the provisions of
224 this section.

225 **SECTION 9.** Upon the issuance and sale of bonds under the
226 provisions of this act, the commission shall transfer the proceeds
227 of any such sale or sales to the special fund created in Section 2
228 of this act. The proceeds of such bonds shall be disbursed solely
229 upon the order of the Mississippi Development Authority under such

230 restrictions, if any, as may be contained in the resolution
231 providing for the issuance of the bonds.

232 **SECTION 10.** The bonds authorized under this act may be
233 issued without any other proceedings or the happening of any other
234 conditions or things other than those proceedings, conditions and
235 things which are specified or required by this act. Any
236 resolution providing for the issuance of bonds under the
237 provisions of this act shall become effective immediately upon its
238 adoption by the commission, and any such resolution may be adopted
239 at any regular or special meeting of the commission by a majority
240 of its members.

241 **SECTION 11.** The bonds authorized under the authority of this
242 act may be validated in the Chancery Court of the First Judicial
243 District of Hinds County, Mississippi, in the manner and with the
244 force and effect provided by Chapter 13, Title 31, Mississippi
245 Code of 1972, for the validation of county, municipal, school
246 district and other bonds. The notice to taxpayers required by
247 such statutes shall be published in a newspaper published or
248 having a general circulation in the City of Jackson, Mississippi.

249 **SECTION 12.** Any holder of bonds issued under the provisions
250 of this act or of any of the interest coupons pertaining thereto
251 may, either at law or in equity, by suit, action, mandamus or
252 other proceeding, protect and enforce any and all rights granted
253 under this act, or under such resolution, and may enforce and
254 compel performance of all duties required by this act to be
255 performed, in order to provide for the payment of bonds and
256 interest thereon.

257 **SECTION 13.** All bonds issued under the provisions of this
258 act shall be legal investments for trustees and other fiduciaries,
259 and for savings banks, trust companies and insurance companies
260 organized under the laws of the State of Mississippi, and such
261 bonds shall be legal securities which may be deposited with and
262 shall be received by all public officers and bodies of this state

263 and all municipalities and political subdivisions for the purpose
264 of securing the deposit of public funds.

265 **SECTION 14.** Bonds issued under the provisions of this act
266 and income therefrom shall be exempt from all taxation in the
267 State of Mississippi.

268 **SECTION 15.** The proceeds of the bonds issued under this act
269 shall be used solely for the purposes herein provided, including
270 the costs incident to the issuance and sale of such bonds.

271 **SECTION 16.** The State Treasurer is authorized, without
272 further process of law, to certify to the Department of Finance
273 and Administration the necessity for warrants, and the Department
274 of Finance and Administration is authorized and directed to issue
275 such warrants, in such amounts as may be necessary to pay when due
276 the principal of, premium, if any, and interest on, or the
277 accreted value of, all bonds issued under this act; and the State
278 Treasurer shall forward the necessary amount to the designated
279 place or places of payment of such bonds in ample time to
280 discharge such bonds, or the interest thereon, on the due dates
281 thereof.

282 **SECTION 17.** This act shall be deemed to be full and complete
283 authority for the exercise of the powers herein granted, but this
284 act shall not be deemed to repeal or to be in derogation of any
285 existing law of this state.

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