SENATE BILL NO. 2222

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

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

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

27-103-203. (1) There is created in the State Treasury a special fund, separate and apart from any other fund, to be designated the Working Cash-Stabilization Reserve Fund, into which shall be deposited one hundred percent (100%) of the unencumbered General Fund cash balance at the close of each fiscal year until such time as the balance in the fund reaches Forty Million Dollars ($40,000,000.00). After the balance in the fund reaches Forty Million Dollars ($40,000,000.00), fifty percent (50%) of the unencumbered General Fund cash balance at the close of each fiscal year, not to exceed seven and one-half percent (7-1/2%) of the General Fund appropriations for such fiscal year, shall be deposited into the fund. The remainder of the year-end unencumbered cash after transfer to the Working Cash-Stabilization Reserve Fund shall remain in the General Fund **. Unencumbered cash in the General Fund may be used for new year cash flow needs and may also be used for deficit appropriations or regular appropriations.
(2) The Working Cash-Stabilization Reserve Fund shall not be considered as a surplus or available funds when adopting a balanced budget as required by law. The State Treasurer shall invest all sums in the Working Cash-Stabilization Reserve Fund not needed for the purposes provided for in this section in certificates of deposit, repurchase agreements and other securities as authorized in Sections 27-105-33(d) or 7-9-103, as the State Treasurer may determine to yield the highest market rate available. The interest earned on such sums shall be deposited in the fund until the balance of principal and interest therein reaches seven and one-half percent (7-1/2%) of the total General Fund appropriations for the current fiscal year, and all interest earned in excess of amounts necessary to maintain the seven and one-half percent (7-1/2%) fund balance requirement shall be deposited by the State Treasurer into the State General Fund.

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

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

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

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

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

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

27-103-125. The proposed budget of each state agency shall show the amounts required for operating expenses separately from the amounts required for permanent improvements. The overall budget shall show, separately by each source, the estimated amount of general fund revenue and of special fund revenues of general fund agencies. The total proposed expenditures in Part 1 of the overall budget shall not exceed the amount of estimated revenues which will be available in the general and special funds for appropriation or use during the succeeding fiscal year, including any balances which will be on hand in the general and special funds at the close of the then current fiscal year. Beginning with the budget for fiscal year 1994, the total proposed expenditures from the General Fund in Part 1 of the overall budget shall not exceed ninety-eight percent (98%) of the amount of General Fund revenue estimate for the succeeding fiscal year, plus any unencumbered balances in general funds that will be available and on hand at the close of the then current fiscal year. The General Fund revenue estimate shall be the estimate jointly adopted by the Governor and the Joint Legislative Budget Committee. Unencumbered balances in general funds that will be available and on hand at the close of the current fiscal year...
shall not include projected amounts required to be deposited into
the Working Cash-Stabilization Reserve Fund * * * pursuant to
Section 27-103-203. The Legislative Budget Office may recommend
additional taxes or sources of revenue if in its judgment such
additional funds are necessary to adequately support the functions
of the state government.

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

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

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

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

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

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

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

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

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

The Energy Division shall verify the net savings and net revenues on an annual basis.
The use by an agency of net savings and net revenues from energy efficiency projects shall be in addition to, and shall not supplant or replace, funding from traditional sources for their normal operations and maintenance or capital budgets. It is the intent of this subsection to ensure that the agencies receive the full benefit intended by this section, and that the effect will not be diminished by budget adjustments inconsistent with this intent.

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

[U]ntil 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) * * *.

(2) Of the amount deposited into the Education Enhancement Fund, * * * 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 shall be appropriated as follows:

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

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

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

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. 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 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.

* * *

[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) * * *

(2) Of the amount deposited into the Education Enhancement Fund, * * * 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 * * * 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.

(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 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)(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.

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