

By: Representative Warren

To: Ways and Means

HOUSE BILL NO. 438
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 39-11-13, MISSISSIPPI CODE OF 1972,
2 TO EXTEND THE DATE OF REPEAL ON THE PROVISION WHICH PROVIDES THAT
3 MONIES IN THE "BUILDING FUND FOR THE ARTS" WHICH ARE DERIVED FROM
4 PROCEEDS OF BONDS ISSUED AFTER A CERTAIN DATE MAY BE USED TO
5 REIMBURSE CERTAIN COSTS INCURRED BY THE MISSISSIPPI ARTS
6 COMMISSION IN PROVIDING ASSISTANCE RELATED TO PROJECTS FOR WHICH
7 GRANT FUNDS ARE PROVIDED FROM THE USE OF PROCEEDS FROM SUCH BONDS;
8 TO AMEND SECTIONS 210 THROUGH 226, CHAPTER 1, LAWS OF THE THIRD
9 EXTRAORDINARY SESSION OF 2004, TO AUTHORIZE GENERAL OBLIGATION
10 BONDS AUTHORIZED TO BE ISSUED FOR THE MISSISSIPPI MUSEUM OF ART
11 FUND TO BE UTILIZED FOR CERTAIN ADDITIONAL PURPOSES; AND FOR
12 RELATED PURPOSES.

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

14 **SECTION 1.** Section 39-11-13, Mississippi Code of 1972, is
15 amended as follows:

16 39-11-13. (1) (a) A special fund, to be designated as the
17 "Building Fund for the Arts" is created within the State Treasury.
18 The fund shall be maintained by the State Treasurer as a separate
19 and special fund, separate and apart from the General Fund of the
20 state. The fund shall consist of any money designated for deposit
21 therein from any source, including, but not limited to, any state
22 general obligation bonds issued for the purposes described in this
23 section. Unexpended amounts remaining in the fund at the end of a
24 fiscal year shall not lapse into the State General Fund, and
25 investment earnings on amounts in the fund shall be deposited into
26 such fund.

27 (b) Money deposited into the fund shall be disbursed,
28 in the discretion of the Mississippi Arts Commission, to provide
29 grants to nonprofit organizations that are qualified as tax exempt
30 under Section 501(c)(3) of the Internal Revenue Code and units of
31 local government to pay the costs of:

32 (i) Repair, upgrading, expansion, renovation or
33 enhancement of existing buildings and facilities for the
34 presentation, teaching or exhibition of the arts in any and all of
35 its forms and furniture, equipment and/or technology for such
36 buildings or facilities;

37 (ii) Construction of new buildings and facilities
38 for the presentation, teaching or exhibition of the arts in any
39 and all of its forms and furniture, equipment and/or technology
40 for such buildings or facilities; or

41 (iii) The development, construction, equipping and
42 furnishing of an entertainment and film center and museum and
43 completion of a sound stage project.

44 (c) The entity to which such grants are made shall
45 provide matching funds from local, federal or private sources
46 equal to forty percent (40%) of the proposed project cost in order
47 to be eligible for a grant under this section.

48 (d) The maximum aggregate amount of monies in the
49 special fund that may be used to provide grant funds to an entity
50 or combination of entities under paragraph (b)(iii) of this
51 subsection shall not exceed One Million Dollars (\$1,000,000.00),
52 and no monies in the special fund may be used to provide grant
53 funds under paragraph (b)(iii) of this subsection after July 1,
54 2003. The maximum aggregate amount of grant funds that may be
55 provided to an entity or combination of entities under paragraph
56 (b)(iii) of this subsection during a fiscal year shall not exceed
57 Five Hundred Thousand Dollars (\$500,000.00).

58 (2) (a) Amounts deposited into such special fund shall be
59 disbursed to pay the costs of projects described in subsection (1)
60 of this section. If any monies in the special fund are derived
61 from proceeds of bonds issued under Sections 3 through 18 of
62 Chapter 541, Laws of 2001, as amended by Chapter 540, Laws of
63 2002, as amended by Chapter 519, Laws of 2003, as amended by
64 Chapter 1, Laws of 2004 Third Extraordinary Session, and are not

65 used within four (4) years after the date such bond proceeds are
66 deposited into the special fund, then the Mississippi Arts
67 Commission shall provide an accounting of such unused monies to
68 the State Bond Commission.

69 (b) Monies in the special fund which are derived from
70 proceeds of bonds issued after April 9, 2002, may be used to
71 reimburse reasonable actual and necessary costs incurred by the
72 Mississippi Arts Commission in providing assistance directly
73 related to a project described in subsection (1) of this section
74 for which grant funds are provided under this section from the use
75 of proceeds of such bonds. Reimbursement may be made only until
76 such time as the project is completed. An accounting of actual
77 costs incurred for which reimbursement is sought shall be
78 maintained for each project by the Mississippi Arts Commission.
79 Reimbursement of reasonable actual and necessary costs for a
80 project shall not exceed three percent (3%) of the proceeds of
81 bonds issued for such project. Monies authorized for a particular
82 project may not be used to reimburse administrative costs for
83 unrelated projects. This paragraph (b) shall be repealed from and
84 after July 1, 2007.

85 (3) The Mississippi Arts Commission is expressly authorized
86 and empowered to receive and expend any local or other source
87 funds in connection with the expenditure of funds provided for in
88 this section. The expenditure of money deposited into the special
89 fund shall be under the direction of the Mississippi Arts
90 Commission, and such funds shall be paid by the State Treasurer
91 upon warrants issued by the Department of Finance and
92 Administration upon request of the Mississippi Arts Commission,
93 which warrants shall be issued upon requisitions signed by the
94 Executive Director of the Mississippi Arts Commission or his or
95 her designee.

96 (4) The Mississippi Arts Commission shall adopt necessary
97 rules and regulations to govern the administration of the program

98 described in subsection (1) of this section, including, but not
99 limited to, rules and regulations governing applications for
100 grants and rules and regulations providing for the distribution of
101 grant funds. The Mississippi Arts Commission shall comply with
102 the provisions of the Mississippi Administrative Procedures Law.

103 **SECTION 2.** Sections 210 through 226, Chapter 1, Laws of the
104 Third Extraordinary Session of 2004, are amended as follows:

105 Section 210. As used in Sections 210 through 226 of this
106 act, the following words shall have the meanings ascribed herein
107 unless the context clearly 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; and

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

117 Section 211. (1) (a) A special fund, to be designated as
118 the "Mississippi Museum of Art Fund" is created within the State
119 Treasury. The fund shall be maintained by the State Treasurer as
120 a separate and special fund, separate and apart from the General
121 Fund of the state. Unexpended amounts remaining in the fund at
122 the end of a fiscal year shall not lapse into the State General
123 Fund, and any interest earned or investment earnings on amounts in
124 the fund shall be deposited into such fund.

125 (b) Monies deposited into the fund shall be disbursed,
126 in the discretion of the Department of Finance and Administration,
127 for the purpose of providing funds to the Mississippi Museum of
128 Art to pay the costs of acquisition of land, planning, design and
129 site preparation for a facility for the Mississippi Museum of Art
130 in Jackson, Mississippi, and/or construction, repair and

131 renovation, upgrading, furnishing, equipping, expansion or
132 enhancement of buildings or facilities for the Mississippi Museum
133 of Art, in Jackson, Mississippi.

134 (2) Amounts deposited into such special fund shall be
135 disbursed to pay the costs of the projects described in subsection
136 (1) of this section. Promptly after the commission has certified,
137 by resolution duly adopted, that the projects described in
138 subsection (1) of this section shall have been completed,
139 abandoned, or cannot be completed in a timely fashion, any amounts
140 remaining in such special fund shall be applied to pay debt
141 service on the bonds issued under Sections 210 through 226 of this
142 act, in accordance with the proceedings authorizing the issuance
143 of such bonds and as directed by the commission.

144 (3) The Department of Finance and Administration is
145 expressly authorized and empowered to receive and expend any local
146 or other source funds in connection with the expenditure of funds
147 provided for in this section. The expenditure of monies deposited
148 into the special fund shall be under the direction of the
149 Department of Finance and Administration, and such funds shall be
150 paid by the State Treasurer upon warrants issued by the Department
151 of Finance and Administration.

152 Section 212. (1) The Department of Finance and
153 Administration, at one time, or from time to time, may declare by
154 resolution the necessity for issuance of general obligation bonds
155 of the State of Mississippi to provide funds for all costs
156 incurred or to be incurred for the purposes described in Section
157 211 of this act. Upon the adoption of a resolution by the
158 Department of Finance and Administration, declaring the necessity
159 for the issuance of any part or all of the general obligation
160 bonds authorized by this section, the Department of Finance and
161 Administration shall deliver a certified copy of its resolution or
162 resolutions to the commission. Upon receipt of such resolution,
163 the commission, in its discretion, may act as the issuing agent,

164 prescribe the form of the bonds, advertise for and accept bids,
165 issue and sell the bonds so authorized to be sold and do any and
166 all other things necessary and advisable in connection with the
167 issuance and sale of such bonds. The total amount of bonds issued
168 under Sections 210 through 226 of this act shall not exceed Two
169 Million Dollars (\$2,000,000.00).

170 (2) The proceeds of bonds issued pursuant to Sections 210
171 through 226 of this act shall be deposited into the special fund
172 created pursuant to Section 211 of this act. Any investment
173 earnings on bonds issued pursuant to Sections 210 through 226 of
174 this act shall be used to pay debt service on bonds issued under
175 Sections 210 through 226 of this act, in accordance with the
176 proceedings authorizing issuance of such bonds.

177 Section 213. The principal of and interest on the bonds
178 authorized under Sections 210 through 226 of this act shall be
179 payable in the manner provided in this section. Such bonds shall
180 bear such date or dates, be in such denomination or denominations,
181 bear interest at such rate or rates (not to exceed the limits set
182 forth in Section 75-17-101, Mississippi Code of 1972), be payable
183 at such place or places within or without the State of
184 Mississippi, shall mature absolutely at such time or times not to
185 exceed twenty-five (25) years from date of issue, be redeemable
186 before maturity at such time or times and upon such terms, with or
187 without premium, shall bear such registration privileges, and
188 shall be substantially in such form, all as shall be determined by
189 resolution of the commission.

190 Section 214. The bonds authorized by Sections 210 through
191 226 of this act shall be signed by the chairman of the commission,
192 or by his facsimile signature, and the official seal of the
193 commission shall be affixed thereto, attested by the secretary of
194 the commission. The interest coupons, if any, to be attached to
195 such bonds may be executed by the facsimile signatures of such
196 officers. Whenever any such bonds shall have been signed by the

197 officials designated to sign the bonds who were in office at the
198 time of such signing but who may have ceased to be such officers
199 before the sale and delivery of such bonds, or who may not have
200 been in office on the date such bonds may bear, the signatures of
201 such officers upon such bonds and coupons shall nevertheless be
202 valid and sufficient for all purposes and have the same effect as
203 if the person so officially signing such bonds had remained in
204 office until their delivery to the purchaser, or had been in
205 office on the date such bonds may bear. However, notwithstanding
206 anything herein to the contrary, such bonds may be issued as
207 provided in the Registered Bond Act of the State of Mississippi.

208 Section 215. All bonds and interest coupons issued under the
209 provisions of Sections 210 through 226 of this act have all the
210 qualities and incidents of negotiable instruments under the
211 provisions of the Uniform Commercial Code, and in exercising the
212 powers granted by Sections 210 through 226 of this act, the
213 commission shall not be required to and need not comply with the
214 provisions of the Uniform Commercial Code.

215 Section 216. The commission shall act as the issuing agent
216 for the bonds authorized under Sections 210 through 226 of this
217 act, prescribe the form of the bonds, advertise for and accept
218 bids, issue and sell the bonds so authorized to be sold, pay all
219 fees and costs incurred in such issuance and sale, and do any and
220 all other things necessary and advisable in connection with the
221 issuance and sale of such bonds. The commission is authorized and
222 empowered to pay the costs that are incident to the sale, issuance
223 and delivery of the bonds authorized under Sections 210 through
224 226 of this act from the proceeds derived from the sale of such
225 bonds. The commission shall sell such bonds on sealed bids at
226 public sale, and for such price as it may determine to be for the
227 best interest of the State of Mississippi, but no such sale shall
228 be made at a price less than par plus accrued interest to the date
229 of delivery of the bonds to the purchaser. All interest accruing

230 on such bonds so issued shall be payable semiannually or annually;
231 however, the first interest payment may be for any period of not
232 more than one (1) year.

233 Notice of the sale of any such bonds shall be published at
234 least one time, not less than ten (10) days before the date of
235 sale, and shall be so published in one or more newspapers
236 published or having a general circulation in the City of Jackson,
237 Mississippi, and in one or more other newspapers or financial
238 journals with a national circulation, to be selected by the
239 commission.

240 The commission, when issuing any bonds under the authority of
241 Sections 210 through 226 of this act, may provide that bonds, at
242 the option of the State of Mississippi, may be called in for
243 payment and redemption at the call price named therein and accrued
244 interest on such date or dates named therein.

245 Section 217. The bonds issued under the provisions of
246 Sections 210 through 226 of this act are general obligations of
247 the State of Mississippi, and for the payment thereof the full
248 faith and credit of the State of Mississippi is irrevocably
249 pledged. If the funds appropriated by the Legislature are
250 insufficient to pay the principal of and the interest on such
251 bonds as they become due, then the deficiency shall be paid by the
252 State Treasurer from any funds in the State Treasury not otherwise
253 appropriated. All such bonds shall contain recitals on their
254 faces substantially covering the provisions of this section.

255 Section 218. Upon the issuance and sale of bonds under the
256 provisions of Sections 210 through 226 of this act, the commission
257 shall transfer the proceeds of any such sale or sales to the
258 special fund created in Section 211 of this act. The proceeds of
259 such bonds shall be disbursed solely upon the order of the
260 Department of Finance and Administration under such restrictions,
261 if any, as may be contained in the resolution providing for the
262 issuance of the bonds.

263 Section 219. The bonds authorized under Sections 210 through
264 226 of this act may be issued without any other proceedings or the
265 happening of any other conditions or things other than those
266 proceedings, conditions and things which are specified or required
267 by Sections 210 through 226 of this act. Any resolution providing
268 for the issuance of bonds under the provisions of Sections 210
269 through 226 of this act shall become effective immediately upon
270 its adoption by the commission, and any such resolution may be
271 adopted at any regular or special meeting of the commission by a
272 majority of its members.

273 Section 220. The bonds authorized under the authority of
274 Sections 210 through 226 of this act may be validated in the
275 Chancery Court of the First Judicial District of Hinds County,
276 Mississippi, in the manner and with the force and effect provided
277 by Chapter 13, Title 31, Mississippi Code of 1972, for the
278 validation of county, municipal, school district and other bonds.
279 The notice to taxpayers required by such statutes shall be
280 published in a newspaper published or having a general circulation
281 in the City of Jackson, Mississippi.

282 Section 221. Any holder of bonds issued under the provisions
283 of Sections 210 through 226 of this act or of any of the interest
284 coupons pertaining thereto may, either at law or in equity, by
285 suit, action, mandamus or other proceeding, protect and enforce
286 any and all rights granted under Sections 210 through 226 of this
287 act, or under such resolution, and may enforce and compel
288 performance of all duties required by Sections 210 through 226 of
289 this act to be performed, in order to provide for the payment of
290 bonds and interest thereon.

291 Section 222. All bonds issued under the provisions of
292 Sections 210 through 226 of this act shall be legal investments
293 for trustees and other fiduciaries, and for savings banks, trust
294 companies and insurance companies organized under the laws of the
295 State of Mississippi, and such bonds shall be legal securities

296 which may be deposited with and shall be received by all public
297 officers and bodies of this state and all municipalities and
298 political subdivisions for the purpose of securing the deposit of
299 public funds.

300 Section 223. Bonds issued under the provisions of Sections
301 210 through 226 of this act and income therefrom shall be exempt
302 from all taxation in the State of Mississippi.

303 Section 224. The proceeds of the bonds issued under Sections
304 210 through 226 of this act shall be used solely for the purposes
305 therein provided, including the costs incident to the issuance and
306 sale of such bonds.

307 Section 225. The State Treasurer is authorized, without
308 further process of law, to certify to the Department of Finance
309 and Administration the necessity for warrants, and the Department
310 of Finance and Administration is authorized and directed to issue
311 such warrants, in such amounts as may be necessary to pay when due
312 the principal of, premium, if any, and interest on, or the
313 accreted value of, all bonds issued under Sections 210 through 226
314 of this act; and the State Treasurer shall forward the necessary
315 amount to the designated place or places of payment of such bonds
316 in ample time to discharge such bonds, or the interest thereon, on
317 the due dates thereof.

318 Section 226. Sections 210 through 226 of this act shall be
319 deemed to be full and complete authority for the exercise of the
320 powers therein granted, but Sections 210 through 226 of this act
321 shall not be deemed to repeal or to be in derogation of any
322 existing law of this state.

323 **SECTION 3.** This act shall take effect and be in force from
324 and after July 1, 2005.