

By: Senator(s) Gordon

To: Education;
Appropriations

SENATE BILL NO. 2871

1 AN ACT TO AMEND SECTION 37-61-33, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT UNTIL JULY 1, 2004, 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, 2004, 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, 2004, 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 amount:

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, 2004, 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. The district's average daily
255 attendance shall be computed and currently maintained in
256 accordance with regulations promulgated by the State Board of
257 Education.

258 (b) **Determination of base student cost.** The State
259 Board of Education, on or before August 1, with adjusted estimate
260 no later than January 2, shall annually submit to the Legislative
261 Budget Office and the Governor a proposed base student cost



262 adequate to provide the following cost components of educating a
263 pupil in an average school district meeting Level III
264 accreditation standards required by the Commission on School
265 Accreditation: (i) Instructional Cost; (ii) Administrative Cost;
266 (iii) Operation and Maintenance of Plant; and (iv) Ancillary
267 Support Cost. The department shall utilize a statistical
268 methodology which considers such factors as, but not limited to,
269 (i) school size; (ii) assessed valuation per pupil; (iii) the
270 percentage of students receiving free lunch; (iv) the local
271 district maintenance tax levy; (v) other local school district
272 revenues; and (vi) the district's accreditation level, in the
273 selection of the representative Mississippi school districts for
274 which cost information shall be obtained for each of the above
275 listed cost areas.

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



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

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

320 Multiply the average daily attendance of the district by the
321 base student cost as established by the Legislature, which yields
322 the total base program cost for each school district.

323 (d) **Adjustment to the base student cost for at-risk**
324 **pupils.** The amount to be included for at-risk pupil programs for
325 each school district shall be computed as follows: Multiply the
326 base student cost for the appropriate fiscal year as determined
327 under paragraph (b) by five percent (5%), and multiply that



328 product by the number of pupils participating in the federal free
329 school lunch program in such school district, which yields the
330 total adjustment for at-risk pupil programs for such school
331 district.

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

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

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

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

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

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

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

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

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



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

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

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

379 (2) **Computation of the required local revenue in support of**
380 **the adequate education program.** The amount that each district
381 shall provide toward the cost of the adequate education program
382 shall be calculated as follows:

383 (a) The State Board of Education shall certify to each
384 school district that twenty-eight (28) mills, less the estimated
385 amount of the yield of the School Ad Valorem Tax Reduction Fund
386 grants as determined by the State Department of Education, is the
387 millage rate required to provide the district required local
388 effort for that year, or twenty-seven percent (27%) of the basic
389 adequate education program cost for such school district as
390 determined under subsection (c), whichever is a lesser amount. In
391 the case of an agricultural high school the millage requirement
392 shall be set at a level which generates an equitable amount per
393 pupil to be determined by the State Board of Education.



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

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

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

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

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

423 (b) Provided, however, that in fiscal year 1998 and in
424 the fiscal year in which the adequate education program is fully
425 funded by the Legislature, any increase in the said state
426 contribution, including the supplemental grant to school districts



427 provided under subsection (1)(g), to any district calculated under
428 this section shall be not less than eight percent (8%) in excess
429 of the amount received by said district from state funds for the
430 fiscal year immediately preceding. For purposes of this paragraph
431 (b), state funds shall include minimum program funds less the
432 add-on programs, state Uniform Millage Assistance Grant funds,
433 Education Enhancement Funds appropriated for Uniform Millage
434 Assistance Grants and state textbook allocations, and State
435 General Funds allocated for textbooks.

436 (c) If the appropriation is less than full funding for
437 fiscal year 2003, allocations for state contributions to school
438 districts in support of the adequate education program will be
439 determined by the State Department of Education in the following
440 manner:

441 (i) Calculation of the full funding amount under
442 this chapter, with proportionate reductions as required by the
443 appropriation level.

444 (ii) Calculation of the amount equal to the state
445 funds allocated to school districts for fiscal year 2002 plus the
446 estimated amount to fund the adequate education program salary
447 schedule for fiscal year 2003. For purposes of this item (ii),
448 state funds shall be those described in paragraph (b) and an
449 amount equal to the allocation for the adequate education program
450 in fiscal year 2002, plus any additional amount required to
451 satisfy fiscal year 2003 pledges in accordance with paragraphs
452 (d), (e) and (f) of subsection (5) of this section. If a school
453 district's fiscal year 2003 pledge is different than the pledge
454 amount for fiscal year 2002, the district shall receive an amount
455 equal to the fiscal year 2003 pledge or the amount of funds
456 calculated under the adequate education formula for fiscal year
457 2002 before any pledge guarantee for fiscal year 2002, whichever
458 is greater. If the pledge is no longer in effect, the district



459 shall receive the amount of funds calculated under the formula for
460 fiscal year 2002 before any pledge guarantee for fiscal year 2002.

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

471 (4) The State Adequate Education Program Fund is hereby
472 established in the State Treasury which shall be used to
473 distribute any funds specifically appropriated by the Legislature
474 to such fund, to school districts entitled to increased
475 allocations of state funds under the adequate education program
476 funding formula prescribed in Sections 37-151-3, 37-151-5 and
477 37-151-7 of this article. If the Legislature provides less funds
478 than the total state funds needed for support of such increased
479 allocations under the adequate education program, the State
480 Department of Education shall reduce all elements of the cost of
481 the adequate education program proportionately. Any such adequate
482 education program funds shall be transferred to the school
483 district maintenance fund of such district in the manner
484 prescribed in Section 37-19-47, Mississippi Code of 1972, and
485 shall be expended in the manner provided by law.

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



492 Mississippi Code of 1972, until such time as the said adequate
493 education program is fully funded by the Legislature. The
494 following percentages of the total state cost of increased
495 allocations of funds under the adequate education program funding
496 formula shall be appropriated by the Legislature into the Interim
497 School District Capital Expenditure Fund to be distributed to all
498 school districts under the formula: Nine and two-tenths percent
499 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
500 (20%) shall be appropriated in fiscal year 1999, forty percent
501 (40%) shall be appropriated in fiscal year 2000, sixty percent
502 (60%) shall be appropriated in fiscal year 2001, eighty percent
503 (80%) shall be appropriated in fiscal year 2002, and one hundred
504 percent (100%) shall be appropriated in fiscal year 2003 into the
505 State Adequate Education Program Fund created in subsection (4).
506 Until July 1, 2002, such money shall be used by school districts
507 for the following purposes:

508 (a) Purchasing, erecting, repairing, equipping,
509 remodeling and enlarging school buildings and related facilities,
510 including gymnasiums, auditoriums, lunchrooms, vocational training
511 buildings, libraries, school barns and garages for transportation
512 vehicles, school athletic fields and necessary facilities
513 connected therewith, and purchasing land therefor. Any such
514 capital improvement project by a school district shall be approved
515 by the State Board of Education, and based on an approved
516 long-range plan. The State Board of Education shall promulgate
517 minimum requirements for the approval of school district capital
518 expenditure plans.

519 (b) Providing necessary water, light, heating, air
520 conditioning, and sewerage facilities for school buildings, and
521 purchasing land therefor.

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



524 if such refinancing will result in an interest cost savings to the
525 district.

526 (d) From and after October 1, 1997, through June 30,
527 1998, pursuant to a school district capital expenditure plan
528 approved by the State Department of Education, a school district
529 may pledge such funds until July 1, 2002, plus funds provided for
530 in paragraph (e) of this subsection (5) that are not otherwise
531 permanently pledged under such paragraph (e) to pay all or a
532 portion of the debt service on debt issued by the school district
533 under Sections 37-59-1 through 37-59-45, 37-59-101 through
534 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
535 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
536 issued by boards of supervisors for agricultural high schools
537 pursuant to Section 37-27-65, Mississippi Code of 1972, or
538 lease-purchase contracts entered into pursuant to Section 31-7-13,
539 Mississippi Code of 1972, or to retire or refinance outstanding
540 debt of a district, if such pledge is accomplished pursuant to a
541 written contract or resolution approved and spread upon the
542 minutes of an official meeting of the district's school board or
543 board of supervisors. It is the intent of this provision to allow
544 school districts to irrevocably pledge their Interim School
545 District Capital Expenditure Fund allotments as a constant stream
546 of revenue to secure a debt issued under the foregoing code
547 sections. To allow school districts to make such an irrevocable
548 pledge, the state shall take all action necessary to ensure that
549 the amount of a district's Interim School District Capital
550 Expenditure Fund allotments shall not be reduced below the amount
551 certified by the department or the district's total allotment
552 under the Interim Capital Expenditure Fund if fully funded, so
553 long as such debt remains outstanding.

554 (e) From and after October 1, 1997, through June 30,
555 1998, in addition to any other authority a school district may
556 have, any school district may issue State Aid Capital Improvement



557 Bonds secured in whole by a continuing annual pledge of any
558 Mississippi Adequate Education Program funds available to the
559 district, in an amount not to exceed One Hundred Sixty Dollars
560 (\$160.00) per pupil based on the latest completed average daily
561 attendance count certified by the department prior to the issuance
562 of the bonds. Such State Aid Capital Improvement Bonds may be
563 issued for the purposes enumerated in subsections (a), (b), (c)
564 and (g) of this section. Prior to issuing such bonds, the school
565 board of the district shall adopt a resolution declaring the
566 necessity for and its intention of issuing such bonds and
567 borrowing such money, specifying the approximate amount to be so
568 borrowed, how such money is to be used and how such indebtedness
569 is to be evidenced. Any capital improvement project financed with
570 State Aid Capital Improvement Bonds shall be approved by the
571 department, and based on an approved long-range plan. The State
572 Board of Education shall promulgate minimum requirements for the
573 approval of such school district capital expenditure plans. The
574 State Board of Education shall not approve any capital expenditure
575 plan for a pledge of funds under this paragraph unless it
576 determines (i) that the quality of instruction in such district
577 will not be reduced as a result of this pledge, and (ii) the
578 district has other revenue available to attain and maintain at
579 least Level III accreditation.

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



590 pledge is made to secure the bonds, the district shall notify the
591 department of such pledge. Upon making such a pledge, the school
592 district may request the department which may agree to irrevocably
593 transfer a specified amount or percentage of the district's state
594 revenue pledged to repay the district's State Aid Capital
595 Improvement Bonds directly to a state or federally chartered bank
596 serving as a trustee or paying agent on such bonds for the payment
597 of all or portion of such State Aid Capital Improvement Bonds.
598 Such instructions shall be incorporated into a resolution by the
599 school board for the benefit of holders of the bonds and may
600 provide that such withholding and transfer of such other available
601 funds shall be made only upon notification by a trustee or paying
602 agent on such bonds that the amounts available to pay such bonds
603 on any payment date will not be sufficient. It is the intent of
604 this provision to allow school districts to irrevocably pledge a
605 certain, constant stream of revenue as security for State Aid
606 Capital Improvement Bonds issued hereunder. To allow school
607 districts to make such an irrevocable pledge, the state shall take
608 all action necessary to ensure that the amount of a district's
609 state revenues up to an amount equal to One Hundred Sixty Dollars
610 (\$160.00) per pupil as set forth above which have been pledged to
611 repay debt as set forth herein shall not be reduced so long as any
612 State Aid Capital Improvement Bonds are outstanding.

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

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



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

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

629 This paragraph (e) shall stand repealed from and after June
630 30, 1998.

631 (f) As an alternative to the authority granted under
632 paragraph (e), a school district, in its discretion, may authorize
633 the State Board of Education to withhold an amount of the
634 district's adequate education program allotment equal to up to One
635 Hundred Sixty Dollars (\$160.00) per student in average daily
636 attendance in the district to be allocated to the State Public
637 School Building Fund to the credit of such school district. A
638 school district may choose the option provided under this
639 paragraph (e) or paragraph (f), but not both. In addition to the
640 grants made by the state pursuant to Section 37-47-9, a school
641 district shall be entitled to grants based on the allotments to
642 the State Public School Building Fund credited to such school
643 district under this paragraph. This paragraph (f) shall stand
644 repealed from and after June 30, 1998.

645 (g) The State Board of Education may authorize the
646 school district to expend not more than twenty percent (20%) of
647 its annual allotment of such funds or Twenty Thousand Dollars
648 (\$20,000.00), whichever is greater, for technology needs of the
649 school district, including computers, software,
650 telecommunications, cable television, interactive video, film
651 low-power television, satellite communications, microwave
652 communications, technology-based equipment installation and
653 maintenance, and the training of staff in the use of such
654 technology-based instruction. Any such technology expenditure
655 shall be reflected in the local district technology plan approved



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

658 (h) To the extent a school district has not utilized
659 twenty percent (20%) of its annual allotment for technology
660 purposes under paragraph (g), a school district may expend not
661 more than twenty percent (20%) of its annual allotment or Twenty
662 Thousand Dollars (\$20,000.00), whichever is greater, for
663 instructional purposes. The State Board of Education may
664 authorize a school district to expend more than said twenty
665 percent (20%) of its annual allotment for instructional purposes
666 if it determines that such expenditures are needed for
667 accreditation purposes.

668 (i) The State Department of Education or the State
669 Board of Education may require that any project commenced pursuant
670 to this act with an estimated project cost of not less than Five
671 Million Dollars (\$5,000,000.00) shall be done only pursuant to
672 program management of the process with respect to design and
673 construction. Any individuals, partnerships, companies or other
674 entities acting as a program manager on behalf of a local school
675 district and performing program management services for projects
676 covered under this subsection shall be approved by the State
677 Department of Education.

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

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

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

