

By: Senator(s) Harkins

To: Universities and
Colleges

SENATE BILL NO. 2700
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 37-101-15, MISSISSIPPI CODE OF 1972,
 2 AS AMENDED BY HOUSE BILL NO. 475, 2022 REGULAR SESSION, TO EXTEND
 3 THE DATE OF THE REPEALER ON THE PROVISION OF LAW AUTHORIZING THE
 4 BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING TO
 5 ADMINISTER CERTAIN CONSTRUCTION AND MAINTENANCE PROJECTS OF THE
 6 INSTITUTIONS UNDER ITS JURISDICTION; TO ESTABLISH THE "MISSISSIPPI
 7 ASSOCIATION OF INDEPENDENT COLLEGES AND UNIVERSITIES (MAICU)
 8 INFRASTRUCTURE GRANT PROGRAM ACT OF 2022" ADMINISTERED BY THE
 9 MISSISSIPPI DEPARTMENT OF FINANCE AND ADMINISTRATION UTILIZING
 10 FUNDS MADE AVAILABLE UNDER THE FEDERAL CORONAVIRUS STATE FISCAL
 11 RECOVERY FUNDS AND THE FEDERAL AMERICAN RESCUE PLAN ACT (ARPA); TO
 12 PROVIDE THAT SUCH GRANTS SHALL BE MADE AVAILABLE; TO PRESCRIBE
 13 ELIGIBLE PROJECTS UNDER THE GRANT PROGRAM; TO AUTHORIZE THE
 14 DEPARTMENT OF FINANCE AND ADMINISTRATION TO PROMULGATE GRANT
 15 APPLICATION REGULATIONS; TO AUTHORIZE THE DEPARTMENT OF FINANCE
 16 AND ADMINISTRATION TO ADMINISTER THE MAICU GRANT PROGRAM AND
 17 RETAIN ADMINISTRATIVE COSTS; TO CREATE IN THE STATE TREASURY A
 18 SPECIAL FUND DESIGNATED AS THE "MISSISSIPPI ASSOCIATION OF
 19 INDEPENDENT COLLEGES AND UNIVERSITIES (MAICU) INFRASTRUCTURE GRANT
 20 PROGRAM FUND"; TO AMEND SECTION 27-104-3, MISSISSIPPI CODE OF
 21 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

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

23 **SECTION 1.** Section 37-101-15, Mississippi Code of 1972, as
 24 amended by House Bill No. 475, 2022 Regular Session, is amended as
 25 follows:

26 37-101-15. (a) The Board of Trustees of State Institutions
 27 of Higher Learning shall succeed to and continue to exercise



28 control of all records, books, papers, equipment, and supplies,
29 and all lands, buildings, and other real and personal property
30 belonging to or assigned to the use and benefit of the board of
31 trustees formerly supervising and controlling the institutions of
32 higher learning named in Section 37-101-1. The board shall have
33 and exercise control of the use, distribution and disbursement of
34 all funds, appropriations and taxes, now and hereafter in
35 possession, levied and collected, received, or appropriated for
36 the use, benefit, support, and maintenance or capital outlay
37 expenditures of the institutions of higher learning, including the
38 authorization of employees to sign vouchers for the disbursement
39 of funds for the various institutions, except where otherwise
40 specifically provided by law.

41 (b) The board shall have general supervision of the affairs
42 of all the institutions of higher learning, including the
43 departments and the schools thereof. The board shall have the
44 power in its discretion to determine who shall be privileged to
45 enter, to remain in, or to graduate therefrom. The board shall
46 have general supervision of the conduct of libraries and
47 laboratories, the care of dormitories, buildings, and grounds; the
48 business methods and arrangement of accounts and records; the
49 organization of the administrative plan of each institution; and
50 all other matters incident to the proper functioning of the
51 institutions. The board shall have the authority to establish
52 minimum standards of achievement as a prerequisite for entrance



53 into any of the institutions under its jurisdiction, which
54 standards need not be uniform between the various institutions and
55 which may be based upon such criteria as the board may establish.

56 (c) The board shall exercise all the powers and prerogatives
57 conferred upon it under the laws establishing and providing for
58 the operation of the several institutions herein specified. The
59 board shall adopt such bylaws and regulations from time to time as
60 it deems expedient for the proper supervision and control of the
61 several institutions of higher learning, insofar as such bylaws
62 and regulations are not repugnant to the Constitution and laws,
63 and not inconsistent with the object for which these institutions
64 were established. The board shall have power and authority to
65 prescribe rules and regulations for policing the campuses and all
66 buildings of the respective institutions, to authorize the arrest
67 of all persons violating on any campus any criminal law of the
68 state, and to have such law violators turned over to the civil
69 authorities.

70 (d) For all institutions specified herein, the board shall
71 provide a uniform system of recording and of accounting approved
72 by the State Department of Audit. The board shall annually
73 prepare, or cause to be prepared, a budget for each institution of
74 higher learning for the succeeding year which must be prepared and
75 in readiness for at least thirty (30) days before the convening of
76 the regular session of the Legislature. All relationships and
77 negotiations between the State Legislature and its various



78 committees and the institutions named herein shall be carried on
79 through the board of trustees. No official, employee or agent
80 representing any of the separate institutions shall appear before
81 the Legislature or any committee thereof except upon the written
82 order of the board or upon the request of the Legislature or a
83 committee thereof.

84 (e) For all institutions specified herein, the board shall
85 prepare an annual report to the Legislature setting forth the
86 disbursements of all monies appropriated to the respective
87 institutions. Each report to the Legislature shall show how the
88 money appropriated to the several institutions has been expended,
89 beginning and ending with the fiscal years of the institutions,
90 showing the name of each teacher, officer, and employee, and the
91 salary paid each, and an itemized statement of each and every item
92 of receipts and expenditures. Each report must be balanced, and
93 must begin with the former balance. If any property belonging to
94 the state or the institution is used for profit, the reports shall
95 show the expense incurred in managing the property and the amount
96 received therefrom. The reports shall also show a summary of the
97 gross receipts and gross disbursements for each year and shall
98 show the money on hand at the beginning of the fiscal period of
99 the institution next preceding each session of the Legislature and
100 the necessary amount of expense to be incurred from said date to
101 January 1 following. The board shall keep the annual expenditures
102 of each institution herein mentioned within the income derived



103 from legislative appropriations and other sources, but in case of
104 emergency arising from acts of providence, epidemics, fire or
105 storm with the written approval of the Governor and by written
106 consent of a majority of the senators and of the representatives
107 it may exceed the income. The board shall require a surety bond
108 in a surety company authorized to do business in this state of
109 every employee who is the custodian of funds belonging to one or
110 more of the institutions mentioned herein, which bond shall be in
111 a sum to be fixed by the board in an amount that will properly
112 safeguard the said funds, the premium for which shall be paid out
113 of the funds appropriated for said institutions.

114 (f) The board shall have the power and authority to elect
115 the heads of the various institutions of higher learning and to
116 contract with all deans, professors, and other members of the
117 teaching staff, and all administrative employees of said
118 institutions for a term not exceeding four (4) years. The board
119 shall have the power and authority to terminate any such contract
120 at any time for malfeasance, inefficiency, or contumacious
121 conduct, but never for political reasons. It shall be the policy
122 of the board to permit the executive head of each institution to
123 nominate for election by the board all subordinate employees of
124 the institution over which he presides. It shall be the policy of
125 the board to elect all officials for a definite tenure of service
126 and to reelect during the period of satisfactory service. The
127 board shall have the power to make any adjustments it thinks



128 necessary between the various departments and schools of any
129 institution or between the different institutions.

130 (g) The board shall keep complete minutes and records of all
131 proceedings which shall be open for inspection by any citizen of
132 the state.

133 (h) The board shall have the power to enter into an energy
134 performance contract, energy services contract, on a
135 shared-savings, lease or lease-purchase basis, for energy
136 efficiency services and/or equipment as prescribed in Section
137 31-7-14.

138 (i) The Board of Trustees of State Institutions of Higher
139 Learning, for and on behalf of Jackson State University, is hereby
140 authorized to convey by donation or otherwise easements across
141 portions of certain real estate located in the City of Jackson,
142 Hinds County, Mississippi, for right-of-way required for the Metro
143 Parkway Project.

144 (j) In connection with any international contract between
145 the board or one (1) of the state's institutions of higher
146 learning and any party outside of the United States, the board or
147 institution that is the party to the international contract is
148 hereby authorized and empowered to include in the contract a
149 provision for the resolution by arbitration of any controversy
150 between the parties to the contract relating to such contract or
151 the failure or refusal to perform any part of the contract. Such
152 provision shall be valid, enforceable and irrevocable without



153 regard to the justiciable character of the controversy. Provided,
154 however, that in the event either party to such contract initiates
155 litigation against the other with respect to the contract, the
156 arbitration provision shall be deemed waived unless asserted as a
157 defense on or before the responding party is required to answer
158 such litigation.

159 (k) The Board of Trustees of State Institutions of Higher
160 Learning ("board"), on behalf of any institution under its
161 jurisdiction, shall purchase and maintain business property
162 insurance and business personal property insurance on all
163 university-owned buildings and/or contents as required by federal
164 law and regulations of the Federal Emergency Management Agency
165 (FEMA) as is necessary for receiving public assistance or
166 reimbursement for repair, reconstruction, replacement or other
167 damage to those buildings and/or contents caused by the Hurricane
168 Katrina Disaster of 2005 or subsequent disasters. The board is
169 authorized to expend funds from any available source for the
170 purpose of obtaining and maintaining that property insurance. The
171 board is authorized to enter into agreements with the Department
172 of Finance and Administration, local school districts,
173 community/junior college districts, community hospitals and/or
174 other state agencies to pool their liabilities to participate in a
175 group business property and/or business personal property
176 insurance program, subject to uniform rules and regulations as may
177 be adopted by the Department of Finance and Administration.



178 (1) The Board of Trustees of State Institutions of Higher
179 Learning, or its designee, may approve the payment or
180 reimbursement of reasonable travel expenses incurred by candidates
181 for open positions at the board's executive office or at any of
182 the state institutions of higher learning, when the job candidate
183 has incurred expenses in traveling to a job interview at the
184 request of the board, the Commissioner of Higher Education or a
185 state institution of higher learning administrator.

186 (m) (i) The Board of Trustees of State Institutions of
187 Higher Learning is authorized to administer and approve contracts
188 for the construction and maintenance of buildings and other
189 facilities of the state institutions of higher learning, including
190 related contracts for architectural and engineering services,
191 which are paid for with self-generated funds.

192 (ii) Additionally, the board is authorized to oversee,
193 administer and approve contracts for the construction and
194 maintenance of buildings and other facilities of the state
195 institutions of higher learning, including related contracts for
196 architectural and engineering services, which are funded in whole
197 or in part by general obligation bonds of the State of Mississippi
198 at institutions designated annually by the board as being capable
199 to procure and administer all such contracts. Prior to the
200 disbursement of funds, an agreement for each project between the
201 institution and the Department of Finance and Administration shall
202 be executed. The approval and execution of the agreement shall



203 not be withheld by either party unless the withholding party
204 provides a written, detailed explanation of the basis for
205 withholding to the other party. The agreement shall stipulate the
206 responsibilities of each party, applicable procurement
207 regulations, documentation and reporting requirements, conditions
208 prior to, and schedule of, disbursement of general obligation bond
209 funds to the institution and provisions concerning handling any
210 remaining general obligation bonds at the completion of the
211 project. Such agreement shall not include provisions that
212 constitute additional qualifications or criteria that act to
213 invalidate the designation of an institution as capable of
214 procuring and administering such project. Inclusion of any such
215 provisions may be appealed to the Public Procurement Review Board.
216 This subparagraph (ii) shall stand repealed from and after July
217 1, * * * 2025.

218 **SECTION 2.** (1) This act shall be known and may be cited as
219 the "Mississippi Association of Independent Colleges and
220 Universities (MAICU) Infrastructure Grant Program Act of 2022."

221 (2) There is hereby established within the Mississippi
222 Department of Finance and Administration, the Mississippi
223 Association of Independent Colleges and Universities (MAICU)
224 Infrastructure Grant Program under which independent colleges and
225 universities may apply for reimbursable grants to make necessary
226 investments in water, wastewater, stormwater, broadband and other
227 eligible infrastructure projects to be funded by the Legislature



228 utilizing Coronavirus State Fiscal Recovery Funds made available
229 under the federal American Rescue Plan Act (ARPA). Such grants
230 shall be made available to the following institutions: Belhaven
231 University, Blue Mountain College, Millsaps College, Mississippi
232 College, Rust College, Tougaloo College and William Carey
233 University. Grant program funds shall be distributed to each
234 listed institution based on the pro rata share of full-time
235 equivalent students enrolled in the respective college or
236 university. For purposes of this distribution, a full-time
237 equivalent student shall be calculated as follows:

238 (a) One (1) full-time student shall be considered one
239 (1) full-time equivalent student;

240 (b) One (1) part-time student shall be considered
241 one-half (1/2) of a full-time equivalent student; and

242 (c) One (1) online student shall be considered
243 one-fourth (1/4) of a full-time equivalent student.

244 (3) For purposes of this act, unless the context requires
245 otherwise, the following terms shall have the meanings ascribed
246 herein:

247 (a) "MAICU Grant Program" shall mean the Mississippi
248 Association of Independent Colleges and Universities (MAICU)
249 Infrastructure Grant Program.

250 (b) "ARPA" shall mean the federal American Rescue Plan
251 Act of 2021, Public Law 117-2, which amends Title VI of the Social
252 Security Act.



253 (c) "State Recovery Funds" shall mean Coronavirus State
254 Fiscal Recovery Funds awarded through Section 602 of Title VI of
255 the Social Security Act amended by Section 9901 of the federal
256 American Rescue Plan Act of 2021, Public Law 117-2.

257 (d) "Department" shall mean the Department of Finance
258 and Administration.

259 (4) On or before July 1, 2022, the Mississippi Department of
260 Finance and Administration shall promulgate rules and regulations
261 necessary to administer the MAICU Grant Program prescribed under
262 this act, including application procedures and deadlines.

263 (5) Funds under the MAICU Grant Program shall be awarded for
264 ARPA eligible projects in the following order:

265 (a) Eligible water, wastewater and stormwater projects
266 under the Environmental Protection Agency's Clean Water State
267 Revolving Fund (CWSRF) or Drinking Water State Revolving Fund
268 (DWSRF) and other eligible water projects allowable by ARPA;

269 (b) Broadband infrastructure projects;

270 (c) Capital investments for prevention, mitigation and
271 ventilation in congregate living facilities and other key
272 settings; and

273 (d) Any eligible project through ARPA guidelines,
274 guidance, rules, regulations and/or other criteria, as may be
275 amended from time to time, of the United States Department of the
276 Treasury, excluding premium pay.



277 (6) The boards of trustees of the respective members of the
278 Mississippi Association of Independent Colleges and Universities
279 (MAICU) may submit an application for grant funds under this act.
280 Applicants shall certify to the Department of Finance and
281 Administration that each expenditure of the funds awarded to them
282 by the department under this act is in compliance with the ARPA
283 guidelines, guidance, rules, regulations and/or other criteria, as
284 may be amended from time to time, by the United States Department
285 of the Treasury regarding the use of monies from the State
286 Coronavirus State Fiscal Recovery Funds. Subsequent submissions
287 will be due by the dates established by the department.

288 (7) An application for a grant under this act shall be
289 submitted at such time, be in such form, and contain such
290 information as the department prescribes. Each application shall
291 include the following at a minimum: applicant contact
292 information; project description and type of project; project map;
293 estimate of the population served by the projects; estimated
294 project cost; estimated project schedule; and readiness to
295 proceed. The Mississippi Department of Finance and Administration
296 is authorized to accept additional rounds of grant proposals for
297 application consideration as needed.

298 (8) Applications shall be reviewed, and the Mississippi
299 Department of Finance and Administration shall certify that each
300 project submitted is eligible under the American Rescue Plan Act
301 and all applicable guidance issued by the United States Department



302 of the Treasury. For water, wastewater and stormwater projects,
303 the department must also certify that it is a "necessary
304 investment" in water, wastewater or stormwater infrastructure as
305 defined in the American Rescue Plan Act and all applicable
306 guidance issued by the United States Department of the Treasury.
307 Grant agreements shall be executed between the recipient and the
308 Mississippi Department of Finance and Administration. All final
309 awards will be determined at the discretion of the executive
310 director of the department. Funds shall be made available to a
311 grantee upon the execution of a grant agreement between the
312 department and the approved applicant, and the department obtains
313 the necessary support for reimbursement.

314 (9) Grant requirements shall be used prospectively and
315 grants are not available to cover the costs of debt incurred prior
316 to the enactment of this program.

317 (10) (a) There is hereby created in the State Treasury a
318 special fund to be known as the "Mississippi Association of
319 Independent Colleges and Universities (MAICU) Grant Program Fund,"
320 which shall consist of funds appropriated by the Legislature from
321 federal American Rescue Plan Act (ARPA) monies or other available
322 federal grant funds for the purposes of awarding grants under this
323 act. Unexpended amounts remaining in the fund at the end of the
324 fiscal year shall not lapse into the Coronavirus State Fiscal
325 Recovery Fund or the State General Fund, and any interest earned
326 on amounts in the fund shall remain in the fund. The expenditure



327 of monies in the Mississippi Association of Independent Colleges
328 and Universities (MAICU) Grant Program Fund shall be under the
329 direction of the Mississippi Department of Finance and
330 Administration;

331 (b) All monies shall be disbursed from the fund created
332 in this subsection shall be in compliance with the guidelines,
333 guidance, rules, regulations or other criteria, as may be amended
334 from time to time, of the United States Department of the Treasury
335 regarding the use of monies received by or on behalf of the State
336 of Mississippi through the Coronavirus State Fiscal Recovery Fund
337 established by the American Rescue Plan Act of 2021 (Public Law
338 No. 117-2). Unexpended amounts remaining in the funds at the end
339 of a fiscal year shall not lapse into the Coronavirus State Fiscal
340 Recovery Fund or the State General Fund, and any investment
341 earnings or interest earned on amounts in the program fund shall
342 be deposited to the credit of COVID-19 Hospital Expanded Capacity
343 Program Fund;

344 (c) If there are unobligated Coronavirus State Fiscal
345 Recovery Fund monies remaining in the fund created in this act, on
346 the later of December 17, 2024, or fourteen (14) days prior to the
347 fund obligation deadline provided by the federal government, the
348 Department of Finance and Administration shall transfer these
349 unobligated balances to the Coronavirus State Fiscal Recovery
350 Fund. The Department of Finance and Administration shall then
351 transfer the unobligated balance of Coronavirus State Fiscal



352 Recovery Funds from the Coronavirus State Fiscal Recovery Fund to
353 the State and School Employees' Life and Health Insurance Fund for
354 an amount not to exceed the lesser of Ten Million Dollars
355 (\$10,000,000.00) or the amount of allowable ARPA expenditures, by
356 no later than December 31, 2024, or on the date of the fund
357 obligation deadline provided by the federal government. The
358 Department of Finance and Administration shall then transfer all
359 remaining unobligated balances of Coronavirus State Fiscal
360 Recovery Funds from the Coronavirus State Fiscal Recovery Fund to
361 the Unemployment Compensation Fund up to the ARPA allowable
362 amount, by no later than December 31, 2024, or on the date of the
363 fund obligation deadline provided by the federal government; and

364 (d) The use of funds allocated under this program shall
365 be subject to audit by the United States Department of the
366 Treasury's Office of Inspector General and the Mississippi Office
367 of the State Auditor. Each person receiving funds under these
368 programs found to be fully or partially noncompliant with the
369 requirements in this act shall return to the state all or a
370 portion of the funds received.

371 (11) The department shall submit to the Joint Legislative
372 Budget Committee by October 1 of each year an annual report. The
373 reports shall contain the applications received, the amount of
374 grant funds awarded to each applicant, the amount of grant funds
375 expended by each applicant, and the status of each applicant's
376 project.



377 (12) Grant funds shall be available under this act through
378 December 31, 2026. Each grant recipient shall certify for any
379 project that a grant is awarded that in the event the project is
380 not completed by December 31, 2026, and the United States Congress
381 does not enact an extension of the deadline on the availability of
382 ARPA Funds, then the grant recipient will complete the project
383 through any other funds available.

384 (13) The Mississippi Department of Finance and
385 Administration may retain an amount not to exceed Two Hundred
386 Thousand Dollars (\$200,000.00) of the total funds allocated to the
387 program to defray administrative costs.

388 (14) This section shall stand repealed on July 1, 2026.

389 **SECTION 3.** Section 27-104-3, Mississippi Code of 1972, is
390 amended as follows:

391 27-104-3. In addition to other powers and duties prescribed
392 by statute, the Department of Finance and Administration shall
393 have the following powers and duties, with regard to fiscal
394 management:

395 (a) Provide direct technical assistance and training to
396 state agencies and departments in implementing generally accepted
397 accounting principles, in preparing financial statements as
398 required by law, and in management and executive development.

399 (b) Provide temporary administrative services in
400 financial accounting and public administration to any state



401 agency, department or institution upon request of the governing
402 board of the state agency, department or institution.

403 (c) Prepare and issue a comprehensive reference manual
404 or manuals of policies and procedures for each state agency and
405 department to use, which may include chapters on purchasing,
406 personnel, payroll, travel, chart of accounts, fund
407 classifications, receipts, warrants, expenditures, fixed assets,
408 property inventory, and maintaining financial records and
409 preparing financial reports as required and prescribed by law.
410 The manual shall be revised on a continuing basis. The manual
411 shall be prepared and revised in consultation with the State
412 Auditor's office.

413 (d) Provide assistance to any state agency, department
414 or institution in collecting a fee or other valid obligation that
415 another agency, department or institution has failed to pay to it.
416 For purposes of this paragraph, the agency, department or
417 institution seeking to collect the funds shall be referred to as
418 the "creditor agency," and the agency, department or institution
419 that has not paid the creditor agency shall be referred to as the
420 "delinquent agency." A valid obligation may be evidenced by an
421 invoice or any other documentation as may be required by the
422 Department of Finance and Administration, hereinafter referred to
423 as the department. A creditor agency may request assistance from
424 the department, and the department may require the creditor agency
425 to furnish detailed information regarding the obligation. Upon



426 determining that the delinquent agency owes the creditor agency a
427 specific amount, the State Fiscal Officer shall pay to the
428 creditor agency that amount out of any funds in the State Treasury
429 to the credit of the delinquent agency. The State Fiscal Officer
430 shall notify the creditor agency and the delinquent agency of the
431 total amount of funds transferred. Either agency may appeal the
432 transfer of funds or the failure to transfer funds, under rules
433 and regulations promulgated by the department and approved by the
434 Office of the State Auditor. The Department of Finance and
435 Administration shall report any actions taken under this paragraph
436 (d) to the Chairmen of the Appropriations Committees of the House
437 of Representatives and the Senate on a quarterly basis.

438 (e) To issue a request for an ACA-compliant health
439 insurance policy, or policies, to offer health insurance coverage
440 to the full-time equivalent employees not otherwise eligible to
441 participate in the State and School Employees' Health Insurance
442 Plan; and to issue a request for administrative support in order
443 to meet reporting requirements under Internal Revenue Code Section
444 6056 and to comply with the Patient Protection and Affordable Care
445 Act of 2010.

446 (f) The Department of Finance and Administration shall
447 have as additional responsibilities, the administration of the
448 Mississippi Association of Independent Colleges and Universities
449 (MAICU) Infrastructure Grant Program Act of 2022 and shall
450 promulgate necessary rules and regulations relating to the



451 application of eligible colleges and universities for grant funds
452 and the awarding of such grants.

453 **SECTION 4.** This act shall take effect and be in force from
454 and after July 1, 2022.

