

By: Harden

To: Education; Finance

SENATE BILL NO. 2261

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF  
2 1972, TO PROVIDE THAT CERTAIN PERSONS RECEIVING A RETIREMENT  
3 ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE  
4 EMPLOYED AS TEACHERS IN THE PUBLIC SCHOOL SYSTEM AFTER THEIR  
5 RETIREMENT, AND CERTAIN PERSONS EMPLOYED AS TEACHERS IN THE PUBLIC  
6 SCHOOL SYSTEM WHO ARE ELIGIBLE TO RECEIVE A RETIREMENT ALLOWANCE  
7 FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, MAY RECEIVE A  
8 RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS TEACHERS IN  
9 ADDITION TO RECEIVING A TEACHER'S SALARY; TO PROVIDE THAT THOSE  
10 PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM  
11 NOR RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH  
12 THEY RECEIVE A RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS  
13 TEACHERS; TO AMEND SECTIONS 25-11-103, 25-11-105 AND 25-11-127,  
14 MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF  
15 THIS ACT; TO AMEND SECTION 37-19-7, MISSISSIPPI CODE OF 1972, TO  
16 PROVIDE THAT THE TEACHERS' SALARIES OF THOSE PERSONS SHALL BE  
17 EQUAL TO THE AMOUNT OF THE SALARY THAT THEY RECEIVED DURING THE  
18 SCHOOL YEAR IMMEDIATELY PRECEDING THE DATE OF THEIR RETIREMENT OR  
19 THE DATE THAT CURRENT TEACHERS BEGAN RECEIVING A RETIREMENT  
20 ALLOWANCE; TO PROVIDE THAT THE TEACHERS' SALARIES OF THOSE PERSONS  
21 SHALL NOT INCLUDE ANY INCREASE IN THE SALARY FOR TEACHING  
22 EXPERIENCE OBTAINED AFTER THE DATE OF THEIR EMPLOYMENT AS TEACHERS  
23 AFTER THEIR RETIREMENT OR THE DATE THAT CURRENT TEACHERS BEGAN  
24 RECEIVING A RETIREMENT ALLOWANCE; AND FOR RELATED PURPOSES.

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

26 SECTION 1. The following shall be codified as Section  
27 25-11-126, Mississippi Code of 1972:

28 25-11-126. (1) (a) Any person who has completed  
29 twenty-five (25) or more years of creditable service and is  
30 receiving a retirement allowance under this article, who was  
31 employed as a teacher in the public school system at the time of  
32 his retirement and who is employed as a teacher in the public

33 school system after his retirement, may choose to continue  
34 receiving the retirement allowance under this article during his  
35 employment as a teacher after his retirement in addition to  
36 receiving the salary authorized under Section 37-19-7(3), in the  
37 manner provided in this section.

38 (b) Any person who is employed as a teacher in the  
39 public school system who completes twenty-five (25) or more years  
40 of creditable service during his employment as a teacher, may  
41 choose to receive a retirement allowance under this article during  
42 his employment as a teacher in the public school system in  
43 addition to receiving the salary authorized under Section  
44 37-19-7(3), in the manner provided in this section.

45 (2) Any person described in subsection (1)(a) of this  
46 section shall notify the executive director of the retirement  
47 system, before being employed as a teacher in the public school  
48 system after his retirement, about his choice on continuing to  
49 receive the retirement allowance during his employment as a  
50 teacher. If the person chooses not to continue receiving the  
51 retirement allowance during his employment as a teacher, the  
52 retirement allowance shall cease on the day that he begins  
53 employment as a teacher after his retirement. After the person  
54 leaves employment as a teacher that he began after his retirement,  
55 in order to begin receiving a retirement allowance under this  
56 article again, the person shall make application to the executive  
57 director of the retirement system, and the retirement allowance  
58 shall begin on the first of the month following the date that the  
59 application is received by the executive director.

60 (3) Any person described in subsection (1)(b) who chooses to  
61 receive a retirement allowance during his employment as a teacher  
62 in the public school system shall make application to the  
63 executive director of the retirement system, and the retirement

64 allowance shall begin on the first of the month following the date  
65 that the application is received by the executive director. Those  
66 persons shall not be required to withdraw from service in order to  
67 receive the retirement allowance.

68 (4) Any person to whom this section applies who receives or  
69 continues to receive a retirement allowance under this article  
70 during his employment as a teacher shall not be a contributing  
71 member of the retirement system nor receive any creditable service  
72 for the period during which he receives a retirement allowance  
73 during his employment as a teacher. Any person to whom this  
74 section applies who chooses not to receive a retirement allowance  
75 during his employment as a teacher shall be a contributing member  
76 of the retirement system and shall receive creditable service for  
77 the period during which he is employed as a teacher without  
78 receiving a retirement allowance. If the person has previously  
79 received a retirement allowance under this article and he is  
80 employed as a teacher for more than six (6) months without  
81 receiving a retirement allowance, he shall have his allowance  
82 recomputed when he retires again, which shall include the service  
83 after he again became a contributing member of the retirement  
84 system.

85 SECTION 2. Section 25-11-103, Mississippi Code of 1972, is  
86 amended as follows:[WAN1]

87 25-11-103. The following words and phrases as used in  
88 Articles 1 and 3, unless a different meaning is plainly required  
89 by the context, shall have the following meanings:

90 (a) "Accumulated contributions" shall mean the sum of  
91 all the amounts deducted from the compensation of a member and

92 credited to his individual account in the annuity savings account,  
93 together with regular interest thereon as provided in Section  
94 25-11-123.

95 (b) "Actuarial cost" shall mean the amount of funds  
96 presently required to provide future benefits as determined by the  
97 board based on applicable tables and formulas provided by the  
98 actuary.

99 (c) "Actuarial equivalent" shall mean a benefit of  
100 equal value to the accumulated contributions, annuity or benefit,  
101 as the case may be, when computed upon the basis of such mortality  
102 tables as shall be adopted by the board of trustees, and regular  
103 interest.

104 (d) "Actuarial tables" shall mean such tables of  
105 mortality and rates of interest as shall be adopted by the board  
106 in accordance with the recommendation of the actuary.

107 (e) "Agency" shall mean any governmental body employing  
108 persons in the state service.

109 (f) "Average compensation" shall mean the average of  
110 the four (4) highest years of earned compensation reported for an  
111 employee in a fiscal or calendar year period, or combination  
112 thereof which do not overlap, or the last forty-eight (48)  
113 consecutive months of earned compensation reported for an  
114 employee. The four (4) years need not be successive or joined  
115 years of service. In no case shall the average compensation so  
116 determined be in excess of One Hundred Twenty-five Thousand  
117 Dollars (\$125,000.00). In computing the average compensation, any  
118 amount paid in a lump sum for personal leave shall be included in  
119 the calculation to the extent that such amount does not exceed an

120 amount which is equal to thirty (30) days of earned compensation  
121 and to the extent that it does not cause the employees' earned  
122 compensation to exceed the maximum reportable amount specified in  
123 Section 25-11-103(k); provided, however, that such thirty-day  
124 limitation shall not prevent the inclusion in the calculation of  
125 leave earned under federal regulations prior to July 1, 1976, and  
126 frozen as of that date as referred to in Section 25-3-99. Only  
127 the amount of lump sum pay for personal leave due and paid upon  
128 the death of a member attributable for up to one hundred fifty  
129 (150) days shall be used in the deceased member's average  
130 compensation calculation in determining the beneficiary's  
131 benefits. In computing the average compensation, no amounts shall  
132 be used which are in excess of the amount on which contributions  
133 were required and paid. If any member who is or has been granted  
134 any increase in annual salary or compensation of more than eight  
135 percent (8%) retires within twenty-four (24) months from the date  
136 that such increase becomes effective, then the board shall exclude  
137 that part of the increase in salary or compensation that exceeds  
138 eight percent (8%) in calculating that member's average  
139 compensation for retirement purposes. The board may enforce this  
140 provision by rule or regulation. However, increases in  
141 compensation in excess of eight percent (8%) per year granted  
142 within twenty-four (24) months of the date of retirement may be  
143 included in such calculation of average compensation if  
144 satisfactory proof is presented to the board showing that the  
145 increase in compensation was the result of an actual change in the  
146 position held or services rendered, or that such compensation  
147 increase was authorized by the State Personnel Board or was

148 increased as a result of statutory enactment, and the employer  
149 furnishes an affidavit stating that such increase granted within  
150 the last twenty-four (24) months was not contingent on a promise  
151 or agreement of the employee to retire. Nothing in Section  
152 25-3-31 shall affect the calculation of the average compensation  
153 of any member for the purposes of this article. The average  
154 compensation of any member who retires before July 1, 1992, shall  
155 not exceed the annual salary of the Governor.

156 (g) "Beneficiary" shall mean any person entitled to  
157 receive a retirement allowance, an annuity or other benefit as  
158 provided by Articles 1 and 3. In the event of the death prior to  
159 retirement of any member whose spouse and/or children are not  
160 entitled to a retirement allowance, the lawful spouse of a member  
161 at the time of the death of such member shall be the beneficiary  
162 of such member unless the member has designated another  
163 beneficiary subsequent to the date of marriage in writing, and  
164 filed such writing in the office of the executive director of the  
165 board of trustees. No designation or change of beneficiary shall  
166 be made in any other manner.

167 (h) "Board" shall mean the board of trustees provided  
168 in Section 25-11-15 to administer the retirement system herein  
169 created.

170 (i) "Creditable service" shall mean "prior service,"  
171 "retroactive service" and all lawfully credited unused leave not  
172 exceeding the accrual rates and limitations provided in Section  
173 25-3-91 et seq., as of the date of withdrawal from service plus  
174 "membership service" for which credit is allowable as provided in  
175 Section 25-11-109. Except to limit creditable service reported to

176 the system for the purpose of computing an employee's retirement  
177 allowance or annuity or benefits provided in this article, nothing  
178 in this paragraph shall limit or otherwise restrict the power of  
179 the governing authority of a municipality or other political  
180 subdivision of the state to adopt such vacation and sick leave  
181 policies as it deems necessary.

182 (j) "Child" means either a natural child of the member,  
183 a child that has been made a child of the member by applicable  
184 court action before the death of the member, or a child under the  
185 permanent care of the member at the time of the latter's death,  
186 which permanent care status shall be determined by evidence  
187 satisfactory to the board.

188 (k) "Earned compensation" shall mean the full amount  
189 earned by an employee for a given pay period including any  
190 maintenance furnished up to a maximum of One Hundred Twenty-five  
191 Thousand Dollars (\$125,000.00) per year, and proportionately for  
192 less than one (1) year of service. The value of such maintenance  
193 when not paid in money shall be fixed by the employing state  
194 agency, and, in case of doubt, by the board of trustees as defined  
195 in Section 25-11-15. In any case, earned compensation shall be  
196 limited to the regular periodic compensation paid, exclusive of  
197 litigation fees, bond fees, and other similar extraordinary  
198 nonrecurring payments. In addition, any member in a covered  
199 position, as defined by Public Employees' Retirement System laws  
200 and regulations, who is also employed by another covered agency or  
201 political subdivision shall have the earnings of that additional  
202 employment reported to the Public Employees' Retirement System  
203 regardless of whether the additional employment is sufficient in

204 itself to be a covered position. In the case of fee officials,  
205 the net earnings from their office after deduction of expenses  
206 shall apply, except that in no case shall earned compensation be  
207 less than the total direct payments made by the state or  
208 governmental subdivisions to the official, and employer and  
209 employee contributions shall be paid thereon. In the case of  
210 members of the state Legislature, all remuneration or amounts  
211 paid, except mileage allowance, shall apply. The amount by which  
212 an eligible employee's salary is reduced pursuant to a salary  
213 reduction agreement authorized under Section 25-17-5 shall be  
214 included as earned compensation under this paragraph, provided  
215 this inclusion does not conflict with federal law, including  
216 federal regulations and federal administrative interpretations  
217 thereunder, pertaining to the Federal Insurance Contributions Act  
218 or to Internal Revenue Code Section 125 cafeteria plans.  
219 Compensation in addition to an employee's base salary that is paid  
220 to the employee pursuant to the vacation and sick leave policies  
221 of a municipality or other political subdivision of the state that  
222 employs him which exceeds the maximums authorized by Section  
223 25-3-91 et seq., shall be excluded from the calculation of earned  
224 compensation under this article. The maximum salary applicable  
225 for retirement purposes before July 1, 1992, shall be the salary  
226 of the Governor. Nothing in Section 25-3-31 shall affect the  
227 determination of the earned compensation of any member for the  
228 purposes of this article.

229 (1) "Employee" means any person legally occupying a  
230 position in the state service, and shall include the employees of  
231 the retirement system created hereunder.

232           (m) "Employer" shall mean the State of Mississippi or  
233 any of its departments, agencies or subdivisions from which any  
234 employee receives his compensation.

235           (n) "Executive director" shall mean the secretary to  
236 the board of trustees, as provided in Section 25-11-15(9), and the  
237 administrator of the Public Employees' Retirement System and all  
238 systems under the management of the board of trustees. Wherever  
239 the term "Executive Secretary of the Public Employees' Retirement  
240 System" or "executive secretary" appears in this article or in any  
241 other provision of law, it shall be construed to mean the  
242 Executive Director of the Public Employees' Retirement System.

243           (o) "Fiscal year" shall mean the period beginning on  
244 July 1 of any year and ending on June 30 of the next succeeding  
245 year.

246           (p) "Medical board" shall mean the board of physicians  
247 or any governmental or nongovernmental disability determination  
248 service designated by the board of trustees that is qualified to  
249 make disability determinations as provided for in Section  
250 25-11-119.

251           (q) "Member" shall mean any person included in the  
252 membership of the system as provided in Section 25-11-105.

253           (r) "Membership service" shall mean service as an  
254 employee rendered while a member of the retirement system.

255           (s) "Position" means any office or any employment in  
256 the state service, or two (2) or more of them, the duties of which  
257 call for services to be rendered by one (1) person, including  
258 positions jointly employed by federal and state agencies  
259 administering federal and state funds. The employer shall

260 determine upon initial employment and during the course of  
261 employment of an employee who does not meet the criteria for  
262 coverage in the Public Employees' Retirement System based on the  
263 position held, whether the employee is or becomes eligible for  
264 coverage in the Public Employees' Retirement System based upon any  
265 other employment in a covered agency or political subdivision. If  
266 or when the employee meets the eligibility criteria for coverage  
267 in such other position, then the employer must withhold  
268 contributions and report wages from the noncovered position in  
269 accordance with the provisions for reporting of earned  
270 compensation. Failure to deduct and report those contributions  
271 shall not relieve the employee or employer of liability thereof.  
272 The board shall adopt such rules and regulations as necessary to  
273 implement and enforce this provision.

274 (t) "Prior service" shall mean service rendered before  
275 February 1, 1953, for which credit is allowable under Sections  
276 25-11-105 and 25-11-109, and which shall allow prior service for  
277 any person who is now or becomes a member of the Public Employees'  
278 Retirement System and who does contribute to the system for a  
279 minimum period of four (4) years.

280 (u) "Regular interest" shall mean interest compounded  
281 annually at such a rate as shall be determined by the board in  
282 accordance with Section 25-11-121.

283 (v) "Retirement allowance" shall mean an annuity for  
284 life as provided in this article, payable each year in twelve (12)  
285 equal monthly installments beginning as of the date fixed by the  
286 board. The retirement allowance shall be calculated in accordance  
287 with Section 25-11-111. Provided, any spouse who received a

288 spouse retirement benefit in accordance with Section 25-11-111(d)  
289 prior to March 31, 1971, and said benefits were terminated because  
290 of eligibility for a social security benefit, may again receive  
291 his spouse retirement benefit from and after making application  
292 with the board of trustees to reinstate such spouse retirement  
293 benefit.

294 (w) "Retroactive service" shall mean service rendered  
295 after February 1, 1953, for which credit is allowable under  
296 Section 25-11-105(b) and Section 25-11-105(k).

297 (x) "System" shall mean the Public Employees'  
298 Retirement System of Mississippi established and described in  
299 Section 25-11-101.

300 (y) "State" shall mean the State of Mississippi or any  
301 political subdivision thereof or instrumentality thereof.

302 (z) "State service" shall mean all offices and  
303 positions of trust or employment in the employ of the state, or  
304 any political subdivision or instrumentality thereof, which elect  
305 to participate as provided by Section 25-11-105(f), including the  
306 position of elected or fee officials of the counties and their  
307 deputies and employees performing public services or any  
308 department, independent agency, board or commission thereof, and  
309 shall also include all offices and positions of trust or  
310 employment in the employ of joint state and federal agencies  
311 administering state and federal funds and service rendered by  
312 employees of the public schools. Effective July 1, 1973, all  
313 nonprofessional public school employees, such as bus drivers,  
314 janitors, maids, maintenance workers and cafeteria employees,  
315 shall have the option to become members in accordance with Section

316 25-11-105(b), and shall be eligible to receive credit for services  
317 prior to July 1, 1973, provided the contributions and interest are  
318 paid by the employee in accordance with said section; provided,  
319 further, that the county or municipal separate school district may  
320 pay the employer contribution and pro rata share of interest of  
321 the retroactive service from available funds. From and after July  
322 1, 1998, retroactive service credit shall be purchased at the  
323 actuarial cost in accordance with Section 25-11-105(b).

324 (aa) "Withdrawal from service" shall mean complete  
325 severance of employment in the state service of any member by  
326 resignation, dismissal or discharge, except in the case of persons  
327 who become eligible to receive a retirement allowance under this  
328 article during their employment as teachers and who choose to  
329 receive the retirement allowance during their employment as  
330 teachers as authorized by Section 25-11-126.

331 (bb) The masculine pronoun, wherever used, shall  
332 include the feminine pronoun.

333 SECTION 3. Section 25-11-105, Mississippi Code of 1972, is  
334 amended as follows:[LR2]

335 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

336 The membership of this retirement system shall be composed as  
337 follows:

338 (a) All persons who shall become employees in the state  
339 service after January 31, 1953, and whose wages are subject to  
340 payroll taxes and are lawfully reported on IRS Form W-2, except  
341 (i) those persons who are specifically excluded, (ii) those  
342 persons or as to whom election is provided in Articles 1 and 3,  
343 (iii) those persons who choose to receive or continue receiving a

344 retirement allowance during their employment as teachers as  
345 authorized by Section 25-11-126, shall become members of the  
346 retirement system as a condition of their employment.

347 (b) All persons who shall become employees in the state  
348 service after January 31, 1953, except those specifically excluded  
349 or as to whom election is provided in Articles 1 and 3, unless  
350 they shall file with the board prior to the lapse of sixty (60)  
351 days of employment or sixty (60) days after the effective date of  
352 the cited articles, whichever is later, on a form prescribed by  
353 the board, a notice of election not to be covered by the  
354 membership of the retirement system and a duly executed waiver of  
355 all present and prospective benefits which would otherwise inure  
356 to them on account of their participation in the system, shall  
357 become members of the retirement system; provided, however, that  
358 no credit for prior service will be granted to members until they  
359 have contributed to Article 3 of the retirement system for a  
360 minimum period of at least four (4) years. Such members shall  
361 receive credit for services performed prior to January 1, 1953, in  
362 employment now covered by Article 3, but no credit shall be  
363 granted for retroactive services between January 1, 1953, and the  
364 date of their entry into the retirement system unless the employee  
365 pays into the retirement system both the employer's and the  
366 employee's contributions on wages paid him during the period from  
367 January 31, 1953, to the date of his becoming a contributing  
368 member, together with interest at the rate determined by the board  
369 of trustees. Members reentering after withdrawal from service  
370 shall qualify for prior service under the provisions of Section  
371 25-11-117. From and after July 1, 1998, upon eligibility as noted

372 above, the member may receive credit for such retroactive service  
373 provided:

374 (1) The member shall furnish proof satisfactory to  
375 the board of trustees of certification of such service from the  
376 covered employer where the services were performed; and

377 (2) The member shall pay to the retirement system  
378 on the date he or she is eligible for such credit or at any time  
379 thereafter prior to the date of retirement the actuarial cost for  
380 each year of such creditable service. The provisions of this  
381 subparagraph (2) shall be subject to the limitations of Section  
382 415 of the Internal Revenue Code and regulations promulgated  
383 thereunder.

384 Nothing contained in this paragraph (b) shall be construed to  
385 limit the authority of the board to allow the correction of  
386 reporting errors or omissions based on the payment of the employee  
387 and employer contributions plus applicable interest.

388 (c) All persons who shall become employees in the state  
389 service after January 31, 1953, and who are eligible for  
390 membership in any other retirement system shall become members of  
391 this retirement system as a condition of their employment unless  
392 they elect at the time of their employment to become a member of  
393 such other system.

394 (d) All persons who are employees in the state service  
395 on January 31, 1953, and who are members of any nonfunded  
396 retirement system operated by the State of Mississippi, or any of  
397 its departments or agencies, shall become members of this system  
398 with prior service credit unless, before February 1, 1953, they  
399 shall file a written notice with the board of trustees that they

400 do not elect to become members.

401           (e) All persons who are employees in the state service  
402 on January 31, 1953, and who under existing laws are members of  
403 any fund operated for the retirement of employees by the State of  
404 Mississippi, or any of its departments or agencies, shall not be  
405 entitled to membership in this retirement system unless, before  
406 February 1, 1953, any such person shall indicate by a notice filed  
407 with the board, on a form prescribed by the board, his individual  
408 election and choice to participate in this system, but no such  
409 person shall receive prior service credit unless he becomes a  
410 member on or before February 1, 1953.

411           (f) Each political subdivision of the state and each  
412 instrumentality of the state or a political subdivision, or both,  
413 is hereby authorized to submit, for approval by the board of  
414 trustees, a plan for extending the benefits of this article to  
415 employees of any such political subdivision or instrumentality.  
416 Each such plan or any amendment to the plan for extending benefits  
417 thereof shall be approved by the board of trustees if it finds  
418 that such plan, or such plan as amended, is in conformity with  
419 such requirements as are provided in Articles 1 and 3; however,  
420 upon approval of such plan or any such plan heretofore approved by  
421 the board of trustees, the approved plan shall not be subject to  
422 cancellation or termination by the political subdivision or  
423 instrumentality. No such plan shall be approved unless:

424           (1) It provides that all services which constitute  
425 employment as defined in Section 25-11-5 and are performed in the  
426 employ of the political subdivision or instrumentality, by any  
427 employees thereof, shall be covered by the plan; with the

428 exception of municipal employees who are already covered by  
429 existing retirement plans; provided, however, those employees in  
430 this class may elect to come under the provisions of this article;

431 (2) It specifies the source or sources from which  
432 the funds necessary to make the payments required by subsection  
433 (d) of Section 25-11-123 and of subsections (f)(5)b and c of this  
434 section are expected to be derived and contains reasonable  
435 assurance that such sources will be adequate for such purpose;

436 (3) It provides for such methods of administration  
437 of the plan by the political subdivision or instrumentality as are  
438 found by the board of trustees to be necessary for the proper and  
439 efficient administration thereof;

440 (4) It provides that the political subdivision or  
441 instrumentality will make such reports, in such form and  
442 containing such information, as the board of trustees may from  
443 time to time require;

444 (5) It authorizes the board of trustees to  
445 terminate the plan in its entirety in the discretion of the board  
446 if it finds that there has been a failure to comply substantially  
447 with any provision contained in such plan, such termination to  
448 take effect at the expiration of such notice and on such  
449 conditions as may be provided by regulations of the board and as  
450 may be consistent with applicable federal law.

451 A. The board of trustees shall not finally  
452 refuse to approve a plan submitted under subsection (f), and shall  
453 not terminate an approved plan without reasonable notice and  
454 opportunity for hearing to each political subdivision or  
455 instrumentality affected thereby. The board's decision in any

456 such case shall be final, conclusive and binding unless an appeal  
457 be taken by the political subdivision or instrumentality aggrieved  
458 thereby to the Circuit Court of Hinds County, Mississippi, in  
459 accordance with the provisions of law with respect to civil causes  
460 by certiorari.

461           B. Each political subdivision or  
462 instrumentality as to which a plan has been approved under this  
463 section shall pay into the contribution fund, with respect to  
464 wages (as defined in Section 25-11-5), at such time or times as  
465 the board of trustees may by regulation prescribe, contributions  
466 in the amounts and at the rates specified in the applicable  
467 agreement entered into by the board.

468           C. Every political subdivision or  
469 instrumentality required to make payments under subsection (f)(5)b  
470 hereof is authorized, in consideration of the employees' retention  
471 in or entry upon employment after enactment of Articles 1 and 3,  
472 to impose upon its employees, as to services which are covered by  
473 an approved plan, a contribution with respect to wages (as defined  
474 in Section 25-11-5) not exceeding the amount provided in Section  
475 25-11-123(d) if such services constituted employment within the  
476 meaning of Articles 1 and 3, and to deduct the amount of such  
477 contribution from the wages as and when paid. Contributions so  
478 collected shall be paid into the contribution fund as partial  
479 discharge of the liability of such political subdivisions or  
480 instrumentality under subsection (f)(5)b hereof. Failure to  
481 deduct such contribution shall not relieve the employee or  
482 employer of liability thereof.

483           D. Any state agency, school, political

484 subdivision, instrumentality or any employer that is required to  
485 submit contribution payments or wage reports under any section of  
486 this chapter shall be assessed interest on delinquent payments or  
487 wage reports as determined by the board of trustees in accordance  
488 with rules and regulations adopted by the board and such assessed  
489 interest may be recovered by action in a court of competent  
490 jurisdiction against such reporting agency liable therefor or may,  
491 upon due certification of delinquency and at the request of the  
492 board of trustees, be deducted from any other monies payable to  
493 such reporting agency by any department or agency of the state.

494           E. Each political subdivision of the state  
495 and each instrumentality of the state or a political subdivision  
496 or subdivisions which submits a plan for approval of the board, as  
497 provided in this section, shall reimburse the board for coverage  
498 into the expense account, its pro rate share of the total expense  
499 of administering Articles 1 and 3 as provided by regulations of  
500 said board.

501           (g) The board may, in its discretion, deny the right of  
502 membership in this system to any class of employees whose  
503 compensation is only partly paid by the state or who are occupying  
504 positions on a part-time or intermittent basis. The board may, in  
505 its discretion, make optional with employees in any such classes  
506 their individual entrance into this system.

507           (h) An employee whose membership in this system is  
508 contingent on his own election, and who elects not to become a  
509 member, may thereafter apply for and be admitted to membership;  
510 but no such employee shall receive prior service credit unless he  
511 becomes a member prior to July 1, 1953, except as provided in

512 subsection (b).

513           (i) In the event any member of this system should  
514 change his employment to any agency of the state having an  
515 actuarially funded retirement system, the board of trustees may  
516 authorize the transfer of the member's creditable service and of  
517 the present value of the member's employer's accumulation account  
518 and of the present value of the member's accumulated membership  
519 contributions to such other system, provided the employee agrees  
520 to the transfer of his accumulated membership contributions and  
521 provided such other system is authorized to receive and agrees to  
522 make such transfer.

523           In the event any member of any other actuarially funded  
524 system maintained by an agency of the state changes his employment  
525 to an agency covered by this system, the board of trustees may  
526 authorize the receipt of the transfer of the member's creditable  
527 service and of the present value of the member's employer's  
528 accumulation account and of the present value of the member's  
529 accumulated membership contributions from such other system,  
530 provided the employee agrees to the transfer of his accumulated  
531 membership contributions to this system and provided the other  
532 system is authorized and agrees to make such transfer.

533           (j) Wherever herein state employment is referred to, it  
534 shall include joint employment by state and federal agencies of  
535 all kinds.

536           (k) Employees of a political subdivision or  
537 instrumentality who were employed by such political subdivision or  
538 instrumentality prior to an agreement between such entity and the  
539 Public Employees' Retirement System to extend the benefits of this

540 article to its employees, and which agreement provides for the  
541 establishment of retroactive service credit, and who have been  
542 members of the retirement system and have remained contributors to  
543 the retirement system for four (4) years, may receive credit for  
544 such retroactive service with such political subdivision or  
545 instrumentality, provided the employee and/or employer, as  
546 provided under the terms of the modification of the joinder  
547 agreement in allowing such coverage, pay into the retirement  
548 system the employer's and employee's contributions on wages paid  
549 the member during such previous employment, together with interest  
550 or actuarial cost as determined by the board covering the period  
551 from the date the service was rendered until the payment for the  
552 credit for such service was made. Such wages shall be verified by  
553 the Social Security Administration or employer payroll records.  
554 Effective July 1, 1998, upon eligibility as noted above, a member  
555 may receive credit for such retroactive service with such  
556 political subdivision or instrumentality provided:

557                   (1) The member shall furnish proof satisfactory to  
558 the board of trustees of certification of such services from the  
559 political subdivision or instrumentality where the services were  
560 rendered or verification by the Social Security Administration;  
561 and

562                   (2) The member shall pay to the retirement system  
563 on the date he or she is eligible for such credit or at any time  
564 thereafter prior to the date of retirement the actuarial cost for  
565 each year of such creditable service. The provisions of this  
566 subparagraph (2) shall be subject to the limitations of Section  
567 415 of the Internal Revenue Code and regulations promulgated

568 thereunder.

569       Nothing contained in this paragraph (k) shall be construed to  
570 limit the authority of the board to allow the correction of  
571 reporting errors or omissions based on the payment of employee and  
572 employer contributions plus applicable interest. Payment for such  
573 time shall be made in increments of not less than one-quarter  
574 (1/4) year of creditable service beginning with the most recent  
575 service. Upon the payment of all or part of such required  
576 contributions, plus interest or the actuarial cost as provided  
577 above, the member shall receive credit for the period of  
578 creditable service for which full payment has been made to the  
579 retirement system.

580       (1) Through June 30, 1998, any state service eligible  
581 for retroactive service credit, no part of which has ever been  
582 reported, and requiring the payment of employee and employer  
583 contributions plus interest, or, from and after July 1, 1998, any  
584 state service eligible for retroactive service credit, no part of  
585 which has ever been reported to the retirement system, and  
586 requiring the payment of the actuarial cost for such creditable  
587 service, may, at the member's option, be purchased in quarterly  
588 increments as provided above at such time as its purchase is  
589 otherwise allowed.

590       (m) All rights to purchase retroactive service credit  
591 or repay a refund as provided in Section 25-11-101 et seq. shall  
592 terminate upon retirement.

593       **II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP**

594       The following classes of employees and officers shall not  
595 become members of this retirement system, any other provisions of

596 Articles 1 and 3 to the contrary notwithstanding:

597 (a) Patient or inmate help in state charitable, penal  
598 or correctional institutions;

599 (b) Students of any state educational institution  
600 employed by any agency of the state for temporary, part-time or  
601 intermittent work;

602 (c) Participants of Comprehensive Employment and  
603 Training Act of 1973 (CETA) being Public Law 93-203, who enroll on  
604 or after July 1, 1979.

605 **III. TERMINATION OF MEMBERSHIP**

606 Membership in this system shall cease by a member withdrawing  
607 his accumulated contributions, or by a member withdrawing from  
608 active service with a retirement allowance, or by a member's  
609 death.

610 SECTION 4. Section 25-11-127, Mississippi Code of 1972, is  
611 amended as follows:[LR3]

612 25-11-127. No person who is being paid a retirement  
613 allowance, or a pension after retirement under this article, shall  
614 be employed or paid for any service by the State of Mississippi,  
615 except as provided in this section or in Section 25-11-126. This  
616 section shall not apply to any pensioner who has been elected to  
617 public office after retirement, nor to any person employed because  
618 of special knowledge or experience. This section shall not be  
619 construed to mean that any person employed or elected under the  
620 above exceptions shall become a member under Article 3 of the  
621 retirement system, nor shall any retirant of this retirement  
622 system who is reemployed or is reelected to office, after  
623 retirement continue to draw retirement benefits while so

624 reemployed or reelected except those persons who choose to  
625 continue receiving a retirement allowance during their employment  
626 as teachers as authorized by Section 25-11-126. Any person who  
627 has been retired under the provisions of Articles 1 and 3 and who  
628 is later reemployed in service covered by this article shall cease  
629 to receive benefits hereunder unless he chooses to continue  
630 receiving a retirement allowance during his employment as a  
631 teacher as authorized by Section 25-11-126, and the person shall  
632 again become a contributing member of the retirement system; and  
633 when the person again retires, if he has been a contributing  
634 member of the retirement system during his reemployment and his  
635 reemployment exceeds six (6) months, he shall have his benefit  
636 recomputed, including service after again becoming a member.  
637 Provided, further, that the total retirement allowance paid to the  
638 retired member in his previous retirement shall be deducted from  
639 his retirement reserve and taken into consideration in  
640 recalculating the retirement allowance under a new option  
641 selected. Nothing contained in this section shall be construed as  
642 prohibiting any county or city not a member of the Public  
643 Employees' Retirement System from employing persons up to the age  
644 of seventy-three (73); and provided further that, through June 30,  
645 1988, nothing contained in this section shall be construed as  
646 prohibiting any governmental unit which is a member from employing  
647 persons up to the age of seventy-three (73) who are not eligible  
648 for membership at the time of employment under Article 3.

649         The board of trustees of the retirement system shall have the  
650 right to prescribe rules and regulations for the carrying out of  
651 this provision.

652           The provisions of this section shall not be construed to  
653 prohibit any retirant regardless of age from being employed and  
654 from drawing retirement allowance either (a) for a period of time  
655 not to exceed one hundred twenty (120) days in any fiscal year,  
656 but less than one-half (1/2) of the normal working days for the  
657 position in any fiscal year, or (b) for a period of time in any  
658 fiscal year sufficient in length to permit a retirant to earn not  
659 in excess of twenty-five percent (25%) of retirant's average  
660 compensation or the current rate of the salary in effect for the  
661 regular position filled. Notice shall be given in writing to the  
662 executive director of the system, setting forth the facts upon  
663 which the \* \* \* employment is being made, and such notice shall be  
664 given within five (5) days from the date of employment and also  
665 from the date of termination of said employment. It is further  
666 provided that any member who has attained seventy (70) years of  
667 age and who has forty (40) or more years of creditable service may  
668 continue in office or employment or be reemployed or elected  
669 provided such person files annually, in writing, in the office of  
670 the employer and the office of the executive director of the  
671 system prior to such services, a waiver of all salary or  
672 compensation and elects to receive in lieu of such salary or  
673 compensation a retirement allowance as provided in this section,  
674 in which event no salary or compensation shall thereafter be due  
675 or payable for such services and provided, further, that any such  
676 officer or employee may receive in addition to such retirement  
677 allowance any per diem, office expense allowance, mileage or  
678 travel expense authorized by any statute of the State of  
679 Mississippi. Any other member may continue in municipal or county

680 office or employment or be reemployed or elected in a municipality  
681 or county provided such person files annually, in writing, in the  
682 office of the employer and the office of the executive director of  
683 the system prior to such services, a waiver of all salary or  
684 compensation and elects to receive in lieu of such salary or  
685 compensation a retirement allowance as provided in this section,  
686 in which event no salary or compensation shall thereafter be due  
687 or payable for such services and provided, further, that any such  
688 officer or employee may receive in addition to such retirement  
689 allowance any per diem, office expense allowance, mileage or  
690 travel expense authorized by any statute of the State of  
691 Mississippi.

692 SECTION 5. Section 37-19-7, Mississippi Code of 1972, is  
693 amended as follows:[WAN4]

694 37-19-7. (1) The allowance in the minimum education program  
695 for teachers' salaries in each county and separate school district  
696 shall be determined and paid in accordance with the scale for  
697 teachers' salaries as provided in this subsection for the number  
698 of teachers employed not in excess of the number of teacher units  
699 allotted. For teachers holding the following types of licenses or  
700 the equivalent as determined by the State Board of Education, and  
701 the following number of years of teaching experience, the scale  
702 shall be as follows:

703 **1999-2000 School Year and School Years Thereafter**

704 **Less Than 25 Years of Teaching Experience**

705	AAAA.....	\$25,790.00
706	AAA.....	24,940.00
707	AA.....	24,090.00

708 A..... 23,040.00

709 **25 or More Years of Teaching Experience**

710 AAAA..... \$26,790.00

711 AAA..... 25,940.00

712 AA..... 25,090.00

713 A..... 24,040.00

714 It is the intent of the Legislature that any state funds made  
715 available for salaries of licensed personnel in excess of the  
716 funds paid for such salaries for the 1986-1987 school year shall  
717 be paid to licensed personnel pursuant to a personnel appraisal  
718 and compensation system implemented by the State Board of  
719 Education. The State Board of Education shall have the authority  
720 to adopt and amend rules and regulations as are necessary to  
721 establish, administer and maintain the system.

722 All teachers employed on a full-time basis shall be paid a  
723 minimum salary in accordance with the above scale. However, no  
724 school district shall receive any funds under this section for any  
725 school year during which the local supplement paid to any  
726 individual teacher shall have been reduced to a sum less than that  
727 paid to that individual teacher for performing the same duties  
728 from local supplement during the immediately preceding school  
729 year. The amount actually spent for the purposes of group health  
730 and/or life insurance shall be considered as a part of the  
731 aggregate amount of local supplement but shall not be considered  
732 a part of the amount of individual local supplement.

733 For teachers holding a Class AAAA license, the minimum base  
734 pay specified in this subsection shall be increased by the sum of  
735 Six Hundred Sixty Dollars (\$660.00) for each year of teaching

736 experience possessed by the person holding such license until such  
737 person shall have twenty-five (25) years of teaching experience.

738 For teachers holding a Class AAA license, the minimum base  
739 pay specified in this subsection shall be increased by the sum of  
740 Five Hundred Ninety-five Dollars (\$595.00) for each year of  
741 teaching experience possessed by the person holding such license  
742 until such person shall have twenty-five (25) years of teaching  
743 experience.

744 For teachers holding a Class AA license, the minimum base pay  
745 specified in this subsection shall be increased by the sum of Five  
746 Hundred Thirty Dollars (\$530.00) for each year of teaching  
747 experience possessed by the person holding such license until such  
748 person shall have twenty-five (25) years of teaching experience.

749 For teachers holding a Class A license, the minimum base pay  
750 specified in this subsection shall be increased by the sum of Four  
751 Hundred Thirty-five Dollars (\$435.00) for each year of teaching  
752 experience possessed by the person holding such license until such  
753 person shall have twenty-one (21) years of teaching experience.

754 The level of professional training of each teacher to be used  
755 in establishing the salary allotment for the teachers for each  
756 year shall be determined by the type of valid teacher's license  
757 issued to those teachers on or before October 1 of the current  
758 school year.

759 (2) (a) The following employees shall receive an annual  
760 salary supplement in the amount of Six Thousand Dollars  
761 (\$6,000.00), plus fringe benefits, in addition to any other  
762 compensation to which the employee may be entitled:

763 (i) Any licensed teacher who has met the

764 requirements and acquired a Master Teacher certificate from the  
765 National Board for Professional Teaching Standards and who is  
766 employed by a local school board or the State Board of Education  
767 as a teacher and not as an administrator. In the 1999-2000 and  
768 2000-2001 school year, such teacher shall submit documentation to  
769 the State Department of Education that the certificate was  
770 received prior to April 15 in order to be eligible for the full  
771 salary supplement in the current school year. In the 2001-2002  
772 school year and in school years thereafter, such teacher shall  
773 submit documentation to the State Department of Education that the  
774 certificate was received prior to October 15 in order to be  
775 eligible for the full salary supplement in the current school  
776 year, or the teacher shall submit such documentation to the State  
777 Department of Education prior to February 15 in order to be  
778 eligible for a prorated salary supplement beginning with the  
779 second term of the school year.

780 (ii) From and after July 1, 1999, any licensed  
781 school counselor who has met the requirements and acquired a  
782 National Certified School Counselor (NCSC) endorsement from the  
783 National Board of Certified Counselors and who is employed by a  
784 local school board or the State Board of Education as a counselor  
785 and not as an administrator. Such licensed school counselor  
786 shall submit documentation to the State Department of Education  
787 that the endorsement was received prior to October 15 in order to  
788 be eligible for the full salary supplement in the current school  
789 year, or the licensed school counselor shall submit such  
790 documentation to the State Department of Education prior to  
791 February 15 in order to be eligible for a prorated salary

792 supplement beginning with the second term of the school year.  
793 However, the salary supplement authorized under this item shall be  
794 discontinued two (2) years after the date on which the National  
795 Board for Professional Teaching Standards offers a certification  
796 process for a Master Teacher certificate for school counselors,  
797 and any school counselor receiving the salary supplement will be  
798 required to complete the Master Teacher certificate process under  
799 item (i) of this paragraph in order to continue receiving such  
800 salary supplement.

801                   (iii) From and after July 1, 1999, any licensed  
802 speech-language pathologist and audiologist who has met the  
803 requirements and acquired a Certificate of Clinical Competence  
804 from the American Speech-Language-Hearing Association and who is  
805 employed by a local school board. Such licensed speech-language  
806 pathologist and audiologist shall submit documentation to the  
807 State Department of Education that the certificate or endorsement  
808 was received prior to October 15 in order to be eligible for the  
809 full salary supplement in the current school year, or the licensed  
810 speech-language pathologist and audiologist shall submit such  
811 documentation to the State Department of Education prior to  
812 February 15 in order to be eligible for a prorated salary  
813 supplement beginning with the second term of the school year.

814 However, the salary supplement authorized under this item shall be  
815 discontinued two (2) years after the date on which the National  
816 Board for Professional Teaching Standards offers a certification  
817 process for a Master Teacher certificate for school speech  
818 pathologists and audiologists, and any school speech pathologist  
819 and audiologist receiving the salary supplement will be required

820 to complete the Master Teacher certificate process under item (i)  
821 of this paragraph in order to continue receiving such salary  
822 supplement.

823 (b) An employee shall be reimbursed one (1) time for  
824 the actual cost of completing the process of acquiring the  
825 certificate or endorsement, excluding any costs incurred for  
826 postgraduate courses, not to exceed Five Hundred Dollars (\$500.00)  
827 for a school counselor or speech-language pathologist and  
828 audiologist, regardless of whether or not the process resulted in  
829 the award of the certificate or endorsement. A local school  
830 district or any private individual or entity may pay the cost of  
831 completing the process of acquiring the certificate or endorsement  
832 for any employee of the school district described under paragraph  
833 (a), and the State Department of Education shall reimburse the  
834 school district for such cost, regardless of whether or not the  
835 process resulted in the award of the certificate or endorsement.  
836 If a private individual or entity has paid the cost of completing  
837 the process of acquiring the certificate or endorsement for an  
838 employee, the local school district may agree to directly  
839 reimburse the individual or entity for such cost on behalf of the  
840 employee.

841 (c) All salary supplements, fringe benefits and process  
842 reimbursement authorized under this subsection shall be paid  
843 directly by the State Department of Education to the local school  
844 district and shall be in addition to its minimum education program  
845 allotments and not a part thereof in accordance with regulations  
846 promulgated by the State Board of Education, and subject to  
847 appropriation by the Legislature. Local school districts shall

848 not reduce the local supplement paid to any employee receiving  
849 such salary supplement, and the employee shall receive any local  
850 supplement to which employees with similar training and experience  
851 otherwise are entitled.

852 (d) The State Department of Education may not pay any  
853 process reimbursement to a school district for an employee who  
854 does not complete the certification or endorsement process  
855 required to be eligible for the certificate or endorsement. If an  
856 employee for whom such cost has been paid in full or in part by a  
857 local school district or private individual or entity fails to  
858 complete the certification or endorsement process, the employee  
859 shall be liable to the school district or individual or entity for  
860 all amounts paid by the school district or individual or entity on  
861 behalf of that employee toward his or her certificate or  
862 endorsement.

863 (3) (a) Notwithstanding any provision in this section to  
864 the contrary, any person who is receiving a retirement allowance  
865 from the Public Employees' Retirement System who is employed as a  
866 teacher after his retirement, and chooses to continue receiving  
867 the retirement allowance during his employment as a teacher after  
868 his retirement, as authorized by subsection (1)(a) of Section  
869 25-11-126, shall be paid a salary equal to the amount of the  
870 salary that the person received during the school year immediately  
871 preceding his retirement. No increase in the salary of any such  
872 person shall be allowed for any teaching experience obtained after  
873 the date of his employment as a teacher after his retirement.

874 (b) Notwithstanding any provision in this section to  
875 the contrary, any person who is employed as a teacher and becomes

876 eligible to receive a retirement allowance from the Public  
877 Employees' Retirement System during his employment as a teacher  
878 who chooses to receive the retirement allowance during his  
879 employment as a teacher, as authorized by subsection (1)(b) of  
880 Section 25-11-126, shall be paid a salary equal to the amount of  
881 the salary that the person received during the school year  
882 immediately preceding the date that the person began receiving the  
883 retirement allowance. No increase in the salary of any such  
884 person shall be allowed for any teaching experience obtained after  
885 the date that he began receiving the retirement allowance.

886 SECTION 6. This act shall take effect and be in force from  
887 and after July 1, 2000.