

By: Harden

To: Education; Judiciary

SENATE BILL NO. 3182

1 AN ACT TO AMEND SECTION 37-61-33, MISSISSIPPI CODE OF 1972,
2 TO PRESCRIBE CRIMINAL PENALTIES FOR ANY SCHOOL ADMINISTRATOR USING
3 OR ATTEMPTING TO USE EDUCATION ENHANCEMENT FUNDS DESIGNATED FOR
4 THE CLASSROOM INSTRUCTIONAL MATERIALS CATEGORY WITHOUT FOLLOWING
5 THE GUIDELINES OF THE STATE DEPARTMENT OF EDUCATION; AND FOR
6 RELATED PURPOSES.

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

8 SECTION 1. Section 37-61-33, Mississippi Code of 1972, is
9 amended as follows:[RDD1]

10 **[Until July 1, 2002, this section reads as follows:]**

11 37-61-33. (1) There is hereby created within the State
12 Treasury a special fund to be designated the "Education
13 Enhancement Fund" into which shall be deposited all the revenues
14 collected pursuant to Sections 27-65-75(8), 27-67-31(b) and
15 27-103-203(1).

16 (2) Of the amount deposited into the Education Enhancement
17 Fund, excluding revenues deposited pursuant to Section
18 27-103-203(1), Sixteen Million Dollars (\$16,000,000.00) shall be
19 appropriated each fiscal year to the State Department of Education
20 to be distributed to all school districts. Such money shall be
21 distributed to all school districts in the proportion that the
22 average daily attendance of each school district bears to the
23 average daily attendance of all school districts within the state
24 for the following purposes:

25 (a) Purchasing, erecting, repairing, equipping,
26 remodeling and enlarging school buildings and related facilities,
27 including gymnasiums, auditoriums, lunchrooms, vocational training
28 buildings, libraries, teachers' homes, school barns,

29 transportation vehicles (which shall include new and used
30 transportation vehicles) and garages for transportation vehicles,
31 and purchasing land therefor.

32 (b) Establishing and equipping school athletic fields
33 and necessary facilities connected therewith, and purchasing land
34 therefor.

35 (c) Providing necessary water, light, heating, air
36 conditioning and sewerage facilities for school buildings, and
37 purchasing land therefor.

38 (d) As a pledge to pay all or a portion of the debt
39 service on debt issued by the school district under Sections
40 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351
41 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302
42 and 37-41-81, Mississippi Code of 1972, or debt issued by boards
43 of supervisors for agricultural high schools pursuant to Section
44 37-27-65, Mississippi Code of 1972, if such pledge is accomplished
45 pursuant to a written contract or resolution approved and spread
46 upon the minutes of an official meeting of the district's school
47 board or board of supervisors. The annual grant to such district
48 in any subsequent year during the term of the resolution or
49 contract shall not be reduced below an amount equal to the
50 district's grant amount for the year in which the contract or
51 resolution was adopted. The intent of this provision is to allow
52 school districts to irrevocably pledge a certain, constant stream
53 of revenue as security for long-term obligations issued under the
54 code sections enumerated in this paragraph or as otherwise allowed
55 by law. It is the intent of the Legislature that the provisions
56 of this paragraph shall be cumulative and supplemental to any
57 existing funding programs or other authority conferred upon school
58 districts or school boards. Debt of a district secured by a
59 pledge of sales tax revenue pursuant to this paragraph shall not
60 be subject to any debt limitation contained in the foregoing
61 enumerated code sections.

62 (3) The remainder of the money deposited into the Education
63 Enhancement Fund, excluding funds deposited pursuant to Section
64 27-103-203(1), shall be appropriated as follows:

65 (a) To the State Department of Education as follows:

66 (i) Eight and thirty-five one-hundredths percent
67 (8.35%) to be distributed to public school districts for the
68 funding of textbooks and other educational materials and to be
69 used by the State Department of Education for the purchase of
70 textbooks to be loaned under Sections 37-43-1 through 37-43-59 to
71 approved nonpublic schools, as described under Section 37-43-1.
72 The amount of funds under this item to be used by the department
73 for purchasing textbooks to loan to approved nonpublic schools
74 shall be in the proportion that the average daily attendance of
75 the nonpublic schools that are loaned textbooks by the state bears
76 to the average daily attendance of all school districts in the
77 state. The funds distributed to the school districts under this
78 item shall be in the proportion that the average daily attendance
79 of each school district bears to the average daily attendance of
80 all school districts within the state and shall be used to assist
81 in the funding of textbooks and other educational materials, to
82 include not more than Two Million Dollars (\$2,000,000.00) each
83 year for technology enhancement projects for elementary and
84 secondary education programs;

85 (ii) Seven and ninety-seven one-hundredths percent
86 (7.97%) to assist the funding of transportation operations and
87 maintenance pursuant to Section 37-19-23;

88 (iii) Eight and twenty-six one-hundredths percent
89 (8.26%) to assist the funding of the Uniform Millage Assistance
90 Grant Program pursuant to Section 37-22-1; and

91 (iv) Nine and sixty-one one-hundredths percent
92 (9.61%) for classroom supplies, instructional materials and
93 equipment, including computers and computer software, to be
94 distributed to all school districts in the proportion that the
95 average daily attendance of each school district bears to the
96 average daily attendance of all school districts within the state.
97 Such funds shall not be expended for administrative purposes.
98 Local school districts shall allocate classroom supply funds

99 equally among all classroom teachers in the school district. For
100 purposes of this subparagraph, "teacher" shall mean any employee
101 of the school board of a school district who is required by law to
102 obtain a teacher's license from the State Board of Education and
103 who is assigned to an instructional area of work as defined by the
104 State Department of Education, but shall not include a federally
105 funded teacher. Two (2) or more teachers may agree to pool their
106 classroom supply funds for the benefit of a school within the
107 district pursuant to the development of a spending plan that
108 supports the overall goals of the school which includes the type,
109 quantity and quality of such supplies, instructional materials,
110 equipment, computers or computer software. This plan shall be
111 submitted, in writing, to the school principal for approval.
112 Classroom supply funds allocated under this subparagraph shall
113 supplement, not replace, other local and state funds available for
114 the same purposes. School districts need not fully expend the
115 funds received under this subparagraph in the year in which they
116 are received, but such funds may be carried forward for
117 expenditure in any succeeding school year. Any superintendent,
118 supervisor, principal, administrator or designee of any of these
119 persons shall not take from any teacher or other entitled person
120 those funds designated for the recipients as Education Enhancement
121 Funds for classroom supplies designated hereunder. Neither shall
122 the teacher or other entitled person be required to use such funds
123 for the ordinary expenditures allocated for those supplies
124 necessary for instruction. These include, but are not limited to,
125 paper, staples, chalk, pens, bulletin boards, art supplies,
126 technology equipment and/or other items as designated as ordinary
127 expenditures in the Department of Audit guidelines. The State
128 Department of Education shall be responsible for promulgating and
129 disseminating the Education Enhancement Fund expenditure
130 guidelines to each school district. Any administrator or other
131 person who expends or attempts to expend any of the funds

132 designated for a teacher or other entitled person as Education
133 Enhancement Fund supply funds under this paragraph shall be guilty
134 of a misdemeanor, and upon conviction, shall be fined no less than
135 One Thousand Dollars (\$1,000.00) per reported incident, and shall
136 be required to make restitution to those entitled to the Education
137 Enhancement Fund supply funds. In addition to such fine and
138 restitution, any principal found to be in violation of the
139 department's guidelines issued hereunder shall be assessed One
140 Thousand Dollars (\$1,000.00) per occurrence by the State
141 Department of Audit, to be deposited into the Education
142 Enhancement Fund account and expended exclusively for classroom
143 supplies and instructional materials. The State Board of
144 Education shall develop and promulgate rules and regulations for
145 the administration of this subparagraph consistent with the above
146 criteria, with particular emphasis on allowing the individual
147 teachers to expend funds as they deem appropriate, with minimum
148 input from school principals;

149 (b) Twenty-two and nine one-hundredths percent (22.09%)
150 to the Board of Trustees of State Institutions of Higher Learning
151 for the purpose of supporting institutions of higher learning; and

152 (c) Fourteen and forty-one one-hundredths percent
153 (14.41%) to the State Board for Community and Junior Colleges for
154 the purpose of providing support to community and junior colleges.

155 (4) The amount remaining in the Education Enhancement Fund
156 after funds are distributed as provided in subsections (2) and (3)
157 of this section, excluding funds deposited pursuant to Section
158 27-103-203(1), shall be disbursed as follows:

159 (a) Twenty-five Million Dollars (\$25,000,000.00) shall
160 be deposited into the Working Cash-Stabilization Reserve Fund
161 created pursuant to Section 27-103-203(1), until the balance in
162 such fund reaches the maximum balance of seven and one-half
163 percent (7-1/2%) of the General Fund appropriations in the
164 appropriate fiscal year. After the maximum balance in the Working

165 Cash-Stabilization Reserve Fund is reached, such money shall
166 remain in the Education Enhancement Fund to be appropriated in the
167 manner provided for in paragraph (b) of this section.

168 (b) The remainder shall be appropriated for other
169 educational needs.

170 (5) None of the funds appropriated pursuant to subsection
171 (3)(a) of this section shall be used to reduce the state's general
172 fund appropriation for the categories listed in an amount below
173 the following amounts:

174 (a) For subsection (3)(a)(i) of this section, Six
175 Million Three Hundred Thirty Thousand Nine Hundred Twenty Dollars
176 (\$6,330,920.00);

177 (b) For subsection (3)(a)(ii) of this section
178 Thirty-six Million Seven Hundred Thousand Dollars
179 (\$36,700,000.00);

180 (c) For subsection (3)(a)(iii) of this section,
181 Twenty-one Million Four Hundred Thousand Dollars (\$21,400,000.00);
182 and

183 (d) For the aggregate of minimum program allotments
184 provided for in Chapter 19, Title 37, Mississippi Code of 1972, as
185 amended, excluding those funds for transportation as provided for
186 in subsection (5)(b) herein.

187 (6) At the end of a fiscal year such amounts as required by
188 Section 27-103-203(1) to be transferred to the Education
189 Enhancement Fund shall be deposited into said Education
190 Enhancement Fund and shall be kept separate from other monies in
191 the fund by the State Treasurer. Beginning with the 1994 fiscal
192 year the monies in such special fund deposited pursuant to said
193 Section 27-103-203(1) shall be subject to appropriation by the
194 Legislature in the following manner: (a) fifty percent (50%) to
195 support public education, including but not limited to, Grades K
196 through 12, Mississippi Educational Television and/or the
197 Mississippi Library Commission; (b) twenty-five percent (25%) to

198 support institutions of higher learning; and (c) twenty-five
199 percent (25%) to support the junior or community colleges. Any
200 amount of such monies transferred into said separate fund pursuant
201 to Section 27-103-203(1) which are not appropriated by the
202 Legislature shall not lapse but shall carry over and be subject to
203 appropriation by the Legislature in the succeeding fiscal year in
204 the same manner provided in this subsection (6). The interest
205 earned on the investment of such monies transferred pursuant to
206 Section 27-103-203(1) shall be paid into said separate fund within
207 the Education Enhancement Fund.

208 **[From and after July 1, 2002, this section reads as follows:]**

209 37-61-33. (1) There is hereby created within the State
210 Treasury a special fund to be designated the "Education
211 Enhancement Fund" into which shall be deposited all the revenues
212 collected pursuant to Sections 27-65-75(8), 27-67-32(b) and
213 27-103-203(1).

214 (2) Of the amount deposited into the Education Enhancement
215 Fund, excluding revenues deposited pursuant to Section
216 27-103-203(1), Sixteen Million Dollars (\$16,000,000.00) shall be
217 appropriated each fiscal year to the State Department of Education
218 to be distributed to all school districts. Such money shall be
219 distributed to all school districts in the proportion that the
220 average daily attendance of each school district bears to the
221 average daily attendance of all school districts within the state
222 for the following purposes:

223 (a) Purchasing, erecting, repairing, equipping,
224 remodeling and enlarging school buildings and related facilities,
225 including gymnasiums, auditoriums, lunchrooms, vocational training
226 buildings, libraries, teachers' homes, school barns,
227 transportation vehicles (which shall include new and used
228 transportation vehicles) and garages for transportation vehicles,
229 and purchasing land therefor.

230 (b) Establishing and equipping school athletic fields

231 and necessary facilities connected therewith, and purchasing land
232 therefor.

233 (c) Providing necessary water, light, heating, air
234 conditioning and sewerage facilities for school buildings, and
235 purchasing land therefor.

236 (d) As a pledge to pay all or a portion of the debt
237 service on debt issued by the school district under Sections
238 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351
239 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302
240 and 37-41-81, Mississippi Code of 1972, or debt issued by boards
241 of supervisors for agricultural high schools pursuant to Section
242 37-27-65, Mississippi Code of 1972, if such pledge is accomplished
243 pursuant to a written contract or resolution approved and spread
244 upon the minutes of an official meeting of the district's school
245 board or board of supervisors. The annual grant to such district
246 in any subsequent year during the term of the resolution or
247 contract shall not be reduced below an amount equal to the
248 district's grant amount for the year in which the contract or
249 resolution was adopted. The intent of this provision is to allow
250 school districts to irrevocably pledge a certain, constant stream
251 of revenue as security for long-term obligations issued under the
252 code sections enumerated in this paragraph or as otherwise allowed
253 by law. It is the intent of the Legislature that the provisions
254 of this paragraph shall be cumulative and supplemental to any
255 existing funding programs or other authority conferred upon school
256 districts or school boards. Debt of a district secured by a
257 pledge of sales tax revenue pursuant to this paragraph shall not
258 be subject to any debt limitation contained in the foregoing
259 enumerated code sections.

260 (3) The remainder of the money deposited into the Education
261 Enhancement Fund, excluding funds deposited pursuant to Section
262 27-103-203(1), shall be appropriated as follows:

263 (a) To the State Department of Education as follows:

264 (i) Sixteen and sixty-one one-hundredths percent
265 (16.61%) to the cost of the adequate education program determined
266 under Section 37-151-7;

267 (ii) Seven and ninety-seven one-hundredths percent
268 (7.97%) to assist the funding of transportation operations and
269 maintenance pursuant to Section 37-19-23; and

270 (iii) Nine and sixty-one one-hundredths percent
271 (9.61%) for classroom supplies, instructional materials and
272 equipment, including computers and computer software, to be
273 distributed to all school districts in the proportion that the
274 average daily attendance of each school district bears to the
275 average daily attendance of all school districts within the state.

276 It is the intent of the Legislature that all classroom teachers
277 shall be involved in the development of a spending plan that
278 addresses individual classroom needs and supports the overall
279 goals of the school regarding supplies, instructional materials,
280 equipment, computers or computer software under the provisions of
281 this subparagraph, including the type, quantity and quality of
282 such supplies, materials and equipment. This plan shall be
283 submitted to the school principal for approval. School districts
284 need not fully expend the funds received under this subparagraph
285 in the year in which they are received, but such funds may be
286 carried forward for expenditure in any succeeding school year.

287 Any superintendent, supervisor, principal, administrator or
288 designee of any of these persons shall not take from any teacher
289 or other entitled person those funds designated for the recipients
290 as Education Enhancement Funds for classroom supplies designated
291 hereunder. Neither shall the teacher or other entitled person be
292 required to use such funds for the ordinary expenditures allocated
293 for those supplies necessary for instruction. These include, but
294 are not limited to, paper, staples, chalk, pens, bulletin boards,
295 art supplies, technology equipment and/or other items as
296 designated as ordinary expenditures in the Department of Audit

297 guidelines. The State Department of Education shall be
298 responsible for promulgating and disseminating the Education
299 Enhancement Fund expenditure guidelines to each school district.
300 Any administrator or other person who expends or attempts to
301 expend any of the funds designated for a teacher or other entitled
302 person as Education Enhancement Fund supply funds under this
303 paragraph shall be guilty of a misdemeanor, and upon conviction,
304 shall be fined no less than One Thousand Dollars (\$1,000.00) per
305 reported incident, and shall be required to make restitution to
306 those entitled to the Education Enhancement Fund supply funds. In
307 addition to such fine and restitution, any principal found to be
308 in violation of the department's guidelines issued hereunder shall
309 be assessed One Thousand Dollars (\$1,000.00) per occurrence by the
310 State Department of Audit, to be deposited into the Education
311 Enhancement Fund account and expended exclusively for classroom
312 supplies and instructional materials.

313 (b) Twenty-two and nine one-hundredths percent (22.09%)
314 to the Board of Trustees of State Institutions of Higher Learning
315 for the purpose of supporting institutions of higher learning, and
316 fourteen and forty-one one-hundredths percent (14.41%) to the
317 State Board for Community and Junior Colleges for the purpose of
318 providing support to community and junior colleges.

319 (4) The amount remaining in the Education Enhancement Fund
320 after funds are distributed as provided in subsections (2) and (3)
321 of this section, excluding funds deposited pursuant to Section
322 27-103-203(1), shall be disbursed as follows:

323 (a) Twenty-five Million Dollars (\$25,000,000.00) shall
324 be deposited into the Working Cash-Stabilization Reserve Fund
325 created pursuant to Section 27-103-203(1), until the balance in
326 such fund reaches the maximum balance of seven and one-half
327 percent (7-1/2%) of the General Fund appropriations in the
328 appropriate fiscal year. After the maximum balance in the Working
329 Cash-Stabilization Reserve Fund is reached, such money shall

330 remain in the Education Enhancement Fund to be appropriated in the
331 manner provided for in paragraph (b) of this section.

332 (b) The remainder shall be appropriated for other
333 educational needs.

334 (5) None of the funds appropriated pursuant to subsection
335 (3)(a) of this section shall be used to reduce the state's general
336 fund appropriation for the categories listed in an amount below
337 the following amounts:

338 (a) For subsection (3)(a)(ii) of this section
339 Thirty-six Million Seven Hundred Thousand Dollars
340 (\$36,700,000.00);

341 (b) For the aggregate of minimum program allotments in
342 the 1997 fiscal year, formerly provided for in Chapter 19, Title
343 37, Mississippi Code of 1972, as amended, excluding those funds
344 for transportation as provided for in subsection (5)(a) herein.

345 (6) At the end of a fiscal year such amounts as required by
346 Section 27-103-203(1) to be transferred to the Education
347 Enhancement Fund shall be deposited into said Education
348 Enhancement Fund and shall be kept separate from other monies in
349 the fund by the State Treasurer. Beginning with the 1994 fiscal
350 year the monies in such special fund deposited pursuant to said
351 Section 27-103-203(1) shall be subject to appropriation by the
352 Legislature in the following manner: (a) fifty percent (50%) to
353 support public education, including but not limited to, Grades K
354 through 12, Mississippi Educational Television and/or the
355 Mississippi Library Commission; (b) twenty-five percent (25%) to
356 support institutions of higher learning; and (c) twenty-five
357 percent (25%) to support the junior or community colleges. Any
358 amount of such monies transferred into said separate fund pursuant
359 to Section 27-103-203(1) which are not appropriated by the
360 Legislature shall not lapse but shall carry over and be subject to
361 appropriation by the Legislature in the succeeding fiscal year in
362 the same manner provided in this subsection (6). The interest

363 earned on the investment of such monies transferred pursuant to
364 Section 27-103-203(1) shall be paid into said separate fund within
365 the Education Enhancement Fund.

366 SECTION 2. This act shall take effect and be in force from
367 and after July 1, 2000.