

By: Senator(s) Nunnelee, White

To: Appropriations

SENATE BILL NO. 2737

1 AN ACT ENTITLED THE "BUDGET REFORM ACT OF 2005"; TO AMEND
2 SECTIONS 27-103-139, 27-103-137, 27-103-125 AND 27-103-211,
3 MISSISSIPPI CODE OF 1972, TO REVISE THE MEMBERSHIP OF THE REVENUE
4 ESTIMATING COMMITTEE, TO DIRECT THE JOINT LEGISLATIVE BUDGET
5 COMMITTEE AND THE GOVERNOR TO BASE BUDGET RECOMMENDATIONS ON THE
6 REVENUE ESTIMATE, TO REQUIRE THE LEGISLATURE TO ADOPT A FINAL
7 BUDGET BASED ON THE REVENUE ESTIMATE BY THE 45TH DAY OF A 125-DAY
8 REGULAR SESSION AND BY THE 10TH DAY OF A 90-DAY SESSION; TO CODIFY
9 SECTION 27-103-140, MISSISSIPPI CODE OF 1972, TO PROVIDE 9
10 SPECIFIC CATEGORIES FOR APPROPRIATION BILLS FOR ALL STATE
11 AGENCIES; TO REQUIRE THAT AFTER THE LEGISLATURE HAS ADOPTED ITS
12 ANNUAL BUDGET, ANY BILL THAT IS CONSIDERED ON THE FLOOR OF EITHER
13 HOUSE WHICH AUTHORIZES AN EXPENSE NOT IN THE BUDGET SHALL INCLUDE
14 AN EQUAL REDUCTION IN THE BUDGET PREVIOUSLY ADOPTED, AND ANY
15 SUBSEQUENT BILL CONSIDERED ON THE FLOOR OF EITHER HOUSE WHICH
16 DECREASES THE REVENUE EXPENDED IN THE ADOPTED BUDGET SHALL INCLUDE
17 AN EQUAL INCREASE IN ANOTHER REVENUE SOURCE; TO AMEND SECTIONS
18 27-104-25 AND 27-104-17, MISSISSIPPI CODE OF 1972, IN CONFORMITY
19 THERETO; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** This act shall be known and may be cited as the
22 "Budget Reform Act of 2005."

23 **SECTION 2.** Section 27-103-139, Mississippi Code of 1972, is
24 amended as follows:

25 27-103-139. (1) There is hereby established a revenue
26 estimating committee to prepare an annual revenue estimate for the
27 budget of the State of Mississippi. The revenue estimating
28 committee shall be comprised of the following nine (9) members:
29 (a) the State Treasurer; (b) the Commissioner of Revenue; (c) the
30 State Economist; (d) the Director of the Legislative Budget
31 Office; (e) the State Fiscal Officer; (f) two (2) appointments of
32 the Governor to serve a term concurrent with that of the Governor;
33 (g) one (1) appointment of the Lieutenant Governor to serve a term
34 concurrent with that of the Lieutenant Governor; and (h) one (1)
35 appointment of the Speaker of the House of Representatives to

36 serve a term concurrent with that of the Speaker. The revenue
37 estimating committee shall meet on the call of the State
38 Treasurer, who shall serve as chairman, and shall adopt its annual
39 revenue estimate on or about November 1 for the upcoming fiscal
40 year preceding each Regular Session of the Legislature.

41 (2) On or before November 15 preceding each Regular Session
42 of the Legislature, except the first regular session of a new term
43 of office, the Governor shall submit to the members of the
44 Legislature, the Legislative Budget Office or the members-elect,
45 as the case may be, and to the executive head of each state agency
46 a balanced budget for the succeeding fiscal year. The budget
47 submitted shall be prepared in a format that will include
48 performance measurement data associated with the various programs
49 operated by each agency. The total proposed expenditures in the
50 balanced budget shall not exceed the amount of estimated revenues
51 that will be available for appropriation or use during the
52 succeeding fiscal year, including any balances that will be on
53 hand at the close of the then current fiscal year, as determined
54 by the revenue estimate * * * adopted by the revenue estimating
55 committee established in subsection (1). The total proposed
56 expenditures from the State General Fund in the balanced budget
57 shall not exceed ninety-eight percent (98%) of the amount of
58 general fund revenue estimate for the succeeding fiscal year, plus
59 any unencumbered balances in general funds that will be available
60 and on hand at the close of the then current fiscal year.
61 However, for fiscal years 2004 and 2005 only, the total proposed
62 expenditures from the State General Fund in the balanced budget
63 shall not exceed one hundred percent (100%) of the amount of the
64 general fund revenue estimate for the succeeding fiscal year, plus
65 any unencumbered balances in general funds that will be available
66 and on hand at the close of the then current fiscal year. * * *
67 Unencumbered balances in general funds that will be available and
68 on hand at the close of the fiscal year shall not include

69 projected amounts required to be deposited into the Working
70 Cash-Stabilization Reserve Fund and the Education Enhancement Fund
71 under Section 27-103-203.

72 (3) The revenues used in preparing the balanced budget shall
73 be only those revenues that will be available under the general
74 laws of the state as they exist when the balanced budget is
75 prepared, and shall not include any proposed revenues that would
76 become available only after the enactment of new legislation. If
77 the Governor has any recommendations for additional proposed
78 expenditures or proposed revenues that are not included in his
79 balanced budget, he shall submit those recommendations in a
80 supplement that is separate from his balanced budget, and whenever
81 the Governor recommends any such additional proposed expenditures,
82 he also shall recommend proposed revenues that are sufficient to
83 fund the additional proposed expenditures, providing specific
84 details regarding the sources and the total amount of those
85 proposed revenues.

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

97 **SECTION 3.** Section 27-103-137, Mississippi Code of 1972, is
98 amended as follows:

99 27-103-137. (1) The Joint Legislative Budget Committee
100 shall hold such hearings as may be necessary to determine the
101 actual budget requirements of the agencies. The State Fiscal

102 Management Board and the Governor's Budget Officer shall be
103 notified of such hearings and the board and any staff members of
104 the board and of the Governor's office may attend such hearings in
105 order to give the Governor adequate information on which to base
106 any budget recommendations he may desire to submit to the
107 Legislature. The total proposed expenditures in the balanced
108 budget adopted by the Joint Legislative Budget Committee shall not
109 exceed the amount of estimated revenues that will be available for
110 appropriation or use during the succeeding fiscal year, including
111 any balances that will be on hand at the close of the then current
112 fiscal year, as determined by the revenue estimate adopted by the
113 revenue estimating committee under Section 27-103-139(1). The
114 Legislative Budget Office shall have made a sufficient number of
115 copies of its proposed budget in order that the data contained
116 therein will be available to the members of the Legislature for
117 consideration, and to provide a copy for each state agency
118 included in the budget proposal, and shall forward a copy to each
119 member or member-elect of the Legislature and to each state agency
120 on or about December 15 of each year.

121 (2) A budget based on the revenue estimate adopted by the
122 revenue estimating committee shall be adopted by the Legislature
123 annually by the end of the forty-fifth (45th) day of the Regular
124 Session in a one-hundred-twenty-five-day session and by the end of
125 the tenth (10th) day of the Regular Session in a ninety-day
126 session.

127 (3) After the annual budget has been adopted by the
128 Legislature, any bill that is considered on the floor of either
129 house which authorizes expenditures in addition to the amount in
130 the adopted budget shall include an amendment containing an
131 equivalent decrease to the adopted budget. After the annual
132 budget has been adopted by the Legislature, any bill that is
133 considered on the floor of either house which authorizes a
134 decrease in revenues used to fund the adopted budget shall include

135 an amendment containing an equivalent increase in revenue to the
136 amount of the adopted revenue estimate.

137 **SECTION 4.** The following provision shall be codified as
138 Section 27-103-140, Mississippi Code of 1972:

139 27-103-140. Beginning with the 2006 Regular Session, the
140 Legislature shall enact the following nine (9) appropriation bills
141 to defray the expenses of all State General Fund agencies and
142 State Special Fund agencies as defined in Section 27-103-103: (a)
143 Government Operations; (b) Agriculture and Natural Resources; (c)
144 Health and Human Services; (d) Education; (e) Judiciary; (f)
145 Public Safety; (g) Business and Commerce; (h) Economic Development
146 and Tourism; and (i) Transportation.

147 **SECTION 5.** Section 27-103-125, Mississippi Code of 1972, is
148 amended as follows:

149 27-103-125. The proposed budget of each state agency shall
150 show the amounts required for operating expenses separately from
151 the amounts required for permanent improvements. The overall
152 budget shall show, separately by each source, the estimated amount
153 of general fund revenue and of special fund revenues of general
154 fund agencies. The total proposed expenditures in Part 1 of the
155 overall budget shall not exceed the amount of estimated revenues
156 that will be available in the general and special funds for
157 appropriation or use during the succeeding fiscal year, including
158 any balances that will be on hand in the general and special funds
159 at the close of the then current fiscal year. The total proposed
160 expenditures from the State General Fund in Part 1 of the overall
161 budget shall not exceed ninety-eight percent (98%) of the amount
162 of general fund revenue estimate for the succeeding fiscal year,
163 plus any unencumbered balances in general funds that will be
164 available and on hand at the close of the then current fiscal
165 year. However, for fiscal years 2004 and 2005 only, the total
166 proposed expenditures from the State General Fund in Part 1 of the
167 overall budget shall not exceed one hundred percent (100%) of the

168 amount of the general fund revenue estimate for the succeeding
169 fiscal year, plus any unencumbered balances in general funds that
170 will be available and on hand at the close of the then current
171 fiscal year. The general fund revenue estimate shall be the
172 estimate * * * adopted by the revenue estimating committee under
173 Section 27-103-139. Unencumbered balances in general funds that
174 will be available and on hand at the close of the current fiscal
175 year shall not include projected amounts required to be deposited
176 into the Working Cash-Stabilization Reserve Fund under Section
177 27-103-203. The Joint Legislative Budget Committee may recommend
178 additional taxes or sources of revenue if in its judgment those
179 additional funds are necessary to adequately support the functions
180 of the state government.

181 **SECTION 6.** Section 27-103-211, Mississippi Code of 1972, is
182 amended as follows:

183 27-103-211. The total sum appropriated by the Legislature
184 from the State General Fund for any fiscal year shall not exceed
185 ninety-eight percent (98%) of the general fund revenue estimate
186 for that fiscal year developed and adopted by the revenue
187 estimating committee under Section 27-103-139, plus any
188 unencumbered balances in general funds that will be available and
189 on hand at the close of the then current fiscal year. The
190 unencumbered balances in general funds that will be available and
191 on hand at the close of the fiscal year shall not include
192 projected amounts required to be deposited into the Working
193 Cash-Stabilization Reserve Fund under Section 27-103-203.
194 However, for fiscal years 2004 and 2005 only, the total sum
195 appropriated by the Legislature from the State General Fund shall
196 not exceed one hundred percent (100%) of the amount of the general
197 fund revenue estimate for that fiscal year, plus any unencumbered
198 balances in general funds that will be available and on hand at
199 the close of the then current fiscal year.

200 **SECTION 7.** Section 27-104-25, Mississippi Code of 1972, is
201 amended as follows:

202 27-104-25. (1) The executive head and business manager of
203 each state agency shall be responsible for all obligations or
204 indebtedness incurred in the name of the agency, or by any
205 employee for them when incurred by such employee acting within the
206 scope of his employment.

207 (2) No obligations or indebtedness shall be incurred by any
208 such person during any allotment period in excess of the amount of
209 the estimate approved by the Department of Finance and
210 Administration or in the agency appropriation * * *.

211 If a claim arising from orders for goods or services from the
212 prior fiscal year is presented within one (1) year and (a) the
213 payment of a claim does not cause an agency to exceed the amount
214 of its prior year budget estimate as approved by the Department of
215 Finance and Administration or its appropriation bill, and (b)
216 sufficient funds remain in the current fiscal year's allotment to
217 pay the claim, the State Treasurer, upon approval of the claim by
218 the Department of Finance and Administration, shall draw a warrant
219 in payment of the claim.

220 (3) Contractual obligations, such as salary contracts, shall
221 be considered as incurred within the fiscal period in which they
222 are to be paid, and are to be encumbered against funds to be
223 available in that fiscal period, and shall include appropriate
224 cancellation clauses in the event the anticipated revenues from
225 which they are to be paid do not become available.

226 (4) Agencies having special funds, as defined in Section
227 27-103-103, shall not incur obligations or indebtedness against
228 such special funds in an amount in excess of revenues actually
229 anticipated and budgeted.

230 (5) If obligations or indebtedness shall be incurred
231 contrary to the provisions hereof, then neither the State of
232 Mississippi nor the agency shall have any liability therefor, and

233 the person, firm or corporation to whom the obligation or
234 indebtedness is due may recover the amount of the obligation or
235 indebtedness and twenty-five percent (25%) of the amount as
236 liquidated damages from the responsible officers, either
237 personally or upon their official bonds, either severally of
238 jointly.

239 **SECTION 8.** Section 27-104-17, Mississippi Code of 1972, is
240 amended as follows:

241 27-104-17. (1) An allotment period shall be one-half (1/2)
242 of twelve (12) months, and expenditure one-half (1/2) of the
243 appropriated amount, unless otherwise specified in the
244 appropriation bill or justified by the agency to the Department of
245 Finance and Administration, and the first allotment period shall
246 commence on July 1. Estimates shall be filed with the Department
247 of Finance and Administration not later than the first day of the
248 month preceding the beginning period.

249 Provided further, that the Department of Finance and
250 Administration may, in its discretion, restrict an agency to
251 monthly allotment period when it becomes evident that an agency's
252 rate of expenditure to date indicates this restriction will be
253 necessary to prevent depletion of its appropriation prior to the
254 close of the fiscal year or when the condition of the State
255 General Fund requires monthly monitoring and control of the rate
256 of General Fund expenditures.

257 (2) Unless otherwise specified in the agency
258 appropriation * * *, in the event any emergency or unforeseen
259 circumstances shall arise, the agency head may authorize increases
260 in major objects of expenditure within each specific budget within
261 each appropriation bill in total amounts not to exceed ten percent
262 (10%) of the appropriated amount of each object, provided that
263 other major objects of expenditure are decreased by a
264 corresponding dollar amount. No transfers shall be authorized
265 which increase or decrease the major object of expenditure

266 "Salaries, Wages and Fringe Benefits," or which increase the major
267 object of expenditure "Capital Outlay - Equipment." The agency
268 head shall submit written justification for the transfer to the
269 Legislative Budget Office, the Department of Finance and
270 Administration, and the State Auditor, on or before the fifteenth
271 of the month prior to the effective date of the transfer. The
272 transfer shall be effective the first working day of the month
273 following timely submissions required herein. In cases of extreme
274 hardship, certified in writing by the agency head and submitted
275 with timely submissions required herein, the Executive Director of
276 the Department of Finance and Administration, in his discretion,
277 may authorize an earlier effective date for the transfer.

278 **SECTION 9.** This act shall take effect and be in force from
279 and after July 1, 2005.