

By: Representatives Perry, McCoy

To: Appropriations

HOUSE BILL NO. 785  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 25-11-109, MISSISSIPPI CODE OF 1972,  
2 TO ALLOW AN INACTIVE VESTED MEMBER OF THE PUBLIC EMPLOYEES'  
3 RETIREMENT SYSTEM TO PURCHASE OUT-OF-STATE AND PROFESSIONAL LEAVE  
4 CREDIT; TO AMEND SECTION 25-11-115, MISSISSIPPI CODE OF 1972, TO  
5 CLARIFY A MEMBER'S ANNUITY TO BE THE VALUE OF THE ANNUITY SAVINGS  
6 ACCOUNT FOR THE MEMBER; TO AMEND SECTION 25-11-117, MISSISSIPPI  
7 CODE OF 1972, TO AUTHORIZE REPAYMENT OF A REFUND UPON REEMPLOYMENT  
8 IN A COVERED POSITION; TO CODIFY SECTION 25-11-118, MISSISSIPPI  
9 CODE OF 1972, TO AUTHORIZE THE RETIREMENT SYSTEM TO ACCEPT  
10 ELIGIBLE ROLL OVER DISTRIBUTIONS FOR THE PURPOSE OF REPAYING A  
11 REFUND OR PURCHASING OPTIONAL SERVICE CREDIT; TO AMEND SECTION  
12 25-11-120, MISSISSIPPI CODE OF 1972, TO DEFINE WHAT CONSTITUTES A  
13 RECORD FOR APPEAL PURPOSES; TO AMEND SECTION 25-11-123,  
14 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT DELINQUENT EMPLOYEE  
15 CONTRIBUTIONS PLUS ACCRUED INTEREST WILL BE THE OBLIGATION OF THE  
16 EMPLOYEE, AND DELINQUENT EMPLOYER CONTRIBUTIONS PLUS ACCRUED  
17 INTEREST WILL BE THE OBLIGATION OF THE EMPLOYER; TO AUTHORIZE THE  
18 EMPLOYER, IN ITS DISCRETION, TO PAY THE ACCRUED INTEREST ON  
19 DELINQUENT EMPLOYEE CONTRIBUTIONS; TO AMEND SECTION 25-11-137,  
20 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ONLY ESTABLISHED LAW  
21 ENFORCEMENT OR FIRE DEPARTMENT SERVICE COVERED BY A RETIREMENT  
22 SYSTEM IN THE STATE OF MISSISSIPPI IS ELIGIBLE FOR THE TRANSFER OF  
23 CREDIT TO ANOTHER RETIREMENT SYSTEM; TO PROVIDE THAT A MEMBER MAY  
24 TRANSFER SUCH CREDIT AFTER HAVING COMPLETED THE MINIMUM  
25 ELIGIBILITY PERIOD FOR MONTHLY BENEFITS; TO AMEND SECTION  
26 25-11-409, MISSISSIPPI CODE OF 1972, TO REDUCE FROM NINETY TO  
27 THIRTY DAYS THE PERIOD FOR ENROLLMENT IN THE OPTIONAL RETIREMENT  
28 PROGRAM; TO AMEND SECTION 25-13-13, MISSISSIPPI CODE OF 1972, TO  
29 PROVIDE THAT IF THE MEMBER AND BENEFICIARY DIE BEFORE HAVING  
30 RECEIVED IN BENEFITS AN AMOUNT EQUAL TO THE TOTAL OF THE  
31 CONTRIBUTIONS AND ACCRUED INTEREST OF THE MEMBER AT THE TIME OF  
32 RETIREMENT, THE BALANCE WILL BE REFUNDED TO THE DESIGNATED  
33 BENEFICIARY OR BY STATUTORY SUCCESSION; TO PROVIDE THAT PAYMENT OF  
34 DEATH BENEFITS UNDER THE HIGHWAY SAFETY PATROL RETIREMENT SYSTEM  
35 TO A SPOUSE OR CHILD SHALL BE IN ACCORDANCE WITH THE STATUTORY  
36 PROVISIONS SET FORTH AS OF THE DATE OF DEATH; TO AMEND SECTION  
37 25-13-16, MISSISSIPPI CODE OF 1972, TO DEFINE ANNUITY AS THE  
38 ANNUITY SAVINGS ACCOUNT UNDER THE HIGHWAY SAFETY PATROL RETIREMENT  
39 SYSTEM; TO AUTHORIZE A RETIREE WHO RETIRED BEFORE OR AFTER JULY 1,  
40 1999, AND WHOSE DESIGNATED BENEFICIARY PREDECEASED OR PREDECEASES  
41 HIM OR WHOSE DESIGNATED BENEFICIARY IS OR WAS THE SPOUSE AND THE  
42 MARRIAGE IS OR WAS DISSOLVED TO ELECT TO HAVE BENEFITS  
43 RECALCULATED TO RECEIVE THE MAXIMUM BENEFITS; TO AUTHORIZE A  
44 RETIREE WHO RETIRED BEFORE OR AFTER JULY 1, 1999, WHO MARRIED,  
45 MARRIES OR REMARRIES, AND THE SPOUSE IS NOT THE SAME SPOUSE  
46 MARRIED TO THE MEMBER AT THE TIME OF RETIREMENT, TO ELECT TO  
47 RECEIVE A REDUCED RETIREMENT ALLOWANCE UNDER OPTION 2 OR OPTION  
48 4-A; TO REMOVE THE COST TO THE RETIREE FOR THE RIGHT TO ELECT TO  
49 HAVE BENEFITS RECALCULATED TO RECEIVE THE MAXIMUM BENEFITS TO  
50 PROVIDE THAT NO PAYMENTS UNDER THE HIGHWAY SAFETY PATROL  
51 RETIREMENT SYSTEM MAY BE MADE FOR A PERIOD IN EXCESS OF THAT  
52 ALLOWED BY FEDERAL LAW; TO PROVIDE THAT IF A MEMBER AND HIS

53 BENEFICIARY BOTH DIE BEFORE HAVING RECEIVED IN MONTHLY BENEFITS AN  
54 AMOUNT EQUAL TO THE CONTRIBUTIONS AND ACCRUED INTEREST OF THE  
55 MEMBER AT THE TIME OF RETIREMENT, THE BALANCE WILL BE REFUNDED TO  
56 THE ESTATE OF THE SURVIVOR OF THE RETIRANT AND HIS BENEFICIARY; TO  
57 PROVIDE THAT THE RETIREMENT ALLOWANCE FOR ANY RETIRED MEMBER WHO  
58 RETIRED UNDER OPTION 2(5) OR OPTION 4-A(5) WHO IS STILL RECEIVING  
59 BENEFITS ON JULY 1, 1999, WILL BE INCREASED BY AN AMOUNT EQUAL TO  
60 THE AMOUNT THEY WOULD HAVE RECEIVED UNDER OPTION 2 OR OPTION 4-A  
61 WITHOUT THE REDUCTION FOR OPTION 5; TO AMEND SECTION 25-13-21,  
62 MISSISSIPPI CODE OF 1972, TO AUTHORIZE A MEMBER OF THE HIGHWAY  
63 SAFETY PATROL RETIREMENT SYSTEM OR ELIGIBLE BENEFICIARY WHO IS  
64 ELIGIBLE FOR A REFUND TO ELECT TO HAVE AN ELIGIBLE ROLL OVER  
65 DISTRIBUTION OF ACCUMULATED CONTRIBUTIONS PAID DIRECTLY TO AN  
66 ELIGIBLE RETIREMENT PLAN OR INDIVIDUAL RETIREMENT ACCOUNT; TO  
67 ALLOW REPAYMENT OF A REFUND UPON THE REEMPLOYMENT OF A MEMBER IN A  
68 POSITION COVERED BY THE SYSTEM; TO PROVIDE THAT THE REPAYMENT  
69 SHALL BE IN INCREMENTS OF NOT LESS THAN ONE-FOURTH-YEAR OF  
70 CREDITABLE SERVICE; TO PROVIDE THAT THE REPURCHASED SERVICE CREDIT  
71 SHALL NOT BE ELIGIBLE TO BE USED IN THE CALCULATION OF BENEFITS  
72 UNTIL THE MEMBER HAS COMPLETED FIVE YEARS OF MEMBERSHIP AFTER  
73 REENTERING THE SYSTEM; TO CODIFY SECTION 25-13-22, MISSISSIPPI  
74 CODE OF 1972, TO AUTHORIZE THE HIGHWAY SAFETY PATROL RETIREMENT  
75 SYSTEM TO ACCEPT AN ELIGIBLE ROLL OVER DISTRIBUTION OR A DIRECT  
76 TRANSFER OF FUNDS FROM ANOTHER QUALIFIED PLAN IN PAYMENT OF ALL OR  
77 A PORTION OF THE COST TO PURCHASE OPTIONAL SERVICE CREDIT OR  
78 REINSTATE PREVIOUSLY WITHDRAWN SERVICE CREDIT; TO AMEND SECTION  
79 25-13-25, MISSISSIPPI CODE OF 1972, TO INCREASE THE MEMBERSHIP OF  
80 THE ADMINISTRATIVE BOARD FOR THE HIGHWAY SAFETY PATROL RETIREMENT  
81 SYSTEM TO INCLUDE ONE RETIRED MEMBER OF THE SYSTEM ELECTED BY THE  
82 RETIRED MEMBERS OF THE SYSTEM; TO CODIFY SECTION 21-29-323,  
83 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE MONTHLY BENEFITS  
84 PAYABLE TO A SPOUSE IN THE EVENT OF THE DEATH OF A MEMBER OF A  
85 CITY FIREMEN'S AND POLICEMAN'S DISABILITY AND RELIEF FUND BEFORE  
86 RETIREMENT OR OF A RETIREE AFTER RETIREMENT SHALL BE DIVIDED AND  
87 PAID TO OR FOR THE BENEFIT OF ANY DEPENDENT CHILDREN OF THE  
88 DECEASED MEMBER OR RETIREE IN AN AMOUNT EQUAL TO 10% FOR ONE  
89 DEPENDENT CHILD, 20% FOR TWO DEPENDENT CHILDREN OR 30% FOR THREE  
90 OR MORE DEPENDENT CHILDREN; TO PROVIDE THAT IF THERE ARE MORE THAN  
91 THREE DEPENDENT CHILDREN, WHEN THE OLDEST CHILD CEASES TO QUALIFY  
92 THE BENEFITS WILL BE REDISTRIBUTED TO THE REMAINING DEPENDENT  
93 CHILDREN; TO PROVIDE THAT BENEFITS MAY BE PAID TO THE SURVIVING  
94 PARENT OR LAWFUL CUSTODIAN OF SUCH CHILDREN FOR THE USE AND  
95 BENEFIT OF THE CHILDREN WITHOUT THE NECESSITY OF APPOINTMENT OF A  
96 GUARDIAN; TO AMEND SECTION 21-29-105, MISSISSIPPI CODE OF 1972, TO  
97 PROVIDE THAT RETIRED FIREMEN AND POLICEMEN MAY PARTICIPATE IN  
98 ELECTIONS TO CHOOSE MEMBERS OF THE DISABILITY AND RELIEF BOARD  
99 THAT ADVISES THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ON THEIR  
100 MUNICIPAL FIREMEN'S AND POLICEMEN'S DISABILITY AND RELIEF FUND; TO  
101 PROVIDE THAT RETIRED FIREMEN AND POLICEMEN ARE ELIGIBLE TO SERVE  
102 AS MEMBERS OF SUCH BOARD; TO AMEND SECTION 25-11-411, MISSISSIPPI  
103 CODE OF 1972, TO REVISE THE PERCENTAGES OF THE EMPLOYER'S  
104 CONTRIBUTIONS TO THE OPTIONAL RETIREMENT PROGRAM FOR EMPLOYEES OF  
105 STATE INSTITUTIONS OF HIGHER LEARNING THAT IS TO BE ALLOCATED TO  
106 THE PARTICIPANTS' CONTRACTS AND TO THE RETIREMENT SYSTEM'S ACCRUED  
107 LIABILITY CONTRIBUTION FUND; TO AMEND SECTION 25-11-103,  
108 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY MEMBER IN A COVERED  
109 POSITION IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO IS ALSO  
110 EMPLOYED BY ANOTHER COVERED AGENCY OR POLITICAL SUBDIVISION SHALL  
111 HAVE THAT ADDITIONAL EMPLOYMENT REPORTED TO THE RETIREMENT SYSTEM;  
112 TO REQUIRE THE EMPLOYER TO DETERMINE WHETHER AN EMPLOYEE WHO DOES  
113 NOT MEET THE CRITERIA FOR COVERAGE IN THE PUBLIC EMPLOYEES'  
114 RETIREMENT SYSTEM BASED ON THE POSITION HELD BECOMES ELIGIBLE FOR  
115 COVERAGE BASED UPON EMPLOYMENT IN A COVERED AGENCY OR POLITICAL  
116 SUBDIVISION; TO REQUIRE THE EMPLOYER TO WITHHOLD CONTRIBUTIONS AND  
117 REPORT WAGES FROM THE NONCOVERED POSITION WHEN THE EMPLOYEE MEETS  
118 THE ELIGIBILITY CRITERIA FOR COVERAGE IN THAT POSITION; AND FOR  
119 RELATED PURPOSES.

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

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

123 25-11-109. (1) Under such rules and regulations as the  
124 board of trustees shall adopt, each person who becomes a member of  
125 this retirement system, as provided in Section 25-11-105, on or  
126 prior to July 1, 1953, or who becomes a member and contributes to  
127 the system for a minimum period of four (4) years, shall receive  
128 credit for all state service rendered before February 1, 1953. To  
129 receive such credit, such member shall file a detailed statement  
130 of all services as an employee rendered by him in the state  
131 service before February 1, 1953. For any member who joined the  
132 system after July 1, 1953, any creditable service for which the  
133 member is not required to make contributions shall not be credited  
134 to the member until the member has contributed to the system for a  
135 minimum period of at least four (4) years.

136 (2) In the computation of membership service or prior  
137 service under the provisions of this article, the total months of  
138 accumulative service during any fiscal year shall be calculated in  
139 accordance with the schedule as follows: ten (10) or more months  
140 of creditable service during any fiscal year shall constitute a  
141 year of creditable service; seven (7) months to nine (9) months  
142 inclusive, three-quarters (3/4) of a year of creditable service;  
143 four (4) months to six (6) months inclusive, one-half-year of  
144 creditable service; one (1) month to three (3) months inclusive,  
145 one-quarter (1/4) of a year of creditable service. In no case  
146 shall credit be allowed for any period of absence without  
147 compensation except for disability while in receipt of a  
148 disability retirement allowance, nor shall less than fifteen (15)  
149 days of service in any month, or service less than the equivalent  
150 of one-half (1/2) of the normal working load for the position and  
151 less than one-half (1/2) of the normal compensation for the  
152 position in any month, constitute a month of creditable service,  
153 nor shall more than one (1) year of service be creditable for all

154 services rendered in any one (1) fiscal year; provided that for a  
155 school employee, substantial completion of the legal school term  
156 when and where the service was rendered shall constitute a year of  
157 service credit for both prior service and membership service. Any  
158 state or local elected official shall be deemed a full-time  
159 employee for the purpose of creditable service for prior service  
160 or membership service. However, an appointed or elected official  
161 compensated on a per diem basis only shall not be allowed  
162 creditable service for terms of office.

163 In the computation of any retirement allowance or any annuity  
164 or benefits provided in this article, any fractional period of  
165 service of less than one (1) year shall be taken into account and  
166 a proportionate amount of such retirement allowance, annuity or  
167 benefit shall be granted for any such fractional period of  
168 service.

169 In the computation of unused leave for creditable service  
170 authorized in Section 25-11-103, the following shall govern:  
171 twenty-one (21) days of unused leave shall constitute one (1)  
172 month of creditable service and in no case shall credit be allowed  
173 for any period of unused leave of less than fifteen (15) days.  
174 The number of months of unused leave shall determine the number of  
175 quarters or years of creditable service in accordance with the  
176 above schedule for membership and prior service. In order for the  
177 member to receive creditable service for the number of days of  
178 unused leave, the system must receive certification from the  
179 governing authority.

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

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

187 (b) For service on and after July 1, 1984, the member

188 shall receive credit for personal and major medical leave  
189 beginning July 1, 1984, at the rates authorized in Sections  
190 25-3-93 and 25-3-95, computed as a full-time employee.

191 (3) Subject to the above restrictions and to such other  
192 rules and regulations as the board may adopt, the board shall  
193 verify, as soon as practicable after the filing of such statements  
194 of service, the services therein claimed.

195 (4) Upon verification of the statement of prior service, the  
196 board shall issue a prior service certificate certifying to each  
197 member the length of prior service for which credit shall have  
198 been allowed on the basis of his statement of service. So long as  
199 membership continues, a prior service certificate shall be final  
200 and conclusive for retirement purposes as to such service,  
201 provided that any member may within five (5) years from the date  
202 of issuance or modification of such certificate request the board  
203 of trustees to modify or correct his prior service certificate.  
204 Any modification or correction authorized shall only apply  
205 prospectively.

206 When membership ceases, such prior service certificates shall  
207 become void. Should the employee again become a member, he shall  
208 enter the system as an employee not entitled to prior service  
209 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
210 25-11-117.

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

217 (6) Anything in this article to the contrary  
218 notwithstanding, any member who served on active duty in the Armed  
219 Forces of the United States, or who served in maritime service  
220 during periods of hostility in World War II, shall be entitled to  
221 creditable service for his service on active duty in the armed

222 forces or in such maritime service, provided he entered state  
223 service after his discharge from the armed forces or entered state  
224 service after he completed such maritime service. The maximum  
225 period for such creditable service for all military service shall  
226 not exceed four (4) years unless positive proof can be furnished  
227 by such person that he was retained in the armed forces during  
228 World War II or in maritime service during World War II by causes  
229 beyond his control and without opportunity of discharge. The  
230 member shall furnish proof satisfactory to the board of trustees  
231 of certification of military service or maritime service records  
232 showing dates of entrance into active duty service and the date of  
233 discharge. From and after July 1, 1993, no creditable service  
234 shall be granted for any military service or maritime service to a  
235 member who qualifies for a retirement allowance in another public  
236 retirement system administered by the Board of Trustees of the  
237 Public Employees' Retirement System based in whole or in part on  
238 such military or maritime service. In no case shall the member  
239 receive creditable service if the member received a dishonorable  
240 discharge from the Armed Forces of the United States.

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

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

256 where the services were performed; and

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

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

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

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

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

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

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

289 (e) The \* \* \* contributing member shall pay to the

290 retirement system the actuarial cost as determined by the actuary  
291 for each year of professional leave. \* \* \* The provisions of this  
292 subsection are subject to the regulations of the Internal Revenue  
293 Code limitations;

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

297 Any actively contributing member participating in the School  
298 Administrator Sabbatical Program established in Section 37-9-77  
299 shall qualify for continued participation under this subsection  
300 (8).

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

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

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

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

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



324 SECTION 2. Section 25-11-115, Mississippi Code of 1972, is  
325 amended as follows:

326 25-11-115. (1) Upon application for superannuation or  
327 disability retirement, any member may elect to receive his benefit  
328 in a retirement allowance payable throughout life with no further  
329 payments to anyone at his death, except that in the event his  
330 total retirement payments under this article do not equal his  
331 total contributions under this article, his named beneficiary  
332 shall receive the difference in cash at his death. Or he may  
333 elect upon retirement, or upon becoming eligible for retirement,  
334 to receive the actuarial equivalent subject to the provisions of  
335 subsection (3) of this section of his retirement allowance in a  
336 reduced retirement allowance payable throughout life with the  
337 provision that:

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

343 **Option 2.** Upon his death, his reduced retirement allowance  
344 shall be continued throughout the life of, and paid to, such  
345 person as he has nominated by written designation duly  
346 acknowledged and filed with the board of trustees at the time of  
347 his retirement;

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

354 **Option 4-A.** Upon his death, one-half (1/2) of his reduced  
355 retirement allowance, or such other specified amount, shall be  
356 continued throughout the life of, and paid to, such person as he  
357 shall have nominated by written designation duly acknowledged and

358 filed with the board of trustees at the time of his retirement; or

359       **Option 4-B.** A reduced retirement allowance shall be  
360 continued throughout the life of the retirant, but with the  
361 further guarantee of payments to the named beneficiary,  
362 beneficiaries or to the estate for a specified number of years  
363 certain. If the retired member or the last designated beneficiary  
364 receiving annuity payments dies prior to receiving all guaranteed  
365 payments due, the actuarial equivalent of the remaining payments  
366 would be paid to the estate of the retired member as intestate  
367 property;

368       **Option 4-C.** Such retirement allowance otherwise payable may  
369 be converted into a retirement allowance of equivalent actuarial  
370 value in such an amount that, with the member's benefit under  
371 Title II of the federal Social Security Act, the member will  
372 receive, so far as possible, approximately the same amount  
373 annually before and after the earliest age at which the member  
374 becomes eligible to receive a Social Security benefit.

375       (2) No change in the option selected shall be permitted  
376 after the member's death or after the member has received his  
377 first retirement check except as provided in subsections (3) and  
378 (4) of this section and in Section 25-11-127. However, any  
379 retired member who is receiving a retirement allowance under  
380 Option 2 or Option 4-A upon July 1, 1992, and whose designated  
381 beneficiary predeceased him or whose marriage to a spouse who is  
382 his designated beneficiary is terminated by divorce or other  
383 dissolution, upon written notification to the retirement system of  
384 the death of the designated beneficiary or of the termination of  
385 his marriage to his designated beneficiary, the retirement  
386 allowance payable to the member after receipt of such notification  
387 by the retirement system shall be equal to the retirement  
388 allowance which would have been payable had the member not elected  
389 the option. In addition, any retired member who is receiving the  
390 maximum retirement allowance for life, a retirement allowance  
391 under Option 1 or who is receiving a retirement allowance under

392 Option 2 or Option 4-A on July 1, 1992, may elect to provide  
393 survivor benefits under Option 2 or Option 4-A to a spouse who was  
394 not previously the member's beneficiary and whom the member  
395 married before July 1, 1992.

396 (3) Any retired member who is receiving a reduced retirement  
397 allowance under Option 2 or Option 4-A whose designated  
398 beneficiary predeceases him, or whose marriage to a spouse who is  
399 his designated beneficiary is terminated by divorce or other  
400 dissolution, may elect to cancel his reduced retirement allowance  
401 and receive the maximum retirement allowance for life in an amount  
402 equal to the amount that would have been payable if the member had  
403 not elected Option 2 or Option 4-A. Such election must be made in  
404 writing to the office of the executive director of the system on a  
405 form prescribed by the board. Any such election shall be  
406 effective the first of the month following the date the election  
407 is received by the system.

408 (4) Any retired member who is receiving the maximum  
409 retirement allowance for life, or a retirement allowance under  
410 Option 1, and who marries after his retirement may elect to cancel  
411 his maximum retirement allowance and receive a reduced retirement  
412 allowance under Option 2 or Option 4-A to provide continuing  
413 lifetime benefits to his spouse. Such election must be made in  
414 writing to the office of the executive director of the system on a  
415 form prescribed by the board not earlier than the date of the  
416 marriage. Any such election shall be effective the first of the  
417 month following the date the election is received by the system.  
418 The amount of the reduced retirement allowance shall be the  
419 actuarial equivalent, taking into account that the member received  
420 the maximum retirement allowance for a period of time before  
421 electing to receive a reduced retirement allowance.

422 (5) In the event the election of an optional benefit is made  
423 after the member has attained the age of sixty-five (65) years,  
424 the actuarial equivalent factor shall be used to compute the  
425 reduced retirement allowance as if the election had been made on

426 his sixty-fifth birthday. However, if a retiree marries or  
427 remarries after retirement and elects either Option 2 or Option  
428 4-A as provided in subsection (2) or (4) of this section, the  
429 actuarial equivalent factor used to compute the reduced retirement  
430 allowance shall be the factor for the age of the retiree and his  
431 or her beneficiary at the time such election for recalculation of  
432 benefits is made.

433 (6) Notwithstanding any provision of Section 25-11-1 et  
434 seq., no payments may be made for a retirement allowance on a  
435 monthly basis for a period of time in excess of that allowed by  
436 federal law.

437 (7) If a retirant and his eligible beneficiary, if any, both  
438 die before they have received in annuity payments a total amount  
439 equal to the accumulated contributions standing to the retirant's  
440 credit in the annuity savings account at the time of his  
441 retirement, the difference between the accumulated contributions  
442 and the total amount of annuities received by them shall be paid  
443 to such persons as the retirant has nominated by written  
444 designation duly executed and filed in the office of the executive  
445 director. If no designated person survives the retirant and his  
446 beneficiary, the difference, if any, shall be paid to the estate  
447 of the survivor of the retirant and his beneficiary.

448 (8) Any retired member who retired on Option 2(5) or 4-A(5)  
449 prior to July 1, 1992, who is still receiving a retirement  
450 allowance on July 1, 1994, shall receive an increase in the annual  
451 retirement allowance effective July 1, 1994, equal to the amount  
452 they would have received under Option 2 or Option 4-A without a  
453 reduction for Option 5 based on the ages at retirement of the  
454 retiree and beneficiary and option factors in effect on July 1,  
455 1992. Such increase shall be prospective only.

456 SECTION 3. Section 25-11-117, Mississippi Code of 1972, is  
457 amended as follows:

458 25-11-117. (1) A member may be paid a refund of the amount  
459 of accumulated contributions to the credit of the member in the

460 annuity savings account provided the member has withdrawn from  
461 state service and further provided the member has not returned to  
462 state service on the date the refund of the accumulated  
463 contributions would be paid. Such refund of the contributions to  
464 the credit of the member in the annuity savings account shall be  
465 paid within ninety (90) days from receipt in the office of the  
466 retirement system of the properly completed form requesting such  
467 payment. In the event of death prior to retirement of any member  
468 whose spouse and/or children are not entitled to a retirement  
469 allowance, the accumulated contributions to the credit of the  
470 deceased member in the annuity savings account shall be paid to  
471 the designated beneficiary on file in writing in the office of  
472 executive director of the board of trustees within ninety (90)  
473 days from receipt of a properly completed form requesting such  
474 payment. If there is no such designated beneficiary on file for  
475 such deceased member in the office of the system, upon the filing  
476 of a proper request with the board, the contributions to the  
477 credit of the deceased member in the annuity savings account shall  
478 be refunded to the estate of the deceased member. The payment of  
479 the \* \* \* refund shall discharge all obligations of the retirement  
480 system to the \* \* \* member on account of any creditable service  
481 rendered by the member prior to the receipt of the refund. By the  
482 acceptance of the refund, the member shall waive and relinquish  
483 all accrued rights in the system.

484 (2) Pursuant to the Unemployment Compensation Amendments of  
485 1992 (P.L. 102-318 (UCA)), a member or eligible beneficiary  
486 eligible for a refund under this section may elect on a form  
487 prescribed by the board under rules and regulations established by  
488 the board, to have an eligible roll over distribution of  
489 accumulated contributions payable under this section paid directly  
490 to an eligible retirement plan or individual retirement account.  
491 If the member or eligible beneficiary makes such election and  
492 specifies the eligible retirement plan or individual retirement  
493 account to which such distribution is to be paid, the distribution

494 will be made in the form of a direct trustee-to-trustee transfer  
495 to the specified eligible retirement plan. Flexible roll overs  
496 under this subsection shall not be considered assignments under  
497 Section 25-11-129.

498 (3) If any person who has received a refund reenters the  
499 state service and again becomes a member of the system \* \* \*, the  
500 member may repay all or part of the amounts previously received as  
501 a refund, together with regular interest covering the period from  
502 the date of refund to the date of repayment; provided, however,  
503 that the amounts that are repaid by the member and the creditable  
504 service related thereto shall not be used in any benefit  
505 calculation or determination until the member has remained a  
506 contributor to the system for a period of at least four (4) years  
507 subsequent to such member's reentry into state service. Repayment  
508 for such time shall be made in increments of not less than  
509 one-quarter (1/4) year of creditable service beginning with the  
510 most recent service for which refund has been made. Upon the  
511 repayment of all or part of such refund and interest, the member  
512 shall again receive credit for the period of creditable service  
513 for which full repayment has been made to the system.

514 SECTION 4. The following shall be codified as Section  
515 25-11-118, Mississippi Code of 1972:

516 25-11-118. Effective July 1, 2000, and subject to the rules  
517 adopted by the board of trustees, the system shall accept an  
518 eligible roll over distribution or a direct transfer of funds from  
519 another qualified plan in payment of all or a portion of the cost  
520 to purchase optional service credit or to reinstate previously  
521 withdrawn service credit as permitted by the system. The system  
522 may only accept roll over payments in an amount equal to or less  
523 than the balance due for purchase or reinstatement of service  
524 credit. The rules adopted by the board of trustees shall  
525 condition the acceptance of a roll over or transfer from another  
526 qualified plan on the receipt from the other plan of information  
527 necessary to enable the system to determine the eligibility of any

528 transferred funds for tax-free roll over treatment or other  
529 treatment under federal income tax law.

530 SECTION 5. Section 25-11-120, Mississippi Code of 1972, is  
531 amended as follows:

532 25-11-120. (1) Any individual aggrieved by an  
533 administrative determination, including a determination of the  
534 medical board, relating to the eligibility for or payment of  
535 benefits, or the calculation of creditable service or other  
536 similar matters relating to the Public Employees' Retirement  
537 System or any other retirement system or program administered by  
538 the board, may request a hearing before a hearing officer  
539 designated by the board. Such hearings shall be conducted in  
540 accordance with rules and regulations adopted by the board and  
541 formal rules of evidence shall not apply. The hearing officer is  
542 authorized to administer oaths, hear testimony of witnesses and  
543 receive documentary and other evidence. After the hearing, the  
544 hearing officer shall certify the record to the board, which shall  
545 include the hearing officer's proposed statement of facts,  
546 conclusions of law and recommendation. The record may include a  
547 taped recording of the proceedings of the hearing in lieu of a  
548 transcribed copy of the proceedings. The board shall receive the  
549 record and make its determination based solely on matters  
550 contained therein.

551 (2) Any individual aggrieved by the determination of the  
552 board may appeal to the Circuit Court of the First Judicial  
553 District of Hinds County, Mississippi, in accordance with the  
554 Uniform Circuit Court Rules governing appeals to the circuit court  
555 in civil cases. Such appeal shall be made solely on the record  
556 before the board and this procedure shall be the exclusive method  
557 of appealing determinations of the board.

558 (3) The board is authorized to appoint a committee of the  
559 board to serve as hearing officer or to employ or contract with  
560 qualified personnel to perform the duties of hearing officer and  
561 court reporter as may be necessary for conducting, recording and

562 transcribing such hearings. The board may assess and collect fees  
563 to offset costs related to such hearings. Those fees shall be  
564 deposited to the credit of the Public Employees' Retirement  
565 System.

566 SECTION 6. Section 25-11-123, Mississippi Code of 1972, is  
567 amended as follows:

568 25-11-123. All of the assets of the system shall be credited  
569 according to the purpose for which they are held to one (1) of  
570 four (4) reserves; namely, the annuity savings account, the  
571 annuity reserve, the employer's accumulation account, and the  
572 expense account.

573 (a) Annuity savings account. In the annuity savings account  
574 shall be accumulated the contributions made by members to provide  
575 for their annuities, including interest thereon which shall be  
576 posted monthly. Credits to and charges against the annuity  
577 savings account shall be made as follows:

578 (1) Beginning July 1, 1991, the employer shall cause to  
579 be deducted from the salary of each member on each and every  
580 payroll of such employer for each and every payroll period seven  
581 and one-fourth percent (7-1/4%) of earned compensation as defined  
582 in Section 25-11-103. Future contributions shall be fixed  
583 biennially by the board on the basis of the liabilities of the  
584 retirement system for the various allowances and benefits as shown  
585 by actuarial valuation; provided, however, that any member earning  
586 at a rate less than Sixteen Dollars and Sixty-seven Cents (\$16.67)  
587 per month, or Two Hundred Dollars (\$200.00) per year, shall  
588 contribute not less than One Dollar (\$1.00) per month, or Twelve  
589 Dollars (\$12.00) per year.

590 (2) The deductions provided herein shall be made  
591 notwithstanding that the minimum compensation provided by law for  
592 any member shall be reduced thereby. Every member shall be deemed  
593 to consent and agree to the deductions made and provided for  
594 herein and shall receipt for his full salary or compensation, and  
595 payment of salary or compensation less the deduction shall be a



596 full and complete discharge and acquittance of all claims and  
597 demands whatsoever for the services rendered by such person during  
598 the period covered by such payment, except as to the benefits  
599 provided under Articles 1 and 3. The board shall provide by rules  
600 for the methods of collection of contributions from members and  
601 the employer. The board shall have full authority to require the  
602 production of evidence necessary to verify the correctness of  
603 amounts contributed.

604 (b) Annuity reserve. The annuity reserve shall be the  
605 account representing the actuarial value of all annuities in  
606 force, and to it shall be charged all annuities and all benefits  
607 in lieu of annuities, payable as provided in this article. If a  
608 beneficiary retired on account of disability is restored to active  
609 service with a compensation not less than his average final  
610 compensation at the time of his last retirement, the remainder of  
611 his contributions shall be transferred from the annuity reserve to  
612 the annuity savings account and credited to his individual account  
613 therein, and the balance of his annuity reserve shall be  
614 transferred to the employer's accumulation account.

615 (c) Employer's accumulation account. The employer's  
616 accumulation account shall represent the accumulation of all  
617 reserves for the payment of all retirement allowances and other  
618 benefits payable from contributions made by the employer, and  
619 against this account shall be charged all retirement allowances  
620 and other benefits on account of members. Credits to and charges  
621 against the employer's accumulation account shall be made as  
622 follows:

623 (1) On account of each member there shall be paid  
624 monthly into the employer's accumulation account by the employers  
625 for the preceding fiscal year an amount equal to a certain  
626 percentage of the total earned compensation, as defined in Section  
627 25-11-103, of each member. The percentage rate of such  
628 contributions shall be fixed biennially by the board on the basis  
629 of the liabilities of the retirement system for the various

630 allowances and benefits as shown by actuarial valuation. Beginning  
631 January 1, 1990, the rate shall be fixed at nine and three-fourths  
632 percent (9-3/4%). Political subdivisions joining Article 3 of the  
633 Public Employees' Retirement System after July 1, 1968, may adjust  
634 the employer's contributions by agreement with the Board of  
635 Trustees of the Public Employees' Retirement System to provide  
636 service credits for any period prior to execution of the agreement  
637 based upon an actuarial determination of employer's contribution  
638 rates.

639           (2) On the basis of regular interest and of such  
640 mortality and other tables as shall be adopted by the board of  
641 trustees, the actuary engaged by the board to make each valuation  
642 required by this article during the period over which the accrued  
643 liability contribution is payable, immediately after making such  
644 valuation, shall determine the uniform and constant percentage of  
645 the earnable compensation of each member which, if contributed by  
646 the employer on the basis of compensation of such member  
647 throughout his entire period of membership service, would be  
648 sufficient to provide for the payment of any retirement allowance  
649 payable on his account for such service. The percentage rate so  
650 determined shall be known as the "normal contribution rate."  
651 After the accrued liability contribution has ceased to be payable,  
652 the normal contribution rate shall be the percentage rate of the  
653 salary of all members obtained by deducting from the total  
654 liabilities on account of membership service the amount in the  
655 employer's accumulation account, and dividing the remainder by one  
656 percent (1%) of the present value of the prospective future  
657 salaries of all members as computed on the basis of the mortality  
658 and service tables adopted by the board of trustees and regular  
659 interest. The normal rate of contributions shall be determined by  
660 the actuary after each valuation.

661           (3) The total amount payable in each year to the  
662 employer's accumulation account shall not be less than the sum of  
663 the percentage rate known as the "normal contribution" rate and

664 the "accrued liability contribution" rate of the total  
665 compensation earnable by all members during the preceding year,  
666 provided that the payment by the employer shall be sufficient,  
667 when combined with the amounts in the account, to provide the  
668 allowances and other benefits chargeable to this account during  
669 the year then current.

670 (4) The accrued liability contribution shall be  
671 discontinued as soon as the accumulated balance in the employer's  
672 accumulation account shall equal the present value, computed on  
673 the basis of the normal contribution rate then in force, or the  
674 prospective normal contributions to be received on account of all  
675 persons who are at that time members.

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

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

683 (d) Expense account. The expense account shall be the  
684 account to which the expenses of the administration of the system  
685 shall be charged, exclusive of amounts payable as retirement  
686 allowances and as other benefits provided herein. The Legislature  
687 shall make annual appropriations in amounts sufficient to  
688 administer the system, which shall be credited to this account.  
689 There shall be transferred to the State Treasury from this  
690 account, not less than once per month, an amount sufficient for  
691 payment of the estimated expenses of the system for the succeeding  
692 thirty (30) days. Any interest earned on the expense account  
693 shall accrue to the benefit of the system. Provided, however,  
694 that notwithstanding the provisions of Sections 25-11-15(10) and  
695 25-11-105(f)(5)e, all expenses of the administration of the system  
696 shall be paid from the interest earnings, provided the interest  
697 earnings are in excess of the actuarial interest assumption as

698 determined by the board, and provided the present cost of the  
699 administrative expense fee of two percent (2%) of the  
700 contributions reported by the political subdivisions and  
701 instrumentalities shall be reduced to one percent (1%) from and  
702 after July 1, 1983, through June 30, 1984, and shall be eliminated  
703 thereafter.

704 (e) Collection of contributions. The employer shall cause  
705 to be deducted on each and every payroll of a member for each and  
706 every payroll period, beginning subsequent to January 31, 1953,  
707 the contributions payable by such member as provided in Articles 1  
708 and 3.

709 The employer shall make deductions from salaries of employees  
710 as provided in Articles 1 and 3 and shall transmit monthly, or at  
711 such time as the board of trustees shall designate, the amount  
712 specified to be deducted to the Executive Director of the Public  
713 Employees' Retirement System. The executive director, after  
714 making a record of all such receipts, shall deposit such amounts  
715 as provided by law.

716 (f) Upon the basis of each actuarial valuation provided  
717 herein, the board of trustees shall biennially determine the  
718 normal contribution rate and the accrued liability contribution  
719 rate as provided in this section. The sum of these two (2) rates  
720 shall be known as the "employer's contribution rate." Beginning  
721 on earned compensation effective January 1, 1990, the rate  
722 computed as provided in this section shall be nine and  
723 three-fourths percent (9-3/4%). The percentage rate of such  
724 contributions shall be fixed biennially by the board on the basis  
725 of the liabilities of the retirement system for the various  
726 allowances and benefits as shown by actuarial valuation.  
727 Notwithstanding any other provision of law, the county board of  
728 education, the governing authorities of separate, consolidated, or  
729 municipal school districts, and all other such boards set up by  
730 law which handle and disburse school funds, shall pay from local  
731 tax sources one and one-half percent (1-1/2%) of the total

732 employer's contribution rate of nine and three-fourths percent  
733 (9-3/4%).

734         The amount payable by the employer on account of normal and  
735 accrued liability contributions shall be determined by applying  
736 the employer's contribution rate to the amount of compensation  
737 earned by employees who are members of the system. Monthly, or at  
738 such time as the board of trustees shall designate, each  
739 department or agency shall compute the amount of the employer's  
740 contribution payable, with respect to the salaries of its  
741 employees who are members of the system, and shall cause that  
742 amount to be paid to the board of trustees from the personal  
743 service allotment of the amount appropriated for the operation of  
744 the department or agency, or from funds otherwise available to the  
745 agency, for the payment of salaries to its employees.

746         Once each year, under procedures established by the system,  
747 each employer shall submit to the Public Employees' Retirement  
748 System a copy of their report to Social Security of all employees'  
749 earnings.

750         The board shall provide by rules for the methods of  
751 collection of contributions of employers and members. The amounts  
752 determined due by an agency to the various funds as specified in  
753 Articles 1 and 3 are made obligations of the agency to the board  
754 and shall be paid as provided herein. Failure to deduct such  
755 contributions shall not relieve the employee and employer from  
756 liability thereof. Delinquent employee contributions and any  
757 accrued interest shall be the obligation of the employee and  
758 delinquent employer contributions and any accrued interest shall  
759 be the obligation of the employer. The employer may, in its  
760 discretion, elect to pay any or all of the interest on delinquent  
761 employee contributions. From and after July 1, 1996, under rules  
762 and regulations established by the board, all employers are  
763 authorized and shall transfer all funds due to the Public  
764 Employees' Retirement System electronically and shall transmit any  
765 wage or other reports by computerized reporting systems.

766 SECTION 7. Section 25-11-137, Mississippi Code of 1972, is  
767 amended as follows:

768 25-11-137. (1) (a) Any law enforcement officer or fireman  
769 who has been covered under this article or under Section 21-29-101  
770 et seq., Section 21-29-201 et seq., or Section 25-13-1 et seq.,  
771 and who changes his employment from one jurisdiction to another  
772 jurisdiction, or has previously made such change, may elect to  
773 transfer retirement service credit earned while covered under such  
774 retirement system of the former jurisdiction to that of the latter  
775 as \* \* \* provided in this section.

776 (b) Any such law enforcement officer or fireman  
777 transferring as described in paragraph (a) of this subsection and  
778 having paid retirement funds under this article or under Section  
779 21-29-101 et seq., Section 21-29-201 et seq., or Section 25-13-1  
780 et seq., must pay into the retirement system to which he is  
781 transferring the full amount of employee contributions which he  
782 would have paid into that system had he been a member of that  
783 system for each year of creditable service which is being  
784 transferred, together with regular interest which would have been  
785 earned by that system thereon, and he must also pay, or the system  
786 from which he is transferring must pay, into the system to which  
787 he is being transferred an amount equal to that which the employer  
788 would have paid had he been a member of that system for each year  
789 transferred, together with regular interest which would have been  
790 earned by that system thereon. \* \* \* The retirement system from  
791 which he is being transferred shall be required to pay into the  
792 system to which he is transferring any funds credited to his  
793 account. \* \* \* Any additional funds which may be required shall  
794 be paid by the person being transferred. Failure to make these  
795 proper adjustment payments will void any transfer of service  
796 credits.

797 (2) The benefits which are being currently paid by the  
798 system in which the law enforcement officer or fireman has last  
799 been a member, and the requirements for retirement or disability

800 benefits, shall be those applicable to such officer falling under  
801 the provisions of this section. Such transfers may only be made  
802 after the member has satisfied the minimum eligibility period for  
803 monthly benefits, excluding any duty related benefits, in the  
804 system to which the member is transferring such credit. Upon the  
805 complete transfer and payment of such credit, all time spent in  
806 the covered law enforcement or fire department service, as noted  
807 above, within and for the State of Mississippi or the political  
808 subdivisions thereof, shall apply to the time required by law  
809 necessary to effect the retirement or disability of the officer.

810 SECTION 8. Section 25-11-409, Mississippi Code of 1972, is  
811 amended as follows:

812 25-11-409. Eligible employees initially employed on or after  
813 July 1, 1990, shall elect to participate in the optional  
814 retirement program within thirty (30) days after (i) entry into  
815 state service, or (ii) the effective date of the optional  
816 retirement program, whichever is later. The election must be made  
817 in writing and filed with the board of trustees and will be  
818 effective as of the date of employment. If an eligible employee  
819 fails to timely make the election provided in this section, he  
820 shall become a member of the Public Employees' Retirement System  
821 of Mississippi in accordance with Article 3 of Chapter 11 of Title  
822 25, Mississippi Code of 1972.

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

825 25-13-13. (1) Upon the death of any highway patrolman who  
826 has retired for service or disability and who has not elected any  
827 other option under Section 25-13-16, his widow shall receive  
828 one-half (1/2) the benefit which he was receiving and each child  
829 not having attained his nineteenth birthday shall receive  
830 one-fourth (1/4) of his benefit, but not more than one-half (1/2)  
831 of the benefits shall be paid for the support and maintenance of  
832 two (2) or more children. Upon each child's attaining the age of  
833 nineteen (19) years, the child shall no longer be eligible for

834 such benefit, and when all of such children have attained their  
835 nineteenth birthday, only the widow shall be eligible for one-half  
836 (1/2) the amount of his benefit. She shall continue to be  
837 eligible for such benefit in the amount of fifty percent (50%) of  
838 his retirement benefit so long as she may live and until she  
839 remarries. In the event of her remarriage at any time, her  
840 eligibility for the fifty percent (50%) benefits shall cease and  
841 terminate, but she will be eligible to continue to receive  
842 benefits for their children until the last child attains his or  
843 her nineteenth birthday in the manner aforesaid.

844 (2) Upon the death of any highway patrolman who has served  
845 the minimum retirement period required for eligibility for such  
846 retirement program, his spouse and family shall receive all the  
847 benefits payable to the highway patrolman's beneficiaries as if he  
848 had retired at the time of his death. Such benefits cease as to  
849 the spouse upon remarriage but continue to be payable to each  
850 child until he reaches the age of nineteen (19) years. Such  
851 benefits are payable on a monthly basis.

852 (3) The spouse and/or the dependent children of an active  
853 member who is killed in the line of performance of duty or dies as  
854 a direct result of an accident occurring in the line of  
855 performance of duty shall qualify, on approval of the board, for a  
856 retirement allowance on the first of the month following the date  
857 of death, but not before receipt of application by the board. The  
858 spouse shall receive a retirement allowance equal to one-half  
859 (1/2) of the average compensation of the deceased highway  
860 patrolman. In addition to the retirement allowance for the  
861 spouse, or if there is no surviving spouse, a retirement allowance  
862 shall be paid in the amount of one-fourth (1/4) of the average  
863 compensation for the support and maintenance of one (1) child or  
864 in the amount of one-half (1/2) of the average compensation for  
865 the support and maintenance of two (2) or more children. Such  
866 benefits shall cease to be paid for the support and maintenance of  
867 each child upon such child attaining the age of nineteen (19)



868 years; however, the spouse shall continue to be eligible for the  
869 aforesaid retirement allowance. Benefits may be paid to a  
870 surviving parent or lawful custodian of such children for the use  
871 and benefit of the children without the necessity of appointment  
872 as guardian. Such retirement allowance shall cease to the spouse  
873 upon remarriage but continue to be payable for each dependent  
874 child until the age of nineteen (19) years.

875 (4) All benefits accruing to any child under the provisions  
876 of this chapter shall be paid to the parent custodian of the  
877 children or the legal guardian.

878 (5) Children receiving the benefits provided herein, who are  
879 permanently or totally disabled, shall continue to receive such  
880 benefits for as long as the medical board or other designated  
881 governmental agency certifies that such disability continues. The  
882 age limitation for benefits payable to a child under any provision  
883 of this section shall be extended beyond age nineteen (19), but in  
884 no event beyond the attainment of age twenty-three (23), as long  
885 as the child is a student regularly pursuing a full-time course of  
886 resident study or training in an accredited high school, trade  
887 school, technical or vocational institute, junior or community  
888 college, college, university or comparable recognized educational  
889 institution duly licensed by a state. A student child whose  
890 birthday falls during the school year (September 1 through June  
891 30) is considered not to reach age twenty-three (23) until the  
892 July 1 following the actual twenty-third birthday. A full-time  
893 course of resident study or training means a day or evening  
894 noncorrespondence course that includes school attendance at the  
895 rate of a least thirty-six (36) weeks per academic year or other  
896 applicable period with a subject load sufficient, if successfully  
897 completed, to attain the educational or training objective within  
898 the period generally accepted as minimum for completion, by a  
899 full-time day student, of the academic or training program  
900 concerned.

901 (6) If all the annuities provided for in this section

902 payable on the account of the death of a member terminate before  
903 there has been paid an aggregate amount equal to the member's  
904 accumulated contributions standing to the member's credit in the  
905 annuity savings account at the time of the member's death, the  
906 difference between the accumulated contributions and the aggregate  
907 amount of annuity payments shall be paid to such person as the  
908 member has nominated by written designation duly executed and  
909 filed with the board of trustees in the office of the Public  
910 Employees' Retirement System. If there is no designated  
911 beneficiary surviving at termination of benefits, the difference  
912 shall be payable in the following statutory succession: spouse,  
913 children, parents, estate.

914 (7) All benefits paid to a spouse or child due to the death  
915 of a member before or after retirement shall be paid in accordance  
916 with the statutory provisions set forth as of the date of death.

917 SECTION 10. Section 25-13-16, Mississippi Code of 1972, is  
918 amended as follows:

919 25-13-16. (1) Upon application for superannuation or  
920 disability retirement, any member who retires after July 1, 1990,  
921 may elect to receive his benefit pursuant to the provisions of  
922 Sections 25-13-11 and 25-13-13 or may elect to receive his benefit  
923 in a retirement allowance payable throughout life with no further  
924 payments to anyone at his death, except that in the event his  
925 total retirement payments under this article do not equal his  
926 total contributions under this article, his named beneficiary  
927 shall receive the difference in cash at his death. Or he may  
928 elect upon retirement, or upon becoming eligible for retirement,  
929 to receive the actuarial equivalent, subject to the provisions of  
930 subsection (3) of this section, of his retirement allowance in a  
931 reduced retirement allowance payable throughout life with the  
932 provision that:

933 **Option 1.** If he dies before he has received in annuity  
934 payment the value of the member's annuity savings account as it  
935 was at the time of his retirement, the balance shall be paid to

936 his legal representative or to such person as he shall nominate by  
937 written designation duly acknowledged and filed with the board; or

938       **Option 2.** Upon his death, his reduced retirement allowance  
939 shall be continued throughout the life of, and paid to, such  
940 person as he has nominated by written designation duly  
941 acknowledged and filed with the board of trustees at the time of  
942 his retirement;

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

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

954       **Option 4-B.** A reduced retirement allowance shall be  
955 continued throughout the life of the retirant, but with the  
956 further guarantee of payments to the named beneficiary,  
957 beneficiaries or to the estate for a specified number of years  
958 certain. If the retired member or the last designated beneficiary  
959 receiving annuity payments dies prior to receiving all guaranteed  
960 payments due, the actuarial equivalent of the remaining payments  
961 would be paid to the estate of the retired member as intestate  
962 property.

963       **Option 4-C.** Such retirement allowance otherwise payable may  
964 be converted into a retirement allowance of equivalent actuarial  
965 value in such an amount that, with the member's benefit under  
966 Title II of the federal Social Security Act, the member will  
967 receive, so far as possible, approximately the same amount  
968 annually before and after the earliest age at which the member  
969 becomes eligible to receive a social security benefit.

970 \* \* \*

971 (2) No change in the option selected shall be permitted  
972 after the member's death or after the member has received his  
973 first retirement check, except as provided in subsections (3) and  
974 (4) of this section. However, any retired member who is receiving  
975 a retirement allowance under Option 2 or Option 4-A upon July 1,  
976 1999, and whose designated beneficiary predeceased him or whose  
977 marriage to a spouse who is his designated beneficiary is  
978 terminated by divorce or other dissolution, upon written  
979 notification to the retirement system of the death of the  
980 designated beneficiary or of the termination of his marriage to  
981 his designated beneficiary, the retirement allowance payable to  
982 the member after receipt of such notification by the retirement  
983 system shall be equal to the retirement allowance that would have  
984 been payable if the member had not elected the option. In  
985 addition, any retired member who is receiving the maximum  
986 retirement allowance for life, a retirement allowance under Option  
987 1 or who is receiving a retirement allowance under Option 2 or  
988 Option 4-A on July 1, 1999, may elect to provide survivor benefits  
989 under Option 2 or Option 4-A to a spouse who was not previously  
990 the member's beneficiary and who the member married before July 1,  
991 1999. Should a member retired on disability be returned to active  
992 service, the option previously selected shall be null and void.  
993 Upon subsequent retirement a new option may be selected.

994 (3) Any retired member who is receiving a reduced retirement  
995 allowance under Option 2 or Option 4-A whose designated  
996 beneficiary predeceases him, or whose marriage to a spouse who is  
997 his designated beneficiary is terminated by divorce or other  
998 dissolution, may elect to cancel his reduced retirement allowance  
999 and receive the maximum retirement allowance for life in an amount  
1000 equal to the amount that would have been payable if the member had  
1001 not elected Option 2 or Option 4-A. Such election must be made in  
1002 writing to the office of the executive director of the system on a  
1003 form prescribed by the board. Any such election shall be

1004 effective the first of the month following the date the election  
1005 is received by the system.

1006 (4) Any retired member who is receiving the maximum  
1007 retirement allowance for life, or a retirement allowance under  
1008 Option 1, and who marries after his retirement may elect to cancel  
1009 his maximum retirement allowance and receive a reduced retirement  
1010 allowance under Option 2 or Option 4-A to provide continuing  
1011 lifetime benefits to his spouse. Such election must be made in  
1012 writing to the office of the executive director of the system on a  
1013 form prescribed by the board not earlier than the date of the  
1014 marriage. Any such election shall be effective the first of the  
1015 month following the date the election is received by the system.  
1016 The amount of the reduced retirement allowance shall be the  
1017 actuarial equivalent, taking into account that the member received  
1018 the maximum retirement allowance for a period of time before  
1019 electing to receive a reduced retirement allowance. However, if a  
1020 retiree marries or remarries after retirement and elects either  
1021 Option 2 or Option 4-A as provided in subsection (2) or (4) of  
1022 this section, the actuarial equivalent factor used to compute the  
1023 reduced retirement allowance shall be the factor for the age of  
1024 the retiree and his or her beneficiary at the time such election  
1025 for recalculation of benefits is made.

1026 (5) Any member in service who has qualified for retirement  
1027 benefits may select any optional method of settlement of  
1028 retirement benefits by notifying the Executive Director of the  
1029 Board of Trustees of the Public Employees' Retirement System in  
1030 writing, on a form prescribed by the board, of the option he has  
1031 selected and by naming the beneficiary of such option and  
1032 furnishing necessary proof of age. Such option, once selected,  
1033 may be changed at any time prior to actual retirement or death,  
1034 but upon the death or retirement of the member, the optional  
1035 settlement shall be placed in effect upon proper notification to  
1036 the executive director.

1037 (6) Notwithstanding any provision of Section 25-13-1 et

1038 seq., no payments may be made for a retirement allowance on a  
1039 monthly basis for a period of time in excess of that allowed by  
1040 federal law.

1041 (7) If a retirant and his eligible beneficiary, if any, both  
1042 die before they have received in annuity payments a total amount  
1043 equal to the accumulated contributions standing to the retirant's  
1044 credit in the annuity savings account at the time of his  
1045 retirement, the difference between the accumulated contributions  
1046 and the total amount of annuities received by them shall be paid  
1047 to such persons as the retirant has nominated by written  
1048 designation duly executed and filed in the office of the executive  
1049 director. If no designated person survives the retirant and his  
1050 beneficiary, the difference, if any, shall be paid to the estate  
1051 of the survivor of the retirant and his beneficiary.

1052 (8) Any retired member who retired on Option 2(5) or 4-A(5)  
1053 before July 1, 1999, who is still receiving a retirement allowance  
1054 as of July 1, 1999, shall receive an increase in the annual  
1055 retirement allowance effective July 1, 1999, equal to the amount  
1056 they would have received under Option 2 or Option 4-A without a  
1057 reduction for Option 5 based on the ages at retirement of the  
1058 retiree and beneficiary and option factors in effect on July 1,  
1059 1999. Such increase shall be prospective only.

1060 (9) For purposes of this section:

1061 (a) "Beneficiary" means any person designated to  
1062 receive a retirement allowance, an annuity or other benefit as  
1063 provided by this chapter. Such designation shall be in writing  
1064 filed in the office of the Executive Director of the Board of  
1065 Trustees of the Public Employees' Retirement System, and no  
1066 designation or change of beneficiary shall be made in any other  
1067 manner; however, notwithstanding any provision of this chapter to  
1068 the contrary, the lawful spouse of a member at the time of the  
1069 death of a member shall be the beneficiary of such member unless  
1070 the member has designated another beneficiary subsequent to the  
1071 date of marriage.

1072 (b) "Actuarial equivalent" shall mean a benefit of  
1073 equal value to the accumulated contributions, annuity or benefit,  
1074 as the case may be, when computed upon the basis of such mortality  
1075 tables as shall be adopted by the board of trustees, and regular  
1076 interest.

1077 (c) "Actuarial tables" shall mean such tables of  
1078 mortality and rates of interest as shall be adopted by the board  
1079 in accordance with the recommendation of the actuary.

1080 SECTION 11. Section 25-13-21, Mississippi Code of 1972, is  
1081 amended as follows:

1082 25-13-21. In the event a highway patrolman ceases to work  
1083 for the Highway Safety Patrol for any reason other than  
1084 occupational disease contracted or for any accident sustained by  
1085 the patrolman by reason of his service or discharge of his duty in  
1086 the Highway Patrol, and if the highway patrolman is not eligible  
1087 for retirement either for service or disability, he shall be  
1088 refunded the amount of his total contribution under the provisions  
1089 of this chapter, including any credit transferred to his account  
1090 in this system from any other system, at his request; and should  
1091 he die before retirement, such fund is to be refunded to any  
1092 beneficiary he may name.

1093 Pursuant to the Unemployment Compensation Amendments of 1992  
1094 (P.L. 102-318 (UCA)), a member or eligible beneficiary eligible  
1095 for a refund under this section may elect on a form prescribed by  
1096 the board under rules and regulations established by the board, to  
1097 have an eligible roll over distribution of accumulated  
1098 contributions payable under this section paid directly to an  
1099 eligible retirement plan or individual retirement account. If the  
1100 member or eligible beneficiary makes such election and specifies  
1101 the eligible retirement plan or individual retirement account to  
1102 which such distribution is to be paid, the distribution will be  
1103 made in the form of a direct trustee to trustee transfer to the  
1104 specified eligible retirement plan. Flexible roll overs under  
1105 this subsection shall not be considered assignments under Section

1106 25-13-31.

1107           If any highway patrolman who shall receive a refund reenters  
1108 the service of the Highway Safety Patrol and again becomes a  
1109 member of the system \* \* \*, he may repay all amounts previously  
1110 received by him as a refund, together with regular interest  
1111 covering the period from the date of refund to the date of  
1112 repayment; however, the amounts that are repaid by the member and  
1113 the creditable service related thereto shall not be used in any  
1114 benefit calculation or determination until the member has remained  
1115 a contributor to the system for a period of at least five (5)  
1116 years after such member's reentry into state service. Repayment  
1117 for such time shall be made in increments of not less than  
1118 one-quarter (1/4) year of creditable service beginning with the  
1119 most recent service for which refund has been made. Upon the  
1120 repayment of all or part of such refund and interest, the highway  
1121 patrolman shall again receive credit for the \* \* \* period of  
1122 creditable service for which full repayment has been made to the  
1123 system.

1124           SECTION 12. The following shall be codified as Section  
1125 25-13-22, Mississippi Code of 1972:

1126           25-13-22. Effective July 1, 2000, and subject to the rules  
1127 adopted by the board of trustees, the system shall accept an  
1128 eligible roll over distribution or a direct transfer of funds from  
1129 another qualified plan in payment of all or a portion of the cost  
1130 to purchase optional service credit or to reinstate previously  
1131 withdrawn service credit as permitted by the system. The system  
1132 may only accept roll over payments in an amount equal to or less  
1133 than the balance due for purchase or reinstatement of service  
1134 credit. The rules adopted by the board shall condition the  
1135 acceptance of a roll over or transfer from another qualified plan  
1136 on the receipt from the other plan of information necessary to  
1137 enable the system to determine the eligibility of any transferred  
1138 funds for tax-free roll over treatment or other treatment under  
1139 federal income tax law.



1140 SECTION 13. Section 25-13-25, Mississippi Code of 1972, is  
1141 amended as follows:

1142 25-13-25. There is established an administrative board for  
1143 the Mississippi Highway Safety Patrol Retirement System, which  
1144 shall be composed of the Commissioner of Public Safety, four (4)  
1145 active members of the retirement system elected by the active  
1146 members of the system, and one (1) retired member of the  
1147 retirement system elected by the retired members of the system.  
1148 The administrative board, with approval of the Attorney General,  
1149 may make any and all regulations necessary for the efficient,  
1150 orderly and successful operation of this chapter, not inconsistent  
1151 herewith. This is a remedial chapter and entitled to a broad and  
1152 liberal interpretation to accomplish its purpose.

1153 SECTION 14. The following shall be codified as Section  
1154 21-29-323, Mississippi Code of 1972:

1155 21-29-323. Monthly benefits payable to a spouse in the event  
1156 of the death of a member before retirement or a retiree after  
1157 retirement, shall be divided and paid to or for the benefit of any  
1158 dependent children of the deceased member or retiree in an amount  
1159 equal to ten percent (10%) of the annual benefit payable to one  
1160 (1) dependent child, twenty percent (20%) for two (2) or more  
1161 dependent children, and thirty percent (30%) to three (3) or more  
1162 dependent children. If there are more than three (3) dependent  
1163 children, upon a child ceasing to be a dependent, his annuity  
1164 shall terminate and there shall be a redetermination of the  
1165 amounts payable to any remaining dependent children. Such  
1166 benefits shall be paid to a surviving parent or lawful custodian  
1167 of such children for the use and benefit of the children without  
1168 the necessity of appointment of guardian. The remaining amount  
1169 shall be paid to the spouse as otherwise provided.

1170 SECTION 15. Section 21-29-105, Mississippi Code of 1972, is  
1171 amended as follows:

1172 21-29-105. The Board of Trustees of the Public Employees'  
1173 Retirement System of Mississippi shall have operational and

1174 administrative control of the funds created herein.

1175         In each municipality there shall be a board to serve in an  
1176 advisory capacity to the Board of Trustees of the Public  
1177 Employees' Retirement System with respect to matters concerning  
1178 the disability and relief fund. Such board shall consist of five  
1179 (5) members as follows: two (2) shall be elected by the  
1180 membership of the police department, two (2) shall be elected by  
1181 the membership of the fire department; and the mayor or his  
1182 designee shall be an ex officio member. Retired members of the  
1183 police department and fire department may participate in elections  
1184 to choose members of the board, and such retired members are also  
1185 eligible to serve on the board. The term of elected members shall  
1186 be for four (4) years, and any vacancy in the elected membership  
1187 shall be filled in the same manner as the original membership was  
1188 selected.

1189         SECTION 16. Section 25-11-411, Mississippi Code of 1972, is  
1190 amended as follows:

1191         25-11-411. Each participant shall contribute monthly to the  
1192 optional retirement program the same amount which he would be  
1193 required to contribute to the Public Employees' Retirement System  
1194 of Mississippi if he were a member of that retirement system.  
1195 Participant contributions may be made by a reduction in salary in  
1196 accordance with the provisions of Section 403(b) of the United  
1197 States Internal Revenue Code or any amendment thereto, or in  
1198 accordance with Section 25-11-124, as may be appropriate under the  
1199 determination made in accordance with Section 25-11-421. The  
1200 entirety of each participant's contribution shall be remitted to  
1201 the appropriate company or companies for application to the  
1202 participant's contract or contracts. Each employer of a  
1203 participant in the optional retirement program shall contribute on  
1204 behalf of each participant in the optional retirement program the  
1205 same amount the employer would be required to contribute to the  
1206 Public Employees' Retirement System of Mississippi if the  
1207 participant were a member of the retirement system. The

1208 employer's contribution shall be remitted as follows:

1209 (a) An amount equal to seven and one-fourth percent  
1210 (7-1/4%) of the participant's total earned compensation as defined  
1211 in Section 25-11-103 shall be remitted to the appropriate company  
1212 or companies for application to the participant's contract or  
1213 contracts;

1214 (b) An amount equal to two and one-half percent  
1215 (2-1/2%) of the participant's total earned compensation as defined  
1216 in Section 25-11-103 shall be remitted to the Public Employees'  
1217 Retirement System of Mississippi for application to the accrued  
1218 liability contribution fund;

1219 (c) The remainder, if any, shall be remitted to the  
1220 appropriate company or companies for application to the  
1221 participant's contract or contracts.

1222 If the employer's contribution level is decreased below nine  
1223 and three-fourths percent (9-3/4%) of the employee's total earned  
1224 compensation, the remittance provided by paragraph (b) of this  
1225 section shall be reduced accordingly. There shall be no reduction  
1226 in the remittance provided by paragraph (a) of this section until  
1227 such time, if any, that the employer's contribution level is less  
1228 than seven and one-fourth percent (7-1/4%) of the participant's  
1229 total earned compensation. If the accrued liability contribution  
1230 is reduced or discontinued pursuant to Section 25-11-123, the  
1231 amount of the reduction, or the entirety of the employer's  
1232 contribution, in case of discontinuance, shall be remitted to the  
1233 appropriate company or companies for application to the  
1234 participant's contract or contracts. Any remittance required to  
1235 be made by the employer to the Public Employees' Retirement System  
1236 of Mississippi shall be made at the times the employer remits  
1237 contributions for members of such retirement system.

1238 SECTION 17. Section 25-11-103, Mississippi Code of 1972, is  
1239 amended as follows:

1240 25-11-103. The following words and phrases as used in  
1241 Articles 1 and 3, unless a different meaning is plainly required

1242 by the context, shall have the following meanings:

1243           (a) "Accumulated contributions" shall mean the sum of  
1244 all the amounts deducted from the compensation of a member and  
1245 credited to his individual account in the annuity savings account,  
1246 together with regular interest thereon as provided in Section  
1247 25-11-123.

1248           (b) "Actuarial cost" shall mean the amount of funds  
1249 presently required to provide future benefits as determined by the  
1250 board based on applicable tables and formulas provided by the  
1251 actuary.

1252           (c) "Actuarial equivalent" shall mean a benefit of  
1253 equal value to the accumulated contributions, annuity or benefit,  
1254 as the case may be, when computed upon the basis of such mortality  
1255 tables as shall be adopted by the board of trustees, and regular  
1256 interest.

1257           (d) "Actuarial tables" shall mean such tables of  
1258 mortality and rates of interest as shall be adopted by the board  
1259 in accordance with the recommendation of the actuary.

1260           (e) "Agency" shall mean any governmental body employing  
1261 persons in the state service.

1262           (f) "Average compensation" shall mean the average of  
1263 the four (4) highest years of earned compensation reported for an  
1264 employee in a fiscal or calendar year period, or combination  
1265 thereof which do not overlap, or the last forty-eight (48)  
1266 consecutive months of earned compensation reported for an  
1267 employee. The four (4) years need not be successive or joined  
1268 years of service. In no case shall the average compensation so  
1269 determined be in excess of One Hundred Twenty-five Thousand  
1270 Dollars (\$125,000.00). In computing the average compensation, any  
1271 amount paid in a lump sum for personal leave shall be included in  
1272 the calculation to the extent that such amount does not exceed an  
1273 amount which is equal to thirty (30) days of earned compensation  
1274 and to the extent that it does not cause the employees' earned  
1275 compensation to exceed the maximum reportable amount specified in

1276 Section 25-11-103(k); provided, however, that such thirty-day  
1277 limitation shall not prevent the inclusion in the calculation of  
1278 leave earned under federal regulations prior to July 1, 1976, and  
1279 frozen as of that date as referred to in Section 25-3-99. Only  
1280 the amount of lump sum pay for personal leave due and paid upon  
1281 the death of a member attributable for up to one hundred fifty  
1282 (150) days shall be used in the deceased member's average  
1283 compensation calculation in determining the beneficiary's  
1284 benefits. In computing the average compensation, no amounts shall  
1285 be used which are in excess of the amount on which contributions  
1286 were required and paid. If any member who is or has been granted  
1287 any increase in annual salary or compensation of more than eight  
1288 percent (8%) retires within twenty-four (24) months from the date  
1289 that such increase becomes effective, then the board shall exclude  
1290 that part of the increase in salary or compensation that exceeds  
1291 eight percent (8%) in calculating that member's average  
1292 compensation for retirement purposes. The board may enforce this  
1293 provision by rule or regulation. However, increases in  
1294 compensation in excess of eight percent (8%) per year granted  
1295 within twenty-four (24) months of the date of retirement may be  
1296 included in such calculation of average compensation if  
1297 satisfactory proof is presented to the board showing that the  
1298 increase in compensation was the result of an actual change in the  
1299 position held or services rendered, or that such compensation  
1300 increase was authorized by the State Personnel Board or was  
1301 increased as a result of statutory enactment, and the employer  
1302 furnishes an affidavit stating that such increase granted within  
1303 the last twenty-four (24) months was not contingent on a promise  
1304 or agreement of the employee to retire. Nothing in Section  
1305 25-3-31 shall affect the calculation of the average compensation  
1306 of any member for the purposes of this article. The average  
1307 compensation of any member who retires before July 1, 1992, shall  
1308 not exceed the annual salary of the Governor.

1309 (g) "Beneficiary" shall mean any person entitled to

1310 receive a retirement allowance, an annuity or other benefit as  
1311 provided by Articles 1 and 3. In the event of the death prior to  
1312 retirement of any member whose spouse and/or children are not  
1313 entitled to a retirement allowance, the lawful spouse of a member  
1314 at the time of the death of such member shall be the beneficiary  
1315 of such member unless the member has designated another  
1316 beneficiary subsequent to the date of marriage in writing, and  
1317 filed such writing in the office of the executive director of the  
1318 board of trustees. No designation or change of beneficiary shall  
1319 be made in any other manner.

1320 (h) "Board" shall mean the board of trustees provided  
1321 in Section 25-11-15 to administer the retirement system herein  
1322 created.

1323 (i) "Creditable service" shall mean "prior service,"  
1324 "retroactive service" and all lawfully credited unused leave not  
1325 exceeding the accrual rates and limitations provided in Section  
1326 25-3-91 et seq., as of the date of withdrawal from service plus  
1327 "membership service" for which credit is allowable as provided in  
1328 Section 25-11-109. Except to limit creditable service reported to  
1329 the system for the purpose of computing an employee's retirement  
1330 allowance or annuity or benefits provided in this article, nothing  
1331 in this paragraph shall limit or otherwise restrict the power of  
1332 the governing authority of a municipality or other political  
1333 subdivision of the state to adopt such vacation and sick leave  
1334 policies as it deems necessary.

1335 (j) "Child" means either a natural child of the member,  
1336 a child that has been made a child of the member by applicable  
1337 court action before the death of the member, or a child under the  
1338 permanent care of the member at the time of the latter's death,  
1339 which permanent care status shall be determined by evidence  
1340 satisfactory to the board.

1341 (k) "Earned compensation" shall mean the full amount  
1342 earned by an employee for a given pay period including any  
1343 maintenance furnished up to a maximum of One Hundred Twenty-five

1344 Thousand Dollars (\$125,000.00) per year, and proportionately for  
1345 less than one (1) year of service. The value of such maintenance  
1346 when not paid in money shall be fixed by the employing state  
1347 agency, and, in case of doubt, by the board of trustees as defined  
1348 in Section 25-11-15. In any case, earned compensation shall be  
1349 limited to the regular periodic compensation paid, exclusive of  
1350 litigation fees, bond fees, and other similar extraordinary  
1351 nonrecurring payments. In addition, any member in a covered  
1352 position, as defined by Public Employees' Retirement System laws  
1353 and regulations, who is also employed by another covered agency or  
1354 political subdivision shall have the earnings of that additional  
1355 employment reported to the Public Employees' Retirement System  
1356 regardless of whether the additional employment is sufficient in  
1357 itself to be a covered position. In the case of fee officials,  
1358 the net earnings from their office after deduction of expenses  
1359 shall apply, except that in no case shall earned compensation be  
1360 less than the total direct payments made by the state or  
1361 governmental subdivisions to the official, and employer and  
1362 employee contributions shall be paid thereon. In the case of  
1363 members of the state Legislature, all remuneration or amounts  
1364 paid, except mileage allowance, shall apply. The amount by which  
1365 an eligible employee's salary is reduced pursuant to a salary  
1366 reduction agreement authorized under Section 25-17-5 shall be  
1367 included as earned compensation under this paragraph, provided  
1368 this inclusion does not conflict with federal law, including  
1369 federal regulations and federal administrative interpretations  
1370 thereunder, pertaining to the Federal Insurance Contributions Act  
1371 or to Internal Revenue Code Section 125 cafeteria plans.  
1372 Compensation in addition to an employee's base salary that is paid  
1373 to the employee pursuant to the vacation and sick leave policies  
1374 of a municipality or other political subdivision of the state that  
1375 employs him which exceeds the maximums authorized by Section  
1376 25-3-91 et seq., shall be excluded from the calculation of earned  
1377 compensation under this article. The maximum salary applicable

1378 for retirement purposes before July 1, 1992, shall be the salary  
1379 of the Governor. Nothing in Section 25-3-31 shall affect the  
1380 determination of the earned compensation of any member for the  
1381 purposes of this article.

1382 (l) "Employee" means any person legally occupying a  
1383 position in the state service, and shall include the employees of  
1384 the retirement system created hereunder.

1385 (m) "Employer" shall mean the State of Mississippi or  
1386 any of its departments, agencies or subdivisions from which any  
1387 employee receives his compensation.

1388 (n) "Executive director" shall mean the secretary to  
1389 the board of trustees, as provided in Section 25-11-15(9), and the  
1390 administrator of the Public Employees' Retirement System and all  
1391 systems under the management of the board of trustees. Wherever  
1392 the term "Executive Secretary of the Public Employees' Retirement  
1393 System" or "executive secretary" appears in this article or in any  
1394 other provision of law, it shall be construed to mean the  
1395 Executive Director of the Public Employees' Retirement System.

1396 (o) "Fiscal year" shall mean the period beginning on  
1397 July 1 of any year and ending on June 30 of the next succeeding  
1398 year.

1399 (p) "Medical board" shall mean the board of physicians  
1400 or any governmental or nongovernmental disability determination  
1401 service designated by the board of trustees that is qualified to  
1402 make disability determinations as provided for in Section  
1403 25-11-119.

1404 (q) "Member" shall mean any person included in the  
1405 membership of the system as provided in Section 25-11-105.

1406 (r) "Membership service" shall mean service as an  
1407 employee rendered while a member of the retirement system.

1408 (s) "Position" means any office or any employment in  
1409 the state service, or two (2) or more of them, the duties of which  
1410 call for services to be rendered by one (1) person, including  
1411 positions jointly employed by federal and state agencies



1412 administering federal and state funds. The employer shall  
1413 determine upon initial employment and during the course of  
1414 employment of an employee who does not meet the criteria for  
1415 coverage in the Public Employees' Retirement System based on the  
1416 position held, whether the employee is or becomes eligible for  
1417 coverage in the Public Employees' Retirement System based upon any  
1418 other employment in a covered agency or political subdivision. If  
1419 or when the employee meets the eligibility criteria for coverage  
1420 in such other position, then the employer must withhold  
1421 contributions and report wages from the noncovered position in  
1422 accordance with the provisions for reporting of earned  
1423 compensation. Failure to deduct and report those contributions  
1424 shall not relieve the employee or employer of liability thereof.  
1425 The board shall adopt such rules and regulations as necessary to  
1426 implement and enforce this provision.

1427 (t) "Prior service" shall mean service rendered before  
1428 February 1, 1953, for which credit is allowable under Sections  
1429 25-11-105 and 25-11-109, and which shall allow prior service for  
1430 any person who is now or becomes a member of the Public Employees'  
1431 Retirement System and who does contribute to the system for a  
1432 minimum period of four (4) years.

1433 (u) "Regular interest" shall mean interest compounded  
1434 annually at such a rate as shall be determined by the board in  
1435 accordance with Section 25-11-121.

1436 (v) "Retirement allowance" shall mean an annuity for  
1437 life as provided in this article, payable each year in twelve (12)  
1438 equal monthly installments beginning as of the date fixed by the  
1439 board. The retirement allowance shall be calculated in accordance  
1440 with Section 25-11-111. Provided, any spouse who received a  
1441 spouse retirement benefit in accordance with Section 25-11-111(d)  
1442 prior to March 31, 1971, and said benefits were terminated because  
1443 of eligibility for a Social Security benefit, may again receive  
1444 his spouse retirement benefit from and after making application  
1445 with the board of trustees to reinstate such spouse retirement

1446 benefit.

1447           (w) "Retroactive service" shall mean service rendered  
1448 after February 1, 1953, for which credit is allowable under  
1449 Section 25-11-105(b) and Section 25-11-105(k).

1450           (x) "System" shall mean the Public Employees'  
1451 Retirement System of Mississippi established and described in  
1452 Section 25-11-101.

1453           (y) "State" shall mean the State of Mississippi or any  
1454 political subdivision thereof or instrumentality thereof.

1455           (z) "State service" shall mean all offices and  
1456 positions of trust or employment in the employ of the state, or  
1457 any political subdivision or instrumentality thereof, which elect  
1458 to participate as provided by Section 25-11-105 (f), including the  
1459 position of elected or fee officials of the counties and their  
1460 deputies and employees performing public services or any  
1461 department, independent agency, board or commission thereof, and  
1462 shall also include all offices and positions of trust or  
1463 employment in the employ of joint state and federal agencies  
1464 administering state and federal funds and service rendered by  
1465 employees of the public schools. Effective July 1, 1973, all  
1466 nonprofessional public school employees, such as bus drivers,  
1467 janitors, maids, maintenance workers and cafeteria employees,  
1468 shall have the option to become members in accordance with Section  
1469 25-11-105(b), and shall be eligible to receive credit for services  
1470 prior to July 1, 1973, provided the contributions and interest are  
1471 paid by the employee in accordance with said section; provided,  
1472 further, that the county or municipal separate school district may  
1473 pay the employer contribution and pro rata share of interest of  
1474 the retroactive service from available funds. From and after July  
1475 1, 1998, retroactive service credit shall be purchased at the  
1476 actuarial cost in accordance with Section 25-11-105(b).

1477           (aa) "Withdrawal from service" shall mean complete  
1478 severance of employment in the state service of any member by  
1479 resignation, dismissal or discharge.

1480                   (bb) The masculine pronoun, wherever used, shall  
1481 include the feminine pronoun.

1482           SECTION 18. This act shall take effect and be in force from  
1483 and after July 1, 1999.