

By: Senator(s) Harden

To: Finance

SENATE BILL NO. 2209

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 AND 25-11-127, MISSISSIPPI CODE OF
 9 1972, IN CONFORMITY WITH THE PROVISIONS OF THIS ACT; TO AMEND
 10 SECTION 37-19-7, MISSISSIPPI CODE OF 1972, TO PROVIDE CERTAIN
 11 LIMITATIONS ON THE TEACHERS' SALARIES OF THOSE PERSONS; AND FOR
 12 RELATED PURPOSES.

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

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

16 25-11-126. (1) Any person receiving a retirement allowance
 17 under this article for at least one (1) year, who was employed as
 18 a teacher in the public school system at the time of his
 19 retirement and who is employed as a teacher in the public school
 20 system after his retirement, may choose to continue receiving the
 21 retirement allowance under this article during his employment as a
 22 teacher after his retirement in addition to receiving the salary
 23 authorized under Section 37-19-7(3), under the following
 24 conditions:

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

27 (b) The superintendent of schools of the employing
 28 school district certifies in writing to the Executive Director of
 29 the Public Employees' Retirement System and the State
 30 Superintendent of Education that the retired member has the
 31 requisite experience, training and expertise for the position to

32 be filled and that no other qualified persons are available to
33 fill the position;

34 (c) The State Superintendent of Education certifies in
35 writing to the Public Employees' Retirement System that the
36 employing school system serves an area that lacks qualified
37 teachers to serve in the position to be filled;

38 (d) Such retired member shall not be eligible to accrue
39 additional retirement benefits, accrue leave or receive medical
40 insurance coverage as a result of such employment;

41 (e) The retired member shall not receive automatic
42 credit for years of experience in determining compensation.
43 Provided, however, the salary paid to such retired member for
44 performing the teaching services shall not be less than the rate
45 of compensation set by the school district for teachers with no
46 experience filling similar positions, nor shall such salary exceed
47 eighty-five percent (85%) of the rate of compensation set by the
48 school district for teachers with comparable training and years of
49 experience filling similar positions. Once such compensation is
50 set, the retired member shall not be entitled to any supplements,
51 salary increases or annual increments;

52 (f) The retired member's appointment to serve as
53 teacher cannot exceed one (1) year. The retired member may be
54 reappointed to additional one-year periods provided the conditions
55 contained in this section are met for each such reappointment,
56 including the certifications required in paragraphs (b) and (c) of
57 this section.

58 (2) To fund the additional pension liability created by this
59 act, the State Department of Education is directed to transfer to
60 the Mississippi Public Employees' Retirement System the following
61 funds: Minimum and adequate education program funds of local
62 school districts that on or after July 1, 2004, hire retired
63 members who retired on or after July 1, 2003, as teachers pursuant
64 to the provisions of this act and other funds which would have

65 otherwise been payable to the agencies had the agencies not taken
66 advantage of the provisions of this section.

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

69 25-11-103. The following words and phrases as used in
70 Articles 1 and 3, unless a different meaning is plainly required
71 by the context, have the following meanings:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

225 (vii) Nothing in Section 25-3-31 shall affect the
226 determination of the earned compensation of any member for the
227 purposes of this article.

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

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

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

242 (o) "Fiscal year" means the period beginning on July 1
243 of any year and ending on June 30 of the next succeeding year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

332 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

588 (1/4) year of creditable service beginning with the most recent
589 service. Upon the payment of all or part of the required
590 contributions, plus interest or the actuarial cost as provided
591 above, the member shall receive credit for the period of
592 creditable service for which full payment has been made to the
593 retirement system.

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

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

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

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

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

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

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

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

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

623 **III. TERMINATION OF MEMBERSHIP**

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

628 **SECTION 4.** Section 25-11-127, Mississippi Code of 1972, is
629 amended as follows:

630 25-11-127. (1) (a) No person who is being paid a
631 retirement allowance or a pension after retirement under this
632 article shall be employed or paid for any service by the State of
633 Mississippi, except as provided in this section or in Section
634 25-11-126.

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

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

642 (2) Except as otherwise provided in Section 25-11-126, any
643 person who has been retired under the provisions of Article 3 and
644 who is later reemployed in service covered by this article shall
645 cease to receive benefits under this article and shall again
646 become a contributing member of the retirement system. When the
647 person retires again, if the person has been a contributing member
648 of the retirement system during his reemployment and the
649 reemployment exceeds six (6) months, the person shall have his or
650 her benefit recomputed, including service after again becoming a
651 member, provided that the total retirement allowance paid to the
652 retired member in his or her previous retirement shall be deducted
653 from the member's retirement reserve and taken into consideration

654 in recalculating the retirement allowance under a new option
655 selected.

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

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

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

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

669 To determine the normal working days for a position under
670 paragraph (a) of this subsection, the employer shall determine the
671 required number of working days for the position on a full-time
672 basis and the equivalent number of hours representing the
673 full-time position. The retiree then may work up to one-half
674 (1/2) of the required number of working days or up to one-half
675 (1/2) of the equivalent number of hours and receive up to one-half
676 (1/2) of the salary for the position. In the case of employment
677 with multiple employers, the limitation shall equal one-half (1/2)
678 of the number of days or hours for a single full-time position.

679 Notice shall be given in writing to the executive director,
680 setting forth the facts upon which the employment is being made,
681 and the notice shall be given within five (5) days from the date
682 of employment and also from the date of termination of the
683 employment.

684 (5) Any member may continue in municipal or county elected
685 office or be elected to a municipal or county office, provided
686 that the person:

687 (a) Files annually, in writing, in the office of the
688 employer and the office of the executive director of the system
689 before the person takes office or as soon as possible after
690 retirement, a waiver of all salary or compensation and elects to
691 receive in lieu of that salary or compensation a retirement
692 allowance as provided in this section, in which event no salary or
693 compensation shall thereafter be due or payable for those
694 services; however, any such officer or employee may receive, in
695 addition to the retirement allowance, office expense allowance,
696 mileage or travel expense authorized by any statute of the State
697 of Mississippi; or

698 (b) Elects to receive compensation for that elective
699 office in an amount not to exceed twenty-five percent (25%) of the
700 retiree's average compensation. As used in this paragraph, the
701 term "compensation" shall not include office expense allowance,
702 mileage or travel expense authorized by a statute of the State of
703 Mississippi. In order to receive compensation as allowed in this
704 paragraph, the member shall file annually, in writing, in the
705 office of the employer and the office of the executive director of
706 the system, an election to receive, in addition to a retirement
707 allowance, compensation as allowed in this paragraph.

708 **SECTION 5.** Section 37-19-7, Mississippi Code of 1972, is
709 amended as follows:

710 37-19-7. (1) This section shall be known and may be cited
711 as the Mississippi "Teacher Opportunity Program (TOP)." The
712 allowance in the minimum education program and the Mississippi
713 Adequate Education Program for teachers' salaries in each county
714 and separate school district shall be determined and paid in
715 accordance with the scale for teachers' salaries as provided in
716 this subsection. For teachers holding the following types of
717 licenses or the equivalent as determined by the State Board of
718 Education, and the following number of years of teaching
719 experience, the scale shall be as follows:

720	2004-2005 School Year	
721	Less Than 25 Years of Teaching Experience	
722	AAAA.....	\$ 31,775.00
723	AAA.....	30,850.00
724	AA.....	29,925.00
725	A.....	28,000.00
726	25 or More Years of Teaching Experience	
727	AAAA.....	\$ 33,775.00
728	AAA.....	32,850.00
729	AA.....	31,925.00
730	A.....	30,000.00
731	The State Board of Education shall revise the salary scale	
732	prescribed above for the 2004-2005 school year to conform to any	
733	adjustments made to the salary scale in prior fiscal years due to	
734	revenue growth over and above five percent (5%). For each one	
735	percent (1%) that the Sine Die General Fund Revenue Estimate	
736	Growth exceeds five percent (5%) for fiscal year 2005, as	
737	certified by the Legislative Budget Office to the State Board of	
738	Education and subject to specific appropriation therefor by the	
739	Legislature, the State Board of Education shall revise the salary	
740	scale to provide an additional one percent (1%) across the board	
741	increase in the base salaries for each type of license.	
742	2005-2006 School Year and School Years Thereafter	
743	Less Than 25 Years of Teaching Experience	
744	AAAA.....	\$ 34,000.00
745	AAA.....	33,000.00
746	AA.....	32,000.00
747	A.....	30,000.00
748	25 or More Years of Teaching Experience	
749	AAAA.....	\$ 36,000.00
750	AAA.....	35,000.00
751	AA.....	34,000.00
752	A.....	32,000.00

786 Seven Hundred Forty Dollars (\$740.00) for each year of teaching
787 experience possessed by the person holding such license until such
788 person shall have twenty-five (25) years of teaching experience.

789 For teachers holding a Class AAA license, the minimum base
790 pay specified in this subsection shall be increased by the sum of
791 Six Hundred Seventy-five Dollars (\$675.00) for each year of
792 teaching experience possessed by the person holding such license
793 until such person shall have twenty-five (25) years of teaching
794 experience.

795 For teachers holding a Class AA license, the minimum base pay
796 specified in this subsection shall be increased by the sum of Six
797 Hundred Ten Dollars (\$610.00) for each year of teaching experience
798 possessed by the person holding such license until such person
799 shall have twenty-five (25) years of teaching experience.

800 For teachers holding a Class A license, the minimum base pay
801 specified in this subsection shall be increased by the sum of Four
802 Hundred Sixty-five Dollars (\$465.00) for each year of teaching
803 experience possessed by the person holding such license until such
804 person shall have twenty-four (24) years of teaching experience.

805 **2005-2006 School Year**

806 **and School Years Thereafter Annual Increments**

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

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

817 For teachers holding a Class AA license, the minimum base pay
818 specified in this subsection shall be increased by the sum of Six

819 Hundred Forty Dollars (\$640.00) for each year of teaching
820 experience possessed by the person holding such license until such
821 person shall have twenty-five (25) years of teaching experience.

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

827 The level of professional training of each teacher to be used
828 in establishing the salary allotment for the teachers for each
829 year shall be determined by the type of valid teacher's license
830 issued to those teachers on or before October 1 of the current
831 school year.

832 (2) (a) The following employees shall receive an annual
833 salary supplement in the amount of Six Thousand Dollars
834 (\$6,000.00), plus fringe benefits, in addition to any other
835 compensation to which the employee may be entitled:

836 (i) Any licensed teacher who has met the
837 requirements and acquired a Master Teacher certificate from the
838 National Board for Professional Teaching Standards and who is
839 employed by a local school board or the State Board of Education
840 as a teacher and not as an administrator. Such teacher shall
841 submit documentation to the State Department of Education that the
842 certificate was received prior to October 15 in order to be
843 eligible for the full salary supplement in the current school
844 year, or the teacher shall submit such documentation to the State
845 Department of Education prior to February 15 in order to be
846 eligible for a prorated salary supplement beginning with the
847 second term of the school year.

848 (ii) A licensed nurse who has met the requirements
849 and acquired a certificate from the National Board for
850 Certification of School Nurses, Inc., and who is employed by a
851 local school board or the State Board of Education as a school

852 nurse and not as an administrator. The licensed school nurse
853 shall submit documentation to the State Department of Education
854 that the certificate was received before October 15 in order to be
855 eligible for the full salary supplement in the current school
856 year, or the licensed school nurse shall submit the documentation
857 to the State Department of Education before February 15 in order
858 to be eligible for a prorated salary supplement beginning with the
859 second term of the school year. Provided, however, that the total
860 number of licensed school nurses eligible for a salary supplement
861 under this paragraph (ii) shall not exceed twenty (20).

862 (iii) Any licensed school counselor who has met
863 the requirements and acquired a National Certified School
864 Counselor (NCSC) endorsement from the National Board of Certified
865 Counselors and who is employed by a local school board or the
866 State Board of Education as a counselor and not as an
867 administrator. Such licensed school counselor shall submit
868 documentation to the State Department of Education that the
869 endorsement was received prior to October 15 in order to be
870 eligible for the full salary supplement in the current school
871 year, or the licensed school counselor shall submit such
872 documentation to the State Department of Education prior to
873 February 15 in order to be eligible for a prorated salary
874 supplement beginning with the second term of the school year.
875 However, any school counselor who started the National Board for
876 Professional Teaching Standards process for school counselors
877 between June 1, 2003, and June 30, 2004, and completes the
878 requirements and acquires the master teacher certificate shall be
879 entitled to the master teacher supplement, and those counselors
880 who complete the process shall be entitled to a one (1) time
881 reimbursement for the actual cost of the process as outlined in
882 paragraph (b) of this subsection.

883 (iv) Any licensed speech-language pathologist and
884 audiologist who has met the requirements and acquired a

885 Certificate of Clinical Competence from the American
886 Speech-Language-Hearing Association and who is employed by a local
887 school board. Such licensed speech-language pathologist and
888 audiologist shall submit documentation to the State Department of
889 Education that the certificate or endorsement was received prior
890 to October 15 in order to be eligible for the full salary
891 supplement in the current school year, or the licensed
892 speech-language pathologist and audiologist shall submit such
893 documentation to the State Department of Education prior to
894 February 15 in order to be eligible for a prorated salary
895 supplement beginning with the second term of the school year.

896 (b) An employee shall be reimbursed one (1) time for
897 the actual cost of completing the process of acquiring the
898 certificate or endorsement, excluding any costs incurred for
899 postgraduate courses, not to exceed Five Hundred Dollars (\$500.00)
900 for a school counselor or speech-language pathologist and
901 audiologist, regardless of whether or not the process resulted in
902 the award of the certificate or endorsement. A local school
903 district or any private individual or entity may pay the cost of
904 completing the process of acquiring the certificate or endorsement
905 for any employee of the school district described under paragraph
906 (a), and the State Department of Education shall reimburse the
907 school district for such cost, regardless of whether or not the
908 process resulted in the award of the certificate or endorsement.
909 If a private individual or entity has paid the cost of completing
910 the process of acquiring the certificate or endorsement for an
911 employee, the local school district may agree to directly
912 reimburse the individual or entity for such cost on behalf of the
913 employee.

914 (c) All salary supplements, fringe benefits and process
915 reimbursement authorized under this subsection shall be paid
916 directly by the State Department of Education to the local school
917 district and shall be in addition to its minimum education program

918 allotments and not a part thereof in accordance with regulations
919 promulgated by the State Board of Education, and subject to
920 appropriation by the Legislature. Local school districts shall
921 not reduce the local supplement paid to any employee receiving
922 such salary supplement, and the employee shall receive any local
923 supplement to which employees with similar training and experience
924 otherwise are entitled.

925 (d) The State Department of Education may not pay any
926 process reimbursement to a school district for an employee who
927 does not complete the certification or endorsement process
928 required to be eligible for the certificate or endorsement. If an
929 employee for whom such cost has been paid in full or in part by a
930 local school district or private individual or entity fails to
931 complete the certification or endorsement process, the employee
932 shall be liable to the school district or individual or entity for
933 all amounts paid by the school district or individual or entity on
934 behalf of that employee toward his or her certificate or
935 endorsement.

936 (3) Notwithstanding any provision in this section to the
937 contrary, any person who is receiving a retirement allowance from
938 the Public Employees' Retirement System who is employed as a
939 teacher after his retirement, and chooses to continue receiving
940 the retirement allowance during his employment as a teacher after
941 his retirement, as authorized by Section 25-11-126, shall be paid
942 a salary not less than the amount of the salary for teachers with
943 no experience filling similar positions, nor shall such salary
944 exceed eighty-five percent (85%) of the rate of compensation set
945 by the school district for teachers with comparable training and
946 years of experience filling similar positions. Once such
947 compensation is set, the retired member shall not be entitled to
948 any supplements, annual increments or other increases.

949 **SECTION 6.** This act shall take effect and be in force from
950 and after July 1, 2005.