

By: Representative Ford

To: Appropriations

HOUSE BILL NO. 1471
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 37-101-27, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE FOR THE CREATION OF AN AYERS SETTLEMENT FUND IN THE
 3 STATE TREASURY FOR THE PURPOSE OF PROVIDING FUNDS TO THE BOARD OF
 4 TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING TO ESTABLISH A
 5 PUBLIC ENDOWMENT FOR THE BENEFIT OF JACKSON STATE UNIVERSITY,
 6 ALCORN STATE UNIVERSITY AND MISSISSIPPI VALLEY STATE UNIVERSITY,
 7 AND TO REPEAL THE AYERS ENDOWMENT TRUST WITHIN THE WORKING
 8 CASH-STABILIZATION RESERVE FUND WHEN DEPOSITS TO THE AYERS
 9 SETTLEMENT FUND HAVE REACHED A CERTAIN AMOUNT; TO AMEND SECTION
 10 27-103-203, MISSISSIPPI CODE OF 1972, TO REQUIRE A CERTAIN AMOUNT
 11 OF INTEREST EARNED ON THE WORKING CASH-STABILIZATION RESERVE FUND
 12 TO BE DEPOSITED INTO THE AYERS SETTLEMENT FUND, TO DELETE THE
 13 "HOUSE BILL 400" PROVISION WHICH REQUIRES THAT 50% OF THE
 14 UNENCUMBERED YEAR-END CASH BALANCE BE TRANSFERRED INTO THE
 15 EDUCATION ENHANCEMENT FUND, AND TO PROVIDE THAT ANY SUCH
 16 UNENCUMBERED YEAR-END CASH SHALL REMAIN IN THE STATE GENERAL FUND;
 17 AND FOR RELATED PURPOSES.

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

19 SECTION 1. Section 37-101-27, Mississippi Code of 1972, is
 20 amended as follows:

21 37-101-27. (1) There is created within the Working
 22 Cash-Stabilization Reserve Fund in the State Treasury a trust to
 23 be known as the Ayers Endowment Trust, which shall be used as
 24 provided in this section. On July 1, 1997, Fifteen Million
 25 Dollars (\$15,000,000.00) in the Working Cash-Stabilization Reserve
 26 Fund shall be set aside and placed in the Ayers Endowment Trust.

27 (2) The principal of the Ayers Endowment Trust shall remain
 28 inviolate within the Working Cash-Stabilization Reserve Fund, and
 29 shall be invested in the same manner as the remainder of the
 30 Working Cash-Stabilization Reserve Fund.

31 (3) The interest and income earned from the investment of
 32 the principal of the Ayers Endowment Trust shall be appropriated
 33 by the Legislature to the Board of Trustees of State Institutions

34 of Higher Learning for the benefit of Jackson State University,
35 Alcorn State University and Mississippi Valley State University,
36 the historically black institutions of higher learning in
37 Mississippi, with one-third (1/3) of the amount of the interest
38 and income earned being allocated for the benefit of each of those
39 universities. The money allotted for each university shall be
40 used for continuing educational enhancement and racial diversity,
41 including recruitment of white students and scholarships for white
42 applicants.

43 (4) The creation of the Ayers Endowment Trust and the
44 appropriation of the interest and income for the purposes
45 specified in this section shall be to comply with the order of the
46 United States District Court in the case of Ayers v. Fordice, 879
47 F.Supp. 1419 (N.D. Miss. 1995), with regard to Jackson State
48 University and Alcorn State University, and to provide Mississippi
49 Valley State University with an equal amount of funding for the
50 same purposes as for the other historically black institutions of
51 higher learning.

52 (5) If the United States District Court for the Northern
53 District of Mississippi approves and directs the implementation of
54 a settlement agreement in the case of Ayers v. Musgrove (Civil
55 Action No. 4:75CV9-B-D, in the United States District Court for
56 the Northern District of Mississippi), and if the agreement
57 becomes final and effective according to its terms (including, but
58 not limited to, the exhaustion of all rights of appeal) before the
59 first day of the 2002 Regular Session of the Legislature, there
60 shall be created in the State Treasury a fund to be known as the
61 Ayers Settlement Fund. Monies deposited into the Ayers Settlement
62 Fund under Section 27-103-203(2) shall be appropriated by the
63 Legislature to the Board of Trustees of State Institutions of
64 Higher Learning for the purpose of establishing a public endowment
65 for the benefit of Jackson State University, Alcorn State

66 University and Mississippi Valley State University in compliance
67 with the settlement agreement.

68 (6) If the Ayers Settlement Fund is created under subsection
69 (5) of this section, subsection (1) through (4) of this section
70 shall be repealed when the Ayers Endowment Trust reaches Zero
71 Dollars (\$0.00) in accordance with Section 27-103-203(3).

72 SECTION 2. Section 27-103-203, Mississippi Code of 1972, is
73 amended as follows:

74 27-103-203. (1) There is created in the State Treasury a
75 special fund, separate and apart from any other fund, to be
76 designated the Working Cash-Stabilization Reserve Fund, into which
77 shall be deposited one hundred percent (100%) of the unencumbered
78 General Fund cash balance at the close of each fiscal year until
79 such time as the balance in the fund reaches Forty Million Dollars
80 (\$40,000,000.00). After the balance in the fund reaches Forty
81 Million Dollars (\$40,000,000.00), fifty percent (50%) of the
82 unencumbered General Fund cash balance at the close of each fiscal
83 year, not to exceed seven and one-half percent (7-1/2%) of the
84 General Fund appropriations for such fiscal year, shall be
85 deposited into the fund. The remainder of the year-end
86 unencumbered cash after transfer to the Working Cash-Stabilization
87 Reserve Fund shall remain in the General Fund * * *. Unencumbered
88 cash in the General Fund may be used for new year cash flow needs
89 and may also be used for deficit appropriations or regular
90 appropriations.

91 (2) The Working Cash-Stabilization Reserve Fund shall not be
92 considered as a surplus or available funds when adopting a
93 balanced budget as required by law. The State Treasurer shall
94 invest all sums in the Working Cash-Stabilization Reserve Fund not
95 needed for the purposes provided for in this section in
96 certificates of deposit, repurchase agreements and other
97 securities as authorized in Sections 27-105-33(d) or 7-9-103, as
98 the State Treasurer may determine to yield the highest market rate

99 available. If the Ayers Settlement Fund is created pursuant to
100 Section 37-101-27(5), the first Five Million Dollars
101 (\$5,000,000.00) of interest earned on such sums each fiscal year
102 shall be deposited into that fund until a total of Seventy Million
103 Dollars (\$70,000,000.00) has been deposited into the fund. The
104 interest, or the remaining interest if the Ayers Settlement Fund
105 is created, which is earned on such sums shall be deposited in the
106 Working Cash-Stabilization Reserve Fund until the balance of
107 principal and interest therein reaches seven and one-half percent
108 (7-1/2%) of the total General Fund appropriations for the current
109 fiscal year, and all interest earned in excess of amounts
110 necessary to maintain the seven and one-half percent (7-1/2%) fund
111 balance requirement shall be deposited by the State Treasurer into
112 the State General Fund.

113 (3) The Working Cash-Stabilization Reserve Fund, except for
114 Nineteen Million Dollars (\$19,000,000.00) and the amount of the
115 interest and income earned on the principal of the Ayers Endowment
116 Trust created by Section 37-101-27, shall be used by the State
117 Treasurer for cash flow needs throughout the year when the
118 Executive Director of the Department of Finance and Administration
119 certifies that in his opinion there will be cash flow deficiencies
120 in the State General Fund. No borrowing of monies from other
121 special funds for such purposes as authorized by Section 31-17-101
122 et seq. shall be made as long as an unencumbered balance in excess
123 of Nineteen Million Dollars (\$19,000,000.00) and the interest and
124 income earned on the principal of the Ayers Endowment Trust
125 created by Section 37-101-27 remains in the fund. The State
126 Treasurer shall reimburse the fund for all sums borrowed for such
127 purposes from General Fund revenues collected during the fiscal
128 year in which such funds are used. The State Treasurer shall
129 immediately notify the Legislative Budget Office and the State
130 Department of Finance and Administration of each transfer into and
131 out of such fund. Four Million Dollars (\$4,000,000.00) in the

132 Working Cash-Stabilization Reserve Fund shall remain available for
133 use pursuant to Section 27-103-81. Fifteen Million Dollars
134 (\$15,000,000.00) in the Working Cash-Stabilization Reserve Fund
135 shall remain available for exclusive use of the Ayers Endowment
136 Trust created by Section 37-101-27. If the Ayers Settlement Fund
137 is created pursuant to Section 37-101-27(5), beginning when a
138 total of Fifty-five Million Dollars (\$55,000,000.00) has been
139 deposited into the fund, for each annual deposit of interest to
140 that fund under subsection (2) of this section, the Ayers
141 Endowment Trust created under Section 37-101-27(1) shall be
142 reduced by an equal amount annually until the Ayers Endowment
143 Trust reaches Zero Dollars (\$0.00), at which time any requirements
144 concerning the Ayers Endowment Trust in this section shall be null
145 and void.

146 (4) The Working Cash-Stabilization Reserve Fund, except for
147 Forty Million Dollars (\$40,000,000.00), shall also be used for the
148 purpose of covering any projected deficits that may occur in the
149 General Fund at the end of a fiscal year as a result of revenue
150 shortfalls. In the event the Governor determines that a deficit
151 in revenues from all sources may occur, it shall be the duty of
152 the Executive Director of the Department of Finance and
153 Administration to transfer such funds as necessary to the General
154 Fund to alleviate the deficit in accordance with Sections
155 27-104-13 and 31-17-123; however, not more than Fifty Million
156 Dollars (\$50,000,000.00) may be transferred from the fund for such
157 purpose in any one (1) fiscal year. In the event it becomes
158 necessary to apply a part of the fund to this purpose, the amount
159 so applied shall be restored to the Working Cash-Stabilization
160 Reserve Fund out of future annual surpluses, as provided in
161 subsection (1) of this section, until the seven and one-half
162 percent (7-1/2%) maximum is again attained.

163 (5) The Working Cash-Stabilization Reserve Fund also shall
164 be used to provide funds for the Disaster Assistance Trust Fund

165 when such funds are immediately needed to provide for disaster
166 assistance under Sections 33-15-301 through 33-15-317. Any
167 transfer of funds from the Working Cash-Stabilization Reserve Fund
168 to the Disaster Assistance Trust Fund shall be made in accordance
169 with the provisions of subsection (5) of Section 33-15-307.

170 (6) The Department of Finance and Administration shall
171 immediately send notice of any transfers made, or other action
172 taken under authority of this section, to the Legislative Budget
173 Office.

174 (7) Funds deposited in the Working Cash-Stabilization
175 Reserve Fund shall be used only for the purposes specified in this
176 section, and as long as the provisions of this section remain in
177 effect, no other expenditure, appropriation or transfer of funds
178 in the Working Cash-Stabilization Reserve Fund shall be made
179 except by act of the Legislature making specific reference to the
180 Working Cash-Stabilization Reserve Fund as the source of such
181 funds.

182 SECTION 3. This act shall take effect and be in force from
183 and after passage; however, if House Bill No. 776, 2001 Regular
184 Session, becomes law, this act shall take effect and be in force
185 from and after one (1) day after the date on which House Bill No.
186 776, 2001 Regular Session, becomes law.