

By: Senator(s) Gordon, Chaney, Farris,
Burton, King

To: Appropriations

SENATE BILL NO. 2222

1 AN ACT TO AMEND SECTIONS 27-103-203, 27-103-125, 27-103-211,
2 31-7-14.1 AND 37-61-33, MISSISSIPPI CODE OF 1972, TO DELETE THE
3 "HOUSE BILL 400" PROVISION WHICH REQUIRES THAT 50% OF THE
4 UNENCUMBERED YEAR-END CASH BALANCE BE TRANSFERRED INTO THE
5 EDUCATION ENHANCEMENT FUND, AND TO PROVIDE THAT ANY SUCH
6 UNENCUMBERED YEAR-END CASH SHALL REMAIN IN THE STATE GENERAL FUND;
7 AND FOR RELATED PURPOSES.

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

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

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

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

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

61 out of such fund. Four Million Dollars (\$4,000,000.00) in the
62 Working Cash-Stabilization Reserve Fund shall remain available for
63 use pursuant to Section 27-103-81. Fifteen Million Dollars
64 (\$15,000,000.00) in the Working Cash-Stabilization Reserve Fund
65 shall remain available for exclusive use of the Ayers Endowment
66 Trust created by Section 37-101-27.

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

84 (5) The Working Cash-Stabilization Reserve Fund also shall
85 be used to provide funds for the Disaster Assistance Trust Fund
86 when such funds are immediately needed to provide for disaster
87 assistance under Sections 33-15-103 through 33-15-317. Any
88 transfer of funds from the Working Cash-Stabilization Reserve Fund
89 to the Disaster Assistance Trust Fund shall be made in accordance
90 with the provisions of subsection (5) of Section 33-15-307.

91 (6) The Department of Finance and Administration shall
92 immediately send notice of any transfers made, or other action

93 taken under authority of this section, to the Legislative Budget
94 Office.

95 (7) Funds deposited in the Working Cash-Stabilization
96 Reserve Fund shall be used only for the purposes specified in this
97 section and as long as the provisions of this section remain in
98 effect, no other expenditure, appropriation or transfer of funds
99 in the Working Cash-Stabilization Reserve Fund shall be made
100 except by act of the Legislature making specific reference to the
101 Working Cash-Stabilization Reserve Fund as the source of such
102 funds.

103 SECTION 2. Section 27-103-125, Mississippi Code of 1972, is
104 amended as follows:

105 27-103-125. The proposed budget of each state agency shall
106 show the amounts required for operating expenses separately from
107 the amounts required for permanent improvements. The overall
108 budget shall show, separately by each source, the estimated amount
109 of general fund revenue and of special fund revenues of general
110 fund agencies. The total proposed expenditures in Part 1 of the
111 overall budget shall not exceed the amount of estimated revenues
112 which will be available in the general and special funds for
113 appropriation or use during the succeeding fiscal year, including
114 any balances which will be on hand in the general and special
115 funds at the close of the then current fiscal year. Beginning
116 with the budget for fiscal year 1994, the total proposed
117 expenditures from the General Fund in Part 1 of the overall budget
118 shall not exceed ninety-eight percent (98%) of the amount of
119 General Fund revenue estimate for the succeeding fiscal year, plus
120 any unencumbered balances in general funds that will be available
121 and on hand at the close of the then current fiscal year. The
122 General Fund revenue estimate shall be the estimate jointly
123 adopted by the Governor and the Joint Legislative Budget
124 Committee. Unencumbered balances in general funds that will be
125 available and on hand at the close of the current fiscal year

126 shall not include projected amounts required to be deposited into
127 the Working Cash-Stabilization Reserve Fund * * * pursuant to
128 Section 27-103-203. The Legislative Budget Office may recommend
129 additional taxes or sources of revenue if in its judgment such
130 additional funds are necessary to adequately support the functions
131 of the state government.

132 SECTION 3. Section 27-103-211, Mississippi Code of 1972, is
133 amended as follows:

134 27-103-211. Beginning with the appropriations for fiscal
135 year 1994, the total sum appropriated by the Legislature from the
136 State General Fund for any fiscal year shall not exceed
137 ninety-eight percent (98%) of the General Fund revenue estimate
138 for that fiscal year developed by the Tax Commission and the
139 University Research Center and adopted by the Joint Legislative
140 Budget Committee, plus any unencumbered balances in general funds
141 that will be available and on hand at the close of the then
142 current fiscal year. The unencumbered balances in general funds
143 that will be available and on hand at the close of the fiscal year
144 shall not include projected amounts required to be deposited into
145 the Working Cash-Stabilization Reserve Fund * * * pursuant to
146 Section 27-103-203(1).

147 SECTION 4. Section 31-7-14.1, Mississippi Code of 1972, is
148 amended as follows:

149 31-7-14.1. (1) Any agency as defined in this chapter that
150 receives state budgetary consideration and has submitted a
151 detailed energy management plan to the Energy Division of the
152 Department of Economic and Community Development, referred to in
153 this section as "division," as required under Section 57-39-111
154 shall undertake energy efficiency projects for the purpose of
155 producing energy and/or dollar savings whereby a portion of the
156 savings may be retained by the participating agency. The plan
157 shall describe specific measures to be implemented to reduce the
158 agency's energy consumption by energy unit measure or energy cost.

159 The division shall provide assistance in preparing the detailed
160 energy management plan according to prescribed guidelines and
161 reporting procedures. The plan shall specify a project
162 description of the energy efficiency measures to be undertaken,
163 including, but not limited to, type of measure, cost, estimated
164 savings in dollars and energy units, project and measure location,
165 and terms and conditions of project financing.

166 (2) (a) Utilizing data submitted under Sections 57-39-107
167 and 57-39-109, the division shall develop and approve energy
168 consumption baselines before project implementation, if feasible,
169 and measure energy consumption after project implementation
170 considering adjustments for any agency growth or reduction and
171 seasonal variances, and calculate total energy savings. The
172 division shall derive a baseline use allocation to be utilized and
173 submitted in each participating agency's annual budget.

174 (b) For purposes of this section, "net savings" and
175 "net revenues" mean any funds remaining after payment of project
176 capital costs, including debt service, and other payments and
177 reserves as required by a bond resolution, loan agreement or other
178 financing agreement and payment of project operating and
179 maintenance expenses.

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

182 (a) Any agency initiating energy savings through the
183 implementation of an energy efficiency project may retain one-half
184 (1/2) of all such net savings which may be used for any
185 nonrecurring capital projects; and

186 (b) The remaining net savings and net revenues from
187 conservation projects shall be remitted to the State General
188 Fund. * * *

189 The Energy Division shall verify the net savings and net
190 revenues on an annual basis.

191 (4) The use by an agency of net savings and net revenues
192 from energy efficiency projects shall be in addition to, and shall
193 not supplant or replace, funding from traditional sources for
194 their normal operations and maintenance or capital budgets. It is
195 the intent of this subsection to ensure that the agencies receive
196 the full benefit intended by this section, and that the effect
197 will not be diminished by budget adjustments inconsistent with
198 this intent.

199 SECTION 5. Section 37-61-33, Mississippi Code of 1972, is
200 amended as follows:

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

202 37-61-33. (1) There is hereby created within the State
203 Treasury a special fund to be designated the "Education
204 Enhancement Fund" into which shall be deposited all the revenues
205 collected pursuant to Sections 27-65-75(7) and (8), 27-67-31(a)
206 and (b) * * *.

207 (2) Of the amount deposited into the Education Enhancement
208 Fund, * * * Sixteen Million Dollars (\$16,000,000.00) shall be
209 appropriated each fiscal year to the State Department of Education
210 to be distributed to all school districts. Such money shall be
211 distributed to all school districts in the proportion that the
212 average daily attendance of each school district bears to the
213 average daily attendance of all school districts within the state
214 for the following purposes:

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

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

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

228 (d) As a pledge to pay all or a portion of the debt
229 service on debt issued by the school district under Sections
230 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351
231 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302
232 and 37-41-81, Mississippi Code of 1972, or debt issued by boards
233 of supervisors for agricultural high schools pursuant to Section
234 37-27-65, Mississippi Code of 1972, if such pledge is accomplished
235 pursuant to a written contract or resolution approved and spread
236 upon the minutes of an official meeting of the district's school
237 board or board of supervisors. The annual grant to such district
238 in any subsequent year during the term of the resolution or
239 contract shall not be reduced below an amount equal to the
240 district's grant amount for the year in which the contract or
241 resolution was adopted. The intent of this provision is to allow
242 school districts to irrevocably pledge a certain, constant stream
243 of revenue as security for long-term obligations issued under the
244 code sections enumerated in this paragraph or as otherwise allowed
245 by law. It is the intent of the Legislature that the provisions
246 of this paragraph shall be cumulative and supplemental to any
247 existing funding programs or other authority conferred upon school
248 districts or school boards. Debt of a district secured by a
249 pledge of sales tax revenue pursuant to this paragraph shall not
250 be subject to any debt limitation contained in the foregoing
251 enumerated code sections.

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

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

255 (i) Eight and thirty-five one-hundredths percent
256 (8.35%) to be distributed to public school districts for the
257 funding of textbooks and other educational materials and to be
258 used by the State Department of Education for the purchase of
259 textbooks to be loaned under Sections 37-43-1 through 37-43-59 to
260 approved nonpublic schools, as described under Section 37-43-1.
261 The amount of funds under this item to be used by the department
262 for purchasing textbooks to loan to approved nonpublic schools
263 shall be in the proportion that the average daily attendance of
264 the nonpublic schools that are loaned textbooks by the state bears
265 to the average daily attendance of all school districts in the
266 state. The funds distributed to the school districts under this
267 item shall be in the proportion that the average daily attendance
268 of each school district bears to the average daily attendance of
269 all school districts within the state and shall be used to assist
270 in the funding of textbooks and other educational materials, to
271 include not more than Two Million Dollars (\$2,000,000.00) each
272 year for technology enhancement projects for elementary and
273 secondary education programs;

274 (ii) Seven and ninety-seven one-hundredths percent
275 (7.97%) to assist the funding of transportation operations and
276 maintenance pursuant to Section 37-19-23;

277 (iii) Eight and twenty-six one-hundredths percent
278 (8.26%) to assist the funding of the Uniform Millage Assistance
279 Grant Program pursuant to Section 37-22-1; and

280 (iv) Nine and sixty-one one-hundredths percent
281 (9.61%) for classroom supplies, instructional materials and
282 equipment, including computers and computer software, to be
283 distributed to all school districts in the proportion that the
284 average daily attendance of each school district bears to the
285 average daily attendance of all school districts within the state.
286 Such funds shall not be expended for administrative purposes.
287 Local school districts shall allocate classroom supply funds

288 equally among all classroom teachers in the school district. For
289 purposes of this subparagraph, "teacher" shall mean any employee
290 of the school board of a school district who is required by law to
291 obtain a teacher's license from the State Board of Education and
292 who is assigned to an instructional area of work as defined by the
293 State Department of Education, but shall not include a federally
294 funded teacher. Two (2) or more teachers may agree to pool their
295 classroom supply funds for the benefit of a school within the
296 district pursuant to the development of a spending plan that
297 supports the overall goals of the school which includes the type,
298 quantity and quality of such supplies, instructional materials,
299 equipment, computers or computer software. This plan shall be
300 submitted, in writing, to the school principal for approval.
301 Classroom supply funds allocated under this subparagraph shall
302 supplement, not replace, other local and state funds available for
303 the same purposes. School districts need not fully expend the
304 funds received under this subparagraph in the year in which they
305 are received, but such funds may be carried forward for
306 expenditure in any succeeding school year. The State Board of
307 Education shall develop and promulgate rules and regulations for
308 the administration of this subparagraph consistent with the above
309 criteria, with particular emphasis on allowing the individual
310 teachers to expend funds as they deem appropriate, with minimum
311 input from school principals;

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

315 (c) Fourteen and forty-one one-hundredths percent
316 (14.41%) to the State Board for Community and Junior Colleges for
317 the purpose of providing support to community and junior colleges.

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

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

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

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

336 (a) For subsection (3)(a)(i) of this section, Six
337 Million Three Hundred Thirty Thousand Nine Hundred Twenty Dollars
338 (\$6,330,920.00);

339 (b) For subsection (3)(a)(ii) of this section
340 Thirty-six Million Seven Hundred Thousand Dollars
341 (\$36,700,000.00);

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

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

349 * * *

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

351 37-61-33. (1) There is hereby created within the State
352 Treasury a special fund to be designated the "Education
353 Enhancement Fund" into which shall be deposited all the revenues

354 collected pursuant to Sections 27-65-75(7) and (8), 27-67-31(a)
355 and (b) * * *.

356 (2) Of the amount deposited into the Education Enhancement
357 Fund, * * * Sixteen Million Dollars (\$16,000,000.00) shall be
358 appropriated each fiscal year to the State Department of Education
359 to be distributed to all school districts. Such money shall be
360 distributed to all school districts in the proportion that the
361 average daily attendance of each school district bears to the
362 average daily attendance of all school districts within the state
363 for the following purposes:

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

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

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

377 (d) As a pledge to pay all or a portion of the debt
378 service on debt issued by the school district under Sections
379 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351
380 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302
381 and 37-41-81, Mississippi Code of 1972, or debt issued by boards
382 of supervisors for agricultural high schools pursuant to Section
383 37-27-65, Mississippi Code of 1972, if such pledge is accomplished
384 pursuant to a written contract or resolution approved and spread
385 upon the minutes of an official meeting of the district's school
386 board or board of supervisors. The annual grant to such district

387 in any subsequent year during the term of the resolution or
388 contract shall not be reduced below an amount equal to the
389 district's grant amount for the year in which the contract or
390 resolution was adopted. The intent of this provision is to allow
391 school districts to irrevocably pledge a certain, constant stream
392 of revenue as security for long-term obligations issued under the
393 code sections enumerated in this paragraph or as otherwise allowed
394 by law. It is the intent of the Legislature that the provisions
395 of this paragraph shall be cumulative and supplemental to any
396 existing funding programs or other authority conferred upon school
397 districts or school boards. Debt of a district secured by a
398 pledge of sales tax revenue pursuant to this paragraph shall not
399 be subject to any debt limitation contained in the foregoing
400 enumerated code sections.

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

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

404 (i) Sixteen and sixty-one one-hundredths percent
405 (16.61%) to the cost of the adequate education program determined
406 under Section 37-151-7;

407 (ii) Seven and ninety-seven one-hundredths percent
408 (7.97%) to assist the funding of transportation operations and
409 maintenance pursuant to Section 37-19-23; and

410 (iii) Nine and sixty-one one-hundredths percent
411 (9.61%) for classroom supplies, instructional materials and
412 equipment, including computers and computer software, to be
413 distributed to all school districts in the proportion that the
414 average daily attendance of each school district bears to the
415 average daily attendance of all school districts within the state.

416 It is the intent of the Legislature that all classroom teachers
417 shall be involved in the development of a spending plan that
418 addresses individual classroom needs and supports the overall
419 goals of the school regarding supplies, instructional materials,

420 equipment, computers or computer software under the provisions of
421 this subparagraph, including the type, quantity and quality of
422 such supplies, materials and equipment. This plan shall be
423 submitted to the school principal for approval. School districts
424 need not fully expend the funds received under this subparagraph
425 in the year in which they are received, but such funds may be
426 carried forward for expenditure in any succeeding school year.

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

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

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

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

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

451 (a) For subsection (3)(a)(ii) of this section
452 Thirty-six Million Seven Hundred Thousand Dollars
453 (\$36,700,000.00);

454 (b) For the aggregate of minimum program allotments in
455 the 1997 fiscal year, formerly provided for in Chapter 19, Title
456 37, Mississippi Code of 1972, as amended, excluding those funds
457 for transportation as provided for in subsection (5)(a) herein.

458 * * *

459 SECTION 6. This act shall take effect and be in force from
460 and after its passage.