

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:

11 **SECTION 1.** Section 27-103-125, Mississippi Code of 1972, is
12 brought forward as follows:
13 27-103-125. The proposed budget of each state agency shall
14 show the amounts required for operating expenses separately from
15 the amounts required for permanent improvements. The overall
16 budget shall show, separately by each source, the estimated amount
17 of general fund revenue and of special fund revenues of general
18 fund agencies. The total proposed expenditures in Part 1 of the
19 overall budget shall not exceed the amount of estimated revenues
20 that will be available in the general and special funds for
21 appropriation or use during the succeeding fiscal year, including
22 any balances other than unencumbered balances in general funds
23 that will be on hand in the general and special funds at the close
24 of the then current fiscal year. The total proposed expenditures
25 from the State General Fund in Part 1 of the overall budget shall
26 not exceed ninety-eight percent (98%) of the amount of general
27 fund revenue estimate for the succeeding fiscal year. However,

28 for fiscal years 2010, 2011, 2012, 2016 and 2017 only, the total
29 proposed expenditures from the State General Fund in Part 1 of the
30 overall budget shall not exceed one hundred percent (100%) of the
31 amount of the general fund revenue estimate for the succeeding
32 fiscal year, and for fiscal year 2018, the total proposed
33 expenditures from the State General Fund in Part 1 of the overall
34 budget shall not exceed ninety-nine percent (99%) of the amount of
35 general fund revenue estimate for the succeeding fiscal year. The
36 general fund revenue estimate shall be the estimate jointly
37 adopted by the Governor and the Joint Legislative Budget
38 Committee. The Legislative Budget Office may recommend additional
39 taxes or sources of revenue if in its judgment those additional
40 funds are necessary to adequately support the functions of the
41 state government.

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

44 27-103-139. On or before November 15 preceding each regular
45 session of the Legislature, except the first regular session of a
46 new term of office, the Governor shall submit to the members of
47 the Legislature, the Legislative Budget Office or the
48 members-elect, as the case may be, and to the executive head of
49 each state agency a balanced budget for the succeeding fiscal
50 year. The budget submitted shall be prepared in a format that
51 will include performance measurement data associated with the
52 various programs operated by each agency. The total proposed
53 expenditures in the balanced budget shall not exceed the amount of

54 estimated revenues that will be available for appropriation or use
55 during the succeeding fiscal year, including any balances other
56 than unencumbered balances in general funds that will be on hand
57 at the close of the then current fiscal year, as determined by the
58 revenue estimate jointly adopted by the Governor and the
59 Legislative Budget Committee. The total proposed expenditures
60 from the State General Fund in the balanced budget shall not
61 exceed ninety-eight percent (98%) of the amount of general fund
62 revenue estimate for the succeeding fiscal year. However, for
63 fiscal years 2010, 2011, 2012, 2016 and 2017 only, the total
64 proposed expenditures from the State General Fund in the balanced
65 budget shall not exceed one hundred percent (100%) of the amount
66 of the general fund revenue estimate for the succeeding fiscal
67 year, and for fiscal year 2018, the total proposed expenditures
68 from the State General Fund in the balanced budget shall not
69 exceed ninety-nine percent (99%) of the amount of general fund
70 revenue estimate for the succeeding fiscal year. The general fund
71 revenue estimate shall be the estimate jointly adopted by the
72 Governor and the Joint Legislative Budget Committee.

73 The revenues used in preparing the balanced budget shall be
74 only those revenues that will be available under the general laws
75 of the state as they exist when the balanced budget is prepared,
76 and shall not include any proposed revenues that would become
77 available only after the enactment of new legislation. If the
78 Governor has any recommendations for additional proposed
79 expenditures or proposed revenues that are not included in his

80 balanced budget, he shall submit those recommendations in a
81 supplement that is separate from his balanced budget, and whenever
82 the Governor recommends any such additional proposed expenditures,
83 he also shall recommend proposed revenues that are sufficient to
84 fund the additional proposed expenditures, providing specific
85 details regarding the sources and the total amount of those
86 proposed revenues.

87 The Governor may employ a budget officer for the purpose of
88 receiving information from the State Fiscal Officer and preparing
89 his recommendations on the budget. If the Governor determines
90 that information received from the State Fiscal Officer is not
91 sufficient to enable him to prepare his budget recommendations, he
92 may request an appropriation from the Legislature to provide
93 additional staff within the Governor's office for that purpose.
94 At the first regular session after his election for Governor, the
95 Governor shall submit any budget recommendations plus the required
96 revenue source recommendations no later than January 31 of that
97 year.

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

100 27-103-203. (1) There is created in the State Treasury a
101 special fund, separate and apart from any other fund, to be
102 designated the Working Cash-Stabilization Reserve Fund.

103 (2) The Working Cash-Stabilization Reserve Fund shall not be
104 considered as a surplus or available funds when adopting a
105 balanced budget as required by law. The State Treasurer shall

106 invest all sums in the Working Cash-Stabilization Reserve Fund not
107 needed for the purposes provided for in this section in
108 certificates of deposit, repurchase agreements and other
109 securities as authorized in Section 27-105-33(d) or Section
110 7-9-103, as the State Treasurer may determine to yield the highest
111 market rate available. If the Ayers Settlement Fund is created
112 under Section 37-101-27(5), the first Five Million Dollars
113 (\$5,000,000.00) of interest earned on those sums each fiscal year
114 shall be deposited into that fund until a total of Seventy Million
115 Dollars (\$70,000,000.00) has been deposited into the fund. The
116 interest, or the remaining interest if the Ayers Settlement Fund
117 is created, that is earned on those sums shall be deposited in the
118 Working Cash-Stabilization Reserve Fund until the balance of
119 principal and interest in the fund reaches ten percent (10%) of
120 the total General Fund appropriations for the current fiscal year,
121 and all interest earned in excess of amounts necessary to maintain
122 the ten percent (10%) fund balance requirement shall be deposited
123 by the State Treasurer into the State General Fund.

124 (3) The Working Cash-Stabilization Reserve Fund, except for
125 Fifteen Million Dollars (\$15,000,000.00) and the amount of the
126 interest and income earned on the principal of the Ayers Endowment
127 Trust created by Section 37-101-27, shall be used by the State
128 Treasurer for cash flow needs throughout the year when the
129 Executive Director of the Department of Finance and Administration
130 certifies that in his opinion there will be cash flow deficiencies
131 in the State General Fund. No borrowing of monies from other

132 special funds for such purposes as authorized by Section 31-17-101
133 et seq., shall be made as long as an unencumbered balance in
134 excess of Fifteen Million Dollars (\$15,000,000.00) and the
135 interest and income earned on the principal of the Ayers Endowment
136 Trust created by Section 37-101-27 remains in the fund. The State
137 Treasurer shall reimburse the fund for all sums borrowed for those
138 purposes from General Fund revenues collected during the fiscal
139 year in which those funds are used. The State Treasurer shall
140 immediately notify the Legislative Budget Office and the State
141 Department of Finance and Administration of each transfer into and
142 out of the fund. Fifteen Million Dollars (\$15,000,000.00) in the
143 Working Cash-Stabilization Reserve Fund shall remain available for
144 exclusive use of the Ayers Endowment Trust created by Section
145 37-101-27. If the Ayers Settlement Fund is created under Section
146 37-101-27(5), beginning when a total of Fifty-five Million Dollars
147 (\$55,000,000.00) has been deposited into the fund, for each annual
148 deposit of interest to that fund under subsection (2) of this
149 section, the Ayers Endowment Trust created under Section
150 37-101-27(1) shall be reduced by an equal amount annually until
151 the Ayers Endowment Trust reaches Zero Dollars (\$0.00), at which
152 time any requirements concerning the Ayers Endowment Trust in this
153 section shall be null and void.

154 (4) The Working Cash-Stabilization Reserve Fund, except for
155 Forty Million Dollars (\$40,000,000.00), shall also be used for the
156 purpose of covering any projected deficits that may occur in the
157 General Fund at the end of a fiscal year as a result of revenue

158 shortfalls. If the Governor determines that a deficit in revenues
159 from all sources may occur, it shall be the duty of the Executive
160 Director of the Department of Finance and Administration to
161 transfer such funds as necessary to the General Fund to alleviate
162 the deficit in accordance with Sections 27-104-13 and 31-17-123;
163 however, not more than Fifty Million Dollars (\$50,000,000.00) may
164 be transferred from the fund for that purpose in any one (1)
165 fiscal year with the exception of fiscal year 2016. However, for
166 fiscal year 2017, not more than One Hundred Million Dollars
167 (\$100,000,000.00) may be transferred from the fund for that
168 purpose.

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

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

180 (7) Funds deposited in the Working Cash-Stabilization
181 Reserve Fund shall be used only for the purposes specified in this
182 section, and as long as the provisions of this section remain in
183 effect, no other expenditure, appropriation or transfer of funds

184 in the Working Cash-Stabilization Reserve Fund shall be made
185 except by act of the Legislature making specific reference to the
186 Working Cash-Stabilization Reserve Fund as the source of those
187 funds.

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

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

194 27-103-211. The total sum appropriated by the Legislature
195 from the State General Fund for any fiscal year shall not exceed
196 ninety-eight percent (98%) of the general fund revenue estimate
197 for that fiscal year developed by the Department of Revenue and
198 the University Research Center and adopted by the Joint
199 Legislative Budget Committee. The unencumbered balances in
200 general funds that will be available and on hand at the close of
201 the fiscal year shall not include projected amounts required to be
202 deposited into the Working Cash-Stabilization Reserve Fund under
203 Section 27-103-203. However, for fiscal years 2010, 2011, 2012,
204 2015, 2016 and 2017 only, the total sum appropriated by the
205 Legislature from the State General Fund shall not exceed one
206 hundred percent (100%) of the amount of the general fund revenue
207 estimate for that fiscal year, and for fiscal year 2018, the total
208 sum appropriated by the Legislature from the State General Fund
209 shall not exceed ninety-nine percent (99%) of the amount of the

210 general fund revenue estimate adopted by the Joint Legislative
211 Budget Committee for that fiscal year.

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

214 27-103-213. (1) The unencumbered cash balance in the
215 General Fund in the State Treasury at the close of each fiscal
216 year shall be distributed to the Municipal Revolving Fund, the
217 Working Cash-Stabilization Reserve Fund and the Capital Expense
218 Fund in the manner provided in this section, except for fiscal
219 year 2014 in which the unencumbered cash balance at the close of
220 fiscal year 2014 shall be distributed as provided in subsection
221 (4) of this section, and fiscal year 2016 in which the
222 unencumbered cash balance at the close of fiscal year 2016 shall
223 be distributed as provided in subsection (5) of this section.

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

228 (b) As used in this section, the term "unencumbered
229 cash balance" or "unencumbered General Fund cash balance" means
230 the amount in the State General Fund after deducting all
231 appropriations and other expenditures. However, if the
232 Legislature has authorized additional or deficit appropriations or
233 transfers from the State General Fund for that fiscal year, those
234 amounts shall be subtracted from the unencumbered cash balance in
235 the General Fund before determining the amount available for

236 distribution. The unencumbered General Fund cash balance shall
237 not be determined until after August 31 of each year, and it shall
238 not be made until the State Treasurer has received a certificate
239 in writing from the Executive Director of the Department of
240 Finance and Administration, with notification to the Legislative
241 Budget Office, showing the amount of the unencumbered General Fund
242 cash balance.

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

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

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

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

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

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

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

280 (c) To the Working Cash-Stabilization Reserve Fund, Two
281 Hundred Eighty-six Million Nine Hundred Fifty-nine Thousand Seven
282 Hundred Ninety-eight Dollars (\$286,959,798.00) of the amount of
283 the unencumbered General Fund cash balance after the distributions
284 are made under paragraphs (a) and (b); however, if the amount of
285 the unencumbered General Fund cash balance is less than Two
286 Hundred Eighty-six Million Nine Hundred Fifty-nine Thousand Seven
287 Hundred Ninety-eight Dollars (\$286,959,798.00), then the total

288 amount of the unencumbered General Fund cash balance after the
289 distributions are made under paragraphs (a) and (b) shall be
290 distributed to the Working Cash-Stabilization Reserve Fund. For
291 the purposes of this paragraph (c), the appropriations for the
292 fiscal year shall be the total amount contained in the actual
293 appropriation bills passed by the Legislature.

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

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

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

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

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

313 27-103-303. (1) There is created in the State Treasury a
314 special fund, separate and apart from any other fund, to be
315 designated the Capital Expense Fund.

316 (2) The Capital Expense Fund shall not be considered as a
317 surplus or available funds when adopting a balanced budget as
318 required by law. The State Treasurer shall invest all sums in the
319 Capital Expense Fund not needed for the purposes provided for in
320 this section in certificates of deposit, repurchase agreements and
321 other securities as authorized in Section 27-105-33(d) or Section
322 7-9-103, as the State Treasurer may determine to yield the highest
323 market rate available. Interest earned on this fund shall be
324 deposited by the State Treasurer into the State General Fund.

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

333 (4) In addition to the purposes specified in subsection (3)
334 of this section, the Capital Expense Fund shall be used to provide
335 funds for emergency repairs on state-owned buildings * * * upon
336 requisition of the Executive Director of the Department of Finance
337 and Administration. Whenever the executive director determines
338 that funds are immediately needed for emergency repairs on

339 state-owned buildings * * *, he or she shall requisition the funds
340 needed from the Capital Expense Fund, which shall be subject to
341 the limitations set forth in this subsection. At the same time he
342 or she makes the requisition, the executive director shall notify
343 the Lieutenant Governor, the Speaker of the House of
344 Representatives, the respective Chairmen of the Senate
345 Appropriations Committee, the Senate Finance Committee, the House
346 Appropriations Committee and the House Ways and Means Committee
347 and the Legislative Budget Office of his or her determination of
348 the need for the funds, the amount that he or she has
349 requisitioned and where the funds will be used. If the amount
350 requisitioned is available in the Capital Expense Fund, is not
351 allocated for any specific projects as authorized in subsection
352 (3) of this section and is within the limitations set forth below
353 in this subsection, then the executive director may escalate the
354 budget of the Bureau of Building, Grounds and Real Property
355 Management * * * to use the full amount of the requisitioned funds
356 for the emergency repairs * * *, and transfer that amount to the
357 bureau * * * for that purpose. If the amount requisitioned is
358 more than the amount available in the Capital Expense Fund or
359 above the limitations set forth below in this subsection, then the
360 executive director may escalate the budget of the bureau * * * to
361 use the amount that is available within the limitations for the
362 emergency repairs * * *, and transfer that amount to the
363 bureau * * * for that purpose. The maximum amount that may be
364 transferred from the Capital Expense Fund to the bureau * * * for

365 any single emergency shall be One Million Dollars (\$1,000,000.00),
366 and the maximum amount that may be transferred to the bureau * * *
367 for all emergencies during any fiscal year shall be Five Million
368 Dollars (\$5,000,000.00).

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

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

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

385 FUND	FUND NUMBER	AMOUNT
386 General Fund	2999000000	\$1.00
387 Budget Contingency Fund	6117700000	<u>\$1.00</u>
388 TOTAL		\$2.00

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO BRING FORWARD SECTIONS 27-103-125, 27-103-139,
2 27-103-203, 27-103-211 AND 27-103-213, MISSISSIPPI CODE OF 1972,
3 WHICH RELATE TO VARIOUS ASPECTS OF THE BUDGET PROCESS, FOR THE
4 PURPOSES OF POSSIBLE AMENDMENT; TO AMEND SECTION 27-103-303,
5 MISSISSIPPI CODE OF 1972, TO REMOVE THE AUTHORITY TO USE FUNDS
6 FROM THE CAPITAL EXPENSE FUND FOR THE EMERGENCY PLUGGING OF
7 ORPHANED WELLS IDENTIFIED BY THE OIL AND GAS BOARD; TO PROVIDE FOR
8 CERTAIN TRANSFERS TO THE CAPITAL EXPENSE FUND DURING THE FISCAL
9 YEAR 2021; AND FOR RELATED PURPOSES.

SS08\HB109A.J

Eugene S. Clarke
Secretary of the Senate