

By: Stringer

To: Appropriations

HOUSE BILL NO. 1281

1 AN ACT TO CREATE NEW SECTION 25-11-115.2, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM
3 SHALL NOT KNOWINGLY ALLOW BENEFIT PAYMENTS TO BE MADE DIRECTLY TO
4 PERSONS WHO ARE DETERMINED TO BE LEGALLY INCOMPETENT; TO PROVIDE
5 THAT ANY PERSON WHO COMES TO BE KNOWN BY THE SYSTEM AS INCAPABLE
6 OF APPLYING FOR, MANAGING OR DIRECTING THE MANAGEMENT OF BENEFITS
7 BY REASON OF MENTAL OR PHYSICAL IMPAIRMENT SHALL BE DIRECTED TO
8 OBTAIN A CONSERVATOR OR LEGAL GUARDIAN; TO PROVIDE THAT THE SYSTEM
9 MAY DESIGNATE A REPRESENTATIVE PAYEE FOR SUCH PERSON UNDER CERTAIN
10 CIRCUMSTANCES; TO PROVIDE THAT CERTIFICATION BY A MEDICAL DOCTOR
11 OF INCAPACITY TO APPLY FOR, MANAGE OR DIRECT THE MANAGEMENT OF
12 BENEFITS SHALL BE REQUIRED BY THE SYSTEM BEFORE APPOINTMENT OF A
13 REPRESENTATIVE PAYEE; TO REQUIRE A REPRESENTATIVE PAYEE TO APPLY
14 BENEFITS PAID ONLY FOR THE USE AND BENEFIT OF THE BENEFIT
15 RECIPIENT; TO LIMIT THE LIABILITY OF THE RETIREMENT SYSTEM FOR
16 PAYMENTS MADE TO A REPRESENTATIVE PAYEE; TO PROVIDE AN OPTION
17 UNDER WHICH ANNUITY PAYMENTS SHALL BE PAID TO AN INCAPACITATED
18 PERSON IN THE ABSENCE OF A CONSERVATOR, LEGAL GUARDIAN OR DURABLE
19 POWER OF ATTORNEY; TO CREATE NEW SECTIONS 25-11-117.1, 25-11-311.1
20 AND 23-13-21.1, MISSISSIPPI CODE OF 1972, TO DESIGNATE TO WHOM
21 BENEFITS ARE PAYABLE IN THE EVENT OF THE DEATH OF THE RETIREE AND
22 THE DESIGNATED BENEFICIARY OF THE RETIREE UNDER THE PUBLIC
23 EMPLOYEES' RETIREMENT SYSTEM, THE SUPPLEMENTAL LEGISLATIVE
24 RETIREMENT PLAN AND THE MISSISSIPPI HIGHWAY SAFETY PATROL
25 RETIREMENT SYSTEM; TO CREATE NEW SECTION 25-11-312, MISSISSIPPI
26 CODE OF 1972, TO AUTHORIZE THE BOARD OF TRUSTEES OF THE PUBLIC
27 EMPLOYEES' RETIREMENT SYSTEM TO ACCEPT AN ELIGIBLE ROLLOVER
28 DISTRIBUTION OR A DIRECT TRANSFER OF FUNDS FROM ANOTHER QUALIFIED
29 PLAN IN PAYMENT OF ALL OR A PORTION OF THE COST TO REINSTATE
30 PREVIOUSLY WITHDRAWN SERVICE CREDIT IN THE SUPPLEMENTAL
31 LEGISLATIVE RETIREMENT PLAN; TO PROVIDE THAT SUCH PLAN MAY ACCEPT
32 SUCH PAYMENTS IN AN AMOUNT EQUAL TO OR LESS THAN THE BALANCE DUE
33 FOR REINSTATEMENT OF SERVICE CREDIT; TO AMEND SECTION 25-11-103,
34 MISSISSIPPI CODE OF 1972, TO CLARIFY WHO IS DESIGNATED AS THE
35 BENEFICIARY OF A MEMBER IN CERTAIN SITUATIONS; TO AMEND SECTION
36 25-11-111, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A RETIREE OR
37 BENEFICIARY TO IRREVOCABLY WAIVE ALL OR A PORTION OF THE
38 RETIREMENT BENEFITS TO WHICH THE RETIREE OR BENEFICIARY IS
39 ENTITLED; TO AMEND SECTION 25-11-120, MISSISSIPPI CODE OF 1972, TO
40 LIMIT THE AMOUNT OF FEES THAT AN ATTORNEY MAY CHARGE FOR AN
41 APPEARANCE AT A HEARING RELATING TO ELIGIBILITY, PAYMENT OF
42 BENEFITS OR CALCULATION OF CREDITABLE SERVICE; TO AMEND SECTION
43 25-11-121, MISSISSIPPI CODE OF 1972, TO INCREASE THE AMOUNT OF
44 CERTAIN FOREIGN INVESTMENTS THAT THE RETIREMENT SYSTEM MAY MAKE TO
45 30% OF THE TOTAL BOOK VALUE OF ALL INVESTMENTS OF THE SYSTEM; TO
46 AMEND SECTIONS 25-11-131 AND 25-11-139, MISSISSIPPI CODE OF 1972,
47 TO CLARIFY THAT THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES'
48 RETIREMENT SYSTEM HAS THE DUTY TO CORRECT ERRORS IN PAYMENTS OF
49 BENEFITS; TO PROVIDE THAT SUCH CORRECTIONS SHALL BE MADE UPON
50 DETECTION OF THE ERROR, WITHOUT REGARD TO THE LENGTH IT TAKES FOR

51 THE BOARD TO BECOME AWARE OF THE ERROR; TO AMEND SECTION
52 25-11-311, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A MEMBER OR
53 BENEFICIARY ELIGIBLE FOR A REFUND UNDER THE SUPPLEMENTAL
54 LEGISLATIVE RETIREMENT PLAN TO HAVE AN ELIGIBLE ROLLOVER
55 DISTRIBUTION OF ACCUMULATED CONTRIBUTIONS PAYABLE PAID DIRECTLY
56 INTO AN ELIGIBLE RETIREMENT PLAN OR INDIVIDUAL RETIREMENT ACCOUNT;
57 TO PROVIDE THE MANNER IN WHICH A MEMBER OF THE SUPPLEMENTAL
58 LEGISLATIVE RETIREMENT PLAN WHO HAS RECEIVED A REFUND AND IS
59 REELECTED TO THE LEGISLATURE MAY REPURCHASE CREDITABLE SERVICE IN
60 THE SUPPLEMENTAL LEGISLATIVE RETIREMENT PLAN; TO AMEND SECTIONS
61 25-11-112, 25-11-114, 25-11-115, 25-11-117, 25-13-12, 25-13-13,
62 25-13-16 AND 25-13-21, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO
63 THE PROVISIONS OF THIS ACT; TO AMEND SECTION 25-11-309,
64 MISSISSIPPI CODE OF 1972, TO REMOVE THE CAP ON THE AGGREGATE
65 AMOUNT OF A RETIREMENT ALLOWANCE THAT A RETIREE MAY RECEIVE FROM
66 THE SUPPLEMENTAL LEGISLATIVE RETIREMENT PLAN AND THE PUBLIC
67 EMPLOYEES' RETIREMENT SYSTEM; TO BRING FORWARD FOR THE PURPOSES OF
68 AMENDMENT SECTIONS 25-11-301, 25-11-303, 25-11-305, 25-11-307,
69 25-11-311, 25-11-313, 25-11-315, 25-11-317 AND 25-11-319,
70 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE SUPPLEMENTAL
71 LEGISLATIVE RETIREMENT PLAN; AND FOR RELATED PURPOSES.

72

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

74 SECTION 1. The provisions of this section shall be codified
75 as Section 25-11-115.2, Mississippi Code of 1972:

76 25-11-115.2. (1) It is the intent of the Public Employees'
77 Retirement System to provide benefit payments in an efficient
78 manner consistent with the member's best interest. The system
79 shall not knowingly allow payments to be made directly to persons
80 who are determined legally incompetent or incapable of managing or
81 directing the management of benefits. Any person applying for or
82 receiving benefits who comes to be known as incapable of applying
83 for, managing or directing the management of benefits by reason of
84 mental or physical impairment, as certified by a medical doctor,
85 shall be directed to obtain a conservator or legal guardian for
86 purposes of applying for, receiving, managing and/or directing
87 benefit payments. In the absence of a conservator or legal
88 guardian or valid durable power of attorney, the Public Employees'
89 Retirement System may designate a representative payee for such
90 purposes. The benefit recipient may nominate a representative
91 payee for consideration by the system in selecting a payee, and
92 the system is responsible for selecting a payee, including an
93 agency, organization, or institution, that will serve the interest

94 of the benefit recipient. The system may also accept the Social
95 Security Administration's designation of a representative payee to
96 manage and direct funds paid by the system. The system shall have
97 the authority to establish rules for the administration of this
98 section.

99 (2) A representative payee shall be directed to apply
100 benefits paid from the system only for the use and benefit of the
101 benefit recipient. The system's obligations to a benefit
102 recipient shall be discharged when it makes a correct payment to a
103 representative payee on the benefit recipient's behalf. The
104 system is without liability for the theft or misuse of benefits if
105 the benefits were properly paid based upon the information
106 available to the system at the time the payments were made.

107 (3) In the absence of a conservator, legal guardian or valid
108 durable power of attorney, an unmarried benefit applicant who is
109 deemed to be incapable of applying for, managing or directing his
110 or her benefits, shall be entitled to receive annuity payments in
111 an amount equal to a retirement allowance based on the maximum
112 benefit payable to the member for life and with any remaining
113 benefit at the death of the member payable pursuant to Section
114 25-11-117.1(1). Such payments shall be paid to the representative
115 payee, designated by the system in accordance with the provisions
116 of this section during the period of the benefit recipient's
117 incapacity.

118 (4) In the absence of a conservator, legal guardian or valid
119 durable power of attorney, any married benefit applicant who is
120 deemed to be incapable of applying for, managing or directing his
121 or her benefits, shall be paid a reduced retirement allowance
122 under Option 2 as provided in Section 25-11-115, with the lawful
123 spouse as the beneficiary. Such payments shall be paid to a
124 representative payee as designated by the system in accordance
125 with the provisions of this section during the period of the
126 benefit recipient's incapacity.

127 SECTION 2. The provisions of this section shall be codified
128 as Section 25-11-117.1, Mississippi Code of 1972:

129 25-11-117.1. (1) Except as otherwise provided in subsection
130 (2) of this section, where benefits are payable to a designated
131 beneficiary or beneficiaries under this article and the designated
132 beneficiary or beneficiaries as provided by the member on the most
133 recent form filed with the system is deceased or otherwise
134 disqualified at the time such benefits become payable, the
135 following persons, in descending order of precedence, shall be
136 eligible to receive such benefits:

137 (a) The surviving spouse of the member or retiree;

138 (b) The children of the member or retiree or their
139 descendants, per stirpes;

140 (c) The brothers and sisters of the member or retiree
141 or their descendants, per stirpes;

142 (d) The parents of the member or retiree;

143 (e) The executor or administrator on behalf of the
144 member or retiree's estate;

145 (f) The persons entitled by law to distribution of the
146 member or retiree's estate.

147 (2) Any monthly benefits payable to a beneficiary who dies
148 prior to cashing his or her final check(s) and/or any additional
149 benefits payable pursuant to Section 25-11-112 still payable at
150 the death of a beneficiary receiving monthly benefits shall be
151 paid as follows:

152 (a) The surviving spouse of the beneficiary;

153 (b) The children of the beneficiary or their
154 descendants, per stirpes;

155 (c) The brothers and sisters of the beneficiary or
156 their descendants, per stirpes;

157 (d) The parents of the beneficiary;

158 (e) The executor or administrator on behalf of the
159 beneficiary's estate;

160 (f) The persons entitled by law to distribution of the
161 beneficiary's estate.

162 (3) In the event no claim is made by any individual listed
163 in subsection (2) of this section, a distribution may be made
164 pursuant to the provisions of subsection (1) of this section.

165 (4) Payment under the provisions of this section shall bar
166 recovery by any other person of the benefits distributed. Payment
167 of benefits made to one or more members of a class of individuals
168 are made on behalf of all members of the class. Any members of
169 the class coming forward after payment is made must look to those
170 who received the payment.

171 SECTION 3. The provisions of this section shall be codified
172 as Section 25-11-311.1, Mississippi Code of 1972:

173 25-11-311.1. (1) Except as provided in subsection (2) of
174 this section, where benefits are payable to a designated
175 beneficiary or beneficiaries and the designated beneficiary or
176 beneficiaries as provided by the member on the most recent form
177 filed with the system are deceased or otherwise disqualified at
178 the time such benefits become payable, the following persons, in
179 descending order of precedence, shall be eligible to receive such
180 benefits:

181 (a) The surviving spouse of the member or retiree;

182 (b) The children of the member or retiree or their
183 descendants, per stirpes;

184 (c) The brothers and sisters of the member or retiree
185 or their descendants, per stirpes;

186 (d) The parents of the member or retiree;

187 (e) The executor or administrator on behalf of the
188 member or retiree's estate;

189 (f) The persons entitled by law to distribution of the
190 member or retiree's estate.

191 (2) Any monthly benefits payable to a beneficiary who dies
192 prior to cashing his or her final check(s) and/or any additional

193 benefits payable pursuant to Section 25-11-112 still payable at
194 the death of a beneficiary receiving monthly benefits shall be
195 paid as follows:

196 (a) The surviving spouse of the beneficiary;

197 (b) The children of the beneficiary or their
198 descendants, per stirpes;

199 (c) The brothers and sisters of the beneficiary or
200 their descendants, per stirpes;

201 (d) The parents of the beneficiary;

202 (e) The executor or administrator on behalf of the
203 beneficiary's estate;

204 (f) The persons entitled by law to distribution of the
205 beneficiary's estate.

206 (3) In the event no claim is made by any individual listed
207 in subsection (2) of this section, a distribution may be made
208 pursuant to the provisions of subsection (1) of this section.

209 (4) Payment under the provisions above shall bar recovery by
210 any other person of the benefits distributed. Payment of benefits
211 made to one or more members of a class of individuals are made on
212 behalf of all members of the class. Any members of the class
213 coming forward after payment is made must look to those who
214 received the payment.

215 SECTION 4. The provisions of this section shall be codified
216 as Section 25-13-21.1, Mississippi Code of 1972:

217 25-13-21.1. (1) Except as otherwise provided in subsection
218 (2) of this section, where benefits are payable to a designated
219 beneficiary or beneficiaries under this article and the designated
220 beneficiary or beneficiaries as provided by the member on the most
221 recent form filed with the system are deceased or otherwise
222 disqualified at the time such benefits become payable, the
223 following persons, in descending order of precedence, shall be
224 eligible to receive such benefits:

225 (a) The surviving spouse of the member or retiree;

226 (b) The children of the member or retiree or their
227 descendants, per stirpes;

228 (c) The brothers and sisters of the member or retiree
229 or their descendants, per stirpes;

230 (d) The parents of the member or retiree;

231 (e) The executor or administrator on behalf of the
232 member or retiree's estate;

233 (f) The persons entitled by law to distribution of the
234 member or retiree's estate.

235 (2) Any monthly benefits payable to a beneficiary who dies
236 prior to cashing his or her final check(s) and/or any additional
237 benefits payable pursuant to Section 25-13-12 still payable at the
238 death of a beneficiary receiving monthly benefits shall be paid as
239 follows:

240 (a) The surviving spouse of the beneficiary;

241 (b) The children of the beneficiary or their
242 descendants, per stirpes;

243 (c) The brothers and sisters of the beneficiary or
244 their descendants, per stirpes;

245 (d) The parents of the beneficiary;

246 (e) The executor or administrator on behalf of the
247 beneficiary's estate;

248 (f) The persons entitled by law to distribution of the
249 beneficiary's estate.

250 (3) In the event no claim is made by any individual listed
251 in subsection (2) of this section, a distribution may be made
252 pursuant to the provisions of subsection (1) of this section.

253 (4) Payment under the provisions of this section shall bar
254 recovery by any other person of the benefits distributed. Payment
255 of benefits made to one or more members of a class of individuals
256 are made on behalf of all members of the class. Any members of
257 the class coming forward after payment is made must look to those
258 who received the payment.

259 SECTION 5. The provisions of this section shall be codified
260 as Section 25-11-312, Mississippi Code of 1972:

261 25-11-312. From and after July 1, 2000, subject to the rules
262 adopted by the board, the supplemental legislative retirement plan
263 shall accept an eligible rollover distribution or a direct
264 transfer of funds from another qualified plan in payment of all or
265 a portion of the cost to reinstate previously withdrawn service
266 credit as permitted by the plan. The plan may only accept
267 rollover payments in an amount equal to or less than the balance
268 due for reinstatement of service credit. The rules adopted by the
269 board of trustees shall condition the acceptance of a rollover or
270 transfer from another qualified plan on the receipt from the other
271 plan of information necessary to enable the plan to determine the
272 eligibility of any transferred funds for tax-free rollover
273 treatment or other treatment under federal income tax law.

274 SECTION 6. Section 25-11-103, Mississippi Code of 1972, is
275 amended as follows:[WAN1]

276 25-11-103. The following words and phrases as used in
277 Articles 1 and 3, unless a different meaning is plainly required
278 by the context, shall have the following meanings:

279 (a) "Accumulated contributions" shall mean the sum of
280 all the amounts deducted from the compensation of a member and
281 credited to his individual account in the annuity savings account,
282 together with regular interest thereon as provided in Section
283 25-11-123.

284 (b) "Actuarial cost" shall mean the amount of funds
285 presently required to provide future benefits as determined by the
286 board based on applicable tables and formulas provided by the
287 actuary.

288 (c) "Actuarial equivalent" shall mean a benefit of
289 equal value to the accumulated contributions, annuity or benefit,
290 as the case may be, when computed upon the basis of such mortality
291 tables as shall be adopted by the board of trustees, and regular

292 interest.

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

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

298 (f) "Average compensation" shall mean the average of
299 the four (4) highest years of earned compensation reported for an
300 employee in a fiscal or calendar year period, or combination
301 thereof which do not overlap, or the last forty-eight (48)
302 consecutive months of earned compensation reported for an
303 employee. The four (4) years need not be successive or joined
304 years of service. In no case shall the average compensation so
305 determined be in excess of One Hundred Twenty-five Thousand
306 Dollars (\$125,000.00). In computing the average compensation, any
307 amount paid in a lump sum for personal leave shall be included in
308 the calculation to the extent that such amount does not exceed an
309 amount which is equal to thirty (30) days of earned compensation
310 and to the extent that it does not cause the employees' earned
311 compensation to exceed the maximum reportable amount specified in
312 Section 25-11-103(k); provided, however, that such thirty-day
313 limitation shall not prevent the inclusion in the calculation of
314 leave earned under federal regulations prior to July 1, 1976, and
315 frozen as of that date as referred to in Section 25-3-99. Only
316 the amount of lump sum pay for personal leave due and paid upon
317 the death of a member attributable for up to one hundred fifty
318 (150) days shall be used in the deceased member's average
319 compensation calculation in determining the beneficiary's
320 benefits. In computing the average compensation, no amounts shall
321 be used which are in excess of the amount on which contributions
322 were required and paid. If any member who is or has been granted
323 any increase in annual salary or compensation of more than eight
324 percent (8%) retires within twenty-four (24) months from the date

325 that such increase becomes effective, then the board shall exclude
326 that part of the increase in salary or compensation that exceeds
327 eight percent (8%) in calculating that member's average
328 compensation for retirement purposes. The board may enforce this
329 provision by rule or regulation. However, increases in
330 compensation in excess of eight percent (8%) per year granted
331 within twenty-four (24) months of the date of retirement may be
332 included in such calculation of average compensation if
333 satisfactory proof is presented to the board showing that the
334 increase in compensation was the result of an actual change in the
335 position held or services rendered, or that such compensation
336 increase was authorized by the State Personnel Board or was
337 increased as a result of statutory enactment, and the employer
338 furnishes an affidavit stating that such increase granted within
339 the last twenty-four (24) months was not contingent on a promise
340 or agreement of the employee to retire. Nothing in Section
341 25-3-31 shall affect the calculation of the average compensation
342 of any member for the purposes of this article. The average
343 compensation of any member who retires before July 1, 1992, shall
344 not exceed the annual salary of the Governor.

345 (g) "Beneficiary" shall mean any person entitled to
346 receive a retirement allowance, an annuity or other benefit as
347 provided by Articles 1 and 3. In the event of the death prior to
348 retirement of any member whose spouse and/or children are not
349 entitled to a retirement allowance on the basis that the member
350 has less than four (4) years of service credit and/or has not been
351 married for a minimum of one (1) year or the spouse has waived his
352 or her entitlement to a retirement allowance pursuant to Section
353 25-11-114, the lawful spouse of a member at the time of the death
354 of such member shall be the beneficiary of such member unless the
355 member has designated another beneficiary subsequent to the date
356 of marriage in writing, and filed such writing in the office of
357 the executive director of the board of trustees. No designation

358 or change of beneficiary shall be made in any other manner.

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

362 (i) "Creditable service" shall mean "prior service,"
363 "retroactive service" and all lawfully credited unused leave not
364 exceeding the accrual rates and limitations provided in Section
365 25-3-91 et seq., as of the date of withdrawal from service plus
366 "membership service" for which credit is allowable as provided in
367 Section 25-11-109. Except to limit creditable service reported to
368 the system for the purpose of computing an employee's retirement
369 allowance or annuity or benefits provided in this article, nothing
370 in this paragraph shall limit or otherwise restrict the power of
371 the governing authority of a municipality or other political
372 subdivision of the state to adopt such vacation and sick leave
373 policies as it deems necessary.

374 (j) "Child" means either a natural child of the member,
375 a child that has been made a child of the member by applicable
376 court action before the death of the member, or a child under the
377 permanent care of the member at the time of the latter's death,
378 which permanent care status shall be determined by evidence
379 satisfactory to the board.

380 (k) "Earned compensation" shall mean the full amount
381 earned by an employee for a given pay period including any
382 maintenance furnished up to a maximum of One Hundred Twenty-five
383 Thousand Dollars (\$125,000.00) per year, and proportionately for
384 less than one (1) year of service. The value of such maintenance
385 when not paid in money shall be fixed by the employing state
386 agency, and, in case of doubt, by the board of trustees as defined
387 in Section 25-11-15. In any case, earned compensation shall be
388 limited to the regular periodic compensation paid, exclusive of
389 litigation fees, bond fees, and other similar extraordinary
390 nonrecurring payments. In addition, any member in a covered

391 position, as defined by Public Employees' Retirement System laws
392 and regulations, who is also employed by another covered agency or
393 political subdivision shall have the earnings of that additional
394 employment reported to the Public Employees' Retirement System
395 regardless of whether the additional employment is sufficient in
396 itself to be a covered position. In the case of fee officials,
397 the net earnings from their office after deduction of expenses
398 shall apply, except that in no case shall earned compensation be
399 less than the total direct payments made by the state or
400 governmental subdivisions to the official, and employer and
401 employee contributions shall be paid thereon. In the case of
402 members of the state Legislature, all remuneration or amounts
403 paid, except mileage allowance, shall apply. The amount by which
404 an eligible employee's salary is reduced pursuant to a salary
405 reduction agreement authorized under Section 25-17-5 shall be
406 included as earned compensation under this paragraph, provided
407 this inclusion does not conflict with federal law, including
408 federal regulations and federal administrative interpretations
409 thereunder, pertaining to the Federal Insurance Contributions Act
410 or to Internal Revenue Code Section 125 cafeteria plans.
411 Compensation in addition to an employee's base salary that is paid
412 to the employee pursuant to the vacation and sick leave policies
413 of a municipality or other political subdivision of the state that
414 employs him which exceeds the maximums authorized by Section
415 25-3-91 et seq., shall be excluded from the calculation of earned
416 compensation under this article. The maximum salary applicable
417 for retirement purposes before July 1, 1992, shall be the salary
418 of the Governor. Nothing in Section 25-3-31 shall affect the
419 determination of the earned compensation of any member for the
420 purposes of this article.

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

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

427 (n) "Executive director" shall mean the secretary to
428 the board of trustees, as provided in Section 25-11-15(9), and the
429 administrator of the Public Employees' Retirement System and all
430 systems under the management of the board of trustees. Wherever
431 the term "Executive Secretary of the Public Employees' Retirement
432 System" or "executive secretary" appears in this article or in any
433 other provision of law, it shall be construed to mean the
434 Executive Director of the Public Employees' Retirement System.

435 (o) "Fiscal year" shall mean the period beginning on
436 July 1 of any year and ending on June 30 of the next succeeding
437 year.

438 (p) "Medical board" shall mean the board of physicians
439 or any governmental or nongovernmental disability determination
440 service designated by the board of trustees that is qualified to
441 make disability determinations as provided for in Section
442 25-11-119.

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

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

447 (s) "Position" means any office or any employment in
448 the state service, or two (2) or more of them, the duties of which
449 call for services to be rendered by one (1) person, including
450 positions jointly employed by federal and state agencies
451 administering federal and state funds. The employer shall
452 determine upon initial employment and during the course of
453 employment of an employee who does not meet the criteria for
454 coverage in the Public Employees' Retirement System based on the
455 position held, whether the employee is or becomes eligible for
456 coverage in the Public Employees' Retirement System based upon any

457 other employment in a covered agency or political subdivision. If
458 or when the employee meets the eligibility criteria for coverage
459 in such other position, then the employer must withhold
460 contributions and report wages from the noncovered position in
461 accordance with the provisions for reporting of earned
462 compensation. Failure to deduct and report those contributions
463 shall not relieve the employee or employer of liability thereof.
464 The board shall adopt such rules and regulations as necessary to
465 implement and enforce this provision.

466 (t) "Prior service" shall mean service rendered before
467 February 1, 1953, for which credit is allowable under Sections
468 25-11-105 and 25-11-109, and which shall allow prior service for
469 any person who is now or becomes a member of the Public Employees'
470 Retirement System and who does contribute to the system for a
471 minimum period of four (4) years.

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

475 (v) "Retirement allowance" shall mean an annuity for
476 life as provided in this article, payable each year in twelve (12)
477 equal monthly installments beginning as of the date fixed by the
478 board. The retirement allowance shall be calculated in accordance
479 with Section 25-11-111. Provided, any spouse who received a
480 spouse retirement benefit in accordance with Section 25-11-111(d)
481 prior to March 31, 1971, and said benefits were terminated because
482 of eligibility for a social security benefit, may again receive
483 his spouse retirement benefit from and after making application
484 with the board of trustees to reinstate such spouse retirement
485 benefit.

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

489 (x) "System" shall mean the Public Employees'

490 Retirement System of Mississippi established and described in
491 Section 25-11-101.

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

494 (z) "State service" shall mean all offices and
495 positions of trust or employment in the employ of the state, or
496 any political subdivision or instrumentality thereof, which elect
497 to participate as provided by Section 25-11-105(f), including the
498 position of elected or fee officials of the counties and their
499 deputies and employees performing public services or any
500 department, independent agency, board or commission thereof, and
501 shall also include all offices and positions of trust or
502 employment in the employ of joint state and federal agencies
503 administering state and federal funds and service rendered by
504 employees of the public schools. Effective July 1, 1973, all
505 nonprofessional public school employees, such as bus drivers,
506 janitors, maids, maintenance workers and cafeteria employees,
507 shall have the option to become members in accordance with Section
508 25-11-105(b), and shall be eligible to receive credit for services
509 prior to July 1, 1973, provided the contributions and interest are
510 paid by the employee in accordance with said section; provided,
511 further, that the county or municipal separate school district may
512 pay the employer contribution and pro rata share of interest of
513 the retroactive service from available funds. From and after July
514 1, 1998, retroactive service credit shall be purchased at the
515 actuarial cost in accordance with Section 25-11-105(b).

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

519 (bb) The masculine pronoun, wherever used, shall
520 include the feminine pronoun.

521 SECTION 7. Section 25-11-111, Mississippi Code of 1972, is
522 amended as follows:[WAN2]

523 25-11-111. (a) Any member upon withdrawal from service upon
524 or after attainment of the age of sixty (60) years who shall have
525 completed at least four (4) years of creditable service, or any
526 member upon withdrawal from service regardless of age who shall
527 have completed at least twenty-five (25) years of creditable
528 service, shall be entitled to receive a retirement allowance which
529 shall begin on the first of the month following the date the
530 member's application for the allowance is received by the board,
531 but in no event before withdrawal from service.

532 (b) Any member whose withdrawal from service occurs prior to
533 attaining the age of sixty (60) years who shall have completed
534 four (4) or more years of creditable service and shall not have
535 received a refund of his accumulated contributions shall be
536 entitled to receive a retirement allowance, beginning upon his
537 attaining the age of sixty (60) years, of the amount earned and
538 accrued at the date of withdrawal from service.

539 (c) Any member in service who has qualified for retirement
540 benefits may select any optional method of settlement of
541 retirement benefits by notifying the Executive Director of the
542 Board of Trustees of the Public Employees' Retirement System in
543 writing, on a form prescribed by the board, of the option he has
544 selected and by naming the beneficiary of such option and
545 furnishing necessary proof of age. Such option, once selected,
546 may be changed at any time prior to actual retirement or death,
547 but upon the death or retirement of the member, the optional
548 settlement shall be placed in effect upon proper notification to
549 the executive director.

550 (d) The annual amount of the retirement allowance shall
551 consist of:

552 (1) A member's annuity which shall be the actuarial
553 equivalent of the accumulated contributions of the member at the
554 time of retirement computed according to the actuarial table in
555 use by the system; and

556 (2) An employer's annuity which, together with the
557 member's annuity provided above, shall be equal to one and
558 seven-eighths percent (1-7/8%) of the average compensation for
559 each year of state service up to and including twenty-five (25)
560 years of membership service, and two and one-fourth percent
561 (2-1/4%) of the average compensation for each year of state
562 service exceeding twenty-five (25) years of membership service.
563 However, after the board of trustees has begun implementing the
564 changes in the computation of the retirement allowance as provided
565 in subsection (e), the employer's annuity shall be equal to:

566 (i) One and seven-eighths percent (1-7/8%) of the
567 average compensation for each year of membership service up to and
568 including the number of years specified in Column A of the table
569 in subsection (e) for the latest phase that has been implemented,
570 and

571 (ii) Two percent (2%) of the average compensation
572 for each year of membership service exceeding the number of years
573 specified in Column A of the table in subsection (e) for the
574 latest phase that has been implemented up to and including
575 twenty-five (25) years, and

576 (iii) The percentage of the average compensation
577 specified in Column B of the table in subsection (e) for the
578 latest phase that has been implemented for each year of membership
579 service exceeding twenty-five (25) years.

580 (3) A prior service annuity equal to one and
581 seven-eighths percent (1-7/8%) of the average compensation for
582 each year of state service up to and including twenty-five (25)
583 years of prior service, and two and one-fourth percent (2-1/4%) of
584 the average compensation for each year of state service exceeding
585 twenty-five (25) years of prior service for which the member is
586 allowed credit. However, after the board of trustees has begun
587 implementing the changes in the computation of the retirement
588 allowance as provided in subsection (e), the prior service annuity

589 shall be equal to:

590 (i) One and seven-eighths percent (1-7/8%) of the
591 average compensation for each year of prior service up to and
592 including the number of years specified in Column A of the table
593 in subsection (e) for the latest phase that has been implemented,
594 and

595 (ii) Two percent (2%) of the average compensation
596 for each year of prior service exceeding the number of years
597 specified in Column A of the table in subsection (e) for the
598 latest phase that has been implemented up to and including
599 twenty-five (25) years, and

600 (iii) The percentage of the average compensation
601 specified in Column B of the table in subsection (e) for the
602 latest phase that has been implemented for each year of prior
603 service exceeding twenty-five (25) years.

604 (4) Any retired member or beneficiary thereof who was
605 eligible to receive a retirement allowance before July 1, 1991,
606 and who is still receiving a retirement allowance on July 1, 1992,
607 shall receive an increase in the annual retirement allowance of
608 the retired member equal to one-eighth of one percent (1/8 of 1%)
609 of the average compensation for each year of state service in
610 excess of twenty-five (25) years of membership service up to and
611 including thirty (30) years. The maximum increase shall be
612 five-eighths of one percent (5/8 of 1%). In no case shall a
613 member who has been retired prior to July 1, 1987, receive less
614 than Ten Dollars (\$10.00) per month for each year of creditable
615 service and proportionately for each quarter year thereof.
616 Persons retired on or after July 1, 1987, shall receive at least
617 Ten Dollars (\$10.00) per month for each year of service and
618 proportionately for each quarter year thereof reduced for the
619 option selected. However, such Ten Dollars (\$10.00) minimum per
620 month for each year of creditable service shall not apply to a
621 retirement allowance computed under Section 25-11-114 based on a

622 percentage of the member's average compensation.

623 (5) The board shall recalculate the retirement
624 allowance of any member or the beneficiary of such a member, if
625 the member or beneficiary is eligible to receive a retirement
626 allowance before July 1, 1999, by using the criteria in paragraphs
627 (2) and (3) of this subsection (d) that provides for two and
628 one-fourth percent (2-1/4%) of the average compensation for each
629 year of service exceeding twenty-five (25) years.

630 (6) Any member upon withdrawal from service upon or
631 after attaining the age of sixty (60) years who has completed at
632 least four (4) years of creditable service, or any member upon
633 withdrawal from service regardless of age who has completed at
634 least twenty-five (25) years of creditable service, shall be
635 entitled to receive a retirement allowance computed in accordance
636 with the formula set forth in this section. Such retirement
637 allowance otherwise payable may be converted into a retirement
638 allowance of equivalent actuarial value in such an amount that,
639 with the member's benefit under Title II of the federal Social
640 Security Act, the member will receive, so far as possible,
641 approximately the same amount annually before and after the
642 earliest age at which the member becomes eligible to receive a
643 social security benefit.

644 (e) Beginning on July 1, 2000, the board of trustees shall
645 implement changes in the computation of the amount of the annual
646 retirement allowance, which changes shall be implemented in phases
647 as set forth in the table in this subsection. The board of
648 trustees shall implement the phases systematically upon July 1
649 after the board's actuary certifies that implementation of a phase
650 will not cause the unfunded accrued actuarial liability
651 amortization period for the retirement system to exceed twenty-two
652 (22) years. The board of trustees shall have the exclusive
653 authority to set the assumptions that are used in the actuarial
654 evaluation in accordance with Section 25-11-119(9). The board of

655 trustees shall recalculate the retirement allowance of any retired
656 member or beneficiary of such a member as each phase is
657 implemented.

658 RETIREMENT ALLOWANCE COMPUTATION

659 IMPLEMENTATION TABLE

660	(A)	(B)
661 PHASE	2% FOR YEARS	PERCENTAGE
662	ABOVE THIS	FOR YEARS
663	NUMBER AND	ABOVE 25
664	≤25 YEARS	YEARS

666	Phase 1	20 years	2.250%
667	Phase 2	15 years	2.250%
668	Phase 3	10 years	2.250%
669	Phase 4	5 years	2.250%
670	Phase 5	0 years	2.250%
671	Phase 6	0 years	2.375%
672	Phase 7	0 years	2.500%

673 Column A shows the years to which two percent (2%) is
674 applicable in computing the retirement allowance, which are all
675 the years of service exceeding the number specified in Column A
676 for the phase that has been implemented up to and including
677 twenty-five (25) years.

678 Column B shows the percentage that is applicable to the
679 number of years of service exceeding twenty-five (25) years in
680 computing the retirement allowance.

681 (f) No member, except members excluded by the Age
682 Discrimination in Employment Act Amendments of 1986 (Public Law
683 99-592), under either Article 1 or Article 3 in state service
684 shall be required to retire because of age.

685 (g) No payment on account of any benefit granted under the
686 provisions of this section shall become effective or begin to
687 accrue until January 1, 1953.

688 (h) (1) A retiree or beneficiary may, on a form prescribed
689 by and filed with the retirement system, irrevocably waive all or
690 a portion of any benefits from the retirement system to which the
691 retiree or beneficiary is entitled. * * * Such waiver shall be
692 binding on the heirs and assigns of any retiree or beneficiary and
693 the same must agree to forever hold harmless the Public Employees'
694 Retirement System of Mississippi from any claim to such waived
695 retirement benefits.

696 (2) Any waiver pursuant to this subsection shall apply
697 only to the person executing the waiver. A beneficiary shall be
698 entitled to benefits according to the option selected by the
699 member at the time of retirement. However, a beneficiary may, at
700 the option of the beneficiary, execute a waiver of benefits
701 pursuant to this subsection.

702 (3) The retirement system shall retain in the annuity
703 reserve account amounts that are not used to pay benefits because
704 of a waiver executed under this subsection.

705 (4) The board of trustees may provide rules and
706 regulations for the administration of waivers under this
707 subsection.

708 SECTION 8. Section 25-11-120, Mississippi Code of 1972, is
709 amended as follows:[WAN3]

710 25-11-120. (1) Any individual aggrieved by an
711 administrative determination, including a determination of the
712 medical board, relating to the eligibility for or payment of
713 benefits, or the calculation of creditable service or other
714 similar matters relating to the Public Employees' Retirement
715 System or any other retirement system or program administered by
716 the board, may request a hearing before a hearing officer
717 designated by the board. Such hearings shall be conducted in
718 accordance with rules and regulations adopted by the board and
719 formal rules of evidence shall not apply. The hearing officer is
720 authorized to administer oaths, hear testimony of witnesses and

721 receive documentary and other evidence. After the hearing, the
722 hearing officer shall certify the record to the board, which shall
723 include the hearing officer's proposed statement of facts,
724 conclusions of law and recommendation. The record may include a
725 taped recording of the proceedings of the hearing in lieu of a
726 transcribed copy of the proceedings. The board shall receive the
727 record and make its determination based solely on matters
728 contained therein.

729 (2) Any individual aggrieved by the determination of the
730 board may appeal to the Circuit Court of the First Judicial
731 District of Hinds County, Mississippi, in accordance with the
732 Uniform Circuit Court Rules governing appeals to the circuit court
733 in civil cases. Such appeal shall be made solely on the record
734 before the board and this procedure shall be the exclusive method
735 of appealing determinations of the board.

736 (3) The board is authorized to appoint a committee of the
737 board to serve as hearing officer or to employ or contract with
738 qualified personnel to perform the duties of hearing officer and
739 court reporter as may be necessary for conducting, recording and
740 transcribing such hearings. The board may assess and collect fees
741 to offset costs related to such hearings. Those fees shall be
742 deposited to the credit of the Public Employees' Retirement
743 System.

744 (4) In no case shall the amount, recovered by an attorney in
745 fees for an appearance before the administrative body, exceed the
746 lesser of twenty-five percent (25%) of the accrued benefits due as
747 of the date of a final award of benefits by the retirement system
748 or a court of law, or Three Thousand Five Hundred Dollars
749 (\$3,500.00).

750 SECTION 9. Section 25-11-121, Mississippi Code of 1972, is
751 amended as follows:[WAN4]

752 25-11-121. (1) The board shall, from time to time,
753 determine the current requirements for benefit payments and

754 administrative expense which shall be maintained as a cash working
755 balance, except that such cash working balance shall not exceed at
756 any time an amount necessary to meet the current obligations of
757 the system for a period of ninety (90) days. Any amounts in
758 excess of such cash working balance shall be invested, as follows,
759 at such periodic intervals as the board may determine, provided
760 however, all purchases shall be made from competitive offerings
761 except short-term obligations referred to in Section 25-11-121(d):

762 (a) Bonds, notes, certificates and other valid general
763 obligations of the State of Mississippi, or of any county, or of
764 any city, or of any supervisors district of any county of the
765 State of Mississippi, or of any school district bonds of the State
766 of Mississippi; notes or certificates of indebtedness issued by
767 the Veterans' Home Purchase Board of Mississippi, provided such
768 notes or certificates of indebtedness are secured by the pledge of
769 collateral equal to two hundred percent (200%) of the amount of
770 the loan, which collateral is also guaranteed at least for fifty
771 percent (50%) of the face value by the United States government,
772 and provided that not more than five percent (5%) of the total
773 investment holdings of the system shall be in Veterans' Home
774 Purchase Board notes or certificates at any time; real estate
775 mortgage loans one hundred percent (100%) insured by the Federal
776 Housing Administration on single family homes located in the State
777 of Mississippi, where monthly collections and all servicing
778 matters are handled by Federal Housing Administration approved
779 mortgagees authorized to make such loans in the State of
780 Mississippi;

781 (b) State of Mississippi highway bonds;

782 (c) Funds may be deposited in federally insured
783 institutions domiciled in the State of Mississippi or a custodial
784 bank;

785 (d) Corporate bonds and taxable municipal bonds of
786 investment grade as rated by Standard and Poor's or by Moody's

787 Investment Service, with bonds rated BAA/BBB not to exceed five
788 percent (5%) of the book value of the total fixed income
789 investments; or corporate short-term obligations of corporations
790 or of wholly-owned subsidiaries of corporations, whose short-term
791 obligations are rated A-3 or better by Standard and Poor's or
792 rated P-3 or better by Moody's Investment Service;

793 (e) Bonds of the Tennessee Valley Authority;

794 (f) Bonds, notes, certificates and other valid
795 obligations of the United States, and other valid obligations of
796 any federal instrumentality that issues securities under authority
797 of an act of Congress and are exempt from registration with the
798 Securities and Exchange Commission;

799 (g) Bonds, notes, debentures and other securities
800 issued by any federal instrumentality and fully guaranteed by the
801 United States;

802 (h) Interest-bearing bonds or notes which are general
803 obligations of any other state in the United States or of any city
804 or county therein, provided such city or county had a population
805 as shown by the federal census next preceding such investment of
806 not less than twenty-five thousand (25,000) inhabitants and
807 provided that such state, city or county has not defaulted for a
808 period longer than thirty (30) days in the payment of principal or
809 interest on any of its general obligation indebtedness during a
810 period of ten (10) calendar years immediately preceding such
811 investment;

812 (i) Shares of stocks, common and/or preferred, of
813 corporations created by or existing under the laws of the United
814 States or any state, district or territory thereof; provided

815 (i) The maximum investments in stocks shall not
816 exceed fifty percent (50%) of the book value of the total
817 investment fund of the system;

818 (ii) The stock of such corporation shall:

819 A. Be listed on a national stock exchange; or

820 B. Be traded in the over-the-counter market,
821 provided price quotations for such over-the-counter stocks are
822 quoted by the National Association of Securities Dealers Automated
823 Quotation System (NASDAQ);

824 (iii) The outstanding shares of such corporation
825 shall have a total market value of not less than Fifty Million
826 Dollars (\$50,000,000.00);

827 (iv) The amount of investment in any one (1)
828 corporation shall not exceed three percent (3%) of the book value
829 of the assets of the system; and

830 (v) The shares of any one (1) corporation owned by
831 the system shall not exceed five percent (5%) of that
832 corporation's outstanding stock;

833 (j) Bonds rated Single A or better, stocks and
834 convertible securities of established non-United States companies,
835 which companies are listed on only primary national stock
836 exchanges of foreign nations; and in foreign government securities
837 rated Single A or better by a recognized rating agency; provided
838 that the total book value of investments under this paragraph
839 shall at no time exceed thirty percent (30%) of the total book
840 value of all investments of the system. The board may take
841 requisite action to effectuate or hedge such transactions through
842 foreign banks, including the purchase and sale, transfer,
843 exchange, or otherwise disposal of, and generally deal in foreign
844 exchange through the use of foreign currency, interbank forward
845 contracts, futures contracts, options contracts, swaps and other
846 related derivative instruments, notwithstanding any other
847 provisions of this article to the contrary;

848 (k) Covered call and put options on securities traded
849 on one or more of the regulated exchanges;

850 (l) Pooled or commingled funds managed by a corporate
851 trustee or by a Securities and Exchange Commission registered
852 investment advisory firm retained as an investment manager by the

853 board of trustees, and shares of investment companies and unit
854 investment trusts registered under the Investment Company Act of
855 1940, where such pooled or commingled funds or shares are
856 comprised of common or preferred stocks, bonds, money market
857 instruments or other investments authorized under this section.
858 Such investment in commingled funds or shares shall be held in
859 trust; provided that the total book value of investments under
860 this paragraph shall at no time exceed five percent (5%) of the
861 total book value of all investments of the system. Any investment
862 manager approved by the board of trustees shall invest such
863 commingled funds or shares as a fiduciary;

864 (m) Pooled or commingled real estate funds or real
865 estate securities managed by a corporate trustee or by a
866 Securities and Exchange Commission registered investment advisory
867 firm retained as an investment manager by the board of trustees.
868 Such investment in commingled funds or shares shall be held in
869 trust; provided that the total book value of investments under
870 this paragraph shall at no time exceed five percent (5%) of the
871 total book value of all investments of the system. Any investment
872 manager approved by the board of trustees shall invest such
873 commingled funds or shares as a fiduciary. The five percent (5%)
874 limitation in this subsection shall not be subject to the five
875 percent (5%) limitation in paragraph (1) of this paragraph.

876 (2) All investments shall be acquired by the board at prices
877 not exceeding the prevailing market values for such securities.

878 (3) Any limitations herein set forth shall be applicable
879 only at the time of purchase and shall not require the liquidation
880 of any investment at any time. All investments shall be clearly
881 marked to indicate ownership by the system and to the extent
882 possible shall be registered in the name of the system.

883 (4) Subject to the above terms, conditions, limitations and
884 restrictions, the board shall have power to sell, assign, transfer
885 and dispose of any of the securities and investments of the

886 system, provided that said sale, assignment or transfer has the
887 majority approval of the entire board. The board may employ or
888 contract with investment managers, evaluation services or other
889 such services as determined by the board to be necessary for the
890 effective and efficient operation of the system.

891 (5) Except as otherwise provided herein, no trustee and no
892 employee of the board shall have any direct or indirect interest
893 in the income, gains or profits of any investment made by the
894 board, nor shall any such person receive any pay or emolument for
895 his services in connection with any investment made by the board.

896 No trustee or employee of the board shall become an endorser or
897 surety, or in any manner an obligor for money loaned by or
898 borrowed from the system.

899 (6) All interest derived from investments and any gains from
900 the sale or exchange of investments shall be credited by the board
901 to the account of the system.

902 (7) The board of trustees annually shall credit regular
903 interest on the mean amount for the preceding year in each of the
904 reserves maintained by the board, with the exception of the
905 expense account. This credit shall be made annually from interest
906 and other earnings on the invested assets of the system. Any
907 additional amount required to meet the regular interest on the
908 funds of the system shall be charged to the employer's
909 accumulation account, and any excess of earnings over such regular
910 interest required shall be credited to the employer's accumulation
911 account. Regular interest shall mean such per centum rate to be
912 compounded annually as shall be determined by the board of
913 trustees on the basis of the interest earnings of the system for
914 the preceding year.

915 (8) The board of trustees shall be the custodian of the
916 funds of the system. All expense vouchers and retirement
917 allowance payrolls shall be certified by the executive secretary
918 who shall furnish the board a surety bond in a company authorized

919 to do business in Mississippi in such an amount as shall be
920 required by the board, the premium to be paid by the board from
921 the expense account.

922 (9) For the purpose of meeting disbursements for retirement
923 allowances, annuities and other payments, cash may be kept
924 available, not exceeding the requirements of the system for a
925 period of ninety (90) days, on deposit in one or more banks or
926 trust companies organized under the laws of the State of
927 Mississippi or the laws of the United States, provided that the
928 sum on deposit in any one (1) bank or trust company shall not
929 exceed thirty-five percent (35%) of the paid-up capital and
930 regular surplus of such bank or trust company.

931 (10) Except as otherwise provided, the monies or properties
932 of the Public Employees' Retirement System of Mississippi
933 deposited in any bank or banks of the United States shall, where
934 possible, be safeguarded and guaranteed by the posting as security
935 by the depository of bonds, notes and other securities purchasable
936 by the system, as provided elsewhere in this section. The bonds,
937 notes and other securities offered as security shall be posted to
938 the credit of the system by the depository with the board or with
939 an unaffiliated bank or trust company domiciled within the United
940 States or the State of Mississippi acceptable to both the board
941 and to the fiscal agent bank. In the event the board and the
942 fiscal agent bank cannot reach an agreement, the bonds, notes and
943 other securities shall be deposited in a bank or trust company
944 designated by the State Commissioner of Banking and Consumer
945 Finance. Provided, however, that bonds or notes of the United
946 States government owned by the system may be deposited for
947 safekeeping in any federal reserve bank.

948 (11) The board of trustees shall determine the degree of
949 collateralization necessary for both foreign and domestic demand
950 deposit accounts in addition to that which is guaranteed by the
951 Federal Deposit Insurance Corporation or such other federal

952 insurance program as may be in effect.

953 (12) The board, the executive secretary and employees shall
954 discharge their duties with respect to the investments of the
955 system solely for the interest of the system with the care, skill,
956 prudence and diligence under the circumstances then prevailing
957 that a prudent person acting in a like capacity and familiar with
958 such matters would use in the conduct of an enterprise of a like
959 character and with like aims, including diversifying the
960 investments of the system so as to minimize the risk of large
961 losses, unless under the circumstances it is clearly prudent not
962 to do so.

963 SECTION 10. Section 25-11-131, Mississippi Code of 1972, is
964 amended as follows:[CR5]

965 25-11-131. (1) Any person or corporation who shall receive
966 and retain any payment, after the death of a member or after the
967 death of the beneficiary of any member, which amount is not
968 lawfully due, shall be liable for the repayment of such amount to
969 the retirement system plus interest thereon at ten percent (10%)
970 per annum plus all costs of collection. Any person who shall
971 knowingly make any false statement or shall falsify or permit to
972 be falsified any record or records of this retirement system in
973 any attempt to defraud such system as a result of such act shall
974 be guilty of a misdemeanor if the amount obtained or attempted to
975 be obtained does not exceed the amount of Five Hundred Dollars
976 (\$500.00), and, on conviction thereof by any court of competent
977 jurisdiction, shall be punished by a fine not exceeding Five
978 Hundred Dollars (\$500.00) or imprisonment in the county jail not
979 exceeding six (6) months, or both; if such amount obtained or
980 attempted to be obtained shall exceed the sum of Five Hundred
981 Dollars (\$500.00), such person or persons shall be guilty of a
982 felony and, on conviction thereof by any court of competent
983 jurisdiction, shall be punished by a fine not exceeding Ten
984 Thousand Dollars (\$10,000.00) or by imprisonment in the State

985 Penitentiary not exceeding five (5) years, or both.

986 (2) Should any change or error in the records result in any
987 member or beneficiary receiving from the retirement system more or
988 less than he would have been entitled to receive had the records
989 been correct, the board of trustees shall correct such error upon
990 detection, regardless of the length of time between the reporting
991 error or the time payment started and the time the board became
992 aware of the error, and, as far as practicable, adjust the payment
993 in such a manner that the actuarial equivalent of the benefit to
994 which such member or beneficiary was correctly entitled shall be
995 paid. This responsibility is, and has been, the duty of the board
996 since the creation of the retirement system.

997 SECTION 11. Section 25-11-139, Mississippi Code of 1972, is
998 amended as follows:[CR6]

999 25-11-139. Any retirement allowance or other annuity or
1000 benefit provided by Articles 1 and 3 shall be paid in equal
1001 monthly installments for life and shall not be increased,
1002 decreased, revoked or repealed, except for error upon detection,
1003 regardless of the length of time between the reporting error or
1004 the time payment started and the time the board became aware of
1005 the error, or except where specifically otherwise provided by said
1006 articles. This responsibility is, and has been, the duty of the
1007 board since the creation of the retirement system.

1008 Pursuant to Section 25-11-111, Mississippi Code of 1972, it
1009 is and has been the sole responsibility of the member or
1010 beneficiary thereof to apply for benefits and no benefits shall be
1011 paid for any period prior to the first of the month following the
1012 receipt of such application for such benefits, but in no event
1013 prior to termination of employment, except as authorized in
1014 Section 25-11-114.

1015 SECTION 12. Section 25-11-311, Mississippi Code of 1972, is
1016 amended as follows:[WAN7]

1017 25-11-311. (1) A member may be paid a refund of the amount

1018 of accumulated contributions to the credit of the member in the
1019 annuity savings account, provided the member has withdrawn from
1020 state service and further provided the member has not returned to
1021 state service on the date the refund of the accumulated
1022 contributions would be paid. Such refund of the contributions to
1023 the credit of the member in the annuity savings account shall be
1024 paid within ninety (90) days from receipt in the office of the
1025 retirement system of the properly completed form requesting such
1026 payment. In the event of death prior to retirement of any member
1027 whose spouse and/or children are not entitled to a retirement
1028 allowance, the accumulated contributions to the credit of the
1029 deceased member in the annuity savings account shall be paid to
1030 the designated beneficiary on file in writing in the office of
1031 executive secretary of the board of trustees within ninety (90)
1032 days from receipt of a properly completed form requesting such
1033 payment. If there is no such designated beneficiary on file for
1034 such deceased member in the office of the system, upon the filing
1035 of a proper request with the board, the contributions to the
1036 credit of the deceased member in the annuity savings account shall
1037 be refunded pursuant to Section 25-11-311.1(1). The payment of
1038 the refund shall discharge all obligations of the retirement
1039 system to the member on account of any creditable service rendered
1040 by the member prior to the receipt of the refund. By the
1041 acceptance of the refund, the member shall waive and relinquish
1042 all accrued rights in the plan.

1043 (2) Pursuant to the Unemployment Compensation Amendments of
1044 1992 (Public Law 102-318 (UCA)), a member or eligible beneficiary
1045 making application for a refund under this section may elect, on a
1046 form prescribed by the board under rules and regulations
1047 established by the board, to have an eligible rollover
1048 distribution of accumulated contributions payable under this
1049 section paid directly to an eligible retirement plan or individual
1050 retirement account. If the member or eligible beneficiary makes

1051 such election and specifies the eligible retirement plan or
1052 individual retirement account to which such distribution is to be
1053 paid, the distribution will be made in the form of a direct
1054 trustee-to-trustee transfer to the specified eligible retirement
1055 plan. Flexible rollovers under this subsection shall not be
1056 considered assignments under Section 25-11-129.

1057 (3) If any person who has received a refund is reelected to
1058 the Legislature or as President of the Senate and again becomes a
1059 member of the plan * * *, the member may repay all or part of the
1060 amounts previously received as a refund, together with regular
1061 interest covering the period from the date of refund to the date
1062 of repayment; however, the amounts that are repaid by the member
1063 and the creditable service related thereto shall not be used in
1064 any benefit calculation or determination until the member has
1065 remained a contributor to the system for a period of at least four
1066 (4) years subsequent to such member's reentry into state service.
1067 Repayment for such time shall be made in increments of not less
1068 than one-quarter (1/4) year of creditable service beginning with
1069 the most recent service for which refund has been made. Upon the
1070 repayment of all or part of such refund and interest, the member
1071 shall again receive credit for the * * * period of creditable
1072 service for which full repayment has been made to the system.

1073 SECTION 13. Section 25-11-112, Mississippi Code of 1972, is
1074 amended as follows:[WAN8]

1075 25-11-112. (1) Any member who is receiving a retirement
1076 allowance for service or disability retirement, or any beneficiary
1077 thereof, who has received a monthly benefit for at least one (1)
1078 full fiscal year, shall be eligible to receive an additional
1079 benefit, on December 1 or July 1 of the year as provided in
1080 subsection (3) of this section, equal to the greater of the
1081 amounts calculated under paragraph (a) or (b) below:

1082 (a) An amount equal to four percent (4%) of the annual
1083 retirement allowance multiplied by the number of full fiscal years

1084 in retirement through June 30, 1998; or

1085 (b) The sum of:

1086 (i) An amount equal to three percent (3%) of the
1087 annual retirement allowance multiplied by the number of full
1088 fiscal years in retirement before the end of the fiscal year in
1089 which the member reaches age fifty-five (55), plus

1090 (ii) An additional amount equal to three percent
1091 (3%) compounded by the number of full fiscal years in retirement
1092 beginning with the fiscal year in which the member reaches age
1093 fifty-five (55), multiplied by the amount of the annual retirement
1094 allowance.

1095 (2) The calculation of the beneficiary's additional benefit
1096 under subsection (1)(b)(i) or (1)(b)(ii) of this section shall be
1097 based on the member's age and full fiscal years in retirement as
1098 if the member had lived.

1099 (3) The additional benefit provided for under this section
1100 shall be paid in one (1) payment in December of each year to those
1101 persons who are receiving a retirement allowance on December 1 of
1102 that year, unless an election is made under this subsection.

1103 However, if a retiree who is receiving a retirement allowance that
1104 will terminate upon the retiree's death is receiving the
1105 additional benefit in one (1) payment and dies on or after July 1
1106 but before December 1, the beneficiary designated on the
1107 retirement application, if any, shall receive in a single payment
1108 a fractional part of the additional benefit based on the number of
1109 months in which a retirement allowance was received during the
1110 fiscal year. Likewise, if a retiree is receiving a retirement
1111 allowance that will terminate upon his or her death in two (2) to
1112 six (6) monthly installments, any remaining payments of the
1113 additional benefit will be paid in a lump sum to the beneficiary
1114 designated on the application, or if none, pursuant to Section
1115 25-11-117.1(1). Any similar remaining payments of additional
1116 benefits payable under this section to a deceased beneficiary who

1117 was receiving a monthly benefit shall be payable in accordance
1118 with the provisions of Section 25-11-117.1(2).

1119 Retired members or beneficiaries thereof who on July 1, 1999,
1120 or July 1 of any fiscal year thereafter, are receiving a
1121 retirement allowance, may elect by an irrevocable agreement in
1122 writing filed in the office of the Public Employees' Retirement
1123 System no less than thirty (30) days before July 1 of the
1124 appropriate year, to begin receiving the additional benefit
1125 provided for under this section in twelve (12) equal monthly
1126 installments beginning July 1, 1999, or July 1 of any fiscal year
1127 thereafter. This irrevocable agreement shall be binding on the
1128 member and subsequent beneficiaries. Payment of those monthly
1129 installments shall not extend beyond the month in which a
1130 retirement allowance is due and payable.

1131 (4) The additional payment or payments provided for under
1132 this section are for the fiscal year in which they are paid.

1133 (5) The amount provided for under subsection (1)(b)(ii) of
1134 this section is calculated using the following formula:

1135 $[(1.03)^n - 1] \times [\text{annual retirement allowance}]$,

1136 where n is the number of full fiscal years in retirement beginning
1137 with the fiscal year in which the member reaches age fifty-five
1138 (55).

1139 (6) Any retired member or beneficiary thereof who has
1140 previously elected to receive the additional annual payment in
1141 monthly installments may elect, upon application on a form
1142 prescribed by the board of trustees, to have that payment made in
1143 one (1) additional payment each year. This written election must
1144 be filed in the office of the Public Employees' Retirement System
1145 before June 1, 2000, and shall be effective for the fiscal year
1146 beginning July 1, 2000.

1147 (7) In the event of death of a retired member or a
1148 beneficiary thereof who is receiving the additional annual payment
1149 in two (2) to six (6) monthly installments pursuant to an election

1150 made before July 1, 1999, and who would otherwise be eligible to
1151 receive the additional benefit provided for under this section in
1152 one (1) payment in December of the current fiscal year, any
1153 remaining amounts shall be paid in a lump sum to the designated
1154 beneficiary.

1155 SECTION 14. Section 25-11-114, Mississippi Code of 1972, is
1156 amended as follows:[WAN9]

1157 25-11-114. (1) The applicable benefits provided in
1158 subsections (2) and (3) of this section shall be paid to eligible
1159 beneficiaries of any member who has completed four (4) or more
1160 years of creditable service and who dies before retirement and who
1161 has not filed a Pre-Retirement Optional Retirement Form as
1162 provided in Section 25-11-111.

1163 (2) (a) The member's surviving spouse who has been married
1164 to the member for not less than one (1) year immediately preceding
1165 his death shall receive an annuity computed in accordance with
1166 paragraph (d) of this subsection (2) as if the member:

1167 (i) Had retired on the date of his death with
1168 entitlement to an annuity provided for in Section 25-11-111,
1169 notwithstanding that he might not have attained age sixty (60) or
1170 acquired twenty-five (25) years of creditable service;

1171 (ii) Had nominated his spouse as beneficiary; and

1172 (b) If, at the time of the member's death, there are no
1173 dependent children, and the surviving spouse, who otherwise would
1174 receive the annuity under this subsection (2), has filed with the
1175 system a signed written waiver of his or her rights to the annuity
1176 and that waiver was in effect at the time of the member's death, a
1177 lump sum distribution of the deceased member's accumulated
1178 contributions shall be refunded in accordance with Section
1179 25-11-117.

1180 (c) The spouse annuity shall begin on the first day of
1181 the month following the date of the member's death, but in case of
1182 late filing, retroactive payments will be made for a period of not

1183 more than one (1) year.

1184 (d) The spouse annuity shall be the greater of twenty
1185 percent (20%) of the deceased member's average compensation as
1186 defined in Section 25-11-103 at the time of death or Fifty Dollars
1187 (\$50.00) monthly. If the spouse dies or if the spouse remarries
1188 before age sixty (60), the spouse annuity shall terminate.

1189 (e) However, the spouse may elect by an irrevocable
1190 agreement on a form prescribed by the board of trustees to receive
1191 a monthly allowance as computed under either paragraph (d) or this
1192 paragraph. Such irrevocable agreement shall constitute a waiver
1193 by the spouse to any current and future monthly allowance under
1194 the paragraph not elected and such waiver shall be a complete and
1195 full discharge of all obligations of the retirement system under
1196 such paragraph.

1197 Any member who has completed four (4) or more years of
1198 creditable service and who dies before retirement and leaves a
1199 spouse who has been married to the member for not less than one
1200 (1) year immediately preceding his death and has not exercised any
1201 other option shall be deemed to have exercised Option 2 under
1202 Section 25-11-115 for the benefit of his spouse, which spouse
1203 shall be paid Option 2 settlement benefits under this article
1204 beginning on the first of the month following the date of death,
1205 but in case of late filing, retroactive payments will be made for
1206 a period of not more than one (1) year. The method of calculating
1207 such retirement benefits shall be on the same basis as provided in
1208 Section 25-11-111(d). However, if the member dies before being
1209 qualified for full unreduced benefits, then the benefits shall be
1210 reduced by three percent (3%) per year for the lesser of either
1211 the years of service or age required for full unreduced benefits
1212 in Section 25-11-111(d).

1213 (3) (a) Subject to the maximum limitation provided in this
1214 paragraph, the member's dependent children each shall receive an
1215 annuity of the greater of ten percent (10%) of the member's

1216 average compensation as defined in Section 25-11-103 at the time
1217 of the death of the member or Fifty Dollars (\$50.00) monthly;
1218 however, if there are more than three (3) dependent children, each
1219 dependent child shall receive an equal share of a total annuity
1220 equal to thirty percent (30%) of the member's average
1221 compensation, provided that such total annuity shall not be less
1222 than One Hundred Fifty Dollars (\$150.00) per month for all
1223 children.

1224 (b) A child shall be considered to be a dependent child
1225 until marriage, or the attainment of age nineteen (19), whichever
1226 comes first; however, this age limitation shall be extended beyond
1227 age nineteen (19), but in no event beyond the attainment of age
1228 twenty-three (23), as long as the child is a student regularly
1229 pursuing a full-time course of resident study or training in an
1230 accredited high school, trade school, technical or vocational
1231 institute, junior or community college, college, university or
1232 comparable recognized educational institution duly licensed by a
1233 state. A student child whose birthday falls during the school
1234 year (September 1 through June 30) is considered not to reach age
1235 twenty-three (23) until the July 1 following the actual
1236 twenty-third birthday. A full-time course of resident study or
1237 training means a day or evening noncorrespondence course that
1238 includes school attendance at the rate of at least thirty-six (36)
1239 weeks per academic year or other applicable period with a subject
1240 load sufficient, if successfully completed, to attain the
1241 educational or training objective within the period generally
1242 accepted as minimum for completion, by a full-time day student, of
1243 the academic or training program concerned. Any child who is
1244 physically or mentally incompetent, as adjudged by either a
1245 Mississippi court of competent jurisdiction or by the board, shall
1246 receive benefits for as long as the incompetency exists.

1247 (c) If there are more than three (3) dependent
1248 children, upon a child's ceasing to be a dependent child, his

1249 annuity shall terminate and there shall be a redetermination of
1250 the amounts payable to any remaining dependent children.

1251 (d) Annuities payable under this subsection (3) shall
1252 begin the first day of the month following the date of the
1253 member's death or in case of late filing, retroactive payments
1254 will be made for a period of not more than one (1) year. Such
1255 benefits may be paid to a surviving parent or the lawful custodian
1256 of a dependent child for the use and benefit of such child without
1257 the necessity of appointment as guardian.

1258 (4) (a) Death benefits in the line of duty. Regardless of
1259 the number of years of the member's creditable service, the spouse
1260 and/or the dependent children of an active member who is killed in
1261 the line of performance of duty or dies as a direct result of an
1262 accident occurring in the line of performance of duty shall
1263 qualify, on approval of the board, for a retirement allowance on
1264 the first of the month following the date of death, but in the
1265 case of late filing, retroactive payments will be made for a
1266 period of not more than one (1) year. The spouse shall receive a
1267 retirement allowance equal to one-half (1/2) of the average
1268 compensation as defined in Section 25-11-103. In addition to the
1269 retirement allowance for the spouse, or if there is no surviving
1270 spouse, the member's dependent child shall receive a retirement
1271 allowance in the amount of one-fourth (1/4) of the member's
1272 average compensation as defined in Section 25-11-103; however, if
1273 there are two (2) or more dependent children, each dependent child
1274 shall receive an equal share of a total annuity equal to one-half
1275 (1/2) of the member's average compensation. If there are more
1276 than two (2) dependent children, upon a child's ceasing to be a
1277 dependent child, his annuity shall terminate and there shall be a
1278 redetermination of the amounts payable to any remaining dependent
1279 children. Such benefits shall cease to be paid for the support
1280 and maintenance of each child upon such child attaining the age of
1281 nineteen (19) years; however, the spouse shall continue to be

1282 eligible for the aforesaid retirement allowance. Such benefits
1283 may be paid to a surviving parent or lawful custodian of such
1284 children for the use and benefit of the children without the
1285 necessity of appointment as guardian. Such retirement allowance
1286 shall cease to the spouse upon remarriage but continue to be
1287 payable for each dependent child until the age of nineteen (19)
1288 years.

1289 (b) A child shall be considered to be a dependent child
1290 until marriage, or the attainment of age nineteen (19), whichever
1291 comes first; however, this age limitation shall be extended beyond
1292 age nineteen (19), but in no event beyond the attainment of age
1293 twenty-three (23), as long as the child is a student regularly
1294 pursuing a full-time course of resident study or training in an
1295 accredited high school, trade school, technical or vocational
1296 institute, junior or community college, college, university or
1297 comparable recognized educational institution duly licensed by a
1298 state. A student child whose birthday falls during the school
1299 year (September 1 through June 30) is considered not to reach age
1300 twenty-three (23) until the July 1 following the actual
1301 twenty-third birthday. A full-time course of resident study or
1302 training means a day or evening noncorrespondence course that
1303 includes school attendance at the rate of at least thirty-six (36)
1304 weeks per academic year or other applicable period with a subject
1305 load sufficient, if successfully completed, to attain the
1306 educational or training objective within the period generally
1307 accepted as minimum for completion, by a full-time day student, of
1308 the academic or training program concerned. Any child who is
1309 physically or mentally incompetent, as adjudged by either a
1310 Mississippi court of competent jurisdiction or by the board, shall
1311 receive benefits for as long as the incompetency exists.

1312 (5) If all the annuities provided for in this section
1313 payable on account of the death of a member terminate before there
1314 has been paid an aggregate amount equal to the member's

1315 accumulated contributions standing to the member's credit in the
1316 annuity savings account at the time of the member's death, the
1317 difference between the accumulated contributions and the aggregate
1318 amount of annuity payments shall be paid to such person as the
1319 member has nominated by written designation duly executed and
1320 filed with the board. If there is no designated beneficiary
1321 surviving at termination of benefits, the difference shall be
1322 payable pursuant to Section 25-11-117.1(1).

1323 (6) Regardless of the number of years of creditable service
1324 upon the application of a member or employer, any active member
1325 who becomes disabled as a direct result of an accident or
1326 traumatic event resulting in a physical injury occurring in the
1327 line of performance of duty, provided the medical board or other
1328 designated governmental agency after a medical examination
1329 certifies that the member is mentally or physically incapacitated
1330 for the further performance of duty and such incapacity is likely
1331 to be permanent, may be retired by the board of trustees on the
1332 first of the month following the date of filing such application
1333 but in no event shall the retirement allowance commence before the
1334 termination of state service. The retirement allowance shall
1335 equal the allowance on disability retirement as provided in
1336 Section 25-11-113 but shall not be less than fifty percent (50%)
1337 of average compensation.

1338 Permanent and total disability resulting from a
1339 cardiovascular, pulmonary or musculo-skeletal condition which was
1340 not a direct result of a traumatic event occurring in the
1341 performance of duty shall be deemed an ordinary disability. A
1342 mental disability based exclusively on employment duties occurring
1343 on an ongoing basis shall be deemed an ordinary disability.

1344 (7) In the event the deceased or disabled member has less
1345 than four (4) years of creditable service, the average
1346 compensation as defined in Section 25-11-103 shall be the average
1347 of all annual earned compensation in state service for the

1348 purposes of benefits provided in this section.

1349 (8) In case of death or total and permanent disability under
1350 subsection (4) or subsection (6) of this section and before the
1351 board shall consider any application for a retirement allowance,
1352 the employer must certify to the board that the member's death or
1353 disability was a direct result of an accident or a traumatic event
1354 occurring during and as a result of the performance of the regular
1355 and assigned duties of the employee and that the death or
1356 disability was not the result of the willful negligence of the
1357 employee.

1358 (9) The application for such retirement allowance must be
1359 filed within one (1) year after death of an active member who is
1360 killed in the line of performance of duty or dies as a direct
1361 result of an accident occurring in the line of performance of duty
1362 or traumatic event; but the board of trustees may consider an
1363 application for disability filed after the one-year period if it
1364 can be factually demonstrated to the satisfaction of the board of
1365 trustees that the disability is due to the accident and that the
1366 filing was not accomplished within the one-year period due to a
1367 delayed manifestation of the disability or to circumstances beyond
1368 the control of the member. However, in case of late filing,
1369 retroactive payments will be made for a period of not more than
1370 one (1) year only.

1371 (10) Notwithstanding any other section of this article and
1372 in lieu of any payments to a designated beneficiary for a refund
1373 of contributions under Section 25-11-117, the spouse and/or
1374 children shall be eligible for the benefits payable pursuant to
1375 this section, and the spouse may elect, for both the spouse and/or
1376 children, to receive benefits in accordance with either
1377 subsections (2) and (3) or subsection (4) of this section;
1378 otherwise, the contributions to the credit of the deceased member
1379 shall be refunded in accordance with Section 25-11-117.

1380 (11) If the member has previously received benefits from the

1381 system to which he was not entitled and has not repaid in full all
1382 amounts payable by him to the system, the annuity amounts
1383 otherwise provided by this section shall be withheld and used to
1384 effect repayment until the total of the withholdings repays in
1385 full all amounts payable by him to the system.

1386 SECTION 15. Section 25-11-115, Mississippi Code of 1972, is
1387 amended as follows:[WAN10]

1388 25-11-115. (1) Upon application for superannuation or
1389 disability retirement, any member may elect to receive his benefit
1390 in a retirement allowance payable throughout life with no further
1391 payments to anyone at his death, except that in the event his
1392 total retirement payments under this article do not equal his
1393 total contributions under this article, his named beneficiary
1394 shall receive the difference in cash at his death. Or he may
1395 elect upon retirement, or upon becoming eligible for retirement,
1396 to receive the actuarial equivalent subject to the provisions of
1397 subsection (3) of this section of his retirement allowance in a
1398 reduced retirement allowance payable throughout life with the
1399 provision that:

1400 **Option 1.** If he dies before he has received in annuity
1401 payment the value of the member's annuity savings account as it
1402 was at the time of his retirement, the balance shall be paid to
1403 his legal representative or to such person as he shall nominate by
1404 written designation duly acknowledged and filed with the board; or

1405 **Option 2.** Upon his death, his reduced retirement allowance
1406 shall be continued throughout the life of, and paid to, such
1407 person as he has nominated by written designation duly
1408 acknowledged and filed with the board of trustees at the time of
1409 his retirement;

1410 **Option 3.** Upon his death, one-half (1/2) of his reduced
1411 retirement allowance shall be continued throughout the life of,
1412 and paid to, such person as he shall have nominated by written
1413 designation duly acknowledged and filed with the board of trustees

1414 at the time of his retirement, and the other one-half (1/2) of his
1415 reduced retirement allowance to some other designated beneficiary;

1416 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
1417 retirement allowance, or such other specified amount, shall be
1418 continued throughout the life of, and paid to, such person as he
1419 shall have nominated by written designation duly acknowledged and
1420 filed with the board of trustees at the time of his retirement; or

1421 **Option 4-B.** A reduced retirement allowance shall be
1422 continued throughout the life of the retirant, but with the
1423 further guarantee of payments to the named beneficiary,
1424 beneficiaries or to the estate for a specified number of years
1425 certain. If the retired member or the last designated beneficiary
1426 receiving annuity payments dies prior to receiving all guaranteed
1427 payments due, the actuarial equivalent of the remaining payments
1428 shall be paid pursuant to Section 25-11-117.1(1);

1429 **Option 4-C.** Such retirement allowance otherwise payable may
1430 be converted into a retirement allowance of equivalent actuarial
1431 value in such an amount that, with the member's benefit under
1432 Title II of the federal Social Security Act, the member will
1433 receive, so far as possible, approximately the same amount
1434 annually before and after the earliest age at which the member
1435 becomes eligible to receive a social security benefit.

1436 (2) No change in the option selected shall be permitted
1437 after the member's death or after the member has received his
1438 first retirement check except as provided in subsections (3) and
1439 (4) of this section and in Section 25-11-127. However, any
1440 retired member who is receiving a retirement allowance under
1441 Option 2 or Option 4-A upon July 1, 1992, and whose designated
1442 beneficiary predeceased him or whose marriage to a spouse who is
1443 his designated beneficiary is terminated by divorce or other
1444 dissolution, upon written notification to the retirement system of
1445 the death of the designated beneficiary or of the termination of
1446 his marriage to his designated beneficiary, the retirement

1447 allowance payable to the member after receipt of such notification
1448 by the retirement system shall be equal to the retirement
1449 allowance which would have been payable had the member not elected
1450 the option. In addition, any retired member who is receiving the
1451 maximum retirement allowance for life, a retirement allowance
1452 under Option 1 or who is receiving a retirement allowance under
1453 Option 2 or Option 4-A on July 1, 1992, may elect to provide
1454 survivor benefits under Option 2 or Option 4-A to a spouse who was
1455 not previously the member's beneficiary and whom the member
1456 married before July 1, 1992.

1457 (3) Any retired member who is receiving a reduced retirement
1458 allowance under Option 2 or Option 4-A whose designated
1459 beneficiary predeceases him, or whose marriage to a spouse who is
1460 his designated beneficiary is terminated by divorce or other
1461 dissolution, may elect to cancel his reduced retirement allowance
1462 and receive the maximum retirement allowance for life in an amount
1463 equal to the amount that would have been payable if the member had
1464 not elected Option 2 or Option 4-A. Such election must be made in
1465 writing to the office of the executive director of the system on a
1466 form prescribed by the board. Any such election shall be
1467 effective the first of the month following the date the election
1468 is received by the system.

1469 (4) Any retired member who is receiving the maximum
1470 retirement allowance for life, or a retirement allowance under
1471 Option 1, and who marries after his retirement may elect to cancel
1472 his maximum retirement allowance and receive a reduced retirement
1473 allowance under Option 2 or Option 4-A to provide continuing
1474 lifetime benefits to his spouse. Such election must be made in
1475 writing to the office of the executive director of the system on a
1476 form prescribed by the board not earlier than the date of the
1477 marriage. Any such election shall be effective the first of the
1478 month following the date the election is received by the system.
1479 The amount of the reduced retirement allowance shall be the

1480 actuarial equivalent, taking into account that the member received
1481 the maximum retirement allowance for a period of time before
1482 electing to receive a reduced retirement allowance.

1483 (5) In the event the election of an optional benefit is made
1484 after the member has attained the age of sixty-five (65) years,
1485 the actuarial equivalent factor shall be used to compute the
1486 reduced retirement allowance as if the election had been made on
1487 his sixty-fifth birthday. However, if a retiree marries or
1488 remarries after retirement and elects either Option 2 or Option
1489 4-A as provided in subsection (2) or (4) of this section, the
1490 actuarial equivalent factor used to compute the reduced retirement
1491 allowance shall be the factor for the age of the retiree and his
1492 or her beneficiary at the time such election for recalculation of
1493 benefits is made.

1494 (6) Notwithstanding any provision of Section 25-11-1 et
1495 seq., no payments may be made for a retirement allowance on a
1496 monthly basis for a period of time in excess of that allowed by
1497 federal law.

1498 (7) If a retirant and his eligible beneficiary, if any, both
1499 die before they have received in annuity payments a total amount
1500 equal to the accumulated contributions standing to the retirant's
1501 credit in the annuity savings account at the time of his
1502 retirement, the difference between the accumulated contributions
1503 and the total amount of annuities received by them shall be paid
1504 to such persons as the retirant has nominated by written
1505 designation duly executed and filed in the office of the executive
1506 director. If no designated person survives the retirant and his
1507 beneficiary, the difference, if any, shall be paid pursuant to
1508 Section 25-11-117.1(1).

1509 (8) Any retired member who retired on Option 2(5) or 4-A(5)
1510 prior to July 1, 1992, who is still receiving a retirement
1511 allowance on July 1, 1994, shall receive an increase in the annual
1512 retirement allowance effective July 1, 1994, equal to the amount

1513 they would have received under Option 2 or Option 4-A without a
1514 reduction for Option 5 based on the ages at retirement of the
1515 retiree and beneficiary and option factors in effect on July 1,
1516 1992. Such increase shall be prospective only.

1517 SECTION 16. Section 25-11-117, Mississippi Code of 1972, is
1518 amended as follows:[WAN11]

1519 25-11-117. (1) A member may be paid a refund of the amount
1520 of accumulated contributions to the credit of the member in the
1521 annuity savings account provided the member has withdrawn from
1522 state service and further provided the member has not returned to
1523 state service on the date the refund of the accumulated
1524 contributions would be paid. Such refund of the contributions to
1525 the credit of the member in the annuity savings account shall be
1526 paid within ninety (90) days from receipt in the office of the
1527 retirement system of the properly completed form requesting such
1528 payment. In the event of death prior to retirement of any member
1529 whose spouse and/or children are not entitled to a retirement
1530 allowance, the accumulated contributions to the credit of the
1531 deceased member in the annuity savings account shall be paid to
1532 the designated beneficiary on file in writing in the office of
1533 executive director of the board of trustees within ninety (90)
1534 days from receipt of a properly completed form requesting such
1535 payment. If there is no such designated beneficiary on file for
1536 such deceased member in the office of the system, upon the filing
1537 of a proper request with the board, the contributions to the
1538 credit of the deceased member in the annuity savings account shall
1539 be refunded pursuant to Section 25-11-117.1(1). The payment of
1540 the refund shall discharge all obligations of the retirement
1541 system to the member on account of any creditable service rendered
1542 by the member prior to the receipt of the refund. By the
1543 acceptance of the refund, the member shall waive and relinquish
1544 all accrued rights in the system.

1545 (2) Pursuant to the Unemployment Compensation Amendments of

1546 1992 (Public Law 102-318 (UCA)), a member or eligible beneficiary
1547 eligible for a refund under this section may elect on a form
1548 prescribed by the board under rules and regulations established by
1549 the board, to have an eligible rollover distribution of
1550 accumulated contributions payable under this section paid directly
1551 to an eligible retirement plan or individual retirement account.
1552 If the member or eligible beneficiary makes such election and
1553 specifies the eligible retirement plan or individual retirement
1554 account to which such distribution is to be paid, the distribution
1555 will be made in the form of a direct trustee-to-trustee transfer
1556 to the specified eligible retirement plan. Flexible rollovers
1557 under this subsection shall not be considered assignments under
1558 Section 25-11-129.

1559 (3) If any person who has received a refund reenters the
1560 state service and again becomes a member of the system, the member
1561 may repay all or part of the amounts previously received as a
1562 refund, together with regular interest covering the period from
1563 the date of refund to the date of repayment; provided, however,
1564 that the amounts that are repaid by the member and the creditable
1565 service related thereto shall not be used in any benefit
1566 calculation or determination until the member has remained a
1567 contributor to the system for a period of at least four (4) years
1568 subsequent to such member's reentry into state service. Repayment
1569 for such time shall be made in increments of not less than
1570 one-quarter (1/4) year of creditable service beginning with the
1571 most recent service for which refund has been made. Upon the
1572 repayment of all or part of such refund and interest, the member
1573 shall again receive credit for the period of creditable service
1574 for which full repayment has been made to the system.

1575 SECTION 17. Section 25-13-12, Mississippi Code of 1972, is
1576 amended as follows:[WAN12]

1577 25-13-12. (1) Patrol officers who have retired and who on
1578 December 1 of each year, or July 1 of each year as provided for in

1579 subsection (7) of this section, are receiving a retirement
1580 allowance for service or disability retirement, or their
1581 beneficiaries, shall receive in one (1) additional payment an
1582 amount equal to two and one-half percent (2-1/2%) of the annual
1583 retirement allowance for each full fiscal year of retirement.

1584 (2) Persons who on December 1 of each year are receiving a
1585 retirement allowance for service or disability retirement, or
1586 their beneficiaries, may receive, in addition to the amount
1587 provided in subsection (1) of this section, a payment, as
1588 determined by the board, calculated in increments of one-quarter
1589 of one percent (1/4 of 1%), not to exceed one and one-half percent
1590 (1-1/2%) of the annual retirement allowance, for each full year of
1591 retirement, provided that any such payment shall be contingent
1592 upon the reserve for annuities in force for retired members and
1593 beneficiaries providing sufficient investment gains in excess of
1594 the accrued actuarial liabilities for the previous fiscal year as
1595 certified by the actuary and determined by the board.

1596 (3) The percentages in this section shall be based on each
1597 full fiscal year that the retired member or beneficiary has
1598 actually drawn retirement payments from the date of retirement, or
1599 the date of last retirement if there is more than one (1)
1600 retirement date.

1601 (4) If a retiree who is receiving a retirement allowance
1602 that will terminate upon the retiree's death is receiving the
1603 additional payments under subsections (1) and (2) of this section
1604 in one (1) payment and dies on or after July 1 but before December
1605 1, the beneficiary designated on the retirement application shall
1606 receive in a single payment a fractional part of the additional
1607 payments based on the number of months in which a retirement
1608 allowance was received during the fiscal year. If there is no
1609 surviving beneficiary, payment shall be made pursuant to Section
1610 25-13-21.1(1). Any similar remaining payments of additional
1611 benefit payable under this section to a deceased beneficiary who

1612 was receiving a monthly benefit, shall be payable in accordance
1613 with the provisions of Section 25-13-21.1(2).

1614 (5) Each retired member or beneficiary thereof who receives
1615 an annual retirement allowance based on the average compensation
1616 for a period of five (5) successive or joined years and who
1617 receives a retirement allowance for the month of June, 1986, shall
1618 receive an ad hoc increase of three percent (3%) in such
1619 retirement allowance effective July 1, 1986.

1620 (6) Persons eligible to receive the payments provided in
1621 subsections (1) and (2) of this section shall receive such
1622 payments in one (1) additional payment, except that such person
1623 may elect by an irrevocable agreement on a form prescribed by the
1624 board of trustees to receive such payments in not less than equal
1625 monthly installments not to exceed six (6) months during the
1626 remaining months of the current fiscal year. In the event of
1627 death of a retiree receiving monthly benefits, any remaining
1628 amounts shall be paid in a lump sum to the * * * beneficiary
1629 designated on the retirement application, or if none, pursuant to
1630 Section 25-13-21.1(1). Any similar remaining payments of
1631 additional benefit payable under this section to a deceased
1632 beneficiary who was receiving a monthly benefit, shall be payable
1633 in accordance with the provisions of Section 25-13-21.1(2).

1634 (7) Retired persons or beneficiaries thereof who on July 1,
1635 1997, or July 1 of any fiscal year thereafter, are receiving a
1636 retirement allowance, may elect by an irrevocable agreement in
1637 writing filed in the office of the Public Employees' Retirement
1638 System no less than thirty (30) days before July 1 of the
1639 appropriate year, to begin receiving the payments provided for in
1640 subsection (1) of this section in twelve (12) equal installments
1641 beginning July 1, 1997, or July 1 of any fiscal year thereafter.
1642 This irrevocable agreement shall be binding on the member and
1643 subsequent beneficiaries. The cumulative percentage provided in
1644 subsection (1) of this section and paid in twelve (12) equal

1645 installments for any particular year shall not be less than the
1646 cumulative percentage provided for the previous year. However,
1647 payment of the installments shall not extend beyond the month in
1648 which a retirement allowance is due and payable. Any additional
1649 amounts approved by the board under subsection (2) of this section
1650 shall be paid in one (1) lump sum payment to retirees and
1651 beneficiaries in accordance with subsection (2) of this section.

1652 SECTION 18. Section 25-13-13, Mississippi Code of 1972, is
1653 amended as follows:[WAN13]

1654 25-13-13. (1) Upon the death of any highway patrolman who
1655 has retired for service or disability and who has not elected any
1656 other option under Section 25-13-16, his widow shall receive
1657 one-half (1/2) the benefit which he was receiving and each child
1658 not having attained his nineteenth birthday shall receive
1659 one-fourth (1/4) of his benefit, but not more than one-half (1/2)
1660 of the benefits shall be paid for the support and maintenance of
1661 two (2) or more children. Upon each child's attaining the age of
1662 nineteen (19) years, the child shall no longer be eligible for
1663 such benefit, and when all of such children have attained their
1664 nineteenth birthday, only the widow shall be eligible for one-half
1665 (1/2) the amount of his benefit. She shall continue to be
1666 eligible for such benefit in the amount of fifty percent (50%) of
1667 his retirement benefit so long as she may live and until she
1668 remarries. In the event of her remarriage at any time, her
1669 eligibility for the fifty percent (50%) benefits shall cease and
1670 terminate, but she will be eligible to continue to receive
1671 benefits for their children until the last child attains his or
1672 her nineteenth birthday in the manner aforesaid.

1673 (2) Upon the death of any highway patrolman who has served
1674 the minimum retirement period required for eligibility for such
1675 retirement program, his spouse and family shall receive all the
1676 benefits payable to the highway patrolman's beneficiaries as if he
1677 had retired at the time of his death. Such benefits cease as to

1678 the spouse upon remarriage but continue to be payable to each
1679 child until he reaches the age of nineteen (19) years. Such
1680 benefits are payable on a monthly basis.

1681 (3) The spouse and/or the dependent children of an active
1682 member who is killed in the line of performance of duty or dies as
1683 a direct result of an accident occurring in the line of
1684 performance of duty shall qualify, on approval of the board, for a
1685 retirement allowance on the first of the month following the date
1686 of death, but not before receipt of application by the board. The
1687 spouse shall receive a retirement allowance equal to one-half
1688 (1/2) of the average compensation of the deceased highway
1689 patrolman. In addition to the retirement allowance for the
1690 spouse, or if there is no surviving spouse, a retirement allowance
1691 shall be paid in the amount of one-fourth (1/4) of the average
1692 compensation for the support and maintenance of one (1) child or
1693 in the amount of one-half (1/2) of the average compensation for
1694 the support and maintenance of two (2) or more children. Such
1695 benefits shall cease to be paid for the support and maintenance of
1696 each child upon such child attaining the age of nineteen (19)
1697 years; however, the spouse shall continue to be eligible for the
1698 aforesaid retirement allowance. Benefits may be paid to a
1699 surviving parent or lawful custodian of such children for the use
1700 and benefit of the children without the necessity of appointment
1701 as guardian. Such retirement allowance shall cease to the spouse
1702 upon remarriage but continue to be payable for each dependent
1703 child until the age of nineteen (19) years.

1704 (4) All benefits accruing to any child under the provisions
1705 of this chapter shall be paid to the parent custodian of the
1706 children or the legal guardian.

1707 (5) Children receiving the benefits provided herein, who are
1708 permanently or totally disabled, shall continue to receive such
1709 benefits for as long as the medical board or other designated
1710 governmental agency certifies that such disability continues. The

1711 age limitation for benefits payable to a child under any provision
1712 of this section shall be extended beyond age nineteen (19), but in
1713 no event beyond the attainment of age twenty-three (23), as long
1714 as the child is a student regularly pursuing a full-time course of
1715 resident study or training in an accredited high school, trade
1716 school, technical or vocational institute, junior or community
1717 college, college, university or comparable recognized educational
1718 institution duly licensed by a state. A student child whose
1719 birthday falls during the school year (September 1 through June
1720 30) is considered not to reach age twenty-three (23) until the
1721 July 1 following the actual twenty-third birthday. A full-time
1722 course of resident study or training means a day or evening
1723 noncorrespondence course that includes school attendance at the
1724 rate of a least thirty-six (36) weeks per academic year or other
1725 applicable period with a subject load sufficient, if successfully
1726 completed, to attain the educational or training objective within
1727 the period generally accepted as minimum for completion, by a
1728 full-time day student, of the academic or training program
1729 concerned.

1730 (6) If all the annuities provided for in this section
1731 payable on the account of the death of a member terminate before
1732 there has been paid an aggregate amount equal to the member's
1733 accumulated contributions standing to the member's credit in the
1734 annuity savings account at the time of the member's death, the
1735 difference between the accumulated contributions and the aggregate
1736 amount of annuity payments shall be paid to such person as the
1737 member has nominated by written designation duly executed and
1738 filed with the board of trustees in the office of the Public
1739 Employees' Retirement System. If there is no designated
1740 beneficiary surviving at termination of benefits, the difference
1741 shall be payable pursuant to Section 25-13-21.1(1).

1742 (7) All benefits paid to a spouse or child due to the death
1743 of a member before or after retirement shall be paid in accordance

1744 with the statutory provisions set forth as of the date of death.

1745 SECTION 19. Section 25-13-16, Mississippi Code of 1972, is
1746 amended as follows:[WAN14]

1747 25-13-16. (1) Upon application for superannuation or
1748 disability retirement, any member who retires after July 1, 1990,
1749 may elect to receive his benefit pursuant to the provisions of
1750 Sections 25-13-11 and 25-13-13 * * *. Or he may elect upon
1751 retirement, or upon becoming eligible for retirement, to receive
1752 the actuarial equivalent, subject to the provisions of subsection
1753 (3) of this section, of his retirement allowance in a reduced
1754 retirement allowance payable throughout life with the provision
1755 that:

1756 **Option 1.** If he dies before he has received in annuity
1757 payment the value of the member's annuity savings account as it
1758 was at the time of his retirement, the balance shall be paid to
1759 his legal representative or to such person as he shall nominate by
1760 written designation duly acknowledged and filed with the board; or

1761 **Option 2.** Upon his death, his reduced retirement allowance
1762 shall be continued throughout the life of, and paid to, such
1763 person as he has nominated by written designation duly
1764 acknowledged and filed with the board of trustees at the time of
1765 his retirement;

1766 **Option 3.** Upon his death, one-half (1/2) of his reduced
1767 retirement allowance shall be continued throughout the life of,
1768 and paid to, such person as he shall have nominated by written
1769 designation duly acknowledged and filed with the board of trustees
1770 at the time of his retirement, and the other one-half (1/2) of his
1771 reduced retirement allowance to some other designated beneficiary;

1772 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
1773 retirement allowance, or such other specified amount, shall be
1774 continued throughout the life of, and paid to, such person as he
1775 shall have nominated by written designation duly acknowledged and
1776 filed with the board of trustees at the time of his retirement; or

1777 **Option 4-B.** A reduced retirement allowance shall be
1778 continued throughout the life of the retirant, but with the
1779 further guarantee of payments to the named beneficiary,
1780 beneficiaries or to the estate for a specified number of years
1781 certain. If the retired member or the last designated beneficiary
1782 receiving annuity payments dies prior to receiving all guaranteed
1783 payments due, the actuarial equivalent of the remaining payments
1784 shall be paid pursuant to Section 25-13-21.1(1).

1785 **Option 4-C.** Such retirement allowance otherwise payable may
1786 be converted into a retirement allowance of equivalent actuarial
1787 value in such an amount that, with the member's benefit under
1788 Title II of the federal Social Security Act, the member will
1789 receive, so far as possible, approximately the same amount
1790 annually before and after the earliest age at which the member
1791 becomes eligible to receive a social security benefit.

1792 (2) No change in the option selected shall be permitted
1793 after the member's death or after the member has received his
1794 first retirement check, except as provided in subsections (3) and
1795 (4) of this section. However, any retired member who is receiving
1796 a retirement allowance under Option 2 or Option 4-A upon July 1,
1797 1999, and whose designated beneficiary predeceased him or whose
1798 marriage to a spouse who is his designated beneficiary is
1799 terminated by divorce or other dissolution, upon written
1800 notification to the retirement system of the death of the
1801 designated beneficiary or of the termination of his marriage to
1802 his designated beneficiary, the retirement allowance payable to
1803 the member after receipt of such notification by the retirement
1804 system shall be equal to the retirement allowance that would have
1805 been payable if the member had not elected the option. In
1806 addition, any retired member who is receiving the maximum
1807 retirement allowance for life, a retirement allowance under Option
1808 1 or who is receiving a retirement allowance under Option 2 or
1809 Option 4-A on July 1, 1999, may elect to provide survivor benefits

1810 under Option 2 or Option 4-A to a spouse who was not previously
1811 the member's beneficiary and who the member married before July 1,
1812 1999. Should a member retired on disability be returned to active
1813 service, the option previously selected shall be null and void.
1814 Upon subsequent retirement a new option may be selected.

1815 (3) Any retired member who is receiving a reduced retirement
1816 allowance under Option 2 or Option 4-A whose designated
1817 beneficiary predeceases him, or whose marriage to a spouse who is
1818 his designated beneficiary is terminated by divorce or other
1819 dissolution, may elect to cancel his reduced retirement allowance
1820 and receive the maximum retirement allowance for life in an amount
1821 equal to the amount that would have been payable if the member had
1822 not elected Option 2 or Option 4-A. Such election must be made in
1823 writing to the office of the executive director of the system on a
1824 form prescribed by the board. Any such election shall be
1825 effective the first of the month following the date the election
1826 is received by the system.

1827 (4) Any retired member who is receiving the maximum
1828 retirement allowance for life, or a retirement allowance under
1829 Option 1, and who marries after his retirement may elect to cancel
1830 his maximum retirement allowance and receive a reduced retirement
1831 allowance under Option 2 or Option 4-A to provide continuing
1832 lifetime benefits to his spouse. Such election must be made in
1833 writing to the office of the executive director of the system on a
1834 form prescribed by the board not earlier than the date of the
1835 marriage. Any such election shall be effective the first of the
1836 month following the date the election is received by the system.
1837 The amount of the reduced retirement allowance shall be the
1838 actuarial equivalent, taking into account that the member received
1839 the maximum retirement allowance for a period of time before
1840 electing to receive a reduced retirement allowance. However, if a
1841 retiree marries or remarries after retirement and elects either
1842 Option 2 or Option 4-A as provided in subsection (2) or (4) of

1843 this section, the actuarial equivalent factor used to compute the
1844 reduced retirement allowance shall be the factor for the age of
1845 the retiree and his or her beneficiary at the time such election
1846 for recalculation of benefits is made.

1847 (5) Any member in service who has qualified for retirement
1848 benefits may select any optional method of settlement of
1849 retirement benefits by notifying the Executive Director of the
1850 Board of Trustees of the Public Employees' Retirement System in
1851 writing, on a form prescribed by the board, of the option he has
1852 selected and by naming the beneficiary of such option and
1853 furnishing necessary proof of age. Such option, once selected,
1854 may be changed at any time prior to actual retirement or death,
1855 but upon the death or retirement of the member, the optional
1856 settlement shall be placed in effect upon proper notification to
1857 the executive director.

1858 (6) Notwithstanding any provision of Section 25-13-1 et
1859 seq., no payments may be made for a retirement allowance on a
1860 monthly basis for a period of time in excess of that allowed by
1861 federal law.

1862 (7) If a retirant and his eligible beneficiary, if any, both
1863 die before they have received in annuity payments a total amount
1864 equal to the accumulated contributions standing to the retirant's
1865 credit in the annuity savings account at the time of his
1866 retirement, the difference between the accumulated contributions
1867 and the total amount of annuities received by them shall be paid
1868 to such persons as the retirant has nominated by written
1869 designation duly executed and filed in the office of the executive
1870 director. If no designated person survives the retirant and his
1871 beneficiary, the difference, if any, shall be paid pursuant to
1872 Section 25-13-21.1(1).

1873 (8) Any retired member who retired on Option 2(5) or 4-A(5)
1874 before July 1, 1999, who is still receiving a retirement allowance
1875 as of July 1, 1999, shall receive an increase in the annual

1876 retirement allowance effective July 1, 1999, equal to the amount
1877 they would have received under Option 2 or Option 4-A without a
1878 reduction for Option 5 based on the ages at retirement of the
1879 retiree and beneficiary and option factors in effect on July 1,
1880 1999. Such increase shall be prospective only.

1881 (9) For purposes of this section:

1882 (a) "Beneficiary" means any person designated to
1883 receive a retirement allowance, an annuity or other benefit as
1884 provided by this chapter. Such designation shall be in writing
1885 filed in the office of the Executive Director of the Board of
1886 Trustees of the Public Employees' Retirement System, and no
1887 designation or change of beneficiary shall be made in any other
1888 manner; however, notwithstanding any provision of this chapter to
1889 the contrary, the lawful spouse of a member at the time of the
1890 death of a member shall be the beneficiary of such member unless
1891 the member has designated another beneficiary subsequent to the
1892 date of marriage.

1893 (b) "Actuarial equivalent" shall mean a benefit of
1894 equal value to the accumulated contributions, annuity or benefit,
1895 as the case may be, when computed upon the basis of such mortality
1896 tables as shall be adopted by the board of trustees, and regular
1897 interest.

1898 (c) "Actuarial tables" shall mean such tables of
1899 mortality and rates of interest as shall be adopted by the board
1900 in accordance with the recommendation of the actuary.

1901 SECTION 20. Section 25-13-21, Mississippi Code of 1972, is
1902 amended as follows:[WAN15]

1903 25-13-21. In the event a highway patrolman ceases to work
1904 for the Highway Safety Patrol for any reason other than
1905 occupational disease contracted or for any accident sustained by
1906 the patrolman by reason of his service or discharge of his duty in
1907 the Highway Patrol, and if the highway patrolman is not eligible
1908 for retirement either for service or disability, he shall be

1909 refunded the amount of his total contribution under the provisions
1910 of this chapter, including any credit transferred to his account
1911 in this system from any other system, at his request; and should
1912 he die before retirement, such fund is to be refunded to any
1913 beneficiary he may name. If there is no surviving designated
1914 beneficiary, the contributions to the credit of the deceased
1915 member shall be refunded pursuant to Section 25-13-21.1(1).

1916 Pursuant to the Unemployment Compensation Amendments of 1992
1917 (Public Law 102-318 (UCA)), a member or eligible beneficiary
1918 eligible for a refund under this section may elect on a form
1919 prescribed by the board under rules and regulations established by
1920 the board, to have an eligible roll over distribution of
1921 accumulated contributions payable under this section paid directly
1922 to an eligible retirement plan or individual retirement account.
1923 If the member or eligible beneficiary makes such election and
1924 specifies the eligible retirement plan or individual retirement
1925 account to which such distribution is to be paid, the distribution
1926 will be made in the form of a direct trustee-to-trustee transfer
1927 to the specified eligible retirement plan. Flexible roll overs
1928 under this subsection shall not be considered assignments under
1929 Section 25-13-31.

1930 If any highway patrolman who shall receive a refund reenters
1931 the service of the Highway Safety Patrol and again becomes a
1932 member of the system, he may repay all amounts previously received
1933 by him as a refund, together with regular interest covering the
1934 period from the date of refund to the date of repayment; however,
1935 the amounts that are repaid by the member and the creditable
1936 service related thereto shall not be used in any benefit
1937 calculation or determination until the member has remained a
1938 contributor to the system for a period of at least five (5) years
1939 after such member's reentry into state service. Repayment for
1940 such time shall be made in increments of not less than one-quarter
1941 (1/4) year of creditable service beginning with the most recent

1942 service for which refund has been made. Upon the repayment of all
1943 or part of such refund and interest, the highway patrolman shall
1944 again receive credit for the period of creditable service for
1945 which full repayment has been made to the system.

1946 SECTION 21. Section 25-11-309, Mississippi Code of 1972, is
1947 amended as follows:[RF16]

1948 25-11-309. The retirement allowance from the Supplemental
1949 Legislative Retirement Plan shall consist of fifty percent (50%)
1950 of an amount equal to the retirement allowance determined by
1951 creditable service as an elected Senator or Representative of the
1952 State Legislature or as President of the Senate payable by the
1953 Public Employees' Retirement System in accordance with Section
1954 25-11-101 et seq. * * *

1955 The percentage of the retirement allowance as provided in
1956 this section shall be transferred from the annuity savings account
1957 of the member and the employer accumulation account in the
1958 Supplemental Legislative Retirement Plan to the retirement account
1959 of the member in the Public Employees' Retirement System as
1960 provided.

1961 SECTION 22. Section 25-11-301, Mississippi Code of 1972, is
1962 brought forward as follows:[RF17]

1963 25-11-301. There is hereby established and placed under the
1964 management of the Board of Trustees of the Public Employees'
1965 Retirement System of Mississippi a supplemental legislative
1966 retirement plan for the purpose of providing supplemental
1967 retirement allowances and other benefits under the provisions of
1968 this article for elected members of the State Legislature and the
1969 President of the Senate and their beneficiaries. The retirement
1970 plan provided by this article shall go into operation on July 1,
1971 1989, when contributions by members shall begin and benefits shall
1972 become payable. This retirement plan is designed to supplement
1973 and is in addition to the provisions of Section 25-11-1 et seq.
1974 Under the terms of this article, the members of the State

1975 Legislature and the President of the Senate shall retain all
1976 social security benefits under Article 1 and additional state
1977 retirement and disability benefits under Article 3 of the Public
1978 Employees' Retirement Law of 1952, as amended. This article is a
1979 supplement to those sections, and is designed to provide more
1980 benefits for members of the State Legislature and the President of
1981 the Senate by reason of their service to the state.

1982 SECTION 23. Section 25-11-303, Mississippi Code of 1972, is
1983 brought forward as follows:[RF18]

1984 25-11-303. For the purposes of this article, the definitions
1985 in Section 25-11-5 and Section 25-11-103 shall apply unless a
1986 different meaning is plainly expressed by the context.

1987 SECTION 24. Section 25-11-305, Mississippi Code of 1972, is
1988 brought forward as follows:[RF19]

1989 25-11-305. (1) The membership of the Supplemental
1990 Legislative Retirement Plan shall be composed as follows:

1991 (a) All members of the State Legislature who are
1992 currently serving in the capacity of an elected official of the
1993 State Legislature and the person currently serving as President of
1994 the Senate shall become members of this system on July 1, 1989,
1995 unless they file with the board within thirty (30) days after July
1996 1, 1989, on a form prescribed by the board, a notice of election
1997 not to be covered in the membership of the Supplemental
1998 Legislative Retirement Plan and a duly executed waiver of all
1999 present and prospective benefits which would otherwise inure to
2000 them on account of their participation in the plan.

2001 (b) All members of the State Legislature and the
2002 President of the Senate who are elected after July 1, 1989.

2003 (2) Any state legislators who would have otherwise qualified
2004 for membership in the plan under subsection (1) of this section
2005 but who were excluded from membership by other provisions of this
2006 section as it read before March 26, 1991, shall become members of
2007 the plan upon March 26, 1991, and shall receive creditable service

2008 in the plan for the period from July 1, 1989, to March 26, 1991,
2009 upon payment of the proper employee and employer contributions for
2010 that period.

2011 (3) Membership in the plan shall cease by a member
2012 withdrawing his accumulated contributions, or by a member
2013 withdrawing from active service with a retirement allowance, or by
2014 death of the member.

2015 (4) No benefits under the plan shall accrue or otherwise be
2016 payable to any person who does not qualify for membership in the
2017 plan under subsection (1) of this section.

2018 SECTION 25. Section 25-11-307, Mississippi Code of 1972, is
2019 brought forward as follows:[RF20]

2020 25-11-307. (1) The Board of Trustees of the Public
2021 Employees' Retirement System of Mississippi shall act as custodian
2022 of the funds for members of the State Legislature and the
2023 President of the Senate, and shall receive to the credit of such
2024 fund all donations, bequests, appropriations, and all funds
2025 available as an employer's contribution thereto from any source
2026 whatsoever. The State Legislature shall each month deduct from
2027 the compensation of each member three percent (3%) thereof, and
2028 shall pay the amount so deducted to the board of trustees to be
2029 credited to the fund for the members. The compensation of each
2030 member shall include all remuneration or amounts paid, except
2031 mileage allowance. From the funds credited to this account, the
2032 board of trustees shall pay retirement allowances, disability
2033 benefits, survivors' benefits and expenses, and shall refund
2034 contributions as provided. The fund for the Supplemental
2035 Legislative Retirement Plan shall be maintained as a separate
2036 fund, separate from all other funds held by the board of trustees
2037 and shall be used only for the payment of benefits provided for by
2038 the plan, or amendments thereto.

2039 (2) On account of each member there shall be paid monthly
2040 into the fund for members of the Supplemental Legislative

2041 Retirement Plan by the State Legislature from funds available an
2042 amount equal to a certain percentage of the compensation of each
2043 member to be known as the "normal contributions," and an
2044 additional amount equal to a percentage of his compensation to be
2045 known as the "accrued liability contribution." The percentage
2046 rate of such contributions shall be fixed by the board of trustees
2047 on the basis of the liabilities of the plan for the various
2048 allowances and benefits as shown by the actuarial valuation. Until
2049 changed by the board of trustees, the contribution rate shall be
2050 six and one-third percent (6-1/3%) of the annual compensation of
2051 all members, which shall include all remuneration or amounts paid,
2052 except mileage allowance.

2053 (3) The board of trustees is hereby authorized to deduct two
2054 percent (2%) of all employer's contributions paid into the fund
2055 for members of the State Legislature and the President of the
2056 Senate to be transferred to the expense fund of the Public
2057 Employees' Retirement System of Mississippi to defray the cost of
2058 administering this fund.

2059 SECTION 26. Section 25-11-311, Mississippi Code of 1972, is
2060 brought forward as follows:[RF21]

2061 25-11-311. (1) A member may be paid a refund of the amount
2062 of accumulated contributions to the credit of the member in the
2063 annuity savings account, provided the member has withdrawn from
2064 state service and further provided the member has not returned to
2065 state service on the date the refund of the accumulated
2066 contributions would be paid. Such refund of the contributions to
2067 the credit of the member in the annuity savings account shall be
2068 paid within ninety (90) days from receipt in the office of the
2069 retirement system of the properly completed form requesting such
2070 payment. In the event of death prior to retirement of any member
2071 whose spouse and/or children are not entitled to a retirement
2072 allowance, the accumulated contributions to the credit of the
2073 deceased member in the annuity savings account shall be paid to

2074 the designated beneficiary on file in writing in the office of
2075 executive secretary of the board of trustees within ninety (90)
2076 days from receipt of a properly completed form requesting such
2077 payment. If there is no such designated beneficiary on file for
2078 such deceased member in the office of the system, upon the filing
2079 of a proper request with the board, the contributions to the
2080 credit of the deceased member in the annuity savings account shall
2081 be refunded to the estate of the deceased member. The payment of
2082 the refund shall discharge all obligations of the retirement
2083 system to the member on account of any creditable service rendered
2084 by the member prior to the receipt of the refund. By the
2085 acceptance of the refund, the member shall waive and relinquish
2086 all accrued rights in the plan.

2087 (2) If any person who has received a refund is reelected to
2088 the Legislature or as President of the Senate and again becomes a
2089 member of the plan and remains a contributor for four (4) years,
2090 the member may repay all amounts previously received as a refund,
2091 together with regular interest covering the period from the date
2092 of refund to the date of repayment. Upon such repayment, the
2093 member shall again receive credit for the entire period of
2094 creditable service which was forfeited upon the receipt of the
2095 refund.

2096 SECTION 27. Section 25-11-313, Mississippi Code of 1972, is
2097 brought forward as follows:[RF22]

2098 25-11-313. The employer shall pick up the member
2099 contributions required by this article for all compensation earned
2100 on and after July 1, 1989, and the contributions so picked up
2101 shall be treated as employer contributions in determining tax
2102 treatment under the United States Internal Revenue Code and the
2103 Mississippi Income Tax Code. However, the employer shall continue
2104 to withhold federal and state income taxes based upon such
2105 contributions until the Internal Revenue Service or the federal
2106 courts rule that, pursuant to Section 414(h) of the United States

2107 Internal Revenue Code, these contributions shall not be included
2108 as gross income of the member until such time as they are
2109 distributed or made available. The employer shall pay these
2110 member contributions from the same source of funds which is used
2111 in paying earnings to the member. The employer may pick up these
2112 contributions by a reduction in the cash salary of the member, or
2113 by offset against future salary increase, or by a combination of a
2114 reduction in salary and offset against future salary increase. If
2115 member contributions are picked up they shall be treated for all
2116 purposes of the Supplemental Legislative Retirement Plan in the
2117 same manner and to the same extent as member contributions made
2118 prior to the date picked up.

2119 SECTION 28. Section 25-11-315, Mississippi Code of 1972, is
2120 brought forward as follows:[RF23]

2121 25-11-315. Any member of the State Legislature or the
2122 President of the Senate who becomes a member of the plan on July
2123 1, 1989, shall be eligible for prior service as a member of the
2124 State Legislature or as President of the Senate. Each member
2125 shall submit to the board a verification of prior service as a
2126 member of the State Legislature or as President of the Senate.
2127 Upon receipt of such prior service statement, the board shall
2128 issue a prior service certificate certifying to each member the
2129 length of prior service for which credit has been allowed on the
2130 basis of the statement of service. Additional prior service
2131 regulations in force shall be those found in Section 25-11-101 et
2132 seq.

2133 Any member of the State Legislature or the President of the
2134 Senate who becomes a member of this plan after July 1, 1989, shall
2135 not be allowed prior service unless the member serves as a member
2136 of the State Legislature or as President of the Senate for a
2137 minimum of four (4) years and contributes to the plan for a
2138 minimum period of four (4) years.

2139 SECTION 29. Section 25-11-317, Mississippi Code of 1972, is

2140 brought forward as follows:[RF24]

2141 25-11-317. (1) The general administration and
2142 responsibility for the proper operation of the plan and for making
2143 effective the provisions hereof are vested in the Board of
2144 Trustees of the Public Employees' Retirement System of
2145 Mississippi.

2146 (2) The board shall invest all funds in accordance with
2147 Section 25-11-121.

2148 (3) The board shall designate an actuary who shall be the
2149 technical advisor of the board on matters regarding the operation
2150 of the plan and shall perform such other duties as are required in
2151 connection therewith.

2152 (4) At least once in each two-year period following the date
2153 of establishment, the actuary shall make an actuarial
2154 investigation into the mortality, service and compensation
2155 experience of the members and beneficiaries of the plan and shall
2156 make a valuation of the contingent assets and liabilities of the
2157 plan.

2158 (5) On the basis of regular interest and tables last adopted
2159 by the board, the actuary shall make biennial valuation of the
2160 contingent assets and liabilities of the plan.

2161 (6) The board shall keep such data as shall be necessary for
2162 the actuarial valuation of the contingent assets and liabilities
2163 of the plan and for checking the experience of the plan.

2164 (7) The board shall determine from time to time the rate of
2165 regular interest for use in all calculations, with the rate of
2166 five percent (5%) per annum applicable unless changed by the
2167 board.

2168 (8) Subject to the limitations hereof, the board from time
2169 to time shall establish rules and regulations for the
2170 administration of the plan and for the transaction of business.

2171 (9) The board shall keep a record of all its proceedings
2172 under this article which shall be open to public inspection,

2173 except for individual member records. The system shall not
2174 disclose the name, address or contents of any individual member
2175 records without the prior written consent of the individual to
2176 whom the record pertains.

2177 (10) The Executive Secretary of the Public Employees'
2178 Retirement System of Mississippi shall serve as the executive
2179 secretary of the plan.

2180 SECTION 30. Section 25-11-319, Mississippi Code of 1972, is
2181 brought forward as follows:[RF25]

2182 25-11-319. The right of a person to an annuity, a retirement
2183 allowance or benefit, or to the return of contributions, or to any
2184 optional benefit or any other right accrued or accruing to any
2185 person under the provisions of the Supplemental Legislative
2186 Retirement Plan, and the monies in the plan created by this
2187 article, are exempt from any state or municipal tax, and exempt
2188 from levy and sale, garnishment, attachment or any other process
2189 whatsoever, and shall be unassignable except as specifically
2190 otherwise provided in this article.

2191 SECTION 31. This act shall take effect and be in force from
2192 and after July 1, 2000.