SENATE BILL NO. 2770
(As Passed the Senate)

AN ACT TO CREATE NEW SECTION 25-11-115.2, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM SHALL NOT KNOWINGLY ALLOW BENEFIT PAYMENTS TO BE MADE DIRECTLY TO PERSONS WHO ARE DETERMINED TO BE LEGALLY INCOMPETENT; TO PROVIDE THAT ANY PERSON WHO COMES TO BE KNOWN BY THE SYSTEM AS INCAPABLE OF APPLYING FOR, MANAGING OR DIRECTING THE MANAGEMENT OF BENEFITS BY REASON OF MENTAL OR PHYSICAL IMPAIRMENT SHALL BE DIRECTED TO OBTAIN A CONSERVATOR OR LEGAL GUARDIAN; TO PROVIDE THAT THE SYSTEM MAY DESIGNATE A REPRESENTATIVE PAYEE FOR SUCH PERSON UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE THAT CERTIFICATION BY A MEDICAL DOCTOR OF INCAPACITY TO APPLY FOR, MANAGE OR DIRECT THE MANAGEMENT OF BENEFITS SHALL BE REQUIRED BY THE SYSTEM BEFORE APPOINTMENT OF A REPRESENTATIVE PAYEE; TO REQUIRE A REPRESENTATIVE PAYEE TO APPLY BENEFITS PAID ONLY FOR THE USE AND BENEFIT OF THE BENEFIT RECIPIENT; TO LIMIT THE LIABILITY OF THE RETIREMENT SYSTEM FOR PAYMENTS MADE TO A REPRESENTATIVE PAYEE; TO PROVIDE OPTION UNDER WHICH ANNUITY PAYMENTS SHALL BE PAID TO AN INCAPACITATED PERSON IN THE ABSENCE OF A CONSERVATOR, LEGAL GUARDIAN OR DURABLE POWER OF ATTORNEY; TO CREATE NEW SECTIONS 25-11-117.1, 25-11-311.1 AND 23-13-21.1, MISSISSIPPI CODE OF 1972, TO DESIGNATE TO WHOM BENEFITS ARE PAYABLE IN THE EVENT OF THE DEATH OF THE RETIREE AND THE DESIGNATED BENEFICIARY OF THE RETIREE UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM, THE SUPPLEMENTAL LEGISLATIVE RETIREMENT PLAN AND THE MISSISSIPPI HIGHWAY SAFETY PATROL RETIREMENT SYSTEM; TO CREATE NEW SECTION 25-11-312, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO ACCEPT AN ELIGIBLE ROLLOVER DISTRIBUTION OR A DIRECT TRANSFER OF FUNDS FROM ANOTHER QUALIFIED PLAN IN PAYMENT OF ALL OR A PORTION OF THE COST TO REINSTATE PREVIOUSLY WITHDRAWN SERVICE CREDIT IN THE SUPPLEMENTAL RETIREMENT PLAN; TO PROVIDE THAT SUCH PLAN MAY ACCEPT SUCH PAYMENTS IN AN AMOUNT EQUAL TO OR LESS THAN THE BALANCE DUE FOR REINSTATEMENT OF SERVICE CREDIT; TO AMEND SECTION 25-11-103, MISSISSIPPI CODE OF 1972, TO CLARIFY WHO IS DESIGNATED AS THE BENEFICIARY OF A MEMBER IN CERTAIN SITUATIONS; TO AMEND SECTION 25-11-111, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A RETIREE OR BENEFICIARY TO IRREVOCABLY WAIVE ALL OR A PORTION OF THE RETIREMENT BENEFITS TO WHICH THE RETIREE OR BENEFICIARY IS ENTITLED; TO AMEND SECTION 25-11-115, MISSISSIPPI CODE OF 1972, TO ESTABLISH A NEW RETIREMENT OPTION UNDER THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO ALLOW A MEMBER WHO HAS AT LEAST 28 YEARS OF CREDITABLE SERVICE AT THE TIME OF RETIREMENT, OR WHO IS AT LEAST 63 YEARS OF AGE AT THE TIME OF RETIREMENT, TO RECEIVE A PARTIAL LUMP SUM DISTRIBUTION; TO PROVIDE THAT THE LUMP SUM DISTRIBUTION SHALL BE EQUAL TO THE MAXIMUM MONTHLY BENEFIT MULTIPLIED BY 12, 24 OR 36; TO PROVIDE THAT THE MEMBER'S BENEFIT SHALL BE REDUCED TO REFLECT THE PAYMENT SELECTED COMPUTED TO RESULT IN NO ACTUARIAL LOSS TO THE SYSTEM; TO AMEND SECTION 25-11-120, MISSISSIPPI CODE OF 1972, TO LIMIT THE AMOUNT OF FEES THAT AN ATTORNEY MAY CHARGE FOR AN APPEARANCE AT A HEARING RELATING TO ELIGIBILITY, PAYMENT OF
BENEFITS OR CALCULATION OF CREDITABLE SERVICE; TO AMEND SECTION 25-11-121, MISSISSIPPI CODE OF 1972, TO INCREASE THE AMOUNT OF CERTAIN FOREIGN INVESTMENTS THAT THE RETIREMENT SYSTEM MAY MAKE TO 30% OF THE TOTAL BOOK VALUE OF ALL INVESTMENTS OF THE SYSTEM; TO AMEND SECTIONS 25-11-131 AND 25-11-139, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM HAS THE DUTY TO CORRECT ERRORS IN PAYMENTS OF BENEFITS; TO PROVIDE THAT SUCH CORRECTIONS SHALL BE MADE UPON DETECTION OF THE ERROR, WITHOUT REGARD TO THE LENGTH IT TAKES FOR THE BOARD TO BECOME AWARE OF THE ERROR; TO AMEND SECTION 25-11-311, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A MEMBER OR BENEFICIARY ELIGIBLE FOR A REFUND UNDER THE SUPPLEMENTAL LEGISLATIVE RETIREMENT PLAN TO HAVE AN ELIGIBLE ROLLOVER DISTRIBUTION OF ACCUMULATED CONTRIBUTIONS PAYABLE PAID DIRECTLY INTO AN ELIGIBLE RETIREMENT PLAN OR INDIVIDUAL RETIREMENT ACCOUNT; TO PROVIDE THE MANNER IN WHICH A MEMBER OF THE SUPPLEMENTAL LEGISLATIVE RETIREMENT PLAN WHO HAS RECEIVED A REFUND AND IS REELECTED TO THE LEGISLATURE MAY REPURCHASE CREDITABLE SERVICE IN THE SUPPLEMENTAL LEGISLATIVE RETIREMENT PLAN; TO AMEND SECTION 25-13-16, MISSISSIPPI CODE OF 1972, TO ESTABLISH A NEW RETIREMENT OPTION UNDER THE HIGHWAY SAFETY PATROL RETIREMENT SYSTEM TO ALLOW A MEMBER WHO IS ELIGIBLE TO RETIRE WITH AN UNREDUCED BENEFIT AT 58 YEARS OF AGE TO RECEIVE A PARTIAL LUMP SUM DISTRIBUTION; TO PROVIDE THAT THE LUMP SUM DISTRIBUTION SHALL BE EQUAL TO THE MAXIMUM MONTHLY BENEFIT MULTIPLIED BY 12, 24 OR 36; TO PROVIDE THAT THE MEMBER'S BENEFIT SHALL BE REDUCED TO REFLECT THE PAYMENT SELECTED COMPUTED TO RESULT IN NO ACTUARIAL LOSS TO THE SYSTEM; TO AMEND SECTIONS 25-11-112, 25-11-114, 25-11-117, 25-13-12, 25-13-13 AND 25-13-21, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. The provisions of this section shall be codified as Section 25-11-115.2, Mississippi Code of 1972: 25-11-115.2. (1) It is the intent of the Public Employees' Retirement System to provide benefit payments in an efficient manner consistent with the member's best interest. The system shall not knowingly allow payments to be made directly to persons who are determined legally incompetent or incapable of managing or directing the management of benefits. Any person applying for or receiving benefits who comes to be known as incapable of applying for, managing or directing the management of benefits by reason of mental or physical impairment, as certified by a medical doctor, shall be directed to obtain a conservator or legal guardian for purposes of applying for, receiving, managing and/or directing benefit payments. In the absence of a conservator or legal guardian or valid durable power of attorney, the Public Employees'
Retirement System may designate a representative payee for such purposes. The benefit recipient may nominate a representative payee for consideration by the system in selecting a payee, and the system is responsible for selecting a payee, including an agency, organization, or institution, that will serve the interest of the benefit recipient. The system may also accept the Social Security Administration's designation of a representative payee to manage and direct funds paid by the system. The system shall have the authority to establish rules for the administration of this section.

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

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

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

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

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

(a) The surviving spouse of the member/retiree;
(b) The children of the member/retiree or their 
descendants, per stirpes;
(c) The brothers and sisters of the member/retiree or 
their descendants, per stirpes;
(d) The parents of the member/retiree;
(e) The executor or administrator on behalf of the 
member/retiree’s estate;
(f) The persons entitled by law to distribution of the 
member/retiree’s estate.

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

(a) The surviving spouse of the beneficiary;
(b) The children of the beneficiary or their 
descendants, per stirpes;
(c) The brothers and sisters of the member/retiree or their descendants, per stirpes;
(d) The parents of the beneficiary;
(e) The executor or administrator on behalf of the beneficiary’s estate;
(f) The persons entitled by law to distribution of the beneficiary’s estate.

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

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

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

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

(a) The surviving spouse of the member/retiree;
(b) The children of the member/retiree or their descendants, per stirpes;
(c) The brothers and sisters of the member/retiree or their descendants, per stirpes;
(d) The parents of the member/retiree;
(e) The executor or administrator on behalf of the beneficiary’s estate.
member/retiree’s estate;

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

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

(a) The surviving spouse of the beneficiary;

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

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

(d) The parents of the beneficiary;

(e) The executor or administrator on behalf of the
beneficiary’s estate;

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

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

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

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

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

(a) The surviving spouse of the member/retiree;
(b) The children of the member/retiree or their descendants, per stirpes;
(c) The brothers and sisters of the member/retiree or their descendants, per stirpes;
(d) The parents of the member/retiree;
(e) The executor or administrator on behalf of the member/retiree’s estate;
(f) The persons entitled by law to distribution of the member/retiree’s estate.

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

(a) The surviving spouse of the beneficiary;
(b) The children of the beneficiary or their descendants, per stirpes;
(c) The brothers and sisters of the member/retiree or their descendants, per stirpes;
(d) The parents of the beneficiary;
(e) The executor or administrator on behalf of the beneficiary’s estate;
(f) The persons entitled by law to distribution of the beneficiary’s estate.

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

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

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

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

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

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

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

(b) "Actuarial cost" shall mean the amount of funds
presently required to provide future benefits as determined by the
board based on applicable tables and formulas provided by the
(c) "Actuarial equivalent" shall mean a benefit of equal value to the accumulated contributions, annuity or benefit, as the case may be, when computed upon the basis of such mortality tables as shall be adopted by the board of trustees, and regular interest.

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

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

(f) "Average compensation" shall mean the average of the four (4) highest years of earned compensation reported for an employee in a fiscal or calendar year period, or combination thereof which do not overlap, or the last forty-eight (48) consecutive months of earned compensation reported for an employee. The four (4) years need not be successive or joined years of service. In no case shall the average compensation so determined be in excess of One Hundred Twenty-five Thousand Dollars ($125,000.00). In computing the average compensation, any amount paid in a lump sum for personal leave shall be included in the calculation to the extent that such amount does not exceed an amount which is equal to thirty (30) days of earned compensation and to the extent that it does not cause the employees' earned compensation to exceed the maximum reportable amount specified in Section 25-11-103(k); provided, however, that such thirty-day limitation shall not prevent the inclusion in the calculation of leave earned under federal regulations prior to July 1, 1976, and frozen as of that date as referred to in Section 25-3-99. Only the amount of lump sum pay for personal leave due and paid upon the death of a member attributable for up to one hundred fifty (150) days shall be used in the deceased member's average compensation calculation in determining the beneficiary's...
benefits. In computing the average compensation, no amounts shall be used which are in excess of the amount on which contributions were required and paid. If any member who is or has been granted any increase in annual salary or compensation of more than eight percent (8%) retires within twenty-four (24) months from the date that such increase becomes effective, then the board shall exclude that part of the increase in salary or compensation that exceeds eight percent (8%) in calculating that member's average compensation for retirement purposes. The board may enforce this provision by rule or regulation. However, increases in compensation in excess of eight percent (8%) per year granted within twenty-four (24) months of the date of retirement may be included in such calculation of average compensation if satisfactory proof is presented to the board showing that the increase in compensation was the result of an actual change in the position held or services rendered, or that such compensation increase was authorized by the State Personnel Board or was increased as a result of statutory enactment, and the employer furnishes an affidavit stating that such increase granted within the last twenty-four (24) months was not contingent on a promise or agreement of the employee to retire. Nothing in Section 25-3-31 shall affect the calculation of the average compensation of any member for the purposes of this article. The average compensation of any member who retires before July 1, 1992, shall not exceed the annual salary of the Governor.

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

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

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

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

(k) "Earned compensation" shall mean the full amount earned by an employee for a given pay period including any maintenance furnished up to a maximum of One Hundred Twenty-five Thousand Dollars ($125,000.00) per year, and proportionately for less than one (1) year of service. The value of such maintenance when not paid in money shall be fixed by the employing state.
agency, and, in case of doubt, by the board of trustees as defined in Section 25-11-15. In any case, earned compensation shall be limited to the regular periodic compensation paid, exclusive of litigation fees, bond fees, and other similar extraordinary nonrecurring payments. In addition, any member in a covered position, as defined by Public Employees' Retirement System laws and regulations, who is also employed by another covered agency or political subdivision shall have the earnings of that additional employment reported to the Public Employees' Retirement System regardless of whether the additional employment is sufficient in itself to be a covered position. In the case of fee officials, the net earnings from their office after deduction of expenses shall apply, except that in no case shall earned compensation be less than the total direct payments made by the state or governmental subdivisions to the official, and employer and employee contributions shall be paid thereon. In the case of members of the state Legislature, all remuneration or amounts paid, except mileage allowance, shall apply. The amount by which an eligible employee's salary is reduced pursuant to a salary reduction agreement authorized under Section 25-17-5 shall be included as earned compensation under this paragraph, provided this inclusion does not conflict with federal law, including federal regulations and federal administrative interpretations thereunder, pertaining to the Federal Insurance Contributions Act or to Internal Revenue Code Section 125 cafeteria plans. Compensation in addition to an employee's base salary that is paid to the employee pursuant to the vacation and sick leave policies of a municipality or other political subdivision of the state that employs him which exceeds the maximums authorized by Section 25-3-91 et seq., shall be excluded from the calculation of earned compensation under this article. The maximum salary applicable for retirement purposes before July 1, 1992, shall be the salary of the Governor. Nothing in Section 25-3-31 shall affect the
determination of the earned compensation of any member for the purposes of this article.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 7. Section 25-11-111, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

(2) An employer's annuity which, together with the 
member's annuity provided above, shall be equal to one and 
seven-eighths percent (1-7/8%) of the average compensation for 
each year of state service up to and including twenty-five (25) 
years of membership service, and two and one-fourth percent 
(2-1/4%) of the average compensation for each year of state 
service exceeding twenty-five (25) years of membership service. 

However, after the board of trustees has begun implementing the 
changes in the computation of the retirement allowance as provided 
in subsection (e), the employer's annuity shall be equal to:

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

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

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

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

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

(ii) Two percent (2%) of the average compensation specified in Column A of the table in subsection (e) for the latest phase that has been implemented up to and including twenty-five (25) years, and

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

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

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

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

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

RETIREMENT ALLOWANCE COMPUTATION
IMPLEMENTATION TABLE

<table>
<thead>
<tr>
<th>(A) PHASE</th>
<th>2% FOR YEARS ABOVE THIS NUMBER AND ≤25 YEARS</th>
<th>(B) PERCENTAGE FOR YEARS ABOVE 25 YEARS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phase 1</td>
<td>20 years</td>
<td>2.250%</td>
</tr>
<tr>
<td>Phase 2</td>
<td>15 years</td>
<td>2.250%</td>
</tr>
<tr>
<td>Phase 3</td>
<td>10 years</td>
<td>2.250%</td>
</tr>
<tr>
<td>Phase 4</td>
<td>5 years</td>
<td>2.250%</td>
</tr>
<tr>
<td>Phase 5</td>
<td>0 years</td>
<td>2.250%</td>
</tr>
<tr>
<td>Phase 6</td>
<td>0 years</td>
<td>2.375%</td>
</tr>
<tr>
<td>Phase 7</td>
<td>0 years</td>
<td>2.500%</td>
</tr>
</tbody>
</table>

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

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

(f) No member, except members excluded by the Age Discrimination in Employment Act Amendments of 1986 (Public Law...
(g) No payment on account of any benefit granted under the provisions of this section shall become effective or begin to accrue until January 1, 1953.

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

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

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

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

SECTION 8. Section 25-11-115, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

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

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

(2) No change in the option selected shall be permitted after the member's death or after the member has received his
first retirement check except as provided in subsections (3) and (4) of this section and in Section 25-11-127. However, any retired member who is receiving a retirement allowance under Option 2 or Option 4-A upon July 1, 1992, and whose designated beneficiary predeceased him or whose marriage to a spouse who is his designated beneficiary is terminated by divorce or other dissolution, upon written notification to the retirement system of the death of the designated beneficiary or of the termination of his marriage to his designated beneficiary, the retirement allowance payable to the member after receipt of such notification by the retirement system shall be equal to the retirement allowance which would have been payable had the member not elected the option. In addition, any retired member who is receiving the maximum retirement allowance for life, a retirement allowance under Option 1 or who is receiving a retirement allowance under Option 2 or Option 4-A on July 1, 1992, may elect to provide survivor benefits under Option 2 or Option 4-A to a spouse who was not previously the member's beneficiary and whom the member married before July 1, 1992.

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

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

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

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

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

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

SECTION 9. Section 25-11-120, Mississippi Code of 1972, is
amended as follows:

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

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

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

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

SECTION 10. Section 25-11-121, Mississippi Code of 1972, is amended as follows:

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

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

(b) State of Mississippi highway bonds;

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

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

(e) Bonds of the Tennessee Valley Authority;
(f) Bonds, notes, certificates and other valid obligations of the United States, and other valid obligations of any federal instrumentality that issues securities under authority of an act of Congress and are exempt from registration with the Securities and Exchange Commission;

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

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

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

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

A. Be listed on a national stock exchange; or

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

(iii) The outstanding shares of such corporation shall have a total market value of not less than Fifty Million Dollars ($50,000,000.00);
(iv) The amount of investment in any one (1) corporation shall not exceed three percent (3%) of the book value of the assets of the system; and
(v) The shares of any one (1) corporation owned by the system shall not exceed five percent (5%) of that corporation's outstanding stock;

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

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

(l) Pooled or commingled funds managed by a corporate trustee or by a Securities and Exchange Commission registered investment advisory firm retained as an investment manager by the board of trustees, and shares of investment companies and unit investment trusts registered under the Investment Company Act of 1940, where such pooled or commingled funds or shares are comprised of common or preferred stocks, bonds, money market instruments or other investments authorized under this section. Such investment in commingled funds or shares shall be held in trust; provided that the total book value of investments under
this paragraph shall at no time exceed five percent (5%) of the total book value of all investments of the system. Any investment manager approved by the board of trustees shall invest such commingled funds or shares as a fiduciary;

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 11. Section 25-11-131, Mississippi Code of 1972, is
amended as follows:

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

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

SECTION 12. Section 25-11-139, Mississippi Code of 1972, is
amended as follows:

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

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

SECTION 13. Section 25-11-311, Mississippi Code of 1972, is
amended as follows:

25-11-311. (1) A member may be paid a refund of the amount
of accumulated contributions to the credit of the member in the
annuity savings account, provided the member has withdrawn from
state service and further provided the member has not returned to
state service on the date the refund of the accumulated
contributions would be paid. Such refund of the contributions to
the credit of the member in the annuity savings account shall be
paid within ninety (90) days from receipt in the office of the
retirement system of the properly completed form requesting such payment. In the event of death prior to retirement of any member whose spouse and/or children are not entitled to a retirement allowance, the accumulated contributions to the credit of the deceased member in the annuity savings account shall be paid to the designated beneficiary on file in writing in the office of executive secretary of the board of trustees within ninety (90) days from receipt of a properly completed form requesting such payment. If there is no such designated beneficiary on file for such deceased member in the office of the system, upon the filing of a proper request with the board, the contributions to the credit of the deceased member in the annuity savings account shall be refunded pursuant to Section 25-11-311.1(1). The payment of the refund shall discharge all obligations of the retirement system to the member on account of any creditable service rendered by the member prior to the receipt of the refund. By the acceptance of the refund, the member shall waive and relinquish all accrued rights in the plan.

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

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

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

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

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

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

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

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

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

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

Option 6. Any member who is eligible to retire with an unreduced benefit may select the maximum retirement benefit or an optional benefit as provided in this subsection together with a
partial lump sum distribution. The amount of the lump sum
distribution under this subsection shall be equal to the maximum
monthly benefit multiplied by twelve (12), twenty-four (24) or
thirty-six (36) as selected by the member. The maximum benefit
shall be actuarially reduced to reflect the partial lump sum
payment selected and further reduced for any optional benefit
payment selected. The annuity and lump sum shall be computed to
result in no actuarial loss to the system. The lump sum
distribution shall be made as a single payment payable at the time
the first monthly annuity payment is paid to the retiree. The
amount of the lump sum distribution shall be deducted from the
member’s annuity savings account in computing what contributions
remain at the death of the retiree and/or a beneficiary. The lump
sum distribution option may be elected only once by a member upon
initial retirement, and may not be elected by a retiree, by
members applying for a disability retirement annuity, by survivors
or by a member selecting Option 4-C.

(2) No change in the option selected shall be permitted
after the member's death or after the member has received his
first retirement check, except as provided in subsections (3) and
(4) of this section. However, any retired member who is receiving
a retirement allowance under Option 2 or Option 4-A upon July 1,
1999, and whose designated beneficiary predeceased him or whose
marriage to a spouse who is his designated beneficiary is
terminated by divorce or other dissolution, upon written
notification to the retirement system of the death of the
designated beneficiary or of the termination of his marriage to
his designated beneficiary, the retirement allowance payable to
the member after receipt of such notification by the retirement
system shall be equal to the retirement allowance that would have
been payable if the member had not elected the option. In
addition, any retired member who is receiving the maximum
retirement allowance for life, a retirement allowance under Option
1 or who is receiving a retirement allowance under Option 2 or Option 4-A on July 1, 1999, may elect to provide survivor benefits under Option 2 or Option 4-A to a spouse who was not previously the member's beneficiary and who the member married before July 1, 1999. Should a member retired on disability be returned to active service, the option previously selected shall be null and void. Upon subsequent retirement a new option may be selected.

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

(4) Any retired member who is receiving the maximum retirement allowance for life, or a retirement allowance under Option 1, and who marries after his retirement may elect to cancel his maximum retirement allowance and receive a reduced retirement allowance under Option 2 or Option 4-A to provide continuing lifetime benefits to his spouse. Such election must be made in writing to the office of the executive director of the system on a form prescribed by the board not earlier than the date of the marriage. Any such election shall be effective the first of the month following the date the election is received by the system. The amount of the reduced retirement allowance shall be the actuarial equivalent, taking into account that the member received the maximum retirement allowance for a period of time before electing to receive a reduced retirement allowance. However, if a
retiree marries or remarries after retirement and elects either Option 2 or Option 4-A as provided in subsection (2) or (4) of this section, the actuarial equivalent factor used to compute the reduced retirement allowance shall be the factor for the age of the retiree and his or her beneficiary at the time such election for recalculation of benefits is made.

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

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

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

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

(9) For purposes of this section:

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

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

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

SECTION 15. Section 25-11-112, Mississippi Code of 1972, is
amended as follows:

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

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

(b) The sum of:

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

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

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

(3) The additional benefit provided for under this section shall be paid in one (1) payment in December of each year to those persons who are receiving a retirement allowance on December 1 of that year, unless an election is made under this subsection. However, if a retiree who is receiving a retirement allowance that will terminate upon the retiree's death is receiving the additional benefit in one (1) payment and dies on or after July 1 but before December 1, the beneficiary designated on the retirement application, if any, shall receive in a single payment a fractional part of the additional benefit based on the number of months in which a retirement allowance was received during the fiscal year. Likewise, if a retiree is receiving a retirement allowance that will terminate upon his or her death in two (2) to
six (6) monthly installments, any remaining payments of the additional benefit will be paid in a lump sum to the beneficiary designated on the application, or if none, pursuant to Section 25-11-117.1(1). Any similar remaining payments of additional benefits payable under this section to a deceased beneficiary who was receiving a monthly benefit shall be payable in accordance with the provisions of Section 25-11-117.1(2).

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

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

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

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

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

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

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

SECTION 16. Section 25-11-114, Mississippi Code of 1972, is
amended as follows:

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

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

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

(ii) Had nominated his spouse as beneficiary; and

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

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

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

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

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

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

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

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

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

(4) (a) Death benefits in the line of duty. Regardless of
the number of years of the member's creditable service, the spouse
and/or the dependent children of an active member who is killed in
the line of performance of duty or dies as a direct result of an
accident occurring in the line of performance of duty shall
qualify, on approval of the board, for a retirement allowance on
the first of the month following the date of death, but in the
case of late filing, retroactive payments will be made for a
period of not more than one (1) year. The spouse shall receive a
retirement allowance equal to one-half (1/2) of the average
compensation as defined in Section 25-11-103. In addition to the
retirement allowance for the spouse, or if there is no surviving
spouse, the member's dependent child shall receive a retirement
allowance in the amount of one-fourth (1/4) of the member's
average compensation as defined in Section 25-11-103; however, if
there are two (2) or more dependent children, each dependent child
shall receive an equal share of a total annuity equal to one-half
(1/2) of the member's average compensation. If there are more
than two (2) dependent children, upon a child's ceasing to be a
dependent child, his annuity shall terminate and there shall be a redetermination of the amounts payable to any remaining dependent children. Such benefits shall cease to be paid for the support and maintenance of each child upon such child attaining the age of nineteen (19) years; however, the spouse shall continue to be eligible for the aforesaid retirement allowance. Such benefits may be paid to a surviving parent or lawful custodian of such children for the use and benefit of the children without the necessity of appointment as guardian. Such retirement allowance shall cease to the spouse upon remarriage but continue to be payable for each dependent child until the age of nineteen (19) years.

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

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

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

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

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on an ongoing basis shall be deemed an ordinary disability.

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

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

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

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

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

SECTION 17. Section 25-11-117, Mississippi Code of 1972, is amended as follows:

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

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

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

SECTION 18. Section 25-13-12, Mississippi Code of 1972, is
amended as follows:

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

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

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

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

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

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

(7) Retired persons or beneficiaries thereof who on July 1, 1997, or July 1 of any fiscal year thereafter, are receiving a retirement allowance, may elect by an irrevocable agreement in writing filed in the office of the Public Employees' Retirement System no less than thirty (30) days before July 1 of the
appropriate year, to begin receiving the payments provided for in subsection (1) of this section in twelve (12) equal installments beginning July 1, 1997, or July 1 of any fiscal year thereafter. This irrevocable agreement shall be binding on the member and subsequent beneficiaries. The cumulative percentage provided in subsection (1) of this section and paid in twelve (12) equal installments for any particular year shall not be less than the cumulative percentage provided for the previous year. However, payment of the installments shall not extend beyond the month in which a retirement allowance is due and payable. Any additional amounts approved by the board under subsection (2) of this section shall be paid in one (1) lump sum payment to retirees and beneficiaries in accordance with subsection (2) of this section.

SECTION 19. Section 25-13-13, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

SECTION 20. Section 25-13-21, Mississippi Code of 1972, is amended as follows:

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

Pursuant to the Unemployment Compensation Amendments of 1992 (P.L. 102-318 (UCA)), a member or eligible beneficiary eligible for a refund under this section may elect on a form prescribed by the board under rules and regulations established by the board, to have an eligible roll over distribution of accumulated contributions payable under this section paid directly to an eligible retirement plan or individual retirement account. If the member or eligible beneficiary makes such election and specifies the eligible retirement plan or individual retirement account to which such distribution is to be paid, the distribution will be made in the form of a direct trustee to trustee transfer to the
specified eligible retirement plan. Flexible roll overs under
this subsection shall not be considered assignments under Section

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

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