

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 PROPOSED TO**

**Senate Bill NO. 2223**

**By Representative(s) Committee**

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

**SECTION 1.** Section 37-9-17, Mississippi Code of 1972, is  
reenacted and amended as follows:

37-9-17. (1) On or before April 1 of each year, the  
principal of each school shall recommend to the superintendent of  
the local school district the licensed employees or  
noninstructional employees to be employed for the school involved  
except those licensed employees or noninstructional employees who  
have been previously employed and who have a contract valid for  
the ensuing scholastic year. If such recommendations meet with  
the approval of the superintendent, the superintendent shall  
recommend the employment of such licensed employees or  
noninstructional employees to the local school board, and, unless  
good reason to the contrary exists, the board shall elect the  
employees so recommended. If, for any reason, the local school  
board shall decline to elect any employee so recommended,  
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 adequate 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 and directors of schools under the purview of the State Board of Education and the superintendent of

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

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 or director of a \* \* \* school under  
99 the purview of the State Board of Education shall be voidable if  
100 the new hire receives a disqualifying criminal record check.  
101 However, the State Board of Education or the school board may, in  
102 its 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 \* \* \* include, but are not \* \* \* limited to: (a) age at  
109 which the crime was committed; (b) circumstances surrounding the  
110 crime; (c) length of time since the conviction and criminal  
111 history since the conviction; (d) work history; (e) current  
112 employment and character references; and (f) other evidence  
113 demonstrating the ability of the person to perform the employment  
114 responsibilities competently and that the person does not pose a  
115 threat to the health or safety of 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 \* \* \*.

122 \* \* \*

123 **SECTION 2.** This act shall take effect and be in force from  
124 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 REENACT SECTION 37-9-17, MISSISSIPPI CODE OF 1972,  
2 WHICH REQUIRES SCHOOL DISTRICTS TO FINGERPRINT AND OBTAIN CRIMINAL  
3 RECORDS BACKGROUND CHECKS ON APPLICANTS FOR EMPLOYMENT; TO AMEND  
4 REENACTED SECTION 37-9-17, MISSISSIPPI CODE OF 1972, TO DELETE THE  
5 REPEALER ON THE FINGERPRINTING AND BACKGROUND CHECKS PROVISIONS OF  
6 THAT SECTION; AND FOR RELATED PURPOSES.