

By: Senator(s) Harden

To: Education;
Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2395

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

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

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

20 37-151-103. (1) Funds due each school district under the
21 terms of this chapter from the Adequate Education Program Fund
22 shall be paid in the following manner: On the twenty-fifth day of
23 each month, or the next business date after that date, there shall
24 be paid to each school district by electronic funds transfer
25 one-twelfth (1/12) of the funds to which the district is entitled
26 from funds appropriated for the Adequate Education Program Fund.
27 Provided, however, that in December said payments shall be made on
28 December 15th or the next business day after that date. Provided
29 further, that the State Department of Education shall be
30 authorized to pay school districts from the common school fund and
31 the adequate education program fund on a date earlier than
32 provided for by this section if it is determined that it is in the
33 best interest of school districts to do so.



34 Provided, however, that if the cash balance in the State
35 General Fund is not adequate on the due date to pay the amounts
36 due to all school districts in the state as determined by the
37 State Superintendent of Education, the State Fiscal Officer shall
38 not transfer said funds payable to any school district or
39 districts until money is available to pay the amount due to all
40 districts.

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

59 (3) In the event of an inordinately large number of
60 absentees in any school district as a result of epidemic, natural
61 disaster, or any concerted activity discouraging school
62 attendance, then in such event school attendance for the purposes
63 of determining average daily attendance under the adequate
64 education program shall be based upon the average daily attendance
65 for the preceding school year for such school district.



66 **SECTION 2.** Section 37-9-39, Mississippi Code of 1972, is
67 amended as follows:

68 37-9-39. Salaries and wages paid to any employee of any
69 school shall be paid on a basis as determined by the local school
70 board of each school district, except for December when salaries
71 or wages shall be paid by the last working day. Salaries or wages
72 shall be paid at a minimum on a monthly basis. Any school
73 employee whose employment ends during a school term, regardless of
74 the reason(s) the employment ended, shall be paid salary or wages
75 only for that portion of the school term that employee has
76 actually worked. Nothing in this statute shall be construed to
77 entitle any employee to payment of salary or wages when no work
78 has been performed. * * *

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

81 37-61-19. It shall be the duty of the superintendents of
82 schools or administrative superintendents, and the school boards
83 of all school districts, to limit the expenditure of school funds
84 during the fiscal year to the resources available. It shall be
85 unlawful for any school district to budget expenditures from a
86 fund in excess of the resources available within that fund * * *.
87 Furthermore, it shall be unlawful for any contract to be entered
88 into or any obligation incurred or expenditure made in excess of
89 the resources available * * * for such fiscal year. Any member of
90 the school board, superintendent of schools, or other school
91 official, who shall knowingly enter into any contract, incur any
92 obligation, or make any expenditure in excess of the amount
93 available * * * for the fiscal year shall be personally liable for
94 the amount of such excess. However, no school board member,
95 superintendent or other school official shall be personally liable
96 (a) in the event of any reduction in adequate education program
97 payments by action of the Governor acting through the Department
98 of Finance and Administration, or (b) for claims, damages, awards



99 or judgments, on account of any wrongful or tortious act or
100 omission or breach of implied term or condition of any warranty or
101 contract; provided, however, that the foregoing immunity
102 provisions shall not be a defense in cases of fraud, criminal
103 action or an intentional breach of fiduciary obligations imposed
104 by statute.

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

107 37-61-21. If it should appear to the superintendent of
108 schools or administrative superintendent or the school board of
109 any school district that the amounts to be received from state
110 appropriations, taxation or any other source will be more than the
111 amount estimated in the budget filed and approved, or if it should
112 appear that such amounts shall be less than the amount estimated,
113 the school board of the school district, with assistance from the
114 superintendent, may revise the budget at any time during the
115 fiscal year by increasing or decreasing the fund budget, in
116 proportion to the increase or decrease in the estimated amounts.
117 If it should appear to the superintendent of schools, or
118 administrative superintendent or the school board of a school
119 district that some function of the budget as filed is in excess of
120 the requirement of that function and that the entire amount
121 budgeted for such function will not be needed for expenditures
122 therefor during the fiscal year, the school board of the school
123 district, with assistance from the superintendent, may transfer
124 resources to and from functions and funds within the budget when
125 and where needed; however, no such transfer shall be made from
126 fund to fund or from function to function which will result in the
127 expenditure of any money for any purpose different from that for
128 which the money was appropriated, allotted, collected or otherwise
129 made available or for a purpose which is not authorized by law. No
130 revision of any budget under the provisions hereof shall be made
131 which will permit a fund expenditure in excess of the resources



132 available for such purpose. The revised portions of the budgets
133 shall be incorporated in the minutes of the school board by
134 spreading them on the minutes or by attaching them as an addendum.
135 Final budget revisions, pertinent to a fiscal year, shall be
136 approved on or before the date set by the State Board of Education
137 for the school district to submit its financial information for
138 that fiscal year.

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

141 37-43-24. (1) This section shall be referred to and may be
142 cited as the "Timely Acquisition of Braille and Large Print
143 Textbooks Act of 2002."

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

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

