To:  Finance

MISSISSIPPI LEGISLATURE                        REGULAR SESSION 2001

By:  Senator(s) Minor, Thames

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2836

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ACCOUNT IS THE SPOUSE OF A MEMBER; TO REMOVE REFERENCES TO A PROVISION OF THE INTERNAL REVENUE CODE THAT HAVE BEEN REPEALED; TO PROVIDE THAT IN THE EVENT OF TERMINATION OF A MUNICIPAL RETIREMENT SYSTEM, ALL MEMBERS OF SUCH SYSTEM AT THE TIME OF TERMINATION SHALL BE DEEMED TO HAVE A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

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

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

25-11-109. (1) Under such rules and regulations as the board of trustees shall adopt, each person who becomes a member of this retirement system, as provided in Section 25-11-105, on or prior to July 1, 1953, or who becomes a member and contributes to the system for a minimum period of four (4) years, shall receive credit for all state service rendered before February 1, 1953. To receive such credit, such member shall file a detailed statement
of all services as an employee rendered by him in the state
service before February 1, 1953. For any member who joined the
system after July 1, 1953, any creditable service for which the
member is not required to make contributions shall not be credited
to the member until the member has contributed to the system for a
minimum period of at least four (4) years.

(2) In the computation of membership service or prior
service under the provisions of this article, the total months of
accumulative service during any fiscal year shall be calculated in
accordance with the schedule as follows: ten (10) or more months
of creditable service during any fiscal year shall constitute a
year of creditable service; seven (7) months to nine (9) months
inclusive, three-quarters (3/4) of a year of creditable service;
four (4) months to six (6) months inclusive, one-half-year of
creditable service; one (1) month to three (3) months inclusive,
one-quarter (1/4) of a year of creditable service. In no case
shall credit be allowed for any period of absence without
compensation except for disability while in receipt of a
disability retirement allowance, nor shall less than fifteen (15)
days of service in any month, or service less than the equivalent
of one-half (1/2) of the normal working load for the position and
less than one-half (1/2) of the normal compensation for the
position in any month, constitute a month of creditable service,
nor shall more than one (1) year of service be creditable for all
services rendered in any one (1) fiscal year; provided that for a
school employee, substantial completion of the legal school term
when and where the service was rendered shall constitute a year of
service credit for both prior service and membership service. Any
state or local elected official shall be deemed a full-time
employee for the purpose of creditable service for prior service
or membership service. However, an appointed or elected official
compensated on a per diem basis only shall not be allowed
credible service for terms of office.
In the computation of any retirement allowance or any annuity or benefits provided in this article, any fractional period of service of less than one (1) year shall be taken into account and a proportionate amount of such retirement allowance, annuity or benefit shall be granted for any such fractional period of service.

In the computation of unused leave for creditable service authorized in Section 25-11-103, the following shall govern:

21 days of unused leave shall constitute one (1) month of creditable service and in no case shall credit be allowed for any period of unused leave of less than fifteen (15) days.

The number of months of unused leave shall determine the number of quarters or years of creditable service in accordance with the above schedule for membership and prior service. In order for the member to receive creditable service for the number of days of unused leave, the system must receive certification from the governing authority.

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

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

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

(3) Subject to the above restrictions and to such other rules and regulations as the board may adopt, the board shall verify, as soon as practicable after the filing of such statements of service, the services therein claimed.
(4) Upon verification of the statement of prior service, the board shall issue a prior service certificate certifying to each member the length of prior service for which credit shall have been allowed on the basis of his statement of service. So long as membership continues, a prior service certificate shall be final and conclusive for retirement purposes as to such service, provided that any member may within five (5) years from the date of issuance or modification of such certificate request the board of trustees to modify or correct his prior service certificate. Any modification or correction authorized shall only apply prospectively.

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

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

(6) Anything in this article to the contrary notwithstanding, any member who served on active duty in the Armed Forces of the United States, or who served in maritime service during periods of hostility in World War II, shall be entitled to creditable service at no cost for his service on active duty in the Armed Forces or in such maritime service, provided he entered state service after his discharge from the Armed Forces or entered state service after he completed such maritime service. The maximum period for such creditable service for all military service as defined in this subsection (6) shall not exceed four years unless positive proof can be furnished by such person.
that he was retained in the Armed Forces during World War II or in
maritime service during World War II by causes beyond his control
and without opportunity of discharge. The member shall furnish
proof satisfactory to the board of trustees of certification of
military service or maritime service records showing dates of
entrance into active duty service and the date of discharge. From
and after July 1, 1993, no creditable service shall be granted for
any military service or maritime service to a member who qualifies
for a retirement allowance in another public retirement system
administered by the Board of Trustees of the Public Employees'
Retirement System based in whole or in part on such military or
maritime service. In no case shall the member receive creditable
service if the member received a dishonorable discharge from the
Armed Forces of the United States.

(7) (a) Any member of the Public Employees' Retirement
System whose membership service is interrupted as a result of
qualified military service within the meaning of Section 414(u)(5)
of the Internal Revenue Code, and who has received the maximum
service credit available under subsection (6) of this section,
shall receive creditable service for the period of qualified
military service that does not qualify as creditable service under
subsection (6) of this section upon reentering membership service
in an amount not to exceed five (5) years if:

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

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

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

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

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

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

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

(b) The member is not receiving or will not be entitled to receive from the public retirement system of the other state or from any other retirement plan, including optional retirement plan.
plans, sponsored by the employer, a retirement allowance including
such services; and

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

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

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

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

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

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

(e) The contributing member shall pay to the retirement
system the actuarial cost as determined by the actuary for each
year of professional leave. The provisions of this subsection are
subject to the regulations of the Internal Revenue Code
limitations;
Such other rules and regulations consistent herewith as the board may adopt and in case of question, the board shall have final power to decide the questions.

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

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

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

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

(c) Any service rendered as an employee of any political subdivision of this state, or any instrumentality thereof, for which coverage of the employee's position was or is excluded; provided that the member pays into the retirement system the actuarial cost as determined by the actuary for each year, or portion thereof, of such service. Payment for such service may be made in increments of one-quarter-year of creditable service.

After a member has made full payment to the retirement system for all or any part of such service, the member shall receive creditable service for the period of such service for which full payment has been made to the retirement system.

SECTION 2. Section 25-11-117, Mississippi Code of 1972, is amended as follows:
25-11-117. (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 25-11-117.1(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 system.

(2) Pursuant to the Unemployment Compensation Amendments of 1992 (Public Law 102-318 (UCA)), a member or the spouse of a member who is an eligible beneficiary entitled to 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 the 
spouse of a member who is an 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 reenters the 
state service and again becomes a member of the system, 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; provided, however, 
that 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 3. Section 25-11-133, Mississippi Code of 1972, is 
amended as follows:

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

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

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

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

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

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

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

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

25-13-7. The Board of Trustees of the Public Employees' Retirement System, as created by Sections 25-11-1 through 25-11-139, shall act as custodian of this Disability and Relief Fund for members of the Mississippi Highway Safety Patrol; shall receive to the credit of such fund all * * * appropriations and other funds available as an employer's contribution thereto from any source whatsoever; and the Highway Safety Patrol shall each month deduct from the salary of each member, as defined in Section 25-13-3, five percent (5%) thereof, and shall pay the amount so deducted to the Board of Trustees of the Public Employees' Retirement System to be credited to the Disability and Relief Fund for the members of the Mississippi Highway Safety Patrol.

Provided, however, that the said board of trustees may, biennially, following March 18, 1977, vary the percentage of employee contribution on the basis of the liabilities of the retirement system for the various allowances and benefits as shown by actuarial valuation. From the funds credited to this account, the Board of Trustees of the Public Employees' Retirement System...
shall pay retirements, disability benefits, survivors benefits, expenses and shall refund contributions as provided in this chapter. The said "Disability and Relief Fund for the Mississippi Highway Safety Patrol" shall be maintained as a separate fund, separate from all other funds held by the Board of Trustees of the Public Employees' Retirement System of Mississippi and shall be used only for the payment of benefits provided for by this chapter, or amendments thereto.

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

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

Any former uniformed highway safety patrolman who has had not less than two (2) years of prior service with the Highway Safety Patrol and who was disabled by wounds or accident in line of duty, and who has returned to duty with the Highway Safety Patrol, and who becomes a member of the Highway Safety Patrol Retirement System with prior years service credits as provided in this chapter, may, if his disability from his previous wounds or accident received in line of duty returns and he again becomes totally and permanently disabled, receive full benefits as a disability retirant for service-connected disability.
Upon the application of a member or his employer, any member who is not yet eligible for service retirement benefits and who has had at least ten (10) years of creditable service may be retired by the administrative board, not less than thirty (30) and not more than ninety (90) days next following the date of filing such application, on disability retirement allowance, provided that the Medical Board of the Public Employees' Retirement System of Mississippi, after a medical examination, shall certify that he is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that he should be retired. Such disability need not be service-connected.

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

(3) Once each year during the first five (5) years following retirement of a member on a disability retirement allowance, and once in every period of three (3) years thereafter, the administrative board may, and upon his application shall, require any disability beneficiary who has not yet attained the age of fifty-five (55) years to undergo a medical examination, such examination to be made at the place of residence of said beneficiary or other place mutually agreed upon, by the medical board of the Public Employees' Retirement System. Should any disability beneficiary who has not yet attained the age of fifty-five (55) years refuse to submit to any medical examination provided for herein, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one (1) year all his rights in that part of the disability benefit provided by employer contributions shall be revoked by the administrative board.
(4) If the medical board reports and certifies to the administrative board that such disability beneficiary is engaged in, or is able to engage in, a gainful occupation paying more than the difference between his disability benefit and the average compensation, and if the administrative board concurs in such report, the disability benefit shall be reduced to an amount which, together with the amount earnable by him, shall equal the amount of his average compensation. If his earning capacity be later changed, the amount of the said benefit may be further modified; provided, that the revised benefit shall not exceed the amount originally granted nor an amount which, when added to the amount earnable by the beneficiary, equals the amount of his average compensation.

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

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

25-13-17. (1) All persons who are covered under the terms of this chapter on the date on which this retirement system is established and who become members of the retirement system shall cease to be members under the provisions of Sections 25-11-101 through 25-11-139 upon the effective date of this chapter, and shall become members of this retirement system with full credit for all prior service with the Highway Safety Patrol.
In computing the period of service of a member of the Highway Safety Patrol, anything in this chapter to the contrary notwithstanding, any member who served on active duty in the Armed Forces of the United States, or who served in maritime service during periods of hostility in World War II, shall be entitled to creditable service at no cost for his service on active duty in the Armed Forces or in such maritime service, provided he entered state service after his discharge from the Armed Forces or entered state service after he completed such maritime service. The maximum period for such creditable service for all military service as defined in this subsection (2) shall not exceed four years unless positive proof can be furnished by such person that he was retained in the Armed Forces during World War II or in maritime service during World War II, by causes beyond his control and without opportunity of discharge. The member shall furnish proof satisfactory to the Board of Trustees of the Public Employees' Retirement System of certification of military service or maritime service records showing dates of entrance into active duty service and the date of discharge. No creditable service shall be granted for any military service or maritime service to a member who qualifies for a retirement allowance in another public retirement system administered by the Board of Trustees of the Public Employees' Retirement System based in whole or in part on such military or maritime service. In no case shall the member receive creditable service if the member received a dishonorable discharge from the Armed Forces of the United States.

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

Any member of the Mississippi Highway Safety Patrol whose membership service is interrupted as a result of military service during World War II, or as a result of maritime service during World War II, shall be entitled to creditable service at no cost for his service in the Armed Forces of the United States, or in such maritime service, provided he entered state service after his discharge from the Armed Forces or entered state service after he completed such maritime service. The maximum period for such creditable service for all military service as defined in this subsection (2) shall not exceed four years unless positive proof can be furnished by such person that he was retained in the Armed Forces during World War II or in maritime service during World War II, by causes beyond his control and without opportunity of discharge. The member shall furnish proof satisfactory to the Board of Trustees of the Public Employees' Retirement System of certification of military service or maritime service records showing dates of entrance into active duty service and the date of discharge. No creditable service shall be granted for any military service or maritime service to a member who qualifies for a retirement allowance in another public retirement system administered by the Board of Trustees of the Public Employees' Retirement System based in whole or in part on such military or maritime service. In no case shall the member receive creditable service if the member received a dishonorable discharge from the Armed Forces of the United States.

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

Any member of the Mississippi Highway Safety Patrol whose membership service is interrupted as a result of military service during World War II, or as a result of maritime service during World War II, shall be entitled to creditable service at no cost for his service in the Armed Forces of the United States, or in such maritime service, provided he entered state service after his discharge from the Armed Forces or entered state service after he completed such maritime service. The maximum period for such creditable service for all military service as defined in this subsection (2) shall not exceed four years unless positive proof can be furnished by such person that he was retained in the Armed Forces during World War II or in maritime service during World War II, by causes beyond his control and without opportunity of discharge. The member shall furnish proof satisfactory to the Board of Trustees of the Public Employees' Retirement System of certification of military service or maritime service records showing dates of entrance into active duty service and the date of discharge. No creditable service shall be granted for any military service or maritime service to a member who qualifies for a retirement allowance in another public retirement system administered by the Board of Trustees of the Public Employees' Retirement System based in whole or in part on such military or maritime service. In no case shall the member receive creditable service if the member received a dishonorable discharge from the Armed Forces of the United States.
result of qualified military service within the meaning of Section 414(u)(5) of the Internal Revenue Code, and who has received the maximum service credit available under subsection (2) of this section, shall receive creditable service for the period of qualified military service that does not qualify as creditable service under subsection (2) of this section upon reentering membership service in an amount not to exceed five (5) years if:

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

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

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

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

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

SECTION 7. Section 25-13-21, Mississippi Code of 1972, is amended as follows:
25-13-21. In the event a highway patrolman ceases to work for the Highway Safety Patrol for any reason other than occupational disease contracted or for any accident sustained by the patrolman by reason of his service or discharge of his duty in the Highway Patrol, and if the highway patrolman is not eligible for retirement either for service or disability, he shall be refunded the amount of his total contribution under the provisions of this chapter, including any credit transferred to his account in this system from any other system, at his request; and should he die before retirement, such fund is to be refunded to any beneficiary he may name. If there is no surviving designated beneficiary, the contributions to the credit of the deceased member shall be refunded pursuant to Section 25-13-21.1(1).

Pursuant to the Unemployment Compensation Amendments of 1992 (Public Law 102-318 (UCA)), a member or the spouse of a member who is an eligible beneficiary entitled to 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 the spouse of a member who is an 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 25-13-31.

If any highway patrolman who shall receive a refund reenters the service of the Highway Safety Patrol and again becomes a member of the system, he may repay all amounts previously received by him 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 five (5) years after 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 highway patrolman shall again receive credit for the period of creditable service for which full repayment has been made to the system.

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

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

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

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

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

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

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

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

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

21-29-301. * * *

(1) Any member of the Municipal Retirement System whose
membership service is interrupted as a result of qualified
military service within the meaning of Section 414(u)(5) of the
Internal Revenue Code, and who has received the maximum service
credit available under Article 1, 3 or 5 of this chapter, shall
receive creditable service for the period of qualified military
service that does not qualify as creditable service under Article
1, 3 or 5 of this chapter upon reentering membership service in an
amount not to exceed five (5) years if:

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

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

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

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

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

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

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

21-29-305. Each employer shall pick up the member
contributions required by Sections 21-29-17, 21-29-117 and
21-29-219, Mississippi Code of 1972, for all compensation earned
after January 1, 1989, 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, each 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 may pick up these contributions by a
reduction in the cash salary of the member, or by an offset
against a future salary increase, or by a combination of a
reduction in salary and offset against a future salary increase.
If member contributions are picked up they shall be treated for
all purposes of the General Municipal Employees' Retirement System
and Firemen's and Policemen's Disability Relief Funds under
Articles 1, 3 and 5 of this chapter in the same manner and to the
same extent as member contributions made prior to the date picked
up.

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

21-29-316. (1) Pursuant to the Unemployment Compensation
Amendments of 1992 (Public Law 102-318 (UCA)), a member or the
spouse of a member who is an eligible beneficiary entitled to a
refund under Article 1, 3 or 5 of this chapter 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 the spouse of a member who is an 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 21-29-307.

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

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

21-29-317. (1) Notwithstanding any provisions of Articles 1, 3 and 5 of this chapter to the contrary, the maximum annual retirement allowance attributable to the employer contributions payable by the system to a member under Article 1, 3 or 5 of this chapter shall be subject to the limitations set forth in Section 415 of the Internal Revenue Code and any regulations issued thereunder as applicable to governmental plans as such term is
defined under Section 414(d) of the Internal Revenue Code. ***

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

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

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

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

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