

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.