

By: Representatives Miles, Cummings, Moss,
Hudson, Eaton, Vince, Rotenberry, Davis,
Walley, Franks, Weathersby, Whittington,
Clark, Reynolds, Moak, Smith (27th), Akins

To: Transportation; Ways and
Means

HOUSE BILL NO. 370
(As Passed the House)

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 AUTHORIZE
8 MONIES IN THE LOCAL SYSTEM BRIDGE REPLACEMENT AND REHABILITATION
9 FUND ALLOCATED OR CREDITED TO A COUNTY TO BE EXPENDED BY THE
10 COUNTY, UNDER CERTAIN CONDITIONS, FOR THE PURPOSE OF CONSTRUCTING
11 OR RECONSTRUCTING COVERED WOODEN BRIDGES; TO AMEND SECTIONS
12 65-18-9 AND 65-18-11, MISSISSIPPI CODE OF 1972, TO CREATE THE
13 LOCAL SYSTEM ROAD FUND; TO AUTHORIZE THE STATE ENGINEER TO
14 ALLOCATE MONIES IN THE FUND TO EACH COUNTY FOR CONSTRUCTING AND
15 RECONSTRUCTING LOCAL SYSTEM ROADS; TO CREATE A NEW SECTION TO BE
16 CODIFIED AS SECTION 65-37-12, MISSISSIPPI CODE OF 1972, TO PROVIDE
17 THAT A COUNTY THAT FAILS TO EXPEND MONIES ALLOCATED TO IT UNDER
18 THE LOCAL SYSTEM BRIDGE REPLACEMENT AND REHABILITATION PROGRAM
19 WITHIN FIVE YEARS SHALL FORFEIT SUCH MONIES TO OTHER ELIGIBLE
20 COUNTIES UNDER THE PROGRAM; AND FOR RELATED PURPOSES.

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

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

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

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

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

34 **SECTION 2.** (1) The Department of Finance and
35 Administration, at one time, or from time to time, may declare by
36 resolution the necessity for issuance of general obligation bonds

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

54 (2) Twenty Million Dollars (\$20,000,000.00) of the proceeds
55 of bonds issued pursuant to Sections 1 through 16 of this act
56 shall be deposited into the Local System Bridge Replacement and
57 Rehabilitation Fund created under Section 65-37-13, and Five
58 Million Dollars (\$5,000,000.00) of the bonds issued pursuant to
59 Sections 1 through 16 of this act shall be deposited into the
60 Local System Road Fund created under Section 65-18-19. Any
61 investment earnings on bonds issued pursuant to Sections 1 through
62 16 of this act shall be used to pay debt service on bonds issued
63 under Sections 1 through 16 of this act, in accordance with the
64 proceedings authorizing issuance of such bonds.

65 **SECTION 3.** The principal of and interest on the bonds
66 authorized under Sections 1 through 16 of this act shall be
67 payable in the manner provided in this section. Such bonds shall
68 bear such date or dates, be in such denomination or denominations,
69 bear interest at such rate or rates (not to exceed the limits set

70 forth in Section 75-17-101, Mississippi Code of 1972), be payable
71 at such place or places within or without the State of
72 Mississippi, shall mature absolutely at such time or times not to
73 exceed twenty-five (25) years from date of issue, be redeemable
74 before maturity at such time or times and upon such terms, with or
75 without premium, shall bear such registration privileges, and
76 shall be substantially in such form, all as shall be determined by
77 resolution of the commission.

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

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

103 **SECTION 6.** The commission shall act as the issuing agent for
104 the bonds authorized under Sections 1 through 16 of this act,
105 prescribe the form of the bonds, advertise for and accept bids,
106 issue and sell the bonds so authorized to be sold, pay all fees
107 and costs incurred in such issuance and sale, and do any and all
108 other things necessary and advisable in connection with the
109 issuance and sale of such bonds. The commission is authorized and
110 empowered to pay the costs that are incident to the sale, issuance
111 and delivery of the bonds authorized under Sections 1 through 16
112 of this act from the proceeds derived from the sale of such bonds.
113 The commission shall sell such bonds on sealed bids at public
114 sale, and for such price as it may determine to be for the best
115 interest of the State of Mississippi, but no such sale shall be
116 made at a price less than par plus accrued interest to the date of
117 delivery of the bonds to the purchaser. All interest accruing on
118 such bonds so issued shall be payable semiannually or annually;
119 however, the first interest payment may be for any period of not
120 more than one (1) year.

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

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

133 **SECTION 7.** The bonds issued under the provisions of Sections
134 1 through 16 of this act are general obligations of the State of
135 Mississippi, and for the payment thereof the full faith and credit

136 of the State of Mississippi is irrevocably pledged. If the funds
137 appropriated by the Legislature are insufficient to pay the
138 principal of and the interest on such bonds as they become due,
139 then the deficiency shall be paid by the State Treasurer from any
140 funds in the State Treasury not otherwise appropriated. All such
141 bonds shall contain recitals on their faces substantially covering
142 the provisions of this section.

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

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

164 **SECTION 10.** The bonds authorized under the authority of
165 Sections 1 through 16 of this act may be validated in the Chancery
166 Court of the First Judicial District of Hinds County, Mississippi,
167 in the manner and with the force and effect provided by Chapter
168 13, Title 31, Mississippi Code of 1972, for the validation of

169 county, municipal, school district and other bonds. The notice to
170 taxpayers required by such statutes shall be published in a
171 newspaper published or having a general circulation in the City of
172 Jackson, Mississippi.

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

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

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

194 **SECTION 14.** The proceeds of the bonds issued under Sections
195 1 through 16 of this act shall be used solely for the purposes
196 therein provided, including the costs incident to the issuance and
197 sale of such bonds.

198 **SECTION 15.** The State Treasurer is authorized, without
199 further process of law, to certify to the Department of Finance
200 and Administration the necessity for warrants, and the Department
201 of Finance and Administration is authorized and directed to issue

202 such warrants, in such amounts as may be necessary to pay when due
203 the principal of, premium, if any, and interest on, or the
204 accreted value of, all bonds issued under Sections 1 through 16 of
205 this act; and the State Treasurer shall forward the necessary
206 amount to the designated place or places of payment of such bonds
207 in ample time to discharge such bonds, or the interest thereon, on
208 the due dates thereof.

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

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

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

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

232 (b) During the regular legislative session held in
233 calendar year 1999, 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 Ten Million Dollars (\$10,000,000.00) from the
238 State General Fund for deposit into the Local System Bridge
239 Replacement and Rehabilitation Fund.

240 (c) Except as otherwise provided in this paragraph (c),
241 during each regular legislative session held in calendar years
242 2001 through 2008, if the official General Fund revenue estimate
243 for the succeeding fiscal year for which appropriations are being
244 made reflects a growth in General Fund revenues of two percent
245 (2%) or more for the succeeding fiscal year, then the Legislature
246 shall appropriate Twenty Million Dollars (\$20,000,000.00) from the
247 State General Fund for deposit into the Local System Bridge
248 Replacement and Rehabilitation Fund. However, during the regular
249 legislative sessions held in calendar years 2003, 2004, 2005, 2006
250 and 2007, the Legislature shall not be required to appropriate
251 funds for deposit into the Local System Bridge Replacement and
252 Rehabilitation Fund.

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

265 (4) Monies in the Local System Bridge Replacement and
266 Rehabilitation Fund shall be allocated and become available for
267 distribution to counties in accordance with the formula prescribed

268 in Section 65-37-4 beginning January 1, 1995, on a
269 project-by-project basis. Monies in the Local System Bridge
270 Replacement and Rehabilitation Fund may not be used or expended
271 for any purpose except as authorized under Sections 65-37-1
272 through 65-37-15.

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

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

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

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

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

292 (6) (a) Subject to the provisions of paragraph (b) of this
293 subsection, the board of supervisors of any county may expend
294 monies in the Local System Bridge Replacement and Rehabilitation
295 Fund allocated or credited to the county for the purpose of
296 constructing or reconstructing as covered wooden bridges any
297 bridges or bridge projects otherwise eligible under the provisions
298 of Sections 65-37-1 through 65-37-15 for the expenditure of monies
299 under the local system bridge replacement and rehabilitation
300 program.

301 (b) Before a county may expend monies in the Local
302 System Bridge Replacement and Rehabilitation Fund for the purposes
303 described in paragraph (a) of this subsection:

304 (i) The board of supervisors of the county must
305 duly adopt, enter upon its official minutes and file with the
306 Office of State Aid Road Construction a resolution, along with
307 such additional information as the State Aid Engineer may require,
308 requesting the State Aid Engineer to approve the bridge project;

309 (ii) The State Aid Engineer must make a written
310 finding that an alternate route is available to and reasonably
311 accessible for use by motorists and that the proposed bridge
312 project, when completed, is not likely to impede commerce or the
313 free-flow of motor vehicle traffic, including interstate motor
314 carriers; and

315 (iii) The State Aid Engineer must request and
316 receive from the Board of Trustees of the Department of Archives
317 and History a resolution duly adopted and entered upon the
318 official minutes of the board indicating its finding that the
319 proposed bridge project is located in an area having historical
320 significance and that the construction or reconstruction of such a
321 bridge at the proposed location would promote aesthetic values and
322 preserve historical interests in the community.

323 (c) The designing, planning and engineering for all
324 bridge projects under this subsection shall be performed by the
325 Office of State Aid Road Construction and shall meet such
326 specifications as the State Aid Engineer may require.

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

329 65-18-9. (1) The State Aid Engineer shall allocate annually
330 the amount of the state aid road allocation of a county that is
331 requested by such county for use in the construction,
332 reconstruction and paving of local system roads in the county if
333 the county has met the requirements of this chapter; provided,

334 however, that the State Aid Engineer shall not allocate more than
335 twenty-five percent (25%) of the annual state aid road allocation
336 of a county for such purposes.

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

342 (a) The State Aid Engineer has certified, pursuant to
343 Section 65-37-7, that all the local system bridges within the
344 county have a sufficiency rating of greater than fifty (50) or
345 that all such bridges within the county with a sufficiency rating
346 of fifty (50) or less are currently under contract for replacement
347 or rehabilitation; and

348 (b) The county has met the requirements of this
349 chapter.

350 (3) There is created in the State Treasury a special fund to
351 be designated as the "Local System Road Fund." The fund shall
352 consist of the monies directed to be deposited into the fund under
353 the provisions of Section 2(2) of this act and such other monies
354 as the Legislature may designate for deposit into the fund. The
355 State Aid Engineer shall allocate annually to each county monies
356 in the fund according to state aid road formula under Section
357 27-65-75(4). Monies allocated to a county under this subsection
358 shall be used by a county in the construction, reconstruction and
359 paving of local system roads in the county if the county meets the
360 requirements of this chapter.

361 (4) The State Aid Engineer shall establish specific designs
362 and standards to be followed by such counties in the construction,
363 reconstruction and paving of local system roads. The specific
364 designs and standards shall be based upon policies on geometric
365 design of local rural roads, highways and streets adopted and

366 published by the American Association of State Highway and
367 Transportation Officials.

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

370 65-18-11. (1) In order for a county to be eligible to
371 utilize its Local System Bridge Replacement and Rehabilitation
372 Program allocation, or any of its state aid road funds, or any of
373 the monies allocated to it from the Local System Road Fund, for
374 the Local System Road Program, a county must meet the following
375 conditions:

376 (a) The county has employed a county engineer, together
377 with such other technical assistance as is necessary to carry out
378 the duties of this chapter, the same as provided under the
379 provisions of Section 65-9-15, for its state aid road system and,
380 through its official minutes, has authorized the county engineer
381 to perform the necessary engineering services connected with the
382 Local System Road Program. The county engineer shall prepare the
383 necessary plans and designs for all construction projects,
384 including state aid projects and projects provided under this
385 chapter. He also shall provide engineering supervision for the
386 construction of such projects and shall approve all estimate
387 payments made on the projects. Engineering cost for any project
388 performed under the Local System Road Program may be paid from any
389 funds allocated to a county under the program; however, the
390 maximum fee paid to an engineer shall not exceed twelve percent
391 (12%) of the final construction cost. No such cost shall be
392 reimbursed to the county before the letting of the project; and

393 (b) The county has presented a plan for the
394 construction, reconstruction and paving of a local system road
395 which plan has been made and approved by the county engineer of
396 the county, showing the specific road or project to be improved,
397 stating the condition of the existing roadbed, drainage and
398 bridges and outlining the type of construction or reconstruction

399 to be made and the designs and specifications therefor, including
400 the paving of the road and the sources of revenue to be used and
401 the sources and types of material to be used thereon. The plan
402 shall be presented to the State Aid Engineer for the initial
403 approval of the beginning of a project to receive monies.

404 (2) After the initial approval of the plan and plans as
405 specified in subsection (1)(b) of this section has been made by
406 the State Aid Engineer, the county shall be eligible to receive
407 all funds made available to the county under the Local System Road
408 Program to be used exclusively for the construction,
409 reconstruction or paving of the local system road. The project
410 may be done either by contract or by using county equipment and
411 employees. It shall be according to the original plan or any
412 amendments thereto which have been approved by the State Aid
413 Engineer. The board may use county equipment and employees if the
414 construction can be accomplished at a more reasonable cost than
415 can be achieved by contract.

416 **SECTION 20.** The following shall be codified as Section
417 65-37-12, Mississippi Code of 1972:

418 65-37-12. (1) Whenever any county that is eligible for
419 expenditure of monies allocated to it from and after July 1, 2007,
420 under the provisions of Sections 65-37-1 through 65-37-15, fails
421 for a continuous period of five (5) years to expend monies
422 allocated to it, then the amount of such funds that has been
423 unexpended for such period of time shall be forfeited and shall no
424 longer be available to the county for expenditure. Monies that
425 are forfeited by a county under this section shall be reallocated
426 pro rata between all other eligible counties in accordance with
427 the formula established in Section 65-37-3. The State Aid
428 Engineer shall give written notice to the board of supervisors of
429 a county at least ninety (90) days before such forfeiture takes
430 place.

431 (2) Notwithstanding the provisions of subsection (1) of this
432 section, the State Aid Engineer, for good cause shown, may allow a
433 county that is subject to forfeiture of monies under subsection
434 (1) of this section, an additional eighteen (18) months to expend
435 funds subject to forfeiture.

436 **SECTION 21.** This act shall take effect and be in force from
437 and after July 1, 2007.