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To: Finance

SENATE BILL NO. 2380

1 AN ACT TO AUTHORIZE MEMBERS OF THE PUBLIC EMPLOYEES'  
2 RETIREMENT SYSTEM WHO HAVE REACHED THEIR NORMAL RETIREMENT DATE TO  
3 PARTICIPATE IN A DEFERRED RETIREMENT OPTION PROGRAM (DROP) UNDER  
4 WHICH THE EMPLOYEE MAY RETIRE AND CONTINUE WORKING FOR A SPECIFIED  
5 PERIOD AND RECEIVE HIS OR HER REGULAR SALARY, WHILE HAVING THE  
6 RETIREMENT BENEFIT HE OR SHE WOULD HAVE OTHERWISE RECEIVED PAID  
7 INTO AN ACCOUNT FOR THE MEMBER'S BENEFIT; TO PROVIDE THAT MONEY IN  
8 SUCH ACCOUNT WILL BE PAID TO THE MEMBER UPON COMPLETION OF THE  
9 DROP PERIOD; TO PROVIDE THAT THE MEMBER MUST ELECT TO PARTICIPATE  
10 IN THE PROGRAM WITHIN 12 MONTHS IMMEDIATELY FOLLOWING THE DATE  
11 UPON WHICH THE MEMBER REACHED HIS OR HER NORMAL RETIREMENT DATE;  
12 TO PROVIDE THAT THE DROP PERIOD MAY BE FOR ANY TIME NOT EXCEEDING  
13 FIVE YEARS; TO PROVIDE THAT THE DECISION TO PARTICIPATE IN THE  
14 DROP PROGRAM IS IRREVOCABLE ONCE IT IS MADE; TO PROVIDE THAT THE  
15 DROP ACCOUNT FOR THE BENEFIT OF THE MEMBER SHALL BE HELD IN  
16 RESERVE UNTIL THE END OF THE DROP PERIOD; TO PROVIDE THAT REGULAR  
17 INTEREST SHALL BE PAID ON MONIES IN THE DROP ACCOUNT DURING THE  
18 TIME THAT THE MEMBER PARTICIPATES IN THE DROP PROGRAM AND UNTIL  
19 THE MONIES ARE PAID TO THE MEMBER; TO PROVIDE THAT THE MEMBER  
20 SHALL RECEIVE THE ACCUMULATED MONIES IN THE DROP ACCOUNT IN  
21 ADDITION TO THE REGULAR RETIREMENT ALLOWANCE AT THE END OF THE  
22 DROP PERIOD; TO PROVIDE THAT ANY MEMBER PARTICIPATING IN THE DROP  
23 PROGRAM SHALL NOT BE AN ACTIVE MEMBER OF THE RETIREMENT SYSTEM AND  
24 SHALL NOT RECEIVE ANY CREDITABLE SERVICE FOR THE PERIOD OF  
25 PARTICIPATION IN THE PROGRAM; AN ACT TO AMEND SECTIONS 25-11-105,  
26 25-11-109, 25-11-117, AND 25-11-127, MISSISSIPPI CODE OF 1972, IN  
27 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

29 SECTION 1. (1) There is established a Deferred Retirement  
30 Option Program (DROP) for members of the Public Employees'  
31 Retirement System which shall be administered by the board of  
32 trustees of the retirement system. The DROP program will allow  
33 any eligible member of the retirement system to retire and

34 continue working as a public employee for any period selected by  
35 the person not exceeding five (5) years. The eligible member  
36 shall receive his or her regular salary during the selected DROP  
37 period and the retirement allowance he or she would have otherwise  
38 received during the DROP period will be paid into an account for  
39 the benefit of the member. The proceeds of the account will be  
40 paid to the member upon termination of the selected DROP period.  
41 This payment shall be in addition to the member's regular  
42 retirement allowance which shall begin being paid directly to the  
43 member at the termination of the selected DROP period.

44 (2) Members who desire to participate in the DROP program  
45 must sign up for the program within twelve (12) months immediately  
46 following the date upon which the member first reaches his or her  
47 normal retirement date. For purposes of this section, a person's  
48 normal retirement date is the date upon which the person  
49 accumulates twenty-five (25) years of creditable service; however,  
50 if a person reaches normal retirement age prior to age sixty (60),  
51 the decision to participate may be deferred to the twelve (12)  
52 months immediately following the date the member attains the age  
53 of fifty-five (55). The decision to participate in the DROP  
54 program is irrevocable once it is made, and a member participating  
55 in the DROP program may not terminate participation before the end  
56 of the selected period of participation without terminating  
57 employment.

58 (3) Any eligible member who wishes to participate in the  
59 DROP program shall apply to the retirement system. In the  
60 application, the member must select a period of participation of  
61 one (1) to five (5) years, which period shall be irrevocable once  
62 it is made. Participation in the DROP program shall begin on the  
63 first day of the month following the month in which the member's  
64 application is approved by the board of trustees of the retirement

65 system.

66 (4) During the time that a member participates in the DROP  
67 program, the member shall receive the regular salary for his or  
68 her position, and the retirement system shall deposit monthly into  
69 a DROP account for the benefit of the member the retirement  
70 allowance that the member would have received if the member had  
71 retired and not participated in the DROP program. The DROP  
72 account shall be held in reserve until the end of the period of  
73 participation in the DROP program, and regular interest shall be  
74 paid on the monies in the DROP account during the time that the  
75 member participates in the DROP program and until the monies are  
76 paid to the member. At the end of the period that the member  
77 participates in the DROP program, the member shall receive the  
78 accumulated monies in the DROP account, including all interest  
79 earned on the account, in a lump sum or in monthly installment  
80 payments, as selected by the member. In addition, the member  
81 shall receive his or her regular retirement allowance under  
82 Section 25-11-111. The monies in the DROP account shall not be  
83 considered to be part of the member's regular retirement  
84 allowance; however, if the member chooses to have the monies in  
85 the DROP account paid in monthly installment payments, those  
86 monies shall be paid to the member at the same time as the regular  
87 retirement allowance.

88 (5) Any member participating in the DROP program shall not  
89 be an active member of the retirement system and shall not receive  
90 any creditable service for the period during which he or she  
91 participates in the program. In addition, the salary earned by  
92 the member while participating in the DROP program shall not be

93 part of the member's earned compensation for the purposes of the  
94 retirement system and shall not be part of the member's average  
95 compensation used to calculate the member's retirement allowance.

96 (6) The board of the trustees of the retirement system may  
97 adopt rules and regulations as necessary for the implementation of  
98 the DROP program established under this section.

99 (7) The definitions in Section 25-11-103 shall be applicable  
100 to the terms used in this section.

101 SECTION 2. Section 25-11-105, Mississippi Code of 1972, is  
102 amended as follows:[WAN1]

103 25-11-105. I. **THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

104 The membership of this retirement system shall be composed as  
105 follows:

106 (a) All persons who shall become employees in the state  
107 service after January 31, 1953, and whose wages are subject to  
108 payroll taxes and are lawfully reported on IRS Form W-2, except  
109 (i) those persons who are specifically excluded, those persons to  
110 whom election is provided in Articles 1 and 3, and (ii) those  
111 persons who are participating in the Deferred Retirement Option  
112 Program established under Section 1 of Senate Bill No. 2380, 2000  
113 Regular Session, shall become members of the retirement system as  
114 a condition of their employment.

115 (b) All persons who shall become employees in the state  
116 service after January 31, 1953, except those specifically excluded  
117 or as to whom election is provided in Articles 1 and 3, unless  
118 they shall file with the board prior to the lapse of sixty (60)  
119 days of employment or sixty (60) days after the effective date of  
120 the cited articles, whichever is later, on a form prescribed by

121 the board, a notice of election not to be covered by the  
122 membership of the retirement system and a duly executed waiver of  
123 all present and prospective benefits which would otherwise inure  
124 to them on account of their participation in the system, shall  
125 become members of the retirement system; provided, however, that  
126 no credit for prior service will be granted to members until they  
127 have contributed to Article 3 of the retirement system for a  
128 minimum period of at least four (4) years. Such members shall  
129 receive credit for services performed prior to January 1, 1953, in  
130 employment now covered by Article 3, but no credit shall be  
131 granted for retroactive services between January 1, 1953, and the  
132 date of their entry into the retirement system unless the employee  
133 pays into the retirement system both the employer's and the  
134 employee's contributions on wages paid him during the period from  
135 January 31, 1953, to the date of his becoming a contributing  
136 member, together with interest at the rate determined by the board  
137 of trustees. Members reentering after withdrawal from service  
138 shall qualify for prior service under the provisions of Section  
139 25-11-117. From and after July 1, 1998, upon eligibility as noted  
140 above, the member may receive credit for such retroactive service  
141 provided:

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

145 (2) The member shall pay to the retirement system  
146 on the date he or she is eligible for such credit or at any time  
147 thereafter prior to the date of retirement the actuarial cost for  
148 each year of such creditable service. The provisions of this

149 subparagraph (2) shall be subject to the limitations of Section  
150 415 of the Internal Revenue Code and regulations promulgated  
151 thereunder.

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

156         (c) All persons who shall become employees in the state  
157 service after January 31, 1953, and who are eligible for  
158 membership in any other retirement system shall become members of  
159 this retirement system as a condition of their employment unless  
160 they elect at the time of their employment to become a member of  
161 such other system.

162         (d) All persons who are employees in the state service  
163 on January 31, 1953, and who are members of any nonfunded  
164 retirement system operated by the State of Mississippi, or any of  
165 its departments or agencies, shall become members of this system  
166 with prior service credit unless, before February 1, 1953, they  
167 shall file a written notice with the board of trustees that they  
168 do not elect to become members.

169         (e) All persons who are employees in the state service  
170 on January 31, 1953, and who under existing laws are members of  
171 any fund operated for the retirement of employees by the State of  
172 Mississippi, or any of its departments or agencies, shall not be  
173 entitled to membership in this retirement system unless, before  
174 February 1, 1953, any such person shall indicate by a notice filed  
175 with the board, on a form prescribed by the board, his individual  
176 election and choice to participate in this system, but no such

177 person shall receive prior service credit unless he becomes a  
178 member on or before February 1, 1953.

179 (f) Each political subdivision of the state and each  
180 instrumentality of the state or a political subdivision, or both,  
181 is hereby authorized to submit, for approval by the board of  
182 trustees, a plan for extending the benefits of this article to  
183 employees of any such political subdivision or instrumentality.  
184 Each such plan or any amendment to the plan for extending benefits  
185 thereof shall be approved by the board of trustees if it finds  
186 that such plan, or such plan as amended, is in conformity with  
187 such requirements as are provided in Articles 1 and 3; however,  
188 upon approval of such plan or any such plan heretofore approved by  
189 the board of trustees, the approved plan shall not be subject to  
190 cancellation or termination by the political subdivision or  
191 instrumentality. No such plan shall be approved unless:

192 (1) It provides that all services which constitute  
193 employment as defined in Section 25-11-5 and are performed in the  
194 employ of the political subdivision or instrumentality, by any  
195 employees thereof, shall be covered by the plan; with the  
196 exception of municipal employees who are already covered by  
197 existing retirement plans; provided, however, those employees in  
198 this class may elect to come under the provisions of this article;

199 (2) It specifies the source or sources from which  
200 the funds necessary to make the payments required by subsection  
201 (d) of Section 25-11-123 and of subsections (f)(5)b and c of this  
202 section are expected to be derived and contains reasonable  
203 assurance that such sources will be adequate for such purpose;

204 (3) It provides for such methods of administration

205 of the plan by the political subdivision or instrumentality as are  
206 found by the board of trustees to be necessary for the proper and  
207 efficient administration thereof;

208 (4) It provides that the political subdivision or  
209 instrumentality will make such reports, in such form and  
210 containing such information, as the board of trustees may from  
211 time to time require;

212 (5) It authorizes the board of trustees to  
213 terminate the plan in its entirety in the discretion of the board  
214 if it finds that there has been a failure to comply substantially  
215 with any provision contained in such plan, such termination to  
216 take effect at the expiration of such notice and on such  
217 conditions as may be provided by regulations of the board and as  
218 may be consistent with applicable federal law.

219 A. The board of trustees shall not finally  
220 refuse to approve a plan submitted under subsection (f), and shall  
221 not terminate an approved plan without reasonable notice and  
222 opportunity for hearing to each political subdivision or  
223 instrumentality affected thereby. The board's decision in any  
224 such case shall be final, conclusive and binding unless an appeal  
225 be taken by the political subdivision or instrumentality aggrieved  
226 thereby to the Circuit Court of Hinds County, Mississippi, in  
227 accordance with the provisions of law with respect to civil causes  
228 by certiorari.

229 B. Each political subdivision or  
230 instrumentality as to which a plan has been approved under this  
231 section shall pay into the contribution fund, with respect to  
232 wages (as defined in Section 25-11-5), at such time or times as



233 the board of trustees may by regulation prescribe, contributions  
234 in the amounts and at the rates specified in the applicable  
235 agreement entered into by the board.

236 C. Every political subdivision or  
237 instrumentality required to make payments under subsection (f)(5)b  
238 hereof is authorized, in consideration of the employees' retention  
239 in or entry upon employment after enactment of Articles 1 and 3,  
240 to impose upon its employees, as to services which are covered by  
241 an approved plan, a contribution with respect to wages (as defined  
242 in Section 25-11-5) not exceeding the amount provided in Section  
243 25-11-123(d) if such services constituted employment within the  
244 meaning of Articles 1 and 3, and to deduct the amount of such  
245 contribution from the wages as and when paid. Contributions so  
246 collected shall be paid into the contribution fund as partial  
247 discharge of the liability of such political subdivisions or  
248 instrumentality under subsection (f)(5)b hereof. Failure to  
249 deduct such contribution shall not relieve the employee or  
250 employer of liability thereof.

251 D. Any state agency, school, political  
252 subdivision, instrumentality or any employer that is required to  
253 submit contribution payments or wage reports under any section of  
254 this chapter shall be assessed interest on delinquent payments or  
255 wage reports as determined by the board of trustees in accordance  
256 with rules and regulations adopted by the board and such assessed  
257 interest may be recovered by action in a court of competent  
258 jurisdiction against such reporting agency liable therefor or may,  
259 upon due certification of delinquency and at the request of the  
260 board of trustees, be deducted from any other monies payable to

261 such reporting agency by any department or agency of the state.

262           E. Each political subdivision of the state  
263 and each instrumentality of the state or a political subdivision  
264 or subdivisions which submits a plan for approval of the board, as  
265 provided in this section, shall reimburse the board for coverage  
266 into the expense account, its pro rate share of the total expense  
267 of administering Articles 1 and 3 as provided by regulations of  
268 said board.

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

275           (h) An employee whose membership in this system is  
276 contingent on his own election, and who elects not to become a  
277 member, may thereafter apply for and be admitted to membership;  
278 but no such employee shall receive prior service credit unless he  
279 becomes a member prior to July 1, 1953, except as provided in  
280 subsection (b).

281           (i) In the event any member of this system should  
282 change his employment to any agency of the state having an  
283 actuarially funded retirement system, the board of trustees may  
284 authorize the transfer of the member's creditable service and of  
285 the present value of the member's employer's accumulation account  
286 and of the present value of the member's accumulated membership  
287 contributions to such other system, provided the employee agrees  
288 to the transfer of his accumulated membership contributions and

289 provided such other system is authorized to receive and agrees to  
290 make such transfer.

291 In the event any member of any other actuarially funded  
292 system maintained by an agency of the state changes his employment  
293 to an agency covered by this system, the board of trustees may  
294 authorize the receipt of the transfer of the member's creditable  
295 service and of the present value of the member's employer's  
296 accumulation account and of the present value of the member's  
297 accumulated membership contributions from such other system,  
298 provided the employee agrees to the transfer of his accumulated  
299 membership contributions to this system and provided the other  
300 system is authorized and agrees to make such transfer.

301 (j) Wherever herein state employment is referred to, it  
302 shall include joint employment by state and federal agencies of  
303 all kinds.

304 (k) Employees of a political subdivision or  
305 instrumentality who were employed by such political subdivision or  
306 instrumentality prior to an agreement between such entity and the  
307 Public Employees' Retirement System to extend the benefits of this  
308 article to its employees, and which agreement provides for the  
309 establishment of retroactive service credit, and who have been  
310 members of the retirement system and have remained contributors to  
311 the retirement system for four (4) years, may receive credit for  
312 such retroactive service with such political subdivision or  
313 instrumentality, provided the employee and/or employer, as  
314 provided under the terms of the modification of the joinder  
315 agreement in allowing such coverage, pay into the retirement  
316 system the employer's and employee's contributions on wages paid

317 the member during such previous employment, together with interest  
318 or actuarial cost as determined by the board covering the period  
319 from the date the service was rendered until the payment for the  
320 credit for such service was made. Such wages shall be verified by  
321 the Social Security Administration or employer payroll records.  
322 Effective July 1, 1998, upon eligibility as noted above, a member  
323 may receive credit for such retroactive service with such  
324 political subdivision or instrumentality provided:

325                   (1) The member shall furnish proof satisfactory to  
326 the board of trustees of certification of such services from the  
327 political subdivision or instrumentality where the services were  
328 rendered or verification by the Social Security Administration;  
329 and

330                   (2) The member shall pay to the retirement system  
331 on the date he or she is eligible for such credit or at any time  
332 thereafter prior to the date of retirement the actuarial cost for  
333 each year of such creditable service. The provisions of this  
334 subparagraph (2) shall be subject to the limitations of Section  
335 415 of the Internal Revenue Code and regulations promulgated  
336 thereunder.

337           Nothing contained in this paragraph (k) shall be construed to  
338 limit the authority of the board to allow the correction of  
339 reporting errors or omissions based on the payment of employee and  
340 employer contributions plus applicable interest. Payment for such  
341 time shall be made in increments of not less than one-quarter  
342 (1/4) year of creditable service beginning with the most recent  
343 service. Upon the payment of all or part of such required  
344 contributions, plus interest or the actuarial cost as provided

345 above, the member shall receive credit for the period of  
346 creditable service for which full payment has been made to the  
347 retirement system.

348 (l) Through June 30, 1998, any state service eligible  
349 for retroactive service credit, no part of which has ever been  
350 reported, and requiring the payment of employee and employer  
351 contributions plus interest, or, from and after July 1, 1998, any  
352 state service eligible for retroactive service credit, no part of  
353 which has ever been reported to the retirement system, and  
354 requiring the payment of the actuarial cost for such creditable  
355 service, may, at the member's option, be purchased in quarterly  
356 increments as provided above at such time as its purchase is  
357 otherwise allowed.

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

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

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

365 (a) Patient or inmate help in state charitable, penal  
366 or correctional institutions;

367 (b) Students of any state educational institution  
368 employed by any agency of the state for temporary, part-time or  
369 intermittent work;

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

373           **III.   TERMINATION OF MEMBERSHIP**

374           Membership in this system shall cease by a member withdrawing  
375 his accumulated contributions, or by a member withdrawing from  
376 active service with a retirement allowance, or by a member's  
377 death.

378           SECTION 3.   Section 25-11-109, Mississippi Code of 1972, is  
379 amended as follows:[WAN2]

380           25-11-109.   (1) Under such rules and regulations as the  
381 board of trustees shall adopt, each person who becomes a member of  
382 this retirement system, as provided in Section 25-11-105, on or  
383 prior to July 1, 1953, or who becomes a member and contributes to  
384 the system for a minimum period of four (4) years, shall receive  
385 credit for all state service rendered before February 1, 1953. To  
386 receive such credit, such member shall file a detailed statement  
387 of all services as an employee rendered by him in the state  
388 service before February 1, 1953. For any member who joined the  
389 system after July 1, 1953, any creditable service for which the  
390 member is not required to make contributions shall not be credited  
391 to the member until the member has contributed to the system for a  
392 minimum period of at least four (4) years.

393           (2) In the computation of membership service or prior  
394 service under the provisions of this article, the total months of  
395 accumulative service during any fiscal year shall be calculated in  
396 accordance with the schedule as follows: ten (10) or more months  
397 of creditable service during any fiscal year shall constitute a  
398 year of creditable service; seven (7) months to nine (9) months  
399 inclusive, three-quarters (3/4) of a year of creditable service;  
400 four (4) months to six (6) months inclusive, one-half-year of

401 creditable service; one (1) month to three (3) months inclusive,  
402 one-quarter (1/4) of a year of creditable service. In no case  
403 shall credit be allowed for any period of absence without  
404 compensation except for disability while in receipt of a  
405 disability retirement allowance, nor shall less than fifteen (15)  
406 days of service in any month, or service less than the equivalent  
407 of one-half (1/2) of the normal working load for the position and  
408 less than one-half (1/2) of the normal compensation for the  
409 position in any month, constitute a month of creditable service,  
410 nor shall more than one (1) year of service be creditable for all  
411 services rendered in any one (1) fiscal year; provided that for a  
412 school employee, substantial completion of the legal school term  
413 when and where the service was rendered shall constitute a year of  
414 service credit for both prior service and membership service. Any  
415 state or local elected official shall be deemed a full-time  
416 employee for the purpose of creditable service for prior service  
417 or membership service. However, an appointed or elected official  
418 compensated on a per diem basis only shall not be allowed  
419 creditable service for terms of office.

420 In the computation of any retirement allowance or any annuity  
421 or benefits provided in this article, any fractional period of  
422 service of less than one (1) year shall be taken into account and  
423 a proportionate amount of such retirement allowance, annuity or  
424 benefit shall be granted for any such fractional period of  
425 service.

426 In the computation of unused leave for creditable service  
427 authorized in Section 25-11-103, the following shall govern:  
428 twenty-one (21) days of unused leave shall constitute one (1)

429 month of creditable service and in no case shall credit be allowed  
430 for any period of unused leave of less than fifteen (15) days.  
431 The number of months of unused leave shall determine the number of  
432 quarters or years of creditable service in accordance with the  
433 above schedule for membership and prior service. In order for the  
434 member to receive creditable service for the number of days of  
435 unused leave, the system must receive certification from the  
436 governing authority.

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

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

444 (b) For service on and after July 1, 1984, the member  
445 shall receive credit for personal and major medical leave  
446 beginning July 1, 1984, at the rates authorized in Sections  
447 25-3-93 and 25-3-95, computed as a full-time employee.

448 (3) Subject to the above restrictions and to such other  
449 rules and regulations as the board may adopt, the board shall  
450 verify, as soon as practicable after the filing of such statements  
451 of service, the services therein claimed.

452 (4) Upon verification of the statement of prior service, the  
453 board shall issue a prior service certificate certifying to each  
454 member the length of prior service for which credit shall have  
455 been allowed on the basis of his statement of service. So long as  
456 membership continues, a prior service certificate shall be final



457 and conclusive for retirement purposes as to such service,  
458 provided that any member may within five (5) years from the date  
459 of issuance or modification of such certificate request the board  
460 of trustees to modify or correct his prior service certificate.  
461 Any modification or correction authorized shall only apply  
462 prospectively.

463         When membership ceases, such prior service certificates shall  
464 become void. Should the employee again become a member, he shall  
465 enter the system as an employee not entitled to prior service  
466 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
467 25-11-117.

468         (5) Creditable service at retirement, on which the  
469 retirement allowance of a member shall be based, shall consist of  
470 the membership service rendered by him since he last became a  
471 member, and also, if he has a prior service certificate which is  
472 in full force and effect, the amount of the service certified on  
473 his prior service certificate. Creditable service shall not  
474 consist of any service rendered while participating in the  
475 Deferred Retirement Option Program established under Section 1 of  
476 Senate Bill No. 2380, 2000 Regular Session.

477         (6) Anything in this article to the contrary  
478 notwithstanding, any member who served on active duty in the Armed  
479 Forces of the United States, or who served in maritime service  
480 during periods of hostility in World War II, shall be entitled to  
481 creditable service for his service on active duty in the armed  
482 forces or in such maritime service, provided he entered state  
483 service after his discharge from the armed forces or entered state  
484 service after he completed such maritime service. The maximum

485 period for such creditable service for all military service shall  
486 not exceed four (4) years unless positive proof can be furnished  
487 by such person that he was retained in the armed forces during  
488 World War II or in maritime service during World War II by causes  
489 beyond his control and without opportunity of discharge. The  
490 member shall furnish proof satisfactory to the board of trustees  
491 of certification of military service or maritime service records  
492 showing dates of entrance into active duty service and the date of  
493 discharge. From and after July 1, 1993, no creditable service  
494 shall be granted for any military service or maritime service to a  
495 member who qualifies for a retirement allowance in another public  
496 retirement system administered by the Board of Trustees of the  
497 Public Employees' Retirement System based in whole or in part on  
498 such military or maritime service. In no case shall the member  
499 receive creditable service if the member received a dishonorable  
500 discharge from the Armed Forces of the United States.

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

511 (a) The member shall furnish proof satisfactory to the  
512 board of trustees of certification of such services from the

513 state, public education system, political subdivision or  
514 retirement system of the state where the services were performed  
515 or the governing entity of the American overseas dependent school  
516 where the services were performed; and

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

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

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

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

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

541 employee and employer;

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

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

548 (e) The contributing member shall pay to the retirement  
549 system the actuarial cost as determined by the actuary for each  
550 year of professional leave. The provisions of this subsection are  
551 subject to the regulations of the Internal Revenue Code  
552 limitations;

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

556 Any actively contributing member participating in the School  
557 Administrator Sabbatical Program established in Section 37-9-77  
558 shall qualify for continued participation under this subsection  
559 (8).

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

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

568 (b) Any service rendered as an employee of any

569 political subdivision of this state, or any instrumentality  
570 thereof, which participates in the Public Employees' Retirement  
571 System but did not elect retroactive coverage; or

572 (c) Any service rendered as an employee of any  
573 political subdivision of this state, or any instrumentality  
574 thereof, for which coverage of the employee's position was or is  
575 excluded; provided that the member pays into the retirement system  
576 the actuarial cost as determined by the actuary for each year, or  
577 portion thereof, of such service. Payment for such service may be  
578 made in increments of one-quarter-year of creditable service.  
579 After a member has made full payment to the retirement system for  
580 all or any part of such service, the member shall receive  
581 creditable service for the period of such service for which full  
582 payment has been made to the retirement system.

583 SECTION 4. Section 25-11-117, Mississippi Code of 1972, is  
584 amended as follows:[WAN3]

585 25-11-117. (1) A member may be paid a refund of the amount  
586 of accumulated contributions to the credit of the member in the  
587 annuity savings account provided the member has withdrawn from  
588 state service and further provided the member has not returned to  
589 state service on the date the refund of the accumulated  
590 contributions would be paid. Such refund of the contributions to  
591 the credit of the member in the annuity savings account shall be  
592 paid within ninety (90) days from receipt in the office of the  
593 retirement system of the properly completed form requesting such  
594 payment. In the event of death prior to retirement of any member  
595 whose spouse and/or children are not entitled to a retirement  
596 allowance, the accumulated contributions to the credit of the

597 deceased member in the annuity savings account and any Deferred  
598 Option Program account shall be paid to the designated beneficiary  
599 on file in writing in the office of executive director of the  
600 board of trustees within ninety (90) days from receipt of a  
601 properly completed form requesting such payment. If there is no  
602 such designated beneficiary on file for such deceased member in  
603 the office of the system, upon the filing of a proper request with  
604 the board, the contributions to the credit of the deceased member  
605 in the annuity savings account and any Deferred Option Program  
606 account shall be refunded to the estate of the deceased member.  
607 The payment of the refund shall discharge all obligations of the  
608 retirement system to the member on account of any creditable  
609 service rendered by the member prior to the receipt of the refund.  
610 By the acceptance of the refund, the member shall waive and  
611 relinquish all accrued rights in the system.

612 (2) Pursuant to the Unemployment Compensation Amendments of  
613 1992 (P.L. 102-318 (UCA)), a member or eligible beneficiary  
614 eligible for a refund under this section may elect on a form  
615 prescribed by the board under rules and regulations established by  
616 the board, to have an eligible roll over distribution of  
617 accumulated contributions payable under this section paid directly  
618 to an eligible retirement plan or individual retirement account.  
619 If the member or eligible beneficiary makes such election and  
620 specifies the eligible retirement plan or individual retirement  
621 account to which such distribution is to be paid, the distribution  
622 will be made in the form of a direct trustee-to-trustee transfer  
623 to the specified eligible retirement plan. Flexible roll overs  
624 under this subsection shall not be considered assignments under

625 Section 25-11-129.

626 (3) If any person who has received a refund reenters the  
627 state service and again becomes a member of the system, the member  
628 may repay all or part of the amounts previously received as a  
629 refund, together with regular interest covering the period from  
630 the date of refund to the date of repayment; provided, however,  
631 that the amounts that are repaid by the member and the creditable  
632 service related thereto shall not be used in any benefit  
633 calculation or determination until the member has remained a  
634 contributor to the system for a period of at least four (4) years  
635 subsequent to such member's reentry into state service. Repayment  
636 for such time shall be made in increments of not less than  
637 one-quarter (1/4) year of creditable service beginning with the  
638 most recent service for which refund has been made. Upon the  
639 repayment of all or part of such refund and interest, the member  
640 shall again receive credit for the period of creditable service  
641 for which full repayment has been made to the system.

642 SECTION 5. Section 25-11-127, Mississippi Code of 1972, is  
643 amended as follows:[WAN4]

644 25-11-127. No person who is being paid a retirement  
645 allowance, or a pension after retirement under this article shall  
646 be employed or paid for any service by the State of Mississippi,  
647 except as provided in this section, unless the person was a  
648 participant in the Deferred Retirement Option Program established  
649 under Section 1 of Senate Bill No. 2380, 2000 Regular Session, in  
650 which case Section 1 of Senate Bill No. 2380, 2000 Regular  
651 Session, shall also apply. This section shall not apply to any  
652 pensioner who has been elected to public office after retirement,

653 nor to any person employed because of special knowledge or  
654 experience. This section shall not be construed to mean that any  
655 person employed or elected under the above exceptions shall become  
656 a member under Article 3 of the retirement system, nor shall any  
657 retirant of this retirement system who is reemployed or is  
658 reelected to office, after retirement continue to draw retirement  
659 benefits while so reemployed. Any person who has been retired  
660 under the provisions of Articles 1 and 3 and who is later  
661 reemployed in service covered by this article shall cease to  
662 receive benefits under this section and shall again become a  
663 contributing member of the retirement system; and when the person  
664 again retires, if his reemployment exceeds six (6) months, he  
665 shall have his benefit recomputed, including service after again  
666 becoming a member. Provided, further, that the total retirement  
667 allowance paid to the retired member in his previous retirement  
668 shall be deducted from his retirement reserve and taken into  
669 consideration in recalculating the retirement allowance under a  
670 new option selected. Nothing contained in this section shall be  
671 construed as prohibiting any county or city not a member of the  
672 Public Employees' Retirement System from employing persons up to  
673 the age of seventy-three (73); and provided further that, through  
674 June 30, 1988, nothing contained in this section shall be  
675 construed as prohibiting any governmental unit which is a member  
676 from employing persons up to the age of seventy-three (73) who are  
677 not eligible for membership at the time of employment under  
678 Article 3.

679 The board of trustees of the retirement system shall have the  
680 right to prescribe rules and regulations for the carrying out of



681 this provision.

682       The provisions of this section shall not be construed to  
683 prohibit any retirant regardless of age from being employed and  
684 from drawing retirement allowance either (a) for a period of time  
685 not to exceed one hundred twenty (120) days in any fiscal year,  
686 but less than one-half (1/2) of the normal working days for the  
687 position in any fiscal year, or (b) for a period of time in any  
688 fiscal year sufficient in length to permit a retirant to earn not  
689 in excess of twenty-five percent (25%) of retirant's average  
690 compensation or the current rate of the salary in effect for the  
691 regular position filled. Notice shall be given in writing to the  
692 executive secretary of the system, setting forth the facts upon  
693 which the emergency employment is being made, and such notice  
694 shall be given within five (5) days from the date of employment  
695 and also from the date of termination of said employment. It is  
696 further provided that any member who has attained seventy (70)  
697 years of age and who has forty (40) or more years of creditable  
698 service may continue in office or employment or be reemployed or  
699 elected provided such person files annually, in writing, in the  
700 office of the employer and the office of the executive secretary  
701 of the system prior to such services, a waiver of all salary or  
702 compensation and elects to receive in lieu of such salary or  
703 compensation a retirement allowance as provided in this section,  
704 in which event no salary or compensation shall thereafter be due  
705 or payable for such services and provided, further, that any such  
706 officer or employee may receive in addition to such retirement  
707 allowance any per diem, office expense allowance, mileage or  
708 travel expense authorized by any statute of the State of

709 Mississippi. Any other member may continue in municipal or county  
710 office or employment or be reemployed or elected in a municipality  
711 or county provided such person files annually, in writing, in the  
712 office of the employer and the office of the executive secretary  
713 of the system prior to such services, a waiver of all salary or  
714 compensation and elects to receive in lieu of such salary or  
715 compensation a retirement allowance as provided in this section,  
716 in which event no salary or compensation shall thereafter be due  
717 or payable for such services and provided, further, that any such  
718 officer or employee may receive in addition to such retirement  
719 allowance any per diem, office expense allowance, mileage or  
720 travel expense authorized by any statute of the State of  
721 Mississippi.

722 SECTION 6. This act shall take effect and be in force from  
723 and after July 1, 2000.