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Chapter No. 104

10/SS02/A160SG

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## ***SENATE BILL NO. 3166***

Originated in Senate

*Donald Trump*

Secretary

SENATE BILL NO. 3166

AN ACT MAKING AN APPROPRIATION TO DEFRAY THE EXPENSES OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION FOR FISCAL YEAR 2011.

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

SECTION 1. The following sum, or so much thereof as may be necessary, is hereby appropriated out of any money in the State General Fund not otherwise appropriated, to defray the expenses of the Department of Finance and Administration for the fiscal year beginning July 1, 2010, and ending June 30, 2011 ..... \$ 11,500,000.00.

SECTION 2. The following sum, or so much thereof as may be necessary, is hereby appropriated out of any money in the State Treasury to the credit of the Department of Finance and Administration for the purpose of defraying the expenses incurred in the operation of the various offices of the department for the fiscal year beginning July 1, 2010, and ending June 30, 2011 ..... \$ 38,787,665.00.

SECTION 3. Of the funds appropriated under the provisions of this act, not more than the following amount shall be expended for Salaries, Wages and Fringe Benefits ..... \$ 24,339,962.00.

FUNDING

General Funds .....	\$	11,500,000.00
Special Funds .....		<u>38,787,665.00</u>
Total .....	\$	50,287,665.00

AUTHORIZED POSITIONS:

Permanent:	Full Time .....	433
	Part Time .....	2
Time-Limited:	Full Time .....	2

Part Time ..... 0

With the funds herein appropriated, it is the intention of the Legislature that it shall be the agency's responsibility to make certain that funds required to be appropriated for "Personal Services" for Fiscal Year 2012 do not exceed Fiscal Year 2011 funds appropriated for that purpose, unless programs or positions are added to the agency's Fiscal Year 2011 budget by the Mississippi Legislature. Based on data provided by the Legislative Budget Office, the State Personnel Board shall determine and publish the projected annual cost to fully fund all appropriated positions in compliance with the provisions of this act. It shall be the responsibility of the agency head to insure that no single personnel action increases this projected annual cost and/or the Fiscal Year 2011 appropriations for "Personal Services" when annualized, with the exception of escalated funds. If, at the time the agency takes any action to change "Personal Services," the State Personnel Board determines that the agency has taken an action which would cause the agency to exceed this projected annual cost or the Fiscal Year 2011 "Personal Services" appropriated level, when annualized, then only those actions which reduce the projected annual cost and/or the appropriation requirement will be processed by the State Personnel Board until such time as the requirements of this provision are met.

Unless otherwise authorized in this act, no state agency shall take any action to promote or otherwise award salary increases through reallocation, reclassification, realignment, educational benchmark, career ladder, equity salary adjustment, or any other means to increase salaries of employees or positions unless specifically exempted by the following conditions: the award of teacher salary increments; the advancement of a trainee/cadet to the next level of a bona fide career ladder; the award of an educational benchmark for the attainment of a Certified Public Accountant License or higher level professional

certification based on information provided to the State Personnel Board by the Legislative Budget Office; the immediate replacement of a departing employee with an employee from within state service at a salary level of the departing employee or the Fiscal Year 2011 promotional formula, whichever is less; the emergency appointment of nurses, pharmacists or other health care and child protection professionals at a salary to be determined by the State Personnel Board; or a new hire associated with the American Recovery and Reinvestment Act of 2009. All positions supported by funds available through the American Recovery and Reinvestment Act of 2009 shall be designated as time-limited positions.

Any transfers or escalations shall be made in accordance with the terms, conditions and procedures established by law or allowable under the terms set forth within this act. The State Personnel Board shall not escalate positions without written approval from the Department of Finance and Administration. The Department of Finance and Administration shall not provide written approval to escalate any funds for salaries and/or positions without proof of availability of new or additional funds above the appropriated level.

No general funds authorized to be expended herein shall be used to replace federal funds and/or other special funds which are being used for salaries authorized under the provisions of this act and which are withdrawn and no longer available.

Provided that a report based on expenditures incurred during the current and immediate-past fiscal years shall be provided to each regularly scheduled legislative session. This report should reflect expenditures as a result of the operation of the Robert E. Lee Building, the Woolfolk State Office Building, the Gartin and Sillers Buildings, the Capitol Buildings, the Central High School Building, the Robert G. Clark, Jr. Building and other state buildings, and this report should contain any steps taken to reduce operating costs.

It is also the intention of the Legislature that no state-owned aircraft shall be utilized by any person except for official business only.

**SECTION 4.** In addition to all other sums herein appropriated, the following sum, or so much thereof as may be necessary, is hereby appropriated out of any money in the special fund in the State Treasury to the credit of the Tort Claims Fund for the purpose of defraying the expenses of the Tort Claims Board in the administration of the Tort Claims Act for the fiscal year beginning July 1, 2010, and ending June 30, 2011 .....

	\$ 9,262,820.00.
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**SECTION 5.** Of the funds appropriated under the provisions of this act, not more than the following amount shall be expended for Salaries, Wages and Fringe Benefits .....

	\$ 523,719.00.
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**FUNDING:**

General Funds .....	\$	0.00
Special Funds .....		9,262,820.00
Total .....	\$	9,262,820.00

**AUTHORIZED POSITIONS:**

Permanent:	Full Time .....	8
	Part Time .....	0
Time-Limited:	Full Time .....	0
	Part Time .....	0

With the funds herein appropriated, it is the intention of the Legislature that it shall be the agency's responsibility to make certain that funds required to be appropriated for "Personal Services" for Fiscal Year 2012 do not exceed Fiscal Year 2011 funds appropriated for that purpose, unless programs or positions are added to the agency's Fiscal Year 2011 budget by the Mississippi Legislature. Based on data provided by the Legislative Budget Office, the State Personnel Board shall determine and publish the projected annual cost to fully fund all appropriated positions in compliance with the provisions of this

act. It shall be the responsibility of the agency head to insure that no single personnel action increases this projected annual cost and/or the Fiscal Year 2011 appropriations for "Personal Services" when annualized, with the exception of escalated funds. If, at the time the agency takes any action to change "Personal Services," the State Personnel Board determines that the agency has taken an action which would cause the agency to exceed this projected annual cost or the Fiscal Year 2011 "Personal Services" appropriated level, when annualized, then only those actions which reduce the projected annual cost and/or the appropriation requirement will be processed by the State Personnel Board until such time as the requirements of this provision are met.

Unless otherwise authorized in this act, no state agency shall take any action to promote or otherwise award salary increases through reallocation, reclassification, realignment, educational benchmark, career ladder, equity salary adjustment, or any other means to increase salaries of employees or positions unless specifically exempted by the following conditions: the award of teacher salary increments; the advancement of a trainee/cadet to the next level of a bona fide career ladder; the award of an educational benchmark for the attainment of a Certified Public Accountant License or higher level professional certification based on information provided to the State Personnel Board by the Legislative Budget Office; the immediate replacement of a departing employee with an employee from within state service at a salary level of the departing employee or the Fiscal Year 2011 promotional formula, whichever is less; the emergency appointment of nurses, pharmacists or other health care and child protection professionals at a salary to be determined by the State Personnel Board; or a new hire associated with the American Recovery and Reinvestment Act of 2009. All positions supported by funds available through the American Recovery and Reinvestment Act of 2009 shall be designated as time-limited positions.

Any transfers or escalations shall be made in accordance with the terms, conditions and procedures established by law or allowable under the terms set forth within this act. The State Personnel Board shall not escalate positions without written approval from the Department of Finance and Administration. The Department of Finance and Administration shall not provide written approval to escalate any funds for salaries and/or positions without proof of availability of new or additional funds above the appropriated level.

No general funds authorized to be expended herein shall be used to replace federal funds and/or other special funds which are being used for salaries authorized under the provisions of this act and which are withdrawn and no longer available.

**SECTION 6.** The Bureau of Building, Grounds and Real Property Management of the Office of General Services is hereby expressly authorized and empowered to receive, budget and expend any state, local or other source funds designated for supplemental funding of construction and/or repairs and renovation projects.

**SECTION 7.** Of the funds appropriated under the provisions of Section 2, the following amounts are authorized to be spent out of the Statewide Cost Allocation Fund No. 3143 by the Department of Finance and Administration:

(a) Three Hundred Thirty-four Thousand Eight Hundred Dollars (\$334,800.00) for the purpose of defraying computer expenses.

(b) One Million Five Hundred Two Thousand Nine Hundred Ninety-two Dollars (\$1,502,992.00) for the purposes of providing statewide accounting, payroll and document management and defraying the expenses of administration of the Statewide Cost Allocation Plan.

**SECTION 8.** It is the intention of the Legislature that the Department of Finance and Administration shall maintain complete accounting and personnel records related to the expenditure of all

funds appropriated under this act and that such records shall be in the same format and level of detail as maintained for Fiscal Year 2010. It is further the intention of the Legislature that the agency's budget request for Fiscal Year 2012 shall be submitted to the Joint Legislative Budget Committee in a format and level of detail comparable to the format and level of detail provided during the Fiscal Year 2011 budget request process.

**SECTION 9.** The department is authorized to expend available funds on technology or equipment upgrades or replacements when it will generate savings through efficiency or when the savings generated from such upgrades or replacements exceed expenditures thereof.

**SECTION 10.** It is the intention of the Legislature that whenever two (2) or more bids are received by this agency for the purchase of commodities or equipment, and whenever all things stated in such received bids are equal with respect to price, quality and service, the Mississippi Industries for the Blind shall be given preference. A similar preference shall be given to the Mississippi Industries for the Blind whenever purchases are made without competitive bids.

**SECTION 11.** The Mississippi Department of Finance & Administration is hereby authorized to receive additional funds from any state agency or other source, including one hundred percent (100%) general-fund agencies, for the purpose of providing Capitol Police Services to any governmental organization, located within a one-mile radius of the Capital Complex, contracting with the Mississippi Department of Finance & Administration for such services. The Mississippi Department of Finance & Administration is further authorized to escalate an amount not to exceed Four Hundred Thousand (\$400,000.00) and to increase, up to a maximum of ten (10) additional positions, the number of authorized positions listed in this act in order to provide the required Police Protection services for such governmental organizations, under the

rules and regulations of the Department of Finance and Administration.

**SECTION 12.** It is the intention of the Legislature that the Department of Finance and Administration shall have the authority to escalate its budget and expend funds from any source, not to exceed Five Hundred Thousand Dollars (\$500,000.00), for the purpose of managing and operating the Mississippi Veterans Memorial Stadium, in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

**SECTION 13.** In addition to the funds appropriated herein, the Department of Finance and Administration is hereby authorized to disburse to participating institutions, agencies or departments their shares or divisions of gate receipts collected at the Mississippi Veterans Memorial Stadium.

**SECTION 14.** It is the intention of the Legislature that the Department of Finance and Administration shall have the authority to escalate its budget and expend funds from any source in an amount not to exceed Five Hundred Thousand Dollars (\$500,000.00) for the purpose of transferring funds to the Bureau of Building, Grounds, and Real Property Management for the repair and maintenance of buildings under the care and supervision of the Department of Finance and Administration. Such transfers shall be in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

**SECTION 15.** It is the intention of the Legislature that the Department of Finance and Administration shall have the authority to escalate its budget and expend funds from any source, not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00), for the purpose of managing and operating the department, in accordance with rules and regulations of the Department of Finance

and Administration in a manner consistent with the escalation of federal funds.

**SECTION 16.** The following sum, or so much thereof as may be necessary, is hereby reappropriated out of any money in the State Treasury to the credit of the Budget Contingency Fund, to the Department of Finance and Administration for the purpose of reauthorizing the expenditure of Budget Contingency Funds, as authorized in Senate Bill No. 2054, Second Extraordinary Session of 2009, and for the purpose of defraying the expenses incurred in the various offices of the department in the fiscal year beginning July 1, 2010, and ending June 30, 2011 ..... \$ 4,000,000.00.

Notwithstanding the amount reappropriated under the provisions of this section, in no event shall the amount expended exceed the unexpended balance as of June 30, 2010.

**SECTION 17.** The following sum, or so much thereof as may be necessary, is hereby reappropriated out of any money in the State Treasury to the credit of the Budget Contingency Fund, to the Department of Finance and Administration for the purpose of purchasing property insurance on state property as required by the Stafford Act, Section 311, Paragraph 5154 and 44 CFR 206.252 and 206.253, and House Bill No. 4, Fifth Extraordinary Session of 2005, for the fiscal year beginning July 1, 2010, and ending June 30, 2011 ..... \$ 1,400,000.00.

Notwithstanding the amount reappropriated under the provisions of this section, in no event shall the amount expended exceed the unexpended balance as of June 30, 2010.

**SECTION 18.** It is the intention of the Legislature that Department of Finance and Administration shall revise the searchable Web site created by the department under Section 27-104-155 in accordance with the following provisions:

(a) The searchable Web site must detail, to the extent possible, where, for what purpose and what results are achieved for all taxpayer investments in state government.

(b) The searchable Web site must allow the public to programmatically search and access data in a serialized machine readable format, such as XML.

(c) The searchable Web site must be given a unique and simplified Web site address, and the department shall require each state agency that maintains a generally accessible Internet site or for which a generally accessible Internet site is maintained to include a link on the front page of the agency's Internet site to the department's searchable Web site.

(d) The searchable Web site must include an electronic summary of each grant, contract, and payment voucher that includes, whenever possible, a hyperlink to the actual document, in a format that is searchable.

(e) The searchable Web site must be updated no later than thirty (30) days after the receipt of data from a state agency, and the department shall require each state agency to provide to the department all data that is required to be included in the searchable Web site no later than thirty (30) days after the data becomes available to the agency.

(f) The searchable Web site must include data for all fiscal years beginning with fiscal year 2010, and all data on the searchable Web site must remain accessible to the public for a minimum of ten (10) years.

(g) This section shall take effect and be in force from and after July 1, 2011.

**SECTION 19.** It is the intention of the Legislature that the Department of Finance and Administration shall further revise the searchable Web site created by the department under Section 27-104-155 in accordance with the following provisions:

(a) The searchable Web site must include, with regard to expenditure of funds, (i) the funding source of the revenue expended; (ii) the budget program or activity of the expenditure; (iii) the specific source of authority for the expenditure,

including data relative to tax exemptions and credits; (iv) the expected performance outcomes for the funding action or expenditure; (v) the past performance outcomes achieved for the funding action or expenditure; and (vi) links to any state audit or report relating to the entity or recipient of funds or the budget program or activity or agency.

(b) The searchable Web site must be updated with the data required under this section no later than thirty (30) days after the receipt of data from a state agency, and the department shall require each state agency to provide to the department all data that is required to be included in the searchable Web site no later than thirty (30) days after the data becomes available to the agency.

(c) The data added under this section to the searchable Web site must include data for all fiscal years beginning with fiscal year 2014, and all data on the searchable Web site must remain accessible to the public for a minimum of ten (10) years.

(d) This section shall take effect and be in force from and after July 1, 2014.

**SECTION 20.** It is the intention of the Legislature that the agency shall compile cell phone usage records of any cellular phone (wireless communication device) that is assigned, issued or made available to any officer or employee in accordance with Section 25-53-191, Mississippi Code of 1972, and these records shall be made publicly available at the expense of the agency.

**SECTION 21.** It is the intention of the Legislature that this agency shall have the authority to receive, budget and expend funds from any source that may become available to them as a result of the passage of the American Recovery and Reinvestment Act of 2009 in accordance with the rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

The Executive Director of the Department of Finance and Administration shall have the authority to approve escalations of funds and employee positions using funds from any source available due to the passage of the American Recovery and Reinvestment Act of 2009.

The Executive Director of the Department of Finance and Administration shall immediately send notice of the approval of such budget escalation to the House of Representatives Appropriations Committee, the Senate Appropriations Committee and the Legislative Budget Office. Within fifteen (15) days of such approval, the Executive Director of the Department of Finance and Administration shall ensure that the Legislative Budget Office receives detailed and accurate information about the amount and use of federal and special source funds by state agencies as a result of the passage of the American Recovery and Reinvestment Act of 2009.

**SECTION 22.** It is legislative intent to ensure beneficial information reaches as many Mississippians as possible. Further, it is legislative intent that the expenditure of public funds for this purpose be accomplished in an efficient and effective manner.

Therefore, state agencies as standard procedure will observe the following criteria:

- (a) Develop goals and desired result for a campaign.
- (b) Evaluate effectiveness through respected advertising standards, including market reach and cost-effectiveness.
- (c) Seek public service announcements, which would be aired by media without cost.
- (d) Itemize and justify professional assistance and related expenses for creative and production costs outside of the actual media expenditures.
- (e) Utilize Mississippi-owned media companies when feasible.

**SECTION 23.** Of the funds provided within this act, no former employee who is receiving State of Mississippi retirement benefits shall be hired under contract for an amount exceeding Twenty Thousand Dollars (\$20,000.00) a year without prior approval by an agency's proper governing board or authority. Upon approval of such contracts a written report shall be submitted detailing the cost and need of contract services to the Chairmen and members of the Senate and House Appropriation Committees.

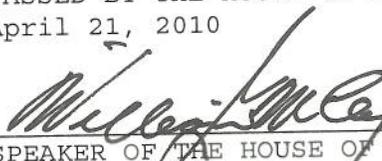
**SECTION 24.** The money herein appropriated shall be paid by the State Treasurer out of any money in the State Treasury to the credit of the proper fund or funds as set forth in this act, upon warrants issued by the State Fiscal Officer; and the State Fiscal Officer shall issue his warrants upon requisitions signed by the proper person, officer or officers, in the manner provided by law.

**SECTION 25.** This act shall take effect and be in force from and after July 1, 2010.

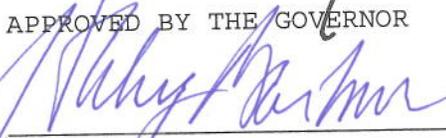
PASSED BY THE SENATE  
April 21, 2010

  
\_\_\_\_\_  
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
April 21, 2010

  
\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

  
\_\_\_\_\_  
GOVERNOR

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