Senate Amendments to House Bill No. 109

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. Section 27-103-125, Mississippi Code of 1972, is brought forward as follows:

27-103-125. The proposed budget of each state agency shall show the amounts required for operating expenses separately from the amounts required for permanent improvements. The overall budget shall show, separately by each source, the estimated amount of general fund revenue and of special fund revenues of general fund agencies. The total proposed expenditures in Part 1 of the overall budget shall not exceed the amount of estimated revenues that will be available in the general and special funds for appropriation or use during the succeeding fiscal year, including any balances other than unencumbered balances in general funds that will be on hand in the general and special funds at the close of the then current fiscal year. The total proposed expenditures from the State General Fund in Part 1 of the overall budget shall not exceed ninety-eight percent (98%) of the amount of general fund revenue estimate for the succeeding fiscal year. However,
for fiscal years 2010, 2011, 2012, 2016 and 2017 only, the total proposed expenditures from the State General Fund in Part 1 of the overall budget shall not exceed one hundred percent (100%) of the amount of the general fund revenue estimate for the succeeding fiscal year, and for fiscal year 2018, the total proposed expenditures from the State General Fund in Part 1 of the overall budget shall not exceed ninety-nine percent (99%) of the amount of general fund revenue estimate for the succeeding fiscal year. The general fund revenue estimate shall be the estimate jointly adopted by the Governor and the Joint Legislative Budget Committee. The Legislative Budget Office may recommend additional taxes or sources of revenue if in its judgment those additional funds are necessary to adequately support the functions of the state government.

**SECTION 2.** Section 27-103-139, Mississippi Code of 1972, is brought forward as follows:

27-103-139. On or before November 15 preceding each regular session of the Legislature, except the first regular session of a new term of office, the Governor shall submit to the members of the Legislature, the Legislative Budget Office or the members-elect, as the case may be, and to the executive head of each state agency a balanced budget for the succeeding fiscal year. The budget submitted shall be prepared in a format that will include performance measurement data associated with the various programs operated by each agency. The total proposed expenditures in the balanced budget shall not exceed the amount of
estimated revenues that will be available for appropriation or use during the succeeding fiscal year, including any balances other than unencumbered balances in general funds that will be on hand at the close of the then current fiscal year, as determined by the revenue estimate jointly adopted by the Governor and the Legislative Budget Committee. The total proposed expenditures from the State General Fund in the balanced budget shall not exceed ninety-eight percent (98%) of the amount of general fund revenue estimate for the succeeding fiscal year. However, for fiscal years 2010, 2011, 2012, 2016 and 2017 only, the total proposed expenditures from the State General Fund in the balanced budget shall not exceed one hundred percent (100%) of the amount of the general fund revenue estimate for the succeeding fiscal year, and for fiscal year 2018, the total proposed expenditures from the State General Fund in the balanced budget shall not exceed ninety-nine percent (99%) of the amount of general fund revenue estimate for the succeeding fiscal year. The general fund revenue estimate shall be the estimate jointly adopted by the Governor and the Joint Legislative Budget Committee.

The revenues used in preparing the balanced budget shall be only those revenues that will be available under the general laws of the state as they exist when the balanced budget is prepared, and shall not include any proposed revenues that would become available only after the enactment of new legislation. If the Governor has any recommendations for additional proposed expenditures or proposed revenues that are not included in his
balanced budget, he shall submit those recommendations in a supplement that is separate from his balanced budget, and whenever the Governor recommends any such additional proposed expenditures, he also shall recommend proposed revenues that are sufficient to fund the additional proposed expenditures, providing specific details regarding the sources and the total amount of those proposed revenues.

The Governor may employ a budget officer for the purpose of receiving information from the State Fiscal Officer and preparing his recommendations on the budget. If the Governor determines that information received from the State Fiscal Officer is not sufficient to enable him to prepare his budget recommendations, he may request an appropriation from the Legislature to provide additional staff within the Governor's office for that purpose.

At the first regular session after his election for Governor, the Governor shall submit any budget recommendations plus the required revenue source recommendations no later than January 31 of that year.

**SECTION 3.** Section 27-103-203, Mississippi Code of 1972, is brought forward as follows:

27-103-203. (1) There is created in the State Treasury a special fund, separate and apart from any other fund, to be designated the Working Cash-Stabilization Reserve Fund.

(2) The Working Cash-Stabilization Reserve Fund shall not be considered as a surplus or available funds when adopting a balanced budget as required by law. The State Treasurer shall
invest all sums in the Working Cash-Stabilization Reserve Fund not needed for the purposes provided for in this section in certificates of deposit, repurchase agreements and other securities as authorized in Section 27-105-33(d) or Section 7-9-103, as the State Treasurer may determine to yield the highest market rate available. If the Ayers Settlement Fund is created under Section 37-101-27(5), the first Five Million Dollars ($5,000,000.00) of interest earned on those sums each fiscal year shall be deposited into that fund until a total of Seventy Million Dollars ($70,000,000.00) has been deposited into the fund. The interest, or the remaining interest if the Ayers Settlement Fund is created, that is earned on those sums shall be deposited in the Working Cash-Stabilization Reserve Fund until the balance of principal and interest in the fund reaches ten percent (10%) of the total General Fund appropriations for the current fiscal year, and all interest earned in excess of amounts necessary to maintain the ten percent (10%) fund balance requirement shall be deposited by the State Treasurer into the State General Fund.

(3) The Working Cash-Stabilization Reserve Fund, except for Fifteen Million Dollars ($15,000,000.00) and the amount of the interest and income earned on the principal of the Ayers Endowment Trust created by Section 37-101-27, shall be used by the State Treasurer for cash flow needs throughout the year when the Executive Director of the Department of Finance and Administration certifies that in his opinion there will be cash flow deficiencies in the State General Fund. No borrowing of monies from other
special funds for such purposes as authorized by Section 31-17-101 et seq., shall be made as long as an unencumbered balance in excess of Fifteen Million Dollars ($15,000,000.00) and the interest and income earned on the principal of the Ayers Endowment Trust created by Section 37-101-27 remains in the fund. The State Treasurer shall reimburse the fund for all sums borrowed for those purposes from General Fund revenues collected during the fiscal year in which those funds are used. The State Treasurer shall immediately notify the Legislative Budget Office and the State Department of Finance and Administration of each transfer into and out of the fund. Fifteen Million Dollars ($15,000,000.00) in the Working Cash-Stabilization Reserve Fund shall remain available for exclusive use of the Ayers Endowment Trust created by Section 37-101-27. If the Ayers Settlement Fund is created under Section 37-101-27(5), beginning when a total of Fifty-five Million Dollars ($55,000,000.00) has been deposited into the fund, for each annual deposit of interest to that fund under subsection (2) of this section, the Ayers Endowment Trust created under Section 37-101-27(1) shall be reduced by an equal amount annually until the Ayers Endowment Trust reaches Zero Dollars ($0.00), at which time any requirements concerning the Ayers Endowment Trust in this section shall be null and void.

(4) The Working Cash-Stabilization Reserve Fund, except for Forty Million Dollars ($40,000,000.00), shall also be used for the purpose of covering any projected deficits that may occur in the General Fund at the end of a fiscal year as a result of revenue
shortfalls. If the Governor determines that a deficit in revenues from all sources may occur, it shall be the duty of the Executive Director of the Department of Finance and Administration to transfer such funds as necessary to the General Fund to alleviate the deficit in accordance with Sections 27-104-13 and 31-17-123; however, not more than Fifty Million Dollars ($50,000,000.00) may be transferred from the fund for that purpose in any one (1) fiscal year with the exception of fiscal year 2016. However, for fiscal year 2017, not more than One Hundred Million Dollars ($100,000,000.00) may be transferred from the fund for that purpose.

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

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

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

(8) Any funds appropriated from the Working Cash-Stabilization Reserve Fund that are unexpended at the end of a fiscal year shall lapse into the Working Cash-Stabilization Reserve Fund.

SECTION 4. Section 27-103-211, Mississippi Code of 1972, is brought forward as follows:

27-103-211. The total sum appropriated by the Legislature from the State General Fund for any fiscal year shall not exceed ninety-eight percent (98%) of the general fund revenue estimate for that fiscal year developed by the Department of Revenue and the University Research Center and adopted by the Joint Legislative Budget Committee. The unencumbered balances in general funds that will be available and on hand at the close of the fiscal year shall not include projected amounts required to be deposited into the Working Cash-Stabilization Reserve Fund under Section 27-103-203. However, for fiscal years 2010, 2011, 2012, 2015, 2016 and 2017 only, the total sum appropriated by the Legislature from the State General Fund shall not exceed one hundred percent (100%) of the amount of the general fund revenue estimate for that fiscal year, and for fiscal year 2018, the total sum appropriated by the Legislature from the State General Fund shall not exceed ninety-nine percent (99%) of the amount of the
general fund revenue estimate adopted by the Joint Legislative
Budget Committee for that fiscal year.

SECTION 5. Section 27-103-213, Mississippi Code of 1972, is
brought forward as follows:

27-103-213. (1) The unencumbered cash balance in the
General Fund in the State Treasury at the close of each fiscal
year shall be distributed to the Municipal Revolving Fund, the
Working Cash-Stabilization Reserve Fund and the Capital Expense
Fund in the manner provided in this section, except for fiscal
year 2014 in which the unencumbered cash balance at the close of
fiscal year 2014 shall be distributed as provided in subsection
(4) of this section, and fiscal year 2016 in which the
unencumbered cash balance at the close of fiscal year 2016 shall
be distributed as provided in subsection (5) of this section.

(2) (a) At the end of each fiscal year, the Executive
Director of the Department of Finance and Administration and the
State Treasurer shall determine the extent of the unencumbered
cash balance existing in the General Fund in the State Treasury.

(b) As used in this section, the term "unencumbered
cash balance" or "unencumbered General Fund cash balance" means
the amount in the State General Fund after deducting all
appropriations and other expenditures. However, if the
Legislature has authorized additional or deficit appropriations or
transfers from the State General Fund for that fiscal year, those
amounts shall be subtracted from the unencumbered cash balance in
the General Fund before determining the amount available for
distribution. The unencumbered General Fund cash balance shall not be determined until after August 31 of each year, and it shall not be made until the State Treasurer has received a certificate in writing from the Executive Director of the Department of Finance and Administration, with notification to the Legislative Budget Office, showing the amount of the unencumbered General Fund cash balance.

(3) If any unencumbered General Fund cash balance is available for distribution under this section, the distribution of those funds shall be made by the Executive Director of the Department of Finance and Administration in the following order:

(a) To the Municipal Revolving Fund, an amount equal to Seven Hundred Fifty Thousand Dollars ($750,000.00); however, if the amount of the unencumbered General Fund cash balance is less than Seven Hundred Fifty Thousand Dollars ($750,000.00), then the total amount of the unencumbered General Fund cash balance shall be distributed to the Municipal Revolving Fund.

(b) To the Working Cash-Stabilization Reserve Fund, fifty percent (50%) of the amount of the unencumbered General Fund cash balance after the distributions are made under paragraph (a), not to exceed ten percent (10%) of the General Fund appropriations for the fiscal year that the unencumbered General Fund cash balance represents. For the purposes of this paragraph (b), the appropriations for the fiscal year shall be the total amount contained in the actual appropriation bills passed by the Legislature.

H. B. 109
PAGE 10
(c) To the Capital Expense Fund, any remaining amount of the unencumbered General Fund cash balance after the distributions are made under paragraphs (a) and (b).

(4) For fiscal year 2014, if any unencumbered General Fund cash balance is available for distribution under this section at the close of the fiscal year, the distribution of those funds shall be made by the Executive Director of the Department of Finance and Administration in the following order:

(a) To the Municipal Revolving Fund, an amount equal to Seven Hundred Fifty Thousand Dollars ($750,000.00); however, if the amount of the unencumbered General Fund cash balance is less than Seven Hundred Fifty Thousand Dollars ($750,000.00), then the total amount of the unencumbered General Fund cash balance shall be distributed to the Municipal Revolving Fund.

(b) To the Working Cash-Stabilization Reserve Fund, the amount of the unencumbered General Fund cash balance not distributed under paragraph (a) until such time as the balance in the fund reaches Forty Million Dollars ($40,000,000.00).

(c) To the Working Cash-Stabilization Reserve Fund, Two Hundred Eighty-six Million Nine Hundred Fifty-nine Thousand Seven Hundred Ninety-eight Dollars ($286,959,798.00) of the amount of the unencumbered General Fund cash balance after the distributions are made under paragraphs (a) and (b); however, if the amount of the unencumbered General Fund cash balance is less than Two Hundred Eighty-six Million Nine Hundred Fifty-nine Thousand Seven Hundred Ninety-eight Dollars ($286,959,798.00), then the total
amount of the unencumbered General Fund cash balance after the
distributions are made under paragraphs (a) and (b) shall be
distributed to the Working Cash-Stabilization Reserve Fund. For
the purposes of this paragraph (c), the appropriations for the
fiscal year shall be the total amount contained in the actual
appropriation bills passed by the Legislature.

(d) To the Capital Expense Fund, any remaining amount
of the unencumbered General Fund cash balance after the
distributions are made under paragraphs (a), (b) and (c).

(5) For fiscal year 2016, if any unencumbered General Fund
cash balance is available for distribution under this section at
the close of the fiscal year, the distribution of those funds
shall be made by the Executive Director of the Department of
Finance and Administration in the following order:

(a) To the Municipal Revolving Fund, an amount equal to
Seven Hundred Fifty Thousand Dollars ($750,000.00); however, if
the amount of the unencumbered General Fund cash balance is less
than Seven Hundred Fifty Thousand Dollars ($750,000.00), then the
total amount of the unencumbered General Fund cash balance shall
be distributed to the Municipal Revolving Fund.

(b) To the Capital Expense Fund, any remaining amount
of the unencumbered General Fund cash balance after the
distributions are made under paragraph (a).

SECTION 6. Section 27-103-303, Mississippi Code of 1972, is
amended as follows:

H. B. 109
PAGE 12
There is created in the State Treasury a special fund, separate and apart from any other fund, to be designated the Capital Expense Fund.

(2) The Capital Expense Fund shall not be considered as a surplus or available funds when adopting a balanced budget as required by law. The State Treasurer shall invest all sums in the Capital Expense Fund not needed for the purposes provided for in this section in certificates of deposit, repurchase agreements and other securities as authorized in Section 27-105-33(d) or Section 7-9-103, as the State Treasurer may determine to yield the highest market rate available. Interest earned on this fund shall be deposited by the State Treasurer into the State General Fund.

(3) The Capital Expense Fund shall be used for capital expense needs, repair and renovation of state-owned properties and specific expenditures authorized by the Legislature. The Legislature shall designate those capital expense projects, repair and renovation projects and other authorized projects in an appropriation act passed by the Legislature, which shall direct the Executive Director of the Department of Finance and Administration to administer the projects.

(4) In addition to the purposes specified in subsection (3) of this section, the Capital Expense Fund shall be used to provide funds for emergency repairs on state-owned buildings upon requisition of the Executive Director of the Department of Finance and Administration. Whenever the director determines that funds are immediately needed for emergency repairs on
state-owned buildings * * *, he or she shall requisition the funds
needed from the Capital Expense Fund, which shall be subject to
the limitations set forth in this subsection. At the same time he
or she makes the requisition, the executive director shall notify
the Lieutenant Governor, the Speaker of the House of
Representatives, the respective Chairmen of the Senate
Appropriations Committee, the Senate Finance Committee, the House
Appropriations Committee and the House Ways and Means Committee
and the Legislative Budget Office of his or her determination of
the need for the funds, the amount that he or she has
requisitioned and where the funds will be used. If the amount
requisitioned is available in the Capital Expense Fund, is not
allocated for any specific projects as authorized in subsection
(3) of this section and is within the limitations set forth below
in this subsection, then the executive director may escalate the
budget of the Bureau of Building, Grounds and Real Property
Management * * * to use the full amount of the requisitioned funds
for the emergency repairs * * *, and transfer that amount to the
bureau * * * for that purpose. If the amount requisitioned is
more than the amount available in the Capital Expense Fund or
above the limitations set forth below in this subsection, then the
executive director may escalate the budget of the bureau * * * to
use the amount that is available within the limitations for the
emergency repairs * * *, and transfer that amount to the
bureau * * * for that purpose. The maximum amount that may be
transferred from the Capital Expense Fund to the bureau * * * for
any single emergency shall be One Million Dollars ($1,000,000.00), and the maximum amount that may be transferred to the bureau ** ** for all emergencies during any fiscal year shall be Five Million Dollars ($5,000,000.00).

(5) Funds deposited in the Capital Expense Fund shall be used only for the purposes specified in this section, and as long as the provisions of this section remain in effect, no other expenditure, appropriation or transfer of funds in the Capital Expense Fund shall be made except by act of the Legislature making specific reference to the Capital Expense Fund as the source of those funds.

(6) Unexpended funds in the Capital Expense Fund at the end of a fiscal year shall not lapse into the State General Fund but shall remain in the fund for use under this section. Any funds appropriated from the Capital Expense Fund that are unexpended at the end of a fiscal year shall lapse into the Capital Expense Fund.

SECTION 7. During fiscal year 2021, the State Fiscal Officer shall transfer to the Capital Expense Fund out of the following enumerated funds, the amounts listed below from each fund:

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<th>FUND</th>
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SECTION 8. This act shall take effect and be in force from and after its passage.
Further, amend by striking the title in its entirety and inserting in lieu thereof the following:

AN ACT TO BRING FORWARD SECTIONS 27-103-125, 27-103-139, 27-103-203, 27-103-211 AND 27-103-213, MISSISSIPPI CODE OF 1972, WHICH RELATE TO VARIOUS ASPECTS OF THE BUDGET PROCESS, FOR THE PURPOSES OF POSSIBLE AMENDMENT; TO AMEND SECTION 27-103-303, MISSISSIPPI CODE OF 1972, TO REMOVE THE AUTHORITY TO USE FUNDS FROM THE CAPITAL EXPENSE FUND FOR THE EMERGENCY PLUGGING OF ORPHANED WELLS IDENTIFIED BY THE OIL AND GAS BOARD; TO PROVIDE FOR CERTAIN TRANSFERS TO THE CAPITAL EXPENSE FUND DURING THE FISCAL YEAR 2021; AND FOR RELATED PURPOSES.

Eugene S. Clarke
Secretary of the Senate