

By: Representative Robinson (63rd)

To: Education;
Appropriations

HOUSE BILL NO. 1385

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 MAY RECEIVE A RETIREMENT ALLOWANCE DURING THEIR
6 EMPLOYMENT AS TEACHERS IN ADDITION TO RECEIVING A TEACHER'S
7 SALARY; TO PROVIDE CONDITIONS FOR SUCH EMPLOYMENT; TO AMEND
8 SECTIONS 25-11-103, 25-11-105, 25-11-123 AND 25-11-127,
9 MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF
10 THIS ACT; TO AMEND SECTION 37-19-7, MISSISSIPPI CODE OF 1972, TO
11 PROVIDE CERTAIN LIMITATIONS ON THE TEACHERS' SALARIES OF THOSE
12 PERSONS; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** The following provision shall be codified as
15 Section 25-11-126, Mississippi Code of 1972:

16 25-11-126. (1) Any person who has been receiving a
17 retirement allowance under this article for at least one (1) year,
18 who has at least twenty-five (25) years of creditable service, and
19 who is employed as a teacher after his retirement in the public
20 school system in a critical shortage subject area, a critical
21 geographic area, in a school accredited as Level 1, 2 or 3, or in
22 a charter school as defined in Section 37-28-3, may choose to
23 continue receiving the retirement allowance under this article
24 during employment as a teacher after his or her retirement in
25 addition to receiving the salary authorized under Section
26 37-19-7(3), under the following conditions:

27 (a) The retired member holds any teacher's professional
28 license or certificate as may be required in Section 37-3-2.

29 (b) The superintendent of schools of the district
30 certifies to the State Department of Education that there are no
31 other applicants for the position with less than twenty-five (25)
32 years of creditable service.

33 (c) The superintendent of schools of the district
34 certifies or the principal of the school certifies to the State
35 Board of Education that there was no preexisting arrangement for
36 the person to be hired.

37 (d) The person shall have had a satisfactory
38 performance review for the most recent period before retirement.

39 (e) The retired member shall not be eligible to accrue
40 additional retirement benefits and shall not be a contributing
41 member of the system.

42 (2) The State Superintendent of Education shall report the
43 persons who are employed under this section to the executive
44 director of the system.

45 (3) This act is expressly designed to provide funding for
46 the Public Employees' Retirement System to actuarially offset any
47 pension liability by providing the employer contribution plus the
48 employee contributions of employees who are reemployed under this
49 section by doing the following:

50 (a) The State Department of Education shall transfer to
51 the Public Employees' Retirement System the following funds:
52 Adequate education program funds of local school districts that on
53 or after July 1, 2005, employ retired members as teachers under
54 the provisions of this section and other funds that would have
55 otherwise been payable to the districts if the districts had not
56 taken advantage of the provisions of this section. The crediting
57 of assets and financing shall follow the provisions of Section
58 25-11-123.

59 (b) Local educational agencies shall transfer to the
60 Public Employees' Retirement System the following funds: Adequate
61 education program funds of local school districts that on or after
62 July 1, 2005, employ retired members as teachers under the
63 provisions of this section and other funds that would have
64 otherwise been payable to the districts if the districts had not
65 taken advantage of the provisions of this section. The crediting

66 of assets and financing shall follow the provisions of Section
67 25-11-123.

68 **SECTION 2.** Section 25-11-103, Mississippi Code of 1972, is
69 amended as follows:

70 25-11-103. The following words and phrases as used in
71 Articles 1 and 3, unless a different meaning is plainly required
72 by the context, have the following meanings:

73 (a) "Accumulated contributions" means the sum of all
74 the amounts deducted from the compensation of a member and
75 credited to his individual account in the annuity savings account,
76 together with regular interest as provided in Section 25-11-123.

77 (b) "Actuarial cost" means the amount of funds
78 presently required to provide future benefits as determined by the
79 board based on applicable tables and formulas provided by the
80 actuary.

81 (c) "Actuarial equivalent" means a benefit of equal
82 value to the accumulated contributions, annuity or benefit, as the
83 case may be, when computed upon the basis of such mortality tables
84 as adopted by the board of trustees, and regular interest.

85 (d) "Actuarial tables" means such tables of mortality
86 and rates of interest as adopted by the board in accordance with
87 the recommendation of the actuary.

88 (e) "Agency" means any governmental body employing
89 persons in the state service.

90 (f) "Average compensation" means the average of the
91 four (4) highest years of earned compensation reported for an
92 employee in a fiscal or calendar year period, or combination
93 thereof that do not overlap, or the last forty-eight (48)
94 consecutive months of earned compensation reported for an
95 employee. The four (4) years need not be successive or joined
96 years of service. In no case shall the average compensation so
97 determined be in excess of One Hundred Fifty Thousand Dollars
98 (\$150,000.00). In computing the average compensation, any amount

99 lawfully paid in a lump sum for personal leave or major medical
100 leave shall be included in the calculation to the extent that the
101 amount does not exceed an amount that is equal to thirty (30) days
102 of earned compensation and to the extent that it does not cause
103 the employees' earned compensation to exceed the maximum
104 reportable amount specified in Section 25-11-103(k); however, this
105 thirty-day limitation shall not prevent the inclusion in the
106 calculation of leave earned under federal regulations before July
107 1, 1976, and frozen as of that date as referred to in Section
108 25-3-99. Only the amount of lump sum pay for personal leave due
109 and paid upon the death of a member attributable for up to one
110 hundred fifty (150) days shall be used in the deceased member's
111 average compensation calculation in determining the beneficiary's
112 benefits. In computing the average compensation, no amounts shall
113 be used that are in excess of the amount on which contributions
114 were required and paid, and no nontaxable amounts paid by the
115 employer for health or life insurance premiums for the employee
116 shall be used. If any member who is or has been granted any
117 increase in annual salary or compensation of more than eight
118 percent (8%) retires within twenty-four (24) months from the date
119 that the increase becomes effective, then the board shall exclude
120 that part of the increase in salary or compensation that exceeds
121 eight percent (8%) in calculating that member's average
122 compensation for retirement purposes. The board may enforce this
123 provision by rule or regulation. However, increases in
124 compensation in excess of eight percent (8%) per year granted
125 within twenty-four (24) months of the date of retirement may be
126 included in the calculation of average compensation if
127 satisfactory proof is presented to the board showing that the
128 increase in compensation was the result of an actual change in the
129 position held or services rendered, or that the compensation
130 increase was authorized by the State Personnel Board or was
131 increased as a result of statutory enactment, and the employer

132 furnishes an affidavit stating that the increase granted within
133 the last twenty-four (24) months was not contingent on a promise
134 or agreement of the employee to retire. Nothing in Section
135 25-3-31 shall affect the calculation of the average compensation
136 of any member for the purposes of this article. The average
137 compensation of any member who retires before July 1, 1992, shall
138 not exceed the annual salary of the Governor.

139 (g) "Beneficiary" means any person entitled to receive
140 a retirement allowance, an annuity or other benefit as provided by
141 Articles 1 and 3. The term "beneficiary" may also include an
142 organization, estate, trust or entity; however, a beneficiary
143 designated or entitled to receive monthly payments under an
144 optional settlement based on life contingency or pursuant to a
145 statutory monthly benefit may only be a natural person. In the
146 event of the death before retirement of any member whose spouse
147 and/or children are not entitled to a retirement allowance on the
148 basis that the member has less than four (4) years of service
149 credit and/or has not been married for a minimum of one (1) year
150 or the spouse has waived his or her entitlement to a retirement
151 allowance under Section 25-11-114, the lawful spouse of a member
152 at the time of the death of the member shall be the beneficiary of
153 the member unless the member has designated another beneficiary
154 after the date of marriage in writing, and filed that writing in
155 the office of the executive director of the board of trustees. No
156 designation or change of beneficiary shall be made in any other
157 manner.

158 (h) "Board" means the board of trustees provided in
159 Section 25-11-15 to administer the retirement system created under
160 this article.

161 (i) "Creditable service" means "prior service,"
162 "retroactive service" and all lawfully credited unused leave not
163 exceeding the accrual rates and limitations provided in Section
164 25-3-91 et seq., as of the date of withdrawal from service plus

165 "membership service" for which credit is allowable as provided in
166 Section 25-11-109. Except to limit creditable service reported to
167 the system for the purpose of computing an employee's retirement
168 allowance or annuity or benefits provided in this article, nothing
169 in this paragraph shall limit or otherwise restrict the power of
170 the governing authority of a municipality or other political
171 subdivision of the state to adopt such vacation and sick leave
172 policies as it deems necessary.

173 (j) "Child" means either a natural child of the member,
174 a child that has been made a child of the member by applicable
175 court action before the death of the member, or a child under the
176 permanent care of the member at the time of the latter's death,
177 which permanent care status shall be determined by evidence
178 satisfactory to the board.

179 (k) "Earned compensation" means the full amount earned
180 by an employee for a given pay period including any maintenance
181 furnished up to a maximum of One Hundred Fifty Thousand Dollars
182 (\$150,000.00) per year, and proportionately for less than one (1)
183 year of service. The value of that maintenance when not paid in
184 money shall be fixed by the employing state agency, and, in case
185 of doubt, by the board of trustees as defined in Section 25-11-15.
186 Earned compensation shall not include any nontaxable amounts paid
187 by the employer for health or life insurance premiums for an
188 employee. In any case, earned compensation shall be limited to
189 the regular periodic compensation paid, exclusive of litigation
190 fees, bond fees, and other similar extraordinary nonrecurring
191 payments. In addition, any member in a covered position, as
192 defined by Public Employees' Retirement System laws and
193 regulations, who is also employed by another covered agency or
194 political subdivision shall have the earnings of that additional
195 employment reported to the Public Employees' Retirement System
196 regardless of whether the additional employment is sufficient in

197 itself to be a covered position. In addition, computation of
198 earned compensation shall be governed by the following:

199 (i) In the case of constables, the net earnings
200 from their office after deduction of expenses shall apply, except
201 that in no case shall earned compensation be less than the total
202 direct payments made by the state or governmental subdivisions to
203 the official.

204 (ii) In the case of chancery or circuit clerks,
205 the net earnings from their office after deduction of expenses
206 shall apply as expressed in Section 25-11-123(f)(4).

207 (iii) In the case of members of the State
208 Legislature, all remuneration or amounts paid, except mileage
209 allowance, shall apply.

210 (iv) The amount by which an eligible employee's
211 salary is reduced under a salary reduction agreement authorized
212 under Section 25-17-5 shall be included as earned compensation
213 under this paragraph, provided this inclusion does not conflict
214 with federal law, including federal regulations and federal
215 administrative interpretations under the federal law, pertaining
216 to the Federal Insurance Contributions Act or to Internal Revenue
217 Code Section 125 cafeteria plans.

218 (v) Compensation in addition to an employee's base
219 salary that is paid to the employee under the vacation and sick
220 leave policies of a municipality or other political subdivision of
221 the state that employs him that exceeds the maximums authorized by
222 Section 25-3-91 et seq. shall be excluded from the calculation of
223 earned compensation under this article.

224 (vi) The maximum salary applicable for retirement
225 purposes before July 1, 1992, shall be the salary of the Governor.

226 (vii) 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 under this article.

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

235 (n) "Executive director" means the secretary to the
236 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" means the period beginning on July 1
244 of any year and ending on June 30 of the next succeeding year.

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

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

252 (r) "Membership service" means service as an employee
253 rendered while a member of the retirement system.

254 (s) "Position" means any office or any employment in
255 the state service, or two (2) or more of them, the duties of which
256 call for services to be rendered by one (1) person, including
257 positions jointly employed by federal and state agencies
258 administering federal and state funds. The employer shall
259 determine upon initial employment and during the course of
260 employment of an employee who does not meet the criteria for
261 coverage in the Public Employees' Retirement System based on the

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

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

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

282 (v) "Retirement allowance" means an annuity for life as
283 provided in this article, payable each year in twelve (12) equal
284 monthly installments beginning as of the date fixed by the board.
285 The retirement allowance shall be calculated in accordance with
286 Section 25-11-111. However, any spouse who received a spouse
287 retirement benefit in accordance with Section 25-11-111(d) before
288 March 31, 1971, and those benefits were terminated because of
289 eligibility for a social security benefit, may again receive his
290 spouse retirement benefit from and after making application with
291 the board of trustees to reinstate the spouse retirement benefit.

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

295 (x) "System" means the Public Employees' Retirement
296 System of Mississippi established and described in Section
297 25-11-101.

298 (y) "State" means the State of Mississippi or any
299 political subdivision thereof or instrumentality of the state.

300 (z) "State service" means all offices and positions of
301 trust or employment in the employ of the state, or any political
302 subdivision or instrumentality of the state, that elect to
303 participate as provided by Section 25-11-105(f), including the
304 position of elected or fee officials of the counties and their
305 deputies and employees performing public services or any
306 department, independent agency, board or commission thereof, and
307 also includes all offices and positions of trust or employment in
308 the employ of joint state and federal agencies administering state
309 and federal funds and service rendered by employees of the public
310 schools. Effective July 1, 1973, all nonprofessional public
311 school employees, such as bus drivers, janitors, maids,
312 maintenance workers and cafeteria employees, shall have the option
313 to become members in accordance with Section 25-11-105(b), and
314 shall be eligible to receive credit for services before July 1,
315 1973, provided that the contributions and interest are paid by the
316 employee in accordance with that section; in addition, the county
317 or municipal separate school district may pay the employer
318 contribution and pro rata share of interest of the retroactive
319 service from available funds. From and after July 1, 1998,
320 retroactive service credit shall be purchased at the actuarial
321 cost in accordance with Section 25-11-105(b).

322 (aa) "Withdrawal from service" or "termination from
323 service" means complete severance of employment in the state
324 service of any member by resignation, dismissal or discharge,
325 except in the case of persons who become eligible to receive a
326 retirement allowance under this article and who choose to receive

327 the retirement allowance during their employment as teachers as
328 authorized by Section 25-11-126.

329 (bb) The masculine pronoun, wherever used, includes the
330 feminine pronoun.

331 **SECTION 3.** Section 25-11-105, Mississippi Code of 1972, is
332 amended as follows:

333 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

334 The membership of this retirement system shall be composed as
335 follows:

336 (a) (i) All persons who become employees in the state
337 service after January 31, 1953, and whose wages are subject to
338 payroll taxes and are lawfully reported on IRS Form W-2, except
339 those persons who are specifically excluded, those persons as to
340 whom election is provided in Articles 1 and 3, or those persons
341 who choose to receive or continue receiving a retirement allowance
342 during their employment as teachers as authorized by Section
343 25-11-126, shall become members of the retirement system as a
344 condition of their employment.

345 (ii) From and after July 1, 2002, any individual
346 who is employed by a governmental entity to perform professional
347 services shall become a member of the system if the individual is
348 paid regular periodic compensation for those services that is
349 subject to payroll taxes, is provided all other employee benefits
350 and meets the membership criteria established by the regulations
351 adopted by the board of trustees that apply to all other members
352 of the system; however, any active member employed in such a
353 position on July 1, 2002, will continue to be an active member for
354 as long as they are employed in any such position.

355 (b) All persons who become employees in the state
356 service after January 31, 1953, except those specifically excluded
357 or as to whom election is provided in Articles 1 and 3, unless
358 they file with the board before the lapse of sixty (60) days of
359 employment or sixty (60) days after the effective date of the

360 cited articles, whichever is later, on a form prescribed by the
361 board, a notice of election not to be covered by the membership of
362 the retirement system and a duly executed waiver of all present
363 and prospective benefits that would otherwise inure to them on
364 account of their participation in the system, shall become members
365 of the retirement system; however, no credit for prior service
366 will be granted to members until they have contributed to Article
367 3 of the retirement system for a minimum period of at least four
368 (4) years. Those members shall receive credit for services
369 performed before January 1, 1953, in employment now covered by
370 Article 3, but no credit shall be granted for retroactive services
371 between January 1, 1953, and the date of their entry into the
372 retirement system, unless the employee pays into the retirement
373 system both the employer's and the employee's contributions on
374 wages paid him during the period from January 31, 1953, to the
375 date of his becoming a contributing member, together with interest
376 at the rate determined by the board of trustees. Members
377 reentering after withdrawal from service shall qualify for prior
378 service under the provisions of Section 25-11-117. From and after
379 July 1, 1998, upon eligibility as noted above, the member may
380 receive credit for such retroactive service provided:

381 (1) The member shall furnish proof satisfactory to
382 the board of trustees of certification of that service from the
383 covered employer where the services were performed; and

384 (2) The member shall pay to the retirement system
385 on the date he or she is eligible for that credit or at any time
386 thereafter before the date of retirement the actuarial cost for
387 each year of that creditable service. The provisions of this
388 subparagraph (2) shall be subject to the limitations of Section
389 415 of the Internal Revenue Code and regulations promulgated under
390 Section 415.

391 Nothing contained in this paragraph (b) shall be construed to
392 limit the authority of the board to allow the correction of

393 reporting errors or omissions based on the payment of the employee
394 and employer contributions plus applicable interest.

395 (c) All persons who become employees in the state
396 service after January 31, 1953, and who are eligible for
397 membership in any other retirement system shall become members of
398 this retirement system as a condition of their employment, unless
399 they elect at the time of their employment to become a member of
400 that other system.

401 (d) All persons who are employees in the state service
402 on January 31, 1953, and who are members of any nonfunded
403 retirement system operated by the State of Mississippi, or any of
404 its departments or agencies, shall become members of this system
405 with prior service credit unless, before February 1, 1953, they
406 file a written notice with the board of trustees that they do not
407 elect to become members.

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

418 (f) Each political subdivision of the state and each
419 instrumentality of the state or a political subdivision, or both,
420 is authorized to submit, for approval by the board of trustees, a
421 plan for extending the benefits of this article to employees of
422 any such political subdivision or instrumentality. Each such plan
423 or any amendment to the plan for extending benefits thereof shall
424 be approved by the board of trustees if it finds that the plan, or
425 the plan as amended, is in conformity with such requirements as

426 are provided in Articles 1 and 3; however, upon approval of the
427 plan or any such plan previously approved by the board of
428 trustees, the approved plan shall not be subject to cancellation
429 or termination by the political subdivision or instrumentality,
430 except that any community hospital serving a municipality that
431 joined the Public Employees' Retirement System as of November 1,
432 1956, to offer social security coverage for its employees and
433 subsequently extended retirement annuity coverage to its employees
434 as of December 1, 1965, may, upon documentation of extreme
435 financial hardship, have future retirement annuity coverage
436 cancelled or terminated at the discretion of the board of
437 trustees. No such plan shall be approved unless:

438 (1) It provides that all services that constitute
439 employment as defined in Section 25-11-5 and are performed in the
440 employ of the political subdivision or instrumentality, by any
441 employees thereof, shall be covered by the plan, with the
442 exception of municipal employees who are already covered by
443 existing retirement plans; however, those employees in this class
444 may elect to come under the provisions of this article;

445 (2) It specifies the source or sources from which
446 the funds necessary to make the payments required by paragraph (d)
447 of Section 25-11-123 and of paragraph (f)(5)B and C of this
448 section are expected to be derived and contains reasonable
449 assurance that those sources will be adequate for that purpose;

450 (3) It provides for such methods of administration
451 of the plan by the political subdivision or instrumentality as are
452 found by the board of trustees to be necessary for the proper and
453 efficient administration thereof;

454 (4) It provides that the political subdivision or
455 instrumentality will make such reports, in such form and
456 containing such information, as the board of trustees may from
457 time to time require;

458 (5) It authorizes the board of trustees to
459 terminate the plan in its entirety in the discretion of the board
460 if it finds that there has been a failure to comply substantially
461 with any provision contained in the plan, the termination to take
462 effect at the expiration of such notice and on such conditions as
463 may be provided by regulations of the board and as may be
464 consistent with applicable federal law.

465 A. The board of trustees shall not finally
466 refuse to approve a plan submitted under paragraph (f), and shall
467 not terminate an approved plan without reasonable notice and
468 opportunity for hearing to each political subdivision or
469 instrumentality affected by the board's decision. The board's
470 decision in any such case shall be final, conclusive and binding
471 unless an appeal is taken by the political subdivision or
472 instrumentality aggrieved by the decision to the Circuit Court of
473 Hinds County, Mississippi, in accordance with the provisions of
474 law with respect to civil causes by certiorari.

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

482 C. Every political subdivision or
483 instrumentality required to make payments under paragraph (f)(5)B
484 of this section is authorized, in consideration of the employees'
485 retention in or entry upon employment after enactment of Articles
486 1 and 3, to impose upon its employees, as to services that are
487 covered by an approved plan, a contribution with respect to wages
488 (as defined in Section 25-11-5) not exceeding the amount provided
489 in Section 25-11-123(d) if those services constituted employment
490 within the meaning of Articles 1 and 3, and to deduct the amount

491 of the contribution from the wages as and when paid.
492 Contributions so collected shall be paid into the contribution
493 fund as partial discharge of the liability of the political
494 subdivisions or instrumentalities under paragraph (f)(5)B of this
495 section. Failure to deduct the contribution shall not relieve the
496 employee or employer of liability for the contribution.

497 D. Any state agency, school, political
498 subdivision, instrumentality or any employer that is required to
499 submit contribution payments or wage reports under any section of
500 this chapter shall be assessed interest on delinquent payments or
501 wage reports as determined by the board of trustees in accordance
502 with rules and regulations adopted by the board and delinquent
503 payments, assessed interest and any other amount certified by the
504 board as owed by an employer, may be recovered by action in a
505 court of competent jurisdiction against the reporting agency
506 liable therefor or may, upon due certification of delinquency and
507 at the request of the board of trustees, be deducted from any
508 other monies payable to the reporting agency by any department or
509 agency of the state.

510 E. Each political subdivision of the state
511 and each instrumentality of the state or a political subdivision
512 or subdivisions that submit a plan for approval of the board, as
513 provided in this section, shall reimburse the board for coverage
514 into the expense account, its pro rata share of the total expense
515 of administering Articles 1 and 3 as provided by regulations of
516 the board.

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

523 (h) An employee whose membership in this system is
524 contingent on his own election, and who elects not to become a
525 member, may thereafter apply for and be admitted to membership;
526 but no such employee shall receive prior service credit unless he
527 becomes a member before July 1, 1953, except as provided in
528 paragraph (b).

529 (i) If any member of this system changes his employment
530 to any agency of the state having an actuarially funded retirement
531 system, the board of trustees may authorize the transfer of the
532 member's creditable service and of the present value of the
533 member's employer's accumulation account and of the present value
534 of the member's accumulated membership contributions to that other
535 system, provided that the employee agrees to the transfer of his
536 accumulated membership contributions and provided that the other
537 system is authorized to receive and agrees to make the transfer.

538 If any member of any other actuarially funded system
539 maintained by an agency of the state changes his employment to an
540 agency covered by this system, the board of trustees may authorize
541 the receipt of the transfer of the member's creditable service and
542 of the present value of the member's employer's accumulation
543 account and of the present value of the member's accumulated
544 membership contributions from the other system, provided that the
545 employee agrees to the transfer of his accumulated membership
546 contributions to this system and provided that the other system is
547 authorized and agrees to make the transfer.

548 (j) Wherever state employment is referred to in this
549 section, it includes joint employment by state and federal
550 agencies of all kinds.

551 (k) Employees of a political subdivision or
552 instrumentality who were employed by the political subdivision or
553 instrumentality before an agreement between the entity and the
554 Public Employees' Retirement System to extend the benefits of this
555 article to its employees, and which agreement provides for the

556 establishment of retroactive service credit, and who have been
557 members of the retirement system and have remained contributors to
558 the retirement system for four (4) years, may receive credit for
559 that retroactive service with the political subdivision or
560 instrumentality, provided that the employee and/or employer, as
561 provided under the terms of the modification of the joinder
562 agreement in allowing that coverage, pay into the retirement
563 system the employer's and employee's contributions on wages paid
564 the member during the previous employment, together with interest
565 or actuarial cost as determined by the board covering the period
566 from the date the service was rendered until the payment for the
567 credit for the service was made. Those wages shall be verified by
568 the Social Security Administration or employer payroll records.
569 Effective July 1, 1998, upon eligibility as noted above, a member
570 may receive credit for that retroactive service with the political
571 subdivision or instrumentality provided:

572 (1) The member shall furnish proof satisfactory to
573 the board of trustees of certification of those services from the
574 political subdivision or instrumentality where the services were
575 rendered or verification by the Social Security Administration;
576 and

577 (2) The member shall pay to the retirement system
578 on the date he or she is eligible for that credit or at any time
579 thereafter before the date of retirement the actuarial cost for
580 each year of that creditable service. The provisions of this
581 subparagraph (2) shall be subject to the limitations of Section
582 415 of the Internal Revenue Code and regulations promulgated under
583 Section 415.

584 Nothing contained in this paragraph (k) shall be construed to
585 limit the authority of the board to allow the correction of
586 reporting errors or omissions based on the payment of employee and
587 employer contributions plus applicable interest. Payment for that
588 time shall be made in increments of not less than one-quarter

589 (1/4) year of creditable service beginning with the most recent
590 service. Upon the payment of all or part of the required
591 contributions, plus interest or the actuarial cost as provided
592 above, the member shall receive credit for the period of
593 creditable service for which full payment has been made to the
594 retirement system.

595 (1) Through June 30, 1998, any state service eligible
596 for retroactive service credit, no part of which has ever been
597 reported, and requiring the payment of employee and employer
598 contributions plus interest, or, from and after July 1, 1998, any
599 state service eligible for retroactive service credit, no part of
600 which has ever been reported to the retirement system, and
601 requiring the payment of the actuarial cost for that creditable
602 service, may, at the member's option, be purchased in quarterly
603 increments as provided above at the time that its purchase is
604 otherwise allowed.

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

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

609 The following classes of employees and officers shall not
610 become members of this retirement system, any other provisions of
611 Articles 1 and 3 to the contrary notwithstanding:

612 (a) Patient or inmate help in state charitable, penal
613 or correctional institutions;

614 (b) Students of any state educational institution
615 employed by any agency of the state for temporary, part-time or
616 intermittent work;

617 (c) Participants of Comprehensive Employment and
618 Training Act of 1973 (CETA) being Public Law 93-203, who enroll on
619 or after July 1, 1979; and

620 (d) From and after July 1, 2002, individuals who are
621 employed by a governmental entity to perform professional service

622 on less than a full-time basis who do not meet the criteria
623 established in I(a)(ii) of this section.

624 **III. TERMINATION OF MEMBERSHIP**

625 Membership in this system shall cease by a member withdrawing
626 his accumulated contributions, or by a member withdrawing from
627 active service with a retirement allowance, or by a member's
628 death.

629 **SECTION 4.** Section 25-11-123, Mississippi Code of 1972, is
630 amended as follows:

631 25-11-123. All of the assets of the system shall be credited
632 according to the purpose for which they are held to one (1) of
633 four (4) reserves; namely, the annuity savings account, the
634 annuity reserve, the employer's accumulation account, and the
635 expense account.

636 (a) **Annuity savings account.** In the annuity savings account
637 shall be accumulated the contributions made by members to provide
638 for their annuities, including interest thereon which shall be
639 posted monthly. Credits to and charges against the annuity
640 savings account shall be made as follows:

641 (1) Beginning July 1, 1991, the employer shall cause to
642 be deducted from the salary of each member on each and every
643 payroll of the employer for each and every payroll period seven
644 and one-fourth percent (7-1/4%) of earned compensation as defined
645 in Section 25-11-103. Future contributions shall be fixed
646 biennially by the board on the basis of the liabilities of the
647 retirement system for the various allowances and benefits as shown
648 by actuarial valuation; however, any member earning at a rate less
649 than Sixteen Dollars and Sixty-seven Cents (\$16.67) per month, or
650 Two Hundred Dollars (\$200.00) per year, shall contribute not less
651 than One Dollar (\$1.00) per month, or Twelve Dollars (\$12.00) per
652 year. This paragraph (a)(1) shall not apply to the salary of
653 persons who choose to receive or continue receiving a retirement

654 allowance during their employment as teachers as authorized by
655 Section 25-11-126.

656 (2) The deductions provided herein shall be made
657 notwithstanding that the minimum compensation provided by law for
658 any member is reduced thereby. Every member shall be deemed to
659 consent and agree to the deductions made and provided for herein
660 and shall receipt for his full salary or compensation, and payment
661 of salary or compensation less the deduction shall be a full and
662 complete discharge and acquittance of all claims and demands
663 whatsoever for the services rendered by the person during the
664 period covered by the payment, except as to the benefits provided
665 under Articles 1 and 3. The board shall provide by rules for the
666 methods of collection of contributions from members and the
667 employer. The board shall have full authority to require the
668 production of evidence necessary to verify the correctness of
669 amounts contributed.

670 (b) **Annuity reserve.** The annuity reserve shall be the
671 account representing the actuarial value of all annuities in
672 force, and to it shall be charged all annuities and all benefits
673 in lieu of annuities, payable as provided in this article. If a
674 beneficiary retired on account of disability is restored to active
675 service with a compensation not less than his average final
676 compensation at the time of his last retirement, the remainder of
677 his contributions shall be transferred from the annuity reserve to
678 the annuity savings account and credited to his individual account
679 therein, and the balance of his annuity reserve shall be
680 transferred to the employer's accumulation account.

681 (c) **Employer's accumulation account.** The employer's
682 accumulation account shall represent the accumulation of all
683 reserves for the payment of all retirement allowances and other
684 benefits payable from contributions made by the employer, and
685 against this account shall be charged all retirement allowances
686 and other benefits on account of members. Credits to and charges

687 against the employer's accumulation account shall be made as
688 follows:

689 (1) On account of each member there shall be paid
690 monthly into the employer's accumulation account by the employers
691 for the preceding fiscal year an amount equal to a certain
692 percentage of the total earned compensation, as defined in Section
693 25-11-103, of each member. The percentage rate of those
694 contributions shall be fixed biennially by the board on the basis
695 of the liabilities of the retirement system for the various
696 allowances and benefits as shown by actuarial valuation.
697 Beginning January 1, 1990, the rate shall be fixed at nine and
698 three-fourths percent (9-3/4%). The board shall reduce the
699 employer's contribution rate by one percent (1%) from and after
700 July 1 of the year following the year in which the board
701 determines and the board's actuary certifies that the employer's
702 contribution rate can be reduced by that amount without causing
703 the unfunded accrued actuarial liability amortization period for
704 the retirement system to exceed twenty (20) years. Political
705 subdivisions joining Article 3 of the Public Employees' Retirement
706 System after July 1, 1968, may adjust the employer's contributions
707 by agreement with the Board of Trustees of the Public Employees'
708 Retirement System to provide service credits for any period before
709 execution of the agreement based upon an actuarial determination
710 of employer's contribution rates.

711 (2) On the basis of regular interest and of such
712 mortality and other tables as are adopted by the board of
713 trustees, the actuary engaged by the board to make each valuation
714 required by this article during the period over which the accrued
715 liability contribution is payable, immediately after making that
716 valuation, shall determine the uniform and constant percentage of
717 the earnable compensation of each member which, if contributed by
718 the employer on the basis of compensation of the member throughout
719 his entire period of membership service, would be sufficient to

720 provide for the payment of any retirement allowance payable on his
721 account for that service. The percentage rate so determined shall
722 be known as the "normal contribution rate." After the accrued
723 liability contribution has ceased to be payable, the normal
724 contribution rate shall be the percentage rate of the salary of
725 all members obtained by deducting from the total liabilities on
726 account of membership service the amount in the employer's
727 accumulation account, and dividing the remainder by one percent
728 (1%) of the present value of the prospective future salaries of
729 all members as computed on the basis of the mortality and service
730 tables adopted by the board of trustees and regular interest. The
731 normal rate of contributions shall be determined by the actuary
732 after each valuation.

733 (3) The total amount payable in each year to the
734 employer's accumulation account shall not be less than the sum of
735 the percentage rate known as the "normal contribution" rate and
736 the "accrued liability contribution" rate of the total
737 compensation earnable by all members during the preceding year,
738 provided that the payment by the employer shall be sufficient,
739 when combined with the amounts in the account, to provide the
740 allowances and other benefits chargeable to this account during
741 the year then current.

742 (4) The accrued liability contribution shall be
743 discontinued as soon as the accumulated balance in the employer's
744 accumulation account shall equal the present value, computed on
745 the basis of the normal contribution rate then in force, or the
746 prospective normal contributions to be received on account of all
747 persons who are at that time members.

748 (5) All allowances and benefits in lieu thereof, with
749 the exception of those payable on account of members who receive
750 no prior service credit, payable from contributions of the
751 employer, shall be paid from the employer's accumulation account.

752 (6) Upon the retirement of a member, an amount equal to
753 his retirement allowance shall be transferred from the employer's
754 accumulation account to the annuity reserve.

755 (d) **Expense account.** The expense account shall be the
756 account to which the expenses of the administration of the system
757 shall be charged, exclusive of amounts payable as retirement
758 allowances and as other benefits provided herein. The Legislature
759 shall make annual appropriations in amounts sufficient to
760 administer the system, which shall be credited to this account.
761 There shall be transferred to the State Treasury from this
762 account, not less than once per month, an amount sufficient for
763 payment of the estimated expenses of the system for the succeeding
764 thirty (30) days. Any interest earned on the expense account
765 shall accrue to the benefit of the system. However,
766 notwithstanding the provisions of Sections 25-11-15(10) and
767 25-11-105(f)(5)E, all expenses of the administration of the system
768 shall be paid from the interest earnings, provided the interest
769 earnings are in excess of the actuarial interest assumption as
770 determined by the board, and provided the present cost of the
771 administrative expense fee of two percent (2%) of the
772 contributions reported by the political subdivisions and
773 instrumentalities shall be reduced to one percent (1%) from and
774 after July 1, 1983, through June 30, 1984, and shall be eliminated
775 thereafter.

776 (e) **Collection of contributions.** The employer shall cause
777 to be deducted on each and every payroll of a member for each and
778 every payroll period, beginning subsequent to January 31, 1953,
779 the contributions payable by the member as provided in Articles 1
780 and 3.

781 The employer shall make deductions from salaries of employees
782 as provided in Articles 1 and 3 and shall transmit monthly, or at
783 such time as the board of trustees designates, the amount
784 specified to be deducted to the Executive Director of the Public

785 Employees' Retirement System. The executive director, after
786 making a record of all those receipts, shall deposit such amounts
787 as provided by law.

788 (f) (1) Upon the basis of each actuarial valuation provided
789 herein, the board of trustees shall biennially determine the
790 normal contribution rate and the accrued liability contribution
791 rate as provided in this section. The sum of these two (2) rates
792 shall be known as the "employer's contribution rate." Beginning
793 on earned compensation effective January 1, 1990, the rate
794 computed as provided in this section shall be nine and
795 three-fourths percent (9-3/4%). The board shall reduce the
796 employer's contribution rate by one percent (1%) from and after
797 July 1 of the year following the year in which the board
798 determines and the board's actuary certifies that the employer's
799 contribution rate can be reduced by that amount without causing
800 the unfunded accrued actuarial liability amortization period for
801 the retirement system to exceed twenty (20) years. The percentage
802 rate of those contributions shall be fixed biennially by the board
803 on the basis of the liabilities of the retirement system for the
804 various allowances and benefits as shown by actuarial
805 valuation.

806 (2) The amount payable by the employer on account of
807 normal and accrued liability contributions shall be determined by
808 applying the employer's contribution rate to the amount of
809 compensation earned by employees who are members of the system.
810 Monthly, or at such time as the board of trustees designates, each
811 department or agency shall compute the amount of the employer's
812 contribution payable, with respect to the salaries of its
813 employees who are members of the system, and shall cause that
814 amount to be paid to the board of trustees from the personal
815 service allotment of the amount appropriated for the operation of
816 the department or agency, or from funds otherwise available to the
817 agency, for the payment of salaries to its employees.

818 (3) Constables shall pay employer and employee
819 contributions on their net fee income as well as the employee
820 contributions on all direct treasury or county payroll income.
821 The county shall be responsible for the employer contribution on
822 all direct treasury or county payroll income of constables.

823 (4) Chancery and circuit clerks shall be responsible
824 for both the employer and employee share of contributions on the
825 proportionate share of net income attributable to fees, as well as
826 the employee share of net income attributable to direct treasury
827 or county payroll income, and the employing county shall be
828 responsible for the employer contributions on the net income
829 attributable to direct treasury or county payroll income.

830 (5) Once each year, under procedures established by the
831 system, each employer shall submit to the Public Employees'
832 Retirement System a copy of their report to social security of all
833 employees' earnings.

834 (6) The board shall provide by rules for the methods of
835 collection of contributions of employers and members. The amounts
836 determined due by an agency to the various funds as specified in
837 Articles 1 and 3 are made obligations of the agency to the board
838 and shall be paid as provided herein. Failure to deduct those
839 contributions shall not relieve the employee and employer from
840 liability thereof. Delinquent employee contributions and any
841 accrued interest shall be the obligation of the employee and
842 delinquent employer contributions and any accrued interest shall
843 be the obligation of the employer. The employer may, in its
844 discretion, elect to pay any or all of the interest on delinquent
845 employee contributions. From and after July 1, 1996, under rules
846 and regulations established by the board, all employers are
847 authorized and shall transfer all funds due to the Public
848 Employees' Retirement System electronically and shall transmit any
849 wage or other reports by computerized reporting systems.

850 **SECTION 5.** Section 25-11-127, Mississippi Code of 1972, is
851 amended as follows:

852 25-11-127. (1) (a) No person who is being paid a
853 retirement allowance or a pension after retirement under this
854 article shall be employed or paid for any service by the State of
855 Mississippi, except as provided in this section or in Section
856 25-11-126.

857 (b) No retiree of this retirement system who is
858 reemployed or is reelected to office after retirement shall
859 continue to draw retirement benefits while so reemployed, except
860 as provided in this section or in Section 25-11-126.

861 (c) No person employed or elected under the exceptions
862 provided for in this section shall become a member under Article 3
863 of the retirement system.

864 (2) Except as otherwise provided in Section 25-11-126, any
865 person who has been retired under the provisions of Article 3 and
866 who is later reemployed in service covered by this article shall
867 cease to receive benefits under this article and shall again
868 become a contributing member of the retirement system. When the
869 person retires again, if the person has been a contributing member
870 of the retirement system during his reemployment and the
871 reemployment exceeds six (6) months, the person shall have his or
872 her benefit recomputed, including service after again becoming a
873 member, provided that the total retirement allowance paid to the
874 retired member in his or her previous retirement shall be deducted
875 from the member's retirement reserve and taken into consideration
876 in recalculating the retirement allowance under a new option
877 selected.

878 (3) The board shall have the right to prescribe rules and
879 regulations for carrying out the provisions of this section.

880 (4) The provisions of this section shall not be construed to
881 prohibit any retiree, regardless of age, from being employed and
882 drawing a retirement allowance either:

883 (a) For a period of time not to exceed one-half (1/2)
884 of the normal working days for the position in any fiscal year
885 during which the retiree will receive no more than one-half (1/2)
886 of the salary in effect for the position at the time of
887 employment, or

888 (b) For a period of time in any fiscal year sufficient
889 in length to permit a retiree to earn not in excess of twenty-five
890 percent (25%) of retiree's average compensation.

891 To determine the normal working days for a position under
892 paragraph (a) of this subsection, the employer shall determine the
893 required number of working days for the position on a full-time
894 basis and the equivalent number of hours representing the
895 full-time position. The retiree then may work up to one-half
896 (1/2) of the required number of working days or up to one-half
897 (1/2) of the equivalent number of hours and receive up to one-half
898 (1/2) of the salary for the position. In the case of employment
899 with multiple employers, the limitation shall equal one-half (1/2)
900 of the number of days or hours for a single full-time position.

901 Notice shall be given in writing to the executive director,
902 setting forth the facts upon which the employment is being made,
903 and the notice shall be given within five (5) days from the date
904 of employment and also from the date of termination of the
905 employment.

906 (5) Any member may continue in municipal or county elected
907 office or be elected to a municipal or county office, provided
908 that the person:

909 (a) Files annually, in writing, in the office of the
910 employer and the office of the executive director of the system
911 before the person takes office or as soon as possible after
912 retirement, a waiver of all salary or compensation and elects to
913 receive in lieu of that salary or compensation a retirement
914 allowance as provided in this section, in which event no salary or
915 compensation shall thereafter be due or payable for those

916 services; however, any such officer or employee may receive, in
917 addition to the retirement allowance, office expense allowance,
918 mileage or travel expense authorized by any statute of the State
919 of Mississippi; or

920 (b) Elects to receive compensation for that elective
921 office in an amount not to exceed twenty-five percent (25%) of the
922 retiree's average compensation. As used in this paragraph, the
923 term "compensation" shall not include office expense allowance,
924 mileage or travel expense authorized by a statute of the State of
925 Mississippi. In order to receive compensation as allowed in this
926 paragraph, the member shall file annually, in writing, in the
927 office of the employer and the office of the executive director of
928 the system, an election to receive, in addition to a retirement
929 allowance, compensation as allowed in this paragraph.

930 **SECTION 6.** Section 37-19-7, Mississippi Code of 1972, is
931 amended as follows:

932 37-19-7. (1) This section shall be known and may be cited
933 as the Mississippi "Teacher Opportunity Program (TOP)." The
934 allowance in the minimum education program and the Mississippi
935 Adequate Education Program for teachers' salaries in each county
936 and separate school district shall be determined and paid in
937 accordance with the scale for teachers' salaries as provided in
938 this subsection. For teachers holding the following types of
939 licenses or the equivalent as determined by the State Board of
940 Education, and the following number of years of teaching
941 experience, the scale shall be as follows:

942 * * *

943 **2005-2006 School Year and School Years Thereafter**

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

945	AAAA.....	\$ 34,000.00
946	AAA.....	33,000.00
947	AA.....	32,000.00
948	A.....	30,000.00

949	25 or More Years of Teaching Experience	
950	AAAA.....	\$ 36,000.00
951	AAA.....	35,000.00
952	AA.....	34,000.00
953	A.....	32,000.00

954 The State Board of Education shall revise the salary scale
955 prescribed above for the 2005-2006 school year to conform to any
956 adjustments made to the salary scale in prior fiscal years due to
957 revenue growth over and above five percent (5%). For each one
958 percent (1%) that the Sine Die General Fund Revenue Estimate
959 Growth exceeds five percent (5%) for fiscal year 2006, as
960 certified by the Legislative Budget Office to the State Board of
961 Education and subject to specific appropriation therefor by the
962 Legislature, the State Board of Education shall revise the salary
963 scale to provide an additional one percent (1%) across the board
964 increase in the base salaries for each type of license.

965 It is the intent of the Legislature that any state funds made
966 available for salaries of licensed personnel in excess of the
967 funds paid for such salaries for the 1986-1987 school year shall
968 be paid to licensed personnel pursuant to a personnel appraisal
969 and compensation system implemented by the State Board of
970 Education. The State Board of Education shall have the authority
971 to adopt and amend rules and regulations as are necessary to
972 establish, administer and maintain the system.

973 All teachers employed on a full-time basis shall be paid a
974 minimum salary in accordance with the above scale. However, no
975 school district shall receive any funds under this section for any
976 school year during which the local supplement paid to any
977 individual teacher shall have been reduced to a sum less than that
978 paid to that individual teacher for performing the same duties
979 from local supplement during the immediately preceding school
980 year. The amount actually spent for the purposes of group health
981 and/or life insurance shall be considered as a part of the

982 aggregate amount of local supplement but shall not be considered a
983 part of the amount of individual local supplement.

984 * * *

985 **2005-2006 School Year**
986 **and School Years Thereafter Annual Increments**

987 For teachers holding a Class AAAA license, the minimum base
988 pay specified in this subsection shall be increased by the sum of
989 Seven Hundred Seventy Dollars (\$770.00) for each year of teaching
990 experience possessed by the person holding such license until such
991 person shall have twenty-five (25) years of teaching experience.

992 For teachers holding a Class AAA license, the minimum base
993 pay specified in this subsection shall be increased by the sum of
994 Seven Hundred Five Dollars (\$705.00) for each year of teaching
995 experience possessed by the person holding such license until such
996 person shall have twenty-five (25) years of teaching experience.

997 For teachers holding a Class AA license, the minimum base pay
998 specified in this subsection shall be increased by the sum of Six
999 Hundred Forty Dollars (\$640.00) for each year of teaching
1000 experience possessed by the person holding such license until such
1001 person shall have twenty-five (25) years of teaching experience.

1002 For teachers holding a Class A license, the minimum base pay
1003 specified in this subsection shall be increased by the sum of Four
1004 Hundred Eighty Dollars (\$480.00) for each year of teaching
1005 experience possessed by the person holding such license until such
1006 person shall have twenty-four (24) years of teaching experience.

1007 The level of professional training of each teacher to be used
1008 in establishing the salary allotment for the teachers for each
1009 year shall be determined by the type of valid teacher's license
1010 issued to those teachers on or before October 1 of the current
1011 school year.

1012 (2) (a) The following employees shall receive an annual
1013 salary supplement in the amount of Six Thousand Dollars

1014 (\$6,000.00), plus fringe benefits, in addition to any other
1015 compensation to which the employee may be entitled:

1016 (i) Any licensed teacher who has met the
1017 requirements and acquired a Master Teacher certificate from the
1018 National Board for Professional Teaching Standards and who is
1019 employed by a local school board or the State Board of Education
1020 as a teacher and not as an administrator. Such teacher shall
1021 submit documentation to the State Department of Education that the
1022 certificate was received prior to October 15 in order to be
1023 eligible for the full salary supplement in the current school
1024 year, or the teacher shall submit such documentation to the State
1025 Department of Education prior to February 15 in order to be
1026 eligible for a prorated salary supplement beginning with the
1027 second term of the school year.

1028 (ii) A licensed nurse who has met the requirements
1029 and acquired a certificate from the National Board for
1030 Certification of School Nurses, Inc., and who is employed by a
1031 local school board or the State Board of Education as a school
1032 nurse and not as an administrator. The licensed school nurse
1033 shall submit documentation to the State Department of Education
1034 that the certificate was received before October 15 in order to be
1035 eligible for the full salary supplement in the current school
1036 year, or the licensed school nurse shall submit the documentation
1037 to the State Department of Education before February 15 in order
1038 to be eligible for a prorated salary supplement beginning with the
1039 second term of the school year. Provided, however, that the total
1040 number of licensed school nurses eligible for a salary supplement
1041 under this paragraph (ii) shall not exceed twenty (20).

1042 (iii) Any licensed school counselor who has met
1043 the requirements and acquired a National Certified School
1044 Counselor (NCSC) endorsement from the National Board of Certified
1045 Counselors and who is employed by a local school board or the
1046 State Board of Education as a counselor and not as an

1047 administrator. Such licensed school counselor shall submit
1048 documentation to the State Department of Education that the
1049 endorsement was received prior to October 15 in order to be
1050 eligible for the full salary supplement in the current school
1051 year, or the licensed school counselor shall submit such
1052 documentation to the State Department of Education prior to
1053 February 15 in order to be eligible for a prorated salary
1054 supplement beginning with the second term of the school year.
1055 However, any school counselor who started the National Board for
1056 Professional Teaching Standards process for school counselors
1057 between June 1, 2003, and June 30, 2004, and completes the
1058 requirements and acquires the master teacher certificate shall be
1059 entitled to the master teacher supplement, and those counselors
1060 who complete the process shall be entitled to a one (1) time
1061 reimbursement for the actual cost of the process as outlined in
1062 paragraph (b) of this subsection.

1063 (iv) Any licensed speech-language pathologist and
1064 audiologist who has met the requirements and acquired a
1065 Certificate of Clinical Competence from the American
1066 Speech-Language-Hearing Association and who is employed by a local
1067 school board. Such licensed speech-language pathologist and
1068 audiologist shall submit documentation to the State Department of
1069 Education that the certificate or endorsement was received prior
1070 to October 15 in order to be eligible for the full salary
1071 supplement in the current school year, or the licensed
1072 speech-language pathologist and audiologist shall submit such
1073 documentation to the State Department of Education prior to
1074 February 15 in order to be eligible for a prorated salary
1075 supplement beginning with the second term of the school year.

1076 (b) An employee shall be reimbursed one (1) time for
1077 the actual cost of completing the process of acquiring the
1078 certificate or endorsement, excluding any costs incurred for
1079 postgraduate courses, not to exceed Five Hundred Dollars (\$500.00)

1080 for a school counselor or speech-language pathologist and
1081 audiologist, regardless of whether or not the process resulted in
1082 the award of the certificate or endorsement. A local school
1083 district or any private individual or entity may pay the cost of
1084 completing the process of acquiring the certificate or endorsement
1085 for any employee of the school district described under paragraph
1086 (a), and the State Department of Education shall reimburse the
1087 school district for such cost, regardless of whether or not the
1088 process resulted in the award of the certificate or endorsement.
1089 If a private individual or entity has paid the cost of completing
1090 the process of acquiring the certificate or endorsement for an
1091 employee, the local school district may agree to directly
1092 reimburse the individual or entity for such cost on behalf of the
1093 employee.

1094 (c) All salary supplements, fringe benefits and process
1095 reimbursement authorized under this subsection shall be paid
1096 directly by the State Department of Education to the local school
1097 district and shall be in addition to its minimum education program
1098 allotments and not a part thereof in accordance with regulations
1099 promulgated by the State Board of Education, and subject to
1100 appropriation by the Legislature. Local school districts shall
1101 not reduce the local supplement paid to any employee receiving
1102 such salary supplement, and the employee shall receive any local
1103 supplement to which employees with similar training and experience
1104 otherwise are entitled.

1105 (d) The State Department of Education may not pay any
1106 process reimbursement to a school district for an employee who
1107 does not complete the certification or endorsement process
1108 required to be eligible for the certificate or endorsement. If an
1109 employee for whom such cost has been paid in full or in part by a
1110 local school district or private individual or entity fails to
1111 complete the certification or endorsement process, the employee
1112 shall be liable to the school district or individual or entity for

1113 all amounts paid by the school district or individual or entity on
1114 behalf of that employee toward his or her certificate or
1115 endorsement.

1116 (3) Notwithstanding any provision in this section to the
1117 contrary, any person who is receiving a retirement allowance from
1118 the Public Employees' Retirement System who is employed as a
1119 teacher after retirement, and chooses to continue receiving the
1120 retirement allowance during his or her employment as a teacher
1121 after retirement, as authorized by Section 25-11-126, shall be
1122 paid a salary not less than the amount of the salary for teachers
1123 with no experience filling similar positions, nor more than the
1124 rate of compensation set by the school district for teachers with
1125 comparable training and years of experience filling similar
1126 positions, less the employee and employer contribution to the
1127 Public Employees' Retirement System. Once the compensation is
1128 set, the retired member shall not be entitled to any supplements,
1129 annual increments or other increases.

1130 **SECTION 7.** This act shall take effect and be in force from
1131 and after July 1, 2005.