

By: Stringer

To: Appropriations

HOUSE BILL NO. 1281  
(As Passed the House)

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30 PREVIOUSLY WITHDRAWN SERVICE CREDIT IN THE SUPPLEMENTAL  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.