

**Adopted
AMENDMENT NO 1 TO COMMITTEE AMENDMENT NO 1 PROPOSED
TO**

House Bill No. 657

BY: Senator(s) Chaney

1 **AMEND** by inserting the following after line 451 and
2 renumbering the following sections accordingly:

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

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

7 37-9-17. (1) On or before May 1 of each year, the principal
8 of each school shall recommend to the superintendent of the local
9 school district the licensed employees or noninstructional
10 employees to be employed for the school involved except those
11 licensed employees or noninstructional employees who have been
12 previously employed and who have a contract valid for the ensuing
13 scholastic year. If such recommendations meet with the approval
14 of the superintendent, the superintendent shall recommend the
15 employment of such licensed employees or noninstructional
16 employees to the local school board, and, unless good reason to
17 the contrary exists, the board shall elect the employees so
18 recommended. If, for any reason, the local school board shall
19 decline to elect any employee so recommended, additional
20 recommendations for the places to be filled shall be made by the
21 principal to the superintendent and then by the superintendent to
22 the local school board as provided above. The school board of any

23 local school district shall be authorized to designate a personnel
24 supervisor or another principal employed by the school district to
25 recommend to the superintendent licensed employees or
26 noninstructional employees; however, this authorization shall be
27 restricted to no more than two (2) positions for each employment
28 period for each school in the local school district. Any
29 noninstructional employee employed upon the recommendation of a
30 personnel supervisor or another principal employed by the local
31 school district must have been employed by the local school
32 district at the time the superintendent was elected or appointed
33 to office; a noninstructional employee employed under this
34 authorization may not be paid compensation in excess of the
35 statewide average compensation for such noninstructional position
36 with comparable experience, as established by the State Department
37 of Education. The school board of any local school district shall
38 be authorized to designate a personnel supervisor or another
39 principal employed by the school district to accept the
40 recommendations of principals or their designees for licensed
41 employees or noninstructional employees and to transmit approved
42 recommendations to the local school board; however, this
43 authorization shall be restricted to no more than two (2)
44 positions for each employment period for each school in the local
45 school district.

46 When the licensed employees have been elected as provided in
47 the preceding paragraph, the superintendent of the district shall
48 enter into a contract with such persons in the manner provided in
49 this chapter.

50 If, at the commencement of the scholastic year, any licensed
51 employee shall present to the superintendent a license of a higher
52 grade than that specified in such individual's contract, such
53 individual may, if funds are available from minimum education
54 program funds of the district, or from district funds, be paid

55 from such funds the amount to which such higher grade license
56 would have entitled the individual, had the license been held at
57 the time the contract was executed.

58 (2) Superintendents/directors of schools under the purview
59 of the State Board of Education and the superintendent of the
60 local school district shall require that current criminal records
61 background checks and current child abuse registry checks are
62 obtained, and that such criminal record information and registry
63 checks are on file for any new hires applying for employment as a
64 licensed or nonlicensed employee at a school and not previously
65 employed in such school under the purview of the State Board of
66 Education or at such local school district prior to July 1, 2000.
67 In order to determine the applicant's suitability for employment,
68 the applicant shall be fingerprinted. If no disqualifying record
69 is identified at the state level, the fingerprints shall be
70 forwarded by the Department of Public Safety to the FBI for a
71 national criminal history record check. The fee for such
72 fingerprinting and criminal history record check shall be paid by
73 the applicant, not to exceed Fifty Dollars (\$50.00); however, the
74 State Board of Education or the school board of the local school
75 district, in its discretion, may elect to pay the fee for the
76 fingerprinting and criminal history record check on behalf of any
77 applicant. Under no circumstances shall a member of the State
78 Board of Education, superintendent/director of schools under the
79 purview of the State Board of Education, local school district
80 superintendent, local school board member or any individual other
81 than the subject of the criminal history record checks disseminate
82 information received through any such checks except insofar as
83 required to fulfill the purposes of this section. Any nonpublic
84 school which is accredited or approved by the State Board of
85 Education may avail itself of the procedures provided for herein

86 and shall be responsible for the same fee charged in the case of
87 local public schools of this state.

88 (3) If such fingerprinting or criminal record checks
89 disclose a felony conviction, guilty plea or plea of nolo
90 contendere to a felony of possession or sale of drugs, murder,
91 manslaughter, armed robbery, rape, sexual battery, sex offense
92 listed in Section 45-33-23(g), child abuse, arson, grand larceny,
93 burglary, gratification of lust or aggravated assault which has
94 not been reversed on appeal or for which a pardon has not been
95 granted, the new hire shall not be eligible to be employed at such
96 school. Any employment contract for a new hire executed by the
97 superintendent of the local school district or any employment of a
98 new hire by a superintendent/director of a new school under the
99 purview of the State Board of Education shall be voidable if the
100 new hire receives a disqualifying criminal record check. However,
101 the State Board of Education or the school board may, in its
102 discretion, allow any applicant aggrieved by the employment
103 decision under this section to appear before the respective board,
104 or before a hearing officer designated for such purpose, to show
105 mitigating circumstances which may exist and allow the new hire to
106 be employed at the school. The State Board of Education or local
107 school board may grant waivers for such mitigating circumstances,
108 which shall include, but not be limited to: (a) age at which the
109 crime was committed; (b) circumstances surrounding the crime; (c)
110 length of time since the conviction and criminal history since the
111 conviction; (d) work history; (e) current employment and character
112 references; (f) other evidence demonstrating the ability of the
113 person to perform the employment responsibilities competently and
114 that the person does not pose a threat to the health or safety of
115 the children at the school.

116 (4) No local school district or local school district
117 employee or members of the State Board of Education or employee of

118 a school under the purview of the State Board of Education shall
119 be held liable in any employment discrimination suit in which an
120 allegation of discrimination is made regarding an employment
121 decision authorized under this Section 37-9-17.

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

124 37-9-17. (1) On or before April 1 of each year, the
125 principal of each school shall recommend to the superintendent of
126 the local school district the licensed employees or
127 noninstructional employees to be employed for the school involved
128 except those licensed employees or noninstructional employees who
129 have been previously employed and who have a contract valid for
130 the ensuing scholastic year. If such recommendations meet with
131 the approval of the superintendent, the superintendent shall
132 recommend the employment of such licensed employees or
133 noninstructional employees to the local school board, and, unless
134 good reason to the contrary exists, the board shall elect the
135 employees so recommended. If, for any reason, the local school
136 board shall decline to elect any employee so recommended,
137 additional recommendations for the places to be filled shall be
138 made by the principal to the superintendent and then by the
139 superintendent to the local school board as provided above. The
140 school board of any local school district shall be authorized to
141 designate a personnel supervisor or another principal employed by
142 the school district to recommend to the superintendent licensed
143 employees or noninstructional employees; however, this
144 authorization shall be restricted to no more than two (2)
145 positions for each employment period for each school in the local
146 school district. Any noninstructional employee employed upon the
147 recommendation of a personnel supervisor or another principal
148 employed by the local school district must have been employed by
149 the local school district at the time the superintendent was

150 elected or appointed to office; a noninstructional employee
151 employed under this authorization may not be paid compensation in
152 excess of the statewide average compensation for such
153 noninstructional position with comparable experience, as
154 established by the State Department of Education. The school
155 board of any local school district shall be authorized to
156 designate a personnel supervisor or another principal employed by
157 the school district to accept the recommendations of principals or
158 their designees for licensed employees or noninstructional
159 employees and to transmit approved recommendations to the local
160 school board; however, this authorization shall be restricted to
161 no more than two (2) positions for each employment period for each
162 school in the local school district.

163 When the licensed employees have been elected as provided in
164 the preceding paragraph, the superintendent of the district shall
165 enter into a contract with such persons in the manner provided in
166 this chapter.

167 If, at the commencement of the scholastic year, any licensed
168 employee shall present to the superintendent a license of a higher
169 grade than that specified in such individual's contract, such
170 individual may, if funds are available from minimum education
171 program funds of the district, or from district funds, be paid
172 from such funds the amount to which such higher grade license
173 would have entitled the individual, had the license been held at
174 the time the contract was executed.

175 (2) Superintendents/directors of schools under the purview
176 of the State Board of Education and the superintendent of the
177 local school district shall require that current criminal records
178 background checks and current child abuse registry checks are
179 obtained, and that such criminal record information and registry
180 checks are on file for any new hires applying for employment as a
181 licensed or nonlicensed employee at a school and not previously

182 employed in such school under the purview of the State Board of
183 Education or at such local school district prior to July 1, 2000.
184 In order to determine the applicant's suitability for employment,
185 the applicant shall be fingerprinted. If no disqualifying record
186 is identified at the state level, the fingerprints shall be
187 forwarded by the Department of Public Safety to the FBI for a
188 national criminal history record check. The fee for such
189 fingerprinting and criminal history record check shall be paid by
190 the applicant, not to exceed Fifty Dollars (\$50.00); however, the
191 State Board of Education or the school board of the local school
192 district, in its discretion, may elect to pay the fee for the
193 fingerprinting and criminal history record check on behalf of any
194 applicant. Under no circumstances shall a member of the State
195 Board of Education, superintendent/director of schools under the
196 purview of the State Board of Education, local school district
197 superintendent, local school board member or any individual other
198 than the subject of the criminal history record checks disseminate
199 information received through any such checks except insofar as
200 required to fulfill the purposes of this section. Any nonpublic
201 school which is accredited or approved by the State Board of
202 Education may avail itself of the procedures provided for herein
203 and shall be responsible for the same fee charged in the case of
204 local public schools of this state.

205 (3) If such fingerprinting or criminal record checks
206 disclose a felony conviction, guilty plea or plea of nolo
207 contendere to a felony of possession or sale of drugs, murder,
208 manslaughter, armed robbery, rape, sexual battery, sex offense
209 listed in Section 45-33-23(g), child abuse, arson, grand larceny,
210 burglary, gratification of lust or aggravated assault which has
211 not been reversed on appeal or for which a pardon has not been
212 granted, the new hire shall not be eligible to be employed at such
213 school. Any employment contract for a new hire executed by the

214 superintendent of the local school district or any employment of a
215 new hire by a superintendent/director of a new school under the
216 purview of the State Board of Education shall be voidable if the
217 new hire receives a disqualifying criminal record check. However,
218 the State Board of Education or the school board may, in its
219 discretion, allow any applicant aggrieved by the employment
220 decision under this section to appear before the respective board,
221 or before a hearing officer designated for such purpose, to show
222 mitigating circumstances which may exist and allow the new hire to
223 be employed at the school. The State Board of Education or local
224 school board may grant waivers for such mitigating circumstances,
225 which shall include, but not be limited to: (a) age at which the
226 crime was committed; (b) circumstances surrounding the crime; (c)
227 length of time since the conviction and criminal history since the
228 conviction; (d) work history; (e) current employment and character
229 references; (f) other evidence demonstrating the ability of the
230 person to perform the employment responsibilities competently and
231 that the person does not pose a threat to the health or safety of
232 the children at the school.

233 (4) No local school district or local school district
234 employee or members of the State Board of Education or employee of
235 a school under the purview of the State Board of Education shall
236 be held liable in any employment discrimination suit in which an
237 allegation of discrimination is made regarding an employment
238 decision authorized under this Section 37-9-17.

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

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

243 37-9-105. In the event that a recommendation is made by the
244 school district not to offer an employee a renewal contract for a
245 successive year, written notice of the proposed nonreemployment

246 stating the reasons for the proposed nonreemployment shall be
247 given no later than the following:

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

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

255 An interim conservator appointed pursuant to the provisions
256 of Section 37-17-6(14)(a) or a school board acting on the
257 recommendation of a school district financial advisor appointed
258 pursuant to the provisions of Section 37-9-18 shall not be
259 required to comply with the time limitations prescribed in this
260 section for recommending the reemployment of principals, teachers,
261 administrators or other professional educators.

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

264 37-9-105. In the event that a recommendation is made by the
265 school district not to offer an employee a renewal contract for a
266 successive year, written notice of the proposed nonreemployment
267 stating the reasons for the proposed nonreemployment shall be
268 given no later than the following:

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

272 (b) If the employee is a teacher, administrator or
273 other professional educator covered under Sections 37-9-101
274 through 37-9-113, the superintendent, without further board
275 action, shall give notice of nonreemployment on or before April
276 15.

277 An interim conservator appointed pursuant to the provisions
278 of Section 37-17-6(14)(a) or a school board acting on the
279 recommendation of a school district financial advisor appointed
280 pursuant to the provisions of Section 37-9-18 shall not be
281 required to comply with the time limitations prescribed in this
282 section for recommending the reemployment of principals, teachers,
283 administrators or other professional educators.

284 **FURTHER, amend the title by inserting the following after the**
285 **semicolon on line 19:**

286 TO AMEND SECTIONS 37-9-17 AND 37-9-105, MISSISSIPPI CODE OF 1972,
287 TO REVISE THE DATE FOR WRITTEN NOTICE OF REEMPLOYMENT OR
288 NONREEMPLOYMENT FOR LICENSED SCHOOL EMPLOYEES;