

By: Representative Brown

To: Education

HOUSE BILL NO. 1362

1 AN ACT TO AMEND SECTION 37-9-59, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE SCHOOL BOARD TO SUSPEND OR DISMISS AN APPOINTED
3 SUPERINTENDENT BASED ON THE TERMS OF THE EMPLOYMENT CONTRACT
4 ENTERED INTO BY THE SUPERINTENDENT AND THE BOARD WITHOUT A
5 HEARING; TO AUTHORIZE A SUPERINTENDENT TO FILE SUIT AGAINST THE
6 BOARD IF HE OR SHE BELIEVES THAT THE BOARD ILLEGALLY SUSPENDED,
7 DISMISSED OR TERMINATED THE CONTRACT; TO AMEND 37-9-103,
8 MISSISSIPPI CODE OF 1972, TO DELETE SUPERINTENDENTS FROM THE
9 DEFINITION OF EMPLOYEE AS USED IN THE EDUCATION EMPLOYMENT
10 PROCEDURES LAW; TO AMEND SECTION 37-9-25, MISSISSIPPI CODE OF
11 1972, TO REQUIRE A SCHOOL BOARD WHO MAKES A PRELIMINARY
12 DETERMINATION NOT TO OFFER THE SCHOOL DISTRICT SUPERINTENDENT A
13 RENEWAL CONTRACT FOR A SUCCESSIVE YEAR, TO GIVE WRITTEN NOTICE OF
14 THE PRELIMINARY NONREEMPLOYMENT DETERMINATION TO THE
15 SUPERINTENDENT BEFORE FEBRUARY 1; TO REPEAL SECTION 37-9-104,
16 MISSISSIPPI CODE OF 1972, WHICH REQUIRES SCHOOL BOARDS TO GIVE
17 WRITTEN NOTICE OF DETERMINATION NOT TO OFFER SUPERINTENDENTS A
18 RENEWAL CONTRACT; AND FOR RELATED PURPOSES.

19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

20 **SECTION 1.** Section 37-9-59, Mississippi Code of 1972, is
21 amended as follows:

22 37-9-59. (1) For incompetence, neglect of duty, immoral
23 conduct, intemperance, brutal treatment of a pupil or other good
24 cause the superintendent of schools may dismiss or suspend any
25 licensed employee in any school district. Before being so
26 dismissed or suspended any licensed employee shall be notified of
27 the charges against him and he shall be advised that he is
28 entitled to a public hearing upon said charges. In the event the
29 continued presence of said employee on school premises poses a
30 potential threat or danger to the health, safety or general
31 welfare of the students, or, in the discretion of the
32 superintendent, may interfere with or cause a disruption of normal
33 school operations, the superintendent may immediately release said
34 employee of all duties pending a hearing if one is requested by
35 the employee. In the event a licensed employee is arrested,

36 indicted or otherwise charged with a felony by a recognized law
37 enforcement official, the continued presence of the licensed
38 employee on school premises shall be deemed to constitute a
39 disruption of normal school operations. The school board, upon a
40 request for a hearing by the person so suspended or removed shall
41 set a date, time and place for such hearing which shall be not
42 sooner than five (5) days nor later than thirty (30) days from the
43 date of the request. The procedure for such hearing shall be as
44 prescribed for hearings before the board or hearing officer in
45 Section 37-9-111. From the decision made at said hearing, any
46 licensed employee shall be allowed an appeal to the chancery court
47 in the same manner as appeals are authorized in Section 37-9-113.
48 Any party aggrieved by action of the chancery court may appeal to
49 the Mississippi Supreme Court as provided by law. In the event
50 that a licensed employee is immediately relieved of duties pending
51 a hearing, as provided in this section, said employee shall be
52 entitled to compensation for a period up to and including the date
53 that the initial hearing is set by the school board, in the event
54 that there is a request for such a hearing by the employee. In
55 the event that an employee does not request a hearing within five
56 (5) calendar days of the date of the notice of discharge or
57 suspension, it shall constitute a waiver of all rights by said
58 employee and such discharge or suspension shall be effective on
59 the date set out in the notice to the employee.

60 The school board of every school district in this state is
61 hereby prohibited from denying employment or reemployment to any
62 person as a superintendent, principal or licensed employee, as
63 defined in Section 37-19-1, or as a noninstructional personnel, as
64 defined in Section 37-9-1, for the single reason that any eligible
65 child of such person does not attend the school system in which
66 such superintendent, principal, licensed employee or
67 noninstructional personnel is employed.

68 This subsection 1 of this section shall not apply to the
69 suspension or dismissal of appointed superintendents.

70 (2) The school board may suspend or dismiss an appointed
71 superintendent based on the terms of the employment contract
72 entered into by the superintendent and the board. The school
73 board shall explain to the superintendent why the contract is
74 being terminated and give the superintendent an opportunity to
75 respond in writing to the reasons given by the board for the
76 suspension or dismissal. If the appointed superintendent believes
77 that the school board illegally suspended, dismissed or terminated
78 the contract, that superintendent may file suit against the school
79 board.

80 **SECTION 2.** Section 37-9-103, Mississippi Code of 1972, is
81 amended as follows:

82 37-9-103. As used in Sections 37-9-101 through 37-9-113, the
83 word "employee" shall include:

84 (a) Any teacher, principal * * * or other professional
85 personnel except appointed superintendents employed by the local
86 school district for a continuous period of two (2) years with that
87 district and required to have a valid license issued by the State
88 Department of Education as a prerequisite of employment; or

89 (b) Any teacher, principal * * * or other professional
90 personnel except appointed superintendents who has completed a
91 continuous period of two (2) years of employment in a Mississippi
92 public school district and one (1) full year of employment with
93 the school district of current employment, and who is required to
94 have a valid license issued by the State Department of Education
95 as a prerequisite of employment.

96 For purposes of Sections 37-9-101 through 37-9-113, the term
97 "days" means calendar days.

98 **SECTION 3.** Section 37-9-25, Mississippi Code of 1972, is
99 amended as follows:

100 37-9-25. The school board shall have the power and
101 authority, in its discretion, to employ the superintendent, unless
102 such superintendent is elected, for not exceeding four (4)
103 scholastic years. However, if the school board makes a
104 preliminary determination not to offer the school district
105 superintendent a renewal contract for a successive year, written
106 notice of the preliminary nonreemployment determination must be
107 given to the superintendent before February 1. The school board
108 shall also have the power and authority, in its discretion, to
109 employ principals or licensed employees for not exceeding three
110 (3) scholastic years. In such case, contracts shall be entered
111 into with such superintendents, principals and licensed employees
112 for the number of years for which they have been employed. All
113 such contracts with licensed employees shall for the years after
114 the first year thereof be subject to the contingency that the
115 licensed employee may be released if, during the life of the
116 contract, the average daily attendance should decrease from that
117 existing during the previous year and thus necessitate a reduction
118 in the number of licensed employees during any year after the
119 first year of the contract. However, in all such cases the
120 licensed employee must be released before July 1 or at least
121 thirty (30) days prior to the beginning of the school term,
122 whichever date should occur earlier. The salary to be paid for
123 the years after the first year of such contract shall be subject
124 to revision, either upward or downward, in the event of an
125 increase or decrease in the funds available for the payment
126 thereof, but, unless such salary is revised prior to the beginning
127 of a school year, it shall remain for such school year at the
128 amount fixed in such contract. However, where school district
129 funds, other than minimum education program funds, are available
130 during the school year in excess of the amount anticipated at the
131 beginning of the school year the salary to be paid for such year

132 may be increased to the extent that such additional funds are
133 available and nothing herein shall be construed to prohibit same.

134 **SECTION 4.** Section 37-9-104, Mississippi Code of 1972, which
135 provides for school boards to give written notice of determination
136 not to offer superintendents a renewal contract, is repealed.

137 **SECTION 5.** This act shall take effect and be in force from
138 and after July 1, 2005.