

By: Senator(s) Gordon

To: Education;
Appropriations

SENATE BILL NO. 2658

1 AN ACT TO AMEND SECTION 37-61-33, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT UNTIL JULY 1, 2005, CERTAIN EDUCATION ENHANCEMENT
3 FUNDS ALLOCATED FOR SCHOOL BUILDING AND TRANSPORTATION PURPOSES
4 MAY BE EXPENDED FOR THE SUPPORT OF ANY EDUCATIONAL PROGRAM
5 AUTHORIZED BY LAW, TO DIVERT UNTIL JULY 1, 2005, EDUCATION
6 ENHANCEMENT FUNDS THAT ARE ALLOCATED FOR THE FUNDING OF SCHOOL
7 TRANSPORTATION AND CLASSROOM SUPPLIES TO THE SUPPORT OF
8 EDUCATIONAL PROGRAMS AUTHORIZED BY LAW; TO BRING FORWARD SECTION
9 37-151-7, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE FORMULA FOR
10 DETERMINATION OF ANNUAL ALLOCATIONS FOR CURRENT OPERATIONS OF
11 SCHOOLS UNDER THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM; AND FOR
12 RELATED PURPOSES.

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

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

16 **[Until July 1, 2005, this section shall read as follows:]**

17 37-61-33. (1) There is created within the State Treasury a
18 special fund to be designated the "Education Enhancement Fund"
19 into which shall be deposited all the revenues collected pursuant
20 to Sections 27-65-75(7) and (8) and 27-67-31(a) and (b).

21 (2) Of the amount deposited into the Education Enhancement
22 Fund, Sixteen Million Dollars (\$16,000,000.00) shall be
23 appropriated each fiscal year to the State Department of Education
24 to be distributed to all school districts. Such money shall be
25 distributed to all school districts in the proportion that the
26 average daily attendance of each school district bears to the
27 average daily attendance of all school districts within the state
28 for the following purposes:

29 (a) Purchasing, erecting, repairing, equipping,
30 remodeling and enlarging school buildings and related facilities,
31 including gymnasiums, auditoriums, lunchrooms, vocational training
32 buildings, libraries, teachers' homes, school barns,

33 transportation vehicles (which shall include new and used
34 transportation vehicles) and garages for transportation vehicles,
35 and purchasing land therefor;

36 (b) Establishing and equipping school athletic fields
37 and necessary facilities connected therewith, and purchasing land
38 therefor;

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

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

65 (e) Providing support for any educational program
66 authorized by law.

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

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

70 (i) Sixteen and sixty-one one-hundredths percent
71 (16.61%) to the cost of the adequate education program determined
72 under Section 37-151-7; of the funds generated by the percentage
73 set forth in this section for the support of the adequate
74 education program, one and one hundred seventy-eight
75 one-thousandths percent (1.178%) of the funds shall be
76 appropriated to be used by the State Department of Education for
77 the purchase of textbooks to be loaned under Sections 37-43-1
78 through 37-43-59 to approved nonpublic schools, as described in
79 Section 37-43-1. The funds to be distributed to each nonpublic
80 school shall be in the proportion that the average daily
81 attendance of each nonpublic school bears to the total average
82 daily attendance of all nonpublic schools;

83 (ii) Seven and ninety-seven one-hundredths percent
84 (7.97%) to be distributed to the public school districts in the
85 proportion that the average daily attendance of each school
86 district bears to the average daily attendance of all school
87 districts in the state for the support of educational programs
88 authorized by law; and

89 (iii) Nine and sixty-one one-hundredths percent
90 (9.61%) to be distributed to the public school districts in the
91 proportion that the average daily attendance of each school
92 district bears to the average daily attendance of all school
93 districts in the state for the support of educational programs
94 authorized by law * * *;

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

98 (c) Fourteen and forty-one one-hundredths percent
99 (14.41%) to the State Board for Community and Junior Colleges for
100 the purpose of providing support to community and junior colleges.

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

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

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

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

119 (a) * * *

120 (b) For the aggregate of minimum program allotments in
121 the 1997 fiscal year, formerly provided for in Chapter 19, Title
122 37, Mississippi Code of 1972, as amended * * *.

123 **[From and after July 1, 2005, this section shall read as**
124 **follows:]**

125 37-61-33. (1) There is created within the State Treasury a
126 special fund to be designated the "Education Enhancement Fund"
127 into which shall be deposited all the revenues collected pursuant
128 to Sections 27-65-75(7) and (8) and 27-67-31(a) and (b).

129 (2) Of the amount deposited into the Education Enhancement
130 Fund, Sixteen Million Dollars (\$16,000,000.00) shall be

131 appropriated each fiscal year to the State Department of Education
132 to be distributed to all school districts. Such money shall be
133 distributed to all school districts in the proportion that the
134 average daily attendance of each school district bears to the
135 average daily attendance of all school districts within the state
136 for the following purposes:

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

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

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

150 (d) As a pledge to pay all or a portion of the debt
151 service on debt issued by the school district under Sections
152 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351
153 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302
154 and 37-41-81, or debt issued by boards of supervisors for
155 agricultural high schools pursuant to Section 37-27-65, if such
156 pledge is accomplished pursuant to a written contract or
157 resolution approved and spread upon the minutes of an official
158 meeting of the district's school board or board of supervisors.
159 The annual grant to such district in any subsequent year during
160 the term of the resolution or contract shall not be reduced below
161 an amount equal to the district's grant amount for the year in
162 which the contract or resolution was adopted. The intent of this
163 provision is to allow school districts to irrevocably pledge a

164 certain, constant stream of revenue as security for long-term
165 obligations issued under the code sections enumerated in this
166 paragraph or as otherwise allowed by law. It is the intent of the
167 Legislature that the provisions of this paragraph shall be
168 cumulative and supplemental to any existing funding programs or
169 other authority conferred upon school districts or school boards.
170 Debt of a district secured by a pledge of sales tax revenue
171 pursuant to this paragraph shall not be subject to any debt
172 limitation contained in the foregoing enumerated code sections.

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

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

176 (i) Sixteen and sixty-one one-hundredths percent
177 (16.61%) to the cost of the adequate education program determined
178 under Section 37-151-7; of the funds generated by the percentage
179 set forth in this section for the support of the adequate
180 education program, one and one hundred seventy-eight
181 one-thousandths percent (1.178%) of the funds shall be
182 appropriated to be used by the State Department of Education for
183 the purchase of textbooks to be loaned under Sections 37-43-1
184 through 37-43-59 to approved nonpublic schools, as described in
185 Section 37-43-1. The funds to be distributed to each nonpublic
186 school shall be in the proportion that the average daily
187 attendance of each nonpublic school bears to the total average
188 daily attendance of all nonpublic schools;

189 (ii) Seven and ninety-seven one-hundredths percent
190 (7.97%) to assist the funding of transportation operations and
191 maintenance pursuant to Section 37-19-23; and

192 (iii) Nine and sixty-one one-hundredths percent
193 (9.61%) for classroom supplies, instructional materials and
194 equipment, including computers and computer software, to be
195 distributed to all school districts in the proportion that the
196 average daily attendance of each school district bears to the

197 average daily attendance of all school districts within the state.
198 It is the intent of the Legislature that all classroom teachers
199 shall be involved in the development of a spending plan that
200 addresses individual classroom needs and supports the overall
201 goals of the school regarding supplies, instructional materials,
202 equipment, computers or computer software under the provisions of
203 this subparagraph, including the type, quantity and quality of
204 such supplies, materials and equipment. This plan shall be
205 submitted to the school principal for approval. School districts
206 need not fully expend the funds received under this subparagraph
207 in the year in which they are received, but such funds may be
208 carried forward for expenditure in any succeeding school year;

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

212 (c) Fourteen and forty-one one-hundredths percent
213 (14.41%) to the State Board for Community and Junior Colleges for
214 the purpose of providing support to community and junior colleges.

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

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

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

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

233 (a) For subsection (3)(a)(ii) of this section,
234 Thirty-six Million Seven Hundred Thousand Dollars
235 (\$36,700,000.00);

236 (b) For the aggregate of minimum program allotments in
237 the 1997 fiscal year, formerly provided for in Chapter 19, Title
238 37, Mississippi Code of 1972, as amended, excluding those funds
239 for transportation as provided for in subsection (5)(a) in this
240 section.

241 **SECTION 2.** Section 37-151-7, Mississippi Code of 1972, is
242 brought forward as follows:

243 37-151-7. The annual allocation to each school district for
244 the operation of the adequate education program shall be
245 determined as follows:

246 (1) Computation of the basic amount to be included for
247 current operation in the adequate education program. The
248 following procedure shall be followed in determining the annual
249 allocation to each school district:

250 (a) **Determination of average daily attendance.** During
251 months two (2) and three (3) of the current school year, the
252 average daily attendance of a school district shall be computed,
253 or the average daily attendance for the prior school year shall be
254 used, whichever is greater. For purposes of this calculation,
255 "current" school year shall mean the school year for which
256 appropriations are made by the Legislature, and "prior" school
257 year shall mean the school year immediately preceding the year for
258 which appropriations are made by the Legislature. The district's
259 average daily attendance shall be computed and currently
260 maintained in accordance with regulations promulgated by the State
261 Board of Education.

262 (b) **Determination of base student cost.** The State
263 Board of Education, on or before August 1, with adjusted estimate
264 no later than January 2, shall annually submit to the Legislative
265 Budget Office and the Governor a proposed base student cost
266 adequate to provide the following cost components of educating a
267 pupil in an average school district meeting Level III
268 accreditation standards required by the Commission on School
269 Accreditation: (i) Instructional Cost; (ii) Administrative Cost;
270 (iii) Operation and Maintenance of Plant; and (iv) Ancillary
271 Support Cost. The department shall utilize a statistical
272 methodology which considers such factors as, but not limited to,
273 (i) school size; (ii) assessed valuation per pupil; (iii) the
274 percentage of students receiving free lunch; (iv) the local
275 district maintenance tax levy; (v) other local school district
276 revenues; and (vi) the district's accreditation level, in the
277 selection of the representative Mississippi school districts for
278 which cost information shall be obtained for each of the above
279 listed cost areas.

280 For the instructional cost component, the department shall
281 determine the instructional cost of each of the representative
282 school districts selected above, excluding instructional cost of
283 self-contained special education programs and vocational education
284 programs, and the average daily attendance in the selected school
285 districts. The instructional cost is then totaled and divided by
286 the total average daily attendance for the selected school
287 districts to yield the instructional cost component. For the
288 administrative cost component, the department shall determine the
289 administrative cost of each of the representative school districts
290 selected above, excluding administrative cost of self-contained
291 special education programs and vocational education programs, and
292 the average daily attendance in the selected school districts.
293 The administrative cost is then totaled and divided by the total
294 average daily attendance for the selected school districts to

295 yield the administrative cost component. For the plant and
296 maintenance cost component, the department shall determine the
297 plant and maintenance cost of each of the representative school
298 districts selected above, excluding plant and maintenance cost of
299 self-contained special education programs and vocational education
300 programs, and the average daily attendance in the selected school
301 districts. The plant and maintenance cost is then totaled and
302 divided by the total average daily attendance for the selected
303 school districts to yield the plant and maintenance cost
304 component. For the ancillary support cost component, the
305 department shall determine the ancillary support cost of each of
306 the representative school districts selected above, excluding
307 ancillary support cost of self-contained special education
308 programs and vocational education programs, and the average daily
309 attendance in the selected school districts. The ancillary
310 support cost is then totaled and divided by the total average
311 daily attendance for the selected school districts to yield the
312 ancillary support cost component. The total base cost for each
313 year shall be the sum of the instructional cost component,
314 administrative cost component, plant and maintenance cost
315 component and ancillary support cost component, and any estimated
316 adjustments for additional state requirements as determined by the
317 State Board of Education. Provided, however, that the base
318 student cost in fiscal year 1998 shall be Two Thousand Six Hundred
319 Sixty-four Dollars (\$2,664.00).

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

324 Multiply the average daily attendance of the district by the
325 base student cost as established by the Legislature, which yields
326 the total base program cost for each school district.

327 (d) **Adjustment to the base student cost for at-risk**
328 **pupils.** The amount to be included for at-risk pupil programs for
329 each school district shall be computed as follows: Multiply the
330 base student cost for the appropriate fiscal year as determined
331 under paragraph (b) by five percent (5%), and multiply that
332 product by the number of pupils participating in the federal free
333 school lunch program in such school district, which yields the
334 total adjustment for at-risk pupil programs for such school
335 district.

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

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

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

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

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

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

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

358 (vii) University-based programs shall be the
359 amount allocated to school districts for those university-based

360 programs for handicapped children as defined and provided for in
361 Section 37-23-131 et seq., Mississippi Code of 1972.

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

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

370 (f) **Total projected adequate education program cost.**

371 The total Mississippi Adequate Education Program Cost shall be the
372 sum of the total basic adequate education program cost (paragraph
373 (c)), and the adjustment to the base student cost for at-risk
374 pupils (paragraph (d)) for each school district.

375 (g) **Supplemental grant to school districts.** In
376 addition to the adequate education program grant, the State
377 Department of Education shall annually distribute an additional
378 amount as follows: Multiply the base student cost for the
379 appropriate fiscal year as determined under paragraph (b) by
380 thirteen one-hundredths percent (.13%) and multiply that product
381 by the average daily attendance of each school district. Such
382 grant shall not be subject to the local revenue requirement
383 provided in subsection (2).

384 (2) **Computation of the required local revenue in support of**
385 **the adequate education program.** The amount that each district
386 shall provide toward the cost of the adequate education program
387 shall be calculated as follows:

388 (a) The State Board of Education shall certify to each
389 school district that twenty-eight (28) mills, less the estimated
390 amount of the yield of the School Ad Valorem Tax Reduction Fund
391 grants as determined by the State Department of Education, is the
392 millage rate required to provide the district required local

393 effort for that year, or twenty-seven percent (27%) of the basic
394 adequate education program cost for such school district as
395 determined under subsection (c), whichever is a lesser amount. In
396 the case of an agricultural high school the millage requirement
397 shall be set at a level which generates an equitable amount per
398 pupil to be determined by the State Board of Education.

399 (b) The State Board of Education shall determine (i)
400 the total assessed valuation of nonexempt property for school
401 purposes in each school district; (ii) assessed value of exempt
402 property owned by homeowners aged sixty-five (65) or older or
403 disabled as defined in Section 27-33-67(2), Mississippi Code of
404 1972; (iii) the school district's tax loss from exemptions
405 provided to applicants under the age of sixty-five (65) and not
406 disabled as defined in Section 27-33-67(1), Mississippi Code of
407 1972; and (iv) the school district's homestead reimbursement
408 revenues.

409 (c) The amount of the total adequate education program
410 funding which shall be contributed by each school district shall
411 be the sum of the ad valorem receipts generated by the millage
412 required under this subsection plus the following local revenue
413 sources for the appropriate fiscal year which are or may be
414 available for current expenditure by the school district:

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

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

419 (a) The required state effort in support of the
420 adequate education program shall be determined by subtracting the
421 sum of the required local tax effort as set forth in subsection
422 (2)(a) of this section and the other local revenue sources as set
423 forth in subsection (2)(c) of this section in an amount not to
424 exceed twenty-seven percent (27%) of the total projected adequate
425 education program cost as set forth in subsection (1)(f) of this

426 section from the total projected adequate education program cost
427 as set forth in subsection (1)(f) of this section.

428 (b) Provided, however, that in fiscal year 1998 and in
429 the fiscal year in which the adequate education program is fully
430 funded by the Legislature, any increase in the said state
431 contribution, including the supplemental grant to school districts
432 provided under subsection (1)(g), to any district calculated under
433 this section shall be not less than eight percent (8%) in excess
434 of the amount received by said district from state funds for the
435 fiscal year immediately preceding. For purposes of this paragraph
436 (b), state funds shall include minimum program funds less the
437 add-on programs, state Uniform Millage Assistance Grant funds,
438 Education Enhancement Funds appropriated for Uniform Millage
439 Assistance Grants and state textbook allocations, and State
440 General Funds allocated for textbooks.

441 (c) If the appropriation is less than full funding for
442 fiscal year 2003, allocations for state contributions to school
443 districts in support of the adequate education program will be
444 determined by the State Department of Education in the following
445 manner:

446 (i) Calculation of the full funding amount under
447 this chapter, with proportionate reductions as required by the
448 appropriation level.

449 (ii) Calculation of the amount equal to the state
450 funds allocated to school districts for fiscal year 2002 plus the
451 estimated amount to fund the adequate education program salary
452 schedule for fiscal year 2003. For purposes of this item (ii),
453 state funds shall be those described in paragraph (b) and an
454 amount equal to the allocation for the adequate education program
455 in fiscal year 2002, plus any additional amount required to
456 satisfy fiscal year 2003 pledges in accordance with paragraphs
457 (d), (e) and (f) of subsection (5) of this section. If a school
458 district's fiscal year 2003 pledge is different than the pledge

459 amount for fiscal year 2002, the district shall receive an amount
460 equal to the fiscal year 2003 pledge or the amount of funds
461 calculated under the adequate education formula for fiscal year
462 2002 before any pledge guarantee for fiscal year 2002, whichever
463 is greater. If the pledge is no longer in effect, the district
464 shall receive the amount of funds calculated under the formula for
465 fiscal year 2002 before any pledge guarantee for fiscal year 2002.

466 (iii) The portion of any district's allocation
467 calculated in item (i) of this paragraph which exceeds amounts as
468 calculated in item (ii) shall be reduced by an amount not to
469 exceed twenty-one percent (21%). The amount of funds generated by
470 this reduction of funds shall be redistributed proportionately
471 among those districts receiving insufficient funds to meet the
472 amount calculated in item (ii). In no case may any district
473 receive funds in an amount greater than the amount that the
474 district would have received under full funding of the program for
475 fiscal year 2003.

476 (d) If the school board of any school district shall
477 determine that it is not economically feasible or practicable to
478 operate any school within the district for the full one hundred
479 eighty (180) days required for a school term of a scholastic year
480 as required in Section 37-13-63, Mississippi Code of 1972, due to
481 an enemy attack, a manmade, technological or natural disaster in
482 which the Governor has declared a disaster emergency under the
483 laws of this state or the President of the United States has
484 declared an emergency or major disaster to exist in this state,
485 said school board may notify the State Department of Education of
486 such disaster and submit a plan for altering the school term. If
487 the State Board of Education finds such disaster to be the cause
488 of the school not operating for the contemplated school term and
489 that such school was in a school district covered by the
490 Governor's or President's disaster declaration, it may permit said
491 school board to operate the schools in its district for less than

492 one hundred eighty (180) days and, in such case, the State
493 Department of Education shall not reduce the state contributions
494 to the adequate education program allotment for such district,
495 because of the failure to operate said schools for one hundred
496 eighty (180) days.

497 (4) If during the year for which adequate education program
498 funds are appropriated, any school district experiences a three
499 percent (3%) or greater increase in average daily attendance
500 during the second and third month over the preceding year's second
501 and third month, an additional allocation of adequate education
502 program funds calculated in the following manner shall be granted
503 to that district, using any additional funds available to the
504 Department of Education that exceed the amount of funds due to the
505 school districts under the basic adequate education program
506 distribution as provided for in this chapter:

507 (a) Determine the percentage increase in average daily
508 attendance for the second and third months of the year for which
509 adequate education program funds are appropriated over the
510 preceding year's second and third month average daily attendance.

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

518 (c) Subtract the percentage of the district's local
519 contribution arrived at in subsection (2) of this section from the
520 amount calculated in paragraph (b) of this subsection. The
521 remainder is the additional allocation in adequate education
522 program funds for that district.

523 If the funds available to the Department of Education are not
524 sufficient to fully fund the additional allocations to school

525 districts eligible for those allocations, then the department
526 shall prorate the available funds among the eligible school
527 districts, using the same percentage of the total funds that the
528 school district would have received if the allocations were fully
529 funded.

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

531 (5) The Interim School District Capital Expenditure Fund is
532 hereby established in the State Treasury which shall be used to
533 distribute any funds specifically appropriated by the Legislature
534 to such fund to school districts entitled to increased allocations
535 of state funds under the adequate education program funding
536 formula prescribed in Sections 37-151-3 through 37-151-7,
537 Mississippi Code of 1972, until such time as the said adequate
538 education program is fully funded by the Legislature. The
539 following percentages of the total state cost of increased
540 allocations of funds under the adequate education program funding
541 formula shall be appropriated by the Legislature into the Interim
542 School District Capital Expenditure Fund to be distributed to all
543 school districts under the formula: Nine and two-tenths percent
544 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
545 (20%) shall be appropriated in fiscal year 1999, forty percent
546 (40%) shall be appropriated in fiscal year 2000, sixty percent
547 (60%) shall be appropriated in fiscal year 2001, eighty percent
548 (80%) shall be appropriated in fiscal year 2002, and one hundred
549 percent (100%) shall be appropriated in fiscal year 2003 into the
550 State Adequate Education Program Fund created in subsection (4).
551 Until July 1, 2002, such money shall be used by school districts
552 for the following purposes:

553 (a) Purchasing, erecting, repairing, equipping,
554 remodeling and enlarging school buildings and related facilities,
555 including gymnasiums, auditoriums, lunchrooms, vocational training
556 buildings, libraries, school barns and garages for transportation
557 vehicles, school athletic fields and necessary facilities

558 connected therewith, and purchasing land therefor. Any such
559 capital improvement project by a school district shall be approved
560 by the State Board of Education, and based on an approved
561 long-range plan. The State Board of Education shall promulgate
562 minimum requirements for the approval of school district capital
563 expenditure plans.

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

567 (c) Paying debt service on existing capital improvement
568 debt of the district or refinancing outstanding debt of a district
569 if such refinancing will result in an interest cost savings to the
570 district.

571 (d) From and after October 1, 1997, through June 30,
572 1998, pursuant to a school district capital expenditure plan
573 approved by the State Department of Education, a school district
574 may pledge such funds until July 1, 2002, plus funds provided for
575 in paragraph (e) of this subsection (5) that are not otherwise
576 permanently pledged under such paragraph (e) to pay all or a
577 portion of the debt service on debt issued by the school district
578 under Sections 37-59-1 through 37-59-45, 37-59-101 through
579 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
580 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
581 issued by boards of supervisors for agricultural high schools
582 pursuant to Section 37-27-65, Mississippi Code of 1972, or
583 lease-purchase contracts entered into pursuant to Section 31-7-13,
584 Mississippi Code of 1972, or to retire or refinance outstanding
585 debt of a district, if such pledge is accomplished pursuant to a
586 written contract or resolution approved and spread upon the
587 minutes of an official meeting of the district's school board or
588 board of supervisors. It is the intent of this provision to allow
589 school districts to irrevocably pledge their Interim School
590 District Capital Expenditure Fund allotments as a constant stream

591 of revenue to secure a debt issued under the foregoing code
592 sections. To allow school districts to make such an irrevocable
593 pledge, the state shall take all action necessary to ensure that
594 the amount of a district's Interim School District Capital
595 Expenditure Fund allotments shall not be reduced below the amount
596 certified by the department or the district's total allotment
597 under the Interim Capital Expenditure Fund if fully funded, so
598 long as such debt remains outstanding.

599 (e) From and after October 1, 1997, through June 30,
600 1998, in addition to any other authority a school district may
601 have, any school district may issue State Aid Capital Improvement
602 Bonds secured in whole by a continuing annual pledge of any
603 Mississippi Adequate Education Program funds available to the
604 district, in an amount not to exceed One Hundred Sixty Dollars
605 (\$160.00) per pupil based on the latest completed average daily
606 attendance count certified by the department prior to the issuance
607 of the bonds. Such State Aid Capital Improvement Bonds may be
608 issued for the purposes enumerated in subsections (a), (b), (c)
609 and (g) of this section. Prior to issuing such bonds, the school
610 board of the district shall adopt a resolution declaring the
611 necessity for and its intention of issuing such bonds and
612 borrowing such money, specifying the approximate amount to be so
613 borrowed, how such money is to be used and how such indebtedness
614 is to be evidenced. Any capital improvement project financed with
615 State Aid Capital Improvement Bonds shall be approved by the
616 department, and based on an approved long-range plan. The State
617 Board of Education shall promulgate minimum requirements for the
618 approval of such school district capital expenditure plans. The
619 State Board of Education shall not approve any capital expenditure
620 plan for a pledge of funds under this paragraph unless it
621 determines (i) that the quality of instruction in such district
622 will not be reduced as a result of this pledge, and (ii) the

623 district has other revenue available to attain and maintain at
624 least Level III accreditation.

625 A district issuing State Aid Capital Improvement Bonds may
626 pledge for the repayment of such bonds all funds received by the
627 district from the state, in an amount not to exceed One Hundred
628 Sixty Dollars (\$160.00) per pupil in average daily attendance in
629 the school district as set forth above, and not otherwise
630 permanently pledged under paragraph (d) of this subsection or
631 under Section 37-61-33(2)(d), Mississippi Code of 1972. The
632 district's school board shall specify by resolution the amount of
633 state funds, which are being pledged by the district for the
634 repayment of the State Aid Capital Improvement Bonds. Once such a
635 pledge is made to secure the bonds, the district shall notify the
636 department of such pledge. Upon making such a pledge, the school
637 district may request the department which may agree to irrevocably
638 transfer a specified amount or percentage of the district's state
639 revenue pledged to repay the district's State Aid Capital
640 Improvement Bonds directly to a state or federally chartered bank
641 serving as a trustee or paying agent on such bonds for the payment
642 of all or portion of such State Aid Capital Improvement Bonds.
643 Such instructions shall be incorporated into a resolution by the
644 school board for the benefit of holders of the bonds and may
645 provide that such withholding and transfer of such other available
646 funds shall be made only upon notification by a trustee or paying
647 agent on such bonds that the amounts available to pay such bonds
648 on any payment date will not be sufficient. It is the intent of
649 this provision to allow school districts to irrevocably pledge a
650 certain, constant stream of revenue as security for State Aid
651 Capital Improvement Bonds issued hereunder. To allow school
652 districts to make such an irrevocable pledge, the state shall take
653 all action necessary to ensure that the amount of a district's
654 state revenues up to an amount equal to One Hundred Sixty Dollars
655 (\$160.00) per pupil as set forth above which have been pledged to

656 repay debt as set forth herein shall not be reduced so long as any
657 State Aid Capital Improvement Bonds are outstanding.

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

665 The provisions of this subsection shall be cumulative and
666 supplemental to any existing funding programs or other authority
667 conferred upon school districts or school boards. Debt of a
668 school district secured in whole by a pledge of revenue pursuant
669 to this section shall not be subject to any debt limitation.

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

674 This paragraph (e) shall stand repealed from and after June
675 30, 1998.

676 (f) As an alternative to the authority granted under
677 paragraph (e), a school district, in its discretion, may authorize
678 the State Board of Education to withhold an amount of the
679 district's adequate education program allotment equal to up to One
680 Hundred Sixty Dollars (\$160.00) per student in average daily
681 attendance in the district to be allocated to the State Public
682 School Building Fund to the credit of such school district. A
683 school district may choose the option provided under this
684 paragraph (e) or paragraph (f), but not both. In addition to the
685 grants made by the state pursuant to Section 37-47-9, a school
686 district shall be entitled to grants based on the allotments to
687 the State Public School Building Fund credited to such school

688 district under this paragraph. This paragraph (f) shall stand
689 repealed from and after June 30, 1998.

690 (g) The State Board of Education may authorize the
691 school district to expend not more than twenty percent (20%) of
692 its annual allotment of such funds or Twenty Thousand Dollars
693 (\$20,000.00), whichever is greater, for technology needs of the
694 school district, including computers, software,
695 telecommunications, cable television, interactive video, film
696 low-power television, satellite communications, microwave
697 communications, technology-based equipment installation and
698 maintenance, and the training of staff in the use of such
699 technology-based instruction. Any such technology expenditure
700 shall be reflected in the local district technology plan approved
701 by the State Board of Education under Section 37-151-17,
702 Mississippi Code of 1972.

703 (h) To the extent a school district has not utilized
704 twenty percent (20%) of its annual allotment for technology
705 purposes under paragraph (g), a school district may expend not
706 more than twenty percent (20%) of its annual allotment or Twenty
707 Thousand Dollars (\$20,000.00), whichever is greater, for
708 instructional purposes. The State Board of Education may
709 authorize a school district to expend more than said twenty
710 percent (20%) of its annual allotment for instructional purposes
711 if it determines that such expenditures are needed for
712 accreditation purposes.

713 (i) The State Department of Education or the State
714 Board of Education may require that any project commenced pursuant
715 to this act with an estimated project cost of not less than Five
716 Million Dollars (\$5,000,000.00) shall be done only pursuant to
717 program management of the process with respect to design and
718 construction. Any individuals, partnerships, companies or other
719 entities acting as a program manager on behalf of a local school
720 district and performing program management services for projects

721 covered under this subsection shall be approved by the State
722 Department of Education.

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

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

730 **SECTION 3.** This act shall take effect and be in force from
731 and after its passage.