

By: Senator(s) Gordon, Little, Albritton, Browning, Carmichael, Chaney, Clarke, Dawkins, Dearing, Frazier, Gollott, Harden, Jackson (11th), Jordan, King, Kirby, Lee (35th), Mettetal, Morgan, Thames, Walls, White

To: Appropriations

SENATE BILL NO. 2017
(As Passed the Senate)

1 AN ACT TO AMEND SECTIONS 29-13-1, 29-13-3 AND 29-13-5,
2 MISSISSIPPI CODE OF 1972, TO AUTHORIZE AND DIRECT ALL STATE
3 AGENCIES TO OBTAIN BUSINESS PROPERTY INSURANCE AND BUSINESS
4 PERSONAL PROPERTY INSURANCE ON ALL PUBLIC BUILDINGS, FACILITIES
5 AND EQUIPMENT IN COMPLIANCE WITH FEDERAL EMERGENCY MANAGEMENT
6 AGENCY (F.E.M.A.) REQUIREMENTS AS IS NECESSARY TO RECEIVE
7 REIMBURSEMENT FOR REPAIR, CONSTRUCTION, REPLACEMENT OR OTHER
8 DAMAGE CAUSED BY THE HURRICANE KATRINA DISASTER OR BY SUBSEQUENT
9 DISASTERS; TO AMEND SECTIONS 37-7-303, 37-29-67, 37-101-15 AND
10 41-73-31, MISSISSIPPI CODE OF 1972, TO AUTHORIZE AND DIRECT LOCAL
11 SCHOOL DISTRICTS, COMMUNITY AND JUNIOR COLLEGE DISTRICTS, PUBLIC
12 UNIVERSITIES AND COMMUNITY HOSPITALS TO OBTAIN PROPERTY INSURANCE
13 FOR THE SAME PURPOSE; TO AUTHORIZE SUCH PUBLIC ENTITIES TO POOL
14 THEIR PROPERTY INSURANCE LIABILITIES; AND FOR RELATED PURPOSES.

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

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

18 29-13-1. (1) The Department of Finance and Administration,
19 "department," is hereby authorized and directed to purchase and
20 maintain business property insurance and business personal
21 property insurance on all state-owned buildings and/or contents as
22 required by federal law and regulations of the Federal Emergency
23 Management Agency (F.E.M.A.) as is necessary for receiving public
24 assistance or reimbursement for repair, reconstruction,
25 replacement or other damage to such buildings and/or contents
26 caused by the Hurricane Katrina Disaster of 2005 or subsequent
27 disasters. The department is authorized to expend funds from any
28 available source for the purpose of obtaining and maintaining such
29 property insurance. The department is authorized to enter into
30 agreements with other state agencies, local school districts,
31 community/junior college districts, state institutions of higher
32 learning and community hospitals to pool their liabilities to
33 participate in a group business property and/or business personal

34 property insurance program, subject to uniform rules and
35 regulations as may be adopted by the Department of Finance and
36 Administration.

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

63 (3) No state agency shall be authorized to expend any state,
64 federal or special funds for the construction, renovation, repair
65 or placement of any structure in a designated floodplain, floodway
66 or coastal high hazard area, or to allow for the construction,

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

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

77 29-13-3. The Department of Finance and Administration shall
78 file any claims for damages covered under the Hurricane Katrina
79 Disaster of 2005 or subsequent flood insurance policies purchased
80 pursuant to Section 29-13-1. The proceeds of any such claim for
81 damage to a state-owned building shall be paid to the Department
82 of Finance and Administration and the State of Mississippi, which
83 is hereby authorized to expend such proceeds to repair or replace
84 such damaged building. * * *

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

87 29-13-5. The Department of Finance and Administration shall
88 compile an inventory of all state-owned buildings in any area of
89 the state affected by the Hurricane Katrina Disaster of 2005 or
90 any floodplain areas and any necessary data concerning such
91 buildings. Each agency, board, commission, department and
92 institution of the state shall cooperate in the preparation of the
93 inventory and shall submit any information required by the
94 department in a timely manner which will allow the inventory to be
95 finalized and presented to the appropriate federal and state
96 agencies. Such information shall include the specific location
97 and, where available, the elevation of all state-owned buildings
98 under the jurisdiction of the agency, board, commission,

99 department or institution in any hurricane hazard or floodplain
100 areas.

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

103 37-7-303. (1) The school board of any school district may
104 insure motor vehicles for any hazard that the board may choose,
105 and shall insure the school buildings, equipment and other school
106 property of the district against any and all hazards that the
107 board may deem necessary to provide insurance against. In
108 addition, the local school board of any school district is hereby
109 authorized and directed to purchase and maintain business property
110 insurance and business personal property insurance on all school
111 district-owned buildings and/or contents as required by federal
112 law and regulations of the Federal Emergency Management Agency
113 (F.E.M.A.) as is necessary for receiving public assistance or
114 reimbursement for repair, reconstruction, replacement or other
115 damage to such buildings and/or contents caused by the Hurricane
116 Katrina Disaster of 2005 or subsequent disasters. The school
117 district is authorized to expend funds from any available source
118 for the purpose of obtaining and maintaining such property
119 insurance. The school district is authorized to enter into
120 agreements with the Department of Finance and Administration,
121 other local school districts, community/junior college districts,
122 state institutions of higher learning, community hospitals and/or
123 other state agencies to pool their liabilities to participate in a
124 group business property and/or business personal property
125 insurance program, subject to uniform rules and regulations as may
126 be adopted by the Department of Finance and Administration. Such
127 school board shall be authorized to contract for such insurance
128 for a term of not exceeding five (5) years and to obligate the
129 district for the payment of the premiums thereon. When necessary,
130 the school board is authorized and empowered, in its discretion,
131 to borrow money payable in annual installments for a period of not

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

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

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

155 37-29-67. (1) The duties of the board of trustees shall be
156 the general government of the community/junior college and
157 directive of the administration thereof. Subject to the
158 provisions of Sections 37-29-1 through 37-29-273, the board shall
159 have full power to do all things necessary to the successful
160 operation of the district and the college or colleges or
161 attendance centers located therein to insure educational
162 advantages and opportunities to all the enrollees within the
163 district.

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

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

177 (4) The board of trustees shall have the power to contract,
178 on a shared-savings, lease or lease-purchase basis, for energy
179 efficiency services and/or equipment as prescribed in Section
180 31-7-14, not to exceed ten (10) years.

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

189 (6) The boards of trustees are hereby authorized and
190 directed to purchase and maintain business property insurance and
191 business personal property insurance on all college-owned
192 buildings and/or contents as required by federal law and
193 regulations of the Federal Emergency Management Agency (F.E.M.A.)
194 as is necessary for receiving public assistance or reimbursement
195 for repair, reconstruction, replacement or other damage to such
196 buildings and/or contents caused by the Hurricane Katrina Disaster

197 of 2005 or subsequent disasters. The boards of trustees are
198 authorized to expend funds from any available source for the
199 purpose of obtaining and maintaining such property insurance. The
200 boards of trustees are authorized to enter into agreements with
201 the Department of Finance and Administration, local school
202 districts, other community/junior college districts, state
203 institutions of higher learning, community hospitals and/or other
204 state agencies to pool their liabilities to participate in a group
205 business property and/or business personal property insurance
206 program, subject to uniform rules and regulations as may be
207 adopted by the Department of Finance and Administration.

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

210 37-101-15. (a) The Board of Trustees of State Institutions
211 of Higher Learning shall succeed to and continue to exercise
212 control of all records, books, papers, equipment, and supplies,
213 and all lands, buildings, and other real and personal property
214 belonging to or assigned to the use and benefit of the board of
215 trustees formerly supervising and controlling the institutions of
216 higher learning named in Section 37-101-1. The board shall have
217 and exercise control of the use, distribution and disbursement of
218 all funds, appropriations and taxes, now and hereafter in
219 possession, levied and collected, received, or appropriated for
220 the use, benefit, support, and maintenance or capital outlay
221 expenditures of the institutions of higher learning, including the
222 authorization of employees to sign vouchers for the disbursement
223 of funds for the various institutions, except where otherwise
224 specifically provided by law.

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

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

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

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

263 through the board of trustees. No official, employee or agent
264 representing any of the separate institutions shall appear before
265 the Legislature or any committee thereof except upon the written
266 order of the board or upon the request of the Legislature or a
267 committee thereof.

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

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

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

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

317 (h) The board shall have the power to contract, on a
318 shared-savings, lease or lease-purchase basis, for energy
319 efficiency services and/or equipment as prescribed in Section
320 31-7-14, not to exceed ten (10) years.

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

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

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

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

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

364 41-73-31. In addition to the other powers and duties of the
365 authority specified elsewhere in this act, the authority is
366 specifically authorized to initiate a program of providing
367 hospital equipment or hospital facilities located within the state
368 to be operated by participating hospital institutions. In this
369 regard, the authority shall be authorized to exercise the
370 following powers:

371 (1) To establish eligibility standards for participating
372 hospital institutions;

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

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

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

395 interest in the hospital facilities or hospital equipment financed
396 or refinanced with such loan, upon such terms and conditions as
397 the authority may deem proper;

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

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

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

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

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

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

436 **SECTION 8.** This act shall take effect and be in force from
437 and after its passage.