

By: Representative West

To: Education;
Appropriations

HOUSE BILL NO. 933

1 AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT CERTAIN PERSONS RECEIVING A RETIREMENT
3 ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE
4 EMPLOYED AS TEACHERS IN THE PUBLIC SCHOOL SYSTEM AFTER THEIR
5 RETIREMENT, AND CERTAIN PERSONS EMPLOYED AS TEACHERS IN THE PUBLIC
6 SCHOOL SYSTEM WHO ARE ELIGIBLE TO RECEIVE A RETIREMENT ALLOWANCE
7 FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, MAY RECEIVE A
8 RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS TEACHERS IN
9 ADDITION TO RECEIVING A TEACHER'S SALARY; TO PROVIDE THAT THOSE
10 PERSONS SHALL NOT BE CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM
11 NOR RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD DURING WHICH
12 THEY RECEIVE A RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS
13 TEACHERS; TO AMEND SECTIONS 25-11-103, 25-11-105 AND 25-11-127,
14 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS
15 ACT; TO AMEND SECTION 37-19-7, MISSISSIPPI CODE OF 1972, TO
16 PROVIDE THAT THE TEACHERS' SALARIES OF THOSE PERSONS SHALL BE
17 EQUAL TO 80% OF THE AMOUNT OF THE HIGHEST ANNUAL SALARY THAT THE
18 PERSON RECEIVED AS A TEACHER BEFORE RETIREMENT; TO PROVIDE THAT
19 THOSE TEACHERS SHALL NOT BE ENTITLED TO RECEIVE ANY SUPPLEMENTS,
20 ANNUAL INCREMENTS OR OTHER INCREASES IN SALARY DURING THEIR TIME
21 OF EMPLOYMENT AS A TEACHER AFTER RETIREMENT; AND FOR RELATED
22 PURPOSES.

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

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

26 25-11-126. (1) (a) Any person who has completed
27 thirty (30) or more years of creditable service and is receiving a
28 retirement allowance under this article, who was employed as a
29 teacher in the public school system at the time of retirement and
30 who is employed as a teacher in the public school system after
31 retirement, may choose to continue receiving the retirement
32 allowance under this article during employment as a teacher after
33 retirement in addition to receiving the salary authorized under
34 Section 37-19-7(3), in the manner provided in this section.

35 (b) Any person who is employed as a teacher in the
36 public school system who completes thirty (30) or more years of
37 creditable service during employment as a teacher may choose to

38 receive a retirement allowance under this article during
39 employment as a teacher in the public school system in addition to
40 receiving the salary authorized under Section 37-19-7(3), in the
41 manner provided in this section.

42 (2) Any person described in subsection (1)(a) of this
43 section shall notify the executive director of the retirement
44 system, before being employed as a teacher in the public school
45 system after retirement, about his or her choice on continuing to
46 receive the retirement allowance during employment as a teacher.
47 If the person chooses not to continue receiving the retirement
48 allowance during employment as a teacher, the retirement allowance
49 shall cease on the day that the person begins employment as a
50 teacher after retirement. After the person leaves employment as a
51 teacher that he or she began after retirement, in order to begin
52 receiving a retirement allowance under this article again, the
53 person shall make application to the executive director of the
54 retirement system, and the retirement allowance shall begin on the
55 first of the month following the date that the application is
56 received by the executive director.

57 (3) Any person described in subsection (1)(b) who chooses to
58 receive a retirement allowance during employment as a teacher in
59 the public school system shall make application to the executive
60 director of the retirement system, and the retirement allowance
61 shall begin on the first of the month following the date that the
62 application is received by the executive director. Those persons
63 shall not be required to withdraw from service in order to receive
64 the retirement allowance.

65 (4) Any person to whom this section applies who receives or
66 continues to receive a retirement allowance under this article
67 during employment as a teacher shall not be a contributing member
68 of the retirement system nor receive any creditable service for
69 the period during which he or she receives a retirement allowance
70 during employment as a teacher. Any person to whom this section

71 applies who chooses not to receive a retirement allowance during
72 employment as a teacher shall be a contributing member of the
73 retirement system and shall receive creditable service for the
74 period during which he or she is employed as a teacher without
75 receiving a retirement allowance. If the person has previously
76 received a retirement allowance under this article and is employed
77 as a teacher for more than six (6) months without receiving a
78 retirement allowance, the person shall have his or her allowance
79 recomputed when retiring again, which shall include the service
80 after the person again became a contributing member of the
81 retirement system.

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

84 25-11-103. The following words and phrases as used in
85 Articles 1 and 3, unless a different meaning is plainly required
86 by the context, shall have the following meanings:

87 (a) "Accumulated contributions" shall mean the sum of
88 all the amounts deducted from the compensation of a member and
89 credited to his individual account in the annuity savings account,
90 together with regular interest thereon as provided in Section
91 25-11-123.

92 (b) "Actuarial cost" shall mean the amount of funds
93 presently required to provide future benefits as determined by the
94 board based on applicable tables and formulas provided by the
95 actuary.

96 (c) "Actuarial equivalent" shall mean a benefit of
97 equal value to the accumulated contributions, annuity or benefit,
98 as the case may be, when computed upon the basis of such mortality
99 tables as shall be adopted by the board of trustees, and regular
100 interest.

101 (d) "Actuarial tables" shall mean such tables of
102 mortality and rates of interest as shall be adopted by the board
103 in accordance with the recommendation of the actuary.

104 (e) "Agency" shall mean any governmental body employing
105 persons in the state service.

106 (f) "Average compensation" shall mean the average of
107 the four (4) highest years of earned compensation reported for an
108 employee in a fiscal or calendar year period, or combination
109 thereof which do not overlap, or the last forty-eight (48)
110 consecutive months of earned compensation reported for an
111 employee. The four (4) years need not be successive or joined
112 years of service. In no case shall the average compensation so
113 determined be in excess of One Hundred Fifty Thousand Dollars
114 (\$150,000.00). In computing the average compensation, any amount
115 paid in a lump sum for personal leave shall be included in the
116 calculation to the extent that such amount does not exceed an
117 amount which is equal to thirty (30) days of earned compensation
118 and to the extent that it does not cause the employees' earned
119 compensation to exceed the maximum reportable amount specified in
120 Section 25-11-103(k); however, this thirty-day limitation shall
121 not prevent the inclusion in the calculation of leave earned under
122 federal regulations prior to July 1, 1976, and frozen as of that
123 date as referred to in Section 25-3-99. Only the amount of lump
124 sum pay for personal leave due and paid upon the death of a member
125 attributable for up to one hundred fifty (150) days shall be used
126 in the deceased member's average compensation calculation in
127 determining the beneficiary's benefits. In computing the average
128 compensation, no amounts shall be used which are in excess of the
129 amount on which contributions were required and paid. If any
130 member who is or has been granted any increase in annual salary or
131 compensation of more than eight percent (8%) retires within
132 twenty-four (24) months from the date that such increase becomes
133 effective, then the board shall exclude that part of the increase
134 in salary or compensation that exceeds eight percent (8%) in
135 calculating that member's average compensation for retirement
136 purposes. The board may enforce this provision by rule or

137 regulation. However, increases in compensation in excess of eight
138 percent (8%) per year granted within twenty-four (24) months of
139 the date of retirement may be included in such calculation of
140 average compensation if satisfactory proof is presented to the
141 board showing that the increase in compensation was the result of
142 an actual change in the position held or services rendered, or
143 that such compensation increase was authorized by the State
144 Personnel Board or was increased as a result of statutory
145 enactment, and the employer furnishes an affidavit stating that
146 such increase granted within the last twenty-four (24) months was
147 not contingent on a promise or agreement of the employee to
148 retire. Nothing in Section 25-3-31 shall affect the calculation
149 of the average compensation of any member for the purposes of this
150 article. The average compensation of any member who retires
151 before July 1, 1992, shall not exceed the annual salary of the
152 Governor.

153 (g) "Beneficiary" shall mean any person entitled to
154 receive a retirement allowance, an annuity or other benefit as
155 provided by Articles 1 and 3. In the event of the death prior to
156 retirement of any member whose spouse and/or children are not
157 entitled to a retirement allowance on the basis that the member
158 has less than four (4) years of service credit and/or has not been
159 married for a minimum of one (1) year or the spouse has waived his
160 or her entitlement to a retirement allowance pursuant to Section
161 25-11-114, the lawful spouse of a member at the time of the death
162 of such member shall be the beneficiary of such member unless the
163 member has designated another beneficiary subsequent to the date
164 of marriage in writing, and filed such writing in the office of
165 the executive director of the board of trustees. No designation
166 or change of beneficiary shall be made in any other manner.

167 (h) "Board" shall mean the board of trustees provided
168 in Section 25-11-15 to administer the retirement system herein
169 created.

170 (i) "Creditable service" shall mean "prior service,"
171 "retroactive service" and all lawfully credited unused leave not
172 exceeding the accrual rates and limitations provided in Section
173 25-3-91 et seq., as of the date of withdrawal from service plus
174 "membership service" for which credit is allowable as provided in
175 Section 25-11-109. Except to limit creditable service reported to
176 the system for the purpose of computing an employee's retirement
177 allowance or annuity or benefits provided in this article, nothing
178 in this paragraph shall limit or otherwise restrict the power of
179 the governing authority of a municipality or other political
180 subdivision of the state to adopt such vacation and sick leave
181 policies as it deems necessary.

182 (j) "Child" means either a natural child of the member,
183 a child that has been made a child of the member by applicable
184 court action before the death of the member, or a child under the
185 permanent care of the member at the time of the latter's death,
186 which permanent care status shall be determined by evidence
187 satisfactory to the board.

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

203 regardless of whether the additional employment is sufficient in
204 itself to be a covered position. In addition, computation of
205 earned compensation shall be governed by the following:

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

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

214 (iii) In the case of members of the State
215 Legislature, all remuneration or amounts paid, except mileage
216 allowance, shall apply.

217 (iv) The amount by which an eligible employee's
218 salary is reduced pursuant to a salary reduction agreement
219 authorized under Section 25-17-5 shall be included as earned
220 compensation under this paragraph, provided this inclusion does
221 not conflict with federal law, including federal regulations and
222 federal administrative interpretations thereunder, pertaining to
223 the Federal Insurance Contributions Act or to Internal Revenue
224 Code Section 125 cafeteria plans.

225 (v) Compensation in addition to an employee's base
226 salary that is paid to the employee pursuant to the vacation and
227 sick leave policies of a municipality or other political
228 subdivision of the state that employs him which exceeds the
229 maximums authorized by Section 25-3-91 et seq. shall be excluded
230 from the calculation of earned compensation under this article.

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

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

236 (1) "Employee" means any person legally occupying a
237 position in the state service, and shall include the employees of
238 the retirement system created hereunder.

239 (m) "Employer" shall mean the State of Mississippi or
240 any of its departments, agencies or subdivisions from which any
241 employee receives his compensation.

242 (n) "Executive director" shall mean the secretary to
243 the board of trustees, as provided in Section 25-11-15(9), and the
244 administrator of the Public Employees' Retirement System and all
245 systems under the management of the board of trustees. Wherever
246 the term "Executive Secretary of the Public Employees' Retirement
247 System" or "executive secretary" appears in this article or in any
248 other provision of law, it shall be construed to mean the
249 Executive Director of the Public Employees' Retirement System.

250 (o) "Fiscal year" shall mean the period beginning on
251 July 1 of any year and ending on June 30 of the next succeeding
252 year.

253 (p) "Medical board" shall mean the board of physicians
254 or any governmental or nongovernmental disability determination
255 service designated by the board of trustees that is qualified to
256 make disability determinations as provided for in Section
257 25-11-119.

258 (q) "Member" shall mean any person included in the
259 membership of the system as provided in Section 25-11-105.

260 (r) "Membership service" shall mean service as an
261 employee rendered while a member of the retirement system.

262 (s) "Position" means any office or any employment in
263 the state service, or two (2) or more of them, the duties of which
264 call for services to be rendered by one (1) person, including
265 positions jointly employed by federal and state agencies
266 administering federal and state funds. The employer shall
267 determine upon initial employment and during the course of
268 employment of an employee who does not meet the criteria for

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

281 (t) "Prior service" shall mean service rendered before
282 February 1, 1953, for which credit is allowable under Sections
283 25-11-105 and 25-11-109, and which shall allow prior service for
284 any person who is now or becomes a member of the Public Employees'
285 Retirement System and who does contribute to the system for a
286 minimum period of four (4) years.

287 (u) "Regular interest" shall mean interest compounded
288 annually at such a rate as shall be determined by the board in
289 accordance with Section 25-11-121.

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

300 (w) "Retroactive service" shall mean service rendered
301 after February 1, 1953, for which credit is allowable under
302 Section 25-11-105(b) and Section 25-11-105(k).

303 (x) "System" shall mean the Public Employees'
304 Retirement System of Mississippi established and described in
305 Section 25-11-101.

306 (y) "State" shall mean the State of Mississippi or any
307 political subdivision thereof or instrumentality thereof.

308 (z) "State service" shall mean all offices and
309 positions of trust or employment in the employ of the state, or
310 any political subdivision or instrumentality thereof, which elect
311 to participate as provided by Section 25-11-105(f), including the
312 position of elected or fee officials of the counties and their
313 deputies and employees performing public services or any
314 department, independent agency, board or commission thereof, and
315 shall also include all offices and positions of trust or
316 employment in the employ of joint state and federal agencies
317 administering state and federal funds and service rendered by
318 employees of the public schools. Effective July 1, 1973, all
319 nonprofessional public school employees, such as bus drivers,
320 janitors, maids, maintenance workers and cafeteria employees,
321 shall have the option to become members in accordance with Section
322 25-11-105(b), and shall be eligible to receive credit for services
323 before July 1, 1973, provided that the contributions and interest
324 are paid by the employee in accordance with that section; in
325 addition, the county or municipal separate school district may pay
326 the employer contribution and pro rata share of interest of the
327 retroactive service from available funds. From and after July 1,
328 1998, retroactive service credit shall be purchased at the
329 actuarial cost in accordance with Section 25-11-105(b).

330 (aa) "Withdrawal from service" or "termination from
331 service" shall mean complete severance of employment in the state
332 service of any member by resignation, dismissal or discharge,

333 except in the case of persons who become eligible to receive a
334 retirement allowance under this article and who choose to receive
335 the retirement allowance during their employment as teachers as
336 authorized by Section 25-11-126.

337 (bb) The masculine pronoun, wherever used, shall
338 include the feminine pronoun.

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

341 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

342 The membership of this retirement system shall be composed as
343 follows:

344 (a) (i) All persons who shall become employees in the
345 state service after January 31, 1953, and whose wages are subject
346 to payroll taxes and are lawfully reported on IRS Form W-2, except
347 (i) those persons who are specifically excluded, (ii) those
348 persons as to whom election is provided in Articles 1 and 3, or
349 (iii) those persons who choose to receive or continue receiving a
350 retirement allowance during their employment as teachers as
351 authorized by Section 25-11-126, shall become members of the
352 retirement system as a condition of their employment.

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

363 (b) All persons who shall become employees in the state
364 service after January 31, 1953, except those specifically excluded
365 or as to whom election is provided in Articles 1 and 3, unless

366 they shall file with the board prior to the lapse of sixty (60)
367 days of employment or sixty (60) days after the effective date of
368 the cited articles, whichever is later, on a form prescribed by
369 the board, a notice of election not to be covered by the
370 membership of the retirement system and a duly executed waiver of
371 all present and prospective benefits which would otherwise inure
372 to them on account of their participation in the system, shall
373 become members of the retirement system; however, no credit for
374 prior service will be granted to members until they have
375 contributed to Article 3 of the retirement system for a minimum
376 period of at least four (4) years. Such members shall receive
377 credit for services performed prior to January 1, 1953, in
378 employment now covered by Article 3, but no credit shall be
379 granted for retroactive services between January 1, 1953, and the
380 date of their entry into the retirement system unless the employee
381 pays into the retirement system both the employer's and the
382 employee's contributions on wages paid him during the period from
383 January 31, 1953, to the date of his becoming a contributing
384 member, together with interest at the rate determined by the board
385 of trustees. Members reentering after withdrawal from service
386 shall qualify for prior service under the provisions of Section
387 25-11-117. From and after July 1, 1998, upon eligibility as noted
388 above, the member may receive credit for such retroactive service
389 provided:

390 (1) The member shall furnish proof satisfactory to
391 the board of trustees of certification of such service from the
392 covered employer where the services were performed; and

393 (2) The member shall pay to the retirement system
394 on the date he or she is eligible for such credit or at any time
395 thereafter prior to the date of retirement the actuarial cost for
396 each year of such creditable service. The provisions of this
397 subparagraph (2) shall be subject to the limitations of Section

398 415 of the Internal Revenue Code and regulations promulgated
399 thereunder.

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

404 (c) All persons who shall become employees in the state
405 service after January 31, 1953, and who are eligible for
406 membership in any other retirement system shall become members of
407 this retirement system as a condition of their employment unless
408 they elect at the time of their employment to become a member of
409 such other system.

410 (d) All persons who are employees in the state service
411 on January 31, 1953, and who are members of any nonfunded
412 retirement system operated by the State of Mississippi, or any of
413 its departments or agencies, shall become members of this system
414 with prior service credit unless, before February 1, 1953, they
415 shall file a written notice with the board of trustees that they
416 do not elect to become members.

417 (e) All persons who are employees in the state service
418 on January 31, 1953, and who under existing laws are members of
419 any fund operated for the retirement of employees by the State of
420 Mississippi, or any of its departments or agencies, shall not be
421 entitled to membership in this retirement system unless, before
422 February 1, 1953, any such person shall indicate by a notice filed
423 with the board, on a form prescribed by the board, his individual
424 election and choice to participate in this system, but no such
425 person shall receive prior service credit unless he becomes a
426 member on or before February 1, 1953.

427 (f) Each political subdivision of the state and each
428 instrumentality of the state or a political subdivision, or both,
429 is hereby authorized to submit, for approval by the board of
430 trustees, a plan for extending the benefits of this article to

431 employees of any such political subdivision or instrumentality.
432 Each such plan or any amendment to the plan for extending benefits
433 thereof shall be approved by the board of trustees if it finds
434 that such plan, or such plan as amended, is in conformity with
435 such requirements as are provided in Articles 1 and 3; however,
436 upon approval of such plan or any such plan heretofore approved by
437 the board of trustees, the approved plan shall not be subject to
438 cancellation or termination by the political subdivision or
439 instrumentality, except that any community hospital serving a
440 municipality that joined the Public Employees' Retirement System
441 as of November 1, 1956, to offer social security coverage for its
442 employees and subsequently extended retirement annuity coverage to
443 its employees as of December 1, 1965, may, upon documentation of
444 extreme financial hardship, have future retirement annuity
445 coverage cancelled or terminated at the discretion of the board of
446 trustees. No such plan shall be approved unless:

447 (1) It provides that all services which constitute
448 employment as defined in Section 25-11-5 and are performed in the
449 employ of the political subdivision or instrumentality, by any
450 employees thereof, shall be covered by the plan; with the
451 exception of municipal employees who are already covered by
452 existing retirement plans; however, those employees in this class
453 may elect to come under the provisions of this article;

454 (2) It specifies the source or sources from which
455 the funds necessary to make the payments required by paragraph (d)
456 of Section 25-11-123 and of paragraph (f)(5)B and C of this
457 section are expected to be derived and contains reasonable
458 assurance that such sources will be adequate for such purpose;

459 (3) It provides for such methods of administration
460 of the plan by the political subdivision or instrumentality as are
461 found by the board of trustees to be necessary for the proper and
462 efficient administration thereof;

463 (4) It provides that the political subdivision or
464 instrumentality will make such reports, in such form and
465 containing such information, as the board of trustees may from
466 time to time require;

467 (5) It authorizes the board of trustees to
468 terminate the plan in its entirety in the discretion of the board
469 if it finds that there has been a failure to comply substantially
470 with any provision contained in such plan, such termination to
471 take effect at the expiration of such notice and on such
472 conditions as may be provided by regulations of the board and as
473 may be consistent with applicable federal law.

474 A. The board of trustees shall not finally
475 refuse to approve a plan submitted under paragraph (f), and shall
476 not terminate an approved plan without reasonable notice and
477 opportunity for hearing to each political subdivision or
478 instrumentality affected thereby. The board's decision in any
479 such case shall be final, conclusive and binding unless an appeal
480 be taken by the political subdivision or instrumentality aggrieved
481 thereby to the Circuit Court of Hinds County, Mississippi, in
482 accordance with the provisions of law with respect to civil causes
483 by certiorari.

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

491 C. Every political subdivision or
492 instrumentality required to make payments under paragraph (f)(5)B
493 hereof is authorized, in consideration of the employees' retention
494 in or entry upon employment after enactment of Articles 1 and 3,
495 to impose upon its employees, as to services which are covered by

496 an approved plan, a contribution with respect to wages (as defined
497 in Section 25-11-5) not exceeding the amount provided in Section
498 25-11-123(d) if such services constituted employment within the
499 meaning of Articles 1 and 3, and to deduct the amount of such
500 contribution from the wages as and when paid. Contributions so
501 collected shall be paid into the contribution fund as partial
502 discharge of the liability of such political subdivisions or
503 instrumentalities under paragraph (f)(5)B hereof. Failure to
504 deduct such contribution shall not relieve the employee or
505 employer of liability thereof.

506 D. Any state agency, school, political
507 subdivision, instrumentality or any employer that is required to
508 submit contribution payments or wage reports under any section of
509 this chapter shall be assessed interest on delinquent payments or
510 wage reports as determined by the board of trustees in accordance
511 with rules and regulations adopted by the board and such assessed
512 interest may be recovered by action in a court of competent
513 jurisdiction against such reporting agency liable therefor or may,
514 upon due certification of delinquency and at the request of the
515 board of trustees, be deducted from any other monies payable to
516 such reporting agency by any department or agency of the state.

517 E. Each political subdivision of the state
518 and each instrumentality of the state or a political subdivision
519 or subdivisions which submits a plan for approval of the board, as
520 provided in this section, shall reimburse the board for coverage
521 into the expense account, its pro rata share of the total expense
522 of administering Articles 1 and 3 as provided by regulations of
523 the board.

524 (g) The board may, in its discretion, deny the right of
525 membership in this system to any class of employees whose
526 compensation is only partly paid by the state or who are occupying
527 positions on a part-time or intermittent basis. The board may, in

528 its discretion, make optional with employees in any such classes
529 their individual entrance into this system.

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

536 (i) In the event any member of this system should
537 change his employment to any agency of the state having an
538 actuarially funded retirement system, the board of trustees may
539 authorize the transfer of the member's creditable service and of
540 the present value of the member's employer's accumulation account
541 and of the present value of the member's accumulated membership
542 contributions to such other system, provided the employee agrees
543 to the transfer of his accumulated membership contributions and
544 provided such other system is authorized to receive and agrees to
545 make such transfer.

546 In the event any member of any other actuarially funded
547 system maintained by an agency of the state changes his employment
548 to an agency covered by this system, the board of trustees may
549 authorize the receipt of the transfer of the member's creditable
550 service and of the present value of the member's employer's
551 accumulation account and of the present value of the member's
552 accumulated membership contributions from such other system,
553 provided the employee agrees to the transfer of his accumulated
554 membership contributions to this system and provided the other
555 system is authorized and agrees to make such transfer.

556 (j) Wherever herein state employment is referred to, it
557 shall include joint employment by state and federal agencies of
558 all kinds.

559 (k) Employees of a political subdivision or
560 instrumentality who were employed by such political subdivision or

561 instrumentality prior to an agreement between such entity and the
562 Public Employees' Retirement System to extend the benefits of this
563 article to its employees, and which agreement provides for the
564 establishment of retroactive service credit, and who have been
565 members of the retirement system and have remained contributors to
566 the retirement system for four (4) years, may receive credit for
567 such retroactive service with such political subdivision or
568 instrumentality, provided the employee and/or employer, as
569 provided under the terms of the modification of the joinder
570 agreement in allowing such coverage, pay into the retirement
571 system the employer's and employee's contributions on wages paid
572 the member during such previous employment, together with interest
573 or actuarial cost as determined by the board covering the period
574 from the date the service was rendered until the payment for the
575 credit for such service was made. Such wages shall be verified by
576 the Social Security Administration or employer payroll records.
577 Effective July 1, 1998, upon eligibility as noted above, a member
578 may receive credit for such retroactive service with such
579 political subdivision or instrumentality provided:

580 (1) The member shall furnish proof satisfactory to
581 the board of trustees of certification of such services from the
582 political subdivision or instrumentality where the services were
583 rendered or verification by the Social Security Administration;
584 and

585 (2) The member shall pay to the retirement system
586 on the date he or she is eligible for such credit or at any time
587 thereafter prior to the date of retirement the actuarial cost for
588 each year of such creditable service. The provisions of this
589 subparagraph (2) shall be subject to the limitations of Section
590 415 of the Internal Revenue Code and regulations promulgated
591 thereunder.

592 Nothing contained in this paragraph (k) shall be construed to
593 limit the authority of the board to allow the correction of

594 reporting errors or omissions based on the payment of employee and
595 employer contributions plus applicable interest. Payment for such
596 time shall be made in increments of not less than one-quarter
597 (1/4) year of creditable service beginning with the most recent
598 service. Upon the payment of all or part of such required
599 contributions, plus interest or the actuarial cost as provided
600 above, the member shall receive credit for the period of
601 creditable service for which full payment has been made to the
602 retirement system.

603 (1) Through June 30, 1998, any state service eligible
604 for retroactive service credit, no part of which has ever been
605 reported, and requiring the payment of employee and employer
606 contributions plus interest, or, from and after July 1, 1998, any
607 state service eligible for retroactive service credit, no part of
608 which has ever been reported to the retirement system, and
609 requiring the payment of the actuarial cost for such creditable
610 service, may, at the member's option, be purchased in quarterly
611 increments as provided above at such time as its purchase is
612 otherwise allowed.

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

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

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

620 (a) Patient or inmate help in state charitable, penal
621 or correctional institutions;

622 (b) Students of any state educational institution
623 employed by any agency of the state for temporary, part-time or
624 intermittent work;

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

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

632 **III. TERMINATION OF MEMBERSHIP**

633 Membership in this system shall cease by a member withdrawing
634 his accumulated contributions, or by a member withdrawing from
635 active service with a retirement allowance, or by a member's
636 death.

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

639 25-11-127. (1) (a) No person who is being paid a
640 retirement allowance or a pension after retirement under this
641 article shall be employed or paid for any service by the State of
642 Mississippi, except as provided in this section or in Section
643 25-11-126.

644 (b) No retiree of this retirement system who is
645 reemployed or is reelected to office after retirement shall
646 continue to draw retirement benefits while so reemployed or
647 reelected, except as provided in this section or in Section
648 25-11-126.

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

652 (2) Any person who has been retired under the provisions of
653 Article 3 and who is later reemployed in service covered by this
654 article shall cease to receive benefits under this article unless
655 the person continues to receive a retirement allowance during
656 employment as a teacher under the authority of Section 25-11-126,
657 and the person shall again become a contributing member of the

658 retirement system. When the person retires again, if the person
659 has been a contributing member of the retirement system during his
660 or her reemployment and the reemployment exceeds six (6) months,
661 the person shall have his or her benefit recomputed, including
662 service after again becoming a member, provided that the total
663 retirement allowance paid to the retired member in his or her
664 previous retirement shall be deducted from the member's retirement
665 reserve and taken into consideration in recalculating the
666 retirement allowance under a new option selected.

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

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

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

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

680 To determine the normal working days for a position under
681 paragraph (a) of this subsection, the employer shall determine the
682 required number of working days for the position on a full-time
683 basis and the equivalent number of hours representing the
684 full-time position. The retiree then may work up to one-half
685 (1/2) of the required number of working days or up to one-half
686 (1/2) of the equivalent number of hours and receive up to one-half
687 (1/2) of the salary for the position. In the case of employment
688 with multiple employers, the limitation shall equal one-half (1/2)
689 of the number of days or hours for a single full-time position.

690 Notice shall be given in writing to the executive director,
691 setting forth the facts upon which the employment is being made,
692 and the notice shall be given within five (5) days from the date
693 of employment and also from the date of termination of the
694 employment.

695 (5) Any member may continue in municipal or county elected
696 office or be elected to a municipal or county office, provided
697 that the person:

698 (a) Files annually, in writing, in the office of the
699 employer and the office of the executive director of the system
700 before the person takes office or as soon as possible after
701 retirement, a waiver of all salary or compensation and elects to
702 receive in lieu of that salary or compensation a retirement
703 allowance as provided in this section, in which event no salary or
704 compensation shall thereafter be due or payable for those
705 services; however, any such officer or employee may receive, in
706 addition to the retirement allowance, office expense allowance,
707 mileage or travel expense authorized by any statute of the State
708 of Mississippi; or

709 (b) Elects to receive compensation for that elective
710 office in an amount not to exceed twenty-five percent (25%) of the
711 retiree's average compensation. As used in this paragraph, the
712 term "compensation" shall not include office expense allowance,
713 mileage or travel expense authorized by a statute of the State of
714 Mississippi. In order to receive compensation as allowed in this
715 paragraph, the member shall file annually, in writing, in the
716 office of the employer and the office of the executive director of
717 the system, an election to receive, in addition to a retirement
718 allowance, compensation as allowed in this paragraph.

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

721 37-19-7. (1) This section shall be known and may be cited
722 as the Mississippi "Teacher Opportunity Program (TOP)." The

723 allowance in * * * the Mississippi Adequate Education Program for
 724 teachers' salaries in each county and separate school district
 725 shall be determined and paid in accordance with the scale for
 726 teachers' salaries as provided in this subsection. For teachers
 727 holding the following types of licenses or the equivalent as
 728 determined by the State Board of Education, and the following
 729 number of years of teaching experience, the scale shall be as
 730 follows:

731 * * *

732 **2004-2005 School Year**

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

734	AAAA.....	\$ 31,775.00
735	AAA.....	30,850.00
736	AA.....	29,925.00
737	A.....	28,000.00

738 **25 or More Years of Teaching Experience**

739	AAAA.....	\$ 33,775.00
740	AAA.....	32,850.00
741	AA.....	31,925.00
742	A.....	30,000.00

743 The State Board of Education shall revise the salary scale
 744 prescribed above for the 2004-2005 school year to conform to any
 745 adjustments made to the salary scale in prior fiscal years due to
 746 revenue growth over and above five percent (5%). For each one
 747 percent (1%) that the Sine Die General Fund Revenue Estimate
 748 Growth exceeds five percent (5%) for fiscal year 2005, as
 749 certified by the Legislative Budget Office to the State Board of
 750 Education and subject to specific appropriation therefor by the
 751 Legislature, the State Board of Education shall revise the salary
 752 scale to provide an additional one percent (1%) across the board
 753 increase in the base salaries for each type of license.

754 **2005-2006 School Year and School Years Thereafter**

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

756	AAAA.....	\$ 34,000.00
757	AAA.....	33,000.00
758	AA.....	32,000.00
759	A.....	30,000.00

25 or More Years of Teaching Experience

761	AAAA.....	\$ 36,000.00
762	AAA.....	35,000.00
763	AA.....	34,000.00
764	A.....	32,000.00

765 The State Board of Education shall revise the salary scale
766 prescribed above for the 2005-2006 school year to conform to any
767 adjustments made to the salary scale in prior fiscal years due to
768 revenue growth over and above five percent (5%). For each one
769 percent (1%) that the Sine Die General Fund Revenue Estimate
770 Growth exceeds five percent (5%) for fiscal year 2006, as
771 certified by the Legislative Budget Office to the State Board of
772 Education and subject to specific appropriation therefor by the
773 Legislature, the State Board of Education shall revise the salary
774 scale to provide an additional one percent (1%) across the board
775 increase in the base salaries for each type of license.

776 It is the intent of the Legislature that any state funds made
777 available for salaries of licensed personnel in excess of the
778 funds paid for such salaries for the 1986-1987 school year shall
779 be paid to licensed personnel pursuant to a personnel appraisal
780 and compensation system implemented by the State Board of
781 Education. The State Board of Education shall have the authority
782 to adopt and amend rules and regulations as are necessary to
783 establish, administer and maintain the system.

784 All teachers employed on a full-time basis shall be paid a
785 minimum salary in accordance with the above scale. However, no
786 school district shall receive any funds under this section for any
787 school year during which the local supplement paid to any
788 individual teacher shall have been reduced to a sum less than that

789 paid to that individual teacher for performing the same duties
790 from local supplement during the immediately preceding school
791 year. The amount actually spent for the purposes of group health
792 and/or life insurance shall be considered as a part of the
793 aggregate amount of local supplement but shall not be considered a
794 part of the amount of individual local supplement.

795 * * *

796 **2004-2005 School Year Annual Increment**

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

802 For teachers holding a Class AAA license, the minimum base
803 pay specified in this subsection shall be increased by the sum of
804 Six Hundred Seventy-five Dollars (\$675.00) for each year of
805 teaching experience possessed by the person holding such license
806 until such person shall have twenty-five (25) years of teaching
807 experience.

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

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

818 **2005-2006 School Year**

819 **and School Years Thereafter Annual Increments**

820 For teachers holding a Class AAAA license, the minimum base
821 pay specified in this subsection shall be increased by the sum of

822 Seven Hundred Seventy Dollars (\$770.00) for each year of teaching
823 experience possessed by the person holding such license until such
824 person shall have twenty-five (25) years of teaching experience.

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

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

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

840 The level of professional training of each teacher to be used
841 in establishing the salary allotment for the teachers for each
842 year shall be determined by the type of valid teacher's license
843 issued to those teachers on or before October 1 of the current
844 school year.

845 (2) (a) The following employees shall receive an annual
846 salary supplement in the amount of Six Thousand Dollars
847 (\$6,000.00), plus fringe benefits, in addition to any other
848 compensation to which the employee may be entitled:

849 (i) Any licensed teacher who has met the
850 requirements and acquired a Master Teacher certificate from the
851 National Board for Professional Teaching Standards and who is
852 employed by a local school board or the State Board of Education
853 as a teacher and not as an administrator. Such teacher shall
854 submit documentation to the State Department of Education that the

855 certificate was received prior to October 15 in order to be
856 eligible for the full salary supplement in the current school
857 year, or the teacher shall submit such documentation to the State
858 Department of Education prior to February 15 in order to be
859 eligible for a prorated salary supplement beginning with the
860 second term of the school year.

861 (ii) Any licensed school counselor who has met the
862 requirements and acquired a National Certified School Counselor
863 (NCSC) endorsement from the National Board of Certified Counselors
864 and who is employed by a local school board or the State Board of
865 Education as a counselor and not as an administrator. Such
866 licensed school counselor shall submit documentation to the State
867 Department of Education that the endorsement was received prior to
868 October 15 in order to be eligible for the full salary supplement
869 in the current school year, or the licensed school counselor shall
870 submit such documentation to the State Department of Education
871 prior to February 15 in order to be eligible for a prorated salary
872 supplement beginning with the second term of the school year.

873 However, the salary supplement authorized under this item shall be
874 discontinued two (2) years after the date on which the National
875 Board for Professional Teaching Standards offers a certification
876 process for a Master Teacher certificate for school counselors,
877 and any school counselor receiving the salary supplement will be
878 required to complete the Master Teacher certificate process under
879 item (i) of this paragraph in order to continue receiving such
880 salary supplement.

881 (iii) Any licensed speech-language pathologist and
882 audiologist who has met the requirements and acquired a
883 Certificate of Clinical Competence from the American
884 Speech-Language-Hearing Association and who is employed by a local
885 school board. Such licensed speech-language pathologist and
886 audiologist shall submit documentation to the State Department of
887 Education that the certificate or endorsement was received prior

888 to October 15 in order to be eligible for the full salary
889 supplement in the current school year, or the licensed
890 speech-language pathologist and audiologist shall submit such
891 documentation to the State Department of Education prior to
892 February 15 in order to be eligible for a prorated salary
893 supplement beginning with the second term of the school year.
894 However, the salary supplement authorized under this item shall be
895 discontinued two (2) years after the date on which the National
896 Board for Professional Teaching Standards offers a certification
897 process for a Master Teacher certificate for school
898 speech-language pathologists and audiologists, and any school
899 speech-language pathologist and audiologist receiving the salary
900 supplement will be required to complete the Master Teacher
901 certificate process under item (i) of this paragraph in order to
902 continue receiving such salary supplement.

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

921 (c) All salary supplements, fringe benefits and process
922 reimbursement authorized under this subsection shall be paid
923 directly by the State Department of Education to the local school
924 district and shall be in addition to its minimum education program
925 allotments and not a part thereof in accordance with regulations
926 promulgated by the State Board of Education, and subject to
927 appropriation by the Legislature. Local school districts shall
928 not reduce the local supplement paid to any employee receiving
929 such salary supplement, and the employee shall receive any local
930 supplement to which employees with similar training and experience
931 otherwise are entitled.

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

943 (3) Any person who is receiving a retirement allowance from
944 the Public Employees' Retirement System who is employed as a
945 teacher after retirement under the authority of Section 25-11-126
946 shall be paid a salary, on an hourly basis, equal to eighty
947 percent (80%) of the amount of the highest annual salary that the
948 person received as a teacher before retirement. Those teachers
949 shall not be entitled to receive any supplements, annual
950 increments or other increases in salary during their time of
951 employment as a teacher after retirement.

952 **SECTION 6.** This act shall take effect and be in force from
953 and after July 1, 2004.