

By: Representatives Peranich,  
Brown, Flaggs, Franks, Holland,  
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To: Ways and Means

HOUSE BILL NO. 5

1 AN ACT TO AMEND SECTION 27-65-17, MISSISSIPPI CODE OF 1972,  
2 TO REDUCE THE SALES TAX ON THE FACTORY BUILT COMPONENTS OF MODULAR  
3 HOMES, PANELIZED HOMES AND PRECUT HOMES; TO REQUIRE SELLERS OF  
4 MODULAR HOMES, PANELIZED HOMES AND PRECUT HOMES TO DISCLOSE TO THE  
5 BUYERS OF SUCH HOMES THE AMOUNT OF SALES TAX OR USE TAX PAID ON  
6 THE FACTORY BUILT COMPONENTS OF SUCH HOMES; TO PROVIDE THAT THE  
7 STATE TAX COMMISSION SHALL PRESCRIBE BY REGULATION THE MANNER IN  
8 WHICH SUCH DISCLOSURE SHALL BE MADE; TO ESTABLISH A GRANT PROGRAM  
9 TO PROVIDE FUNDS TO CERTAIN COUNTIES AND MUNICIPALITIES FOR THE  
10 PURPOSE OF MAKING GRANTS TO INDIVIDUALS WHO SUSTAINED PHYSICAL  
11 DAMAGE TO HOMES DUE TO FLOODING, STORM SURGE OR OTHER CATEGORIES  
12 OF DAMAGE SET FORTH IN RULES AND REGULATIONS OF THE DEPARTMENT OF  
13 FINANCE AND ADMINISTRATION, AS A RESULT OF HURRICANE KATRINA, WHO  
14 HAD NO FLOOD INSURANCE OR OTHER INSURANCE PROVIDING COVERAGE FOR  
15 SUCH DAMAGE OR HAD FLOOD INSURANCE BUT HAD A FLOOD LOSS THAT  
16 EXCEEDED SUCH INSURANCE, AND WHO WERE NOT COVERED BY OTHER  
17 INSURANCE OR SOURCE OF REIMBURSEMENT; TO PROVIDE THAT THE  
18 DEPARTMENT OF FINANCE AND ADMINISTRATION SHALL ADMINISTER THE  
19 PROGRAM; TO PROVIDE THE MAXIMUM AMOUNT FOR SUCH GRANTS; TO  
20 ESTABLISH CERTAIN ELIGIBILITY REQUIREMENTS FOR THE RECEIPT OF SUCH  
21 GRANTS; TO AUTHORIZE THE ISSUANCE OF STATE GENERAL OBLIGATION  
22 BONDS FOR THE PURPOSE OF PROVIDING FUNDS FOR THE GRANT PROGRAM; TO  
23 REQUIRE NOTICE TO BE GIVEN TO CERTAIN MEMBERS OF THE LEGISLATURE  
24 BEFORE A PUBLIC CEREMONY TO ANNOUNCE THE AWARD OF A GRANT UNDER  
25 THIS ACT; TO REQUIRE THAT CERTAIN DOCUMENTS PREPARED IN CONNECTION  
26 WITH A GRANT MADE UNDER THIS ACT CONTAIN LANGUAGE THAT THE GRANT  
27 FUNDS WERE MADE AVAILABLE BY THE LEGISLATURE; AND FOR RELATED  
28 PURPOSES.

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

30 **SECTION 1.** Section 27-65-17, Mississippi Code of 1972, is  
31 amended as follows:

32 27-65-17. (1) (a) Except as otherwise provided in this  
33 section, upon every person engaging or continuing within this  
34 state in the business of selling any tangible personal property  
35 whatsoever there is hereby levied, assessed and shall be collected  
36 a tax equal to seven percent (7%) of the gross proceeds of the  
37 retail sales of the business.

38 (b) Retail sales of farm tractors shall be taxed at the  
39 rate of one percent (1%) when made to farmers for agricultural  
40 purposes.

41 (c) Retail sales of farm implements sold to farmers and  
42 used directly in the production of poultry, ratite, domesticated  
43 fish as defined in Section 69-7-501, livestock, livestock  
44 products, agricultural crops or ornamental plant crops or used for  
45 other agricultural purposes shall be taxed at the rate of three  
46 percent (3%) when used on the farm. The three percent (3%) rate  
47 shall also apply to all equipment used in logging, pulpwood  
48 operations or tree farming which is either:

- 49 (i) Self-propelled, or
- 50 (ii) Mounted so that it is permanently attached to  
51 other equipment which is self-propelled or permanently attached to  
52 other equipment drawn by a vehicle which is self-propelled.

53 (d) Except as otherwise provided in subsection (3) of  
54 this section, retail sales of aircraft, automobiles, trucks,  
55 truck-tractors, semitrailers and manufactured or mobile homes  
56 shall be taxed at the rate of three percent (3%).

57 (e) Sales of manufacturing machinery or manufacturing  
58 machine parts when made to a manufacturer or custom processor for  
59 plant use only when the machinery and machine parts will be used  
60 exclusively and directly within this state in manufacturing a  
61 commodity for sale, rental or in processing for a fee shall be  
62 taxed at the rate of one and one-half percent (1-1/2%).

63 (f) Sales of machinery and machine parts when made to a  
64 technology intensive enterprise for plant use only when the  
65 machinery and machine parts will be used exclusively and directly  
66 within this state for industrial purposes, including, but not  
67 limited to, manufacturing or research and development activities,  
68 shall be taxed at the rate of one and one-half percent (1-1/2%).  
69 In order to be considered a technology intensive enterprise for  
70 purposes of this paragraph:

- 71 (i) The enterprise shall meet minimum criteria  
72 established by the Mississippi Development Authority;

73 (ii) The enterprise shall employ at least ten (10)  
74 persons in full-time jobs;

75 (iii) At least ten percent (10%) of the workforce  
76 in the facility operated by the enterprise shall be scientists,  
77 engineers or computer specialists;

78 (iv) The enterprise shall manufacture plastics,  
79 chemicals, automobiles, aircraft, computers or electronics; or  
80 shall be a research and development facility, a computer design or  
81 related facility, or a software publishing facility or other  
82 technology intensive facility or enterprise as determined by the  
83 Mississippi Development Authority;

84 (v) The average wage of all workers employed by  
85 the enterprise at the facility shall be at least one hundred fifty  
86 percent (150%) of the state average annual wage; and

87 (vi) The enterprise must provide a basic health  
88 care plan to all employees at the facility.

89 (g) Sales of materials for use in track and track  
90 structures to a railroad whose rates are fixed by the Interstate  
91 Commerce Commission or the Mississippi Public Service Commission  
92 shall be taxed at the rate of three percent (3%).

93 (h) Sales of tangible personal property to electric  
94 power associations for use in the ordinary and necessary operation  
95 of their generating or distribution systems shall be taxed at the  
96 rate of one percent (1%).

97 (i) Wholesale sales of beer shall be taxed at the rate  
98 of seven percent (7%), and the retailer shall file a return and  
99 compute the retail tax on retail sales but may take credit for the  
100 amount of the tax paid to the wholesaler on said return covering  
101 the subsequent sales of same property, provided adequate invoices  
102 and records are maintained to substantiate the credit.

103 (j) Wholesale sales of food and drink for human  
104 consumption to full service vending machine operators to be sold  
105 through vending machines located apart from and not connected with

106 other taxable businesses shall be taxed at the rate of eight  
107 percent (8%).

108 (k) Sales of equipment used or designed for the purpose  
109 of assisting disabled persons, such as wheelchair equipment and  
110 lifts, that is mounted or attached to or installed on a private  
111 carrier of passengers or light carrier of property, as defined in  
112 Section 27-51-101, at the time when the private carrier of  
113 passengers or light carrier of property is sold shall be taxed at  
114 the same rate as the sale of such vehicles under this section.

115 (1) Sales of the factory built components of modular  
116 homes, panelized homes and precut homes, shall be taxed at the  
117 rate of three percent (3%).

118 (2) From and after January 1, 1995, retail sales of private  
119 carriers of passengers and light carriers of property, as defined  
120 in Section 27-51-101, shall be taxed an additional two percent  
121 (2%).

122 (3) In lieu of the tax levied in subsection (1) of this  
123 section, there is levied on retail sales of truck-tractors and  
124 semitrailers used in interstate commerce and registered under the  
125 International Registration Plan (IRP) or any similar reciprocity  
126 agreement or compact relating to the proportional registration of  
127 commercial vehicles entered into as provided for in Section  
128 27-19-143, a tax at the rate of three percent (3%) of the portion  
129 of the sale that is attributable to the usage of such  
130 truck-tractor or semitrailer in Mississippi. The portion of the  
131 retail sale that is attributable to the usage of such  
132 truck-tractor or semitrailer in Mississippi is the retail sales  
133 price of the truck-tractor or semitrailer multiplied by the  
134 percentage of the total miles traveled by the vehicle that are  
135 traveled in Mississippi. The tax levied pursuant to this  
136 subsection (3) shall be collected by the State Tax Commission from  
137 the purchaser of such truck-tractor or semitrailer at the time of  
138 registration of such truck-tractor or semitrailer.

139 (4) A manufacturer selling at retail in this state shall be  
140 required to make returns of the gross proceeds of such sales and  
141 pay the tax imposed in this section.

142 (5) Any person exercising any privilege taxable under  
143 Section 27-65-15 and selling his natural resource products at  
144 wholesale or to exempt persons shall pay the tax levied by said  
145 section in lieu of the tax levied by this section.

146 **SECTION 2.** Sellers of modular homes, panelized homes and  
147 precut homes shall disclose to the buyers of such homes the amount  
148 of sales tax or use tax paid on the factory built components of  
149 such homes. The State Tax Commission shall prescribe by  
150 regulation the manner in which such disclosure shall be made.

151 **SECTION 3.** (1) (a) The Department of Finance and  
152 Administration ("department") shall establish a program providing  
153 funds to counties and municipalities for the purposes of making  
154 grants available to individuals who reside in Hancock, Harrison,  
155 Jackson, Pearl River, Stone and George Counties and municipalities  
156 located in such counties, who sustained physical damage to homes  
157 due to flooding, storm surge or other categories of damage set  
158 forth in rules and regulations promulgated by the department, as a  
159 result of Hurricane Katrina, and who had no flood insurance or  
160 other insurance providing coverage for such damage or had flood  
161 insurance but had a flood loss that exceeded such insurance, and  
162 who were not covered by other insurance or source of  
163 reimbursement, as attested to by the homeowner. For the purposes  
164 of the program authorized under this section, a home shall be the  
165 primary homestead of the applicant.

166 (b) A county or municipality desiring funds under this  
167 section must submit an application to the department that contains  
168 the amount of funds requested and any other information required  
169 by the department. A county or municipality receiving funds under  
170 this section may contract with the local planning and development  
171 district in which the county or municipality is located or other

172 entity approved by the department for the administration of grant  
173 funds to individuals. A county or municipality that contracts  
174 with a planning and development district or other entity for such  
175 purposes may use part of the funds received from the department  
176 for the purpose of defraying the costs of such a contract.

177 (2) (a) The amount of a grant made by a county or  
178 municipality, or both, under this section shall not exceed Fifty  
179 Thousand Dollars (\$50,000.00) in the aggregate; however, grants  
180 made under this section shall be made only to the extent that  
181 federal or other assistance is not available to an individual or  
182 does not provide adequate assistance or coverage needed to repair  
183 or rebuild a home for which a grant is made under this section.  
184 The proceeds of the grants authorized under this section shall be  
185 used only for the purpose of repairing or rebuilding a home for  
186 which a grant is made under this section. An individual receiving  
187 a grant to rebuild a home must rebuild the home in the county in  
188 which it was located at the time of the damage. In making funds  
189 available to counties and municipalities under this section, the  
190 department shall attempt to provide for the equitable distribution  
191 of such funds in order to address the housing needs caused as a  
192 result of Hurricane Katrina.

193 (b) To be eligible for a grant under this section, an  
194 individual must:

195 (i) Own or have owned a home that sustained  
196 physical damage due to flooding, storm surge or other categories  
197 of damage set forth in rules and regulations promulgated by the  
198 department, as a result of Hurricane Katrina;

199 (ii) Not have had flood insurance or other  
200 insurance providing coverage for such damage, or had flood  
201 insurance but had a flood loss that exceeded such insurance, and  
202 was not covered by other insurance or source of reimbursement;

203 (iii) Agree to obtain and maintain flood insurance  
204 coverage on the property for which assistance is requested; and

205                   (iv) Have an aggregate household income that does  
206 not exceed three hundred percent (300%) of the United States  
207 poverty level.

208           (3) Any individual who receives a grant under this section  
209 and who fails to maintain flood insurance coverage on the property  
210 for which assistance is provided as required in this section shall  
211 not be eligible for state assistance for any flood damage that  
212 occurs after the grant is made.

213           (4) An individual desiring assistance under this section  
214 must submit an application to the department. The application  
215 must include a description of the property and the purpose for  
216 which assistance is requested, the cost of the project for which  
217 assistance is requested and any other information required by the  
218 department.

219           (5) The department shall have all powers necessary to  
220 implement and administer the program established under this  
221 section, and the department shall promulgate rules and  
222 regulations, in accordance with the Mississippi Administrative  
223 Procedures Law, necessary for the implementation of this section.  
224 However, if the department desires to contract with any entity or  
225 entities to assist in the administration of the program  
226 established under this section, the department shall utilize a  
227 request for proposals procedure before awarding any contract for  
228 any such assistance purposes.

229           (6) There is created in the State Treasury a special fund to  
230 be designated as the "Mississippi Disaster Home Grant Fund," which  
231 shall consist of funds appropriated or otherwise made available by  
232 the Legislature in any manner and funds from any other source  
233 designated for deposit into such fund. Unexpended amounts  
234 remaining in the fund at the end of a fiscal year shall not lapse  
235 into the State General Fund, and any investment earnings or  
236 interest earned on amounts in the fund shall be deposited to the

237 credit of the fund. Monies in the fund shall be used by the  
238 department for the purposes described in this section.

239 (7) In administering this section the department shall have  
240 the following powers and duties:

241 (a) To supervise the use of all funds made available  
242 under this section;

243 (b) To promulgate rules and regulations, to make  
244 variances and exceptions thereto, and to establish procedures in  
245 accordance with this section for the implementation of the grant  
246 program described in this section;

247 (c) To requisition monies in the special fund and  
248 distribute those monies in accordance with this section;

249 (d) To maintain, in accordance with generally accepted  
250 government accounting standards, an accurate record of all monies  
251 in the special fund made available to counties and incorporated  
252 municipalities under this section; and

253 (e) To file annually with the Legislature a report  
254 detailing how monies in the special fund were distributed during  
255 the preceding fiscal year to each county and incorporated  
256 municipality.

257 (8) At least five (5) days before any public ceremony to  
258 announce the award of a grant to a county or municipality under  
259 this section, the department shall notify all of the members of  
260 the Mississippi House of Representatives and Mississippi Senate  
261 whose districts include any portion of the county or municipality  
262 to which the grant is being made.

263 (9) The department shall include the following language at a  
264 prominent location on any documents prepared by the department in  
265 connection with a grant made under this section that are to be  
266 provided to the county or municipality to which the grant is made  
267 or to the public: "The funds for this grant were made available  
268 by the Mississippi Legislature."



269           **SECTION 4.** (1) As used in this section, the following words  
270 shall have the meanings ascribed herein unless the context clearly  
271 requires otherwise:

272           (a) "Accreted value" of any bonds means, as of any date  
273 of computation, an amount equal to the sum of (i) the stated  
274 initial value of such bond, plus (ii) the interest accrued thereon  
275 from the issue date to the date of computation at the rate,  
276 compounded semiannually, that is necessary to produce the  
277 approximate yield to maturity shown for bonds of the same  
278 maturity.

279           (b) "State" means the State of Mississippi.

280           (c) "Commission" means the State Bond Commission.

281           (d) "Department" means the Department of Finance and  
282 Administration.

283           (2) (a) The commission, at one time, or from time to time,  
284 may declare by resolution the necessity for issuance of general  
285 obligation bonds of the State of Mississippi to provide funds for  
286 the program authorized in Section 3 of this act. Upon the  
287 adoption of a resolution by the department, declaring the  
288 necessity for the issuance of any part or all of the general  
289 obligation bonds authorized by this section, the department shall  
290 deliver a certified copy of its resolution or resolutions to the  
291 commission. Upon receipt of such resolution, the commission, in  
292 its discretion, may act as the issuing agent, prescribe the form  
293 of the bonds, advertise for and accept bids, issue and sell the  
294 bonds so authorized to be sold and do any and all other things  
295 necessary and advisable in connection with the issuance and sale  
296 of such bonds. The total amount of bonds issued under this  
297 section shall not exceed One Hundred Million Dollars  
298 (\$100,000,000.00).

299           (b) The proceeds of bonds issued pursuant to this  
300 section shall be deposited into the special fund created in  
301 Section 3 of this act. Any investment earnings on bonds issued

302 pursuant to this section shall be used to pay debt service on  
303 bonds issued under this section, in accordance with the  
304 proceedings authorizing issuance of such bonds.

305 (3) The principal of and interest on the bonds authorized  
306 under this section shall be payable in the manner provided in this  
307 section. Such bonds shall bear such date or dates, be in such  
308 denomination or denominations, bear interest at such rate or rates  
309 (not to exceed the limits set forth in Section 75-17-101,  
310 Mississippi Code of 1972), be payable at such place or places  
311 within or without the State of Mississippi, shall mature  
312 absolutely at such time or times not to exceed twenty-five (25)  
313 years from date of issue, be redeemable before maturity at such  
314 time or times and upon such terms, with or without premium, shall  
315 bear such registration privileges, and shall be substantially in  
316 such form, all as shall be determined by resolution of the  
317 commission.

318 (4) The bonds authorized by this section shall be signed by  
319 the chairman of the commission, or by his facsimile signature, and  
320 the official seal of the commission shall be affixed thereto,  
321 attested by the secretary of the commission. The interest  
322 coupons, if any, to be attached to such bonds may be executed by  
323 the facsimile signatures of such officers. Whenever any such  
324 bonds shall have been signed by the officials designated to sign  
325 the bonds who were in office at the time of such signing but who  
326 may have ceased to be such officers before the sale and delivery  
327 of such bonds, or who may not have been in office on the date such  
328 bonds may bear, the signatures of such officers upon such bonds  
329 and coupons shall nevertheless be valid and sufficient for all  
330 purposes and have the same effect as if the person so officially  
331 signing such bonds had remained in office until their delivery to  
332 the purchaser, or had been in office on the date such bonds may  
333 bear. However, notwithstanding anything herein to the contrary,

334 such bonds may be issued as provided in the Registered Bond Act of  
335 the State of Mississippi.

336 (5) All bonds and interest coupons issued under the  
337 provisions of this section have all the qualities and incidents of  
338 negotiable instruments under the provisions of the Uniform  
339 Commercial Code, and in exercising the powers granted by this  
340 section, the commission shall not be required to and need not  
341 comply with the provisions of the Uniform Commercial Code.

342 (6) The commission shall act as the issuing agent for the  
343 bonds authorized under this section, prescribe the form of the  
344 bonds, advertise for and accept bids, issue and sell the bonds so  
345 authorized to be sold, pay all fees and costs incurred in such  
346 issuance and sale, and do any and all other things necessary and  
347 advisable in connection with the issuance and sale of such bonds.  
348 The commission is authorized and empowered to pay the costs that  
349 are incident to the sale, issuance and delivery of the bonds  
350 authorized under this section from the proceeds derived from the  
351 sale of such bonds. The commission shall sell such bonds on  
352 sealed bids at public sale, and for such price as it may determine  
353 to be for the best interest of the State of Mississippi, but no  
354 such sale shall be made at a price less than par plus accrued  
355 interest to the date of delivery of the bonds to the purchaser.  
356 All interest accruing on such bonds so issued shall be payable  
357 semiannually or annually; however, the first interest payment may  
358 be for any period of not more than one (1) year.

359 Notice of the sale of any such bonds shall be published at  
360 least one time, not less than ten (10) days before the date of  
361 sale, and shall be so published in one or more newspapers  
362 published or having a general circulation in the City of Jackson,  
363 Mississippi, and in one or more other newspapers or financial  
364 journals with a national circulation, to be selected by the  
365 commission.

366           The commission, when issuing any bonds under the authority of  
367 this section, may provide that bonds, at the option of the State  
368 of Mississippi, may be called in for payment and redemption at the  
369 call price named therein and accrued interest on such date or  
370 dates named therein.

371           (7) The bonds issued under the provisions of this section  
372 are general obligations of the State of Mississippi, and for the  
373 payment thereof the full faith and credit of the State of  
374 Mississippi is irrevocably pledged. If the funds appropriated by  
375 the Legislature are insufficient to pay the principal of and the  
376 interest on such bonds as they become due, then the deficiency  
377 shall be paid by the State Treasurer from any funds in the State  
378 Treasury not otherwise appropriated. All such bonds shall contain  
379 recitals on their faces substantially covering the provisions of  
380 this section.

381           (8) Upon the issuance and sale of bonds under the provisions  
382 of this section, the commission shall transfer the proceeds of any  
383 such sale or sales to the special fund created in Section 3 of  
384 this act. The proceeds of such bonds shall be disbursed solely  
385 upon the order of the department under such restrictions, if any,  
386 as may be contained in the resolution providing for the issuance  
387 of the bonds.

388           (9) The bonds authorized under this section may be issued  
389 without any other proceedings or the happening of any other  
390 conditions or things other than those proceedings, conditions and  
391 things which are specified or required by this section. Any  
392 resolution providing for the issuance of bonds under the  
393 provisions of this section shall become effective immediately upon  
394 its adoption by the commission, and any such resolution may be  
395 adopted at any regular or special meeting of the commission by a  
396 majority of its members.

397           (10) The bonds authorized under the authority of this  
398 section may be validated in the Chancery Court of the First

399 Judicial District of Hinds County, Mississippi, in the manner and  
400 with the force and effect provided by Chapter 13, Title 31,  
401 Mississippi Code of 1972, for the validation of county, municipal,  
402 school district and other bonds. The notice to taxpayers required  
403 by such statutes shall be published in a newspaper published or  
404 having a general circulation in the City of Jackson, Mississippi.

405 (11) Any holder of bonds issued under the provisions of this  
406 section or of any of the interest coupons pertaining thereto may,  
407 either at law or in equity, by suit, action, mandamus or other  
408 proceeding, protect and enforce any and all rights granted under  
409 this section, or under such resolution, and may enforce and compel  
410 performance of all duties required by this section to be  
411 performed, in order to provide for the payment of bonds and  
412 interest thereon.

413 (12) All bonds issued under the provisions of this section  
414 shall be legal investments for trustees and other fiduciaries, and  
415 for savings banks, trust companies and insurance companies  
416 organized under the laws of the State of Mississippi, and such  
417 bonds shall be legal securities which may be deposited with and  
418 shall be received by all public officers and bodies of this state  
419 and all municipalities and political subdivisions for the purpose  
420 of securing the deposit of public funds.

421 (13) Bonds issued under the provisions of this section and  
422 income therefrom shall be exempt from all taxation in the State of  
423 Mississippi.

424 (14) The proceeds of the bonds issued under this section  
425 shall be used solely for the purposes therein provided, including  
426 the costs incident to the issuance and sale of such bonds.

427 (15) The State Treasurer is authorized, without further  
428 process of law, to certify to the department the necessity for  
429 warrants, and the department is authorized and directed to issue  
430 such warrants, in such amounts as may be necessary to pay when due  
431 the principal of, premium, if any, and interest on, or the

432 accreted value of, all bonds issued under this section; and the  
433 State Treasurer shall forward the necessary amount to the  
434 designated place or places of payment of such bonds in ample time  
435 to discharge such bonds, or the interest thereon, on the due dates  
436 thereof.

437 (16) This section shall be deemed to be full and complete  
438 authority for the exercise of the powers therein granted, but this  
439 section shall not be deemed to repeal or to be in derogation of  
440 any existing law of this state.

441 **SECTION 5.** This act shall take effect and be in force from  
442 and after its passage.