

By: Representative Frierson

To: Education;
Appropriations

HOUSE BILL NO. 1090

1 AN ACT TO BRING FORWARD SECTIONS 37-61-33, 27-65-75,
2 27-67-31, 27-103-139, 37-17-6, 37-151-7, 37-151-9, 37-151-10,
3 37-151-41 AND 65-1-123, MISSISSIPPI CODE OF 1972, WHICH RELATE TO
4 THE EDUCATION ENHANCEMENT FUND, FOR THE PURPOSES OF AMENDMENT; AND
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 37-61-33, Mississippi Code of 1972, is
8 brought forward as follows:

9 37-61-33. (1) There is created within the State Treasury a
10 special fund to be designated the "Education Enhancement Fund"
11 into which shall be deposited all the revenues collected pursuant
12 to Sections 27-65-75(7) and (8) and 27-67-31(a) and (b).

13 (2) Of the amount deposited into the Education Enhancement
14 Fund, Sixteen Million Dollars (\$16,000,000.00) shall be
15 appropriated each fiscal year to the State Department of Education
16 to be distributed to all school districts. Such money shall be
17 distributed to all school districts in the proportion that the
18 average daily attendance of each school district bears to the
19 average daily attendance of all school districts within the state
20 for the following purposes:

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

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

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

34 (d) As a pledge to pay all or a portion of the debt
35 service on debt issued by the school district under Sections
36 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351
37 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302
38 and 37-41-81, or debt issued by boards of supervisors for
39 agricultural high schools pursuant to Section 37-27-65, if such
40 pledge is accomplished pursuant to a written contract or
41 resolution approved and spread upon the minutes of an official
42 meeting of the district's school board or board of supervisors.
43 The annual grant to such district in any subsequent year during
44 the term of the resolution or contract shall not be reduced below
45 an amount equal to the district's grant amount for the year in
46 which the contract or resolution was adopted. The intent of this
47 provision is to allow school districts to irrevocably pledge a
48 certain, constant stream of revenue as security for long-term
49 obligations issued under the code sections enumerated in this
50 paragraph or as otherwise allowed by law. It is the intent of the
51 Legislature that the provisions of this paragraph shall be
52 cumulative and supplemental to any existing funding programs or
53 other authority conferred upon school districts or school boards.
54 Debt of a district secured by a pledge of sales tax revenue
55 pursuant to this paragraph shall not be subject to any debt
56 limitation contained in the foregoing enumerated code sections.

57 (3) The remainder of the money deposited into the Education
58 Enhancement Fund shall be appropriated as follows:

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

60 (i) Sixteen and sixty-one one-hundredths percent
61 (16.61%) to the cost of the adequate education program determined
62 under Section 37-151-7; of the funds generated by the percentage
63 set forth in this section for the support of the adequate
64 education program, one and one hundred seventy-eight
65 one-thousandths percent (1.178%) of the funds shall be
66 appropriated to be used by the State Department of Education for
67 the purchase of textbooks to be loaned under Sections 37-43-1
68 through 37-43-59 to approved nonpublic schools, as described in
69 Section 37-43-1. The funds to be distributed to each nonpublic
70 school shall be in the proportion that the average daily
71 attendance of each nonpublic school bears to the total average
72 daily attendance of all nonpublic schools;

73 (ii) Seven and ninety-seven one-hundredths percent
74 (7.97%) to assist the funding of transportation operations and
75 maintenance pursuant to Section 37-19-23; and

76 (iii) Nine and sixty-one one-hundredths percent
77 (9.61%) for classroom supplies, instructional materials and
78 equipment, including computers and computer software, to be
79 distributed to all school districts in the proportion that the
80 average daily attendance of each school district bears to the
81 average daily attendance of all school districts within the state.
82 Classroom supply funds shall not be expended for administrative
83 purposes. Local school districts shall allocate classroom supply
84 funds equally among all classroom teachers in the school district.
85 For purposes of this subparagraph, "teacher" means any employee of
86 the school board of a school district who is required by law to
87 obtain a teacher's license from the State Department of Education
88 and who is assigned to an instructional area of work as defined by
89 the department, but shall not include a federally funded teacher.
90 Two (2) or more teachers may agree to pool their classroom supply
91 funds for the benefit of a school within the district. It is the
92 intent of the Legislature that all classroom teachers shall be

93 involved in the development of a spending plan that addresses
94 individual classroom needs and supports the overall goals of the
95 school regarding supplies, instructional materials, equipment,
96 computers or computer software under the provisions of this
97 subparagraph, including the type, quantity and quality of such
98 supplies, materials and equipment. This plan shall be submitted
99 in writing to the school principal for approval. Classroom supply
100 funds allocated under this subparagraph shall supplement, not
101 replace, other local and state funds available for the same
102 purposes. School districts need not fully expend the funds
103 received under this subparagraph in the year in which they are
104 received, but such funds may be carried forward for expenditure in
105 any succeeding school year. The State Board of Education shall
106 develop and promulgate rules and regulations for the
107 administration of this subparagraph consistent with the above
108 criteria, with particular emphasis on allowing the individual
109 teachers to expend funds as they deem appropriate;

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

113 (c) Fourteen and forty-one one-hundredths percent
114 (14.41%) to the State Board for Community and Junior Colleges for
115 the purpose of providing support to community and junior colleges.

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

119 (a) Twenty-five Million Dollars (\$25,000,000.00) shall
120 be deposited into the Working Cash-Stabilization Reserve Fund
121 created pursuant to Section 27-103-203(1), until the balance in
122 such fund reaches the maximum balance of seven and one-half
123 percent (7-1/2%) of the General Fund appropriations in the
124 appropriate fiscal year. After the maximum balance in the Working
125 Cash-Stabilization Reserve Fund is reached, such money shall

126 remain in the Education Enhancement Fund to be appropriated in the
127 manner provided for in paragraph (b) of this subsection.

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

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

134 (a) For subsection (3)(a)(ii) of this section,
135 Thirty-six Million Seven Hundred Thousand Dollars
136 (\$36,700,000.00);

137 (b) For the aggregate of minimum program allotments in
138 the 1997 fiscal year, formerly provided for in Chapter 19, Title
139 37, Mississippi Code of 1972, as amended, excluding those funds
140 for transportation as provided for in subsection (5)(a) in this
141 section.

142 **SECTION 2.** Section 27-65-75, Mississippi Code of 1972, is
143 brought forward as follows:

144 27-65-75. On or before the fifteenth day of each month, the
145 revenue collected under the provisions of this chapter during the
146 preceding month shall be paid and distributed as follows:

147 (1) On or before August 15, 1992, and each succeeding month
148 thereafter through July 15, 1993, eighteen percent (18%) of the
149 total sales tax revenue collected during the preceding month under
150 the provisions of this chapter, except that collected under the
151 provisions of Sections 27-65-15, 27-65-19(3) and 27-65-21, on
152 business activities within a municipal corporation shall be
153 allocated for distribution to such municipality and paid to such
154 municipal corporation. On or before August 15, 1993, and each
155 succeeding month thereafter, eighteen and one-half percent
156 (18-1/2%) of the total sales tax revenue collected during the
157 preceding month under the provisions of this chapter, except that
158 collected under the provisions of Sections 27-65-15, 27-65-19(3)

159 and 27-65-21, on business activities within a municipal
160 corporation shall be allocated for distribution to such
161 municipality and paid to such municipal corporation.

162 A municipal corporation, for the purpose of distributing the
163 tax under this subsection, shall mean and include all incorporated
164 cities, towns and villages.

165 Monies allocated for distribution and credited to a municipal
166 corporation under this subsection may be pledged as security for
167 any loan received by the municipal corporation for the purpose of
168 capital improvements as authorized under Section 57-1-303, or
169 loans as authorized under Section 57-44-7, or water systems
170 improvements as authorized under Section 41-3-16.

171 In any county having a county seat which is not an
172 incorporated municipality, the distribution provided hereunder
173 shall be made as though the county seat was an incorporated
174 municipality; however, the distribution to such municipality shall
175 be paid to the county treasury wherein the municipality is located
176 and such funds shall be used for road, bridge and street
177 construction or maintenance therein.

178 (2) On or before September 15, 1987, and each succeeding
179 month thereafter, from the revenue collected under this chapter
180 during the preceding month One Million One Hundred Twenty-five
181 Thousand Dollars (\$1,125,000.00) shall be allocated for
182 distribution to municipal corporations as defined under subsection
183 (1) of this section in the proportion that the number of gallons
184 of gasoline and diesel fuel sold by distributors to consumers and
185 retailers in each such municipality during the preceding fiscal
186 year bears to the total gallons of gasoline and diesel fuel sold
187 by distributors to consumers and retailers in municipalities
188 statewide during the preceding fiscal year. The State Tax
189 Commission shall require all distributors of gasoline and diesel
190 fuel to report to the commission monthly the total number of
191 gallons of gasoline and diesel fuel sold by them to consumers and

192 retailers in each municipality during the preceding month. The
193 State Tax Commission shall have the authority to promulgate such
194 rules and regulations as is necessary to determine the number of
195 gallons of gasoline and diesel fuel sold by distributors to
196 consumers and retailers in each municipality. In determining the
197 percentage allocation of funds under this subsection for the
198 fiscal year beginning July 1, 1987, and ending June 30, 1988, the
199 State Tax Commission may consider gallons of gasoline and diesel
200 fuel sold for a period of less than one (1) fiscal year. For the
201 purposes of this subsection, the term "fiscal year" means the
202 fiscal year beginning July 1 of a year.

203 (3) On or before September 15, 1987, and on or before the
204 fifteenth day of each succeeding month, until the date specified
205 in Section 65-39-35, the proceeds derived from contractors' taxes
206 levied under Section 27-65-21 on contracts for the construction or
207 reconstruction of highways designated under the highway program
208 created under Section 65-3-97 shall, except as otherwise provided
209 in Section 31-17-127, be deposited into the State Treasury to the
210 credit of the State Highway Fund to be used to fund such highway
211 program. The Mississippi Department of Transportation shall
212 provide to the State Tax Commission such information as is
213 necessary to determine the amount of proceeds to be distributed
214 under this subsection.

215 (4) On or before August 15, 1994, and on or before the
216 fifteenth day of each succeeding month through July 15, 1999, from
217 the proceeds of gasoline, diesel fuel or kerosene taxes as
218 provided in Section 27-5-101(a)(ii)1, Four Million Dollars
219 (\$4,000,000.00) shall be deposited in the State Treasury to the
220 credit of a special fund designated as the "State Aid Road Fund,"
221 created by Section 65-9-17. On or before August 15, 1999, and on
222 or before the fifteenth day of each succeeding month, from the
223 total amount of the proceeds of gasoline, diesel fuel or kerosene
224 taxes apportioned by Section 27-5-101(a)(ii)1, Four Million

225 Dollars (\$4,000,000.00) or an amount equal to twenty-three and
226 one-fourth percent (23.25%) of such funds, whichever is the
227 greater amount, shall be deposited in the State Treasury to the
228 credit of the "State Aid Road Fund," created by Section 65-9-17.
229 Such funds shall be pledged to pay the principal of and interest
230 on state aid road bonds heretofore issued under Sections 19-9-51
231 through 19-9-77, in lieu of and in substitution for the funds
232 heretofore allocated to counties under this section. Such funds
233 may not be pledged for the payment of any state aid road bonds
234 issued after April 1, 1981; however, this prohibition against the
235 pledging of any such funds for the payment of bonds shall not
236 apply to any bonds for which intent to issue such bonds has been
237 published, for the first time, as provided by law prior to March
238 29, 1981. From the amount of taxes paid into the special fund
239 pursuant to this subsection and subsection (9) of this section,
240 there shall be first deducted and paid the amount necessary to pay
241 the expenses of the Office of State Aid Road Construction, as
242 authorized by the Legislature for all other general and special
243 fund agencies. The remainder of the fund shall be allocated
244 monthly to the several counties in accordance with the following
245 formula:

246 (a) One-third (1/3) shall be allocated to all counties
247 in equal shares;

248 (b) One-third (1/3) shall be allocated to counties
249 based on the proportion that the total number of rural road miles
250 in a county bears to the total number of rural road miles in all
251 counties of the state; and

252 (c) One-third (1/3) shall be allocated to counties
253 based on the proportion that the rural population of the county
254 bears to the total rural population in all counties of the state,
255 according to the latest federal decennial census.

256 For the purposes of this subsection, the term "gasoline,
257 diesel fuel or kerosene taxes" means such taxes as defined in
258 paragraph (f) of Section 27-5-101.

259 The amount of funds allocated to any county under this
260 subsection for any fiscal year after fiscal year 1994 shall not be
261 less than the amount allocated to such county for fiscal year
262 1994. Monies allocated to a county from the State Aid Road Fund
263 for fiscal year 1995 or any fiscal year thereafter that exceed the
264 amount of funds allocated to that county from the State Aid Road
265 Fund for fiscal year 1994, first must be expended by the county
266 for replacement or rehabilitation of bridges on the state aid road
267 system that have a sufficiency rating of less than twenty-five
268 (25), according to National Bridge Inspection standards before
269 such monies may be approved for expenditure by the State Aid Road
270 Engineer on other projects that qualify for the use of state aid
271 road funds.

272 Any reference in the general laws of this state or the
273 Mississippi Code of 1972 to Section 27-5-105 shall mean and be
274 construed to refer and apply to subsection (4) of Section
275 27-65-75.

276 (5) One Million Six Hundred Sixty-six Thousand Six Hundred
277 Sixty-six Dollars (\$1,666,666.00) each month shall be paid into
278 the special fund known as the "State Public School Building Fund"
279 created and existing under the provisions of Sections 37-47-1
280 through 37-47-67. Such payments into said fund are to be made on
281 the last day of each succeeding month hereafter.

282 (6) An amount each month beginning August 15, 1983, through
283 November 15, 1986, as specified in Section 6 of Chapter 542, Laws
284 of 1983, shall be paid into the special fund known as the
285 Correctional Facilities Construction Fund created in Section 6 of
286 Chapter 542, Laws of 1983.

287 (7) On or before August 15, 1992, and each succeeding month
288 thereafter through July 15, 2000, two and two hundred sixty-six

289 one-thousandths percent (2.266%) of the total sales tax revenue
290 collected during the preceding month under the provisions of this
291 chapter, except that collected under the provisions of Section
292 27-65-17(2) shall be deposited by the commission into the School
293 Ad Valorem Tax Reduction Fund created pursuant to Section
294 37-61-35. On or before August 15, 2000, and each succeeding month
295 thereafter, two and two hundred sixty-six one-thousandths percent
296 (2.266%) of the total sales tax revenue collected during the
297 preceding month under the provisions of this chapter, except that
298 collected under the provisions of Section 27-65-17(2), shall be
299 deposited into the School Ad Valorem Tax Reduction Fund created
300 under Section 37-61-35 until such time that the total amount
301 deposited into the fund during a fiscal year equals Forty-two
302 Million Dollars (\$42,000,000.00). Thereafter, the amounts
303 diverted under this subsection (7) during the fiscal year in
304 excess of Forty-two Million Dollars (\$42,000,000.00) shall be
305 deposited into the Education Enhancement Fund created under
306 Section 37-61-33 for appropriation by the Legislature as other
307 education needs and shall not be subject to the percentage
308 appropriation requirements set forth in Section 37-61-33.

309 (8) On or before August 15, 1992, and each succeeding month
310 thereafter, nine and seventy-three one-thousandths percent
311 (9.073%) of the total sales tax revenue collected during the
312 preceding month under the provisions of this chapter, except that
313 collected under the provisions of Section 27-65-17(2) shall be
314 deposited into the Education Enhancement Fund created pursuant to
315 Section 37-61-33.

316 (9) On or before August 15, 1994, and each succeeding month
317 thereafter, from the revenue collected under this chapter during
318 the preceding month, Two Hundred Fifty Thousand Dollars
319 (\$250,000.00) shall be paid into the State Aid Road Fund.

320 (10) On or before August 15, 1994, and each succeeding month
321 thereafter through August 15, 1995, from the revenue collected

322 under this chapter during the preceding month, Two Million Dollars
323 (\$2,000,000.00) shall be deposited into the Motor Vehicle Ad
324 Valorem Tax Reduction Fund established in Section 27-51-105.

325 (11) Notwithstanding any other provision of this section to
326 the contrary, on or before February 15, 1995, and each succeeding
327 month thereafter, the sales tax revenue collected during the
328 preceding month under the provisions of Section 27-65-17(2) and
329 the corresponding levy in Section 27-65-23 on the rental or lease
330 of private carriers of passengers and light carriers of property
331 as defined in Section 27-51-101 shall be deposited, without
332 diversion, into the Motor Vehicle Ad Valorem Tax Reduction Fund
333 established in Section 27-51-105.

334 (12) Notwithstanding any other provision of this section to
335 the contrary, on or before August 15, 1995, and each succeeding
336 month thereafter, the sales tax revenue collected during the
337 preceding month under the provisions of Section 27-65-17(1) on
338 retail sales of private carriers of passengers and light carriers
339 of property, as defined in Section 27-51-101 and the corresponding
340 levy in Section 27-65-23 on the rental or lease of these vehicles,
341 shall be deposited, after diversion, into the Motor Vehicle Ad
342 Valorem Tax Reduction Fund established in Section 27-51-105.

343 (13) On or before July 15, 1994, and on or before the
344 fifteenth day of each succeeding month thereafter, that portion of
345 the avails of the tax imposed in Section 27-65-22, which is
346 derived from activities held on the Mississippi state fairgrounds
347 complex, shall be paid into a special fund hereby created in the
348 State Treasury and shall be expended pursuant to legislative
349 appropriations solely to defray the costs of repairs and
350 renovation at such Trade Mart and Coliseum.

351 (14) On or before August 15, 1998, and each succeeding month
352 thereafter through July 15, 2005, that portion of the avails of
353 the tax imposed in Section 27-65-23 which is derived from sales by
354 cotton compresses or cotton warehouses and which would otherwise

355 be paid into the General Fund, shall be deposited in an amount not
356 to exceed Two Million Dollars (\$2,000,000.00) into the special
357 fund created pursuant to Section 69-37-39.

358 (15) Notwithstanding any other provision of this section to
359 the contrary, on or before September 15, 2000, and each succeeding
360 month thereafter, the sales tax revenue collected during the
361 preceding month under the provisions of Section 27-65-19(1)(f) and
362 (g)(i)2, shall be deposited, without diversion, into the
363 Telecommunications Ad Valorem Tax Reduction Fund established in
364 Section 27-38-7.

365 (16) On or before August 15, 2000, and each succeeding month
366 thereafter, the sales tax revenue collected during the preceding
367 month under the provisions of this chapter on the gross proceeds
368 of sales of a project as defined in Section 57-30-1 shall be
369 deposited, after all diversions except the diversion provided for
370 in subsection (1) of this section, into the Sales Tax Incentive
371 Fund created in Section 57-30-3.

372 (17) Notwithstanding any other provision of this section to
373 the contrary, on or before April 15, 2002, and each succeeding
374 month thereafter, the sales tax revenue collected during the
375 preceding month under Section 27-65-23 on sales of parking
376 services of parking garages and lots at airports shall be
377 deposited, without diversion, into the special fund created
378 pursuant to Section 27-5-101(d).

379 (18) On or before August 15, 2004, and each succeeding month
380 thereafter through July 15, 2005, from the sales tax revenue
381 collected during the preceding month under the provisions of this
382 chapter, Two Million Five Hundred Thousand Dollars (\$2,500,000.00)
383 shall be deposited into the Special Funds Transfer Fund created in
384 House Bill No. 1036, 2003 Regular Session.

385 (19) The remainder of the amounts collected under the
386 provisions of this chapter shall be paid into the State Treasury
387 to the credit of the General Fund.

388 (20) It shall be the duty of the municipal officials of any
389 municipality which expands its limits, or of any community which
390 incorporates as a municipality, to notify the commissioner of such
391 action thirty (30) days before the effective date. Failure to so
392 notify the commissioner shall cause such municipality to forfeit
393 the revenue which it would have been entitled to receive during
394 this period of time when the commissioner had no knowledge of the
395 action. If any funds have been erroneously disbursed to any
396 municipality or any overpayment of tax is recovered by the
397 taxpayer, the commissioner may make correction and adjust the
398 error or overpayment with such municipality by withholding the
399 necessary funds from any subsequent payment to be made to the
400 municipality.

401 **SECTION 3.** Section 27-67-31, Mississippi Code of 1972, is
402 brought forward as follows:

403 27-67-31. All administrative provisions of the sales tax
404 law, and amendments thereto, including those which fix damages,
405 penalties and interest for failure to comply with the provisions
406 of said sales tax law, and all other requirements and duties
407 imposed upon taxpayer, shall apply to all persons liable for use
408 taxes under the provisions of this article. The commissioner
409 shall exercise all power and authority and perform all duties with
410 respect to taxpayers under this article as are provided in said
411 sales tax law, except where there is conflict, then the provisions
412 of this article shall control.

413 The commissioner may require transportation companies to
414 permit the examination of waybills, freight bills, or other
415 documents covering shipments of tangible personal property into
416 this state.

417 On or before the fifteenth day of each month, the amount
418 received from taxes, damages and interest under the provisions of
419 this article during the preceding month shall be paid and
420 distributed as follows:

421 (a) On or before July 15, 1994, through July 15, 2000,
422 and each succeeding month thereafter, two and two hundred
423 sixty-six one-thousandths percent (2.266%) of the total use tax
424 revenue collected during the preceding month under the provisions
425 of this article shall be deposited in the School Ad Valorem Tax
426 Reduction Fund created pursuant to Section 37-61-35. On or before
427 August 15, 2000, and each succeeding month thereafter, two and two
428 hundred sixty-six one-thousandths percent (2.266%) of the total
429 use tax revenue collected during the preceding month under the
430 provisions of this chapter shall be deposited into the School Ad
431 Valorem Tax Reduction Fund created under Section 37-61-35 until
432 such time that the total amount deposited into the fund during a
433 fiscal year equals Four Million Dollars (\$4,000,000.00).
434 Thereafter, the amounts diverted under this paragraph (a) during
435 the fiscal year in excess of Four Million Dollars (\$4,000,000.00)
436 shall be deposited into the Education Enhancement Fund created
437 under Section 37-61-33 for appropriation by the Legislature as
438 other education needs and shall not be subject to the percentage
439 appropriation requirements set forth in Section 37-61-33.

440 (b) On or before July 15, 1994, and each succeeding
441 month thereafter, nine and seventy-three one-thousandths percent
442 (9.073%) of the total use tax revenue collected during the
443 preceding month under the provisions of this article shall be
444 deposited into the Education Enhancement Fund created pursuant to
445 Section 37-61-33.

446 (c) On or before July 15, 1997, and on or before the
447 fifteenth day of each succeeding month thereafter, the revenue
448 collected under the provisions of this article imposed and levied
449 as a result of Section 27-65-17(2) and the corresponding levy in
450 Section 27-65-23 on the rental or lease of private carriers of
451 passengers and light carriers of property as defined in Section
452 27-51-101 shall be deposited into the Motor Vehicle Ad Valorem Tax
453 Reduction Fund created pursuant to Section 27-51-105.

454 (d) On or before July 15, 1997, and on or before the
455 fifteenth day of each succeeding month thereafter and after the
456 deposits required by paragraphs (a) and (b) of this section are
457 made, the remaining revenue collected under the provisions of this
458 article imposed and levied as a result of Section 27-65-17(1) and
459 the corresponding levy in Section 27-65-23 on the rental or lease
460 of private carriers of passengers and light carriers of property
461 as defined in Section 27-51-101 shall be deposited into the Motor
462 Vehicle Ad Valorem Tax Reduction Fund created pursuant to Section
463 27-51-105.

464 (e) The remainder of the amount received from taxes,
465 damages and interest under the provisions of this article shall be
466 paid into the General Fund of the State Treasury by the
467 commissioner.

468 **SECTION 4.** Section 27-103-139, Mississippi Code of 1972, is
469 brought forward as follows:

470 27-103-139. On or before November 15 preceding each regular
471 session of the Legislature, except the first regular session of a
472 new term of office, the Governor shall submit to the members of
473 the Legislature, the Legislative Budget Office or the
474 members-elect, as the case may be, and to the executive head of
475 each state agency a balanced budget for the succeeding fiscal
476 year. Beginning with the 1996 fiscal year, the budget submitted
477 shall be prepared in a format which will include performance
478 measurement data associated with the various programs operated by
479 each agency. The total proposed expenditures in the balanced
480 budget shall not exceed the amount of estimated revenues that will
481 be available for appropriation or use during the succeeding fiscal
482 year, including any balances that will be on hand at the close of
483 the then current fiscal year, as determined by the revenue
484 estimate jointly adopted by the Governor and the Legislative
485 Budget Committee. Beginning with the budget for fiscal year 1994,
486 the total proposed expenditures from the State General Fund in the

487 balanced budget shall not exceed ninety-eight percent (98%) of the
488 amount of general fund revenue estimate for the succeeding fiscal
489 year, plus any unencumbered balances in general funds that will be
490 available and on hand at the close of the then current fiscal
491 year. However, for fiscal year 2004 only, the total proposed
492 expenditures from the State General Fund in the balanced budget
493 shall not exceed one hundred percent (100%) of the amount of the
494 general fund revenue estimate for the succeeding fiscal year, plus
495 any unencumbered balances in general funds that will be available
496 and on hand at the close of the then current fiscal year. The
497 general fund revenue estimate shall be the estimate jointly
498 adopted by the Governor and the Joint Legislative Budget
499 Committee. Unencumbered balances in general funds that will be
500 available and on hand at the close of the fiscal year shall not
501 include projected amounts required to be deposited into the
502 Working Cash-Stabilization Reserve Fund and the Education
503 Enhancement Fund pursuant to Section 27-103-203.

504 The revenues used in preparing the balanced budget shall be
505 only those revenues that will be available under the general laws
506 of the state as they exist when the balanced budget is prepared,
507 and shall not include any proposed revenues that would become
508 available only after the enactment of new legislation. If the
509 Governor has any recommendations for additional proposed
510 expenditures or proposed revenues that are not included in his
511 balanced budget, he shall submit those recommendations in a
512 supplement that is separate from his balanced budget, and whenever
513 the Governor recommends any such additional proposed expenditures,
514 he also shall recommend proposed revenues that are sufficient to
515 fund the additional proposed expenditures, providing specific
516 details regarding the sources and the total amount of those
517 proposed revenues.

518 The Governor may employ a budget officer for the purpose of
519 receiving information from the State Fiscal Officer and preparing

520 his recommendations on the budget. In the event the Governor
521 determines that information received from the State Fiscal Officer
522 is not sufficient to enable him to prepare his budget
523 recommendations, he may request an appropriation from the
524 Legislature to provide additional staff within the Governor's
525 Office for such purpose. At the first regular session after his
526 election for Governor, the Governor shall submit any budget
527 recommendations plus the required revenue source recommendations
528 no later than January 31 of such year.

529 **SECTION 5.** Section 37-17-6, Mississippi Code of 1972, is
530 brought forward as follows:

531 37-17-6. (1) The State Board of Education, acting through
532 the Commission on School Accreditation, shall establish and
533 implement a permanent performance-based accreditation system, and
534 all public elementary and secondary schools shall be accredited
535 under this system.

536 (2) No later than June 30, 1995, the State Board of
537 Education, acting through the Commission on School Accreditation,
538 shall require school districts to provide school classroom space
539 that is air conditioned as a minimum requirement for
540 accreditation.

541 (3) (a) Beginning with the 1994-1995 school year, the State
542 Board of Education, acting through the Commission on School
543 Accreditation, shall require that school districts employ
544 certified school librarians according to the following formula:

545	Number of Students	Number of Certified
546	Per School Library	School Librarians
547	0 - 499 Students	½ Full-time Equivalent
548		Certified Librarian
549	500 or More Students	1 Full-time Certified
550		Librarian

551 (b) The State Board of Education, however, may increase
552 the number of positions beyond the above requirements.

553 (c) The assignment of such school librarians to the
554 particular schools shall be at the discretion of the local school
555 district. No individual shall be employed as a certified school
556 librarian without appropriate training and certification as a
557 school librarian by the State Department of Education.

558 (d) School librarians in such district shall spend at
559 least fifty percent (50%) of direct work time in a school library
560 and shall devote no more than one-fourth (1/4) of the workday to
561 administrative activities which are library related.

562 (e) Nothing in this subsection shall prohibit any
563 school district from employing more certified school librarians
564 than are provided for in this section.

565 (f) Any additional millage levied to fund school
566 librarians required for accreditation under this subsection shall
567 be included in the tax increase limitation set forth in Sections
568 37-57-105 and 37-57-107 and shall not be deemed a new program for
569 purposes of the limitation.

570 (4) On or before December 31, 2002, the State Board of
571 Education shall implement the performance-based accreditation
572 system for school districts and for individual schools which shall
573 include the following:

574 (a) High expectations for students and high standards
575 for all schools, with a focus on the basic curriculum;

576 (b) Strong accountability for results with appropriate
577 local flexibility for local implementation;

578 (c) A process to implement accountability at both the
579 school district level and the school level;

580 (d) Individual schools shall be held accountable for
581 student growth and performance;

582 (e) Set annual performance standards for each of the
583 schools of the state and measure the performance of each school
584 against itself through the standard that has been set for it;

585 (f) A determination of which schools exceed their
586 standards and a plan for providing recognition and rewards to such
587 schools;

588 (g) A determination of which schools are failing to
589 meet their standards and a determination of the appropriate role
590 of the State Board of Education and the State Department of
591 Education in providing assistance and initiating possible
592 intervention; and

593 (h) Development of a comprehensive student assessment
594 system to implement these requirements.

595 The State Board of Education may continue to assign school
596 district performance levels by using a number classification and
597 may assign individual school performance levels by using a number
598 classification to be consistent with school district performance
599 levels.

600 (5) Nothing in this section shall be deemed to require a
601 nonpublic school which receives no local, state or federal funds
602 for support to become accredited by the State Board of Education.

603 (6) The State Board of Education shall create an
604 accreditation audit unit under the Commission on School
605 Accreditation to determine whether schools are complying with
606 accreditation standards.

607 (7) The State Board of Education shall be specifically
608 authorized and empowered to withhold adequate minimum education
609 program or adequate education program fund allocations, whichever
610 is applicable, to any public school district for failure to timely
611 report student, school personnel and fiscal data necessary to meet
612 state and/or federal requirements.

613 (8) Deleted.

614 (9) The State Board of Education shall establish, for those
615 school districts failing to meet accreditation standards, a
616 program of development to be complied with in order to receive
617 state funds, except as otherwise provided in subsection (14) of

618 this section when the Governor has declared a state of emergency
619 in a school district or as otherwise provided in Section 206,
620 Mississippi Constitution of 1890. The state board, in
621 establishing these standards, shall provide for notice to schools
622 and sufficient time and aid to enable schools to attempt to meet
623 these standards, unless procedures under subsection (14) of this
624 section have been invoked.

625 (10) Beginning July 1, 1998, the State Board of Education
626 shall be charged with the implementation of the program of
627 development in each applicable school district as follows:

628 (a) Develop an impairment report for each district
629 failing to meet accreditation standards in conjunction with school
630 district officials;

631 (b) Notify any applicable school district failing to
632 meet accreditation standards that it is on probation until
633 corrective actions are taken or until the deficiencies have been
634 removed. The local school district shall develop a corrective
635 action plan to improve its deficiencies. For district academic
636 deficiencies, the corrective action plan for each such school
637 district shall be based upon a complete analysis of the following:

638 student test data, student grades, student attendance reports,
639 student drop-out data, existence and other relevant data. The

640 corrective action plan shall describe the specific measures to be
641 taken by the particular school district and school to improve:

642 (a) instruction; (b) curriculum; (c) professional development; (d)
643 personnel and classroom organization; (e) student incentives for
644 performance; (f) process deficiencies; and (g) reporting to the
645 local school board, parents and the community. The corrective
646 action plan shall describe the specific individuals responsible
647 for implementing each component of the recommendation and how each
648 will be evaluated. All corrective action plans shall be provided
649 to the State Board of Education as may be required. The decision

650 of the State Board of Education establishing the probationary
651 period of time shall be final;

652 (c) Offer, during the probationary period, technical
653 assistance to the school district in making corrective actions.
654 Beginning July 1, 1998, subject to the availability of funds, the
655 State Department of Education shall provide technical and/or
656 financial assistance to all such school districts in order to
657 implement each measure identified in that district's corrective
658 action plan through professional development and on-site
659 assistance. Each such school district shall apply for and utilize
660 all available federal funding in order to support its corrective
661 action plan in addition to state funds made available under this
662 paragraph;

663 (d) Contract, in its discretion, with the institutions
664 of higher learning or other appropriate private entities to assist
665 school districts;

666 (e) Provide for publication of public notice at least
667 one (1) time during the probationary period, in a newspaper
668 published within the jurisdiction of the school district failing
669 to meet accreditation standards, or if no newspaper is published
670 therein, then in a newspaper having a general circulation therein.
671 The publication shall include the following: declaration of
672 school system's status as being on probation; all details relating
673 to the impairment report, and other information as the State Board
674 of Education deems appropriate. Public notices issued under this
675 section shall be subject to Section 13-3-31 and not contrary to
676 other laws regarding newspaper publication.

677 (11) (a) If the recommendations for corrective action are
678 not taken by the local school district or if the deficiencies are
679 not removed by the end of the probationary period, the Commission
680 on School Accreditation shall conduct a hearing to allow such
681 affected school district to present evidence or other reasons why
682 its accreditation should not be withdrawn. Subsequent to its

683 consideration of the results of such hearing, the Commission on
684 School Accreditation shall be authorized, with the approval of the
685 State Board of Education, to withdraw the accreditation of a
686 public school district, and issue a request to the Governor that a
687 state of emergency be declared in that district.

688 (b) If the State Board of Education and the Commission
689 on School Accreditation determine that an extreme emergency
690 situation exists in a school district which jeopardizes the
691 safety, security or educational interests of the children enrolled
692 in the schools in that district and such emergency situation is
693 believed to be related to a serious violation or violations of
694 accreditation standards or state or federal law, the State Board
695 of Education may request the Governor to declare a state of
696 emergency in that school district. For purposes of this
697 paragraph, such declarations of a state of emergency shall not be
698 limited to those instances when a school district's impairments
699 are related to a lack of financial resources, but also shall
700 include serious failure to meet minimum academic standards, as
701 evidenced by a continued pattern of poor student performance.

702 (c) Whenever the Governor declares a state of emergency
703 in a school district in response to a request made under paragraph
704 (a) or (b) of this subsection, the State Board of Education may
705 take one or more of the following actions:

706 (i) Declare a state of emergency, under which some
707 or all of state funds can be escrowed except as otherwise provided
708 in Section 206, Constitution of 1890, until the board determines
709 corrective actions are being taken or the deficiencies have been
710 removed, or that the needs of students warrant the release of
711 funds. Such funds may be released from escrow for any program
712 which the board determines to have been restored to standard even
713 though the state of emergency may not as yet be terminated for the
714 district as a whole;

715 (ii) Override any decision of the local school
716 board or superintendent of education, or both, concerning the
717 management and operation of the school district, or initiate and
718 make decisions concerning the management and operation of the
719 school district;

720 (iii) Assign an interim conservator who will have
721 those powers and duties prescribed in subsection (14) of this
722 section;

723 (iv) Grant transfers to students who attend this
724 school district so that they may attend other accredited schools
725 or districts in a manner which is not in violation of state or
726 federal law;

727 (v) For states of emergency declared under
728 paragraph (a) only, if the accreditation deficiencies are related
729 to the fact that the school district is too small, with too few
730 resources, to meet the required standards and if another school
731 district is willing to accept those students, abolish that
732 district and assign that territory to another school district or
733 districts. If the school district has proposed a voluntary
734 consolidation with another school district or districts, then if
735 the State Board of Education finds that it is in the best interest
736 of the pupils of the district for such consolidation to proceed,
737 the voluntary consolidation shall have priority over any such
738 assignment of territory by the State Board of Education;

739 (vi) For states of emergency declared under
740 paragraph (b) only, reduce local supplements paid to school
741 district employees, including, but not limited to, instructional
742 personnel, assistant teachers and extracurricular activities
743 personnel, if the district's impairment is related to a lack of
744 financial resources, but only to an extent which will result in
745 the salaries being comparable to districts similarly situated, as
746 determined by the State Board of Education;

747 (vii) For states of emergency declared under
748 paragraph (b) only, the State Board of Education must take such
749 action as prescribed in Section 37-17-13.

750 (d) At such time as satisfactory corrective action has
751 been taken in a school district in which a state of emergency has
752 been declared, the State Board of Education may request the
753 Governor to declare that the state of emergency no longer exists
754 in the district.

755 (e) Not later than July 1 of each year, the State
756 Department of Education shall develop an itemized accounting of
757 the expenditures associated with the management of the conservator
758 process with regard to each school district in which a conservator
759 has been appointed, and an assessment as to the extent to which
760 the conservator has achieved, or failed to achieve, the goals for
761 which the conservator was appointed to guide the local school
762 district.

763 (12) Upon the declaration of a state of emergency in a
764 school district under subsection (11) of this section, the
765 Commission on School Accreditation shall be responsible for public
766 notice at least once a week for at least three (3) consecutive
767 weeks in a newspaper published within the jurisdiction of the
768 school district failing to meet accreditation standards, or if no
769 newspaper is published therein, then in a newspaper having a
770 general circulation therein. The size of such notice shall be no
771 smaller than one-fourth (1/4) of a standard newspaper page and
772 shall be printed in bold print. If a conservator has been
773 appointed for the school district, such notice shall begin as
774 follows: "By authority of Section 37-17-6, Mississippi Code of
775 1972, as amended, adopted by the Mississippi Legislature during
776 the 1991 Regular Session, this school district (name of school
777 district) is hereby placed under the jurisdiction of the State
778 Department of Education acting through its appointed conservator
779 (name of conservator)."

780 The notice also shall include, in the discretion of the State
781 Board of Education, any or all details relating to the school
782 district's emergency status, including the declaration of a state
783 of emergency in the school district and a description of the
784 district's impairment deficiencies, conditions of any
785 conservatorship and corrective actions recommended and being
786 taken. Public notices issued under this section shall be subject
787 to Section 13-3-31 and not contrary to other laws regarding
788 newspaper publication.

789 Upon termination of the state of emergency in a school
790 district, the Commission on School Accreditation shall cause
791 notice to be published in the school district in the same manner
792 provided in this section, to include any or all details relating
793 to the corrective action taken in the school district which
794 resulted in the termination of the state of emergency.

795 (13) The State Board of Education or the Commission on
796 School Accreditation shall have the authority to require school
797 districts to produce the necessary reports, correspondence,
798 financial statements, and any other documents and information
799 necessary to fulfill the requirements of this section.

800 Nothing in this section shall be construed to grant any
801 individual, corporation, board or conservator the authority to
802 levy taxes except in accordance with presently existing statutory
803 provisions.

804 (14) (a) Whenever the Governor declares a state of
805 emergency in a school district in response to a request made under
806 subsection (11) of this section, the State Board of Education, in
807 its discretion, may assign an interim conservator to the school
808 district who will be responsible for the administration,
809 management and operation of the school district, including, but
810 not limited to, the following activities:

811 (i) Approving or disapproving all financial
812 obligations of the district, including, but not limited to, the

813 employment, termination, nonrenewal and reassignment of all
814 certified and noncertified personnel, contractual agreements and
815 purchase orders, and approving or disapproving all claim dockets
816 and the issuance of checks; in approving or disapproving
817 employment contracts of superintendents, assistant superintendents
818 or principals, the interim conservator shall not be required to
819 comply with the time limitations prescribed in Sections 37-9-15
820 and 37-9-105;

821 (ii) Supervising the day-to-day activities of the
822 district's staff, including reassigning the duties and
823 responsibilities of personnel in a manner which, in the
824 determination of the conservator, will best suit the needs of the
825 district;

826 (iii) Reviewing the district's total financial
827 obligations and operations and making recommendations to the
828 district for cost savings, including, but not limited to,
829 reassigning the duties and responsibilities of staff;

830 (iv) Attending all meetings of the district's
831 school board and administrative staff;

832 (v) Approving or disapproving all athletic, band
833 and other extracurricular activities and any matters related to
834 those activities;

835 (vi) Maintaining a detailed account of
836 recommendations made to the district and actions taken in response
837 to those recommendations;

838 (vii) Reporting periodically to the State Board of
839 Education on the progress or lack of progress being made in the
840 district to improve the district's impairments during the state of
841 emergency; and

842 (viii) Appointing a parent advisory committee,
843 comprised of parents of students in the school district, which may
844 make recommendations to the conservator concerning the
845 administration, management and operation of the school district.

846 Except when, in the determination of the State Board of
847 Education, the school district's impairment is related to a lack
848 of financial resources, the cost of the salary of the conservator
849 and any other actual and necessary costs related to the
850 conservatorship paid by the State Department of Education shall be
851 reimbursed by the local school district from nonminimum program
852 funds. The department shall submit an itemized statement to the
853 superintendent of the local school district for reimbursement
854 purposes, and any unpaid balance may be withheld from the
855 district's minimum or adequate education program funds.

856 At such time as the Governor, pursuant to the request of the
857 State Board of Education, declares that the state of emergency no
858 longer exists in a school district, the powers and
859 responsibilities of the interim conservator assigned to such
860 district shall cease.

861 (b) In order to provide loans to school districts under
862 a state of emergency which have impairments related to a lack of
863 financial resources, the School District Emergency Assistance Fund
864 is created as a special fund in the State Treasury into which
865 monies may be transferred or appropriated by the Legislature from
866 any available public education funds. The maximum amount that may
867 be appropriated or transferred to the School District Emergency
868 Assistance Fund for any one (1) emergency shall be Two Million
869 Dollars (\$2,000,000.00), and the maximum amount that may be
870 appropriated during any fiscal year shall be Three Million Dollars
871 (\$3,000,000.00).

872 The State Board of Education may loan monies from the School
873 District Emergency Assistance Fund to a school district that is
874 under a state of emergency in such amounts, as determined by the
875 board, which are necessary to correct the district's impairments
876 related to a lack of financial resources. The loans shall be
877 evidenced by an agreement between the school district and the
878 State Board of Education and shall be repayable in principal,

879 without necessity of interest, to the State General Fund or the
880 Education Enhancement Fund, depending on the source of funding for
881 such loan, by the school district from any allowable funds that
882 are available. The total amount loaned to the district shall be
883 due and payable within five (5) years after the impairments
884 related to a lack of financial resources are corrected. If a
885 school district fails to make payments on the loan in accordance
886 with the terms of the agreement between the district and the State
887 Board of Education, the State Department of Education, in
888 accordance with rules and regulations established by the State
889 Board of Education, may withhold that district's minimum program
890 funds in an amount and manner that will effectuate repayment
891 consistent with the terms of the agreement; such funds withheld by
892 the department shall be deposited into the State General Fund or
893 the Education Enhancement Fund, as the case may be.

894 If the State Board of Education determines that an extreme
895 emergency exists, simultaneous with the powers exercised in this
896 subsection, it shall take immediate action against all parties
897 responsible for the affected school districts having been
898 determined to be in an extreme emergency. Such action shall
899 include, but not be limited to, initiating civil actions to
900 recover funds and criminal actions to account for criminal
901 activity. Any funds recovered by the State Auditor or the State
902 Board of Education from the surety bonds of school officials or
903 from any civil action brought under this subsection shall be
904 applied toward the repayment of any loan made to a school district
905 hereunder.

906 (15) In the event a majority of the membership of the school
907 board of any school district resigns from office, the State Board
908 of Education shall be authorized to assign an interim conservator,
909 who shall be responsible for the administration, management and
910 operation of the school district until such time as new board
911 members are selected or the Governor declares a state of emergency

912 in that school district under subsection (11), whichever occurs
913 first. In such case, the State Board of Education, acting through
914 the interim conservator, shall have all powers which were held by
915 the previously existing school board, and may take such action as
916 prescribed in Section 37-17-13 and/or one or more of the actions
917 authorized in this section.

918 (16) Beginning with the school district audits conducted for
919 the 1997-1998 fiscal year, the State Board of Education, acting
920 through the Commission on School Accreditation, shall require each
921 school district to comply with standards established by the State
922 Department of Audit for the verification of fixed assets and the
923 auditing of fixed assets records as a minimum requirement for
924 accreditation.

925 (17) Before December 1, 1999, the State Board of Education
926 shall recommend a program to the Education Committees of the House
927 of Representatives and the Senate for identifying and rewarding
928 public schools that improve or are high performing. The program
929 shall be described by the board in a written report, which shall
930 include criteria and a process through which improving schools and
931 high-performing schools will be identified and rewarded.

932 The State Superintendent of Education and the State Board of
933 Education also shall develop a comprehensive accountability plan
934 to ensure that local school boards, superintendents, principals
935 and teachers are held accountable for student achievement. A
936 written report on the accountability plan shall be submitted to
937 the Education Committees of both houses of the Legislature before
938 December 1, 1999, with any necessary legislative recommendations.

939 **SECTION 6.** Section 37-151-7, Mississippi Code of 1972, is
940 brought forward as follows:

941 37-151-7. The annual allocation to each school district for
942 the operation of the adequate education program shall be
943 determined as follows:

944 (1) Computation of the basic amount to be included for
945 current operation in the adequate education program. The
946 following procedure shall be followed in determining the annual
947 allocation to each school district:

948 (a) **Determination of average daily attendance.** During
949 months two (2) and three (3) of the current school year, the
950 average daily attendance of a school district shall be computed,
951 or the average daily attendance for the prior school year shall be
952 used, whichever is greater. For purposes of this calculation,
953 "current" school year shall mean the school year for which
954 appropriations are made by the Legislature, and "prior" school
955 year shall mean the school year immediately preceding the year for
956 which appropriations are made by the Legislature. The district's
957 average daily attendance shall be computed and currently
958 maintained in accordance with regulations promulgated by the State
959 Board of Education.

960 (b) **Determination of base student cost.** The State
961 Board of Education, on or before August 1, with adjusted estimate
962 no later than January 2, shall annually submit to the Legislative
963 Budget Office and the Governor a proposed base student cost
964 adequate to provide the following cost components of educating a
965 pupil in an average school district meeting Level III
966 accreditation standards required by the Commission on School
967 Accreditation: (i) Instructional Cost; (ii) Administrative Cost;
968 (iii) Operation and Maintenance of Plant; and (iv) Ancillary
969 Support Cost. The department shall utilize a statistical
970 methodology which considers such factors as, but not limited to,
971 (i) school size; (ii) assessed valuation per pupil; (iii) the
972 percentage of students receiving free lunch; (iv) the local
973 district maintenance tax levy; (v) other local school district
974 revenues; and (vi) the district's accreditation level, in the
975 selection of the representative Mississippi school districts for

976 which cost information shall be obtained for each of the above
977 listed cost areas.

978 For the instructional cost component, the department shall
979 determine the instructional cost of each of the representative
980 school districts selected above, excluding instructional cost of
981 self-contained special education programs and vocational education
982 programs, and the average daily attendance in the selected school
983 districts. The instructional cost is then totaled and divided by
984 the total average daily attendance for the selected school
985 districts to yield the instructional cost component. For the
986 administrative cost component, the department shall determine the
987 administrative cost of each of the representative school districts
988 selected above, excluding administrative cost of self-contained
989 special education programs and vocational education programs, and
990 the average daily attendance in the selected school districts.
991 The administrative cost is then totaled and divided by the total
992 average daily attendance for the selected school districts to
993 yield the administrative cost component. For the plant and
994 maintenance cost component, the department shall determine the
995 plant and maintenance cost of each of the representative school
996 districts selected above, excluding plant and maintenance cost of
997 self-contained special education programs and vocational education
998 programs, and the average daily attendance in the selected school
999 districts. The plant and maintenance cost is then totaled and
1000 divided by the total average daily attendance for the selected
1001 school districts to yield the plant and maintenance cost
1002 component. For the ancillary support cost component, the
1003 department shall determine the ancillary support cost of each of
1004 the representative school districts selected above, excluding
1005 ancillary support cost of self-contained special education
1006 programs and vocational education programs, and the average daily
1007 attendance in the selected school districts. The ancillary
1008 support cost is then totaled and divided by the total average

1009 daily attendance for the selected school districts to yield the
1010 ancillary support cost component. The total base cost for each
1011 year shall be the sum of the instructional cost component,
1012 administrative cost component, plant and maintenance cost
1013 component and ancillary support cost component, and any estimated
1014 adjustments for additional state requirements as determined by the
1015 State Board of Education. Provided, however, that the base
1016 student cost in fiscal year 1998 shall be Two Thousand Six Hundred
1017 Sixty-four Dollars (\$2,664.00).

1018 (c) **Determination of the basic adequate education**
1019 **program cost.** The basic amount for current operation to be
1020 included in the Mississippi Adequate Education Program for each
1021 school district shall be computed as follows:

1022 Multiply the average daily attendance of the district by the
1023 base student cost as established by the Legislature, which yields
1024 the total base program cost for each school district.

1025 (d) **Adjustment to the base student cost for at-risk**
1026 **pupils.** The amount to be included for at-risk pupil programs for
1027 each school district shall be computed as follows: Multiply the
1028 base student cost for the appropriate fiscal year as determined
1029 under paragraph (b) by five percent (5%), and multiply that
1030 product by the number of pupils participating in the federal free
1031 school lunch program in such school district, which yields the
1032 total adjustment for at-risk pupil programs for such school
1033 district.

1034 (e) **Add-on program cost.** The amount to be allocated to
1035 school districts in addition to the adequate education program
1036 cost for add-on programs for each school district shall be
1037 computed as follows:

1038 (i) Transportation cost shall be the amount
1039 allocated to such school district for the operational support of
1040 the district transportation system from state funds.

1041 (ii) Vocational or technical education program
1042 cost shall be the amount allocated to such school district from
1043 state funds for the operational support of such programs.

1044 (iii) Special education program cost shall be the
1045 amount allocated to such school district from state funds for the
1046 operational support of such programs.

1047 (iv) Gifted education program cost shall be the
1048 amount allocated to such school district from state funds for the
1049 operational support of such programs.

1050 (v) Alternative school program cost shall be the
1051 amount allocated to such school district from state funds for the
1052 operational support of such programs.

1053 (vi) Extended school year programs shall be the
1054 amount allocated to school districts for those programs authorized
1055 by law which extend beyond the normal school year.

1056 (vii) University-based programs shall be the
1057 amount allocated to school districts for those university-based
1058 programs for handicapped children as defined and provided for in
1059 Section 37-23-131 et seq., Mississippi Code of 1972.

1060 (viii) Bus driver training programs shall be the
1061 amount provided for those driver training programs as provided for
1062 in Section 37-41-1, Mississippi Code of 1972.

1063 The sum of the items listed above (i) transportation, (ii)
1064 vocational or technical education, (iii) special education, (iv)
1065 gifted education, (v) alternative school, (vi) extended school
1066 year, (vii) university-based, and (viii) bus driver training shall
1067 yield the add-on cost for each school district.

1068 (f) **Total projected adequate education program cost.**
1069 The total Mississippi Adequate Education Program Cost shall be the
1070 sum of the total basic adequate education program cost (paragraph
1071 (c)), and the adjustment to the base student cost for at-risk
1072 pupils (paragraph (d)) for each school district.

1073 (g) **Supplemental grant to school districts.** In
1074 addition to the adequate education program grant, the State
1075 Department of Education shall annually distribute an additional
1076 amount as follows: Multiply the base student cost for the
1077 appropriate fiscal year as determined under paragraph (b) by
1078 thirteen one-hundredths percent (.13%) and multiply that product
1079 by the average daily attendance of each school district. Such
1080 grant shall not be subject to the local revenue requirement
1081 provided in subsection (2).

1082 (2) **Computation of the required local revenue in support of**
1083 **the adequate education program.** The amount that each district
1084 shall provide toward the cost of the adequate education program
1085 shall be calculated as follows:

1086 (a) The State Board of Education shall certify to each
1087 school district that twenty-eight (28) mills, less the estimated
1088 amount of the yield of the School Ad Valorem Tax Reduction Fund
1089 grants as determined by the State Department of Education, is the
1090 millage rate required to provide the district required local
1091 effort for that year, or twenty-seven percent (27%) of the basic
1092 adequate education program cost for such school district as
1093 determined under subsection (c), whichever is a lesser amount. In
1094 the case of an agricultural high school the millage requirement
1095 shall be set at a level which generates an equitable amount per
1096 pupil to be determined by the State Board of Education.

1097 (b) The State Board of Education shall determine (i)
1098 the total assessed valuation of nonexempt property for school
1099 purposes in each school district; (ii) assessed value of exempt
1100 property owned by homeowners aged sixty-five (65) or older or
1101 disabled as defined in Section 27-33-67(2), Mississippi Code of
1102 1972; (iii) the school district's tax loss from exemptions
1103 provided to applicants under the age of sixty-five (65) and not
1104 disabled as defined in Section 27-33-67(1), Mississippi Code of

1105 1972; and (iv) the school district's homestead reimbursement
1106 revenues.

1107 (c) The amount of the total adequate education program
1108 funding which shall be contributed by each school district shall
1109 be the sum of the ad valorem receipts generated by the millage
1110 required under this subsection plus the following local revenue
1111 sources for the appropriate fiscal year which are or may be
1112 available for current expenditure by the school district:

1113 One hundred percent (100%) of Grand Gulf income as prescribed
1114 in Section 27-35-309.

1115 (3) **Computation of the required state effort in support of**
1116 **the adequate education program.**

1117 (a) The required state effort in support of the
1118 adequate education program shall be determined by subtracting the
1119 sum of the required local tax effort as set forth in subsection
1120 (2)(a) of this section and the other local revenue sources as set
1121 forth in subsection (2)(c) of this section in an amount not to
1122 exceed twenty-seven percent (27%) of the total projected adequate
1123 education program cost as set forth in subsection (1)(f) of this
1124 section from the total projected adequate education program cost
1125 as set forth in subsection (1)(f) of this section.

1126 (b) Provided, however, that in fiscal year 1998 and in
1127 the fiscal year in which the adequate education program is fully
1128 funded by the Legislature, any increase in the said state
1129 contribution, including the supplemental grant to school districts
1130 provided under subsection (1)(g), to any district calculated under
1131 this section shall be not less than eight percent (8%) in excess
1132 of the amount received by said district from state funds for the
1133 fiscal year immediately preceding. For purposes of this paragraph
1134 (b), state funds shall include minimum program funds less the
1135 add-on programs, state Uniform Millage Assistance Grant funds,

1136 Education Enhancement Funds appropriated for Uniform Millage
1137 Assistance Grants and state textbook allocations, and State
1138 General Funds allocated for textbooks.

1139 (c) If the appropriation is less than full funding for
1140 fiscal year 2003, allocations for state contributions to school
1141 districts in support of the adequate education program will be
1142 determined by the State Department of Education in the following
1143 manner:

1144 (i) Calculation of the full funding amount under
1145 this chapter, with proportionate reductions as required by the
1146 appropriation level.

1147 (ii) Calculation of the amount equal to the state
1148 funds allocated to school districts for fiscal year 2002 plus the
1149 estimated amount to fund the adequate education program salary
1150 schedule for fiscal year 2003. For purposes of this item (ii),
1151 state funds shall be those described in paragraph (b) and an
1152 amount equal to the allocation for the adequate education program
1153 in fiscal year 2002, plus any additional amount required to
1154 satisfy fiscal year 2003 pledges in accordance with paragraphs
1155 (d), (e) and (f) of subsection (5) of this section. If a school
1156 district's fiscal year 2003 pledge is different than the pledge
1157 amount for fiscal year 2002, the district shall receive an amount
1158 equal to the fiscal year 2003 pledge or the amount of funds
1159 calculated under the adequate education formula for fiscal year
1160 2002 before any pledge guarantee for fiscal year 2002, whichever
1161 is greater. If the pledge is no longer in effect, the district
1162 shall receive the amount of funds calculated under the formula for
1163 fiscal year 2002 before any pledge guarantee for fiscal year 2002.

1164 (iii) The portion of any district's allocation
1165 calculated in item (i) of this paragraph which exceeds amounts as
1166 calculated in item (ii) shall be reduced by an amount not to
1167 exceed twenty-one percent (21%). The amount of funds generated by
1168 this reduction of funds shall be redistributed proportionately

1169 among those districts receiving insufficient funds to meet the
1170 amount calculated in item (ii). In no case may any district
1171 receive funds in an amount greater than the amount that the
1172 district would have received under full funding of the program for
1173 fiscal year 2003.

1174 (d) If the school board of any school district shall
1175 determine that it is not economically feasible or practicable to
1176 operate any school within the district for the full one hundred
1177 eighty (180) days required for a school term of a scholastic year
1178 as required in Section 37-13-63, Mississippi Code of 1972, due to
1179 an enemy attack, a manmade, technological or natural disaster in
1180 which the Governor has declared a disaster emergency under the
1181 laws of this state or the President of the United States has
1182 declared an emergency or major disaster to exist in this state,
1183 said school board may notify the State Department of Education of
1184 such disaster and submit a plan for altering the school term. If
1185 the State Board of Education finds such disaster to be the cause
1186 of the school not operating for the contemplated school term and
1187 that such school was in a school district covered by the
1188 Governor's or President's disaster declaration, it may permit said
1189 school board to operate the schools in its district for less than
1190 one hundred eighty (180) days and, in such case, the State
1191 Department of Education shall not reduce the state contributions
1192 to the adequate education program allotment for such district,
1193 because of the failure to operate said schools for one hundred
1194 eighty (180) days.

1195 (4) If during the year for which adequate education program
1196 funds are appropriated, any school district experiences a three
1197 percent (3%) or greater increase in average daily attendance
1198 during the second and third month over the preceding year's second
1199 and third month, an additional allocation of adequate education
1200 program funds calculated in the following manner shall be granted
1201 to that district, using any additional funds available to the

1202 Department of Education that exceed the amount of funds due to the
1203 school districts under the basic adequate education program
1204 distribution as provided for in this chapter:

1205 (a) Determine the percentage increase in average daily
1206 attendance for the second and third months of the year for which
1207 adequate education program funds are appropriated over the
1208 preceding year's second and third month average daily attendance.

1209 (b) For those districts that have a three percent (3%)
1210 or greater increase as calculated in paragraph (a) of this
1211 subsection, multiply the total increase in students in average
1212 daily attendance for the second and third months of the year for
1213 which adequate education program funds are appropriated over the
1214 preceding year's second and third month average daily attendance
1215 times the base student cost used in the appropriation.

1216 (c) Subtract the percentage of the district's local
1217 contribution arrived at in subsection (2) of this section from the
1218 amount calculated in paragraph (b) of this subsection. The
1219 remainder is the additional allocation in adequate education
1220 program funds for that district.

1221 If the funds available to the Department of Education are not
1222 sufficient to fully fund the additional allocations to school
1223 districts eligible for those allocations, then the department
1224 shall prorate the available funds among the eligible school
1225 districts, using the same percentage of the total funds that the
1226 school district would have received if the allocations were fully
1227 funded.

1228 This subsection (4) shall stand repealed on July 1, 2004.

1229 (5) The Interim School District Capital Expenditure Fund is
1230 hereby established in the State Treasury which shall be used to
1231 distribute any funds specifically appropriated by the Legislature
1232 to such fund to school districts entitled to increased allocations
1233 of state funds under the adequate education program funding
1234 formula prescribed in Sections 37-151-3 through 37-151-7,

1235 Mississippi Code of 1972, until such time as the said adequate
1236 education program is fully funded by the Legislature. The
1237 following percentages of the total state cost of increased
1238 allocations of funds under the adequate education program funding
1239 formula shall be appropriated by the Legislature into the Interim
1240 School District Capital Expenditure Fund to be distributed to all
1241 school districts under the formula: Nine and two-tenths percent
1242 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
1243 (20%) shall be appropriated in fiscal year 1999, forty percent
1244 (40%) shall be appropriated in fiscal year 2000, sixty percent
1245 (60%) shall be appropriated in fiscal year 2001, eighty percent
1246 (80%) shall be appropriated in fiscal year 2002, and one hundred
1247 percent (100%) shall be appropriated in fiscal year 2003 into the
1248 State Adequate Education Program Fund created in subsection (4).
1249 Until July 1, 2002, such money shall be used by school districts
1250 for the following purposes:

1251 (a) Purchasing, erecting, repairing, equipping,
1252 remodeling and enlarging school buildings and related facilities,
1253 including gymnasiums, auditoriums, lunchrooms, vocational training
1254 buildings, libraries, school barns and garages for transportation
1255 vehicles, school athletic fields and necessary facilities
1256 connected therewith, and purchasing land therefor. Any such
1257 capital improvement project by a school district shall be approved
1258 by the State Board of Education, and based on an approved
1259 long-range plan. The State Board of Education shall promulgate
1260 minimum requirements for the approval of school district capital
1261 expenditure plans.

1262 (b) Providing necessary water, light, heating, air
1263 conditioning, and sewerage facilities for school buildings, and
1264 purchasing land therefor.

1265 (c) Paying debt service on existing capital improvement
1266 debt of the district or refinancing outstanding debt of a district

1267 if such refinancing will result in an interest cost savings to the
1268 district.

1269 (d) From and after October 1, 1997, through June 30,
1270 1998, pursuant to a school district capital expenditure plan
1271 approved by the State Department of Education, a school district
1272 may pledge such funds until July 1, 2002, plus funds provided for
1273 in paragraph (e) of this subsection (5) that are not otherwise
1274 permanently pledged under such paragraph (e) to pay all or a
1275 portion of the debt service on debt issued by the school district
1276 under Sections 37-59-1 through 37-59-45, 37-59-101 through
1277 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
1278 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
1279 issued by boards of supervisors for agricultural high schools
1280 pursuant to Section 37-27-65, Mississippi Code of 1972, or
1281 lease-purchase contracts entered into pursuant to Section 31-7-13,
1282 Mississippi Code of 1972, or to retire or refinance outstanding
1283 debt of a district, if such pledge is accomplished pursuant to a
1284 written contract or resolution approved and spread upon the
1285 minutes of an official meeting of the district's school board or
1286 board of supervisors. It is the intent of this provision to allow
1287 school districts to irrevocably pledge their Interim School
1288 District Capital Expenditure Fund allotments as a constant stream
1289 of revenue to secure a debt issued under the foregoing code
1290 sections. To allow school districts to make such an irrevocable
1291 pledge, the state shall take all action necessary to ensure that
1292 the amount of a district's Interim School District Capital
1293 Expenditure Fund allotments shall not be reduced below the amount
1294 certified by the department or the district's total allotment
1295 under the Interim Capital Expenditure Fund if fully funded, so
1296 long as such debt remains outstanding.

1297 (e) From and after October 1, 1997, through June 30,
1298 1998, in addition to any other authority a school district may
1299 have, any school district may issue State Aid Capital Improvement

1300 Bonds secured in whole by a continuing annual pledge of any
1301 Mississippi Adequate Education Program funds available to the
1302 district, in an amount not to exceed One Hundred Sixty Dollars
1303 (\$160.00) per pupil based on the latest completed average daily
1304 attendance count certified by the department prior to the issuance
1305 of the bonds. Such State Aid Capital Improvement Bonds may be
1306 issued for the purposes enumerated in subsections (a), (b), (c)
1307 and (g) of this section. Prior to issuing such bonds, the school
1308 board of the district shall adopt a resolution declaring the
1309 necessity for and its intention of issuing such bonds and
1310 borrowing such money, specifying the approximate amount to be so
1311 borrowed, how such money is to be used and how such indebtedness
1312 is to be evidenced. Any capital improvement project financed with
1313 State Aid Capital Improvement Bonds shall be approved by the
1314 department, and based on an approved long-range plan. The State
1315 Board of Education shall promulgate minimum requirements for the
1316 approval of such school district capital expenditure plans. The
1317 State Board of Education shall not approve any capital expenditure
1318 plan for a pledge of funds under this paragraph unless it
1319 determines (i) that the quality of instruction in such district
1320 will not be reduced as a result of this pledge, and (ii) the
1321 district has other revenue available to attain and maintain at
1322 least Level III accreditation.

1323 A district issuing State Aid Capital Improvement Bonds may
1324 pledge for the repayment of such bonds all funds received by the
1325 district from the state, in an amount not to exceed One Hundred
1326 Sixty Dollars (\$160.00) per pupil in average daily attendance in
1327 the school district as set forth above, and not otherwise
1328 permanently pledged under paragraph (d) of this subsection or
1329 under Section 37-61-33(2)(d), Mississippi Code of 1972. The
1330 district's school board shall specify by resolution the amount of
1331 state funds, which are being pledged by the district for the
1332 repayment of the State Aid Capital Improvement Bonds. Once such a

1333 pledge is made to secure the bonds, the district shall notify the
1334 department of such pledge. Upon making such a pledge, the school
1335 district may request the department which may agree to irrevocably
1336 transfer a specified amount or percentage of the district's state
1337 revenue pledged to repay the district's State Aid Capital
1338 Improvement Bonds directly to a state or federally chartered bank
1339 serving as a trustee or paying agent on such bonds for the payment
1340 of all or portion of such State Aid Capital Improvement Bonds.
1341 Such instructions shall be incorporated into a resolution by the
1342 school board for the benefit of holders of the bonds and may
1343 provide that such withholding and transfer of such other available
1344 funds shall be made only upon notification by a trustee or paying
1345 agent on such bonds that the amounts available to pay such bonds
1346 on any payment date will not be sufficient. It is the intent of
1347 this provision to allow school districts to irrevocably pledge a
1348 certain, constant stream of revenue as security for State Aid
1349 Capital Improvement Bonds issued hereunder. To allow school
1350 districts to make such an irrevocable pledge, the state shall take
1351 all action necessary to ensure that the amount of a district's
1352 state revenues up to an amount equal to One Hundred Sixty Dollars
1353 (\$160.00) per pupil as set forth above which have been pledged to
1354 repay debt as set forth herein shall not be reduced so long as any
1355 State Aid Capital Improvement Bonds are outstanding.

1356 Any such State Aid Capital Improvement bonds shall mature as
1357 determined by the district's school bond over a period not to
1358 exceed twenty (20) years. Such bonds shall not bear a greater
1359 overall maximum interest rate to maturity than that allowed in
1360 Section 75-17-101, Mississippi Code of 1972. The further details
1361 and terms of such bonds shall be as determined by the school board
1362 of the district.

1363 The provisions of this subsection shall be cumulative and
1364 supplemental to any existing funding programs or other authority
1365 conferred upon school districts or school boards. Debt of a

1366 school district secured in whole by a pledge of revenue pursuant
1367 to this section shall not be subject to any debt limitation.

1368 For purposes of this paragraph (e), "State Aid Capital
1369 Improvement Bond" shall mean any bond, note, or other certificate
1370 of indebtedness issued by a school district under the provisions
1371 hereof.

1372 This paragraph (e) shall stand repealed from and after June
1373 30, 1998.

1374 (f) As an alternative to the authority granted under
1375 paragraph (e), a school district, in its discretion, may authorize
1376 the State Board of Education to withhold an amount of the
1377 district's adequate education program allotment equal to up to One
1378 Hundred Sixty Dollars (\$160.00) per student in average daily
1379 attendance in the district to be allocated to the State Public
1380 School Building Fund to the credit of such school district. A
1381 school district may choose the option provided under this
1382 paragraph (e) or paragraph (f), but not both. In addition to the
1383 grants made by the state pursuant to Section 37-47-9, a school
1384 district shall be entitled to grants based on the allotments to
1385 the State Public School Building Fund credited to such school
1386 district under this paragraph. This paragraph (f) shall stand
1387 repealed from and after June 30, 1998.

1388 (g) The State Board of Education may authorize the
1389 school district to expend not more than twenty percent (20%) of
1390 its annual allotment of such funds or Twenty Thousand Dollars
1391 (\$20,000.00), whichever is greater, for technology needs of the
1392 school district, including computers, software,
1393 telecommunications, cable television, interactive video, film
1394 low-power television, satellite communications, microwave
1395 communications, technology-based equipment installation and
1396 maintenance, and the training of staff in the use of such
1397 technology-based instruction. Any such technology expenditure
1398 shall be reflected in the local district technology plan approved

1399 by the State Board of Education under Section 37-151-17,
1400 Mississippi Code of 1972.

1401 (h) To the extent a school district has not utilized
1402 twenty percent (20%) of its annual allotment for technology
1403 purposes under paragraph (g), a school district may expend not
1404 more than twenty percent (20%) of its annual allotment or Twenty
1405 Thousand Dollars (\$20,000.00), whichever is greater, for
1406 instructional purposes. The State Board of Education may
1407 authorize a school district to expend more than said twenty
1408 percent (20%) of its annual allotment for instructional purposes
1409 if it determines that such expenditures are needed for
1410 accreditation purposes.

1411 (i) The State Department of Education or the State
1412 Board of Education may require that any project commenced pursuant
1413 to this act with an estimated project cost of not less than Five
1414 Million Dollars (\$5,000,000.00) shall be done only pursuant to
1415 program management of the process with respect to design and
1416 construction. Any individuals, partnerships, companies or other
1417 entities acting as a program manager on behalf of a local school
1418 district and performing program management services for projects
1419 covered under this subsection shall be approved by the State
1420 Department of Education.

1421 Any interest accruing on any unexpended balance in the
1422 Interim School District Capital Expenditure Fund shall be invested
1423 by the State Treasurer and placed to the credit of each school
1424 district participating in such fund in its proportionate share.

1425 The provisions of this subsection (5) shall be cumulative and
1426 supplemental to any existing funding programs or other authority
1427 conferred upon school districts or school boards.

1428 **SECTION 7.** Section 37-151-9, Mississippi Code of 1972, is
1429 brought forward as follows:

1430 37-151-9. (1) The State Board of Education and State
1431 Superintendent of Education shall establish within the State

1432 Department of Education a special unit at the division level
1433 called the Office of Educational Accountability. The Director of
1434 the Office of Educational Accountability shall hold a position
1435 comparable to a deputy superintendent and shall be appointed by
1436 the State Board of Education with the advice and consent of the
1437 Senate. He shall serve at the will and pleasure of the State
1438 Board of Education and may employ necessary professional,
1439 administrative and clerical staff. The Director of the Office of
1440 Educational Accountability shall provide all reports to the
1441 Legislature, Governor, Mississippi Commission on School
1442 Accreditation and State Board of Education and respond to any
1443 inquiries for information.

1444 (2) The Office of Educational Accountability is responsible
1445 for monitoring and reviewing programs developed under the
1446 Education Reform Act, the Mississippi Adequate Education Program
1447 Act of 1994, the Education Enhancement Fund, and subsequent
1448 education initiatives, and shall provide information,
1449 recommendations and an annual assessment to the Legislature,
1450 Governor, Mississippi Commission on School Accreditation and the
1451 State Board of Education. Commencing in 1995, the annual
1452 assessment of education reform programs shall be performed by the
1453 Office of Educational Accountability by December 1 of each year.
1454 The Office of Educational Accountability shall specifically
1455 monitor the implementation of Level III accreditation in all
1456 school districts, and shall make an assessment with
1457 recommendations to the 1996 Regular Session of the Legislature.

1458 (3) In addition, the Office of Educational Accountability
1459 shall have the following specific duties and responsibilities:

1460 (a) Developing and maintaining a system of
1461 communication with school district personnel;

1462 (b) Provide opportunities for public comment on the
1463 current functions of the State Department of Education's programs,
1464 needed public education services and innovative suggestions;

1465 (c) Assess both positive and negative impact on school
1466 districts of new education programs, including but not limited to
1467 The Mississippi Report Card and alternative school programs.

1468 **SECTION 8.** Section 37-151-10, Mississippi Code of 1972, is
1469 brought forward as follows:

1470 37-151-10. (1) There is established a Center for Education
1471 Analysis which shall be an advisory group attached to the Public
1472 Education Forum of Mississippi. The Center for Education Analysis
1473 shall create a structure to systematically collect, compile and
1474 coordinate data that can be disseminated to business, legislative
1475 and education entities for decision-making purposes relating to
1476 public education. The Center for Education Analysis may enter
1477 into a contractual agreement with the Public Education Forum of
1478 Mississippi in order to place the Center within the administrative
1479 framework of the Public Education Forum under the following
1480 conditions:

1481 (a) All new programs authorized in this section are
1482 subject to the availability of funds specifically appropriated
1483 therefor by the Legislature from the Education Enhancement Fund to
1484 the Public Education Forum for the support and maintenance of the
1485 programs of the Center for Education Analysis.

1486 (b) The Public Education Forum will provide a business
1487 framework to coordinate its recommendations and reports with the
1488 programs of the Center for Education Analysis.

1489 (c) The Public Education Forum shall employ a Director
1490 for the Center for Education Analysis with appropriate
1491 qualifications. Any public funds expended pursuant to this
1492 section shall be audited by the Mississippi Department of Audit.

1493 There is created in the State Treasury a special fund to be
1494 known as the "Center for Education Analysis Fund." Monies may be
1495 expended out of such funds pursuant to appropriation by the
1496 Legislature, to implement the public education analysis program
1497 established under the provisions of this section. Disbursements

1498 from such fund shall be made only upon requisition of the Director
1499 for the Center for Education Analysis.

1500 (2) The Center for Education Analysis established in
1501 subsection (1) shall develop and submit to the Legislature and the
1502 Governor an annual report on the implementation of the Mississippi
1503 Adequate Education Program funding formula and the Interim School
1504 District Capital Expenditure Fund program. The first report shall
1505 be submitted on January 1, 1999, relating to implementation of the
1506 adequate education program and interim capital expenditure program
1507 activities during the preceding fiscal year, and shall be
1508 submitted annually on January 1 of each subsequent year until
1509 January 1, 2003, at which time the report shall become a distinct
1510 part of the Mississippi Report Card describing the one hundred
1511 percent (100%) implementation of the Mississippi Adequate
1512 Education Program funding formula. The annual report shall
1513 include the following:

1514 (a) A description of the amount of Mississippi Adequate
1515 Education Program funds available to each school district during
1516 the phase-in period compared to the amount of funds available upon
1517 full implementation of the funding formula;

1518 (b) A description of each school district's capital
1519 expenditure plan, including:

1520 (i) A listing of the school district facilities to
1521 be constructed, purchased, repaired, renovated, remodeled or
1522 enlarged, with designation of the nature of each such project as
1523 new construction, retrofitting/renovation, or site work and/or
1524 preparation;

1525 (ii) For each completed capital improvement
1526 project and upon the completion of any approved capital
1527 expenditure plan, a listing by individual project of:

1528 (A) The total dimensions of each
1529 construction, renovation or site preparation project;

1530 (B) The total project cost in dollars;

1531 (C) The project cost per square foot of newly
1532 constructed space or, in the case of renovation, per square foot
1533 of the principal structure affected by such renovation;

1534 (D) The total cost of all furniture and
1535 equipment per project;

1536 (E) The total amount of nonconstruction fees
1537 per project;

1538 (F) The total of other costs associated with
1539 the project not otherwise included in items (A) through (E) above;
1540 and

1541 (G) The number of classrooms created and/or
1542 affected by the project;

1543 (iii) A listing of all school district State Aid
1544 Capital Improvement Bonds secured by Mississippi Adequate
1545 Education Program funds issued by school districts and the capital
1546 improvements funded through such bond issue;

1547 (iv) A description of any other local bond issue
1548 proceeds combined with such funds for capital improvement
1549 purposes; and

1550 (v) Any other appropriate information relating to
1551 capital improvements by school districts as determined by the
1552 State Board of Education;

1553 (c) An annual assessment of the impact of additional
1554 funding under the Mississippi Adequate Education Program on such
1555 school districts with less than a Level III accreditation; and

1556 (d) An annual assessment of the impact of teacher
1557 recruitment incentives on the employment of licensed teachers in
1558 critical teacher shortage geographic areas, including, but not
1559 limited to, all incentive programs authorized under House Bill No.
1560 609, 1998 Regular Session [Laws, 1998, Ch. 544].

1561 **SECTION 9.** Section 37-151-41, Mississippi Code of 1972, is
1562 brought forward as follows:

1563 37-151-41. The bonds issued under the provisions of Sections
1564 37-151-27 through 37-151-61 are general obligations of the State
1565 of Mississippi, and for the payment of the bonds the full faith
1566 and credit of the State of Mississippi is irrevocably pledged.
1567 The Legislature shall appropriate funds from the Education
1568 Enhancement Fund as necessary to pay the principal of and interest
1569 on such bonds, and if the funds appropriated by the Legislature
1570 are insufficient to pay the principal of and the interest on such
1571 bonds when they become due, then the deficiency shall be paid by
1572 the State Treasurer from any funds in the State Treasury not
1573 otherwise appropriated. All such bonds shall contain recitals on
1574 their faces substantially covering the provisions of this section.

1575 **SECTION 10.** Section 65-1-123, Mississippi Code of 1972, is
1576 brought forward as follows:

1577 65-1-123. (1) Except as otherwise provided in subsection
1578 (10) of this section, whenever any personal property has been
1579 acquired in any manner by the Mississippi Transportation
1580 Commission for public use and in the opinion of the commission,
1581 all or any part of the property becomes unnecessary for public
1582 use, the commission is authorized to dispose of such property for
1583 a fair and reasonable cash market price. Any such sale shall be a
1584 sale upon the receipt of sealed bids after reasonable
1585 advertisement for bids in such manner and at such time and place
1586 as the commission may deem proper and advisable, except that the
1587 commission may sell at private sale any such personal property not
1588 necessary for public purposes the cash market value of which is
1589 less than Five Hundred Dollars (\$500.00); however, if the personal
1590 property is timber, the commission may sell at private sale any
1591 such timber not necessary for public purposes the cash market
1592 value of which is less than Five Thousand Dollars (\$5,000.00),
1593 except that whenever persons, groups or agencies are permitted to
1594 remove a quantity of timber from highway rights-of-way, and the
1595 cash market value of the timber is estimated by the commission to

1596 be less than One Thousand Dollars (\$1,000.00), it shall not be
1597 necessary to have the timber cruised or appraised and the
1598 commission may sell the timber at private sale. The commission
1599 shall have the right to reject any and all bids in its discretion
1600 and to sell the property theretofore advertised at private sale
1601 for not less than the highest of the rejected bids, or to
1602 readvertise.

1603 (2) Except as otherwise provided in subsections (3) and (4)
1604 of this section, whenever real property, with the exception of
1605 easements for highway purposes, has been acquired by the
1606 Mississippi Transportation Commission, in any manner, for public
1607 use and in the opinion of the commission all or any part thereof
1608 becomes unnecessary for public use, the same shall be declared on
1609 the minutes of the commission as excess property and shall be sold
1610 at private sale at market value. If the excess property was a
1611 total take from the original owner, then the commission shall
1612 offer to such owner, in writing, the first right of refusal to
1613 purchase such excess property; however, if after due diligence the
1614 original owner cannot be located, then the commission shall offer
1615 the first right of refusal to purchase the property to the
1616 adjoining property owner or owners. If the excess property was a
1617 partial take from the current owner of the parcel of real property
1618 from which the excess property was originally taken, then the
1619 commission shall be required to offer in writing the first right
1620 of refusal to purchase such excess property to such owner. If
1621 within forty-five (45) days any owner to whom the commission has
1622 offered the first right of refusal under the provisions of this
1623 subsection fails to accept the offer to purchase, the property
1624 shall then be offered to the adjoining property owner or owners.
1625 If within forty-five (45) days an adjoining property owner fails
1626 to accept the offer to purchase, then the excess property shall be
1627 sold to the highest bidder upon the receipt by the commission of
1628 sealed bids after reasonable advertisement for bids in such manner

1629 and at such time and place as the commission deems proper and
1630 advisable; however, the commission shall have the right to reject
1631 any and all bids in its discretion and to sell the property
1632 theretofore advertised at private sale for not less than the
1633 highest of the rejected bids, or to readvertise. Upon payment of
1634 the purchase price, the executive director of the department, upon
1635 due authorization by the commission entered on its minutes, may
1636 execute a quitclaim deed conveying such property to the purchaser.

1637 (3) Whenever the commission acquires by fee simple interest
1638 any property determined to be an uneconomic remnant outside the
1639 right-of-way, then the commission may sell the property to the
1640 adjoining property owner or owners for an amount not less than the
1641 market value established by the county tax assessor or a state
1642 licensed or certified appraiser.

1643 (4) Whenever the commission desires to sell any real
1644 property used as maintenance lots, the property shall be sold to
1645 the highest bidder upon the receipt by the commission of sealed
1646 bids and after reasonable advertisement for bids in such manner
1647 and at such time and place as the commission deems proper and
1648 advisable; however, the commission, in its discretion, may reject
1649 any and all bids and sell the property advertised at private sale
1650 for not less than the highest of the rejected bids, or may
1651 readvertise. Upon payment of the purchase price, the executive
1652 director of the department, upon authorization by the commission
1653 entered on its minutes, may execute a quitclaim deed conveying the
1654 property to the purchaser.

1655 (5) All easements for highway purposes shall be released
1656 when they are determined on the minutes of the commission as no
1657 longer needed for such purposes, and when released, they shall be
1658 filed by the department in the office of the chancery clerk in the
1659 county where the property is located.

1660 (6) In no instance shall any part of any property acquired
1661 by the commission, or any interest acquired in such property,

1662 including, but not limited to, easements, be construed as
1663 abandoned by nonuse, nor shall any encroachment on such property
1664 for any length of time constitute estoppel or adverse possession
1665 against the state's interests.

1666 (7) It is the intent of the Legislature that the
1667 Transportation Commission shall declare property it has acquired
1668 and which is no longer needed for public purposes as excess and to
1669 sell and/or dispose of such excess property in accordance with the
1670 provisions of this section as soon as practicable after such
1671 property becomes excess in fact. Unnecessary or excess property
1672 or property interests shall be disposed of only upon order of the
1673 Transportation Commission on its minutes as provided in this
1674 section.

1675 (8) Whenever any real property has been acquired by the
1676 Transportation Commission and in the opinion of the commission all
1677 or any part of the property will not be utilized in the near
1678 future, the property shall be so declared by the Transportation
1679 Commission on its minutes and the commission may lease or rent the
1680 property for its market value.

1681 (9) This section shall not apply to any sale, donation,
1682 exchange or other conveyance of real property when the Legislature
1683 otherwise expressly authorizes or directs the commission to sell,
1684 donate, exchange or otherwise convey specifically described real
1685 property.

1686 (10) (a) As an alternative to the sale of timber under
1687 subsection (1) of this section, the Mississippi Transportation
1688 Commission may enter into an agreement with the State Forestry
1689 Commission for the general supervision and management of timber on
1690 selected portions of the rights-of-way of the interstate highway
1691 system and those completed segments of four-lane highways in the
1692 state. Such an agreement may prescribe the details of, and
1693 authority and control over, the full range of forestry management
1694 practices. Seventy-five percent (75%) of any money collected from

1695 the sale of timber on rights-of-way, less any expenses associated
1696 therewith, shall be deposited into the Education Enhancement Fund
1697 created in Section 37-61-33, and the remainder shall be deposited
1698 into the State Highway Fund to be expended solely for the repair,
1699 maintenance, construction or reconstruction of highways.

1700 (b) Subject to the provisions of paragraph (a) of this
1701 subsection, the Mississippi Transportation Commission may, after
1702 consultation with the State Forestry Commission, adopt such rules
1703 and regulations with regard to the management, sale or disposal of
1704 timber on highway rights-of-way as it considers appropriate;
1705 provided, however, such rules and regulations shall be uniform
1706 throughout the state and shall be designed to maximize the value
1707 of such timber or minimize the cost of removing such timber.

1708 **SECTION 11.** This act shall take effect and be in force from
1709 and after July 1, 2004.