

REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MADAM PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1148: PERS; make certain technical revisions to laws governing the retirement system.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

88 **SECTION 1.** The following provision shall be codified as
89 Section 37-101-30, Mississippi Code of 1972:

90 37-101-30. (1) The Legislature finds and declares that a
91 compelling state interest exists in providing a retirement
92 incentive program or encouraging the retirement of those employees
93 of institutions of higher learning who are current and active
94 contributing members of the Public Employees' Retirement System.

95 (2) As used in this section:

96 (a) "Board" means the Board of Trustees of State
97 Institutions of Higher Learning.

98 (b) "Program" means the retirement incentive program
99 established under this section.

100 (3) (a) The board is authorized to pay, in fiscal years
101 selected by the board, a monetary incentive to employees who are
102 eligible for retirement in exchange for a voluntary agreement of
103 the employee:

104 (i) To retire on a specific date as set forth in
105 subsection (6) of this section, and

106 (ii) To waive any and all claims, known or
107 unknown, arising out of or related to employment or cessation of
108 employment at institutions of higher learning.

109 (b) The granting of additional compensation shall be

110 made in exchange for additional consideration given by the
111 employee.

112 (c) The retirement incentive authorized by this section
113 is a voluntary plan for institutions of higher learning faculty
114 and staff offering an incentive for retirement. The plan shall be
115 available to all full-time faculty and staff who meet the
116 eligibility criteria set forth in subsection (4) of this section.

117 (4) (a) To be eligible to participate in the program,
118 full-time faculty and staff of institutions of higher learning
119 must, as of the effective date of their retirement, be eligible to
120 retire under the laws governing the Public Employees' Retirement
121 System by virtue of:

122 (i) Having twenty-five (25) years of creditable
123 service, or

124 (ii) Being age sixty (60) and having at least four
125 (4) years of creditable service.

126 (b) The institution of higher learning offering the
127 program shall, in all cases, utilize the records of the Public
128 Employees' Retirement System as the source for determining
129 eligibility.

130 (c) The program is offered as an alternative to any
131 other retirement incentive plan that may be offered by the state
132 or the Public Employees' Retirement System in the future.

133 (5) In accordance with applicable law, the institution of
134 higher learning shall provide a cash benefit to each participant
135 in the program based upon a percentage of the participant's
136 current salary that is subject to federal income tax, state income
137 tax and Federal Insurance Contributions Act withholding. The
138 participant shall be compensated for unused annual leave as
139 otherwise provided by law. The cash benefit paid under this
140 section shall not be subject to employer or employee contributions
141 under the laws governing the Public Employees' Retirement System.

142 (6) Eligible employees shall make their election to
143 participate in the program in the manner and at the time
144 prescribed by the board. The date of retirement for all employees
145 participating in this program shall be June 30 of any fiscal year

146 in which the program is offered. Employees electing to
147 participate in the program shall agree to waive any claims, known
148 or unknown, arising out of or related to employment or cessation
149 of employment at institutions of higher learning. An employee may
150 revoke the election to participate in the program within seven (7)
151 days after the execution of the election.

152 (7) The additional compensation authorized under the program
153 is made in exchange for additional consideration given by the
154 employee.

155 (8) The board shall prescribe such rules and regulations as
156 it shall consider necessary to carry out the purposes of this
157 section.

158 **SECTION 2.** The following provision shall be codified as
159 Section 25-11-111.1, Mississippi Code of 1972:

160 25-11-111.1. The Public Employees' Retirement System shall
161 make payments of retirement benefits under this chapter to members
162 who retire effective on or after January 1, 2003, and to the
163 beneficiaries of those members, by means of direct deposit to an
164 account with a financial institution that is a participant of the
165 Automated Clearing House designated by the member or beneficiary,
166 unless the member or beneficiary can demonstrate that payment by
167 means of direct deposit will cause the member or beneficiary undue
168 hardship.

169 **SECTION 3.** The following provision shall be codified as
170 Section 25-13-11.1, Mississippi Code of 1972:

171 25-13-11.1. The Public Employees' Retirement System shall
172 make payments of retirement benefits under this chapter to members
173 who retire effective on or after January 1, 2003, and to the
174 beneficiaries of those members, by means of direct deposit to an
175 account with a financial institution that is a participant of the
176 Automated Clearing House designated by the member or beneficiary,
177 unless the member or beneficiary can demonstrate that payment by
178 means of direct deposit will cause the member or beneficiary undue
179 hardship.

180 **SECTION 4.** The following provision shall be codified as
181 Section 21-29-325, Mississippi Code of 1972:

182 21-29-325. The Public Employees' Retirement System shall
183 make payments of retirement benefits under this chapter to members
184 who retire effective on or after January 1, 2003, and to the
185 beneficiaries of those members, by means of direct deposit to an
186 account with a financial institution that is a participant of the
187 Automated Clearing House designated by the member or beneficiary,
188 unless the member or beneficiary can demonstrate that payment by
189 means of direct deposit will cause the member or beneficiary undue
190 hardship.

191 **SECTION 5.** Section 25-11-103, Mississippi Code of 1972, is
192 amended as follows:

193 25-11-103. The following words and phrases as used in
194 Articles 1 and 3, unless a different meaning is plainly required
195 by the context, shall have the following meanings:

196 (a) "Accumulated contributions" shall mean the sum of
197 all the amounts deducted from the compensation of a member and
198 credited to his individual account in the annuity savings account,
199 together with regular interest thereon as provided in Section
200 25-11-123.

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

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

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

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

215 (f) "Average compensation" shall mean the average of
216 the four (4) highest years of earned compensation reported for an
217 employee in a fiscal or calendar year period, or combination

218 thereof which do not overlap, or the last forty-eight (48)
219 consecutive months of earned compensation reported for an
220 employee. The four (4) years need not be successive or joined
221 years of service. In no case shall the average compensation so
222 determined be in excess of One Hundred Fifty Thousand Dollars
223 (\$150,000.00). In computing the average compensation, any amount
224 paid in a lump sum for personal leave shall be included in the
225 calculation to the extent that such amount does not exceed an
226 amount which is equal to thirty (30) days of earned compensation
227 and to the extent that it does not cause the employees' earned
228 compensation to exceed the maximum reportable amount specified in
229 Section 25-11-103(k); * * * however, this thirty-day limitation
230 shall not prevent the inclusion in the calculation of leave earned
231 under federal regulations prior to July 1, 1976, and frozen as of
232 that date as referred to in Section 25-3-99. Only the amount of
233 lump sum pay for personal leave due and paid upon the death of a
234 member attributable for up to one hundred fifty (150) days shall
235 be used in the deceased member's average compensation calculation
236 in determining the beneficiary's benefits. In computing the
237 average compensation, no amounts shall be used which are in excess
238 of the amount on which contributions were required and paid. If
239 any member who is or has been granted any increase in annual
240 salary or compensation of more than eight percent (8%) retires
241 within twenty-four (24) months from the date that such increase
242 becomes effective, then the board shall exclude that part of the
243 increase in salary or compensation that exceeds eight percent (8%)
244 in calculating that member's average compensation for retirement
245 purposes. The board may enforce this provision by rule or
246 regulation. However, increases in compensation in excess of eight
247 percent (8%) per year granted within twenty-four (24) months of
248 the date of retirement may be included in such calculation of
249 average compensation if satisfactory proof is presented to the
250 board showing that the increase in compensation was the result of
251 an actual change in the position held or services rendered, or
252 that such compensation increase was authorized by the State
253 Personnel Board or was increased as a result of statutory

254 enactment, and the employer furnishes an affidavit stating that
255 such increase granted within the last twenty-four (24) months was
256 not contingent on a promise or agreement of the employee to
257 retire. Nothing in Section 25-3-31 shall affect the calculation
258 of the average compensation of any member for the purposes of this
259 article. The average compensation of any member who retires
260 before July 1, 1992, shall not exceed the annual salary of the
261 Governor.

262 (g) "Beneficiary" shall mean any person entitled to
263 receive a retirement allowance, an annuity or other benefit as
264 provided by Articles 1 and 3. In the event of the death prior to
265 retirement of any member whose spouse and/or children are not
266 entitled to a retirement allowance on the basis that the member
267 has less than four (4) years of service credit and/or has not been
268 married for a minimum of one (1) year or the spouse has waived his
269 or her entitlement to a retirement allowance pursuant to Section
270 25-11-114, the lawful spouse of a member at the time of the death
271 of such member shall be the beneficiary of such member unless the
272 member has designated another beneficiary subsequent to the date
273 of marriage in writing, and filed such writing in the office of
274 the executive director of the board of trustees. No designation
275 or change of beneficiary shall be made in any other manner.

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

279 (i) "Creditable service" shall mean "prior service,"
280 "retroactive service" and all lawfully credited unused leave not
281 exceeding the accrual rates and limitations provided in Section
282 25-3-91 et seq., as of the date of withdrawal from service plus
283 "membership service" for which credit is allowable as provided in
284 Section 25-11-109. Except to limit creditable service reported to
285 the system for the purpose of computing an employee's retirement
286 allowance or annuity or benefits provided in this article, nothing
287 in this paragraph shall limit or otherwise restrict the power of
288 the governing authority of a municipality or other political
289 subdivision of the state to adopt such vacation and sick leave

290 policies as it deems necessary.

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

297 (k) "Earned compensation" shall mean the full amount
298 earned by an employee for a given pay period including any
299 maintenance furnished up to a maximum of One Hundred Fifty
300 Thousand Dollars (\$150,000.00) per year, and proportionately for
301 less than one (1) year of service. The value of such maintenance
302 when not paid in money shall be fixed by the employing state
303 agency, and, in case of doubt, by the board of trustees as defined
304 in Section 25-11-15. In any case, earned compensation shall be
305 limited to the regular periodic compensation paid, exclusive of
306 litigation fees, bond fees, and other similar extraordinary
307 nonrecurring payments. In addition, any member in a covered
308 position, as defined by Public Employees' Retirement System laws
309 and regulations, who is also employed by another covered agency or
310 political subdivision shall have the earnings of that additional
311 employment reported to the Public Employees' Retirement System
312 regardless of whether the additional employment is sufficient in
313 itself to be a covered position. In addition, computation of
314 earned compensation shall be governed by the following:

315 (i) In the case of constables, the net earnings
316 from their office after deduction of expenses shall apply, except
317 that in no case shall earned compensation be less than the total
318 direct payments made by the state or governmental subdivisions to
319 the official * * *.

320 (ii) In the case of chancery or circuit clerks,
321 the net earnings from their office after deduction of expenses
322 shall apply as expressed in Section 25-11-123(f)(4).

323 (iii) In the case of members of the state
324 Legislature, all remuneration or amounts paid, except mileage
325 allowance, shall apply.

326 (iv) The amount by which an eligible employee's
327 salary is reduced pursuant to a salary reduction agreement
328 authorized under Section 25-17-5 shall be included as earned
329 compensation under this paragraph, provided this inclusion does
330 not conflict with federal law, including federal regulations and
331 federal administrative interpretations thereunder, pertaining to
332 the Federal Insurance Contributions Act or to Internal Revenue
333 Code Section 125 cafeteria plans.

334 (v) Compensation in addition to an employee's base
335 salary that is paid to the employee pursuant to the vacation and
336 sick leave policies of a municipality or other political
337 subdivision of the state that employs him which exceeds the
338 maximums authorized by Section 25-3-91 et seq. shall be excluded
339 from the calculation of earned compensation under this article.

340 (vi) The maximum salary applicable for retirement
341 purposes before July 1, 1992, shall be the salary of the Governor.

342 (vii) Nothing in Section 25-3-31 shall affect the
343 determination of the earned compensation of any member for the
344 purposes of this article.

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

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

351 (n) "Executive director" shall mean the secretary to
352 the board of trustees, as provided in Section 25-11-15(9), and the
353 administrator of the Public Employees' Retirement System and all
354 systems under the management of the board of trustees. Wherever
355 the term "Executive Secretary of the Public Employees' Retirement
356 System" or "executive secretary" appears in this article or in any
357 other provision of law, it shall be construed to mean the
358 Executive Director of the Public Employees' Retirement System.

359 (o) "Fiscal year" shall mean the period beginning on
360 July 1 of any year and ending on June 30 of the next succeeding
361 year.

362 (p) "Medical board" shall mean the board of physicians
363 or any governmental or nongovernmental disability determination
364 service designated by the board of trustees that is qualified to
365 make disability determinations as provided for in Section
366 25-11-119.

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

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

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

390 (t) "Prior service" shall mean service rendered before
391 February 1, 1953, for which credit is allowable under Sections
392 25-11-105 and 25-11-109, and which shall allow prior service for
393 any person who is now or becomes a member of the Public Employees'
394 Retirement System and who does contribute to the system for a
395 minimum period of four (4) years.

396 (u) "Regular interest" shall mean interest compounded
397 annually at such a rate as shall be determined by the board in

398 accordance with Section 25-11-121.

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

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

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

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

417 (z) "State service" shall mean all offices and
418 positions of trust or employment in the employ of the state, or
419 any political subdivision or instrumentality thereof, which elect
420 to participate as provided by Section 25-11-105(f), including the
421 position of elected or fee officials of the counties and their
422 deputies and employees performing public services or any
423 department, independent agency, board or commission thereof, and
424 shall also include all offices and positions of trust or
425 employment in the employ of joint state and federal agencies
426 administering state and federal funds and service rendered by
427 employees of the public schools. Effective July 1, 1973, all
428 nonprofessional public school employees, such as bus drivers,
429 janitors, maids, maintenance workers and cafeteria employees,
430 shall have the option to become members in accordance with Section
431 25-11-105(b), and shall be eligible to receive credit for services
432 before July 1, 1973, provided that the contributions and interest
433 are paid by the employee in accordance with that section; in

434 addition, the county or municipal separate school district may pay
435 the employer contribution and pro rata share of interest of the
436 retroactive service from available funds. From and after July 1,
437 1998, retroactive service credit shall be purchased at the
438 actuarial cost in accordance with Section 25-11-105(b).

439 (aa) "Withdrawal from service" or "termination from
440 service" shall mean complete severance of employment in the state
441 service of any member by resignation, dismissal or discharge.

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

444 **SECTION 6.** Section 25-11-105, Mississippi Code of 1972, is
445 amended as follows:

446 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

449 (a) (i) All persons who shall become employees in the
450 state service after January 31, 1953, and whose wages are subject
451 to payroll taxes and are lawfully reported on IRS Form W-2, except
452 those specifically excluded, or as to whom election is provided in
453 Articles 1 and 3, shall become members of the retirement system as
454 a condition of their employment.

455 (ii) From and after July 1, 2002, any individual
456 who is employed by a governmental entity to perform professional
457 services shall become a member of the system if the individual is
458 paid regular periodic compensation for those services that is
459 subject to payroll taxes, is provided all other employee benefits
460 and meets the membership criteria established by the regulations
461 adopted by the board of trustees that apply to all other members
462 of the system; however, any active member employed in such a
463 position on July 1, 2002, will continue to be an active member for
464 as long as they are employed in any such position.

465 (b) All persons who shall become employees in the state
466 service after January 31, 1953, except those specifically excluded
467 or as to whom election is provided in Articles 1 and 3, unless
468 they shall file with the board prior to the lapse of sixty (60)
469 days of employment or sixty (60) days after the effective date of

470 the cited articles, whichever is later, on a form prescribed by
471 the board, a notice of election not to be covered by the
472 membership of the retirement system and a duly executed waiver of
473 all present and prospective benefits which would otherwise inure
474 to them on account of their participation in the system, shall
475 become members of the retirement system; * * * however, * * * no
476 credit for prior service will be granted to members until they
477 have contributed to Article 3 of the retirement system for a
478 minimum period of at least four (4) years. Such members shall
479 receive credit for services performed prior to January 1, 1953, in
480 employment now covered by Article 3, but no credit shall be
481 granted for retroactive services between January 1, 1953, and the
482 date of their entry into the retirement system unless the employee
483 pays into the retirement system both the employer's and the
484 employee's contributions on wages paid him during the period from
485 January 31, 1953, to the date of his becoming a contributing
486 member, together with interest at the rate determined by the board
487 of trustees. Members reentering after withdrawal from service
488 shall qualify for prior service under the provisions of Section
489 25-11-117. From and after July 1, 1998, upon eligibility as noted
490 above, the member may receive credit for such retroactive service
491 provided:

492 (1) The member shall furnish proof satisfactory to
493 the board of trustees of certification of such service from the
494 covered employer where the services were performed; and

495 (2) The member shall pay to the retirement system
496 on the date he or she is eligible for such credit or at any time
497 thereafter prior to the date of retirement the actuarial cost for
498 each year of such creditable service. The provisions of this
499 subparagraph (2) shall be subject to the limitations of Section
500 415 of the Internal Revenue Code and regulations promulgated
501 thereunder.

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

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

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

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

529 (f) Each political subdivision of the state and each
530 instrumentality of the state or a political subdivision, or both,
531 is hereby authorized to submit, for approval by the board of
532 trustees, a plan for extending the benefits of this article to
533 employees of any such political subdivision or instrumentality.
534 Each such plan or any amendment to the plan for extending benefits
535 thereof shall be approved by the board of trustees if it finds
536 that such plan, or such plan as amended, is in conformity with
537 such requirements as are provided in Articles 1 and 3; however,
538 upon approval of such plan or any such plan heretofore approved by
539 the board of trustees, the approved plan shall not be subject to
540 cancellation or termination by the political subdivision or
541 instrumentality, except that any community hospital serving a

542 municipality that joined the Public Employees' Retirement System
543 as of November 1, 1956, to offer social security coverage for its
544 employees and subsequently extended retirement annuity coverage to
545 its employees as of December 1, 1965, may, upon documentation of
546 extreme financial hardship, have future retirement annuity
547 coverage cancelled or terminated at the discretion of the board of
548 trustees. No such plan shall be approved unless:

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

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

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

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

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

576 A. The board of trustees shall not finally
577 refuse to approve a plan submitted under paragraph (f), and shall

578 not terminate an approved plan without reasonable notice and
579 opportunity for hearing to each political subdivision or
580 instrumentality affected thereby. The board's decision in any
581 such case shall be final, conclusive and binding unless an appeal
582 be taken by the political subdivision or instrumentality aggrieved
583 thereby to the Circuit Court of Hinds County, Mississippi, in
584 accordance with the provisions of law with respect to civil causes
585 by certiorari.

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

593 C. Every political subdivision or
594 instrumentality required to make payments under paragraph (f)(5)B
595 hereof is authorized, in consideration of the employees' retention
596 in or entry upon employment after enactment of Articles 1 and 3,
597 to impose upon its employees, as to services which are covered by
598 an approved plan, a contribution with respect to wages (as defined
599 in Section 25-11-5) not exceeding the amount provided in Section
600 25-11-123(d) if such services constituted employment within the
601 meaning of Articles 1 and 3, and to deduct the amount of such
602 contribution from the wages as and when paid. Contributions so
603 collected shall be paid into the contribution fund as partial
604 discharge of the liability of such political subdivisions or
605 instrumentalities under paragraph (f)(5)B hereof. Failure to
606 deduct such contribution shall not relieve the employee or
607 employer of liability thereof.

608 D. Any state agency, school, political
609 subdivision, instrumentality or any employer that is required to
610 submit contribution payments or wage reports under any section of
611 this chapter shall be assessed interest on delinquent payments or
612 wage reports as determined by the board of trustees in accordance
613 with rules and regulations adopted by the board and such assessed

614 interest may be recovered by action in a court of competent
615 jurisdiction against such reporting agency liable therefor or may,
616 upon due certification of delinquency and at the request of the
617 board of trustees, be deducted from any other monies payable to
618 such reporting agency by any department or agency of the state.

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

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

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

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

648 In the event any member of any other actuarially funded
649 system maintained by an agency of the state changes his employment

650 to an agency covered by this system, the board of trustees may
651 authorize the receipt of the transfer of the member's creditable
652 service and of the present value of the member's employer's
653 accumulation account and of the present value of the member's
654 accumulated membership contributions from such other system,
655 provided the employee agrees to the transfer of his accumulated
656 membership contributions to this system and provided the other
657 system is authorized and agrees to make such transfer.

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

661 (k) Employees of a political subdivision or
662 instrumentality who were employed by such political subdivision or
663 instrumentality prior to an agreement between such entity and the
664 Public Employees' Retirement System to extend the benefits of this
665 article to its employees, and which agreement provides for the
666 establishment of retroactive service credit, and who have been
667 members of the retirement system and have remained contributors to
668 the retirement system for four (4) years, may receive credit for
669 such retroactive service with such political subdivision or
670 instrumentality, provided the employee and/or employer, as
671 provided under the terms of the modification of the joinder
672 agreement in allowing such coverage, pay into the retirement
673 system the employer's and employee's contributions on wages paid
674 the member during such previous employment, together with interest
675 or actuarial cost as determined by the board covering the period
676 from the date the service was rendered until the payment for the
677 credit for such service was made. Such wages shall be verified by
678 the Social Security Administration or employer payroll records.
679 Effective July 1, 1998, upon eligibility as noted above, a member
680 may receive credit for such retroactive service with such
681 political subdivision or instrumentality provided:

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

686 and

687 (2) The member shall pay to the retirement system
688 on the date he or she is eligible for such credit or at any time
689 thereafter prior to the date of retirement the actuarial cost for
690 each year of such creditable service. The provisions of this
691 subparagraph (2) shall be subject to the limitations of Section
692 415 of the Internal Revenue Code and regulations promulgated
693 thereunder.

694 Nothing contained in this paragraph (k) shall be construed to
695 limit the authority of the board to allow the correction of
696 reporting errors or omissions based on the payment of employee and
697 employer contributions plus applicable interest. Payment for such
698 time shall be made in increments of not less than one-quarter
699 (1/4) year of creditable service beginning with the most recent
700 service. Upon the payment of all or part of such required
701 contributions, plus interest or the actuarial cost as provided
702 above, the member shall receive credit for the period of
703 creditable service for which full payment has been made to the
704 retirement system.

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

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

718 **II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP**

719 The following classes of employees and officers shall not
720 become members of this retirement system, any other provisions of
721 Articles 1 and 3 to the contrary notwithstanding:

722 (a) Patient or inmate help in state charitable, penal
723 or correctional institutions;

724 (b) Students of any state educational institution
725 employed by any agency of the state for temporary, part-time or
726 intermittent work;

727 (c) Participants of Comprehensive Employment and
728 Training Act of 1973 (CETA) being Public Law 93-203, who enroll on
729 or after July 1, 1979.

730 (d) From and after July 1, 2002, individuals who are
731 employed by a governmental entity to perform professional service
732 on less than a full-time basis who do not meet the criteria
733 established in I(a)(ii) of this section.

734 **III. TERMINATION OF MEMBERSHIP**

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

739 **SECTION 7.** Section 25-11-109, Mississippi Code of 1972, is
740 amended as follows:

741 25-11-109. (1) Under such rules and regulations as the
742 board of trustees shall adopt, each person who becomes a member of
743 this retirement system, as provided in Section 25-11-105, on or
744 prior to July 1, 1953, or who becomes a member and contributes to
745 the system for a minimum period of four (4) years, shall receive
746 credit for all state service rendered before February 1, 1953. To
747 receive such credit, such member shall file a detailed statement
748 of all services as an employee rendered by him in the state
749 service before February 1, 1953. For any member who joined the
750 system after July 1, 1953, any creditable service for which the
751 member is not required to make contributions shall not be credited
752 to the member until the member has contributed to the system for a
753 minimum period of at least four (4) years.

754 (2) In the computation of membership service or prior
755 service under the provisions of this article, the total months of
756 accumulative service during any fiscal year shall be calculated in
757 accordance with the schedule as follows: ten (10) or more months

758 of creditable service during any fiscal year shall constitute a
759 year of creditable service; seven (7) months to nine (9) months
760 inclusive, three-quarters (3/4) of a year of creditable service;
761 four (4) months to six (6) months inclusive, one-half-year of
762 creditable service; one (1) month to three (3) months inclusive,
763 one-quarter (1/4) of a year of creditable service. In no case
764 shall credit be allowed for any period of absence without
765 compensation except for disability while in receipt of a
766 disability retirement allowance, nor shall less than fifteen (15)
767 days of service in any month, or service less than the equivalent
768 of one-half (1/2) of the normal working load for the position and
769 less than one-half (1/2) of the normal compensation for the
770 position in any month, constitute a month of creditable service,
771 nor shall more than one (1) year of service be creditable for all
772 services rendered in any one (1) fiscal year; however, for a
773 school employee, substantial completion of the legal school term
774 when and where the service was rendered shall constitute a year of
775 service credit for both prior service and membership service. Any
776 state or local elected official shall be deemed a full-time
777 employee for the purpose of creditable service for prior service
778 or membership service. However, an appointed or elected official
779 compensated on a per diem basis only shall not be allowed
780 creditable service for terms of office.

781 In the computation of any retirement allowance or any annuity
782 or benefits provided in this article, any fractional period of
783 service of less than one (1) year shall be taken into account and
784 a proportionate amount of such retirement allowance, annuity or
785 benefit shall be granted for any such fractional period of
786 service.

787 In the computation of unused leave for creditable service
788 authorized in Section 25-11-103, the following shall govern:
789 twenty-one (21) days of unused leave shall constitute one (1)
790 month of creditable service and in no case shall credit be allowed
791 for any period of unused leave of less than fifteen (15) days.
792 The number of months of unused leave shall determine the number of
793 quarters or years of creditable service in accordance with the

794 above schedule for membership and prior service. In order for the
795 member to receive creditable service for the number of days of
796 unused leave, the system must receive certification from the
797 governing authority.

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

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

805 (b) For service on and after July 1, 1984, the member
806 shall receive credit for personal and major medical leave
807 beginning July 1, 1984, at the rates authorized in Sections
808 25-3-93 and 25-3-95, computed as a full-time employee.

809 (3) Subject to the above restrictions and to such other
810 rules and regulations as the board may adopt, the board shall
811 verify, as soon as practicable after the filing of such statements
812 of service, the services therein claimed.

813 (4) Upon verification of the statement of prior service, the
814 board shall issue a prior service certificate certifying to each
815 member the length of prior service for which credit shall have
816 been allowed on the basis of his statement of service. So long as
817 membership continues, a prior service certificate shall be final
818 and conclusive for retirement purposes as to such service,
819 provided that any member may within five (5) years from the date
820 of issuance or modification of such certificate request the board
821 of trustees to modify or correct his prior service certificate.
822 Any modification or correction authorized shall only apply
823 prospectively.

824 When membership ceases, such prior service certificates shall
825 become void. Should the employee again become a member, he shall
826 enter the system as an employee not entitled to prior service
827 credit except as provided in Sections 25-11-105(I), 25-11-113 and
828 25-11-117.

829 (5) Creditable service at retirement, on which the

830 retirement allowance of a member shall be based, shall consist of
831 the membership service rendered by him since he last became a
832 member, and also, if he has a prior service certificate which is
833 in full force and effect, the amount of the service certified on
834 his prior service certificate.

835 (6) * * * Any member who served on active duty in the Armed
836 Forces of the United States, who served in the Commissioned Corps
837 of the United States Public Health Service prior to 1972 or who
838 served in maritime service during periods of hostility in World
839 War II, shall be entitled to creditable service at no cost for his
840 service on active duty in the Armed Forces in the Commissioned
841 Corps of the United States Public Health Service prior to 1972 or
842 in such maritime service, provided he entered state service after
843 his discharge from the Armed Forces or entered state service after
844 he completed such maritime service. The maximum period for such
845 creditable service for all military service as defined in this
846 subsection (6) shall not exceed four (4) years unless positive
847 proof can be furnished by such person that he was retained in the
848 Armed Forces during World War II or in maritime service during
849 World War II by causes beyond his control and without opportunity
850 of discharge. The member shall furnish proof satisfactory to the
851 board of trustees of certification of military service or maritime
852 service records showing dates of entrance into active duty service
853 and the date of discharge. From and after July 1, 1993, no
854 creditable service shall be granted for any military service or
855 maritime service to a member who qualifies for a retirement
856 allowance in another public retirement system administered by the
857 Board of Trustees of the Public Employees' Retirement System based
858 in whole or in part on such military or maritime service. In no
859 case shall the member receive creditable service if the member
860 received a dishonorable discharge from the Armed Forces of the
861 United States.

862 (7) (a) Any member of the Public Employees' Retirement
863 System whose membership service is interrupted as a result of
864 qualified military service within the meaning of Section 414(u) (5)
865 of the Internal Revenue Code, and who has received the maximum

866 service credit available under subsection (6) of this section,
867 shall receive creditable service for the period of qualified
868 military service that does not qualify as creditable service under
869 subsection (6) of this section upon reentering membership service
870 in an amount not to exceed five (5) years if:

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

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

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

884 (b) The payments required to be made in paragraph
885 (a) (i) of this subsection may be made over a period beginning with
886 the date of return to membership service and not exceeding three
887 (3) times the member's qualified military service; * * *
888 however, * * * in no event shall such period exceed five (5)
889 years.

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

895 (8) Any member of the Public Employees' Retirement System
896 who has at least four (4) years of membership service credit shall
897 be entitled to receive a maximum of five (5) years creditable
898 service for service rendered in another state as a public employee
899 of such other state, or a political subdivision, public education
900 system or other governmental instrumentality thereof, or service
901 rendered as a teacher in American overseas dependent schools

902 conducted by the Armed Forces of the United States for children of
903 citizens of the United States residing in areas outside the
904 continental United States, provided that:

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

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

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

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

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

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

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

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

942 (e) The contributing member shall pay to the retirement
943 system the actuarial cost as determined by the actuary for each
944 year of professional leave. The provisions of this subsection are
945 subject to the regulations of the Internal Revenue Code
946 limitations;

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

950 Any actively contributing member participating in the School
951 Administrator Sabbatical Program established in Section 37-9-77
952 shall qualify for continued participation under this subsection
953 (9).

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

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

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

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

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

977 **SECTION 8.** Section 25-11-112, Mississippi Code of 1972, is
978 amended as follows:

979 25-11-112. (1) Any member who is receiving a retirement
980 allowance for service or disability retirement, or any beneficiary
981 thereof, who has received a monthly benefit for at least one (1)
982 full fiscal year, shall be eligible to receive an additional
983 benefit, on December 1 or July 1 of the year as provided in
984 subsection (3) of this section, equal to the greater of the
985 amounts calculated under paragraph (a) or (b) below:

986 (a) An amount equal to four percent (4%) of the annual
987 retirement allowance multiplied by the number of full fiscal years
988 in retirement through June 30, 1998; or

989 (b) The sum of:

990 (i) An amount equal to three percent (3%) of the
991 annual retirement allowance multiplied by the number of full
992 fiscal years in retirement before the end of the fiscal year in
993 which the member reaches age fifty-five (55), plus

994 (ii) An additional amount equal to three percent
995 (3%) compounded by the number of full fiscal years in retirement
996 beginning with the fiscal year in which the member reaches age
997 fifty-five (55), multiplied by the amount of the annual retirement
998 allowance.

999 (2) The calculation of the beneficiary's additional benefit
1000 under subsection (1)(b)(i) or (1)(b)(ii) of this section shall be
1001 based on the member's age and full fiscal years in retirement as
1002 if the member had lived.

1003 (3) (a) The additional benefit provided for under this
1004 section shall be paid in one (1) payment in December of each year
1005 to those persons who are receiving a retirement allowance on
1006 December 1 of that year, unless an election is made under this
1007 subsection. However, if a retiree who is receiving a retirement
1008 allowance that will terminate upon the retiree's death is
1009 receiving the additional benefit in one (1) payment and dies on or

1010 after July 1 but before December 1, the beneficiary designated on
1011 the retirement application, if any, shall receive in a single
1012 payment a fractional part of the additional benefit based on the
1013 number of months in which a retirement allowance was received
1014 during the fiscal year. Likewise, if a retiree is receiving a
1015 retirement allowance that will terminate upon his or her death in
1016 two (2) to six (6) monthly installments, any remaining payments of
1017 the additional benefit will be paid in a lump sum to the
1018 beneficiary designated on the application, or if none, pursuant to
1019 Section 25-11-117.1(1). Any similar remaining payments of
1020 additional benefits payable under this section to a deceased
1021 beneficiary who was receiving a monthly benefit shall be payable
1022 in accordance with the provisions of Section 25-11-117.1(2). If
1023 the additional monthly benefit is being received in one (1)
1024 payment, the additional benefit shall also be prorated based on
1025 the number of months in which a retirement allowance was received
1026 during the fiscal year when (i) the monthly benefit payable to a
1027 beneficiary terminates due to the expiration of an option,
1028 remarriage or cessation of dependent status or due to the
1029 retiree's return to covered employment, and (ii) the monthly
1030 benefit terminates on or after July 1 and before December 1. The
1031 board may, in its discretion, allow a retired member or a
1032 beneficiary thereof who is receiving the additional annual payment
1033 in the manner provided for in this paragraph to change the manner
1034 in which the additional annual payment is received to that
1035 provided for in paragraph (b) of this subsection if the retired
1036 member or beneficiary submits satisfactory documentation that the
1037 continued receipt of the additional annual payment as provided for
1038 in this paragraph will cause a financial hardship to the retired
1039 member or beneficiary.

1040 (b) Retired members or beneficiaries thereof who on
1041 July 1, 1999, or July 1 of any fiscal year thereafter, are
1042 receiving a retirement allowance, may elect by an irrevocable
1043 agreement in writing filed in the Office of the Public Employees'
1044 Retirement System no less than thirty (30) days before July 1 of
1045 the appropriate year, to begin receiving the additional benefit

1046 provided for under this section in twelve (12) equal monthly
1047 installments beginning July 1, 1999, or July 1 of any fiscal year
1048 thereafter. This irrevocable agreement shall be binding on the
1049 member and subsequent beneficiaries. Payment of those monthly
1050 installments shall not extend beyond the month in which a
1051 retirement allowance is due and payable. The board may, in its
1052 discretion, allow a retired member or a beneficiary thereof who is
1053 receiving the additional annual payment in the manner provided for
1054 in this paragraph to change the manner in which the additional
1055 annual payment is received to that provided for in paragraph (a)
1056 of this subsection if the retired member or beneficiary submits
1057 satisfactory documentation that the continued receipt of the
1058 additional annual payment as provided for in this paragraph will
1059 cause a financial hardship to the retired member or beneficiary.

1060 (4) The additional payment or payments provided for under
1061 this section are for the fiscal year in which they are paid.

1062 (5) The amount provided for under subsection (1)(b)(ii) of
1063 this section is calculated using the following formula:

1064 $[(1.03)^n - 1] \times [\text{annual retirement allowance}],$

1065 where n is the number of full fiscal years in retirement beginning
1066 with the fiscal year in which the member reaches age fifty-five
1067 (55).

1068 (6) Any retired member or beneficiary thereof who has
1069 previously elected to receive the additional annual payment in
1070 monthly installments may elect, upon application on a form
1071 prescribed by the board of trustees, to have that payment made in
1072 one (1) additional payment each year. This written election must
1073 be filed in the Office of the Public Employees' Retirement System
1074 before June 1, 2000, and shall be effective for the fiscal year
1075 beginning July 1, 2000.

1076 (7) In the event of death of a retired member or a
1077 beneficiary thereof who is receiving the additional annual payment
1078 in two (2) to six (6) monthly installments pursuant to an election
1079 made before July 1, 1999, and who would otherwise be eligible to
1080 receive the additional benefit provided for under this section in
1081 one (1) payment in December of the current fiscal year, any

1082 remaining amounts shall be paid in a lump sum to the designated
1083 beneficiary.

1084 (8) When a member retires after July 1 and has previously
1085 received a retirement allowance for one or more full fiscal years,
1086 the retired member shall be eligible immediately for the
1087 additional benefit. The additional benefit shall be based on the
1088 current retirement allowance and the number of full fiscal years
1089 in retirement and shall be prorated and paid in monthly
1090 installments based on the number of months a retirement allowance
1091 is paid during the fiscal year.

1092 **SECTION 9.** Section 25-11-113, Mississippi Code of 1972, is
1093 amended as follows:

1094 25-11-113. (1) (a) Upon the application of a member or his
1095 employer, any active member in state service who has at least four
1096 (4) years of membership service credit may be retired by the board
1097 of trustees on the first of the month following the date of filing
1098 such application on a disability retirement allowance, but in no
1099 event shall the disability retirement allowance commence before
1100 termination of state service, provided that the medical board,
1101 after an evaluation of medical evidence that may or may not
1102 include an actual physical examination by the medical board, shall
1103 certify that the member is mentally or physically incapacitated
1104 for the further performance of duty, that such incapacity is
1105 likely to be permanent, and that the member should be retired;
1106 however, the board of trustees may accept a disability medical
1107 determination from the Social Security Administration in lieu of a
1108 certification from the medical board. For the purposes of
1109 disability determination, the medical board shall apply the
1110 following definition of disability: the inability to perform the
1111 usual duties of employment or the incapacity to perform such
1112 lesser duties, if any, as the employer, in its discretion, may
1113 assign without material reduction in compensation, or the
1114 incapacity to perform the duties of any employment covered by the
1115 Public Employees' Retirement System (Section 25-11-101 et seq.)
1116 that is actually offered and is within the same general
1117 territorial work area, without material reduction in compensation.

1118 The employer shall be required to furnish the job description and
1119 duties of the member. The employer shall further certify whether
1120 the employer has offered the member other duties and has complied
1121 with the applicable provisions of the Americans With Disabilities
1122 Act in affording reasonable accommodations which would allow the
1123 employee to continue employment.

1124 (b) Any inactive member with four (4) or more years of
1125 membership service credit, who has withdrawn from active state
1126 service, is not eligible for a disability retirement allowance
1127 unless the disability occurs within six (6) months of the
1128 termination of active service and unless satisfactory proof is
1129 presented to the board of trustees that the disability was the
1130 direct cause of withdrawal from state service.

1131 (c) Any member who is or becomes eligible for service
1132 retirement benefits under Section 25-11-111 while pursuing a
1133 disability retirement allowance under this section or Section
1134 25-11-114 may elect to receive a service retirement allowance
1135 pending a final determination on eligibility for a disability
1136 retirement allowance or withdrawal of the application for the
1137 disability retirement allowance. In such a case, an application
1138 for a disability retirement allowance must be on file with the
1139 system before the commencement of a service retirement allowance.
1140 If the application is approved, the option selected and
1141 beneficiary designated on the retirement application shall be used
1142 to determine the disability retirement allowance. If the
1143 application is not approved or if the application is withdrawn,
1144 the service retirement allowance shall continue to be paid in
1145 accordance with the option selected. No person may apply for a
1146 disability retirement allowance after the person begins to receive
1147 a service retirement allowance.

1148 (d) If the medical board certifies that the member is
1149 not mentally or physically incapacitated for the future
1150 performance of duty, the member may request, within sixty (60)
1151 days, a hearing before the hearing officer as provided in Section
1152 25-11-120. All hearings shall be held in accordance with rules
1153 and regulations adopted by the board * * * to govern such

1154 hearings. Such hearing may be closed upon the request of the
1155 member.

1156 (e) The medical board may request additional medical
1157 evidence and/or other physicians to conduct an evaluation of the
1158 member's condition. If the medical board requests additional
1159 medical evidence and the member refuses the request, the
1160 application shall be considered void.

1161 (2) Allowance on disability retirement.

1162 (a) Upon retirement for disability, an eligible member
1163 shall receive a retirement allowance if he has attained the age of
1164 sixty (60) years.

1165 (b) Except as provided in paragraph (c) of this
1166 subsection (2), an eligible member who is retired for disability
1167 and who has not attained sixty (60) years of age shall receive a
1168 disability benefit as computed in Section 25-11-111(d)(1) through
1169 (d)(4) which shall consist of:

1170 (i) A member's annuity which shall be the
1171 actuarial equivalent of his accumulated contributions at the time
1172 of retirement; and

1173 (ii) An employer's annuity equal to the amount
1174 that would have been payable as a retirement allowance for both
1175 membership service and prior service had the member continued in
1176 service to the age of sixty (60) years, which shall apply to the
1177 allowance for disability retirement paid to retirees receiving
1178 such allowance upon and after April 12, 1977. This employer's
1179 annuity shall be computed on the basis of the average "earned
1180 compensation" as defined in Section 25-11-103.

1181 (c) For persons who become members after June 30, 1992,
1182 and for active members on June 30, 1992, who elect benefits under
1183 this paragraph (c) instead of those provided under paragraph (b)
1184 of this subsection (2), the disability allowance shall consist of
1185 two (2) parts: a temporary allowance and a deferred allowance.

1186 The temporary allowance shall equal the greater of (i) forty
1187 percent (40%) of average compensation at the time of disability,
1188 plus ten percent (10%) of average compensation for each of the
1189 first two (2) dependent children, as defined in Sections 25-11-103

1190 and 25-11-114, or (ii) the accrued benefit based on actual
1191 service. It shall be payable for a period of time based on the
1192 member's age at disability, as follows:

1193	Age at Disability	Duration
1194	60 and earlier	to age 65
1195	61	to age 66
1196	62	to age 66
1197	63	to age 67
1198	64	to age 67
1199	65	to age 68
1200	66	to age 68
1201	67	to age 69
1202	68	to age 70
1203	69 and over	one year

1204 The deferred allowance shall commence when the temporary
1205 allowance ceases and shall be payable for life. The deferred
1206 allowance shall equal the greater of (i) the allowance that would
1207 have been payable had the member continued in service to the
1208 termination age of the temporary allowance, but no more than forty
1209 percent (40%) of average compensation, or (ii) the accrued benefit
1210 based on actual service at the time of disability. The deferred
1211 allowance as determined at the time of disability shall be
1212 adjusted in accordance with Section 25-11-112 for the period
1213 during which the temporary annuity is payable. In no case shall a
1214 member receive less than Ten Dollars (\$10.00) per month for each
1215 year of service and proportionately for each quarter year thereof
1216 reduced for the option selected.

1217 (d) The member may elect to receive the actuarial
1218 equivalent of the disability retirement allowance in a reduced
1219 allowance payable throughout life under any of the provisions of
1220 the options provided under Section 25-11-115.

1221 (e) Should a disability retiree who has not selected an
1222 option under Section 25-11-115 die before being repaid in
1223 disability benefits the sum of his total contributions, then his
1224 named beneficiary shall receive the difference in cash, which
1225 shall apply to all deceased disability retirees from and after

1226 January 1, 1953.

1227 (3) Reexamination of retirees retired on account of
1228 disability. Except as otherwise provided in this section, once
1229 each year during the first five (5) years following retirement of
1230 a member on a disability retirement allowance, and once in every
1231 period of three (3) years thereafter, the board of trustees may,
1232 and upon his application shall, require any disability retiree who
1233 has not yet attained the age of sixty (60) years or the
1234 termination age of the temporary allowance under paragraph (2)(c)
1235 of this section to undergo a medical examination, such examination
1236 to be made at the place of residence of the retiree or other place
1237 mutually agreed upon by a physician or physicians designated by
1238 the board. The board, however, in its discretion, may authorize
1239 the medical board to establish reexamination schedules appropriate
1240 to the medical condition of individual disability retirees.
1241 Should any disability retiree who has not yet attained the age of
1242 sixty (60) years or the termination age of the temporary allowance
1243 under paragraph (2)(c) of this section refuse to submit to any
1244 medical examination provided herein, his allowance may be
1245 discontinued until his withdrawal of such refusal; and should his
1246 refusal continue for one (1) year, all his rights to a disability
1247 benefit shall be revoked by the board of trustees.

1248 (4) If the medical board reports and certifies to the board
1249 of trustees, after a comparable job analysis or other similar
1250 study, that such disability retiree is engaged in, or is able to
1251 engage in, a gainful occupation paying more than the difference
1252 between his disability allowance, exclusive of cost of living
1253 adjustments, and the average compensation, and if the board of
1254 trustees concurs in such report, the disability benefit shall be
1255 reduced to an amount which, together with the amount earnable by
1256 him, shall equal the amount of his average compensation. If his
1257 earning capacity be later changed, the amount of the * * * benefit
1258 may be further modified, provided that the revised benefit shall
1259 not exceed the amount originally granted. A retiree receiving a
1260 disability benefit who is restored to active service at a salary
1261 less than the average compensation shall not become a member of

1262 the retirement system.

1263 (5) Should a disability retiree under the age of sixty (60)
1264 years or the termination age of the temporary allowance under
1265 paragraph (2)(c) of this section be restored to active service at
1266 a compensation not less than his average compensation, his
1267 disability benefit shall cease, he shall again become a member of
1268 the retirement system, and contributions shall be withheld and
1269 reported. Any such prior service certificate, on the basis of
1270 which his service was computed at the time of retirement, shall be
1271 restored to full force and effect. In addition, upon his
1272 subsequent retirement he shall be credited with all creditable
1273 service as a member, but the total retirement allowance paid to
1274 the retired member in his previous retirement shall be deducted
1275 from his retirement reserve and taken into consideration in
1276 recalculating the retirement allowance under a new option
1277 selected.

1278 (6) If following reexamination in accordance with the
1279 provisions contained in this section, the medical board determines
1280 that a retiree retired on account of disability is physically and
1281 mentally able to return to the employment from which he is
1282 retired, the board of trustees, upon certification of such
1283 findings from the medical board, shall, after a reasonable period
1284 of time, terminate the disability allowance, whether or not the
1285 retiree is reemployed or seeks such reemployment. In addition, if
1286 the board of trustees determines that the retiree is no longer
1287 sustaining a loss of income as established by documented evidence
1288 of the retiree's earned income, the eligibility for a disability
1289 allowance shall terminate and the allowance terminated within a
1290 reasonable period of time. In the event the retirement allowance
1291 is terminated under the provisions of this section, the retiree
1292 may subsequently qualify for a retirement allowance under Section
1293 25-11-111 based on actual years of service credit plus credit for
1294 the period during which a disability allowance was paid.

1295 (7) Any current member as of June 30, 1992, who retires on a
1296 disability retirement allowance after June 30, 1992, and who has
1297 not elected to receive benefits under paragraph (2)(c) of this

1298 section, shall relinquish all rights under the Age Discrimination
1299 in Employment Act of 1967, as amended, with regard to the benefits
1300 payable under this section.

1301 **SECTION 10.** Section 25-11-115, Mississippi Code of 1972, is
1302 amended as follows:

1303 25-11-115. (1) Upon application for superannuation or
1304 disability retirement, any member may elect to receive his benefit
1305 in a retirement allowance payable throughout life with no further
1306 payments to anyone at his death, except that in the event his
1307 total retirement payments under this article do not equal his
1308 total contributions under this article, his named beneficiary
1309 shall receive the difference in cash at his death. Or he may
1310 elect upon retirement, or upon becoming eligible for retirement,
1311 to receive the actuarial equivalent subject to the provisions of
1312 subsection (3) of this section of his retirement allowance in a
1313 reduced retirement allowance payable throughout life with the
1314 provision that:

1315 **Option 1.** If he dies before he has received in annuity
1316 payment the value of the member's annuity savings account as it
1317 was at the time of his retirement, the balance shall be paid to
1318 his legal representative or to such person as he shall nominate by
1319 written designation duly acknowledged and filed with the board; or

1320 **Option 2.** Upon his death, his reduced retirement allowance
1321 shall be continued throughout the life of, and paid to, such
1322 person as he has nominated by written designation duly
1323 acknowledged and filed with the board of trustees at the time of
1324 his retirement;

1325 **Option 3.** Upon his death, one-half (1/2) of his reduced
1326 retirement allowance shall be continued throughout the life of,
1327 and paid to, such person as he shall have nominated by written
1328 designation duly acknowledged and filed with the board of trustees
1329 at the time of his retirement, and the other one-half (1/2) of his
1330 reduced retirement allowance to some other designated beneficiary;

1331 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
1332 retirement allowance, or such other specified amount, shall be
1333 continued throughout the life of, and paid to, such person as he

1334 shall have nominated by written designation duly acknowledged and
1335 filed with the board of trustees at the time of his retirement; or

1336 **Option 4-B.** A reduced retirement allowance shall be
1337 continued throughout the life of the retirant, but with the
1338 further guarantee of payments to the named beneficiary,
1339 beneficiaries or to the estate for a specified number of years
1340 certain. If the retired member or the last designated beneficiary
1341 receiving annuity payments dies prior to receiving all guaranteed
1342 payments due, the actuarial equivalent of the remaining payments
1343 shall be paid pursuant to Section 25-11-117.1(1);

1344 **Option 4-C.** Such retirement allowance otherwise payable may
1345 be converted into a retirement allowance of equivalent actuarial
1346 value in such an amount that, with the member's benefit under
1347 Title II of the federal Social Security Act, the member will
1348 receive, so far as possible, approximately the same amount
1349 annually before and after the earliest age at which the member
1350 becomes eligible to receive a social security benefit. This
1351 option shall not be available to retirees whose retirement is
1352 effective on or after July 1, 2004.

1353 **Option 6.** Any member who has at least twenty-eight (28)
1354 years of creditable service at the time of retirement or who is at
1355 least sixty-three (63) years of age and eligible to retire, may
1356 select the maximum retirement benefit or an optional benefit as
1357 provided in this subsection together with a partial lump sum
1358 distribution. The amount of the lump sum distribution under this
1359 option shall be equal to the maximum monthly benefit multiplied by
1360 twelve (12), twenty-four (24) or thirty-six (36) as selected by
1361 the member. The maximum retirement benefit shall be actuarially
1362 reduced to reflect the amount of the lump sum distribution
1363 selected and further reduced for any other optional benefit
1364 selected. The annuity and lump sum distribution shall be computed
1365 to result in no actuarial loss to the system. The lump sum
1366 distribution shall be made as a single payment payable at the time
1367 the first monthly annuity payment is paid to the retiree. The
1368 amount of the lump sum distribution shall be deducted from the
1369 member's annuity savings account in computing what contributions

1370 remain at the death of the retiree and/or a beneficiary. The lump
1371 sum distribution option may be elected only once by a member upon
1372 initial retirement, and may not be elected by a retiree, by
1373 members applying for a disability retirement annuity, by survivors
1374 or by a member selecting Option 4-C.

1375 (2) No change in the option selected shall be permitted
1376 after the member's death or after the member has received his
1377 first retirement check except as provided in subsections (3) and
1378 (4) of this section and in Section 25-11-127. Members who are
1379 pursuing a disability retirement allowance and simultaneously or
1380 subsequently elect to begin to receive a service retirement
1381 allowance while continuing to pursue a disability retirement
1382 allowance, shall not be eligible to select Option 4-C or Option 6
1383 and those options may not be selected at a later time if the
1384 application for a disability retirement allowance is voided or
1385 denied. However, any retired member who is receiving a retirement
1386 allowance under Option 2 or Option 4-A upon July 1, 1992, and
1387 whose designated beneficiary predeceased him or whose marriage to
1388 a spouse who is his designated beneficiary is terminated by
1389 divorce or other dissolution, upon written notification to the
1390 retirement system of the death of the designated beneficiary or of
1391 the termination of his marriage to his designated beneficiary, the
1392 retirement allowance payable to the member after receipt of such
1393 notification by the retirement system shall be equal to the
1394 retirement allowance which would have been payable had the member
1395 not elected the option. In addition, any retired member who is
1396 receiving the maximum retirement allowance for life, a retirement
1397 allowance under Option 1 or who is receiving a retirement
1398 allowance under Option 2 or Option 4-A on July 1, 1992, may elect
1399 to provide survivor benefits under Option 2 or Option 4-A to a
1400 spouse who was not previously the member's beneficiary and whom
1401 the member married before July 1, 1992.

1402 (3) Any retired member who is receiving a reduced retirement
1403 allowance under Option 2 or Option 4-A whose designated
1404 beneficiary predeceases him, or whose marriage to a spouse who is
1405 his designated beneficiary is terminated by divorce or other

1406 dissolution, may elect to cancel his reduced retirement allowance
1407 and receive the maximum retirement allowance for life in an amount
1408 equal to the amount that would have been payable if the member had
1409 not elected Option 2 or Option 4-A. Such election must be made in
1410 writing to the office of the executive director of the system on a
1411 form prescribed by the board. Any such election shall be
1412 effective the first of the month following the date the election
1413 is received by the system.

1414 (4) Any retired member who is receiving the maximum
1415 retirement allowance for life, or a retirement allowance under
1416 Option 1, and who marries after his retirement may elect to cancel
1417 his maximum retirement allowance and receive a reduced retirement
1418 allowance under Option 2 or Option 4-A to provide continuing
1419 lifetime benefits to his spouse. Such election must be made in
1420 writing to the office of the executive director of the system on a
1421 form prescribed by the board not earlier than the date of the
1422 marriage. Any such election shall be effective the first of the
1423 month following the date the election is received by the
1424 system. * * *

1425 (5) In the event the election of an optional benefit is made
1426 after the member has attained the age of sixty-five (65) years,
1427 the actuarial equivalent factor shall be used to compute the
1428 reduced retirement allowance as if the election had been made on
1429 his sixty-fifth birthday; however, from and after January 1, 2003,
1430 if there is an election of Option 6 after the member has attained
1431 the age of sixty-five (65) years, the actuarial equivalent factor
1432 based on the retiree's age at the time of retirement shall be used
1433 to compute the reduced maximum monthly retirement allowance.
1434 However, if a retiree marries or remarries after retirement and
1435 elects either Option 2 or Option 4-A as provided in subsection (2)
1436 or (4) of this section, the actuarial equivalent factor used to
1437 compute the reduced retirement allowance shall be the factor for
1438 the age of the retiree and his or her beneficiary at the time such
1439 election for recalculation of benefits is made.

1440 (6) Notwithstanding any provision of Section 25-11-1 et
1441 seq., no payments may be made for a retirement allowance on a

1442 monthly basis for a period of time in excess of that allowed by
1443 federal law.

1444 (7) If a retirant and his eligible beneficiary, if any, both
1445 die before they have received in annuity payments a total amount
1446 equal to the accumulated contributions standing to the retirant's
1447 credit in the annuity savings account at the time of his
1448 retirement, the difference between the accumulated contributions
1449 and the total amount of annuities received by them shall be paid
1450 to such persons as the retirant has nominated by written
1451 designation duly executed and filed in the office of the executive
1452 director. If no designated person survives the retirant and his
1453 beneficiary, the difference, if any, shall be paid pursuant to
1454 Section 25-11-117.1(1).

1455 (8) Any retired member who retired on Option 2(5) or 4-A(5)
1456 prior to July 1, 1992, who is still receiving a retirement
1457 allowance on July 1, 1994, shall receive an increase in the annual
1458 retirement allowance effective July 1, 1994, equal to the amount
1459 they would have received under Option 2 or Option 4-A without a
1460 reduction for Option 5 based on the ages at retirement of the
1461 retiree and beneficiary and option factors in effect on July 1,
1462 1992. Such increase shall be prospective only.

1463 **SECTION 11.** Section 25-11-120, Mississippi Code of 1972, is
1464 amended as follows:

1465 25-11-120. (1) Any individual aggrieved by an
1466 administrative determination, including a determination of the
1467 medical board, relating to the eligibility for or payment of
1468 benefits, or the calculation of creditable service or other
1469 similar matters relating to the Public Employees' Retirement
1470 System or any other retirement system or program administered by
1471 the board, may request a hearing before a hearing officer
1472 designated by the board. Such hearings shall be conducted in
1473 accordance with rules and regulations adopted by the board and
1474 formal rules of evidence shall not apply. The hearing officer is
1475 authorized to administer oaths, hear testimony of witnesses and
1476 receive documentary and other evidence. In case of disability
1477 appeals, the hearing officer shall have the authority to defer a

1478 decision in order to request a medical evaluation or test or
1479 additional existing medical records not previously furnished by
1480 the claimant. After the hearing and the receipt of any additional
1481 medical evidence requested by the hearing officer, the hearing
1482 officer shall certify the record to the board, which shall include
1483 the hearing officer's proposed statement of facts, conclusions of
1484 law and recommendation. The record may include a taped recording
1485 of the proceedings of the hearing in lieu of a transcribed copy of
1486 the proceedings. The board shall receive the record and make its
1487 determination based solely on matters contained therein.

1488 (2) Any individual aggrieved by the determination of the
1489 board may appeal to the Circuit Court of the First Judicial
1490 District of Hinds County, Mississippi, in accordance with the
1491 Uniform Circuit Court Rules governing appeals to the circuit court
1492 in civil cases. Such appeal shall be made solely on the record
1493 before the board and this procedure shall be the exclusive method
1494 of appealing determinations of the board.

1495 (3) The board is authorized to appoint a committee of the
1496 board to serve as hearing officer or to employ or contract with
1497 qualified personnel to perform the duties of hearing officer and
1498 court reporter as may be necessary for conducting, recording and
1499 transcribing such hearings. The board may assess and collect fees
1500 to offset costs related to such hearings. Those fees shall be
1501 deposited to the credit of the Public Employees' Retirement
1502 System.

1503 **SECTION 12.** Section 25-11-123, Mississippi Code of 1972, is
1504 amended as follows:

1505 25-11-123. All of the assets of the system shall be credited
1506 according to the purpose for which they are held to one (1) of
1507 four (4) reserves; namely, the annuity savings account, the
1508 annuity reserve, the employer's accumulation account, and the
1509 expense account.

1510 (a) **Annuity savings account.** In the annuity savings account
1511 shall be accumulated the contributions made by members to provide
1512 for their annuities, including interest thereon which shall be
1513 posted monthly. Credits to and charges against the annuity

1514 savings account shall be made as follows:

1515 (1) Beginning July 1, 1991, the employer shall cause to
1516 be deducted from the salary of each member on each and every
1517 payroll of such employer for each and every payroll period seven
1518 and one-fourth percent (7-1/4%) of earned compensation as defined
1519 in Section 25-11-103. Future contributions shall be fixed
1520 biennially by the board on the basis of the liabilities of the
1521 retirement system for the various allowances and benefits as shown
1522 by actuarial valuation; * * * however, * * * any member earning at
1523 a rate less than Sixteen Dollars and Sixty-seven Cents (\$16.67)
1524 per month, or Two Hundred Dollars (\$200.00) per year, shall
1525 contribute not less than One Dollar (\$1.00) per month, or Twelve
1526 Dollars (\$12.00) per year.

1527 (2) The deductions provided herein shall be made
1528 notwithstanding that the minimum compensation provided by law for
1529 any member shall be reduced thereby. Every member shall be deemed
1530 to consent and agree to the deductions made and provided for
1531 herein and shall receipt for his full salary or compensation, and
1532 payment of salary or compensation less the deduction shall be a
1533 full and complete discharge and a quittance of all claims and
1534 demands whatsoever for the services rendered by such person during
1535 the period covered by such payment, except as to the benefits
1536 provided under Articles 1 and 3. The board shall provide by rules
1537 for the methods of collection of contributions from members and
1538 the employer. The board shall have full authority to require the
1539 production of evidence necessary to verify the correctness of
1540 amounts contributed.

1541 (b) **Annuity reserve.** The annuity reserve shall be the
1542 account representing the actuarial value of all annuities in
1543 force, and to it shall be charged all annuities and all benefits
1544 in lieu of annuities, payable as provided in this article. If a
1545 beneficiary retired on account of disability is restored to active
1546 service with a compensation not less than his average final
1547 compensation at the time of his last retirement, the remainder of
1548 his contributions shall be transferred from the annuity reserve to
1549 the annuity savings account and credited to his individual account

1550 therein, and the balance of his annuity reserve shall be
1551 transferred to the employer's accumulation account.

1552 (c) **Employer's accumulation account.** The employer's
1553 accumulation account shall represent the accumulation of all
1554 reserves for the payment of all retirement allowances and other
1555 benefits payable from contributions made by the employer, and
1556 against this account shall be charged all retirement allowances
1557 and other benefits on account of members. Credits to and charges
1558 against the employer's accumulation account shall be made as
1559 follows:

1560 (1) On account of each member there shall be paid
1561 monthly into the employer's accumulation account by the employers
1562 for the preceding fiscal year an amount equal to a certain
1563 percentage of the total earned compensation, as defined in Section
1564 25-11-103, of each member. The percentage rate of such
1565 contributions shall be fixed biennially by the board on the basis
1566 of the liabilities of the retirement system for the various
1567 allowances and benefits as shown by actuarial valuation. Beginning
1568 January 1, 1990, the rate shall be fixed at nine and three-fourths
1569 percent (9-3/4%). Political subdivisions joining Article 3 of the
1570 Public Employees' Retirement System after July 1, 1968, may adjust
1571 the employer's contributions by agreement with the Board of
1572 Trustees of the Public Employees' Retirement System to provide
1573 service credits for any period prior to execution of the agreement
1574 based upon an actuarial determination of employer's contribution
1575 rates.

1576 (2) On the basis of regular interest and of such
1577 mortality and other tables as shall be adopted by the board of
1578 trustees, the actuary engaged by the board to make each valuation
1579 required by this article during the period over which the accrued
1580 liability contribution is payable, immediately after making such
1581 valuation, shall determine the uniform and constant percentage of
1582 the earnable compensation of each member which, if contributed by
1583 the employer on the basis of compensation of such member
1584 throughout his entire period of membership service, would be
1585 sufficient to provide for the payment of any retirement allowance

1586 payable on his account for such service. The percentage rate so
1587 determined shall be known as the "normal contribution rate."
1588 After the accrued liability contribution has ceased to be payable,
1589 the normal contribution rate shall be the percentage rate of the
1590 salary of all members obtained by deducting from the total
1591 liabilities on account of membership service the amount in the
1592 employer's accumulation account, and dividing the remainder by one
1593 percent (1%) of the present value of the prospective future
1594 salaries of all members as computed on the basis of the mortality
1595 and service tables adopted by the board of trustees and regular
1596 interest. The normal rate of contributions shall be determined by
1597 the actuary after each valuation.

1598 (3) The total amount payable in each year to the
1599 employer's accumulation account shall not be less than the sum of
1600 the percentage rate known as the "normal contribution" rate and
1601 the "accrued liability contribution" rate of the total
1602 compensation earnable by all members during the preceding year,
1603 provided that the payment by the employer shall be sufficient,
1604 when combined with the amounts in the account, to provide the
1605 allowances and other benefits chargeable to this account during
1606 the year then current.

1607 (4) The accrued liability contribution shall be
1608 discontinued as soon as the accumulated balance in the employer's
1609 accumulation account shall equal the present value, computed on
1610 the basis of the normal contribution rate then in force, or the
1611 prospective normal contributions to be received on account of all
1612 persons who are at that time members.

1613 (5) All allowances and benefits in lieu thereof, with
1614 the exception of those payable on account of members who receive
1615 no prior service credit, payable from contributions of the
1616 employer, shall be paid from the employer's accumulation account.

1617 (6) Upon the retirement of a member, an amount equal to
1618 his retirement allowance shall be transferred from the employer's
1619 accumulation account to the annuity reserve.

1620 (d) **Expense account.** The expense account shall be the
1621 account to which the expenses of the administration of the system

1622 shall be charged, exclusive of amounts payable as retirement
1623 allowances and as other benefits provided herein. The Legislature
1624 shall make annual appropriations in amounts sufficient to
1625 administer the system, which shall be credited to this account.
1626 There shall be transferred to the State Treasury from this
1627 account, not less than once per month, an amount sufficient for
1628 payment of the estimated expenses of the system for the succeeding
1629 thirty (30) days. Any interest earned on the expense account
1630 shall accrue to the benefit of the system. * * * However, * * *
1631 notwithstanding the provisions of Sections 25-11-15(10) and
1632 25-11-105(f)(5)E, all expenses of the administration of the system
1633 shall be paid from the interest earnings, provided the interest
1634 earnings are in excess of the actuarial interest assumption as
1635 determined by the board, and provided the present cost of the
1636 administrative expense fee of two percent (2%) of the
1637 contributions reported by the political subdivisions and
1638 instrumentalities shall be reduced to one percent (1%) from and
1639 after July 1, 1983, through June 30, 1984, and shall be eliminated
1640 thereafter.

1641 (e) **Collection of contributions.** The employer shall cause
1642 to be deducted on each and every payroll of a member for each and
1643 every payroll period, beginning subsequent to January 31, 1953,
1644 the contributions payable by such member as provided in Articles 1
1645 and 3.

1646 The employer shall make deductions from salaries of employees
1647 as provided in Articles 1 and 3 and shall transmit monthly, or at
1648 such time as the board of trustees shall designate, the amount
1649 specified to be deducted to the Executive Director of the Public
1650 Employees' Retirement System. The executive director, after
1651 making a record of all such receipts, shall deposit such amounts
1652 as provided by law.

1653 (f) (1) Upon the basis of each actuarial valuation provided
1654 herein, the board of trustees shall biennially determine the
1655 normal contribution rate and the accrued liability contribution
1656 rate as provided in this section. The sum of these two (2) rates
1657 shall be known as the "employer's contribution rate." Beginning

1658 on earned compensation effective January 1, 1990, the rate
1659 computed as provided in this section shall be nine and
1660 three-fourths percent (9-3/4%). The percentage rate of such
1661 contributions shall be fixed biennially by the board on the basis
1662 of the liabilities of the retirement system for the various
1663 allowances and benefits as shown by actuarial valuation.
1664 Notwithstanding any other provision of law, the county board of
1665 education, the governing authorities of separate, consolidated, or
1666 municipal school districts, and all other such boards set up by
1667 law which handle and disburse school funds, shall pay from local
1668 tax sources one and one-half percent (1-1/2%) of the total
1669 employer's contribution rate of nine and three-fourths percent
1670 (9-3/4%).

1671 (2) The amount payable by the employer on account of
1672 normal and accrued liability contributions shall be determined by
1673 applying the employer's contribution rate to the amount of
1674 compensation earned by employees who are members of the system.
1675 Monthly, or at such time as the board of trustees shall designate,
1676 each department or agency shall compute the amount of the
1677 employer's contribution payable, with respect to the salaries of
1678 its employees who are members of the system, and shall cause that
1679 amount to be paid to the board of trustees from the personal
1680 service allotment of the amount appropriated for the operation of
1681 the department or agency, or from funds otherwise available to the
1682 agency, for the payment of salaries to its employees.

1683 (3) Constables shall pay employer and employee
1684 contributions on their net fee income as well as the employee
1685 contributions on all direct treasury or county payroll income.
1686 The county shall be responsible for the employer contribution on
1687 all direct treasury or county payroll income of constables.

1688 (4) Chancery and circuit clerks shall be responsible
1689 for both the employer and employee share of contributions on the
1690 proportionate share of net income attributable to fees, as well as
1691 the employee share of net income attributable to direct treasury
1692 or county payroll income, and the employing county shall be
1693 responsible for the employer contributions on the net income

1694 attributable to direct treasury or county payroll income.

1695 (5) Once each year, under procedures established by the
1696 system, each employer shall submit to the Public Employees'
1697 Retirement System a copy of their report to Social Security of all
1698 employees' earnings.

1699 (6) The board shall provide by rules for the methods of
1700 collection of contributions of employers and members. The amounts
1701 determined due by an agency to the various funds as specified in
1702 Articles 1 and 3 are made obligations of the agency to the board
1703 and shall be paid as provided herein. Failure to deduct such
1704 contributions shall not relieve the employee and employer from
1705 liability thereof. Delinquent employee contributions and any
1706 accrued interest shall be the obligation of the employee and
1707 delinquent employer contributions and any accrued interest shall
1708 be the obligation of the employer. The employer may, in its
1709 discretion, elect to pay any or all of the interest on delinquent
1710 employee contributions. From and after July 1, 1996, under rules
1711 and regulations established by the board, all employers are
1712 authorized and shall transfer all funds due to the Public
1713 Employees' Retirement System electronically and shall transmit any
1714 wage or other reports by computerized reporting systems.

1715 **SECTION 13.** Section 25-11-127, Mississippi Code of 1972, is
1716 amended as follows:

1717 25-11-127. (1) (a) No person who is being paid a
1718 retirement allowance or a pension after retirement under this
1719 article shall be employed or paid for any service by the State of
1720 Mississippi, except as provided in this section. * * *

1721 (b) No retiree of this retirement system who is
1722 reemployed or is reelected to office after retirement shall
1723 continue to draw retirement benefits while so reemployed, except
1724 as provided in this section.

1725 (c) No person employed or elected under the exceptions
1726 provided for in this section shall become a member under Article 3
1727 of the retirement system.

1728 (2) Any person who has been retired under the provisions of
1729 Article * * * 3 and who is later reemployed in service covered by

1730 this article shall cease to receive benefits under this article
1731 and shall again become a contributing member of the retirement
1732 system. When the person retires again, if the reemployment
1733 exceeds six (6) months, the person shall have his or her benefit
1734 recomputed, including service after again becoming a member,
1735 provided that the total retirement allowance paid to the retired
1736 member in his or her previous retirement shall be deducted from
1737 the member's retirement reserve and taken into consideration in
1738 recalculating the retirement allowance under a new option
1739 selected.

1740 * * *

1741 (3) The board * * * shall have the right to prescribe rules
1742 and regulations for carrying out the provisions of this section.

1743 (4) The provisions of this section shall not be construed to
1744 prohibit any retiree, regardless of age, from being employed and
1745 drawing a retirement allowance either:

1746 (a) For a period of time not to exceed one-half (1/2)
1747 of the normal working days for the position in any fiscal year
1748 during which the retiree will receive no more than one-half (1/2)
1749 of the salary in effect for the position at the time of
1750 employment, or

1751 (b) For a period of time in any fiscal year sufficient
1752 in length to permit a retiree to earn not in excess of twenty-five
1753 percent (25%) of retiree's average compensation.

1754 To determine the normal working days for a position under
1755 paragraph (a) of this subsection, the employer shall determine the
1756 required number of working days for the position on a full-time
1757 basis and the equivalent number of hours representing the
1758 full-time position. The retiree then may work up to one-half
1759 (1/2) of the required number of working days or up to one-half
1760 (1/2) of the equivalent number of hours and receive up to one-half
1761 (1/2) of the salary for the position. In the case of employment
1762 with multiple employers, the limitation shall equal one-half (1/2)
1763 of the number of days or hours for a single full-time position.

1764 Notice shall be given in writing to the executive
1765 director * * *, setting forth the facts upon which the employment

1766 is being made, and the notice shall be given within five (5) days
1767 from the date of employment and also from the date of termination
1768 of the employment.

1769 * * *

1770 (5) Any member may continue in municipal or county elected
1771 office * * * or be * * * elected to a municipal or county office,
1772 provided that the person:

1773 (a) Files annually, in writing, in the office of the
1774 employer and the office of the executive director of the system
1775 before the person takes office or as soon as possible after
1776 retirement, a waiver of all salary or compensation and elects to
1777 receive in lieu of that salary or compensation a retirement
1778 allowance as provided in this section, in which event no salary or
1779 compensation shall thereafter be due or payable for those
1780 services; however, any such officer or employee may receive, in
1781 addition to the retirement allowance, * * * office expense
1782 allowance, mileage or travel expense authorized by any statute of
1783 the State of Mississippi; or

1784 (b) Elects to receive compensation for that elective
1785 office in an amount not to exceed twenty-five percent (25%) of the
1786 retiree's average compensation. As used in this paragraph, the
1787 term "compensation" shall not include office expense allowance,
1788 mileage or travel expense authorized by a statute of the State of
1789 Mississippi. In order to receive compensation as allowed in this
1790 paragraph, the member shall file annually, in writing, in the
1791 office of the employer and the office of the executive director of
1792 the system, an election to receive, in addition to a retirement
1793 allowance, compensation as allowed in this paragraph.

1794 **SECTION 14.** Section 25-11-133, Mississippi Code of 1972, is
1795 amended as follows:

1796 25-11-133. (1) The maintenance of actuarial reserves for
1797 the various allowances and benefits under Articles 1 and 3, and
1798 the payment of all annuities, retirement allowances, refunds and
1799 other benefits granted hereunder are hereby made obligations of
1800 the employer's accumulation accounts. All income, interest and
1801 dividends derived from deposits and investments authorized by

1802 those articles shall be used for the payment of the obligations of
1803 the system.

1804 (2) In the event of the termination of the Public Employees'
1805 Retirement System established pursuant to the provisions of
1806 Section 25-11-101 et seq., all members of the system as of the
1807 date of termination of the system shall be deemed to have a vested
1808 right to benefits to the extent and in the same manner that rights
1809 would be vested under the statute existing as of the date of
1810 termination of the system, except that any member who, because of
1811 a termination of the system has not fulfilled the requirements for
1812 length of service, shall nonetheless be entitled to compensation
1813 as of the date that such member would otherwise be eligible, with
1814 such compensation to be computed on the basis of time actually a
1815 member of the service and compensation actually earned during the
1816 time a member, in the manner now provided by statute.

1817 In the event of a deficit in the availability of funds for
1818 payment due under the provisions of the Public Employees'
1819 Retirement System, an appropriation shall hereinafter be made
1820 sufficient for the payment thereof as an obligation of the state.

1821 (3) Notwithstanding any provisions of this section or this
1822 title to the contrary, the maximum annual retirement allowance
1823 attributable to the employer contributions payable by the system
1824 to a member shall be subject to the limitations set forth in
1825 Section 415 of the Internal Revenue Code and any regulations
1826 issued thereunder as applicable to governmental plans as such term
1827 is defined under Section 414(d) of the Internal Revenue Code.

1828 (4) Notwithstanding any other provision of this plan, all
1829 distributions from this plan shall conform to the regulations
1830 issued under Section 401(a)(9) of the Internal Revenue Code,
1831 applicable to governmental plans, as defined in Section 414(d) of
1832 the Internal Revenue Code, including the incidental death benefit
1833 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
1834 Further, such regulations shall override any plan provision that
1835 is inconsistent with Section 401(a)(9) of the Internal Revenue
1836 Code.

1837 (5) The actuarial assumptions used to convert a retirement

1838 allowance from the normal form of payment to an optional form of
1839 payment shall be an appendix to Article 3 and subject to approval
1840 by the board of trustees based upon certification by the actuary.

1841 (6) Notwithstanding any other provision of this plan, the
1842 maximum compensation that can be considered for all plan purposes
1843 shall not be greater than that allowed under Section 401(a)(17) of
1844 the Internal Revenue Code.

1845 **SECTION 15.** Section 25-11-309, Mississippi Code of 1972, is
1846 amended as follows:

1847 25-11-309. (1) The retirement allowance from the
1848 Supplemental Legislative Retirement Plan shall consist of fifty
1849 percent (50%) of an amount equal to the retirement allowance
1850 determined by creditable service as an elected Senator or
1851 Representative of the State Legislature or as President of the
1852 Senate payable by the Public Employees' Retirement System in
1853 accordance with Section 25-11-101 et seq. * * *

1854 (2) The percentage of the retirement allowance as provided
1855 in this section shall be transferred from the annuity savings
1856 account of the member and the employer accumulation account in the
1857 Supplemental Legislative Retirement Plan to the retirement account
1858 of the member in the Public Employees' Retirement System as
1859 provided.

1860 (3) Notwithstanding any provisions of this section or this
1861 title to the contrary, the maximum annual retirement allowance
1862 attributable to the employer contributions payable under the
1863 Supplemental Legislative Retirement Plan to a member shall be
1864 subject to the limitations set forth in Section 415 of the
1865 Internal Revenue Code and any regulations issued thereunder
1866 applicable to governmental plans as such term is defined under
1867 Section 414(d) of the Internal Revenue Code.

1868 **SECTION 16.** Section 25-13-16, Mississippi Code of 1972, is
1869 amended as follows:

1870 25-13-16. (1) Upon application for superannuation or
1871 disability retirement, any member who retires after July 1, 1990,
1872 may elect to receive his benefit pursuant to the provisions of
1873 Sections 25-13-11 and 25-13-13. Or he may elect upon retirement,

1874 or upon becoming eligible for retirement, to receive the actuarial
1875 equivalent, subject to the provisions of subsection (3) of this
1876 section, of his retirement allowance in a reduced retirement
1877 allowance payable throughout life with the provision that:

1878 **Option 1.** If he dies before he has received in annuity
1879 payment the value of the member's annuity savings account as it
1880 was at the time of his retirement, the balance shall be paid to
1881 his legal representative or to such person as he shall nominate by
1882 written designation duly acknowledged and filed with the board; or

1883 **Option 2.** Upon his death, his reduced retirement allowance
1884 shall be continued throughout the life of, and paid to, such
1885 person as he has nominated by written designation duly
1886 acknowledged and filed with the board of trustees at the time of
1887 his retirement;

1888 **Option 3.** Upon his death, one-half (1/2) of his reduced
1889 retirement allowance shall be continued throughout the life of,
1890 and paid to, such person as he shall have nominated by written
1891 designation duly acknowledged and filed with the board of trustees
1892 at the time of his retirement, and the other one-half (1/2) of his
1893 reduced retirement allowance to some other designated beneficiary;

1894 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
1895 retirement allowance, or such other specified amount, shall be
1896 continued throughout the life of, and paid to, such person as he
1897 shall have nominated by written designation duly acknowledged and
1898 filed with the board of trustees at the time of his retirement; or

1899 **Option 4-B.** A reduced retirement allowance shall be
1900 continued throughout the life of the retirant, but with the
1901 further guarantee of payments to the named beneficiary,
1902 beneficiaries or to the estate for a specified number of years
1903 certain. If the retired member or the last designated beneficiary
1904 receiving annuity payments dies prior to receiving all guaranteed
1905 payments due, the actuarial equivalent of the remaining payments
1906 shall be paid pursuant to Section 25-13-21.1(1).

1907 **Option 4-C.** Such retirement allowance otherwise payable may
1908 be converted into a retirement allowance of equivalent actuarial
1909 value in such an amount that, with the member's benefit under

1910 Title II of the federal Social Security Act, the member will
1911 receive, so far as possible, approximately the same amount
1912 annually before and after the earliest age at which the member
1913 becomes eligible to receive a social security benefit. This
1914 option shall not be available to retirees whose retirement is
1915 effective on or after July 1, 2004.

1916 **Option 6.** Any member who is eligible to retire with an
1917 unreduced benefit may select the maximum retirement benefit or an
1918 optional benefit as provided in this subsection together with a
1919 partial lump sum distribution. The amount of the lump sum
1920 distribution under this option shall be equal to the maximum
1921 monthly benefit multiplied by twelve (12), twenty-four (24) or
1922 thirty-six (36) as selected by the member. The maximum retirement
1923 benefit shall be actuarially reduced to reflect the amount of the
1924 lump sum distribution selected and further reduced for any other
1925 optional benefit selected. The annuity and lump sum distribution
1926 shall be computed to result in no actuarial loss to the system.
1927 The lump sum distribution shall be made as a single payment
1928 payable at the time the first monthly annuity payment is paid to
1929 the retiree. The amount of the lump sum distribution shall be
1930 deducted from the member's annuity savings account in computing
1931 what contributions remain at the death of the retiree and/or a
1932 beneficiary. The lump sum distribution option may be elected only
1933 once by a member upon initial retirement, and may not be elected
1934 by a retiree, by members applying for a disability retirement
1935 annuity, by survivors or by a member selecting Option 4-C.

1936 (2) No change in the option selected shall be permitted
1937 after the member's death or after the member has received his
1938 first retirement check, except as provided in subsections (3) and
1939 (4) of this section. However, any retired member who is receiving
1940 a retirement allowance under Option 2 or Option 4-A upon July 1,
1941 1999, and whose designated beneficiary predeceased him or whose
1942 marriage to a spouse who is his designated beneficiary is
1943 terminated by divorce or other dissolution, upon written
1944 notification to the retirement system of the death of the
1945 designated beneficiary or of the termination of his marriage to

1946 his designated beneficiary, the retirement allowance payable to
1947 the member after receipt of such notification by the retirement
1948 system shall be equal to the retirement allowance that would have
1949 been payable if the member had not elected the option. In
1950 addition, any retired member who is receiving the maximum
1951 retirement allowance for life, a retirement allowance under Option
1952 1 or who is receiving a retirement allowance under Option 2 or
1953 Option 4-A on July 1, 1999, may elect to provide survivor benefits
1954 under Option 2 or Option 4-A to a spouse who was not previously
1955 the member's beneficiary and who the member married before July 1,
1956 1999. Should a member retired on disability be returned to active
1957 service, the option previously selected shall be null and void.
1958 Upon subsequent retirement a new option may be selected.

1959 (3) Any retired member who is receiving a reduced retirement
1960 allowance under Option 2 or Option 4-A whose designated
1961 beneficiary predeceases him, or whose marriage to a spouse who is
1962 his designated beneficiary is terminated by divorce or other
1963 dissolution, may elect to cancel his reduced retirement allowance
1964 and receive the maximum retirement allowance for life in an amount
1965 equal to the amount that would have been payable if the member had
1966 not elected Option 2 or Option 4-A. Such election must be made in
1967 writing to the office of the executive director of the system on a
1968 form prescribed by the board. Any such election shall be
1969 effective the first of the month following the date the election
1970 is received by the system.

1971 (4) Any retired member who is receiving the maximum
1972 retirement allowance for life, or a retirement allowance under
1973 Option 1, and who marries after his retirement may elect to cancel
1974 his maximum retirement allowance and receive a reduced retirement
1975 allowance under Option 2 or Option 4-A to provide continuing
1976 lifetime benefits to his spouse. Such election must be made in
1977 writing to the office of the executive director of the system on a
1978 form prescribed by the board not earlier than the date of the
1979 marriage. Any such election shall be effective the first of the
1980 month following the date the election is received by the
1981 system. * * * However, if a retiree marries or remarries after

1982 retirement and elects either Option 2 or Option 4-A as provided in
1983 subsection (2) or (4) of this section, the actuarial equivalent
1984 factor used to compute the reduced retirement allowance shall be
1985 the factor for the age of the retiree and his or her beneficiary
1986 at the time such election for recalculation of benefits is made.

1987 (5) Any member in service who has qualified for retirement
1988 benefits may select any optional method of settlement of
1989 retirement benefits by notifying the Executive Director of the
1990 Board of Trustees of the Public Employees' Retirement System in
1991 writing, on a form prescribed by the board, of the option he has
1992 selected and by naming the beneficiary of such option and
1993 furnishing necessary proof of age. Such option, once selected,
1994 may be changed at any time prior to actual retirement or death,
1995 but upon the death or retirement of the member, the optional
1996 settlement shall be placed in effect upon proper notification to
1997 the executive director.

1998 (6) Notwithstanding any provision of Section 25-13-1 et
1999 seq., no payments may be made for a retirement allowance on a
2000 monthly basis for a period of time in excess of that allowed by
2001 federal law.

2002 (7) If a retirant and his eligible beneficiary, if any, both
2003 die before they have received in annuity payments a total amount
2004 equal to the accumulated contributions standing to the retirant's
2005 credit in the annuity savings account at the time of his
2006 retirement, the difference between the accumulated contributions
2007 and the total amount of annuities received by them shall be paid
2008 to such persons as the retirant has nominated by written
2009 designation duly executed and filed in the office of the executive
2010 director. If no designated person survives the retirant and his
2011 beneficiary, the difference, if any, shall be paid pursuant to
2012 Section 25-13-21.1(1).

2013 (8) Any retired member who retired on Option 2(5) or 4-A(5)
2014 before July 1, 1999, who is still receiving a retirement allowance
2015 as of July 1, 1999, shall receive an increase in the annual
2016 retirement allowance effective July 1, 1999, equal to the amount
2017 they would have received under Option 2 or Option 4-A without a

2018 reduction for Option 5 based on the ages at retirement of the
2019 retiree and beneficiary and option factors in effect on July 1,
2020 1999. Such increase shall be prospective only.

2021 (9) For purposes of this section:

2022 (a) "Beneficiary" means any person designated to
2023 receive a retirement allowance, an annuity or other benefit as
2024 provided by this chapter. Such designation shall be in writing
2025 filed in the Office of the Executive Director of the Board of
2026 Trustees of the Public Employees' Retirement System, and no
2027 designation or change of beneficiary shall be made in any other
2028 manner; however, notwithstanding any provision of this chapter to
2029 the contrary, the lawful spouse of a member at the time of the
2030 death of a member shall be the beneficiary of such member unless
2031 the member has designated another beneficiary subsequent to the
2032 date of marriage.

2033 (b) "Actuarial equivalent" shall mean a benefit of
2034 equal value to the accumulated contributions, annuity or benefit,
2035 as the case may be, when computed upon the basis of such mortality
2036 tables as shall be adopted by the board of trustees, and regular
2037 interest.

2038 (c) "Actuarial tables" shall mean such tables of
2039 mortality and rates of interest as shall be adopted by the board
2040 in accordance with the recommendation of the actuary.

2041 **SECTION 17.** Section 25-13-17, Mississippi Code of 1972, is
2042 amended as follows:

2043 25-13-17. (1) All persons who are covered under the terms
2044 of this chapter on the date on which this retirement system is
2045 established and who become members of the retirement system shall
2046 cease to be members under the provisions of Sections 25-11-101
2047 through 25-11-139 upon the effective date of this chapter, and
2048 shall become members of this retirement system with full credit
2049 for all prior service with the Highway Safety Patrol.

2050 (2) In computing the period of service of a member of the
2051 Highway Safety Patrol, * * * any member who served on active duty
2052 in the Armed Forces of the United States, or who served in
2053 maritime service during periods of hostility in World War II,

2054 shall be entitled to creditable service at no cost for his service
2055 on active duty in the Armed Forces or in such maritime service,
2056 provided he entered state service after his discharge from the
2057 Armed Forces or entered state service after he completed such
2058 maritime service. The maximum period for such creditable service
2059 for all military service as defined in this subsection (2) shall
2060 not exceed four (4) years unless positive proof can be furnished
2061 by such person that he was retained in the Armed Forces during
2062 World War II or in maritime service during World War II, by causes
2063 beyond his control and without opportunity of discharge. The
2064 member shall furnish proof satisfactory to the Board of Trustees
2065 of the Public Employees' Retirement System of certification of
2066 military service or maritime service records showing dates of
2067 entrance into active duty service and the date of discharge. No
2068 creditable service shall be granted for any military service or
2069 maritime service to a member who qualifies for a retirement
2070 allowance in another public retirement system administered by the
2071 Board of Trustees of the Public Employees' Retirement System based
2072 in whole or in part on such military or maritime service. In no
2073 case shall the member receive creditable service if the member
2074 received a dishonorable discharge from the Armed Forces of the
2075 United States.

2076 The credit for military service granted in this subsection
2077 shall apply to all persons who have retired from the Highway
2078 Patrol and who qualify for credit as outlined above, whether they
2079 retired before or after July 1, 2000; but this provision shall not
2080 operate to require any back payments of retirement.

2081 (3) (a) Any member of the Mississippi Highway Safety Patrol
2082 Retirement System whose membership service is interrupted as a
2083 result of qualified military service within the meaning of Section
2084 414(u)(5) of the Internal Revenue Code, and who has received the
2085 maximum service credit available under subsection (2) of this
2086 section, shall receive creditable service for the period of
2087 qualified military service that does not qualify as creditable
2088 service under subsection (2) of this section upon reentering
2089 membership service in an amount not to exceed five (5) years if:

2090 (i) The member pays the contributions he would
2091 have made to the retirement system if he had remained in
2092 membership service for the period of qualified military service
2093 based upon his salary at the time his membership service was
2094 interrupted;

2095 (ii) The member returns to membership service
2096 within ninety (90) days of the end of his qualified military
2097 service; and

2098 (iii) The employer at the time the member's
2099 service was interrupted and to which employment the member returns
2100 pays the contributions it would have made into the retirement
2101 system for such period based on the member's salary at the time
2102 the service was interrupted.

2103 (b) The payments required to be made in paragraph
2104 (a) (i) of this subsection may be made over a period beginning with
2105 the date of return to membership service and not exceeding three
2106 (3) times the member's qualified military service; * * *
2107 however, * * * in no event shall such period exceed five (5)
2108 years.

2109 (c) The member shall furnish proof satisfactory to the
2110 board of trustees of certification of military service showing
2111 dates of entrance into qualified service and the date of discharge
2112 as well as proof that the member has returned to active employment
2113 within the time specified.

2114 **SECTION 18.** Section 25-13-29, Mississippi Code of 1972, is
2115 amended as follows:

2116 25-13-29. At least once in each biennium the administrative
2117 board shall cause an actuarial valuation to be made by an actuary
2118 who shall certify to the assets and liabilities of the system and
2119 the amount of employer's contributions required for membership
2120 service and prior service. The cost of the survey shall be paid
2121 from any funds available to the Highway Safety Patrol.

2122 On account of each member there shall be paid quarterly into
2123 the "Disability and Relief Fund for Members of the Mississippi
2124 Highway Safety Patrol" by the Highway Safety Patrol from any funds
2125 available an amount equal to a certain percentage of the

2126 compensation of each member to be known as the "normal
2127 contributions," and an additional amount equal to a percentage of
2128 his compensation to be known as the "accrued liability
2129 contribution." The rate percent of such contributions shall be
2130 fixed by the administrative board on the basis of the liabilities
2131 of the retirement system for the various allowances and benefits
2132 as shown by the actuarial valuation. * * *

2133 **SECTION 19.** Section 25-13-33, Mississippi Code of 1972, is
2134 amended as follows:

2135 25-13-33. (1) The maintenance of actuarial reserves for the
2136 various allowances and benefits under this chapter, and the
2137 payment of all annuities, retirement allowances, refunds and other
2138 benefits granted hereunder are hereby made obligation of the
2139 disability and relief fund. All income, interest and dividends
2140 derived from deposits and investments authorized by this chapter
2141 shall be used for the payment of the obligations of the system.

2142 (2) In the event of the termination of the Mississippi
2143 Highway Safety Patrol Retirement System, established pursuant to
2144 the provisions of Section 25-13-1 et seq., Mississippi Code of
2145 1972, all members of the system as of the date of termination of
2146 the system shall be deemed to have a vested right to benefits to
2147 the extent and in the same manner that rights would be vested
2148 under the statute existing as of the date of termination of the
2149 system; except that any member who, because of a termination of
2150 the system has not fulfilled the requirements for length of
2151 service, shall be entitled to compensation as of the date that
2152 such member would otherwise be eligible, with such compensation to
2153 be computed on the basis of time actually a member of the service
2154 and compensation actually earned during the time as a member, in
2155 the manner now provided by statute.

2156 In the event of a deficit in the availability of funds for
2157 payment due under the provisions of the Mississippi Highway Safety
2158 Patrol Retirement System, an appropriation shall hereinafter be
2159 made sufficient for the payment thereof as an obligation of the
2160 State of Mississippi.

2161 (3) Notwithstanding any provisions of this section or

2162 chapter to the contrary, the maximum annual retirement allowance
2163 attributable to the employer contributions payable by the system
2164 to a member shall be subject to the limitations set forth in
2165 Section 415 of the Internal Revenue Code and any regulations
2166 issued thereunder as applicable to governmental plans as such term
2167 is defined under Section 414(d) of the Internal Revenue Code.

2168 (4) Notwithstanding any other provision of this plan, all
2169 distributions from this plan shall conform to the regulations
2170 issued under Section 401(a)(9) of the Internal Revenue Code,
2171 applicable to governmental plans, as defined in Section 414(d) of
2172 the Internal Revenue Code, including the incidental death benefit
2173 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.
2174 Further, such regulations shall override any plan provision that
2175 is inconsistent with Section 401(a)(9) of the Internal Revenue
2176 Code.

2177 (5) The actuarial assumptions used to convert a retirement
2178 allowance from the normal form of payment to an optional form of
2179 payment shall be an appendix to this chapter and subject to
2180 approval by the board of trustees based upon certification by the
2181 actuary.

2182 (6) Notwithstanding any other provision of this plan, the
2183 maximum compensation that can be considered for all plan purposes
2184 shall not be greater than that allowed under Section 401(a)(17) of
2185 the Internal Revenue Code.

2186 **SECTION 20.** Section 21-29-301, Mississippi Code of 1972, is
2187 amended as follows:

2188 21-29-301. (1) Any member of the Municipal Retirement
2189 System whose membership service is interrupted as a result of
2190 qualified military service within the meaning of Section 414(u)(5)
2191 of the Internal Revenue Code, and who has received the maximum
2192 service credit available under Article 1, 3 or 5 of this chapter,
2193 shall receive creditable service for the period of qualified
2194 military service that does not qualify as creditable service under
2195 Article 1, 3 or 5 of this chapter upon reentering membership
2196 service in an amount not to exceed five (5) years if:

2197 (a) The member pays the contributions he would have

2198 made to the retirement system if he had remained in membership
2199 service for the period of qualified military service based upon
2200 his salary at the time his membership service was interrupted;

2201 (b) The member returns to membership service within
2202 ninety (90) days of the end of his qualified military service; and

2203 (c) The employer at the time the member's service was
2204 interrupted and to which employment the member returns pays the
2205 contribution it would have made into the retirement system for
2206 such period based on the member's salary at the time the service
2207 was interrupted.

2208 (2) The payments required to be made in subsection (1)(a) of
2209 this section may be made over a period beginning with the date of
2210 return to membership service and not exceeding three (3) times the
2211 member's qualified military service; * * * however, * * * in no
2212 event shall such period exceed five (5) years.

2213 (3) The member shall furnish proof satisfactory to the board
2214 of trustees of certification of military service showing dates of
2215 entrance into qualified service and the date of discharge as well
2216 as proof that the member has returned to active employment within
2217 the time specified.

2218 **SECTION 21.** Section 21-29-317, Mississippi Code of 1972, is
2219 amended as follows:

2220 21-29-317. (1) Notwithstanding any provisions of Articles
2221 1, 3 and 5 of this chapter to the contrary, the maximum annual
2222 retirement allowance attributable to the employer contributions
2223 payable by the system to a member under Article 1, 3 or 5 of this
2224 chapter shall be subject to the limitations set forth in Section
2225 415 of the Internal Revenue Code and any regulations issued
2226 thereunder as applicable to governmental plans as such term is
2227 defined under Section 414(d) of the Internal Revenue Code.

2228 (2) Notwithstanding any other provision of this plan, all
2229 distributions from this plan shall conform to the regulations
2230 issued under Section 401(a)(9) of the Internal Revenue Code,
2231 applicable to governmental plans, as defined in Section 414(d) of
2232 the Internal Revenue Code, including the incidental death benefit
2233 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.

2234 Further, such regulations shall override any plan provision that
2235 is inconsistent with Section 401(a)(9) of the Internal Revenue
2236 Code.

2237 (3) The actuarial assumptions used to convert a retirement
2238 allowance from the normal form of payment to an optional form of
2239 payment shall be an appendix to Article 7 of this chapter and
2240 subject to approval by the board of directors based upon
2241 certification by the actuary.

2242 (4) Notwithstanding any other provision of this plan, the
2243 maximum compensation that can be considered for all plan purposes
2244 shall not be greater than that allowed under Section 401(a)(17) of
2245 the Internal Revenue Code.

2246 (5) In the event of the termination of one or more of the
2247 retirement plans established pursuant to Article 1, 3 or 5 of this
2248 chapter, all members of the plan or system as of the date of
2249 termination of the system shall be deemed to have a vested right
2250 to benefits to the extent and in the same manner that rights would
2251 be vested under the laws existing as of the date of termination of
2252 the system; * * * however, * * * any member, who because of a
2253 termination of the system has not fulfilled the requirements for
2254 length of service, shall be entitled to compensation as of the
2255 date that such member would otherwise be eligible, with such
2256 compensation to be computed on the basis of time actually a member
2257 of the service and compensation actually earned during the time a
2258 member, in the manner now provided by law.

2259 **SECTION 22.** Section 21-29-323, Mississippi Code of 1972, is
2260 amended as follows:

2261 21-29-323. Monthly benefits payable to a spouse in the event
2262 of the death of a member before retirement or a retiree after
2263 retirement shall be divided and paid to or for the benefit of any
2264 dependent children of the deceased member or retiree in an amount
2265 equal to ten percent (10%) of the annual benefit payable to one
2266 (1) dependent child, twenty percent (20%) for two (2) * * *
2267 dependent children, and thirty percent (30%) to three (3) or more
2268 dependent children. If there are more than three (3) dependent
2269 children, upon a child ceasing to be a dependent, his annuity

2270 shall terminate and there shall be a redetermination of the
2271 amounts payable to any remaining dependent children. Such
2272 benefits shall be paid to a surviving parent or lawful custodian
2273 of such children for the use and benefit of the children without
2274 the necessity of appointment of guardian. The remaining amount
2275 shall be paid to the spouse as otherwise provided.

2276 **SECTION 23.** Section 1 of this act shall take effect and be
2277 in force from and after its passage. The remainder of this act
2278 shall take effect and be in force from and after July 1, 2002.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION
2 37-101-30, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD OF
3 TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING TO IMPLEMENT A
4 RETIREMENT INCENTIVE PROGRAM FOR FACULTY AND STAFF OF INSTITUTIONS
5 OF HIGHER LEARNING; TO CREATE NEW SECTIONS TO BE CODIFIED AS
6 SECTIONS 25-11-111.1, 25-13-11.1 AND 21-29-325, MISSISSIPPI CODE
7 OF 1972, TO REQUIRE THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PAY
8 RETIREMENT BENEFITS TO MEMBERS WHO RETIRE ON OR AFTER JANUARY 1,
9 2003, AND THEIR BENEFICIARIES BY MEANS OF DIRECT DEPOSIT UNLESS
10 THE MEMBER OR BENEFICIARY CAN DEMONSTRATE THAT PAYMENT BY MEANS OF
11 DIRECT DEPOSIT WILL CAUSE THE MEMBER OR BENEFICIARY UNDUE
12 HARDSHIP; TO AMEND SECTIONS 25-11-103, 25-11-105, 25-11-109,
13 25-11-112, 25-11-113, 25-11-115, 25-11-120, 25-11-123, 25-11-127,
14 25-11-133, 25-11-309, 25-13-16, 25-13-17, 25-13-29, 25-13-33,
15 21-29-301, 21-29-317 AND 21-29-323, MISSISSIPPI CODE OF 1972, TO
16 REVISE THE DEFINITION OF THE TERM "AVERAGE COMPENSATION" UNDER THE
17 LAWS GOVERNING THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO INCREASE
18 THE MAXIMUM AMOUNT THAT MAY BE CONSIDERED AVERAGE COMPENSATION; TO
19 REVISE THE DEFINITION OF THE TERM "EARNED COMPENSATION" UNDER THE
20 LAWS GOVERNING THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO INCREASE
21 THE MAXIMUM AMOUNT THAT MAY BE EARNED ANNUALLY AND BE CONSIDERED
22 EARNED COMPENSATION FOR PURPOSE OF RETIREMENT, TO REVISE THE
23 MANNER IN WHICH THE COMPENSATION OF FEE PAID OFFICIALS IS TREATED
24 FOR PURPOSES OF EARNED COMPENSATION; TO PROVIDE THAT FROM AND
25 AFTER JULY 1, 2002, INDIVIDUALS WHO ARE EMPLOYED BY A GOVERNMENTAL
26 ENTITY TO PERFORM PROFESSIONAL SERVICES ON LESS THAN A FULL-TIME
27 BASIS SHALL BECOME MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT
28 SYSTEM IF THEY ARE PAID REGULAR PERIODIC COMPENSATION THAT IS
29 SUBJECT TO PAYROLL TAXES, THEY ARE PROVIDED ALL OTHER EMPLOYEE
30 BENEFITS AND THEY MEET MEMBERSHIP CRITERIA ESTABLISHED BY THE
31 BOARD OF TRUSTEES THAT APPLY TO ALL OTHER MEMBERS; TO PROVIDE THAT
32 ACTIVE MEMBERS EMPLOYED ON LESS THAN A FULL-TIME BASIS SHALL
33 CONTINUE TO BE ACTIVE MEMBERS FOR AS LONG AS THEY CONTINUE TO BE
34 EMPLOYED IN THAT POSITION; TO PROVIDE THAT MEMBERS OF THE PUBLIC
35 EMPLOYEES' RETIREMENT SYSTEM WHO SERVED IN THE COMMISSIONED CORPS
36 OF THE UNITED STATES PUBLIC HEALTH SERVICE PRIOR TO 1972 SHALL BE
37 ENTITLED TO A CERTAIN AMOUNT OF CREDITABLE SERVICE FOR SUCH
38 SERVICE; TO CONFORM TO FEDERAL LAW THE AMOUNT OF TIME WITHIN WHICH
39 PAYMENTS MUST BE MADE FOR EMPLOYEE CONTRIBUTIONS FOR SERVICE
40 INTERRUPTED BY QUALIFIED MILITARY SERVICE BY MEMBERS OF ALL
41 SYSTEMS ADMINISTERED BY THE BOARD OF TRUSTEES; TO AUTHORIZE THE
42 BOARD OF TRUSTEES TO CHANGE THE MANNER IN WHICH MEMBERS OF THE
43 PUBLIC EMPLOYEES' RETIREMENT SYSTEM RECEIVE THE COST OF LIVING
44 ADJUSTMENT IF THE CURRENT MANNER OF PAYMENT WILL CAUSE A FINANCIAL
45 HARDSHIP TO THE RETIRED MEMBER OR HIS BENEFICIARY; TO AUTHORIZE
46 MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO BECOME
47 ELIGIBLE FOR SERVICE RETIREMENT BENEFITS WHILE PURSUING A
48 DISABILITY RETIREMENT ALLOWANCE TO ELECT TO RECEIVE A SERVICE
49 RETIREMENT ALLOWANCE PENDING A DETERMINATION ON ELIGIBILITY FOR A

50 DISABILITY RETIREMENT ALLOWANCE AND TO PROVIDE THAT NO PERSON MAY
51 APPLY FOR A DISABILITY RETIREMENT ALLOWANCE AFTER THE PERSON
52 BEGINS TO RECEIVE A SERVICE RETIREMENT ALLOWANCE; TO PROVIDE THAT
53 RETIREMENT OPTION 4-C SHALL NOT BE AVAILABLE TO RETIREES WHO
54 RETIRE EFFECTIVE ON OR AFTER JULY 1, 2004; TO PROVIDE THAT MEMBERS
55 OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE PURSUING A
56 DISABILITY RETIREMENT ALLOWANCE AND SIMULTANEOUSLY OR SUBSEQUENTLY
57 ELECT TO BEGIN RECEIVING A RETIREMENT ALLOWANCE WHILE CONTINUING
58 TO PURSUE A DISABILITY RETIREMENT ALLOWANCE SHALL NOT BE ELIGIBLE
59 TO SELECT OPTION 4-C OR OPTION 6; TO REVISE THE MANNER IN WHICH
60 THE RETIREMENT ALLOWANCE IS CALCULATED IF A RETIRED MEMBER MARRIES
61 AND ELECTS TO RECEIVE A REDUCED BENEFIT; TO PROVIDE THAT FROM AND
62 AFTER JANUARY 1, 2003, IF THERE IS AN ELECTION OF OPTION 6 AFTER
63 AGE 65, THE ACTUARIAL EQUIVALENT FACTOR BASED ON THE RETIREE'S AGE
64 AT THE TIME OF RETIREMENT SHALL BE USED TO CALCULATE THE REDUCED
65 MAXIMUM MONTHLY RETIREMENT ALLOWANCE; TO PROVIDE THAT IN THE CASE
66 OF DISABILITY APPEALS UNDER THE PUBLIC EMPLOYEES' RETIREMENT
67 SYSTEM, THE HEARING OFFICER SHALL HAVE THE AUTHORITY TO DEFER A
68 DECISION IN ORDER TO REQUEST A MEDICAL EVALUATION OR TEST OR
69 ADDITIONAL EXISTING MEDICAL RECORDS NOT PREVIOUSLY FURNISHED BY
70 THE CLAIMANT; TO PROVIDE THAT MEMBERS OF THE PUBLIC EMPLOYEES'
71 RETIREMENT SYSTEM MAY CONTINUE IN MUNICIPAL OR COUNTY OFFICE OR BE
72 ELECTED TO A MUNICIPAL OR COUNTY OFFICE WITHOUT WAIVING THE SALARY
73 FOR THAT OFFICE IF THE COMPENSATION RECEIVED FOR THE OFFICE DOES
74 NOT EXCEED 25% OF THE RETIREE'S AVERAGE COMPENSATION; TO CLARIFY
75 THE RESPONSIBILITY OF CHANCERY AND CIRCUIT CLERKS TO MAKE CERTAIN
76 EMPLOYER AND EMPLOYEE CONTRIBUTIONS TO THE PUBLIC EMPLOYEES'
77 RETIREMENT SYSTEM; TO CONFORM THE MAXIMUM AMOUNT OF COMPENSATION
78 THAT MAY BE CONSIDERED FOR THE PURPOSE OF ALL PLANS ADMINISTERED
79 BY THE BOARD OF TRUSTEES TO FEDERAL LAW REQUIREMENTS; TO PROVIDE
80 THAT MEMBERS UNDER THE SUPPLEMENTAL LEGISLATIVE RETIREMENT PLAN
81 SHALL BE SUBJECT TO THE SAME MAXIMUM RETIREMENT BENEFIT LIMITATION
82 AS MEMBERS UNDER OTHER PLANS ADMINISTERED BY THE PUBLIC EMPLOYEES'
83 RETIREMENT SYSTEM; TO PROVIDE THAT THE MEDICAL BOARD IS NOT
84 REQUIRED TO CONDUCT A MEDICAL EXAMINATION OF APPLICANTS FOR
85 DISABILITY RETIREMENT UNDER THE HIGHWAY SAFETY PATROL RETIREMENT
86 SYSTEM; AND FOR RELATED PURPOSES.

CONFEREES FOR THE HOUSE

X _____
Charlie Capps, Jr.

John Read

X _____
Johnny W. Stringer

CONFEREES FOR THE SENATE

X _____
William R. Minor

X _____
Hob Bryan

Gray Tollison