AN ACT TO AMEND THE SCHOOL EMPLOYMENT PROCEDURES LAW OF 1977;
TO AMEND SECTION 37-9-101, MISSISSIPPI CODE OF 1972, TO REQUIRE
ALL DECISIONS OF NONREEMPLOYMENT OF SCHOOL EMPLOYEES TO BE BASED
ON GOOD CAUSE WITH RESPECT TO EMPLOYMENT; TO AMEND SECTION
37-9-103, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE SCHOOL
EMPLOYMENT PROCEDURES LAW SHALL APPLY TO ALL PERSONNEL EMPLOYED BY
A SCHOOL DISTRICT; TO AMEND SECTION 37-9-105, MISSISSIPPI CODE OF
1972, TO REQUIRE THE WRITTEN NOTICE OF A PROPOSED NONRENEWAL TO
STATE THE SPECIFIC REASONS FOR NONRENEWAL AND TO INCLUDE A LIST OF
WITNESSES AND EVIDENCE; TO AMEND SECTION 37-9-109, MISSISSIPPI
CODE OF 1972, TO PRESCRIBE THE RIGHTS OF EMPLOYEES AT HEARINGS; TO
AMEND SECTION 37-9-111, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
THE APPOINTMENT OF A HEARING OFFICER AT ANY SUCH HEARING ON THE
NONREEMPLOYMENT OF A SCHOOL EMPLOYEE, TO PROVIDE FOR THE
PRESENTATION OF EVIDENCE AT THE HEARING, AND TO PRESCRIBE THE
BURDEN OF PROOF AT THE HEARING FOR UPHOLDING THE PROPOSED
NONREEMPLOYMENT; TO AMEND SECTION 37-9-113, MISSISSIPPI CODE OF
1972, TO ESTABLISH THE STANDARD OF JUDICIAL REVIEW OF THE SCHOOL
BOARD ACTION ON APPEAL IN SUCH CASES; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 37-9-101, Mississippi Code of 1972, is
amended as follows:

37-9-101. Sections 37-9-101 through 37-9-113 shall be known
as and cited as the "School Employment Procedures Law of 1977."

It is the intent of the Legislature to: provide procedural
and substantive due process of law for nonreemployment and to
require that all decisions of nonreemployment be based upon just
cause with respect to employment in the school district; establish
procedures for providing public school employees with notice of
the reasons for not offering an employee a renewal of his
contract; provide an opportunity for the employee to
present matters in extenuation or exculpation; and provide the
employee with an opportunity for a hearing in order to enable the
board to determine whether the recommendation of nonemployment is
a proper employment decision and not contrary to law, and not to
establish a system of tenure * * *.

SECTION 2. Section 37-9-103, Mississippi Code of 1972, is
amended as follows:

37-9-103. As used in Sections 37-9-101 through 37-9-113 the
word "employee" shall include any teacher, principal,
superintendent elected by a board of trustees or other * * * personnel employed by any public school district of this
state * * *.

SECTION 3. Section 37-9-105, Mississippi Code of 1972, is
amended as follows:

37-9-105. In the event that a recommendation is made by the superintendent of a school district not to offer an employee a renewal contract for a successive year, written notice of the proposed nonrenewal stating the specific reasons for the proposed
tenure and including a list of witnesses and/or documentary
evidence substantiating such reasons shall be given within seven
(7) days of the date when the recommendation to reemploy would have been made under * * * Sections 37-9-15 and 37-9-17, * * * but in any event no later than the following:

(a) If the employee is a superintendent, the school district shall give notice of nonreemployment on or before February 1;

(b) If the employee is a principal, the school district shall give notice of nonreemployment on or before March 1;

(c) If the employee is a teacher or other professional educator, the school district shall give notice of nonreemployment on or before April 8.

* * *

SECTION 4. Section 37-9-109, Mississippi Code of 1972, is
amended as follows:

37-9-109. An employee who has received notice under Section 37-9-105, upon written request, shall be entitled to:
(a) Written notice of the specific reasons for nonreemployment, together with a summary of the factual basis therefor, a list of witnesses and a copy of any and all documentary evidence substantiating such reasons, which notice shall be given at least ten (10) days prior to any hearing;

(b) An opportunity for a hearing at which to present matters relevant to the reasons given for the proposed nonreemployment and at which the decision will be based solely upon the evidence presented specifically addressing the reasons presented in the notice made under Section 37-9-105, and any reasons alleged by the employee to be the reason for nonreemployment;

(c) Receive a fair and impartial hearing before the board or hearing officer;

(d) Be represented by legal counsel or a representative of the employee's choice, at his own expense.

If the employee does not request a hearing, the decision of the board with regard to the reemployment of the employee shall be final.

SECTION 5. Section 37-9-111, Mississippi Code of 1972, is amended as follows:

37-9-111. (1) The school board, upon request for a hearing from an employee under the terms of Sections 37-9-101 through 37-9-113, shall set the time, place and date of such hearing and notify the employee in writing of same. The date shall be set not sooner than five (5) days nor later than thirty (30) days from the date of the request, unless otherwise agreed. The hearing may be held before the board or before a hearing officer appointed for such purpose by the board, either from among its own membership * * * or some other qualified and impartial person who is not an employee, school board member or school board attorney of a public school district.
(2) The employee shall be afforded an opportunity to present matters at the hearing relevant to the reasons given for the proposed nonreemployment and to the reasons the employee alleges to be the reasons for nonreemployment. The employee also shall be afforded an opportunity to be represented by counsel or a representative of the employee's choice at such a hearing. Such hearing shall be conducted in such a manner as to afford the employee a fair and reasonable opportunity to present witnesses and other evidence pertinent to the issues in his behalf and to cross-examine witnesses against the employee.

(3) The board shall cause to be made stenographic notes of the proceedings. In the event of a judicial appeal of the board's decision, the entire expense of the transcript and notes shall be assessed as court costs.

(4) The board shall review the matters presented before it, or, if the hearing is conducted by a hearing officer, the record of the proceedings and, based solely thereon, conclude whether the proposed nonreemployment is a proper employment decision, for just cause and based solely upon the evidence presented specifically addressing the reasons presented in the notice made under Section 37-9-105. The board shall notify the employee in writing of its final decision and reasons therefor. Such notification shall be within thirty (30) days of the conclusion of the hearing if the hearing is conducted by a hearing officer and within ten (10) days of the conclusion of the hearing if the hearing is initially conducted by the board. If the matter is heard before a hearing officer, the board shall also grant the employee the opportunity to appear before the board to present a statement in his own behalf, either in person or by his attorney, prior to a final decision by the board.

(5) In conducting a hearing, the board or hearing officer shall not be bound by common law or by statutory rules of evidence or by technical or formal rules of procedure except as provided in
Sections 37-9-101 through 37-9-113, but may conduct such hearing in such manner as best to ascertain the rights of the parties; however, hearsay evidence, if admitted, shall not be the sole basis for the determination of facts by the board or hearing officer. The burden of proof shall be on the employer to provide evidence to substantiate the specific reasons for nonreemployment presented in the notice made under Section 37-9-105.

(6) In the event the decision of the school board is in favor of the employee, the board shall have the authority to order the execution of a contract with the employee for an additional period of one (1) year.

(7) For purposes of conducting hearings under Sections 37-9-101 through 37-9-113, the board or hearing officer shall have the authority to issue subpoenas for witnesses and to compel their attendance and the giving of evidence. Any expense connected therewith shall be borne by the party requesting the subpoenas, which shall include an appearance fee for each witness so subpoenaed not inconsistent with state laws governing payments to witnesses. In the event it is necessary to enforce or to quash a subpoena issued to compel the attendance of a witness, application shall be made with the chancery court of the county where the school board is located.

SECTION 6. Section 37-9-113, Mississippi Code of 1972, is amended as follows:

37-9-113. (1) Any employee aggrieved by a final decision of the school board is entitled to judicial review of the decision, as provided for in this section.

(2) An appeal may be taken by such employee to the chancery court of the judicial district in which the school district is located, by filing a petition with the clerk of that court and executing and filing bond payable to the school board with sufficient sureties, in the penalty of not less than Two Hundred
Dollars ($200.00), conditioned upon the payment of all of the costs of appeal, within twenty (20) days of the receipt of the final decision of the board.

(3) The scope of review of the chancery court in such cases shall be limited to a review of the record made before the school board or hearing officer to determine if the action of the school board is unlawful for the reason that it was:

(a) Not supported by a preponderance of the evidence;
(b) Arbitrary or capricious; or
(c) In violation of some statutory or constitutional right of the employee.

* * *

(4) Any party aggrieved by action of the chancery court may appeal to the Supreme Court in the manner provided by law.

SECTION 7. This act shall take effect and be in force from and after July 1, 2001.