

## Senate Amendments to House Bill No. 657

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

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

26           **SECTION 1.** Section 37-7-301, Mississippi Code of 1972, is  
27 amended as follows:

28           37-7-301. The school boards of all school districts shall  
29 have the following powers, authority and duties in addition to all  
30 others imposed or granted by law, to wit:

31           (a) To organize and operate the schools of the district  
32 and to make such division between the high school grades and  
33 elementary grades as, in their judgment, will serve the best  
34 interests of the school;

35           (b) To introduce public school music, art, manual  
36 training and other special subjects into either the elementary or  
37 high school grades, as the board shall deem proper;

38           (c) To be the custodians of real and personal school  
39 property and to manage, control and care for same, both during the  
40 school term and during vacation;

41           (d) To have responsibility for the erection, repairing  
42 and equipping of school facilities and the making of necessary  
43 school improvements;

44           (e) To suspend or to expel a pupil or to change the  
45 placement of a pupil to the school district's alternative school  
46 or home-bound program for misconduct in the school or on school  
47 property, as defined in Section 37-11-29, on the road to and from  
48 school, or at any school-related activity or event, or for conduct  
49 occurring on property other than school property or other than at  
50 a school-related activity or event when such conduct by a pupil,  
51 in the determination of the school superintendent or principal,

52 renders that pupil's presence in the classroom a disruption to the  
53 educational environment of the school or a detriment to the best  
54 interest and welfare of the pupils and teacher of such class as a  
55 whole, and to delegate such authority to the appropriate officials  
56 of the school district;

57 (f) To visit schools in the district, in their  
58 discretion, in a body for the purpose of determining what can be  
59 done for the improvement of the school in a general way;

60 (g) To support, within reasonable limits, the  
61 superintendent, principal and teachers where necessary for the  
62 proper discipline of the school;

63 (h) To exclude from the schools students with what  
64 appears to be infectious or contagious diseases; provided,  
65 however, such student may be allowed to return to school upon  
66 presenting a certificate from a public health officer, duly  
67 licensed physician or nurse practitioner that the student is free  
68 from such disease;

69 (i) To require those vaccinations specified by the  
70 State Health Officer as provided in Section 41-23-37, Mississippi  
71 Code of 1972;

72 (j) To see that all necessary utilities and services  
73 are provided in the schools at all times when same are needed;

74 (k) To authorize the use of the school buildings and  
75 grounds for the holding of public meetings and gatherings of the  
76 people under such regulations as may be prescribed by said board;

77 (l) To prescribe and enforce rules and regulations not  
78 inconsistent with law or with the regulations of the State Board  
79 of Education for their own government and for the government of  
80 the schools, and to transact their business at regular and special  
81 meetings called and held in the manner provided by law;

82 (m) To maintain and operate all of the schools under  
83 their control for such length of time during the year as may be  
84 required;

85 (n) To enforce in the schools the courses of study and  
86 the use of the textbooks prescribed by the proper authorities;

87           (o) To make orders directed to the superintendent of  
88 schools for the issuance of pay certificates for lawful purposes  
89 on any available funds of the district and to have full control of  
90 the receipt, distribution, allotment and disbursement of all funds  
91 provided for the support and operation of the schools of such  
92 school district whether such funds be derived from state  
93 appropriations, local ad valorem tax collections, or otherwise;

94           (p) To select all school district personnel in the  
95 manner provided by law, and to provide for such employee fringe  
96 benefit programs, including accident reimbursement plans, as may  
97 be deemed necessary and appropriate by the board;

98           (q) To provide athletic programs and other school  
99 activities and to regulate the establishment and operation of such  
100 programs and activities;

101           (r) To join, in their discretion, any association of  
102 school boards and other public school-related organizations, and  
103 to pay from local funds other than minimum foundation funds, any  
104 membership dues;

105           (s) To expend local school activity funds, or other  
106 available school district funds, other than minimum education  
107 program funds, for the purposes prescribed under this paragraph.  
108 "Activity funds" shall mean all funds received by school officials  
109 in all school districts paid or collected to participate in any  
110 school activity, such activity being part of the school program  
111 and partially financed with public funds or supplemented by public  
112 funds. The term "activity funds" shall not include any funds  
113 raised and/or expended by any organization unless commingled in a  
114 bank account with existing activity funds, regardless of whether  
115 the funds were raised by school employees or received by school  
116 employees during school hours or using school facilities, and  
117 regardless of whether a school employee exercises influence over  
118 the expenditure or disposition of such funds. Organizations shall  
119 not be required to make any payment to any school for the use of  
120 any school facility if, in the discretion of the local school  
121 governing board, the organization's function shall be deemed to be

122 beneficial to the official or extracurricular programs of the  
123 school. For the purposes of this provision, the term  
124 "organization" shall not include any organization subject to the  
125 control of the local school governing board. Activity funds may  
126 only be expended for any necessary expenses or travel costs,  
127 including advances, incurred by students and their chaperons in  
128 attending any in-state or out-of-state school-related programs,  
129 conventions or seminars and/or any commodities, equipment, travel  
130 expenses, purchased services or school supplies which the local  
131 school governing board, in its discretion, shall deem beneficial  
132 to the official or extracurricular programs of the district,  
133 including items which may subsequently become the personal  
134 property of individuals, including yearbooks, athletic apparel,  
135 book covers and trophies. Activity funds may be used to pay  
136 travel expenses of school district personnel. The local school  
137 governing board shall be authorized and empowered to promulgate  
138 rules and regulations specifically designating for what purposes  
139 school activity funds may be expended. The local school governing  
140 board shall provide (i) that such school activity funds shall be  
141 maintained and expended by the principal of the school generating  
142 the funds in individual bank accounts, or (ii) that such school  
143 activity funds shall be maintained and expended by the  
144 superintendent of schools in a central depository approved by the  
145 board. The local school governing board shall provide that such  
146 school activity funds be audited as part of the annual audit  
147 required in Section 37-9-18. The State Auditor shall prescribe a  
148 uniform system of accounting and financial reporting for all  
149 school activity fund transactions;

150           (t) To contract, on a shared savings, lease or  
151 lease-purchase basis, for energy efficiency services and/or  
152 equipment as provided for in Section 31-7-14, not to exceed ten  
153 (10) years;

154           (u) To maintain accounts and issue pay certificates on  
155 school food service bank accounts;

156 (v) (i) To lease a school building from an individual,  
157 partnership, nonprofit corporation or a private for-profit  
158 corporation for the use of such school district, and to expend  
159 funds therefor as may be available from any nonminimum program  
160 sources. The school board of the school district desiring to  
161 lease a school building shall declare by resolution that a need  
162 exists for a school building and that the school district cannot  
163 provide the necessary funds to pay the cost or its proportionate  
164 share of the cost of a school building required to meet the  
165 present needs. The resolution so adopted by the school board  
166 shall be published once each week for three (3) consecutive weeks  
167 in a newspaper having a general circulation in the school district  
168 involved, with the first publication thereof to be made not less  
169 than thirty (30) days prior to the date upon which the school  
170 board is to act on the question of leasing a school building. If  
171 no petition requesting an election is filed prior to such meeting  
172 as hereinafter provided, then the school board may, by resolution  
173 spread upon its minutes, proceed to lease a school building. If  
174 at any time prior to said meeting a petition signed by not less  
175 than twenty percent (20%) or fifteen hundred (1500), whichever is  
176 less, of the qualified electors of the school district involved  
177 shall be filed with the school board requesting that an election  
178 be called on the question, then the school board shall, not later  
179 than the next regular meeting, adopt a resolution calling an  
180 election to be held within such school district upon the question  
181 of authorizing the school board to lease a school building. Such  
182 election shall be called and held, and notice thereof shall be  
183 given, in the same manner for elections upon the questions of the  
184 issuance of the bonds of school districts, and the results thereof  
185 shall be certified to the school board. If at least three-fifths  
186 (3/5) of the qualified electors of the school district who voted  
187 in such election shall vote in favor of the leasing of a school  
188 building, then the school board shall proceed to lease a school  
189 building. The term of the lease contract shall not exceed twenty  
190 (20) years, and the total cost of such lease shall be either the

191 amount of the lowest and best bid accepted by the school board  
192 after advertisement for bids or an amount not to exceed the  
193 current fair market value of the lease as determined by the  
194 averaging of at least two (2) appraisals by certified general  
195 appraisers licensed by the State of Mississippi. The term "school  
196 building" as used in this item (v) shall be construed to mean any  
197 building or buildings used for classroom purposes in connection  
198 with the operation of schools and shall include the site therefor,  
199 necessary support facilities, and the equipment thereof and  
200 appurtenances thereto such as heating facilities, water supply,  
201 sewage disposal, landscaping, walks, drives and playgrounds. The  
202 term "lease" as used in this item (v)(i) may include a  
203 lease/purchase contract;

204                   (ii) If two (2) or more school districts propose  
205 to enter into a lease contract jointly, then joint meetings of the  
206 school boards having control may be held but no action taken shall  
207 be binding on any such school district unless the question of  
208 leasing a school building is approved in each participating school  
209 district under the procedure hereinabove set forth in item (v)(i).  
210 All of the provisions of item (v)(i) regarding the term and amount  
211 of the lease contract shall apply to the school boards of school  
212 districts acting jointly. Any lease contract executed by two (2)  
213 or more school districts as joint lessees shall set out the amount  
214 of the aggregate lease rental to be paid by each, which may be  
215 agreed upon, but there shall be no right of occupancy by any  
216 lessee unless the aggregate rental is paid as stipulated in the  
217 lease contract. All rights of joint lessees under the lease  
218 contract shall be in proportion to the amount of lease rental paid  
219 by each;

220                   (w) To employ all noninstructional and noncertificated  
221 employees and fix the duties and compensation of such personnel  
222 deemed necessary pursuant to the recommendation of the  
223 superintendent of schools;

224                   (x) To employ and fix the duties and compensation of  
225 such legal counsel as deemed necessary;

226           (y) Subject to rules and regulations of the State Board  
227 of Education, to purchase, own and operate trucks, vans and other  
228 motor vehicles, which shall bear the proper identification  
229 required by law;

230           (z) To expend funds for the payment of substitute  
231 teachers and to adopt reasonable regulations for the employment  
232 and compensation of such substitute teachers;

233           (aa) To acquire in its own name by purchase all real  
234 property which shall be necessary and desirable in connection with  
235 the construction, renovation or improvement of any public school  
236 building or structure. Whenever the purchase price for such real  
237 property is greater than Fifty Thousand Dollars (\$50,000.00), the  
238 school board shall not purchase the property for an amount  
239 exceeding the fair market value of such property as determined by  
240 the average of at least two (2) independent appraisals by  
241 certified general appraisers licensed by the State of Mississippi.  
242 If the board shall be unable to agree with the owner of any such  
243 real property in connection with any such project, the board shall  
244 have the power and authority to acquire any such real property by  
245 condemnation proceedings pursuant to Section 11-27-1 et seq.,  
246 Mississippi Code of 1972, and for such purpose, the right of  
247 eminent domain is hereby conferred upon and vested in said board.  
248 Provided further, that the local school board is authorized to  
249 grant an easement for ingress and egress over sixteenth section  
250 land or lieu land in exchange for a similar easement upon  
251 adjoining land where the exchange of easements affords substantial  
252 benefit to the sixteenth section land; provided, however, the  
253 exchange must be based upon values as determined by a competent  
254 appraiser, with any differential in value to be adjusted by cash  
255 payment. Any easement rights granted over sixteenth section land  
256 under such authority shall terminate when the easement ceases to  
257 be used for its stated purpose. No sixteenth section or lieu land  
258 which is subject to an existing lease shall be burdened by any  
259 such easement except by consent of the lessee or unless the school

260 district shall acquire the unexpired leasehold interest affected  
261 by the easement;

262 (bb) To charge reasonable fees related to the  
263 educational programs of the district, in the manner prescribed in  
264 Section 37-7-335;

265 (cc) Subject to rules and regulations of the State  
266 Board of Education, to purchase relocatable classrooms for the use  
267 of such school district, in the manner prescribed in Section  
268 37-1-13;

269 (dd) Enter into contracts or agreements with other  
270 school districts, political subdivisions or governmental entities  
271 to carry out one or more of the powers or duties of the school  
272 board, or to allow more efficient utilization of limited resources  
273 for providing services to the public;

274 (ee) To provide for in-service training for employees  
275 of the district. Until June 30, 1994, the school boards may  
276 designate two (2) days of the minimum school term, as defined in  
277 Section 37-19-1, for employee in-service training for  
278 implementation of the new statewide testing system as developed by  
279 the State Board of Education. Such designation shall be subject  
280 to approval by the State Board of Education pursuant to uniform  
281 rules and regulations;

282 (ff) As part of their duties to prescribe the use of  
283 textbooks, to provide that parents and legal guardians shall be  
284 responsible for the textbooks and for the compensation to the  
285 school district for any books which are not returned to the proper  
286 schools upon the withdrawal of their dependent child. If a  
287 textbook is lost or not returned by any student who drops out of  
288 the public school district, the parent or legal guardian shall  
289 also compensate the school district for the fair market value of  
290 the textbooks;

291 (gg) To conduct fund-raising activities on behalf of  
292 the school district that the local school board, in its  
293 discretion, deems appropriate or beneficial to the official or  
294 extracurricular programs of the district; provided that:



295 (i) Any proceeds of the fund-raising activities  
296 shall be treated as "activity funds" and shall be accounted for as  
297 are other activity funds under this section; and

298 (ii) Fund-raising activities conducted or  
299 authorized by the board for the sale of school pictures, the  
300 rental of caps and gowns or the sale of graduation invitations for  
301 which the school board receives a commission, rebate or fee shall  
302 contain a disclosure statement advising that a portion of the  
303 proceeds of the sales or rentals shall be contributed to the  
304 student activity fund;

305 (hh) To allow individual lessons for music, art and  
306 other curriculum-related activities for academic credit or  
307 nonacademic credit during school hours and using school equipment  
308 and facilities, subject to uniform rules and regulations adopted  
309 by the school board;

310 (ii) To charge reasonable fees for participating in an  
311 extracurricular activity for academic or nonacademic credit for  
312 necessary and required equipment such as safety equipment, band  
313 instruments and uniforms;

314 (jj) To conduct or participate in any fund-raising  
315 activities on behalf of or in connection with a tax-exempt  
316 charitable organization;

317 (kk) To exercise such powers as may be reasonably  
318 necessary to carry out the provisions of this section; \* \* \*

319 (ll) To expend funds for the services of nonprofit arts  
320 organizations or other such nonprofit organizations who provide  
321 performances or other services for the students of the school  
322 district;

323 (mm) To expend federal No Child Left Behind Act funds,  
324 or any other available nonstate source funds that are expressly  
325 designated and authorized for that use, to pay training,  
326 educational expenses, incentives and salary supplements to  
327 employees of local school districts; except that incentives shall  
328 not be considered part of the local supplement as defined in  
329 Section 37-151-5(o), nor shall incentives be considered part of

330 the local supplement paid to an individual teacher for the  
331 purposes of Section 37-19-7(1);

332 (nn) To use any available funds, not appropriated or  
333 designated for any other purpose, for reimbursement to the  
334 state-licensed employees from both in state and out of state, who  
335 enter into a contract for employment in a school district, for the  
336 expense of moving when the employment necessitates the relocation  
337 of the licensed employee to a different geographical area than  
338 that in which the licensed employee resides before entering into  
339 the contract. The reimbursement shall not exceed One Thousand  
340 Dollars (\$1,000.00) for the documented actual expenses incurred in  
341 the course of relocating, including the expense of any  
342 professional moving company or persons employed to assist with the  
343 move, rented moving vehicles or equipment, mileage in the amount  
344 authorized for county and municipal employees under Section  
345 25-3-41 if the licensed employee used his personal vehicle or  
346 vehicles for the move, meals and such other expenses associated  
347 with the relocation. No licensed employee may be reimbursed for  
348 moving expenses under this section on more than one (1) occasion  
349 by the same school district. Nothing in this section shall be  
350 construed to require the actual residence to which the licensed  
351 employee relocates to be within the boundaries of the school  
352 district that has executed a contract for employment in order for  
353 the licensed employee to be eligible for reimbursement for the  
354 moving expenses. However, the licensed employee must relocate  
355 within the boundaries of the State of Mississippi. Any individual  
356 receiving relocation assistance through the Critical Teacher  
357 Shortage Act as provided in Section 37-159-5 shall not be eligible  
358 to receive additional relocation funds as authorized in this  
359 paragraph;

360 (oo) To use any available funds, not appropriated or  
361 designated for any other purpose, to reimburse persons who  
362 interview for employment as a licensed employee with the district  
363 for the mileage and other actual expenses incurred in the course

364 of travel to and from the interview at the rate authorized for  
365 county and municipal employees under Section 25-3-41;

366 (pp) Consistent with the report of the Task Force to  
367 Conduct a Best Financial Management Practices Review, to improve  
368 school district management and use of resources and identify cost  
369 savings as established in Section 8 of Chapter 610, Laws of 2002,  
370 local school boards are encouraged to conduct independent reviews  
371 of the management and efficiency of schools and school districts.  
372 Such management and efficiency reviews shall provide state and  
373 local officials and the public with the following:

374 (i) An assessment of a school district's  
375 governance and organizational structure;

376 (ii) An assessment of the school district's  
377 financial and personnel management;

378 (iii) An assessment of revenue levels and sources;

379 (iv) An assessment of facilities utilization,  
380 planning and maintenance;

381 (v) An assessment of food services, transportation  
382 and safety/security systems;

383 (vi) An assessment of instructional and  
384 administrative technology;

385 (vii) A review of the instructional management and  
386 the efficiency and effectiveness of existing instructional  
387 programs; and

388 (viii) Recommended methods for increasing  
389 efficiency and effectiveness in providing educational services to  
390 the public; and

391 (qq) To implement a financial literacy program for  
392 students in 10th and/or 11th grade and to expend any available  
393 nonstate funds therefor. The board may review the national  
394 programs and obtain free literature from various nationally  
395 recognized programs. After review of the different programs, the  
396 board may certify a program that is most appropriate for the  
397 school districts' needs and shall require its students to  
398 participate in the program. The financial literacy program shall

399 include, but is not limited to, instruction in the same areas of  
400 personal business and finance as required under Section  
401 37-1-3(2)(b). The school board may coordinate with volunteer  
402 teachers from local community organizations, including, but not  
403 limited to, the following: United States Department of  
404 Agriculture Rural Development, Department of Housing and Urban  
405 Development, Junior Achievement, bankers and other nonprofit  
406 organizations. Nothing in this paragraph shall be construed as to  
407 require schools to implement additional course credits beyond what  
408 is required now but said financial literacy program can be worked  
409 into already existing courses at the school district's discretion.

410       **SECTION 2.** The following provision shall be codified as  
411 Section 37-15-37, Mississippi Code of 1972:

412       37-15-37. The local school boards of public school districts  
413 and the Board of Trustees of State Institutions of Higher Learning  
414 are authorized to establish a dual enrollment program under which  
415 high school students meeting the requirements prescribed in this  
416 section may enroll at an institution of higher learning in  
417 Mississippi while they are still attending high school and  
418 enrolled in high school courses, with tuition and costs to be paid  
419 by grants, foundations or other private sources. Students may be  
420 admitted to enroll in university-level courses under the dual  
421 enrollment program if they meet the following recommended  
422 admission requirements:

423               (a) Students must have completed a minimum of fourteen  
424 (14) core high school units;

425               (b) Students must have a 2.5 grade point average on a  
426 4.0 scale, or better, on all high school courses, as documented by  
427 an official high school transcript; a home-schooled student must  
428 submit a transcript prepared by a parent, guardian or custodian  
429 with a signed, sworn affidavit to meet the requirement of this  
430 paragraph; and

431               (c) Students must have an unconditional written  
432 recommendation from their high school principal and/or guidance  
433 counselor. A home-schooled student must submit a parent, legal

434 guardian or custodian's written recommendation to meet the  
435 requirement of this paragraph.

436 Students may be considered for the dual enrollment program  
437 who have not completed the minimum of fourteen (14) core high  
438 school units if they have a minimum ACT composite score of thirty  
439 (30) or the equivalent SAT score, and have the required grade  
440 point average and recommendations prescribed above.

441 Tuition and costs for university-level courses under this  
442 program shall be paid from grants, foundations or other private  
443 sources, to be paid directly to the participating university.  
444 Students admitted in the dual enrollment program shall be counted  
445 for adequate education program funding purposes in the average  
446 daily attendance of the public school district in which they  
447 attend high school. Any additional transportation required by a  
448 student to participate in the dual enrollment program shall be the  
449 responsibility of the parents or legal guardians of the student,  
450 but may be paid for from private sources. Grades and college  
451 credits earned by students admitted to the dual enrollment program  
452 shall be recorded on the college transcript at the university  
453 where the student attends classes. The transcript of such  
454 university course work may be released to another institution or  
455 used for college graduation requirements only after the student  
456 has received his high school diploma.

457 **SECTION 3.** Section 37-9-17, Mississippi Code of 1972, is  
458 amended as follows:

459 **[From and after passage of this act, Section 37-9-17 shall**  
460 **read as follows:]**

461 37-9-17. (1) On or before May 1 of each year, the principal  
462 of each school shall recommend to the superintendent of the local  
463 school district the licensed employees or noninstructional  
464 employees to be employed for the school involved except those  
465 licensed employees or noninstructional employees who have been  
466 previously employed and who have a contract valid for the ensuing  
467 scholastic year. If such recommendations meet with the approval  
468 of the superintendent, the superintendent shall recommend the

469 employment of such licensed employees or noninstructional  
470 employees to the local school board, and, unless good reason to  
471 the contrary exists, the board shall elect the employees so  
472 recommended. If, for any reason, the local school board shall  
473 decline to elect any employee so recommended, additional  
474 recommendations for the places to be filled shall be made by the  
475 principal to the superintendent and then by the superintendent to  
476 the local school board as provided above. The school board of any  
477 local school district shall be authorized to designate a personnel  
478 supervisor or another principal employed by the school district to  
479 recommend to the superintendent licensed employees or  
480 noninstructional employees; however, this authorization shall be  
481 restricted to no more than two (2) positions for each employment  
482 period for each school in the local school district. Any  
483 noninstructional employee employed upon the recommendation of a  
484 personnel supervisor or another principal employed by the local  
485 school district must have been employed by the local school  
486 district at the time the superintendent was elected or appointed  
487 to office; a noninstructional employee employed under this  
488 authorization may not be paid compensation in excess of the  
489 statewide average compensation for such noninstructional position  
490 with comparable experience, as established by the State Department  
491 of Education. The school board of any local school district shall  
492 be authorized to designate a personnel supervisor or another  
493 principal employed by the school district to accept the  
494 recommendations of principals or their designees for licensed  
495 employees or noninstructional employees and to transmit approved  
496 recommendations to the local school board; however, this  
497 authorization shall be restricted to no more than two (2)  
498 positions for each employment period for each school in the local  
499 school district.

500 When the licensed employees have been elected as provided in  
501 the preceding paragraph, the superintendent of the district shall  
502 enter into a contract with such persons in the manner provided in  
503 this chapter.

504           If, at the commencement of the scholastic year, any licensed  
505 employee shall present to the superintendent a license of a higher  
506 grade than that specified in such individual's contract, such  
507 individual may, if funds are available from minimum education  
508 program funds of the district, or from district funds, be paid  
509 from such funds the amount to which such higher grade license  
510 would have entitled the individual, had the license been held at  
511 the time the contract was executed.

512           (2) Superintendents/directors of schools under the purview  
513 of the State Board of Education and the superintendent of the  
514 local school district shall require that current criminal records  
515 background checks and current child abuse registry checks are  
516 obtained, and that such criminal record information and registry  
517 checks are on file for any new hires applying for employment as a  
518 licensed or nonlicensed employee at a school and not previously  
519 employed in such school under the purview of the State Board of  
520 Education or at such local school district prior to July 1, 2000.  
521 In order to determine the applicant's suitability for employment,  
522 the applicant shall be fingerprinted. If no disqualifying record  
523 is identified at the state level, the fingerprints shall be  
524 forwarded by the Department of Public Safety to the FBI for a  
525 national criminal history record check. The fee for such  
526 fingerprinting and criminal history record check shall be paid by  
527 the applicant, not to exceed Fifty Dollars (\$50.00); however, the  
528 State Board of Education or the school board of the local school  
529 district, in its discretion, may elect to pay the fee for the  
530 fingerprinting and criminal history record check on behalf of any  
531 applicant. Under no circumstances shall a member of the State  
532 Board of Education, superintendent/director of schools under the  
533 purview of the State Board of Education, local school district  
534 superintendent, local school board member or any individual other  
535 than the subject of the criminal history record checks disseminate  
536 information received through any such checks except insofar as  
537 required to fulfill the purposes of this section. Any nonpublic  
538 school which is accredited or approved by the State Board of

539 Education may avail itself of the procedures provided for herein  
540 and shall be responsible for the same fee charged in the case of  
541 local public schools of this state.

542 (3) If such fingerprinting or criminal record checks  
543 disclose a felony conviction, guilty plea or plea of nolo  
544 contendere to a felony of possession or sale of drugs, murder,  
545 manslaughter, armed robbery, rape, sexual battery, sex offense  
546 listed in Section 45-33-23(g), child abuse, arson, grand larceny,  
547 burglary, gratification of lust or aggravated assault which has  
548 not been reversed on appeal or for which a pardon has not been  
549 granted, the new hire shall not be eligible to be employed at such  
550 school. Any employment contract for a new hire executed by the  
551 superintendent of the local school district or any employment of a  
552 new hire by a superintendent/director of a new school under the  
553 purview of the State Board of Education shall be voidable if the  
554 new hire receives a disqualifying criminal record check. However,  
555 the State Board of Education or the school board may, in its  
556 discretion, allow any applicant aggrieved by the employment  
557 decision under this section to appear before the respective board,  
558 or before a hearing officer designated for such purpose, to show  
559 mitigating circumstances which may exist and allow the new hire to  
560 be employed at the school. The State Board of Education or local  
561 school board may grant waivers for such mitigating circumstances,  
562 which shall include, but not be limited to: (a) age at which the  
563 crime was committed; (b) circumstances surrounding the crime; (c)  
564 length of time since the conviction and criminal history since the  
565 conviction; (d) work history; (e) current employment and character  
566 references; (f) other evidence demonstrating the ability of the  
567 person to perform the employment responsibilities competently and  
568 that the person does not pose a threat to the health or safety of  
569 the children at the school.

570 (4) No local school district or local school district  
571 employee or members of the State Board of Education or employee of  
572 a school under the purview of the State Board of Education shall  
573 be held liable in any employment discrimination suit in which an



574 allegation of discrimination is made regarding an employment  
575 decision authorized under this Section 37-9-17.

576 **[From and after January 1, 2005, Section 37-9-17 shall read**  
577 **as follows:**

578 37-9-17. (1) On or before April 1 of each year, the  
579 principal of each school shall recommend to the superintendent of  
580 the local school district the licensed employees or  
581 noninstructional employees to be employed for the school involved  
582 except those licensed employees or noninstructional employees who  
583 have been previously employed and who have a contract valid for  
584 the ensuing scholastic year. If such recommendations meet with  
585 the approval of the superintendent, the superintendent shall  
586 recommend the employment of such licensed employees or  
587 noninstructional employees to the local school board, and, unless  
588 good reason to the contrary exists, the board shall elect the  
589 employees so recommended. If, for any reason, the local school  
590 board shall decline to elect any employee so recommended,  
591 additional recommendations for the places to be filled shall be  
592 made by the principal to the superintendent and then by the  
593 superintendent to the local school board as provided above. The  
594 school board of any local school district shall be authorized to  
595 designate a personnel supervisor or another principal employed by  
596 the school district to recommend to the superintendent licensed  
597 employees or noninstructional employees; however, this  
598 authorization shall be restricted to no more than two (2)  
599 positions for each employment period for each school in the local  
600 school district. Any noninstructional employee employed upon the  
601 recommendation of a personnel supervisor or another principal  
602 employed by the local school district must have been employed by  
603 the local school district at the time the superintendent was  
604 elected or appointed to office; a noninstructional employee  
605 employed under this authorization may not be paid compensation in  
606 excess of the statewide average compensation for such  
607 noninstructional position with comparable experience, as  
608 established by the State Department of Education. The school

609 board of any local school district shall be authorized to  
610 designate a personnel supervisor or another principal employed by  
611 the school district to accept the recommendations of principals or  
612 their designees for licensed employees or noninstructional  
613 employees and to transmit approved recommendations to the local  
614 school board; however, this authorization shall be restricted to  
615 no more than two (2) positions for each employment period for each  
616 school in the local school district.

617         When the licensed employees have been elected as provided in  
618 the preceding paragraph, the superintendent of the district shall  
619 enter into a contract with such persons in the manner provided in  
620 this chapter.

621         If, at the commencement of the scholastic year, any licensed  
622 employee shall present to the superintendent a license of a higher  
623 grade than that specified in such individual's contract, such  
624 individual may, if funds are available from minimum education  
625 program funds of the district, or from district funds, be paid  
626 from such funds the amount to which such higher grade license  
627 would have entitled the individual, had the license been held at  
628 the time the contract was executed.

629         (2) Superintendents/directors of schools under the purview  
630 of the State Board of Education and the superintendent of the  
631 local school district shall require that current criminal records  
632 background checks and current child abuse registry checks are  
633 obtained, and that such criminal record information and registry  
634 checks are on file for any new hires applying for employment as a  
635 licensed or nonlicensed employee at a school and not previously  
636 employed in such school under the purview of the State Board of  
637 Education or at such local school district prior to July 1, 2000.  
638 In order to determine the applicant's suitability for employment,  
639 the applicant shall be fingerprinted. If no disqualifying record  
640 is identified at the state level, the fingerprints shall be  
641 forwarded by the Department of Public Safety to the FBI for a  
642 national criminal history record check. The fee for such  
643 fingerprinting and criminal history record check shall be paid by

644 the applicant, not to exceed Fifty Dollars (\$50.00); however, the  
645 State Board of Education or the school board of the local school  
646 district, in its discretion, may elect to pay the fee for the  
647 fingerprinting and criminal history record check on behalf of any  
648 applicant. Under no circumstances shall a member of the State  
649 Board of Education, superintendent/director of schools under the  
650 purview of the State Board of Education, local school district  
651 superintendent, local school board member or any individual other  
652 than the subject of the criminal history record checks disseminate  
653 information received through any such checks except insofar as  
654 required to fulfill the purposes of this section. Any nonpublic  
655 school which is accredited or approved by the State Board of  
656 Education may avail itself of the procedures provided for herein  
657 and shall be responsible for the same fee charged in the case of  
658 local public schools of this state.

659 (3) If such fingerprinting or criminal record checks  
660 disclose a felony conviction, guilty plea or plea of nolo  
661 contendere to a felony of possession or sale of drugs, murder,  
662 manslaughter, armed robbery, rape, sexual battery, sex offense  
663 listed in Section 45-33-23(g), child abuse, arson, grand larceny,  
664 burglary, gratification of lust or aggravated assault which has  
665 not been reversed on appeal or for which a pardon has not been  
666 granted, the new hire shall not be eligible to be employed at such  
667 school. Any employment contract for a new hire executed by the  
668 superintendent of the local school district or any employment of a  
669 new hire by a superintendent/director of a new school under the  
670 purview of the State Board of Education shall be voidable if the  
671 new hire receives a disqualifying criminal record check. However,  
672 the State Board of Education or the school board may, in its  
673 discretion, allow any applicant aggrieved by the employment  
674 decision under this section to appear before the respective board,  
675 or before a hearing officer designated for such purpose, to show  
676 mitigating circumstances which may exist and allow the new hire to  
677 be employed at the school. The State Board of Education or local  
678 school board may grant waivers for such mitigating circumstances,

679 which shall include, but not be limited to: (a) age at which the  
680 crime was committed; (b) circumstances surrounding the crime; (c)  
681 length of time since the conviction and criminal history since the  
682 conviction; (d) work history; (e) current employment and character  
683 references; (f) other evidence demonstrating the ability of the  
684 person to perform the employment responsibilities competently and  
685 that the person does not pose a threat to the health or safety of  
686 the children at the school.

687 (4) No local school district or local school district  
688 employee or members of the State Board of Education or employee of  
689 a school under the purview of the State Board of Education shall  
690 be held liable in any employment discrimination suit in which an  
691 allegation of discrimination is made regarding an employment  
692 decision authorized under this Section 37-9-17.

693 **SECTION 4.** Section 37-9-105, Mississippi Code of 1972, is  
694 amended as follows:

695 **[From and after passage of this act, Section 37-9-105 shall**  
696 **read as follows:]**

697 37-9-105. In the event that a recommendation is made by the  
698 school district not to offer an employee a renewal contract for a  
699 successive year, written notice of the proposed nonreemployment  
700 stating the reasons for the proposed nonreemployment shall be  
701 given no later than the following:

702 (a) If the employee is a principal, the superintendent,  
703 without further board action, shall give notice of nonreemployment  
704 on or before March 1; or

705 (b) If the employee is a teacher, administrator or  
706 other professional educator covered under Sections 37-9-101  
707 through 37-9-113, the superintendent, without further board  
708 action, shall give notice of nonreemployment on or before May 15.

709 An interim conservator appointed pursuant to the provisions  
710 of Section 37-17-6(14)(a) or a school board acting on the  
711 recommendation of a school district financial advisor appointed  
712 pursuant to the provisions of Section 37-9-18 shall not be  
713 required to comply with the time limitations prescribed in this

714 section for recommending the reemployment of principals, teachers,  
715 administrators or other professional educators.

716 **[From and after January 1, 2005, Section 37-9-105 shall read**  
717 **as follows:]**

718 37-9-105. In the event that a recommendation is made by the  
719 school district not to offer an employee a renewal contract for a  
720 successive year, written notice of the proposed nonreemployment  
721 stating the reasons for the proposed nonreemployment shall be  
722 given no later than the following:

723 (a) If the employee is a principal, the superintendent,  
724 without further board action, shall give notice of nonreemployment  
725 on or before March 1; or

726 (b) If the employee is a teacher, administrator or  
727 other professional educator covered under Sections 37-9-101  
728 through 37-9-113, the superintendent, without further board  
729 action, shall give notice of nonreemployment on or before April  
730 15.

731 An interim conservator appointed pursuant to the provisions  
732 of Section 37-17-6(14)(a) or a school board acting on the  
733 recommendation of a school district financial advisor appointed  
734 pursuant to the provisions of Section 37-9-18 shall not be  
735 required to comply with the time limitations prescribed in this  
736 section for recommending the reemployment of principals, teachers,  
737 administrators or other professional educators.

738 **SECTION 5.** Section 37-13-92, Mississippi Code of 1972, is  
739 amended as follows:

740 37-13-92. (1) Beginning with the school year 2004-2005, the  
741 school boards of all school districts *shall* establish, maintain  
742 and operate, in connection with the regular programs of the school  
743 district, an alternative school program or behavior modification  
744 program for, but not limited to, the following categories of  
745 compulsory-school-age students:

746 (a) Any compulsory-school-age child who has been  
747 suspended for more than ten (10) days or expelled from school,

748 except for any student expelled for possession of a weapon or  
749 other felonious conduct;

750 (b) Any compulsory-school-age child referred to such  
751 alternative school based upon a documented need for placement in  
752 the alternative school program by the parent, legal guardian or  
753 custodian of such child due to disciplinary problems;

754 (c) Any compulsory-school-age child referred to such  
755 alternative school program by the dispositive order of a  
756 chancellor or youth court judge, with the consent of the  
757 superintendent of the child's school district; and

758 (d) Any compulsory-school-age child whose presence in  
759 the classroom, in the determination of the school superintendent  
760 or principal, is a disruption to the educational environment of  
761 the school or a detriment to the best interest and welfare of the  
762 students and teacher of such class as a whole.

763 (2) The principal or program administrator of any such  
764 alternative school program shall require verification from the  
765 appropriate guidance counselor of any such child referred to the  
766 alternative school program regarding the suitability of such child  
767 for attendance at the alternative school program. Before a  
768 student may be removed to an alternative school education program,  
769 the superintendent of the student's school district must determine  
770 that the written and distributed disciplinary policy of the local  
771 district is being followed. The policy shall include standards  
772 for:

773 (a) The removal of a student to an alternative  
774 education program that will include a process of educational  
775 review to develop the student's individual instruction plan and  
776 the evaluation at regular intervals of the student's educational  
777 progress; the process shall include classroom teachers and/or  
778 other appropriate professional personnel, as defined in the  
779 district policy, to ensure a continuing educational program for  
780 the removed student;

781 (b) The duration of alternative placement; and

782           (c) The notification of parents or guardians, and their  
783 appropriate inclusion in the removal and evaluation process, as  
784 defined in the district policy. Nothing in this paragraph should  
785 be defined in a manner to circumvent the principal's or the  
786 superintendent's authority to remove a student to alternative  
787 education.

788           (3) The local school board or the superintendent shall  
789 provide for the continuing education of a student who has been  
790 removed to an alternative school program.

791           (4) A school district, in its discretion, may provide a  
792 program of general educational development (GED) preparatory  
793 instruction in the alternative school program. However, any GED  
794 preparation program offered in an alternative school program must  
795 be administered in compliance with the rules and regulations  
796 established for such programs under Sections 37-35-1 through  
797 37-35-11 and by the State Board for Community and Junior Colleges.  
798 The school district may administer the General Educational  
799 Development (GED) Testing Program under the policies and  
800 guidelines of the GED Testing Service of the American Council on  
801 Education in the alternative school program or may authorize the  
802 test to be administered through the community/junior college  
803 district in which the alternative school is situated.

804           (5) Any such alternative school program operated under the  
805 authority of this section shall meet all appropriate accreditation  
806 requirements of the State Department of Education.

807           (6) The alternative school program may be held within such  
808 school district or may be operated by two (2) or more adjacent  
809 school districts, pursuant to a contract approved by the State  
810 Board of Education. When two (2) or more school districts  
811 contract to operate an alternative school program, the school  
812 board of a district designated to be the lead district shall serve  
813 as the governing board of the alternative school program.  
814 Transportation for students attending the alternative school  
815 program shall be the responsibility of the local school district.  
816 The expense of establishing, maintaining and operating such

817 alternative school program may be paid from funds contributed or  
818 otherwise made available to the school district for such purpose  
819 or from local district maintenance funds.

820 (7) The State Board of Education shall promulgate minimum  
821 guidelines for alternative school programs. The guidelines shall  
822 require, at a minimum, the formulation of an individual  
823 instruction plan for each student referred to the alternative  
824 school program and, upon a determination that it is in a student's  
825 best interest for that student to receive general educational  
826 development (GED) preparatory instruction, that the local school  
827 board assign the student to a GED preparatory program established  
828 under subsection (4) of this section. The minimum guidelines for  
829 alternative school programs shall also require the following  
830 components:

831 (a) Clear guidelines and procedures for placement of  
832 students into alternative education programs which at a minimum  
833 shall prescribe due process procedures for disciplinary and  
834 general educational development (GED) placement;

835 (b) Clear and consistent goals for students and  
836 parents;

837 (c) Curricula addressing cultural and learning style  
838 differences;

839 (d) Direct supervision of all activities on a closed  
840 campus;

841 (e) Full-day attendance with a rigorous workload and  
842 minimal time off;

843 (f) Selection of program from options provided by the  
844 local school district, Division of Youth Services or the youth  
845 court, including transfer to a community-based alternative school;

846 (g) Continual monitoring and evaluation and formalized  
847 passage from one step or program to another;

848 (h) A motivated and culturally diverse staff;

849 (i) Counseling for parents and students;

850 (j) Administrative and community support for the  
851 program; and



852 (k) Clear procedures for annual alternative school  
853 program review and evaluation.

854 (8) On request of a school district, the State Department of  
855 Education shall provide the district informational material on  
856 developing an alternative school program that takes into  
857 consideration size, wealth and existing facilities in determining  
858 a program best suited to a district.

859 (9) Any compulsory-school-age child who becomes involved in  
860 any criminal or violent behavior shall be removed from such  
861 alternative school program and, if probable cause exists, a case  
862 shall be referred to the youth court.

863 (10) The State Board of Education, in its discretion, may  
864 exempt not more than four (4) school district alternative school  
865 programs in the state from any compulsory standard of  
866 accreditation for a period of three (3) years. During this  
867 period, the State Department of Education shall conduct a study of  
868 all alternative school programs in the state, and on or before  
869 January 1, 2000, shall develop and promulgate accreditation  
870 standards for all alternative school programs, including any  
871 recommendations for necessary legislation relating to such  
872 alternative school programs.

873 **SECTION 6.** This act shall take effect and be in force from  
874 and after July 1, 2004.

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

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE LOCAL SCHOOL BOARDS TO EXPEND FEDERAL NO CHILD LEFT  
3 BEHIND ACT FUNDS TO PAY FOR TRAINING, INCENTIVES AND SALARY  
4 SUPPLEMENTS TO SCHOOL DISTRICT EMPLOYEES IN COMPLIANCE WITH  
5 FEDERAL LAW; TO AUTHORIZE LOCAL SCHOOL BOARDS TO EXPEND FUNDS TO  
6 REIMBURSE LICENSED SCHOOL DISTRICT EMPLOYEES FOR RELOCATION  
7 EXPENSES FOR MOVING INTO THE DISTRICT FOR EMPLOYMENT PURPOSES; TO  
8 AUTHORIZE LOCAL SCHOOL BOARDS TO EXPEND FUNDS TO REIMBURSE  
9 LICENSED INDIVIDUALS FOR INTERVIEWING EXPENSES; TO AUTHORIZE LOCAL  
10 SCHOOL DISTRICTS TO CONDUCT INDEPENDENT MANAGEMENT AND EFFICIENCY  
11 REVIEWS; TO AUTHORIZE SCHOOL BOARDS TO IMPLEMENT A FINANCIAL  
12 LITERACY PROGRAM FOR STUDENTS IN GRADES 10 AND 11; TO CODIFY  
13 SECTION 37-15-37, MISSISSIPPI CODE OF 1972, TO AUTHORIZE LOCAL  
14 SCHOOL DISTRICTS TO ESTABLISH DUAL ENROLLMENT PROGRAMS ALLOWING  
15 CERTAIN HIGH SCHOOL STUDENTS TO ENROLL IN STATE INSTITUTIONS OF  
16 HIGHER LEARNING IN ORDER TO DUALY EARN CREDITS FOR A HIGH SCHOOL  
17 DIPLOMA AND A UNIVERSITY DEGREE AT BOTH LEVELS, AND TO ESTABLISH  
18 STANDARDS FOR SUCH PROGRAMS; TO PROVIDE THAT TUITION COSTS SHALL

19 BE PAID FROM PRIVATE SOURCES; TO AMEND SECTIONS 37-9-17 AND  
20 37-9-105, MISSISSIPPI CODE OF 1972, TO REVISE THE DATE FOR WRITTEN  
21 NOTICE OF REEMPLOYMENT OR NONREEMPLOYMENT FOR LICENSED SCHOOL  
22 EMPLOYEES; TO AMEND SECTION 37-13-92, MISSISSIPPI CODE OF 1972, TO  
23 CLARIFY THE OPERATION OF ALTERNATIVE SCHOOL PROGRAMS BY SCHOOL  
24 DISTRICTS; AND FOR RELATED PURPOSES.

SS26\HB657PS.J

John O. Gilbert  
Secretary of the Senate