

Senate Amendments to House Bill No. 1353

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:

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

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.

(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.

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

deposited into the Working Cash-Stabilization Reserve Fund under
Section 27-103-203.

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.

(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.

(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).

SECTION 6. Section 27-103-303, Mississippi Code of 1972, is 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

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

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

manner, and funds from any other source designated for deposit into the special fund. Monies in the fund shall only be spent upon appropriation by the Legislature and shall only be used as provided in the Coronavirus Capital Projects Fund in Section 9901 of the American Rescue Plan Act of 2021 (Public Law No. 117-2) or as authorized by federal rule or regulation or guidelines.

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

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

FUND	FUND NUMBER	AMOUNT
Capital Expense Fund	6499C00000	\$1.00
Budget Contingency Fund	6117700000	<u>\$1.00</u>
TOTAL		\$2.00

SECTION 9. 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, 27-103-213 AND 27-103-303, MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE BUDGET PROCESS, FOR PURPOSES OF POSSIBLE AMENDMENT; TO CREATE IN THE STATE TREASURY A SPECIAL FUND TO BE DESIGNATED AS THE "CORONAVIRUS CAPITAL PROJECTS FUND," WHICH 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.

SS36\HB1353A.J

Eugene S. Clarke
Secretary of the Senate