

By: Senator(s) Hyde-Smith

To: Finance

SENATE BILL NO. 2719

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

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

29 **SECTION 1.** The following shall be codified as Section

30 25-11-126, Mississippi Code of 1972:

31 25-11-126. (1) (a) Any person who has completed
32 twenty-five (25) or more years of creditable service and is
33 receiving a retirement allowance under this article, who was
34 employed as a teacher in the public school system at the time of
35 his retirement and who is employed as a teacher in a public school
36 district located in a geographic area of the state designated as a
37 critical teacher shortage area by the State Board of Education
38 after his retirement, may choose to continue receiving the
39 retirement allowance under this article during his employment as a

40 teacher after his retirement in addition to receiving the salary
41 authorized under Section 37-19-7(3), in the manner provided in
42 this section. However, in order to choose the retirement option
43 authorized under this section, the teacher must be employed in a
44 school district or school with a lower level of accreditation than
45 the school district or school in which the teacher was employed
46 prior to retirement.

47 (b) Any person who is employed as a teacher in the
48 public school district located in a geographical area of the state
49 designated as a critical teacher shortage area by the State Board
50 of Education who completes twenty-five (25) or more years of
51 creditable service during his employment as a teacher, may choose
52 to receive a retirement allowance under this article during his
53 employment as a teacher in the public school system in addition to
54 receiving the salary authorized under Section 37-19-7(3), in the
55 manner provided in this section. However, in order to choose the
56 retirement option authorized under this section, the teacher must
57 be employed in a school district or school with a lower level of
58 accreditation than the school district or school in which the
59 teacher was employed prior to retirement.

60 (2) Any person described in subsection (1)(a) of this
61 section shall notify the executive director of the retirement
62 system, before being employed as a teacher in the public school
63 system after his retirement, about his choice on continuing to
64 receive the retirement allowance during his employment as a
65 teacher. If the person chooses not to continue receiving the
66 retirement allowance during his employment as a teacher, the
67 retirement allowance shall cease on the day that he begins
68 employment as a teacher after his retirement. After the person
69 leaves employment as a teacher that he began after his retirement,
70 in order to begin receiving a retirement allowance under this
71 article again, the person shall make application to the executive
72 director of the retirement system, and the retirement allowance

73 shall begin on the first of the month following the date that the
74 application is received by the executive director.

75 (3) Any person described in subsection (1)(b) who chooses to
76 receive a retirement allowance during his employment as a teacher
77 in the public school system shall make application to the
78 executive director of the retirement system, and the retirement
79 allowance shall begin on the first of the month following the date
80 that the application is received by the executive director. Those
81 persons shall not be required to withdraw from service in order to
82 receive the retirement allowance.

83 (4) Any person to whom this section applies who receives or
84 continues to receive a retirement allowance under this article
85 during his employment as a teacher shall not be a contributing
86 member of the retirement system nor receive any creditable service
87 for the period during which he receives a retirement allowance
88 during his employment as a teacher. Any person to whom this
89 section applies who chooses not to receive a retirement allowance
90 during his employment as a teacher shall be a contributing member
91 of the retirement system and shall receive creditable service for
92 the period during which he is employed as a teacher without
93 receiving a retirement allowance. If the person has previously
94 received a retirement allowance under this article and he is
95 employed as a teacher for more than six (6) months without
96 receiving a retirement allowance, he shall have his allowance
97 recomputed when he retires again, which shall include the service
98 after he again became a contributing member of the retirement
99 system.

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

102 25-11-103. The following words and phrases as used in
103 Articles 1 and 3, unless a different meaning is plainly required
104 by the context, have the following meanings:

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

109 (b) "Actuarial cost" means the amount of funds
110 presently required to provide future benefits as determined by the
111 board based on applicable tables and formulas provided by the
112 actuary.

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

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

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

122 (f) "Average compensation" means the average of the
123 four (4) highest years of earned compensation reported for an
124 employee in a fiscal or calendar year period, or combination
125 thereof that do not overlap, or the last forty-eight (48)
126 consecutive months of earned compensation reported for an
127 employee. The four (4) years need not be successive or joined
128 years of service. In no case shall the average compensation so
129 determined be in excess of One Hundred Fifty Thousand Dollars
130 (\$150,000.00). In computing the average compensation, any amount
131 lawfully paid in a lump sum for personal leave or major medical
132 leave shall be included in the calculation to the extent that the
133 amount does not exceed an amount that is equal to thirty (30) days
134 of earned compensation and to the extent that it does not cause
135 the employees' earned compensation to exceed the maximum
136 reportable amount specified in Section 25-11-103(k); however, this
137 thirty-day limitation shall not prevent the inclusion in the

138 calculation of leave earned under federal regulations before July
139 1, 1976, and frozen as of that date as referred to in Section
140 25-3-99. Only the amount of lump sum pay for personal leave due
141 and paid upon the death of a member attributable for up to one
142 hundred fifty (150) days shall be used in the deceased member's
143 average compensation calculation in determining the beneficiary's
144 benefits. In computing the average compensation, no amounts shall
145 be used that are in excess of the amount on which contributions
146 were required and paid, and no nontaxable amounts paid by the
147 employer for health or life insurance premiums for the employee
148 shall be used. If any member who is or has been granted any
149 increase in annual salary or compensation of more than eight
150 percent (8%) retires within twenty-four (24) months from the date
151 that the increase becomes effective, then the board shall exclude
152 that part of the increase in salary or compensation that exceeds
153 eight percent (8%) in calculating that member's average
154 compensation for retirement purposes. The board may enforce this
155 provision by rule or regulation. However, increases in
156 compensation in excess of eight percent (8%) per year granted
157 within twenty-four (24) months of the date of retirement may be
158 included in the calculation of average compensation if
159 satisfactory proof is presented to the board showing that the
160 increase in compensation was the result of an actual change in the
161 position held or services rendered, or that the compensation
162 increase was authorized by the State Personnel Board or was
163 increased as a result of statutory enactment, and the employer
164 furnishes an affidavit stating that the increase granted within
165 the last twenty-four (24) months was not contingent on a promise
166 or agreement of the employee to retire. Nothing in Section
167 25-3-31 shall affect the calculation of the average compensation
168 of any member for the purposes of this article. The average
169 compensation of any member who retires before July 1, 1992, shall
170 not exceed the annual salary of the Governor.

171 (g) "Beneficiary" means any person entitled to receive
172 a retirement allowance, an annuity or other benefit as provided by
173 Articles 1 and 3. The term "beneficiary" may also include an
174 organization, estate, trust or entity; however, a beneficiary
175 designated or entitled to receive monthly payments under an
176 optional settlement based on life contingency or pursuant to a
177 statutory monthly benefit may only be a natural person. In the
178 event of the death before retirement of any member whose spouse
179 and/or children are not entitled to a retirement allowance on the
180 basis that the member has less than four (4) years of service
181 credit and/or has not been married for a minimum of one (1) year
182 or the spouse has waived his or her entitlement to a retirement
183 allowance under Section 25-11-114, the lawful spouse of a member
184 at the time of the death of the member shall be the beneficiary of
185 the member unless the member has designated another beneficiary
186 after the date of marriage in writing, and filed that writing in
187 the office of the executive director of the board of trustees. No
188 designation or change of beneficiary shall be made in any other
189 manner.

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

193 (i) "Creditable service" means "prior service,"
194 "retroactive service" and all lawfully credited unused leave not
195 exceeding the accrual rates and limitations provided in Section
196 25-3-91 et seq., as of the date of withdrawal from service plus
197 "membership service" for which credit is allowable as provided in
198 Section 25-11-109. Except to limit creditable service reported to
199 the system for the purpose of computing an employee's retirement
200 allowance or annuity or benefits provided in this article, nothing
201 in this paragraph shall limit or otherwise restrict the power of
202 the governing authority of a municipality or other political

203 subdivision of the state to adopt such vacation and sick leave
204 policies as it deems necessary.

205 (j) "Child" means either a natural child of the member,
206 a child that has been made a child of the member by applicable
207 court action before the death of the member, or a child under the
208 permanent care of the member at the time of the latter's death,
209 which permanent care status shall be determined by evidence
210 satisfactory to the board.

211 (k) "Earned compensation" means the full amount earned
212 by an employee for a given pay period including any maintenance
213 furnished up to a maximum of One Hundred Fifty Thousand Dollars
214 (\$150,000.00) per year, and proportionately for less than one (1)
215 year of service. The value of that maintenance when not paid in
216 money shall be fixed by the employing state agency, and, in case
217 of doubt, by the board of trustees as defined in Section 25-11-15.
218 Earned compensation shall not include any nontaxable amounts paid
219 by the employer for health or life insurance premiums for an
220 employee. In any case, earned compensation shall be limited to
221 the regular periodic compensation paid, exclusive of litigation
222 fees, bond fees, and other similar extraordinary nonrecurring
223 payments. In addition, any member in a covered position, as
224 defined by Public Employees' Retirement System laws and
225 regulations, who is also employed by another covered agency or
226 political subdivision shall have the earnings of that additional
227 employment reported to the Public Employees' Retirement System
228 regardless of whether the additional employment is sufficient in
229 itself to be a covered position. In addition, computation of
230 earned compensation shall be governed by the following:

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

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

239 (iii) In the case of members of the State
240 Legislature, all remuneration or amounts paid, except mileage
241 allowance, shall apply.

242 (iv) The amount by which an eligible employee's
243 salary is reduced under a salary reduction agreement authorized
244 under Section 25-17-5 shall be included as earned compensation
245 under this paragraph, provided this inclusion does not conflict
246 with federal law, including federal regulations and federal
247 administrative interpretations under the federal law, pertaining
248 to the Federal Insurance Contributions Act or to Internal Revenue
249 Code Section 125 cafeteria plans.

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

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

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

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

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

267 (n) "Executive director" means the secretary to the
268 board of trustees, as provided in Section 25-11-15(9), and the

269 administrator of the Public Employees' Retirement System and all
270 systems under the management of the board of trustees. Wherever
271 the term "Executive Secretary of the Public Employees' Retirement
272 System" or "executive secretary" appears in this article or in any
273 other provision of law, it shall be construed to mean the
274 Executive Director of the Public Employees' Retirement System.

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

277 (p) "Medical board" means the board of physicians or
278 any governmental or nongovernmental disability determination
279 service designated by the board of trustees that is qualified to
280 make disability determinations as provided for in Section
281 25-11-119.

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

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

286 (s) "Position" means any office or any employment in
287 the state service, or two (2) or more of them, the duties of which
288 call for services to be rendered by one (1) person, including
289 positions jointly employed by federal and state agencies
290 administering federal and state funds. The employer shall
291 determine upon initial employment and during the course of
292 employment of an employee who does not meet the criteria for
293 coverage in the Public Employees' Retirement System based on the
294 position held, whether the employee is or becomes eligible for
295 coverage in the Public Employees' Retirement System based upon any
296 other employment in a covered agency or political subdivision. If
297 or when the employee meets the eligibility criteria for coverage
298 in the other position, then the employer must withhold
299 contributions and report wages from the noncovered position in
300 accordance with the provisions for reporting of earned
301 compensation. Failure to deduct and report those contributions

302 shall not relieve the employee or employer of liability thereof.
303 The board shall adopt such rules and regulations as necessary to
304 implement and enforce this provision.

305 (t) "Prior service" means service rendered before
306 February 1, 1953, for which credit is allowable under Sections
307 25-11-105 and 25-11-109, and which shall allow prior service for
308 any person who is now or becomes a member of the Public Employees'
309 Retirement System and who does contribute to the system for a
310 minimum period of four (4) years.

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

314 (v) "Retirement allowance" means an annuity for life as
315 provided in this article, payable each year in twelve (12) equal
316 monthly installments beginning as of the date fixed by the board.
317 The retirement allowance shall be calculated in accordance with
318 Section 25-11-111. However, any spouse who received a spouse
319 retirement benefit in accordance with Section 25-11-111(d) before
320 March 31, 1971, and those benefits were terminated because of
321 eligibility for a social security benefit, may again receive his
322 spouse retirement benefit from and after making application with
323 the board of trustees to reinstate the spouse retirement benefit.

324 (w) "Retroactive service" means service rendered after
325 February 1, 1953, for which credit is allowable under Section
326 25-11-105(b) and Section 25-11-105(k).

327 (x) "System" means the Public Employees' Retirement
328 System of Mississippi established and described in Section
329 25-11-101.

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

332 (z) "State service" means all offices and positions of
333 trust or employment in the employ of the state, or any political
334 subdivision or instrumentality of the state, that elect to

335 participate as provided by Section 25-11-105(f), including the
336 position of elected or fee officials of the counties and their
337 deputies and employees performing public services or any
338 department, independent agency, board or commission thereof, and
339 also includes all offices and positions of trust or employment in
340 the employ of joint state and federal agencies administering state
341 and federal funds and service rendered by employees of the public
342 schools. Effective July 1, 1973, all nonprofessional public
343 school employees, such as bus drivers, janitors, maids,
344 maintenance workers and cafeteria employees, shall have the option
345 to become members in accordance with Section 25-11-105(b), and
346 shall be eligible to receive credit for services before July 1,
347 1973, provided that the contributions and interest are paid by the
348 employee in accordance with that section; in addition, the county
349 or municipal separate school district may pay the employer
350 contribution and pro rata share of interest of the retroactive
351 service from available funds. From and after July 1, 1998,
352 retroactive service credit shall be purchased at the actuarial
353 cost in accordance with Section 25-11-105(b).

354 (aa) "Withdrawal from service" or "termination from
355 service" means complete severance of employment in the state
356 service of any member by resignation, dismissal or discharge,
357 except in the case of persons who become eligible to receive a
358 retirement allowance under this article during their employment as
359 teachers and who choose to receive the retirement allowance during
360 their employment as teachers as authorized by Section 25-11-126.

361 (bb) The masculine pronoun, wherever used, includes the
362 feminine pronoun.

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

365 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

366 The membership of this retirement system shall be composed as
367 follows:

368 (a) (i) All persons who become employees in the state
369 service after January 31, 1953, and whose wages are subject to
370 payroll taxes and are lawfully reported on IRS Form W-2, except
371 those persons who are specifically excluded, those persons as to
372 whom election is provided in Articles 1 and 3, or those persons
373 who choose to receive or continue receiving a retirement allowance
374 during their employment as teachers as authorized by Section
375 25-11-126, shall become members of the retirement system as a
376 condition of their employment.

377 (ii) From and after July 1, 2002, any individual
378 who is employed by a governmental entity to perform professional
379 services shall become a member of the system if the individual is
380 paid regular periodic compensation for those services that is
381 subject to payroll taxes, is provided all other employee benefits
382 and meets the membership criteria established by the regulations
383 adopted by the board of trustees that apply to all other members
384 of the system; however, any active member employed in such a
385 position on July 1, 2002, will continue to be an active member for
386 as long as they are employed in any such position.

387 (b) All persons who become employees in the state
388 service after January 31, 1953, except those specifically excluded
389 or as to whom election is provided in Articles 1 and 3, unless
390 they file with the board before the lapse of sixty (60) days of
391 employment or sixty (60) days after the effective date of the
392 cited articles, whichever is later, on a form prescribed by the
393 board, a notice of election not to be covered by the membership of
394 the retirement system and a duly executed waiver of all present
395 and prospective benefits that would otherwise inure to them on
396 account of their participation in the system, shall become members
397 of the retirement system; however, no credit for prior service
398 will be granted to members until they have contributed to Article
399 3 of the retirement system for a minimum period of at least four
400 (4) years. Those members shall receive credit for services

401 performed before January 1, 1953, in employment now covered by
402 Article 3, but no credit shall be granted for retroactive services
403 between January 1, 1953, and the date of their entry into the
404 retirement system, unless the employee pays into the retirement
405 system both the employer's and the employee's contributions on
406 wages paid him during the period from January 31, 1953, to the
407 date of his becoming a contributing member, together with interest
408 at the rate determined by the board of trustees. Members
409 reentering after withdrawal from service shall qualify for prior
410 service under the provisions of Section 25-11-117. From and after
411 July 1, 1998, upon eligibility as noted above, the member may
412 receive credit for such retroactive service provided:

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

416 (2) The member shall pay to the retirement system
417 on the date he or she is eligible for that credit or at any time
418 thereafter before the date of retirement the actuarial cost for
419 each year of that creditable service. The provisions of this
420 subparagraph (2) shall be subject to the limitations of Section
421 415 of the Internal Revenue Code and regulations promulgated under
422 Section 415.

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

427 (c) All persons who become employees in the state
428 service after January 31, 1953, and who are eligible for
429 membership in any other retirement system shall become members of
430 this retirement system as a condition of their employment, unless
431 they elect at the time of their employment to become a member of
432 that other system.

433 (d) All persons who are employees in the state service
434 on January 31, 1953, and who are members of any nonfunded
435 retirement system operated by the State of Mississippi, or any of
436 its departments or agencies, shall become members of this system
437 with prior service credit unless, before February 1, 1953, they
438 file a written notice with the board of trustees that they do not
439 elect to become members.

440 (e) All persons who are employees in the state service
441 on January 31, 1953, and who under existing laws are members of
442 any fund operated for the retirement of employees by the State of
443 Mississippi, or any of its departments or agencies, shall not be
444 entitled to membership in this retirement system unless, before
445 February 1, 1953, any such person indicates by a notice filed with
446 the board, on a form prescribed by the board, his individual
447 election and choice to participate in this system, but no such
448 person shall receive prior service credit unless he becomes a
449 member on or before February 1, 1953.

450 (f) Each political subdivision of the state and each
451 instrumentality of the state or a political subdivision, or both,
452 is authorized to submit, for approval by the board of trustees, a
453 plan for extending the benefits of this article to employees of
454 any such political subdivision or instrumentality. Each such plan
455 or any amendment to the plan for extending benefits thereof shall
456 be approved by the board of trustees if it finds that the plan, or
457 the plan as amended, is in conformity with such requirements as
458 are provided in Articles 1 and 3; however, upon approval of the
459 plan or any such plan previously approved by the board of
460 trustees, the approved plan shall not be subject to cancellation
461 or termination by the political subdivision or instrumentality,
462 except that any community hospital serving a municipality that
463 joined the Public Employees' Retirement System as of November 1,
464 1956, to offer social security coverage for its employees and
465 subsequently extended retirement annuity coverage to its employees

466 as of December 1, 1965, may, upon documentation of extreme
467 financial hardship, have future retirement annuity coverage
468 cancelled or terminated at the discretion of the board of
469 trustees. No such plan shall be approved unless:

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

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

482 (3) It provides for such methods of administration
483 of the plan by the political subdivision or instrumentality as are
484 found by the board of trustees to be necessary for the proper and
485 efficient administration thereof;

486 (4) It provides that the political subdivision or
487 instrumentality will make such reports, in such form and
488 containing such information, as the board of trustees may from
489 time to time require;

490 (5) It authorizes the board of trustees to
491 terminate the plan in its entirety in the discretion of the board
492 if it finds that there has been a failure to comply substantially
493 with any provision contained in the plan, the termination to take
494 effect at the expiration of such notice and on such conditions as
495 may be provided by regulations of the board and as may be
496 consistent with applicable federal law.

497 A. The board of trustees shall not finally
498 refuse to approve a plan submitted under paragraph (f), and shall

499 not terminate an approved plan without reasonable notice and
500 opportunity for hearing to each political subdivision or
501 instrumentality affected by the board's decision. The board's
502 decision in any such case shall be final, conclusive and binding
503 unless an appeal is taken by the political subdivision or
504 instrumentality aggrieved by the decision to the Circuit Court of
505 Hinds County, Mississippi, in accordance with the provisions of
506 law with respect to civil causes by certiorari.

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

514 C. Every political subdivision or
515 instrumentality required to make payments under paragraph (f)(5)B
516 of this section is authorized, in consideration of the employees'
517 retention in or entry upon employment after enactment of Articles
518 1 and 3, to impose upon its employees, as to services that are
519 covered by an approved plan, a contribution with respect to wages
520 (as defined in Section 25-11-5) not exceeding the amount provided
521 in Section 25-11-123(d) if those services constituted employment
522 within the meaning of Articles 1 and 3, and to deduct the amount
523 of the contribution from the wages as and when paid.

524 Contributions so collected shall be paid into the contribution
525 fund as partial discharge of the liability of the political
526 subdivisions or instrumentalities under paragraph (f)(5)B of this
527 section. Failure to deduct the contribution shall not relieve the
528 employee or employer of liability for the contribution.

529 D. Any state agency, school, political
530 subdivision, instrumentality or any employer that is required to
531 submit contribution payments or wage reports under any section of

532 this chapter shall be assessed interest on delinquent payments or
533 wage reports as determined by the board of trustees in accordance
534 with rules and regulations adopted by the board and delinquent
535 payments, assessed interest and any other amount certified by the
536 board as owed by an employer, may be recovered by action in a
537 court of competent jurisdiction against the reporting agency
538 liable therefor or may, upon due certification of delinquency and
539 at the request of the board of trustees, be deducted from any
540 other monies payable to the reporting agency by any department or
541 agency of the state.

542 E. Each political subdivision of the state
543 and each instrumentality of the state or a political subdivision
544 or subdivisions that submit a plan for approval of the board, as
545 provided in this section, shall reimburse the board for coverage
546 into the expense account, its pro rata share of the total expense
547 of administering Articles 1 and 3 as provided by regulations of
548 the board.

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

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

561 (i) If any member of this system changes his employment
562 to any agency of the state having an actuarially funded retirement
563 system, the board of trustees may authorize the transfer of the
564 member's creditable service and of the present value of the

565 member's employer's accumulation account and of the present value
566 of the member's accumulated membership contributions to that other
567 system, provided that the employee agrees to the transfer of his
568 accumulated membership contributions and provided that the other
569 system is authorized to receive and agrees to make the transfer.

570 If any member of any other actuarially funded system
571 maintained by an agency of the state changes his employment to an
572 agency covered by this system, the board of trustees may authorize
573 the receipt of the transfer of the member's creditable service and
574 of the present value of the member's employer's accumulation
575 account and of the present value of the member's accumulated
576 membership contributions from the other system, provided that the
577 employee agrees to the transfer of his accumulated membership
578 contributions to this system and provided that the other system is
579 authorized and agrees to make the transfer.

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

583 (k) Employees of a political subdivision or
584 instrumentality who were employed by the political subdivision or
585 instrumentality before an agreement between the entity and the
586 Public Employees' Retirement System to extend the benefits of this
587 article to its employees, and which agreement provides for the
588 establishment of retroactive service credit, and who have been
589 members of the retirement system and have remained contributors to
590 the retirement system for four (4) years, may receive credit for
591 that retroactive service with the political subdivision or
592 instrumentality, provided that the employee and/or employer, as
593 provided under the terms of the modification of the joinder
594 agreement in allowing that coverage, pay into the retirement
595 system the employer's and employee's contributions on wages paid
596 the member during the previous employment, together with interest
597 or actuarial cost as determined by the board covering the period

598 from the date the service was rendered until the payment for the
599 credit for the service was made. Those wages shall be verified by
600 the Social Security Administration or employer payroll records.
601 Effective July 1, 1998, upon eligibility as noted above, a member
602 may receive credit for that retroactive service with the political
603 subdivision or instrumentality provided:

604 (1) The member shall furnish proof satisfactory to
605 the board of trustees of certification of those services from the
606 political subdivision or instrumentality where the services were
607 rendered or verification by the Social Security Administration;
608 and

609 (2) The member shall pay to the retirement system
610 on the date he or she is eligible for that credit or at any time
611 thereafter before the date of retirement the actuarial cost for
612 each year of that creditable service. The provisions of this
613 subparagraph (2) shall be subject to the limitations of Section
614 415 of the Internal Revenue Code and regulations promulgated under
615 Section 415.

616 Nothing contained in this paragraph (k) shall be construed to
617 limit the authority of the board to allow the correction of
618 reporting errors or omissions based on the payment of employee and
619 employer contributions plus applicable interest. Payment for that
620 time shall be made in increments of not less than one-quarter
621 (1/4) year of creditable service beginning with the most recent
622 service. Upon the payment of all or part of the required
623 contributions, plus interest or the actuarial cost as provided
624 above, the member shall receive credit for the period of
625 creditable service for which full payment has been made to the
626 retirement system.

627 (1) Through June 30, 1998, any state service eligible
628 for retroactive service credit, no part of which has ever been
629 reported, and requiring the payment of employee and employer
630 contributions plus interest, or, from and after July 1, 1998, any

631 state service eligible for retroactive service credit, no part of
632 which has ever been reported to the retirement system, and
633 requiring the payment of the actuarial cost for that creditable
634 service, may, at the member's option, be purchased in quarterly
635 increments as provided above at the time that its purchase is
636 otherwise allowed.

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

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

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

644 (a) Patient or inmate help in state charitable, penal
645 or correctional institutions;

646 (b) Students of any state educational institution
647 employed by any agency of the state for temporary, part-time or
648 intermittent work;

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

652 (d) From and after July 1, 2002, individuals who are
653 employed by a governmental entity to perform professional service
654 on less than a full-time basis who do not meet the criteria
655 established in I(a)(ii) of this section.

656 **III. TERMINATION OF MEMBERSHIP**

657 Membership in this system shall cease by a member withdrawing
658 his accumulated contributions, or by a member withdrawing from
659 active service with a retirement allowance, or by a member's
660 death.

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

663 25-11-127. (1) (a) No person who is being paid a
664 retirement allowance or a pension after retirement under this
665 article shall be employed or paid for any service by the State of
666 Mississippi, except as provided in this section or in Section
667 25-11-126.

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

672 (c) No person employed or elected under the exceptions
673 provided for in this section or in Section 25-11-126 shall become
674 a member under Article 3 of the retirement system.

675 (2) Any person who has been retired under the provisions of
676 Article 3 and who is later reemployed in service covered by this
677 article shall cease to receive benefits under this article unless
678 he chooses to continue receiving a retirement allowance during his
679 employment as a teacher as authorized by Section 25-11-126, and
680 the person shall again become a contributing member of the
681 retirement system. When the person retires again, if he has been
682 a contributing member of the retirement system during his
683 reemployment and the reemployment exceeds six (6) months, the
684 person shall have his or her benefit recomputed, including service
685 after again becoming a member, provided that the total retirement
686 allowance paid to the retired member in his or her previous
687 retirement shall be deducted from the member's retirement reserve
688 and taken into consideration in recalculating the retirement
689 allowance under a new option selected.

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

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

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

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

703 To determine the normal working days for a position under
704 paragraph (a) of this subsection, the employer shall determine the
705 required number of working days for the position on a full-time
706 basis and the equivalent number of hours representing the
707 full-time position. The retiree then may work up to one-half
708 (1/2) of the required number of working days or up to one-half
709 (1/2) of the equivalent number of hours and receive up to one-half
710 (1/2) of the salary for the position. In the case of employment
711 with multiple employers, the limitation shall equal one-half (1/2)
712 of the number of days or hours for a single full-time position.

713 Notice shall be given in writing to the executive director,
714 setting forth the facts upon which the employment is being made,
715 and the notice shall be given within five (5) days from the date
716 of employment and also from the date of termination of the
717 employment.

718 (5) Any member may continue in municipal or county elected
719 office or be elected to a municipal or county office, provided
720 that the person:

721 (a) Files annually, in writing, in the office of the
722 employer and the office of the executive director of the system
723 before the person takes office or as soon as possible after
724 retirement, a waiver of all salary or compensation and elects to
725 receive in lieu of that salary or compensation a retirement
726 allowance as provided in this section, in which event no salary or
727 compensation shall thereafter be due or payable for those

728 services; however, any such officer or employee may receive, in
729 addition to the retirement allowance, office expense allowance,
730 mileage or travel expense authorized by any statute of the State
731 of Mississippi; or

732 (b) Elects to receive compensation for that elective
733 office in an amount not to exceed twenty-five percent (25%) of the
734 retiree's average compensation. As used in this paragraph, the
735 term "compensation" shall not include office expense allowance,
736 mileage or travel expense authorized by a statute of the State of
737 Mississippi. In order to receive compensation as allowed in this
738 paragraph, the member shall file annually, in writing, in the
739 office of the employer and the office of the executive director of
740 the system, an election to receive, in addition to a retirement
741 allowance, compensation as allowed in this paragraph.

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

744 37-19-7. (1) This section shall be known and may be cited
745 as the Mississippi "Teacher Opportunity Program (TOP)." The
746 allowance in the minimum education program and the Mississippi
747 Adequate Education Program for teachers' salaries in each county
748 and separate school district shall be determined and paid in
749 accordance with the scale for teachers' salaries as provided in
750 this subsection. For teachers holding the following types of
751 licenses or the equivalent as determined by the State Board of
752 Education, and the following number of years of teaching
753 experience, the scale shall be as follows:

754 **2004-2005 School Year**

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

756	AAAA.....	\$ 31,775.00
757	AAA.....	30,850.00
758	AA.....	29,925.00
759	A.....	28,000.00

760 **25 or More Years of Teaching Experience**

761	AAAA.....	\$ 33,775.00
762	AAA.....	32,850.00
763	AA.....	31,925.00
764	A.....	30,000.00

765 The State Board of Education shall revise the salary scale
766 prescribed above for the 2004-2005 school year to conform to any
767 adjustments made to the salary scale in prior fiscal years due to
768 revenue growth over and above five percent (5%). For each one
769 percent (1%) that the Sine Die General Fund Revenue Estimate
770 Growth exceeds five percent (5%) for fiscal year 2005, as
771 certified by the Legislative Budget Office to the State Board of
772 Education and subject to specific appropriation therefor by the
773 Legislature, the State Board of Education shall revise the salary
774 scale to provide an additional one percent (1%) across the board
775 increase in the base salaries for each type of license.

776 **2005-2006 School Year and School Years Thereafter**

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

778	AAAA.....	\$ 34,000.00
779	AAA.....	33,000.00
780	AA.....	32,000.00
781	A.....	30,000.00

782 **25 or More Years of Teaching Experience**

783	AAAA.....	\$ 36,000.00
784	AAA.....	35,000.00
785	AA.....	34,000.00
786	A.....	32,000.00

787 The State Board of Education shall revise the salary scale
788 prescribed above for the 2005-2006 school year to conform to any
789 adjustments made to the salary scale in prior fiscal years due to
790 revenue growth over and above five percent (5%). For each one
791 percent (1%) that the Sine Die General Fund Revenue Estimate
792 Growth exceeds five percent (5%) for fiscal year 2006, as
793 certified by the Legislative Budget Office to the State Board of

794 Education and subject to specific appropriation therefor by the
795 Legislature, the State Board of Education shall revise the salary
796 scale to provide an additional one percent (1%) across the board
797 increase in the base salaries for each type of license.

798 It is the intent of the Legislature that any state funds made
799 available for salaries of licensed personnel in excess of the
800 funds paid for such salaries for the 1986-1987 school year shall
801 be paid to licensed personnel pursuant to a personnel appraisal
802 and compensation system implemented by the State Board of
803 Education. The State Board of Education shall have the authority
804 to adopt and amend rules and regulations as are necessary to
805 establish, administer and maintain the system.

806 All teachers employed on a full-time basis shall be paid a
807 minimum salary in accordance with the above scale. However, no
808 school district shall receive any funds under this section for any
809 school year during which the local supplement paid to any
810 individual teacher shall have been reduced to a sum less than that
811 paid to that individual teacher for performing the same duties
812 from local supplement during the immediately preceding school
813 year. The amount actually spent for the purposes of group health
814 and/or life insurance shall be considered as a part of the
815 aggregate amount of local supplement but shall not be considered a
816 part of the amount of individual local supplement.

817 **2004-2005 School Year Annual Increment**

818 For teachers holding a Class AAAA license, the minimum base
819 pay specified in this subsection shall be increased by the sum of
820 Seven Hundred Forty Dollars (\$740.00) for each year of teaching
821 experience possessed by the person holding such license until such
822 person shall have twenty-five (25) years of teaching experience.

823 For teachers holding a Class AAA license, the minimum base
824 pay specified in this subsection shall be increased by the sum of
825 Six Hundred Seventy-five Dollars (\$675.00) for each year of
826 teaching experience possessed by the person holding such license

827 until such person shall have twenty-five (25) years of teaching
828 experience.

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

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

839 **2005-2006 School Year**

840 **and School Years Thereafter Annual Increments**

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

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

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

856 For teachers holding a Class A license, the minimum base pay
857 specified in this subsection shall be increased by the sum of Four
858 Hundred Eighty Dollars (\$480.00) for each year of teaching

859 experience possessed by the person holding such license until such
860 person shall have twenty-four (24) years of teaching experience.

861 The level of professional training of each teacher to be used
862 in establishing the salary allotment for the teachers for each
863 year shall be determined by the type of valid teacher's license
864 issued to those teachers on or before October 1 of the current
865 school year.

866 (2) (a) The following employees shall receive an annual
867 salary supplement in the amount of Six Thousand Dollars
868 (\$6,000.00), plus fringe benefits, in addition to any other
869 compensation to which the employee may be entitled:

870 (i) Any licensed teacher who has met the
871 requirements and acquired a Master Teacher certificate from the
872 National Board for Professional Teaching Standards and who is
873 employed by a local school board or the State Board of Education
874 as a teacher and not as an administrator. Such teacher shall
875 submit documentation to the State Department of Education that the
876 certificate was received prior to October 15 in order to be
877 eligible for the full salary supplement in the current school
878 year, or the teacher shall submit such documentation to the State
879 Department of Education prior to February 15 in order to be
880 eligible for a prorated salary supplement beginning with the
881 second term of the school year.

882 (ii) A licensed nurse who has met the requirements
883 and acquired a certificate from the National Board for
884 Certification of School Nurses, Inc., and who is employed by a
885 local school board or the State Board of Education as a school
886 nurse and not as an administrator. The licensed school nurse
887 shall submit documentation to the State Department of Education
888 that the certificate was received before October 15 in order to be
889 eligible for the full salary supplement in the current school
890 year, or the licensed school nurse shall submit the documentation
891 to the State Department of Education before February 15 in order

892 to be eligible for a prorated salary supplement beginning with the
893 second term of the school year. Provided, however, that the total
894 number of licensed school nurses eligible for a salary supplement
895 under this paragraph (ii) shall not exceed twenty (20).

896 (iii) Any licensed school counselor who has met
897 the requirements and acquired a National Certified School
898 Counselor (NCSC) endorsement from the National Board of Certified
899 Counselors and who is employed by a local school board or the
900 State Board of Education as a counselor and not as an
901 administrator. Such licensed school counselor shall submit
902 documentation to the State Department of Education that the
903 endorsement was received prior to October 15 in order to be
904 eligible for the full salary supplement in the current school
905 year, or the licensed school counselor shall submit such
906 documentation to the State Department of Education prior to
907 February 15 in order to be eligible for a prorated salary
908 supplement beginning with the second term of the school year.
909 However, any school counselor who started the National Board for
910 Professional Teaching Standards process for school counselors
911 between June 1, 2003, and June 30, 2004, and completes the
912 requirements and acquires the master teacher certificate shall be
913 entitled to the master teacher supplement, and those counselors
914 who complete the process shall be entitled to a one (1) time
915 reimbursement for the actual cost of the process as outlined in
916 paragraph (b) of this subsection.

917 (iv) Any licensed speech-language pathologist and
918 audiologist who has met the requirements and acquired a
919 Certificate of Clinical Competence from the American
920 Speech-Language-Hearing Association and who is employed by a local
921 school board. Such licensed speech-language pathologist and
922 audiologist shall submit documentation to the State Department of
923 Education that the certificate or endorsement was received prior
924 to October 15 in order to be eligible for the full salary

925 supplement in the current school year, or the licensed
926 speech-language pathologist and audiologist shall submit such
927 documentation to the State Department of Education prior to
928 February 15 in order to be eligible for a prorated salary
929 supplement beginning with the second term of the school year.

930 (b) An employee shall be reimbursed one (1) time for
931 the actual cost of completing the process of acquiring the
932 certificate or endorsement, excluding any costs incurred for
933 postgraduate courses, not to exceed Five Hundred Dollars (\$500.00)
934 for a school counselor or speech-language pathologist and
935 audiologist, regardless of whether or not the process resulted in
936 the award of the certificate or endorsement. A local school
937 district or any private individual or entity may pay the cost of
938 completing the process of acquiring the certificate or endorsement
939 for any employee of the school district described under paragraph
940 (a), and the State Department of Education shall reimburse the
941 school district for such cost, regardless of whether or not the
942 process resulted in the award of the certificate or endorsement.
943 If a private individual or entity has paid the cost of completing
944 the process of acquiring the certificate or endorsement for an
945 employee, the local school district may agree to directly
946 reimburse the individual or entity for such cost on behalf of the
947 employee.

948 (c) All salary supplements, fringe benefits and process
949 reimbursement authorized under this subsection shall be paid
950 directly by the State Department of Education to the local school
951 district and shall be in addition to its minimum education program
952 allotments and not a part thereof in accordance with regulations
953 promulgated by the State Board of Education, and subject to
954 appropriation by the Legislature. Local school districts shall
955 not reduce the local supplement paid to any employee receiving
956 such salary supplement, and the employee shall receive any local

957 supplement to which employees with similar training and experience
958 otherwise are entitled.

959 (d) The State Department of Education may not pay any
960 process reimbursement to a school district for an employee who
961 does not complete the certification or endorsement process
962 required to be eligible for the certificate or endorsement. If an
963 employee for whom such cost has been paid in full or in part by a
964 local school district or private individual or entity fails to
965 complete the certification or endorsement process, the employee
966 shall be liable to the school district or individual or entity for
967 all amounts paid by the school district or individual or entity on
968 behalf of that employee toward his or her certificate or
969 endorsement.

970 (3) (a) Notwithstanding any provision in this section to
971 the contrary, any person who is receiving a retirement allowance
972 from the Public Employees' Retirement System who is employed as a
973 teacher after his retirement and chooses to continue receiving the
974 retirement allowance during his employment as a teacher after his
975 retirement, as authorized by subsection (1)(a) of Section
976 25-11-126, shall be paid a salary equal to the amount of the
977 salary that the person received during the school year immediately
978 preceding his retirement. No increase in the salary of any such
979 person shall be allowed for any teaching experience obtained after
980 the date of his employment as a teacher after his retirement.

981 (b) Notwithstanding any provision in this section to
982 the contrary, any person who is employed as a teacher and becomes
983 eligible to receive a retirement allowance from the Public
984 Employees' Retirement System during his employment as a teacher
985 who chooses to receive the retirement allowance during his
986 employment as a teacher, as authorized by subsection (1)(b) of
987 Section 25-11-126, shall be paid a salary equal to the amount of
988 the salary that the person received during the school year
989 immediately preceding the date that the person began receiving the

990 retirement allowance. No increase in the salary of any such
991 person shall be allowed for any teaching experience obtained after
992 the date that he began receiving the retirement allowance.

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