

## REPORT OF CONFERENCE COMMITTEE

**MR. PRESIDENT AND MR. SPEAKER:**

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2658: Public school licensed and nonlicensed employees; require criminal records background checks for applicants.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

15 SECTION 1. Section 37-9-17, Mississippi Code of 1972, is  
16 amended as follows:

17 37-9-17. (1) On or before April 1 of each year, the  
18 principal of each school shall recommend to the superintendent of  
19 the school district the licensed employees or noninstructional  
20 employees to be employed for the school involved except those  
21 licensed employees or noninstructional employees who have been  
22 previously employed and who have a contract valid for the ensuing  
23 scholastic year. If such recommendations meet with the approval  
24 of the superintendent, the superintendent shall recommend the  
25 employment of such licensed employees or noninstructional  
26 employees to the school board, and, unless good reason to the  
27 contrary exists, the board shall elect the employees so  
28 recommended. If, for any reason, the school board shall decline  
29 to elect any employee so recommended, additional recommendations  
30 for the places to be filled shall be made by the principal to the  
31 superintendent and then by the superintendent to the school board  
32 as provided above. The school board of any school district shall  
33 be authorized to designate a personnel supervisor or another  
34 principal employed by the school district to recommend to the  
35 superintendent licensed employees or noninstructional employees;  
36 however, this authorization shall be restricted to no more than  
37 two (2) positions for each employment period for each school in

38 the school district. Any noninstructional employee employed upon  
39 the recommendation of a personnel supervisor or another principal  
40 employed by the school district must have been employed by the  
41 school district at the time the superintendent was elected or  
42 appointed to office; a noninstructional employee employed under  
43 this authorization may not be paid compensation in excess of the  
44 statewide average compensation for such noninstructional position  
45 with comparable experience, as established by the State Department  
46 of Education. The school board of any school district shall be  
47 authorized to designate a personnel supervisor or another  
48 principal employed by the school district to accept the  
49 recommendations of principals or their designees for licensed  
50 employees or noninstructional employees and to transmit approved  
51 recommendations to the board; however, this authorization shall be  
52 restricted to no more than two (2) positions for each employment  
53 period for each school in the school district.

54 When the licensed employees have been elected as provided in  
55 the preceding paragraph, the superintendent of the district shall  
56 enter into a contract with such persons in the manner provided in  
57 this chapter.

58 If, at the commencement of the scholastic year, any licensed  
59 employee shall present to the superintendent a license of a higher  
60 grade than that specified in such individual's contract, such  
61 individual may, if funds are available from minimum education  
62 program funds of the district, or from district funds, be paid  
63 from such funds the amount to which such higher grade license  
64 would have entitled the individual, had the license been held at  
65 the time the contract was executed.

66 (2) The superintendent of the school district shall require  
67 that current criminal records background checks and current child  
68 abuse registry checks are obtained, and that such criminal record  
69 information and registry checks are on file for any new hires  
70 applying for employment as a licensed or nonlicensed employee at a  
71 school not previously employed in such school district prior to  
72 July 1, 2000. In order to determine the applicant's suitability  
73 for employment, the applicant shall be fingerprinted. If no

74 disqualifying record is identified at the state level, the  
75 fingerprints shall be forwarded by the Department of Public Safety  
76 to the FBI for a national criminal history record check. The fee  
77 for such fingerprinting and criminal history record check shall be  
78 paid by the applicant, not to exceed Fifty Dollars (\$50.00);  
79 however, the school board of the school district, in its  
80 discretion, may elect to pay the fee for the fingerprinting and  
81 criminal history record check on behalf of any applicant. Under  
82 no circumstances shall a school district superintendent, school  
83 board member or any individual other than the subject of the  
84 criminal history record checks disseminate information received  
85 through any such checks except insofar as required to fulfill the  
86 purposes of this section.

87 (3) If such fingerprinting or criminal record checks  
88 disclose a felony conviction, guilty plea or plea of nolo  
89 contendere to a felony of possession or sale of drugs, murder,  
90 manslaughter, armed robbery, rape, sexual battery, sex offense  
91 listed in Section 45-31-3(I), child abuse, arson, grand larceny,  
92 burglary, gratification of lust or aggravated assault which has  
93 not been reversed on appeal or for which a pardon has not been  
94 granted, the new hire shall not be eligible to be employed at such  
95 school. Any employment contract for a new hire executed by the  
96 superintendent of the local school district shall be voidable if  
97 the new hire receives a disqualifying criminal record check.  
98 However, the school board may, in its discretion, allow any  
99 applicant aggrieved by the employment decision under this section  
100 to appear before the board, or before a hearing officer designated  
101 for such purpose, to show mitigating circumstances which may exist  
102 and allow the new hire to be employed at the school. The school  
103 board may grant waivers for such mitigating circumstances, which  
104 shall include, but not be limited to: (a) age at which the crime  
105 was committed; (b) circumstances surrounding the crime; (c) length  
106 of time since the conviction and criminal history since the  
107 conviction; (d) work history; (e) current employment and character  
108 references; (f) other evidence demonstrating the ability of the  
109 person to perform the employment responsibilities competently and

110 that the person does not pose a threat to the health or safety of  
111 the children at the school.

112 (4) No school district or school district employee shall be  
113 held liable in any employment discrimination suit in which an  
114 allegation of discrimination is made regarding an employment  
115 decision authorized under this Section 37-9-17.

116 (5) Subsections (2) through (5) of this section shall be  
117 repealed on June 30, 2002.

118 SECTION 2. This act shall take effect and be in force from  
119 and after July 1, 2000.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 37-9-17, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE FINGERPRINTING AND CRIMINAL RECORDS BACKGROUND CHECKS FOR  
3 NEW PUBLIC SCHOOL LICENSED AND NONLICENSED EMPLOYMENT APPLICANTS,  
4 TO PROHIBIT THE EMPLOYMENT OF PERSONS DETERMINED THROUGH SUCH  
5 FINGERPRINTING OR BACKGROUND CHECKS TO BE GUILTY OF CERTAIN  
6 FELONIES, TO AUTHORIZE WAIVERS FOR MITIGATING CIRCUMSTANCES AND TO  
7 PROVIDE IMMUNITY TO SCHOOL DISTRICTS AND SCHOOL DISTRICT EMPLOYEES  
8 REGARDING CERTAIN EMPLOYMENT DECISIONS, TO AUTHORIZE THE SCHOOL  
9 BOARD OF ANY SCHOOL DISTRICT TO DESIGNATE A PERSONNEL SUPERVISOR  
10 OR ANOTHER PRINCIPAL EMPLOYED BY THE SCHOOL DISTRICT TO MAKE OR

11ACCEPT RECOMMENDATIONS FOR THE EMPLOYMENT OF NONINSTRUCTIONAL  
12EMPLOYEES AND TO TRANSMIT APPROVED RECOMMENDATIONS TO THE BOARD;  
13AND FOR RELATED PURPOSES.

CONFEREES FOR THE SENATE

**X** \_\_\_\_\_  
Alice Harden

**X** \_\_\_\_\_  
Mike Chaney

**X** \_\_\_\_\_  
Sampson Jackson II

CONFEREES FOR THE HOUSE

**X** \_\_\_\_\_  
Joseph L. Warren

**X** \_\_\_\_\_  
John R. Reeves

**X** \_\_\_\_\_  
Randy Pierce