To: Finance

MISSISSIPPI LEGISLATURE  REGULAR SESSION 2001
By: Senator(s) Furniss  To: Finance

SENATE BILL NO. 2067

AN ACT TO AMEND SECTIONS 25-11-301, 25-11-303, 25-11-305,
25-11-319, MISSISSIPPI CODE OF 1972, TO INCLUDE MEMBERS OF THE
STATE JUDICIARY WITHIN THE SUPPLEMENTAL LEGISLATIVE RETIREMENT
PLAN; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 25-11-301, Mississippi Code of 1972, is
amended as follows:

25-11-301. There is hereby established and placed under the
management of the Board of Trustees of the Public Employees'
Retirement System of Mississippi the Supplemental Legislative and
State Judiciary Retirement Plan for the purpose of providing
supplemental retirement allowances and other benefits under the
provisions of this article for elected members of the State
Legislature, the President of the Senate, the state judiciary and
their beneficiaries. The retirement plan provided by this article
shall go into operation on July 1, 1989, for members of the State
Legislature and the President of the Senate, and on July 1, 2001,
for members of the state judiciary, when contributions by members
shall begin and benefits shall become payable. This retirement
plan is designed to supplement and is in addition to the
provisions of Section 25-11-1 et seq. Under the terms of this
article, the members of the State Legislature, the President of
the Senate and the state judiciary shall retain all social
security benefits under Article 1 and additional state retirement
and disability benefits under Article 3 of the Public Employees'
Retirement Law of 1952, as amended. This article is a supplement
to those sections, and is designed to provide more benefits for
members of the State Legislature, the President of the Senate and the state judiciary by reason of their service to the state.

SECTION 2. Section 25-11-303, Mississippi Code of 1972, is amended as follows:

25-11-303. For the purposes of this article, the definitions in Section 25-11-5 and Section 25-11-103 shall apply unless a different meaning is plainly expressed by the context. The term "state judiciary" means justices of the Mississippi Supreme Court, judges of the Court of Appeals, and judges of the circuit, chancery, county and family courts of this state, and the term "plan" means the Supplemental Legislative and State Judiciary Retirement Plan established by Section 25-11-301.

SECTION 3. Section 25-11-305, Mississippi Code of 1972, is amended as follows:

25-11-305. (1) The membership of the Supplemental Legislative and State Judiciary Retirement Plan shall be composed as follows:

(a) All members of the State Legislature who are currently serving in the capacity of an elected official of the State Legislature and the person currently serving as President of the Senate shall become members of this system on July 1, 1989, unless they file with the board within thirty (30) days after July 1, 1989, on a form prescribed by the board, a notice of election not to be covered in the membership of the plan and a duly executed waiver of all present and prospective benefits which would otherwise inure to them on account of their participation in the plan. All persons who are currently serving as an elected member of the state judiciary shall become members of the system on July 1, 2001, unless they file with the board within thirty (30) days after July 1, 2001, on a form prescribed by the board, a notice of election not to be covered in the membership of the plan and a duly executed waiver of all present and prospective benefits...
that would otherwise inure to them on account of their participation in the plan.

(b) All members of the State Legislature and the President of the Senate who are elected after July 1, 1989, and all members of the state judiciary who are elected after July 1, 2001.

(2) Any State Legislators who would have otherwise qualified for membership in the plan under subsection (1) of this section but who were excluded from membership by other provisions of this section as it read before March 26, 1991, shall become members of the plan upon March 26, 1991, and shall receive creditable service in the plan for the period from July 1, 1989, to March 26, 1991, upon payment of the proper employee and employer contributions for that period.

(3) Membership in the plan shall cease by a member withdrawing his accumulated contributions, or by a member withdrawing from active service with a retirement allowance, or by death of the member.

(4) No benefits under the plan shall accrue or otherwise be payable to any person who does not qualify for membership in the plan under subsection (1) of this section.

SECTION 4. Section 25-11-307, Mississippi Code of 1972, is amended as follows:

25-11-307. (1) The Board of Trustees of the Public Employees' Retirement System of Mississippi shall act as custodian of the funds for members, and shall receive to the credit of such fund all donations, bequests, appropriations, and all funds available as an employer's contribution thereto from any source whatsoever. The State Legislature and the state judiciary shall each month deduct from the compensation of each member three percent (3%) thereof, and shall pay the amount so deducted to the board of trustees to be credited to the fund for the members. The compensation of each member shall include all remuneration or
amounts paid, except mileage allowance. From the funds credited
to this account, the board of trustees shall pay retirement
allowances, disability benefits, survivors' benefits and expenses,
and shall refund contributions as provided. The fund for
the * * * plan shall be maintained as a separate fund, separate
from all other funds held by the board of trustees and shall be
used only for the payment of benefits provided for by the plan, or
amendments thereto.

(2) On account of each member there shall be paid monthly
into the fund for members of the * * * plan by the State
Legislature and by the state judiciary from funds available an
amount equal to a certain percentage of the compensation of each
member to be known as the "normal contributions," and an
additional amount equal to a percentage of his compensation to be
known as the "accrued liability contribution." The percentage
rate of such contributions shall be fixed by the board of trustees
on the basis of the liabilities of the plan for the various
allowances and benefits as shown by the actuarial valuation.
Until changed by the board of trustees, the contribution rate
shall be six and one-third percent (6-1/3%) of the annual
compensation of all members, which shall include all remuneration
or amounts paid, except mileage allowance.

(3) The board of trustees is hereby authorized to deduct two
percent (2%) of all employer's contributions paid into the fund
for members of the State Legislature, the President of the Senate
and the state judiciary to be transferred to the expense fund of
the Public Employees' Retirement System of Mississippi to defray
the cost of administering this fund.

SECTION 5. Section 25-11-309, Mississippi Code of 1972, is
amended as follows:

25-11-309. The retirement allowance from the * * * plan
shall consist of fifty percent (50%) of an amount equal to the
retirement allowance determined by creditable service as an
elected Senator or Representative of the State Legislature, or as
President of the Senate, or as a member of the state judiciary
payable by the Public Employees' Retirement System in accordance
with Section 25-11-101 et seq. However, in no case shall the
aggregate amount of the retirement allowance from the *** plan
and the Public Employees' Retirement System on legislative
service as President of the Senate or state judiciary
service exceed one hundred percent (100%) of the average
compensation.

The percentage of the retirement allowance as provided in
this section shall be transferred from the annuity savings account
of the member and the employer accumulation account in the ***
plan to the retirement account of the member in the Public
Employees' Retirement System ***.

SECTION 6. Section 25-11-311, Mississippi Code of 1972, is
amended as follows:

25-11-311. (1) A member may be paid a refund of the amount
of accumulated contributions to the credit of the member in the
annuity savings account, provided the member has withdrawn from
state service and further provided the member has not returned to
state service on the date the refund of the accumulated
contributions would be paid. Such refund of the contributions to
the credit of the member in the annuity savings account shall be
paid within ninety (90) days from receipt in the office of the
retirement system of the properly completed form requesting such
payment. In the event of death prior to retirement of any member
whose spouse and/or children are not entitled to a retirement
allowance, the accumulated contributions to the credit of the
deceased member in the annuity savings account shall be paid to
the designated beneficiary on file in writing in the office of the
executive director of the board of trustees within ninety (90)
days from receipt of a properly completed form requesting such
payment. If there is no such designated beneficiary on file for
such deceased member in the office of the system, upon the filing
of a proper request with the board, the contributions to the
credit of the deceased member in the annuity savings account shall
be refunded pursuant to Section 25-11-311.1(1). The payment of
the refund shall discharge all obligations of the retirement
system to the member on account of any creditable service rendered
by the member prior to the receipt of the refund. By the
acceptance of the refund, the member shall waive and relinquish
all accrued rights in the plan.

(2) Pursuant to the Unemployment Compensation Amendments of
1992 (Public Law 102-318 (UCA)), a member or eligible beneficiary
making application for a refund under this section may elect, on a
form prescribed by the board under rules and regulations
established by the board, to have an eligible rollover
distribution of accumulated contributions payable under this
section paid directly to an eligible retirement plan or individual
retirement account. If the member or eligible beneficiary makes
such election and specifies the eligible retirement plan or
individual retirement account to which such distribution is to be
paid, the distribution will be made in the form of a direct
trustee-to-trustee transfer to the specified eligible retirement
plan. Flexible rollovers under this subsection shall not be
considered assignments under Section 25-11-129.

(3) If any person who has received a refund is reelected to
the Legislature, or as President of the Senate, or to the state
judiciary and again becomes a member of the plan, the member may
repay all or part of the amounts previously received as a refund,
together with regular interest covering the period from the date
of refund to the date of repayment; however, the amounts that are
repaid by the member and the creditable service related thereto
shall not be used in any benefit calculation or determination
until the member has remained a contributor to the system for a
period of at least four (4) years subsequent to such member's
reentry into state service. Repayment 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 for which refund has been made. Upon the repayment of all or part of such refund and interest, the member shall again receive credit for the period of creditable service for which full repayment has been made to the system.

SECTION 7. Section 25-11-313, Mississippi Code of 1972, is amended as follows:

25-11-313. The employer shall pick up the member contributions required by this article for all compensation earned on and after July 1, 1989, by members of the State Legislature and the President of the Senate, and on and after July 1, 2001, by members of the state judiciary, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and the Mississippi Income Tax Code. However, the employer shall continue to withhold federal and state income taxes based upon such contributions until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The employer shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The employer may pick up these contributions by a reduction in the cash salary of the member, or by offset against future salary increase, or by a combination of a reduction in salary and offset against future salary increase. If member contributions are picked up they shall be treated for all purposes of the * * * plan in the same manner and to the same extent as member contributions made prior to the date picked up.

SECTION 8. Section 25-11-315, Mississippi Code of 1972, is amended as follows:
25-11-315. Any member of the State Legislature or the President of the Senate who becomes a member of the plan on July 1, 1989, and any member of the state judiciary who becomes a member of the plan on July 1, 2000, shall be eligible for prior service as a member of the State Legislature, President of the Senate or member of the state judiciary. Each member shall submit to the board a verification of such prior service. Upon receipt of such prior service statement, the board shall issue a prior service certificate certifying to each member the length of prior service for which credit has been allowed on the basis of the statement of service. Additional prior service regulations in force shall be those found in Section 25-11-101 et seq.

Any member of the State Legislature or the President of the Senate who becomes a member of this plan after July 1, 1989, and any member of the state judiciary who becomes a member of the plan after July 1, 2001, shall not be allowed prior service unless the member serves as a member of the State Legislature, as President of the Senate or as a member of the state judiciary for a minimum of four (4) years and contributes to the plan for a minimum period of four (4) years.

SECTION 9. Section 25-11-319, Mississippi Code of 1972, is amended as follows:

25-11-319. The right of a person to an annuity, a retirement allowance or benefit, or to the return of contributions, or to any optional benefit or any other right accrued or accruing to any person under the provisions of the Supplemental Legislative and State Judiciary Retirement Plan, and the monies in the plan created by this article, are exempt from any state or municipal tax, and exempt from levy and sale, garnishment, attachment or any other process whatsoever, and shall be unassignable except as specifically otherwise provided in this article.

SECTION 10. This act shall take effect and be in force from and after July 1, 2001.