

April 24, 2025

TO THE MISSISSIPPI SENATE:

GOVERNOR'S VETO MESSAGE FOR SENATE BILL 2840

I am returning Senate Bill 2840: "AN ACT TO AMEND SECTION 37-113-55, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MONIES IN THE MISSISSIPPI STATE UNIVERSITY VETERINARY SCHOOL FUND SHALL BE DISBURSED BY THE BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING INSTEAD OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION; TO AMEND SECTION 43 OF CHAPTER 95, LAWS OF 2024, TO REVISE THE FISCAL YEAR 2025 APPROPRIATION TO THE STATE DEPARTMENT OF EDUCATION TO PROVIDE THAT A CERTAIN SUM MAY BE USED FOR THE CONTINUATION OF THE CURRENT SCHOOL SAFETY PLATFORM; TO AMEND SECTION 1 OF CHAPTER 534, LAWS OF 2024, TO CORRECT THE REFERENCE TO THE FUND NUMBER FOR THE 2022 EMERGENCY ROAD AND BRIDGE FUND; TO AMEND SECTION 29-9-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PURCHASES OF OBSOLETE PERSONAL PROPERTY SOLD BY THE LEGISLATURE ARE NOT VIOLATIONS OF THE ETHICS LAWS; TO DIRECT THE TRANSFER OF CERTAIN FUNDS FROM THE CAPITAL EXPENSE FUND TO THE SECRETARY OF STATE LAND IMPROVEMENT FUND; TO DIRECT THE STATE TREASURER ON BEHALF OF THE UNIVERSITY OF MISSISSIPPI MEDICAL CENTER TO TRANSFER CERTAIN FUNDS TO THE STATE DEPARTMENT OF HEALTH FISCAL YEAR 2026; TO DIRECT THE STATE TREASURER TO TRANSFER CERTAIN FUNDS FROM THE CAPITAL EXPENSE FUND TO THE MISSISSIPPI SEMIQUINCENTENNIAL CELEBRATION FUND; TO CREATE THE "MISSISSIPPI VETERAN'S HOME IMPROVEMENT FUND" WITHIN THE STATE TREASURY; TO DIRECT THE STATE TREASURER TO TRANSFER CERTAIN FUNDS TO THE "MISSISSIPPI VETERAN'S HOME IMPROVEMENT FUND"; TO CREATE THE "UNITED STATES FIRE INSURANCE COMPANY SETTLEMENT FUND" WITHIN THE STATE TREASURY; TO DIRECT THE STATE TREASURER TO TRANSFER FUNDS FROM THE ATTORNEY GENERAL CONTINGENT FUND TO THE "UNITED STATES FIRE INSURANCE COMPANY SETTLEMENT FUND"; TO DIRECT THE TRANSFER OF FUNDS FROM THE CAPITAL EXPENSE FUND DFA TO THE 2022 IHL CAPITAL IMPROVEMENTS FUND; TO DIRECT THE STATE TREASURER TO TRANSFER A CERTAIN SUM FROM THE MARCH 2023 STORM HOUSING MISSION FUND TO THE HAZARD MITIGATION ADMINISTRATION AND MANAGEMENT FUND; TO DIRECT THE STATE TREASURER TO TRANSFER THE REMAINING BALANCE OF THE MARCH 2023 STORM HOUSING MISSION FUND TO THE DISASTER ASSISTANCE TRUST FUND; TO DIRECT THE STATE TREASURER TO TRANSFER A CERTAIN SUM FROM THE CAPITAL EXPENSE FUND TO THE DISASTER ASSISTANCE TRUST FUND; TO REPEAL SECTION 33-15-55, MISSISSIPPI CODE OF 1972, WHICH IS THE PROVISION OF LAW CREATING THE MARCH 2023 STORM HOUSING MISSION FUND; TO CREATE THE "DBCF CIVIL MONEY PENALTY FUND"; TO DIRECT THE STATE TREASURER TO TRANSFER A CERTAIN SUM FROM THE CONSUMER FINANCE FUND TO THE "DBCF CIVIL MONEY PENALTY FUND"; TO DIRECT THE STATE TREASURER TO TRANSFER A CERTAIN SUM TO THE NG911 CMRS GRANT FUND; TO DIRECT THE STATE TREASURER TO TRANSFER A CERTAIN SUM TO THE STATE NG911 FUND; AND FOR RELATED PURPOSES."

Article 4, Section 72 of the Mississippi Constitution of 1890 ("Constitution"), commonly referred to as the Presentment Clause, prescribes the exclusive method for a bill to become law. The Clause is modeled after the Presentment Clause in the United States Constitution, a clause adopted by the Framers to clearly spell out the procedures for adopting laws and prevent factions from attempting to depart from this constitutional law-making process. Specifically, upon presentment to the Governor of a bill that has been passed by both legislative chambers, the Governor may (a) sign the bill within 5 days of presentment, and it becomes law; (b) return the bill without signature, and such bill will become law as if he had signed it; or (c) return the bill with his objections (veto) to the chamber of origin, and such bill will become law if it is subsequently passed by each chamber upon a two-thirds vote. Additionally, if the Governor is unable to return a bill by the 5th legislative day after presentment due to the adjournment of the Legislature, the Governor may return the bill with or without his signature, or with his objections within 15 days of presentment.

The Constitution authorizes only four types of bills: revenue bills, appropriations bills, general bills and local and private (special) bills. Revenue bills generate money to fund the operation of state government and require passage on a 3/5th vote of each legislative chamber. Appropriations bills fix the maximum sum of money that may be drawn from the state treasury for a particular use, and such use may be conditioned by the authorizing legislation. General bills create laws of general application--that is they (a) operate equally upon all persons in a particular class or in a like situation, (b) are reasonable and (c) are based upon a real distinction. Local and private bills create laws affecting only a single person, group of people or geographic area of the state, and either grant a unique benefit or power not available under a general law or absolve a legal responsibility.

In addition, the Constitution imposes several other limitations on the legislative process including those contained in Article 4, Section 69:

General appropriation bills shall contain only the appropriations to defray the ordinary expenses of the executive, legislative, and judicial departments of government; to pay interest on state bonds, and to support the common schools. **All other appropriations shall be made by separate bills, each embracing but one subject. Legislation shall not be engrafted on the appropriation bills,** but the same may proscribe the conditions on which the money may be drawn, and for what purpose paid.

(emphasis added).

The requirement that appropriation bills embrace but one subject was adopted to foreclose the practice of “log rolling” through general appropriation bills, a failed practice to circumvent, among other things, the Governor’s line-item veto power memorialized in Article 4, Section 73 of the Constitution and recently reaffirmed by the Mississippi Supreme Court in *Reeves v. Gunn*, 307 So.3d 436, 439-442 (Miss. 2020). Moreover, the prohibition on engrafting forecloses all arguments that a general law has been amended by implication through the adoption of an appropriations bill. In the words of the United States Supreme Court: “[w]ithout such an assurance, every appropriations measure would be pregnant with prospects of altering substantive legislation, repealing by implication any prior statute which might prohibit the expenditure. . . . [and] lead to the absurd result of requiring Members to review exhaustively the background of every authorization before voting on an appropriation. . . .” *TVA v. Hill*, 437 U.S. 153, 190 (1978).

With this Constitutional framework in mind, I turn to Senate Bill 2840, a bill that traveled through the legislative process as a general bill. Multiple sections of SB 2840 seek to establish funds within the state treasury, and/or transfer state funds between funds within the state treasury. See Sections 1, 5, 7, 8, 9, 13, 14, 15, 16, 17, 18, 19 and 20. None of these Sections authorize the disbursement of any state funds outside of the treasury. Thus, these sections are appropriate for inclusion in a general bill.

Section 2 of Senate Bill 2840 seeks to amend an appropriations bill from the 2024 Legislative Session. Specifically, Section 2 seeks to amend Section 43 of House Bill 1823 (2024 Legislative Session) the appropriations bill for the Mississippi Department of Education to amend the purpose for the funds appropriated therein, as plainly stated in the short title: “TO AMEND SECTION 43 OF CHAPTER 95, LAWS OF 2024, TO REVISE THE FISCAL YEAR 2025 APPROPRIATION TO THE STATE DEPARTMENT OF EDUCATION TO PROVIDE THAT A CERTAIN SUM MAY BE USED FOR THE CONTINUATION OF THE CURRENT SCHOOL SAFETY PLATFORM.” Thus, by its plain text, Section 2 should be included in an appropriations bill.

Section 4 of Senate Bill 2840 seeks to amend Mississippi Code § 29-9-9 to authorize members of the Mississippi Legislature to purchase surplus property. The proposed amendment to a general law is accomplished through a general bill.

Section 6 of Senate Bill 2840 seeks to transfer funds previously appropriated to the University of Mississippi Medical Center to the State Department of Health for the purposes of funding the Office of Mississippi Physician Workforce. If such funds are still held by the treasury, such a “transfer” is akin to an appropriation and should be included in an appropriations bill.

Sections 10 and 11 of Senate Bill 2840 establishes a fund in the state treasury, transfers money from an existing fund in the state treasury into the newly created fund and authorizes DFA to “disburse” state funds in the newly created fund “to defray costs in compliance with the settlement in [a civil case]. . . related to the bookstore at Mississippi Delta Community College.” (Lines 205-226). While Section 10 does not use the term “appropriate,” there can be no doubt that the intent of the Legislature is to authorize DFA to “disburse” state funds out of the newly created fund for a particular purpose. Thus, by its plain text, Sections 10 and 11 should be included in an appropriations bill.

Similarly, Section 12 authorizes the transfer of state funds between funds (Capital Expense Fund and IHL Capital Improvements Fund), and authorizes DFA, with the approval of IHL to disburse such funds for a particular purpose: “projects related to the universities under its management and control, to pay the costs for repair or renovation of systems buildings on the Hattiesburg campus.” (Lines 227-241). Thus, like Sections 10 and 11, Section 12, by its plain text, is an appropriation and should be included in an appropriations bill.

In short, on the one hand, it is indisputable that parts of Senate Bill 2840 are appropriate for inclusion in a general bill, while on the other hand, it is axiomatic that other parts of SB 2840 are appropriations, seeking to disburse from the state treasury state funds for a particular purpose. So, it begs the Constitutional question: What type of bill is SB 2840? It looks, walks, quacks and has the characteristics of both a general bill and an appropriation bill. Like its predecessor House Bill 1085 (2025 Legislative Session), is SB 2840 a new species of bill? Fortunately, because SB 2840 runs afoul of multiple provisions of the Constitution, such a bill cannot be lawfully presented to the Office of the Governor for consideration, and such questions regarding bill-type need not be answered.

First, Senate Bill 2840 violates Article 4, Section 69 of the Constitution prohibiting the combination of general legislation and appropriations in a single bill. It is beyond dispute that SB 2840 impermissibly engrafts general legislation and appropriations language in a single bill, a practice that clearly violates the Constitution.

Second, Senate Bill 2840 violates Article 4, Section 69 of the Constitution requiring appropriations that do not fund the “ordinary expenses” of the executive, legislative or judicial branches, to pay interest on state bonds, or to support the common schools be made by separate bills. Thus, Article 4, Section 69 plainly prohibits the attempted appropriations to separate state agencies made in this single bill.

Third, because it is impossible to determine whether Senate Bill 2840 is a general bill or an appropriations bill, it has the potential to infringe on the Governor’s clear Article 4, Section 73 authority to veto parts of an appropriation bill and approve parts of the same. Regrettably, the Constitution does not afford to the Governor the authority to utilize the line-item veto when reviewing general bills. This is almost certainly why the Constitution prohibits combining general legislation and appropriations in a single bill. The hybrid nature of SB 2840 thus has the potential to create a conflict of authority if I was to choose to exercise the Governor’s line-item veto power with respect to any of the separate, distinct and complete appropriations contained in the bill. Thankfully, because SB 2840 has not been properly presented to me, this Constitutional question can be avoided.

In sum, because the form of Senate Bill 2840 violates multiple clear prohibitions contained in the Constitution, the bill has not been lawfully presented to the Governor. Further, because of the impending special session, many of the necessary transfers and appropriations contained in SB 2840 may be accomplished and resubmitted by the Legislature in Constitutional form. Nevertheless, both the plain text and spirit of the Constitution requires me to veto Senate Bill 2840.

Respectfully submitted,

TATE REEVES
GOVERNOR