

By: Representative Reynolds

To: Ways and Means

HOUSE BILL NO. 1458

1 AN ACT TO AMEND SECTIONS 17-21-51 AND 17-21-53, MISSISSIPPI
 2 CODE OF 1972, TO REVISE THE PURPOSES FOR WHICH COUNTIES AND
 3 MUNICIPALITIES LOCATED IN THE SIX MOST SOUTHERN COUNTIES OF THE
 4 STATE COVERED BY THE PRESIDENTIAL DECLARATION OF MAJOR DISASTER
 5 FOR THE STATE OF MISSISSIPPI DATED AUGUST 29, 2005, AND FORREST
 6 AND JONES COUNTY FOR REASONS RELATED TO SUCH DISASTER, MAY ISSUE
 7 CERTAIN NEGOTIABLE NOTES AND CERTIFICATES OF INDEBTEDNESS; TO
 8 PROVIDE THAT SUCH NOTES AND CERTIFICATES MAY BE OFFERED AT PUBLIC
 9 OR PRIVATE SALE; TO INCREASE THE MAXIMUM TOTAL INDEBTEDNESS THAT
 10 SUCH COUNTIES AND MUNICIPALITIES MAY INCUR AND TO EXEMPT SUCH
 11 NOTES AND CERTIFICATES FROM CERTAIN DEBT LIMITATIONS; TO REVISE
 12 THE MAXIMUM MATURITY FOR SUCH NOTES AND CERTIFICATES; TO AMEND
 13 SECTIONS 31-15-7, 31-15-9, 31-15-17, 31-15-21 and 31-15-25,
 14 MISSISSIPPI CODE OF 1972, TO REVISE THE MAXIMUM INTEREST RATE FOR
 15 REFUNDING BONDS ISSUED BY POLITICAL SUBDIVISIONS LOCATED IN ONE OF
 16 THE SIX MOST SOUTHERN COUNTIES OF THE STATE; TO REVISE THE TERMS
 17 UNDER WHICH REFUNDING BONDS MAY BE ISSUED BY POLITICAL
 18 SUBDIVISIONS LOCATED IN ONE OF THE SIX MOST SOUTHERN COUNTIES OF
 19 THE STATE COVERED BY THE PRESIDENTIAL DECLARATION OF MAJOR
 20 DISASTER FOR THE STATE OF MISSISSIPPI DATED AUGUST 29, 2005, AND
 21 FORREST AND JONES COUNTY FOR REASONS RELATED TO SUCH DISASTER; TO
 22 PROVIDE THAT ANY SUCH POLITICAL SUBDIVISION THAT HAS ISSUED TAX
 23 INCREMENT, SPECIAL ASSESSMENT OR OTHER SPECIAL OR LIMITED
 24 OBLIGATION BONDS BEFORE AUGUST 29, 2005, MAY AS AN ALTERNATIVE TO
 25 ISSUING REFUNDING BONDS, MAKE PRINCIPAL AND INTEREST PAYMENTS ON
 26 SUCH BONDS FROM ANY AVAILABLE FUNDS OF THE POLITICAL SUBDIVISION;
 27 TO PROVIDE THAT REFUNDING BONDS OF SUCH COUNTIES AND
 28 MUNICIPALITIES MAY BE SECURED BY THE PLEDGE OF THE FULL FAITH,
 29 CREDIT AND RESOURCES OF THE COUNTY OR MUNICIPALITY; AND FOR
 30 RELATED PURPOSES.

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

32 **SECTION 1.** Section 17-21-51, Mississippi Code of 1972, is
 33 amended as follows:

34 17-21-51. (1) The board of supervisors of any county and
 35 the governing authorities of any municipality (both referred to in
 36 this article as "governing authority") are hereby authorized and
 37 empowered, in their discretion, to borrow money, pursuant to the
 38 provisions of this article, for the following purposes:

39 (a) To accomplish any purpose for which such governing
 40 authorities are otherwise authorized by law to issue bonds, notes
 41 or certificates of indebtedness; and

42 (b) To provide working capital, fund debt service
43 payments and other expenditures required by law and pay costs
44 incurred by governing authorities as a result of a natural
45 disaster. Such costs shall include, but not be limited to, debris
46 removal and disposal, overtime wages paid to public employees, and
47 the repair or replacement of public streets, roads and bridges,
48 storm drains, water and sewer facilities and other public
49 buildings, facilities and equipment. Money borrowed pursuant to
50 this paragraph (b) may also be utilized as matching funds for
51 federal or state disaster relief assistance.

52 (2) Except as otherwise provided in subsection (3) of this
53 section, the total outstanding indebtedness incurred by a
54 governing authority under this article at any one time shall not
55 exceed the greater of one percent (1%) of the assessed value of
56 all taxable property located within the governing authority
57 according to the last completed assessment for taxation or Two
58 Hundred Fifty Thousand Dollars (\$250,000.00) or, in the case of
59 (a) the governing authorities located in any of the six (6) most
60 southern counties of the state covered by the Presidential
61 Declaration of Major Disaster for the State of Mississippi
62 (FEMA-1604-DR) dated August 29, 2005, and (b) the governing
63 authorities located in Forrest County and/or Jones County for
64 reasons related to such disaster, the greater of two percent (2%)
65 of the assessed value of all the taxable property located within
66 the governing authority according to the last completed assessment
67 for taxation or Two Hundred Fifty Thousand Dollars (\$250,000.00),
68 if the governing authorities referred to in (a) and (b) first
69 receive the approval of the State Treasurer based upon written
70 justification therefor. The total outstanding indebtedness
71 incurred by a governing authority as authorized under this
72 subsection shall be included in computing the statutory limitation
73 upon indebtedness which may be incurred by such governing
74 authority.

75 (3) However, from and after August 29, 2005, through
76 December 31, 2007, any borrowing pursuant to the provisions of
77 this article by governing authorities located in any of the six
78 (6) most southern counties of the state covered by the
79 Presidential Declaration of Major Disaster for the State of
80 Mississippi (FEMA-1604-DR) dated August 29, 2005, and governing
81 authorities located in Forrest County and/or Jones County for
82 reasons related to such disaster, shall not constitute an
83 indebtedness of the governing authority within the meaning of this
84 subsection or any other constitutional, statutory or municipal
85 charter limitation or restriction, if the governing authorities
86 first receive the approval of the State Treasurer based upon
87 written justification therefor.

88 **SECTION 2.** Section 17-21-53, Mississippi Code of 1972, is
89 amended as follows:

90 17-21-53. (1) Before any money is borrowed under the
91 provisions of this article, the governing authority shall adopt a
92 resolution declaring the necessity for such borrowing and
93 specifying the purpose for which the money borrowed is to be
94 expended, the amount to be borrowed, the date or dates of the
95 maturity thereof, and how such indebtedness is to be evidenced.
96 The resolution shall be certified over the signature of the head
97 of the governing authority.

98 (2) The borrowing shall be evidenced by negotiable notes or
99 certificates of indebtedness of the governing authority which
100 shall be signed by the head and clerk of such governing authority.
101 All such notes or certificates of indebtedness shall be offered at
102 public sale by the governing authority after not less than ten
103 (10) days' advertising in a newspaper having general circulation
104 within the governing authority. Each sale shall be made to the
105 bidder offering the lowest rate of interest or whose bid
106 represents the lowest net cost to the governing authority;
107 however, the rate of interest shall not exceed that now or

108 hereafter authorized in Section 75-17-101, Mississippi Code of
109 1972. No such notes or certificates of indebtedness shall be
110 issued and sold for less than par and accrued interest. All notes
111 or certificates of indebtedness shall mature in approximately
112 equal installments of principal and interest over a period not to
113 exceed five (5) years from the dates of the issuance thereof.
114 Principal shall be payable annually, and interest shall be payable
115 annually or semiannually; provided, however, that the first
116 payment of principal or interest may be for any period not
117 exceeding one (1) year. Provided, however, if negotiable notes
118 are outstanding from not more than one (1) previous issue
119 authorized under the provisions of this article, then the schedule
120 of payments for a new or supplementary issue may be so adjusted
121 that the schedule of maturities of all notes or series of notes
122 hereunder shall, when combined, mature in approximately equal
123 installments of principal and interest over a period of five (5)
124 years from the date of the new or supplementary issue, or if a
125 lower interest rate will thereby be secured on notes previously
126 issued and outstanding, a portion of the proceeds of any issue
127 authorized hereunder may be used to refund the balance of the
128 indebtedness previously issued under the authority of this
129 article. Such notes or certificates of indebtedness shall be
130 issued in such form and in such denominations as may be determined
131 by the governing authority and may be made payable at the office
132 of any bank or trust company selected by the governing authority.
133 In such case, funds for the payment of principal and interest due
134 thereon shall be provided in the same manner provided by law for
135 the payment of the principal and interest due on bonds issued by
136 the governing authority.

137 (3) For the prompt payment of notes or certificates of
138 indebtedness at maturity, both principal and interest, the full
139 faith, credit and resources of the issuing entity are pledged. If
140 the issuing entity does not have available funds in an amount

141 sufficient to provide for the payment of principal and interest
142 according to the terms of such notes or certificates of
143 indebtedness, then the governing authority shall annually levy a
144 special tax upon all of its taxable property at a rate the avails
145 of which will be sufficient to provide such payment. Funds
146 derived from any such tax shall be paid into a sinking fund and
147 used exclusively for the payment of principal of and interest on
148 the notes or certificates of indebtedness. Until needed for
149 expenditure, monies in the sinking fund may be invested in the
150 same manner as the governing authority is elsewhere authorized by
151 law to invest surplus funds.

152 (4) Notwithstanding the provisions of subsection (2) of this
153 section, from and after August 29, 2005, through December 31,
154 2007, any governing authority located in any of the six (6) most
155 southern counties of the state covered by the Presidential
156 Declaration of Major Disaster for the State of Mississippi
157 (FEMA-1604-DR) dated August 29, 2005, and any governing authority
158 located in Forrest County and/or Jones County for reasons related
159 to such disaster, may offer such notes or certificates of
160 indebtedness at private or public sale at such price or prices, at
161 such interest rate or rates, in such manner and at such times as
162 may be agreed to by the governing authority and purchaser of the
163 notes or certificates, if the governing authorities first receive
164 the approval of the State Treasurer based upon written
165 justification therefor. Such notes or certificates of
166 indebtedness shall mature over a period of not to exceed ten (10)
167 years from the dates of issuance and may be structured to defer
168 payment of principal and interest for a period not to exceed three
169 (3) years.

170 **SECTION 3.** Section 31-15-7, Mississippi Code of 1972, is
171 amended as follows:

172 31-15-7. Such refunding bonds shall bear such rate or rates
173 of interest as may be determined by the governing body * * *;

174 shall be in such denomination or denominations and form as may be
175 determined by resolution or order of the governing authority; and
176 shall be executed in behalf of the subdivision by such officer or
177 officers thereof as may be determined in such resolution or order.
178 The interest to accrue on such refunding bonds shall be
179 represented by coupons to be attached thereto, which may be
180 executed by the facsimile signature of such officer or officers.
181 All such bonds shall be made to mature serially, beginning not
182 more than five (5) years and running not longer than thirty (30)
183 years after their date, with not less than one percent (1%) of the
184 total issue to mature each year during the first six (6) years,
185 beginning in the fifth year, after the date of such bonds; not
186 less than three percent (3%) of the said total issue to mature
187 annually during the next succeeding ten-year period of the life of
188 such bonds; and not less than five percent (5%) of said total
189 issue to mature annually during the next succeeding ten-year
190 period of the life of the bonds. However, from and after August
191 29, 2005, through December 31, 2007, any political subdivision
192 located in one (1) of the six (6) most southern counties of the
193 state covered by the Presidential Declaration of Major Disaster
194 for the State of Mississippi (FEMA-1604-DR) dated August 29, 2005,
195 and any political subdivision located in Forrest County and/or
196 Jones County for reasons related to such disaster, may, if the
197 political subdivision first receives the approval of the State
198 Treasurer based upon written justification therefor, issue such
199 refunding bonds as term or serial bonds at such price or prices,
200 at such interest rate or rates, in such manner, at such times, and
201 in accordance with such terms and provisions as may be agreed to
202 by the governing authority of the political subdivision and the
203 purchasers of the refunding bonds. Such issue of refunding bonds
204 may provide that no principal or interest may be due for a period
205 not to exceed three (3) years after the issue date.

206 **SECTION 4.** Section 31-15-9, Mississippi Code of 1972, is
207 amended as follows:

208 31-15-9. The resolution or order providing for the issuance
209 of such bonds may reserve unto the governing authority the right
210 to call in, pay, and redeem such bonds in the inverse order of
211 their numbers and maturities, prior to the maturity date or dates
212 thereof on any interest payment date. Whenever it is desired to
213 exercise the aforesaid right, if reserved in such resolution or
214 order, the governing authority shall cause written notice thereof
215 to be delivered to the bank or office at which such bonds are
216 payable. Such notice shall be so delivered not less than thirty
217 (30) days prior to the interest payment date designated for the
218 redemption of such bonds, after which date so designated, no
219 further interest shall accrue on the bonds so called for
220 redemption. Such refunding bonds may be sold for not less than
221 par and accrued interest, or may be exchanged at par for bonds and
222 interest coupons to be refunded thereby.

223 The board of supervisors may accept county bonds,
224 consolidated school district bonds, rural separate school district
225 bonds or separate road district bonds, as the case may be, at not
226 more than par and interest accruing thereon at the rate fixed in
227 the bonds to be refunded in exchange for said refunding county
228 bonds, consolidated school district bonds, rural separate school
229 district bonds or separate road district bonds, as the case may
230 be. In accepting any bond in exchange for, or in payment of, any
231 such refunding bond, no bond shall be accepted in such exchange or
232 payment that is secured by the property of a smaller or different
233 district, or other subdivision, than that securing the refunding
234 bonds so issued. However, from and after August 29, 2005, through
235 December 31, 2007, refunding bonds issued, sold or exchanged by
236 any political subdivision located in one (1) of the six (6) most
237 southern counties of the state covered by the Presidential
238 Declaration of Major Disaster for the State of Mississippi

239 (FEMA-1604-DR) dated August 29, 2005, and any political
240 subdivision located in Forrest County and/or Jones County for
241 reasons related to such disaster, may be issued, sold or exchanged
242 for any price or prices and accrued interest as determined by any
243 such political subdivision, if the political subdivision first
244 receives the approval of the State Treasurer based upon written
245 justification therefor.

246 **SECTION 5.** Section 31-15-17, Mississippi Code of 1972, is
247 amended as follows:

248 31-15-17. (1) Sections 31-15-1 through 31-15-27, without
249 reference to any other statute, shall be deemed full and complete
250 authority for the issuance of refunding bonds by political
251 subdivisions of the state, and shall be construed as an additional
252 and alternative method therefor. None of the present
253 restrictions, requirements, conditions, or limitations of law
254 applicable to the issuance of bonds by political subdivisions of
255 this state shall apply to the issuance and sale or exchange of
256 bonds under the aforesaid sections, and no proceedings shall be
257 required for the issuance of such bonds other than those provided
258 for and required herein. All powers necessary to be exercised by
259 the governing authority of any such political subdivision in order
260 to carry out the provisions of said sections are hereby conferred.

261 (2) From and after August 29, 2005, through December 31,
262 2007, any political subdivision located in any of the six (6) most
263 southern counties of the state covered by the Presidential
264 Declaration of Major Disaster for the State of Mississippi
265 (FEMA-1604-DR) dated August 29, 2005, and any political
266 subdivision located in Forrest County and/or Jones County, which
267 has issued (and there remain outstanding) any tax increment,
268 special assessment or other special or limited obligation bonds
269 prior to August 29, 2005, if the political subdivision first
270 receives the approval of the State Treasurer based upon written
271 justification therefor, may, as an alternative to issuance of

272 refunding bonds pursuant to Sections 31-15-1 through 31-15-27,
273 make principal and interest payments as same accrue and mature on
274 any outstanding tax increment, special assessment or other special
275 or limited obligation bonds issued by such political subdivisions
276 prior to August 29, 2005, from any available funds of the
277 political subdivision, without regard to any limitations and
278 restrictions as to the security and source of payment otherwise
279 imposed by statute or law or that may be provided in the issuing
280 documents of such tax increment, special assessment or other
281 special or limited obligation bonds.

282 **SECTION 6.** Section 31-15-21, Mississippi Code of 1972, is
283 amended as follows:

284 31-15-21. Any bonds heretofore or hereafter issued under
285 authority of Sections 21-27-11, 21-27-23, 21-27-41 through
286 21-27-43, or revenue bonds payable from funds other than the
287 proceeds of ad valorem taxes heretofore or hereafter issued under
288 authority of any other law of the State of Mississippi may be
289 refunded upon surrender, whether such bonds are due, optional, or
290 not yet matured. Such refunding bonds shall be negotiable, shall
291 be authorized by resolution adopted by the board or governing body
292 which shall have authorized the bonds that are being refunded, and
293 may either be delivered in exchange for the bonds to be refunded
294 or sold at not less than par and the proceeds applied to the
295 retirement of such bonds. However, from and after August 29,
296 2005, through December 31, 2007, such refunding bonds issued, sold
297 or exchanged by any political subdivision located in one (1) of
298 the six (6) most southern counties of the state covered by the
299 Presidential Declaration of Major Disaster for the State of
300 Mississippi (FEMA-1604-DR) dated August 29, 2005, and any
301 political subdivision located in Forrest County and/or Jones
302 County for reasons related to such disaster, may be issued, sold
303 or exchanged at such price or prices, and accrued interest, as may
304 be determined by any such political subdivision, if the political

305 subdivision first receives the approval of the State Treasurer
306 based upon written justification therefor.

307 **SECTION 7.** Section 31-15-25, Mississippi Code of 1972, is
308 amended as follows:

309 31-15-25. Such refunding bonds shall be payable from the
310 same sources of revenue and so far as possible shall be secured in
311 the same manner and by the same covenants and agreements as were
312 the bonds refunded. All provisions of the law under which the
313 bonds refunded were issued, which provide for the security of such
314 bonds and the requirements for fixing rates sufficient to operate
315 the project acquired or improved and to pay principal of and
316 interest on the bonds, shall remain in effect and shall be fully
317 applicable to the refunding bonds issued hereunder. In no event
318 shall taxes be levied for the payment of such bonds, and they
319 shall recite on their face that they are payable only from
320 revenues. However, from and after August 29, 2005, through
321 December 31, 2007, payment of principal and interest on any
322 refunding bonds issued, sold or exchanged pursuant to Sections
323 31-15-21 through 31-15-27 by any of the six (6) most southern
324 counties of the state or a municipality located in such a county
325 that are covered by the Presidential Declaration of Major Disaster
326 for the State of Mississippi (FEMA-1604-DR) dated August 29, 2005,
327 and Forrest County and/or Jones County or any municipality located
328 in such a county, if the county or municipality first receives the
329 approval of the State Treasurer based upon written justification
330 therefor, may, in the discretion of the issuing county or
331 municipality, be further secured by the irrevocable pledge of the
332 full faith, credit and resources of the county or municipality,
333 and in such event, the governing body of the county or
334 municipality issuing the refunding bonds, may annually levy a tax
335 upon all taxable property therein sufficient to pay the principal
336 of and the interest on such refunding bonds as the same matures
337 and accrues.

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