

## 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. 2284: Office of Compulsory School Attendance Enforcement in State Department of Education; extend 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:

7           **SECTION 1.** Section 37-13-91, Mississippi Code of 1972, is  
8 amended as follows:  
9           37-13-91. (1) This section shall be referred to as the  
10 "Mississippi Compulsory School Attendance Law."  
11           (2) The following terms as used in this section are defined  
12 as follows:  
13           (a) "Parent" means the father or mother to whom a child  
14 has been born, or the father or mother by whom a child has been  
15 legally adopted.  
16           (b) "Guardian" means a guardian of the person of a  
17 child, other than a parent, who is legally appointed by a court of  
18 competent jurisdiction.  
19           (c) "Custodian" means any person having the present  
20 care or custody of a child, other than a parent or guardian of the  
21 child.  
22           (d) "School day" means not less than five (5) and not  
23 more than eight (8) hours of actual teaching in which both  
24 teachers and pupils are in regular attendance for scheduled  
25 schoolwork.  
26           (e) "School" means any public school in this state or  
27 any nonpublic school in this state which is in session each school  
28 year for at least one hundred eighty (180) school days, except

29 that the "nonpublic" school term shall be the number of days that  
30 each school shall require for promotion from grade to grade.

31 (f) "Compulsory-school-age child" means a child who:

32 (i) Has attained or will attain the age of five  
33 (5) years on or before September 1 and has enrolled in a full day  
34 public school kindergarten program;

35 (ii) Has attained or will attain the age of six  
36 (6) years on or before September 1 of the calendar year, beginning  
37 in the school year that commences during the year the child  
38 attains the age of six (6) years;

39 (iii) Has not attained the age of seventeen (17)  
40 years on or before September 1 of the calendar year; and

41 (iv) If the child's birthday occurs during the  
42 school year, who has not completed the school year during which  
43 the child attains the age of seventeen (17) years.

44 (g) "School attendance officer" means a person employed  
45 by the State Department of Education pursuant to Section 37-13-89.

46 (h) "Appropriate school official" means the  
47 superintendent of the school district or his designee or, in the  
48 case of a nonpublic school, the principal or the headmaster.

49 (i) "Nonpublic school" means an institution for the  
50 teaching of children, consisting of a physical plant, whether  
51 owned or leased, including a home, instructional staff members and  
52 students, and which is in session each school year. This  
53 definition shall include, but not be limited to, private, church,  
54 parochial and home instruction programs.

55 (3) A parent, guardian or custodian of a  
56 compulsory-school-age child in this state shall cause the child to  
57 enroll in and attend a public school or legitimate nonpublic  
58 school for the period of time that the child is of compulsory  
59 school age, except under the following circumstances:

60 (a) When a compulsory-school-age child is physically,  
61 mentally or emotionally incapable of attending school as  
62 determined by the appropriate school official based upon  
63 sufficient medical documentation.

64 (b) When a compulsory-school-age child is enrolled in

65 and pursuing a course of special education, remedial education or  
66 education for handicapped or physically or mentally disadvantaged  
67 children.

68 (c) When a compulsory-school-age child is being  
69 educated in a legitimate home instruction program.

70 The parent, guardian or custodian of a compulsory-school-age  
71 child described in this subsection, or the parent, guardian or  
72 custodian of a compulsory-school-age child attending any nonpublic  
73 school, or the appropriate school official for any or all children  
74 attending a nonpublic school shall complete a "certificate of  
75 enrollment" in order to facilitate the administration of this  
76 section.

77 The form of the certificate of enrollment shall be prepared  
78 by the Office of Compulsory School Attendance Enforcement of the  
79 State Department of Education and shall be designed to obtain the  
80 following information only:

81 (i) The name, address, telephone number and date  
82 of birth of the compulsory-school-age child;

83 (ii) The name, address and telephone number of the  
84 parent, guardian or custodian of the compulsory-school-age child;

85 (iii) A simple description of the type of  
86 education the compulsory-school-age child is receiving and, if the  
87 child is enrolled in a nonpublic school, the name and address of  
88 the school; and

89 (iv) The signature of the parent, guardian or  
90 custodian of the compulsory-school-age child or, for any or all  
91 compulsory-school-age child or children attending a nonpublic  
92 school, the signature of the appropriate school official and the  
93 date signed.

94 The certificate of enrollment shall be returned to the school  
95 attendance officer where the child resides on or before September  
96 15 of each year. Any parent, guardian or custodian found by the  
97 school attendance officer to be in noncompliance with this section  
98 shall comply, after written notice of the noncompliance by the  
99 school attendance officer, with this subsection within ten (10)  
100 days after the notice or be in violation of this section.

101 However, in the event the child has been enrolled in a public  
102 school within fifteen (15) calendar days after the first day of  
103 the school year as required in subsection (6), the parent or  
104 custodian may at a later date enroll the child in a legitimate  
105 nonpublic school or legitimate home instruction program and send  
106 the certificate of enrollment to the school attendance officer and  
107 be in compliance with this subsection.

108 For the purposes of this subsection, a legitimate nonpublic  
109 school or legitimate home instruction program shall be those not  
110 operated or instituted for the purpose of avoiding or  
111 circumventing the compulsory attendance law.

112 (4) An "unlawful absence" is an absence during a school day  
113 by a compulsory-school-age child, which absence is not due to a  
114 valid excuse for temporary nonattendance. Days missed from school  
115 due to disciplinary suspension shall not be considered an  
116 "excused" absence under this section. This subsection shall not  
117 apply to children enrolled in a nonpublic school.

118 Each of the following shall constitute a valid excuse for  
119 temporary nonattendance of a compulsory-school-age child enrolled  
120 in a public school, provided satisfactory evidence of the excuse  
121 is provided to the superintendent of the school district or his  
122 designee:

123 (a) An absence is excused when the absence results from  
124 the compulsory-school-age child's attendance at an authorized  
125 school activity with the prior approval of the superintendent of  
126 the school district or his designee. These activities may include  
127 field trips, athletic contests, student conventions, musical  
128 festivals and any similar activity.

129 (b) An absence is excused when the absence results from  
130 illness or injury which prevents the compulsory-school-age child  
131 from being physically able to attend school.

132 (c) An absence is excused when isolation of a  
133 compulsory-school-age child is ordered by the county health  
134 officer, by the State Board of Health or appropriate school  
135 official.

136 (d) An absence is excused when it results from the

137 death or serious illness of a member of the immediate family of a  
138 compulsory-school-age child. The immediate family members of a  
139 compulsory-school-age child shall include children, spouse,  
140 grandparents, parents, brothers and sisters, including  
141 stepbrothers and stepsisters.

142 (e) An absence is excused when it results from a  
143 medical or dental appointment of a compulsory-school-age child  
144 where an approval of the superintendent of the school district or  
145 his designee is gained before the absence, except in the case of  
146 emergency.

147 (f) An absence is excused when it results from the  
148 attendance of a compulsory-school-age child at the proceedings of  
149 a court or an administrative tribunal if the child is a party to  
150 the action or under subpoena as a witness.

151 (g) An absence may be excused if the religion to which  
152 the compulsory-school-age child or the child's parents adheres,  
153 requires or suggests the observance of a religious event. The  
154 approval of the absence is within the discretion of the  
155 superintendent of the school district or his designee, but  
156 approval should be granted unless the religion's observance is of  
157 such duration as to interfere with the education of the child.

158 (h) An absence may be excused when it is demonstrated  
159 to the satisfaction of the superintendent of the school district  
160 or his designee that the purpose of the absence is to take  
161 advantage of a valid educational opportunity such as travel  
162 including vacations or other family travel. Approval of the  
163 absence must be gained from the superintendent of the school  
164 district or his designee before the absence, but the approval  
165 shall not be unreasonably withheld.

166 (i) An absence may be excused when it is demonstrated  
167 to the satisfaction of the superintendent of the school district  
168 or his designee that conditions are sufficient to warrant the  
169 compulsory-school-age child's nonattendance. However, no absences  
170 shall be excused by the school district superintendent or his  
171 designee when any student suspensions or expulsions circumvent the  
172 intent and spirit of the compulsory attendance law.

173           (5) Any parent, guardian or custodian of a  
174 compulsory-school-age child subject to this section who refuses or  
175 willfully fails to perform any of the duties imposed upon him or  
176 her under this section or who intentionally falsifies any  
177 information required to be contained in a certificate of  
178 enrollment, shall be guilty of contributing to the neglect of a  
179 child and, upon conviction, shall be punished in accordance with  
180 Section 97-5-39.

181           Upon prosecution of a parent, guardian or custodian of a  
182 compulsory-school-age child for violation of this section, the  
183 presentation of evidence by the prosecutor that shows that the  
184 child has not been enrolled in school within eighteen (18)  
185 calendar days after the first day of the school year of the public  
186 school which the child is eligible to attend, or that the child  
187 has accumulated twelve (12) unlawful absences during the school  
188 year at the public school in which the child has been enrolled,  
189 shall establish a prima facie case that the child's parent,  
190 guardian or custodian is responsible for the absences and has  
191 refused or willfully failed to perform the duties imposed upon him  
192 or her under this section. However, no proceedings under this  
193 section shall be brought against a parent, guardian or custodian  
194 of a compulsory-school-age child unless the school attendance  
195 officer has contacted promptly the home of the child and has  
196 provided written notice to the parent, guardian or custodian of  
197 the requirement for the child's enrollment or attendance.

198           (6) If a compulsory-school-age child has not been enrolled  
199 in a school within fifteen (15) calendar days after the first day  
200 of the school year of the school which the child is eligible to  
201 attend or the child has accumulated five (5) unlawful absences  
202 during the school year of the public school in which the child is  
203 enrolled, the school district superintendent shall report, within  
204 two (2) school days or within five (5) calendar days, whichever is  
205 less, the absences to the school attendance officer. The State  
206 Department of Education shall prescribe a uniform method for  
207 schools to utilize in reporting the unlawful absences to the  
208 school attendance officer. The superintendent, or his designee,

209 also shall report any student suspensions or student expulsions to  
210 the school attendance officer when they occur.

211 (7) When a school attendance officer has made all attempts  
212 to secure enrollment \* \* \* or attendance, or both, of a  
213 compulsory-school-age child and is unable to effect the  
214 enrollment \* \* \* or attendance, or both, the attendance officer  
215 shall file a petition with the youth court under Section 43-21-451  
216 or shall file a petition in a court of competent jurisdiction as  
217 it pertains to parent or child. Sheriffs, deputy sheriffs and  
218 municipal law enforcement officers shall be fully authorized to  
219 investigate all cases of nonattendance and unlawful absences by  
220 compulsory-school-age children, and shall be authorized to file a  
221 petition with the youth court under Section 43-21-451 or file a  
222 petition or information in the court of competent jurisdiction as  
223 it pertains to parent or child for violation of this section. The  
224 youth court shall expedite a hearing to make an appropriate  
225 adjudication and a disposition to ensure compliance with the  
226 Compulsory School Attendance Law, and may order the child to  
227 enroll or reenroll in school. The superintendent of the school  
228 district to which the child is ordered may assign, in his  
229 discretion, the child to the alternative school program of the  
230 school established pursuant to Section 37-13-92.

231 (8) Unlawful absences by a kindergarten student in excess of  
232 the number allowed by a local school district may not be the  
233 reason for a school district's determination to withhold or  
234 recommend the withholding of the student from promotion to the  
235 first grade.

236 (9) The State Board of Education shall adopt rules and  
237 regulations for the purpose of reprimanding any school  
238 superintendents who fail to timely report unexcused absences under  
239 the provisions of this section.

240 (10) Notwithstanding any provision or implication herein to  
241 the contrary, it is not the intention of this section to impair  
242 the primary right and the obligation of the parent or parents, or  
243 person or persons in loco parentis to a child, to choose the  
244 proper education and training for such child, and nothing in this

245 section shall ever be construed to grant, by implication or  
246 otherwise, to the State of Mississippi, any of its officers,  
247 agencies or subdivisions any right or authority to control,  
248 manage, supervise or make any suggestion as to the control,  
249 management or supervision of any private or parochial school or  
250 institution for the education or training of children, of any kind  
251 whatsoever that is not a public school according to the laws of  
252 this state; and this section shall never be construed so as to  
253 grant, by implication or otherwise, any right or authority to any  
254 state agency or other entity to control, manage, supervise,  
255 provide for or affect the operation, management, program,  
256 curriculum, admissions policy or discipline of any such school or  
257 home instruction program.

258 **SECTION 2.** This act shall take effect and be in force from  
259 and after July 2, 2002.

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

1 AN ACT TO AMEND SECTION 37-13-91, MISSISSIPPI CODE OF 1972,  
2 TO INCLUDE IN THE DEFINITION OF THE TERM "COMPULSORY-SCHOOL-AGE  
3 CHILD" THOSE FIVE-YEAR-OLDS WHO HAVE ENROLLED IN FULL DAY PUBLIC  
4 SCHOOL KINDERGARTEN PROGRAMS AND STUDENTS WHO TURN 17 YEARS OF AGE  
5 DURING THE SCHOOL YEAR; AND FOR RELATED PURPOSES.

CONFEREES FOR THE SENATE

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

**X** \_\_\_\_\_  
Gray Tollison

\_\_\_\_\_  
Videt Carmichael

CONFEREES FOR THE HOUSE

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

**X** \_\_\_\_\_  
Herb Frierson

**X** \_\_\_\_\_  
Joe S. Ellzey