

April 20, 2016

The Honorable Tate Reeves
Lieutenant Governor
P.O. Box 1018
Jackson, MS 39215

The Honorable Phillip Gunn
Speaker of the House
P.O. Box 1018
Jackson, MS 39215

Dear Lieutenant Governor Reeves and Speaker Gunn:

I have worked for the people of this state for more than 30 years, as a legislative counsel, a state employee, an agency head, and now as a statewide elected official. I have great respect for the institutions of Mississippi's government and for the men and women who serve the people of this great state. However, like many, I was deeply disappointed by some of the actions the Legislature chose to take, as well as some of the actions the Legislature chose to ignore, in the final days of this session.

In particular:

- HB 1729, the bond bill, is loaded with what can only be described as earmarks. Many of these are projects that simply do not meet the indicia of legitimacy necessary to borrow on the taxpayer's credit.
- SB 2918, the debt service appropriations, does not include sufficient funds to cover the debts already incurred on behalf of Mississippi taxpayers, as I told the Legislature time and again these past several months. The levels appropriated will force us to seek deficit appropriations or utilize our authority under the law to use unencumbered funds, such as those in the state's Rainy Day Fund, in order to not default on our debt.
- HB 878 includes a \$14-million transfer out of the Abandoned Property Fund. As I have reminded the Legislature on many, many occasions, including in this year's economic briefing, in this year's debt affordability study, in meetings with and letters to the Legislature, credit rating agencies look very unfavorably on Mississippi using one-time money for recurring expenditures, particularly given our history of doing so in the past. We cannot continue to dip into the Abandoned Property Fund for which we are merely a custodian, not an owner, to plug holes in our budget. This irresponsible practice puts our State credit ratings in jeopardy.

- Despite repeated warnings from the College Savings Mississippi (CSM) Board of Directors, the Legislature failed to provide the special appropriation requested for the Mississippi Prepaid Affordable College Tuition Program (MPACT) due to continuing underfunding in the Legacy Program. As I have explained in my capacity as Chairman of the CSM Board, MPACT is guaranteed by the full faith and credit of the State of Mississippi and putting off the necessary cash infusion year after year, as the Legislature has, is merely kicking the can down the road. We have restructured MPACT to make it cost-neutral to the Mississippi taxpayers and financially sound for college savers, and going forward, the Horizon Program meets these goals. But, the Legislature cannot continue to ignore the unfunded liabilities that already exist.

Bond Bill

My staff and I went through this bill section-by-section and were shocked to see so many items included that could not meet even the basic standards for issuing bonds. These are not my rules. They are largely governed by the IRS to ensure their tax-exempt status. For instance:

- Several items in the **over \$308-million bill – not \$250 million as initially reported** – lack any specificity. Bonds are borrowed to cover specific projects, not simply for “paying costs associated with infrastructure and infrastructure related projects.” We must be able to demonstrate that these bonds meet certain tests to be tax-exempt governmental bonds.
- We simply cannot bond to pay salaries and routine operating expenses, as Section 43 (2) relating to the Jackson Police Department, requires. We do not borrow on the taxpayers’ credit card to fund annual, recurring expenses.
- Several earmarked projects seem to be recurring. We have bonded for them in the past, and now they are back seeking additional funds. Again, we do not borrow on the taxpayers’ credit card to fund recurring expenses. If the State borrows to get a project started because we see the economic benefit of the investment, that project should not assume it is on the state dole from then on. This is a bad precedent that must stop now.
- Several items fail to meet the longevity test. That is, the life of the asset doesn’t meet the life of the liability. We bond for twenty years. We cannot assume that “landscaping and other related beautification work” at a highway interchange will be around when taxpayers twenty years from now are still paying it off. Again, this is a bad precedent that must stop now.
- Many items do not meet any test for having broad economic impact. State bonds are meant to be reserved for projects of broad benefit to the state, not for local interests. Bonds issued by local government units are the more typical financing vehicle for local infrastructure projects. A taxpayer in Biloxi should not be on the hook for a ballfield lighting project that will reasonably only benefit the people of Saltillo, or vice versa.

I don't debate the worthiness of these individual projects. Each has value to some community or I am certain it would not be under consideration by the Legislature. The question is whether they have such value to the State as a whole that they warrant our borrowing \$308 million on behalf of all Mississippi taxpayers. There are other, more appropriate funding vehicles for local projects.

I would like to remind you, as I said in my Debt Affordability Study last month, Mississippi's Net Tax Supported Debt (NTSD) is close to double the median U.S. NTSD. **Every man, woman, and child in this state is already saddled with \$1,747 in debt.** We should be absolutely circumspect before adding to this burden. As it is, while the U.S. NTSD has dropped each of the last three years, Mississippi's has been continually on the rise.

As you will recall, credit rating agencies frown upon this kind of abuse of state bonding authority. We have just come out from under the shadow of a negative rating outlook. We cannot afford to jeopardize our state's good credit with abusive practices like this.

Now I understand, in the past, the State Bond Commission has allowed bonding for some projects that were more local than broad in their economic impact when they were presented to the Commission as part of a larger package of bonding projects. But, as one of three members of the Commission, I intend to put an end to this practice right now. The State Bond Commission provides oversight on behalf of the Mississippi taxpayers for what the Legislature approves for bonds. We will not rubberstamp legislative bond bills. We will exercise our oversight responsibilities not only with each current bond issuance in mind, but also with the precedent it sets.

I intend to request an individual resolution on each of the earmarks in HB 1729 so that each one can be individually examined and approved or disapproved on its own merits. I also intend to reach out to our financial advisor and our bond counsel to get their independent and experienced insight on the provisions of this bill. In this way, I am hopeful that the Commission can ensure the integrity of the bonding process and protect our credit ratings from deterioration.

Debt Service

As I said last month in several meetings with and letters sent to Chairmen Clarke and Frierson, as well as all the conferees on SB 2918 and other members of the Legislature, there is no way for the Office of the State Treasury to generate \$111 million from special funds to cover debt service.

As I told the Legislature, at most we believe we can generate \$73.6 million. If we wipe everything clear, leaving no flexibility for unexpected debt service costs that may arise over the course of the fiscal year, we might be able to bring that number up to \$80 million. But, even then, we are \$31 million short of what we will need to maintain the integrity of the full faith and credit of the State.

Furthermore, it's possible that the gap between what we will need to pay our debt service and what we have to pay it with will grow. Again, as I told the Legislature repeatedly, the Continental Tire bonding will add to these costs in Fiscal Year 2017. While we do not have complete drawdown information from MDA about this deal, we do have MDA's estimate that it will need about \$26 million in this year.

And, this serves as another important reminder: The Legislature already passed a \$274 million bond bill for Continental Tire and the shipyard. **With passage of HB 1729, the Legislature has passed a total of \$582 million in bonds this year.**

Regrettably, the State will now be forced to choose between two bad options in order to keep from defaulting our debts. We can either seek a deficit appropriation next spring to cover the shortfall created by SB 2918 or we can draw the missing \$31 million from unencumbered funds in the State treasury.

I have dedicated my career to serving the people of Mississippi and I am humbled and honored that they elected me to serve as their Treasurer. I take my duties to them very seriously and offer these thoughts with all respect due to the people and institutions of government that you and I serve.

Sincerely,

A handwritten signature in black ink, reading "Lynn Fitch". The signature is written in a cursive style with large, flowing loops.

Lynn Fitch
Treasurer
State of Mississippi

cc: The Honorable Phil Bryant, Governor
The Honorable Jim Hood, Attorney General