

By: Representative Stringer

To: Appropriations

## HOUSE BILL NO. 1459

1 AN ACT TO AMEND SECTIONS 25-11-109, 25-11-117, 25-11-133,  
2 25-13-7, 25-13-9, 25-13-17, 25-13-21, 25-13-33, 21-29-301,  
3 21-29-305 AND 21-29-317, MISSISSIPPI CODE OF 1972, TO REVISE  
4 CERTAIN PROVISIONS OF LAW REGARDING THE PUBLIC EMPLOYEES'  
5 RETIREMENT SYSTEM, THE MISSISSIPPI HIGHWAY SAFETY PATROL  
6 RETIREMENT SYSTEM AND MUNICIPAL RETIREMENT SYSTEMS; TO PROVIDE  
7 THAT MEMBERS OF SUCH SYSTEMS WHOSE MEMBERSHIP SERVICE IS  
8 INTERRUPTED AS A RESULT OF CERTAIN QUALIFIED MILITARY SERVICE MAY  
9 RECEIVE CREDIT FOR SUCH SERVICE UNDER CERTAIN CIRCUMSTANCES; TO  
10 PROVIDE THAT THE ONLY QUALIFIED BENEFICIARY WHO IS ELIGIBLE TO  
11 ROLLOVER A REFUND OF ACCUMULATED CONTRIBUTIONS INTO AN ELIGIBLE  
12 RETIREMENT PLAN OR INDIVIDUAL RETIREMENT ACCOUNT IS THE SPOUSE OF  
13 A MEMBER; TO REMOVE REFERENCES TO A PROVISION OF THE INTERNAL  
14 REVENUE CODE THAT HAS BEEN REPEALED; TO PROVIDE THAT IN THE EVENT  
15 OF TERMINATION OF A MUNICIPAL RETIREMENT SYSTEM, ALL MEMBERS OF  
16 SUCH SYSTEM AT THE TIME OF TERMINATION SHALL BE DEEMED TO HAVE A  
17 CERTAIN VESTED RIGHT TO BENEFITS; TO CREATE A NEW CODE SECTION TO  
18 BE CODIFIED AS SECTION 21-29-316, MISSISSIPPI CODE OF 1972, TO  
19 AUTHORIZE MEMBERS OF MUNICIPAL RETIREMENT PLANS AND THE SPOUSES OF  
20 SUCH PERSONS WHO ARE ELIGIBLE BENEFICIARIES TO HAVE AN ELIGIBLE  
21 ROLLOVER DISTRIBUTION OF ACCUMULATED CONTRIBUTIONS PAID DIRECTLY  
22 TO AN ELIGIBLE RETIREMENT PLAN OR INDIVIDUAL RETIREMENT ACCOUNT;  
23 AND TO AUTHORIZE THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES'  
24 RETIREMENT SYSTEM TO ACCEPT AN ELIGIBLE ROLLOVER DISTRIBUTION OR A  
25 DIRECT TRANSFER OF FUNDS FROM ANOTHER QUALIFIED PLAN IN PAYMENT OF  
26 ALL OR A PORTION OF THE COST TO REPAY A REFUND AS PERMITTED IN A  
27 MUNICIPAL RETIREMENT PLAN; AND FOR RELATED PURPOSES.

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

29 SECTION 1. Section 25-11-109, Mississippi Code of 1972, is  
30 amended as follows:

31 25-11-109. (1) Under such rules and regulations as the  
32 board of trustees shall adopt, each person who becomes a member of  
33 this retirement system, as provided in Section 25-11-105, on or  
34 prior to July 1, 1953, or who becomes a member and contributes to  
35 the system for a minimum period of four (4) years, shall receive  
36 credit for all state service rendered before February 1, 1953. To  
37 receive such credit, such member shall file a detailed statement

38 of all services as an employee rendered by him in the state  
39 service before February 1, 1953. For any member who joined the  
40 system after July 1, 1953, any creditable service for which the  
41 member is not required to make contributions shall not be credited  
42 to the member until the member has contributed to the system for a  
43 minimum period of at least four (4) years.

44 (2) In the computation of membership service or prior  
45 service under the provisions of this article, the total months of  
46 accumulative service during any fiscal year shall be calculated in  
47 accordance with the schedule as follows: ten (10) or more months  
48 of creditable service during any fiscal year shall constitute a  
49 year of creditable service; seven (7) months to nine (9) months  
50 inclusive, three-quarters (3/4) of a year of creditable service;  
51 four (4) months to six (6) months inclusive, one-half-year of  
52 creditable service; one (1) month to three (3) months inclusive,  
53 one-quarter (1/4) of a year of creditable service. In no case  
54 shall credit be allowed for any period of absence without  
55 compensation except for disability while in receipt of a  
56 disability retirement allowance, nor shall less than fifteen (15)  
57 days of service in any month, or service less than the equivalent  
58 of one-half (1/2) of the normal working load for the position and  
59 less than one-half (1/2) of the normal compensation for the  
60 position in any month, constitute a month of creditable service,  
61 nor shall more than one (1) year of service be creditable for all  
62 services rendered in any one (1) fiscal year; provided that for a  
63 school employee, substantial completion of the legal school term  
64 when and where the service was rendered shall constitute a year of  
65 service credit for both prior service and membership service. Any  
66 state or local elected official shall be deemed a full-time  
67 employee for the purpose of creditable service for prior service  
68 or membership service. However, an appointed or elected official  
69 compensated on a per diem basis only shall not be allowed  
70 creditable service for terms of office.

71 In the computation of any retirement allowance or any annuity  
72 or benefits provided in this article, any fractional period of  
73 service of less than one (1) year shall be taken into account and  
74 a proportionate amount of such retirement allowance, annuity or  
75 benefit shall be granted for any such fractional period of  
76 service.

77 In the computation of unused leave for creditable service  
78 authorized in Section 25-11-103, the following shall govern:  
79 twenty-one (21) days of unused leave shall constitute one (1)  
80 month of creditable service and in no case shall credit be allowed  
81 for any period of unused leave of less than fifteen (15) days.  
82 The number of months of unused leave shall determine the number of  
83 quarters or years of creditable service in accordance with the  
84 above schedule for membership and prior service. In order for the  
85 member to receive creditable service for the number of days of  
86 unused leave, the system must receive certification from the  
87 governing authority.

88 For the purpose of this subsection, for members of the system  
89 who are elected officers and who retire on or after July 1, 1987,  
90 the following shall govern:

91 (a) For service prior to July 1, 1984, the members  
92 shall receive credit for leave (combined personal and major  
93 medical) for service as an elected official prior to that date at  
94 the rate of thirty (30) days per year.

95 (b) For service on and after July 1, 1984, the member  
96 shall receive credit for personal and major medical leave  
97 beginning July 1, 1984, at the rates authorized in Sections  
98 25-3-93 and 25-3-95, computed as a full-time employee.

99 (3) Subject to the above restrictions and to such other  
100 rules and regulations as the board may adopt, the board shall  
101 verify, as soon as practicable after the filing of such statements  
102 of service, the services therein claimed.

103           (4) Upon verification of the statement of prior service, the  
104 board shall issue a prior service certificate certifying to each  
105 member the length of prior service for which credit shall have  
106 been allowed on the basis of his statement of service. So long as  
107 membership continues, a prior service certificate shall be final  
108 and conclusive for retirement purposes as to such service,  
109 provided that any member may within five (5) years from the date  
110 of issuance or modification of such certificate request the board  
111 of trustees to modify or correct his prior service certificate.  
112 Any modification or correction authorized shall only apply  
113 prospectively.

114           When membership ceases, such prior service certificates shall  
115 become void. Should the employee again become a member, he shall  
116 enter the system as an employee not entitled to prior service  
117 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
118 25-11-117.

119           (5) Creditable service at retirement, on which the  
120 retirement allowance of a member shall be based, shall consist of  
121 the membership service rendered by him since he last became a  
122 member, and also, if he has a prior service certificate which is  
123 in full force and effect, the amount of the service certified on  
124 his prior service certificate.

125           (6) Anything in this article to the contrary  
126 notwithstanding, any member who served on active duty in the Armed  
127 Forces of the United States, or who served in maritime service  
128 during periods of hostility in World War II, shall be entitled to  
129 creditable service at no cost for his service on active duty in  
130 the Armed Forces or in such maritime service, provided he entered  
131 state service after his discharge from the Armed Forces or entered  
132 state service after he completed such maritime service. The  
133 maximum period for such creditable service for all military  
134 service as defined in this subsection (6) shall not exceed four  
135 (4) years unless positive proof can be furnished by such person

136 that he was retained in the Armed Forces during World War II or in  
137 maritime service during World War II by causes beyond his control  
138 and without opportunity of discharge. The member shall furnish  
139 proof satisfactory to the board of trustees of certification of  
140 military service or maritime service records showing dates of  
141 entrance into active duty service and the date of discharge. From  
142 and after July 1, 1993, no creditable service shall be granted for  
143 any military service or maritime service to a member who qualifies  
144 for a retirement allowance in another public retirement system  
145 administered by the Board of Trustees of the Public Employees'  
146 Retirement System based in whole or in part on such military or  
147 maritime service. In no case shall the member receive creditable  
148 service if the member received a dishonorable discharge from the  
149 Armed Forces of the United States.

150       (7) (a) Any member of the Public Employees' Retirement  
151 System whose membership service is interrupted as a result of  
152 qualified military service within the meaning of Section 414(u)(5)  
153 of the Internal Revenue Code, and who has received the maximum  
154 service credit available under subsection (6) of this section,  
155 shall receive creditable service for the period of qualified  
156 military service that does not qualify as creditable service under  
157 subsection (6) of this section upon reentering membership service  
158 if:

159               (i) The member pays the contributions he would  
160 have made to the retirement system if he had remained in  
161 membership service for the period of qualified military service  
162 based upon his salary at the time his membership service was  
163 interrupted;

164               (ii) The member returns to membership service  
165 within ninety (90) days of the end of his qualified military  
166 service; and

167               (iii) The member furnishes proof satisfactory to  
168 the board of trustees of certification of military service showing

169 the date of entrance into qualified service and the date of  
170 discharge as well as proof that the member has returned to active  
171 employment within the time specified.

172 (b) The payments required to be made in paragraph  
173 (a)(i) of this subsection may be made over a period beginning with  
174 the date of return to membership service and not exceeding three  
175 (3) times the member's qualified military service; however, in no  
176 event may such period exceed fifteen (15) years.

177 (c) The employer at the time the member's service was  
178 interrupted and to which employment the member returns shall pay  
179 the contributions it would have paid into the retirement system  
180 for that period based on the member's salary at the time the  
181 service was interrupted.

182 (8) Any member of the Public Employees' Retirement System  
183 who has at least four (4) years of membership service credit shall  
184 be entitled to receive a maximum of five (5) years creditable  
185 service for service rendered in another state as a public employee  
186 of such other state, or a political subdivision, public education  
187 system or other governmental instrumentality thereof, or service  
188 rendered as a teacher in American overseas dependent schools  
189 conducted by the Armed Forces of the United States for children of  
190 citizens of the United States residing in areas outside the  
191 continental United States, provided that:

192 (a) The member shall furnish proof satisfactory to the  
193 board of trustees of certification of such services from the  
194 state, public education system, political subdivision or  
195 retirement system of the state where the services were performed  
196 or the governing entity of the American overseas dependent school  
197 where the services were performed; and

198 (b) The member is not receiving or will not be entitled  
199 to receive from the public retirement system of the other state or  
200 from any other retirement plan, including optional retirement

201 plans, sponsored by the employer, a retirement allowance including  
202 such services; and

203           (c) The member shall pay to the retirement system on  
204 the date he or she is eligible for credit for such out-of-state  
205 service or at any time thereafter prior to date of retirement the  
206 actuarial cost as determined by the actuary for each year of  
207 out-of-state creditable service. The provisions of this  
208 subsection are subject to the limitations of Section 415 of the  
209 Internal Revenue Code and regulations promulgated thereunder.

210       (9) Any member of the Public Employees' Retirement System  
211 who has at least four (4) years of membership service credit and  
212 who receives, or has received, professional leave without  
213 compensation for professional purposes directly related to the  
214 employment in state service shall receive creditable service for  
215 the period of professional leave without compensation provided:

216           (a) The professional leave is performed with a public  
217 institution or public agency of this state, or another state or  
218 federal agency;

219           (b) The employer approves the professional leave  
220 showing the reason for granting the leave and makes a  
221 determination that the professional leave will benefit the  
222 employee and employer;

223           (c) Such professional leave shall not exceed two (2)  
224 years during any ten-year period of state service;

225           (d) The employee shall serve the employer on a  
226 full-time basis for a period of time equivalent to the  
227 professional leave period granted immediately following the  
228 termination of the leave period;

229           (e) The contributing member shall pay to the retirement  
230 system the actuarial cost as determined by the actuary for each  
231 year of professional leave. The provisions of this subsection are  
232 subject to the regulations of the Internal Revenue Code  
233 limitations;

234 (f) Such other rules and regulations consistent  
235 herewith as the board may adopt and in case of question, the board  
236 shall have final power to decide the questions.

237 Any actively contributing member participating in the School  
238 Administrator Sabbatical Program established in Section 37-9-77  
239 shall qualify for continued participation under this subsection  
240 (8).

241 (10) Any member of the Public Employees' Retirement System  
242 who has at least four (4) years of credited membership service  
243 shall be entitled to receive a maximum of ten (10) years  
244 creditable service for:

245 (a) Any service rendered as an employee of any  
246 political subdivision of this state, or any instrumentality  
247 thereof, which does not participate in the Public Employees'  
248 Retirement System; or

249 (b) Any service rendered as an employee of any  
250 political subdivision of this state, or any instrumentality  
251 thereof, which participates in the Public Employees' Retirement  
252 System but did not elect retroactive coverage; or

253 (c) Any service rendered as an employee of any  
254 political subdivision of this state, or any instrumentality  
255 thereof, for which coverage of the employee's position was or is  
256 excluded; provided that the member pays into the retirement system  
257 the actuarial cost as determined by the actuary for each year, or  
258 portion thereof, of such service. Payment for such service may be  
259 made in increments of one-quarter-year of creditable service.  
260 After a member has made full payment to the retirement system for  
261 all or any part of such service, the member shall receive  
262 creditable service for the period of such service for which full  
263 payment has been made to the retirement system.

264 SECTION 2. Section 25-11-117, Mississippi Code of 1972, is  
265 amended as follows:



266           25-11-117. (1) A member may be paid a refund of the amount  
267 of accumulated contributions to the credit of the member in the  
268 annuity savings account provided the member has withdrawn from  
269 state service and further provided the member has not returned to  
270 state service on the date the refund of the accumulated  
271 contributions would be paid. Such refund of the contributions to  
272 the credit of the member in the annuity savings account shall be  
273 paid within ninety (90) days from receipt in the office of the  
274 retirement system of the properly completed form requesting such  
275 payment. In the event of death prior to retirement of any member  
276 whose spouse and/or children are not entitled to a retirement  
277 allowance, the accumulated contributions to the credit of the  
278 deceased member in the annuity savings account shall be paid to  
279 the designated beneficiary on file in writing in the office of  
280 executive director of the board of trustees within ninety (90)  
281 days from receipt of a properly completed form requesting such  
282 payment. If there is no such designated beneficiary on file for  
283 such deceased member in the office of the system, upon the filing  
284 of a proper request with the board, the contributions to the  
285 credit of the deceased member in the annuity savings account shall  
286 be refunded pursuant to Section 25-11-117.1(1). The payment of  
287 the refund shall discharge all obligations of the retirement  
288 system to the member on account of any creditable service rendered  
289 by the member prior to the receipt of the refund. By the  
290 acceptance of the refund, the member shall waive and relinquish  
291 all accrued rights in the system.

292           (2) Pursuant to the Unemployment Compensation Amendments of  
293 1992 (Public Law 102-318 (UCA)), a member or the spouse of a  
294 member who is an eligible beneficiary entitled to a refund under  
295 this section may elect on a form prescribed by the board under  
296 rules and regulations established by the board, to have an  
297 eligible rollover distribution of accumulated contributions  
298 payable under this section paid directly to an eligible retirement

299 plan or individual retirement account. If the member or the  
300 spouse of a member who is an eligible beneficiary makes such  
301 election and specifies the eligible retirement plan or individual  
302 retirement account to which such distribution is to be paid, the  
303 distribution will be made in the form of a direct  
304 trustee-to-trustee transfer to the specified eligible retirement  
305 plan. Flexible rollovers under this subsection shall not be  
306 considered assignments under Section 25-11-129.

307 (3) If any person who has received a refund reenters the  
308 state service and again becomes a member of the system, the member  
309 may repay all or part of the amounts previously received as a  
310 refund, together with regular interest covering the period from  
311 the date of refund to the date of repayment; provided, however,  
312 that the amounts that are repaid by the member and the creditable  
313 service related thereto shall not be used in any benefit  
314 calculation or determination until the member has remained a  
315 contributor to the system for a period of at least four (4) years  
316 subsequent to such member's reentry into state service. Repayment  
317 for such time shall be made in increments of not less than  
318 one-quarter (1/4) year of creditable service beginning with the  
319 most recent service for which refund has been made. Upon the  
320 repayment of all or part of such refund and interest, the member  
321 shall again receive credit for the period of creditable service  
322 for which full repayment has been made to the system.

323 SECTION 3. Section 25-11-133, Mississippi Code of 1972, is  
324 amended as follows:

325 25-11-133. (1) The maintenance of actuarial reserves for  
326 the various allowances and benefits under Articles 1 and 3, and  
327 the payment of all annuities, retirement allowances, refunds and  
328 other benefits granted hereunder are hereby made obligations of  
329 the employer's accumulation accounts. All income, interest and  
330 dividends derived from deposits and investments authorized by said

331 articles shall be used for the payment of the obligations of the  
332 system.

333 (2) In the event of the termination of the Public Employees'  
334 Retirement System established pursuant to the provisions of  
335 Section 25-11-101 et seq., all members of the system as of the  
336 date of termination of the system shall be deemed to have a vested  
337 right to benefits to the extent and in the same manner that rights  
338 would be vested under the statute existing as of the date of  
339 termination of the system, except that any member who, because of  
340 a termination of the system has not fulfilled the requirements for  
341 length of service, shall nonetheless be entitled to compensation  
342 as of the date that such member would otherwise be eligible, with  
343 such compensation to be computed on the basis of time actually a  
344 member of the service and compensation actually earned during the  
345 time a member, in the manner now provided by statute.

346 In the event of a deficit in the availability of funds for  
347 payment due under the provisions of the Public Employees'  
348 Retirement System, an appropriation shall hereinafter be made  
349 sufficient for the payment thereof as an obligation of the state.

350 (3) Notwithstanding any provisions of this section or this  
351 title to the contrary, the maximum annual retirement allowance  
352 attributable to the employer contributions payable by the system  
353 to a member shall be subject to the limitations set forth in  
354 Section 415 of the Internal Revenue Code and any regulations  
355 issued thereunder as applicable to governmental plans as such term  
356 is defined under Section 414(d) of the Internal Revenue  
357 Code. \* \* \*

358 (4) Notwithstanding any other provision of this plan, all  
359 distributions from this plan shall conform to the regulations  
360 issued under Section 401(a)(9) of the Internal Revenue Code,  
361 applicable to governmental plans, as defined in Section 414(d) of  
362 the Internal Revenue Code, including the incidental death benefit  
363 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.

364 Further, such regulations shall override any plan provision that  
365 is inconsistent with Section 401(a)(9) of the Internal Revenue  
366 Code.

367 (5) The actuarial assumptions used to convert a retirement  
368 allowance from the normal form of payment to an optional form of  
369 payment shall be an appendix to Article 3 and subject to approval  
370 by the board of trustees based upon certification by the actuary.

371 (6) Notwithstanding any other provision of this plan, the  
372 maximum compensation that can be considered for all plan purposes  
373 is One Hundred Fifty Thousand Dollars (\$150,000.00) per year,  
374 adjusted annually to reflect changes in the cost of living to  
375 conform to the regulations issued under Section 401(a)(17) of the  
376 Internal Revenue Code.

377 SECTION 4. Section 25-13-7, Mississippi Code of 1972, is  
378 amended as follows:

379 25-13-7. The Board of Trustees of the Public Employees'  
380 Retirement System, as created by Sections 25-11-1 through  
381 25-11-139, shall act as custodian of this disability and relief  
382 fund for members of the Mississippi Highway Safety Patrol; shall  
383 receive to the credit of such fund all \* \* \* appropriations and  
384 other funds available as an employer's contribution thereto from  
385 any source whatsoever; and the Highway Safety Patrol shall each  
386 month deduct from the salary of each member, as defined in Section  
387 25-13-3, five percent (5%) thereof, and shall pay the amount so  
388 deducted to the Board of Trustees of the Public Employees'  
389 Retirement System to be credited to the disability and relief fund  
390 for the members of the Mississippi Highway Safety Patrol.  
391 Provided, however, that the said board of trustees may,  
392 biennially, following March 18, 1977, vary the percentage of  
393 employee contribution on the basis of the liabilities of the  
394 retirement system for the various allowances and benefits as shown  
395 by actuarial valuation. From the funds credited to this account,  
396 the Board of Trustees of the Public Employees' Retirement System

397 shall pay retirements, disability benefits, survivors benefits,  
398 expenses and shall refund contributions as provided in this  
399 chapter. The said "disability and relief fund for the Mississippi  
400 Highway Safety Patrol" shall be maintained as a separate fund,  
401 separate from all other funds held by the Board of Trustees of the  
402 Public Employees' Retirement System of Mississippi and shall be  
403 used only for the payment of benefits provided for by this  
404 chapter, or amendments thereto.

405 SECTION 5. Section 25-13-9, Mississippi Code of 1972, is  
406 amended as follows:

407 25-13-9. (1) Upon application of a member or his employer,  
408 but in no event before termination of state service, any member  
409 who has not attained the age of fifty-five (55) years may be  
410 retired by the administrative board created by this chapter, not  
411 less than thirty (30) and not more than ninety (90) days next  
412 following the date of filing such application, on a disability  
413 retirement allowance, provided that the Medical Board for the  
414 Public Employees' Retirement System of Mississippi, after a  
415 medical examination, shall certify that he is mentally or  
416 physically incapacitated for the performance of duty, that such  
417 incapacity is likely to be permanent, and that such sickness or  
418 injury was caused or sustained as a direct result of duty in the  
419 Highway Safety Patrol after the effective date of this chapter.

420 Any former uniformed highway safety patrolman who has had not  
421 less than two (2) years of prior service with the Highway Safety  
422 Patrol and who was disabled by wounds or accident in line of duty,  
423 and who has returned to duty with the Highway Safety Patrol, and  
424 who becomes a member of the Highway Safety Patrol Retirement  
425 System with prior years service credits as provided in this  
426 chapter, may, if his disability from his previous wounds or  
427 accident received in line of duty returns and he again becomes  
428 totally and permanently disabled, receive full benefits as a  
429 disability retirant for service-connected disability.

430           Upon the application of a member or his employer, any member  
431 who is not yet eligible for service retirement benefits and who  
432 has had at least ten (10) years of creditable service may be  
433 retired by the administrative board, not less than thirty (30) and  
434 not more than ninety (90) days next following the date of filing  
435 such application, on disability retirement allowance, provided  
436 that the Medical Board of the Public Employees' Retirement System  
437 of Mississippi, after a medical examination, shall certify that he  
438 is mentally or physically incapacitated for the further  
439 performance of duty, that such incapacity is likely to be  
440 permanent, and that he should be retired. Such disability need  
441 not be service-connected.

442           (2) Upon retirement for disability, a member shall receive a  
443 disability benefit equal to fifty percent (50%) of his average  
444 salary for the two (2) years immediately preceding his retirement,  
445 but not less than any retirement benefits for which he may be  
446 eligible at the date he is granted disability.

447           (3) Once each year during the first five (5) years following  
448 retirement of a member on a disability retirement allowance, and  
449 once in every period of three (3) years thereafter, the  
450 administrative board may, and upon his application shall, require  
451 any disability beneficiary who has not yet attained the age of  
452 fifty-five (55) years to undergo a medical examination, such  
453 examination to be made at the place of residence of said  
454 beneficiary or other place mutually agreed upon, by the Medical  
455 Board of the Public Employees' Retirement System. Should any  
456 disability beneficiary who has not yet attained the age of  
457 fifty-five (55) years refuse to submit to any medical examination  
458 provided for herein, his allowance may be discontinued until his  
459 withdrawal of such refusal, and should his refusal continue for  
460 one (1) year all his rights in that part of the disability benefit  
461 provided by employer contributions shall be revoked by the  
462 administrative board.

463 (4) If the medical board reports and certifies to the  
464 administrative board that such disability beneficiary is engaged  
465 in, or is able to engage in, a gainful occupation paying more than  
466 the difference between his disability benefit and the average  
467 compensation, and if the administrative board concurs in such  
468 report, the disability benefit shall be reduced to an amount  
469 which, together with the amount earnable by him, shall equal the  
470 amount of his average compensation. If his earning capacity be  
471 later changed, the amount of the said benefit may be further  
472 modified; provided, that the revised benefit shall not exceed the  
473 amount originally granted nor an amount which, when added to the  
474 amount earnable by the beneficiary, equals the amount of his  
475 average compensation.

476 (5) Should a disability beneficiary under the age of  
477 fifty-five (55) years be restored to active service at a  
478 compensation not less than his average compensation, his  
479 disability benefit shall cease; he shall again become a member of  
480 the retirement system, and he shall contribute thereafter at the  
481 same rate he paid prior to disability. Any such prior service  
482 certificate on the basis of which his service was computed at the  
483 time of retirement shall be restored to full force and effect. In  
484 addition, upon his subsequent retirement he shall be credited with  
485 all creditable service as a member, including the period for which  
486 he was paid disability benefits.

487 SECTION 6. Section 25-13-17, Mississippi Code of 1972, is  
488 amended as follows:

489 25-13-17. (1) All persons who are covered under the terms  
490 of this chapter on the date on which this retirement system is  
491 established and who become members of the retirement system shall  
492 cease to be members under the provisions of Sections 25-11-101  
493 through 25-11-139 upon the effective date of this chapter, and  
494 shall become members of this retirement system with full credit  
495 for all prior service with the Highway Safety Patrol.

496       (2) In computing the period of service of a member of the  
497 Highway Safety Patrol, anything in this chapter to the contrary  
498 notwithstanding, any member who served on active duty in the Armed  
499 Forces of the United States, or who served in maritime service  
500 during periods of hostility in World War II, shall be entitled to  
501 creditable service at no cost for his service on active duty in  
502 the Armed Forces or in such maritime service, provided he entered  
503 state service after his discharge from the Armed Forces or entered  
504 state service after he completed such maritime service. The  
505 maximum period for such creditable service for all military  
506 service as defined in this subsection (2) shall not exceed four  
507 (4) years unless positive proof can be furnished by such person  
508 that he was retained in the Armed Forces during World War II or in  
509 maritime service during World War II, by causes beyond his control  
510 and without opportunity of discharge. The member shall furnish  
511 proof satisfactory to the Board of Trustees of the Public  
512 Employees' Retirement System of certification of military service  
513 or maritime service records showing dates of entrance into active  
514 duty service and the date of discharge. No creditable service  
515 shall be granted for any military service or maritime service to a  
516 member who qualifies for a retirement allowance in another public  
517 retirement system administered by the Board of Trustees of the  
518 Public Employees' Retirement System based in whole or in part on  
519 such military or maritime service. In no case shall the member  
520 receive creditable service if the member received a dishonorable  
521 discharge from the Armed Forces of the United States.

522       The credit for military service granted in this subsection  
523 shall apply to all persons who have retired from the Highway  
524 Patrol and who qualify for credit as outlined above, whether they  
525 retired before or after July 1, 2000; but this provision shall not  
526 operate to require any back payments of retirement.

527       (3) (a) Any member of the Mississippi Highway Safety Patrol  
528 Retirement System whose membership service is interrupted as a



529 result of qualified military service, within the meaning of  
530 Section 414(u)(5) of the Internal Revenue Code, and who has  
531 received the maximum service credit available under subsection (2)  
532 of this section, shall receive creditable service for the period  
533 of qualified military service that does not qualify as creditable  
534 service under subsection (2) of this section upon reentering  
535 membership service if:

536 (i) The member pays the contributions he would  
537 have made to the retirement system if he had remained in  
538 membership service for the period of qualified military service  
539 based upon his salary at the time his membership service was  
540 interrupted;

541 (ii) The member returns to membership service  
542 within ninety (90) days of the end of his qualified military  
543 service; and

544 (iii) The member furnishes proof satisfactory to  
545 the board of trustees of certification of military service showing  
546 the date of entrance into qualified service and the date of  
547 discharge as well as proof that the member has returned to active  
548 employment within the time specified.

549 (b) The payments required to be made in paragraph  
550 (a)(i) of this subsection may be made over a period beginning with  
551 the date of return to membership service and not exceeding three  
552 (3) times the member's qualified military service; provided,  
553 however, that in no event shall such period exceed fifteen (15)  
554 years.

555 (c) The employer at the time the member's service was  
556 interrupted and to which employment the member returns shall pay  
557 the contributions it would have paid into the retirement system  
558 for that period based on the member's salary at the time the  
559 service was interrupted.

560 SECTION 7. Section 25-13-21, Mississippi Code of 1972, is  
561 amended as follows:

562 25-13-21. In the event a highway patrolman ceases to work  
563 for the Highway Safety Patrol for any reason other than  
564 occupational disease contracted or for any accident sustained by  
565 the patrolman by reason of his service or discharge of his duty in  
566 the Highway Patrol, and if the highway patrolman is not eligible  
567 for retirement either for service or disability, he shall be  
568 refunded the amount of his total contribution under the provisions  
569 of this chapter, including any credit transferred to his account  
570 in this system from any other system, at his request; and should  
571 he die before retirement, such fund is to be refunded to any  
572 beneficiary he may name. If there is no surviving designated  
573 beneficiary, the contributions to the credit of the deceased  
574 member shall be refunded pursuant to Section 25-13-21.1(1).

575 Pursuant to the Unemployment Compensation Amendments of 1992  
576 (Public Law 102-318 (UCA)), a member or the spouse of a member who  
577 is an eligible beneficiary entitled to a refund under this section  
578 may elect on a form prescribed by the board under rules and  
579 regulations established by the board, to have an eligible rollover  
580 distribution of accumulated contributions payable under this  
581 section paid directly to an eligible retirement plan or individual  
582 retirement account. If the member or the spouse of a member who  
583 is an eligible beneficiary makes such election and specifies the  
584 eligible retirement plan or individual retirement account to which  
585 such distribution is to be paid, the distribution will be made in  
586 the form of a direct trustee-to-trustee transfer to the specified  
587 eligible retirement plan. Flexible rollovers under this  
588 subsection shall not be considered assignments under Section  
589 25-13-31.

590 If any highway patrolman who shall receive a refund reenters  
591 the service of the Highway Safety Patrol and again becomes a  
592 member of the system, he may repay all amounts previously received

593 by him as a refund, together with regular interest covering the  
594 period from the date of refund to the date of repayment; however,  
595 the amounts that are repaid by the member and the creditable  
596 service related thereto shall not be used in any benefit  
597 calculation or determination until the member has remained a  
598 contributor to the system for a period of at least five (5) years  
599 after such member's reentry into state service. Repayment for  
600 such time shall be made in increments of not less than one-quarter  
601 (1/4) year of creditable service beginning with the most recent  
602 service for which refund has been made. Upon the repayment of all  
603 or part of such refund and interest, the highway patrolman shall  
604 again receive credit for the period of creditable service for  
605 which full repayment has been made to the system.

606 SECTION 8. Section 25-13-33, Mississippi Code of 1972, is  
607 amended as follows:

608 25-13-33. (1) The maintenance of actuarial reserves for the  
609 various allowances and benefits under this chapter, and the  
610 payment of all annuities, retirement allowances, refunds and other  
611 benefits granted hereunder are hereby made obligation of the  
612 disability and relief fund. All income, interest and dividends  
613 derived from deposits and investments authorized by this chapter  
614 shall be used for the payment of the obligations of the system.

615 (2) In the event of the termination of the Mississippi  
616 Highway Safety Patrol Retirement System, established pursuant to  
617 the provisions of Section 25-13-1 et seq., Mississippi Code of  
618 1972, all members of the system as of the date of termination of  
619 the system, shall be deemed to have a vested right to benefits to  
620 the extent and in the same manner that rights would be vested  
621 under the statute existing as of the date of termination of the  
622 system; except that any member who, because of a termination of  
623 the system has not fulfilled the requirements for length of  
624 service, shall be entitled to compensation as of the date that  
625 such member would otherwise be eligible, with such compensation to

626 be computed on the basis of time actually a member of the service  
627 and compensation actually earned during the time as a member, in  
628 the manner now provided by statute.

629 In the event of a deficit in the availability of funds for  
630 payment due under the provisions of the Mississippi Highway Safety  
631 Patrol Retirement System, an appropriation shall hereinafter be  
632 made sufficient for the payment thereof as an obligation of the  
633 State of Mississippi.

634 (3) Notwithstanding any provisions of this section or  
635 chapter to the contrary, the maximum annual retirement allowance  
636 attributable to the employer contributions payable by the system  
637 to a member shall be subject to the limitations set forth in  
638 Section 415 of the Internal Revenue Code and any regulations  
639 issued thereunder as applicable to governmental plans as such term  
640 is defined under Section 414(d) of the Internal Revenue  
641 Code. \* \* \*

642 (4) Notwithstanding any other provision of this plan, all  
643 distributions from this plan shall conform to the regulations  
644 issued under Section 401(a)(9) of the Internal Revenue Code,  
645 applicable to governmental plans, as defined in Section 414(d) of  
646 the Internal Revenue Code, including the incidental death benefit  
647 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.  
648 Further, such regulations shall override any plan provision that  
649 is inconsistent with Section 401(a)(9) of the Internal Revenue  
650 Code.

651 (5) The actuarial assumptions used to convert a retirement  
652 allowance from the normal form of payment to an optional form of  
653 payment shall be an appendix to this chapter and subject to  
654 approval by the board of trustees based upon certification by the  
655 actuary.

656 (6) Notwithstanding any other provision of this plan, the  
657 maximum compensation that can be considered for all plan purposes  
658 is One Hundred Fifty Thousand Dollars (\$150,000.00) per year,

659 adjusted annually to reflect changes in the cost of living to  
660 conform to the regulations issued under Section 401(a)(17) of the  
661 Internal Revenue Code.

662 SECTION 9. Section 21-29-301, Mississippi Code of 1972, is  
663 amended as follows:

664 21-29-301. \* \* \*

665 (1) Any member of the municipal retirement systems whose  
666 membership service is interrupted as a result of qualified  
667 military service within the meaning of Section 414(u)(5) of the  
668 Internal Revenue Code, and who has received the maximum service  
669 credit available under Article 1, 3 or 5 of this chapter, shall  
670 receive creditable service for the period of qualified military  
671 service that does not qualify as creditable service under Article  
672 1, 3 or 5 of this chapter upon reentering membership service if:

673 (a) The member pays the contributions he would have made  
674 to the retirement system if he had remained in membership service  
675 for the period of qualified military service based upon his salary  
676 at the time his membership service was interrupted; and

677 (b) The member returns to membership service within  
678 ninety (90) days of the end of his qualified military service; and

679 (c) The member furnishes proof satisfactory to the  
680 board of trustees of certification of military service showing the  
681 date of entrance into qualified service and the date of discharge  
682 as well as proof that the member has returned to active employment  
683 within the time specified.

684 (2) The payments required to be made in subsection (1)(a) of  
685 this section may be made over a period beginning with the date of  
686 return to membership service and not exceeding three (3) times the  
687 member's qualified military service; however, in no event may such  
688 period exceed fifteen (15) years.

689 (3) The employer at the time the member's service was  
690 interrupted and to which employment the member returns shall pay  
691 the contributions it would have paid into the retirement system

692 for that period based on the member's salary at the time the  
693 service was interrupted.

694 SECTION 10. Section 21-29-305, Mississippi Code of 1972, is  
695 amended as follows:

696 21-29-305. Each employer shall pick up the member  
697 contributions required by Sections 21-29-17, 21-29-117 and  
698 21-29-219, Mississippi Code of 1972, for all compensation earned  
699 after January 1, 1989, and the contributions so picked up shall be  
700 treated as employer contributions in determining tax treatment  
701 under the United States Internal Revenue Code and the Mississippi  
702 Income Tax Code; however, each employer shall continue to withhold  
703 federal and state income taxes based upon such contributions until  
704 the Internal Revenue Service or the federal courts rule that,  
705 pursuant to Section 414(h) of the United States Internal Revenue  
706 Code, these contributions shall not be included as gross income of  
707 the member until such time as they are distributed or made  
708 available. The employer may pick up these contributions by a  
709 reduction in the cash salary of the member, or by an offset  
710 against a future salary increase, or by a combination of a  
711 reduction in salary and offset against a future salary increase.  
712 If member contributions are picked up they shall be treated for  
713 all purposes of the General Municipal Employees' Retirement  
714 Systems and Firemen's and Policemen's Disability Relief Funds  
715 under Articles 1, 3 and 5 of this chapter in the same manner and  
716 to the same extent as member contributions made prior to the date  
717 picked up.

718 Section 11. The following provision shall be codified as  
719 Section 21-29-316, Mississippi Code of 1972:

720 21-29-316. (1) Pursuant to the Unemployment Compensation  
721 Amendments of 1992 (Public Law 102-318 (UCA)), a member or the  
722 spouse of a member who is an eligible beneficiary entitled to a  
723 refund under Articles 1, 3 or 5 of this chapter may elect on a  
724 form prescribed by the board under rules and regulations

725 established by the board, to have an eligible rollover  
726 distribution of accumulated contributions payable under this  
727 section paid directly to an eligible retirement plan or individual  
728 retirement account. If the member or the spouse of a member who  
729 is an eligible beneficiary makes such election and specifies the  
730 eligible retirement plan or individual retirement account to which  
731 such distribution is to be paid, the distribution will be made in  
732 the form of a direct trustee-to-trustee transfer to the specified  
733 eligible retirement plan. Flexible rollovers under this  
734 subsection shall not be considered assignments under Section  
735 21-29-307.

736 (2) From and after July 1, 2001, subject to the rules  
737 adopted by the board of trustees, any plan under this chapter  
738 shall accept an eligible rollover distribution or a direct  
739 transfer of funds from another qualified plan in payment of all or  
740 a portion of the cost to repay a refund as permitted by the plan.  
741 The plans may only accept rollover payments in an amount equal to  
742 or less than the balance due for reinstatement of service credit.  
743 The rules adopted by the board or trustees shall condition the  
744 acceptance of a rollover or transfer from another qualified plan  
745 on the receipt from the other plan of information necessary to  
746 enable the system to determine the eligibility of any transferred  
747 funds for tax-free rollover treatment or other treatment under  
748 federal income tax law.

749 SECTION 12. Section 21-29-317, Mississippi Code of 1972, is  
750 amended as follows:

751 21-29-317. (1) Notwithstanding any provisions of Articles  
752 1, 3 and 5 of this chapter to the contrary, the maximum annual  
753 retirement allowance attributable to the employer contributions  
754 payable by the system to a member under Articles 1, 3 or 5 of this  
755 chapter shall be subject to the limitations set forth in Section  
756 415 of the Internal Revenue Code and any regulations issued  
757 thereunder as applicable to governmental plans as such term is

758 defined under Section 414(d) of the Internal Revenue Code. \* \* \*

759 (2) Notwithstanding any other provision of this plan, all  
760 distributions from this plan shall conform to the regulations  
761 issued under Section 401(a)(9) of the Internal Revenue Code,  
762 applicable to governmental plans, as defined in Section 414(d) of  
763 the Internal Revenue Code, including the incidental death benefit  
764 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.  
765 Further, such regulations shall override any plan provision that  
766 is inconsistent with Section 401(a)(9) of the Internal Revenue  
767 Code.

768 (3) The actuarial assumptions used to convert a retirement  
769 allowance from the normal form of payment to an optional form of  
770 payment shall be an appendix to Article 7 of this chapter and  
771 subject to approval by the board of directors based upon  
772 certification by the actuary.

773 (4) Notwithstanding any other provision of this plan, the  
774 maximum compensation that can be considered for all plan purposes  
775 is One Hundred Fifty Thousand Dollars (\$150,000.00) per year,  
776 adjusted annually to reflect changes in the cost of living to  
777 conform to the regulations issued under Section 401(a)(17) of the  
778 Internal Revenue Code.

779 (5) In the event of the termination of one or more of the  
780 retirement plans established pursuant to Article 1, 3 or 5 of this  
781 chapter, all members of the plan or system as of the date of  
782 termination of the system shall be deemed to have a vested right  
783 to benefits to the extent and in the same manner that rights would  
784 be vested under the laws existing as of the date of termination of  
785 the system; however, any member, who because of a termination of  
786 the system has not fulfilled the requirements for length of  
787 service, shall be entitled to compensation as of the date that  
788 such member would otherwise be eligible, with such compensation to  
789 be computed on the basis of time actually a member of the service



790 and compensation actually earned during the time a member, in the  
791 manner now provided by law.

792 SECTION 13. This act shall take effect and be in force from  
793 and after July 1, 2001.