

By: Representatives Watson,
Howell, Scott

To: Ways and Means

HOUSE BILL NO. 43

1 AN ACT TO AMEND SECTION 31-17-123, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT IF THE STATE FISCAL OFFICER AND THE STATE
3 TREASURER MAKE A DETERMINATION THAT STATE-SOURCE SPECIAL FUNDS ARE
4 NOT SUFFICIENT TO COVER DEFICIENCIES IN THE GENERAL FUND, THAT THE
5 STATE OF MISSISSIPPI IS UNABLE TO REPAY SPECIAL FUND BORROWING
6 WITHIN THE FISCAL YEAR IN WHICH THE BORROWING WAS DONE OR THAT THE
7 STATE SOURCE FUNDS ARE INSUFFICIENT FOR DISASTER SUPPORT OR
8 ASSISTANCE PURPOSES DUE TO HURRICANES KATRINA AND RITA, AND THAT
9 THE STATE BOND COMMISSION MAKES A DETERMINATION THAT THE
10 DEFICIENCY OR INABILITY TO REPAY, OR INSUFFICIENCY IS THE RESULT
11 OF A STATE OF EMERGENCY WITHIN THE STATE OF MISSISSIPPI, THE STATE
12 BOND COMMISSION IS AUTHORIZED TO OBTAIN A LINE OF CREDIT, IN AN
13 AMOUNT NOT TO EXCEED \$500,000,000.00, FROM A COMMERCIAL LENDER,
14 INVESTMENT BANKING GROUP OR A CONSORTIUM OF EITHER OR BOTH; TO
15 PROVIDE THAT THE LENGTH OF THE INDEBTEDNESS SHALL NOT EXTEND
16 BEYOND THREE YEARS FOLLOWING THE ORIGINATION OF THE LINE OF
17 CREDIT; TO PROVIDE THAT THE LINE OF CREDIT SHALL BE AUTHORIZED AND
18 APPROVED BY THE STATE BOND COMMISSION AND HAVE SUCH TERMS AND
19 DETAILS AS PROVIDED BY RESOLUTION OF THE STATE BOND COMMISSION; TO
20 PROVIDE THAT THOSE PROCEEDS SHALL BE DEPOSITED INTO THE DISASTER
21 RECOVERY FUND AND DISBURSED BY THE STATE TREASURER TO COVER
22 DEFICIENCIES IN THE GENERAL FUND, TO REPAY SPECIAL FUND BORROWING
23 AND/OR TO COVER ANY INSUFFICIENCY IN DISASTER SUPPORT OR
24 ASSISTANCE; TO PROVIDE THAT UPON THE APPROVAL OF THE STATE FISCAL
25 OFFICER, THE DIRECTOR OF THE MISSISSIPPI EMERGENCY MANAGEMENT
26 AGENCY MAY USE FUNDS FROM THE DISASTER RECOVERY FUND TO MATCH
27 FEDERAL FUNDS AND FOR PERSONNEL RELATED EXPENSES DUE TO THE
28 HURRICANE KATRINA AND/OR HURRICANE RITA DISASTERS; TO CREATE THE
29 DISASTER RECOVERY FUND IN THE STATE TREASURY, WHICH SHALL CONSIST
30 OF LOAN PROCEEDS FROM THE LINE OF CREDIT AUTHORIZED BY THIS ACT;
31 TO REQUIRE THE STATE TREASURER TO MAKE QUARTERLY REPORTS OF EACH
32 TRANSFER INTO AND OUT OF THE DISASTER RECOVERY FUND; TO AMEND
33 SECTION 27-104-13, MISSISSIPPI CODE OF 1972, TO SUSPEND UNTIL JULY
34 1, 2006, THE REQUIREMENT FOR THE STATE FISCAL OFFICER TO REDUCE
35 ALLOCATIONS OF GENERAL FUNDS AND STATE-SOURCE SPECIAL FUNDS TO
36 STATE AGENCIES WHEN GENERAL FUND REVENUES RECEIVED FOR THE FISCAL
37 YEAR FALL BELOW 98% OF THE SINE DIE GENERAL FUND REVENUE ESTIMATE;
38 AND FOR RELATED PURPOSES.

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

40 **SECTION 1.** Section 31-17-123, Mississippi Code of 1972, is
41 amended as follows:

42 31-17-123. (1) The intent of the Legislature is to
43 authorize borrowing funds under the provisions of Sections
44 31-17-101 through 31-17-123 to offset any temporary cash flow
45 deficiencies and should not be construed to authorize the

46 borrowing of any funds in an amount that cannot be repaid during
47 the fiscal year in which the funds are borrowed.

48 (2) (a) Notwithstanding any provision of this chapter to
49 the contrary, if the State Fiscal Officer and the State Treasurer
50 make a determination that (i) state-source special funds are not
51 sufficient to cover deficiencies in the General Fund, (ii) the
52 State of Mississippi is unable to repay special fund borrowing
53 within the fiscal year in which it was borrowed, or (iii)
54 state-source funds are insufficient for disaster support and/or
55 assistance purposes due to Hurricanes Katrina and/or Rita; and
56 that the State Bond Commission makes a determination that the
57 deficiency, inability to repay, or insufficiency is the result of
58 a state of emergency within the State of Mississippi, the State
59 Bond Commission is authorized to obtain a line of credit, in an
60 amount not to exceed Five Hundred Million Dollars
61 (\$500,000,000.00), from a commercial lender, investment banking
62 group or a consortium of either, or both. The length of
63 indebtedness under this subsection shall not extend past three (3)
64 years following the origination of the line of credit. The line
65 of credit shall be authorized and approved by the State Bond
66 Commission and shall have such terms and details as may be
67 provided by resolution of the State Bond Commission. Loan
68 proceeds shall be deposited into the Disaster Recovery Fund
69 created in paragraph (d) of this subsection, and shall be
70 disbursed by the State Treasurer to cover deficiencies in the
71 General Fund, to repay special fund borrowing and/or to cover any
72 insufficiency in disaster support and/or assistance.

73 (b) As security for the repayment of the principal and
74 interest on the line of credit provided for in paragraph (a) of
75 this subsection, the full faith, credit and resources of the State
76 of Mississippi are irrevocably pledged.

77 (c) Upon approval of the State Fiscal Officer, the
78 Director of the Mississippi Emergency Management Agency is

79 authorized to use amounts from the Disaster Recovery Fund to match
80 federal funds, and for personnel, call-back wages, base and
81 overtime wages, travel, per diem and other out-of-pocket expenses
82 incurred as a result of Hurricanes Katrina and/or Rita.

83 (d) There is created in the State Treasury a special
84 fund to be designated as the "Disaster Recovery Fund," which shall
85 consist of loan proceeds from the line of credit authorized under
86 paragraph (a) of this subsection, funds appropriated or otherwise
87 made available by the Legislature for deposit into the fund, and
88 funds from any other source designated for deposit into the fund.
89 Unexpended amounts remaining in the fund at the end of a fiscal
90 year shall not lapse into the State General Fund, and any
91 investment earnings or interest earned on amounts in the fund
92 shall be deposited to the credit of the fund.

93 (e) The State Treasurer shall notify the Legislative
94 Budget Office and the Department of Finance and Administration of
95 each transfer into and out of the Disaster Recovery Fund on a
96 quarterly basis.

97 (f) This subsection (2) shall be complete authority for
98 the borrowing authorized under this subsection and shall not be
99 subject to the limitations provided in the other provisions of
100 this chapter or otherwise under state law.

101 **SECTION 2.** Section 27-104-13, Mississippi Code of 1972, is
102 amended as follows:

103 27-104-13. (1) The State Fiscal Officer may disapprove or
104 reduce and revise the estimates of general funds and state-source
105 special funds for any general fund or special fund agency and for
106 the "administration and other expenses" budget of the Mississippi
107 Department of Transportation, in an amount not to exceed five
108 percent (5%), if at any time he finds that funds will not be
109 available within the period for which the budget is drawn, or if
110 at any time he finds that the requested expenditures, or any part

111 thereof, are not authorized by law, and that action shall be
112 reported to the Legislative Budget Office.

113 The State Fiscal Officer may, upon his determination of need
114 based upon a finding that funds will not be available within the
115 period for which the budget is drawn, transfer funds as provided
116 in Section 27-103-203, from the Working Cash-Stabilization Reserve
117 Fund to the General Fund to supplement the general fund revenue.

118 If the estimates of general funds and state-source special
119 funds of all general fund and special fund agencies and of the
120 "administration and other expenses" budget of the Mississippi
121 Department of Transportation have been reduced by five percent
122 (5%), additional reductions may be made, but shall consist of a
123 uniform percentage reduction of general funds and state-source
124 special funds to all general fund and special fund agencies and to
125 the "administration and other expenses" budget of the Mississippi
126 Department of Transportation.

127 Any state-source special funds reduced under the provisions
128 of this subsection (1) shall be transferred to the State General
129 Fund upon requisitions for warrants signed by the respective
130 agency head, and the transfer shall be made within a reasonable
131 period to be determined by the State Fiscal Officer.

132 (2) The State Tax Commission and University Research Center,
133 utilizing all available revenue forecast data, shall annually
134 develop a general fund revenue estimate to be adopted by the
135 Legislative Budget Office as of the date of sine die adjournment.

136 If, at the end of October, or at the end of any month
137 thereafter of any fiscal year, the revenues received for the
138 fiscal year fall below ninety-eight percent (98%) of the
139 Legislative Budget Office general fund revenue estimate at the
140 date of sine die adjournment, the State Fiscal Officer shall
141 reduce allocations of general funds and state-source special funds
142 to general fund and special fund agencies and to the
143 "administration and other expenses" budget of the Mississippi

144 Department of Transportation, in an amount necessary to keep
145 expenditures within the sum of actual general fund receipts,
146 including any transfers to the General Fund from the Working
147 Cash-Stabilization Reserve Fund for the fiscal year.

148 The State Fiscal Officer may, upon his determination of need
149 based on the revenue shortfall, transfer funds as provided in
150 Section 27-103-203 from the Working Cash-Stabilization Reserve
151 Fund to the General Fund to supplement the general fund revenue.
152 State-source special funds in an amount equal to any reduction
153 made under the provisions of this subsection (2) shall be
154 transferred to the State General Fund upon requisitions for
155 warrants signed by the respective agency head, and the transfer
156 shall be made within a reasonable period to be determined by the
157 State Fiscal Officer.

158 No agency's allocation shall be reduced in an amount to
159 exceed five percent (5%); however, if the allocations of general
160 funds and state-source special funds to all general fund and
161 special fund agencies and to the "administration and other
162 expenses" budget of the Mississippi Department of Transportation
163 have been reduced by five percent (5%), any additional reductions
164 required to be made under this subsection (2) shall consist of a
165 uniform percentage reduction of general funds and state-source
166 special funds to all general fund and special fund agencies and to
167 the "administration and other expenses" budget of the Mississippi
168 Department of Transportation. Any receipt from loans authorized
169 by Sections 31-17-101 through 31-17-123 shall not be included as
170 revenue receipts.

171 The State Fiscal Officer shall immediately send notice of any
172 action taken under authority of this subsection (2) to the
173 Legislative Budget Office.

174 The provisions of this subsection (2) requiring the State
175 Fiscal Officer to reduce allocations of general funds and
176 state-source special funds to general fund and special fund

177 agencies and to the "administration and other expenses" budget of
178 the Mississippi Department of Transportation shall be suspended
179 during the period from the effective date of this act through June
180 30, 2006.

181 (3) For the purpose of this section, the term "state-source
182 special funds" means any special funds in any agency derived from
183 any source, but shall not include the following special funds:
184 special funds derived from federal sources, from local or regional
185 political subdivisions, from agricultural commodity assessments,
186 or from donations; special funds held in a fiduciary capacity for
187 the benefit of specific persons or classes of persons;
188 self-generated special funds of the state institutions of higher
189 learning or the state community or junior colleges; special funds
190 of Mississippi Industries for the Blind, the State Port at
191 Gulfport, Yellow Creek Inland Port, Pat Harrison Waterway
192 District, Pearl River Basin Development District, Pearl River
193 Valley Water Management District, Tombigbee River Valley Water
194 Management District, Yellow Creek Watershed Authority, or Coast
195 Coliseum Commission; special funds of the Department of Wildlife,
196 Fisheries and Parks derived from the issuance of hunting or
197 fishing licenses; and special funds generated by agencies whose
198 primary function includes the establishment of standards and the
199 issuance of licenses for the practice of a profession within the
200 State of Mississippi.

201 **SECTION 3.** This act shall take effect and be in force from
202 and after its passage.