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To: Finance

SENATE BILL NO. 3104

1 AN ACT TO CREATE A HIGH HAZARD DAM REHABILITATION REVOLVING  
2 LOAN PROGRAM TO BE ADMINISTERED BY THE MISSISSIPPI SOIL AND WATER  
3 CONSERVATION COMMISSION; TO CREATE THE HIGH HAZARD DAM  
4 REHABILITATION REVOLVING LOAN FUND TO MAKE LOANS TO PAY ELIGIBLE  
5 COSTS OF REHABILITATING HIGH HAZARD DAMS; TO PROVIDE THE INTEREST  
6 RATE ON SUCH LOANS; TO GIVE THE MISSISSIPPI SOIL AND WATER  
7 CONSERVATION COMMISSION CERTAIN POWERS AND DUTIES WITH REGARD TO  
8 THE ADMINISTRATION OF THIS ACT; TO AUTHORIZE THE ISSUANCE OF STATE  
9 GENERAL OBLIGATION BONDS IN THE AMOUNT OF \$5,000,000.00 TO BE  
10 DEPOSITED INTO THE HIGH HAZARD DAM REHABILITATION REVOLVING LOAN  
11 FUND; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** (1) There is established a high hazard dam  
14 rehabilitation revolving loan program to be administered by the  
15 Mississippi Soil and Water Conservation Commission for the purpose  
16 of assisting in the payment of any eligible costs for the  
17 rehabilitation of high hazard dams.

18 (2) For purposes of Sections 1 through 3 of this act:

19 (a) "High hazard dam" means:

20 (i) A dam in which failure may cause loss of life,  
21 serious damage to residential, industrial or transportation  
22 facilities such as major highways or railroads; or

23 (ii) A dam which meets the statutory threshold for  
24 regulation that is proposed for construction in established or  
25 proposed residential, commercial or industrial areas.

26 (b) "Eligible costs" includes any costs directly  
27 related to rehabilitating safety deficiencies of a high hazard dam  
28 and fees for analysis, feasibility work, alternative evaluation  
29 and engineering design related to the rehabilitation of a high  
30 hazard dam.

31           **SECTION 2.** (1) (a) There is created a special fund in the  
32 State Treasury to be designated as the "High Hazard Dam  
33 Rehabilitation Revolving Loan Fund," which fund shall consist of  
34 such monies as provided in Section 4 of this act or from any other  
35 source. The fund shall be maintained in perpetuity for the  
36 purposes established in Sections 1 through 3 of this act.  
37 Unexpended amounts remaining in the fund at the end of a fiscal  
38 year shall not lapse into the State General Fund, and any interest  
39 earned or investment income on amounts in the fund shall be  
40 deposited to the credit of the fund. Monies in the fund may not  
41 be used or expended for any purpose except as authorized under  
42 Sections 1 through 3 of this act.

43           (b) The High Hazard Dam Rehabilitation Revolving Loan  
44 Fund shall be utilized by the Mississippi Soil and Water  
45 Conservation Commission to provide loans for eligible costs.

46           (2) A person, corporation, governmental entity or other  
47 entity that owns or has the responsibility for maintenance of a  
48 high hazard dam may apply to the Mississippi Soil and Water  
49 Conservation Commission for a loan under the high hazard dam  
50 rehabilitation revolving loan program established under Sections 1  
51 through 3 of this act.

52           (3) (a) The Mississippi Soil and Water Conservation  
53 Commission shall establish a loan program by which loans, at the  
54 rate of interest provided for in paragraph (b) of this subsection,  
55 may be made available to assist in the rehabilitation of high  
56 hazard dams. Loans from the revolving fund may be made as set  
57 forth in a loan agreement in amounts not to exceed one hundred  
58 percent (100%) of eligible costs as established by the Mississippi  
59 Soil and Water Conservation Commission. The Mississippi Soil and  
60 Water Conservation Commission may require funding from other  
61 sources, or otherwise limit the percentage of eligible costs  
62 covered by loans from the revolving fund. The Mississippi Soil  
63 and Water Conservation Commission may establish a maximum amount

64 for any loan in order to provide for broad and equitable  
65 participation in the program and loans for projects.

66 (b) The rate of interest on loans made from the High  
67 Hazard Dam Rehabilitation Revolving Loan Fund shall be at the rate  
68 of three percent (3%) per annum, calculated according to the  
69 actuarial method.

70 **SECTION 3.** In administering the provisions of Sections 1  
71 through 3 of this act, the Mississippi Soil and Water Conservation  
72 Commission shall have the following powers and duties:

73 (a) To supervise the use of all funds made available  
74 under Sections 1 through 3 of this act;

75 (b) To review and certify all projects for which funds  
76 are authorized to be made available under Sections 1 through 3 of  
77 this act;

78 (c) To requisition monies in the High Hazard Dam  
79 Rehabilitation Revolving Loan Fund and distribute those monies on  
80 a project-by-project basis in accordance with the provisions of  
81 Sections 1 through 3 of this act;

82 (d) To insure that the funds made available under this  
83 act provide for an equitable distribution of projects and funds;

84 (e) To maintain an accurate record of all funds made  
85 available under this act and the costs for each project;

86 (f) To adopt and promulgate such rules and regulations  
87 as may be necessary or desirable for the purpose of implementing  
88 the provisions of Sections 1 through 3 of this act; and

89 (g) To file annually with the Legislature a report  
90 detailing how monies in the High Hazard Dam Rehabilitation  
91 Revolving Loan Fund were spent during the preceding fiscal year,  
92 the number of projects approved and constructed, and the cost of  
93 each project.

94 **SECTION 4.** (1) As used in this section, the following words  
95 shall have the meanings ascribed herein unless the context clearly  
96 requires otherwise:

97           (a) "Accreted value" of any bonds means, as of any date  
98 of computation, an amount equal to the sum of (i) the stated  
99 initial value of such bond, plus (ii) the interest accrued thereon  
100 from the issue date to the date of computation at the rate,  
101 compounded semiannually, that is necessary to produce the  
102 approximate yield to maturity shown for bonds of the same  
103 maturity.

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

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

106           (2) The Mississippi Soil and Water Conservation Commission,  
107 at one time, or from time to time, may declare by resolution the  
108 necessity for issuance of general obligation bonds of the State of  
109 Mississippi to provide funds for the program authorized in  
110 Sections 1 through 3 of this act. Upon the adoption of a  
111 resolution by the Mississippi Soil and Water Conservation  
112 Commission, declaring the necessity for the issuance of any part  
113 or all of the general obligation bonds authorized by this section,  
114 the Mississippi Soil and Water Conservation Commission shall  
115 deliver a certified copy of its resolution or resolutions to the  
116 commission. Upon receipt of such resolution, the commission, in  
117 its discretion, may act as the issuing agent, prescribe the form  
118 of the bonds, advertise for and accept bids, issue and sell the  
119 bonds so authorized to be sold and do any and all other things  
120 necessary and advisable in connection with the issuance and sale  
121 of such bonds. The total amount of bonds issued under this  
122 section shall not exceed Five Million Dollars (\$5,000,000.00). No  
123 bonds authorized under this section shall be issued after July 1,  
124 2011.

125           (3) The proceeds of bonds issued pursuant to this section  
126 shall be deposited into the High Hazard Dam Rehabilitation  
127 Revolving Loan Fund created pursuant to Section 2 of this act.  
128 Any investment earnings on bonds issued pursuant to this section  
129 shall be used to pay debt service on bonds issued under this

130 section, in accordance with the proceedings authorizing issuance  
131 of such bonds.

132 (4) The principal of and interest on the bonds authorized  
133 under this section shall be payable in the manner provided in this  
134 section. Such bonds shall bear such date or dates, be in such  
135 denomination or denominations, bear interest at such rate or rates  
136 (not to exceed the limits set forth in Section 75-17-101,  
137 Mississippi Code of 1972), be payable at such place or places  
138 within or without the State of Mississippi, shall mature  
139 absolutely at such time or times not to exceed twenty-five (25)  
140 years from date of issue, be redeemable before maturity at such  
141 time or times and upon such terms, with or without premium, shall  
142 bear such registration privileges, and shall be substantially in  
143 such form, all as shall be determined by resolution of the  
144 commission.

145 (5) The bonds authorized by this section shall be signed by  
146 the chairman of the commission, or by his facsimile signature, and  
147 the official seal of the commission shall be affixed thereto,  
148 attested by the secretary of the commission. The interest  
149 coupons, if any, to be attached to such bonds may be executed by  
150 the facsimile signatures of such officers. Whenever any such  
151 bonds shall have been signed by the officials designated to sign  
152 the bonds who were in office at the time of such signing but who  
153 may have ceased to be such officers before the sale and delivery  
154 of such bonds, or who may not have been in office on the date such  
155 bonds may bear, the signatures of such officers upon such bonds  
156 and coupons shall nevertheless be valid and sufficient for all  
157 purposes and have the same effect as if the person so officially  
158 signing such bonds had remained in office until their delivery to  
159 the purchaser, or had been in office on the date such bonds may  
160 bear. However, notwithstanding anything herein to the contrary,  
161 such bonds may be issued as provided in the Registered Bond Act of  
162 the State of Mississippi.

163           (6) All bonds and interest coupons issued under the  
164 provisions of this section have all the qualities and incidents of  
165 negotiable instruments under the provisions of the Uniform  
166 Commercial Code, and in exercising the powers granted by this act,  
167 the commission shall not be required to and need not comply with  
168 the provisions of the Uniform Commercial Code.

169           (7) The commission shall act as the issuing agent for the  
170 bonds authorized under this section, prescribe the form of the  
171 bonds, advertise for and accept bids, issue and sell the bonds so  
172 authorized to be sold, pay all fees and costs incurred in such  
173 issuance and sale, and do any and all other things necessary and  
174 advisable in connection with the issuance and sale of such bonds.  
175 The commission is authorized and empowered to pay the costs that  
176 are incident to the sale, issuance and delivery of the bonds  
177 authorized under this section from the proceeds derived from the  
178 sale of such bonds. The commission shall sell such bonds on  
179 sealed bids at public sale, and for such price as it may determine  
180 to be for the best interest of the State of Mississippi, but no  
181 such sale shall be made at a price less than par plus accrued  
182 interest to the date of delivery of the bonds to the purchaser.  
183 All interest accruing on such bonds so issued shall be payable  
184 semiannually or annually; however, the first interest payment may  
185 be for any period of not more than one (1) year.

186           Notice of the sale of any such bonds shall be published at  
187 least one time, not less than ten (10) days before the date of  
188 sale, and shall be so published in one or more newspapers  
189 published or having a general circulation in the City of Jackson,  
190 Mississippi, and in one or more other newspapers or financial  
191 journals with a national circulation, to be selected by the  
192 commission.

193           The commission, when issuing any bonds under the authority of  
194 this section, may provide that bonds, at the option of the State  
195 of Mississippi, may be called in for payment and redemption at the

196 call price named therein and accrued interest on such date or  
197 dates named therein.

198 (8) The bonds issued under the provisions of this section  
199 are general obligations of the State of Mississippi, and for the  
200 payment thereof the full faith and credit of the State of  
201 Mississippi is irrevocably pledged. If the funds appropriated by  
202 the Legislature are insufficient to pay the principal of and the  
203 interest on such bonds as they become due, then the deficiency  
204 shall be paid by the State Treasurer from any funds in the State  
205 Treasury not otherwise appropriated. All such bonds shall contain  
206 recitals on their faces substantially covering the provisions of  
207 this section.

208 (9) Upon the issuance and sale of bonds under the provisions  
209 of this section, the commission shall transfer the proceeds of any  
210 such sale or sales to the High Hazard Dam Rehabilitation Revolving  
211 Loan Fund created in Section 2 of this act. The proceeds of such  
212 bonds shall be disbursed solely upon the order of the Mississippi  
213 Development Authority under such restrictions, if any, as may be  
214 contained in the resolution providing for the issuance of the  
215 bonds.

216 (10) The bonds authorized under this section may be issued  
217 without any other proceedings or the happening of any other  
218 conditions or things other than those proceedings, conditions and  
219 things which are specified or required by this section. Any  
220 resolution providing for the issuance of bonds under the  
221 provisions of this section shall become effective immediately upon  
222 its adoption by the commission, and any such resolution may be  
223 adopted at any regular or special meeting of the commission by a  
224 majority of its members.

225 (11) The bonds authorized under the authority of this  
226 section may be validated in the Chancery Court of the First  
227 Judicial District of Hinds County, Mississippi, in the manner and  
228 with the force and effect provided by Chapter 13, Title 31,

229 Mississippi Code of 1972, for the validation of county, municipal,  
230 school district and other bonds. The notice to taxpayers required  
231 by such statutes shall be published in a newspaper published or  
232 having a general circulation in the City of Jackson, Mississippi.

233 (12) Any holder of bonds issued under the provisions of this  
234 section or of any of the interest coupons pertaining thereto may,  
235 either at law or in equity, by suit, action, mandamus or other  
236 proceeding, protect and enforce any and all rights granted under  
237 this section, or under such resolution, and may enforce and compel  
238 performance of all duties required by this section to be  
239 performed, in order to provide for the payment of bonds and  
240 interest thereon.

241 (13) All bonds issued under the provisions of this section  
242 shall be legal investments for trustees and other fiduciaries, and  
243 for savings banks, trust companies and insurance companies  
244 organized under the laws of the State of Mississippi, and such  
245 bonds shall be legal securities which may be deposited with and  
246 shall be received by all public officers and bodies of this state  
247 and all municipalities and political subdivisions for the purpose  
248 of securing the deposit of public funds.

249 (14) Bonds issued under the provisions of this section and  
250 income therefrom shall be exempt from all taxation in the State of  
251 Mississippi.

252 (15) The proceeds of the bonds issued under this section  
253 shall be used solely for the purposes therein provided, including  
254 the costs incident to the issuance and sale of such bonds.

255 (16) The State Treasurer is authorized, without further  
256 process of law, to certify to the Department of Finance and  
257 Administration the necessity for warrants, and the Department of  
258 Finance and Administration is authorized and directed to issue  
259 such warrants, in such amounts as may be necessary to pay when due  
260 the principal of, premium, if any, and interest on, or the  
261 accreted value of, all bonds issued under this section; and the



262 State Treasurer shall forward the necessary amount to the  
263 designated place or places of payment of such bonds in ample time  
264 to discharge such bonds, or the interest thereon, on the due dates  
265 thereof.

266 (17) This section shall be deemed to be full and complete  
267 authority for the exercise of the powers therein granted, but this  
268 section shall not be deemed to repeal or to be in derogation of  
269 any existing law of this state.

270 **SECTION 5.** This act shall take effect and be in force from  
271 and after July 1, 2007.