

By: Representatives Brown,
Watson

To: Appropriations

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 4

1 AN ACT TO AMEND SECTIONS 29-13-1, 29-13-3 AND 29-13-5,
2 MISSISSIPPI CODE OF 1972, TO REQUIRE ALL STATE AGENCIES TO OBTAIN
3 BUSINESS PROPERTY INSURANCE AND BUSINESS PERSONAL PROPERTY
4 INSURANCE ON ALL PUBLIC BUILDINGS, FACILITIES AND EQUIPMENT IN
5 COMPLIANCE WITH FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)
6 REQUIREMENTS AS IS NECESSARY TO RECEIVE REIMBURSEMENT FOR REPAIR,
7 CONSTRUCTION, REPLACEMENT OR OTHER DAMAGE CAUSED BY THE HURRICANE
8 KATRINA DISASTER OR BY SUBSEQUENT DISASTERS; TO AMEND SECTIONS
9 37-7-303, 37-29-67, 37-101-15 AND 41-73-31, MISSISSIPPI CODE OF
10 1972, TO REQUIRE LOCAL SCHOOL DISTRICTS, COMMUNITY AND JUNIOR
11 COLLEGE DISTRICTS, PUBLIC UNIVERSITIES AND COMMUNITY HOSPITALS TO
12 OBTAIN PROPERTY INSURANCE FOR THE SAME PURPOSE; TO AUTHORIZE THOSE
13 PUBLIC ENTITIES TO POOL THEIR PROPERTY INSURANCE LIABILITIES; TO
14 AUTHORIZE THE MISSISSIPPI DEPARTMENT OF TRANSPORTATION TO PERFORM
15 A STUDY OF THE FEASIBILITY OF CONSTRUCTING AND OPERATING A
16 MONORAIL TRANSPORTATION SYSTEM ON THE MISSISSIPPI GULF COAST AND
17 TO ESCALATE ITS BUDGET AND EXPEND ANY FUNDS RECEIVED BY THE
18 DEPARTMENT TO DEFRAY THE EXPENSES OF PERFORMING THE STUDY; AND FOR
19 RELATED PURPOSES.

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

21 **SECTION 1.** Section 29-13-1, Mississippi Code of 1972, is
22 amended as follows:

23 29-13-1. (1) The Department of Finance and Administration
24 ("department") shall purchase and maintain business property
25 insurance and business personal property insurance on all
26 state-owned buildings and/or contents as required by federal law
27 and regulations of the Federal Emergency Management Agency (FEMA)
28 as is necessary for receiving public assistance or reimbursement
29 for repair, reconstruction, replacement or other damage to those
30 buildings and/or contents caused by the Hurricane Katrina Disaster
31 of 2005 or subsequent disasters. That insurance coverage shall,
32 at a minimum, be in the amount of the estimated eligible project
33 costs for that structure or equipment before any reduction caused
34 by the damage. The department is authorized to expend funds from
35 any available source for the purpose of obtaining and maintaining

36 that property insurance. The department is authorized to enter
37 into agreements with other state agencies, local school districts,
38 community/junior college districts, state institutions of higher
39 learning and community hospitals to pool their liabilities to
40 participate in a group business property and/or business personal
41 property insurance program, subject to uniform rules and
42 regulations as may be adopted by the Department of Finance and
43 Administration.

44 (2) The Department of Finance and Administration is required
45 to purchase and maintain flood insurance under the National Flood
46 Insurance Program (42 USCS, Section 4001 et seq.) as required by
47 federal law on state-owned buildings and/or contents. To meet the
48 requirements of participation in such program, the department is
49 further required to adopt floodplain management criteria and
50 procedures in accordance with the rules and regulations of 24 CFR,
51 Chapter X, Subchapter B (National Flood Insurance Program),
52 established by the United States Department of Housing and Urban
53 Development pursuant to the National Flood Insurance Act of 1968
54 (Public Law 90-448) as amended and by the Flood Disaster
55 Protection Act of 1973 (Public Law 93-234) as amended, and any
56 supplemental changes to such rules and regulations. The
57 department shall adopt the floodplain management criteria set
58 forth in 24 CFR, Chapter X, Section 1910.3, on an emergency basis
59 immediately upon passage of this chapter and until such time as
60 final regulations and criteria are developed by the department.
61 Final regulations, criteria and procedures shall be implemented by
62 the department within ninety (90) days after passage of this
63 chapter. Such criteria and procedures shall apply to any new
64 construction or substantial improvement of state-owned buildings
65 and other state-owned development located in floodplain areas as
66 identified in conjunction with the National Flood Insurance
67 Program. The department shall enforce the floodplain management

68 criteria and procedures adopted by the department pursuant to this
69 section.

70 (3) No state agency shall be authorized to expend any state,
71 federal or special funds for the construction, renovation, repair
72 or placement of any structure in a designated floodplain, floodway
73 or coastal high hazard area, or to allow for the construction,
74 renovation, repair or placement of any privately owned structure
75 onto state-owned land in a designated floodplain, floodway or
76 coastal high hazard area unless such agency has previously
77 obtained the necessary permits required by the Department of
78 Finance and Administration to comply with the regulations of the
79 Federal Emergency Management Agency (FEMA), National Flood
80 Insurance Program and the state's floodplain management
81 regulations.

82 **SECTION 2.** Section 29-13-3, Mississippi Code of 1972, is
83 amended as follows:

84 29-13-3. The Department of Finance and Administration shall
85 file any claims for damages covered under the Hurricane Katrina
86 Disaster of 2005 or subsequent flood insurance policies purchased
87 pursuant to Section 29-13-1. The proceeds of any such claim for
88 damage to a state-owned building shall be paid to the Department
89 of Finance and Administration and the State of Mississippi, which
90 is * * * authorized to expend such proceeds to repair or replace
91 such damaged building. * * *

92 **SECTION 3.** Section 29-13-5, Mississippi Code of 1972, is
93 amended as follows:

94 29-13-5. The Department of Finance and Administration shall
95 compile an inventory of all state-owned buildings in any area of
96 the state affected by the Hurricane Katrina Disaster of 2005 or
97 any floodplain areas and any necessary data concerning such
98 buildings. Each agency, board, commission, department and
99 institution of the state shall cooperate in the preparation of the
100 inventory and shall submit any information required by the

101 department in a timely manner which will allow the inventory to be
102 finalized and presented to the appropriate federal and state
103 agencies. Such information shall include the specific location
104 and, where available, the elevation of all state-owned buildings
105 under the jurisdiction of the agency, board, commission,
106 department or institution in any hurricane hazard or floodplain
107 areas.

108 **SECTION 4.** Section 37-7-303, Mississippi Code of 1972, is
109 amended as follows:

110 37-7-303. (1) The school board of any school district may
111 insure motor vehicles for any hazard that the board may choose,
112 and shall insure the school buildings, equipment and other school
113 property of the district against any and all hazards that the
114 board may deem necessary to provide insurance against. In
115 addition, the local school board of any school district shall
116 purchase and maintain business property insurance and business
117 personal property insurance on all school district-owned buildings
118 and/or contents as required by federal law and regulations of the
119 Federal Emergency Management Agency (FEMA) as is necessary for
120 receiving public assistance or reimbursement for repair,
121 reconstruction, replacement or other damage to those buildings
122 and/or contents caused by the Hurricane Katrina Disaster of 2005
123 or subsequent disasters. That insurance coverage shall, at a
124 minimum, be in the amount of the estimated eligible project costs
125 for that structure or equipment before any reduction caused by the
126 damage. The school district is authorized to expend funds from
127 any available source for the purpose of obtaining and maintaining
128 that property insurance. The school district is authorized to
129 enter into agreements with the Department of Finance and
130 Administration, other local school districts, community/junior
131 college districts, state institutions of higher learning,
132 community hospitals and/or other state agencies to pool their
133 liabilities to participate in a group business property and/or

134 business personal property insurance program, subject to uniform
135 rules and regulations as may be adopted by the Department of
136 Finance and Administration. Such school board shall be authorized
137 to contract for such insurance for a term of not exceeding five
138 (5) years and to obligate the district for the payment of the
139 premiums thereon. When necessary, the school board is authorized
140 and empowered, in its discretion, to borrow money payable in
141 annual installments for a period of not exceeding five (5) years
142 at a rate of interest not exceeding eight percent (8%) per annum
143 to provide funds to pay such insurance premiums. The money so
144 borrowed and the interest thereon shall be payable from any school
145 funds of the district other than minimum education program funds.
146 The school boards of school districts are further authorized and
147 empowered, in all cases where same may be necessary, to bring and
148 maintain suits and other actions in any court of competent
149 jurisdiction for the purpose of collecting the proceeds of
150 insurance policies issued upon the property of such school
151 district.

152 (2) Two (2) or more school districts, together with other
153 educational entities or agencies, may agree to pool their
154 liabilities to participate in a group workers' compensation
155 program. The governing authorities of any school board or other
156 educational entity or agency may authorize the organization and
157 operation of, or the participation in such a group self-insurance
158 program with other school boards and educational entities or
159 agencies, subject to the requirements of Section 71-3-5. The
160 Workers' Compensation Commission shall approve such group
161 self-insurance programs subject to uniform rules and regulations
162 as may be adopted by the commission applicable to all groups.

163 **SECTION 5.** Section 37-29-67, Mississippi Code of 1972, is
164 amended as follows:

165 37-29-67. (1) The duties of the board of trustees shall be
166 the general government of the community/junior college and

167 directive of the administration thereof. Subject to the
168 provisions of Sections 37-29-1 through 37-29-273, the board shall
169 have full power to do all things necessary to the successful
170 operation of the district and the college or colleges or
171 attendance centers located therein to insure educational
172 advantages and opportunities to all the enrollees within the
173 district.

174 (2) The board of trustees shall be authorized to designate a
175 personnel supervisor or other person employed by the district to
176 recommend teachers and to transmit such recommendations to the
177 board of trustees; however, this authorization shall be restricted
178 to no more than two (2) positions for each employment period in
179 the district.

180 (3) The delineation and enumeration of the powers and
181 purposes set out in Sections 37-29-1 through 37-29-273 shall be
182 deemed to be supplemental and additional, and shall not be
183 construed to restrict the powers of the board of trustees of the
184 district or of any college located therein so as to deny to the
185 said district and the college or colleges therein the rights,
186 privileges, and powers previously authorized by statute.

187 (4) The board of trustees shall have the power to contract,
188 on a shared-savings, lease or lease-purchase basis, for energy
189 efficiency services and/or equipment as prescribed in Section
190 31-7-14, not to exceed ten (10) years.

191 (5) The board of trustees shall be authorized with the
192 approval of the State Board for Community and Junior Colleges, to
193 change the name of the junior college to community college. The
194 State Board for Community and Junior Colleges shall establish
195 guidelines for the implementation of any junior college name
196 change. Any reference to junior college district in this chapter
197 shall hereinafter refer to the junior college district or its
198 successor in name as changed by the board of trustees.

199 (6) The boards of trustees shall purchase and maintain
200 business property insurance and business personal property
201 insurance on all college-owned buildings and/or contents as
202 required by federal law and regulations of the Federal Emergency
203 Management Agency (FEMA) as is necessary for receiving public
204 assistance or reimbursement for repair, reconstruction,
205 replacement or other damage to such buildings and/or contents
206 caused by the Hurricane Katrina Disaster of 2005 or subsequent
207 disasters. That insurance coverage shall, at a minimum, be in the
208 amount of the estimated eligible project costs for that structure
209 or equipment before any reduction caused by the damage. The
210 boards of trustees are authorized to expend funds from any
211 available source for the purpose of obtaining and maintaining that
212 property insurance. The boards of trustees are authorized to
213 enter into agreements with the Department of Finance and
214 Administration, local school districts, other community/junior
215 college districts, state institutions of higher learning,
216 community hospitals and/or other state agencies to pool their
217 liabilities to participate in a group business property and/or
218 business personal property insurance program, subject to uniform
219 rules and regulations as may be adopted by the Department of
220 Finance and Administration.

221 **SECTION 6.** Section 37-101-15, Mississippi Code of 1972, is
222 amended as follows:

223 37-101-15. (a) The Board of Trustees of State Institutions
224 of Higher Learning shall succeed to and continue to exercise
225 control of all records, books, papers, equipment, and supplies,
226 and all lands, buildings, and other real and personal property
227 belonging to or assigned to the use and benefit of the board of
228 trustees formerly supervising and controlling the institutions of
229 higher learning named in Section 37-101-1. The board shall have
230 and exercise control of the use, distribution and disbursement of
231 all funds, appropriations and taxes, now and hereafter in

232 possession, levied and collected, received, or appropriated for
233 the use, benefit, support, and maintenance or capital outlay
234 expenditures of the institutions of higher learning, including the
235 authorization of employees to sign vouchers for the disbursement
236 of funds for the various institutions, except where otherwise
237 specifically provided by law.

238 (b) The board shall have general supervision of the affairs
239 of all the institutions of higher learning, including the
240 departments and the schools thereof. The board shall have the
241 power in its discretion to determine who shall be privileged to
242 enter, to remain in, or to graduate therefrom. The board shall
243 have general supervision of the conduct of libraries and
244 laboratories, the care of dormitories, buildings, and grounds; the
245 business methods and arrangement of accounts and records; the
246 organization of the administrative plan of each institution; and
247 all other matters incident to the proper functioning of the
248 institutions. The board shall have the authority to establish
249 minimum standards of achievement as a prerequisite for entrance
250 into any of the institutions under its jurisdiction, which
251 standards need not be uniform between the various institutions and
252 which may be based upon such criteria as the board may establish.

253 (c) The board shall exercise all the powers and prerogatives
254 conferred upon it under the laws establishing and providing for
255 the operation of the several institutions herein specified. The
256 board shall adopt such bylaws and regulations from time to time as
257 it deems expedient for the proper supervision and control of the
258 several institutions of higher learning, insofar as such bylaws
259 and regulations are not repugnant to the Constitution and laws,
260 and not inconsistent with the object for which these institutions
261 were established. The board shall have power and authority to
262 prescribe rules and regulations for policing the campuses and all
263 buildings of the respective institutions, to authorize the arrest
264 of all persons violating on any campus any criminal law of the

265 state, and to have such law violators turned over to the civil
266 authorities.

267 (d) For all institutions specified herein, the board shall
268 provide a uniform system of recording and of accounting approved
269 by the State Department of Audit. The board shall annually
270 prepare, or cause to be prepared, a budget for each institution of
271 higher learning for the succeeding year which must be prepared and
272 in readiness for at least thirty (30) days before the convening of
273 the regular session of the Legislature. All relationships and
274 negotiations between the State Legislature and its various
275 committees and the institutions named herein shall be carried on
276 through the board of trustees. No official, employee or agent
277 representing any of the separate institutions shall appear before
278 the Legislature or any committee thereof except upon the written
279 order of the board or upon the request of the Legislature or a
280 committee thereof.

281 (e) For all institutions specified herein, the board shall
282 prepare an annual report to the Legislature setting forth the
283 disbursements of all monies appropriated to the respective
284 institutions. Each report to the Legislature shall show how the
285 money appropriated to the several institutions has been expended,
286 beginning and ending with the fiscal years of the institutions,
287 showing the name of each teacher, officer, and employee, and the
288 salary paid each, and an itemized statement of each and every item
289 of receipts and expenditures. Each report must be balanced, and
290 must begin with the former balance. If any property belonging to
291 the state or the institution is used for profit, the reports shall
292 show the expense incurred in managing the property and the amount
293 received therefrom. The reports shall also show a summary of the
294 gross receipts and gross disbursements for each year and shall
295 show the money on hand at the beginning of the fiscal period of
296 the institution next preceding each session of the Legislature and
297 the necessary amount of expense to be incurred from said date to

298 January 1 following. The board shall keep the annual expenditures
299 of each institution herein mentioned within the income derived
300 from legislative appropriations and other sources, but in case of
301 emergency arising from acts of providence, epidemics, fire or
302 storm with the written approval of the Governor and by written
303 consent of a majority of the Senators and of the Representatives
304 it may exceed the income. The board shall require a surety bond
305 in a surety company authorized to do business in this state, of
306 every employee who is the custodian of funds belonging to one or
307 more of the institutions mentioned herein, which bond shall be in
308 a sum to be fixed by the board in an amount that will properly
309 safeguard the said funds, the premium for which shall be paid out
310 of the funds appropriated for said institutions.

311 (f) The board shall have the power and authority to elect
312 the heads of the various institutions of higher learning and to
313 contract with all deans, professors, and other members of the
314 teaching staff, and all administrative employees of said
315 institutions for a term of not exceeding four (4) years. The
316 board shall have the power and authority to terminate any such
317 contract at any time for malfeasance, inefficiency, or
318 contumacious conduct, but never for political reasons. It shall
319 be the policy of the board to permit the executive head of each
320 institution to nominate for election by the board all subordinate
321 employees of the institution over which he presides. It shall be
322 the policy of the board to elect all officials for a definite
323 tenure of service and to reelect during the period of satisfactory
324 service. The board shall have the power to make any adjustments
325 it thinks necessary between the various departments and schools of
326 any institution or between the different institutions.

327 (g) The board shall keep complete minutes and records of all
328 proceedings which shall be open for inspection by any citizen of
329 the state.

330 (h) The board shall have the power to contract, on a
331 shared-savings, lease or lease-purchase basis, for energy
332 efficiency services and/or equipment as prescribed in Section
333 31-7-14, not to exceed ten (10) years.

334 (i) The Board of Trustees of State Institutions of Higher
335 Learning, for and on behalf of Jackson State University, is hereby
336 authorized to convey by donation or otherwise easements across
337 portions of certain real estate located in the City of Jackson,
338 Hinds County, Mississippi, for right-of-way required for the Metro
339 Parkway Project.

340 (j) In connection with any international contract between
341 the board or one of the state's institutions of higher learning
342 and any party outside of the United States, the board or
343 institution that is the party to the international contract is
344 hereby authorized and empowered to include in the contract a
345 provision for the resolution by arbitration of any controversy
346 between the parties to the contract relating to such contract or
347 the failure or refusal to perform any part of the contract. Such
348 provision shall be valid, enforceable and irrevocable without
349 regard to the justiciable character of the controversy. Provided,
350 however, that in the event either party to such contract initiates
351 litigation against the other with respect to the contract, the
352 arbitration provision shall be deemed waived unless asserted as a
353 defense on or before the responding party is required to answer
354 such litigation.

355 (k) The Board of Trustees of State Institutions of Higher
356 Learning ("board"), on behalf of any institution under its
357 jurisdiction, shall purchase and maintain business property
358 insurance and business personal property insurance on all
359 university-owned buildings and/or contents as required by federal
360 law and regulations of the Federal Emergency Management Agency
361 (FEMA) as is necessary for receiving public assistance or
362 reimbursement for repair, reconstruction, replacement or other

363 damage to those buildings and/or contents caused by the Hurricane
364 Katrina Disaster of 2005 or subsequent disasters. That insurance
365 coverage shall, at a minimum, be in the amount of the estimated
366 eligible project costs for that structure or equipment before any
367 reduction caused by the damage. The board is authorized to expend
368 funds from any available source for the purpose of obtaining and
369 maintaining that property insurance. The board is authorized to
370 enter into agreements with the Department of Finance and
371 Administration, local school districts, community/junior college
372 districts, community hospitals and/or other state agencies to pool
373 their liabilities to participate in a group business property
374 and/or business personal property insurance program, subject to
375 uniform rules and regulations as may be adopted by the Department
376 of Finance and Administration.

377 **SECTION 7.** Section 41-73-31, Mississippi Code of 1972, is
378 amended as follows:

379 41-73-31. In addition to the other powers and duties of the
380 authority specified elsewhere in this act, the authority is
381 specifically authorized to initiate a program of providing
382 hospital equipment or hospital facilities located within the state
383 to be operated by participating hospital institutions. In this
384 regard, the authority shall be authorized to exercise the
385 following powers:

386 (1) To establish eligibility standards for participating
387 hospital institutions;

388 (2) To enter into an agreement with any entity securing the
389 payment of bonds pursuant to Section 41-73-27(10), (11),
390 authorizing said entity to approve the participating hospital
391 institutions that can finance or refinance hospital equipment or
392 hospital facilities with proceeds from the bond issue secured by
393 said entity;

394 (3) To lease to a participating hospital institution
395 specific hospital facilities or items of hospital equipment upon

396 such terms and conditions as the authority may deem proper, to
397 charge and collect rents therefor, to terminate any such lease
398 upon the failure of the lessee to comply with any of its
399 obligations thereunder or otherwise as such lease may provide, to
400 include in any such lease provisions that the lessee shall have
401 the option to renew the term of the lease for such period or
402 periods and at such rents as may be determined by the authority or
403 to purchase any or all of the hospital facilities or hospital
404 equipment to which such lease shall apply;

405 (4) To loan to a participating hospital institution under an
406 installment purchase contract or loan agreement moneys to finance
407 or refinance the cost of specific items of hospital facilities or
408 hospital equipment and to take back a secured or unsecured
409 promissory note evidencing such loan and a mortgage or security
410 interest in the hospital facilities or hospital equipment financed
411 or refinanced with such loan, upon such terms and conditions as
412 the authority may deem proper;

413 (5) To sell or otherwise dispose of any or all unneeded or
414 obsolete hospital facilities or hospital equipment under terms and
415 conditions as determined by the authority;

416 (6) To maintain, repair, replace and otherwise improve or
417 cause to be maintained, repaired, replaced and otherwise improved
418 any hospital facilities or hospital equipment owned by the
419 authority;

420 (7) To obtain or aid in obtaining property insurance on all
421 hospital facilities or hospital equipment owned or financed by the
422 authority and to enter into any agreement, contract or other
423 instrument with respect to any such insurance to accept payment in
424 the event of damage to or destruction of any hospital
425 equipment; * * *

426 (8) To enter into any agreement, contract or other
427 instrument with respect to any insurance or guarantee or letter of
428 credit, accepting payment in such manner and form as provided

429 therein in the event of default by a participating hospital
430 institution, and to assign any such insurance or guarantee or
431 letter of credit as security for bonds issued by the authority;
432 and

433 (9) To purchase and maintain business property insurance and
434 business personal property insurance on all hospital-owned
435 buildings and/or contents as required by federal law and
436 regulations of the Federal Emergency Management Agency (FEMA) as
437 is necessary for receiving public assistance or reimbursement for
438 repair, reconstruction, replacement or other damage to those
439 buildings and/or contents caused by the Hurricane Katrina Disaster
440 of 2005 or subsequent disasters. That insurance coverage shall,
441 at a minimum, be in the amount of the estimated eligible project
442 costs for that structure or equipment before any reduction caused
443 by the damage. The authority is authorized to expend funds from
444 any available source for the purpose of obtaining and maintaining
445 that property insurance. The authority is authorized to enter
446 into agreements with the Department of Finance and Administration,
447 local school districts, community/junior college districts, state
448 institutions of higher learning, other community hospitals and/or
449 other state agencies to pool their liabilities to participate in a
450 group business property and/or business personal property
451 insurance program, subject to uniform rules and regulations as may
452 be adopted by the Department of Finance and Administration.

453 **SECTION 8.** The Mississippi Department of Transportation is
454 authorized to perform a study of the feasibility of constructing
455 and operating a monorail transportation system on and along the
456 Mississippi Gulf Coast, and is authorized to escalate its budget
457 and expend any funds received by or made available to the
458 department not to exceed Seven Hundred Fifty Thousand Dollars
459 (\$750,000.00) to defray the expenses of performing the study.

460 **SECTION 9.** This act shall take effect and be in force from
461 and after its passage.