

By: Representative Guice

To: Appropriations

HOUSE BILL NO. 39

1 AN ACT TO CREATE NEW SECTIONS 25-11-501 THROUGH 25-11-517,  
2 MISSISSIPPI CODE OF 1972, TO ESTABLISH THE PUBLIC EMPLOYEES'  
3 SUPPLEMENTAL RETIREMENT PLAN TO PROVIDE MORE BENEFITS FOR MEMBERS  
4 OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO WISH TO MAKE  
5 ADDITIONAL CONTRIBUTIONS FOR THAT PURPOSE; TO PROVIDE THAT THE  
6 PLAN WILL BE UNDER THAT MANAGEMENT OF THE PUBLIC EMPLOYEES'  
7 RETIREMENT SYSTEM; TO PROVIDE THAT ANY ACTIVE MEMBER OF THE  
8 RETIREMENT SYSTEM WHO ELECTS TO PARTICIPATE IN THE PLAN WILL BE A  
9 MEMBER OF THE PLAN; TO AUTHORIZE PERSONS TO ELECT TO PARTICIPATE  
10 IN THE PLAN UPON THEIR ANNIVERSARY DATE OF MEMBERSHIP IN THE  
11 RETIREMENT SYSTEM; TO PROVIDE THAT AFTER A MEMBER HAS ELECTED TO  
12 PARTICIPATE IN THE PLAN, THE MEMBER MUST CONTINUE TO MAKE  
13 CONTRIBUTIONS TO THE PLAN FOR AS LONG AS HE OR SHE IS AN ACTIVE  
14 MEMBER OF THE RETIREMENT SYSTEM; TO PROVIDE THAT A PERSON MUST BE  
15 A MEMBER OF THE PLAN FOR AT LEAST THREE YEARS BEFORE HE OR SHE  
16 WILL BE ELIGIBLE FOR BENEFITS UNDER THE PLAN; TO PROVIDE THAT A  
17 MEMBER MUST BE RETIRED FOR SERVICE UNDER THE PUBLIC EMPLOYEES'  
18 RETIREMENT SYSTEM AND MUST BE RECEIVING A RETIREMENT ALLOWANCE  
19 FROM THE RETIREMENT SYSTEM, IN ORDER TO RECEIVE BENEFITS UNDER THE  
20 PLAN; TO PROVIDE THAT A MEMBER WHO IS RETIRED FOR DISABILITY UNDER  
21 THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND IS RECEIVING A  
22 DISABILITY RETIREMENT ALLOWANCE FROM THE RETIREMENT SYSTEM IS NOT  
23 ELIGIBLE TO RECEIVE BENEFITS UNDER THE PLAN; TO PROVIDE THAT THE  
24 PLAN WILL BE FUNDED ONLY FROM EMPLOYEE CONTRIBUTIONS AND THERE  
25 WILL BE NO EMPLOYER CONTRIBUTIONS TO THE PLAN; TO PROVIDE THAT THE  
26 RETIREMENT ALLOWANCE FROM THE PLAN SHALL CONSIST OF 50% OF THE  
27 AMOUNT OF THE RETIREMENT ALLOWANCE THAT THE MEMBER WILL RECEIVE  
28 FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, BASED ON ALL THE  
29 YEARS OF CREDITABLE SERVICE THAT THE MEMBER HAS WITH THE  
30 RETIREMENT SYSTEM, WHETHER THAT CREDITABLE SERVICE WAS EARNED  
31 BEFORE OR AFTER THE DATE OF MEMBERSHIP IN THE PLAN; TO AUTHORIZE A  
32 MEMBER TO BE PAID A REFUND OF THE AMOUNT OF HIS OR HER ACCUMULATED  
33 CONTRIBUTIONS TO THE PLAN IF THE MEMBER HAS WITHDRAWN FROM STATE  
34 SERVICE; TO SPECIFY THE POWERS OF THE PUBLIC EMPLOYEES' RETIREMENT  
35 SYSTEM FOR THE ADMINISTRATION AND OPERATION OF THE PLAN; AND FOR  
36 RELATED PURPOSES.

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

38 SECTION 1. The following shall be codified as Section

39 25-11-501, Mississippi Code of 1972:

40 25-11-501. (1) There is established and placed under the  
41 management of the Board of Trustees of the Public Employees'  
42 Retirement System a supplemental retirement plan for the purpose  
43 of providing supplemental retirement allowances and other benefits  
44 under the provisions of this article for members of the Public



45 Employees' Retirement System and their beneficiaries. The  
46 retirement plan shall be known as the Public Employees'  
47 Supplemental Retirement Plan. The retirement plan provided by  
48 this article shall go into operation on July 1, 2001, when  
49 contributions by members shall begin.

50 (2) The Public Employees' Supplemental Retirement Plan is  
51 designed to supplement and is in addition to the provisions of  
52 Section 25-11-1 et seq. Under the terms of this article, the  
53 members of the Public Employees' Retirement System shall retain  
54 all social security benefits under Article 1 and additional state  
55 retirement and disability benefits under Article 3 of the Public  
56 Employees' Retirement Law of 1952, as amended. This article is a  
57 supplement to those sections, and is designed to provide more  
58 benefits for members of the Public Employees' Retirement System  
59 who wish to make additional contributions for that purpose.

60 SECTION 2. The following shall be codified as Section  
61 25-11-503, Mississippi Code of 1972:

62 25-11-503. For the purposes of this article, the definitions  
63 in Section 25-11-5 and Section 25-11-103 shall apply unless a  
64 different meaning is plainly expressed by the context.

65 SECTION 3. The following shall be codified as Section  
66 25-11-505, Mississippi Code of 1972:

67 25-11-505. (1) Any active member of the Public Employees'  
68 Retirement System who elects to participate in the Public  
69 Employees' Supplemental Retirement Plan will be a member of the  
70 plan. A member may elect to participate in the plan during any  
71 year of his or her active membership in the Public Employees'  
72 Retirement System, upon application to the board of trustees on or  
73 within thirty (30) days after the member's anniversary date of  
74 membership in the retirement system. After a member has elected  
75 to participate in the plan, the member must continue to make  
76 contributions to the plan for as long as he or she is an active  
77 member of the Public Employees' Retirement System, unless the



78 member withdraws from the plan and withdraws his or her  
79 accumulated contributions to the plan.

80 (2) Membership in the plan shall cease by a member  
81 withdrawing his or her accumulated contributions to the plan, or  
82 by a member withdrawing from active service with a retirement  
83 allowance, or by death of the member.

84 (3) A person must be a member of the plan for at least three  
85 (3) years before he or she will be eligible for benefits under the  
86 plan. To receive benefits under the plan, a member must be  
87 retired for service under the Public Employees' Retirement System  
88 and must be receiving a retirement allowance from the retirement  
89 system. A member who is retired for disability under the Public  
90 Employees' Retirement System and is receiving a disability  
91 retirement allowance from the retirement system is not eligible to  
92 receive benefits under the plan.

93 (4) No benefits under the plan shall accrue or otherwise be  
94 payable to any person who does not qualify for membership in the  
95 plan or does not otherwise meet the requirements of this section.

96 SECTION 4. The following shall be codified as Section  
97 25-11-507, Mississippi Code of 1972:

98 25-11-507. (1) The Board of Trustees of the Public  
99 Employees' Retirement System shall act as custodian of the fund  
100 for members of the Public Employees' Supplemental Retirement Plan,  
101 and shall receive to the credit of that fund all donations,  
102 bequests, appropriations, and all funds available as employee's  
103 contributions to the fund.

104 (2) The employer of each member of the plan shall each month  
105 deduct from the compensation of the member the percentage of the  
106 compensation that is fixed by the board of trustees on the basis  
107 of the liabilities of the plan for the various allowances and  
108 benefits as shown by the actuarial valuation. The employer shall  
109 pay the amount so deducted to the board of trustees to be credited  
110 to the fund for the members. There shall be no employer



111 contributions to the fund. From the funds credited to this  
112 account, the board of trustees shall pay retirement allowances,  
113 survivors' benefits and expenses, and shall refund contributions  
114 as provided.

115 (3) The fund for the plan shall be maintained as a separate  
116 fund, separate from all other funds held by the board of trustees  
117 and shall be used only for the payment of benefits provided for by  
118 the plan, or amendments to the plan.

119 (4) The board of trustees is authorized to deduct two  
120 percent (2%) of all employee's contributions paid into the fund  
121 for members of the plan to be transferred to the expense fund of  
122 the Public Employees' Retirement System to defray the cost of  
123 administering this fund.

124 SECTION 5. The following shall be codified as Section  
125 25-11-509, Mississippi Code of 1972:

126 25-11-509. (1) The retirement allowance from the Public  
127 Employees' Supplemental Retirement Plan shall consist of fifty  
128 percent (50%) of the amount of the retirement allowance that the  
129 member will receive from the Public Employees' Retirement System  
130 in accordance with Section 25-11-101 et seq. The calculation of  
131 the retirement allowance from the plan shall be based on all the  
132 years of creditable service that the member has with the  
133 retirement system, whether that creditable service was earned  
134 before or after the date of membership in the plan.

135 (2) The percentage of the retirement allowance as provided  
136 in this section shall be transferred from the annuity savings  
137 account of the member in the plan to the retirement account of the  
138 member in the Public Employees' Retirement System as provided.

139 SECTION 6. The following shall be codified as Section  
140 25-11-511, Mississippi Code of 1972:

141 25-11-511. (1) A member may be paid a refund of the amount  
142 of accumulated contributions to the credit of the member in the  
143 annuity savings account, provided that the member has withdrawn



144 from state service and has not returned to state service on the  
145 date the refund of the accumulated contributions would be paid.  
146 The refund of the contributions to the credit of the member in the  
147 annuity savings account shall be paid within ninety (90) days from  
148 receipt in the office of the retirement system of the properly  
149 completed form requesting the payment. If a member dies before  
150 retirement and the member's spouse and/or children are not  
151 entitled to a retirement allowance, the accumulated contributions  
152 to the credit of the deceased member in the annuity savings  
153 account shall be paid to the designated beneficiary on file in  
154 writing in the office of the executive director of the board of  
155 trustees within ninety (90) days from receipt of a properly  
156 completed form requesting the payment. If there is no such  
157 designated beneficiary on file for the deceased member in the  
158 office of the system, upon the filing of a proper request with the  
159 board of trustees, the contributions to the credit of the deceased  
160 member in the annuity savings account shall be refunded in  
161 accordance with Section 25-11-311.1(1). The payment of the refund  
162 shall discharge all obligations of the retirement system to the  
163 member on account of any creditable service rendered by the member  
164 before the receipt of the refund. By the acceptance of the  
165 refund, the member shall waive and relinquish all accrued rights  
166 in the plan.

167 (2) Under the Unemployment Compensation Amendments of 1992  
168 (Public Law 102-318 (UCA)), a member or eligible beneficiary  
169 making application for a refund under this section may elect, on a  
170 form prescribed by the board of trustees under rules and  
171 regulations established by the board, to have an eligible rollover  
172 distribution of accumulated contributions payable under this  
173 section paid directly to an eligible retirement plan or individual  
174 retirement account. If the member or eligible beneficiary makes  
175 that election and specifies the eligible retirement plan or  
176 individual retirement account to which the distribution is to be



177 paid, the distribution will be made in the form of a direct  
178 trustee-to-trustee transfer to the specified eligible retirement  
179 plan. Flexible rollovers under this subsection shall not be  
180 considered assignments under Section 25-11-129.

181 (3) If any person who has received a refund reenters state  
182 service and again becomes a member of the plan, the member may  
183 repay all or part of the amounts previously received as a refund,  
184 together with regular interest covering the period from the date  
185 of refund to the date of repayment; however, the amounts that are  
186 repaid by the member and the creditable service related thereto  
187 shall not be used in any benefit calculation or determination  
188 until the member has remained a contributor to the retirement  
189 system and the plan for a period of at least four (4) years after  
190 the member's reentry into state service. Repayment for that time  
191 shall be made in increments of not less than one-quarter (1/4)  
192 year of creditable service beginning with the most recent service  
193 for which refund has been made. Upon the repayment of all or part  
194 of the refund and interest, the member shall again receive credit  
195 for the period of creditable service for which full repayment has  
196 been made to the system.

197 SECTION 7. The following shall be codified as Section  
198 25-11-511.1, Mississippi Code of 1972:

199 25-11-511.1. (1) Except as provided in subsection (2) of  
200 this section, where benefits are payable to a designated  
201 beneficiary or beneficiaries and the designated beneficiary or  
202 beneficiaries as provided by the member on the most recent form  
203 filed with the system are deceased or otherwise disqualified at  
204 the time the benefits become payable, the following persons, in  
205 descending order of precedence, shall be eligible to receive the  
206 benefits:

- 207 (a) The surviving spouse of the member or retiree;  
208 (b) The children of the member or retiree or their  
209 descendants, per stirpes;



210 (c) The brothers and sisters of the member or retiree  
211 or their descendants, per stirpes;

212 (d) The parents of the member or retiree;

213 (e) The executor or administrator on behalf of the  
214 member or retiree's estate;

215 (f) The persons entitled by law to distribution of the  
216 member or retiree's estate.

217 (2) Any monthly benefits payable to a beneficiary who dies  
218 before cashing his or her final check(s) shall be paid as follows:

219 (a) The surviving spouse of the beneficiary;

220 (b) The children of the beneficiary or their  
221 descendants, per stirpes;

222 (c) The brothers and sisters of the beneficiary or  
223 their descendants, per stirpes;

224 (d) The parents of the beneficiary;

225 (e) The executor or administrator on behalf of the  
226 beneficiary's estate;

227 (f) The persons entitled by law to distribution of the  
228 beneficiary's estate.

229 (3) If no claim is made by any individual listed in  
230 subsection (2) of this section, a distribution may be made under  
231 the provisions of subsection (1) of this section.

232 (4) Payment under the provisions above shall bar recovery by  
233 any other person of the benefits distributed. Payment of benefits  
234 made to one or more members of a class of individuals are made on  
235 behalf of all members of the class. Any members of the class  
236 coming forward after payment is made must look to those who  
237 received the payment.

238 SECTION 8. The following shall be codified as Section  
239 25-11-512, Mississippi Code of 1972:

240 25-11-512. Subject to the rules adopted by the board of  
241 trustees, the Public Employees' Supplemental Retirement Plan shall  
242 accept an eligible rollover distribution or a direct transfer of



243 funds from another qualified plan in payment of all or a portion  
244 of the cost to reinstate previously withdrawn service credit as  
245 permitted by the plan. The plan may only accept rollover payments  
246 in an amount equal to or less than the balance due for  
247 reinstatement of service credit. The rules adopted by the board  
248 of trustees shall condition the acceptance of a rollover or  
249 transfer from another qualified plan on the receipt from the other  
250 plan of information necessary to enable the plan to determine the  
251 eligibility of any transferred funds for tax-free rollover  
252 treatment or other treatment under federal income tax law.

253 SECTION 9. The following shall be codified as Section  
254 25-11-513, Mississippi Code of 1972:

255 25-11-513. The employer shall pick up the member  
256 contributions required by this article for all compensation earned  
257 on and after a person becomes a member of the Public Employees'  
258 Supplemental Retirement Plan, and the contributions so picked up  
259 shall be treated as employer contributions in determining tax  
260 treatment under the United States Internal Revenue Code and the  
261 Mississippi Income Tax Code. However, the employer shall continue  
262 to withhold federal and state income taxes based upon those  
263 contributions until the Internal Revenue Service or the federal  
264 courts rule that, under Section 414(h) of the United States  
265 Internal Revenue Code, these contributions shall not be included  
266 as gross income of the member until such time as they are  
267 distributed or made available. The employer shall pay these  
268 member contributions from the same source of funds which is used  
269 in paying earnings to the member. The employer may pick up these  
270 contributions by a reduction in the cash salary of the member, or  
271 by offset against future salary increase, or by a combination of a  
272 reduction in salary and offset against future salary increase. If  
273 member contributions are picked up, they shall be treated for all  
274 purposes of the plan in the same manner and to the same extent as  
275 member contributions made before the date picked up.





276 SECTION 10. The following shall be codified as Section  
277 25-11-515, Mississippi Code of 1972:

278 25-11-515. (1) The general administration and  
279 responsibility for the proper operation of the Public Employees'  
280 Supplemental Retirement Plan and for making effective the  
281 provisions of this article are vested in the Board of Trustees of  
282 the Public Employees' Retirement System.

283 (2) The board of trustees shall invest all funds in  
284 accordance with Section 25-11-121.

285 (3) The board of trustees shall designate an actuary who  
286 shall be the technical advisor of the board on matters regarding  
287 the operation of the plan and shall perform such other duties as  
288 are required in connection with the operation of the plan.

289 (4) At least once in each two-year period following the date  
290 of establishment, the actuary shall make an actuarial  
291 investigation into the mortality, service and compensation  
292 experience of the members and beneficiaries of the plan and shall  
293 make a valuation of the contingent assets and liabilities of the  
294 plan.

295 (5) On the basis of regular interest and tables last adopted  
296 by the board of trustees, the actuary shall make biennial  
297 valuation of the contingent assets and liabilities of the plan.

298 (6) The board of trustees shall keep such data as shall be  
299 necessary for the actuarial valuation of the contingent assets and  
300 liabilities of the plan and for checking the experience of the  
301 plan.

302 (7) The board of trustees shall determine from time to time  
303 the rate of regular interest for use in all calculations, with the  
304 rate of five percent (5%) per annum applicable unless changed by  
305 the board.

306 (8) Subject to the limitations of this article, the board of  
307 trustees from time to time shall establish rules and regulations



308 for the administration of the plan and for the transaction of  
309 business.

310 (9) The board of trustees shall keep a record of all its  
311 proceedings under this article which shall be open to public  
312 inspection, except for individual member records. The retirement  
313 system shall not disclose the name, address or contents of any  
314 individual member records without the prior written consent of the  
315 individual to whom the record pertains.

316 (10) The Executive Director of the Public Employees'  
317 Retirement System shall serve as the executive director of the  
318 plan.

319 SECTION 11. The following shall be codified as Section  
320 25-11-517, Mississippi Code of 1972:

321 25-11-517. The right of a person to an annuity, a retirement  
322 allowance or benefit, or to the return of contributions, or to any  
323 optional benefit or any other right accrued or accruing to any  
324 person under the provisions of the Public Employees' Supplemental  
325 Retirement Plan, and the monies in the plan created by this  
326 article, are exempt from any state or municipal tax, and exempt  
327 from levy and sale, garnishment, attachment or any other process  
328 whatsoever, and shall be unassignable except as specifically  
329 otherwise provided in this article.

330 SECTION 12. Sections 1 through 11 of this act shall be  
331 codified as a new Article 13 of Chapter 11, Title 25, Mississippi  
332 Code of 1972.

333 SECTION 13. This act shall take effect and be in force from  
334 and after July 1, 2001.

