

By: Representatives Watson, To: Ways and Means
 Compretta, Dedeaux, Upshaw,
 Fredericks, Guice, Ishee, Janus,
 Patterson, Peranich, Simpson,
 Broomfield, Hamilton (109th),
 Parker, Read, Wells-Smith, Zuber, Espy, Formby

HOUSE BILL NO. 6

1 AN ACT TO AUTHORIZE THE ISSUANCE OF STATE GENERAL OBLIGATION
 2 GULF TAX CREDIT BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED
 3 \$100,000,000.00 AS AUTHORIZED BY THE GULF OPPORTUNITY ZONE ACT OF
 4 2005 ENACTED BY THE UNITED STATES CONGRESS IN RESPONSE TO
 5 HURRICANE KATRINA; TO AUTHORIZE THE USE OF THE PROCEEDS OF SUCH
 6 GENERAL OBLIGATION BONDS TO PAY DEBT SERVICE ON ANY OUTSTANDING
 7 GENERAL OBLIGATION BONDS OF THE STATE FOR FISCAL YEAR 2007; TO
 8 PROVIDE FOR THE TERMS AND PROVISIONS OF SUCH GENERAL OBLIGATION
 9 BONDS AND THE IMPLEMENTATION OF CERTAIN PROVISIONS OF THE GULF
 10 OPPORTUNITY ZONE ACT OF 2005 RELATED TO SUCH GENERAL OBLIGATION
 11 BONDS; TO AMEND SECTION 31-17-123, MISSISSIPPI CODE OF 1972, TO
 12 MAKE IT CLEAR THAT INTEREST EARNED ON THE DISASTER RECOVERY FUND
 13 SHALL BE DEPOSITED TO THE CREDIT OF SUCH FUND; TO AMEND SECTION 3,
 14 CHAPTER 534, LAWS OF 2006, TO PROVIDE THAT THE STATE TREASURER
 15 SHALL TRANSFER DURING FISCAL YEARS 2007 AND 2008 INTEREST EARNED
 16 OR INVESTMENT EARNINGS ON AMOUNTS IN THE HURRICANE DISASTER
 17 ASSISTANCE FUND TO THE EMERGENCY AID TO LOCAL GOVERNMENTS FUND; TO
 18 AMEND SECTION 6, CHAPTER 17, LAWS OF 2006, TO REDUCE THE AMOUNT OF
 19 FUNDS UTILIZED FROM THE BUDGET CONTINGENCY FUND FOR PAYMENT OF
 20 MATURING BONDS AND INTEREST ON THE FULL FAITH AND CREDIT BONDS OF
 21 THE STATE OF MISSISSIPPI FALLING DUE DURING FISCAL YEAR 2007; TO
 22 PROVIDE THAT \$200,000,000.00 SHALL BE UTILIZED FROM THE TAX CREDIT
 23 BOND PROCEEDS FUND FOR PAYMENT OF MATURING BONDS AND INTEREST ON
 24 THE FULL FAITH AND CREDIT BONDS OF THE STATE OF MISSISSIPPI
 25 FALLING DUE DURING FISCAL YEAR 2007; TO REQUIRE THE TRANSFER OF
 26 \$100,000,000.00 FROM THE BUDGET CONTINGENCY FUND TO THE DISASTER
 27 RECOVERY FUND; AND FOR RELATED PURPOSES.

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

29 **SECTION 1.** The Legislature hereby finds that Hurricane
 30 Katrina resulted in a natural catastrophe severely impacting the
 31 State of Mississippi and many of the political subdivisions of the
 32 state. The Legislature hereby determines that the issuance of
 33 general obligation bonds of the state to provide funds to pay the
 34 principal of, interest on and premium, if any, on qualified bonds,
 35 notes, certificates of indebtedness, and other debt obligations of
 36 the state is in all respects a public and governmental purpose to
 37 protect and/or improve the credit rating of the state, that this
 38 purpose is a public purpose, that the state will be performing an
 39 essential governmental function and meeting a public obligation in

40 the exercise of the powers conferred upon it by this act, is a
41 permitted use of the funds and credit of the state, will result in
42 economic and financial benefits to the state and the political
43 subdivisions of the state, and will provide relief from the
44 consequences of Hurricane Katrina.

45 **SECTION 2.** As used in Sections 1 through 16 of this act:

46 (a) "Bonds" means the gulf tax credit bonds, notes or
47 other evidences of indebtedness of the state issued pursuant to
48 the provisions of Sections 1 through 16 of this act.

49 (b) "Commission" means the State Bond Commission.

50 (c) "Debt service" means the payment of principal of,
51 interest on, premium, if any, sinking or reserve funds or other
52 requirements, costs or expenses due and payable on general
53 obligation bonds, notes, certificates of indebtedness, or other
54 written general obligations for the repayment of borrowed money of
55 the state during the state's fiscal year ending June 30, 2007.

56 (d) "Fund" means the Tax Credit Bond Proceeds Fund.

57 (e) "Gulf Opportunity Zone Act" means the Gulf
58 Opportunity Zone Act of 2005 enacted by the United States Congress
59 in response to Hurricanes Katrina, Rita and Wilma.

60 (f) "Gulf tax credit bonds" means general obligation
61 bonds of the state or other general obligations of the state
62 issued pursuant to the provisions of this act and the Gulf
63 Opportunity Zone Act.

64 (g) "Natural catastrophe" means the consequences of
65 Hurricane Katrina on the state and the resulting fiscal emergency
66 caused to exist in the state.

67 (h) "Qualified bond" means any general obligation of
68 the State which was outstanding on August 28, 2005, as defined in
69 and subject to the limitations imposed by the Gulf Opportunity
70 Zone Act.

71 (i) "State" means the State of Mississippi.

72 (j) "This act" means Sections 1 through 16 of this act.

73 **SECTION 3.** (1) (a) A special fund, to be designated as the
74 "Tax Credit Bond Proceeds Fund," is created within the State
75 Treasury. The fund shall be maintained by the State Treasurer
76 as a separate and special fund, separate and apart from the
77 General Fund of the state. Unexpended amounts remaining in the
78 fund at the end of a fiscal year shall not lapse into the state's
79 General Fund, and any interest earned or investment earnings on
80 amounts in the fund shall be deposited into such fund and used as
81 provided in Section 4 of this act.

82 (b) There shall be deposited into the fund the proceeds
83 of the bonds issued pursuant to Section 4 of this act and the
84 money pledged to meet the state matching requirement under the
85 Gulf Opportunity Zone Act as provided in Section 5 of this act.

86 (2) Money deposited into the fund shall be used solely as
87 provided in this act and the Gulf Opportunity Zone Act to make
88 debt service payments on qualified bonds of the state.

89 (3) All money deposited into the fund shall be expended in
90 accordance with the provisions of this act and the Gulf
91 Opportunity Zone Act.

92 **SECTION 4.** (1) The commission, at one time, or from time to
93 time, may declare by resolution the necessity for the issuance of
94 general obligation bonds or other general obligations of the state
95 to provide funds for the relief of a natural catastrophe through
96 the payment of debt service on qualified bonds of the state. The
97 commission shall act as the issuing agent for the bonds authorized
98 under this act, prescribe the form of the bonds, issue and sell
99 the bonds so authorized to be sold, pay all fees and costs
100 incurred in such issuance and sale from the money on deposit in
101 the Tax Credit Bond Proceeds Fund, and do any and all other things
102 necessary and advisable in connection with the issuance and sale
103 of such bonds. The bonds authorized to be issued pursuant hereto
104 shall be issued as gulf tax credit bonds as provided in the Gulf
105 Opportunity Zone Act, shall bear interest at a rate of zero

106 percent (0%), shall mature not more than two (2) years from their
107 date of issuance, shall be issued before January 1, 2007, and
108 shall entitle the owner of the bonds to a credit against federal
109 taxation to the extent allowed by and in accordance with the
110 provisions of the Gulf Opportunity Zone Act. Such bonds may be
111 issued in one or more series, may bear such date or dates, may be
112 in such denominations, may be sold at public or private sale, from
113 time to time, in such manner and at such price as may be
114 determined by the commission to be most advantageous, at par, or
115 at any discount (which sale shall be on such terms and in such
116 manner as the commission shall determine), and may contain such
117 other terms and covenants (including, without limitation,
118 covenants for the security and better marketability of such
119 bonds), as may be provided by resolution of the commission. The
120 commission is authorized and empowered to pay the costs that are
121 incident to the sale, issuance and delivery of the bonds
122 authorized under this act from the proceeds derived from the sale
123 of such bonds or from other lawfully available funds. Pursuant to
124 the provisions of this act, the commission may enter into such
125 agreements as may be necessary in connection with the sale and
126 issuance of such bonds. The total amount of bonds issued under
127 this act shall not exceed One Hundred Million Dollars
128 (\$100,000,000.00). No bonds shall be issued under this act from
129 and after January 1, 2007.

130 (2) Any investment earnings on amounts deposited into the
131 special fund created in Section 3 of this act shall be used to pay
132 debt service or used as otherwise directed by the commission in
133 accordance with applicable federal and state law and in accordance
134 with the proceedings authorizing the issuance of such bonds.

135 (3) Bonds issued by the commission pursuant to this act must
136 comply with and satisfy the requirements for the issuance of "gulf
137 tax credit bonds" pursuant to the Gulf Opportunity Zone Act.

138 **SECTION 5.** To satisfy the state matching requirement of the
139 Gulf Opportunity Zone Act in connection with the gulf tax credit
140 bonds authorized to be issued by this act, the commission is
141 hereby authorized to pledge, as of the date of the issuance of the
142 gulf tax credit bonds, any funds of the state available for debt
143 service or any other available funds of the state to make debt
144 service payments on qualified bonds of the state in an amount
145 equal to the face amount of the gulf tax credit bonds issued
146 pursuant to Section 4 of this act. Upon issuance of the gulf tax
147 credit bonds, the funds of the state pledged to satisfy the state
148 matching requirement of the Gulf Opportunity Zone Act shall be
149 deposited in the fund and used to make debt service payments on
150 qualified bonds of the state in accordance with this act and the
151 Gulf Opportunity Zone Act. The State Treasurer, acting on behalf
152 of the commission, is authorized to use all money on deposit in
153 the fund to make debt service payments in accordance with the
154 provisions of this act and the Gulf Opportunity Zone Act.

155 **SECTION 6.** The bonds authorized by this act shall be signed
156 by the chairman of the commission, or by his facsimile signature,
157 and the official seal of the commission shall be affixed thereto,
158 attested by the secretary of the commission. The interest
159 coupons, if any, to be attached to such bonds may be executed by
160 the facsimile signatures of such officers. Whenever any such
161 bonds shall have been signed by the officials designated to sign
162 the bonds who were in office at the time of such signing but who
163 may have ceased to be such officers before the sale and delivery
164 of such bonds, or who may not have been in office on the date such
165 bonds may bear, the signatures of such officers upon such bonds
166 and coupons shall nevertheless be valid and sufficient for all
167 purposes and have the same effect as if the person so officially
168 signing such bonds had remained in office until their delivery to
169 the purchaser, or had been in office on the date such bonds may
170 bear. However, notwithstanding anything in this act to the

171 contrary, such bonds may be issued as provided in the Registered
172 Bond Act.

173 **SECTION 7.** All bonds issued under this act shall be fully
174 negotiable in accordance with their terms and shall be
175 "securities" within the meaning of Article 8 of the Uniform
176 Commercial Code, subject to the provisions of such bonds
177 pertaining to registration. It shall not be necessary to file
178 financing statements or continuation statements to protect the
179 lien and pledge granted by the state to the holders of any bonds
180 issued under this act.

181 **SECTION 8.** The bonds issued under the provisions of this act
182 are general obligations of the State of Mississippi, and for the
183 payment thereof the full faith and credit of the State of
184 Mississippi is irrevocably pledged. If the funds appropriated by
185 the Legislature are insufficient to pay the principal of such
186 bonds as they become due, then the deficiency shall be paid by the
187 State Treasurer from any funds in the State Treasury not otherwise
188 appropriated. All such bonds shall contain recitals on their
189 faces substantially covering the provisions of this section.

190 **SECTION 9.** The bonds authorized under this act may be issued
191 without any other proceedings or the happening of any other
192 conditions or things other than those proceedings, conditions and
193 things which are specified or required by this act. Any
194 resolution providing for the issuance of bonds under the
195 provisions of this act shall become effective immediately upon its
196 adoption by the commission, and any such resolution may be adopted
197 at any regular or special meeting of the commission by a majority
198 of its members.

199 **SECTION 10.** The bonds authorized under the authority of this
200 act may be validated in the Chancery Court of the First Judicial
201 District of Hinds County, Mississippi, in the manner and with the
202 force and effect provided by Chapter 13, Title 31, Mississippi
203 Code of 1972, for the validation of county, municipal, school

204 district and other bonds. The notice to taxpayers required by
205 such statutes shall be published in a newspaper published or
206 having a general circulation in the City of Jackson, Mississippi.

207 **SECTION 11.** Any holder of bonds issued under the provisions
208 of this act may, either at law or in equity, by suit, action,
209 mandamus or other proceeding, protect and enforce any and all
210 rights granted under this act, or under such resolution, and may
211 enforce and compel performance of all duties required by this act
212 to be performed, in order to provide for the payment of such
213 bonds.

214 **SECTION 12.** All bonds issued under the provisions of this
215 act shall be legal investments for trustees and other fiduciaries,
216 and for savings banks, trust companies and insurance companies
217 organized under the laws of the state, and such bonds shall be
218 legal securities which may be deposited with and shall be received
219 by all public officers and bodies of this state and all
220 municipalities and political subdivisions for the purpose of
221 securing the deposit of public funds.

222 **SECTION 13.** Bonds issued under the provisions of this act
223 and income, if any, therefrom shall be exempt from all taxation in
224 the State of Mississippi. In addition, the amount of credit
225 determined in accordance with the provisions of the Gulf
226 Opportunity Zone Act and received by a holder of the bonds issued
227 under the provisions of this act shall not be included in the
228 income of such holder for state income tax purposes.

229 **SECTION 14.** The proceeds of the bonds issued under this act
230 shall be used solely for the purposes herein provided, including
231 the costs incident to the issuance and sale of such bonds.

232 **SECTION 15.** The State Treasurer is authorized, without
233 further process of law, to certify to the Department of Finance
234 and Administration the necessity for warrants, and the Department
235 of Finance and Administration is authorized and directed to issue
236 such warrants, in such amounts as may be necessary to pay when due

237 the principal of all bonds issued under this act; and the State
238 Treasurer shall forward the necessary amount to the designated
239 place or places of payment of such bonds in ample time to
240 discharge such bonds on the due dates thereof.

241 **SECTION 16.** This act shall be deemed to be full and complete
242 authority for the exercise of the powers granted in this act, but
243 this act shall not be deemed to repeal or to be in derogation of
244 any existing law of this state.

245 **SECTION 17.** Section 31-17-123, Mississippi Code of 1972, is
246 amended as follows:

247 31-17-123. (1) The intent of the Legislature is to
248 authorize borrowing funds under the provisions of Sections
249 31-17-101 through 31-17-123 to offset any temporary cash flow
250 deficiencies and should not be construed to authorize the
251 borrowing of any funds in an amount that cannot be repaid during
252 the fiscal year in which the funds are borrowed.

253 (2) (a) Notwithstanding any provision of this chapter to
254 the contrary, in the event that the State Fiscal Officer and the
255 State Treasurer make a determination that (i) state-source special
256 funds are not sufficient to cover deficiencies in the General
257 Fund, (ii) the State of Mississippi is unable to repay special
258 fund borrowing within the fiscal year in which it was borrowed, or
259 (iii) state-source funds are insufficient for disaster support
260 and/or assistance purposes due to Hurricanes Katrina and/or Rita;
261 and that the State Bond Commission makes a determination that such
262 deficiency, inability to repay, or insufficiency is the result of
263 a state of emergency within the State of Mississippi, the State
264 Bond Commission is authorized to obtain a line of credit, in an
265 amount not to exceed Five Hundred Million Dollars
266 (\$500,000,000.00), from a commercial lender, investment banking
267 group or a consortium of either, or both. The length of
268 indebtedness under this subsection shall not extend past three (3)
269 years following the origination of the line of credit. The line

270 of credit shall be authorized and approved by the State Bond
271 Commission and shall have such terms and details as may be
272 provided by resolution of the State Bond Commission. Loan
273 proceeds shall be received and disbursed by the State Treasurer
274 and deposited into the Disaster Recovery Fund, a special fund
275 hereby created in the State Treasury, and shall be used to cover
276 deficiencies in the General Fund, to repay special fund borrowing
277 and/or to cover any insufficiency in disaster support and/or
278 assistance. Monies remaining in the Disaster Recovery Fund at the
279 end of a fiscal year shall not lapse into the State General Fund,
280 but shall remain in the Disaster Recovery Fund and any interest
281 earned or investment earnings on amounts in the Disaster Recovery
282 Fund shall remain in the fund.

283 (b) As security for the repayment of the principal and
284 interest on the line of credit provided for in paragraph (a) of
285 this subsection, the full faith, credit and resources of the State
286 of Mississippi are hereby irrevocably pledged.

287 (c) Upon approval of the State Fiscal Officer, the
288 Director of the Mississippi Emergency Management Agency is
289 authorized to use amounts from the line of credit to match federal
290 funds, and for personnel, call-back wages, base and overtime
291 wages, travel, per diem and other out-of-pocket expenses incurred
292 as a result of Hurricanes Katrina and/or Rita.

293 (d) This subsection (2) shall be complete authority for
294 the borrowing authorized hereunder and shall not be subject to the
295 limitations provided in the other provisions of this chapter or
296 otherwise under state law.

297 (e) The State Treasurer shall notify the Legislative
298 Budget Office and the State Department of Finance and
299 Administration of each transfer into and out of the Disaster
300 Recovery Fund on a quarterly basis.

301 **SECTION 18.** Section 3, Chapter 534, Laws of 2006, is amended
302 as follows:

303 Section 3. There is hereby created in the State Treasury a
304 special fund, separate and apart from any other special fund, to
305 be designated as the Hurricane Disaster Reserve Fund. The State
306 Fiscal Officer shall transfer from the State General Fund into the
307 Hurricane Disaster Reserve Fund an amount equal to Two Hundred
308 Sixty-eight Million Dollars (\$268,000,000.00) during the period
309 beginning July 1, 2006, and ending June 30, 2007.

310 The funds transferred herein to the Hurricane Disaster
311 Reserve Fund shall be utilized to defray the state's share of any
312 nonfederal matching requirements for Federal Emergency Management
313 Agency grants associated with Hurricane Katrina and other
314 disasters. Unexpended funds remaining in the Hurricane Disaster
315 Reserve Fund at the end of the fiscal year shall not lapse into
316 the State General Fund but shall remain in the fund and any
317 interest earned or investment earnings on amounts in the Hurricane
318 Disaster Reserve Fund shall remain in the fund; however, any
319 interest earned or investment earnings on amounts in the fund
320 during fiscal years 2007 and 2008 shall be transferred by the
321 State Treasurer to the Emergency Aid to Local Governments Fund
322 created in Section 27-107-321.

323 Funds deposited into the Hurricane Disaster Reserve Fund
324 shall be used only for the purposes specified in this section, and
325 as long as the provisions of this section remain in effect, no
326 other expenditure, appropriation or transfer of funds in the
327 Hurricane Disaster Reserve Fund shall be made except by act of the
328 Legislature making specific reference to the Hurricane Disaster
329 Reserve Fund as the source of those funds.

330 **SECTION 19.** Section 6, Chapter 17, Laws of 2006, is amended
331 as follows:

332 Section 6. Of the funds appropriated under the provisions of
333 Section 2, Two Million Eight Hundred Thirty-nine Thousand Nine
334 Hundred Eight Dollars (\$2,839,908.00) shall be derived from the
335 Budget Contingency Fund created in Section 27-103-301, Mississippi

336 Code of 1972, and not more than One Hundred Million Dollars
337 (\$100,000,000.00) shall be derived from the proceeds of the sale
338 of the bonds authorized in Sections 1 through 16 of House Bill No.
339 6, 2006 First Extraordinary Session, and deposited into the Tax
340 Credit Bond Proceeds Fund created in Section 3 of House Bill No.
341 6, 2006 First Extraordinary Session, for the purpose of paying
342 maturing bonds and interest on the full faith and credit bonds of
343 the State of Mississippi.

344 **SECTION 20.** Upon passage of this act, the State Fiscal
345 Officer shall transfer One Hundred Million Dollars
346 (\$100,000,000.00) from the Budget Contingency Fund created in
347 Section 27-103-301 to the Disaster Recovery Fund created in
348 Section 31-17-123.

349 **SECTION 21.** This act shall take effect and be in force from
350 and after its passage.