

REPORT OF CONFERENCE COMMITTEE

MADAM PRESIDENT AND MR. SPEAKER:

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

S. B. No. 2223: School employees criminal history record check requirement; include school attendance officers and delete repealer.

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:

6 **SECTION 1.** Section 37-9-17, Mississippi Code of 1972, is
7 amended as follows:
8 37-9-17. (1) On or before April 1 of each year, the
9 principal of each school shall recommend to the superintendent of
10 the local school district the licensed employees or
11 noninstructional employees to be employed for the school involved
12 except those licensed employees or noninstructional employees who
13 have been previously employed and who have a contract valid for
14 the ensuing scholastic year. If such recommendations meet with
15 the approval of the superintendent, the superintendent shall
16 recommend the employment of such licensed employees or
17 noninstructional employees to the local school board, and, unless
18 good reason to the contrary exists, the board shall elect the
19 employees so recommended. If, for any reason, the local school
20 board shall decline to elect any employee so recommended,
21 additional recommendations for the places to be filled shall be

made by the principal to the superintendent and then by the superintendent to the local school board as provided above. The school board of any local school district shall be authorized to designate a personnel supervisor or another principal employed by the school district to recommend to the superintendent licensed employees or noninstructional employees; however, this authorization shall be restricted to no more than two (2) positions for each employment period for each school in the local school district. Any noninstructional employee employed upon the recommendation of a personnel supervisor or another principal employed by the local school district must have been employed by the local school district at the time the superintendent was elected or appointed to office; a noninstructional employee employed under this authorization may not be paid compensation in excess of the statewide average compensation for such noninstructional position with comparable experience, as established by the State Department of Education. The school board of any local school district shall be authorized to designate a personnel supervisor or another principal employed by the school district to accept the recommendations of principals or their designees for licensed employees or noninstructional employees and to transmit approved recommendations to the local school board; however, this authorization shall be restricted to no more than two (2) positions for each employment period for each school in the local school district.

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

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

the time the contract was executed.

(2) Superintendents/directors of schools under the purview of the Mississippi Board of Education and the superintendent of the local school district shall require that current criminal records background checks and current child abuse registry checks are obtained, and that such criminal record information and registry checks are on file for any new hires applying for employment as a licensed or nonlicensed employee at a school and not previously employed in such school under the purview of the Mississippi Board of Education or at such local school district prior to July 1, 2000. In order to determine the applicant's suitability for employment, the applicant shall be fingerprinted.

If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the FBI for a national criminal history record check. The fee for such fingerprinting and criminal history record check shall be paid by the applicant, not to exceed Fifty Dollars (\$50.00); however, the Mississippi Board of Education or the school board of the local school district, in its discretion, may elect to pay the fee for the fingerprinting and criminal history record check on behalf of any applicant. Under no circumstances shall a member of the Mississippi Board of Education, superintendent/director of schools under the purview of the Mississippi Board of Education, local school district superintendent, local school board member or any individual other than the subject of the criminal history record checks disseminate information received through any such checks except insofar as required to fulfill the purposes of this section.

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

94 school. Any employment contract for a new hire executed by the
95 superintendent of the local school district or any employment of a
96 new hire by a superintendent/director of a new school under the
97 purview of the Mississippi Board of Education shall be voidable if
98 the new hire receives a disqualifying criminal record check.
99 However, the Mississippi Board of Education or the school board
100 may, in its discretion, allow any applicant aggrieved by the
101 employment decision under this section to appear before the
102 respective board, or before a hearing officer designated for such
103 purpose, to show mitigating circumstances which may exist and
104 allow the new hire to be employed at the school. The Mississippi
105 Board of Education or local school board may grant waivers for
106 such mitigating circumstances, which shall include, but not be
107 limited to: (a) age at which the crime was committed; (b)
108 circumstances surrounding the crime; (c) length of time since the
109 conviction and criminal history since the conviction; (d) work
110 history; (e) current employment and character references; (f)
111 other evidence demonstrating the ability of the person to perform
112 the employment responsibilities competently and that the person
113 does not pose a threat to the health or safety of the children at
114 the school.

115 (4) No local school district or local school district
116 employee or members of the Mississippi Board of Education or
117 employee of a school under the purview of the Mississippi Board of
118 Education shall be held liable in any employment discrimination
119 suit in which an allegation of discrimination is made regarding an
120 employment decision authorized under this Section 37-9-17.

121 * * *

122 **SECTION 2.** This act shall take effect and be in force from
123 and after June 30, 2002.

**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 DELETE THE AUTOMATIC REPEALER ON THE FINGERPRINTING AND CRIMINAL
3 HISTORY RECORD CHECK PROGRAM FOR NEWLY HIRED SCHOOL EMPLOYEES; AND
4 FOR RELATED PURPOSES.

CONFEREES FOR THE SENATE

X

Alice Harden

X

Mike Chaney

X

Gray Tollison

CONFEREES FOR THE HOUSE

X

Joseph L. Warren

X

Herb Frierson

X

David Livingston