SENATE BILL NO. 2215

AN ACT TO CREATE NEW SECTION 25-11-126, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN PERSONS RECEIVING A RETIREMENT ALLOWANCE FROM THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE EMPLOYED AS TEACHERS IN THE PUBLIC SCHOOL SYSTEM AFTER THEIR RETIREMENT MAY RECEIVE A RETIREMENT ALLOWANCE DURING THEIR EMPLOYMENT AS TEACHERS IN ADDITION TO RECEIVING A TEACHER'S SALARY; TO PROVIDE CONDITIONS FOR SUCH EMPLOYMENT; TO AMEND SECTIONS 25-11-103, 25-11-105 AND 25-11-127, MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PROVISIONS OF THIS ACT; TO AMEND SECTION 37-19-7, MISSISSIPPI CODE OF 1972, TO PROVIDE CERTAIN LIMITATIONS ON THE TEACHERS' SALARIES OF THOSE PERSONS; AND FOR RELATED PURPOSES.

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

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

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

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

(b) The superintendent of schools of the employing school district certifies in writing to the Executive Director of the Public Employees Retirement System and the State Superintendent of Education that the retired member has the requisite experience, training and expertise for the position to
be filled and that no other qualified persons are available to fill the position;

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

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

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

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

(g) To fund the additional pension liability created by this act, the State Department of Education is directed to transfer to the Mississippi Public Employees' Retirement System the following funds: Minimum and adequate education program funds of local school districts that on or after July 1, 2001, hire retired members who retired on or after July 1, 2000, as teachers pursuant to the provisions of this act and other funds which would
have otherwise been payable to the agencies had the agencies not taken advantage of the provisions of this section.

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

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

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

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

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

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

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

(f) "Average compensation" shall mean the average of the four (4) highest years of earned compensation reported for an employee in a fiscal or calendar year period, or combination thereof which do not overlap, or the last forty-eight (48) consecutive months of earned compensation reported for an employee. The four (4) years need not be successive or joined years of service. In no case shall the average compensation so
determined to be in excess of One Hundred Twenty-five Thousand Dollars ($125,000.00). In computing the average compensation, any amount paid in a lump sum for personal leave shall be included in the calculation to the extent that such amount does not exceed an amount which is equal to thirty (30) days of earned compensation and to the extent that it does not cause the employees' earned compensation to exceed the maximum reportable amount specified in Section 25-11-103(k); provided, however, that such thirty-day limitation shall not prevent the inclusion in the calculation of leave earned under federal regulations prior to July 1, 1976, and frozen as of that date as referred to in Section 25-3-99. Only the amount of lump sum pay for personal leave due and paid upon the death of a member attributable for up to one hundred fifty (150) days shall be used in the deceased member's average compensation calculation in determining the beneficiary's benefits. In computing the average compensation, no amounts shall be used which are in excess of the amount on which contributions were required and paid. If any member who is or has been granted any increase in annual salary or compensation of more than eight percent (8%) retires within twenty-four (24) months from the date that such increase becomes effective, then the board shall exclude that part of the increase in salary or compensation that exceeds eight percent (8%) in calculating that member's average compensation for retirement purposes. The board may enforce this provision by rule or regulation. However, increases in compensation in excess of eight percent (8%) per year granted within twenty-four (24) months of the date of retirement may be included in such calculation of average compensation if satisfactory proof is presented to the board showing that the increase in compensation was the result of an actual change in the position held or services rendered, or that such compensation increase was authorized by the State Personnel Board or was increased as a result of statutory enactment, and the employer
furnishes an affidavit stating that such increase granted within the last twenty-four (24) months was not contingent on a promise or agreement of the employee to retire. Nothing in Section 25-3-31 shall affect the calculation of the average compensation of any member for the purposes of this article. The average compensation of any member who retires before July 1, 1992, shall not exceed the annual salary of the Governor.

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

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

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

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

(k) "Earned compensation" shall mean the full amount
earned by an employee for a given pay period including any
maintenance furnished up to a maximum of One Hundred Twenty-five
Thousand Dollars ($125,000.00) per year, and proportionately for
less than one (1) year of service. The value of such maintenance
when not paid in money shall be fixed by the employing state
agency, and, in case of doubt, by the board of trustees as defined
in Section 25-11-15. In any case, earned compensation shall be
limited to the regular periodic compensation paid, exclusive of
litigation fees, bond fees, and other similar extraordinary
nonrecurring payments. In addition, any member in a covered
position, as defined by Public Employees' Retirement System laws
and regulations, who is also employed by another covered agency or
political subdivision shall have the earnings of that additional
employment reported to the Public Employees' Retirement System
regardless of whether the additional employment is sufficient in
itself to be a covered position. In the case of fee officials,
the net earnings from their office after deduction of expenses
shall apply, except that in no case shall earned compensation be
less than the total direct payments made by the state or
governmental subdivisions to the official, and employer and
employee contributions shall be paid thereon. In the case of
members of the state Legislature, all remuneration or amounts
paid, except mileage allowance, shall apply. The amount by which
an eligible employee's salary is reduced pursuant to a salary
reduction agreement authorized under Section 25-17-5 shall be
included as earned compensation under this paragraph, provided
this inclusion does not conflict with federal law, including
federal regulations and federal administrative interpretations
thereunder, pertaining to the Federal Insurance Contributions Act
or to Internal Revenue Code Section 125 cafeteria plans.
Compensation in addition to an employee's base salary that is paid
to the employee pursuant to the vacation and sick leave policies
of a municipality or other political subdivision of the state that
employs him which exceeds the maximums authorized by Section
25-3-91 et seq., shall be excluded from the calculation of earned
compensation under this article. The maximum salary applicable
for retirement purposes before July 1, 1992, shall be the salary
of the Governor. Nothing in Section 25-3-31 shall affect the
determination of the earned compensation of any member for the
purposes of this article.

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

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

(n) "Executive director" shall mean the secretary to
the board of trustees, as provided in Section 25-11-15(9), and the
administrator of the Public Employees' Retirement System and all
systems under the management of the board of trustees. Wherever
the term "Executive Secretary of the Public Employees' Retirement
System" or "executive secretary" appears in this article or in any
other provision of law, it shall be construed to mean the
Executive Director of the Public Employees' Retirement System.
(o) "Fiscal year" shall mean the period beginning on July 1 of any year and ending on June 30 of the next succeeding year.

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

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

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

(s) "Position" means any office or any employment in the state service, or two (2) or more of them, the duties of which call for services to be rendered by one (1) person, including positions jointly employed by federal and state agencies administering federal and state funds. The employer shall determine upon initial employment and during the course of employment of an employee who does not meet the criteria for coverage in the Public Employees' Retirement System based on the position held, whether the employee is or becomes eligible for coverage in the Public Employees' Retirement System based upon any other employment in a covered agency or political subdivision. If or when the employee meets the eligibility criteria for coverage in such other position, then the employer must withhold contributions and report wages from the noncovered position in accordance with the provisions for reporting of earned compensation. Failure to deduct and report those contributions shall not relieve the employee or employer of liability thereof. The board shall adopt such rules and regulations as necessary to implement and enforce this provision.

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

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

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

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

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

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

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

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

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

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

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

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

(a) All persons who shall become employees in the state service after January 31, 1953, and whose wages are subject to payroll taxes and are lawfully reported on IRS Form W-2, except

(i) those persons who are specifically excluded, (ii) those persons or as to whom election is provided in Articles 1 and 3, or
(iii) those persons who choose to receive or continue receiving a retirement allowance during their employment as teachers as authorized by Section 25-11-126, shall become members of the retirement system as a condition of their employment.

(b) All persons who shall become employees in the state service after January 31, 1953, except those specifically excluded or as to whom election is provided in Articles 1 and 3, unless they shall file with the board prior to the lapse of sixty (60) days of employment or sixty (60) days after the effective date of the cited articles, whichever is later, on a form prescribed by the board, a notice of election not to be covered by the membership of the retirement system and a duly executed waiver of all present and prospective benefits which would otherwise inure to them on account of their participation in the system, shall become members of the retirement system; provided, however, that no credit for prior service will be granted to members until they have contributed to Article 3 of the retirement system for a minimum period of at least four (4) years. Such members shall receive credit for services performed prior to January 1, 1953, in employment now covered by Article 3, but no credit shall be granted for retroactive services between January 1, 1953, and the date of their entry into the retirement system unless the employee pays into the retirement system both the employer's and the employee's contributions on wages paid him during the period from January 31, 1953, to the date of his becoming a contributing member, together with interest at the rate determined by the board of trustees. Members reentering after withdrawal from service shall qualify for prior service under the provisions of Section 25-11-117. From and after July 1, 1998, upon eligibility as noted above, the member may receive credit for such retroactive service provided:
(1) The member shall furnish proof satisfactory to the board of trustees of certification of such service from the covered employer where the services were performed; and

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

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

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

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

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

(f) Each political subdivision of the state and each instrumentality of the state or a political subdivision, or both, is hereby authorized to submit, for approval by the board of trustees, a plan for extending the benefits of this article to employees of any such political subdivision or instrumentality. Each such plan or any amendment to the plan for extending benefits thereof shall be approved by the board of trustees if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in Articles 1 and 3; however, upon approval of such plan or any such plan heretofore approved by the board of trustees, the approved plan shall not be subject to cancellation or termination by the political subdivision or instrumentality, except that any community hospital serving a municipality that joined the Public Employees' Retirement System as of November 1, 1956, to offer social security coverage for its employees and subsequently extended retirement annuity coverage to its employees as of December 1, 1965, may, upon documentation of extreme financial hardship, have future retirement annuity coverage cancelled or terminated at the discretion of the board of trustees. No such plan shall be approved unless:

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

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

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

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

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

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

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

C. Every political subdivision or instrumentality required to make payments under paragraph (f)(5)B hereof is authorized, in consideration of the employees' retention in or entry upon employment after enactment of Articles 1 and 3, to impose upon its employees, as to services which are covered by an approved plan, a contribution with respect to wages (as defined in Section 25-11-5) not exceeding the amount provided in Section 25-11-123(d) if such services constituted employment within the meaning of Articles 1 and 3, and to deduct the amount of such contribution from the wages as and when paid. Contributions so collected shall be paid into the contribution fund as partial discharge of the liability of such political subdivisions or instrumentalities under paragraph (f)(5)B hereof. Failure to deduct such contribution shall not relieve the employee or employer of liability thereof.

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

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

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

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

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

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

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

(k) Employees of a political subdivision or
instrumentality who were employed by such political subdivision or
instrumentality prior to an agreement between such entity and the
Public Employees' Retirement System to extend the benefits of this
article to its employees, and which agreement provides for the
establishment of retroactive service credit, and who have been
members of the retirement system and have remained contributors to
the retirement system for four (4) years, may receive credit for
such retroactive service with such political subdivision or
instrumentality, provided the employee and/or employer, as
provided under the terms of the modification of the joinder
agreement in allowing such coverage, pay into the retirement
system the employer's and employee's contributions on wages paid
the member during such previous employment, together with interest
or actuarial cost as determined by the board covering the period
from the date the service was rendered until the payment for the
credit for such service was made. Such wages shall be verified by
the Social Security Administration or employer payroll records.

Effective July 1, 1998, upon eligibility as noted above, a member
may receive credit for such retroactive service with such
political subdivision or instrumentality provided:

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

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

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

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

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

II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP

The following classes of employees and officers shall not become members of this retirement system, any other provisions of Articles 1 and 3 to the contrary notwithstanding:
(a) Patient or inmate help in state charitable, penal or correctional institutions;
(b) Students of any state educational institution employed by any agency of the state for temporary, part-time or intermittent work;
(c) Participants of Comprehensive Employment and Training Act of 1973 (CETA) being Public Law 93-203, who enroll on or after July 1, 1979.

III. TERMINATION OF MEMBERSHIP

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

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

25-11-127. (1) No person who is being paid a retirement allowance or a pension after retirement under this article shall be employed or paid for any service by the State of Mississippi, except as provided in this section or in Section 25-11-126. This section shall not apply to any pensioner who has been elected to public office after retirement, nor to any person employed because of special knowledge or experience. This section shall not be construed to mean that any person employed or elected under the above exceptions shall become a member under Article 3 of the retirement system, nor shall any retiree of this retirement system who is reemployed or is reelected to office after retirement continue to draw retirement benefits while so reemployed or reelected except those persons who choose to continue receiving a retirement allowance during their employment as teachers as authorized by Section 25-11-126.

(2) Any person who has been retired under the provisions of Articles 1 and 3 and who is later reemployed in service covered by this article shall cease to receive benefits under this article.
unless he chooses to continue receiving a retirement allowance
during his employment as a teacher as authorized by Section
25-11-126, and the person shall again become a contributing member
of the retirement system. When the person retires again, if he
has been a contributing member of the retirement system during his
reemployment and his reemployment exceeds six (6) months, he shall
have his or her benefit recomputed, including service after again
becoming a member, provided that the total retirement allowance
paid to the retired member in his or her previous retirement shall
be deducted from the member's retirement reserve and taken into
consideration in recalculating the retirement allowance under a
new option selected.

(3) Nothing contained in this section shall be construed as
prohibiting any county or city not a member of the Public
Employees' Retirement System from employing persons up to the age
of seventy-three (73). In addition, through June 30, 1988,
nothing contained in this section shall be construed as
prohibiting any governmental unit that is a member from employing
persons up to the age of seventy-three (73) who are not eligible
for membership at the time of employment under Article 3.

(4) The board of trustees of the retirement system shall
have the right to prescribe rules and regulations for carrying out
the provisions of this section.

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

(a) For a period of time not to exceed one-half (1/2)
of the normal working days for the position in any fiscal year
during which the retiree will receive no more than one-half (1/2)
of the salary in effect for the position at the time of
employment, or
(b) For a period of time in any fiscal year sufficient in length to permit a retiree to earn not in excess of twenty-five percent (25%) of retiree's average compensation.

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

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

(6) Any member who has attained seventy (70) years of age and who has forty (40) or more years of creditable service may continue in office or employment or be reemployed or elected, provided that the person files annually, in writing, in the office of the employer and the office of the executive director of the system before those services, a waiver of all salary or compensation and elects to receive in lieu of that salary or compensation a retirement allowance as provided in this section, in which event no salary or compensation shall thereafter be due or payable for those services. However, any such officer or employee may receive, in addition to the retirement allowance, any per diem, office expense allowance, mileage or travel expense authorized by any statute of the State of Mississippi.

(7) Any member may continue in municipal or county office or employment or be reemployed or elected in a municipality or
county, provided that the person files annually, in writing, in
the office of the employer and the office of the executive
director of the system before those services, a waiver of all
salary or compensation and elects to receive in lieu of that
salary or compensation a retirement allowance as provided in this
section, in which event no salary or compensation shall thereafter
be due or payable for those services. However, any such officer
or employee may receive, in addition to the retirement allowance,
any per diem, office expense allowance, mileage or travel expense
authorized by any statute of the State of Mississippi.

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

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

<table>
<thead>
<tr>
<th>2001-2002 School Year</th>
<th>Less Than 25 Years of Teaching Experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAAA</td>
<td>$ 26,290.00</td>
</tr>
<tr>
<td>AAA</td>
<td>$ 25,440.00</td>
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<tr>
<td>AA</td>
<td>$ 24,590.00</td>
</tr>
<tr>
<td>A</td>
<td>$ 23,540.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>25 or More Years of Teaching Experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAAA</td>
</tr>
<tr>
<td>AAA</td>
</tr>
<tr>
<td>AA</td>
</tr>
<tr>
<td>A</td>
</tr>
</tbody>
</table>
2002-2003 School Year

Less Than 25 Years of Teaching Experience

<table>
<thead>
<tr>
<th>Type</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAAA</td>
<td>$27,850.00</td>
</tr>
<tr>
<td>AAA</td>
<td>$27,000.00</td>
</tr>
<tr>
<td>AA</td>
<td>$26,150.00</td>
</tr>
<tr>
<td>A</td>
<td>$24,700.00</td>
</tr>
</tbody>
</table>

25 or More Years of Teaching Experience

<table>
<thead>
<tr>
<th>Type</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAAA</td>
<td>$29,850.00</td>
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<tr>
<td>AAA</td>
<td>$29,000.00</td>
</tr>
<tr>
<td>AA</td>
<td>$28,150.00</td>
</tr>
<tr>
<td>A</td>
<td>$26,700.00</td>
</tr>
</tbody>
</table>

For each one percent (1%) that the Sine Die General Fund Revenue Estimate Growth exceeds five percent (5%) for fiscal year 2003, as certified by the Legislative Budget Office to the State Board of Education and subject to specific appropriation therefor by the Legislature, the State Board of Education shall revise the salary scale to provide an additional one percent (1%) across the board increase in the base salaries for each type of license.

2003-2004 School Year

Less Than 25 Years of Teaching Experience

<table>
<thead>
<tr>
<th>Type</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAAA</td>
<td>$29,550.00</td>
</tr>
<tr>
<td>AAA</td>
<td>$28,700.00</td>
</tr>
<tr>
<td>AA</td>
<td>$27,850.00</td>
</tr>
<tr>
<td>A</td>
<td>$26,000.00</td>
</tr>
</tbody>
</table>

25 or More Years of Teaching Experience

<table>
<thead>
<tr>
<th>Type</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAAA</td>
<td>$31,550.00</td>
</tr>
<tr>
<td>AAA</td>
<td>$30,700.00</td>
</tr>
<tr>
<td>AA</td>
<td>$29,850.00</td>
</tr>
<tr>
<td>A</td>
<td>$28,000.00</td>
</tr>
</tbody>
</table>

The State Board of Education shall revise the salary scale prescribed above for the 2003-2004 school year to conform to any adjustments made to the salary scale in the prior fiscal year due to revenue growth over and above five percent (5%). For each one
percent (1%) that the Sine Die General Fund Revenue Estimate Growth exceeds five percent (5%) for fiscal year 2004, as certified by the Legislative Budget Office to the State Board of Education and subject to specific appropriation therefor by the Legislature, the State Board of Education shall revise the salary scale to provide an additional one percent (1%) across the board increase in the base salaries for each type of license.

### 2004-2005 School Year

**Less Than 25 Years of Teaching Experience**

<table>
<thead>
<tr>
<th>License Level</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAA</td>
<td>$31,775.00</td>
</tr>
<tr>
<td>AA</td>
<td>$29,925.00</td>
</tr>
<tr>
<td>A</td>
<td>$28,000.00</td>
</tr>
</tbody>
</table>

**25 or More Years of Teaching Experience**

<table>
<thead>
<tr>
<th>License Level</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
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<td>$31,925.00</td>
</tr>
<tr>
<td>A</td>
<td>$30,000.00</td>
</tr>
</tbody>
</table>

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

### 2005-2006 School Year and School Years Thereafter

**Less Than 25 Years of Teaching Experience**

<table>
<thead>
<tr>
<th>License Level</th>
<th>Salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAA</td>
<td>$34,000.00</td>
</tr>
<tr>
<td>AA</td>
<td>$33,000.00</td>
</tr>
</tbody>
</table>
The State Board of Education shall revise the salary scale prescribed above for the 2005-2006 school year to conform to any adjustments made to the salary scale in prior fiscal years due to revenue growth over and above five percent (5%). For each one percent (1%) that the Sine Die General Fund Revenue Estimate Growth exceeds five percent (5%) for fiscal year 2006, as certified by the Legislative Budget Office to the State Board of Education and subject to specific appropriation therefor by the Legislature, the State Board of Education shall revise the salary scale to provide an additional one percent (1%) across the board increase in the base salaries for each type of license.

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

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

2001-2002 School Year Annual Increment

For teachers holding a Class AAAA license, the minimum base
pay specified in this subsection shall be increased by the sum of
Six Hundred Sixty Dollars ($660.00) for each year of teaching
experience possessed by the person holding such license until such
person shall have twenty-five (25) years of teaching experience.

For teachers holding a Class AAA license, the minimum base
pay specified in this subsection shall be increased by the sum of
Five Hundred Ninety-five Dollars ($595.00) for each year of
teaching experience possessed by the person holding such license
until such person shall have twenty-five (25) years of teaching
experience.

For teachers holding a Class AA license, the minimum base pay
specified in this subsection shall be increased by the sum of Five
Hundred Thirty Dollars ($530.00) for each year of teaching
experience possessed by the person holding such license until such
person shall have twenty-five (25) years of teaching experience.

For teachers holding a Class A license, the minimum base pay
specified in this subsection shall be increased by the sum of Four
Hundred Thirty-five Dollars ($435.00) for each year of teaching
experience possessed by the person holding such license until such
person shall have twenty-one (21) years of teaching experience.

2002-2003 School Year Annual Increment

For teachers holding a Class AAAA license, the minimum base
pay specified in this subsection shall be increased by the sum of
Six Hundred Eighty-five Dollars ($685.00) for each year of
teaching experience possessed by the person holding such license
until such person shall have twenty-five (25) years of teaching
experience.
For teachers holding a Class AAA license, the minimum base pay specified in this subsection shall be increased by the sum of Six Hundred Twenty Dollars ($620.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-five (25) years of teaching experience.

For teachers holding a Class AA license, the minimum base pay specified in this subsection shall be increased by the sum of Five Hundred Fifty-five Dollars ($555.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-five (25) years of teaching experience.

For teachers holding a Class A license, the minimum base pay specified in this subsection shall be increased by the sum of Four Hundred Forty-five Dollars ($445.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-two (22) years of teaching experience.

2003-2004 School Year Annual Increment

For teachers holding a Class AAAA license, the minimum base pay specified in this subsection shall be increased by the sum of Seven Hundred Ten Dollars ($710.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-five (25) years of teaching experience.

For teachers holding a Class AAA license, the minimum base pay specified in this subsection shall be increased by the sum of Six Hundred Forty-five Dollars ($645.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-five (25) years of teaching experience.

For teachers holding a Class AA license, the minimum base pay specified in this subsection shall be increased by the sum of Five Hundred Eighty Dollars ($580.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-five (25) years of teaching experience.

For teachers holding a Class A license, the minimum base pay specified in this subsection shall be increased by the sum of Four Hundred Fifty-five Dollars ($455.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-two (22) years of teaching experience.
Hundred Fifty-five Dollars ($455.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-three (23) years of teaching experience.

2004-2005 School Year Annual Increment

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

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

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

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

2005-2006 School Year and School Years Thereafter Annual Increments

For teachers holding a Class AAAA license, the minimum base pay specified in this subsection shall be increased by the sum of Seven Hundred Seventy Dollars ($770.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-five (25) years of teaching experience.
For teachers holding a Class AAA license, the minimum base pay specified in this subsection shall be increased by the sum of Seven Hundred Five Dollars ($705.00) for each year of teaching experience possessed by the person holding such license until such person shall have twenty-five (25) years of teaching experience.

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

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

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

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

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

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

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

(iii) Any licensed speech-language pathologist and audiologist who has met the requirements and acquired a Certificate of Clinical Competence from the American Speech-Language-Hearing Association and who is employed by a local school board. Such licensed speech-language pathologist and audiologist shall submit documentation to the State Department of Education that the certificate or endorsement was received prior to October 15 in order to be eligible for the full salary supplement in the current school year, or the licensed speech-language pathologist and audiologist shall submit such
documentation to the State Department of Education prior to February 15 in order to be eligible for a prorated salary supplement beginning with the second term of the school year. However, the salary supplement authorized under this item shall be discontinued two (2) years after the date on which the National Board for Professional Teaching Standards offers a certification process for a Master Teacher certificate for school speech-language pathologists and audiologists, and any school speech-language pathologist and audiologist receiving the salary supplement will be required to complete the Master Teacher certificate process under item (i) of this paragraph in order to continue receiving such salary supplement.

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

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

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

(3) Notwithstanding any provision in this section to the
contrary, any person who is receiving a retirement allowance from
the Public Employees' Retirement System who is employed as a
teacher after his retirement, and chooses to continue receiving
the retirement allowance during his employment as a teacher after
his retirement, as authorized by Section 25-11-126, shall be paid
a salary not less than the amount of the salary for teachers with
no experience filling similar positions, nor shall such salary
exceed eighty-five percent (85%) of the rate of compensation set
by the school district for teachers with comparable training and
years of experience filling similar positions. Once such
compensation is set, the retired member shall not be entitled to
any supplements, annual increments or other increases.
SECTION 6. This act shall take effect and be in force from and after July 1, 2002.