

By: Representative Frierson

To: Appropriations

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 776

1 AN ACT TO AMEND SECTION 27-103-203, MISSISSIPPI CODE OF 1972,
2 TO ABOLISH THE DIVERSION TO THE EDUCATION ENHANCEMENT FUND FROM
3 THE UNENCUMBERED GENERAL FUND CASH BALANCE AT THE CLOSE OF EACH
4 FISCAL YEAR; TO AMEND SECTIONS 27-103-211 AND 37-61-33,
5 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION;
6 AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 27-103-203, Mississippi Code of 1972, is
9 amended as follows:

10 27-103-203. (1) There is created in the State Treasury a
11 special fund, separate and apart from any other fund, to be
12 designated the Working Cash-Stabilization Reserve Fund, into which
13 shall be deposited one hundred percent (100%) of the unencumbered
14 General Fund cash balance at the close of each fiscal year until
15 such time as the balance in the fund reaches Forty Million Dollars
16 (\$40,000,000.00). After the balance in the fund reaches Forty
17 Million Dollars (\$40,000,000.00), fifty percent (50%) of the
18 unencumbered General Fund cash balance at the close of each fiscal
19 year, not to exceed seven and one-half percent (7-1/2%) of the
20 General Fund appropriations for the fiscal year, shall be
21 deposited into the fund. The remainder of the year-end
22 unencumbered cash after transfer to the Working Cash-Stabilization
23 Reserve Fund shall remain in the General Fund * * *. Unencumbered
24 cash in the General Fund may be used for new year cash flow needs
25 and may also be used for deficit appropriations or regular
26 appropriations.

27 (2) The Working Cash-Stabilization Reserve Fund shall not be
28 considered as a surplus or available funds when adopting a
29 balanced budget as required by law. The State Treasurer shall



30 invest all sums in the Working Cash-Stabilization Reserve Fund not
31 needed for the purposes provided for in this section in
32 certificates of deposit, repurchase agreements and other
33 securities as authorized in Sections 27-105-33(d) or 7-9-103, as
34 the State Treasurer may determine to yield the highest market rate
35 available. The interest earned on those sums shall be deposited
36 in the fund until the balance of principal and interest in the
37 fund reaches seven and one-half percent (7-1/2%) of the total
38 General Fund appropriations for the current fiscal year, and all
39 interest earned in excess of amounts necessary to maintain the
40 seven and one-half percent (7-1/2%) fund balance requirement shall
41 be deposited by the State Treasurer into the State General Fund.

42 (3) The Working Cash-Stabilization Reserve Fund, except for
43 Nineteen Million Dollars (\$19,000,000.00) and the amount of the
44 interest and income earned on the principal of the Ayers Endowment
45 Trust created by Section 37-101-27, shall be used by the State
46 Treasurer for cash flow needs throughout the year when the
47 Executive Director of the Department of Finance and Administration
48 certifies that in his opinion there will be cash flow deficiencies
49 in the State General Fund. No borrowing of monies from other
50 special funds for those purposes as authorized by Section
51 31-17-101 et seq. shall be made as long as an unencumbered balance
52 in excess of Nineteen Million Dollars (\$19,000,000.00) and the
53 interest and income earned on the principal of the Ayers Endowment
54 Trust created by Section 37-101-27 remains in the fund. The State
55 Treasurer shall reimburse the fund for all sums borrowed for
56 those purposes from General Fund revenues collected during the
57 fiscal year in which those funds are used. The State Treasurer
58 shall immediately notify the Legislative Budget Office and the
59 State Department of Finance and Administration of each transfer
60 into and out of that fund. Four Million Dollars (\$4,000,000.00)
61 in the Working Cash-Stabilization Reserve Fund shall remain
62 available for use under Section 27-103-81. Fifteen Million



63 Dollars (\$15,000,000.00) in the Working Cash-Stabilization Reserve
64 Fund shall remain available for exclusive use of the Ayers
65 Endowment Trust created by Section 37-101-27.

66 (4) The Working Cash-Stabilization Reserve Fund, except for
67 Forty Million Dollars (\$40,000,000.00), shall also be used for the
68 purpose of covering any projected deficits that may occur in the
69 General Fund at the end of a fiscal year as a result of revenue
70 shortfalls. If the Governor determines that a deficit in revenues
71 from all sources may occur, it shall be the duty of the Executive
72 Director of the Department of Finance and Administration to
73 transfer such funds as necessary to the General Fund to alleviate
74 the deficit in accordance with Sections 27-104-13 and 31-17-123;
75 however, not more than Fifty Million Dollars (\$50,000,000.00) may
76 be transferred from the fund for that purpose in any one (1)
77 fiscal year. If it becomes necessary to apply a part of the fund
78 to this purpose, the amount so applied shall be restored to the
79 Working Cash-Stabilization Reserve Fund out of future annual
80 surpluses, as provided in subsection (1) of this section, until
81 the seven and one-half percent (7-1/2%) maximum is again attained.

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

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

93 (7) Funds deposited in the Working Cash-Stabilization
94 Reserve Fund shall be used only for the purposes specified in this
95 section and as long as the provisions of this section remain in



96 effect, no other expenditure, appropriation or transfer of funds
97 in the Working Cash-Stabilization Reserve Fund shall be made
98 except by act of the Legislature making specific reference to the
99 Working Cash-Stabilization Reserve Fund as the source of those
100 funds.

101 SECTION 2. Section 27-103-211, Mississippi Code of 1972, is
102 amended as follows:

103 27-103-211. Beginning with the appropriations for fiscal
104 year 1994, the total sum appropriated by the Legislature from the
105 State General Fund for any fiscal year shall not exceed
106 ninety-eight percent (98%) of the General Fund revenue estimate
107 for that fiscal year developed by the Tax Commission and the
108 University Research Center and adopted by the Joint Legislative
109 Budget Committee, plus any unencumbered balances in general funds
110 that will be available and on hand at the close of the then
111 current fiscal year. The unencumbered balances in general funds
112 that will be available and on hand at the close of the fiscal year
113 shall not include projected amounts required to be deposited into
114 the Working Cash-Stabilization Reserve Fund under Section
115 27-103-203 * * *.

116 SECTION 3. Section 37-61-33, Mississippi Code of 1972, is
117 amended as follows:

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

119 37-61-33. (1) There is * * * created within the State
120 Treasury a special fund to be designated the "Education
121 Enhancement Fund" into which shall be deposited all the revenues
122 collected under Sections 27-65-75(7) and (8) and 27-67-31(a) and
123 (b) * * *.

124 (2) Of the amount deposited into the Education Enhancement
125 Fund, * * * Sixteen Million Dollars (\$16,000,000.00) shall be
126 appropriated each fiscal year to the State Department of Education
127 to be distributed to all school districts. That money shall be
128 distributed to all school districts in the proportion that the



129 average daily attendance of each school district bears to the
130 average daily attendance of all school districts within the state
131 for the following purposes:

132 (a) Purchasing, erecting, repairing, equipping,
133 remodeling and enlarging school buildings and related facilities,
134 including gymnasiums, auditoriums, lunchrooms, vocational training
135 buildings, libraries, teachers' homes, school barns,
136 transportation vehicles (which shall include new and used
137 transportation vehicles) and garages for transportation vehicles,
138 and purchasing land therefor.

139 (b) Establishing and equipping school athletic fields
140 and necessary facilities connected therewith, and purchasing land
141 therefor.

142 (c) Providing necessary water, light, heating, air
143 conditioning and sewerage facilities for school buildings, and
144 purchasing land therefor.

145 (d) As a pledge to pay all or a portion of the debt
146 service on debt issued by the school district under Sections
147 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351
148 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302
149 and 37-41-81, or debt issued by boards of supervisors for
150 agricultural high schools under Section 37-27-65, if that pledge
151 is accomplished under a written contract or resolution approved
152 and spread upon the minutes of an official meeting of the
153 district's school board or board of supervisors. The annual grant
154 to the district in any later year during the term of the
155 resolution or contract shall not be reduced below an amount equal
156 to the district's grant amount for the year in which the contract
157 or resolution was adopted. The intent of this provision is to
158 allow school districts to irrevocably pledge a certain, constant
159 stream of revenue as security for long-term obligations issued
160 under the code sections enumerated in this paragraph or as
161 otherwise allowed by law. It is the intent of the Legislature



162 that the provisions of this paragraph shall be cumulative and
163 supplemental to any existing funding programs or other authority
164 conferred upon school districts or school boards. Debt of a
165 district secured by a pledge of sales tax revenue under this
166 paragraph shall not be subject to any debt limitation contained in
167 the foregoing enumerated code sections.

168 (3) The remainder of the money deposited into the Education
169 Enhancement Fund * * * shall be appropriated as follows:

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

171 (i) Eight and thirty-five one-hundredths percent
172 (8.35%) to be distributed to public school districts for the
173 funding of textbooks and other educational materials and to be
174 used by the State Department of Education for the purchase of
175 textbooks to be loaned under Sections 37-43-1 through 37-43-59 to
176 approved nonpublic schools, as described under Section 37-43-1.
177 The amount of funds under this item to be used by the department
178 for purchasing textbooks to loan to approved nonpublic schools
179 shall be in the proportion that the average daily attendance of
180 the nonpublic schools that are loaned textbooks by the state bears
181 to the average daily attendance of all school districts in the
182 state. The funds distributed to the school districts under this
183 item shall be in the proportion that the average daily attendance
184 of each school district bears to the average daily attendance of
185 all school districts within the state and shall be used to assist
186 in the funding of textbooks and other educational materials, to
187 include not more than Two Million Dollars (\$2,000,000.00) each
188 year for technology enhancement projects for elementary and
189 secondary education programs;

190 (ii) Seven and ninety-seven one-hundredths percent
191 (7.97%) to assist the funding of transportation operations and
192 maintenance under Section 37-19-23;



193 (iii) Eight and twenty-six one-hundredths percent
194 (8.26%) to assist the funding of the Uniform Millage Assistance
195 Grant Program under Section 37-22-1; and

196 (iv) Nine and sixty-one one-hundredths percent
197 (9.61%) for classroom supplies, instructional materials and
198 equipment, including computers and computer software, to be
199 distributed to all school districts in the proportion that the
200 average daily attendance of each school district bears to the
201 average daily attendance of all school districts within the state.
202 Those funds shall not be expended for administrative purposes.
203 Local school districts shall allocate classroom supply funds
204 equally among all classroom teachers in the school district. For
205 purposes of this subparagraph, "teacher" shall mean any employee
206 of the school board of a school district who is required by law to
207 obtain a teacher's license from the State Board of Education and
208 who is assigned to an instructional area of work as defined by the
209 State Department of Education, but shall not include a federally
210 funded teacher. Two (2) or more teachers may agree to pool their
211 classroom supply funds for the benefit of a school within the
212 district under the development of a spending plan that supports
213 the overall goals of the school which includes the type, quantity
214 and quality of those supplies, instructional materials, equipment,
215 computers or computer software. This plan shall be submitted, in
216 writing, to the school principal for approval. Classroom supply
217 funds allocated under this subparagraph shall supplement, not
218 replace, other local and state funds available for the same
219 purposes. School districts need not fully expend the funds
220 received under this subparagraph in the year in which they are
221 received, but those funds may be carried forward for expenditure
222 in any succeeding school year. The State Board of Education shall
223 develop and promulgate rules and regulations for the
224 administration of this subparagraph consistent with the above
225 criteria, with particular emphasis on allowing the individual



226 teachers to expend funds as they deem appropriate, with minimum
227 input from school principals;

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

231 (c) Fourteen and forty-one one-hundredths percent
232 (14.41%) to the State Board for Community and Junior Colleges for
233 the purpose of providing support to community and junior colleges.

234 (4) The amount remaining in the Education Enhancement Fund
235 after funds are distributed as provided in subsections (2) and (3)
236 of this section * * * shall be disbursed as follows:

237 (a) Twenty-five Million Dollars (\$25,000,000.00) shall
238 be deposited into the Working Cash-Stabilization Reserve Fund
239 created under Section 27-103-203(1), until the balance in the fund
240 reaches the maximum balance of seven and one-half percent (7-1/2%)
241 of the General Fund appropriations in the appropriate fiscal year.
242 After the maximum balance in the Working Cash-Stabilization
243 Reserve Fund is reached, that money shall remain in the Education
244 Enhancement Fund to be appropriated in the manner provided for in
245 paragraph (b) of this section.

246 (b) The remainder shall be appropriated for other
247 educational needs.

248 (5) None of the funds appropriated under subsection (3)(a)
249 of this section shall be used to reduce the state's general fund
250 appropriation for the categories listed in an amount below the
251 following amounts:

252 (a) For subsection (3)(a)(i) of this section, Six
253 Million Three Hundred Thirty Thousand Nine Hundred Twenty Dollars
254 (\$6,330,920.00);

255 (b) For subsection (3)(a)(ii) of this section
256 Thirty-six Million Seven Hundred Thousand Dollars
257 (\$36,700,000.00);



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

261 (d) For the aggregate of minimum program allotments
262 provided for in Chapter 19, Title 37, Mississippi Code of 1972, as
263 amended, excluding those funds for transportation as provided for
264 in subsection (5)(b) of this section.

265 * * *

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

267 37-61-33. (1) There is * * * created within the State
268 Treasury a special fund to be designated the "Education
269 Enhancement Fund" into which shall be deposited all the revenues
270 collected under Sections 27-65-75(7) and (8) and 27-67-31(a) and
271 (b) * * *.

272 (2) Of the amount deposited into the Education Enhancement
273 Fund, * * * Sixteen Million Dollars (\$16,000,000.00) shall be
274 appropriated each fiscal year to the State Department of Education
275 to be distributed to all school districts. That money shall be
276 distributed to all school districts in the proportion that the
277 average daily attendance of each school district bears to the
278 average daily attendance of all school districts within the state
279 for the following purposes:

280 (a) Purchasing, erecting, repairing, equipping,
281 remodeling and enlarging school buildings and related facilities,
282 including gymnasiums, auditoriums, lunchrooms, vocational training
283 buildings, libraries, teachers' homes, school barns,
284 transportation vehicles (which shall include new and used
285 transportation vehicles) and garages for transportation vehicles,
286 and purchasing land therefor.

287 (b) Establishing and equipping school athletic fields
288 and necessary facilities connected therewith, and purchasing land
289 therefor.



290 (c) Providing necessary water, light, heating, air
291 conditioning and sewerage facilities for school buildings, and
292 purchasing land therefor.

293 (d) As a pledge to pay all or a portion of the debt
294 service on debt issued by the school district under Sections
295 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351
296 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302
297 and 37-41-81, or debt issued by boards of supervisors for
298 agricultural high schools under Section 37-27-65, if the pledge is
299 accomplished under a written contract or resolution approved and
300 spread upon the minutes of an official meeting of the district's
301 school board or board of supervisors. The annual grant to the
302 district in any later year during the term of the resolution or
303 contract shall not be reduced below an amount equal to the
304 district's grant amount for the year in which the contract or
305 resolution was adopted. The intent of this provision is to allow
306 school districts to irrevocably pledge a certain, constant stream
307 of revenue as security for long-term obligations issued under the
308 code sections enumerated in this paragraph or as otherwise allowed
309 by law. It is the intent of the Legislature that the provisions
310 of this paragraph shall be cumulative and supplemental to any
311 existing funding programs or other authority conferred upon school
312 districts or school boards. Debt of a district secured by a
313 pledge of sales tax revenue under this paragraph shall not be
314 subject to any debt limitation contained in the foregoing
315 enumerated code sections.

316 (3) The remainder of the money deposited into the Education
317 Enhancement Fund * * * shall be appropriated as follows:

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

319 (i) Sixteen and sixty-one one-hundredths percent
320 (16.61%) to the cost of the adequate education program determined
321 under Section 37-151-7;



322 (ii) Seven and ninety-seven one-hundredths percent
323 (7.97%) to assist the funding of transportation operations and
324 maintenance under Section 37-19-23; and

325 (iii) Nine and sixty-one one-hundredths percent
326 (9.61%) for classroom supplies, instructional materials and
327 equipment, including computers and computer software, to be
328 distributed to all school districts in the proportion that the
329 average daily attendance of each school district bears to the
330 average daily attendance of all school districts within the state.
331 It is the intent of the Legislature that all classroom teachers
332 shall be involved in the development of a spending plan that
333 addresses individual classroom needs and supports the overall
334 goals of the school regarding supplies, instructional materials,
335 equipment, computers or computer software under the provisions of
336 this subparagraph, including the type, quantity and quality of
337 those supplies, materials and equipment. This plan shall be
338 submitted to the school principal for approval. School districts
339 need not fully expend the funds received under this subparagraph
340 in the year in which they are received, but those funds may be
341 carried forward for expenditure in any succeeding school year.

342 (b) Twenty-two and nine one-hundredths percent (22.09%)
343 to the Board of Trustees of State Institutions of Higher Learning
344 for the purpose of supporting institutions of higher learning, and
345 fourteen and forty-one one-hundredths percent (14.41%) to the
346 State Board for Community and Junior Colleges for the purpose of
347 providing support to community and junior colleges.

348 (4) The amount remaining in the Education Enhancement Fund
349 after funds are distributed as provided in subsections (2) and (3)
350 of this section * * * shall be disbursed as follows:

351 (a) Twenty-five Million Dollars (\$25,000,000.00) shall
352 be deposited into the Working Cash-Stabilization Reserve Fund
353 created under Section 27-103-203(1), until the balance in the fund
354 reaches the maximum balance of seven and one-half percent (7-1/2%)



355 of the General Fund appropriations in the appropriate fiscal year.
356 After the maximum balance in the Working Cash-Stabilization
357 Reserve Fund is reached, the money shall remain in the Education
358 Enhancement Fund to be appropriated in the manner provided for in
359 paragraph (b) of this section.

360 (b) The remainder shall be appropriated for other
361 educational needs.

362 (5) None of the funds appropriated under subsection (3)(a)
363 of this section shall be used to reduce the state's general fund
364 appropriation for the categories listed in an amount below the
365 following amounts:

366 (a) For subsection (3)(a)(ii) of this section
367 Thirty-six Million Seven Hundred Thousand Dollars
368 (\$36,700,000.00);

369 (b) For the aggregate of minimum program allotments in
370 the 1997 fiscal year, formerly provided for in Chapter 19, Title
371 37, Mississippi Code of 1972, as amended, excluding those funds
372 for transportation as provided for in subsection (5)(a) of this
373 section.

374 * * *

375 SECTION 4. This act shall take effect and be in force from
376 and after July 1, 2001.

