

By: Representative Brown

To: Appropriations

## HOUSE BILL NO. 805

1 AN ACT TO PROHIBIT ANY AGENCY, BOARD, COMMISSION, DEPARTMENT,  
 2 OR INSTITUTION OF THE STATE OF MISSISSIPPI FROM PURCHASING NEW  
 3 EQUIPMENT, HIRING NEW EMPLOYEES, OR PROMOTING, RECLASSIFYING,  
 4 REALLOCATING OR REALIGNING PAY GRADES WITH REGARD TO ANY OF ITS  
 5 EMPLOYEES OR JOB POSITIONS DURING THE CURRENT FISCAL YEAR; TO  
 6 ESTABLISH AN APPEAL PROCEDURE TO THE STATE FISCAL OFFICER FOR  
 7 EMERGENCY PURCHASES OF EQUIPMENT OR HIRING OF NEW EMPLOYEES; TO  
 8 SET FORTH THE DEMONSTRATION OF THE EMERGENCY THAT MUST BE MADE BY  
 9 THE AGENCY IN ITS APPEAL; TO PROVIDE THAT THE JOINT LEGISLATIVE  
 10 BUDGET COMMITTEE SHALL BE NOTIFIED OF SUCH AN APPEAL AND THAT  
 11 COMMITTEE MEMBERS MAY ATTEND THE HEARING ON SUCH AN APPEAL; TO  
 12 ALLOW THE STATE FISCAL OFFICER, IN HIS DISCRETION, TO AUTHORIZE  
 13 THE ACTION SOUGHT IN THE APPEAL; TO PROVIDE AN EXCEPTION TO THE  
 14 PROHIBITED ACTIONS OF THIS ACT IF ALL OF THE FUNDS TO BE EXPENDED  
 15 BY AN AGENCY TO FUND THOSE ACTIONS ARE FEDERAL FUNDS, STATE-SOURCE  
 16 SPECIAL FUNDS OR A COMBINATION OF FEDERAL FUNDS AND STATE-SOURCE  
 17 SPECIAL FUNDS; TO AMEND SECTION 25-9-116, MISSISSIPPI CODE OF  
 18 1972, IN CONFORMITY THERETO; TO BRING FORWARD SECTIONS 27-104-13  
 19 AND 31-17-123, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE  
 20 AMENDMENT; AND FOR RELATED PURPOSES.

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

22 **SECTION 1.** (1) Except as otherwise provided in subsections  
 23 (2) and (3), until June 30, 2004, due to the severe revenue  
 24 shortfall during the current fiscal year, the following provisions  
 25 shall apply:

26 (a) No state agency is authorized to purchase any  
 27 equipment as defined in Section 31-7-1.

28 (b) No state agency is authorized to hire any new  
 29 employees, or promote, reclassify, reallocate or realign a pay  
 30 grade with regard to any of its employees or job positions. The  
 31 State Personnel Board shall immediately suspend all hirings,  
 32 promotions, reclassifications, reallocations and pay grade  
 33 realignments of employees or job positions in accordance with  
 34 Section 25-9-116.

35 (2) If a state agency determines that it is necessary to  
 36 purchase any equipment or hire any new employees before July 1,

37 2004, the agency may appeal to the State Fiscal Officer. The  
38 State Fiscal Officer shall immediately notify the Joint  
39 Legislative Budget Committee of the state agency's appeal and the  
40 date upon which the State Fiscal Officer will hold a hearing on  
41 the appeal. The State Fiscal Officer shall grant a hearing to the  
42 state agency on its appeal within fifteen (15) days after notice  
43 of the appeal is given to the State Fiscal Officer. The hearing  
44 shall not be a public meeting; however, any member of the Joint  
45 Legislative Budget Committee may attend the hearing. At the  
46 hearing, the state agency must demonstrate to the satisfaction of  
47 the State Fiscal Officer that a serious emergency exists of such  
48 magnitude that the essential mission of the agency cannot be  
49 carried out without the immediate purchase of the equipment or the  
50 hiring of the new employees. If the state agency makes the  
51 demonstration required by this subsection, the State Fiscal  
52 Officer, in his discretion, may authorize the agency to purchase  
53 some or all of the equipment or hire some or all of the new  
54 employees requested by the agency.

55 (3) A state agency may take any action that otherwise would  
56 be prohibited under subsection (1) of this section if all of the  
57 funds to be expended to fund that action are federal funds,  
58 state-source special funds or a combination of federal funds and  
59 state-source special funds. For the purposes of this subsection,  
60 the term "state-source special funds" means all revenues or income  
61 from any source, other than federal funds or appropriations from  
62 the State General Fund, that are received, collected by or  
63 available for the support of or expenditure by a state agency.

64 (4) For purposes of this section, the term "state agency"  
65 means any agency, board, commission, department or institution of  
66 the State of Mississippi.

67 **SECTION 2.** Section 25-9-116, Mississippi Code of 1972, is  
68 amended as follows:

69 **[Through June 30, 2004, this section will read as follows:]**

70           25-9-116. \* \* \* The State Personnel Board shall institute an  
71 immediate suspension of all hirings, promotions,  
72 reclassifications, reallocations and pay grade realignments \* \* \*.  
73 However, that suspension does not prohibit an agency from hiring  
74 new employees, promoting employees, or reclassifying, reallocating  
75 or realigning a pay grade with regard to any of its employees or  
76 job positions, if all of the funds to be expended to fund the  
77 action taken by the agency are federal funds, state-source special  
78 funds or a combination of federal funds and state-source special  
79 funds. For the purposes of this section, the term "state-source  
80 special funds" has the meaning provided in Section 1(3) of this  
81 act.

82           **[From and after July 1, 2004, this section will read as**  
83 **follows:]**

84           25-9-116. Upon recommendation of the State Fiscal Officer,  
85 after a determination that the state revenue and expenditure  
86 requires such action, the State Personnel Board may institute an  
87 immediate suspension of all hirings, promotions,  
88 reclassifications, reallocations and pay grade realignments until  
89 such time as the State Fiscal Officer shall recommend that such  
90 action is no longer required.

91           **SECTION 3.** Section 27-104-13, Mississippi Code of 1972, is  
92 brought forward as follows:

93           27-104-13. The State Fiscal Officer shall have the right to  
94 disapprove or reduce and revise such estimates of general funds  
95 and state-source special funds for any general-fund or  
96 special-fund agency, and for the "administration and other  
97 expenses" budget of the State Highway Department, in an amount not  
98 to exceed five percent (5%) if he finds that funds will not be  
99 available within the period for which the budget is drawn, or if  
100 he finds that the requested expenditures, or any part thereof, are  
101 not authorized by law, and such action shall be reported to the  
102 Legislative Budget Office. The State Fiscal Officer may, upon his

103 determination of need based upon a finding that funds will not be  
104 available within the period for which the budget is drawn,  
105 transfer funds as provided in Section 27-103-203, from the Working  
106 Cash-Stabilization Reserve Fund to the General Fund to supplement  
107 the general-fund revenue. In the event that the estimates of  
108 general funds and state-source special funds of all general-fund  
109 and special-fund agencies, and of the "administration and other  
110 expenses" budget of the State Highway Department, have been  
111 reduced by five percent (5%), additional reductions may be made  
112 but shall consist of a uniform percentage reduction of general  
113 funds and state-source special funds to all general-fund and  
114 special-fund agencies, and to the "administration and other  
115 expenses" budget of the State Highway Department. Any  
116 state-source special funds reduced under the provisions of this  
117 section shall be transferred to the State General Fund upon  
118 requisitions for warrants signed by the respective agency head and  
119 said transfer shall be made within a reasonable period to be  
120 determined by the State Fiscal Officer.

121 For the purpose of this section, "state-source special funds"  
122 shall be construed to mean any special funds in any agency derived  
123 from any source, but shall not include the following special  
124 funds: special funds derived from federal sources, from local or  
125 regional political subdivisions, or from donations; special funds  
126 held in a fiduciary capacity for the benefit of specific persons  
127 or classes of persons; self-generated special funds of the state  
128 institutions of higher learning or the state junior colleges;  
129 special funds of Mississippi Industries for the Blind, the State  
130 Port at Gulfport, Yellow Creek Inland Port, Pat Harrison Waterway  
131 District, Pearl River Basin Development District, Pearl River  
132 Valley Water Management District, Tombigbee River Valley Water  
133 Management District, Yellow Creek Watershed Authority, or Coast  
134 Coliseum Commission; special funds of the Department of Wildlife,  
135 Fisheries and Parks derived from the issuance of hunting or

136 fishing licenses; and special funds generated by agencies whose  
137 primary function includes the establishment of standards and the  
138 issuance of licenses for the practice of a profession within the  
139 State of Mississippi.

140       **SECTION 4.** Section 31-17-123, Mississippi Code of 1972, is  
141 brought forward as follows:

142       31-17-123. The intent of the Legislature is to authorize  
143 borrowing funds under the provisions of Sections 31-17-101 through  
144 31-17-123 to offset any temporary cash flow deficiencies and  
145 should not be construed to authorize the borrowing of any funds in  
146 an amount which cannot be repaid during the fiscal year in which  
147 such funds are borrowed. The State Tax Commission and University  
148 Research Center, utilizing all available revenue forecast data,  
149 shall annually develop a general fund revenue estimate to be  
150 adopted by the Legislative Budget Office as of the date of sine  
151 die adjournment. If, at the end of October, or at the end of any  
152 month thereafter of any fiscal year, the revenues received for the  
153 fiscal year shall fall below ninety-eight percent (98%) of the  
154 Legislative Budget Office general fund revenue estimate at the  
155 date of sine die adjournment, the State Fiscal Officer shall  
156 reduce allocations of general funds and state-source special funds  
157 to general fund and special fund agencies and to the  
158 "administration and other expenses" budget of the State Highway  
159 Department in an amount necessary to keep expenditures within the  
160 sum of actual general fund receipts including any transfers to the  
161 General Fund from the Working Cash-Stabilization Reserve Fund for  
162 the fiscal year. The State Fiscal Officer may, upon his  
163 determination of need based on the revenue shortfall, transfer  
164 funds as provided in Section 27-103-203, from the Working  
165 Cash-Stabilization Reserve Fund to the General Fund to supplement  
166 the general fund revenue. State-source special funds in an amount  
167 equal to any reduction made under the provisions of this section  
168 shall be transferred to the State General Fund upon requisitions

169 for warrants signed by the respective agency head and such  
170 transfer shall be made within a reasonable period to be determined  
171 by the State Fiscal Officer. No agency's allocation shall be  
172 reduced in an amount to exceed five percent (5%); however, in the  
173 event that the allocations of general funds and state-source  
174 special funds to all general fund and special fund agencies and to  
175 the "administration and other expenses" budget of the State  
176 Highway Department have been reduced by five percent (5%), any  
177 additional reductions required to be made hereunder shall consist  
178 of a uniform percentage reduction of general funds and  
179 state-source special funds to all general fund and special fund  
180 agencies, and to the "administration and other expenses" budget of  
181 the State Highway Department. Any receipt from loans authorized  
182 by Sections 31-17-101 through 31-17-123 shall not be included as  
183 revenue receipts. The State Fiscal Officer shall immediately send  
184 notice of any action taken under authority of this section to the  
185 Legislative Budget Office.

186 For the purpose of this section, "state-source special funds"  
187 shall be construed to mean any special funds in any agency derived  
188 from any source, but shall not include the following special  
189 funds: special funds derived from federal sources, from local or  
190 regional political subdivisions, or from donations; special funds  
191 held in a fiduciary capacity for the benefit of specific persons  
192 or classes of persons; self-generated special funds of the state  
193 institutions of higher learning or the state junior colleges;  
194 special funds of Mississippi Industries for the Blind, the State  
195 Port at Gulfport, Yellow Creek Inland Port, Pat Harrison Waterway  
196 District, Pearl River Basin Development District, Pearl River  
197 Valley Water Management District, Tombigbee River Valley Water  
198 Management District, Yellow Creek Watershed Authority, or Coast  
199 Coliseum Commission; special funds of the Department of Wildlife,  
200 Fisheries and Parks derived from the issuance of hunting or  
201 fishing licenses; and special funds generated by agencies whose

202 primary function includes the establishment of standards and the  
203 issuance of licenses for the practice of a profession within the  
204 State of Mississippi.

205           **SECTION 5.** This act shall take effect and be in force from  
206 and after its passage.