

By: Senator(s) Hopson

To: Appropriations

SENATE BILL NO. 2780

1 AN ACT TO BRING FORWARD SECTIONS 27-103-125, 27-103-139,
 2 27-103-203, 27-103-211, 27-103-213 AND 27-103-303, MISSISSIPPI
 3 CODE OF 1972, WHICH RELATE TO THE BUDGET PROCESS, FOR PURPOSES OF
 4 POSSIBLE AMENDMENT; TO CREATE IN THE STATE TREASURY A SPECIAL FUND
 5 TO BE DESIGNATED AS THE "CORONAVIRUS CAPITAL PROJECTS FUND," WHICH
 6 SHALL CONSIST OF ALL FUNDS RECEIVED BY OR ON BEHALF OF THE STATE
 7 OF MISSISSIPPI THROUGH THE CORONAVIRUS CAPITAL PROJECTS FUND OF
 8 THE AMERICAN RESCUE PLAN ACT OF 2021; TO PROVIDE THAT MONIES IN
 9 THE FUND SHALL ONLY BE SPENT UPON APPROPRIATION BY THE LEGISLATURE
 10 AND SHALL ONLY BE USED AS PROVIDED IN THE CORONAVIRUS CAPITAL
 11 PROJECTS FUND OF THE AMERICAN RESCUE PLAN ACT OF 2021; TO PROVIDE
 12 FOR CERTAIN TRANSFERS TO THE GENERAL FUND DURING FISCAL YEAR 2022;
 13 AND FOR RELATED PURPOSES.

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

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

17 27-103-125. The proposed budget of each state agency shall
 18 show the amounts required for operating expenses separately from
 19 the amounts required for permanent improvements. The overall
 20 budget shall show, separately by each source, the estimated amount
 21 of general fund revenue and of special fund revenues of general
 22 fund agencies. The total proposed expenditures in Part 1 of the
 23 overall budget shall not exceed the amount of estimated revenues



24 that will be available in the general and special funds for
25 appropriation or use during the succeeding fiscal year, including
26 any balances other than unencumbered balances in general funds
27 that will be on hand in the general and special funds at the close
28 of the then current fiscal year. The total proposed expenditures
29 from the State General Fund in Part 1 of the overall budget shall
30 not exceed ninety-eight percent (98%) of the amount of general
31 fund revenue estimate for the succeeding fiscal year. The general
32 fund revenue estimate shall be the estimate jointly adopted by the
33 Governor and the Joint Legislative Budget Committee. The
34 Legislative Budget Office may recommend additional taxes or
35 sources of revenue if in its judgment those additional funds are
36 necessary to adequately support the functions of the state
37 government.

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

40 27-103-139. On or before November 15 preceding each regular
41 session of the Legislature, except the first regular session of a
42 new term of office, the Governor shall submit to the members of
43 the Legislature, the Legislative Budget Office or the
44 members-elect, as the case may be, and to the executive head of
45 each state agency a balanced budget for the succeeding fiscal
46 year. The budget submitted shall be prepared in a format that
47 will include performance measurement data associated with the
48 various programs operated by each agency. The total proposed



49 expenditures in the balanced budget shall not exceed the amount of
50 estimated revenues that will be available for appropriation or use
51 during the succeeding fiscal year, including any balances other
52 than unencumbered balances in general funds that will be on hand
53 at the close of the then current fiscal year, as determined by the
54 revenue estimate jointly adopted by the Governor and the
55 Legislative Budget Committee. The total proposed expenditures
56 from the State General Fund in the balanced budget shall not
57 exceed ninety-eight percent (98%) of the amount of general fund
58 revenue estimate for the succeeding fiscal year. The general fund
59 revenue estimate shall be the estimate jointly adopted by the
60 Governor and the Joint Legislative Budget Committee.

61 The revenues used in preparing the balanced budget shall be
62 only those revenues that will be available under the general laws
63 of the state as they exist when the balanced budget is prepared,
64 and shall not include any proposed revenues that would become
65 available only after the enactment of new legislation. If the
66 Governor has any recommendations for additional proposed
67 expenditures or proposed revenues that are not included in his
68 balanced budget, he shall submit those recommendations in a
69 supplement that is separate from his balanced budget, and whenever
70 the Governor recommends any such additional proposed expenditures,
71 he also shall recommend proposed revenues that are sufficient to
72 fund the additional proposed expenditures, providing specific



73 details regarding the sources and the total amount of those
74 proposed revenues.

75 The Governor may employ a budget officer for the purpose of
76 receiving information from the State Fiscal Officer and preparing
77 his recommendations on the budget. If the Governor determines
78 that information received from the State Fiscal Officer is not
79 sufficient to enable him to prepare his budget recommendations, he
80 may request an appropriation from the Legislature to provide
81 additional staff within the Governor's office for that purpose.
82 At the first regular session after his election for Governor, the
83 Governor shall submit any budget recommendations plus the required
84 revenue source recommendations no later than January 31 of that
85 year.

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

88 27-103-203. (1) There is created in the State Treasury a
89 special fund, separate and apart from any other fund, to be
90 designated the Working Cash-Stabilization Reserve Fund.

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 Section 27-105-33(d) or Section



98 7-9-103, as the State Treasurer may determine to yield the highest
99 market rate available. If the Ayers Settlement Fund is created
100 under Section 37-101-27(5), the first Five Million Dollars
101 (\$5,000,000.00) of interest earned on those 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, that is earned on those sums shall be deposited in the
106 Working Cash-Stabilization Reserve Fund until the balance of
107 principal and interest in the fund reaches ten percent (10%) of
108 the total General Fund appropriations for the current fiscal year,
109 and all interest earned in excess of amounts necessary to maintain
110 the ten percent (10%) fund balance requirement shall be deposited
111 by the State Treasurer into the State General Fund.

112 (3) The Working Cash-Stabilization Reserve Fund, except for
113 Fifteen Million Dollars (\$15,000,000.00) and the amount of the
114 interest and income earned on the principal of the Ayers Endowment
115 Trust created by Section 37-101-27, shall be used by the State
116 Treasurer for cash flow needs throughout the year when the
117 Executive Director of the Department of Finance and Administration
118 certifies that in his opinion there will be cash flow deficiencies
119 in the State General Fund. No borrowing of monies from other
120 special funds for such purposes as authorized by Section 31-17-101
121 et seq., shall be made as long as an unencumbered balance in
122 excess of Fifteen Million Dollars (\$15,000,000.00) and the



123 interest and income earned on the principal of the Ayers Endowment
124 Trust created by Section 37-101-27 remains in the fund. The State
125 Treasurer shall reimburse the fund for all sums borrowed for those
126 purposes from General Fund revenues collected during the fiscal
127 year in which those funds are used. The State Treasurer shall
128 immediately notify the Legislative Budget Office and the State
129 Department of Finance and Administration of each transfer into and
130 out of the fund. Fifteen Million Dollars (\$15,000,000.00) in the
131 Working Cash-Stabilization Reserve Fund shall remain available for
132 exclusive use of the Ayers Endowment Trust created by Section
133 37-101-27. If the Ayers Settlement Fund is created under Section
134 37-101-27(5), beginning when a total of Fifty-five Million Dollars
135 (\$55,000,000.00) has been deposited into the fund, for each annual
136 deposit of interest to that fund under subsection (2) of this
137 section, the Ayers Endowment Trust created under Section
138 37-101-27(1) shall be reduced by an equal amount annually until
139 the Ayers Endowment Trust reaches Zero Dollars (\$0.00), at which
140 time any requirements concerning the Ayers Endowment Trust in this
141 section shall be null and void.

142 (4) The Working Cash-Stabilization Reserve Fund, except for
143 Forty Million Dollars (\$40,000,000.00), shall also be used for the
144 purpose of covering any projected deficits that may occur in the
145 General Fund at the end of a fiscal year as a result of revenue
146 shortfalls. If the Governor determines that a deficit in revenues
147 from all sources may occur, it shall be the duty of the Executive



148 Director of the Department of Finance and Administration to
149 transfer such funds as necessary to the General Fund to alleviate
150 the deficit in accordance with Sections 27-104-13 and 31-17-123;
151 however, not more than Fifty Million Dollars (\$50,000,000.00) may
152 be transferred from the fund for that purpose in any one (1)
153 fiscal year.

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

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

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



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

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

179 27-103-211. The total sum appropriated by the Legislature
180 from the State General Fund for any fiscal year shall not exceed
181 ninety-eight percent (98%) of the general fund revenue estimate
182 for that fiscal year developed by the Department of Revenue and
183 the University Research Center and adopted by the Joint
184 Legislative Budget Committee. The unencumbered balances in
185 general funds that will be available and on hand at the close of
186 the fiscal year shall not include projected amounts required to be
187 deposited into the Working Cash-Stabilization Reserve Fund under
188 Section 27-103-203.

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

191 27-103-213. (1) The unencumbered cash balance in the
192 General Fund in the State Treasury at the close of each fiscal
193 year shall be distributed to the Municipal Revolving Fund, the
194 Working Cash-Stabilization Reserve Fund and the Capital Expense
195 Fund in the manner provided in this section.

196 (2) (a) At the end of each fiscal year, the Executive
197 Director of the Department of Finance and Administration and the



198 State Treasurer shall determine the extent of the unencumbered
199 cash balance existing in the General Fund in the State Treasury.

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

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

219 (a) To the Municipal Revolving Fund, an amount equal to
220 Seven Hundred Fifty Thousand Dollars (\$750,000.00); however, if
221 the amount of the unencumbered General Fund cash balance is less
222 than Seven Hundred Fifty Thousand Dollars (\$750,000.00), then the



223 total amount of the unencumbered General Fund cash balance shall
224 be distributed to the Municipal Revolving Fund.

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

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

237 **SECTION 6.** Section 27-103-303, Mississippi Code of 1972, is
238 brought forward as follows:

239 27-103-303. (1) There is created in the State Treasury a
240 special fund, separate and apart from any other fund, to be
241 designated the Capital Expense Fund.

242 (2) The Capital Expense Fund shall not be considered as a
243 surplus or available funds when adopting a balanced budget as
244 required by law. The State Treasurer shall invest all sums in the
245 Capital Expense Fund not needed for the purposes provided for in
246 this section in certificates of deposit, repurchase agreements and
247 other securities as authorized in Section 27-105-33(d) or Section



248 7-9-103, as the State Treasurer may determine to yield the highest
249 market rate available. Interest earned on this fund shall be
250 deposited by the State Treasurer into the State General Fund.

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

259 (4) In addition to the purposes specified in subsection (3)
260 of this section, the Capital Expense Fund shall be used to provide
261 funds for emergency repairs on state-owned buildings upon
262 requisition of the Executive Director of the Department of Finance
263 and Administration. Whenever the executive director determines
264 that funds are immediately needed for emergency repairs on
265 state-owned buildings, he or she shall requisition the funds
266 needed from the Capital Expense Fund, which shall be subject to
267 the limitations set forth in this subsection. At the same time he
268 or she makes the requisition, the executive director shall notify
269 the Lieutenant Governor, the Speaker of the House of
270 Representatives, the respective Chairmen of the Senate
271 Appropriations Committee, the Senate Finance Committee, the House
272 Appropriations Committee and the House Ways and Means Committee



273 and the Legislative Budget Office of his or her determination of
274 the need for the funds, the amount that he or she has
275 requisitioned and where the funds will be used. If the amount
276 requisitioned is available in the Capital Expense Fund, is not
277 allocated for any specific projects as authorized in subsection
278 (3) of this section and is within the limitations set forth below
279 in this subsection, then the executive director may escalate the
280 budget of the Bureau of Building, Grounds and Real Property
281 Management to use the full amount of the requisitioned funds for
282 the emergency repairs and transfer that amount to the bureau for
283 that purpose. If the amount requisitioned is more than the amount
284 available in the Capital Expense Fund or above the limitations set
285 forth below in this subsection, then the executive director may
286 escalate the budget of the bureau to use the amount that is
287 available within the limitations for the emergency repairs and
288 transfer that amount to the bureau for that purpose. The maximum
289 amount that may be transferred from the Capital Expense Fund to
290 the bureau for any single emergency shall be One Million Dollars
291 (\$1,000,000.00), and the maximum amount that may be transferred to
292 the bureau for all emergencies during any fiscal year shall be
293 Five Million Dollars (\$5,000,000.00).

294 (5) Funds deposited in the Capital Expense Fund shall be
295 used only for the purposes specified in this section, and as long
296 as the provisions of this section remain in effect, no other
297 expenditure, appropriation or transfer of funds in the Capital



298 Expense Fund shall be made except by act of the Legislature making
299 specific reference to the Capital Expense Fund as the source of
300 those funds.

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

307 **SECTION 7.** (1) All funds received by or on behalf of the
308 State of Mississippi through the Coronavirus Capital Projects Fund
309 in Section 9901 of the American Rescue Plan Act of 2021 (Public
310 Law No. 117-2) shall be deposited into the Coronavirus Capital
311 Projects Fund created in subsection (2) of this section.

312 (2) There is created in the State Treasury a special fund to
313 be designated as the "Coronavirus Capital Projects Fund." The
314 special fund shall consist of funds required to be deposited into
315 the special fund by subsection (1) of this section, funds
316 appropriated or otherwise made available by the Legislature in any
317 manner, and funds from any other source designated for deposit
318 into the special fund. Monies in the fund shall only be spent
319 upon appropriation by the Legislature and shall only be used as
320 provided in the Coronavirus Capital Projects Fund in Section 9901
321 of the American Rescue Plan Act of 2021 (Public Law No. 117-2) or
322 as authorized by federal rule or regulation or guidelines.



323 (3) Unexpended amounts remaining in the special fund at the
324 end of a fiscal year shall not lapse into the State General Fund
325 but shall remain in the Coronavirus Capital Projects Fund. Any
326 investment earnings or interest earned on amounts in the special
327 fund shall be deposited to the credit of the special fund.

328 **SECTION 8.** During fiscal year 2022, the State Fiscal Officer
329 shall transfer to the General Fund out of the following enumerated
330 funds, the amounts listed below from each fund:

| 331 FUND | FUND NUMBER | AMOUNT |
|-----------------------------|-------------|---------------|
| 332 Capital Expense Fund | 6499C00000 | \$1.00 |
| 333 Budget Contingency Fund | 6117700000 | <u>\$1.00</u> |
| 334 TOTAL | | \$2.00 |

335 **SECTION 9.** This act shall take effect and be in force from
336 and after its passage.

