

By: Representative Brown

To: Education;  
Appropriations

## HOUSE BILL NO. 1122

1 AN ACT RELATING TO IMPROVING THE RECRUITMENT AND RETENTION OF  
 2 TEACHERS IN THE STATE OF MISSISSIPPI; TO CREATE NEW SECTION  
 3 25-11-126, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN  
 4 PERSONS RECEIVING A RETIREMENT ALLOWANCE FROM THE PUBLIC  
 5 EMPLOYEES' RETIREMENT SYSTEM WHO ARE EMPLOYED AS TEACHERS IN THE  
 6 PUBLIC SCHOOL SYSTEM AFTER THEIR RETIREMENT MAY RECEIVE A  
 7 RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS TEACHERS IN  
 8 ADDITION TO RECEIVING A TEACHER'S SALARY; TO AMEND SECTIONS  
 9 25-11-103, 25-11-105, 25-11-123 AND 25-11-127, MISSISSIPPI CODE OF  
 10 1972, IN CONFORMITY WITH THE PROVISIONS OF THIS ACT; TO AMEND  
 11 SECTION 37-19-7, MISSISSIPPI CODE OF 1972, TO PROVIDE ADDITIONAL  
 12 BASE COMPENSATION FOR TEACHERS HOLDING LICENSES IN CRITICAL  
 13 SUBJECT AREAS, TO PROVIDE ADDITIONAL COMPENSATION FOR TEACHERS  
 14 EMPLOYED IN CRITICAL SHORTAGE AREAS, TO ESTABLISH A MISSISSIPPI  
 15 PERFORMANCE BASED PAY PLAN TO REWARD LICENSED EDUCATION PERSONNEL  
 16 AT SCHOOLS SHOWING IMPROVEMENT IN STUDENT TEST SCORES, TO PROVIDE  
 17 ADDITIONAL BASE COMPENSATION FOR MENTOR TEACHERS IN MIDDLE SCHOOLS  
 18 WITH APPROVED CLASSROOM MANAGEMENT PROGRAMS, AND TO DIRECT THE  
 19 STATE DEPARTMENT OF EDUCATION TO CONDUCT A VALUE-ADDED PILOT  
 20 PROGRAM ON TEACHER PERFORMANCE PAY; TO AMEND SECTION 37-3-2,  
 21 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY TEACHER FROM ANY  
 22 STATE MEETING THE FEDERAL STANDARDS OF A HIGHLY QUALIFIED TEACHER  
 23 SHALL BE ELIGIBLE FOR A STANDARD LICENSE IN MISSISSIPPI; TO AMEND  
 24 SECTION 37-61-33, MISSISSIPPI CODE OF 1972, TO AUTHORIZE TEACHERS  
 25 TO CARRY FORWARD APPROVED CLASSROOM SUPPLY EXPENDITURES INTO  
 26 SUBSEQUENT FISCAL YEARS; AND FOR RELATED PURPOSES.

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

28 **SECTION 1.** The following provision shall be codified as

29 Section 25-11-126, Mississippi Code of 1972:

30 25-11-126. (1) Any person who has at least twenty-eight  
 31 (28) years of creditable service, who was employed as a public  
 32 teacher at the time of his retirement and who is employed as a  
 33 teacher in a public school district located in a geographic area  
 34 of the state designated as a critical teacher shortage area by the  
 35 State Board of Education after his retirement may choose to  
 36 continue receiving the retirement allowance under this article  
 37 during his employment as a teacher after his retirement in  
 38 addition to receiving the salary authorized under Section 37-19-7  
 39 and may do so under one (1) of the following options:

40           (a) **Option A.** The retired teacher may be employed as a  
41 teacher and continue receiving retirement benefits and not be  
42 required to make any contributions to the system. Under this  
43 option the retired member is not eligible to accrue additional  
44 retirement benefits and may not be a contributing member of the  
45 system.

46           This option is designed specifically to provide funding for  
47 the Mississippi Public Employees' Retirement System to actuarially  
48 offset any pension liability by providing the employer  
49 contribution plus the employee contributions of rehired employees  
50 as defined in Section 25-11-126 by doing the following:

51                   (i) The State Department of Education is directed  
52 to transfer to the Mississippi Public Employees' Retirement System  
53 the following funds: Minimum and adequate education program funds  
54 of local school districts that on or after July 1, 2006, hire  
55 retired members as teachers under this section and other funds  
56 which otherwise would have otherwise been payable to the agencies  
57 had the agencies not taken advantage of this section. The  
58 crediting of assets and financing must follow the provisions of  
59 Section 25-11-123.

60                   (ii) Local educational agencies are directed to  
61 transfer to the Mississippi Public Employees' Retirement System  
62 the following funds: Minimum and adequate education program funds  
63 of local school districts that on or after July 1, 2006, hire  
64 retired members as teachers under this section and other funds  
65 which otherwise would have been payable to the agencies had the  
66 agencies not taken advantage of this section. The crediting of  
67 assets and financing must follow the provisions of Section  
68 25-11-123.

69           (b) **Option B.** The retired teacher may be employed as a  
70 teacher, continue receiving his retirement benefit and be a  
71 contributing member of the system for purposes of an additional  
72 retirement benefit.

73 Under this option the retired teacher is a contributing  
74 member of the system and accrues retirement benefits as if he were  
75 newly hired and had never been a member of the system. The  
76 accrual of benefits has no effect on the retirement benefit that  
77 he is receiving as a result of his initial retirement but accrues  
78 toward a new and separate retirement benefit.

79 (2) A person may be hired under this section subject to the  
80 following conditions:

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

83 (b) The superintendent of schools of the employing  
84 school district certifies in writing to the State Department of  
85 Education that the retired member has the requisite experience,  
86 training and expertise for the position to be filled and that no  
87 other qualified persons are available to fill the position.

88 (c) The State Superintendent of Public Education  
89 certifies in writing to the Public Employees' Retirement System  
90 that the employing school system serves an area that lacks  
91 qualified teachers to serve in the position to be filled.

92 (d) The superintendent of schools of the district  
93 certifies or the principal of the school certifies that there was  
94 no preexisting arrangement for the person to be hired.

95 (e) The person had a satisfactory performance review  
96 for the most recent period before retirement.

97 (3) The State Superintendent of Public Education shall  
98 report the persons who are employed under this section to the  
99 executive director.

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 and who choose to receive  
359 the retirement allowance during their employment as teachers as  
360 authorized by Section 25-11-126(1)(a).

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(1)(a), shall become members of the retirement system as  
376 a 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; and

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 25-11-123, Mississippi Code of 1972, is  
662 amended as follows:

663           25-11-123. All of the assets of the system shall be credited  
664 according to the purpose for which they are held to one (1) of  
665 four (4) reserves; namely, the annuity savings account, the  
666 annuity reserve, the employer's accumulation account, and the  
667 expense account.

668           (a) **Annuity savings account.** In the annuity savings account  
669 shall be accumulated the contributions made by members to provide  
670 for their annuities, including interest thereon which shall be  
671 posted monthly. Credits to and charges against the annuity  
672 savings account shall be made as follows:

673           (1) Beginning July 1, 1991, the employer shall cause to  
674 be deducted from the salary of each member on each and every  
675 payroll of the employer for each and every payroll period seven  
676 and one-fourth percent (7-1/4%) of earned compensation as defined  
677 in Section 25-11-103. Future contributions shall be fixed  
678 biennially by the board on the basis of the liabilities of the  
679 retirement system for the various allowances and benefits as shown  
680 by actuarial valuation; however, any member earning at a rate less  
681 than Sixteen Dollars and Sixty-seven Cents (\$16.67) per month, or  
682 Two Hundred Dollars (\$200.00) per year, shall contribute not less  
683 than One Dollar (\$1.00) per month, or Twelve Dollars (\$12.00) per  
684 year. This paragraph does shall not apply to the salary of  
685 persons who choose to receive or continue receiving a retirement  
686 allowance during their employment as teachers as authorized by  
687 Section 25-11-126 (1)(a).

688           (2) The deductions provided herein shall be made  
689 notwithstanding that the minimum compensation provided by law for  
690 any member is reduced thereby. Every member shall be deemed to  
691 consent and agree to the deductions made and provided for herein  
692 and shall receipt for his full salary or compensation, and payment  
693 of salary or compensation less the deduction shall be a full and  
694 complete discharge and acquittance of all claims and demands  
695 whatsoever for the services rendered by the person during the

696 period covered by the payment, except as to the benefits provided  
697 under Articles 1 and 3. The board shall provide by rules for the  
698 methods of collection of contributions from members and the  
699 employer. The board shall have full authority to require the  
700 production of evidence necessary to verify the correctness of  
701 amounts contributed.

702 (b) **Annuity reserve.** The annuity reserve shall be the  
703 account representing the actuarial value of all annuities in  
704 force, and to it shall be charged all annuities and all benefits  
705 in lieu of annuities, payable as provided in this article. If a  
706 beneficiary retired on account of disability is restored to active  
707 service with a compensation not less than his average final  
708 compensation at the time of his last retirement, the remainder of  
709 his contributions shall be transferred from the annuity reserve to  
710 the annuity savings account and credited to his individual account  
711 therein, and the balance of his annuity reserve shall be  
712 transferred to the employer's accumulation account.

713 (c) **Employer's accumulation account.** The employer's  
714 accumulation account shall represent the accumulation of all  
715 reserves for the payment of all retirement allowances and other  
716 benefits payable from contributions made by the employer, and  
717 against this account shall be charged all retirement allowances  
718 and other benefits on account of members. Credits to and charges  
719 against the employer's accumulation account shall be made as  
720 follows:

721 (1) On account of each member there shall be paid  
722 monthly into the employer's accumulation account by the employers  
723 for the preceding fiscal year an amount equal to a certain  
724 percentage of the total earned compensation, as defined in Section  
725 25-11-103, of each member. The percentage rate of those  
726 contributions shall be fixed biennially by the board on the basis  
727 of the liabilities of the retirement system for the various  
728 allowances and benefits as shown by actuarial valuation.

729 Beginning January 1, 1990, the rate shall be fixed at nine and  
730 three-fourths percent (9-3/4%). The board shall reduce the  
731 employer's contribution rate by one percent (1%) from and after  
732 July 1 of the year following the year in which the board  
733 determines and the board's actuary certifies that the employer's  
734 contribution rate can be reduced by that amount without causing  
735 the unfunded accrued actuarial liability amortization period for  
736 the retirement system to exceed twenty (20) years. Political  
737 subdivisions joining Article 3 of the Public Employees' Retirement  
738 System after July 1, 1968, may adjust the employer's contributions  
739 by agreement with the Board of Trustees of the Public Employees'  
740 Retirement System to provide service credits for any period before  
741 execution of the agreement based upon an actuarial determination  
742 of employer's contribution rates.

743 (2) On the basis of regular interest and of such  
744 mortality and other tables as are adopted by the board of  
745 trustees, the actuary engaged by the board to make each valuation  
746 required by this article during the period over which the accrued  
747 liability contribution is payable, immediately after making that  
748 valuation, shall determine the uniform and constant percentage of  
749 the earnable compensation of each member which, if contributed by  
750 the employer on the basis of compensation of the member throughout  
751 his entire period of membership service, would be sufficient to  
752 provide for the payment of any retirement allowance payable on his  
753 account for that service. The percentage rate so determined shall  
754 be known as the "normal contribution rate." After the accrued  
755 liability contribution has ceased to be payable, the normal  
756 contribution rate shall be the percentage rate of the salary of  
757 all members obtained by deducting from the total liabilities on  
758 account of membership service the amount in the employer's  
759 accumulation account, and dividing the remainder by one percent  
760 (1%) of the present value of the prospective future salaries of  
761 all members as computed on the basis of the mortality and service

762 tables adopted by the board of trustees and regular interest. The  
763 normal rate of contributions shall be determined by the actuary  
764 after each valuation.

765 (3) The total amount payable in each year to the  
766 employer's accumulation account shall not be less than the sum of  
767 the percentage rate known as the "normal contribution rate" and  
768 the "accrued liability contribution rate" of the total  
769 compensation earnable by all members during the preceding year,  
770 provided that the payment by the employer shall be sufficient,  
771 when combined with the amounts in the account, to provide the  
772 allowances and other benefits chargeable to this account during  
773 the year then current.

774 (4) The accrued liability contribution shall be  
775 discontinued as soon as the accumulated balance in the employer's  
776 accumulation account shall equal the present value, computed on  
777 the basis of the normal contribution rate then in force, or the  
778 prospective normal contributions to be received on account of all  
779 persons who are at that time members.

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

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

787 (d) **Expense account.** The expense account shall be the  
788 account to which the expenses of the administration of the system  
789 shall be charged, exclusive of amounts payable as retirement  
790 allowances and as other benefits provided herein. The Legislature  
791 shall make annual appropriations in amounts sufficient to  
792 administer the system, which shall be credited to this account.  
793 There shall be transferred to the State Treasury from this  
794 account, not less than once per month, an amount sufficient for



795 payment of the estimated expenses of the system for the succeeding  
796 thirty (30) days. Any interest earned on the expense account  
797 shall accrue to the benefit of the system. However,  
798 notwithstanding the provisions of Sections 25-11-15(10) and  
799 25-11-105(f)(5)E, all expenses of the administration of the system  
800 shall be paid from the interest earnings, provided the interest  
801 earnings are in excess of the actuarial interest assumption as  
802 determined by the board, and provided the present cost of the  
803 administrative expense fee of two percent (2%) of the  
804 contributions reported by the political subdivisions and  
805 instrumentalities shall be reduced to one percent (1%) from and  
806 after July 1, 1983, through June 30, 1984, and shall be eliminated  
807 thereafter.

808 (e) **Collection of contributions.** The employer shall cause  
809 to be deducted on each and every payroll of a member for each and  
810 every payroll period, beginning subsequent to January 31, 1953,  
811 the contributions payable by the member as provided in Articles 1  
812 and 3.

813 The employer shall make deductions from salaries of employees  
814 as provided in Articles 1 and 3 and shall transmit monthly, or at  
815 such time as the board of trustees designates, the amount  
816 specified to be deducted to the Executive Director of the Public  
817 Employees' Retirement System. The executive director, after  
818 making a record of all those receipts, shall deposit such amounts  
819 as provided by law.

820 (f) (1) Upon the basis of each actuarial valuation provided  
821 herein, the board of trustees shall biennially determine the  
822 normal contribution rate and the accrued liability contribution  
823 rate as provided in this section. The sum of these two (2) rates  
824 shall be known as the "employer's contribution rate." Beginning  
825 on earned compensation effective January 1, 1990, the rate  
826 computed as provided in this section shall be nine and  
827 three-fourths percent (9-3/4%). The board shall reduce the

828 employer's contribution rate by one percent (1%) from and after  
829 July 1 of the year following the year in which the board  
830 determines and the board's actuary certifies that the employer's  
831 contribution rate can be reduced by that amount without causing  
832 the unfunded accrued actuarial liability amortization period for  
833 the retirement system to exceed twenty (20) years. The percentage  
834 rate of those contributions shall be fixed biennially by the board  
835 on the basis of the liabilities of the retirement system for the  
836 various allowances and benefits as shown by actuarial  
837 valuation.

838           (2) The amount payable by the employer on account of  
839 normal and accrued liability contributions shall be determined by  
840 applying the employer's contribution rate to the amount of  
841 compensation earned by employees who are members of the system.  
842 Monthly, or at such time as the board of trustees designates, each  
843 department or agency shall compute the amount of the employer's  
844 contribution payable, with respect to the salaries of its  
845 employees who are members of the system, and shall cause that  
846 amount to be paid to the board of trustees from the personal  
847 service allotment of the amount appropriated for the operation of  
848 the department or agency, or from funds otherwise available to the  
849 agency, for the payment of salaries to its employees.

850           (3) Constables shall pay employer and employee  
851 contributions on their net fee income as well as the employee  
852 contributions on all direct treasury or county payroll income.  
853 The county shall be responsible for the employer contribution on  
854 all direct treasury or county payroll income of constables.

855           (4) Chancery and circuit clerks shall be responsible  
856 for both the employer and employee share of contributions on the  
857 proportionate share of net income attributable to fees, as well as  
858 the employee share of net income attributable to direct treasury  
859 or county payroll income, and the employing county shall be

860 responsible for the employer contributions on the net income  
861 attributable to direct treasury or county payroll income.

862 (5) Once each year, under procedures established by the  
863 system, each employer shall submit to the Public Employees'  
864 Retirement System a copy of their report to Social Security of all  
865 employees' earnings.

866 (6) The board shall provide by rules for the methods of  
867 collection of contributions of employers and members. The amounts  
868 determined due by an agency to the various funds as specified in  
869 Articles 1 and 3 are made obligations of the agency to the board  
870 and shall be paid as provided herein. Failure to deduct those  
871 contributions shall not relieve the employee and employer from  
872 liability thereof. Delinquent employee contributions and any  
873 accrued interest shall be the obligation of the employee and  
874 delinquent employer contributions and any accrued interest shall  
875 be the obligation of the employer. The employer may, in its  
876 discretion, elect to pay any or all of the interest on delinquent  
877 employee contributions. From and after July 1, 1996, under rules  
878 and regulations established by the board, all employers are  
879 authorized and shall transfer all funds due to the Public  
880 Employees' Retirement System electronically and shall transmit any  
881 wage or other reports by computerized reporting systems.

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

884 25-11-127. (1) (a) No person who is being paid a  
885 retirement allowance or a pension after retirement under this  
886 article shall be employed or paid for any service by the State of  
887 Mississippi, except as provided in this section or in Section  
888 25-11-126.

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

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

896 (2) Except as otherwise provided in Section 25-11-126, any  
897 person who has been retired under the provisions of Article 3 and  
898 who is later reemployed in service covered by this article shall  
899 cease to receive benefits under this article and shall again  
900 become a contributing member of the retirement system. Except as  
901 otherwise provided in Section 25-11-126, when the person retires  
902 again, if the person has been a contributing member of the  
903 retirement system during his reemployment and the reemployment  
904 exceeds six (6) months, the person shall have his or her benefit  
905 recomputed, including service after again becoming a member,  
906 provided that the total retirement allowance paid to the retired  
907 member in his or her previous retirement shall be deducted from  
908 the member's retirement reserve and taken into consideration in  
909 recalculating the retirement allowance under a new option  
910 selected.

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

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

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

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

924 To determine the normal working days for a position under  
925 paragraph (a) of this subsection, the employer shall determine the

926 required number of working days for the position on a full-time  
927 basis and the equivalent number of hours representing the  
928 full-time position. The retiree then may work up to one-half  
929 (1/2) of the required number of working days or up to one-half  
930 (1/2) of the equivalent number of hours and receive up to one-half  
931 (1/2) of the salary for the position. In the case of employment  
932 with multiple employers, the limitation shall equal one-half (1/2)  
933 of the number of days or hours for a single full-time position.

934 Notice shall be given in writing to the executive director,  
935 setting forth the facts upon which the employment is being made,  
936 and the notice shall be given within five (5) days from the date  
937 of employment and also from the date of termination of the  
938 employment.

939 (5) Any member may continue in municipal or county elected  
940 office or be elected to a municipal or county office, provided  
941 that the person:

942 (a) Files annually, in writing, in the office of the  
943 employer and the office of the executive director of the system  
944 before the person takes office or as soon as possible after  
945 retirement, a waiver of all salary or compensation and elects to  
946 receive in lieu of that salary or compensation a retirement  
947 allowance as provided in this section, in which event no salary or  
948 compensation shall thereafter be due or payable for those  
949 services; however, any such officer or employee may receive, in  
950 addition to the retirement allowance, office expense allowance,  
951 mileage or travel expense authorized by any statute of the State  
952 of Mississippi; or

953 (b) Elects to receive compensation for that elective  
954 office in an amount not to exceed twenty-five percent (25%) of the  
955 retiree's average compensation. As used in this paragraph, the  
956 term "compensation" shall not include office expense allowance,  
957 mileage or travel expense authorized by a statute of the State of  
958 Mississippi. In order to receive compensation as allowed in this

959 paragraph, the member shall file annually, in writing, in the  
 960 office of the employer and the office of the executive director of  
 961 the system, an election to receive, in addition to a retirement  
 962 allowance, compensation as allowed in this paragraph.

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

965 37-19-7. (1) This section shall be known and may be cited  
 966 as the Mississippi "Teacher Opportunity Program (TOP)." The  
 967 allowance in the minimum education program and the Mississippi  
 968 Adequate Education Program for teachers' salaries in each county  
 969 and separate school district shall be determined and paid in  
 970 accordance with the scale for teachers' salaries as provided in  
 971 this subsection. For teachers holding the following types of  
 972 licenses or the equivalent as determined by the State Board of  
 973 Education, and the following number of years of teaching  
 974 experience, the scale shall be as follows:

975 \* \* \*

976 **2005-2006 School Year and School Years Thereafter**

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

978	AAAA.....	\$ 34,000.00
979	AAA.....	33,000.00
980	AA.....	32,000.00
981	A.....	30,000.00

982 **25 or More Years of Teaching Experience**

983	AAAA.....	\$ 36,000.00
984	AAA.....	35,000.00
985	AA.....	34,000.00
986	A.....	32,000.00

987 The State Board of Education shall revise the salary scale  
 988 prescribed above for the 2005-2006 school year to conform to any  
 989 adjustments made to the salary scale in prior fiscal years due to  
 990 revenue growth over and above five percent (5%). For each one  
 991 percent (1%) that the Sine Die General Fund Revenue Estimate

992 Growth exceeds five percent (5%) for fiscal year 2006, as  
993 certified by the Legislative Budget Office to the State Board of  
994 Education and subject to specific appropriation therefor by the  
995 Legislature, the State Board of Education shall revise the salary  
996 scale to provide an additional one percent (1%) across the board  
997 increase in the base salaries for each type of license.

998       It is the intent of the Legislature that any state funds made  
999 available for salaries of licensed personnel in excess of the  
1000 funds paid for such salaries for the 1986-1987 school year shall  
1001 be paid to licensed personnel pursuant to a personnel appraisal  
1002 and compensation system implemented by the State Board of  
1003 Education. The State Board of Education shall have the authority  
1004 to adopt and amend rules and regulations as are necessary to  
1005 establish, administer and maintain the system.

1006       All teachers employed on a full-time basis shall be paid a  
1007 minimum salary in accordance with the above scale. However, no  
1008 school district shall receive any funds under this section for any  
1009 school year during which the local supplement paid to any  
1010 individual teacher shall have been reduced to a sum less than that  
1011 paid to that individual teacher for performing the same duties  
1012 from local supplement during the immediately preceding school  
1013 year. The amount actually spent for the purposes of group health  
1014 and/or life insurance shall be considered as a part of the  
1015 aggregate amount of local supplement but shall not be considered a  
1016 part of the amount of individual local supplement.

1017       \* \* \*

1018                                   **2005-2006 School Year**

1019                                   **and School Years Thereafter Annual Increments**

1020       For teachers holding a Class AAAA license, the minimum base  
1021 pay specified in this subsection shall be increased by the sum of  
1022 Seven Hundred Seventy Dollars (\$770.00) for each year of teaching  
1023 experience possessed by the person holding such license until such  
1024 person shall have twenty-five (25) years of teaching experience.

1025 For teachers holding a Class AAA license, the minimum base  
1026 pay specified in this subsection shall be increased by the sum of  
1027 Seven Hundred Five Dollars (\$705.00) for each year of teaching  
1028 experience possessed by the person holding such license until such  
1029 person shall have twenty-five (25) years of teaching experience.

1030 For teachers holding a Class AA license, the minimum base pay  
1031 specified in this subsection shall be increased by the sum of Six  
1032 Hundred Forty Dollars (\$640.00) for each year of teaching  
1033 experience possessed by the person holding such license until such  
1034 person shall have twenty-five (25) years of teaching experience.

1035 For teachers holding a Class A license, the minimum base pay  
1036 specified in this subsection shall be increased by the sum of Four  
1037 Hundred Eighty Dollars (\$480.00) for each year of teaching  
1038 experience possessed by the person holding such license until such  
1039 person shall have twenty-four (24) years of teaching experience.

1040 The level of professional training of each teacher to be used  
1041 in establishing the salary allotment for the teachers for each  
1042 year shall be determined by the type of valid teacher's license  
1043 issued to those teachers on or before October 1 of the current  
1044 school year.

1045 (2) (a) The following employees shall receive an annual  
1046 salary supplement in the amount of Six Thousand Dollars  
1047 (\$6,000.00), plus fringe benefits, in addition to any other  
1048 compensation to which the employee may be entitled:

1049 (i) Any licensed teacher who has met the  
1050 requirements and acquired a Master Teacher certificate from the  
1051 National Board for Professional Teaching Standards and who is  
1052 employed by a local school board or the State Board of Education  
1053 as a teacher and not as an administrator. Such teacher shall  
1054 submit documentation to the State Department of Education that the  
1055 certificate was received prior to October 15 in order to be  
1056 eligible for the full salary supplement in the current school  
1057 year, or the teacher shall submit such documentation to the State



1058 Department of Education prior to February 15 in order to be  
1059 eligible for a prorated salary supplement beginning with the  
1060 second term of the school year.

1061           (ii) A licensed nurse who has met the requirements  
1062 and acquired a certificate from the National Board for  
1063 Certification of School Nurses, Inc., and who is employed by a  
1064 local school board or the State Board of Education as a school  
1065 nurse and not as an administrator. The licensed school nurse  
1066 shall submit documentation to the State Department of Education  
1067 that the certificate was received before October 15 in order to be  
1068 eligible for the full salary supplement in the current school  
1069 year, or the licensed school nurse shall submit the documentation  
1070 to the State Department of Education before February 15 in order  
1071 to be eligible for a prorated salary supplement beginning with the  
1072 second term of the school year. Provided, however, that the total  
1073 number of licensed school nurses eligible for a salary supplement  
1074 under this paragraph (ii) shall not exceed twenty (20).

1075           (iii) Any licensed school counselor who has met  
1076 the requirements and acquired a National Certified School  
1077 Counselor (NCSC) endorsement from the National Board of Certified  
1078 Counselors and who is employed by a local school board or the  
1079 State Board of Education as a counselor and not as an  
1080 administrator. Such licensed school counselor shall submit  
1081 documentation to the State Department of Education that the  
1082 endorsement was received prior to October 15 in order to be  
1083 eligible for the full salary supplement in the current school  
1084 year, or the licensed school counselor shall submit such  
1085 documentation to the State Department of Education prior to  
1086 February 15 in order to be eligible for a prorated salary  
1087 supplement beginning with the second term of the school year.  
1088 However, any school counselor who started the National Board for  
1089 Professional Teaching Standards process for school counselors  
1090 between June 1, 2003, and June 30, 2004, and completes the

1091 requirements and acquires the master teacher certificate shall be  
1092 entitled to the master teacher supplement, and those counselors  
1093 who complete the process shall be entitled to a one-time  
1094 reimbursement for the actual cost of the process as outlined in  
1095 paragraph (b) of this subsection.

1096 (iv) Any licensed speech-language pathologist and  
1097 audiologist who has met the requirements and acquired a  
1098 Certificate of Clinical Competence from the American  
1099 Speech-Language-Hearing Association and who is employed by a local  
1100 school board. Such licensed speech-language pathologist and  
1101 audiologist shall submit documentation to the State Department of  
1102 Education that the certificate or endorsement was received prior  
1103 to October 15 in order to be eligible for the full salary  
1104 supplement in the current school year, or the licensed  
1105 speech-language pathologist and audiologist shall submit such  
1106 documentation to the State Department of Education prior to  
1107 February 15 in order to be eligible for a prorated salary  
1108 supplement beginning with the second term of the school year.

1109 (b) An employee shall be reimbursed one (1) time for  
1110 the actual cost of completing the process of acquiring the  
1111 certificate or endorsement, excluding any costs incurred for  
1112 postgraduate courses, not to exceed Five Hundred Dollars (\$500.00)  
1113 for a school counselor or speech-language pathologist and  
1114 audiologist, regardless of whether or not the process resulted in  
1115 the award of the certificate or endorsement. A local school  
1116 district or any private individual or entity may pay the cost of  
1117 completing the process of acquiring the certificate or endorsement  
1118 for any employee of the school district described under paragraph  
1119 (a), and the State Department of Education shall reimburse the  
1120 school district for such cost, regardless of whether or not the  
1121 process resulted in the award of the certificate or endorsement.  
1122 If a private individual or entity has paid the cost of completing  
1123 the process of acquiring the certificate or endorsement for an

1124 employee, the local school district may agree to directly  
1125 reimburse the individual or entity for such cost on behalf of the  
1126 employee.

1127 (c) All salary supplements, fringe benefits and process  
1128 reimbursement authorized under this subsection shall be paid  
1129 directly by the State Department of Education to the local school  
1130 district and shall be in addition to its minimum education program  
1131 allotments and not a part thereof in accordance with regulations  
1132 promulgated by the State Board of Education, and subject to  
1133 appropriation by the Legislature. Local school districts shall  
1134 not reduce the local supplement paid to any employee receiving  
1135 such salary supplement, and the employee shall receive any local  
1136 supplement to which employees with similar training and experience  
1137 otherwise are entitled.

1138 (d) The State Department of Education may not pay any  
1139 process reimbursement to a school district for an employee who  
1140 does not complete the certification or endorsement process  
1141 required to be eligible for the certificate or endorsement. If an  
1142 employee for whom such cost has been paid in full or in part by a  
1143 local school district or private individual or entity fails to  
1144 complete the certification or endorsement process, the employee  
1145 shall be liable to the school district or individual or entity for  
1146 all amounts paid by the school district or individual or entity on  
1147 behalf of that employee toward his or her certificate or  
1148 endorsement.

1149 (3) (a) Effective July 1, 2007, if funds are available for  
1150 that purpose, the Legislature may authorize state funds for  
1151 additional base compensation for teachers holding licenses in  
1152 critical subject areas or the equivalent and who teach at least a  
1153 majority of their courses in a critical subject area, as  
1154 determined by the State Board of Education.

1155 (b) Effective July 1, 2007, if funds are available for  
1156 that purpose, the Legislature may authorize state funds for

1157 additional base compensation for teachers employed in a public  
1158 school district located in a geographic area of the state  
1159 designated as a critical teacher shortage area by the State Board  
1160 of Education.

1161 (4) (a) This section shall be known and may be cited as the  
1162 "Mississippi Performance Based Pay (MPBP)" plan. In addition to  
1163 the minimum base pay described in this section, if funds are  
1164 available for that purpose, the State of Mississippi may provide  
1165 monies from state funds to school districts as defined below for  
1166 the purposes of rewarding licensed teachers and administrators on  
1167 an equal basis at individual schools showing improvement in  
1168 student test scores at the top fifty percent (50%) of individual  
1169 schools. The MPBP plan shall be developed by the Mississippi  
1170 Department of Education based on the following criteria:

1171 (i) It is the express intent of this legislation  
1172 that the MPBP plan utilize only existing standards of  
1173 accreditation and assessment as established by the State Board of  
1174 Education.

1175 (ii) To ensure that all of Mississippi's teachers  
1176 at all schools have equal access to the monies set aside in this  
1177 section, the MPBP program shall be designed to calculate each  
1178 school's performance as determined by the school's increase in  
1179 scores from the preceding school year. The MPBP program shall be  
1180 based on a standardized scores rating where all levels of schools  
1181 can be judged in a statistically fair and reasonable way. At the  
1182 end of each year, after all student achievement scores have been  
1183 standardized, the State Department of Education shall determine  
1184 the number of schools scoring in the top fifty percent (50%) in  
1185 terms of student improvement and allocate the money provided for  
1186 as described in this section on the following basis:

1187 1. Schools ranking in the top quartile in  
1188 terms of student improvement will receive sixty-five percent (65%)

1189 of the money set aside as described by this section, to be equally  
1190 divided among teachers and administrators.

1191 2. Schools ranking in the second quartile in  
1192 terms of student improvement will receive thirty-five percent  
1193 (35%) of the money set aside as described in this section, to be  
1194 equally divided among teachers and administrators.

1195 (iii) To ensure all teachers cooperate in the  
1196 spirit of teamwork, individual schools may submit a plan to the  
1197 local school educational authority to be approved before the  
1198 beginning of each school year beginning in 2007-2008. The plan  
1199 must include, but not necessarily be limited to, how all teachers,  
1200 regardless of subject area, and administrators will be responsible  
1201 for improving student achievement for their individual school.

1202 (b) The State Department of Education shall ensure that  
1203 all local educational authorities have access to details of the  
1204 MPBP program before November 1, 2006, for the purposes of  
1205 collecting baseline measurements for full implementation during  
1206 the 2007-2008 school year.

1207 (c) The State Department of Education shall conduct  
1208 research on the feasibility of a value-added model of pay for  
1209 performance model.

1210 (i) "Value-added" means a statistical approach  
1211 designed to measure teacher effectiveness while minimizing outside  
1212 influences by controlling for factors such as family background,  
1213 race and socioeconomic status.

1214 (ii) The State Department of Education study  
1215 should measure at least three (3) years of student test scores in  
1216 Grades 3 through 8 in reading, math, science, language arts and  
1217 social studies to provide a longitudinal picture of individual  
1218 student progress and teacher effectiveness.

1219 (iii) The study should show how each student  
1220 performs on a year-to-year basis compared to his or her expected  
1221 score, which is calculated on the basis of the pupil's results on

1222 prior tests. At the same time, it should track a student's  
1223 performance against that of his or her peers.

1224 (iv) The study should be "blind" in that  
1225 personally identifying information of the teachers' and students'  
1226 data being measured in the research must be kept anonymous. The  
1227 population sample should be selected in a randomly stratified way  
1228 and not based on volunteers.

1229 (v) The State Department of Education may use any  
1230 appropriate statistical measurements to successfully accomplish  
1231 the intent of this section.

1232 (vi) The State Department of Education shall  
1233 present an annual report on their findings and progress to the  
1234 Legislature and Governor's Office beginning in January 2007.

1235 (5) (a) Beginning in the 2006-2007 school year, if funds  
1236 are available for that purpose, each middle school in Mississippi  
1237 shall have at least two (2) mentor teachers, as defined by  
1238 Sections 37-9-201 through 37-9-213, who shall receive additional  
1239 base compensation provided for by the State Legislature in the  
1240 amount of One Thousand Dollars (\$1,000.00).

1241 (b) To be eligible for this state funding, the  
1242 individual school must have a classroom management program  
1243 approved by the local school board.

1244 (c) If funds are available for that purpose, the state  
1245 shall provide additional funding under this subsection for two (2)  
1246 mentor teachers per middle school; however, local school districts  
1247 may provide additional salary supplements for more than two (2)  
1248 teacher mentors from nonadequate education program funds.

1249 (6) Notwithstanding any provision in this section to the  
1250 contrary, any person who is receiving a retirement allowance from  
1251 the Public Employees' Retirement System who is employed as a  
1252 teacher after his retirement, and chooses to continue receiving  
1253 the retirement allowance during his employment as a teacher after  
1254 his retirement, as authorized by Section 25-11-126, shall be paid

1255 a salary not less than the amount of the salary for teachers with  
1256 similar experience filling similar positions, including annual  
1257 increments for years of experience, less the employee and employer  
1258 contribution to the Mississippi Public Employees' Retirement  
1259 System. The retired member shall be entitled to any supplements,  
1260 annual increments or other increases.

1261 **SECTION 7.** Section 37-3-2, Mississippi Code of 1972, is  
1262 amended as follows:

1263 37-3-2. (1) There is established within the State  
1264 Department of Education the Commission on Teacher and  
1265 Administrator Education, Certification and Licensure and  
1266 Development. It shall be the purpose and duty of the commission  
1267 to make recommendations to the State Board of Education regarding  
1268 standards for the certification and licensure and continuing  
1269 professional development of those who teach or perform tasks of an  
1270 educational nature in the public schools of Mississippi.

1271 (2) The commission shall be composed of fifteen (15)  
1272 qualified members. The membership of the commission shall be  
1273 composed of the following members to be appointed, three (3) from  
1274 each congressional district: four (4) classroom teachers; three  
1275 (3) school administrators; one (1) representative of schools of  
1276 education of institutions of higher learning located within the  
1277 state to be recommended by the Board of Trustees of State  
1278 Institutions of Higher Learning; one (1) representative from the  
1279 schools of education of independent institutions of higher  
1280 learning to be recommended by the Board of the Mississippi  
1281 Association of Independent Colleges; one (1) representative from  
1282 public community and junior colleges located within the state to  
1283 be recommended by the State Board for Community and Junior  
1284 Colleges; one (1) local school board member; and four (4) lay  
1285 persons. All appointments shall be made by the State Board of  
1286 Education after consultation with the State Superintendent of  
1287 Public Education. The first appointments by the State Board of

1288 Education shall be made as follows: five (5) members shall be  
1289 appointed for a term of one (1) year; five (5) members shall be  
1290 appointed for a term of two (2) years; and five (5) members shall  
1291 be appointed for a term of three (3) years. Thereafter, all  
1292 members shall be appointed for a term of four (4) years.

1293 (3) The State Board of Education when making appointments  
1294 shall designate a chairman. The commission shall meet at least  
1295 once every two (2) months or more often if needed. Members of the  
1296 commission shall be compensated at a rate of per diem as  
1297 authorized by Section 25-3-69 and be reimbursed for actual and  
1298 necessary expenses as authorized by Section 25-3-41.

1299 (4) An appropriate staff member of the State Department of  
1300 Education shall be designated and assigned by the State  
1301 Superintendent of Public Education to serve as executive secretary  
1302 and coordinator for the commission. No less than two (2) other  
1303 appropriate staff members of the State Department of Education  
1304 shall be designated and assigned by the State Superintendent of  
1305 Public Education to serve on the staff of the commission.

1306 (5) It shall be the duty of the commission to:

1307 (a) Set standards and criteria, subject to the approval  
1308 of the State Board of Education, for all educator preparation  
1309 programs in the state;

1310 (b) Recommend to the State Board of Education each year  
1311 approval or disapproval of each educator preparation program in  
1312 the state;

1313 (c) Establish, subject to the approval of the State  
1314 Board of Education, standards for initial teacher certification  
1315 and licensure in all fields;

1316 (d) Establish, subject to the approval of the State  
1317 Board of Education, standards for the renewal of teacher licenses  
1318 in all fields;



1319 (e) Review and evaluate objective measures of teacher  
1320 performance, such as test scores, which may form part of the  
1321 licensure process, and to make recommendations for their use;

1322 (f) Review all existing requirements for certification  
1323 and licensure;

1324 (g) Consult with groups whose work may be affected by  
1325 the commission's decisions;

1326 (h) Prepare reports from time to time on current  
1327 practices and issues in the general area of teacher education and  
1328 certification and licensure;

1329 (i) Hold hearings concerning standards for teachers'  
1330 and administrators' education and certification and licensure with  
1331 approval of the State Board of Education;

1332 (j) Hire expert consultants with approval of the State  
1333 Board of Education;

1334 (k) Set up ad hoc committees to advise on specific  
1335 areas; and

1336 (l) Perform such other functions as may fall within  
1337 their general charge and which may be delegated to them by the  
1338 State Board of Education.

1339 (6) (a) **Standard License - Approved Program Route.** An  
1340 educator entering the school system of Mississippi for the first  
1341 time and meeting all requirements as established by the State  
1342 Board of Education shall be granted a standard five-year license.  
1343 Persons who possess two (2) years of classroom experience as an  
1344 assistant teacher or who have taught for one (1) year in an  
1345 accredited public or private school shall be allowed to fulfill  
1346 student teaching requirements under the supervision of a qualified  
1347 participating teacher approved by an accredited college of  
1348 education. The local school district in which the assistant  
1349 teacher is employed shall compensate such assistant teachers at  
1350 the required salary level during the period of time such

1351 individual is completing student teaching requirements.

1352 Applicants for a standard license shall submit to the department:

1353                   (i) An application on a department form;

1354                   (ii) An official transcript of completion of a

1355 teacher education program approved by the department or a

1356 nationally accredited program, subject to the following:

1357 Licensure to teach in Mississippi prekindergarten through

1358 kindergarten classrooms shall require completion of a teacher

1359 education program or a bachelor of science degree with child

1360 development emphasis from a program accredited by the American

1361 Association of Family and Consumer Sciences (AAFCS) or by the

1362 National Association for Education of Young Children (NAEYC) or by

1363 the National Council for Accreditation of Teacher Education

1364 (NCATE). Licensure to teach in Mississippi kindergarten, for

1365 those applicants who have completed a teacher education program,

1366 and in Grade 1 through Grade 4 shall require the completion of an

1367 interdisciplinary program of studies. Licenses for Grades 4

1368 through 8 shall require the completion of an interdisciplinary

1369 program of studies with two (2) or more areas of concentration.

1370 Licensure to teach in Mississippi Grades 7 through 12 shall

1371 require a major in an academic field other than education, or a

1372 combination of disciplines other than education. Students

1373 preparing to teach a subject shall complete a major in the

1374 respective subject discipline. All applicants for standard

1375 licensure shall demonstrate that such person's college preparation

1376 in those fields was in accordance with the standards set forth by

1377 the National Council for Accreditation of Teacher Education

1378 (NCATE) or the National Association of State Directors of Teacher

1379 Education and Certification (NASDTEC) or, for those applicants who

1380 have a bachelor of science degree with child development emphasis,

1381 the American Association of Family and Consumer Sciences (AAFCS);

1382                   (iii) A copy of test scores evidencing

1383 satisfactory completion of nationally administered examinations of

1384 achievement, such as the Educational Testing Service's teacher  
1385 testing examinations; and

1386 (iv) Any other document required by the State  
1387 Board of Education.

1388 (b) **Standard License - Nontraditional Teaching Route.**

1389 Beginning January 1, 2004, an individual who has a passing score  
1390 on the Praxis I Basic Skills and Praxis II Specialty Area Test in  
1391 the requested area of endorsement may apply for the Teach  
1392 Mississippi Institute (TMI) program to teach students in Grades 7  
1393 through 12 if the individual meets the requirements of this  
1394 paragraph (b). The State Board of Education shall adopt rules  
1395 requiring that teacher preparation institutions which provide the  
1396 Teach Mississippi Institute (TMI) program for the preparation of  
1397 nontraditional teachers shall meet the standards and comply with  
1398 the provisions of this paragraph.

1399 (i) The Teach Mississippi Institute (TMI) shall  
1400 include an intensive eight-week, nine-semester-hour summer program  
1401 or a curriculum of study in which the student matriculates in the  
1402 fall or spring semester, which shall include, but not be limited  
1403 to, instruction in education, effective teaching strategies,  
1404 classroom management, state curriculum requirements, planning and  
1405 instruction, instructional methods and pedagogy, using test  
1406 results to improve instruction, and a one (1) semester three-hour  
1407 supervised internship to be completed while the teacher is  
1408 employed as a full-time teacher intern in a local school district.  
1409 The TMI shall be implemented on a pilot program basis, with  
1410 courses to be offered at up to four (4) locations in the state,  
1411 with one (1) TMI site to be located in each of the three (3)  
1412 Mississippi Supreme Court districts.

1413 (ii) The school sponsoring the teacher intern  
1414 shall enter into a written agreement with the institution  
1415 providing the Teach Mississippi Institute (TMI) program, under  
1416 terms and conditions as agreed upon by the contracting parties,

1417 providing that the school district shall provide teacher interns  
1418 seeking a nontraditional provisional teaching license with a  
1419 one-year classroom teaching experience. The teacher intern shall  
1420 successfully complete the one (1) semester three-hour intensive  
1421 internship in the school district during the semester immediately  
1422 following successful completion of the TMI and prior to the end of  
1423 the one-year classroom teaching experience.

1424 (iii) Upon completion of the nine-semester-hour  
1425 TMI or the fall or spring semester option, the individual shall  
1426 submit his transcript to the commission for provisional licensure  
1427 of the intern teacher, and the intern teacher shall be issued a  
1428 provisional teaching license by the commission, which will allow  
1429 the individual to legally serve as a teacher while the person  
1430 completes a nontraditional teacher preparation internship program.

1431 (iv) During the semester of internship in the  
1432 school district, the teacher preparation institution shall monitor  
1433 the performance of the intern teacher. The school district that  
1434 employs the provisional teacher shall supervise the provisional  
1435 teacher during the teacher's intern year of employment under a  
1436 nontraditional provisional license, and shall, in consultation  
1437 with the teacher intern's mentor at the school district of  
1438 employment, submit to the commission a comprehensive evaluation of  
1439 the teacher's performance sixty (60) days prior to the expiration  
1440 of the nontraditional provisional license. If the comprehensive  
1441 evaluation establishes that the provisional teacher intern's  
1442 performance fails to meet the standards of the approved  
1443 nontraditional teacher preparation internship program, the  
1444 individual shall not be approved for a standard license.

1445 (v) An individual issued a provisional teaching  
1446 license under this nontraditional route shall successfully  
1447 complete, at a minimum, a one-year beginning teacher mentoring and  
1448 induction program administered by the employing school district  
1449 with the assistance of the State Department of Education.

1450                   (vi) Upon successful completion of the TMI and the  
1451 internship provisional license period, applicants for a Standard  
1452 License - Nontraditional Route shall submit to the commission a  
1453 transcript of successful completion of the twelve (12) semester  
1454 hours required in the internship program, and the employing school  
1455 district shall submit to the commission a recommendation for  
1456 standard licensure of the intern. If the school district  
1457 recommends licensure, the applicant shall be issued a Standard  
1458 License - Nontraditional Route which shall be valid for a  
1459 five-year period and be renewable.

1460                   (vii) At the discretion of the teacher preparation  
1461 institution, the individual shall be allowed to credit the twelve  
1462 (12) semester hours earned in the nontraditional teacher  
1463 internship program toward the graduate hours required for a Master  
1464 of Arts in Teacher (MAT) Degree.

1465                   (viii) The local school district in which the  
1466 nontraditional teacher intern or provisional licensee is employed  
1467 shall compensate such teacher interns at Step 1 of the required  
1468 salary level during the period of time such individual is  
1469 completing teacher internship requirements and shall compensate  
1470 such Standard License - Nontraditional Route teachers at Step 3 of  
1471 the required salary level when they complete license requirements.

1472           Implementation of the TMI program provided for under this  
1473 paragraph (b) shall be contingent upon the availability of funds  
1474 appropriated specifically for such purpose by the Legislature.  
1475 Such implementation of the TMI program may not be deemed to  
1476 prohibit the State Board of Education from developing and  
1477 implementing additional alternative route teacher licensure  
1478 programs, as deemed appropriate by the board. The emergency  
1479 certification program in effect prior to July 1, 2002, shall  
1480 remain in effect.

1481           The State Department of Education shall compile and report,  
1482 in consultation with the commission, information relating to

1483 nontraditional teacher preparation internship programs, including  
1484 the number of programs available and geographic areas in which  
1485 they are available, the number of individuals who apply for and  
1486 possess a nontraditional conditional license, the subject areas in  
1487 which individuals who possess nontraditional conditional licenses  
1488 are teaching and where they are teaching, and shall submit its  
1489 findings and recommendations to the legislative committees on  
1490 education by December 1, 2004.

1491       A Standard License - Approved Program Route shall be issued  
1492 for a five-year period, and may be renewed. Recognizing teaching  
1493 as a profession, a hiring preference shall be granted to persons  
1494 holding a Standard License - Approved Program Route or Standard  
1495 License - Nontraditional Teaching Route over persons holding any  
1496 other license.

1497       (c) **Special License - Expert Citizen.** In order to  
1498 allow a school district to offer specialized or technical courses,  
1499 the State Department of Education, in accordance with rules and  
1500 regulations established by the State Board of Education, may grant  
1501 a one-year expert citizen-teacher license to local business or  
1502 other professional personnel to teach in a public school or  
1503 nonpublic school accredited or approved by the state. Such person  
1504 may begin teaching upon his employment by the local school board  
1505 and licensure by the Mississippi Department of Education. The  
1506 board shall adopt rules and regulations to administer the expert  
1507 citizen-teacher license. A Special License - Expert Citizen may  
1508 be renewed in accordance with the established rules and  
1509 regulations of the State Department of Education.

1510       (d) **Special License - Nonrenewable.** The State Board of  
1511 Education is authorized to establish rules and regulations to  
1512 allow those educators not meeting requirements in subsection  
1513 (6)(a), (b) or (c) to be licensed for a period of not more than  
1514 three (3) years, except by special approval of the State Board of  
1515 Education.

1516           (e) **Nonlicensed Teaching Personnel.** A nonlicensed  
1517 person may teach for a maximum of three (3) periods per teaching  
1518 day in a public school or a nonpublic school accredited/approved  
1519 by the state. Such person shall submit to the department a  
1520 transcript or record of his education and experience which  
1521 substantiates his preparation for the subject to be taught and  
1522 shall meet other qualifications specified by the commission and  
1523 approved by the State Board of Education. In no case shall any  
1524 local school board hire nonlicensed personnel as authorized under  
1525 this paragraph in excess of five percent (5%) of the total number  
1526 of licensed personnel in any single school. Schools meeting Level  
1527 4 or 5 accreditation standards are exempt from any restrictions in  
1528 this paragraph relating to the employment of nonlicensed teaching  
1529 personnel.

1530           (f) **Special License - Transitional Bilingual Education.**  
1531 Beginning July 1, 2003, the commission shall grant special  
1532 licenses to teachers of transitional bilingual education who  
1533 possess such qualifications as are prescribed in this section.  
1534 Teachers of transitional bilingual education shall be compensated  
1535 by local school boards at not less than one (1) step on the  
1536 regular salary schedule applicable to permanent teachers licensed  
1537 under this section. The commission shall grant special licenses  
1538 to teachers of transitional bilingual education who present the  
1539 commission with satisfactory evidence that they (i) possess a  
1540 speaking and reading ability in a language, other than English, in  
1541 which bilingual education is offered and communicative skills in  
1542 English; (ii) are in good health and sound moral character; (iii)  
1543 possess a bachelor's degree or an associate's degree in teacher  
1544 education from an accredited institution of higher education; (iv)  
1545 meet such requirements as to courses of study, semester hours  
1546 therein, experience and training as may be required by the  
1547 commission; and (v) are legally present in the United States and  
1548 possess legal authorization for employment. A teacher of

1549 transitional bilingual education serving under a special license  
1550 shall be under an exemption from standard licensure if he achieves  
1551 the requisite qualifications therefor. Two (2) years of service  
1552 by a teacher of transitional bilingual education under such an  
1553 exemption shall be credited to the teacher in acquiring a Standard  
1554 Educator License. Nothing in this paragraph shall be deemed to  
1555 prohibit a local school board from employing a teacher licensed in  
1556 an appropriate field as approved by the State Department of  
1557 Education to teach in a program in transitional bilingual  
1558 education.

1559 (g) In the event any school district meets Level 4 or 5  
1560 accreditation standards, the State Board of Education, in its  
1561 discretion, may exempt such school district from any restrictions  
1562 in paragraph (e) relating to the employment of nonlicensed  
1563 teaching personnel.

1564 (h) Highly Qualified Teachers. Beginning July 1, 2006,  
1565 any teacher from any state meeting the federal definition of  
1566 highly qualified, as described in the No Child Left Behind Act,  
1567 must be granted a standard five-year license by the State  
1568 Department of Education.

1569 (7) **Administrator License.** The State Board of Education is  
1570 authorized to establish rules and regulations and to administer  
1571 the licensure process of the school administrators in the State of  
1572 Mississippi. There will be four (4) categories of administrator  
1573 licensure with exceptions only through special approval of the  
1574 State Board of Education.

1575 (a) **Administrator License - Nonpracticing.** Those  
1576 educators holding administrative endorsement but have no  
1577 administrative experience or not serving in an administrative  
1578 position on January 15, 1997.

1579 (b) **Administrator License - Entry Level.** Those  
1580 educators holding administrative endorsement and having met the  
1581 department's qualifications to be eligible for employment in a



1582 Mississippi school district. Administrator License - Entry Level  
1583 shall be issued for a five-year period and shall be nonrenewable.

1584 (c) **Standard Administrator License - Career Level.** An  
1585 administrator who has met all the requirements of the department  
1586 for standard administrator licensure.

1587 (d) **Administrator License - Nontraditional Route.** The  
1588 board may establish a nontraditional route for licensing  
1589 administrative personnel. Such nontraditional route for  
1590 administrative licensure shall be available for persons holding,  
1591 but not limited to, a master of business administration degree, a  
1592 master of public administration degree, a master of public  
1593 planning and policy degree or a doctor of jurisprudence degree  
1594 from an accredited college or university, with five (5) years of  
1595 administrative or supervisory experience. Successful completion  
1596 of the requirements of alternate route licensure for  
1597 administrators shall qualify the person for a standard  
1598 administrator license.

1599 The State Department of Education shall compile and report,  
1600 in consultation with the commission, information relating to  
1601 nontraditional administrator preparation internship programs,  
1602 including the number of programs available and geographic areas in  
1603 which they are available, the number of individuals who apply for  
1604 and possess a nontraditional conditional license and where they  
1605 are employed, and shall submit its findings and recommendations to  
1606 the legislative committees on education by December 1, 2004.

1607 Beginning with the 1997-1998 school year, individuals seeking  
1608 school administrator licensure under paragraph (b), (c) or (d)  
1609 shall successfully complete a training program and an assessment  
1610 process prescribed by the State Board of Education. Applicants  
1611 seeking school administrator licensure prior to June 30, 1997, and  
1612 completing all requirements for provisional or standard  
1613 administrator certification and who have never practiced, shall be  
1614 exempt from taking the Mississippi Assessment Battery Phase I.

1615 Applicants seeking school administrator licensure during the  
1616 period beginning July 1, 1997, through June 30, 1998, shall  
1617 participate in the Mississippi Assessment Battery, and upon  
1618 request of the applicant, the department shall reimburse the  
1619 applicant for the cost of the assessment process required. After  
1620 June 30, 1998, all applicants for school administrator licensure  
1621 shall meet all requirements prescribed by the department under  
1622 paragraph (b), (c) or (d), and the cost of the assessment process  
1623 required shall be paid by the applicant.

1624       (8) **Reciprocity.** (a) The department shall grant a standard  
1625 license to any individual who possesses a valid standard license  
1626 from another state \* \* \*.

1627       (b) The department shall grant a nonrenewable special  
1628 license to any individual who possesses a credential which is less  
1629 than a standard license or certification from another state, or  
1630 who possesses a standard license from another state but has less  
1631 than two (2) years of full-time teaching or administration  
1632 experience. Such special license shall be valid for the current  
1633 school year plus one (1) additional school year to expire on June  
1634 30 of the second year, not to exceed a total period of twenty-four  
1635 (24) months, during which time the applicant shall be required to  
1636 complete the requirements for a standard license in Mississippi.

1637       (9) **Renewal and Reinstatement of Licenses.** The State Board  
1638 of Education is authorized to establish rules and regulations for  
1639 the renewal and reinstatement of educator and administrator  
1640 licenses. Effective May 15, 1997, the valid standard license held  
1641 by an educator shall be extended five (5) years beyond the  
1642 expiration date of the license in order to afford the educator  
1643 adequate time to fulfill new renewal requirements established  
1644 pursuant to this subsection. An educator completing a master of  
1645 education, educational specialist or doctor of education degree in  
1646 May 1997 for the purpose of upgrading the educator's license to a

1647 higher class shall be given this extension of five (5) years plus  
1648 five (5) additional years for completion of a higher degree.

1649 (10) All controversies involving the issuance, revocation,  
1650 suspension or any change whatsoever in the licensure of an  
1651 educator required to hold a license shall be initially heard in a  
1652 hearing de novo, by the commission or by a subcommittee  
1653 established by the commission and composed of commission members  
1654 for the purpose of holding hearings. Any complaint seeking the  
1655 denial of issuance, revocation or suspension of a license shall be  
1656 by sworn affidavit filed with the Commission of Teacher and  
1657 Administrator Education, Certification and Licensure and  
1658 Development. The decision thereon by the commission or its  
1659 subcommittee shall be final, unless the aggrieved party shall  
1660 appeal to the State Board of Education, within ten (10) days, of  
1661 the decision of the committee or its subcommittee. An appeal to  
1662 the State Board of Education shall be on the record previously  
1663 made before the commission or its subcommittee unless otherwise  
1664 provided by rules and regulations adopted by the board. The State  
1665 Board of Education in its authority may reverse, or remand with  
1666 instructions, the decision of the committee or its subcommittee.  
1667 The decision of the State Board of Education shall be final.

1668 (11) The State Board of Education, acting through the  
1669 commission, may deny an application for any teacher or  
1670 administrator license for one or more of the following:

1671 (a) Lack of qualifications which are prescribed by law  
1672 or regulations adopted by the State Board of Education;

1673 (b) The applicant has a physical, emotional or mental  
1674 disability that renders the applicant unfit to perform the duties  
1675 authorized by the license, as certified by a licensed psychologist  
1676 or psychiatrist;

1677 (c) The applicant is actively addicted to or actively  
1678 dependent on alcohol or other habit-forming drugs or is a habitual  
1679 user of narcotics, barbiturates, amphetamines, hallucinogens or

1680 other drugs having similar effect, at the time of application for  
1681 a license;

1682 (d) Revocation of an applicant's certificate or license  
1683 by another state;

1684 (e) Fraud or deceit committed by the applicant in  
1685 securing or attempting to secure such certification and license;

1686 (f) Failing or refusing to furnish reasonable evidence  
1687 of identification;

1688 (g) The applicant has been convicted, has pled guilty  
1689 or entered a plea of nolo contendere to a felony, as defined by  
1690 federal or state law; or

1691 (h) The applicant has been convicted, has pled guilty  
1692 or entered a plea of nolo contendere to a sex offense as defined  
1693 by federal or state law.

1694 (12) The State Board of Education, acting on the  
1695 recommendation of the commission, may revoke or suspend any  
1696 teacher or administrator license for specified periods of time for  
1697 one or more of the following:

1698 (a) Breach of contract or abandonment of employment may  
1699 result in the suspension of the license for one (1) school year as  
1700 provided in Section 37-9-57;

1701 (b) Obtaining a license by fraudulent means shall  
1702 result in immediate suspension and continued suspension for one  
1703 (1) year after correction is made;

1704 (c) Suspension or revocation of a certificate or  
1705 license by another state shall result in immediate suspension or  
1706 revocation and shall continue until records in the prior state  
1707 have been cleared;

1708 (d) The license holder has been convicted, has pled  
1709 guilty or entered a plea of nolo contendere to a felony, as  
1710 defined by federal or state law;

1711           (e) The license holder has been convicted, has pled  
1712 guilty or entered a plea of nolo contendere to a sex offense, as  
1713 defined by federal or state law; or

1714           (f) The license holder knowingly and willfully  
1715 committing any of the acts affecting validity of mandatory uniform  
1716 test results as provided in Section 37-16-4(1).

1717           (13) (a) Dismissal or suspension of a licensed employee by  
1718 a local school board pursuant to Section 37-9-59 may result in the  
1719 suspension or revocation of a license for a length of time which  
1720 shall be determined by the commission and based upon the severity  
1721 of the offense.

1722           (b) Any offense committed or attempted in any other  
1723 state shall result in the same penalty as if committed or  
1724 attempted in this state.

1725           (c) A person may voluntarily surrender a license. The  
1726 surrender of such license may result in the commission  
1727 recommending any of the above penalties without the necessity of a  
1728 hearing. However, any such license which has voluntarily been  
1729 surrendered by a licensed employee may only be reinstated by a  
1730 majority vote of all members of the commission present at the  
1731 meeting called for such purpose.

1732           (14) A person whose license has been suspended on any  
1733 grounds except criminal grounds may petition for reinstatement of  
1734 the license after one (1) year from the date of suspension, or  
1735 after one-half (1/2) of the suspended time has lapsed, whichever  
1736 is greater. A license suspended or revoked on the criminal  
1737 grounds may be reinstated upon petition to the commission filed  
1738 after expiration of the sentence and parole or probationary period  
1739 imposed upon conviction. A revoked, suspended or surrendered  
1740 license may be reinstated upon satisfactory showing of evidence of  
1741 rehabilitation. The commission shall require all who petition for  
1742 reinstatement to furnish evidence satisfactory to the commission  
1743 of good character, good mental, emotional and physical health and

1744 such other evidence as the commission may deem necessary to  
1745 establish the petitioner's rehabilitation and fitness to perform  
1746 the duties authorized by the license.

1747 (15) Reporting procedures and hearing procedures for dealing  
1748 with infractions under this section shall be promulgated by the  
1749 commission, subject to the approval of the State Board of  
1750 Education. The revocation or suspension of a license shall be  
1751 effected at the time indicated on the notice of suspension or  
1752 revocation. The commission shall immediately notify the  
1753 superintendent of the school district or school board where the  
1754 teacher or administrator is employed of any disciplinary action  
1755 and also notify the teacher or administrator of such revocation or  
1756 suspension and shall maintain records of action taken. The State  
1757 Board of Education may reverse or remand with instructions any  
1758 decision of the commission regarding a petition for reinstatement  
1759 of a license, and any such decision of the State Board of  
1760 Education shall be final.

1761 (16) An appeal from the action of the State Board of  
1762 Education in denying an application, revoking or suspending a  
1763 license or otherwise disciplining any person under the provisions  
1764 of this section shall be filed in the Chancery Court of the First  
1765 Judicial District of Hinds County on the record made, including a  
1766 verbatim transcript of the testimony at the hearing. The appeal  
1767 shall be filed within thirty (30) days after notification of the  
1768 action of the board is mailed or served and the proceedings in  
1769 chancery court shall be conducted as other matters coming before  
1770 the court. The appeal shall be perfected upon filing notice of  
1771 the appeal and by the prepayment of all costs, including the cost  
1772 of preparation of the record of the proceedings by the State Board  
1773 of Education, and the filing of a bond in the sum of Two Hundred  
1774 Dollars (\$200.00) conditioned that if the action of the board be  
1775 affirmed by the chancery court, the applicant or license holder

1776 shall pay the costs of the appeal and the action of the chancery  
1777 court.

1778 (17) All such programs, rules, regulations, standards and  
1779 criteria recommended or authorized by the commission shall become  
1780 effective upon approval by the State Board of Education as  
1781 designated by appropriate orders entered upon the minutes thereof.

1782 (18) The granting of a license shall not be deemed a  
1783 property right nor a guarantee of employment in any public school  
1784 district. A license is a privilege indicating minimal eligibility  
1785 for teaching in the public schools of Mississippi. This section  
1786 shall in no way alter or abridge the authority of local school  
1787 districts to require greater qualifications or standards of  
1788 performance as a prerequisite of initial or continued employment  
1789 in such districts.

1790 (19) In addition to the reasons specified in subsections  
1791 (12) and (13) of this section, the board shall be authorized to  
1792 suspend the license of any licensee for being out of compliance  
1793 with an order for support, as defined in Section 93-11-153. The  
1794 procedure for suspension of a license for being out of compliance  
1795 with an order for support, and the procedure for the reissuance or  
1796 reinstatement of a license suspended for that purpose, and the  
1797 payment of any fees for the reissuance or reinstatement of a  
1798 license suspended for that purpose, shall be governed by Section  
1799 93-11-157 or 93-11-163, as the case may be. Actions taken by the  
1800 board in suspending a license when required by Section 93-11-157  
1801 or 93-11-163 are not actions from which an appeal may be taken  
1802 under this section. Any appeal of a license suspension that is  
1803 required by Section 93-11-157 or 93-11-163 shall be taken in  
1804 accordance with the appeal procedure specified in Section  
1805 93-11-157 or 93-11-163, as the case may be, rather than the  
1806 procedure specified in this section. If there is any conflict  
1807 between any provision of Section 93-11-157 or 93-11-163 and any

1808 provision of this chapter, the provisions of Section 93-11-157 or  
1809 93-11-163, as the case may be, shall control.

1810 **SECTION 8.** Section 37-61-33, Mississippi Code of 1972, is  
1811 amended as follows:

1812 37-61-33. (1) There is created within the State Treasury a  
1813 special fund to be designated the "Education Enhancement Fund"  
1814 into which shall be deposited all the revenues collected pursuant  
1815 to Sections 27-65-75(7) and (8) and 27-67-31(a) and (b).

1816 (2) Of the amount deposited into the Education Enhancement  
1817 Fund, Sixteen Million Dollars (\$16,000,000.00) shall be  
1818 appropriated each fiscal year to the State Department of Education  
1819 to be distributed to all school districts. Such money shall be  
1820 distributed to all school districts in the proportion that the  
1821 average daily attendance of each school district bears to the  
1822 average daily attendance of all school districts within the state  
1823 for the following purposes:

1824 (a) Purchasing, erecting, repairing, equipping,  
1825 remodeling and enlarging school buildings and related facilities,  
1826 including gymnasiums, auditoriums, lunchrooms, vocational training  
1827 buildings, libraries, teachers' homes, school barns,  
1828 transportation vehicles (which shall include new and used  
1829 transportation vehicles) and garages for transportation vehicles,  
1830 and purchasing land therefor.

1831 (b) Establishing and equipping school athletic fields  
1832 and necessary facilities connected therewith, and purchasing land  
1833 therefor.

1834 (c) Providing necessary water, light, heating, air  
1835 conditioning and sewerage facilities for school buildings, and  
1836 purchasing land therefor.

1837 (d) As a pledge to pay all or a portion of the debt  
1838 service on debt issued by the school district under Sections  
1839 37-59-1 through 37-59-45, 37-59-101 through 37-59-115, 37-7-351  
1840 through 37-7-359, 37-41-89 through 37-41-99, 37-7-301, 37-7-302



1841 and 37-41-81, or debt issued by boards of supervisors for  
1842 agricultural high schools pursuant to Section 37-27-65, if such  
1843 pledge is accomplished pursuant to a written contract or  
1844 resolution approved and spread upon the minutes of an official  
1845 meeting of the district's school board or board of supervisors.  
1846 The annual grant to such district in any subsequent year during  
1847 the term of the resolution or contract shall not be reduced below  
1848 an amount equal to the district's grant amount for the year in  
1849 which the contract or resolution was adopted. The intent of this  
1850 provision is to allow school districts to irrevocably pledge a  
1851 certain, constant stream of revenue as security for long-term  
1852 obligations issued under the code sections enumerated in this  
1853 paragraph or as otherwise allowed by law. It is the intent of the  
1854 Legislature that the provisions of this paragraph shall be  
1855 cumulative and supplemental to any existing funding programs or  
1856 other authority conferred upon school districts or school boards.  
1857 Debt of a district secured by a pledge of sales tax revenue  
1858 pursuant to this paragraph shall not be subject to any debt  
1859 limitation contained in the foregoing enumerated code sections.

1860 (3) The remainder of the money deposited into the Education  
1861 Enhancement Fund shall be appropriated as follows:

1862 (a) To the State Department of Education as follows:

1863 (i) Sixteen and sixty-one one-hundredths percent  
1864 (16.61%) to the cost of the adequate education program determined  
1865 under Section 37-151-7; of the funds generated by the percentage  
1866 set forth in this section for the support of the adequate  
1867 education program, one and one hundred seventy-eight  
1868 one-thousandths percent (1.178%) of the funds shall be  
1869 appropriated to be used by the State Department of Education for  
1870 the purchase of textbooks to be loaned under Sections 37-43-1  
1871 through 37-43-59 to approved nonpublic schools, as described in  
1872 Section 37-43-1. The funds to be distributed to each nonpublic  
1873 school shall be in the proportion that the average daily

1874 attendance of each nonpublic school bears to the total average  
1875 daily attendance of all nonpublic schools;

1876 (ii) Seven and ninety-seven one-hundredths percent  
1877 (7.97%) to assist the funding of transportation operations and  
1878 maintenance pursuant to Section 37-19-23; and

1879 (iii) Nine and sixty-one one-hundredths percent  
1880 (9.61%) for classroom supplies, instructional materials and  
1881 equipment, including computers and computer software, to be  
1882 distributed to all school districts in the proportion that the  
1883 average daily attendance of each school district bears to the  
1884 average daily attendance of all school districts within the state.  
1885 Classroom supply funds shall not be expended for administrative  
1886 purposes. Local school districts shall allocate classroom supply  
1887 funds equally among all classroom teachers in the school district.  
1888 For purposes of this subparagraph, "teacher" means any employee of  
1889 the school board of a school district who is required by law to  
1890 obtain a teacher's license from the State Department of Education  
1891 and who is assigned to an instructional area of work as defined by  
1892 the department, but shall not include a federally funded teacher.  
1893 Two (2) or more teachers may agree to pool their classroom supply  
1894 funds for the benefit of a school within the district. It is the  
1895 intent of the Legislature that all classroom teachers shall be  
1896 involved in the development of a spending plan that addresses  
1897 individual classroom needs and supports the overall goals of the  
1898 school regarding supplies, instructional materials, equipment,  
1899 computers or computer software under the provisions of this  
1900 subparagraph, including the type, quantity and quality of such  
1901 supplies, materials and equipment. This plan shall be submitted  
1902 in writing to the school principal for approval. Classroom supply  
1903 funds allocated under this subparagraph shall supplement, not  
1904 replace, other local and state funds available for the same  
1905 purposes. School districts need not fully expend the funds  
1906 received under this subparagraph in the year in which they are

1907 received, but such funds may be carried forward for expenditure in  
1908 any succeeding school year. Any individual teacher or group of  
1909 teachers with an approved spending plan that has not been fully  
1910 funded need not expend the funds allocated under this subparagraph  
1911 in the year in which such funds are received. Such funds may be  
1912 carried forward for expenditure in any subsequent school year in  
1913 which the plan is fully funded. However, beginning July 1, 2006,  
1914 any funds allocated under this subparagraph which are not reserved  
1915 in an approved spending plan but remain unspent on March 31 of the  
1916 fiscal year in which the funds were allotted must be utilized by  
1917 the school where the teacher is employed for instructional supply  
1918 and equipment purposes. The State Board of Education shall  
1919 develop and promulgate rules and regulations for the  
1920 administration of this subparagraph consistent with the above  
1921 criteria, with particular emphasis on allowing the individual  
1922 teachers to expend funds as they deem appropriate;

1923 (b) Twenty-two and nine one-hundredths percent (22.09%)  
1924 to the Board of Trustees of State Institutions of Higher Learning  
1925 for the purpose of supporting institutions of higher learning; and

1926 (c) Fourteen and forty-one one-hundredths percent  
1927 (14.41%) to the State Board for Community and Junior Colleges for  
1928 the purpose of providing support to community and junior colleges.

1929 (4) The amount remaining in the Education Enhancement Fund  
1930 after funds are distributed as provided in subsections (2) and (3)  
1931 of this section shall be disbursed as follows:

1932 (a) Twenty-five Million Dollars (\$25,000,000.00) shall  
1933 be deposited into the Working Cash-Stabilization Reserve Fund  
1934 created pursuant to Section 27-103-203(1), until the balance in  
1935 such fund reaches the maximum balance of seven and one-half  
1936 percent (7-1/2%) of the General Fund appropriations in the  
1937 appropriate fiscal year. After the maximum balance in the Working  
1938 Cash-Stabilization Reserve Fund is reached, such money shall

1939 remain in the Education Enhancement Fund to be appropriated in the  
1940 manner provided for in paragraph (b) of this subsection.

1941 (b) The remainder shall be appropriated for other  
1942 educational needs.

1943 (5) None of the funds appropriated pursuant to subsection  
1944 (3)(a) of this section shall be used to reduce the state's General  
1945 Fund appropriation for the categories listed in an amount below  
1946 the following amounts:

1947 (a) For subsection (3)(a)(ii) of this section,  
1948 Thirty-six Million Seven Hundred Thousand Dollars  
1949 (\$36,700,000.00);

1950 (b) For the aggregate of minimum program allotments in  
1951 the 1997 fiscal year, formerly provided for in Chapter 19, Title  
1952 37, Mississippi Code of 1972, as amended, excluding those funds  
1953 for transportation as provided for in subsection (5)(a) in this  
1954 section.

1955 **SECTION 9.** This act shall take effect and be in force from  
1956 and after July 1, 2006.