

By: Janus

To: Appropriations

## HOUSE BILL NO. 1344

1 AN ACT TO CREATE A SEPARATE RETIREMENT SYSTEM FOR LAW  
2 ENFORCEMENT OFFICERS; TO PROVIDE THAT THE SYSTEM SHALL BE  
3 ADMINISTERED BY THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES  
4 RETIREMENT SYSTEM; TO DEFINE ELIGIBILITY FOR MEMBERSHIP IN THE  
5 SYSTEM; TO PROVIDE FOR EMPLOYEE AND EMPLOYER CONTRIBUTIONS TO FUND  
6 THE SYSTEM; TO ESTABLISH BENEFITS FOR DISABILITY AND  
7 SUPERANNUATION RETIREMENT AND ESTABLISH DEATH BENEFITS; AND FOR  
8 RELATED PURPOSES.

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

10 SECTION 1. There is established and placed under the  
11 management of the Board of Trustees of the Public Employees'  
12 Retirement System a retirement system for the purpose of providing  
13 retirement allowances and other benefits under the provisions of  
14 this act for law enforcement officers and their beneficiaries.  
15 This retirement system shall be known as the "Law Enforcement  
16 Officers' Retirement System." The retirement system shall go into  
17 operation on July 1, 2000, when contributions by members shall  
18 begin and benefits shall become payable. This retirement system  
19 is designed to supplement and is in addition to the provisions of  
20 Section 25-11-1 et seq. Under the terms of this act, law  
21 enforcement officers shall retain all social security benefits  
22 under Article I of the Public Employees' Retirement Law of 1952  
23 but shall not be eligible for benefits under Article III of that  
24 law. This act is a substitute for and in lieu of Article III of  
25 that law, and is designed to provide more liberal benefits for law  
26 enforcement officers by reason of the dangerous nature of and  
27 special risk involved in their employment.

28 SECTION 2. (1) For the purposes of this act, the  
29 definitions in Section 25-11-5 and Section 25-11-103 shall apply

30 unless a different meaning is plainly expressed by the context.

31 (2) As used in this act:

32 (a) "Board" means the Board of Trustees of the Public  
33 Employees' Retirement System.

34 (b) "Law enforcement officer" means municipal police  
35 officers and narcotics agents, sheriffs, deputy sheriffs,  
36 constables, conservation officers, enforcement officers of the  
37 Department of Marine Resources, agents and inspectors of the  
38 Alcoholic Beverage Control Division of the State Tax Commission,  
39 inspection station employees and field inspectors of the  
40 Mississippi Department of Transportation, state correctional  
41 facility guards and enforcement officers of the Department of  
42 Corrections, enforcement officers of the Public Service  
43 Commission, and any other full-time officer or employee of the  
44 state or any agency, department, institution or county thereof who  
45 is authorized to carry a firearm while in the performance of his  
46 official duties and who has met the minimum educational and  
47 training standards established by the Board on Law Enforcement  
48 Officer Standards and Training for permanent, full-time law  
49 enforcement officers and has received a certificate from that  
50 board.

51 (c) "Member" means any person included in the  
52 membership of the system as provided in Section 4 of this act.

53 (d) "System" means the Law Enforcement Officers'  
54 Retirement System established by Section 1 of this act.

55 SECTION 3. (1) The general administration and  
56 responsibility for the proper operation of the system and for  
57 making effective the provisions hereof are vested in the Board of  
58 Trustees of the Public Employees' Retirement System.

59 (2) The board shall invest all funds of the system in  
60 accordance with Section 25-11-121.

61 (3) The board shall designate an actuary who shall be the  
62 technical advisor of the board on matters regarding the operation

63 of the system and shall perform such other duties as are required  
64 in connection therewith.

65 (4) At least once in each two-year period following July 1,  
66 2000, the actuary shall make an actuarial investigation into the  
67 mortality, service, withdrawal and compensation experience of the  
68 members and beneficiaries of the system, and shall make a  
69 valuation of the assets and liabilities of the system. Taking  
70 into account the result of the investigation and valuation, the  
71 board shall adopt for the retirement system such mortality,  
72 service, and other tables as shall be deemed necessary. On the  
73 basis of those tables that the board adopts, the actuary shall  
74 make biennial valuations of the assets and liabilities of the  
75 funds of the system.

76 (5) The board shall keep such data as shall be necessary for  
77 the actuarial valuation of the contingent assets and liabilities  
78 of the system and for checking the experience of the system.

79 (6) The board shall determine from time to time the rate of  
80 regular interest for use in all calculations, with the rate of  
81 five percent (5%) per annum applicable unless changed by the  
82 board.

83 (7) Subject to the limitations hereof, the board from time  
84 to time shall establish rules and regulations for the  
85 administration of the system and for the transaction of business.

86 (8) The board shall keep a record of all its proceedings  
87 under this act. All books, accounts and records shall be kept in  
88 the general office of the Public Employees' Retirement System and  
89 shall be public records except for individual member records. The  
90 Public Employees' Retirement System shall not disclose the name,  
91 address or contents of any individual member records without the  
92 prior written consent of the individual to whom the record  
93 pertains.

94 (9) The Executive Director of the Public Employees'  
95 Retirement System shall serve as the executive director of this

96 system.

97 SECTION 4. (1) The membership of the system shall be  
98 composed as follows:

99 (a) All duly elected or appointed police officers and  
100 narcotics agents in the full-time employment of a municipality  
101 that has elected to include its police officers and narcotics  
102 agents in the membership of the system under subsection (3) of  
103 this section, who are actually engaged in the enforcement of the  
104 laws of this state and the municipality, except police officers  
105 and narcotic agents who are members of any retirement system  
106 created under Section 21-29-101 et seq. or Section 21-29-201 et  
107 seq., but not auxiliary officers or officers who are engaged only  
108 in administrative or civil duties.

109 (b) All duly elected sheriffs and all duly appointed  
110 deputy sheriffs in the full-time employment of a county who are  
111 actually engaged in the enforcement of the laws of this state and  
112 the county, but not deputy sheriffs who are engaged only in  
113 administrative or civil duties.

114 (c) All duly elected constables.

115 (d) All duly appointed conservation officers of the  
116 Department of Wildlife, Fisheries and Parks who are actually  
117 engaged in the enforcement of the game and fish laws of this state  
118 (Section 49-7-1 et seq.).

119 (e) All duly appointed enforcement officers of the  
120 Department of Marine Resources who are actually engaged in the  
121 enforcement of the seafood laws of this state (Section 49-15-1 et  
122 seq.)

123 (f) All duly appointed agents and inspectors of the  
124 Alcoholic Beverage Control Division of the State Tax Commission  
125 who are actually engaged in the enforcement of the alcoholic  
126 beverage control laws of this state (Section 67-1-1 et seq.).

127 (g) All duly appointed or employed inspection station  
128 employees, field inspectors and railroad inspectors of the

129 Mississippi Department of Transportation who are actually engaged  
130 in the enforcement of the laws specified in Section 27-5-71 or  
131 other laws of this state administered and enforced by the  
132 Department of Transportation.

133 (h) All duly appointed or employed state correctional  
134 facility guards and enforcement officers of the Department of  
135 Corrections whose official duties are to insure the custody,  
136 security and control of any offenders under their supervision.

137 (i) All duly appointed or employed enforcement officers  
138 and inspectors of the Public Service Commission who are actually  
139 engaged in the enforcement of the provisions of Section 77-7-1 et  
140 seq. or other laws of this state administered and enforced by the  
141 Public Service Commission.

142 (j) All full-time officers and employees of the state  
143 or any agency, department, institution or county thereof, not  
144 listed in paragraphs (a) through (j) of this subsection, who are  
145 authorized to carry firearms while in the performance of their  
146 official duties and who have met the minimum educational and  
147 training standards established by the Board on Law Enforcement  
148 Officer Standards and Training for permanent, full-time law  
149 enforcement officers and have received a certificate from that  
150 board.

151 (2) Membership in the system shall not include any  
152 secretarial, clerical, stenographic or administrative employees.

153 (3) (a) The governing authorities of any municipality are  
154 authorized, in their discretion, to elect to include in the  
155 membership of the system the full-time police officers and  
156 narcotics agents of the municipality who are actually engaged in  
157 the enforcement of the laws of this state and the municipality,  
158 except police officers and narcotics agents who are members of any  
159 retirement system created under Section 21-29-101 et seq. or  
160 Section 21-29-201 et seq., by adopting a resolution to that effect  
161 and transmitting the resolution to the board.

162           (b) When any municipality elects to include its police  
163 officers and narcotics agents in the membership of the system:

164           (i) All such persons serving in that capacity on  
165 the date that the governing authorities adopt the resolution,  
166 except police officers and narcotics agents who are members of any  
167 retirement system created under Section 21-29-101 et seq. or  
168 Section 21-29-201 et seq., shall become members of the system on  
169 the first day of the month following the date that the board  
170 receives the resolution, unless they file with the board within  
171 thirty (30) days after the date that the board receives the  
172 resolution, on a form prescribed by the board, a notice of  
173 election not to be covered in the membership of the system and a  
174 duly executed waiver of all present and prospective benefits that  
175 would otherwise inure to them on account of their membership in  
176 the system; and

177           (ii) All such persons who are elected, appointed  
178 or employed after the date that the governing authorities adopt  
179 the resolution shall become members of the system as a condition  
180 of their office, appointment or employment.

181           (c) After a municipality has elected to include its  
182 police officers and narcotics agents in the membership of the  
183 system, the municipality shall not be authorized to withdraw from  
184 the system or to cancel or preclude membership in the system for  
185 any such person elected, appointed or employed on or after the  
186 date that the municipality made the election.

187           (4) Except as otherwise provided for municipalities in  
188 subsection (3) of this section, all law enforcement officers  
189 eligible for membership in the system as provided in this section  
190 who are serving in that capacity on July 1, 2000, shall become  
191 members of the system on that date, unless they file with the  
192 board within thirty (30) days after July 1, 2000, on a form  
193 prescribed by the board, a notice of election not to be covered in  
194 the membership of the system and a duly executed waiver of all

195 present and prospective benefits that otherwise would inure to  
196 them on account of their membership in the system.

197 (5) Except as otherwise provided for municipalities in  
198 subsection (3) of this section, all law enforcement officers  
199 eligible for membership in the system as provided in this section  
200 who are elected or appointed after June 30, 2000, shall become  
201 members of the system as a condition of their office or  
202 employment.

203 (6) Membership in the system shall cease by a member  
204 withdrawing his accumulated contributions, or by a member  
205 withdrawing from active service with a retirement allowance, or by  
206 death of the member.

207 SECTION 5. (1) Creditable service on which a member's  
208 service or disability retirement benefit is based shall consist of  
209 prior service and membership service. Except as otherwise  
210 provided for municipalities in this subsection, prior service  
211 means service performed before July 1, 2000, for which  
212 contributions were made to the Public Employees' Retirement  
213 System, and membership service means all service for which credit  
214 may be allowed under this act after June 30, 2000, and all  
215 lawfully credited unused leave as of the date of withdrawal from  
216 service, as certified by the employer. For police officers and  
217 narcotics agents of municipalities that have elected to include  
218 those persons in the membership of the system, prior service means  
219 service performed before the date that they became members of the  
220 system for which contributions were made to the Public Employees'  
221 Retirement System, and membership service means all service for  
222 which credit may be allowed under this act on or after the date  
223 that they became members of the system and all lawfully credited  
224 unused leave as of the date of withdrawal from service, as  
225 certified by the municipality.

226 (2) In computing the period of service of a member of the  
227 system, anything in this act to the contrary notwithstanding, any

228 member who served on active duty in the Armed Forces of the United  
229 States, or who served in maritime service during periods of  
230 hostility in World War II, shall be entitled to creditable service  
231 for his service on active duty in the Armed Forces or in such  
232 maritime service, provided he entered state service after his  
233 discharge from the Armed Forces or entered state service after he  
234 completed such maritime service. The maximum period for  
235 creditable service for all military service shall not exceed four  
236 (4) years unless positive proof can be furnished by the person  
237 that he was retained in the Armed Forces during World War II or in  
238 maritime service during World War II by causes beyond his control  
239 and without opportunity of discharge. The member shall furnish  
240 proof satisfactory to the board of certification of military  
241 service or maritime service records showing dates of entrance into  
242 service and the date of discharge. In no case shall the member  
243 receive creditable service if the member received a dishonorable  
244 discharge from the Armed Forces of the United States.

245 SECTION 6. (1) The board shall act as custodian of the  
246 system, and shall receive to the credit of the system all  
247 donations, bequests, appropriations, and all funds available as an  
248 employer's contribution thereto from any source whatsoever.

249 (2) The employers shall deduct each month from the salary of  
250 each member seven and one-fourth percent (7-1/4%) thereof, and  
251 shall pay the amount so deducted to the board to be credited to  
252 the system. Notwithstanding the employee contribution rates  
253 specified in this subsection, the board may vary the percentage of  
254 employee contribution biennially on the basis of the liabilities  
255 of the system for the various allowances and benefits as shown by  
256 actuarial valuation. From the funds credited to this account, the  
257 board shall pay retirements, disability benefits, survivors  
258 benefits, expenses and shall refund contributions as provided in  
259 this act. The funds of the system shall be maintained as a  
260 separate fund, separate from all other funds held by the board and



261 shall be used only for the payment of benefits provided for by  
262 this act or amendments thereto.

263 (3) On account of each member the employers shall pay  
264 monthly into the system from funds available an amount equal to a  
265 certain percentage of the compensation of each member to be known  
266 as the "normal contributions," and an additional amount equal to a  
267 percentage of his compensation to be known as the "accrued  
268 liability contribution." The percentage rate of those  
269 contributions shall be fixed biennially by the board on the basis  
270 of the liabilities of the system for the various allowances and  
271 benefits as shown by the actuarial valuation.

272 (4) The board is authorized to deduct two percent (2%) of  
273 all employer contributions paid into the system to be transferred  
274 to the expense fund of the Public Employees' Retirement System to  
275 defray the cost of administering the system.

276 SECTION 7. The employers shall pick up the member  
277 contributions required by Section 6 of this act for all  
278 compensation earned after June 30, 2000, or in the case of police  
279 officers and narcotics agents of municipalities that have elected  
280 to include those persons in the membership of the system, for all  
281 compensation earned on and after the date that they became members  
282 of the system. The contributions so picked up shall be treated as  
283 employer contributions in determining tax treatment under the  
284 United States Internal Revenue Code and Mississippi Income Tax  
285 Code. However, the employer shall continue to withhold federal  
286 and state income taxes based upon these contributions until the  
287 Internal Revenue Service or federal courts rule that pursuant to  
288 Section 414(h) of the United States Internal Revenue Code, these  
289 contributions shall not be included as gross income of the member  
290 until such time as they are distributed or made available. The  
291 employer shall pay these member contributions from the same source  
292 of funds that is used in paying earnings to the member. The  
293 employer may pick up these contributions by a reduction in the

294 cash salary of the member or by an offset against a future salary  
295 increase or by a combination of a reduction in salary and offset  
296 against a future salary increase. If member contributions are  
297 picked up, they shall be treated for all purposes of this act in  
298 the same manner and to the same extent as member contributions  
299 made before to the date picked up.

300       SECTION 8. (1) Upon application of a member or his  
301 employer, any active member who has not attained the age of  
302 fifty-five (55) years may be retired by the board, not less than  
303 thirty (30) and not more than ninety (90) days next following the  
304 date of filing the application, on a disability retirement  
305 allowance, if the medical board of the Public Employees'  
306 Retirement System or other designated governmental agency, after a  
307 medical examination, certifies that he is mentally or physically  
308 incapacitated for the performance of duty, that the incapacity is  
309 likely to be permanent, and that the sickness or injury was caused  
310 or sustained as a direct result of duty as a law enforcement  
311 officer after June 30, 2000, or in the case of a police officer or  
312 narcotics agent of a municipality that has elected to include  
313 those persons in the membership of the system, on or after the  
314 date that the person became a member of the system.

315       Upon the application of a member or his employer, any member  
316 who is not yet eligible for service retirement benefits and who  
317 has had at least ten (10) years of creditable service may be  
318 retired by the board, not less than thirty (30) and not more than  
319 ninety (90) days next following the date of filing the  
320 application, on a disability retirement allowance, if the medical  
321 board or other designated governmental agency, after a medical  
322 examination, certifies that he is mentally or physically  
323 incapacitated for the further performance of duty, that the  
324 incapacity is likely to be permanent, and that he should be  
325 retired. This disability need not be service connected.

326       (2) Upon retirement for disability, a member shall receive a

327 disability benefit equal to fifty percent (50%) of his average  
328 compensation for the two (2) years immediately preceding his  
329 retirement, but not less than any retirement benefits for which he  
330 may be eligible at the date he is granted disability.

331 (3) Once each year during the first five (5) years following  
332 retirement of a member on a disability retirement allowance, and  
333 once in every period of three (3) years thereafter, the board may,  
334 and upon his application shall, require any disability retiree who  
335 has not yet attained the age of fifty-five (55) years to undergo a  
336 medical examination. The examination shall be made at the place  
337 of residence of the retiree or other place mutually agreed upon by  
338 the medical board or other designated governmental agency. If any  
339 disability retiree who has not yet attained the age of fifty-five  
340 (55) years refuses to submit to any medical examination provided  
341 for in this subsection, his allowance may be discontinued until  
342 his withdrawal of his refusal, and if his refusal continues for  
343 one (1) year, all his rights in that part of the disability  
344 benefit provided by employer contributions shall be revoked by the  
345 board.

346 (4) If the medical board or other designated governmental  
347 agency reports and certifies to the board, after a comparable job  
348 analysis or other similar study, that the disability retiree is  
349 engaged in, or is able to engage in, a gainful occupation paying  
350 more than the difference between his disability benefit and his  
351 average compensation, and if the board concurs in the report, the  
352 disability benefit shall be reduced to an amount that, together  
353 with the amount earnable by him, equals the amount of his average  
354 compensation. If his earning capacity is later changed, the  
355 amount of the benefit may be further modified, but the revised  
356 benefit shall not exceed the amount originally granted nor an  
357 amount that, when added to the amount earnable by the retiree,  
358 together with the member's annuity, equals the amount of his  
359 average compensation.

360 (5) If a disability retiree under the age of fifty-five (55)  
361 years is restored to active service at a compensation not less  
362 than his average compensation, his disability benefit shall cease,  
363 he shall again become a member of the retirement system, and he  
364 shall contribute thereafter at the same rate he paid before  
365 disability. Any such prior service certificate on the basis of  
366 which his service was computed at the time of retirement shall be  
367 restored to full force and effect. In addition, upon his  
368 subsequent retirement he shall be credited with all creditable  
369 service as a member, including the period for which he was paid  
370 disability benefits.

371 SECTION 9. (1) Any member upon withdrawal from service upon  
372 or after attainment of the age of fifty-five (55) years who has  
373 completed at least four (4) years of creditable service, or any  
374 member upon withdrawal from service upon or after attainment of  
375 the age of forty-five (45) years who has completed at least twenty  
376 (20) years of creditable service, or any member upon withdrawal  
377 from service regardless of age who has completed at least  
378 twenty-five (25) years of creditable service, shall be entitled to  
379 receive a retirement allowance that shall be payable the first of  
380 the month following receipt of the member's application in the  
381 office of the executive director of the system, but in no event  
382 before withdrawal from service.

383 (2) Any member whose withdrawal from service occurs before  
384 attaining the age of fifty-five (55) years who has completed four  
385 (4) or more years of creditable service and has not received a  
386 refund of the member's accumulated contributions shall be entitled  
387 to receive a retirement allowance of the amount earned and accrued  
388 at the date of withdrawal from service, beginning upon his  
389 attaining the age of fifty-five (55) years.

390 (3) The annual amount of the retirement allowance shall  
391 consist of:

392 (a) A member's annuity, which shall be the actuarial

393 equivalent of the accumulated contributions of the member at the  
394 time of retirement, computed according to the actuarial table in  
395 use by the system.

396 (b) An employer's annuity, which, together with the  
397 member's annuity provided above, shall be equal to two and  
398 one-half percent (2-1/2%) of the average compensation for each  
399 year of membership service.

400 (c) A prior service annuity equal to two and one-half  
401 percent (2-1/2%) of the average compensation for each year of  
402 prior service for which the member is allowed credit.

403 (d) In the case of retirement of any member before  
404 attaining the age of fifty-five (55) years, the retirement  
405 allowance shall be computed in accordance with the formula set  
406 forth above in this section, except that the employer's annuity  
407 and prior service annuity shall be reduced by three percent (3%)  
408 for each year of age below fifty-five (55) years, or three percent  
409 (3%) for each year of service below twenty-five (25) years of  
410 creditable service, whichever is lesser.

411 (e) Upon retiring for service, a member shall be  
412 eligible to obtain retirement benefits, as computed above, for  
413 life, except that the aggregate amount of the employer's annuity  
414 and prior service annuity shall not exceed more than eighty-five  
415 percent (85%) of the average compensation regardless of the years  
416 of service.

417 (f) Any member of the system who attains the age of  
418 sixty (60) years shall be immediately retired.

419 SECTION 10. (1) Retired members who on December 1 of each  
420 year, or July 1 of each year as provided for in subsection (6) of  
421 this section, are receiving a retirement allowance for service or  
422 disability retirement, or their beneficiaries, shall receive in  
423 one (1) additional payment an amount equal to two and one-half  
424 percent (2-1/2%) of the annual retirement allowance for each full  
425 fiscal year of retirement.

426           (2) Retired members who on December 1 of each year are  
427 receiving a retirement allowance for service or disability  
428 retirement, or their beneficiaries, may receive, in addition to  
429 the cumulative percentage provided in subsection (1) of this  
430 section, a payment as determined by the board, calculated in  
431 increments of one-quarter of one percent ( $1/4$  of 1%), not to  
432 exceed one and one-half percent ( $1-1/2\%$ ) of the annual retirement  
433 allowance, for each full fiscal year of retirement, but any such  
434 payment shall be contingent upon the reserve for annuities in  
435 force for retired members and beneficiaries providing sufficient  
436 investment gains in excess of the accrued actuarial liabilities  
437 for the previous fiscal year as certified by the actuary and  
438 determined by the board.

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

444           (4) If a person who is receiving a retirement allowance that  
445 will terminate upon the person's death is receiving the additional  
446 payments under subsections (1) and (2) of this section in one (1)  
447 payment and dies on or after July 1 but before December 1, the  
448 beneficiary or estate of the person shall receive in a single  
449 payment a fractional part of the additional payments based on the  
450 number of months in which a retirement allowance was received  
451 during the fiscal year.

452           (5) Persons eligible to receive the payments provided in  
453 this section shall receive the payments in one (1) additional  
454 payment, except that the person may elect by an irrevocable  
455 agreement on a form prescribed by the board to receive the  
456 payments in not less than equal monthly installments not to exceed  
457 six (6) months during the remaining months of the current fiscal  
458 year. In the event of death of a person or a beneficiary

459 receiving monthly benefits, any remaining amounts shall be paid in  
460 a lump sum to the designated beneficiary.

461 (6) Retired members or beneficiaries thereof who on July 1  
462 of any fiscal year are receiving a retirement allowance may elect  
463 by an irrevocable agreement in writing filed in the office of the  
464 Public Employees' Retirement System no less than thirty (30) days  
465 before July 1 of the appropriate year, to begin receiving the  
466 payments provided for in subsection (1) of this section in twelve  
467 (12) equal installments beginning on July 1. This irrevocable  
468 agreement shall be binding on the member and subsequent  
469 beneficiaries. The cumulative percentage provided in subsection  
470 (1) of this section and paid in twelve (12) equal installments for  
471 any particular year shall not be less than the cumulative  
472 percentage provided for the previous year. However, payment of  
473 the installments shall not extend beyond the month in which a  
474 retirement allowance is due and payable. Any additional amounts  
475 approved by the board under subsection (2) of this section shall  
476 be paid in one (1) lump sum payment to retirees and beneficiaries  
477 in accordance with subsection (2) of this section.

478 SECTION 11. (1) Upon the death of any member who has  
479 retired for service or disability and who has not elected any  
480 other option under Section 12 of this act, the member's spouse  
481 shall receive one-half (1/2) the benefit that the member was  
482 receiving and each child not having attained the age of nineteen  
483 (19) years shall receive one-fourth (1/4) of the member's benefit,  
484 but not more than one-half (1/2) of the benefits shall be paid for  
485 the support and maintenance of two (2) or more children. Upon  
486 each child's attaining the age of nineteen (19) years, the child  
487 shall no longer be eligible for the benefit, and when all of the  
488 children have attained the age of nineteen (19) years, only the  
489 spouse shall be eligible for one-half (1/2) of the amount of the  
490 member's benefit. The spouse shall continue to be eligible for  
491 the benefit in the amount of fifty percent (50%) of the member's

492 retirement benefit as long as the spouse may live or until  
493 remarriage. Upon remarriage of the spouse at any time, the  
494 spouse's eligibility for the fifty percent (50%) benefits shall  
495 end, but the spouse will be eligible to continue to receive  
496 benefits for their children until the last child attains the age  
497 of nineteen (19) years.

498 (2) Upon the death of any member who has served the minimum  
499 period required for eligibility for retirement, the member's  
500 spouse and family shall receive all the benefits payable to the  
501 member's beneficiaries as if the member had retired at the time of  
502 death. Those benefits shall cease as to the spouse upon  
503 remarriage but shall continue to be payable to each child until he  
504 reaches the age of nineteen (19) years. The benefits are payable  
505 on a monthly basis.

506 (3) The spouse and/or the dependent children of an active  
507 member who is killed in the line of performance of duty or dies as  
508 a direct result of an accident occurring in the line of  
509 performance of duty shall qualify, on approval of the board, for a  
510 retirement allowance on the first of the month following the date  
511 of the member's death, but not before receipt of application by  
512 the board. The spouse shall receive a retirement allowance equal  
513 to one-half (1/2) of the average compensation of the deceased  
514 member. In addition to the retirement allowance for the spouse,  
515 or if there is no surviving spouse, a retirement allowance shall  
516 be paid in the amount of one-fourth (1/4) of the average  
517 compensation for the support and maintenance of one (1) child or  
518 in the amount of one-half (1/2) of the average compensation for  
519 the support and maintenance of two (2) or more children. Those  
520 benefits shall cease to be paid for the support and maintenance of  
521 each child upon the child attaining the age of nineteen (19)  
522 years; however, the spouse shall continue to be eligible for the  
523 retirement allowance provided for the spouse. Benefits may be  
524 paid to a surviving parent or lawful custodian of the children for



525 the use and benefit of the children without the necessity of  
526 appointment as guardian. That retirement allowance shall cease to  
527 the spouse upon remarriage but continue to be payable for each  
528 dependent child until the age of nineteen (19) years.

529 (4) All benefits accruing to any child under the provisions  
530 of this act shall be paid to the parent custodian of the children  
531 or the legal guardian.

532 (5) Children receiving the benefits provided in this section  
533 who are permanently or totally disabled shall continue to receive  
534 the benefits for as long as the medical board or other designated  
535 governmental agency certifies that the disability continues. The  
536 age limitation for benefits payable to a child under any provision  
537 of this section shall be extended beyond age nineteen (19), but in  
538 no event beyond the attainment of age twenty-three (23), as long  
539 as the child is a student regularly pursuing a full-time course of  
540 resident study or training in an accredited high school, trade  
541 school, technical or vocational institute, junior or community  
542 college, college, university or comparable recognized educational  
543 institution duly licensed by a state. A student child whose  
544 birthday falls during the school year (September 1 through June  
545 30) is considered not to reach age twenty-three (23) until the  
546 July 1 following the actual twenty-third birthday. A full-time  
547 course of resident study or training means a day or evening  
548 noncorrespondence course that includes school attendance at the  
549 rate of a least thirty-six (36) weeks, per academic year or other  
550 applicable period with a subject load sufficient, if successfully  
551 completed, to attain the educational or training objective within  
552 the period generally accepted as minimum for completion, by a  
553 full-time day student, of the academic or training program  
554 concerned.

555 (6) If all the annuities provided for in this section  
556 payable on the account of the death of a member terminate before  
557 there has been paid an aggregate amount equal to the member's

558 accumulated contributions standing to the member's credit in the  
559 annuity savings account at the time of the member's death, the  
560 difference between the accumulated contributions and the aggregate  
561 amount of annuity payments shall be paid to such person as the  
562 member has nominated by written designation duly executed and  
563 filed with the system. If there is no designated beneficiary  
564 surviving at termination of benefits, the difference shall be  
565 payable in the following statutory succession: spouse, children,  
566 parents, estate.

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

570 SECTION 12. (1) Upon application for superannuation or  
571 disability retirement, any member may elect to receive his benefit  
572 pursuant to the provisions of Sections 9 and 11 of this act or may  
573 elect to receive his benefit in a retirement allowance payable  
574 throughout life with no further payments to anyone at his death,  
575 except that if his total retirement payments under this act do not  
576 equal his total contributions under this act, his named  
577 beneficiary shall receive the difference in cash at his death. As  
578 an alternative, he may elect upon retirement, or upon becoming  
579 eligible for retirement, to receive the actuarial equivalent,  
580 subject to the provisions of subsection (4) of this section, of  
581 his retirement allowance in a reduced retirement allowance payable  
582 throughout life with the provision that:

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

588 **Option 2.** Upon his death, his reduced retirement allowance  
589 shall be continued throughout the life of, and paid to, such  
590 person as he has nominated by written designation duly

591 acknowledged and filed with the board at the time of his  
592 retirement; or

593       **Option 3.** Upon his death, one half (1/2) of his reduced  
594 retirement allowance shall be continued throughout the life of,  
595 and paid to, such person as he has nominated by written  
596 designation duly acknowledged and filed with the board at the time  
597 of his retirement, and the other one half (1/2) of his reduced  
598 retirement allowance to some other designated beneficiary; or

599       **Option 4-A.** Upon his death, one half (1/2) of his reduced  
600 retirement allowance, or such other specified amount, shall be  
601 continued throughout the life of, and paid to, such person as he  
602 has nominated by written designation duly acknowledged and filed  
603 with the board at the time of his retirement; or

604       **Option 4-B.** A reduced retirement allowance shall be  
605 continued throughout the life of the retirant, but with the  
606 further guarantee of payments to the named beneficiary,  
607 beneficiaries or to the estate for a specified number of years  
608 certain. If the retired member or the last designated beneficiary  
609 receiving annuity payments dies before receiving all guaranteed  
610 payments due, the actuarial equivalent of the remaining payments  
611 will be paid to the estate of the retired member as intestate  
612 property.

613       **Option 4-C.** The retirement allowance otherwise payable may  
614 be converted into a retirement allowance of equivalent actuarial  
615 value in such an amount that, with the member's benefit under  
616 Title II of the Federal Social Security Act, the member will  
617 receive, so far as possible, approximately the same amount  
618 annually before and after the earliest age at which the member  
619 becomes eligible to receive a social security benefit.

620       (2) Any member in service who has qualified for retirement  
621 benefits may select any optional method of settlement of  
622 retirement benefits by notifying the executive director of the  
623 system in writing, on a form prescribed by the board, of the

624 option he has selected and by naming the beneficiary of the option  
625 and furnishing necessary proof of age. The option, once selected,  
626 may be changed at any time before actual retirement or death, but  
627 upon the death or retirement of the member, the optional  
628 settlement shall be placed in effect upon proper notification to  
629 the executive director.

630 (3) No change in the option selected shall be permitted  
631 after the member's death or after the member has received his  
632 first retirement check, except as provided in subsections (4) and  
633 (5) of this section and in Section 17 of this act. If a member  
634 retired on disability is returned to active service, the option  
635 previously selected shall be null and void, and upon subsequent  
636 retirement a new option may be selected by the member.

637 (4) Any retired member who is receiving a reduced retirement  
638 allowance under Option 2 or Option 4-A whose designated  
639 beneficiary predeceases him, or whose marriage to a spouse who is  
640 his designated beneficiary is terminated by divorce or other  
641 dissolution, may elect to cancel his reduced retirement allowance  
642 and receive the maximum retirement allowance for life in an amount  
643 equal to the amount that would have been payable if the member had  
644 not elected Option 2 or Option 4-A. The election must be made in  
645 writing to the office of the executive director of the system on a  
646 form prescribed by the board. Any such election shall be  
647 effective the first of the month following the date the election  
648 is received by the system.

649 (5) Any retired member who is receiving the maximum  
650 retirement allowance for life, or a retirement allowance under  
651 Option 1, and who marries after his retirement may elect to cancel  
652 his maximum retirement allowance or Option 1 retirement allowance  
653 and receive a reduced retirement allowance under Option 2 or  
654 Option 4-A to provide continuing lifetime benefits to his spouse.  
655 The election must be made in writing to the office of the  
656 executive director of the system on a form prescribed by the board

657 not earlier than the date of the marriage. Any such election  
658 shall be effective the first of the month following the date the  
659 election is received by the system. The amount of the reduced  
660 retirement allowance shall be the actuarial equivalent, taking  
661 into account that the member received the maximum retirement  
662 allowance or Option 1 retirement allowance for a period of time  
663 before electing to receive a reduced retirement allowance.

664 (6) If the election of an optional benefit is made after the  
665 member has attained the age of sixty-five (65) years, the  
666 actuarial equivalent factor shall be used to compute the reduced  
667 retirement allowance as if the election had been made on his  
668 sixty-fifth birthday. However, if a retiree marries or remarries  
669 after retirement, and elects either Option 2 or Option 4-A as  
670 provided in subsection (5) of this section, the actuarial  
671 equivalent factor used to compute the reduced retirement allowance  
672 shall be the factor for the age of the retiree and his or her  
673 beneficiary at the time that the election for recalculation of  
674 benefits is made.

675 (7) If a retiree and his eligible beneficiary, if any, both  
676 die before they have received in annuity payments a total amount  
677 equal to the accumulated contributions standing to the retirant's  
678 credit in the annuity savings account at the time of his  
679 retirement, the difference between the accumulated contributions  
680 and the total amount of annuities received by them shall be paid  
681 to such persons as the retirant has nominated by written  
682 designation duly executed and filed in the office of the executive  
683 director. If no designated person survives the retirant and his  
684 beneficiary, the difference, if any, shall be paid to the estate  
685 of the survivor of the retirant and his beneficiary.

686 SECTION 13. (1) Except as otherwise provided in this  
687 subsection for municipalities, all persons who are covered under  
688 the terms of this act on July 1, 2000, and who become members of  
689 the retirement system established by this act shall cease to be

690 members of the Public Employees' Retirement System under the  
691 provisions of Section 25-11-101 et seq. upon July 1, 2000, and  
692 shall become members of this retirement system with full credit  
693 for all prior service performed before July 1, 2000, for which  
694 contributions were made to the Public Employees' Retirement  
695 System. All police officers and narcotics agents of  
696 municipalities that have elected to include those persons in the  
697 membership of the retirement system established by this act who  
698 become members of this retirement system shall cease to be members  
699 of the Public Employees' Retirement System under the provisions of  
700 Section 25-11-101 et seq. upon the date that they become members  
701 of this retirement system, and shall become members of this  
702 retirement system with full credit for all prior service performed  
703 before the date that they become members of this retirement system  
704 for which contributions were made to the Public Employees'  
705 Retirement System.

706 (2) In any case in which a law enforcement officer has been  
707 a member of the Public Employees' Retirement System under Section  
708 25-11-101 et seq. and has made contributions thereto, all  
709 employee's contributions, plus interest credited thereto, inuring  
710 to the credit of that person shall be transferred by the Public  
711 Employees' Retirement System to the credit of the person in the  
712 retirement system established by this act, and shall be considered  
713 an asset to the credit of that person in this retirement system.

714 SECTION 14. If a member of the retirement system ceases to  
715 work as a law enforcement officer for any reason other than  
716 occupational disease contracted or for any accident sustained by  
717 the member by reason of his service or discharge of his duties as  
718 a law enforcement officer, and if the member is not eligible for  
719 retirement either for service or disability, he shall be refunded  
720 the amount of his total contributions under the provisions of this  
721 act, including any credit transferred to his account in this  
722 system from any other system, at his request, and if he dies

723 before retirement, those funds shall be refunded to any  
724 beneficiary that he has named.

725 Under the Unemployment Compensation Amendments of 1992  
726 (Public Law 102-218(UCA)), a member or eligible beneficiary  
727 eligible for a refund under this section may elect on a form  
728 prescribed by the board under rules and regulations established by  
729 the board, to have an eligible roll over distribution of  
730 accumulated contributions payable under this section paid directly  
731 to an eligible retirement plan or individual retirement account.  
732 If the member or eligible beneficiary makes that election and  
733 specifies the eligible retirement plan or individual retirement  
734 account to which the distribution is to be paid, the distribution  
735 will be made in the form of a direct trustee to trustee transfer  
736 to the specified eligible retirement plan. Flexible roll overs  
737 under this paragraph shall not be considered assignments under  
738 Section 18 of this act.

739 If any member who receives a refund reenters service as a law  
740 enforcement officer and again becomes a member of the system, he  
741 may repay all amounts previously received by him as a refund,  
742 together with regular interest covering the period from the date  
743 of refund to the date of repayment; however, the amounts that are  
744 repaid by the member and the creditable service related thereto  
745 shall not be used in any benefit calculation or determination  
746 until the member has remained a contributor to the system for a  
747 period of at least five (5) years after such member's reentry into  
748 service as a law enforcement officer. Repayment for that time  
749 shall be made in increments of not less than one-quarter (1/4)  
750 year of creditable service beginning with the most recent service  
751 for which refund has been made. Upon the repayment of all or part  
752 of that refund and interest, the member shall again receive credit  
753 for the period of creditable service for which full repayment has  
754 been made to the system.

755 SECTION 15. Subject to the rules adopted by the board, the

756 system shall accept an eligible roll over distribution or a direct  
757 transfer of funds from another qualified plan in payment of all or  
758 a portion of the cost to purchase optional service credit or to  
759 reinstate previously withdrawn service credit as permitted by the  
760 system. The system may only accept roll over payments in an  
761 amount equal to or less than the balance due for purchase or  
762 reinstatement of service credit. The rules adopted by the board  
763 shall condition the acceptance of a roll over or transfer from  
764 another qualified plan on the receipt from the other plan of  
765 information necessary to enable the system to determine the  
766 eligibility of any transferred funds for tax-free roll over  
767 treatment or other treatment under federal income tax law.

768       SECTION 16. Regular interest shall be credited annually to  
769 the mean amount of the employee reserve account for the preceding  
770 year. This credit shall be made annually from interest and other  
771 earnings on the invested assets of the system. Any additional  
772 amount required to meet the regular interest on the funds of the  
773 system shall be charged to the employer's accumulation account,  
774 and any excess of earnings over the regular interest required  
775 shall be credited to the employer's accumulation account. Regular  
776 interest shall mean such percentage rate of interest compounded  
777 annually as determined by the board on the basis of the interest  
778 earnings of the system for the preceding year. Once that interest  
779 is credited it shall be added to the sum of all amounts deducted  
780 from the compensation of a member and shall be included in  
781 determining his total contributions.

782       SECTION 17. Any member who has been retired under the  
783 provisions of this act and who is later reemployed in service  
784 covered by this act shall cease to receive benefits under this act  
785 and shall become a contributing member of the retirement system  
786 again. Upon retiring again, if the member's reemployment exceeds  
787 six (6) months, he shall have his benefit recomputed, including  
788 service after becoming a member again. However, the total



789 retirement allowance paid to the retired member in his previous  
790 retirement shall be deducted from his retirement reserve and taken  
791 into consideration in recalculating the retirement allowance under  
792 a new option selected.

793       SECTION 18. The right of a person to an annuity, a  
794 retirement allowance or benefit, or to the return of  
795 contributions, or to any optional benefits or any other right  
796 accrued or accruing to any person under the provisions of this  
797 act, the system and the moneys in the system created by this act,  
798 are exempt from any state, county or municipal ad valorem taxes,  
799 income taxes, premium taxes, privilege taxes, property taxes,  
800 sales and use taxes or other taxes not so named, notwithstanding  
801 any other provision of law to the contrary, and exempt from levy  
802 and sale, garnishment, attachment, or any other process  
803 whatsoever, and shall be unassignable except as specifically  
804 provided otherwise in this act.

805       SECTION 19. (1) The maintenance of actuarial reserves for  
806 the various allowances and benefits under this act, and the  
807 payment of all annuities, retirement allowances, refunds and other  
808 benefits granted under this act are made obligation of the system.  
809 All income, interest and dividends derived from deposits and  
810 investments authorized by this act shall be used for the payment  
811 of the obligations of the system.

812       (2) If the system is terminated, all members of the system  
813 as of the date of termination of the system shall be deemed to  
814 have a vested right to benefits to the extent and in the same  
815 manner that rights would be vested under the laws existing as of  
816 the date of termination of the system. However, any member who  
817 has not fulfilled the requirements for length of service because  
818 of a termination of the system shall be entitled to compensation  
819 as of the date that the member would otherwise be eligible. That  
820 compensation shall be computed on the basis of the time he was  
821 actually a member of the system and the compensation he actually

822 earned during the time he was a member, in the manner provided by  
823 this act.

824         If there is a deficit in the availability of funds for  
825 payment due under the provisions of the system, an appropriation  
826 shall be made that is sufficient for the payment thereof, as an  
827 obligation of the State of Mississippi.

828         (3) Notwithstanding any provisions of this section or this  
829 act to the contrary, the maximum annual retirement allowance  
830 attributable to the employer contributions payable by the system  
831 to a member shall be subject to the limitations set forth in  
832 Section 415 of the Internal Revenue Code and any regulations  
833 issued thereunder as applicable to governmental plans as that term  
834 is defined under Section 414(d) of the Internal Revenue Code. If  
835 a member is a participant in any qualified defined contribution  
836 plan required to be taken into account for purposes of applying  
837 the combined plan limitations contained in Section 415(e) of the  
838 Internal Revenue Code, then for any year the sum of the defined  
839 benefit plan fraction and the defined contribution plan fraction,  
840 as those terms are defined in Section 415(e), shall not exceed one  
841 (1.0). If for any year the foregoing combined plan limitation  
842 would be exceeded, the benefit provided under this plan shall be  
843 reduced to the extent necessary to meet that limitation.

844         (4) Notwithstanding any other provision of this plan, all  
845 distributions from this plan shall conform to the regulations  
846 issued under Section 401(a)(9) of the Internal Revenue Code,  
847 applicable to governmental plans, as defined in Section 414(d) of  
848 the Internal Revenue Code, including the incidental death benefit  
849 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.  
850 Further, those regulations shall override any plan provision that  
851 is inconsistent with Section 401(a)(9) of the Internal Revenue  
852 Code.

853         (5) The actuarial assumptions used to convert a retirement  
854 allowance from the normal form of payment to an optional form of

855 payment shall be an appendix to this act and subject to approval  
856 by the board based upon certification by the actuary.

857 (6) Notwithstanding any other provision of this plan, the  
858 maximum compensation that can be considered for all plan purposes  
859 is One Hundred Fifty Thousand Dollars (\$150,000.00) per year,  
860 adjusted annually to reflect changes in the cost of living to  
861 conform to the regulations issued under Section 401(a)(17) of the  
862 Internal Revenue Code.

863 SECTION 20. This act shall take effect and be in force from  
864 and after July 1, 2000.