To: Education; Judiciary

MISSISSIPPI LEGISLATURE REGULAR SESSION 2001
By: Senator(s) Harden

SENATE BILL NO. 2201

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

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

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

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

37-61-33. (1) There is hereby created within the State Treasury a special fund to be designated the "Education Enhancement Fund" into which shall be deposited all the revenues collected pursuant to Sections 27-65-75(7) and (8), 27-67-31(a) and (b) and 27-103-203(1).

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

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

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

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

(d) As a pledge to pay all or a portion of the debt service on debt issued by the school district under Sections 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt issued by boards of supervisors for agricultural high schools pursuant to Section 37-27-65, Mississippi Code of 1972, if such pledge is accomplished pursuant to a written contract or resolution approved and spread upon the minutes of an official meeting of the district's school board or board of supervisors. The annual grant to such district in any subsequent year during the term of the resolution or contract shall not be reduced below an amount equal to the district's grant amount for the year in which the contract or resolution was adopted. The intent of this provision is to allow school districts to irrevocably pledge a certain, constant stream of revenue as security for long-term obligations issued under the code sections enumerated in this paragraph or as otherwise allowed by law. It is the intent of the Legislature that the provisions of this paragraph shall be cumulative and supplemental to any existing funding programs or other authority conferred upon school districts or school boards. Debt of a district secured by a pledge of sales tax revenue pursuant to this paragraph shall not be subject to any debt limitation contained in the foregoing enumerated code sections.
(3) The remainder of the money deposited into the Education Enhancement Fund, excluding funds deposited pursuant to Section 27-103-203(1), shall be appropriated as follows:

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

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

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

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

(iv) Nine and sixty-one one-hundredths percent (9.61%) for classroom supplies, instructional materials and equipment, including computers and computer software, to be distributed to all school districts in the proportion that the
average daily attendance of each school district bears to the average daily attendance of all school districts within the state. Such funds shall not be expended for administrative purposes. Local school districts shall allocate classroom supply funds equally among all classroom teachers in the school district. For purposes of this subparagraph, "teacher" shall mean any employee of the school board of a school district who is required by law to obtain a teacher's license from the State Board of Education and who is assigned to an instructional area of work as defined by the State Department of Education, but shall not include a federally funded teacher. Two (2) or more teachers may agree to pool their classroom supply funds for the benefit of a school within the district pursuant to the development of a spending plan that supports the overall goals of the school which includes the type, quantity and quality of such supplies, instructional materials, equipment, computers or computer software. This plan shall be submitted, in writing, to the school principal for approval. Classroom supply funds allocated under this subparagraph shall supplement, not replace, other local and state funds available for the same purposes. School districts need not fully expend the funds received under this subparagraph in the year in which they are received, but such funds may be carried forward for expenditure in any succeeding school year. Any superintendent, supervisor, principal, administrator or designee of any of these persons shall not take from any teacher or other entitled person those funds designated for the recipients as Education Enhancement Funds for classroom supplies designated hereunder. Neither shall the teacher or other entitled person be required to use such funds for the ordinary expenditures allocated for those supplies necessary for instruction. These include, but are not limited to, paper, staples, chalk, pens, bulletin boards, art supplies, technology equipment and/or other items as designated as ordinary expenditures in the Department of Audit guidelines. The State
Department of Education shall be responsible for promulgating and disseminating the Education Enhancement Fund expenditure guidelines to each school district. Any administrator or other person who expends or attempts to expend any of the funds designated for a teacher or other entitled person as Education Enhancement Fund supply funds under this paragraph shall be guilty of a misdemeanor, and upon conviction, shall be fined no less than One Thousand Dollars ($1,000.00) per reported incident, and shall be required to make restitution to those entitled to the Education Enhancement Fund supply funds. In addition to such fine and restitution, any principal found to be in violation of the department's guidelines issued hereunder shall be assessed One Thousand Dollars ($1,000.00) per occurrence by the State Department of Audit, to be deposited into the Education Enhancement Fund account and expended exclusively for classroom supplies and instructional materials. The State Board of Education shall develop and promulgate rules and regulations for the administration of this subparagraph consistent with the above criteria, with particular emphasis on allowing the individual teachers to expend funds as they deem appropriate, with minimum input from school principals;

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

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

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

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

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

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

(a) For subsection (3)(a)(i) of this section, Six Million Three Hundred Thirty Thousand Nine Hundred Twenty Dollars ($6,330,920.00);
(b) For subsection (3)(a)(ii) of this section Thirty-six Million Seven Hundred Thousand Dollars ($36,700,000.00);
(c) For subsection (3(a)(iii) of this section, Twenty-one Million Four Hundred Thousand Dollars ($21,400,000.00); and
(d) For the aggregate of minimum program allotments provided for in Chapter 19, Title 37, Mississippi Code of 1972, as amended, excluding those funds for transportation as provided for in subsection (5)(b) herein.

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

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

37-61-33. (1) There is hereby created within the State Treasury a special fund to be designated the "Education Enhancement Fund" into which shall be deposited all the revenues collected pursuant to Sections 27-65-75(7) and (8), 27-67-31(a) and (b) and 27-103-203(1).

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

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

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

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

(d) As a pledge to pay all or a portion of the debt service on debt issued by the school district under Sections 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt issued by boards of supervisors for agricultural high schools pursuant to Section 37-27-65, Mississippi Code of 1972, if such pledge is accomplished pursuant to a written contract or resolution approved and spread upon the minutes of an official meeting of the district's school board or board of supervisors. The annual grant to such district in any subsequent year during the term of the resolution or contract shall not be reduced below an amount equal to the district's grant amount for the year in which the contract or resolution was adopted. The intent of this provision is to allow school districts to irrevocably pledge a certain, constant stream of revenue as security for long-term obligations issued under the code sections enumerated in this paragraph or as otherwise allowed by law. It is the intent of the Legislature that the provisions of this paragraph shall be cumulative and supplemental to any existing funding programs or other authority conferred upon school districts or school boards. Debt of a district secured by a pledge of sales tax revenue pursuant to this paragraph shall not be subject to any debt limitation contained in the foregoing enumerated code sections.
(3) The remainder of the money deposited into the Education Enhancement Fund, excluding funds deposited pursuant to Section 27-103-203(1), shall be appropriated as follows:

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

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

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

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

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

Any superintendent, supervisor, principal, administrator or designee of any of these persons shall not take from any teacher or other entitled person those funds designated for the recipients as Education Enhancement Funds for classroom supplies designated hereunder. Neither shall the teacher or other entitled person be required to use such funds for the ordinary expenditures allocated
for those supplies necessary for instruction. These include, but are not limited to, paper, staples, chalk, pens, bulletin boards, art supplies, technology equipment and/or other items as designated as ordinary expenditures in the Department of Audit guidelines. The State Department of Education shall be responsible for promulgating and disseminating the Education Enhancement Fund expenditure guidelines to each school district. Any administrator or other person who expends or attempts to expend any of the funds designated for a teacher or other entitled person as Education Enhancement Fund supply funds under this paragraph shall be guilty of a misdemeanor, and upon conviction, shall be fined no less than One Thousand Dollars ($1,000.00) per reported incident, and shall be required to make restitution to those entitled to the Education Enhancement Fund supply funds. In addition to such fine and restitution, any principal found to be in violation of the department's guidelines issued hereunder shall be assessed One Thousand Dollars ($1,000.00) per occurrence by the State Department of Audit, to be deposited into the Education Enhancement Fund account and expended exclusively for classroom supplies and instructional materials.

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

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

(a) Twenty-five Million Dollars ($25,000,000.00) shall be deposited into the Working Cash-Stabilization Reserve Fund created pursuant to Section 27-103-203(1), until the balance in S. B. No. 2201 01/SS03/R391 PAGE 10
such fund reaches the maximum balance of seven and one-half percent (7-1/2%) of the General Fund appropriations in the appropriate fiscal year. After the maximum balance in the Working Cash-Stabilization Reserve Fund is reached, such money shall remain in the Education Enhancement Fund to be appropriated in the manner provided for in paragraph (b) of this section.

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

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

(a) For subsection (3)(a)(ii) of this section

Thirty-six Million Seven Hundred Thousand Dollars ($36,700,000.00);

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

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

SECTION 2. This act shall take effect and be in force from and after July 1, 2001.