

By: Representatives Brown, Watson

To: Appropriations

HOUSE BILL NO. 3

1 AN ACT TO AMEND SECTION 27-104-17, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE ADDITIONAL TRANSFERS BETWEEN MAJOR BUDGET CATEGORIES
3 BY STATE AGENCIES DUE TO FINANCIAL CIRCUMSTANCES CAUSED BY
4 HURRICANE KATRINA; TO AMEND SECTION 27-104-21, MISSISSIPPI CODE OF
5 1972, TO AUTHORIZE STATE AGENCIES TO ESCALATE AND EXPEND ANY
6 FEDERAL OR SPECIAL SOURCE FUNDS DUE TO FINANCIAL CIRCUMSTANCES
7 CAUSED BY HURRICANE KATRINA; TO AUTHORIZE THE STATE FISCAL OFFICER
8 TO WAIVE CERTAIN PERSONNEL PROVISIONS PROVIDED IN FISCAL YEAR 2006
9 APPROPRIATION ACTS; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 27-104-17, Mississippi Code of 1972, is
12 amended as follows:

13 27-104-17. (1) An allotment period shall be one-half (1/2)
14 of twelve (12) months, and expenditure one-half (1/2) of the
15 appropriated amount, unless otherwise specified in the
16 appropriation bill or justified by the agency to the Department of
17 Finance and Administration, and the first allotment period shall
18 commence on July 1. Estimates shall be filed with the Department
19 of Finance and Administration not later than the first day of the
20 month preceding the beginning period.

21 * * * The Department of Finance and Administration may, in
22 its discretion, restrict an agency to monthly allotment period
23 when it becomes evident that an agency's rate of expenditure to
24 date indicates this restriction will be necessary to prevent
25 depletion of its appropriation prior to the close of the fiscal
26 year or when the condition of the State General Fund requires
27 monthly monitoring and control of the rate of General Fund
28 expenditures.

29 [From and after passage and until June 30, 2006, this
30 subsection (2) shall read as follows:]

31 (2) Due to the unforeseen financial circumstances caused by
32 Hurricane Katrina, the agency head of any state agency, with the
33 approval of the Department of Finance and Administration, may
34 authorize increases in major objects of expenditure within each
35 specific budget within each appropriation bill, provided that
36 other major objects of expenditure are decreased by a
37 corresponding dollar amount. The agency head shall submit written
38 justification for the transfer(s) to the Department of Finance and
39 Administration, the Legislative Budget Office and the State
40 Auditor on or before the fifteenth of the month before the
41 effective date of the transfer. The transfer shall be effective
42 the first working day of the month following timely submissions
43 and approval required in this subsection. In cases of extreme
44 hardship, certified in writing by the agency head and timely
45 submitted as required in this subsection, the Executive Director
46 of the Department of Finance and Administration, in his
47 discretion, may authorize an earlier effective date for the
48 transfer.

49 **[From and after July 1, 2006, this subsection (2) shall read**
50 **as follows:]**

51 (2) Unless otherwise specified in the agency appropriation
52 bill, in the event any emergency or unforeseen circumstances shall
53 arise, the agency head may authorize increases in major objects of
54 expenditure within each specific budget within each appropriation
55 bill in total amounts not to exceed ten percent (10%) of the
56 appropriated amount of each object, provided that other major
57 objects of expenditure are decreased by a corresponding dollar
58 amount. No transfers shall be authorized which increase or
59 decrease the major object of expenditure "Salaries, Wages and
60 Fringe Benefits," or which increase the major object of
61 expenditure "Capital Outlay - Equipment." The agency head shall
62 submit written justification for the transfer to the Legislative
63 Budget Office, the Department of Finance and Administration, and

64 the State Auditor, on or before the fifteenth of the month prior
65 to the effective date of the transfer. The transfer shall be
66 effective the first working day of the month following timely
67 submissions required herein. In cases of extreme hardship,
68 certified in writing by the agency head and submitted with timely
69 submissions required herein, the Executive Director of the
70 Department of Finance and Administration, in his discretion, may
71 authorize an earlier effective date for the transfer.

72 **SECTION 2.** Section 27-104-21, Mississippi Code of 1972, is
73 amended as follows:

74 27-104-21. (1) All general and special fund agencies shall,
75 upon making application for federal funds, forward a summary of
76 such applications to the Legislative Budget Office. The
77 Legislative Budget Office shall have an opportunity to review such
78 applications and make its comments thereon to the Executive
79 Director of the Department of Finance and Administration and the
80 state agency making application. Unless otherwise specified in
81 the appropriation bill, the Executive Director of the Department
82 of Finance and Administration shall have the authority to approve
83 escalations in a budget using one hundred percent (100%) federal
84 money. In addition, the Executive Director of the Department of
85 Finance and Administration shall have the authority to approve
86 escalations in a budget using one hundred percent (100%) federal
87 or other special source funds available and necessary to assist
88 agencies with any unforeseen financial circumstances specifically
89 related to Hurricane Katrina. New employee positions funded one
90 hundred percent (100%) by or from federal funds or other special
91 source funds may be authorized by the Executive Director of the
92 Department of Finance and Administration subject to the rules and
93 regulations of the State Personnel Board. No federal or other
94 special source funds may be expended for programs or activities
95 other than those which have been authorized by act of the
96 Legislature or which are encompassed by a state agency's program

97 structure as provided by law; however, any expenditures related to
98 a Hurricane Katrina relief program shall be specifically
99 authorized. The Executive Director of the Department of Finance
100 and Administration shall immediately send notice of the approval
101 of such budget escalation to the Legislative Budget Office. The
102 Executive Director of the Department of Finance and Administration
103 shall ensure that the Legislative Budget Office receives timely,
104 detailed and accurate information about the amount and use of
105 federal and special source hurricane relief funds by state
106 agencies.

107 (2) The Department of Finance and Administration shall
108 require, by rule and regulation, that each agency receiving
109 federal funds shall apply for federal reimbursement for state
110 central services costs in accordance with Office of Management and
111 Budget Circular A-21 or A-87, which reimbursement shall be
112 deposited directly into the Statewide Cost Allocation Fund, which
113 is * * * established within the State Treasury. With the
114 exception of any reimbursement for Hurricane Katrina related
115 relief programs, an agency's failure to timely apply for such
116 reimbursement shall be condition sufficient to authorize the
117 Department of Finance and Administration to transfer an amount
118 equal to not less than fifty percent (50%) nor more than one
119 hundred percent (100%) of the total amount designated to such
120 agency in the applicable fixed cost agreement of the state central
121 service cost allocation plan. These funds shall be transferred
122 from any available funds within such agency into the Statewide
123 Cost Allocation Fund upon execution of a requisition for issuance
124 of warrant by the Executive Director of the Department of Finance
125 and Administration. Any funds on hand in the Statewide Cost
126 Allocation Fund at the end of the fiscal year shall lapse into the
127 State General Fund.

128 **SECTION 3.** (1) It is the intention of the Legislature that
129 state agencies be granted flexibility to administer their

130 authorized personnel in the most efficient and effective manner to
131 insure the agencies' statutory missions are not compromised as
132 they meet all additional requirements necessitated by the
133 unforeseen circumstances caused by Hurricane Katrina that are
134 necessary to insure that the safety, health and welfare of all
135 residents of the state are properly met.

136 (2) Due to the unforeseen circumstances caused by Hurricane
137 Katrina, the State Fiscal Officer is authorized to waive any
138 provisions in acts of the Legislature appropriating funds for
139 fiscal year 2006 that require agency heads to insure that no
140 single personnel action increases the projected annual cost and/or
141 the fiscal year 2006 appropriation for "personal services" when
142 annualized, with the exception of escalated funds. Any waivers
143 authorized by this section shall not completely waive requirements
144 of agencies to maintain compliance with fiscal year 2006
145 appropriated levels for "personal services," but shall require
146 agencies to maintain monthly compliance similar to requirements in
147 fiscal year 2004 appropriation acts. Any waivers granted by the
148 State Fiscal Officer shall further require agencies to maintain
149 compliance as follows:

150 With the funds appropriated by the agency's appropriation
151 bill, it is the intention of the Legislature that it shall be the
152 agency's responsibility to make certain that funds required to be
153 appropriated for "personal services" for fiscal year 2007 do not
154 exceed fiscal year 2006 funds appropriated for that purpose,
155 unless programs or positions are added to the agency's fiscal year
156 2007 budget by the Mississippi Legislature. Based on data
157 provided by the Legislative Budget Office, the State Personnel
158 Board shall determine and publish the projected annual cost to
159 fully fund all appropriated positions in compliance with the
160 provisions of the agency's appropriation bill. It shall be the
161 responsibility of the agency head to insure that no single
162 personnel action increases this projected annual cost and/or the

163 fiscal year 2006 appropriation for "personal services" when
164 annualized. If, at the end of any calendar month, the State
165 Personnel Board determines that the agency has taken action(s)
166 that would cause the agency to exceed this projected annual cost
167 or the fiscal year 2006 "personal services" appropriated level,
168 when annualized, then only those actions that reduce the projected
169 annual cost and/or the appropriation requirement will be processed
170 by the State Personnel Board until such time as the requirements
171 of this provision are met.

172 **SECTION 4.** This act shall take effect and be in force from
173 and after its passage.