

By: Representative Frierson

To: Appropriations

HOUSE BILL NO. 776
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 37-61-33, MISSISSIPPI CODE OF 1972,
2 TO DIVERT, UNTIL JULY 1, 2002, EDUCATION ENHANCEMENT FUNDS THAT
3 ARE ALLOCATED FOR THE PURCHASE OF TEXTBOOKS AND A PORTION OF SUCH
4 FUNDS ALLOCATED FOR CLASSROOM SUPPLIES TO THE SUPPORT OF
5 EDUCATIONAL PROGRAMS AUTHORIZED BY LAW; TO AMEND SECTION 37-47-33,
6 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT STATE GENERAL OBLIGATION
7 BONDS MAY BE ISSUED FOR THE PURPOSE OF PROVIDING FUNDS FOR THE
8 PAYMENT OF ALLOCATIONS OF ADEQUATE EDUCATION PROGRAM FUNDS TO
9 SCHOOL DISTRICTS FOR CAPITAL EXPENDITURES WHICH HAVE NOT BEEN
10 PLEDGED FOR DEBT; TO AMEND SECTIONS 27-103-203, 27-103-125,
11 27-103-211 AND 31-7-14.1, MISSISSIPPI CODE OF 1972, TO DELETE THE
12 "HOUSE BILL 400" PROVISION WHICH REQUIRES THAT 50% OF THE
13 UNENCUMBERED YEAR-END CASH BALANCE BE TRANSFERRED INTO THE
14 EDUCATION ENHANCEMENT FUND, AND TO PROVIDE THAT ANY SUCH
15 UNENCUMBERED YEAR-END CASH SHALL REMAIN IN THE STATE GENERAL FUND;
16 AND FOR RELATED PURPOSES.

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

18 SECTION 1. Section 37-61-33, Mississippi Code of 1972, is
19 amended as follows:

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

21 37-61-33. (1) There is * * * created within the State
22 Treasury a special fund to be designated the "Education
23 Enhancement Fund" into which shall be deposited all the revenues
24 collected pursuant to Sections 27-65-75(7) and (8) and 27-67-31(a)
25 and (b) * * *.

26 (2) Of the amount deposited into the Education Enhancement
27 Fund, * * * Sixteen Million Dollars (\$16,000,000.00) shall be
28 appropriated each fiscal year to the State Department of Education
29 to be distributed to all school districts. Such money shall be
30 distributed to all school districts in the proportion that the
31 average daily attendance of each school district bears to the

32 average daily attendance of all school districts within the state
33 for the following purposes:

34 (a) Purchasing, erecting, repairing, equipping,
35 remodeling and enlarging school buildings and related facilities,
36 including gymnasiums, auditoriums, lunchrooms, vocational training
37 buildings, libraries, teachers' homes, school barns,
38 transportation vehicles (which shall include new and used
39 transportation vehicles) and garages for transportation vehicles,
40 and purchasing land therefor.

41 (b) Establishing and equipping school athletic fields
42 and necessary facilities connected therewith, and purchasing land
43 therefor.

44 (c) Providing necessary water, light, heating, air
45 conditioning and sewerage facilities for school buildings, and
46 purchasing land therefor.

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

65 cumulative and supplemental to any existing funding programs or
66 other authority conferred upon school districts or school boards.
67 Debt of a district secured by a pledge of sales tax revenue
68 pursuant to this paragraph shall not be subject to any debt
69 limitation contained in the foregoing enumerated code sections.

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

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

73 (i) Eight and thirty-five one-hundredths percent
74 (8.35%) to be distributed to public school districts for the
75 support of educational programs authorized by law. The funds
76 distributed to the school districts under this item shall be in
77 the proportion that the average daily attendance of each school
78 district bears to the average daily attendance of all school
79 districts within the state * * *;

80 (ii) Seven and ninety-seven one-hundredths percent
81 (7.97%) to assist the funding of transportation operations and
82 maintenance pursuant to Section 37-19-23;

83 (iii) Eight and twenty-six one-hundredths percent
84 (8.26%) to assist the funding of the Uniform Millage Assistance
85 Grant Program pursuant to Section 37-22-1; and

86 (iv) Nine and sixty-one one-hundredths percent
87 (9.61%), of which Four Million Six Hundred Thousand Dollars
88 (\$4,600,000.00) shall be allocated for classroom supplies,
89 instructional materials and equipment, including computers and
90 computer software, to be distributed to all school districts in
91 the proportion that the average daily attendance of each school
92 district bears to the average daily attendance of all school
93 districts within the state. Classroom supply funds shall not be
94 expended for administrative purposes. Local school districts
95 shall allocate classroom supply funds equally among all classroom
96 teachers in the school district. For purposes of this
97 subparagraph, "teacher" shall mean any employee of the school

98 board of a school district who is required by law to obtain a
99 teacher's license from the State Board of Education and who is
100 assigned to an instructional area of work as defined by the State
101 Department of Education, but shall not include a federally funded
102 teacher. Two (2) or more teachers may agree to pool their
103 classroom supply funds for the benefit of a school within the
104 district pursuant to the development of a spending plan that
105 supports the overall goals of the school which includes the type,
106 quantity and quality of such supplies, instructional materials,
107 equipment, computers or computer software. This plan shall be
108 submitted, in writing, to the school principal for approval.
109 Classroom supply funds allocated under this subparagraph shall
110 supplement, not replace, other local and state funds available for
111 the same purposes. School districts need not fully expend the
112 funds received under this subparagraph in the year in which they
113 are received, but such funds may be carried forward for
114 expenditure in any succeeding school year. The State Board of
115 Education shall develop and promulgate rules and regulations for
116 the administration of this subparagraph consistent with the above
117 criteria, with particular emphasis on allowing the individual
118 teachers to expend funds as they deem appropriate, with minimum
119 input from school principals. The remainder of the funds
120 appropriated to the State Department of Education under this item
121 shall be distributed to public school districts in the proportion
122 that the average daily attendance of each school district bears to
123 the average daily attendance of all school districts in the state
124 for the support of educational programs authorized by law;

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

128 (c) Fourteen and forty-one one-hundredths percent
129 (14.41%) to the State Board for Community and Junior Colleges for
130 the purpose of providing support to community and junior colleges.

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

134 (a) Twenty-five Million Dollars (\$25,000,000.00) shall
135 be deposited into the Working Cash-Stabilization Reserve Fund
136 created pursuant to Section 27-103-203(1), until the balance in
137 such fund reaches the maximum balance of seven and one-half
138 percent (7-1/2%) of the General Fund appropriations in the
139 appropriate fiscal year. After the maximum balance in the Working
140 Cash-Stabilization Reserve Fund is reached, such money shall
141 remain in the Education Enhancement Fund to be appropriated in the
142 manner provided for in paragraph (b) of this section.

143 (b) The remainder shall be appropriated for other
144 educational needs.

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

149 (a) For subsection (3)(a)(i) of this section, Six
150 Million Three Hundred Thirty Thousand Nine Hundred Twenty Dollars
151 (\$6,330,920.00);

152 (b) For subsection (3)(a)(ii) of this section
153 Thirty-six Million Seven Hundred Thousand Dollars
154 (\$36,700,000.00);

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

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

162 * * *

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

164 37-61-33. (1) There is * * * created within the State
165 Treasury a special fund to be designated the "Education
166 Enhancement Fund" into which shall be deposited all the revenues
167 collected pursuant to Sections 27-65-75(7) and (8) and 27-67-31(a)
168 and (b) * * *.

169 (2) Of the amount deposited into the Education Enhancement
170 Fund, * * * Sixteen Million Dollars (\$16,000,000.00) shall be
171 appropriated each fiscal year to the State Department of Education
172 to be distributed to all school districts. Such money shall be
173 distributed to all school districts in the proportion that the
174 average daily attendance of each school district bears to the
175 average daily attendance of all school districts within the state
176 for the following purposes:

177 (a) Purchasing, erecting, repairing, equipping,
178 remodeling and enlarging school buildings and related facilities,
179 including gymnasiums, auditoriums, lunchrooms, vocational training
180 buildings, libraries, teachers' homes, school barns,
181 transportation vehicles (which shall include new and used
182 transportation vehicles) and garages for transportation vehicles,
183 and purchasing land therefor.

184 (b) Establishing and equipping school athletic fields
185 and necessary facilities connected therewith, and purchasing land
186 therefor.

187 (c) Providing necessary water, light, heating, air
188 conditioning and sewerage facilities for school buildings, and
189 purchasing land therefor.

190 (d) As a pledge to pay all or a portion of the debt
191 service on debt issued by the school district under Sections
192 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351
193 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302
194 and 37-41-81, or debt issued by boards of supervisors for
195 agricultural high schools pursuant to Section 37-27-65, if such
196 pledge is accomplished pursuant to a written contract or

197 resolution approved and spread upon the minutes of an official
198 meeting of the district's school board or board of supervisors.
199 The annual grant to such district in any subsequent year during
200 the term of the resolution or contract shall not be reduced below
201 an amount equal to the district's grant amount for the year in
202 which the contract or resolution was adopted. The intent of this
203 provision is to allow school districts to irrevocably pledge a
204 certain, constant stream of revenue as security for long-term
205 obligations issued under the code sections enumerated in this
206 paragraph or as otherwise allowed by law. It is the intent of the
207 Legislature that the provisions of this paragraph shall be
208 cumulative and supplemental to any existing funding programs or
209 other authority conferred upon school districts or school boards.
210 Debt of a district secured by a pledge of sales tax revenue
211 pursuant to this paragraph shall not be subject to any debt
212 limitation contained in the foregoing enumerated code sections.

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

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

216 (i) Sixteen and sixty-one one-hundredths percent
217 (16.61%) to the cost of the adequate education program determined
218 under Section 37-151-7;

219 (ii) Seven and ninety-seven one-hundredths percent
220 (7.97%) to assist the funding of transportation operations and
221 maintenance pursuant to Section 37-19-23; and

222 (iii) Nine and sixty-one one-hundredths percent
223 (9.61%) for classroom supplies, instructional materials and
224 equipment, including computers and computer software, to be
225 distributed to all school districts in the proportion that the
226 average daily attendance of each school district bears to the
227 average daily attendance of all school districts within the state.

228 It is the intent of the Legislature that all classroom teachers
229 shall be involved in the development of a spending plan that

230 addresses individual classroom needs and supports the overall
231 goals of the school regarding supplies, instructional materials,
232 equipment, computers or computer software under the provisions of
233 this subparagraph, including the type, quantity and quality of
234 such supplies, materials and equipment. This plan shall be
235 submitted to the school principal for approval. School districts
236 need not fully expend the funds received under this subparagraph
237 in the year in which they are received, but such funds may be
238 carried forward for expenditure in any succeeding school year;

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

242 (c) Fourteen and forty-one one-hundredths percent
243 (14.41%) to the State Board for Community and Junior Colleges for
244 the purpose of providing support to community and junior colleges.

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

248 (a) Twenty-five Million Dollars (\$25,000,000.00) shall
249 be deposited into the Working Cash-Stabilization Reserve Fund
250 created pursuant to Section 27-103-203(1), until the balance in
251 such fund reaches the maximum balance of seven and one-half
252 percent (7-1/2%) of the General Fund appropriations in the
253 appropriate fiscal year. After the maximum balance in the Working
254 Cash-Stabilization Reserve Fund is reached, such money shall
255 remain in the Education Enhancement Fund to be appropriated in the
256 manner provided for in paragraph (b) of this section.

257 (b) The remainder shall be appropriated for other
258 educational needs.

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

263 (a) For subsection (3)(a)(ii) of this section
264 Thirty-six Million Seven Hundred Thousand Dollars
265 (\$36,700,000.00);

266 (b) For the aggregate of minimum program allotments in
267 the 1997 fiscal year, formerly provided for in Chapter 19, Title
268 37, Mississippi Code of 1972, as amended, excluding those funds
269 for transportation as provided for in subsection (5)(a) in this
270 section.

271 * * *

272 SECTION 2. Section 37-47-33, Mississippi Code of 1972, is
273 amended as follows:

274 37-47-33. For the purpose of (a) providing funds to enable
275 the State Board of Education to make loans or advances to school
276 districts as provided by Section 37-47-25, and for the purpose of
277 (b) providing funds for the payment and redemption of certificates
278 of credit issued to school districts under Section 37-47-23, when
279 such funds are not otherwise available, or for the purpose of (c)
280 providing funds in an amount not exceeding Twenty Million Dollars
281 (\$20,000,000.00) for the payment of allocations of Mississippi
282 Adequate Education Program funds to school districts for capital
283 expenditures approved by the State Board of Education which have
284 not been pledged for debt by the school district, when such funds
285 are not otherwise available, or for any of such purposes, the
286 State Bond Commission is * * * authorized and empowered to issue
287 state school bonds under the conditions prescribed in this
288 chapter. The aggregate principal amount of such bonds outstanding
289 at any one (1) time, after deducting the amount of the sinking
290 fund provided for the retirement of bonds issued for such
291 purposes, shall never exceed the sum of One Hundred Million
292 Dollars (\$100,000,000.00). Within such limits, however, state
293 school bonds may be issued from time to time under the conditions
294 prescribed in this chapter. None of such bonds so issued shall
295 have a maturity date later than July 1, 2021.

296 SECTION 3. Section 27-103-203, Mississippi Code of 1972, is
297 amended as follows:

298 27-103-203. (1) There is created in the State Treasury a
299 special fund, separate and apart from any other fund, to be
300 designated the Working Cash-Stabilization Reserve Fund, into which
301 shall be deposited one hundred percent (100%) of the unencumbered
302 General Fund cash balance at the close of each fiscal year until
303 such time as the balance in the fund reaches Forty Million Dollars
304 (\$40,000,000.00). After the balance in the fund reaches Forty
305 Million Dollars (\$40,000,000.00), fifty percent (50%) of the
306 unencumbered General Fund cash balance at the close of each fiscal
307 year, not to exceed seven and one-half percent (7-1/2%) of the
308 General Fund appropriations for such fiscal year, shall be
309 deposited into the fund. The remainder of the year-end
310 unencumbered cash after transfer to the Working Cash-Stabilization
311 Reserve Fund shall remain in the General Fund * * *. Unencumbered
312 cash in the General Fund may be used for new year cash flow needs
313 and may also be used for deficit appropriations or regular
314 appropriations.

315 (2) The Working Cash-Stabilization Reserve Fund shall not be
316 considered as a surplus or available funds when adopting a
317 balanced budget as required by law. The State Treasurer shall
318 invest all sums in the Working Cash-Stabilization Reserve Fund not
319 needed for the purposes provided for in this section in
320 certificates of deposit, repurchase agreements and other
321 securities as authorized in Sections 27-105-33(d) or 7-9-103, as
322 the State Treasurer may determine to yield the highest market rate
323 available. The interest earned on such sums shall be deposited in
324 the fund until the balance of principal and interest therein
325 reaches seven and one-half percent (7-1/2%) of the total General
326 Fund appropriations for the current fiscal year, and all interest
327 earned in excess of amounts necessary to maintain the seven and

328 one-half percent (7-1/2%) fund balance requirement shall be
329 deposited by the State Treasurer into the State General Fund.

330 (3) The Working Cash-Stabilization Reserve Fund, except for
331 Nineteen Million Dollars (\$19,000,000.00) and the amount of the
332 interest and income earned on the principal of the Ayers Endowment
333 Trust created by Section 37-101-27, shall be used by the State
334 Treasurer for cash flow needs throughout the year when the
335 Executive Director of the Department of Finance and Administration
336 certifies that in his opinion there will be cash flow deficiencies
337 in the State General Fund. No borrowing of monies from other
338 special funds for such purposes as authorized by Section 31-17-101
339 et seq. shall be made as long as an unencumbered balance in excess
340 of Nineteen Million Dollars (\$19,000,000.00) and the interest and
341 income earned on the principal of the Ayers Endowment Trust
342 created by Section 37-101-27 remains in the fund. The State
343 Treasurer shall reimburse the fund for all sums borrowed for such
344 purposes from General Fund revenues collected during the fiscal
345 year in which such funds are used. The State Treasurer shall
346 immediately notify the Legislative Budget Office and the State
347 Department of Finance and Administration of each transfer into and
348 out of such fund. Four Million Dollars (\$4,000,000.00) in the
349 Working Cash-Stabilization Reserve Fund shall remain available for
350 use pursuant to Section 27-103-81. Fifteen Million Dollars
351 (\$15,000,000.00) in the Working Cash-Stabilization Reserve Fund
352 shall remain available for exclusive use of the Ayers Endowment
353 Trust created by Section 37-101-27.

354 (4) The Working Cash-Stabilization Reserve Fund, except for
355 Forty Million Dollars (\$40,000,000.00), shall also be used for the
356 purpose of covering any projected deficits that may occur in the
357 General Fund at the end of a fiscal year as a result of revenue
358 shortfalls. If the Governor determines that a deficit in revenues
359 from all sources may occur, it shall be the duty of the Executive
360 Director of the Department of Finance and Administration to

361 transfer such funds as necessary to the General Fund to alleviate
362 the deficit in accordance with Sections 27-104-13 and 31-17-123;
363 however, not more than Fifty Million Dollars (\$50,000,000.00) may
364 be transferred from the fund for such purpose in any one (1)
365 fiscal year. If it becomes necessary to apply a part of the fund
366 to this purpose, the amount so applied shall be restored to the
367 Working Cash-Stabilization Reserve Fund out of future annual
368 surpluses, as provided in subsection (1) of this section, until
369 the seven and one-half percent (7-1/2%) maximum is again attained.

370 (5) The Working Cash-Stabilization Reserve Fund also shall
371 be used to provide funds for the Disaster Assistance Trust Fund
372 when such funds are immediately needed to provide for disaster
373 assistance under Sections 33-15-301 through 33-15-317. Any
374 transfer of funds from the Working Cash-Stabilization Reserve Fund
375 to the Disaster Assistance Trust Fund shall be made in accordance
376 with the provisions of subsection (5) of Section 33-15-307.

377 (6) The Department of Finance and Administration shall
378 immediately send notice of any transfers made, or other action
379 taken under authority of this section, to the Legislative Budget
380 Office.

381 (7) Funds deposited in the Working Cash-Stabilization
382 Reserve Fund shall be used only for the purposes specified in this
383 section and as long as the provisions of this section remain in
384 effect, no other expenditure, appropriation or transfer of funds
385 in the Working Cash-Stabilization Reserve Fund shall be made
386 except by act of the Legislature making specific reference to the
387 Working Cash-Stabilization Reserve Fund as the source of such
388 funds.

389 SECTION 4. Section 27-103-125, Mississippi Code of 1972, is
390 amended as follows:

391 27-103-125. The proposed budget of each state agency shall
392 show the amounts required for operating expenses separately from
393 the amounts required for permanent improvements. The overall

394 budget shall show, separately by each source, the estimated amount
395 of general fund revenue and of special fund revenues of general
396 fund agencies. The total proposed expenditures in Part 1 of the
397 overall budget shall not exceed the amount of estimated revenues
398 which will be available in the general and special funds for
399 appropriation or use during the succeeding fiscal year, including
400 any balances which will be on hand in the general and special
401 funds at the close of the then current fiscal year. Beginning
402 with the budget for fiscal year 1994, the total proposed
403 expenditures from the General Fund in Part 1 of the overall budget
404 shall not exceed ninety-eight percent (98%) of the amount of
405 General Fund revenue estimate for the succeeding fiscal year, plus
406 any unencumbered balances in general funds that will be available
407 and on hand at the close of the then current fiscal year. The
408 General Fund revenue estimate shall be the estimate jointly
409 adopted by the Governor and the Joint Legislative Budget
410 Committee. Unencumbered balances in general funds that will be
411 available and on hand at the close of the current fiscal year
412 shall not include projected amounts required to be deposited into
413 the Working Cash-Stabilization Reserve Fund * * * pursuant to
414 Section 27-103-203. The Legislative Budget Office may recommend
415 additional taxes or sources of revenue if in its judgment such
416 additional funds are necessary to adequately support the functions
417 of the state government.

418 SECTION 5. Section 27-103-211, Mississippi Code of 1972, is
419 amended as follows:

420 27-103-211. Beginning with the appropriations for fiscal
421 year 1994, the total sum appropriated by the Legislature from the
422 State General Fund for any fiscal year shall not exceed
423 ninety-eight percent (98%) of the General Fund revenue estimate
424 for that fiscal year developed by the Tax Commission and the
425 University Research Center and adopted by the Joint Legislative
426 Budget Committee, plus any unencumbered balances in general funds

427 that will be available and on hand at the close of the then
428 current fiscal year. The unencumbered balances in general funds
429 that will be available and on hand at the close of the fiscal year
430 shall not include projected amounts required to be deposited into
431 the Working Cash-Stabilization Reserve Fund * * * pursuant to
432 Section 27-103-203 * * *.

433 SECTION 6. Section 31-7-14.1, Mississippi Code of 1972, is
434 amended as follows:

435 31-7-14.1. (1) Any agency as defined in this chapter that
436 receives state budgetary consideration and has submitted a
437 detailed energy management plan to the Energy Division of the
438 Department of Economic and Community Development, referred to in
439 this section as "division," as required under Section 57-39-111
440 shall undertake energy efficiency projects for the purpose of
441 producing energy and/or dollar savings whereby a portion of the
442 savings may be retained by the participating agency. The plan
443 shall describe specific measures to be implemented to reduce the
444 agency's energy consumption by energy unit measure or energy cost.
445 The division shall provide assistance in preparing the detailed
446 energy management plan according to prescribed guidelines and
447 reporting procedures. The plan shall specify a project
448 description of the energy efficiency measures to be undertaken,
449 including, but not limited to, type of measure, cost, estimated
450 savings in dollars and energy units, project and measure location,
451 and terms and conditions of project financing.

452 (2) (a) Utilizing data submitted under Sections 57-39-107
453 and 57-39-109, the division shall develop and approve energy
454 consumption baselines before project implementation, if feasible,
455 and measure energy consumption after project implementation
456 considering adjustments for any agency growth or reduction and
457 seasonal variances, and calculate total energy savings. The
458 division shall derive a baseline use allocation to be utilized and
459 submitted in each participating agency's annual budget.

460 (b) For purposes of this section, "net savings" and
461 "net revenues" mean any funds remaining after payment of project
462 capital costs, including debt service, and other payments and
463 reserves as required by a bond resolution, loan agreement or other
464 financing agreement and payment of project operating and
465 maintenance expenses.

466 (3) Net savings and net revenues generated from projects
467 shall be apportioned as follows:

468 (a) Any agency initiating energy savings through the
469 implementation of an energy efficiency project may retain one-half
470 (1/2) of all such net savings which may be used for any
471 nonrecurring capital projects; and

472 (b) The remaining net savings and net revenues from
473 conservation projects shall be remitted to the State General
474 Fund. * * *

475 The Energy Division shall verify the net savings and net
476 revenues on an annual basis.

477 (4) The use by an agency of net savings and net revenues
478 from energy efficiency projects shall be in addition to, and shall
479 not supplant or replace, funding from traditional sources for
480 their normal operations and maintenance or capital budgets. It is
481 the intent of this subsection to ensure that the agencies receive
482 the full benefit intended by this section, and that the effect
483 will not be diminished by budget adjustments inconsistent with
484 this intent.

485 SECTION 7. This act shall take effect and be in force from
486 and after its passage.