

By: Representative Fleming

To: Appropriations

HOUSE BILL NO. 292

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

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

10 SECTION 1. There is established and placed under the  
 11 management of the Board of Trustees of the Public Employees'  
 12 Retirement System a retirement system for the purpose of providing  
 13 retirement allowances and other benefits under the provisions of  
 14 this act for law enforcement officers and their beneficiaries.  
 15 This retirement system shall be known as the "Law Enforcement  
 16 Officers' Retirement System." The retirement system shall go into  
 17 operation on July 1, 2001, when contributions by members shall  
 18 begin and benefits shall become payable. This retirement system  
 19 is designed to supplement and is in addition to the provisions of  
 20 Section 25-11-1 et seq. Under the terms of this act, law  
 21 enforcement officers shall retain all social security benefits  
 22 under Article I of the Public Employees' Retirement Law of 1952  
 23 but shall not be eligible for benefits under Article III of that  
 24 law. This act is a substitute for and in lieu of Article III of  
 25 that law, and is designed to provide more liberal benefits for law  
 26 enforcement officers by reason of the dangerous nature of and  
 27 special risk involved in their employment.

28 SECTION 2. (1) For the purposes of this act, the  
 29 definitions in Section 25-11-5 and Section 25-11-103 shall apply  
 30 unless a different meaning is plainly expressed by the context.



31 (2) As used in this act:

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

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

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

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

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

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

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



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

65 (4) At least once in each two-year period following July 1,  
66 2001, the actuary shall make an actuarial investigation into the  
67 mortality, service, withdrawal and compensation experience of the  
68 members and beneficiaries of the system, and shall make a  
69 valuation of the assets and liabilities of the system. Taking  
70 into account the result of the investigation and valuation, the  
71 board shall adopt for the retirement system such mortality,  
72 service, and other tables as shall be deemed necessary. On the  
73 basis of those tables that the board adopts, the actuary shall  
74 make biennial valuations of the assets and liabilities of the  
75 funds of the system.

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

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

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

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



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

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

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

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

112           (c) All duly elected constables.

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

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

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

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



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

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

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

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

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

151 (3) All law enforcement officers eligible for membership in  
152 the system as provided in this section who are serving in that  
153 capacity on July 1, 2001, shall become members of the system on  
154 that date, unless they file with the board before August 1, 2001,  
155 on a form prescribed by the board, a notice of election not to be  
156 covered in the membership of the system and a duly executed waiver  
157 of all present and prospective benefits that otherwise would inure  
158 to them on account of their membership in the system.



159           (4) All law enforcement officers eligible for membership in  
160 the system as provided in this section who are elected or  
161 appointed after June 30, 2001, shall become members of the system  
162 as a condition of their office or employment.

163           (5) Membership in the system shall cease by a member  
164 withdrawing his accumulated contributions, or by a member  
165 withdrawing from active service with a retirement allowance, or by  
166 death of the member.

167           SECTION 5. (1) Creditable service on which a member's  
168 service or disability retirement benefit is based shall consist of  
169 prior service and membership service. Except as otherwise  
170 provided for municipalities in this subsection, prior service  
171 means service performed before July 1, 2001, for which  
172 contributions were made to the Public Employees' Retirement  
173 System, and membership service means all service for which credit  
174 may be allowed under this act after June 30, 2001, and all  
175 lawfully credited unused leave as of the date of withdrawal from  
176 service, as certified by the employer.

177           (2) Notwithstanding anything in this act to the contrary, in  
178 computing the period of service of a member of the system, any  
179 member who served on active duty in the Armed Forces of the United  
180 States, or who served in maritime service during periods of  
181 hostility in World War II, shall be entitled to creditable service  
182 for his service on active duty in the Armed Forces or in such  
183 maritime service, provided he entered state service after his  
184 discharge from the Armed Forces or entered state service after he  
185 completed such maritime service. The maximum period for  
186 creditable service for all military service shall not exceed four  
187 (4) years unless positive proof can be furnished by the person  
188 that he was retained in the Armed Forces during World War II or in  
189 maritime service during World War II by causes beyond his control  
190 and without opportunity of discharge. The member shall furnish  
191 proof satisfactory to the board of certification of military



192 service or maritime service records showing dates of entrance into  
193 service and the date of discharge. No creditable service shall be  
194 granted for any military service or maritime service to a member  
195 who qualifies for a retirement allowance in another public  
196 retirement system administered by the board based in whole or in  
197 part on that military or maritime service. In no case shall the  
198 member receive creditable service if the member received a  
199 dishonorable discharge from the Armed Forces of the United States.

200       SECTION 6. (1) The board shall act as custodian of the  
201 system, and shall receive to the credit of the system all  
202 donations, bequests, appropriations, and all funds available as an  
203 employer's contribution to the system, from any source whatsoever.

204       (2) The employers shall deduct each month from the salary of  
205 each member seven and one-fourth percent (7-1/4%) of earned  
206 compensation, and shall pay the amount so deducted to the board to  
207 be credited to the system. Notwithstanding the employee  
208 contribution rates specified in this subsection, the board may  
209 vary the percentage of employee contribution biennially on the  
210 basis of the liabilities of the system for the various allowances  
211 and benefits as shown by actuarial valuation. From the funds  
212 credited to this account, the board shall pay retirements,  
213 disability benefits, survivors' benefits, expenses and shall  
214 refund contributions as provided in this act. The funds of the  
215 system shall be maintained as a separate fund, separate from all  
216 other funds held by the board and shall be used only for the  
217 payment of benefits provided for by this act or amendments to this  
218 act.

219       (3) On account of each member the employers shall pay  
220 monthly into the system from funds available an amount equal to a  
221 certain percentage of the compensation of each member to be known  
222 as the "normal contributions," and an additional amount equal to a  
223 percentage of his compensation to be known as the "accrued  
224 liability contribution." The percentage rate of those



225 contributions shall be fixed biennially by the board on the basis  
226 of the liabilities of the system for the various allowances and  
227 benefits as shown by the actuarial valuation.

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

232 SECTION 7. Each employer shall withhold the member  
233 contributions required by Section 6 of this act from all  
234 compensation earned after June 30, 2001, and the contributions so  
235 withheld shall be treated as employer contributions in determining  
236 tax treatment under the United States Internal Revenue Code and  
237 Mississippi Income Tax Code. These contributions shall not be  
238 included as gross income of the member until such time as they are  
239 distributed or made available. The employer shall pay these  
240 member contributions from the same source of funds that is used in  
241 paying earnings to the member. The employer may withhold member  
242 contributions by a reduction in the cash salary of the member, or  
243 by an offset against a future salary increase, or by a combination  
244 of a reduction in salary and offset against a future salary  
245 increase. The member contributions so withheld shall be treated  
246 for all purposes in the same manner and to the same extent as  
247 member contributions.

248 SECTION 8. (1) Upon application of a member or his  
249 employer, any active member who has not attained the age of  
250 fifty-five (55) years may be retired by the board, not less than  
251 thirty (30) and not more than ninety (90) days next following the  
252 date of filing the application, on a disability retirement  
253 allowance, if the medical board of the Public Employees'  
254 Retirement System or other designated governmental agency, after a  
255 medical examination, certifies that he is mentally or physically  
256 incapacitated for the performance of duty, that the incapacity is  
257 likely to be permanent, and that the sickness or injury was caused





258 or sustained as a direct result of duty as a law enforcement  
259 officer after June 30, 2001.

260       Upon the application of a member or his employer, any member  
261 who is not yet eligible for service retirement benefits and who  
262 has had at least ten (10) years of creditable service may be  
263 retired by the board, not less than thirty (30) and not more than  
264 ninety (90) days next following the date of filing the  
265 application, on a disability retirement allowance, if the medical  
266 board or other designated governmental agency, after a medical  
267 examination, certifies that he is mentally or physically  
268 incapacitated for the further performance of duty, that the  
269 incapacity is likely to be permanent, and that he should be  
270 retired. This disability need not be service connected.

271       (2) Upon retirement for disability, a member shall receive a  
272 disability benefit equal to fifty percent (50%) of his average  
273 compensation for the two (2) years immediately preceding his  
274 retirement, but not less than any retirement benefits for which he  
275 may be eligible at the date he is granted disability.

276       (3) Once each year during the first five (5) years following  
277 retirement of a member on a disability retirement allowance, and  
278 once in every period of three (3) years thereafter, the board may,  
279 and upon his application shall, require any disability retiree who  
280 has not yet attained the age of fifty-five (55) years to undergo a  
281 medical examination. The examination shall be made at the place  
282 of residence of the retiree or other place mutually agreed upon by  
283 the medical board or other designated governmental agency. If any  
284 disability retiree who has not yet attained the age of fifty-five  
285 (55) years refuses to submit to any medical examination provided  
286 for in this subsection, his allowance may be discontinued until  
287 his withdrawal of his refusal, and if his refusal continues for  
288 one (1) year, all his rights in that part of the disability  
289 benefit provided by employer contributions shall be revoked by the  
290 board.



291 (4) If the medical board or other designated governmental  
292 agency reports and certifies to the board, after a comparable job  
293 analysis or other similar study, that the disability retiree is  
294 engaged in, or is able to engage in, a gainful occupation paying  
295 more than the difference between his disability benefit and his  
296 average compensation, and if the board concurs in the report, the  
297 disability benefit shall be reduced to an amount that, together  
298 with the amount earnable by him, equals the amount of his average  
299 compensation. If his earning capacity is later changed, the  
300 amount of the benefit may be further modified, but the revised  
301 benefit shall not exceed the amount originally granted or an  
302 amount that, when added to the amount earnable by the retiree,  
303 together with the member's annuity, equals the amount of his  
304 average compensation.

305 (5) If a disability retiree under the age of fifty-five (55)  
306 years is restored to active service at a compensation not less  
307 than his average compensation, his disability benefit shall cease,  
308 he shall again become a member of the retirement system, and he  
309 shall contribute thereafter at the same rate he paid before  
310 disability. Any such prior service certificate on the basis of  
311 which his service was computed at the time of retirement shall be  
312 restored to full force and effect. In addition, upon his  
313 subsequent retirement he shall be credited with all creditable  
314 service as a member, including the period for which he was paid  
315 disability benefits.

316 SECTION 9. (1) Any member upon withdrawal from service upon  
317 or after attainment of the age of fifty-five (55) years who has  
318 completed at least four (4) years of creditable service, or any  
319 member upon withdrawal from service upon or after attainment of  
320 the age of forty-five (45) years who has completed at least twenty  
321 (20) years of creditable service, or any member upon withdrawal  
322 from service regardless of age who has completed at least  
323 twenty-five (25) years of creditable service, shall be entitled to



324 receive a retirement allowance that shall be payable the first of  
325 the month following receipt of the member's application in the  
326 office of the executive director of the system, but in no event  
327 before withdrawal from service.

328 (2) Any member whose withdrawal from service occurs before  
329 attaining the age of fifty-five (55) years who has completed four  
330 (4) or more years of creditable service and has not received a  
331 refund of the member's accumulated contributions shall be entitled  
332 to receive a retirement allowance of the amount earned and accrued  
333 at the date of withdrawal from service, beginning upon his  
334 attaining the age of fifty-five (55) years.

335 (3) The annual amount of the retirement allowance shall  
336 consist of:

337 (a) A member's annuity, which shall be the actuarial  
338 equivalent of the accumulated contributions of the member at the  
339 time of retirement, computed according to the actuarial table in  
340 use by the system.

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

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

348 (d) In the case of retirement of any member before  
349 attaining the age of fifty-five (55) years, the retirement  
350 allowance shall be computed in accordance with the formula set  
351 forth above in this section, except that the employer's annuity  
352 and prior service annuity shall be reduced by three percent (3%)  
353 for each year of age below fifty-five (55) years, or three percent  
354 (3%) for each year of service below twenty-five (25) years of  
355 creditable service, whichever is lesser.



356 (e) Upon retiring for service, a member shall be  
357 eligible to obtain retirement benefits, as computed above, for  
358 life, except that the aggregate amount of the employer's annuity  
359 and prior service annuity shall not exceed more than one hundred  
360 percent (100%) of the average compensation regardless of the years  
361 of service.

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

364 SECTION 10. (1) Retired members who on December 1 of each  
365 year, or July 1 of each year as provided for in subsection (6) of  
366 this section, are receiving a retirement allowance for service or  
367 disability retirement, or their beneficiaries, shall receive in  
368 one (1) additional payment an amount equal to two and one-half  
369 percent (2-1/2%) of the annual retirement allowance for each full  
370 fiscal year of retirement.

371 (2) Retired members who on December 1 of each year are  
372 receiving a retirement allowance for service or disability  
373 retirement, or their beneficiaries, may receive, in addition to  
374 the cumulative percentage provided in subsection (1) of this  
375 section, a payment as determined by the board, calculated in  
376 increments of one-quarter of one percent (1/4 of 1%), not to  
377 exceed one and one-half percent (1-1/2%) of the annual retirement  
378 allowance, for each full fiscal year of retirement, but any such  
379 payment shall be contingent upon the reserve for annuities in  
380 force for retired members and beneficiaries providing sufficient  
381 investment gains in excess of the accrued actuarial liabilities  
382 for the previous fiscal year as certified by the actuary and  
383 determined by the board.

384 (3) The percentages in this section shall be based on each  
385 full fiscal year that the retired member or beneficiary has  
386 actually drawn retirement payments from the date of retirement.

387 (4) If a retiree who is receiving a retirement allowance  
388 that will terminate upon the retiree's death is receiving the



389 additional payments under this section in one (1) payment and dies  
390 on or after July 1 but before December 1, the beneficiary  
391 designated on the retirement application shall receive in a single  
392 payment a fractional part of the additional payments based on the  
393 number of months in which a retirement allowance was received  
394 during the fiscal year. If there is no surviving beneficiary,  
395 payment shall be made according to Section 15(1). Any similar  
396 remaining payments of additional benefit payable under this  
397 section to a deceased beneficiary who was receiving a monthly  
398 benefit shall be payable according to Section 15(2).

399 (5) Persons eligible to receive the payments provided in  
400 this section shall receive the payments in one (1) additional  
401 payment, except that the person may elect by an irrevocable  
402 agreement on a form prescribed by the board to receive the  
403 payments in not less than equal monthly installments not to exceed  
404 six (6) months during the remaining months of the current fiscal  
405 year. In the event of death of a retiree receiving monthly  
406 benefits, any remaining amounts shall be paid in a lump sum to the  
407 beneficiary designated on the retirement application, or if none,  
408 according to Section 15(1). Any similar remaining payments of  
409 additional benefit payable under this section to a deceased  
410 beneficiary who was receiving a monthly benefit shall be payable  
411 according to Section 15(2).

412 (6) Retired members or beneficiaries thereof who on July 1  
413 of any fiscal year are receiving a retirement allowance may elect  
414 by an irrevocable agreement in writing filed in the office of the  
415 Public Employees' Retirement System no less than thirty (30) days  
416 before July 1 of the appropriate year, to begin receiving the  
417 payments provided for in subsection (1) of this section in twelve  
418 (12) equal installments beginning on July 1. This irrevocable  
419 agreement shall be binding on the member and subsequent  
420 beneficiaries. The cumulative percentage provided in subsection  
421 (1) of this section and paid in twelve (12) equal installments for



422 any particular year shall not be less than the cumulative  
423 percentage provided for the previous year. However, payment of  
424 the installments shall not extend beyond the month in which a  
425 retirement allowance is due and payable. Any additional amounts  
426 approved by the board under subsection (2) of this section shall  
427 be paid in one (1) lump sum payment to retirees and beneficiaries  
428 in accordance with subsection (2) of this section.

429       SECTION 11. (1) Upon the death of any member who has  
430 retired for service or disability and who has not elected any  
431 other option under Section 12 of this act, the member's spouse  
432 shall receive one-half (1/2) the benefit that the member was  
433 receiving and each child not having attained the age of nineteen  
434 (19) years shall receive one-fourth (1/4) of the member's benefit,  
435 but not more than one-half (1/2) of the benefits shall be paid for  
436 the support and maintenance of two (2) or more children. Upon  
437 each child's attaining the age of nineteen (19) years, the child  
438 shall no longer be eligible for the benefit, and when all of the  
439 children have attained the age of nineteen (19) years, only the  
440 spouse shall be eligible for one-half (1/2) of the amount of the  
441 member's benefit. The spouse shall continue to be eligible for  
442 the benefit in the amount of fifty percent (50%) of the member's  
443 retirement benefit as long as the spouse may live or until  
444 remarriage. Upon remarriage of the spouse at any time, the  
445 spouse's eligibility for the fifty percent (50%) benefits shall  
446 end, but the spouse will be eligible to continue to receive  
447 benefits for their children until the last child attains the age  
448 of nineteen (19) years.

449       (2) Upon the death of any member who has served the minimum  
450 period required for eligibility for retirement, the member's  
451 spouse and family shall receive all the benefits payable to the  
452 member's beneficiaries as if the member had retired at the time of  
453 death. Those benefits shall cease as to the spouse upon  
454 remarriage but shall continue to be payable to each child until he



455 reaches the age of nineteen (19) years. The benefits are payable  
456 on a monthly basis.

457 (3) The spouse and/or the dependent children of an active  
458 member who is killed in the line of performance of duty or dies as  
459 a direct result of an accident occurring in the line of  
460 performance of duty shall qualify, on approval of the board, for a  
461 retirement allowance on the first of the month following the date  
462 of the member's death, but not before receipt of application by  
463 the board. The spouse shall receive a retirement allowance equal  
464 to one-half (1/2) of the average compensation of the deceased  
465 member. In addition to the retirement allowance for the spouse,  
466 or if there is no surviving spouse, a retirement allowance shall  
467 be paid in the amount of one-fourth (1/4) of the average  
468 compensation for the support and maintenance of one (1) child or  
469 in the amount of one-half (1/2) of the average compensation for  
470 the support and maintenance of two (2) or more children. Those  
471 benefits shall cease to be paid for the support and maintenance of  
472 each child upon the child attaining the age of nineteen (19)  
473 years; however, the spouse shall continue to be eligible for the  
474 retirement allowance provided for the spouse. Benefits may be  
475 paid to a surviving parent or lawful custodian of the children for  
476 the use and benefit of the children without the necessity of  
477 appointment as guardian. That retirement allowance shall cease to  
478 the spouse upon remarriage but continue to be payable for each  
479 dependent child until the age of nineteen (19) years.

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

483 (5) Children receiving the benefits provided in this section  
484 who are permanently or totally disabled shall continue to receive  
485 the benefits for as long as the medical board or other designated  
486 governmental agency certifies that the disability continues. The  
487 age limitation for benefits payable to a child under any provision



488 of this section shall be extended beyond age nineteen (19), but in  
489 no event beyond the attainment of age twenty-three (23), as long  
490 as the child is a student regularly pursuing a full-time course of  
491 resident study or training in an accredited high school, trade  
492 school, technical or vocational institute, junior or community  
493 college, college, university or comparable recognized educational  
494 institution duly licensed by a state. A student child whose  
495 birthday falls during the school year (September 1 through June  
496 30) is considered not to reach age twenty-three (23) until the  
497 July 1 following the actual twenty-third birthday. A full-time  
498 course of resident study or training means a day or evening  
499 noncorrespondence course that includes school attendance at the  
500 rate of a least thirty-six (36) weeks, per academic year or other  
501 applicable period with a subject load sufficient, if successfully  
502 completed, to attain the educational or training objective within  
503 the period generally accepted as minimum for completion, by a  
504 full-time day student, of the academic or training program  
505 concerned.

506 (6) If all the annuities provided for in this section  
507 payable on the account of the death of a member terminate before  
508 there has been paid an aggregate amount equal to the member's  
509 accumulated contributions standing to the member's credit in the  
510 annuity savings account at the time of the member's death, the  
511 difference between the accumulated contributions and the aggregate  
512 amount of annuity payments shall be paid to such person as the  
513 member has nominated by written designation duly executed and  
514 filed with the system. If there is no designated beneficiary  
515 surviving at termination of benefits, the difference shall be  
516 payable according to Section 15(1).

517 (7) All benefits paid to a spouse or child due to the death  
518 of a member before or after retirement shall be paid in accordance  
519 with the statutory provisions existing on the date of death.





520           SECTION 12. (1) Upon application for superannuation or  
521 disability retirement, any member may elect to receive his benefit  
522 under the provisions of Section 8 or 9 of this act, or he may  
523 elect, upon retirement or upon becoming eligible for retirement,  
524 to receive the actuarial equivalent, subject to the provisions of  
525 subsection (4) of this section, of his retirement allowance in a  
526 reduced retirement allowance payable throughout life with the  
527 provision that:

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

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

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

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

549           **Option 4-B.** A reduced retirement allowance shall be  
550 continued throughout the life of the retirant, but with the  
551 further guarantee of payments to the named beneficiary,  
552 beneficiaries or to the estate for a specified number of years



553 certain. If the retired member or the last designated beneficiary  
554 receiving annuity payments dies before receiving all guaranteed  
555 payments due, the actuarial equivalent of the remaining payments  
556 shall be paid according to Section 15(1); or

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

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

584 (2) Any member in service who has qualified for retirement  
585 benefits may select any optional method of settlement of



586 retirement benefits by notifying the executive director of the  
587 system in writing, on a form prescribed by the board, of the  
588 option he has selected and by naming the beneficiary of the option  
589 and furnishing necessary proof of age. The option, once selected,  
590 may be changed at any time before actual retirement or death, but  
591 upon the death or retirement of the member, the optional  
592 settlement shall be placed in effect upon proper notification to  
593 the executive director.

594 (3) No change in the option selected shall be permitted  
595 after the member's death or after the member has received his  
596 first retirement check, except as provided in subsections (4) and  
597 (5) of this section and in Section 18 of this act. If a member  
598 retired on disability is returned to active service, the option  
599 previously selected shall be null and void, and upon subsequent  
600 retirement a new option may be selected by the member.

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

613 (5) Any retired member who is receiving the maximum  
614 retirement allowance for life, or a retirement allowance under  
615 Option 1, and who marries after his retirement may elect to cancel  
616 his maximum retirement allowance or Option 1 retirement allowance  
617 and receive a reduced retirement allowance under Option 2 or  
618 Option 4-A to provide continuing lifetime benefits to his spouse.



619 The election must be made in writing to the office of the  
620 executive director of the system on a form prescribed by the board  
621 not earlier than the date of the marriage. Any such election  
622 shall be effective the first of the month following the date the  
623 election is received by the system. The amount of the reduced  
624 retirement allowance shall be the actuarial equivalent, taking  
625 into account that the member received the maximum retirement  
626 allowance or Option 1 retirement allowance for a period of time  
627 before electing to receive a reduced retirement allowance.

628 (6) If a retiree and his eligible beneficiary, if any, both  
629 die before they have received in annuity payments a total amount  
630 equal to the accumulated contributions standing to the retirant's  
631 credit in the annuity savings account at the time of his  
632 retirement, the difference between the accumulated contributions  
633 and the total amount of annuities received by them shall be paid  
634 to such persons as the retirant has nominated by written  
635 designation duly executed and filed in the office of the executive  
636 director. If no designated person survives the retirant and his  
637 beneficiary, the difference, if any, shall be paid according to  
638 Section 15(1).

639 SECTION 13. (1) Except as otherwise provided in this  
640 subsection for municipalities, all persons who are covered under  
641 the terms of this act on July 1, 2001, and who become members of  
642 the retirement system established by this act shall cease to be  
643 members of the Public Employees' Retirement System under the  
644 provisions of Section 25-11-101 et seq. upon July 1, 2001, and  
645 shall become members of this retirement system with full credit  
646 for all prior service performed before July 1, 2001, for which  
647 contributions were made to the Public Employees' Retirement  
648 System.

649 (2) For each law enforcement officer who has been a member  
650 of the Public Employees' Retirement System under Section 25-11-101  
651 et seq. and has made contributions thereto, all employee's



652 contributions and interest to the credit of that person shall be  
653 transferred by the Public Employees' Retirement System to the  
654 credit of the person in the retirement system established by this  
655 act, and shall be considered an asset to the credit of that person  
656 in this retirement system.

657 SECTION 14. If a member of the retirement system ceases to  
658 work as a law enforcement officer for any reason other than  
659 occupational disease contracted or for any accident sustained by  
660 the member by reason of his service or discharge of his duties as  
661 a law enforcement officer, and if the member is not eligible for  
662 retirement either for service or disability, he shall be refunded  
663 the amount of his total contributions under the provisions of this  
664 act, including any credit transferred to his account in this  
665 system from any other system, at his request, and if he dies  
666 before retirement, those funds shall be refunded to any  
667 beneficiary that he has named. If there is no surviving  
668 designated beneficiary, the contributions to the credit of the  
669 deceased member shall be refunded according to Section 15(1).

670 Under the Unemployment Compensation Amendments of 1992  
671 (Public Law 102-218(UCA)), a member or eligible beneficiary  
672 eligible for a refund under this section may elect on a form  
673 prescribed by the board under rules and regulations established by  
674 the board, to have an eligible roll over distribution of  
675 accumulated contributions payable under this section paid directly  
676 to an eligible retirement plan or individual retirement account.  
677 If the member or eligible beneficiary makes that election and  
678 specifies the eligible retirement plan or individual retirement  
679 account to which the distribution is to be paid, the distribution  
680 will be made in the form of a direct trustee to trustee transfer  
681 to the specified eligible retirement plan. Flexible roll overs  
682 under this paragraph shall not be considered assignments under  
683 Section 19 of this act.



684           If any member who receives a refund reenters service as a law  
685 enforcement officer and again becomes a member of the system, he  
686 may repay all amounts previously received by him as a refund,  
687 together with regular interest covering the period from the date  
688 of refund to the date of repayment; however, the amounts that are  
689 repaid by the member and the creditable service related thereto  
690 shall not be used in any benefit calculation or determination  
691 until the member has remained a contributor to the system for a  
692 period of at least four (4) years after such member's reentry into  
693 service as a law enforcement officer. Repayment for that time  
694 shall be made in increments of not less than one-quarter (1/4)  
695 year of creditable service beginning with the most recent service  
696 for which refund has been made. Upon the repayment of all or part  
697 of that refund and interest, the member shall again receive credit  
698 for the period of creditable service for which full repayment has  
699 been made to the system.

700           SECTION 15. (1) Except as otherwise provided in subsection  
701 (2) of this section, where benefits are payable to a designated  
702 beneficiary or beneficiaries under this article and the designated  
703 beneficiary or beneficiaries as provided by the member on the most  
704 recent form filed with the system are deceased or otherwise  
705 disqualified at the time such benefits become payable, the  
706 following persons, in descending order of precedence, shall be  
707 eligible to receive such benefits:

708                   (a) The surviving spouse of the member or retiree;

709                   (b) The children of the member or retiree or their  
710 descendants, per stirpes;

711                   (c) The brothers and sisters of the member or retiree  
712 or their descendants, per stirpes;

713                   (d) The parents of the member or retiree;

714                   (e) The executor or administrator on behalf of the  
715 member or retiree's estate;



716 (f) The persons entitled by law to distribution of the  
717 member or retiree's estate.

718 (2) Any monthly benefits payable to a beneficiary who dies  
719 before cashing his or her final check(s) and/or any additional  
720 benefits payable under Section 10 of this act still payable at the  
721 death of a beneficiary receiving monthly benefits shall be paid as  
722 follows:

723 (a) The surviving spouse of the beneficiary;

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

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

728 (d) The parents of the beneficiary;

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

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

733 (3) If no claim is made by any individual listed in  
734 subsection (2) of this section, a distribution may be made under  
735 the provisions of subsection (1) of this section.

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

742 SECTION 16. Subject to the rules adopted by the board, the  
743 system shall accept an eligible roll over distribution or a direct  
744 transfer of funds from another qualified plan in payment of all or  
745 a portion of the cost to purchase optional service credit or to  
746 reinstate previously withdrawn service credit as permitted by the  
747 system. The system may only accept roll over payments in an  
748 amount equal to or less than the balance due for purchase or



749 reinstatement of service credit. The rules adopted by the board  
750 shall condition the acceptance of a roll over or transfer from  
751 another qualified plan on the receipt from the other plan of  
752 information necessary to enable the system to determine the  
753 eligibility of any transferred funds for tax-free roll over  
754 treatment or other treatment under federal income tax law.

755       SECTION 17. Regular interest shall be credited annually to  
756 the mean amount of the employee reserve account for the preceding  
757 year. This credit shall be made annually from interest and other  
758 earnings on the invested assets of the system. Any additional  
759 amount required to meet the regular interest on the funds of the  
760 system shall be charged to the employer's accumulation account,  
761 and any excess of earnings over the regular interest required  
762 shall be credited to the employer's accumulation account. Regular  
763 interest shall mean such percentage rate of interest compounded  
764 annually as determined by the board on the basis of the interest  
765 earnings of the system for the preceding year. Once that interest  
766 is credited it shall be added to the sum of all amounts deducted  
767 from the compensation of a member and shall be included in  
768 determining his total contributions.

769       SECTION 18. No person who is being paid a retirement  
770 allowance under this act shall serve as or be paid for any service  
771 as a law enforcement officer. Any member who has been retired  
772 under this act and who is later elected, appointed or employed as  
773 a law enforcement officer shall cease to receive benefits under  
774 this act and shall become a contributing member of the retirement  
775 system again. Upon retiring again, if the member's reemployment  
776 exceeds six (6) months, he shall have his benefit recomputed,  
777 including service after becoming a member again. However, the  
778 total retirement allowance paid to the retired member in his  
779 previous retirement shall be deducted from his retirement reserve  
780 and taken into consideration in recalculating the retirement  
781 allowance under a new option selected.





782           SECTION 19. The right of a person to an annuity, a  
783 retirement allowance or benefit, or to the return of  
784 contributions, or to any optional benefits or any other right  
785 accrued or accruing to any person under the provisions of this  
786 act, the system and the moneys in the system created by this act,  
787 are exempt from any state, county or municipal ad valorem taxes,  
788 income taxes, premium taxes, privilege taxes, property taxes,  
789 sales and use taxes or other taxes not so named, notwithstanding  
790 any other provision of law to the contrary, and exempt from levy  
791 and sale, garnishment, attachment, or any other process  
792 whatsoever, and shall be unassignable except as specifically  
793 provided otherwise in this act.

794           SECTION 20. (1) The maintenance of actuarial reserves for  
795 the various allowances and benefits under this act, and the  
796 payment of all annuities, retirement allowances, refunds and other  
797 benefits granted under this act are made obligation of the system.  
798 All income, interest and dividends derived from deposits and  
799 investments authorized by this act shall be used for the payment  
800 of the obligations of the system.

801           (2) If the system is terminated, all members of the system  
802 as of the date of termination of the system shall be deemed to  
803 have a vested right to benefits to the extent and in the same  
804 manner that rights would be vested under the laws existing as of  
805 the date of termination of the system. However, any member who  
806 has not fulfilled the requirements for length of service because  
807 of a termination of the system shall be entitled to compensation  
808 as of the date that the member would otherwise be eligible. That  
809 compensation shall be computed on the basis of the time he was  
810 actually a member of the system and the compensation he actually  
811 earned during the time he was a member, in the manner provided by  
812 this act.

813           If there is a deficit in the availability of funds for  
814 payment due under the provisions of the system, an appropriation



815 shall be made that is sufficient for the payment thereof, as an  
816 obligation of the State of Mississippi.

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

833 (4) Notwithstanding any other provision of this plan, all  
834 distributions from this plan shall conform to the regulations  
835 issued under Section 401(a)(9) of the Internal Revenue Code,  
836 applicable to governmental plans, as defined in Section 414(d) of  
837 the Internal Revenue Code, including the incidental death benefit  
838 provisions of Section 401(a)(9)(G) of the Internal Revenue Code.  
839 Further, those regulations shall override any plan provision that  
840 is inconsistent with Section 401(a)(9) of the Internal Revenue  
841 Code.

842 (5) The actuarial assumptions used to convert a retirement  
843 allowance from the normal form of payment to an optional form of  
844 payment shall be an appendix to this act and subject to approval  
845 by the board based upon certification by the actuary.

846 (6) Notwithstanding any other provision of this plan, the  
847 maximum compensation that can be considered for all plan purposes



848 is One Hundred Fifty Thousand Dollars (\$150,000.00) per year,  
849 adjusted annually to reflect changes in the cost of living to  
850 conform to the regulations issued under Section 401(a)(17) of the  
851 Internal Revenue Code.

852 SECTION 21. This act shall take effect and be in force from  
853 and after July 1, 2001.

