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To: Finance

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 3104

1 AN ACT TO CREATE A HIGH HAZARD DAM REHABILITATION REVOLVING  
2 LOAN PROGRAM TO BE ADMINISTERED BY THE MISSISSIPPI COMMISSION ON  
3 ENVIRONMENTAL QUALITY; 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 COMMISSION ON  
7 ENVIRONMENTAL QUALITY CERTAIN POWERS AND DUTIES WITH REGARD TO THE  
8 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 Commission on Environmental Quality for the purpose of  
16 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) "Commission" means the Mississippi Commission on  
20 Environmental Quality.

21 (b) "High hazard dam" means an existing dam for which  
22 failure may cause loss of life, serious damage to residential,  
23 industrial or commercial buildings, or damage to or disruption of  
24 important public utilities or transportation facilities such as  
25 major highways or railroads.

26 (c) "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) An amount not to exceed six percent (6%) of the  
44 money in the fund which is derived from proceeds of bonds issued  
45 under Section 4 of this act may be used to pay reasonable actual  
46 and necessary costs incurred by the Mississippi Department of  
47 Environmental Quality in administering the provisions of Sections  
48 1 through 3 of this act.

49           (c) In addition to the amount authorized in paragraph  
50 (c) of this subsection, an amount not to exceed five percent (5%)  
51 of the interest repaid on each loan made from the High Hazard Dam  
52 Rehabilitation Revolving Loan Fund may be used to pay reasonable  
53 actual and necessary costs incurred by the Mississippi Department  
54 of Environmental Quality in administering the provisions of  
55 Sections 1 through 3 of this act.

56           (d) The High Hazard Dam Rehabilitation Revolving Loan  
57 Fund shall be utilized by the commission to provide loans for  
58 eligible costs.

59           (2) A person, corporation or other private entity or a local  
60 governmental entity that owns or has the responsibility for  
61 maintenance of a high hazard dam may apply to the commission for a  
62 loan under the high hazard dam rehabilitation revolving loan  
63 program established under Sections 1 through 3 of this act.

64           (3) (a) The commission shall establish a loan program by  
65 which loans, at the rate of interest provided for in paragraph (b)  
66 of this subsection, may be made available to assist in the  
67 rehabilitation of high hazard dams. Loans from the revolving fund  
68 may be made as set forth in a loan agreement in amounts not to  
69 exceed one hundred percent (100%) of eligible costs as established  
70 by the commission. The commission may require funding from other  
71 sources, or otherwise limit the percentage of eligible costs  
72 covered by loans from the revolving fund. The commission may  
73 establish a maximum amount for any loan in order to provide for  
74 broad and equitable participation in the program and loans for  
75 projects.

76           (b) The rate of interest on loans shall be below market  
77 interest rates and the interest rate and terms may vary from time  
78 to time and from loan to loan at the discretion of the commission;  
79 however, the interest rate on loans shall be sufficient to  
80 maintain the capital in the fund.

81           **SECTION 3.** In administering the provisions of Sections 1  
82 through 3 of this act, the commission shall have the following  
83 powers and duties:

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

86           (b) To review and certify eligibility for all projects  
87 for which funds are authorized to be made available under Sections  
88 1 through 3 of this act;

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

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

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

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

100 (g) To file annually with the Legislature a report  
101 detailing how monies in the High Hazard Dam Rehabilitation  
102 Revolving Loan Fund were spent during the preceding fiscal year,  
103 the number of projects approved and constructed, and the cost of  
104 each project.

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

108 (a) "Accreted value" of any bonds means, as of any date  
109 of computation, an amount equal to the sum of (i) the stated  
110 initial value of such bond, plus (ii) the interest accrued thereon  
111 from the issue date to the date of computation at the rate,  
112 compounded semiannually, that is necessary to produce the  
113 approximate yield to maturity shown for bonds of the same  
114 maturity.

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

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

117 (2) The Mississippi Commission on Environmental Quality, at  
118 one time, or from time to time, may declare by resolution the  
119 necessity for issuance of general obligation bonds of the State of  
120 Mississippi to provide funds for the program authorized in  
121 Sections 1 through 3 of this act. Upon the adoption of a  
122 resolution by the Mississippi Commission on Environmental Quality,  
123 declaring the necessity for the issuance of any part or all of the  
124 general obligation bonds authorized by this section, the  
125 Mississippi Commission on Environmental Quality shall deliver a  
126 certified copy of its resolution or resolutions to the commission.  
127 Upon receipt of such resolution, the commission, in its  
128 discretion, may act as the issuing agent, prescribe the form of  
129 the bonds, advertise for and accept bids, issue and sell the bonds

130 so authorized to be sold and do any and all other things necessary  
131 and advisable in connection with the issuance and sale of such  
132 bonds. The total amount of bonds issued under this section shall  
133 not exceed Five Million Dollars (\$5,000,000.00). No bonds  
134 authorized under this section shall be issued after July 1, 2011.

135 (3) The proceeds of bonds issued pursuant to this section  
136 shall be deposited into the High Hazard Dam Rehabilitation  
137 Revolving Loan Fund created pursuant to Section 2 of this act.  
138 Any investment earnings on bonds issued pursuant to this section  
139 shall be used to pay debt service on bonds issued under this  
140 section, in accordance with the proceedings authorizing issuance  
141 of such bonds.

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

155 (5) The bonds authorized by this section shall be signed by  
156 the chairman of the commission, or by his facsimile signature, and  
157 the official seal of the commission shall be affixed thereto,  
158 attested by the secretary of the commission. The interest  
159 coupons, if any, to be attached to such bonds may be executed by  
160 the facsimile signatures of such officers. Whenever any such  
161 bonds shall have been signed by the officials designated to sign  
162 the bonds who were in office at the time of such signing but who

163 may have ceased to be such officers before the sale and delivery  
164 of such bonds, or who may not have been in office on the date such  
165 bonds may bear, the signatures of such officers upon such bonds  
166 and coupons shall nevertheless be valid and sufficient for all  
167 purposes and have the same effect as if the person so officially  
168 signing such bonds had remained in office until their delivery to  
169 the purchaser, or had been in office on the date such bonds may  
170 bear. However, notwithstanding anything herein to the contrary,  
171 such bonds may be issued as provided in the Registered Bond Act of  
172 the State of Mississippi.

173 (6) All bonds and interest coupons issued under the  
174 provisions of this section have all the qualities and incidents of  
175 negotiable instruments under the provisions of the Uniform  
176 Commercial Code, and in exercising the powers granted by this act,  
177 the commission shall not be required to and need not comply with  
178 the provisions of the Uniform Commercial Code.

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

196 Notice of the sale of any such bonds shall be published at  
197 least one time, not less than ten (10) days before the date of  
198 sale, and shall be so published in one or more newspapers  
199 published or having a general circulation in the City of Jackson,  
200 Mississippi, and in one or more other newspapers or financial  
201 journals with a national circulation, to be selected by the  
202 commission.

203 The commission, when issuing any bonds under the authority of  
204 this section, may provide that bonds, at the option of the State  
205 of Mississippi, may be called in for payment and redemption at the  
206 call price named therein and accrued interest on such date or  
207 dates named therein.

208 (8) The bonds issued under the provisions of this section  
209 are general obligations of the State of Mississippi, and for the  
210 payment thereof the full faith and credit of the State of  
211 Mississippi is irrevocably pledged. If the funds appropriated by  
212 the Legislature are insufficient to pay the principal of and the  
213 interest on such bonds as they become due, then the deficiency  
214 shall be paid by the State Treasurer from any funds in the State  
215 Treasury not otherwise appropriated. All such bonds shall contain  
216 recitals on their faces substantially covering the provisions of  
217 this subsection.

218 (9) Upon the issuance and sale of bonds under the provisions  
219 of this section, the commission shall transfer the proceeds of any  
220 such sale or sales to the High Hazard Dam Rehabilitation Revolving  
221 Loan Fund created in Section 2 of this act. The proceeds of such  
222 bonds shall be disbursed solely upon the order of the Mississippi  
223 Department of Environmental Quality under such restrictions, if  
224 any, as may be contained in the resolution providing for the  
225 issuance of the bonds.

226 (10) The bonds authorized under this section may be issued  
227 without any other proceedings or the happening of any other  
228 conditions or things other than those proceedings, conditions and

229 things which are specified or required by this section. Any  
230 resolution providing for the issuance of bonds under the  
231 provisions of this section shall become effective immediately upon  
232 its adoption by the commission, and any such resolution may be  
233 adopted at any regular or special meeting of the commission by a  
234 majority of its members.

235 (11) The bonds authorized under the authority of this  
236 section may be validated in the Chancery Court of the First  
237 Judicial District of Hinds County, Mississippi, in the manner and  
238 with the force and effect provided by Chapter 13, Title 31,  
239 Mississippi Code of 1972, for the validation of county, municipal,  
240 school district and other bonds. The notice to taxpayers required  
241 by such statutes shall be published in a newspaper published or  
242 having a general circulation in the City of Jackson, Mississippi.

243 (12) Any holder of bonds issued under the provisions of this  
244 section or of any of the interest coupons pertaining thereto may,  
245 either at law or in equity, by suit, action, mandamus or other  
246 proceeding, protect and enforce any and all rights granted under  
247 this section, or under such resolution, and may enforce and compel  
248 performance of all duties required by this section to be  
249 performed, in order to provide for the payment of bonds and  
250 interest thereon.

251 (13) All bonds issued under the provisions of this section  
252 shall be legal investments for trustees and other fiduciaries, and  
253 for savings banks, trust companies and insurance companies  
254 organized under the laws of the State of Mississippi, and such  
255 bonds shall be legal securities which may be deposited with and  
256 shall be received by all public officers and bodies of this state  
257 and all municipalities and political subdivisions for the purpose  
258 of securing the deposit of public funds.

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

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

265           (16) The State Treasurer is authorized, without further  
266 process of law, to certify to the Department of Finance and  
267 Administration the necessity for warrants, and the Department of  
268 Finance and Administration is authorized and directed to issue  
269 such warrants, in such amounts as may be necessary to pay when due  
270 the principal of, premium, if any, and interest on, or the  
271 accreted value of, all bonds issued under this section; and the  
272 State Treasurer shall forward the necessary amount to the  
273 designated place or places of payment of such bonds in ample time  
274 to discharge such bonds, or the interest thereon, on the due dates  
275 thereof.

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

280           **SECTION 5.** This act shall take effect and be in force from  
281 and after July 1, 2007, and shall stand repealed from and after  
282 June 30, 2007.