

4/25 4:03pm

Chapter No. 566
13/SS02/R262PS
CRJ / BW/SY

SENATE BILL NO. 2138

Originated in Senate *Liz Welch* Secretary

SENATE BILL NO. 2138

AN ACT TO AMEND SECTIONS 37-9-39 AND 37-151-103, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE TIME OF THE MONTHLY DISTRIBUTION OF ADEQUATE EDUCATION FUNDS TO SCHOOL DISTRICTS AND TO PROVIDE FOR THE TIME OF PAYMENT OF SALARIES OR WAGES TO SCHOOL DISTRICT EMPLOYEES; TO AMEND SECTION 37-9-18, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE BOARD OF EDUCATION TO ISSUE REGULATIONS CONCERNING THE TYPE OF FINANCIAL REPORTS REQUIRED TO BE SUBMITTED BY LOCAL SCHOOL DISTRICTS; TO AMEND SECTION 37-61-33, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT LOCAL SCHOOL BOARDS SHALL REQUIRE THE ISSUANCE OF PROCUREMENT CARDS FOR SUPPLY FUND EXPENDITURES; TO AMEND SECTION 1 OF CHAPTER 484, LAWS OF 2010, AS AMENDED BY SECTION 2 OF CHAPTER 512, LAWS OF 2011, TO EXTEND THE TASK FORCE TO STUDY STRATEGIES FOR SOLVING THE CURRENT TEACHER SHORTAGE IN MISSISSIPPI UNTIL THE FILING OF ITS LEGISLATIVE REPORT IN 2014; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 37-9-39, Mississippi Code of 1972, is amended as follows:

37-9-39. Salary or 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 consistent with the provisions of Section 37-157-103(1), 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 actually worked. Nothing in this section shall be construed to entitle any employee to payment of salary or wages when no work has been performed.

SECTION 2. 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: * * * Two (2) business days prior to the last working day of each month * * * 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. However, in December those payments shall be made on December 15th or the next business day after that date. All school districts shall process a single monthly payroll with electronic settlement of payroll checks secured through direct deposit of net pay for all school district employees. In addition, the State Department of Education may 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 3. Section 37-9-18, Mississippi Code of 1972, is amended as follows:

37-9-18. (1) * * * (a) The State Board of Education shall promulgate rules and regulations concerning the type of financial reports required to be submitted by the superintendent of schools to the local school board, and the frequency with which the reports shall be submitted. The rules and regulations promulgated by the board shall include:

(i) A requirement that the reports be listed as an agenda item for discussion at a regularly scheduled meeting of the board;

(ii) A requirement that the minutes of the board meeting reflect that the reports were discussed;

(iii) A requirement that each board member present be provided a copy of all required reports; and

(iv) A requirement that a copy of all required reports be included in the official minutes of the board meeting at which the reports were discussed.

(b) The State Board of Education is authorized to require school districts to submit any of the required reports to the State Department of Education on a basis determined by the department.

(c) Failure to comply with any of the rules and regulations established by the State Board of Education with regard to reporting requirements shall constitute a violation of the Mississippi Public School Accountability Standards.

(2) The State Auditor shall audit the financial records of school districts in accordance with Section 7-7-211(e). The State Auditor shall give reasonable notice to school districts regarding the times during which the State Auditor will perform such audits. In any fiscal year in which the State Auditor is not scheduled to perform an audit, the school board shall cause all the financial records of the superintendent of schools to be audited in accordance with Section 7-7-211(e). If the school board so elects by resolution adopted each year, the audit shall be performed by the State Auditor. Contracts for the audit of public school districts shall be let by the school board in the manner prescribed by the State Auditor. The audit shall be conducted in accordance with generally accepted auditing standards and generally accepted accounting principles, and the report presented thereon shall be in accordance with generally accepted accounting principles. If the Auditor's opinion on the general purpose financial statements is a disclaimer, as that term is defined by

generally accepted auditing standards, or if the State Auditor determines the existence of serious financial conditions in the district, the State Auditor shall immediately notify the State Board of Education. Upon receiving the notice, the State Superintendent of Public Education shall direct the school district to immediately cease all expenditures until a financial advisor is appointed by the state superintendent. However, if the disclaimer is a result of conditions caused by Hurricane Katrina 2005 and applies to fiscal years 2005 and/or 2006, then the Superintendent of Education may appoint a financial advisor, and may direct the school district to immediately cease all expenditures until a financial advisor is appointed. The financial advisor shall be an agent of the State Board of Education and shall be a certified public accountant or a qualified business officer. The financial advisor shall, with the approval of the State Board of Education:

(a) Approve or disapprove all expenditures and all financial obligations of the district;

(b) Ensure compliance with any statutes and State Board of Education rules or regulations concerning expenditures by school districts;

(c) Review salaries and the number of all district personnel and make recommendations to the local school board of any needed adjustments. Should such recommendations necessitate the reduction in local salary supplement, such recommended

reductions shall be only to the extent which will result in the salaries being comparable to districts similarly situated, as determined by the State Board of Education. The local school board, in considering either a reduction in personnel or a reduction in local supplements, shall not be required to comply with the time limitations prescribed in Sections 37-9-15 and 37-9-105 and, further, shall not be required to comply with Sections 37-19-11 and 37-19-7(1) in regard to reducing local supplements and the number of personnel;

(d) Work with the school district's business office to correct all inappropriate accounting procedures and/or uses of school district funds and to prepare the school district's budget for the next fiscal year;

(e) Report frequently to the State Board of Education on the corrective actions being taken and the progress being made in the school district. The financial advisor shall serve until such time as corrective action and progress is being made in such school district as determined by the State Board of Education with the concurrence of the State Auditor, or until such time as an interim conservator is assigned to such district by the State Board of Education under Section 37-17-6. The school district shall be responsible for all expenses associated with the use of the financial advisor. If the audit report reflects a failure by the school district to meet accreditation standards, the State Board of Education shall proceed under Section 37-17-6; and

(f) If a financial advisor is appointed to a school district in accordance with this subsection and it is determined by the financial advisor and/or any other official of the school district that an audit by a certified public accountant for that district was deficient in any manner, the financial advisor and/or any other official of the school district shall, within thirty (30) days, refer the matter to the State Board of Public Accountancy for follow-up and possible disciplinary action. Any disciplinary action by the State Board of Public Accountancy with regard to the certified public accountant shall, within thirty (30) days after notifying such certified public accountant, be reported to the Office of State Auditor.

(3) (a) When conducting an audit of a public school district, the State Auditor shall test to insure that the school district is complying with the requirements of Section 37-61-33(3)(a)(iii) relating to classroom supply funds. The audit must include a report of all classroom supply funds carried over from previous years. Based upon the audit report, the State Auditor shall compile a report on the compliance or noncompliance by all school districts with the requirements of Section 37-61-33(3)(a)(iii), which report must be submitted to the Chairmen of the Education and Appropriations Committees of the House of Representatives and Senate.

(b) When conducting an audit of a public school district, the State Auditor shall test to insure correct and

appropriate coding at the function level. The audit must include a report showing correct and appropriate functional level expenditure codes in expenditures by the school district. Compliance standards for this audit provision shall be established by the Office of the State Auditor. Based upon the audit report, the State Auditor shall compile a report on the compliance or noncompliance by all public school districts with correct and appropriate coding at the function level, which report must be submitted to the Chairmen of the Education and Appropriations Committees of the House of Representatives and Senate.

(4) In the event the State Auditor does not perform the audit examination, then the audit report of the school district shall be reviewed by the State Auditor for compliance with applicable state laws before final payment is made on the audit by the school board. All financial records, books, vouchers, cancelled checks and other financial records required by law to be kept and maintained in the case of municipalities shall be faithfully kept and maintained in the office of the superintendent of schools under the same provisions and penalties provided by law in the case of municipal officials.

SECTION 4. Section 37-61-33, Mississippi Code of 1972, is amended as follows:

37-61-33. (1) There is created within the State Treasury a special fund to be designated the "Education Enhancement Fund"

into which shall be deposited all the revenues collected pursuant to Sections 27-65-75(7) and (8) and 27-67-31(a) and (b).

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

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

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

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

(d) As a pledge to pay all or a portion of the debt service on debt issued by the school district under Sections

37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302 and 37-41-81, or debt issued by boards of supervisors for agricultural high schools pursuant to Section 37-27-65, if such pledge is accomplished pursuant to a written contract or resolution approved and spread upon the minutes of an official meeting of the district's school board or board of supervisors. The annual grant to such district in any subsequent year during the term of the resolution or contract shall not be reduced below an amount equal to the district's grant amount for the year in which the contract or resolution was adopted. The intent of this provision is to allow school districts to irrevocably pledge a certain, constant stream of revenue as security for long-term obligations issued under the code sections enumerated in this paragraph or as otherwise allowed by law. It is the intent of the Legislature that the provisions of this paragraph shall be cumulative and supplemental to any existing funding programs or other authority conferred upon school districts or school boards. Debt of a district secured by a pledge of sales tax revenue pursuant to this paragraph shall not be subject to any debt limitation contained in the foregoing enumerated code sections.

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

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

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

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

(iii) Nine and sixty-one one-hundredths percent (9.61%) for classroom supplies, instructional materials and equipment, including computers and computer software, to be distributed to all school districts in the proportion that the average daily attendance of each school district bears to the average daily attendance of all school districts within the state. Classroom supply funds shall not be expended for administrative purposes. Local school districts shall allocate classroom supply funds equally among all classroom teachers in the school district.

For purposes of this subparagraph, "teacher" means any employee of the school board of a school district who is required by law to obtain a teacher's license from the State Department of Education and who is assigned to an instructional area of work as defined by the department, but shall not include a federally funded teacher. Two (2) or more teachers may agree to pool their classroom supply funds for the benefit of a school within the district. It is the intent of the Legislature that all classroom teachers shall be involved in the development of a spending plan that addresses individual classroom needs and supports the overall goals of the school regarding supplies, instructional materials, equipment, computers or computer software under the provisions of this subparagraph, including the type, quantity and quality of such supplies, materials and equipment. This plan shall be submitted in writing to the school principal for approval. Classroom supply funds allocated under this subparagraph shall supplement, not replace, other local and state funds available for the same purposes. School districts need not fully expend the funds received under this subparagraph in the year in which they are received, but such funds may be carried forward for expenditure in any succeeding school year. Any individual teacher or group of teachers with an approved spending plan that has not been fully funded need not expend the funds allocated under this subparagraph in the year in which such funds are received. Such funds may be carried forward for expenditure in any subsequent school year in

which the plan is fully funded. However, beginning July 1, 2006, any funds allocated under this subparagraph which are not reserved in an approved spending plan but remain unspent on March 31 of the fiscal year in which the funds were allotted must be utilized by the school where the teacher is employed for instructional supply and equipment purposes. The State Board of Education shall develop and promulgate rules and regulations for the administration of this subparagraph consistent with the above criteria, with particular emphasis on allowing the individual teachers to expend funds as they deem appropriate. Effective with the * * * 2013-2014 school year, the local school board * * * shall require each school to issue procurement cards provided by the Department of Finance and Administration under the provisions of Section 31-7-9(1)(c) for the use of teachers and necessary support personnel in making instructional supply fund expenditures under this section, consistent with the regulations of the Mississippi Department of Finance and Administration pursuant to Section 31-7-9. Such procurement cards shall be issued at the beginning of the school year and shall be issued in equal amounts per teacher determined by the total number of qualifying personnel and the current state appropriation for classroom supplies with the Education Enhancement Fund. Such cards will expire on a pre-determined date at the end of each school year. All unexpended amounts will be carried forward, combined with the following year's allocation of Education Enhancement Fund

instructional supplies funds and reallocated for the following year;

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

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

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

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

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

(5) None of the funds appropriated pursuant to subsection (3) (a) of this section shall be used to reduce the state's General

Fund appropriation for the categories listed in an amount below the following amounts:

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

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

SECTION 5. Section 1 of Chapter 484, Laws of 2010, as amended by Section 2 of Chapter 512, Laws of 2011, is amended as follows:

Section 1. (1) The Task Force to Study Strategies for Solving the Current Teacher Shortage in Mississippi is created to study and make recommendations to the Governor and the Legislature regarding teacher attrition, retention and growth in our state. The task force shall study and make recommendations on the following key areas:

- (a) Teacher salaries;
- (b) Future educators;
- (c) Working conditions of educators;
- (d) Relevant professional development for educators;
- (e) Adequate and equitable resources and support for educators;

- (f) Safety and respect in the schools;
- (g) Parental and community involvement in the schools;
- (h) The teacher salary scale under the Mississippi

Adequate Education Program;

- (i) Step increases and annual increments under the teacher salary scale;
- (j) Merit pay for teachers;
- (k) Teacher pay for failing schools;
- (l) Local supplements to teacher salaries;
- (m) Nonadequate education program funded teachers; and
- (n) Adequate and equitable resources and support for teacher salaries.

(2) Members of the task force shall be composed of the following:

- (a) The State Superintendent of Public Education, or his designee;
- (b) One (1) person appointed by the Governor;
- (c) The Chairmen of the Senate and House Education Committees;
- (d) The Chairmen of the Senate and House Universities and Colleges Committees;
- (e) The Chairmen of the Senate and House Appropriations Committees;
- (f) Three (3) classroom teachers appointed by the State Board of Education, one (1) to be an elementary teacher, one (1)

to be a middle school teacher and one (1) to be a high school teacher;

(g) One (1) assistant teacher appointed by the Mississippi Association of Educators;

(h) One (1) principal appointed by the State Board of Education;

(i) One (1) local school superintendent appointed by the Mississippi Association of School Superintendents;

(j) Two (2) deans of the College of Education of a Mississippi public or private university appointed by the Board of Trustees of State Institutions of Higher Learning;

(k) The Commissioner of Higher Education, or his designee; and

(l) The Executive Director of the State Board for Community and Junior Colleges, or his designee.

Appointments to the task force shall be made within thirty (30) days after the effective date of this act. The task force shall hold its first meeting not later than August 1, 2011, with the date, time and location of the meeting to be designated by the State Superintendent of Education. At the first meeting the task force shall elect from among its membership a chairman, vice chairman and any other officers determined to be necessary, who shall organize the task force for business and determine the date and locations of subsequent meetings.

Members of the task force shall serve without compensation for their services, but may be reimbursed for necessary expense in attending to the actual business of the task force from any available funds, as provided by law. Legislative members shall be reimbursed from the contingent expense fund of their respective house, but only with the specific approval of the Rules Committee of the respective house. The task force, by approval of a majority of its membership, may accept funds that may be donated or provided in the form of grants from public or private sources.

(3) Any department, agency or court of this state, at the request of the chairman of the task force, shall provide staff and other support necessary for the task force to perform its duties.

(4) Upon presentation of its report to the Governor and the * * * 2014 Regular Session of the Legislature, the task force shall be dissolved.

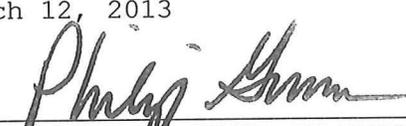
SECTION 6. This act shall take effect and be in force from and after July 1, 2013.

PASSED BY THE SENATE
February 13, 2013



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 12, 2013



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

4-25-13
4:53pm