MISSISSIPPI LEGISLATURE

By: Senator(s) Harden

To: Education; Appropriations

REGULAR SESSION 2003

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2395

AN ACT TO AMEND SECTION 37-151-103, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE DEPARTMENT OF EDUCATION TO TRANSFER STATE FUNDS ON DATES OTHER THAN DECEMBER 15TH IF IT IS IN THE BEST INTEREST OF THE SCHOOL DISTRICT; TO AMEND SECTION 37-9-39, MISSISSIPPI CODE OF 1972, TO AUTHORIZE LOCAL SCHOOL DISTRICTS TO ADOPT A POLICY ON THE TIME BASIS FOR PAYING SALARIES AND WAGES TO ITS EMPLOYEES; TO AMEND SECTIONS 37-61-19 AND 37-61-21, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT SCHOOL DISTRICT EXPENDITURES SHALL BE LIMITED TO REVENUE RESOURCES AVAILABLE AND NOT LIMITED TO BUDGET FUNDS AND TO PROVIDE A DATE FOR FINAL BUDGET REVISIONS; TO AMEND SECTION 37-43-24, MISSISSIPPI CODE OF 1972, TO AUTHORIZE AND DIRECT THE STATE DEPARTMENT OF EDUCATION TO PLACE TEXTBOOK, EQUIPMENT AND SUPPLY ORDERS FOR STUDENTS ATTENDING SCHOOLS ADMINISTERED BY THE STATE BOARD OF EDUCATION PRIOR TO THE BEGINNING OF THE FISCAL YEAR FOR WHICH FUNDS ARE APPROPRIATED FOR SUCH PURPOSE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 37-151-103, Mississippi Code of 1972, is amended as follows:

37-151-103. (1) Funds due each school district under the terms of this chapter from the Adequate Education Program Fund shall be paid in the following manner: On the twenty-fifth day of each month, or the next business date after that date, there shall be paid to each school district by electronic funds transfer one-twelfth (1/12) of the funds to which the district is entitled from funds appropriated for the Adequate Education Program Fund. Provided, however, that in December said payments shall be made on December 15th or the next business day after that date. Provided further, that the State Department of Education shall be authorized to pay school districts from the common school fund and the adequate education program fund on a date earlier than provided for by this section if it is determined that it is in the best interest of school districts to do so.
Provided, however, that if the cash balance in the State General Fund is not adequate on the due date to pay the amounts due to all school districts in the state as determined by the State Superintendent of Education, the State Fiscal Officer shall not transfer said funds payable to any school district or districts until money is available to pay the amount due to all districts.

(2) Notwithstanding any provision of this chapter or any other law requiring the number of children in average daily attendance or the average daily attendance of transported children to be determined on the basis of the preceding year, the State Board of Education is hereby authorized and empowered to make proper adjustments in allotments in cases where major changes in the number of children in average daily attendance or the average daily attendance of transported children occurs from one year to another as a result of changes or alterations in the boundaries of school districts, the sending of children from one county or district to another upon a contract basis, the termination or discontinuance of a contract for the sending of children from one county or district to another, a change in or relocation of attendance centers, or for any other reason which would result in a major decrease or increase in the number of children in average daily attendance or the average daily attendance of transported children during the current school year as compared with the preceding year.

(3) In the event of an inordinately large number of absentees in any school district as a result of epidemic, natural disaster, or any concerted activity discouraging school attendance, then in such event school attendance for the purposes of determining average daily attendance under the adequate education program shall be based upon the average daily attendance for the preceding school year for such school district.
SECTION 2. Section 37-9-39, Mississippi Code of 1972, is amended as follows:

37-9-39. Salaries and wages paid to any employee of any school shall be paid on a basis as determined by the local school board of each school district, except for December when salaries or wages shall be paid by the last working day. Salaries or wages shall be paid at a minimum on a monthly basis. Any school employee whose employment ends during a school term, regardless of the reason(s) the employment ended, shall be paid salary or wages only for that portion of the school term that employee has actually worked. Nothing in this statute shall be construed to entitle any employee to payment of salary or wages when no work has been performed. * * *

SECTION 3. Section 37-61-19, Mississippi Code of 1972, is amended as follows:

37-61-19. It shall be the duty of the superintendents of schools or administrative superintendents, and the school boards of all school districts, to limit the expenditure of school funds during the fiscal year to the resources available. It shall be unlawful for any school district to budget expenditures from a fund in excess of the resources available within that fund * * *. Furthermore, it shall be unlawful for any contract to be entered into or any obligation incurred or expenditure made in excess of the resources available * * * for such fiscal year. Any member of the school board, superintendent of schools, or other school official, who shall knowingly enter into any contract, incur any obligation, or make any expenditure in excess of the amount available * * * for the fiscal year shall be personally liable for the amount of such excess. However, no school board member, superintendent or other school official shall be personally liable (a) in the event of any reduction in adequate education program payments by action of the Governor acting through the Department of Finance and Administration, or (b) for claims, damages, awards
or judgments, on account of any wrongful or tortious act or omission or breach of implied term or condition of any warranty or contract; provided, however, that the foregoing immunity provisions shall not be a defense in cases of fraud, criminal action or an intentional breach of fiduciary obligations imposed by statute.

SECTION 4. Section 37-61-21, Mississippi Code of 1972, is amended as follows:

37-61-21. If it should appear to the superintendent of schools or administrative superintendent or the school board of any school district that the amounts to be received from state appropriations, taxation or any other source will be more than the amount estimated in the budget filed and approved, or if it should appear that such amounts shall be less than the amount estimated, the school board of the school district, with assistance from the superintendent, may revise the budget at any time during the fiscal year by increasing or decreasing the fund budget, in proportion to the increase or decrease in the estimated amounts.

If it should appear to the superintendent of schools, or administrative superintendent or the school board of a school district that some function of the budget as filed is in excess of the requirement of that function and that the entire amount budgeted for such function will not be needed for expenditures therefor during the fiscal year, the school board of the school district, with assistance from the superintendent, may transfer resources to and from functions and funds within the budget when and where needed; however, no such transfer shall be made from fund to fund or from function to function which will result in the expenditure of any money for any purpose different from that for which the money was appropriated, allotted, collected or otherwise made available or for a purpose which is not authorized by law. No revision of any budget under the provisions hereof shall be made which will permit a fund expenditure in excess of the resources
available for such purpose. The revised portions of the budgets shall be incorporated in the minutes of the school board by spreading them on the minutes or by attaching them as an addendum. Final budget revisions, pertinent to a fiscal year, shall be approved on or before the date set by the State Board of Education for the school district to submit its financial information for that fiscal year.

SECTION 5. Section 37-43-24, Mississippi Code of 1972, is amended as follows:

37-43-24. (1) This section shall be referred to and may be cited as the "Timely Acquisition of Braille and Large Print Textbooks Act of 2002."

(2) The State Department of Education is hereby authorized and directed to place textbook procurement orders for visually impaired and hearing impaired students in the schools of this state prior to the beginning of the fiscal year for which the expenditure for such order has been authorized by the Legislature. After June 1 of any year, the State Department of Education may order additional books, as needed. In addition, the State Department of Education is authorized and directed to place textbook, equipment and school supply procurement orders for students attending the state supported schools administered by the State Board of Education prior to the beginning of the fiscal year for which the expenditure for such order has been authorized by the Legislature, and may order additional books, equipment and supplies at a later date, as needed. The department shall insure that the appropriate procedures for textbook procurement are followed according to state law and board policy as described in the Textbook Administration Handbook.

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