

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

To: Ways and Means

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.