

By: Senator(s) Harden

To: Education; Judiciary

SENATE BILL NO. 2201

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

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

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

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

11 37-61-33. (1) There is hereby created within the State  
12 Treasury a special fund to be designated the "Education  
13 Enhancement Fund" into which shall be deposited all the revenues  
14 collected pursuant to Sections 27-65-75(7) and (8), 27-67-31(a)  
15 and (b) and 27-103-203(1).

16 (2) Of the amount deposited into the Education Enhancement  
17 Fund, excluding revenues deposited pursuant to Section  
18 27-103-203(1), Sixteen Million Dollars (\$16,000,000.00) shall be  
19 appropriated each fiscal year to the State Department of Education  
20 to be distributed to all school districts. Such money shall be  
21 distributed to all school districts in the proportion that the  
22 average daily attendance of each school district bears to the  
23 average daily attendance of all school districts within the state  
24 for the following purposes:

25 (a) Purchasing, erecting, repairing, equipping,  
26 remodeling and enlarging school buildings and related facilities,  
27 including gymnasiums, auditoriums, lunchrooms, vocational training  
28 buildings, libraries, teachers' homes, school barns,  
29 transportation vehicles (which shall include new and used



30 transportation vehicles) and garages for transportation vehicles,  
31 and purchasing land therefor.

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

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

38 (d) As a pledge to pay all or a portion of the debt  
39 service on debt issued by the school district under Sections  
40 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351  
41 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302  
42 and 37-41-81, Mississippi Code of 1972, or debt issued by boards  
43 of supervisors for agricultural high schools pursuant to Section  
44 37-27-65, Mississippi Code of 1972, if such pledge is accomplished  
45 pursuant to a written contract or resolution approved and spread  
46 upon the minutes of an official meeting of the district's school  
47 board or board of supervisors. The annual grant to such district  
48 in any subsequent year during the term of the resolution or  
49 contract shall not be reduced below an amount equal to the  
50 district's grant amount for the year in which the contract or  
51 resolution was adopted. The intent of this provision is to allow  
52 school districts to irrevocably pledge a certain, constant stream  
53 of revenue as security for long-term obligations issued under the  
54 code sections enumerated in this paragraph or as otherwise allowed  
55 by law. It is the intent of the Legislature that the provisions  
56 of this paragraph shall be cumulative and supplemental to any  
57 existing funding programs or other authority conferred upon school  
58 districts or school boards. Debt of a district secured by a  
59 pledge of sales tax revenue pursuant to this paragraph shall not  
60 be subject to any debt limitation contained in the foregoing  
61 enumerated code sections.



62           (3) The remainder of the money deposited into the Education  
63 Enhancement Fund, excluding funds deposited pursuant to Section  
64 27-103-203(1), shall be appropriated as follows:

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

66                   (i) Eight and thirty-five one-hundredths percent  
67 (8.35%) to be distributed to public school districts for the  
68 funding of textbooks and other educational materials and to be  
69 used by the State Department of Education for the purchase of  
70 textbooks to be loaned under Sections 37-43-1 through 37-43-59 to  
71 approved nonpublic schools, as described under Section 37-43-1.  
72 The amount of funds under this item to be used by the department  
73 for purchasing textbooks to loan to approved nonpublic schools  
74 shall be in the proportion that the average daily attendance of  
75 the nonpublic schools that are loaned textbooks by the state bears  
76 to the average daily attendance of all school districts in the  
77 state. The funds distributed to the school districts under this  
78 item shall be in the proportion that the average daily attendance  
79 of each school district bears to the average daily attendance of  
80 all school districts within the state and shall be used to assist  
81 in the funding of textbooks and other educational materials, to  
82 include not more than Two Million Dollars (\$2,000,000.00) each  
83 year for technology enhancement projects for elementary and  
84 secondary education programs;

85                   (ii) Seven and ninety-seven one-hundredths percent  
86 (7.97%) to assist the funding of transportation operations and  
87 maintenance pursuant to Section 37-19-23;

88                   (iii) Eight and twenty-six one-hundredths percent  
89 (8.26%) to assist the funding of the Uniform Millage Assistance  
90 Grant Program pursuant to Section 37-22-1; and

91                   (iv) Nine and sixty-one one-hundredths percent  
92 (9.61%) for classroom supplies, instructional materials and  
93 equipment, including computers and computer software, to be  
94 distributed to all school districts in the proportion that the



95 average daily attendance of each school district bears to the  
96 average daily attendance of all school districts within the state.  
97 Such funds shall not be expended for administrative purposes.  
98 Local school districts shall allocate classroom supply funds  
99 equally among all classroom teachers in the school district. For  
100 purposes of this subparagraph, "teacher" shall mean any employee  
101 of the school board of a school district who is required by law to  
102 obtain a teacher's license from the State Board of Education and  
103 who is assigned to an instructional area of work as defined by the  
104 State Department of Education, but shall not include a federally  
105 funded teacher. Two (2) or more teachers may agree to pool their  
106 classroom supply funds for the benefit of a school within the  
107 district pursuant to the development of a spending plan that  
108 supports the overall goals of the school which includes the type,  
109 quantity and quality of such supplies, instructional materials,  
110 equipment, computers or computer software. This plan shall be  
111 submitted, in writing, to the school principal for approval.  
112 Classroom supply funds allocated under this subparagraph shall  
113 supplement, not replace, other local and state funds available for  
114 the same purposes. School districts need not fully expend the  
115 funds received under this subparagraph in the year in which they  
116 are received, but such funds may be carried forward for  
117 expenditure in any succeeding school year. Any superintendent,  
118 supervisor, principal, administrator or designee of any of these  
119 persons shall not take from any teacher or other entitled person  
120 those funds designated for the recipients as Education Enhancement  
121 Funds for classroom supplies designated hereunder. Neither shall  
122 the teacher or other entitled person be required to use such funds  
123 for the ordinary expenditures allocated for those supplies  
124 necessary for instruction. These include, but are not limited to,  
125 paper, staples, chalk, pens, bulletin boards, art supplies,  
126 technology equipment and/or other items as designated as ordinary  
127 expenditures in the Department of Audit guidelines. The State



128 Department of Education shall be responsible for promulgating and  
129 disseminating the Education Enhancement Fund expenditure  
130 guidelines to each school district. Any administrator or other  
131 person who expends or attempts to expend any of the funds  
132 designated for a teacher or other entitled person as Education  
133 Enhancement Fund supply funds under this paragraph shall be guilty  
134 of a misdemeanor, and upon conviction, shall be fined no less than  
135 One Thousand Dollars (\$1,000.00) per reported incident, and shall  
136 be required to make restitution to those entitled to the Education  
137 Enhancement Fund supply funds. In addition to such fine and  
138 restitution, any principal found to be in violation of the  
139 department's guidelines issued hereunder shall be assessed One  
140 Thousand Dollars (\$1,000.00) per occurrence by the State  
141 Department of Audit, to be deposited into the Education  
142 Enhancement Fund account and expended exclusively for classroom  
143 supplies and instructional materials. The State Board of  
144 Education shall develop and promulgate rules and regulations for  
145 the administration of this subparagraph consistent with the above  
146 criteria, with particular emphasis on allowing the individual  
147 teachers to expend funds as they deem appropriate, with minimum  
148 input from school principals;

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

152 (c) Fourteen and forty-one one-hundredths percent  
153 (14.41%) to the State Board for Community and Junior Colleges for  
154 the purpose of providing support to community and junior colleges.

155 (4) The amount remaining in the Education Enhancement Fund  
156 after funds are distributed as provided in subsections (2) and (3)  
157 of this section, excluding funds deposited pursuant to Section  
158 27-103-203(1), shall be disbursed as follows:

159 (a) Twenty-five Million Dollars (\$25,000,000.00) shall  
160 be deposited into the Working Cash-Stabilization Reserve Fund



161 created pursuant to Section 27-103-203(1), until the balance in  
162 such fund reaches the maximum balance of seven and one-half  
163 percent (7-1/2%) of the General Fund appropriations in the  
164 appropriate fiscal year. After the maximum balance in the Working  
165 Cash-Stabilization Reserve Fund is reached, such money shall  
166 remain in the Education Enhancement Fund to be appropriated in the  
167 manner provided for in paragraph (b) of this section.

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

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

174 (a) For subsection (3)(a)(i) of this section, Six  
175 Million Three Hundred Thirty Thousand Nine Hundred Twenty Dollars  
176 (\$6,330,920.00);

177 (b) For subsection (3)(a)(ii) of this section  
178 Thirty-six Million Seven Hundred Thousand Dollars  
179 (\$36,700,000.00);

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

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

187 (6) At the end of a fiscal year such amounts as required by  
188 Section 27-103-203(1) to be transferred to the Education  
189 Enhancement Fund shall be deposited into said Education  
190 Enhancement Fund and shall be kept separate from other monies in  
191 the fund by the State Treasurer. Beginning with the 1994 fiscal  
192 year the monies in such special fund deposited pursuant to said  
193 Section 27-103-203(1) shall be subject to appropriation by the



194 Legislature in the following manner: (a) fifty percent (50%) to  
195 support public education, including but not limited to, Grades K  
196 through 12, Mississippi Educational Television and/or the  
197 Mississippi Library Commission; (b) twenty-five percent (25%) to  
198 support institutions of higher learning; and (c) twenty-five  
199 percent (25%) to support the junior or community colleges. Any  
200 amount of such monies transferred into said separate fund pursuant  
201 to Section 27-103-203(1) which are not appropriated by the  
202 Legislature shall not lapse but shall carry over and be subject to  
203 appropriation by the Legislature in the succeeding fiscal year in  
204 the same manner provided in this subsection (6). The interest  
205 earned on the investment of such monies transferred pursuant to  
206 Section 27-103-203(1) shall be paid into said separate fund within  
207 the Education Enhancement Fund.

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

209 37-61-33. (1) There is hereby created within the State  
210 Treasury a special fund to be designated the "Education  
211 Enhancement Fund" into which shall be deposited all the revenues  
212 collected pursuant to Sections 27-65-75(7) and (8), 27-67-31(a)  
213 and (b) and 27-103-203(1).

214 (2) Of the amount deposited into the Education Enhancement  
215 Fund, excluding revenues deposited pursuant to Section  
216 27-103-203(1), Sixteen Million Dollars (\$16,000,000.00) shall be  
217 appropriated each fiscal year to the State Department of Education  
218 to be distributed to all school districts. Such money shall be  
219 distributed to all school districts in the proportion that the  
220 average daily attendance of each school district bears to the  
221 average daily attendance of all school districts within the state  
222 for the following purposes:

223 (a) Purchasing, erecting, repairing, equipping,  
224 remodeling and enlarging school buildings and related facilities,  
225 including gymnasiums, auditoriums, lunchrooms, vocational training  
226 buildings, libraries, teachers' homes, school barns,



227 transportation vehicles (which shall include new and used  
228 transportation vehicles) and garages for transportation vehicles,  
229 and purchasing land therefor.

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

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

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





260 (3) The remainder of the money deposited into the Education  
261 Enhancement Fund, excluding funds deposited pursuant to Section  
262 27-103-203(1), shall be appropriated as follows:

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

264 (i) Sixteen and sixty-one one-hundredths percent  
265 (16.61%) to the cost of the adequate education program determined  
266 under Section 37-151-7;

267 (ii) Seven and ninety-seven one-hundredths percent  
268 (7.97%) to assist the funding of transportation operations and  
269 maintenance pursuant to Section 37-19-23; and

270 (iii) Nine and sixty-one one-hundredths percent  
271 (9.61%) for classroom supplies, instructional materials and  
272 equipment, including computers and computer software, to be  
273 distributed to all school districts in the proportion that the  
274 average daily attendance of each school district bears to the  
275 average daily attendance of all school districts within the state.

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

287 Any superintendent, supervisor, principal, administrator or  
288 designee of any of these persons shall not take from any teacher  
289 or other entitled person those funds designated for the recipients  
290 as Education Enhancement Funds for classroom supplies designated  
291 hereunder. Neither shall the teacher or other entitled person be  
292 required to use such funds for the ordinary expenditures allocated



293 for those supplies necessary for instruction. These include, but  
294 are not limited to, paper, staples, chalk, pens, bulletin boards,  
295 art supplies, technology equipment and/or other items as  
296 designated as ordinary expenditures in the Department of Audit  
297 guidelines. The State Department of Education shall be  
298 responsible for promulgating and disseminating the Education  
299 Enhancement Fund expenditure guidelines to each school district.  
300 Any administrator or other person who expends or attempts to  
301 expend any of the funds designated for a teacher or other entitled  
302 person as Education Enhancement Fund supply funds under this  
303 paragraph shall be guilty of a misdemeanor, and upon conviction,  
304 shall be fined no less than One Thousand Dollars (\$1,000.00) per  
305 reported incident, and shall be required to make restitution to  
306 those entitled to the Education Enhancement Fund supply funds. In  
307 addition to such fine and restitution, any principal found to be  
308 in violation of the department's guidelines issued hereunder shall  
309 be assessed One Thousand Dollars (\$1,000.00) per occurrence by the  
310 State Department of Audit, to be deposited into the Education  
311 Enhancement Fund account and expended exclusively for classroom  
312 supplies and instructional materials.

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

319 (4) The amount remaining in the Education Enhancement Fund  
320 after funds are distributed as provided in subsections (2) and (3)  
321 of this section, excluding funds deposited pursuant to Section  
322 27-103-203(1), shall be disbursed as follows:

323 (a) Twenty-five Million Dollars (\$25,000,000.00) shall  
324 be deposited into the Working Cash-Stabilization Reserve Fund  
325 created pursuant to Section 27-103-203(1), until the balance in



326 such fund reaches the maximum balance of seven and one-half  
327 percent (7-1/2%) of the General Fund appropriations in the  
328 appropriate fiscal year. After the maximum balance in the Working  
329 Cash-Stabilization Reserve Fund is reached, such money shall  
330 remain in the Education Enhancement Fund to be appropriated in the  
331 manner provided for in paragraph (b) of this section.

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

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

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

341 (b) For the aggregate of minimum program allotments in  
342 the 1997 fiscal year, formerly provided for in Chapter 19, Title  
343 37, Mississippi Code of 1972, as amended, excluding those funds  
344 for transportation as provided for in subsection (5)(a) herein.

345 (6) At the end of a fiscal year such amounts as required by  
346 Section 27-103-203(1) to be transferred to the Education  
347 Enhancement Fund shall be deposited into said Education  
348 Enhancement Fund and shall be kept separate from other monies in  
349 the fund by the State Treasurer. Beginning with the 1994 fiscal  
350 year the monies in such special fund deposited pursuant to said  
351 Section 27-103-203(1) shall be subject to appropriation by the  
352 Legislature in the following manner: (a) fifty percent (50%) to  
353 support public education, including but not limited to, Grades K  
354 through 12, Mississippi Educational Television and/or the  
355 Mississippi Library Commission; (b) twenty-five percent (25%) to  
356 support institutions of higher learning; and (c) twenty-five  
357 percent (25%) to support the junior or community colleges. Any  
358 amount of such monies transferred into said separate fund pursuant



359 to Section 27-103-203(1) which are not appropriated by the  
360 Legislature shall not lapse but shall carry over and be subject to  
361 appropriation by the Legislature in the succeeding fiscal year in  
362 the same manner provided in this subsection (6). The interest  
363 earned on the investment of such monies transferred pursuant to  
364 Section 27-103-203(1) shall be paid into said separate fund within  
365 the Education Enhancement Fund.

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

