

By: Representatives Brown,
Watson

To: Appropriations

HOUSE BILL NO. 4
(As Passed the House)

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. The department is authorized to
32 expend funds from any available source for the purpose of
33 obtaining and maintaining that property insurance. The department
34 is authorized to enter into agreements with other state agencies,
35 local school districts, community/junior college districts, state

36 institutions of higher learning and community hospitals to pool
37 their liabilities to participate in a group business property
38 and/or business personal property insurance program, subject to
39 uniform rules and regulations as may be adopted by the Department
40 of Finance and Administration.

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

67 (3) No state agency shall be authorized to expend any state,
68 federal or special funds for the construction, renovation, repair

69 or placement of any structure in a designated floodplain, floodway
70 or coastal high hazard area, or to allow for the construction,
71 renovation, repair or placement of any privately owned structure
72 onto state-owned land in a designated floodplain, floodway or
73 coastal high hazard area unless such agency has previously
74 obtained the necessary permits required by the Department of
75 Finance and Administration to comply with the regulations of the
76 Federal Emergency Management Agency (FEMA), National Flood
77 Insurance Program and the state's floodplain management
78 regulations.

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

81 29-13-3. The Department of Finance and Administration shall
82 file any claims for damages covered under the Hurricane Katrina
83 Disaster of 2005 or subsequent flood insurance policies purchased
84 pursuant to Section 29-13-1. The proceeds of any such claim for
85 damage to a state-owned building shall be paid to the Department
86 of Finance and Administration and the State of Mississippi, which
87 is * * * authorized to expend such proceeds to repair or replace
88 such damaged building. * * *

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

91 29-13-5. The Department of Finance and Administration shall
92 compile an inventory of all state-owned buildings in any area of
93 the state affected by the Hurricane Katrina Disaster of 2005 or
94 any floodplain areas and any necessary data concerning such
95 buildings. Each agency, board, commission, department and
96 institution of the state shall cooperate in the preparation of the
97 inventory and shall submit any information required by the
98 department in a timely manner which will allow the inventory to be
99 finalized and presented to the appropriate federal and state
100 agencies. Such information shall include the specific location
101 and, where available, the elevation of all state-owned buildings

102 under the jurisdiction of the agency, board, commission,
103 department or institution in any hurricane hazard or floodplain
104 areas.

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

107 37-7-303. (1) The school board of any school district may
108 insure motor vehicles for any hazard that the board may choose,
109 and shall insure the school buildings, equipment and other school
110 property of the district against any and all hazards that the
111 board may deem necessary to provide insurance against. In
112 addition, the local school board of any school district shall
113 purchase and maintain business property insurance and business
114 personal property insurance on all school district-owned buildings
115 and/or contents as required by federal law and regulations of the
116 Federal Emergency Management Agency (FEMA) as is necessary for
117 receiving public assistance or reimbursement for repair,
118 reconstruction, replacement or other damage to those buildings
119 and/or contents caused by the Hurricane Katrina Disaster of 2005
120 or subsequent disasters. The school district is authorized to
121 expend funds from any available source for the purpose of
122 obtaining and maintaining that property insurance. The school
123 district is authorized to enter into agreements with the
124 Department of Finance and Administration, other local school
125 districts, community/junior college districts, state institutions
126 of higher learning, community hospitals and/or other state
127 agencies to pool their liabilities to participate in a group
128 business property and/or business personal property insurance
129 program, subject to uniform rules and regulations as may be
130 adopted by the Department of Finance and Administration. Such
131 school board shall be authorized to contract for such insurance
132 for a term of not exceeding five (5) years and to obligate the
133 district for the payment of the premiums thereon. When necessary,
134 the school board is authorized and empowered, in its discretion,

135 to borrow money payable in annual installments for a period of not
136 exceeding five (5) years at a rate of interest not exceeding eight
137 percent (8%) per annum to provide funds to pay such insurance
138 premiums. The money so borrowed and the interest thereon shall be
139 payable from any school funds of the district other than minimum
140 education program funds. The school boards of school districts
141 are further authorized and empowered, in all cases where same may
142 be necessary, to bring and maintain suits and other actions in any
143 court of competent jurisdiction for the purpose of collecting the
144 proceeds of insurance policies issued upon the property of such
145 school district.

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

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

159 37-29-67. (1) The duties of the board of trustees shall be
160 the general government of the community/junior college and
161 directive of the administration thereof. Subject to the
162 provisions of Sections 37-29-1 through 37-29-273, the board shall
163 have full power to do all things necessary to the successful
164 operation of the district and the college or colleges or
165 attendance centers located therein to insure educational
166 advantages and opportunities to all the enrollees within the
167 district.

168 (2) The board of trustees shall be authorized to designate a
169 personnel supervisor or other person employed by the district to
170 recommend teachers and to transmit such recommendations to the
171 board of trustees; however, this authorization shall be restricted
172 to no more than two (2) positions for each employment period in
173 the district.

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

181 (4) The board of trustees shall have the power to contract,
182 on a shared-savings, lease or lease-purchase basis, for energy
183 efficiency services and/or equipment as prescribed in Section
184 31-7-14, not to exceed ten (10) years.

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

193 (6) The boards of trustees shall purchase and maintain
194 business property insurance and business personal property
195 insurance on all college-owned buildings and/or contents as
196 required by federal law and regulations of the Federal Emergency
197 Management Agency (FEMA) as is necessary for receiving public
198 assistance or reimbursement for repair, reconstruction,
199 replacement or other damage to such buildings and/or contents
200 caused by the Hurricane Katrina Disaster of 2005 or subsequent

201 disasters. The boards of trustees are authorized to expend funds
202 from any available source for the purpose of obtaining and
203 maintaining that property insurance. The boards of trustees are
204 authorized to enter into agreements with the Department of Finance
205 and Administration, local school districts, other community/junior
206 college districts, state institutions of higher learning,
207 community hospitals and/or other state agencies to pool their
208 liabilities to participate in a group business property and/or
209 business personal property insurance program, subject to uniform
210 rules and regulations as may be adopted by the Department of
211 Finance and Administration.

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

214 37-101-15. (a) The Board of Trustees of State Institutions
215 of Higher Learning shall succeed to and continue to exercise
216 control of all records, books, papers, equipment, and supplies,
217 and all lands, buildings, and other real and personal property
218 belonging to or assigned to the use and benefit of the board of
219 trustees formerly supervising and controlling the institutions of
220 higher learning named in Section 37-101-1. The board shall have
221 and exercise control of the use, distribution and disbursement of
222 all funds, appropriations and taxes, now and hereafter in
223 possession, levied and collected, received, or appropriated for
224 the use, benefit, support, and maintenance or capital outlay
225 expenditures of the institutions of higher learning, including the
226 authorization of employees to sign vouchers for the disbursement
227 of funds for the various institutions, except where otherwise
228 specifically provided by law.

229 (b) The board shall have general supervision of the affairs
230 of all the institutions of higher learning, including the
231 departments and the schools thereof. The board shall have the
232 power in its discretion to determine who shall be privileged to
233 enter, to remain in, or to graduate therefrom. The board shall

234 have general supervision of the conduct of libraries and
235 laboratories, the care of dormitories, buildings, and grounds; the
236 business methods and arrangement of accounts and records; the
237 organization of the administrative plan of each institution; and
238 all other matters incident to the proper functioning of the
239 institutions. The board shall have the authority to establish
240 minimum standards of achievement as a prerequisite for entrance
241 into any of the institutions under its jurisdiction, which
242 standards need not be uniform between the various institutions and
243 which may be based upon such criteria as the board may establish.

244 (c) The board shall exercise all the powers and prerogatives
245 conferred upon it under the laws establishing and providing for
246 the operation of the several institutions herein specified. The
247 board shall adopt such bylaws and regulations from time to time as
248 it deems expedient for the proper supervision and control of the
249 several institutions of higher learning, insofar as such bylaws
250 and regulations are not repugnant to the Constitution and laws,
251 and not inconsistent with the object for which these institutions
252 were established. The board shall have power and authority to
253 prescribe rules and regulations for policing the campuses and all
254 buildings of the respective institutions, to authorize the arrest
255 of all persons violating on any campus any criminal law of the
256 state, and to have such law violators turned over to the civil
257 authorities.

258 (d) For all institutions specified herein, the board shall
259 provide a uniform system of recording and of accounting approved
260 by the State Department of Audit. The board shall annually
261 prepare, or cause to be prepared, a budget for each institution of
262 higher learning for the succeeding year which must be prepared and
263 in readiness for at least thirty (30) days before the convening of
264 the regular session of the Legislature. All relationships and
265 negotiations between the State Legislature and its various
266 committees and the institutions named herein shall be carried on

267 through the board of trustees. No official, employee or agent
268 representing any of the separate institutions shall appear before
269 the Legislature or any committee thereof except upon the written
270 order of the board or upon the request of the Legislature or a
271 committee thereof.

272 (e) For all institutions specified herein, the board shall
273 prepare an annual report to the Legislature setting forth the
274 disbursements of all monies appropriated to the respective
275 institutions. Each report to the Legislature shall show how the
276 money appropriated to the several institutions has been expended,
277 beginning and ending with the fiscal years of the institutions,
278 showing the name of each teacher, officer, and employee, and the
279 salary paid each, and an itemized statement of each and every item
280 of receipts and expenditures. Each report must be balanced, and
281 must begin with the former balance. If any property belonging to
282 the state or the institution is used for profit, the reports shall
283 show the expense incurred in managing the property and the amount
284 received therefrom. The reports shall also show a summary of the
285 gross receipts and gross disbursements for each year and shall
286 show the money on hand at the beginning of the fiscal period of
287 the institution next preceding each session of the Legislature and
288 the necessary amount of expense to be incurred from said date to
289 January 1 following. The board shall keep the annual expenditures
290 of each institution herein mentioned within the income derived
291 from legislative appropriations and other sources, but in case of
292 emergency arising from acts of providence, epidemics, fire or
293 storm with the written approval of the Governor and by written
294 consent of a majority of the senators and of the representatives
295 it may exceed the income. The board shall require a surety bond
296 in a surety company authorized to do business in this state, of
297 every employee who is the custodian of funds belonging to one or
298 more of the institutions mentioned herein, which bond shall be in
299 a sum to be fixed by the board in an amount that will properly

300 safeguard the said funds, the premium for which shall be paid out
301 of the funds appropriated for said institutions.

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

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

321 (h) The board shall have the power to contract, on a
322 shared-savings, lease or lease-purchase basis, for energy
323 efficiency services and/or equipment as prescribed in Section
324 31-7-14, not to exceed ten (10) years.

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

331 (j) In connection with any international contract between
332 the board or one of the state's institutions of higher learning

333 and any party outside of the United States, the board or
334 institution that is the party to the international contract is
335 hereby authorized and empowered to include in the contract a
336 provision for the resolution by arbitration of any controversy
337 between the parties to the contract relating to such contract or
338 the failure or refusal to perform any part of the contract. Such
339 provision shall be valid, enforceable and irrevocable without
340 regard to the justiciable character of the controversy. Provided,
341 however, that in the event either party to such contract initiates
342 litigation against the other with respect to the contract, the
343 arbitration provision shall be deemed waived unless asserted as a
344 defense on or before the responding party is required to answer
345 such litigation.

346 (k) The Board of Trustees of State Institutions of Higher
347 Learning ("board"), on behalf of any institution under its
348 jurisdiction, shall purchase and maintain business property
349 insurance and business personal property insurance on all
350 university-owned buildings and/or contents as required by federal
351 law and regulations of the Federal Emergency Management Agency
352 (FEMA) as is necessary for receiving public assistance or
353 reimbursement for repair, reconstruction, replacement or other
354 damage to those buildings and/or contents caused by the Hurricane
355 Katrina Disaster of 2005 or subsequent disasters. The board is
356 authorized to expend funds from any available source for the
357 purpose of obtaining and maintaining that property insurance. The
358 board is authorized to enter into agreements with the Department
359 of Finance and Administration, local school districts,
360 community/junior college districts, community hospitals and/or
361 other state agencies to pool their liabilities to participate in a
362 group business property and/or business personal property
363 insurance program, subject to uniform rules and regulations as may
364 be adopted by the Department of Finance and Administration.

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

367 41-73-31. In addition to the other powers and duties of the
368 authority specified elsewhere in this act, the authority is
369 specifically authorized to initiate a program of providing
370 hospital equipment or hospital facilities located within the state
371 to be operated by participating hospital institutions. In this
372 regard, the authority shall be authorized to exercise the
373 following powers:

374 (1) To establish eligibility standards for participating
375 hospital institutions;

376 (2) To enter into an agreement with any entity securing the
377 payment of bonds pursuant to Section 41-73-27(10), (11),
378 authorizing said entity to approve the participating hospital
379 institutions that can finance or refinance hospital equipment or
380 hospital facilities with proceeds from the bond issue secured by
381 said entity;

382 (3) To lease to a participating hospital institution
383 specific hospital facilities or items of hospital equipment upon
384 such terms and conditions as the authority may deem proper, to
385 charge and collect rents therefor, to terminate any such lease
386 upon the failure of the lessee to comply with any of its
387 obligations thereunder or otherwise as such lease may provide, to
388 include in any such lease provisions that the lessee shall have
389 the option to renew the term of the lease for such period or
390 periods and at such rents as may be determined by the authority or
391 to purchase any or all of the hospital facilities or hospital
392 equipment to which such lease shall apply;

393 (4) To loan to a participating hospital institution under an
394 installment purchase contract or loan agreement monies to finance
395 or refinance the cost of specific items of hospital facilities or
396 hospital equipment and to take back a secured or unsecured
397 promissory note evidencing such loan and a mortgage or security

398 interest in the hospital facilities or hospital equipment financed
399 or refinanced with such loan, upon such terms and conditions as
400 the authority may deem proper;

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

404 (6) To maintain, repair, replace and otherwise improve or
405 cause to be maintained, repaired, replaced and otherwise improved
406 any hospital facilities or hospital equipment owned by the
407 authority;

408 (7) To obtain or aid in obtaining property insurance on all
409 hospital facilities or hospital equipment owned or financed by the
410 authority and to enter into any agreement, contract or other
411 instrument with respect to any such insurance to accept payment in
412 the event of damage to or destruction of any hospital
413 equipment; * * *

414 (8) To enter into any agreement, contract or other
415 instrument with respect to any insurance or guarantee or letter of
416 credit, accepting payment in such manner and form as provided
417 therein in the event of default by a participating hospital
418 institution, and to assign any such insurance or guarantee or
419 letter of credit as security for bonds issued by the authority;
420 and

421 (9) To purchase and maintain business property insurance and
422 business personal property insurance on all hospital-owned
423 buildings and/or contents as required by federal law and
424 regulations of the Federal Emergency Management Agency (FEMA) as
425 is necessary for receiving public assistance or reimbursement for
426 repair, reconstruction, replacement or other damage to those
427 buildings and/or contents caused by the Hurricane Katrina Disaster
428 of 2005 or subsequent disasters. The authority is authorized to
429 expend funds from any available source for the purpose of
430 obtaining and maintaining that property insurance. The authority

431 is authorized to enter into agreements with the Department of
432 Finance and Administration, local school districts,
433 community/junior college districts, state institutions of higher
434 learning, other community hospitals and/or other state agencies to
435 pool their liabilities to participate in a group business property
436 and/or business personal property insurance program, subject to
437 uniform rules and regulations as may be adopted by the Department
438 of Finance and Administration.

439 **SECTION 8.** The Mississippi Department of Transportation is
440 authorized to perform a study of the feasibility of constructing
441 and operating a monorail transportation system on and along the
442 Mississippi Gulf Coast, and is authorized to escalate its budget
443 and expend any funds received by or made available to the
444 department not to exceed Seven Hundred Fifty Thousand Dollars
445 (\$750,000.00) to defray the expenses of performing the study.

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