

By: Senator(s) Harden

To: Finance

SENATE BILL NO. 2365

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; 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 trustees of the retirement system may adopt
97 rules and regulations as necessary for the implementation of the
98 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:

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) (i) All persons who shall become employees in the
107 state service after January 31, 1953, and whose wages are subject
108 to payroll taxes and are lawfully reported on IRS Form W-2, except
109 those specifically excluded, or as to whom election is provided in
110 Articles 1 and 3, and those persons who are participating in the
111 Deferred Retirement Option Program established under Section 1 of
112 Senate Bill No. 2365, 2004 Regular Session, shall become members
113 of the retirement system as a condition of their employment.

114 (ii) From and after July 1, 2002, any individual
115 who is employed by a governmental entity to perform professional
116 services shall become a member of the system if the individual is
117 paid regular periodic compensation for those services that is
118 subject to payroll taxes, is provided all other employee benefits
119 and meets the membership criteria established by the regulations
120 adopted by the board of trustees that apply to all other members
121 of the system; however, any active member employed in such a
122 position on July 1, 2002, will continue to be an active member for
123 as long as they are employed in any such position.

124 (b) All persons who shall become employees in the state
125 service after January 31, 1953, except those specifically excluded
126 or as to whom election is provided in Articles 1 and 3, unless
127 they shall file with the board prior to the lapse of sixty (60)
128 days of employment or sixty (60) days after the effective date of
129 the cited articles, whichever is later, on a form prescribed by
130 the board, a notice of election not to be covered by the
131 membership of the retirement system and a duly executed waiver of
132 all present and prospective benefits which would otherwise inure
133 to them on account of their participation in the system, shall
134 become members of the retirement system; however, no credit for
135 prior service will be granted to members until they have
136 contributed to Article 3 of the retirement system for a minimum
137 period of at least four (4) years. Such members shall receive
138 credit for services performed prior to January 1, 1953, in

139 employment now covered by Article 3, but no credit shall be
140 granted for retroactive services between January 1, 1953, and the
141 date of their entry into the retirement system unless the employee
142 pays into the retirement system both the employer's and the
143 employee's contributions on wages paid him during the period from
144 January 31, 1953, to the date of his becoming a contributing
145 member, together with interest at the rate determined by the board
146 of trustees. Members reentering after withdrawal from service
147 shall qualify for prior service under the provisions of Section
148 25-11-117. From and after July 1, 1998, upon eligibility as noted
149 above, the member may receive credit for such retroactive service
150 provided:

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

154 (2) The member shall pay to the retirement system
155 on the date he or she is eligible for such credit or at any time
156 thereafter prior to the date of retirement the actuarial cost for
157 each year of such creditable service. The provisions of this
158 subparagraph (2) shall be subject to the limitations of Section
159 415 of the Internal Revenue Code and regulations promulgated
160 thereunder.

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

165 (c) All persons who shall become employees in the state
166 service after January 31, 1953, and who are eligible for
167 membership in any other retirement system shall become members of
168 this retirement system as a condition of their employment unless
169 they elect at the time of their employment to become a member of
170 such other system.

171 (d) All persons who are employees in the state service
172 on January 31, 1953, and who are members of any nonfunded
173 retirement system operated by the State of Mississippi, or any of
174 its departments or agencies, shall become members of this system
175 with prior service credit unless, before February 1, 1953, they
176 shall file a written notice with the board of trustees that they
177 do not elect to become members.

178 (e) All persons who are employees in the state service
179 on January 31, 1953, and who under existing laws are members of
180 any fund operated for the retirement of employees by the State of
181 Mississippi, or any of its departments or agencies, shall not be
182 entitled to membership in this retirement system unless, before
183 February 1, 1953, any such person shall indicate by a notice filed
184 with the board, on a form prescribed by the board, his individual
185 election and choice to participate in this system, but no such
186 person shall receive prior service credit unless he becomes a
187 member on or before February 1, 1953.

188 (f) Each political subdivision of the state and each
189 instrumentality of the state or a political subdivision, or both,
190 is hereby authorized to submit, for approval by the board of
191 trustees, a plan for extending the benefits of this article to
192 employees of any such political subdivision or instrumentality.
193 Each such plan or any amendment to the plan for extending benefits
194 thereof shall be approved by the board of trustees if it finds
195 that such plan, or such plan as amended, is in conformity with
196 such requirements as are provided in Articles 1 and 3; however,
197 upon approval of such plan or any such plan heretofore approved by
198 the board of trustees, the approved plan shall not be subject to
199 cancellation or termination by the political subdivision or
200 instrumentality, except that any community hospital serving a
201 municipality that joined the Public Employees' Retirement System
202 as of November 1, 1956, to offer social security coverage for its
203 employees and subsequently extended retirement annuity coverage to

204 its employees as of December 1, 1965, may, upon documentation of
205 extreme financial hardship, have future retirement annuity
206 coverage cancelled or terminated at the discretion of the board of
207 trustees. No such plan shall be approved unless:

208 (1) It provides that all services which constitute
209 employment as defined in Section 25-11-5 and are performed in the
210 employ of the political subdivision or instrumentality, by any
211 employees thereof, shall be covered by the plan; with the
212 exception of municipal employees who are already covered by
213 existing retirement plans; however, those employees in this class
214 may elect to come under the provisions of this article;

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

220 (3) It provides for such methods of administration
221 of the plan by the political subdivision or instrumentality as are
222 found by the board of trustees to be necessary for the proper and
223 efficient administration thereof;

224 (4) It provides that the political subdivision or
225 instrumentality will make such reports, in such form and
226 containing such information, as the board of trustees may from
227 time to time require;

228 (5) It authorizes the board of trustees to
229 terminate the plan in its entirety in the discretion of the board
230 if it finds that there has been a failure to comply substantially
231 with any provision contained in such plan, such termination to
232 take effect at the expiration of such notice and on such
233 conditions as may be provided by regulations of the board and as
234 may be consistent with applicable federal law.

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

237 not terminate an approved plan without reasonable notice and
238 opportunity for hearing to each political subdivision or
239 instrumentality affected thereby. The board's decision in any
240 such case shall be final, conclusive and binding unless an appeal
241 be taken by the political subdivision or instrumentality aggrieved
242 thereby to the Circuit Court of Hinds County, Mississippi, in
243 accordance with the provisions of law with respect to civil causes
244 by certiorari.

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

252 C. Every political subdivision or
253 instrumentality required to make payments under paragraph (f)(5)B
254 hereof is authorized, in consideration of the employees' retention
255 in or entry upon employment after enactment of Articles 1 and 3,
256 to impose upon its employees, as to services which are covered by
257 an approved plan, a contribution with respect to wages (as defined
258 in Section 25-11-5) not exceeding the amount provided in Section
259 25-11-123(d) if such services constituted employment within the
260 meaning of Articles 1 and 3, and to deduct the amount of such
261 contribution from the wages as and when paid. Contributions so
262 collected shall be paid into the contribution fund as partial
263 discharge of the liability of such political subdivisions or
264 instrumentalities under paragraph (f)(5)B hereof. Failure to
265 deduct such contribution shall not relieve the employee or
266 employer of liability thereof.

267 D. Any state agency, school, political
268 subdivision, instrumentality or any employer that is required to
269 submit contribution payments or wage reports under any section of

270 this chapter shall be assessed interest on delinquent payments or
271 wage reports as determined by the board of trustees in accordance
272 with rules and regulations adopted by the board and such assessed
273 interest may be recovered by action in a court of competent
274 jurisdiction against such reporting agency liable therefor or may,
275 upon due certification of delinquency and at the request of the
276 board of trustees, be deducted from any other monies payable to
277 such reporting agency by any department or agency of the state.

278 E. Each political subdivision of the state
279 and each instrumentality of the state or a political subdivision
280 or subdivisions which submits a plan for approval of the board, as
281 provided in this section, shall reimburse the board for coverage
282 into the expense account, its pro rata share of the total expense
283 of administering Articles 1 and 3 as provided by regulations of
284 the board.

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

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

297 (i) In the event any member of this system should
298 change his employment to any agency of the state having an
299 actuarially funded retirement system, the board of trustees may
300 authorize the transfer of the member's creditable service and of
301 the present value of the member's employer's accumulation account
302 and of the present value of the member's accumulated membership

303 contributions to such other system, provided the employee agrees
304 to the transfer of his accumulated membership contributions and
305 provided such other system is authorized to receive and agrees to
306 make such transfer.

307 In the event any member of any other actuarially funded
308 system maintained by an agency of the state changes his employment
309 to an agency covered by this system, the board of trustees may
310 authorize the receipt of the transfer of the member's creditable
311 service and of the present value of the member's employer's
312 accumulation account and of the present value of the member's
313 accumulated membership contributions from such other system,
314 provided the employee agrees to the transfer of his accumulated
315 membership contributions to this system and provided the other
316 system is authorized and agrees to make such transfer.

317 (j) Wherever herein state employment is referred to, it
318 shall include joint employment by state and federal agencies of
319 all kinds.

320 (k) Employees of a political subdivision or
321 instrumentality who were employed by such political subdivision or
322 instrumentality prior to an agreement between such entity and the
323 Public Employees' Retirement System to extend the benefits of this
324 article to its employees, and which agreement provides for the
325 establishment of retroactive service credit, and who have been
326 members of the retirement system and have remained contributors to
327 the retirement system for four (4) years, may receive credit for
328 such retroactive service with such political subdivision or
329 instrumentality, provided the employee and/or employer, as
330 provided under the terms of the modification of the joinder
331 agreement in allowing such coverage, pay into the retirement
332 system the employer's and employee's contributions on wages paid
333 the member during such previous employment, together with interest
334 or actuarial cost as determined by the board covering the period
335 from the date the service was rendered until the payment for the

336 credit for such service was made. Such wages shall be verified by
337 the Social Security Administration or employer payroll records.
338 Effective July 1, 1998, upon eligibility as noted above, a member
339 may receive credit for such retroactive service with such
340 political subdivision or instrumentality provided:

341 (1) The member shall furnish proof satisfactory to
342 the board of trustees of certification of such services from the
343 political subdivision or instrumentality where the services were
344 rendered or verification by the Social Security Administration;
345 and

346 (2) The member shall pay to the retirement system
347 on the date he or she is eligible for such credit or at any time
348 thereafter prior to the date of retirement the actuarial cost for
349 each year of such creditable service. The provisions of this
350 subparagraph (2) shall be subject to the limitations of Section
351 415 of the Internal Revenue Code and regulations promulgated
352 thereunder.

353 Nothing contained in this paragraph (k) shall be construed to
354 limit the authority of the board to allow the correction of
355 reporting errors or omissions based on the payment of employee and
356 employer contributions plus applicable interest. Payment for such
357 time shall be made in increments of not less than one-quarter
358 (1/4) year of creditable service beginning with the most recent
359 service. Upon the payment of all or part of such required
360 contributions, plus interest or the actuarial cost as provided
361 above, the member shall receive credit for the period of
362 creditable service for which full payment has been made to the
363 retirement system.

364 (1) Through June 30, 1998, any state service eligible
365 for retroactive service credit, no part of which has ever been
366 reported, and requiring the payment of employee and employer
367 contributions plus interest, or, from and after July 1, 1998, any
368 state service eligible for retroactive service credit, no part of

369 which has ever been reported to the retirement system, and
370 requiring the payment of the actuarial cost for such creditable
371 service, may, at the member's option, be purchased in quarterly
372 increments as provided above at such time as its purchase is
373 otherwise allowed.

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

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

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

381 (a) Patient or inmate help in state charitable, penal
382 or correctional institutions;

383 (b) Students of any state educational institution
384 employed by any agency of the state for temporary, part-time or
385 intermittent work;

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

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

393 **III. TERMINATION OF MEMBERSHIP**

394 Membership in this system shall cease by a member withdrawing
395 his accumulated contributions, or by a member withdrawing from
396 active service with a retirement allowance, or by a member's
397 death.

398 **SECTION 3.** Section 25-11-109, Mississippi Code of 1972, is
399 amended as follows:

400 25-11-109. (1) Under such rules and regulations as the
401 board of trustees shall adopt, each person who becomes a member of

402 this retirement system, as provided in Section 25-11-105, on or
403 prior to July 1, 1953, or who becomes a member and contributes to
404 the system for a minimum period of four (4) years, shall receive
405 credit for all state service rendered before February 1, 1953. To
406 receive such credit, such member shall file a detailed statement
407 of all services as an employee rendered by him in the state
408 service before February 1, 1953. For any member who joined the
409 system after July 1, 1953, any creditable service for which the
410 member is not required to make contributions shall not be credited
411 to the member until the member has contributed to the system for a
412 minimum period of at least four (4) years.

413 (2) In the computation of membership service or prior
414 service under the provisions of this article, the total months of
415 accumulative service during any fiscal year shall be calculated in
416 accordance with the schedule as follows: ten (10) or more months
417 of creditable service during any fiscal year shall constitute a
418 year of creditable service; seven (7) months to nine (9) months
419 inclusive, three-quarters (3/4) of a year of creditable service;
420 four (4) months to six (6) months inclusive, one-half-year of
421 creditable service; one (1) month to three (3) months inclusive,
422 one-quarter (1/4) of a year of creditable service. In no case
423 shall credit be allowed for any period of absence without
424 compensation except for disability while in receipt of a
425 disability retirement allowance, nor shall less than fifteen (15)
426 days of service in any month, or service less than the equivalent
427 of one-half (1/2) of the normal working load for the position and
428 less than one-half (1/2) of the normal compensation for the
429 position in any month, constitute a month of creditable service,
430 nor shall more than one (1) year of service be creditable for all
431 services rendered in any one (1) fiscal year; however, for a
432 school employee, substantial completion of the legal school term
433 when and where the service was rendered shall constitute a year of
434 service credit for both prior service and membership service. Any

435 state or local elected official shall be deemed a full-time
436 employee for the purpose of creditable service for prior service
437 or membership service. However, an appointed or elected official
438 compensated on a per diem basis only shall not be allowed
439 creditable service for terms of office.

440 In the computation of any retirement allowance or any annuity
441 or benefits provided in this article, any fractional period of
442 service of less than one (1) year shall be taken into account and
443 a proportionate amount of such retirement allowance, annuity or
444 benefit shall be granted for any such fractional period of
445 service.

446 In the computation of unused leave for creditable service
447 authorized in Section 25-11-103, the following shall govern:
448 twenty-one (21) days of unused leave shall constitute one (1)
449 month of creditable service and in no case shall credit be allowed
450 for any period of unused leave of less than fifteen (15) days.
451 The number of months of unused leave shall determine the number of
452 quarters or years of creditable service in accordance with the
453 above schedule for membership and prior service. In order for the
454 member to receive creditable service for the number of days of
455 unused leave, the system must receive certification from the
456 governing authority.

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

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

464 (b) For service on and after July 1, 1984, the member
465 shall receive credit for personal and major medical leave
466 beginning July 1, 1984, at the rates authorized in Sections
467 25-3-93 and 25-3-95, computed as a full-time employee.

468 (3) Subject to the above restrictions and to such other
469 rules and regulations as the board may adopt, the board shall
470 verify, as soon as practicable after the filing of such statements
471 of service, the services therein claimed.

472 (4) Upon verification of the statement of prior service, the
473 board shall issue a prior service certificate certifying to each
474 member the length of prior service for which credit shall have
475 been allowed on the basis of his statement of service. So long as
476 membership continues, a prior service certificate shall be final
477 and conclusive for retirement purposes as to such service,
478 provided that any member may within five (5) years from the date
479 of issuance or modification of such certificate request the board
480 of trustees to modify or correct his prior service certificate.
481 Any modification or correction authorized shall only apply
482 prospectively.

483 When membership ceases, such prior service certificates shall
484 become void. Should the employee again become a member, he shall
485 enter the system as an employee not entitled to prior service
486 credit except as provided in Sections 25-11-105(I), 25-11-113 and
487 25-11-117.

488 (5) Creditable service at retirement, on which the
489 retirement allowance of a member shall be based, shall consist of
490 the membership service rendered by him since he last became a
491 member, and also, if he has a prior service certificate which is
492 in full force and effect, the amount of the service certified on
493 his prior service certificate. Creditable service shall not
494 consist of any service rendered while participating in the
495 Deferred Retirement Option Program established under Section 1 of
496 Senate Bill No. 2365, 2004 Regular Session.

497 (6) Any member who served on active duty in the Armed Forces
498 of the United States, who served in the Commissioned Corps of the
499 United States Public Health Service prior to 1972 or who served in
500 maritime service during periods of hostility in World War II,

501 shall be entitled to creditable service at no cost for his service
502 on active duty in the Armed Forces, in the Commissioned Corps of
503 the United States Public Health Service prior to 1972 or in such
504 maritime service, provided he entered state service after his
505 discharge from the Armed Forces or entered state service after he
506 completed such maritime service. The maximum period for such
507 creditable service for all military service as defined in this
508 subsection (6) shall not exceed four (4) years unless positive
509 proof can be furnished by such person that he was retained in the
510 Armed Forces during World War II or in maritime service during
511 World War II by causes beyond his control and without opportunity
512 of discharge. The member shall furnish proof satisfactory to the
513 board of trustees of certification of military service or maritime
514 service records showing dates of entrance into active duty service
515 and the date of discharge. From and after July 1, 1993, no
516 creditable service shall be granted for any military service or
517 maritime service to a member who qualifies for a retirement
518 allowance in another public retirement system administered by the
519 Board of Trustees of the Public Employees' Retirement System based
520 in whole or in part on such military or maritime service. In no
521 case shall the member receive creditable service if the member
522 received a dishonorable discharge from the Armed Forces of the
523 United States.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

603 (e) The contributing member shall pay to the retirement
604 system the actuarial cost as determined by the actuary for each
605 year of professional leave. The provisions of this subsection are
606 subject to the regulations of the Internal Revenue Code
607 limitations;

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

611 Any actively contributing member participating in the School
612 Administrator Sabbatical Program established in Section 37-9-77
613 shall qualify for continued participation under this subsection
614 (9).

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

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

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

627 (c) Any service rendered as an employee of any
628 political subdivision of this state, or any instrumentality
629 thereof, for which coverage of the employee's position was or is
630 excluded; provided that the member pays into the retirement system
631 the actuarial cost as determined by the actuary for each year, or

632 portion thereof, of such service. Payment for such service may be
633 made in increments of one-quarter-year of creditable service.
634 After a member has made full payment to the retirement system for
635 all or any part of such service, the member shall receive
636 creditable service for the period of such service for which full
637 payment has been made to the retirement system.

638 **SECTION 4.** Section 25-11-117, Mississippi Code of 1972, is
639 amended as follows:

640 25-11-117. (1) A member may be paid a refund of the amount
641 of accumulated contributions to the credit of the member in the
642 annuity savings account provided the member has withdrawn from
643 state service and further provided the member has not returned to
644 state service on the date the refund of the accumulated
645 contributions would be paid. Such refund of the contributions to
646 the credit of the member in the annuity savings account shall be
647 paid within ninety (90) days from receipt in the office of the
648 retirement system of the properly completed form requesting such
649 payment. In the event of death prior to retirement of any member
650 whose spouse and/or children are not entitled to a retirement
651 allowance, the accumulated contributions to the credit of the
652 deceased member in the annuity savings account and any Deferred
653 Retirement Option Plan account shall be paid to the designated
654 beneficiary on file in writing in the office of the executive
655 director of the board of trustees within ninety (90) days from
656 receipt of a properly completed form requesting such payment. If
657 there is no such designated beneficiary on file for such deceased
658 member in the office of the system, upon the filing of a proper
659 request with the board, the contributions to the credit of the
660 deceased member in the annuity savings account and any Deferred
661 Retirement Option Plan account shall be refunded pursuant to
662 Section 25-11-117.1(1). The payment of the refund shall discharge
663 all obligations of the retirement system to the member on account
664 of any creditable service rendered by the member prior to the

665 receipt of the refund. By the acceptance of the refund, the
666 member shall waive and relinquish all accrued rights in the
667 system.

668 (2) Pursuant to the Unemployment Compensation Amendments of
669 1992 (Public Law 102-318 (UCA)), a member or the spouse of a
670 member who is an eligible beneficiary entitled to a refund under
671 this section may elect, on a form prescribed by the board under
672 rules and regulations established by the board, to have an
673 eligible rollover distribution of accumulated contributions
674 payable under this section paid directly to an eligible retirement
675 plan, as defined under applicable federal law, or an individual
676 retirement account. If the member or the spouse of a member who
677 is an eligible beneficiary makes such election and specifies the
678 eligible retirement plan or individual retirement account to which
679 such distribution is to be paid, the distribution will be made in
680 the form of a direct trustee-to-trustee transfer to the specified
681 eligible retirement plan. Flexible rollovers under this
682 subsection shall not be considered assignments under Section
683 25-11-129.

684 (3) If any person who has received a refund reenters the
685 state service and again becomes a member of the system, the member
686 may repay all or part of the amounts previously received as a
687 refund, together with regular interest covering the period from
688 the date of refund to the date of repayment; provided, however,
689 that the amounts that are repaid by the member and the creditable
690 service related thereto shall not be used in any benefit
691 calculation or determination until the member has remained a
692 contributor to the system for a period of at least four (4) years
693 subsequent to such member's reentry into state service. Repayment
694 for such time shall be made in increments of not less than
695 one-quarter (1/4) year of creditable service beginning with the
696 most recent service for which refund has been made. Upon the
697 repayment of all or part of such refund and interest, the member

698 shall again receive credit for the period of creditable service
699 for which full repayment has been made to the system.

700 **SECTION 5.** Section 25-11-127, Mississippi Code of 1972, is
701 amended as follows:

702 25-11-127. (1) (a) No person who is being paid a
703 retirement allowance or a pension after retirement under this
704 article shall be employed or paid for any service by the State of
705 Mississippi, except as provided in this section, unless the person
706 is a participant in the Deferred Retirement Option Program
707 established under Section 1 of Senate Bill No. 2365, 2004 Regular
708 Session, in which case Section 1 of Senate Bill No. 2365, 2004
709 Regular Session, shall also apply.

710 (b) No retiree of this retirement system who is
711 reemployed or is reelected to office after retirement shall
712 continue to draw retirement benefits while so reemployed, except
713 as provided in this section.

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

717 (2) Any person who has been retired under the provisions of
718 Article 3 and who is later reemployed in service covered by this
719 article shall cease to receive benefits under this article and
720 shall again become a contributing member of the retirement system.
721 When the person retires again, if the reemployment exceeds six (6)
722 months, the person shall have his or her benefit recomputed,
723 including service after again becoming a member, provided that the
724 total retirement allowance paid to the retired member in his or
725 her previous retirement shall be deducted from the member's
726 retirement reserve and taken into consideration in recalculating
727 the retirement allowance under a new option selected.

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

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

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

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

741 To determine the normal working days for a position under
742 paragraph (a) of this subsection, the employer shall determine the
743 required number of working days for the position on a full-time
744 basis and the equivalent number of hours representing the
745 full-time position. The retiree then may work up to one-half
746 (1/2) of the required number of working days or up to one-half
747 (1/2) of the equivalent number of hours and receive up to one-half
748 (1/2) of the salary for the position. In the case of employment
749 with multiple employers, the limitation shall equal one-half (1/2)
750 of the number of days or hours for a single full-time position.

751 Notice shall be given in writing to the executive director,
752 setting forth the facts upon which the employment is being made,
753 and the notice shall be given within five (5) days from the date
754 of employment and also from the date of termination of the
755 employment.

756 (5) Any member may continue in municipal or county elected
757 office or be elected to a municipal or county office, provided
758 that the person:

759 (a) Files annually, in writing, in the office of the
760 employer and the office of the executive director of the system
761 before the person takes office or as soon as possible after
762 retirement, a waiver of all salary or compensation and elects to

763 receive in lieu of that salary or compensation a retirement
764 allowance as provided in this section, in which event no salary or
765 compensation shall thereafter be due or payable for those
766 services; however, any such officer or employee may receive, in
767 addition to the retirement allowance, office expense allowance,
768 mileage or travel expense authorized by any statute of the State
769 of Mississippi; or

770 (b) Elects to receive compensation for that elective
771 office in an amount not to exceed twenty-five percent (25%) of the
772 retiree's average compensation. As used in this paragraph, the
773 term "compensation" shall not include office expense allowance,
774 mileage or travel expense authorized by a statute of the State of
775 Mississippi. In order to receive compensation as allowed in this
776 paragraph, the member shall file annually, in writing, in the
777 office of the employer and the office of the executive director of
778 the system, an election to receive, in addition to a retirement
779 allowance, compensation as allowed in this paragraph.

780 **SECTION 6.** This act shall take effect and be in force from
781 and after July 1, 2004.