

By: Minor, Burton, King

To: Finance

SENATE BILL NO. 2770
(As Passed the Senate)

1 AN ACT TO CREATE NEW SECTION 25-11-115.2, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM
3 SHALL NOT KNOWINGLY ALLOW BENEFIT PAYMENTS TO BE MADE DIRECTLY TO
4 PERSONS WHO ARE DETERMINED TO BE LEGALLY INCOMPETENT; TO PROVIDE
5 THAT ANY PERSON WHO COMES TO BE KNOWN BY THE SYSTEM AS INCAPABLE
6 OF APPLYING FOR, MANAGING OR DIRECTING THE MANAGEMENT OF BENEFITS
7 BY REASON OF MENTAL OR PHYSICAL IMPAIRMENT SHALL BE DIRECTED TO
8 OBTAIN A CONSERVATOR OR LEGAL GUARDIAN; TO PROVIDE THAT THE SYSTEM
9 MAY DESIGNATE A REPRESENTATIVE PAYEE FOR SUCH PERSON UNDER CERTAIN
10 CIRCUMSTANCES; TO PROVIDE THAT CERTIFICATION BY A MEDICAL DOCTOR
11 OF INCAPACITY TO APPLY FOR, MANAGE OR DIRECT THE MANAGEMENT OF
12 BENEFITS SHALL BE REQUIRED BY THE SYSTEM BEFORE APPOINTMENT OF A
13 REPRESENTATIVE PAYEE; TO REQUIRE A REPRESENTATIVE PAYEE TO APPLY
14 BENEFITS PAID ONLY FOR THE USE AND BENEFIT OF THE BENEFIT
15 RECIPIENT; TO LIMIT THE LIABILITY OF THE RETIREMENT SYSTEM FOR
16 PAYMENTS MADE TO A REPRESENTATIVE PAYEE; TO PROVIDE OPTION UNDER
17 WHICH ANNUITY PAYMENTS SHALL BE PAID TO AN INCAPACITATED PERSON IN
18 THE ABSENCE OF A CONSERVATOR, LEGAL GUARDIAN OR DURABLE POWER OF
19 ATTORNEY; TO CREATE NEW SECTIONS 25-11-117.1, 25-11-311.1 AND
20 23-13-21.1, MISSISSIPPI CODE OF 1972, TO DESIGNATE TO WHOM
21 BENEFITS ARE PAYABLE IN THE EVENT OF THE DEATH OF THE RETIREE AND
22 THE DESIGNATED BENEFICIARY OF THE RETIREE UNDER THE PUBLIC
23 EMPLOYEES' RETIREMENT SYSTEM, THE SUPPLEMENTAL LEGISLATIVE
24 RETIREMENT PLAN AND THE MISSISSIPPI HIGHWAY SAFETY PATROL
25 RETIREMENT SYSTEM; TO CREATE NEW SECTION 25-11-312, MISSISSIPPI
26 CODE OF 1972, TO AUTHORIZE THE BOARD OF TRUSTEES OF THE PUBLIC
27 EMPLOYEES' RETIREMENT SYSTEM TO ACCEPT AN ELIGIBLE ROLLOVER
28 DISTRIBUTION OR A DIRECT TRANSFER OF FUNDS FROM ANOTHER QUALIFIED
29 PLAN IN PAYMENT OF ALL OR A PORTION OF THE COST TO REINSTATE
30 PREVIOUSLY WITHDRAWN SERVICE CREDIT IN THE SUPPLEMENTAL
31 LEGISLATIVE RETIREMENT PLAN; TO PROVIDE THAT SUCH PLAN MAY ACCEPT
32 SUCH PAYMENTS IN AN AMOUNT EQUAL TO OR LESS THAN THE BALANCE DUE
33 FOR REINSTATEMENT OF SERVICE CREDIT; TO AMEND SECTION 25-11-103,
34 MISSISSIPPI CODE OF 1972, TO CLARIFY WHO IS DESIGNATED AS THE
35 BENEFICIARY OF A MEMBER IN CERTAIN SITUATIONS; TO AMEND SECTION
36 25-11-111, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A RETIREE OR
37 BENEFICIARY TO IRREVOCABLY WAIVE ALL OR A PORTION OF THE
38 RETIREMENT BENEFITS TO WHICH THE RETIREE OR BENEFICIARY IS
39 ENTITLED; TO AMEND SECTION 25-11-115, MISSISSIPPI CODE OF 1972, TO
40 ESTABLISH A NEW RETIREMENT OPTION UNDER THE PUBLIC EMPLOYEES'
41 RETIREMENT SYSTEM TO ALLOW A MEMBER WHO HAS AT LEAST 28 YEARS OF
42 CREDITABLE SERVICE AT THE TIME OF RETIREMENT, OR WHO IS AT LEAST
43 63 YEARS OF AGE AT THE TIME OF RETIREMENT, TO RECEIVE A PARTIAL
44 LUMP SUM DISTRIBUTION; TO PROVIDE THAT THE LUMP SUM DISTRIBUTION
45 SHALL BE EQUAL TO THE MAXIMUM MONTHLY BENEFIT MULTIPLIED BY 12, 24
46 OR 36; TO PROVIDE THAT THE MEMBER'S BENEFIT SHALL BE REDUCED TO
47 REFLECT THE PAYMENT SELECTED COMPUTED TO RESULT IN NO ACTUARIAL
48 LOSS TO THE SYSTEM; TO AMEND SECTION 25-11-120, MISSISSIPPI CODE
49 OF 1972, TO LIMIT THE AMOUNT OF FEES THAT AN ATTORNEY MAY CHARGE
50 FOR AN APPEARANCE AT A HEARING RELATING TO ELIGIBILITY, PAYMENT OF

51 BENEFITS OR CALCULATION OF CREDITABLE SERVICE; TO AMEND SECTION
52 25-11-121, MISSISSIPPI CODE OF 1972, TO INCREASE THE AMOUNT OF
53 CERTAIN FOREIGN INVESTMENTS THAT THE RETIREMENT SYSTEM MAY MAKE TO
54 30% OF THE TOTAL BOOK VALUE OF ALL INVESTMENTS OF THE SYSTEM; TO
55 AMEND SECTIONS 25-11-131 AND 25-11-139, MISSISSIPPI CODE OF 1972,
56 TO CLARIFY THAT THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES'
57 RETIREMENT SYSTEM HAS THE DUTY TO CORRECT ERRORS IN PAYMENTS OF
58 BENEFITS; TO PROVIDE THAT SUCH CORRECTIONS SHALL BE MADE UPON
59 DETECTION OF THE ERROR, WITHOUT REGARD TO THE LENGTH IT TAKES FOR
60 THE BOARD TO BECOME AWARE OF THE ERROR; TO AMEND SECTION
61 25-11-311, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A MEMBER OR
62 BENEFICIARY ELIGIBLE FOR A REFUND UNDER THE SUPPLEMENTAL
63 LEGISLATIVE RETIREMENT PLAN TO HAVE AN ELIGIBLE ROLLOVER
64 DISTRIBUTION OF ACCUMULATED CONTRIBUTIONS PAYABLE PAID DIRECTLY
65 INTO AN ELIGIBLE RETIREMENT PLAN OR INDIVIDUAL RETIREMENT ACCOUNT;
66 TO PROVIDE THE MANNER IN WHICH A MEMBER OF THE SUPPLEMENTAL
67 LEGISLATIVE RETIREMENT PLAN WHO HAS RECEIVED A REFUND AND IS
68 REELECTED TO THE LEGISLATURE MAY REPURCHASE CREDITABLE SERVICE IN
69 THE SUPPLEMENTAL LEGISLATIVE RETIREMENT PLAN; TO AMEND SECTION
70 25-13-16, MISSISSIPPI CODE OF 1972, TO ESTABLISH A NEW RETIREMENT
71 OPTION UNDER THE HIGHWAY SAFETY PATROL RETIREMENT SYSTEM TO ALLOW
72 A MEMBER WHO IS ELIGIBLE TO RETIRE WITH AN UNREDUCED BENEFIT AT 58
73 YEARS OF AGE TO RECEIVE A PARTIAL LUMP SUM DISTRIBUTION; TO
74 PROVIDE THAT THE LUMP SUM DISTRIBUTION SHALL BE EQUAL TO THE
75 MAXIMUM MONTHLY BENEFIT MULTIPLIED BY 12, 24 OR 36; TO PROVIDE
76 THAT THE MEMBER'S BENEFIT SHALL BE REDUCED TO REFLECT THE PAYMENT
77 SELECTED COMPUTED TO RESULT IN NO ACTUARIAL LOSS TO THE SYSTEM; TO
78 AMEND SECTIONS 25-11-112, 25-11-114, 25-11-117, 25-13-12, 25-13-13
79 AND 25-13-21, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
80 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

81

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

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

85 25-11-115.2. (1) It is the intent of the Public Employees'
86 Retirement System to provide benefit payments in an efficient
87 manner consistent with the member's best interest. The system
88 shall not knowingly allow payments to be made directly to persons
89 who are determined legally incompetent or incapable of managing or
90 directing the management of benefits. Any person applying for or
91 receiving benefits who comes to be known as incapable of applying
92 for, managing or directing the management of benefits by reason of
93 mental or physical impairment, as certified by a medical doctor,
94 shall be directed to obtain a conservator or legal guardian for
95 purposes of applying for, receiving, managing and/or directing
96 benefit payments. In the absence of a conservator or legal
97 guardian or valid durable power of attorney, the Public Employees'

98 Retirement System may designate a representative payee for such
99 purposes. The benefit recipient may nominate a representative
100 payee for consideration by the system in selecting a payee, and
101 the system is responsible for selecting a payee, including an
102 agency, organization, or institution, that will serve the interest
103 of the benefit recipient. The system may also accept the Social
104 Security Administration's designation of a representative payee to
105 manage and direct funds paid by the system. The system shall have
106 the authority to establish rules for the administration of this
107 section.

108 (2) A representative payee shall be directed to apply
109 benefits paid from the system only for the use and benefit of the
110 benefit recipient. The system's obligations to a benefit
111 recipient shall be discharged when it makes a correct payment to a
112 representative payee on the benefit recipient's behalf. The
113 system is without liability for the theft or misuse of benefits if
114 the benefits were properly paid based upon the information
115 available to the system at the time the payments were made.

116 (3) In the absence of a conservator, legal guardian or valid
117 durable power of attorney, an unmarried benefit applicant who is
118 deemed to be incapable of applying for, managing or directing his
119 or her benefits, shall be entitled to receive annuity payments in
120 an amount equal to a retirement allowance based on the maximum
121 benefit payable to the member for life and with any remaining
122 benefit at the death of the member payable pursuant to Section
123 25-11-117.1(1). Such payments shall be paid to the representative
124 payee, designated by the system in accordance with the provisions
125 of this section during the period of the benefit recipient's
126 incapacity.

127 (4) In the absence of a conservator, legal guardian or valid
128 durable power of attorney, any married benefit applicant who is
129 deemed to be incapable of applying for, managing or directing his
130 or her benefits, shall be paid a reduced retirement allowance

131 under Option 2 as provided in Section 25-11-115, with the lawful
132 spouse as the beneficiary. Such payments shall be paid to a
133 representative payee as designated by the system in accordance
134 with the provisions of this section during the period of the
135 benefit recipient's incapacity.

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

138 25-11-117.1. (1) Except as otherwise provided in subsection
139 (2) of this section, where benefits are payable to a designated
140 beneficiary or beneficiaries under this article and the designated
141 beneficiary or beneficiaries as provided by the member on the most
142 recent form filed with the system is deceased or otherwise
143 disqualified at the time such benefits become payable, the
144 following persons, in descending order of precedence, shall be
145 eligible to receive such benefits:

146 (a) The surviving spouse of the member/retiree;

147 (b) The children of the member/retiree or their
148 descendants, per stirpes;

149 (c) The brothers and sisters of the member/retiree or
150 their descendants, per stirpes;

151 (d) The parents of the member/retiree;

152 (e) The executor or administrator on behalf of the
153 member/retiree's estate;

154 (f) The persons entitled by law to distribution of the
155 member/retiree's estate.

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

161 (a) The surviving spouse of the beneficiary;

162 (b) The children of the beneficiary or their
163 descendants, per stirpes;

164 (c) The brothers and sisters of the member/retiree or
165 their descendants, per stirpes;

166 (d) The parents of the beneficiary;

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

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

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

174 (4) Payment under the provisions of this section shall bar
175 recovery by any other person of the benefits distributed. Payment
176 of benefits made to one or more members of a class of individuals
177 are made on behalf of all members of the class. Any members of
178 the class coming forward after payment is made must look to those
179 who received the payment.

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

182 25-11-311.1. (1) Except as provided in subsection (2) of
183 this section, where benefits are payable to a designated
184 beneficiary or beneficiaries and the designated beneficiary or
185 beneficiaries as provided by the member on the most recent form
186 filed with the system are deceased or otherwise disqualified at
187 the time such benefits become payable, the following persons, in
188 descending order of precedence, shall be eligible to receive such
189 benefits:

190 (a) The surviving spouse of the member/retiree;

191 (b) The children of the member/retiree or their
192 descendants, per stirpes;

193 (c) The brothers and sisters of the member/retiree or
194 their descendants, per stirpes;

195 (d) The parents of the member/retiree;

196 (e) The executor or administrator on behalf of the

197 member/retiree's estate;

198 (f) The persons entitled by law to distribution of the
199 member/retiree's estate.

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

205 (a) The surviving spouse of the beneficiary;

206 (b) The children of the beneficiary or their
207 descendants, per stirpes;

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

210 (d) The parents of the beneficiary;

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

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

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

218 (4) Payment under the provisions above shall bar recovery by
219 any other person of the benefits distributed. Payment of benefits
220 made to one or more members of a class of individuals are made on
221 behalf of all members of the class. Any members of the class
222 coming forward after payment is made must look to those who
223 received the payment.

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

226 25-13-21.1. (1) Except as otherwise provided in subsection
227 (2) of this section, where benefits are payable to a designated
228 beneficiary or beneficiaries under this article and the designated
229 beneficiary or beneficiaries as provided by the member on the most

230 recent form filed with the system are deceased or otherwise
231 disqualified at the time such benefits become payable, the
232 following persons, in descending order of precedence, shall be
233 eligible to receive such benefits:

234 (a) The surviving spouse of the member/retiree;

235 (b) The children of the member/retiree or their
236 descendants, per stirpes;

237 (c) The brothers and sisters of the member/retiree or
238 their descendants, per stirpes;

239 (d) The parents of the member/retiree;

240 (e) The executor or administrator on behalf of the
241 member/retiree's estate;

242 (f) The persons entitled by law to distribution of the
243 member/retiree's estate.

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

249 (a) The surviving spouse of the beneficiary;

250 (b) The children of the beneficiary or their
251 descendants, per stirpes;

252 (c) The brothers and sisters of the member/retiree or
253 their descendants, per stirpes;

254 (d) The parents of the beneficiary;

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

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

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

262 (4) Payment under the provisions of this section shall bar

263 recovery by any other person of the benefits distributed. Payment
264 of benefits made to one or more members of a class of individuals
265 are made on behalf of all members of the class. Any members of
266 the class coming forward after payment is made must look to those
267 who received the payment.

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

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

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

285 25-11-103. The following words and phrases as used in
286 Articles 1 and 3, unless a different meaning is plainly required
287 by the context, shall have the following meanings:

288 (a) "Accumulated contributions" shall mean the sum of
289 all the amounts deducted from the compensation of a member and
290 credited to his individual account in the annuity savings account,
291 together with regular interest thereon as provided in Section
292 25-11-123.

293 (b) "Actuarial cost" shall mean the amount of funds
294 presently required to provide future benefits as determined by the
295 board based on applicable tables and formulas provided by the

296 actuary.

297 (c) "Actuarial equivalent" shall mean a benefit of
298 equal value to the accumulated contributions, annuity or benefit,
299 as the case may be, when computed upon the basis of such mortality
300 tables as shall be adopted by the board of trustees, and regular
301 interest.

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

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

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

329 benefits. In computing the average compensation, no amounts shall
330 be used which are in excess of the amount on which contributions
331 were required and paid. If any member who is or has been granted
332 any increase in annual salary or compensation of more than eight
333 percent (8%) retires within twenty-four (24) months from the date
334 that such increase becomes effective, then the board shall exclude
335 that part of the increase in salary or compensation that exceeds
336 eight percent (8%) in calculating that member's average
337 compensation for retirement purposes. The board may enforce this
338 provision by rule or regulation. However, increases in
339 compensation in excess of eight percent (8%) per year granted
340 within twenty-four (24) months of the date of retirement may be
341 included in such calculation of average compensation if
342 satisfactory proof is presented to the board showing that the
343 increase in compensation was the result of an actual change in the
344 position held or services rendered, or that such compensation
345 increase was authorized by the State Personnel Board or was
346 increased as a result of statutory enactment, and the employer
347 furnishes an affidavit stating that such increase granted within
348 the last twenty-four (24) months was not contingent on a promise
349 or agreement of the employee to retire. Nothing in Section
350 25-3-31 shall affect the calculation of the average compensation
351 of any member for the purposes of this article. The average
352 compensation of any member who retires before July 1, 1992, shall
353 not exceed the annual salary of the Governor.

354 (g) "Beneficiary" shall mean any person entitled to
355 receive a retirement allowance, an annuity or other benefit as
356 provided by Articles 1 and 3. In the event of the death prior to
357 retirement of any member whose spouse and/or children are not
358 entitled to a retirement allowance on the basis that the member
359 has less than four (4) years of service credit and/or has not been
360 married for a minimum of one (1) year or the spouse has waived his
361 or her entitlement to a retirement allowance pursuant to Section

362 25-11-114, the lawful spouse of a member at the time of the death
363 of such member shall be the beneficiary of such member unless the
364 member has designated another beneficiary subsequent to the date
365 of marriage in writing, and filed such writing in the office of
366 the executive director of the board of trustees. No designation
367 or change of beneficiary shall be made in any other manner.

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

371 (i) "Creditable service" shall mean "prior service,"
372 "retroactive service" and all lawfully credited unused leave not
373 exceeding the accrual rates and limitations provided in Section
374 25-3-91 et seq., as of the date of withdrawal from service plus
375 "membership service" for which credit is allowable as provided in
376 Section 25-11-109. Except to limit creditable service reported to
377 the system for the purpose of computing an employee's retirement
378 allowance or annuity or benefits provided in this article, nothing
379 in this paragraph shall limit or otherwise restrict the power of
380 the governing authority of a municipality or other political
381 subdivision of the state to adopt such vacation and sick leave
382 policies as it deems necessary.

383 (j) "Child" means either a natural child of the member,
384 a child that has been made a child of the member by applicable
385 court action before the death of the member, or a child under the
386 permanent care of the member at the time of the latter's death,
387 which permanent care status shall be determined by evidence
388 satisfactory to the board.

389 (k) "Earned compensation" shall mean the full amount
390 earned by an employee for a given pay period including any
391 maintenance furnished up to a maximum of One Hundred Twenty-five
392 Thousand Dollars (\$125,000.00) per year, and proportionately for
393 less than one (1) year of service. The value of such maintenance
394 when not paid in money shall be fixed by the employing state

395 agency, and, in case of doubt, by the board of trustees as defined
396 in Section 25-11-15. In any case, earned compensation shall be
397 limited to the regular periodic compensation paid, exclusive of
398 litigation fees, bond fees, and other similar extraordinary
399 nonrecurring payments. In addition, any member in a covered
400 position, as defined by Public Employees' Retirement System laws
401 and regulations, who is also employed by another covered agency or
402 political subdivision shall have the earnings of that additional
403 employment reported to the Public Employees' Retirement System
404 regardless of whether the additional employment is sufficient in
405 itself to be a covered position. In the case of fee officials,
406 the net earnings from their office after deduction of expenses
407 shall apply, except that in no case shall earned compensation be
408 less than the total direct payments made by the state or
409 governmental subdivisions to the official, and employer and
410 employee contributions shall be paid thereon. In the case of
411 members of the state Legislature, all remuneration or amounts
412 paid, except mileage allowance, shall apply. The amount by which
413 an eligible employee's salary is reduced pursuant to a salary
414 reduction agreement authorized under Section 25-17-5 shall be
415 included as earned compensation under this paragraph, provided
416 this inclusion does not conflict with federal law, including
417 federal regulations and federal administrative interpretations
418 thereunder, pertaining to the Federal Insurance Contributions Act
419 or to Internal Revenue Code Section 125 cafeteria plans.
420 Compensation in addition to an employee's base salary that is paid
421 to the employee pursuant to the vacation and sick leave policies
422 of a municipality or other political subdivision of the state that
423 employs him which exceeds the maximums authorized by Section
424 25-3-91 et seq., shall be excluded from the calculation of earned
425 compensation under this article. The maximum salary applicable
426 for retirement purposes before July 1, 1992, shall be the salary
427 of the Governor. Nothing in Section 25-3-31 shall affect the

428 determination of the earned compensation of any member for the
429 purposes of this article.

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

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

436 (n) "Executive director" shall mean the secretary to
437 the board of trustees, as provided in Section 25-11-15(9), and the
438 administrator of the Public Employees' Retirement System and all
439 systems under the management of the board of trustees. Wherever
440 the term "Executive Secretary of the Public Employees' Retirement
441 System" or "executive secretary" appears in this article or in any
442 other provision of law, it shall be construed to mean the
443 Executive Director of the Public Employees' Retirement System.

444 (o) "Fiscal year" shall mean the period beginning on
445 July 1 of any year and ending on June 30 of the next succeeding
446 year.

447 (p) "Medical board" shall mean the board of physicians
448 or any governmental or nongovernmental disability determination
449 service designated by the board of trustees that is qualified to
450 make disability determinations as provided for in Section
451 25-11-119.

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

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

456 (s) "Position" means any office or any employment in
457 the state service, or two (2) or more of them, the duties of which
458 call for services to be rendered by one (1) person, including
459 positions jointly employed by federal and state agencies
460 administering federal and state funds. The employer shall

461 determine upon initial employment and during the course of
462 employment of an employee who does not meet the criteria for
463 coverage in the Public Employees' Retirement System based on the
464 position held, whether the employee is or becomes eligible for
465 coverage in the Public Employees' Retirement System based upon any
466 other employment in a covered agency or political subdivision. If
467 or when the employee meets the eligibility criteria for coverage
468 in such other position, then the employer must withhold
469 contributions and report wages from the noncovered position in
470 accordance with the provisions for reporting of earned
471 compensation. Failure to deduct and report those contributions
472 shall not relieve the employee or employer of liability thereof.
473 The board shall adopt such rules and regulations as necessary to
474 implement and enforce this provision.

475 (t) "Prior service" shall mean service rendered before
476 February 1, 1953, for which credit is allowable under Sections
477 25-11-105 and 25-11-109, and which shall allow prior service for
478 any person who is now or becomes a member of the Public Employees'
479 Retirement System and who does contribute to the system for a
480 minimum period of four (4) years.

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

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

494 benefit.

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

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

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

503 (z) "State service" shall mean all offices and
504 positions of trust or employment in the employ of the state, or
505 any political subdivision or instrumentality thereof, which elect
506 to participate as provided by Section 25-11-105(f), including the
507 position of elected or fee officials of the counties and their
508 deputies and employees performing public services or any
509 department, independent agency, board or commission thereof, and
510 shall also include all offices and positions of trust or
511 employment in the employ of joint state and federal agencies
512 administering state and federal funds and service rendered by
513 employees of the public schools. Effective July 1, 1973, all
514 nonprofessional public school employees, such as bus drivers,
515 janitors, maids, maintenance workers and cafeteria employees,
516 shall have the option to become members in accordance with Section
517 25-11-105(b), and shall be eligible to receive credit for services
518 prior to July 1, 1973, provided the contributions and interest are
519 paid by the employee in accordance with said section; provided,
520 further, that the county or municipal separate school district may
521 pay the employer contribution and pro rata share of interest of
522 the retroactive service from available funds. From and after July
523 1, 1998, retroactive service credit shall be purchased at the
524 actuarial cost in accordance with Section 25-11-105(b).

525 (aa) "Withdrawal from service" shall mean complete
526 severance of employment in the state service of any member by

527 resignation, dismissal or discharge.

528 (bb) The masculine pronoun, wherever used, shall
529 include the feminine pronoun.

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

532 25-11-111. (a) Any member upon withdrawal from service upon
533 or after attainment of the age of sixty (60) years who shall have
534 completed at least four (4) years of creditable service, or any
535 member upon withdrawal from service regardless of age who shall
536 have completed at least twenty-five (25) years of creditable
537 service, shall be entitled to receive a retirement allowance which
538 shall begin on the first of the month following the date the
539 member's application for the allowance is received by the board,
540 but in no event before withdrawal from service.

541 (b) Any member whose withdrawal from service occurs prior to
542 attaining the age of sixty (60) years who shall have completed
543 four (4) or more years of creditable service and shall not have
544 received a refund of his accumulated contributions shall be
545 entitled to receive a retirement allowance, beginning upon his
546 attaining the age of sixty (60) years, of the amount earned and
547 accrued at the date of withdrawal from service.

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

559 (d) The annual amount of the retirement allowance shall

560 consist of:

561 (1) A member's annuity which shall be the actuarial
562 equivalent of the accumulated contributions of the member at the
563 time of retirement computed according to the actuarial table in
564 use by the system; and

565 (2) An employer's annuity which, together with the
566 member's annuity provided above, shall be equal to one and
567 seven-eighths percent (1-7/8%) of the average compensation for
568 each year of state service up to and including twenty-five (25)
569 years of membership service, and two and one-fourth percent
570 (2-1/4%) of the average compensation for each year of state
571 service exceeding twenty-five (25) years of membership service.
572 However, after the board of trustees has begun implementing the
573 changes in the computation of the retirement allowance as provided
574 in subsection (e), the employer's annuity shall be equal to:

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

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

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

589 (3) A prior service annuity equal to one and
590 seven-eighths percent (1-7/8%) of the average compensation for
591 each year of state service up to and including twenty-five (25)
592 years of prior service, and two and one-four percent (2-1/4%) of

593 the average compensation for each year of state service exceeding
594 twenty-five (25) years of prior service for which the member is
595 allowed credit. However, after the board of trustees has begun
596 implementing the changes in the computation of the retirement
597 allowance as provided in subsection (e), the prior service annuity
598 shall be equal to:

599 (i) One and seven-eighths percent (1-7/8%) of the
600 average compensation for each year of prior 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 prior 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 prior
612 service exceeding twenty-five (25) years.

613 (4) Any retired member or beneficiary thereof who was
614 eligible to receive a retirement allowance before July 1, 1991,
615 and who is still receiving a retirement allowance on July 1, 1992,
616 shall receive an increase in the annual retirement allowance of
617 the retired member equal to one-eighth of one percent (1/8 of 1%)
618 of the average compensation for each year of state service in
619 excess of twenty-five (25) years of membership service up to and
620 including thirty (30) years. The maximum increase shall be
621 five-eighths of one percent (5/8 of 1%). In no case shall a
622 member who has been retired prior to July 1, 1987, receive less
623 than Ten Dollars (\$10.00) per month for each year of creditable
624 service and proportionately for each quarter year thereof.
625 Persons retired on or after July 1, 1987, shall receive at least

626 Ten Dollars (\$10.00) per month for each year of service and
627 proportionately for each quarter year thereof reduced for the
628 option selected. However, such Ten Dollars (\$10.00) minimum per
629 month for each year of creditable service shall not apply to a
630 retirement allowance computed under Section 25-11-114 based on a
631 percentage of the member's average compensation.

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

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

653 (e) Beginning on July 1, 2000, the board of trustees shall
654 implement changes in the computation of the amount of the annual
655 retirement allowance, which changes shall be implemented in phases
656 as set forth in the table in this subsection. The board of
657 trustees shall implement the phases systematically upon July 1
658 after the board's actuary certifies that implementation of a phase

659 will not cause the unfunded accrued actuarial liability
 660 amortization period for the retirement system to exceed twenty-two
 661 (22) years. The board of trustees shall have the exclusive
 662 authority to set the assumptions that are used in the actuarial
 663 evaluation in accordance with Section 25-11-119(9). The board of
 664 trustees shall recalculate the retirement allowance of any retired
 665 member or beneficiary of such a member as each phase is
 666 implemented.

667 RETIREMENT ALLOWANCE COMPUTATION

668 IMPLEMENTATION TABLE

669	(A)	(B)
670	2% FOR YEARS	PERCENTAGE
671	ABOVE THIS	FOR YEARS
672	NUMBER AND	ABOVE 25
673	≤25 YEARS	YEARS

675	Phase 1	20 years	2.250%
676	Phase 2	15 years	2.250%
677	Phase 3	10 years	2.250%
678	Phase 4	5 years	2.250%
679	Phase 5	0 years	2.250%
680	Phase 6	0 years	2.375%
681	Phase 7	0 years	2.500%

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

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

690 (f) No member, except members excluded by the Age
 691 Discrimination in Employment Act Amendments of 1986 (Public Law

692 99-592), under either Article 1 or Article 3 in state service
693 shall be required to retire because of age.

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

697 (h) (1) A retiree or beneficiary may, on a form prescribed
698 by and filed with the retirement system, irrevocably waive all or
699 a portion of any benefits from the retirement system to which the
700 retiree or beneficiary is entitled. * * * Such waiver shall be
701 binding on the heirs and assigns of any retiree or beneficiary and
702 the same must agree to forever hold harmless the Public Employees'
703 Retirement System of Mississippi from any claim to such waived
704 retirement benefits.

705 (2) Any waiver pursuant to this subsection shall apply
706 only to the person executing the waiver. A beneficiary shall be
707 entitled to benefits according to the option selected by the
708 member at the time of retirement. However, a beneficiary may, at
709 the option of the beneficiary, execute a waiver of benefits
710 pursuant to this subsection.

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

714 (4) The board of trustees may provide rules and
715 regulations for the administration of waivers under this
716 subsection.

717 SECTION 8. Section 25-11-115, Mississippi Code of 1972, is
718 amended as follows:[WAN3]

719 25-11-115. (1) Upon application for superannuation or
720 disability retirement, any member may elect to receive his benefit
721 in a retirement allowance payable throughout life with no further
722 payments to anyone at his death, except that in the event his
723 total retirement payments under this article do not equal his
724 total contributions under this article, his named beneficiary

725 shall receive the difference in cash at his death. Or he may
726 elect upon retirement, or upon becoming eligible for retirement,
727 to receive the actuarial equivalent subject to the provisions of
728 subsection (3) of this section of his retirement allowance in a
729 reduced retirement allowance payable throughout life with the
730 provision that:

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

736 **Option 2.** Upon his death, his reduced retirement allowance
737 shall be continued throughout the life of, and paid to, such
738 person as he has nominated by written designation duly
739 acknowledged and filed with the board of trustees at the time of
740 his retirement;

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

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

752 **Option 4-B.** A reduced retirement allowance shall be
753 continued throughout the life of the retirant, but with the
754 further guarantee of payments to the named beneficiary,
755 beneficiaries or to the estate for a specified number of years
756 certain. If the retired member or the last designated beneficiary
757 receiving annuity payments dies prior to receiving all guaranteed

758 payments due, the actuarial equivalent of the remaining payments
759 shall be paid pursuant to Section 25-11-117.1(1);

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

767 **Option 6.** Any member who has at least twenty-eight (28)
768 years of creditable service at the time of retirement or who is at
769 least sixty-three (63) years of age and eligible to retire, may
770 select the maximum retirement benefit or an optional benefit as
771 provided in this subsection together with a partial lump sum
772 distribution. The amount of the lump sum distribution under this
773 subsection shall be equal to the maximum monthly benefit
774 multiplied by twelve (12), twenty-four (24) or thirty-six (36) as
775 selected by the member. The maximum benefit shall be actuarially
776 reduced to reflect the partial lump sum payment selected and
777 further reduced for any optional benefit payment selected. The
778 annuity and lump sum shall be computed to result in no actuarial
779 loss to the system. The lump sum distribution shall be made as a
780 single payment payable at the time the first monthly annuity
781 payment is paid to the retiree. The amount of the lump sum
782 distribution shall be deducted from the member's annuity savings
783 account in computing what contributions remain at the death of the
784 retiree and/or a beneficiary. The lump sum distribution option
785 may be elected only once by a member upon initial retirement, and
786 may not be elected by a retiree, by members applying for a
787 disability retirement annuity, by survivors or by a member
788 selecting Option 4-C.

789 (2) No change in the option selected shall be permitted
790 after the member's death or after the member has received his

791 first retirement check except as provided in subsections (3) and
792 (4) of this section and in Section 25-11-127. However, any
793 retired member who is receiving a retirement allowance under
794 Option 2 or Option 4-A upon July 1, 1992, and whose designated
795 beneficiary predeceased him or whose marriage to a spouse who is
796 his designated beneficiary is terminated by divorce or other
797 dissolution, upon written notification to the retirement system of
798 the death of the designated beneficiary or of the termination of
799 his marriage to his designated beneficiary, the retirement
800 allowance payable to the member after receipt of such notification
801 by the retirement system shall be equal to the retirement
802 allowance which would have been payable had the member not elected
803 the option. In addition, any retired member who is receiving the
804 maximum retirement allowance for life, a retirement allowance
805 under Option 1 or who is receiving a retirement allowance under
806 Option 2 or Option 4-A on July 1, 1992, may elect to provide
807 survivor benefits under Option 2 or Option 4-A to a spouse who was
808 not previously the member's beneficiary and whom the member
809 married before July 1, 1992.

810 (3) Any retired member who is receiving a reduced retirement
811 allowance under Option 2 or Option 4-A whose designated
812 beneficiary predeceases him, or whose marriage to a spouse who is
813 his designated beneficiary is terminated by divorce or other
814 dissolution, may elect to cancel his reduced retirement allowance
815 and receive the maximum retirement allowance for life in an amount
816 equal to the amount that would have been payable if the member had
817 not elected Option 2 or Option 4-A. Such election must be made in
818 writing to the office of the executive director of the system on a
819 form prescribed by the board. Any such election shall be
820 effective the first of the month following the date the election
821 is received by the system.

822 (4) Any retired member who is receiving the maximum
823 retirement allowance for life, or a retirement allowance under

824 Option 1, and who marries after his retirement may elect to cancel
825 his maximum retirement allowance and receive a reduced retirement
826 allowance under Option 2 or Option 4-A to provide continuing
827 lifetime benefits to his spouse. Such election must be made in
828 writing to the office of the executive director of the system on a
829 form prescribed by the board not earlier than the date of the
830 marriage. Any such election shall be effective the first of the
831 month following the date the election is received by the system.
832 The amount of the reduced retirement allowance shall be the
833 actuarial equivalent, taking into account that the member received
834 the maximum retirement allowance for a period of time before
835 electing to receive a reduced retirement allowance.

836 (5) In the event the election of an optional benefit is made
837 after the member has attained the age of sixty-five (65) years,
838 the actuarial equivalent factor shall be used to compute the
839 reduced retirement allowance as if the election had been made on
840 his sixty-fifth birthday. However, if a retiree marries or
841 remarries after retirement and elects either Option 2 or Option
842 4-A as provided in subsection (2) or (4) of this section, the
843 actuarial equivalent factor used to compute the reduced retirement
844 allowance shall be the factor for the age of the retiree and his
845 or her beneficiary at the time such election for recalculation of
846 benefits is made.

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

851 (7) If a retirant and his eligible beneficiary, if any, both
852 die before they have received in annuity payments a total amount
853 equal to the accumulated contributions standing to the retirant's
854 credit in the annuity savings account at the time of his
855 retirement, the difference between the accumulated contributions
856 and the total amount of annuities received by them shall be paid

857 to such persons as the retirant has nominated by written
858 designation duly executed and filed in the office of the executive
859 director. If no designated person survives the retirant and his
860 beneficiary, the difference, if any, shall be paid pursuant to
861 Section 25-11-117.1(1).

862 (8) Any retired member who retired on Option 2(5) or 4-A(5)
863 prior to July 1, 1992, who is still receiving a retirement
864 allowance on July 1, 1994, shall receive an increase in the annual
865 retirement allowance effective July 1, 1994, equal to the amount
866 they would have received under Option 2 or Option 4-A without a
867 reduction for Option 5 based on the ages at retirement of the
868 retiree and beneficiary and option factors in effect on July 1,
869 1992. Such increase shall be prospective only.

870 SECTION 9. Section 25-11-120, Mississippi Code of 1972, is
871 amended as follows:[WAN4]

872 25-11-120. (1) Any individual aggrieved by an
873 administrative determination, including a determination of the
874 medical board, relating to the eligibility for or payment of
875 benefits, or the calculation of creditable service or other
876 similar matters relating to the Public Employees' Retirement
877 System or any other retirement system or program administered by
878 the board, may request a hearing before a hearing officer
879 designated by the board. Such hearings shall be conducted in
880 accordance with rules and regulations adopted by the board and
881 formal rules of evidence shall not apply. The hearing officer is
882 authorized to administer oaths, hear testimony of witnesses and
883 receive documentary and other evidence. After the hearing, the
884 hearing officer shall certify the record to the board, which shall
885 include the hearing officer's proposed statement of facts,
886 conclusions of law and recommendation. The record may include a
887 taped recording of the proceedings of the hearing in lieu of a
888 transcribed copy of the proceedings. The board shall receive the
889 record and make its determination based solely on matters

890 contained therein.

891 (2) Any individual aggrieved by the determination of the
892 board may appeal to the Circuit Court of the First Judicial
893 District of Hinds County, Mississippi, in accordance with the
894 Uniform Circuit Court Rules governing appeals to the circuit court
895 in civil cases. Such appeal shall be made solely on the record
896 before the board and this procedure shall be the exclusive method
897 of appealing determinations of the board.

898 (3) The board is authorized to appoint a committee of the
899 board to serve as hearing officer or to employ or contract with
900 qualified personnel to perform the duties of hearing officer and
901 court reporter as may be necessary for conducting, recording and
902 transcribing such hearings. The board may assess and collect fees
903 to offset costs related to such hearings. Those fees shall be
904 deposited to the credit of the Public Employees' Retirement
905 System.

906 (4) In no case shall the amount, recovered by an attorney in
907 fees for an appearance before the administrative body, exceed the
908 lesser of twenty-five percent (25%) of the accrued benefits due as
909 of the date of a final award of benefits by the retirement system
910 or a court of law, or Three Thousand Five Hundred Dollars
911 (\$3,500.00).

912 SECTION 10. Section 25-11-121, Mississippi Code of 1972, is
913 amended as follows:[WAN5]

914 25-11-121. (1) The board shall, from time to time,
915 determine the current requirements for benefit payments and
916 administrative expense which shall be maintained as a cash working
917 balance, except that such cash working balance shall not exceed at
918 any time an amount necessary to meet the current obligations of
919 the system for a period of ninety (90) days. Any amounts in
920 excess of such cash working balance shall be invested, as follows,
921 at such periodic intervals as the board may determine, provided
922 however, all purchases shall be made from competitive offerings

923 except short-term obligations referred to in Section 25-11-121(d):

924 (a) Bonds, notes, certificates and other valid general
925 obligations of the State of Mississippi, or of any county, or of
926 any city, or of any supervisors district of any county of the
927 State of Mississippi, or of any school district bonds of the State
928 of Mississippi; notes or certificates of indebtedness issued by
929 the Veterans' Home Purchase Board of Mississippi, provided such
930 notes or certificates of indebtedness are secured by the pledge of
931 collateral equal to two hundred percent (200%) of the amount of
932 the loan, which collateral is also guaranteed at least for fifty
933 percent (50%) of the face value by the United States government,
934 and provided that not more than five percent (5%) of the total
935 investment holdings of the system shall be in Veterans' Home
936 Purchase Board notes or certificates at any time; real estate
937 mortgage loans one hundred percent (100%) insured by the Federal
938 Housing Administration on single family homes located in the State
939 of Mississippi, where monthly collections and all servicing
940 matters are handled by Federal Housing Administration approved
941 mortgagees authorized to make such loans in the State of
942 Mississippi;

943 (b) State of Mississippi highway bonds;

944 (c) Funds may be deposited in federally insured
945 institutions domiciled in the State of Mississippi or a custodial
946 bank;

947 (d) Corporate bonds and taxable municipal bonds of
948 investment grade as rated by Standard and Poor's or by Moody's
949 Investment Service, with bonds rated BAA/BBB not to exceed five
950 percent (5%) of the book value of the total fixed income
951 investments; or corporate short-term obligations of corporations
952 or of wholly-owned subsidiaries of corporations, whose short-term
953 obligations are rated A-3 or better by Standard and Poor's or
954 rated P-3 or better by Moody's Investment Service;

955 (e) Bonds of the Tennessee Valley Authority;

956 (f) Bonds, notes, certificates and other valid
957 obligations of the United States, and other valid obligations of
958 any federal instrumentality that issues securities under authority
959 of an act of Congress and are exempt from registration with the
960 Securities and Exchange Commission;

961 (g) Bonds, notes, debentures and other securities
962 issued by any federal instrumentality and fully guaranteed by the
963 United States;

964 (h) Interest-bearing bonds or notes which are general
965 obligations of any other state in the United States or of any city
966 or county therein, provided such city or county had a population
967 as shown by the federal census next preceding such investment of
968 not less than twenty-five thousand (25,000) inhabitants and
969 provided that such state, city or county has not defaulted for a
970 period longer than thirty (30) days in the payment of principal or
971 interest on any of its general obligation indebtedness during a
972 period of ten (10) calendar years immediately preceding such
973 investment;

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

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

980 (ii) The stock of such corporation shall:

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

982 B. Be traded in the over-the-counter market,

983 provided price quotations for such over-the-counter stocks are
984 quoted by the National Association of Securities Dealers Automated
985 Quotation System (NASDAQ);

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

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

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

995 (j) Bonds rated Single A or better, stocks and
996 convertible securities of established non-United States companies,
997 which companies are listed on only primary national stock
998 exchanges of foreign nations; and in foreign government securities
999 rated Single A or better by a recognized rating agency; provided
1000 that the total book value of investments under this paragraph
1001 shall at no time exceed thirty percent (30%) of the total book
1002 value of all investments of the system. The board may take
1003 requisite action to effectuate or hedge such transactions through
1004 foreign banks, including the purchase and sale, transfer,
1005 exchange, or otherwise disposal of, and generally deal in foreign
1006 exchange through the use of foreign currency, interbank forward
1007 contracts, futures contracts, options contracts, swaps and other
1008 related derivative instruments, notwithstanding any other
1009 provisions of this article to the contrary;

1010 (k) Covered call and put options on securities traded
1011 on one or more of the regulated exchanges;

1012 (l) Pooled or commingled funds managed by a corporate
1013 trustee or by a Securities and Exchange Commission registered
1014 investment advisory firm retained as an investment manager by the
1015 board of trustees, and shares of investment companies and unit
1016 investment trusts registered under the Investment Company Act of
1017 1940, where such pooled or commingled funds or shares are
1018 comprised of common or preferred stocks, bonds, money market
1019 instruments or other investments authorized under this section.
1020 Such investment in commingled funds or shares shall be held in
1021 trust; provided that the total book value of investments under

1022 this paragraph shall at no time exceed five percent (5%) of the
1023 total book value of all investments of the system. Any investment
1024 manager approved by the board of trustees shall invest such
1025 commingled funds or shares as a fiduciary;

1026 (m) Pooled or commingled real estate funds or real
1027 estate securities managed by a corporate trustee or by a
1028 Securities and Exchange Commission registered investment advisory
1029 firm retained as an investment manager by the board of trustees.
1030 Such investment in commingled funds or shares shall be held in
1031 trust; provided that the total book value of investments under
1032 this paragraph shall at no time exceed five percent (5%) of the
1033 total book value of all investments of the system. Any investment
1034 manager approved by the board of trustees shall invest such
1035 commingled funds or shares as a fiduciary. The five percent (5%)
1036 limitation in this subsection shall not be subject to the five
1037 percent (5%) limitation in paragraph (1) of this paragraph.

1038 (2) All investments shall be acquired by the board at prices
1039 not exceeding the prevailing market values for such securities.

1040 (3) Any limitations herein set forth shall be applicable
1041 only at the time of purchase and shall not require the liquidation
1042 of any investment at any time. All investments shall be clearly
1043 marked to indicate ownership by the system and to the extent
1044 possible shall be registered in the name of the system.

1045 (4) Subject to the above terms, conditions, limitations and
1046 restrictions, the board shall have power to sell, assign, transfer
1047 and dispose of any of the securities and investments of the
1048 system, provided that said sale, assignment or transfer has the
1049 majority approval of the entire board. The board may employ or
1050 contract with investment managers, evaluation services or other
1051 such services as determined by the board to be necessary for the
1052 effective and efficient operation of the system.

1053 (5) Except as otherwise provided herein, no trustee and no
1054 employee of the board shall have any direct or indirect interest

1055 in the income, gains or profits of any investment made by the
1056 board, nor shall any such person receive any pay or emolument for
1057 his services in connection with any investment made by the board.
1058 No trustee or employee of the board shall become an endorser or
1059 surety, or in any manner an obligor for money loaned by or
1060 borrowed from the system.

1061 (6) All interest derived from investments and any gains from
1062 the sale or exchange of investments shall be credited by the board
1063 to the account of the system.

1064 (7) The board of trustees annually shall credit regular
1065 interest on the mean amount for the preceding year in each of the
1066 reserves maintained by the board, with the exception of the
1067 expense account. This credit shall be made annually from interest
1068 and other earnings on the invested assets of the system. Any
1069 additional amount required to meet the regular interest on the
1070 funds of the system shall be charged to the employer's
1071 accumulation account, and any excess of earnings over such regular
1072 interest required shall be credited to the employer's accumulation
1073 account. Regular interest shall mean such per centum rate to be
1074 compounded annually as shall be determined by the board of
1075 trustees on the basis of the interest earnings of the system for
1076 the preceding year.

1077 (8) The board of trustees shall be the custodian of the
1078 funds of the system. All expense vouchers and retirement
1079 allowance payrolls shall be certified by the executive secretary
1080 who shall furnish the board a surety bond in a company authorized
1081 to do business in Mississippi in such an amount as shall be
1082 required by the board, the premium to be paid by the board from
1083 the expense account.

1084 (9) For the purpose of meeting disbursements for retirement
1085 allowances, annuities and other payments, cash may be kept
1086 available, not exceeding the requirements of the system for a
1087 period of ninety (90) days, on deposit in one or more banks or

1088 trust companies organized under the laws of the State of
1089 Mississippi or the laws of the United States, provided that the
1090 sum on deposit in any one (1) bank or trust company shall not
1091 exceed thirty-five percent (35%) of the paid-up capital and
1092 regular surplus of such bank or trust company.

1093 (10) Except as otherwise provided, the monies or properties
1094 of the Public Employees' Retirement System of Mississippi
1095 deposited in any bank or banks of the United States shall, where
1096 possible, be safeguarded and guaranteed by the posting as security
1097 by the depository of bonds, notes and other securities purchasable
1098 by the system, as provided elsewhere in this section. The bonds,
1099 notes and other securities offered as security shall be posted to
1100 the credit of the system by the depository with the board or with
1101 an unaffiliated bank or trust company domiciled within the United
1102 States or the State of Mississippi acceptable to both the board
1103 and to the fiscal agent bank. In the event the board and the
1104 fiscal agent bank cannot reach an agreement, the bonds, notes and
1105 other securities shall be deposited in a bank or trust company
1106 designated by the State Commissioner of Banking and Consumer
1107 Finance. Provided, however, that bonds or notes of the United
1108 States government owned by the system may be deposited for
1109 safekeeping in any federal reserve bank.

1110 (11) The board of trustees shall determine the degree of
1111 collateralization necessary for both foreign and domestic demand
1112 deposit accounts in addition to that which is guaranteed by the
1113 Federal Deposit Insurance Corporation or such other federal
1114 insurance program as may be in effect.

1115 (12) The board, the executive secretary and employees shall
1116 discharge their duties with respect to the investments of the
1117 system solely for the interest of the system with the care, skill,
1118 prudence and diligence under the circumstances then prevailing
1119 that a prudent person acting in a like capacity and familiar with
1120 such matters would use in the conduct of an enterprise of a like

1121 character and with like aims, including diversifying the
1122 investments of the system so as to minimize the risk of large
1123 losses, unless under the circumstances it is clearly prudent not
1124 to do so.

1125 SECTION 11. Section 25-11-131, Mississippi Code of 1972, is
1126 amended as follows:[CR6]

1127 25-11-131. (1) Any person or corporation who shall receive
1128 and retain any payment, after the death of a member or after the
1129 death of the beneficiary of any member, which amount is not
1130 lawfully due, shall be liable for the repayment of such amount to
1131 the retirement system plus interest thereon at ten percent (10%)
1132 per annum plus all costs of collection. Any person who shall
1133 knowingly make any false statement or shall falsify or permit to
1134 be falsified any record or records of this retirement system in
1135 any attempt to defraud such system as a result of such act shall
1136 be guilty of a misdemeanor if the amount obtained or attempted to
1137 be obtained does not exceed the amount of Five Hundred Dollars
1138 (\$500.00), and, on conviction thereof by any court of competent
1139 jurisdiction, shall be punished by a fine not exceeding Five
1140 Hundred Dollars (\$500.00) or imprisonment in the county jail not
1141 exceeding six (6) months, or both; if such amount obtained or
1142 attempted to be obtained shall exceed the sum of Five Hundred
1143 Dollars (\$500.00), such person or persons shall be guilty of a
1144 felony and, on conviction thereof by any court of competent
1145 jurisdiction, shall be punished by a fine not exceeding Ten
1146 Thousand Dollars (\$10,000.00) or by imprisonment in the State
1147 Penitentiary not exceeding five (5) years, or both.

1148 (2) Should any change or error in the records result in any
1149 member or beneficiary receiving from the retirement system more or
1150 less than he would have been entitled to receive had the records
1151 been correct, the board of trustees shall correct such error upon
1152 detection, regardless of the length of time between the reporting
1153 error or the time payment started and the time the board became

1154 aware of the error, and, as far as practicable, adjust the payment
1155 in such a manner that the actuarial equivalent of the benefit to
1156 which such member or beneficiary was correctly entitled shall be
1157 paid. This responsibility is, and has been, the duty of the board
1158 since the creation of the retirement system.

1159 SECTION 12. Section 25-11-139, Mississippi Code of 1972, is
1160 amended as follows:[CR7]

1161 25-11-139. Any retirement allowance or other annuity or
1162 benefit provided by Articles 1 and 3 shall be paid in equal
1163 monthly installments for life and shall not be increased,
1164 decreased, revoked or repealed, except for error upon detection,
1165 regardless of the length of time between the reporting error or
1166 the time payment started and the time the board became aware of
1167 the error, or except where specifically otherwise provided by said
1168 articles. This responsibility is, and has been, the duty of the
1169 board since the creation of the retirement system.

1170 Pursuant to Section 25-11-111, Mississippi Code of 1972, it
1171 is and has been the sole responsibility of the member or
1172 beneficiary thereof to apply for benefits and no benefits shall be
1173 paid for any period prior to the first of the month following the
1174 receipt of such application for such benefits, but in no event
1175 prior to termination of employment, except as authorized in
1176 Section 25-11-114.

1177 SECTION 13. Section 25-11-311, Mississippi Code of 1972, is
1178 amended as follows:[WAN8]

1179 25-11-311. (1) A member may be paid a refund of the amount
1180 of accumulated contributions to the credit of the member in the
1181 annuity savings account, provided the member has withdrawn from
1182 state service and further provided the member has not returned to
1183 state service on the date the refund of the accumulated
1184 contributions would be paid. Such refund of the contributions to
1185 the credit of the member in the annuity savings account shall be
1186 paid within ninety (90) days from receipt in the office of the

1187 retirement system of the properly completed form requesting such
1188 payment. In the event of death prior to retirement of any member
1189 whose spouse and/or children are not entitled to a retirement
1190 allowance, the accumulated contributions to the credit of the
1191 deceased member in the annuity savings account shall be paid to
1192 the designated beneficiary on file in writing in the office of
1193 executive secretary of the board of trustees within ninety (90)
1194 days from receipt of a properly completed form requesting such
1195 payment. If there is no such designated beneficiary on file for
1196 such deceased member in the office of the system, upon the filing
1197 of a proper request with the board, the contributions to the
1198 credit of the deceased member in the annuity savings account shall
1199 be refunded pursuant to Section 25-11-311.1(1). The payment of
1200 the refund shall discharge all obligations of the retirement
1201 system to the member on account of any creditable service rendered
1202 by the member prior to the receipt of the refund. By the
1203 acceptance of the refund, the member shall waive and relinquish
1204 all accrued rights in the plan.

1205 (2) Pursuant to the Unemployment Compensation Amendments of
1206 1992 (P.L. 102-318 (UCA)), a member or eligible beneficiary making
1207 application for a refund under this section may elect, on a form
1208 prescribed by the board under rules and regulations established by
1209 the board, to have an eligible rollover distribution of
1210 accumulated contributions payable under this section paid directly
1211 to an eligible retirement plan or individual retirement account.
1212 If the member or eligible beneficiary makes such election and
1213 specifies the eligible retirement plan or individual retirement
1214 account to which such distribution is to be paid, the distribution
1215 will be made in the form of a direct trustee-to-trustee transfer
1216 to the specified eligible retirement plan. Flexible rollovers
1217 under this subsection shall not be considered assignments under
1218 Section 25-11-129.

1219 (3) If any person who has received a refund is reelected to

1220 the Legislature or as President of the Senate and again becomes a
1221 member of the plan * * *, the member may repay all or part of the
1222 amounts previously received as a refund, together with regular
1223 interest covering the period from the date of refund to the date
1224 of repayment; provided, however, that the amounts that are repaid
1225 by the member and the creditable service related thereto, shall
1226 not be used in any benefit calculation or determination until the
1227 member has remained a contributor to the system for a period of at
1228 least four (4) years subsequent to such member's reentry into
1229 state service. Repayment for such time shall be made in
1230 increments of not less than one-quarter (1/4) year of creditable
1231 service beginning with the most recent service for which refund
1232 has been made. Upon the repayment of all or part of such refund
1233 and interest, the member shall again receive credit for the * * *
1234 period of creditable service for which full repayment has been
1235 made to the system.

1236 SECTION 14. Section 25-13-16, Mississippi Code of 1972, is
1237 amended as follows:[WAN9]

1238 25-13-16. (1) Upon application for superannuation or
1239 disability retirement, any member who retires after July 1, 1990,
1240 may elect to receive his benefit pursuant to the provisions of
1241 Sections 25-13-11 and 25-13-13 * * *. Or he may elect upon
1242 retirement, or upon becoming eligible for retirement, to receive
1243 the actuarial equivalent, subject to the provisions of subsection
1244 (3) of this section, of his retirement allowance in a reduced
1245 retirement allowance payable throughout life with the provision
1246 that:

1247 **Option 1.** If he dies before he has received in annuity
1248 payment the value of the member's annuity savings account as it
1249 was at the time of his retirement, the balance shall be paid to
1250 his legal representative or to such person as he shall nominate by
1251 written designation duly acknowledged and filed with the board; or

1252 **Option 2.** Upon his death, his reduced retirement allowance

1253 shall be continued throughout the life of, and paid to, such
1254 person as he has nominated by written designation duly
1255 acknowledged and filed with the board of trustees at the time of
1256 his retirement;

1257 **Option 3.** Upon his death, one-half (1/2) of his reduced
1258 retirement allowance shall be continued throughout the life of,
1259 and paid to, such person as he shall have nominated by written
1260 designation duly acknowledged and filed with the board of trustees
1261 at the time of his retirement, and the other one-half (1/2) of his
1262 reduced retirement allowance to some other designated beneficiary;

1263 **Option 4-A.** Upon his death, one-half (1/2) of his reduced
1264 retirement allowance, or such other specified amount, shall be
1265 continued throughout the life of, and paid to, such person as he
1266 shall have nominated by written designation duly acknowledged and
1267 filed with the board of trustees at the time of his retirement; or

1268 **Option 4-B.** A reduced retirement allowance shall be
1269 continued throughout the life of the retirant, but with the
1270 further guarantee of payments to the named beneficiary,
1271 beneficiaries or to the estate for a specified number of years
1272 certain. If the retired member or the last designated beneficiary
1273 receiving annuity payments dies prior to receiving all guaranteed
1274 payments due, the actuarial equivalent of the remaining payments
1275 shall be paid pursuant to Section 25-13-21.1(1).

1276 **Option 4-C.** Such retirement allowance otherwise payable may
1277 be converted into a retirement allowance of equivalent actuarial
1278 value in such an amount that, with the member's benefit under
1279 Title II of the federal Social Security Act, the member will
1280 receive, so far as possible, approximately the same amount
1281 annually before and after the earliest age at which the member
1282 becomes eligible to receive a social security benefit.

1283 **Option 6.** Any member who is eligible to retire with an
1284 unreduced benefit may select the maximum retirement benefit or an
1285 optional benefit as provided in this subsection together with a

1286 partial lump sum distribution. The amount of the lump sum
1287 distribution under this subsection shall be equal to the maximum
1288 monthly benefit multiplied by twelve (12), twenty-four (24) or
1289 thirty-six (36) as selected by the member. The maximum benefit
1290 shall be actuarially reduced to reflect the partial lump sum
1291 payment selected and further reduced for any optional benefit
1292 payment selected. The annuity and lump sum shall be computed to
1293 result in no actuarial loss to the system. The lump sum
1294 distribution shall be made as a single payment payable at the time
1295 the first monthly annuity payment is paid to the retiree. The
1296 amount of the lump sum distribution shall be deducted from the
1297 member's annuity savings account in computing what contributions
1298 remain at the death of the retiree and/or a beneficiary. The lump
1299 sum distribution option may be elected only once by a member upon
1300 initial retirement, and may not be elected by a retiree, by
1301 members applying for a disability retirement annuity, by survivors
1302 or by a member selecting Option 4-C.

1303 (2) No change in the option selected shall be permitted
1304 after the member's death or after the member has received his
1305 first retirement check, except as provided in subsections (3) and
1306 (4) of this section. However, any retired member who is receiving
1307 a retirement allowance under Option 2 or Option 4-A upon July 1,
1308 1999, and whose designated beneficiary predeceased him or whose
1309 marriage to a spouse who is his designated beneficiary is
1310 terminated by divorce or other dissolution, upon written
1311 notification to the retirement system of the death of the
1312 designated beneficiary or of the termination of his marriage to
1313 his designated beneficiary, the retirement allowance payable to
1314 the member after receipt of such notification by the retirement
1315 system shall be equal to the retirement allowance that would have
1316 been payable if the member had not elected the option. In
1317 addition, any retired member who is receiving the maximum
1318 retirement allowance for life, a retirement allowance under Option

1319 1 or who is receiving a retirement allowance under Option 2 or
1320 Option 4-A on July 1, 1999, may elect to provide survivor benefits
1321 under Option 2 or Option 4-A to a spouse who was not previously
1322 the member's beneficiary and who the member married before July 1,
1323 1999. Should a member retired on disability be returned to active
1324 service, the option previously selected shall be null and void.
1325 Upon subsequent retirement a new option may be selected.

1326 (3) Any retired member who is receiving a reduced retirement
1327 allowance under Option 2 or Option 4-A whose designated
1328 beneficiary predeceases him, or whose marriage to a spouse who is
1329 his designated beneficiary is terminated by divorce or other
1330 dissolution, may elect to cancel his reduced retirement allowance
1331 and receive the maximum retirement allowance for life in an amount
1332 equal to the amount that would have been payable if the member had
1333 not elected Option 2 or Option 4-A. Such election must be made in
1334 writing to the office of the executive director of the system on a
1335 form prescribed by the board. Any such election shall be
1336 effective the first of the month following the date the election
1337 is received by the system.

1338 (4) Any retired member who is receiving the maximum
1339 retirement allowance for life, or a retirement allowance under
1340 Option 1, and who marries after his retirement may elect to cancel
1341 his maximum retirement allowance and receive a reduced retirement
1342 allowance under Option 2 or Option 4-A to provide continuing
1343 lifetime benefits to his spouse. Such election must be made in
1344 writing to the office of the executive director of the system on a
1345 form prescribed by the board not earlier than the date of the
1346 marriage. Any such election shall be effective the first of the
1347 month following the date the election is received by the system.
1348 The amount of the reduced retirement allowance shall be the
1349 actuarial equivalent, taking into account that the member received
1350 the maximum retirement allowance for a period of time before
1351 electing to receive a reduced retirement allowance. However, if a

1352 retiree marries or remarries after retirement and elects either
1353 Option 2 or Option 4-A as provided in subsection (2) or (4) of
1354 this section, the actuarial equivalent factor used to compute the
1355 reduced retirement allowance shall be the factor for the age of
1356 the retiree and his or her beneficiary at the time such election
1357 for recalculation of benefits is made.

1358 (5) Any member in service who has qualified for retirement
1359 benefits may select any optional method of settlement of
1360 retirement benefits by notifying the Executive Director of the
1361 Board of Trustees of the Public Employees' Retirement System in
1362 writing, on a form prescribed by the board, of the option he has
1363 selected and by naming the beneficiary of such option and
1364 furnishing necessary proof of age. Such option, once selected,
1365 may be changed at any time prior to actual retirement or death,
1366 but upon the death or retirement of the member, the optional
1367 settlement shall be placed in effect upon proper notification to
1368 the executive director.

1369 (6) Notwithstanding any provision of Section 25-13-1 et
1370 seq., no payments may be made for a retirement allowance on a
1371 monthly basis for a period of time in excess of that allowed by
1372 federal law.

1373 (7) If a retirant and his eligible beneficiary, if any, both
1374 die before they have received in annuity payments a total amount
1375 equal to the accumulated contributions standing to the retirant's
1376 credit in the annuity savings account at the time of his
1377 retirement, the difference between the accumulated contributions
1378 and the total amount of annuities received by them shall be paid
1379 to such persons as the retirant has nominated by written
1380 designation duly executed and filed in the office of the executive
1381 director. If no designated person survives the retirant and his
1382 beneficiary, the difference, if any, shall be paid pursuant to
1383 Section 25-13-21.1(1).

1384 (8) Any retired member who retired on Option 2(5) or 4-A(5)

1385 before July 1, 1999, who is still receiving a retirement allowance
1386 as of July 1, 1999, shall receive an increase in the annual
1387 retirement allowance effective July 1, 1999, equal to the amount
1388 they would have received under Option 2 or Option 4-A without a
1389 reduction for Option 5 based on the ages at retirement of the
1390 retiree and beneficiary and option factors in effect on July 1,
1391 1999. Such increase shall be prospective only.

1392 (9) For purposes of this section:

1393 (a) "Beneficiary" means any person designated to
1394 receive a retirement allowance, an annuity or other benefit as
1395 provided by this chapter. Such designation shall be in writing
1396 filed in the office of the Executive Director of the Board of
1397 Trustees of the Public Employees' Retirement System, and no
1398 designation or change of beneficiary shall be made in any other
1399 manner; however, notwithstanding any provision of this chapter to
1400 the contrary, the lawful spouse of a member at the time of the
1401 death of a member shall be the beneficiary of such member unless
1402 the member has designated another beneficiary subsequent to the
1403 date of marriage.

1404 (b) "Actuarial equivalent" shall mean a benefit of
1405 equal value to the accumulated contributions, annuity or benefit,
1406 as the case may be, when computed upon the basis of such mortality
1407 tables as shall be adopted by the board of trustees, and regular
1408 interest.

1409 (c) "Actuarial tables" shall mean such tables of
1410 mortality and rates of interest as shall be adopted by the board
1411 in accordance with the recommendation of the actuary.

1412 SECTION 15. Section 25-11-112, Mississippi Code of 1972, is
1413 amended as follows:[WAN10]

1414 25-11-112. (1) Any member who is receiving a retirement
1415 allowance for service or disability retirement, or any beneficiary
1416 thereof, who has received a monthly benefit for at least one (1)
1417 full fiscal year, shall be eligible to receive an additional

1418 benefit, on December 1 or July 1 of the year as provided in
1419 subsection (3) of this section, equal to the greater of the
1420 amounts calculated under paragraph (a) or (b) below:

1421 (a) An amount equal to four percent (4%) of the annual
1422 retirement allowance multiplied by the number of full fiscal years
1423 in retirement through June 30, 1998; or

1424 (b) The sum of:

1425 (i) An amount equal to three percent (3%) of the
1426 annual retirement allowance multiplied by the number of full
1427 fiscal years in retirement before the end of the fiscal year in
1428 which the member reaches age fifty-five (55), plus

1429 (ii) An additional amount equal to three percent
1430 (3%) compounded by the number of full fiscal years in retirement
1431 beginning with the fiscal year in which the member reaches age
1432 fifty-five (55), multiplied by the amount of the annual retirement
1433 allowance.

1434 (2) The calculation of the beneficiary's additional benefit
1435 under subsection (1)(b)(i) or (1)(b)(ii) of this section shall be
1436 based on the member's age and full fiscal years in retirement as
1437 if the member had lived.

1438 (3) The additional benefit provided for under this section
1439 shall be paid in one (1) payment in December of each year to those
1440 persons who are receiving a retirement allowance on December 1 of
1441 that year, unless an election is made under this subsection.

1442 However, if a retiree who is receiving a retirement allowance that
1443 will terminate upon the retiree's death is receiving the
1444 additional benefit in one (1) payment and dies on or after July 1
1445 but before December 1, the beneficiary designated on the
1446 retirement application, if any, shall receive in a single payment
1447 a fractional part of the additional benefit based on the number of
1448 months in which a retirement allowance was received during the
1449 fiscal year. Likewise, if a retiree is receiving a retirement
1450 allowance that will terminate upon his or her death in two (2) to

1451 six (6) monthly installments, any remaining payments of the
1452 additional benefit will be paid in a lump sum to the beneficiary
1453 designated on the application, or if none, pursuant to Section
1454 25-11-117.1(1). Any similar remaining payments of additional
1455 benefits payable under this section to a deceased beneficiary who
1456 was receiving a monthly benefit shall be payable in accordance
1457 with the provisions of Section 25-11-117.1(2).

1458 Retired members or beneficiaries thereof who on July 1, 1999,
1459 or July 1 of any fiscal year thereafter, are receiving a
1460 retirement allowance, may elect by an irrevocable agreement in
1461 writing filed in the office of the Public Employees' Retirement
1462 System no less than thirty (30) days before July 1 of the
1463 appropriate year, to begin receiving the additional benefit
1464 provided for under this section in twelve (12) equal monthly
1465 installments beginning July 1, 1999, or July 1 of any fiscal year
1466 thereafter. This irrevocable agreement shall be binding on the
1467 member and subsequent beneficiaries. Payment of those monthly
1468 installments shall not extend beyond the month in which a
1469 retirement allowance is due and payable.

1470 (4) The additional payment or payments provided for under
1471 this section are for the fiscal year in which they are paid.

1472 (5) The amount provided for under subsection (1)(b)(ii) of
1473 this section is calculated using the following formula:

1474 $[(1.03)^n - 1] \times [\text{annual retirement allowance}],$

1475 where n is the number of full fiscal years in retirement beginning
1476 with the fiscal year in which the member reaches age fifty-five
1477 (55).

1478 (6) Any retired member or beneficiary thereof who has
1479 previously elected to receive the additional annual payment in
1480 monthly installments may elect, upon application on a form
1481 prescribed by the board of trustees, to have that payment made in
1482 one (1) additional payment each year. This written election must
1483 be filed in the office of the Public Employees' Retirement System

1484 before June 1, 2000, and shall be effective for the fiscal year
1485 beginning July 1, 2000.

1486 (7) In the event of death of a retired member or a
1487 beneficiary thereof who is receiving the additional annual payment
1488 in two (2) to six (6) monthly installments pursuant to an election
1489 made before July 1, 1999, and who would otherwise be eligible to
1490 receive the additional benefit provided for under this section in
1491 one (1) payment in December of the current fiscal year, any
1492 remaining amounts shall be paid in a lump sum to the designated
1493 beneficiary.

1494 SECTION 16. Section 25-11-114, Mississippi Code of 1972, is
1495 amended as follows:[WAN11]

1496 25-11-114. (1) The applicable benefits provided in
1497 subsections (2) and (3) of this section shall be paid to eligible
1498 beneficiaries of any member who has completed four (4) or more
1499 years of creditable service and who dies before retirement and who
1500 has not filed a Pre-Retirement Optional Retirement Form as
1501 provided in Section 25-11-111.

1502 (2) (a) The member's surviving spouse who has been married
1503 to the member for not less than one (1) year immediately preceding
1504 his death shall receive an annuity computed in accordance with
1505 paragraph (d) of this subsection (2) as if the member:

1506 (i) Had retired on the date of his death with
1507 entitlement to an annuity provided for in Section 25-11-111,
1508 notwithstanding that he might not have attained age sixty (60) or
1509 acquired twenty-five (25) years of creditable service;

1510 (ii) Had nominated his spouse as beneficiary; and

1511 (b) If, at the time of the member's death, there are no
1512 dependent children, and the surviving spouse, who otherwise would
1513 receive the annuity under this subsection (2), has filed with the
1514 system a signed written waiver of his or her rights to the annuity
1515 and that waiver was in effect at the time of the member's death, a
1516 lump sum distribution of the deceased member's accumulated

1517 contributions shall be refunded in accordance with Section
1518 25-11-117.

1519 (c) The spouse annuity shall begin on the first day of
1520 the month following the date of the member's death, but in case of
1521 late filing, retroactive payments will be made for a period of not
1522 more than one (1) year.

1523 (d) The spouse annuity shall be the greater of twenty
1524 percent (20%) of the deceased member's average compensation as
1525 defined in Section 25-11-103 at the time of death or Fifty Dollars
1526 (\$50.00) monthly. If the spouse dies or if the spouse remarries
1527 before age sixty (60), the spouse annuity shall terminate.

1528 (e) However, the spouse may elect by an irrevocable
1529 agreement on a form prescribed by the board of trustees to receive
1530 a monthly allowance as computed under either paragraph (d) or this
1531 paragraph. Such irrevocable agreement shall constitute a waiver
1532 by the spouse to any current and future monthly allowance under
1533 the paragraph not elected and such waiver shall be a complete and
1534 full discharge of all obligations of the retirement system under
1535 such paragraph.

1536 Any member who has completed four (4) or more years of
1537 creditable service and who dies before retirement and leaves a
1538 spouse who has been married to the member for not less than one
1539 (1) year immediately preceding his death and has not exercised any
1540 other option shall be deemed to have exercised Option 2 under
1541 Section 25-11-115 for the benefit of his spouse, which spouse
1542 shall be paid Option 2 settlement benefits under this article
1543 beginning on the first of the month following the date of death,
1544 but in case of late filing, retroactive payments will be made for
1545 a period of not more than one (1) year. The method of calculating
1546 such retirement benefits shall be on the same basis as provided in
1547 Section 25-11-111(d). However, if the member dies before being
1548 qualified for full unreduced benefits, then the benefits shall be
1549 reduced by three percent (3%) per year for the lesser of either

1550 the years of service or age required for full unreduced benefits
1551 in Section 25-11-111(d).

1552 (3) (a) Subject to the maximum limitation provided in this
1553 paragraph, the member's dependent children each shall receive an
1554 annuity of the greater of ten percent (10%) of the member's
1555 average compensation as defined in Section 25-11-103 at the time
1556 of the death of the member or Fifty Dollars (\$50.00) monthly;
1557 however, if there are more than three (3) dependent children, each
1558 dependent child shall receive an equal share of a total annuity
1559 equal to thirty percent (30%) of the member's average
1560 compensation, provided that such total annuity shall not be less
1561 than One Hundred Fifty Dollars (\$150.00) per month for all
1562 children.

1563 (b) A child shall be considered to be a dependent child
1564 until marriage, or the attainment of age nineteen (19), whichever
1565 comes first; however, this age limitation shall be extended beyond
1566 age nineteen (19), but in no event beyond the attainment of age
1567 twenty-three (23), as long as the child is a student regularly
1568 pursuing a full-time course of resident study or training in an
1569 accredited high school, trade school, technical or vocational
1570 institute, junior or community college, college, university or
1571 comparable recognized educational institution duly licensed by a
1572 state. A student child whose birthday falls during the school
1573 year (September 1 through June 30) is considered not to reach age
1574 twenty-three (23) until the July 1 following the actual
1575 twenty-third birthday. A full-time course of resident study or
1576 training means a day or evening noncorrespondence course that
1577 includes school attendance at the rate of at least thirty-six (36)
1578 weeks per academic year or other applicable period with a subject
1579 load sufficient, if successfully completed, to attain the
1580 educational or training objective within the period generally
1581 accepted as minimum for completion, by a full-time day student, of
1582 the academic or training program concerned. Any child who is

1583 physically or mentally incompetent, as adjudged by either a
1584 Mississippi court of competent jurisdiction or by the board, shall
1585 receive benefits for as long as the incompetency exists.

1586 (c) If there are more than three (3) dependent
1587 children, upon a child's ceasing to be a dependent child, his
1588 annuity shall terminate and there shall be a redetermination of
1589 the amounts payable to any remaining dependent children.

1590 (d) Annuities payable under this subsection (3) shall
1591 begin the first day of the month following the date of the
1592 member's death or in case of late filing, retroactive payments
1593 will be made for a period of not more than one (1) year. Such
1594 benefits may be paid to a surviving parent or the lawful custodian
1595 of a dependent child for the use and benefit of such child without
1596 the necessity of appointment as guardian.

1597 (4) (a) Death benefits in the line of duty. Regardless of
1598 the number of years of the member's creditable service, the spouse
1599 and/or the dependent children of an active member who is killed in
1600 the line of performance of duty or dies as a direct result of an
1601 accident occurring in the line of performance of duty shall
1602 qualify, on approval of the board, for a retirement allowance on
1603 the first of the month following the date of death, but in the
1604 case of late filing, retroactive payments will be made for a
1605 period of not more than one (1) year. The spouse shall receive a
1606 retirement allowance equal to one-half (1/2) of the average
1607 compensation as defined in Section 25-11-103. In addition to the
1608 retirement allowance for the spouse, or if there is no surviving
1609 spouse, the member's dependent child shall receive a retirement
1610 allowance in the amount of one-fourth (1/4) of the member's
1611 average compensation as defined in Section 25-11-103; however, if
1612 there are two (2) or more dependent children, each dependent child
1613 shall receive an equal share of a total annuity equal to one-half
1614 (1/2) of the member's average compensation. If there are more
1615 than two (2) dependent children, upon a child's ceasing to be a

1616 dependent child, his annuity shall terminate and there shall be a
1617 redetermination of the amounts payable to any remaining dependent
1618 children. Such benefits shall cease to be paid for the support
1619 and maintenance of each child upon such child attaining the age of
1620 nineteen (19) years; however, the spouse shall continue to be
1621 eligible for the aforesaid retirement allowance. Such benefits
1622 may be paid to a surviving parent or lawful custodian of such
1623 children for the use and benefit of the children without the
1624 necessity of appointment as guardian. Such retirement allowance
1625 shall cease to the spouse upon remarriage but continue to be
1626 payable for each dependent child until the age of nineteen (19)
1627 years.

1628 (b) A child shall be considered to be a dependent child
1629 until marriage, or the attainment of age nineteen (19), whichever
1630 comes first; however, this age limitation shall be extended beyond
1631 age nineteen (19), but in no event beyond the attainment of age
1632 twenty-three (23), as long as the child is a student regularly
1633 pursuing a full-time course of resident study or training in an
1634 accredited high school, trade school, technical or vocational
1635 institute, junior or community college, college, university or
1636 comparable recognized educational institution duly licensed by a
1637 state. A student child whose birthday falls during the school
1638 year (September 1 through June 30) is considered not to reach age
1639 twenty-three (23) until the July 1 following the actual
1640 twenty-third birthday. A full-time course of resident study or
1641 training means a day or evening noncorrespondence course that
1642 includes school attendance at the rate of a least thirty-six (36)
1643 weeks per academic year or other applicable period with a subject
1644 load sufficient, if successfully completed, to attain the
1645 educational or training objective within the period generally
1646 accepted as minimum for completion, by a full-time day student, of
1647 the academic or training program concerned. Any child who is
1648 physically or mentally incompetent, as adjudged by either a

1649 Mississippi court of competent jurisdiction or by the board, shall
1650 receive benefits for as long as the incompetency exists.

1651 (5) If all the annuities provided for in this section
1652 payable on account of the death of a member terminate before there
1653 has been paid an aggregate amount equal to the member's
1654 accumulated contributions standing to the member's credit in the
1655 annuity savings account at the time of the member's death, the
1656 difference between the accumulated contributions and the aggregate
1657 amount of annuity payments shall be paid to such person as the
1658 member has nominated by written designation duly executed and
1659 filed with the board. If there is no designated beneficiary
1660 surviving at termination of benefits, the difference shall be
1661 payable pursuant to Section 25-11-117.1(1).

1662 (6) Regardless of the number of years of creditable service
1663 upon the application of a member or employer, any active member
1664 who becomes disabled as a direct result of an accident or
1665 traumatic event resulting in a physical injury occurring in the
1666 line of performance of duty, provided the medical board or other
1667 designated governmental agency after a medical examination
1668 certifies that the member is mentally or physically incapacitated
1669 for the further performance of duty and such incapacity is likely
1670 to be permanent, may be retired by the board of trustees on the
1671 first of the month following the date of filing such application
1672 but in no event shall the retirement allowance commence before the
1673 termination of state service. The retirement allowance shall
1674 equal the allowance on disability retirement as provided in
1675 Section 25-11-113 but shall not be less than fifty percent (50%)
1676 of average compensation.

1677 Permanent and total disability resulting from a
1678 cardiovascular, pulmonary or musculo-skeletal condition which was
1679 not a direct result of a traumatic event occurring in the
1680 performance of duty shall be deemed an ordinary disability. A
1681 mental disability based exclusively on employment duties occurring

1682 on an ongoing basis shall be deemed an ordinary disability.

1683 (7) In the event the deceased or disabled member has less
1684 than four (4) years of creditable service, the average
1685 compensation as defined in Section 25-11-103 shall be the average
1686 of all annual earned compensation in state service for the
1687 purposes of benefits provided in this section.

1688 (8) In case of death or total and permanent disability under
1689 subsection (4) or subsection (6) of this section and before the
1690 board shall consider any application for a retirement allowance,
1691 the employer must certify to the board that the member's death or
1692 disability was a direct result of an accident or a traumatic event
1693 occurring during and as a result of the performance of the regular
1694 and assigned duties of the employee and that the death or
1695 disability was not the result of the willful negligence of the
1696 employee.

1697 (9) The application for such retirement allowance must be
1698 filed within one (1) year after death of an active member who is
1699 killed in the line of performance of duty or dies as a direct
1700 result of an accident occurring in the line of performance of duty
1701 or traumatic event; but the board of trustees may consider an
1702 application for disability filed after the one-year period if it
1703 can be factually demonstrated to the satisfaction of the board of
1704 trustees that the disability is due to the accident and that the
1705 filing was not accomplished within the one-year period due to a
1706 delayed manifestation of the disability or to circumstances beyond
1707 the control of the member. However, in case of late filing,
1708 retroactive payments will be made for a period of not more than
1709 one (1) year only.

1710 (10) Notwithstanding any other section of this article and
1711 in lieu of any payments to a designated beneficiary for a refund
1712 of contributions under Section 25-11-117, the spouse and/or
1713 children shall be eligible for the benefits payable pursuant to
1714 this section, and the spouse may elect, for both the spouse and/or

1715 children, to receive benefits in accordance with either
1716 subsections (2) and (3) or subsection (4) of this section;
1717 otherwise, the contributions to the credit of the deceased member
1718 shall be refunded in accordance with Section 25-11-117.

1719 (11) If the member has previously received benefits from the
1720 system to which he was not entitled and has not repaid in full all
1721 amounts payable by him to the system, the annuity amounts
1722 otherwise provided by this section shall be withheld and used to
1723 effect repayment until the total of the withholdings repays in
1724 full all amounts payable by him to the system.

1725 SECTION 17. Section 25-11-117, Mississippi Code of 1972, is
1726 amended as follows:[WAN12]

1727 25-11-117. (1) A member may be paid a refund of the amount
1728 of accumulated contributions to the credit of the member in the
1729 annuity savings account provided the member has withdrawn from
1730 state service and further provided the member has not returned to
1731 state service on the date the refund of the accumulated
1732 contributions would be paid. Such refund of the contributions to
1733 the credit of the member in the annuity savings account shall be
1734 paid within ninety (90) days from receipt in the office of the
1735 retirement system of the properly completed form requesting such
1736 payment. In the event of death prior to retirement of any member
1737 whose spouse and/or children are not entitled to a retirement
1738 allowance, the accumulated contributions to the credit of the
1739 deceased member in the annuity savings account shall be paid to
1740 the designated beneficiary on file in writing in the office of
1741 executive director of the board of trustees within ninety (90)
1742 days from receipt of a properly completed form requesting such
1743 payment. If there is no such designated beneficiary on file for
1744 such deceased member in the office of the system, upon the filing
1745 of a proper request with the board, the contributions to the
1746 credit of the deceased member in the annuity savings account shall
1747 be refunded pursuant to Section 25-11-117.1(1). The payment of

1748 the refund shall discharge all obligations of the retirement
1749 system to the member on account of any creditable service rendered
1750 by the member prior to the receipt of the refund. By the
1751 acceptance of the refund, the member shall waive and relinquish
1752 all accrued rights in the system.

1753 (2) Pursuant to the Unemployment Compensation Amendments of
1754 1992 (P.L. 102-318 (UCA)), a member or eligible beneficiary
1755 eligible for a refund under this section may elect on a form
1756 prescribed by the board under rules and regulations established by
1757 the board, to have an eligible rollover distribution of
1758 accumulated contributions payable under this section paid directly
1759 to an eligible retirement plan or individual retirement account.
1760 If the member or eligible beneficiary makes such election and
1761 specifies the eligible retirement plan or individual retirement
1762 account to which such distribution is to be paid, the distribution
1763 will be made in the form of a direct trustee-to-trustee transfer
1764 to the specified eligible retirement plan. Flexible rollovers
1765 under this subsection shall not be considered assignments under
1766 Section 25-11-129.

1767 (3) If any person who has received a refund reenters the
1768 state service and again becomes a member of the system, the member
1769 may repay all or part of the amounts previously received as a
1770 refund, together with regular interest covering the period from
1771 the date of refund to the date of repayment; provided, however,
1772 that the amounts that are repaid by the member and the creditable
1773 service related thereto shall not be used in any benefit
1774 calculation or determination until the member has remained a
1775 contributor to the system for a period of at least four (4) years
1776 subsequent to such member's reentry into state service. Repayment
1777 for such time shall be made in increments of not less than
1778 one-quarter (1/4) year of creditable service beginning with the
1779 most recent service for which refund has been made. Upon the
1780 repayment of all or part of such refund and interest, the member

1781 shall again receive credit for the period of creditable service
1782 for which full repayment has been made to the system.

1783 SECTION 18. Section 25-13-12, Mississippi Code of 1972, is
1784 amended as follows:[WAN13]

1785 25-13-12. (1) Patrol officers who have retired and who on
1786 December 1 of each year, or July 1 of each year as provided for in
1787 subsection (7) of this section, are receiving a retirement
1788 allowance for service or disability retirement, or their
1789 beneficiaries, shall receive in one (1) additional payment an
1790 amount equal to two and one-half percent (2-1/2%) of the annual
1791 retirement allowance for each full fiscal year of retirement.

1792 (2) Persons who on December 1 of each year are receiving a
1793 retirement allowance for service or disability retirement, or
1794 their beneficiaries, may receive, in addition to the amount
1795 provided in subsection (1) of this section, a payment, as
1796 determined by the board, calculated in increments of one-quarter
1797 of one percent (1/4 of 1%), not to exceed one and one-half percent
1798 (1-1/2%) of the annual retirement allowance, for each full year of
1799 retirement, provided that any such payment shall be contingent
1800 upon the reserve for annuities in force for retired members and
1801 beneficiaries providing sufficient investment gains in excess of
1802 the accrued actuarial liabilities for the previous fiscal year as
1803 certified by the actuary and determined by the board.

1804 (3) The percentages in this section shall be based on each
1805 full fiscal year that the retired member or beneficiary has
1806 actually drawn retirement payments from the date of retirement, or
1807 the date of last retirement if there is more than one (1)
1808 retirement date.

1809 (4) If a retiree who is receiving a retirement allowance
1810 that will terminate upon the retiree's death is receiving the
1811 additional payments under subsections (1) and (2) of this section
1812 in one (1) payment and dies on or after July 1 but before December
1813 1, the beneficiary designated on the retirement application shall

1814 receive in a single payment a fractional part of the additional
1815 payments based on the number of months in which a retirement
1816 allowance was received during the fiscal year. If there is no
1817 surviving beneficiary, payment shall be made pursuant to Section
1818 25-13-21.1(1). Any similar remaining payments of additional
1819 benefit payable under this section to a deceased beneficiary who
1820 was receiving a monthly benefit, shall be payable in accordance
1821 with the provisions of Section 25-13-21.1(2).

1822 (5) Each retired member or beneficiary thereof who receives
1823 an annual retirement allowance based on the average compensation
1824 for a period of five (5) successive or joined years and who
1825 receives a retirement allowance for the month of June, 1986, shall
1826 receive an ad hoc increase of three percent (3%) in such
1827 retirement allowance effective July 1, 1986.

1828 (6) Persons eligible to receive the payments provided in
1829 subsections (1) and (2) of this section shall receive such
1830 payments in one (1) additional payment, except that such person
1831 may elect by an irrevocable agreement on a form prescribed by the
1832 board of trustees to receive such payments in not less than equal
1833 monthly installments not to exceed six (6) months during the
1834 remaining months of the current fiscal year. In the event of
1835 death of a retiree * * * receiving monthly benefits, any remaining
1836 amounts shall be paid in a lump sum to the * * * beneficiary
1837 designated on the retirement application, or if none, pursuant to
1838 Section 25-13-21.1(1). Any similar remaining payments of
1839 additional benefit payable under this section to a deceased
1840 beneficiary who was receiving a monthly benefit, shall be payable
1841 in accordance with the provisions of Section 25-13-21.1(2).

1842 (7) Retired persons or beneficiaries thereof who on July 1,
1843 1997, or July 1 of any fiscal year thereafter, are receiving a
1844 retirement allowance, may elect by an irrevocable agreement in
1845 writing filed in the office of the Public Employees' Retirement
1846 System no less than thirty (30) days before July 1 of the

1847 appropriate year, to begin receiving the payments provided for in
1848 subsection (1) of this section in twelve (12) equal installments
1849 beginning July 1, 1997, or July 1 of any fiscal year thereafter.
1850 This irrevocable agreement shall be binding on the member and
1851 subsequent beneficiaries. The cumulative percentage provided in
1852 subsection (1) of this section and paid in twelve (12) equal
1853 installments for any particular year shall not be less than the
1854 cumulative percentage provided for the previous year. However,
1855 payment of the installments shall not extend beyond the month in
1856 which a retirement allowance is due and payable. Any additional
1857 amounts approved by the board under subsection (2) of this section
1858 shall be paid in one (1) lump sum payment to retirees and
1859 beneficiaries in accordance with subsection (2) of this section.

1860 SECTION 19. Section 25-13-13, Mississippi Code of 1972, is
1861 amended as follows:[WAN14]

1862 25-13-13. (1) Upon the death of any highway patrolman who
1863 has retired for service or disability and who has not elected any
1864 other option under Section 25-13-16, his widow shall receive
1865 one-half (1/2) the benefit which he was receiving and each child
1866 not having attained his nineteenth birthday shall receive
1867 one-fourth (1/4) of his benefit, but not more than one-half (1/2)
1868 of the benefits shall be paid for the support and maintenance of
1869 two (2) or more children. Upon each child's attaining the age of
1870 nineteen (19) years, the child shall no longer be eligible for
1871 such benefit, and when all of such children have attained their
1872 nineteenth birthday, only the widow shall be eligible for one-half
1873 (1/2) the amount of his benefit. She shall continue to be
1874 eligible for such benefit in the amount of fifty percent (50%) of
1875 his retirement benefit so long as she may live and until she
1876 remarries. In the event of her remarriage at any time, her
1877 eligibility for the fifty percent (50%) benefits shall cease and
1878 terminate, but she will be eligible to continue to receive
1879 benefits for their children until the last child attains his or

1880 her nineteenth birthday in the manner aforesaid.

1881 (2) Upon the death of any highway patrolman who has served
1882 the minimum retirement period required for eligibility for such
1883 retirement program, his spouse and family shall receive all the
1884 benefits payable to the highway patrolman's beneficiaries as if he
1885 had retired at the time of his death. Such benefits cease as to
1886 the spouse upon remarriage but continue to be payable to each
1887 child until he reaches the age of nineteen (19) years. Such
1888 benefits are payable on a monthly basis.

1889 (3) The spouse and/or the dependent children of an active
1890 member who is killed in the line of performance of duty or dies as
1891 a direct result of an accident occurring in the line of
1892 performance of duty shall qualify, on approval of the board, for a
1893 retirement allowance on the first of the month following the date
1894 of death, but not before receipt of application by the board. The
1895 spouse shall receive a retirement allowance equal to one-half
1896 (1/2) of the average compensation of the deceased highway
1897 patrolman. In addition to the retirement allowance for the
1898 spouse, or if there is no surviving spouse, a retirement allowance
1899 shall be paid in the amount of one-fourth (1/4) of the average
1900 compensation for the support and maintenance of one (1) child or
1901 in the amount of one-half (1/2) of the average compensation for
1902 the support and maintenance of two (2) or more children. Such
1903 benefits shall cease to be paid for the support and maintenance of
1904 each child upon such child attaining the age of nineteen (19)
1905 years; however, the spouse shall continue to be eligible for the
1906 aforesaid retirement allowance. Benefits may be paid to a
1907 surviving parent or lawful custodian of such children for the use
1908 and benefit of the children without the necessity of appointment
1909 as guardian. Such retirement allowance shall cease to the spouse
1910 upon remarriage but continue to be payable for each dependent
1911 child until the age of nineteen (19) years.

1912 (4) All benefits accruing to any child under the provisions

1913 of this chapter shall be paid to the parent custodian of the
1914 children or the legal guardian.

1915 (5) Children receiving the benefits provided herein, who are
1916 permanently or totally disabled, shall continue to receive such
1917 benefits for as long as the medical board or other designated
1918 governmental agency certifies that such disability continues. The
1919 age limitation for benefits payable to a child under any provision
1920 of this section shall be extended beyond age nineteen (19), but in
1921 no event beyond the attainment of age twenty-three (23), as long
1922 as the child is a student regularly pursuing a full-time course of
1923 resident study or training in an accredited high school, trade
1924 school, technical or vocational institute, junior or community
1925 college, college, university or comparable recognized educational
1926 institution duly licensed by a state. A student child whose
1927 birthday falls during the school year (September 1 through June
1928 30) is considered not to reach age twenty-three (23) until the
1929 July 1 following the actual twenty-third birthday. A full-time
1930 course of resident study or training means a day or evening
1931 noncorrespondence course that includes school attendance at the
1932 rate of a least thirty-six (36) weeks per academic year or other
1933 applicable period with a subject load sufficient, if successfully
1934 completed, to attain the educational or training objective within
1935 the period generally accepted as minimum for completion, by a
1936 full-time day student, of the academic or training program
1937 concerned.

1938 (6) If all the annuities provided for in this section
1939 payable on the account of the death of a member terminate before
1940 there has been paid an aggregate amount equal to the member's
1941 accumulated contributions standing to the member's credit in the
1942 annuity savings account at the time of the member's death, the
1943 difference between the accumulated contributions and the aggregate
1944 amount of annuity payments shall be paid to such person as the
1945 member has nominated by written designation duly executed and

1946 filed with the board of trustees in the office of the Public
1947 Employees' Retirement System. If there is no designated
1948 beneficiary surviving at termination of benefits, the difference
1949 shall be payable pursuant to Section 25-13-21.1(1).

1950 (7) All benefits paid to a spouse or child due to the death
1951 of a member before or after retirement shall be paid in accordance
1952 with the statutory provisions set forth as of the date of death.

1953 SECTION 20. Section 25-13-21, Mississippi Code of 1972, is
1954 amended as follows:[WAN15]

1955 25-13-21. In the event a highway patrolman ceases to work
1956 for the Highway Safety Patrol for any reason other than
1957 occupational disease contracted or for any accident sustained by
1958 the patrolman by reason of his service or discharge of his duty in
1959 the Highway Patrol, and if the highway patrolman is not eligible
1960 for retirement either for service or disability, he shall be
1961 refunded the amount of his total contribution under the provisions
1962 of this chapter, including any credit transferred to his account
1963 in this system from any other system, at his request; and should
1964 he die before retirement, such fund is to be refunded to any
1965 beneficiary he may name. If there is no surviving designated
1966 beneficiary, the contributions to the credit of the deceased
1967 member shall be refunded pursuant to Section 25-13-21.1(1).

1968 Pursuant to the Unemployment Compensation Amendments of 1992
1969 (P.L. 102-318 (UCA)), a member or eligible beneficiary eligible
1970 for a refund under this section may elect on a form prescribed by
1971 the board under rules and regulations established by the board, to
1972 have an eligible roll over distribution of accumulated
1973 contributions payable under this section paid directly to an
1974 eligible retirement plan or individual retirement account. If the
1975 member or eligible beneficiary makes such election and specifies
1976 the eligible retirement plan or individual retirement account to
1977 which such distribution is to be paid, the distribution will be
1978 made in the form of a direct trustee to trustee transfer to the

1979 specified eligible retirement plan. Flexible roll overs under
1980 this subsection shall not be considered assignments under Section
1981 25-13-31.

1982 If any highway patrolman who shall receive a refund reenters
1983 the service of the Highway Safety Patrol and again becomes a
1984 member of the system, he may repay all amounts previously received
1985 by him as a refund, together with regular interest covering the
1986 period from the date of refund to the date of repayment; however,
1987 the amounts that are repaid by the member and the creditable
1988 service related thereto shall not be used in any benefit
1989 calculation or determination until the member has remained a
1990 contributor to the system for a period of at least five (5) years
1991 after such member's reentry into state service. Repayment for
1992 such time shall be made in increments of not less than one-quarter
1993 (1/4) year of creditable service beginning with the most recent
1994 service for which refund has been made. Upon the repayment of all
1995 or part of such refund and interest, the highway patrolman shall
1996 again receive credit for the period of creditable service for
1997 which full repayment has been made to the system.

1998 SECTION 21. This act shall take effect and be in force from
1999 and after July 1, 2000.