MISSISSIPPI LEGISLATURE REGULAR SESSION 2002

By: Representatives Moore (60th), Mayo

To: Appropriations

HOUSE BILL NO. 1516

AN ACT TO AMEND SECTIONS 27-103-125, 27-103-127, 27-103-139, 27-103-211 AND 31-17-123, MISSISSIPPI CODE OF 1972, TO REQUIRE THE STATE, IN PREPARING THE PROPOSED STATE BUDGET, MAKING LEGISLATIVE APPROPRIATIONS TO STATE AGENCIES AND MAKING STATE AGENCY BUDGET REDUCTIONS, TO USE 98% OF THE AMOUNT OF GENERAL FUND REVENUES THAT THE STATE RECEIVED DURING THE PRECEDING FISCAL YEAR, PLUS ANY UNENCUMBERED BALANCES IN GENERAL FUNDS THAT WILL BE AVAILABLE AT THE END OF THE CURRENT FISCAL YEAR AND THE AMOUNT OF ANY GENERAL FUND REVENUES THAT MAY BE RAISED BY INCREASES IN TAXES OR FEES DURING THE NEXT FISCAL YEAR; TO REQUIRE THE STATE, IN PREPARING THE PROPOSED STATE BUDGET AND MAKING LEGISLATIVE APPROPRIATIONS TO STATE AGENCIES, TO USE THE AMOUNT OF SPECIAL FUND REVENUES THAT EACH AGENCY RECEIVED DURING THE PRECEDING FISCAL YEAR, PLUS ANY UNENCUMBERED BALANCES IN SPECIAL FUNDS THAT WILL BE AVAILABLE FOR THE AGENCY AT THE END OF THE CURRENT FISCAL YEAR AND THE AMOUNT OF ANY SPECIAL FUND REVENUES THAT MAY BE RAISED FOR THE AGENCY BY INCREASES IN TAXES OR FEES DURING THE NEXT FISCAL YEAR; TO CREATE A SPECIAL FUND IN THE STATE TREASURY TO BE KNOWN AS THE TAXPAYER REBATE FUND, WHICH SHALL BE USED TO REFUND SURPLUS STATE REVENUES TO THE TAXPAYERS OF THE STATE IN THE FORM OF REBATE PAYMENTS; TO AMEND SECTION 27-103-203, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT FIFTY PERCENT OF THE UNENCUMBERED GENERAL FUND CASH BALANCE AT THE CLOSE OF EACH FISCAL YEAR AFTER THE WORKING CASH-STABILIZATION RESERVE FUND REACHES A CERTAIN BALANCE SHALL BE TRANSFERRED INTO THE TAXPAYER REBATE FUND; AND FOR RELATED PURPOSES.

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

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

27-103-125. The proposed budget of each state agency shall show the amounts required for operating expenses separately from the amounts required for permanent improvements.

The overall budget shall show, separately by each source, the estimated amount of general fund revenue and of special fund revenues of general fund agencies. The total proposed expenditures in Part 1 of the overall budget shall not exceed the amount of estimated revenues <u>that</u> will be available in the general and special funds for appropriation or use during the succeeding fiscal year, including any balances <u>that</u> will be on hand in the

general and special funds at the close of the then current fiscal year.

*** * *** The total proposed expenditures from the General Fund in Part 1 of the overall budget shall not exceed ninety-eight percent (98%) of the amount of general fund revenues that the state actually received during the previous fiscal year, plus any unencumbered balances in general funds that will be available and on hand at the close of the then current fiscal year and the amount of any general fund revenues that may be raised by increases in taxes or fees during the next fiscal year. Unencumbered balances in general funds that will be available and on hand at the close of the current fiscal year shall not include projected amounts required to be deposited into the Working Cash-Stabilization Reserve Fund under Section 27-103-203.

The total proposed expenditures from special funds for any agency in Part 1 of the overall budget shall not exceed the amount of special fund revenues that the agency actually received during the previous fiscal year, plus any unencumbered balances in special funds that will be available and on hand for the agency at the close of the then current fiscal year and the amount of any special fund revenues that may be raised for the agency by increases in fees during the next fiscal year.

The Legislative Budget Office may recommend additional taxes or sources of revenue if in its judgment those additional funds are necessary to adequately support the functions of the state government.

SECTION 2. Section 27-103-127, Mississippi Code of 1972, is amended as follows:

27-103-127. To the end that the overall budget will present in comparable terms a complete summary of all financial operations of all state agencies, Part 2 of the overall budget shall include *** * *** the requested budget and the recommended budget for each special fund agency. The overall budget shall show for each

special fund agency, in addition to such other information as may be prescribed by the Legislative Budget Office, the following:

(a) The amount by source of all special fund receipts collected or otherwise available in the current fiscal year, and an estimate by source of all special funds that will be collected or become available by the end of the then current fiscal year;

(b) The estimated amount of all expenditures to be made or obligations to be incurred payable from those special funds during the then current fiscal year;

(c) The estimated aggregate amount of special funds that will be needed by the agency for the succeeding fiscal year; if any services proposed to be provided by the agency in the succeeding fiscal year are Medicaid reimbursable, any state general matching funds necessary for that reimbursement shall be included in the agency's proposed budget * * *;

(d) The estimated amount by source of special funds that will be available under existing laws during the succeeding fiscal year, including any balances that will be on hand at the close of the then current fiscal year;

(e) The estimated amount that will be needed and that will require change in existing law or laws;

(f) If any new item of expense is included in the proposed budget of any special fund agency, the reason therefor shall be given; and in any case where the Legislative Budget Office * * * eliminates or reduces any item or items in the proposed budget of any special fund agency, it shall note briefly the reasons therefor, together with the reasons advanced by the agency in support of the item or items eliminated or reduced;

(g) The proposed budget of each special fund agency shall show the amounts required for operating expenses separately from the amounts required for permanent improvements.

The total proposed expenditures for any agency in Part 2 of the overall budget shall not exceed the amount of special fund

revenues that the agency received during the previous fiscal year, plus any unencumbered balances in special funds that will be available and on hand for the agency at the close of the then current fiscal year and the amount of any special fund revenues that may be raised for the agency by increases in fees during the next fiscal year. However, the Legislative Budget Office may recommend changes in existing law in order to decrease or increase the revenues available to any agency if in its judgment those changes are necessary or desirable.

*** * *** Expenditures approved or authorized by the Legislature for any special fund agency or special funds approved for general fund agency shall constitute a maximum to be expended or encumbered by the agency, and shall not constitute authority to expend or encumber more than the amount of revenue actually collected or otherwise received.

No special fund agency or general fund agency shall make expenditures from special funds available to the agency unless those expenditures are set forth in a budget approved by the Legislature. That legislative approval shall be set forth in an appropriation act. *** * *** However, *** * *** special funds derived from the collection of taxes for any political subdivision of the state shall be excepted from the foregoing provisions. The executive head of the state agency shall be liable on his official bond for expenditures or encumbrances that exceed the total amount of the budget or the amount received if receipts are less than the approved budget.

*** * *** Each university and college shall submit through the Board of Trustees of State Institutions of Higher Learning an annual budget to the Legislative Budget Office before the beginning of each fiscal year with such information and in such form, and in such detail, as may be required by the Legislative Budget Office. If the Legislative Budget Office determines that sufficient funds will be available during the fiscal year to fund

the proposed budget as submitted, then * * * the proposed budget shall be approved. However, if the Legislative Budget Office determines that, in its judgment, sufficient funds will not be available to fund the proposed budget, the affected institution or institutions and the Board of Trustees of State Institutions of Higher Learning shall be promptly notified and given an opportunity to either justify the proposed budget or proposed amendments that can be mutually agreed upon. The Legislative Budget Office shall then approve the proposed budget or budgets of the several universities and colleges. The total amount approved for each institution shall constitute the maximum funds that may be expended during the fiscal year.

The municipal, county or combined municipal and county port and harbor commissions, authorities or other port or harbor agencies not owned or operated by the state, shall submit annual or amended budgets of their estimated receipts and expenditures to the governing bodies of the municipality, county or municipality and county, for their approval, and a copy of the budget as approved by the governing body or bodies shall be filed with the Legislative Budget Office. That budget shall itemize all estimated receipts and expenditures, and the Legislative Budget Office may require particularization, explanation or audit thereof, and shall report that information to the Legislature.

To the end that the overall budget shall present in comparable terms a complete summary of all financial operations of all state agencies, Part 3 of the overall budget shall consist of an estimated preliminary annual budget of the Department of Transportation and the Division of State Aid Road Construction of the Department of Transportation and such information for the current fiscal year as is necessary to make presentation comparable to that specified for Part 2 special fund agencies.

The annual budget request of the Department of Transportation

shall be divided into the following program budgets: (a) administration and other expenses, (b) construction, (c) maintenance, and (d) debt service. In making its annual appropriation to the Department of Transportation from the State Highway Fund, the Legislature shall separate the appropriation bill into the four (4) program budget areas herein specified. For the purposes of this paragraph, "administration and other expenses" shall be construed to mean those expenses incurred due to departmental support activities that cannot be assigned to a specific construction or maintenance project, and shall be construed to include expenses incurred for office machines, furniture, fixtures, automobiles, station wagons, truck and other vehicles, road machinery, farm equipment and other working equipment, data processing and computer equipment, all other equipment, and replacements for equipment. "Construction" shall be construed to mean those expenses associated with the creation and development of the state highway system and its related facilities; "maintenance" shall be construed to mean those expenses incurred due to activities associated with preservation of safe and aesthetically acceptable highways in an attempt to maintain them in as close to the original condition as possible; and "debt service" shall be construed to mean amounts needed to pay bonds and interest coming due, bank service charges, and bond debt service.

SECTION 3. Section 27-103-139, Mississippi Code of 1972, is amended as follows:

27-103-139. On or before November 15 preceding each regular session of the Legislature, except the first regular session of a new term of office, the Governor shall submit to the members of the Legislature, the Legislative Budget Office or the members-elect, as the case may be, and to the executive head of each state agency a balanced budget for the succeeding fiscal year. *** * *** The budget submitted shall be prepared in a format

that will include performance measurement data associated with the various programs operated by each agency. The total proposed expenditures in the balanced budget shall not exceed the amount of estimated revenues that will be available for appropriation or use during the succeeding fiscal year, including any balances that will be on hand at the close of the then current fiscal year * * *.

* * * The total proposed expenditures from the General Fund in the balanced budget shall not exceed ninety-eight percent (98%) of the amount of general fund revenues that the state actually received during the previous fiscal year, plus any unencumbered balances in general funds that will be available and on hand at the close of the then current fiscal year and the amount of any general fund revenues that may be raised by increases in taxes or fees during the next fiscal year. Unencumbered balances in general funds that will be available and on hand at the close of the fiscal year shall not include projected amounts required to be deposited into the Working Cash-Stabilization Reserve Fund under Section 27-103-203.

The total proposed expenditures from special funds for any agency in the balanced budget shall not exceed the amount of special fund revenues that the agency actually received during the previous fiscal year, plus any unencumbered balances in special funds that will be available and on hand for the agency at the close of the then current fiscal year and the amount of any special fund revenues that may be raised for the agency by increases in fees during the next fiscal year.

The Governor may recommend additional taxes or sources of revenue if in his judgment those additional funds are necessary to adequately support the functions of the state government.

The Governor may employ a budget officer for the purpose of receiving information from the State Fiscal Officer and preparing his recommendations on the budget. If the Governor determines

that information received from the State Fiscal Officer is not sufficient to enable him to prepare his budget recommendations, he may request an appropriation from the Legislature to provide additional staff within the Governor's Office for that purpose. At the first regular session after his election for Governor, the Governor shall submit any budget recommendations plus the required revenue source recommendations no later than January 31 of that year.

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

27-103-211. *** * *** The total sum appropriated by the Legislature from the State General Fund for any fiscal year shall not exceed ninety-eight percent (98%) of the amount of general fund revenues that the state actually received during the previous fiscal year, plus any unencumbered balances in general funds that will be available and on hand at the close of the then current fiscal year and the amount of any general fund revenues that will be raised by increases in taxes or fees during the next fiscal year. The unencumbered balances in general funds that will be available and on hand at the close of the fiscal year shall not include projected amounts required to be deposited into the Working Cash-Stabilization Reserve Fund under Section 27-103-203.

The total sum appropriated by the Legislature from special funds for any agency for any fiscal year shall not exceed the amount of special fund revenues that the agency actually received during the previous fiscal year, plus any unencumbered balances in general funds that will be available and on hand for the agency at the close of the then current fiscal year and the amount of any special fund revenues that will be raised for the agency by increases in fees during the next fiscal year.

SECTION 5. Section 31-17-123, Mississippi Code of 1972, is amended as follows:

31-17-123. The intent of the Legislature is to authorize borrowing funds under the provisions of Sections 31-17-101 through 31-17-123 to offset any temporary cash flow deficiencies and should not be construed to authorize the borrowing of any funds in an amount that cannot be repaid during the fiscal year in which the funds are borrowed. * * *

If, at the end of October, or at the end of any month thereafter of any fiscal year, the revenues received for the fiscal year * * * fall below ninety-eight percent (98%) of the amount of general fund revenues that the state actually received during the fiscal year immediately before the preceding fiscal year, plus any unencumbered balances in general funds that were available and on hand at the close of the preceding fiscal year and the amount of any general fund revenues that will be raised by increases in taxes or fees during the current fiscal year, the State Fiscal Officer shall reduce allocations of general funds and state-source special funds to general fund and special fund agencies and to the "administration and other expenses" budget of the State Highway Department in an amount necessary to keep expenditures within the sum of actual general fund receipts including any transfers to the General Fund from the Working Cash-Stabilization Reserve Fund for the fiscal year.

The State Fiscal Officer may, upon his determination of need based on the revenue shortfall, transfer funds as provided in Section 27-103-203, from the Working Cash-Stabilization Reserve Fund to the General Fund to supplement the general fund revenue. State-source special funds in an amount equal to any reduction made under the provisions of this section shall be transferred to the State General Fund upon requisitions for warrants signed by the respective agency head, and that transfer shall be made within a reasonable period to be determined by the State Fiscal Officer.

No agency's allocation shall be reduced in an amount to exceed five percent (5%); however, if the allocations of general

funds and state-source special funds to all general fund and special fund agencies and to the "administration and other expenses" budget of the State Highway Department have been reduced by five percent (5%), any additional reductions required to be made under this section shall consist of a uniform percentage reduction of general funds and state-source special funds to all general fund and special fund agencies, and to the "administration and other expenses" budget of the State Highway Department. Any receipt from loans authorized by Sections 31-17-101 through 31-17-123 shall not be included as revenue receipts. The State Fiscal Officer shall immediately send notice of any action taken under authority of this section to the Legislative Budget Office.

For the purpose of this section, "state-source special funds" shall be construed to mean any special funds in any agency derived from any source, but shall not include the following special funds: special funds derived from federal sources, from local or regional political subdivisions, or from donations; special funds held in a fiduciary capacity for the benefit of specific persons or classes of persons; self-generated special funds of the state institutions of higher learning or the state junior colleges; special funds of Mississippi Industries for the Blind, the State Port at Gulfport, Yellow Creek Inland Port, Pat Harrison Waterway District, Pearl River Basin Development District, Pearl River Valley Water Management District, Tombigbee River Valley Water Management District, Yellow Creek Watershed Authority, or Coast Coliseum Commission; special funds of the Department of Wildlife, Fisheries and Parks derived from the issuance of hunting or fishing licenses; and special funds generated by agencies whose primary function includes the establishment of standards and the issuance of licenses for the practice of a profession within the State of Mississippi.

SECTION 6. There is created a special fund in the State Treasury to be known as the Taxpayer Rebate Fund, which shall be

comprised of funds transferred from the year-end unencumbered General Fund cash balance under Section 27-103-203(1) and such other funds that are required by law to be deposited into the special fund. Monies in the fund shall be used, upon appropriation by the Legislature, to refund surplus state revenues to the taxpayers of the state in the form of rebate payments. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund.

SECTION 7. Section 27-103-203, Mississippi Code of 1972, is amended 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, into which shall be deposited one hundred percent (100%) of the unencumbered General Fund cash balance at the close of each fiscal year until such time as the balance in the fund reaches Forty Million Dollars ($40,000,000.00). After the balance in the fund reaches Forty Million Dollars ($40,000,000.00), fifty percent (50%) of the unencumbered General Fund cash balance at the close of each fiscal year, not to exceed seven and one-half percent (7-1/2%) of the General Fund appropriations for the fiscal year, shall be deposited into the fund. The remainder of the year-end unencumbered General Fund cash balance after transfer to the Working Cash-Stabilization Reserve Fund shall remain in the General Fund; however, if the balance of the Working Cash-Stabilization Reserve Fund reaches seven and one-half percent (7-1/2%) of the General Fund appropriations for the fiscal year, fifty percent (50%) of the unencumbered General Fund cash balance shall be transferred into the Taxpayer Rebate Fund created in Section 6 of this act. Unencumbered cash in the General Fund may

be used for new year cash flow needs and may also be used for deficit appropriations or regular appropriations.

(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 Sections 27-105-33(d) or 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 reserve fund reaches seven and one-half percent (7-1/2%) of the total General Fund appropriations for the current fiscal year, and all interest earned in excess of amounts necessary to maintain the seven and one-half percent (7-1/2%) fund balance requirement shall be deposited by the State Treasurer into the State General Fund.

(3) The Working Cash-Stabilization Reserve Fund, except for Nineteen Million Dollars ($19,000,000.00) 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 those purposes as authorized by Section

31-17-101 et seq. shall be made as long as an unencumbered balance in excess of Nineteen Million Dollars ($19,000,000.00) 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 that fund. Four Million Dollars ($4,000,000.00) in the Working Cash-Stabilization Reserve Fund shall remain available for use under Section 27-103-81. 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 such purpose in any one (1) fiscal year. If it becomes necessary to apply a part of the fund to this purpose, the amount so applied shall be restored to the Working Cash-Stabilization Reserve Fund out of future annual surpluses, as provided in subsection (1) of this section, until the seven and one-half percent (7-1/2%) maximum is again attained.

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

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

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

SECTION 8. This act shall take effect and be in force from and after July 1, 2002.

ST: State budget; use previous fiscal year's revenues to prepare budget and make appropriations for next fiscal year.