

By: Reeves

To: Fees and Salaries of  
Public Officers;  
Appropriations

## HOUSE BILL NO. 1458

1 AN ACT TO INCREASE THE COMPENSATION OF STATE SERVICE  
2 EMPLOYEES IN THE AMOUNT OF \$1,500.00 PER YEAR; TO DIRECT THE STATE  
3 PERSONNEL BOARD TO ENSURE THAT CERTAIN STATE EMPLOYEES RECEIVE THE  
4 FULL AMOUNT OF THE SALARY INCREASE; TO DIRECT THE APPROPRIATION OF  
5 FUNDS NECESSARY TO PROVIDE THE SALARY INCREASES; TO BRING FORWARD  
6 SECTIONS 41-86-5, 41-86-7, 41-86-15 AND 41-86-17, MISSISSIPPI CODE  
7 OF 1972, WHICH ESTABLISH THE STATE CHILDREN'S HEALTH INSURANCE  
8 PROGRAM AND PRESCRIBE ELIGIBILITY REQUIREMENTS AND COVERED  
9 BENEFITS; TO BRING FORWARD SECTIONS 25-11-103 AND 25-11-109  
10 THROUGH 25-11-114, MISSISSIPPI CODE OF 1972, WHICH DEFINE CERTAIN  
11 TERMS USED IN RELATION TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
12 AND PRESCRIBE THE BENEFITS ALLOWED FOR MEMBERS OF THE SYSTEM; AND  
13 FOR RELATED PURPOSES.

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

15 SECTION 1. (1) The State Personnel Board shall adjust the  
16 Colonel Guy Groff State Variable Compensation Plan in a manner  
17 that will effectuate an increase in the compensation of each state  
18 service employee by an amount equal to One Thousand Five Hundred  
19 Dollars (\$1,500.00) per year beginning with fiscal year 2000-2001.

20 (2) If the increase in compensation provided for in this  
21 section would cause any employee's compensation to be in excess of  
22 the compensation of the executive head of the state agency or  
23 department in which he is employed, then that employee's  
24 compensation shall be increased only to the extent that the  
25 employee's salary will be equal in amount to the compensation of  
26 the executive head.

27 If any state employee is unable to receive the full amount of  
28 the salary increase provided for in subsection (1) of this section  
29 because to award the entire allowable increase would cause that  
30 employee's base salary to exceed the end step of his or her  
31 particular job classification, the State Personnel Board shall

32 amend the variable compensation plan by increasing the end step of  
33 that particular job classification. The increase shall be in an  
34 amount necessary to enable all employees in that particular job  
35 classification to be eligible to receive the full salary increase  
36 to which they are entitled pursuant to this section.

37 (4) The Legislature shall appropriate the funds necessary to  
38 provide for the increases in compensation provided for in this  
39 section.

40 SECTION 2. Section 41-86-5, Mississippi Code of 1972, is  
41 brought forward as follows:

42 41-86-5. As used in Sections 41-86-5 through 41-86-17, the  
43 following definitions shall have the meanings ascribed in this  
44 section, unless the context indicates otherwise:

45 (a) "Act" means the Mississippi Children's Health Care  
46 Act.

47 (b) "Administering agency" means the agency designated  
48 by the Mississippi Children's Health Insurance Program Commission  
49 to administer the program.

50 (c) "Board" means the State and Public School Employees  
51 Health Insurance Management Board created under Section 25-15-303.

52 (d) "Child" means an individual who is under nineteen  
53 (19) years of age who is not eligible for Medicaid benefits and is  
54 not covered by other health insurance.

55 (e) "Commission" means the Mississippi Children's  
56 Health Insurance Program Commission created by Section 41-86-7.

57 (f) "Covered benefits" means the types of health care  
58 benefits and services provided to eligible recipients  
59 under the Children's Health Care Program.

60 (g) "Division" means the Division of Medicaid in the  
61 Office of the Governor.

62 (h) "Low-income child" means a child whose family  
63 income does not exceed two hundred percent (200%) of the poverty  
64 level for a family of the size involved.

65 (i) "Plan" means the State Child Health Plan.

66 (j) "Program" means the Children's Health Care Program  
67 established by Sections 41-86-5 through 41-86-17.

68 (k) "Recipient" means a person who is eligible for

69 assistance under the program.

70 (1) "State Child Health Plan" means the permanent plan  
71 that sets forth the manner and means by which the State of  
72 Mississippi will provide health care assistance to eligible  
73 uninsured, low-income children consistent with the provisions of  
74 Title XXI of the federal Social Security Act, as amended.

75 SECTION 3. Section 41-86-7, Mississippi Code of 1972, is  
76 brought forward as follows:[HS1]

77 41-86-7. There is established a Children's Health Care  
78 Program in Mississippi, which shall become effective upon the full  
79 implementation of the permanent State Child Health Plan authorized  
80 under Section 41-86-9. The program shall be financed by state  
81 appropriations and federal matching funds received by the state  
82 under the State Children's Health Insurance Program established by  
83 Title XXI of the federal Social Security Act, as amended.

84 SECTION 4. Section 41-86-15, Mississippi Code of 1972, is  
85 brought forward as follows:[HS2]

86 41-86-15. (1) Persons eligible to receive covered benefits  
87 under Sections 41-86-5 through 41-86-17 shall be low-income  
88 children who meet the eligibility standards set forth in the plan.

89 Any person who is eligible for benefits under the Mississippi  
90 Medicaid Law, Section 43-13-101 et seq., shall not be eligible to  
91 receive benefits under Sections 41-86-5 through 41-86-17.

92 (2) The eligibility of children for covered benefits under  
93 the program shall be determined annually by the same agency or  
94 entity that determines eligibility under Section 43-13-115(9) and  
95 shall cover twelve (12) continuous months under the program.

96 SECTION 5. Section 41-86-17, Mississippi Code of 1972, is  
97 brought forward as follows:[HS3]

98 41-86-17 (1) Persons eligible to receive covered benefits  
99 under Sections 41-86-5 through 41-86-17 shall be low-income  
100 children who meet the eligibility standards set forth in the plan.

101 Any person who is eligible for benefits under the Mississippi

102 Medicaid Law, Section 43-13-101 et seq., shall not be eligible to  
103 receive benefits under Sections 41-86-5 through 41-86-17.

104 (2) The eligibility of children for covered benefits under  
105 the program shall be determined annually by the same agency or  
106 entity that determines eligibility under Section 43-13-115(9) and  
107 shall cover twelve (12) continuous months under the program.

108 SECTION 6. Section 25-11-103, Mississippi Code of 1972, is  
109 brought forward as follows:[HS4]

110 25-11-103. The following words and phrases as used in  
111 Articles 1 and 3, unless a different meaning is plainly required  
112 by the context, shall have the following meanings:

113 (a) "Accumulated contributions" shall mean the sum of  
114 all the amounts deducted from the compensation of a member and  
115 credited to his individual account in the annuity savings account,  
116 together with regular interest thereon as provided in Section  
117 25-11-123.

118 (b) "Actuarial cost" shall mean the amount of funds  
119 presently required to provide future benefits as determined by the  
120 board based on applicable tables and formulas provided by the  
121 actuary.

122 (c) "Actuarial equivalent" shall mean a benefit of  
123 equal value to the accumulated contributions, annuity or benefit,  
124 as the case may be, when computed upon the basis of such mortality  
125 tables as shall be adopted by the board of trustees, and regular  
126 interest.

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

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

132 (f) "Average compensation" shall mean the average of  
133 the four (4) highest years of earned compensation reported for an  
134 employee in a fiscal or calendar year period, or combination

135 thereof which do not overlap, or the last forty-eight (48)  
136 consecutive months of earned compensation reported for an  
137 employee. The four (4) years need not be successive or joined  
138 years of service. In no case shall the average compensation so  
139 determined be in excess of One Hundred Twenty-five Thousand  
140 Dollars (\$125,000.00). In computing the average compensation, any  
141 amount paid in a lump sum for personal leave shall be included in  
142 the calculation to the extent that such amount does not exceed an  
143 amount which is equal to thirty (30) days of earned compensation  
144 and to the extent that it does not cause the employees' earned  
145 compensation to exceed the maximum reportable amount specified in  
146 Section 25-11-103(k); provided, however, that such thirty-day  
147 limitation shall not prevent the inclusion in the calculation of  
148 leave earned under federal regulations prior to July 1, 1976, and  
149 frozen as of that date as referred to in Section 25-3-99. Only  
150 the amount of lump sum pay for personal leave due and paid upon  
151 the death of a member attributable for up to one hundred fifty  
152 (150) days shall be used in the deceased member's average  
153 compensation calculation in determining the beneficiary's  
154 benefits. In computing the average compensation, no amounts shall  
155 be used which are in excess of the amount on which contributions  
156 were required and paid. If any member who is or has been granted  
157 any increase in annual salary or compensation of more than eight  
158 percent (8%) retires within twenty-four (24) months from the date  
159 that such increase becomes effective, then the board shall exclude  
160 that part of the increase in salary or compensation that exceeds  
161 eight percent (8%) in calculating that member's average  
162 compensation for retirement purposes. The board may enforce this  
163 provision by rule or regulation. However, increases in  
164 compensation in excess of eight percent (8%) per year granted  
165 within twenty-four (24) months of the date of retirement may be  
166 included in such calculation of average compensation if  
167 satisfactory proof is presented to the board showing that the

168 increase in compensation was the result of an actual change in the  
169 position held or services rendered, or that such compensation  
170 increase was authorized by the State Personnel Board or was  
171 increased as a result of statutory enactment, and the employer  
172 furnishes an affidavit stating that such increase granted within  
173 the last twenty-four (24) months was not contingent on a promise  
174 or agreement of the employee to retire. Nothing in Section  
175 25-3-31 shall affect the calculation of the average compensation  
176 of any member for the purposes of this article. The average  
177 compensation of any member who retires before July 1, 1992, shall  
178 not exceed the annual salary of the Governor.

179 (g) "Beneficiary" shall mean any person entitled to  
180 receive a retirement allowance, an annuity or other benefit as  
181 provided by Articles 1 and 3. In the event of the death prior to  
182 retirement of any member whose spouse and/or children are not  
183 entitled to a retirement allowance, the lawful spouse of a member  
184 at the time of the death of such member shall be the beneficiary  
185 of such member unless the member has designated another  
186 beneficiary subsequent to the date of marriage in writing, and  
187 filed such writing in the office of the executive director of the  
188 board of trustees. No designation or change of beneficiary shall  
189 be made in any other manner.

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

193 (i) "Creditable service" shall mean "prior service,"  
194 "retroactive service" and all lawfully credited unused leave not  
195 exceeding the accrual rates and limitations provided in Section  
196 25-3-91 et seq., as of the date of withdrawal from service plus  
197 "membership service" for which credit is allowable as provided in  
198 Section 25-11-109. Except to limit creditable service reported to  
199 the system for the purpose of computing an employee's retirement  
200 allowance or annuity or benefits provided in this article, nothing

201 in this paragraph shall limit or otherwise restrict the power of  
202 the governing authority of a municipality or other political  
203 subdivision of the state to adopt such vacation and sick leave  
204 policies as it deems necessary.

205 (j) "Child" means either a natural child of the member,  
206 a child that has been made a child of the member by applicable  
207 court action before the death of the member, or a child under the  
208 permanent care of the member at the time of the latter's death,  
209 which permanent care status shall be determined by evidence  
210 satisfactory to the board.

211 (k) "Earned compensation" shall mean the full amount  
212 earned by an employee for a given pay period including any  
213 maintenance furnished up to a maximum of One Hundred Twenty-five  
214 Thousand Dollars (\$125,000.00) per year, and proportionately for  
215 less than one (1) year of service. The value of such maintenance  
216 when not paid in money shall be fixed by the employing state  
217 agency, and, in case of doubt, by the board of trustees as defined  
218 in Section 25-11-15. In any case, earned compensation shall be  
219 limited to the regular periodic compensation paid, exclusive of  
220 litigation fees, bond fees, and other similar extraordinary  
221 nonrecurring payments. In addition, any member in a covered  
222 position, as defined by Public Employees' Retirement System laws  
223 and regulations, who is also employed by another covered agency or  
224 political subdivision shall have the earnings of that additional  
225 employment reported to the Public Employees' Retirement System  
226 regardless of whether the additional employment is sufficient in  
227 itself to be a covered position. In the case of fee officials,  
228 the net earnings from their office after deduction of expenses  
229 shall apply, except that in no case shall earned compensation be  
230 less than the total direct payments made by the state or  
231 governmental subdivisions to the official, and employer and  
232 employee contributions shall be paid thereon. In the case of  
233 members of the state Legislature, all remuneration or amounts

234 paid, except mileage allowance, shall apply. The amount by which  
235 an eligible employee's salary is reduced pursuant to a salary  
236 reduction agreement authorized under Section 25-17-5 shall be  
237 included as earned compensation under this paragraph, provided  
238 this inclusion does not conflict with federal law, including  
239 federal regulations and federal administrative interpretations  
240 thereunder, pertaining to the Federal Insurance Contributions Act  
241 or to Internal Revenue Code Section 125 cafeteria plans.

242 Compensation in addition to an employee's base salary that is paid  
243 to the employee pursuant to the vacation and sick leave policies  
244 of a municipality or other political subdivision of the state that  
245 employs him which exceeds the maximums authorized by Section  
246 25-3-91 et seq., shall be excluded from the calculation of earned  
247 compensation under this article. The maximum salary applicable  
248 for retirement purposes before July 1, 1992, shall be the salary  
249 of the Governor. Nothing in Section 25-3-31 shall affect the  
250 determination of the earned compensation of any member for the  
251 purposes of this article.

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

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

258 (n) "Executive director" shall mean the secretary to  
259 the board of trustees, as provided in Section 25-11-15(9), and the  
260 administrator of the Public Employees' Retirement System and all  
261 systems under the management of the board of trustees. Wherever  
262 the term "Executive Secretary of the Public Employees' Retirement  
263 System" or "executive secretary" appears in this article or in any  
264 other provision of law, it shall be construed to mean the  
265 Executive Director of the Public Employees' Retirement System.

266 (o) "Fiscal year" shall mean the period beginning on



267 July 1 of any year and ending on June 30 of the next succeeding  
268 year.

269 (p) "Medical board" shall mean the board of physicians  
270 or any governmental or nongovernmental disability determination  
271 service designated by the board of trustees that is qualified to  
272 make disability determinations as provided for in Section  
273 25-11-119.

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

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

278 (s) "Position" means any office or any employment in  
279 the state service, or two (2) or more of them, the duties of which  
280 call for services to be rendered by one (1) person, including  
281 positions jointly employed by federal and state agencies  
282 administering federal and state funds. The employer shall  
283 determine upon initial employment and during the course of  
284 employment of an employee who does not meet the criteria for  
285 coverage in the Public Employees' Retirement System based on the  
286 position held, whether the employee is or becomes eligible for  
287 coverage in the Public Employees' Retirement System based upon any  
288 other employment in a covered agency or political subdivision. If  
289 or when the employee meets the eligibility criteria for coverage  
290 in such other position, then the employer must withhold  
291 contributions and report wages from the noncovered position in  
292 accordance with the provisions for reporting of earned  
293 compensation. Failure to deduct and report those contributions  
294 shall not relieve the employee or employer of liability thereof.  
295 The board shall adopt such rules and regulations as necessary to  
296 implement and enforce this provision.

297 (t) "Prior service" shall mean service rendered before  
298 February 1, 1953, for which credit is allowable under Sections  
299 25-11-105 and 25-11-109, and which shall allow prior service for

300 any person who is now or becomes a member of the Public Employees'  
301 Retirement System and who does contribute to the system for a  
302 minimum period of four (4) years.

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

306 (v) "Retirement allowance" shall mean an annuity for  
307 life as provided in this article, payable each year in twelve (12)  
308 equal monthly installments beginning as of the date fixed by the  
309 board. The retirement allowance shall be calculated in accordance  
310 with Section 25-11-111. Provided, any spouse who received a  
311 spouse retirement benefit in accordance with Section 25-11-111(d)  
312 prior to March 31, 1971, and said benefits were terminated because  
313 of eligibility for a Social Security benefit, may again receive  
314 his spouse retirement benefit from and after making application  
315 with the board of trustees to reinstate such spouse retirement  
316 benefit.

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

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

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

325 (z) "State service" shall mean all offices and  
326 positions of trust or employment in the employ of the state, or  
327 any political subdivision or instrumentality thereof, which elect  
328 to participate as provided by Section 25-11-105(f), including the  
329 position of elected or fee officials of the counties and their  
330 deputies and employees performing public services or any  
331 department, independent agency, board or commission thereof, and  
332 shall also include all offices and positions of trust or

333 employment in the employ of joint state and federal agencies  
334 administering state and federal funds and service rendered by  
335 employees of the public schools. Effective July 1, 1973, all  
336 nonprofessional public school employees, such as bus drivers,  
337 janitors, maids, maintenance workers and cafeteria employees,  
338 shall have the option to become members in accordance with Section  
339 25-11-105(b), and shall be eligible to receive credit for services  
340 prior to July 1, 1973, provided the contributions and interest are  
341 paid by the employee in accordance with said section; provided,  
342 further, that the county or municipal separate school district may  
343 pay the employer contribution and pro rata share of interest of  
344 the retroactive service from available funds. From and after July  
345 1, 1998, retroactive service credit shall be purchased at the  
346 actuarial cost in accordance with Section 25-11-105(b).

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

350 (bb) The masculine pronoun, wherever used, shall  
351 include the feminine pronoun.

352 SECTION 7. Section 25-11-109, Mississippi Code of 1972, is  
353 brought forward as follows:[HS5]

354 25-11-109. (1) Under such rules and regulations as the  
355 board of trustees shall adopt, each person who becomes a member of  
356 this retirement system, as provided in Section 25-11-105, on or  
357 prior to July 1, 1953, or who becomes a member and contributes to  
358 the system for a minimum period of four (4) years, shall receive  
359 credit for all state service rendered before February 1, 1953. To  
360 receive such credit, such member shall file a detailed statement  
361 of all services as an employee rendered by him in the state  
362 service before February 1, 1953. For any member who joined the  
363 system after July 1, 1953, any creditable service for which the  
364 member is not required to make contributions shall not be credited  
365 to the member until the member has contributed to the system for a

366 minimum period of at least four (4) years.

367 (2) In the computation of membership service or prior  
368 service under the provisions of this article, the total months of  
369 accumulative service during any fiscal year shall be calculated in  
370 accordance with the schedule as follows: ten (10) or more months  
371 of creditable service during any fiscal year shall constitute a  
372 year of creditable service; seven (7) months to nine (9) months  
373 inclusive, three-quarters (3/4) of a year of creditable service;  
374 four (4) months to six (6) months inclusive, one-half-year of  
375 creditable service; one (1) month to three (3) months inclusive,  
376 one-quarter (1/4) of a year of creditable service. In no case  
377 shall credit be allowed for any period of absence without  
378 compensation except for disability while in receipt of a  
379 disability retirement allowance, nor shall less than fifteen (15)  
380 days of service in any month, or service less than the equivalent  
381 of one-half (1/2) of the normal working load for the position and  
382 less than one-half (1/2) of the normal compensation for the  
383 position in any month, constitute a month of creditable service,  
384 nor shall more than one (1) year of service be creditable for all  
385 services rendered in any one (1) fiscal year; provided that for a  
386 school employee, substantial completion of the legal school term  
387 when and where the service was rendered shall constitute a year of  
388 service credit for both prior service and membership service. Any  
389 state or local elected official shall be deemed a full-time  
390 employee for the purpose of creditable service for prior service  
391 or membership service. However, an appointed or elected official  
392 compensated on a per diem basis only shall not be allowed  
393 creditable service for terms of office.

394 In the computation of any retirement allowance or any annuity  
395 or benefits provided in this article, any fractional period of  
396 service of less than one (1) year shall be taken into account and  
397 a proportionate amount of such retirement allowance, annuity or  
398 benefit shall be granted for any such fractional period of

399 service.

400 In the computation of unused leave for creditable service  
401 authorized in Section 25-11-103, the following shall govern:  
402 twenty-one (21) days of unused leave shall constitute one (1)  
403 month of creditable service and in no case shall credit be allowed  
404 for any period of unused leave of less than fifteen (15) days.  
405 The number of months of unused leave shall determine the number of  
406 quarters or years of creditable service in accordance with the  
407 above schedule for membership and prior service. In order for the  
408 member to receive creditable service for the number of days of  
409 unused leave, the system must receive certification from the  
410 governing authority.

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

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

418 (b) For service on and after July 1, 1984, the member  
419 shall receive credit for personal and major medical leave  
420 beginning July 1, 1984, at the rates authorized in Sections  
421 25-3-93 and 25-3-95, computed as a full-time employee.

422 (3) Subject to the above restrictions and to such other  
423 rules and regulations as the board may adopt, the board shall  
424 verify, as soon as practicable after the filing of such statements  
425 of service, the services therein claimed.

426 (4) Upon verification of the statement of prior service, the  
427 board shall issue a prior service certificate certifying to each  
428 member the length of prior service for which credit shall have  
429 been allowed on the basis of his statement of service. So long as  
430 membership continues, a prior service certificate shall be final  
431 and conclusive for retirement purposes as to such service,

432 provided that any member may within five (5) years from the date  
433 of issuance or modification of such certificate request the board  
434 of trustees to modify or correct his prior service certificate.  
435 Any modification or correction authorized shall only apply  
436 prospectively.

437         When membership ceases, such prior service certificates shall  
438 become void. Should the employee again become a member, he shall  
439 enter the system as an employee not entitled to prior service  
440 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
441 25-11-117.

442         (5) Creditable service at retirement, on which the  
443 retirement allowance of a member shall be based, shall consist of  
444 the membership service rendered by him since he last became a  
445 member, and also, if he has a prior service certificate which is  
446 in full force and effect, the amount of the service certified on  
447 his prior service certificate.

448         (6) Anything in this article to the contrary  
449 notwithstanding, any member who served on active duty in the Armed  
450 Forces of the United States, or who served in maritime service  
451 during periods of hostility in World War II, shall be entitled to  
452 creditable service for his service on active duty in the armed  
453 forces or in such maritime service, provided he entered state  
454 service after his discharge from the armed forces or entered state  
455 service after he completed such maritime service. The maximum  
456 period for such creditable service for all military service shall  
457 not exceed four (4) years unless positive proof can be furnished  
458 by such person that he was retained in the armed forces during  
459 World War II or in maritime service during World War II by causes  
460 beyond his control and without opportunity of discharge. The  
461 member shall furnish proof satisfactory to the board of trustees  
462 of certification of military service or maritime service records  
463 showing dates of entrance into active duty service and the date of  
464 discharge. From and after July 1, 1993, no creditable service

465 shall be granted for any military service or maritime service to a  
466 member who qualifies for a retirement allowance in another public  
467 retirement system administered by the Board of Trustees of the  
468 Public Employees' Retirement System based in whole or in part on  
469 such military or maritime service. In no case shall the member  
470 receive creditable service if the member received a dishonorable  
471 discharge from the Armed Forces of the United States.

472 (7) Any member of the Public Employees' Retirement System  
473 who has at least four (4) years of membership service credit shall  
474 be entitled to receive a maximum of five (5) years creditable  
475 service for service rendered in another state as a public employee  
476 of such other state, or a political subdivision, public education  
477 system or other governmental instrumentality thereof, or service  
478 rendered as a teacher in American overseas dependent schools  
479 conducted by the Armed Forces of the United States for children of  
480 citizens of the United States residing in areas outside the  
481 continental United States, provided that:

482 (a) The member shall furnish proof satisfactory to the  
483 board of trustees of certification of such services from the  
484 state, public education system, political subdivision or  
485 retirement system of the state where the services were performed  
486 or the governing entity of the American overseas dependent school  
487 where the services were performed; and

488 (b) The member is not receiving or will not be entitled  
489 to receive from the public retirement system of the other state or  
490 from any other retirement plan, including optional retirement  
491 plans, sponsored by the employer, a retirement allowance including  
492 such services; and

493 (c) The member shall pay to the retirement system on  
494 the date he or she is eligible for credit for such out-of-state  
495 service or at any time thereafter prior to date of retirement the  
496 actuarial cost as determined by the actuary for each year of  
497 out-of-state creditable service. The provisions of this

498 subsection are subject to the limitations of Section 415 of the  
499 Internal Revenue Code and regulations promulgated thereunder.

500 (8) Any member of the Public Employees' Retirement System  
501 who has at least four (4) years of membership service credit and  
502 who receives, or has received, professional leave without  
503 compensation for professional purposes directly related to the  
504 employment in state service shall receive creditable service for  
505 the period of professional leave without compensation provided:

506 (a) The professional leave is performed with a public  
507 institution or public agency of this state, or another state or  
508 federal agency;

509 (b) The employer approves the professional leave  
510 showing the reason for granting the leave and makes a  
511 determination that the professional leave will benefit the  
512 employee and employer;

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

515 (d) The employee shall serve the employer on a  
516 full-time basis for a period of time equivalent to the  
517 professional leave period granted immediately following the  
518 termination of the leave period;

519 (e) The contributing member shall pay to the retirement  
520 system the actuarial cost as determined by the actuary for each  
521 year of professional leave. The provisions of this subsection are  
522 subject to the regulations of the Internal Revenue Code  
523 limitations;

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

527 Any actively contributing member participating in the School  
528 Administrator Sabbatical Program established in Section 37-9-77  
529 shall qualify for continued participation under this subsection  
530 (8).



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

535 (a) Any service rendered as an employee of any  
536 political subdivision of this state, or any instrumentality  
537 thereof, which does not participate in the Public Employees'  
538 Retirement System; or

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

543 (c) Any service rendered as an employee of any  
544 political subdivision of this state, or any instrumentality  
545 thereof, for which coverage of the employee's position was or is  
546 excluded; provided that the member pays into the retirement system  
547 the actuarial cost as determined by the actuary for each year, or  
548 portion thereof, of such service. Payment for such service may be  
549 made in increments of one-quarter-year of creditable service.  
550 After a member has made full payment to the retirement system for  
551 all or any part of such service, the member shall receive  
552 creditable service for the period of such service for which full  
553 payment has been made to the retirement system.

554 SECTION 8. Section 25-11-111, Mississippi Code of 1972, is  
555 brought forward as follows:[HS6]

556 25-11-111. (a) Any member upon withdrawal from service upon  
557 or after attainment of the age of sixty (60) years who shall have  
558 completed at least four (4) years of creditable service, or any  
559 member upon withdrawal from service regardless of age who shall  
560 have completed at least twenty-five (25) years of creditable  
561 service, shall be entitled to receive a retirement allowance which  
562 shall begin on the first of the month following the date the  
563 member's application for the allowance is received by the board,

564 but in no event before withdrawal from service.

565 (b) Any member whose withdrawal from service occurs prior to  
566 attaining the age of sixty (60) years who shall have completed  
567 four (4) or more years of creditable service and shall not have  
568 received a refund of his accumulated contributions shall be  
569 entitled to receive a retirement allowance, beginning upon his  
570 attaining the age of sixty (60) years, of the amount earned and  
571 accrued at the date of withdrawal from service.

572 (c) Any member in service who has qualified for retirement  
573 benefits may select any optional method of settlement of  
574 retirement benefits by notifying the Executive Director of the  
575 Board of Trustees of the Public Employees' Retirement System in  
576 writing, on a form prescribed by the board, of the option he has  
577 selected and by naming the beneficiary of such option and  
578 furnishing necessary proof of age. Such option, once selected,  
579 may be changed at any time prior to actual retirement or death,  
580 but upon the death or retirement of the member, the optional  
581 settlement shall be placed in effect upon proper notification to  
582 the executive director.

583 (d) The annual amount of the retirement allowance shall  
584 consist of:

585 (1) A member's annuity which shall be the actuarial  
586 equivalent of the accumulated contributions of the member at the  
587 time of retirement computed according to the actuarial table in  
588 use by the system; and

589 (2) An employer's annuity which, together with the  
590 member's annuity provided above, shall be equal to one and  
591 seven-eighths percent (1-7/8%) of the average compensation for  
592 each year of state service up to and including twenty-five (25)  
593 years of membership service, and two and one-fourth percent  
594 (2-1/4%) of the average compensation for each year of state  
595 service exceeding twenty-five (25) years of membership service.  
596 However, after the board of trustees has begun implementing the

597 changes in the computation of the retirement allowance as provided  
598 in subsection (e), the employer's annuity shall be equal to:

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

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

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

613           (3) A prior service annuity equal to one and  
614 seven-eighths percent (1-7/8%) of the average compensation for  
615 each year of state service up to and including twenty-five (25)  
616 years of prior service, and two and one-four percent (2-1/4%) of  
617 the average compensation for each year of state service exceeding  
618 twenty-five (25) years of prior service for which the member is  
619 allowed credit. However, after the board of trustees has begun  
620 implementing the changes in the computation of the retirement  
621 allowance as provided in subsection (e), the prior service annuity  
622 shall be equal to:

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

628           (ii) Two percent (2%) of the average compensation  
629 for each year of prior service exceeding the number of years

630 specified in Column A of the table in subsection (e) for the  
631 latest phase that has been implemented up to and including  
632 twenty-five (25) years, and

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

637 (4) Any retired member or beneficiary thereof who was  
638 eligible to receive a retirement allowance before July 1, 1991,  
639 and who is still receiving a retirement allowance on July 1, 1992,  
640 shall receive an increase in the annual retirement allowance of  
641 the retired member equal to one-eighth of one percent (1/8 of 1%)  
642 of the average compensation for each year of state service in  
643 excess of twenty-five (25) years of membership service up to and  
644 including thirty (30) years. The maximum increase shall be  
645 five-eighths of one percent (5/8 of 1%). In no case shall a  
646 member who has been retired prior to July 1, 1987, receive less  
647 than Ten Dollars (\$10.00) per month for each year of creditable  
648 service and proportionately for each quarter year thereof.

649 Persons retired on or after July 1, 1987, shall receive at least  
650 Ten Dollars (\$10.00) per month for each year of service and  
651 proportionately for each quarter year thereof reduced for the  
652 option selected. However, such Ten Dollars (\$10.00) minimum per  
653 month for each year of creditable service shall not apply to a  
654 retirement allowance computed under Section 25-11-114 based on a  
655 percentage of the member's average compensation.

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

663           (6) Any member upon withdrawal from service upon or  
664 after attaining the age of sixty (60) years who has completed at  
665 least four (4) years of creditable service, or any member upon  
666 withdrawal from service regardless of age who has completed at  
667 least twenty-five (25) years of creditable service, shall be  
668 entitled to receive a retirement allowance computed in accordance  
669 with the formula set forth in this section. Such retirement  
670 allowance otherwise payable may be converted into a retirement  
671 allowance of equivalent actuarial value in such an amount that,  
672 with the member's benefit under Title II of the federal Social  
673 Security Act, the member will receive, so far as possible,  
674 approximately the same amount annually before and after the  
675 earliest age at which the member becomes eligible to receive a  
676 social security benefit.

677           (e) Beginning on July 1, 2000, the board of trustees shall  
678 implement changes in the computation of the amount of the annual  
679 retirement allowance, which changes shall be implemented in phases  
680 as set forth in the table in this subsection. The board of  
681 trustees shall implement the phases systematically upon July 1  
682 after the board's actuary certifies that implementation of a phase  
683 will not cause the unfunded accrued actuarial liability  
684 amortization period for the retirement system to exceed twenty-two  
685 (22) years. The board of trustees shall have the exclusive  
686 authority to set the assumptions that are used in the actuarial  
687 evaluation in accordance with Section 25-11-119(9). The board of  
688 trustees shall recalculate the retirement allowance of any retired  
689 member or beneficiary of such a member as each phase is  
690 implemented.

691                           RETIREMENT ALLOWANCE COMPUTATION

692   IMPLEMENTATION TABLE

693	(A)	(B)	
694	PHASE	2% FOR YEARS	PERCENTAGE
695		ABOVE THIS	FOR YEARS

	NUMBER AND	ABOVE 25
	≤25 YEARS	YEARS
699	Phase 1	20 years 2.250%
700	Phase 2	15 years 2.250%
701	Phase 3	10 years 2.250%
702	Phase 4	5 years 2.250%
703	Phase 5	0 years 2.250%
704	Phase 6	0 years 2.375%
705	Phase 7	0 years 2.500%

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

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

714 (f) No member, except members excluded by the Age  
715 Discrimination in Employment Act Amendments of 1986 (Public Law  
716 99-592), under either Article 1 or Article 3 in state service  
717 shall be required to retire because of age.

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

721 (h) (1) A retiree or beneficiary may, on a form prescribed  
722 by and filed with the retirement system, waive all or a portion of  
723 any benefits from the retirement system to which the retiree or  
724 beneficiary is entitled. A retiree or beneficiary may revoke a  
725 waiver of benefits in the same manner as the original waiver was  
726 made. Such waiver shall be binding on the heirs and assigns of  
727 any retiree or beneficiary and the same must agree to forever hold  
728 harmless the Public Employees' Retirement System of Mississippi

729 from any claim to such waived retirement benefits.

730           (2) Any waiver pursuant to this subsection shall apply  
731 only to the person executing the waiver and any beneficiary shall  
732 be entitled to benefits according to the option selected by the  
733 member at the time of retirement. However, a beneficiary may, at  
734 the option of the beneficiary, execute a waiver of benefits  
735 pursuant to this subsection.

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

739           (4) The board of trustees may provide rules and  
740 regulations for the administration of waivers under this  
741 subsection.

742           SECTION 9. Section 25-11-112, Mississippi Code of 1972, is  
743 brought forward as follows:[HS7]

744           25-11-112. (1) Any member who is receiving a retirement  
745 allowance for service or disability retirement, or any beneficiary  
746 thereof, who has received a monthly benefit for at least one (1)  
747 full fiscal year, shall be eligible to receive an additional  
748 benefit, on December 1 or July 1 of the year as provided in  
749 subsection (3) of this section, equal to the greater of the  
750 amounts calculated under paragraph (a) or (b) below:

751           (a) An amount equal to four percent (4%) of the annual  
752 retirement allowance multiplied by the number of full fiscal years  
753 in retirement through June 30, 1998; or

754           (b) The sum of:

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

759           (ii) An additional amount equal to three percent  
760 (3%) compounded by the number of full fiscal years in retirement  
761 beginning with the fiscal year in which the member reaches age

762 fifty-five (55), multiplied by the amount of the annual retirement  
763 allowance.

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

768 (3) The additional benefit provided for under this section  
769 shall be paid in one (1) payment in December of each year to those  
770 persons who are receiving a retirement allowance on December 1 of  
771 that year, unless an election is made under this subsection.  
772 However, if a person who is receiving a retirement allowance that  
773 will terminate upon the person's death is receiving the additional  
774 benefit in one (1) payment and dies on or after July 1 but before  
775 December 1, the beneficiary or estate of the person shall receive  
776 in a single payment a fractional part of the additional benefit  
777 based on the number of months in which a retirement allowance was  
778 received during the fiscal year. Retired members or beneficiaries  
779 thereof who on July 1, 1999, or July 1 of any fiscal year  
780 thereafter, are receiving a retirement allowance, may elect by an  
781 irrevocable agreement in writing filed in the office of the Public  
782 Employees' Retirement System no less than thirty (30) days before  
783 July 1 of the appropriate year, to begin receiving the additional  
784 benefit provided for under this section in twelve (12) equal  
785 monthly installments beginning July 1, 1999, or July 1 of any  
786 fiscal year thereafter. This irrevocable agreement shall be  
787 binding on the member and subsequent beneficiaries. Payment of  
788 those monthly installments shall not extend beyond the month in  
789 which a retirement allowance is due and payable.

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

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

794  $[(1.03)^n - 1] \times [\text{annual retirement allowance}],$



795 where <sup>n</sup> is the number of full fiscal years in retirement beginning  
796 with the fiscal year in which the member reaches age fifty-five  
797 (55).

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

806 (7) In the event of death of a retired member or a  
807 beneficiary thereof who is receiving the additional annual payment  
808 in two (2) to six (6) monthly installments pursuant to an election  
809 made before July 1, 1999, and who would otherwise be eligible to  
810 receive the additional benefit provided for under this section in  
811 one (1) payment in December of the current fiscal year, any  
812 remaining amounts shall be paid in a lump sum to the designated  
813 beneficiary.

814 SECTION 10. Section 25-11-113, Mississippi Code of 1972, is  
815 brought forward as follows:[HS8]

816 25-11-113. (1) (a) Upon the application of a member or his  
817 employer, any active member in state service who has at least four  
818 (4) years of membership service credit may be retired by the board  
819 of trustees on the first of the month following the date of filing  
820 such application on a disability retirement allowance, but in no  
821 event shall the disability retirement allowance commence before  
822 termination of state service, provided that the medical board,  
823 after a medical examination, shall certify that the member is  
824 mentally or physically incapacitated for the further performance  
825 of duty, that such incapacity is likely to be permanent, and that  
826 the member should be retired; however, the board of trustees may  
827 accept a disability medical determination from the Social Security

828 Administration in lieu of a certification from the medical board.  
829 For the purposes of disability determination, the medical board  
830 shall apply the following definition of disability: the inability  
831 to perform the usual duties of employment or the incapacity to  
832 perform such lesser duties, if any, as the employer, in its  
833 discretion, may assign without material reduction in compensation,  
834 or the incapacity to perform the duties of any employment covered  
835 by the Public Employees' Retirement System (Section 25-11-101 et  
836 seq.) that is actually offered and is within the same general  
837 territorial work area, without material reduction in compensation.  
838 The employer shall be required to furnish the job description and  
839 duties of the member. The employer shall further certify whether  
840 the employer has offered the member other duties and has complied  
841 with the applicable provisions of the Americans With Disabilities  
842 Act in affording reasonable accommodations which would allow the  
843 employee to continue employment.

844 (b) Any inactive member with four (4) or more years of  
845 membership service credit, who has withdrawn from active state  
846 service, is not eligible for a disability retirement allowance  
847 unless the disability occurs within six (6) months of the  
848 termination of active service and unless satisfactory proof is  
849 presented to the board of trustees that the disability was the  
850 direct cause of withdrawal from state service.

851 (c) If the medical board certifies that the member is  
852 not mentally or physically incapacitated for the future  
853 performance of duty, the member may request, within sixty (60)  
854 days, a hearing before the hearing officer as provided in Section  
855 25-11-120. All hearings shall be held in accordance with rules  
856 and regulations adopted by the board of trustees to govern such  
857 hearings. Such hearing may be closed upon the request of the  
858 member.

859 (d) The medical board may request additional medical  
860 evidence and/or other physicians to conduct an evaluation of the

861 member's condition. If the medical board requests additional  
862 medical evidence and the member refuses the request, the  
863 application shall be considered void.

864 (2) Allowance on disability retirement.

865 (a) Upon retirement for disability, an eligible member  
866 shall receive a retirement allowance if he has attained the age of  
867 sixty (60) years.

868 (b) Except as provided in paragraph (c) of this  
869 subsection (2), an eligible member who is retired for disability  
870 and who has not attained sixty (60) years of age shall receive a  
871 disability benefit as computed in Section 25-11-111(d)(1) through  
872 (d)(4) which shall consist of:

873 (i) A member's annuity which shall be the  
874 actuarial equivalent of his accumulated contributions at the time  
875 of retirement; and

876 (ii) An employer's annuity equal to the amount  
877 that would have been payable as a retirement allowance for both  
878 membership service and prior service had the member continued in  
879 service to the age of sixty (60) years, which shall apply to the  
880 allowance for disability retirement paid to retirees receiving  
881 such allowance upon and after April 12, 1977. This employer's  
882 annuity shall be computed on the basis of the average "earned  
883 compensation" as defined in Section 25-11-103.

884 (c) For persons who become members after June 30, 1992,  
885 and for active members on June 30, 1992, who elect benefits under  
886 this paragraph (c) instead of those provided under paragraph (b)  
887 of this subsection (2), the disability allowance shall consist of  
888 two (2) parts: a temporary allowance and a deferred allowance.

889 The temporary allowance shall equal the greater of (i) forty  
890 percent (40%) of average compensation at the time of disability,  
891 plus ten percent (10%) of average compensation for each of the  
892 first two (2) dependent children, as defined in Sections 25-11-103  
893 and 25-11-114, or (ii) the accrued benefit based on actual

894 service. It shall be payable for a period of time based on the  
895 member's age at disability, as follows:

896	Age at Disability	Duration
897	60 and earlier	to age 65
898	61	to age 66
899	62	to age 66
900	63	to age 67
901	64	to age 67
902	65	to age 68
903	66	to age 68
904	67	to age 69
905	68	to age 70
906	69 and over	one year

907 The deferred allowance shall commence when the temporary  
908 allowance ceases and shall be payable for life. The deferred  
909 allowance shall equal the greater of (i) the allowance that would  
910 have been payable had the member continued in service to the  
911 termination age of the temporary allowance, but no more than forty  
912 percent (40%) of average compensation, or (ii) the accrued benefit  
913 based on actual service at the time of disability. The deferred  
914 allowance as determined at the time of disability shall be  
915 adjusted in accordance with Section 25-11-112 for the period  
916 during which the temporary annuity is payable. In no case shall a  
917 member receive less than Ten Dollars (\$10.00) per month for each  
918 year of service and proportionately for each quarter year thereof  
919 reduced for the option selected.

920 (d) The member may elect to receive the actuarial  
921 equivalent of the disability retirement allowance in a reduced  
922 allowance payable throughout life under any of the provisions of  
923 the options provided under Section 25-11-115.

924 (e) Should a disability retiree who has not selected an  
925 option under Section 25-11-115 die before being repaid in  
926 disability benefits the sum of his total contributions, then his

927 named beneficiary shall receive the difference in cash, which  
928 shall apply to all deceased disability retirees from and after  
929 January 1, 1953.

930 (3) Reexamination of retirees retired on account of  
931 disability. Except as otherwise provided in this section, once  
932 each year during the first five (5) years following retirement of  
933 a member on a disability retirement allowance, and once in every  
934 period of three (3) years thereafter, the board of trustees may,  
935 and upon his application shall, require any disability retiree who  
936 has not yet attained the age of sixty (60) years or the  
937 termination age of the temporary allowance under paragraph (2)(c)  
938 of this section to undergo a medical examination, such examination  
939 to be made at the place of residence of said retiree or other  
940 place mutually agreed upon by a physician or physicians designated  
941 by the board. The board, however, in its discretion, may  
942 authorize the medical board to establish reexamination schedules  
943 appropriate to the medical condition of individual disability  
944 retirees. Should any disability retiree who has not yet attained  
945 the age of sixty (60) years or the termination age of the  
946 temporary allowance under paragraph (2)(c) of this section refuse  
947 to submit to any medical examination provided herein, his  
948 allowance may be discontinued until his withdrawal of such  
949 refusal; and should his refusal continue for one (1) year, all his  
950 rights to a disability benefit shall be revoked by the board of  
951 trustees.

952 (4) If the medical board reports and certifies to the board  
953 of trustees, after a comparable job analysis or other similar  
954 study, that such disability retiree is engaged in, or is able to  
955 engage in, a gainful occupation paying more than the difference  
956 between his disability allowance, exclusive of cost of living  
957 adjustments, and the average compensation, and if the board of  
958 trustees concurs in such report, the disability benefit shall be  
959 reduced to an amount which, together with the amount earnable by

960 him, shall equal the amount of his average compensation. If his  
961 earning capacity be later changed, the amount of the said benefit  
962 may be further modified, provided that the revised benefit shall  
963 not exceed the amount originally granted. A retiree receiving a  
964 disability benefit who is restored to active service at a salary  
965 less than the average compensation shall not become a member of  
966 the retirement system.

967 (5) Should a disability retiree under the age of sixty (60)  
968 years or the termination age of the temporary allowance under  
969 paragraph (2)(c) of this section be restored to active service at  
970 a compensation not less than his average compensation, his  
971 disability benefit shall cease, he shall again become a member of  
972 the retirement system, and contributions shall be withheld and  
973 reported. Any such prior service certificate, on the basis of  
974 which his service was computed at the time of retirement, shall be  
975 restored to full force and effect. In addition, upon his  
976 subsequent retirement he shall be credited with all creditable  
977 service as a member, but the total retirement allowance paid to  
978 the retired member in his previous retirement shall be deducted  
979 from his retirement reserve and taken into consideration in  
980 recalculating the retirement allowance under a new option  
981 selected.

982 (6) If following reexamination in accordance with the  
983 provisions contained in this section, the medical board determines  
984 that a retiree retired on account of disability is physically and  
985 mentally able to return to the employment from which he is  
986 retired, the board of trustees, upon certification of such  
987 findings from the medical board, shall, after a reasonable period  
988 of time, terminate the disability allowance, whether or not the  
989 retiree is reemployed or seeks such reemployment. In addition, if  
990 the board of trustees determines that the retiree is no longer  
991 sustaining a loss of income as established by documented evidence  
992 of the retiree's earned income, the eligibility for a disability

993 allowance shall terminate and the allowance terminated within a  
994 reasonable period of time. In the event the retirement allowance  
995 is terminated under the provisions of this section, the retiree  
996 may subsequently qualify for a retirement allowance under Section  
997 25-11-111 based on actual years of service credit plus credit for  
998 the period during which a disability allowance was paid.

999 (7) Any current member as of June 30, 1992, who retires on a  
1000 disability retirement allowance after June 30, 1992, and who has  
1001 not elected to receive benefits under paragraph (2)(c) of this  
1002 section, shall relinquish all rights under the Age Discrimination  
1003 in Employment Act of 1967, as amended, with regard to the benefits  
1004 payable under this section.

1005 SECTION 11. Section 25-11-114, Mississippi Code of 1972, is  
1006 brought forward as follows:[HS9]

1007 25-11-114. (1) The applicable benefits provided in  
1008 subsections (2) and (3) of this section shall be paid to eligible  
1009 beneficiaries of any member who has completed four (4) or more  
1010 years of creditable service and who dies before retirement and who  
1011 has not filed a Pre-Retirement Optional Retirement Form as  
1012 provided in Section 25-11-111.

1013 (2) (a) The member's surviving spouse who has been married  
1014 to the member for not less than one (1) year immediately preceding  
1015 his death shall receive an annuity computed in accordance with  
1016 paragraph (d) of this subsection (2) as if the member:

1017 (i) Had retired on the date of his death with  
1018 entitlement to an annuity provided for in Section 25-11-111,  
1019 notwithstanding that he might not have attained age sixty (60) or  
1020 acquired twenty-five (25) years of creditable service;

1021 (ii) Had nominated his spouse as beneficiary; and

1022 (b) If, at the time of the member's death, there are no  
1023 dependent children, and the surviving spouse, who otherwise would  
1024 receive the annuity under this subsection (2), has filed with the  
1025 system a signed written waiver of his or her rights to the annuity

1026 and that waiver was in effect at the time of the member's death, a  
1027 lump sum distribution of the deceased member's accumulated  
1028 contributions shall be refunded in accordance with Section  
1029 25-11-117.

1030 (c) The spouse annuity shall begin on the first day of  
1031 the month following the date of the member's death, but in case of  
1032 late filing, retroactive payments will be made for a period of not  
1033 more than one (1) year.

1034 (d) The spouse annuity shall be the greater of twenty  
1035 percent (20%) of the deceased member's average compensation as  
1036 defined in Section 25-11-103 at the time of death or Fifty Dollars  
1037 (\$50.00) monthly. If the spouse dies or if the spouse remarries  
1038 before age sixty (60), the spouse annuity shall terminate.

1039 (e) However, the spouse may elect by an irrevocable  
1040 agreement on a form prescribed by the board of trustees to receive  
1041 a monthly allowance as computed under either paragraph (d) or this  
1042 paragraph. Such irrevocable agreement shall constitute a waiver  
1043 by the spouse to any current and future monthly allowance under  
1044 the paragraph not elected and such waiver shall be a complete and  
1045 full discharge of all obligations of the retirement system under  
1046 such paragraph.

1047 Any member who has completed four (4) or more years of  
1048 creditable service and who dies before retirement and leaves a  
1049 spouse who has been married to the member for not less than one  
1050 (1) year immediately preceding his death and has not exercised any  
1051 other option shall be deemed to have exercised Option 2 under  
1052 Section 25-11-115 for the benefit of his spouse, which spouse  
1053 shall be paid Option 2 settlement benefits under this article  
1054 beginning on the first of the month following the date of death,  
1055 but in case of late filing, retroactive payments will be made for  
1056 a period of not more than one (1) year. The method of calculating  
1057 such retirement benefits shall be on the same basis as provided in  
1058 Section 25-11-111(d). However, if the member dies before being



1059 qualified for full unreduced benefits, then the benefits shall be  
1060 reduced by three percent (3%) per year for the lesser of either  
1061 the years of service or age required for full unreduced benefits  
1062 in Section 25-11-111(d).

1063 (3) (a) Subject to the maximum limitation provided in this  
1064 paragraph, the member's dependent children each shall receive an  
1065 annuity of the greater of ten percent (10%) of the member's  
1066 average compensation as defined in Section 25-11-103 at the time  
1067 of the death of the member or Fifty Dollars (\$50.00) monthly;  
1068 however, if there are more than three (3) dependent children, each  
1069 dependent child shall receive an equal share of a total annuity  
1070 equal to thirty percent (30%) of the member's average  
1071 compensation, provided that such total annuity shall not be less  
1072 than One Hundred Fifty Dollars (\$150.00) per month for all  
1073 children.

1074 (b) A child shall be considered to be a dependent child  
1075 until marriage, or the attainment of age nineteen (19), whichever  
1076 comes first; however, this age limitation shall be extended beyond  
1077 age nineteen (19), but in no event beyond the attainment of age  
1078 twenty-three (23), as long as the child is a student regularly  
1079 pursuing a full-time course of resident study or training in an  
1080 accredited high school, trade school, technical or vocational  
1081 institute, junior or community college, college, university or  
1082 comparable recognized educational institution duly licensed by a  
1083 state. A student child whose birthday falls during the school  
1084 year (September 1 through June 30) is considered not to reach age  
1085 twenty-three (23) until the July 1 following the actual  
1086 twenty-third birthday. A full-time course of resident study or  
1087 training means a day or evening noncorrespondence course that  
1088 includes school attendance at the rate of at least thirty-six (36)  
1089 weeks per academic year or other applicable period with a subject  
1090 load sufficient, if successfully completed, to attain the  
1091 educational or training objective within the period generally

1092 accepted as minimum for completion, by a full-time day student, of  
1093 the academic or training program concerned. Any child who is  
1094 physically or mentally incompetent, as adjudged by either a  
1095 Mississippi court of competent jurisdiction or by the board, shall  
1096 receive benefits for as long as the incompetency exists.

1097 (c) If there are more than three (3) dependent  
1098 children, upon a child's ceasing to be a dependent child, his  
1099 annuity shall terminate and there shall be a redetermination of  
1100 the amounts payable to any remaining dependent children.

1101 (d) Annuities payable under this subsection (3) shall  
1102 begin the first day of the month following the date of the  
1103 member's death or in case of late filing, retroactive payments  
1104 will be made for a period of not more than one (1) year. Such  
1105 benefits may be paid to a surviving parent or the lawful custodian  
1106 of a dependent child for the use and benefit of such child without  
1107 the necessity of appointment as guardian.

1108 (4) (a) Death benefits in the line of duty. Regardless of  
1109 the number of years of the member's creditable service, the spouse  
1110 and/or the dependent children of an active member who is killed in  
1111 the line of performance of duty or dies as a direct result of an  
1112 accident occurring in the line of performance of duty shall  
1113 qualify, on approval of the board, for a retirement allowance on  
1114 the first of the month following the date of death, but in the  
1115 case of late filing, retroactive payments will be made for a  
1116 period of not more than one (1) year. The spouse shall receive a  
1117 retirement allowance equal to one-half (1/2) of the average  
1118 compensation as defined in Section 25-11-103. In addition to the  
1119 retirement allowance for the spouse, or if there is no surviving  
1120 spouse, the member's dependent child shall receive a retirement  
1121 allowance in the amount of one-fourth (1/4) of the member's  
1122 average compensation as defined in Section 25-11-103; however, if  
1123 there are two (2) or more dependent children, each dependent child  
1124 shall receive an equal share of a total annuity equal to one-half

1125 (1/2) of the member's average compensation. If there are more  
1126 than two (2) dependent children, upon a child's ceasing to be a  
1127 dependent child, his annuity shall terminate and there shall be a  
1128 redetermination of the amounts payable to any remaining dependent  
1129 children. Such benefits shall cease to be paid for the support  
1130 and maintenance of each child upon such child attaining the age of  
1131 nineteen (19) years; however, the spouse shall continue to be  
1132 eligible for the aforesaid retirement allowance. Such benefits  
1133 may be paid to a surviving parent or lawful custodian of such  
1134 children for the use and benefit of the children without the  
1135 necessity of appointment as guardian. Such retirement allowance  
1136 shall cease to the spouse upon remarriage but continue to be  
1137 payable for each dependent child until the age of nineteen (19)  
1138 years.

1139 (b) A child shall be considered to be a dependent child  
1140 until marriage, or the attainment of age nineteen (19), whichever  
1141 comes first; however, this age limitation shall be extended beyond  
1142 age nineteen (19), but in no event beyond the attainment of age  
1143 twenty-three (23), as long as the child is a student regularly  
1144 pursuing a full-time course of resident study or training in an  
1145 accredited high school, trade school, technical or vocational  
1146 institute, junior or community college, college, university or  
1147 comparable recognized educational institution duly licensed by a  
1148 state. A student child whose birthday falls during the school  
1149 year (September 1 through June 30) is considered not to reach age  
1150 twenty-three (23) until the July 1 following the actual  
1151 twenty-third birthday. A full-time course of resident study or  
1152 training means a day or evening noncorrespondence course that  
1153 includes school attendance at the rate of a least thirty-six (36)  
1154 weeks per academic year or other applicable period with a subject  
1155 load sufficient, if successfully completed, to attain the  
1156 educational or training objective within the period generally  
1157 accepted as minimum for completion, by a full-time day student, of

1158 the academic or training program concerned. Any child who is  
1159 physically or mentally incompetent, as adjudged by either a  
1160 Mississippi court of competent jurisdiction or by the board, shall  
1161 receive benefits for as long as the incompetency exists.

1162 (5) If all the annuities provided for in this section  
1163 payable on account of the death of a member terminate before there  
1164 has been paid an aggregate amount equal to the member's  
1165 accumulated contributions standing to the member's credit in the  
1166 annuity savings account at the time of the member's death, the  
1167 difference between the accumulated contributions and the aggregate  
1168 amount of annuity payments shall be paid to such person as the  
1169 member has nominated by written designation duly executed and  
1170 filed with the board. If there is no designated beneficiary  
1171 surviving at termination of benefits, the difference shall be  
1172 payable in the following statutory succession: spouse, children,  
1173 parents, estate.

1174 (6) Regardless of the number of years of creditable service  
1175 upon the application of a member or employer, any active member  
1176 who becomes disabled as a direct result of an accident or  
1177 traumatic event resulting in a physical injury occurring in the  
1178 line of performance of duty, provided the medical board or other  
1179 designated governmental agency after a medical examination  
1180 certifies that the member is mentally or physically incapacitated  
1181 for the further performance of duty and such incapacity is likely  
1182 to be permanent, may be retired by the board of trustees on the  
1183 first of the month following the date of filing such application  
1184 but in no event shall the retirement allowance commence before the  
1185 termination of state service. The retirement allowance shall  
1186 equal the allowance on disability retirement as provided in  
1187 Section 25-11-113 but shall not be less than fifty percent (50%)  
1188 of average compensation.

1189 Permanent and total disability resulting from a  
1190 cardiovascular, pulmonary or musculo-skeletal condition which was

1191 not a direct result of a traumatic event occurring in the  
1192 performance of duty shall be deemed an ordinary disability. A  
1193 mental disability based exclusively on employment duties occurring  
1194 on an ongoing basis shall be deemed an ordinary disability.

1195 (7) In the event the deceased or disabled member has less  
1196 than four (4) years of creditable service, the average  
1197 compensation as defined in Section 25-11-103 shall be the average  
1198 of all annual earned compensation in state service for the  
1199 purposes of benefits provided in this section.

1200 (8) In case of death or total and permanent disability under  
1201 subsection (4) or subsection (6) of this section and before the  
1202 board shall consider any application for a retirement allowance,  
1203 the employer must certify to the board that the member's death or  
1204 disability was a direct result of an accident or a traumatic event  
1205 occurring during and as a result of the performance of the regular  
1206 and assigned duties of the employee and that the death or  
1207 disability was not the result of the wilful negligence of the  
1208 employee.

1209 (9) The application for such retirement allowance must be  
1210 filed within one (1) year after death of an active member who is  
1211 killed in the line of performance of duty or dies as a direct  
1212 result of an accident occurring in the line of performance of duty  
1213 or traumatic event; but the board of trustees may consider an  
1214 application for disability filed after the one-year period if it  
1215 can be factually demonstrated to the satisfaction of the board of  
1216 trustees that the disability is due to the accident and that the  
1217 filing was not accomplished within the one-year period due to a  
1218 delayed manifestation of the disability or to circumstances beyond  
1219 the control of the member. However, in case of late filing,  
1220 retroactive payments will be made for a period of not more than  
1221 one (1) year only.

1222 (10) Notwithstanding any other section of this article and  
1223 in lieu of any payments to a designated beneficiary for a refund

1224 of contributions under Section 25-11-117, the spouse and/or  
1225 children shall be eligible for the benefits payable pursuant to  
1226 this section, and the spouse may elect, for both the spouse and/or  
1227 children, to receive benefits in accordance with either  
1228 subsections (2) and (3) or subsection (4) of this section;  
1229 otherwise, the contributions to the credit of the deceased member  
1230 shall be refunded in accordance with Section 25-11-117.

1231 (11) If the member has previously received benefits from the  
1232 system to which he was not entitled and has not repaid in full all  
1233 amounts payable by him to the system, the annuity amounts  
1234 otherwise provided by this section shall be withheld and used to  
1235 effect repayment until the total of the withholdings repays in  
1236 full all amounts payable by him to the system.

1237 SECTION 12. This act shall take effect and be in force from  
1238 and after July 1, 2000.