

By: Senator(s) Minor, Thames

To: Finance

## SENATE BILL NO. 2836

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14 REVENUE CODE THAT HAVE BEEN REPEALED; TO PROVIDE THAT IN THE EVENT  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 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 employer at the time the member's  
168 service was interrupted and to which employment the member returns

169 pays the contributions it would have made into the retirement  
170 system for such period based on the member's salary at the time  
171 the service was interrupted.

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; provided,  
176 however, that in no event shall such period exceed fifteen (15)  
177 years.

178 (c) The member shall furnish proof satisfactory to the  
179 board of trustees of certification of military service showing  
180 dates of entrance into qualified service and the date of discharge  
181 as well as proof that the member has returned to active employment  
182 within the time specified.

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

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

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

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

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

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

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

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

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

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

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

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

238 Any actively contributing member participating in the School  
239 Administrator Sabbatical Program established in Section 37-9-77  
240 shall qualify for continued participation under this subsection  
241 (9).

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

545 (iii) The employer at the time the member's  
546 service was interrupted and to which employment the member returns  
547 pays the contributions it would have made into the retirement  
548 system for such period based on the member's salary at the time  
549 the service was interrupted.

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

556 (c) The member shall furnish proof satisfactory to the  
557 board of trustees of certification of military service showing  
558 dates of entrance into qualified service and the date of discharge  
559 as well as proof that the member has returned to active employment  
560 within the time specified.

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

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

576           Pursuant to the Unemployment Compensation Amendments of 1992  
577 (Public Law 102-318 (UCA)), a member or the spouse of a member who  
578 is an eligible beneficiary entitled to a refund under this section  
579 may elect, on a form prescribed by the board under rules and  
580 regulations established by the board, to have an eligible rollover  
581 distribution of accumulated contributions payable under this  
582 section paid directly to an eligible retirement plan or individual  
583 retirement account. If the member or the spouse of a member who  
584 is an eligible beneficiary makes such election and specifies the  
585 eligible retirement plan or individual retirement account to which  
586 such distribution is to be paid, the distribution will be made in  
587 the form of a direct trustee-to-trustee transfer to the specified  
588 eligible retirement plan. Flexible rollovers under this  
589 subsection shall not be considered assignments under Section  
590 25-13-31.

591           If any highway patrolman who shall receive a refund reenters  
592 the service of the Highway Safety Patrol and again becomes a  
593 member of the system, he may repay all amounts previously received  
594 by him as a refund, together with regular interest covering the  
595 period from the date of refund to the date of repayment; however,

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

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

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

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

628 and compensation actually earned during the time as a member, in  
629 the manner now provided by statute.

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

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

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

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

657 (6) Notwithstanding any other provision of this plan, the  
658 maximum compensation that can be considered for all plan purposes  
659 is One Hundred Fifty Thousand Dollars (\$150,000.00) per year,  
660 adjusted annually to reflect changes in the cost of living to

661 conform to the regulations issued under Section 401(a)(17) of the  
662 Internal Revenue Code.

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

665 21-29-301. \* \* \*

666 (1) Any member of the Municipal Retirement System whose  
667 membership service is interrupted as a result of qualified  
668 military service within the meaning of Section 414(u)(5) of the  
669 Internal Revenue Code, and who has received the maximum service  
670 credit available under Article 1, 3 or 5 of this chapter, shall  
671 receive creditable service for the period of qualified military  
672 service that does not qualify as creditable service under Article  
673 1, 3 or 5 of this chapter upon reentering membership service if:

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

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

680 (c) The employee at the time the member's service was  
681 interrupted and to which employment the member returns pays the  
682 contribution it would have made into the retirement system for  
683 such period based on the member's salary at the time the service  
684 was interrupted.

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

690 (3) The member shall furnish proof satisfactory to the board  
691 of trustees of certification of military service showing dates of  
692 entrance into qualified service and the date of discharge as well

693 as proof that the member has returned to active employment within  
694 the time specified.

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

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

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

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

726 the board, to have an eligible rollover distribution of  
727 accumulated contributions payable under this section paid directly  
728 to an eligible retirement plan or individual retirement account.  
729 If the member or the spouse of a member who is an eligible  
730 beneficiary makes such election and specifies the eligible  
731 retirement plan or individual retirement account to which such  
732 distribution is to be paid, the distribution will be made in the  
733 form of a direct trustee-to-trustee transfer to the specified  
734 eligible retirement plan. Flexible rollovers under this  
735 subsection shall not be considered assignments under Section  
736 21-29-307.

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

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

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

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

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

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

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

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



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

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