

By: Representative Brown

To: Appropriations

## HOUSE BILL NO. 1149

1 AN ACT TO CREATE NEW SECTION 21-29-327, MISSISSIPPI CODE OF  
2 1972, TO AUTHORIZE THE BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES'  
3 RETIREMENT SYSTEM TO ASSESS INTEREST ON DELINQUENT PAYMENTS FROM  
4 MUNICIPALITIES WHOSE RETIREMENT FUNDS IT ADMINISTERS; TO AUTHORIZE  
5 THE BOARD TO SUE MUNICIPALITIES FOR THOSE DELINQUENT PAYMENTS AND  
6 INTEREST IN A COURT OF COMPETENT JURISDICTION; TO CREATE NEW  
7 SECTION 21-29-329, MISSISSIPPI CODE OF 1972, TO AUTHORIZE  
8 MUNICIPALITIES THAT HAVE A RETIREMENT FUND ADMINISTERED BY THE  
9 BOARD OF TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO  
10 ADOPT A RESOLUTION TO ALLOW THOSE SPOUSES WHO ARE RECEIVING  
11 RETIREMENT BENEFITS TO CONTINUE TO RECEIVE SPOUSE RETIREMENT  
12 BENEFITS FOR LIFE EVEN IF THE SPOUSE REMARRIES; TO PROVIDE THAT  
13 THE RESOLUTION ALSO MAY PROVIDE THAT SURVIVING SPOUSES OF DECEASED  
14 MEMBERS WHO RECEIVED SPOUSE RETIREMENT BENEFITS THAT WERE  
15 TERMINATED UPON REMARRIAGE TO AGAIN RECEIVE SPOUSE RETIREMENT  
16 BENEFITS; TO PROVIDE THE CONDITIONS MUST BE MET IN ORDER FOR THE  
17 BENEFITS TO BE REINSTATED; TO AMEND SECTIONS 25-11-15, 25-11-103,  
18 25-11-105, 25-11-114, 25-11-137, 25-13-12 AND 25-13-13,  
19 MISSISSIPPI CODE OF 1972, TO REMOVE CERTAIN RESTRICTIONS ON THE  
20 PURCHASE OF COMPUTER SOFTWARE AND EQUIPMENT BY THE PUBLIC  
21 EMPLOYEES' RETIREMENT SYSTEM; TO REVISE DEFINITIONS UNDER THE LAWS  
22 GOVERNING THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO CLARIFY THAT  
23 THE TERMS "AVERAGE COMPENSATION" AND "EARNED COMPENSATION" DO NOT  
24 INCLUDE NONTAXABLE AMOUNTS PAID BY THE EMPLOYER FOR HEALTH AND  
25 LIFE INSURANCE, TO PROVIDE THAT CERTAIN AMOUNTS LAWFULLY PAID IN A  
26 LUMP SUM FOR MAJOR MEDICAL LEAVE SHALL BE INCLUDED IN THE  
27 CALCULATION OF AVERAGE COMPENSATION, AND TO PROVIDE THAT THE TERM  
28 "BENEFICIARY" MAY INCLUDE AN ORGANIZATION, ESTATE, TRUST OR ENTITY  
29 UNDER CERTAIN CIRCUMSTANCES; TO MAKE IT CLEAR THAT THE BOARD OF  
30 TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM MAY SUE FOR  
31 DELINQUENT PAYMENTS AND OTHER AMOUNTS CERTIFIED BY THE BOARD AS  
32 OWED BY THE EMPLOYER; TO REQUIRE THE PUBLIC EMPLOYEES' RETIREMENT  
33 SYSTEM TO ALLOW THOSE SPOUSES WHO ARE RECEIVING RETIREMENT  
34 BENEFITS TO CONTINUE TO RECEIVE SPOUSE RETIREMENT BENEFITS FOR  
35 LIFE EVEN IF THE SPOUSE REMARRIES, AND TO ALLOW SURVIVING SPOUSES  
36 OF DECEASED MEMBERS WHO RECEIVED SPOUSE RETIREMENT BENEFITS THAT  
37 WERE TERMINATED UPON REMARRIAGE TO AGAIN RECEIVE SPOUSE RETIREMENT  
38 BENEFITS; TO PROVIDE THAT A LAW ENFORCEMENT OFFICER OR FIREMAN WHO  
39 CHANGES EMPLOYMENT AND TRANSFERS RETIREMENT SERVICE CREDIT OR  
40 FUNDS TO ANOTHER RETIREMENT SYSTEM ADMINISTERED BY THE BOARD OF  
41 TRUSTEES OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM MAY DO SO  
42 IMMEDIATELY, BUT THE AMOUNTS SO TRANSFERRED MAY NOT BE USED IN ANY  
43 BENEFIT CALCULATION OR DETERMINATION OF THE ELIGIBILITY FOR  
44 BENEFITS UNTIL THE PERSON HAS REMAINED A CONTRIBUTING MEMBER OF  
45 THE RETIREMENT SYSTEM TO WHICH HE IS TRANSFERRING FOR THE MINIMUM  
46 PERIOD NECESSARY TO QUALIFY FOR A MONTHLY RETIREMENT ALLOWANCE OR  
47 BENEFIT; TO PROVIDE THAT RETIRED MEMBERS OF THE HIGHWAY PATROL  
48 RETIREMENT SYSTEM WHO ARE REEMPLOYED AND WHO PREVIOUSLY QUALIFIED  
49 FOR A COST OF LIVING ALLOWANCE SHALL BE ELIGIBLE IMMEDIATELY FOR  
50 THE COST OF LIVING ALLOWANCE UPON A LATER RETIREMENT; TO AMEND  
51 SECTIONS 21-29-45, 21-29-145, 21-29-147 AND 21-29-255, MISSISSIPPI

52 CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR  
53 RELATED PURPOSES.

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

55 **SECTION 1.** The following provision shall be codified as  
56 Section 21-29-327, Mississippi Code of 1972:

57 21-29-327. Any municipality that has established a  
58 retirement fund or disability and relief fund under Articles 1, 3  
59 and 5 of this chapter shall be assessed interest on delinquent  
60 payments as determined by the Board of Trustees of the Public  
61 Employees' Retirement System in accordance with rules and  
62 regulations adopted by the board of trustees. Any delinquent  
63 payments, assessed interest and any other amount certified by the  
64 board of trustees as owed by the municipality may be recovered by  
65 action in a court of competent jurisdiction against the  
66 municipality or may, upon due certification of delinquency and at  
67 the request of the board of trustees, be deducted from any other  
68 monies payable to the municipality by any department or agency of  
69 the state.

70 **SECTION 2.** The following provision shall be codified as  
71 Section 21-29-329, Mississippi Code of 1972:

72 21-29-329. (1) Any municipality that has established a  
73 retirement fund or disability and relief fund under the provisions  
74 of Article 1, 3 or 5 of this chapter, shall be authorized to adopt  
75 a resolution to allow those spouses who are receiving retirement  
76 benefits under the provisions of those articles, to continue to  
77 receive the spouse retirement benefits for life even if the spouse  
78 remarries. The resolution also may provide that surviving spouses  
79 of deceased members who received spouse retirement benefits that  
80 were terminated upon remarriage may again receive the spouse  
81 retirement benefits from and after making application with the  
82 Board of Trustees of the Public Employees' Retirement System to  
83 reinstate the benefits. Any reinstatement of spouse retirement  
84 benefits shall be prospective only from and after the first of the  
85 month following the date of application for reinstatement.

86 (2) The continuation or reinstatement of spouse retirement  
87 benefits authorized under this section shall not be continued or  
88 reinstated unless all of the following requirements are met:

89 (a) The municipal retirement fund or disability and  
90 relief fund is actuarially sound, as shown by the most recent  
91 actuarial study required by Section 21-29-27, 21-29-119 or  
92 21-29-221;

93 (b) The municipal retirement fund or disability and  
94 relief fund will remain actuarially sound if the spouse retirement  
95 benefits are continued or reinstated, as shown by a certified  
96 statement from the actuarial firm that prepared the most recent  
97 actuarial study;

98 (c) The governing authorities of the municipality adopt  
99 a resolution requesting the continuation or reinstatement of the  
100 spouse retirement benefits as authorized in this section and  
101 transmit the resolution to the Board of Trustees of the Public  
102 Employees' Retirement System; and

103 (d) If applicable, the surviving spouse makes an  
104 application to the Board of Trustees of the Public Employees'  
105 Retirement System to reinstate the spouse retirement benefits.

106 **SECTION 3.** Section 25-11-15, Mississippi Code of 1972, is  
107 amended as follows:

108 25-11-15. (1) Board of trustees: The general  
109 administration and responsibility for the proper operation of the  
110 Public Employees' Retirement System and the federal-state  
111 agreement and for making effective the provisions of Articles 1  
112 and 3 are \* \* \* vested in a board of trustees.

113 (2) The board shall consist of ten (10) trustees, as  
114 follows:

115 (a) The State Treasurer;

116 (b) One (1) member who shall be appointed by the  
117 Governor for a term of four (4) years, who shall be a member of  
118 the system;

119           (c) Two (2) members of the system having at least ten  
120 (10) years of creditable service who are state employees who are  
121 not \* \* \* employees of the state institutions of higher learning,  
122 who shall be elected by members of the system who are employees of  
123 state agencies and by members of the Mississippi Highway Safety  
124 Patrol Retirement System, but not by employees of the state  
125 institutions of higher learning;

126           (d) Two (2) members of the system having at least ten  
127 (10) years of creditable service who do not hold office in the  
128 legislative or judicial departments of municipal or county  
129 government, one (1) of whom shall be an employee of a  
130 municipality, instrumentality or juristic entity thereof, who  
131 shall be elected by members of the system who are employees of the  
132 municipalities, instrumentalities or juristic entities thereof and  
133 by members of the municipal systems and the firemen's and  
134 policemen's disability and relief funds administered by the board  
135 of trustees, and one (1) of whom shall be an employee of a county,  
136 instrumentality or juristic entity thereof, who shall be elected  
137 by members of the system who are employees of the counties,  
138 instrumentalities or juristic entities thereof;

139           (e) One (1) member of the system having at least ten  
140 (10) years of creditable service who is an employee of a state  
141 institution of higher learning, who shall be elected by members of  
142 the system who are employees of the state institutions of higher  
143 learning as included in Section 37-101-1. Any member of the board  
144 on July 1, 1984, who is an employee of an institution of higher  
145 learning shall serve as the member trustee representing the  
146 institutions of higher learning until the end of the term for  
147 which he was elected;

148           (f) Two (2) retired members who are receiving a  
149 retirement allowance from the system, who shall be elected by the  
150 retired members or beneficiaries receiving a retirement allowance  
151 from the system and by the retired members or beneficiaries of the

152 municipal systems, the firemen's and policemen's disability and  
153 relief funds and the Mississippi Highway Safety Patrol Retirement  
154 System administered by the board of trustees, to serve for a term  
155 of six (6) years under rules and regulations adopted by the board  
156 to govern that election; however, any retired member of the board  
157 in office on April 19, 1993, shall serve as a retired trustee  
158 until the end of the term for which he was elected;

159 (g) One (1) member of the system having at least ten  
160 (10) years of creditable service who is an employee of any public  
161 school district or junior college or community college district  
162 that participates in the system, who shall be elected by the  
163 members of the system who are employees of any public school  
164 district or junior college or community college district; however,  
165 any member of the board on June 30, 1989, who is a certified  
166 classroom teacher shall serve as the member representing a  
167 classroom teacher until the end of the term for which the member  
168 was appointed;

169 (h) In the first election to be held for trustees one  
170 (1) member shall be elected for a term of two (2) years, and one  
171 (1) member for a term of four (4) years, and one (1) member for a  
172 term of six (6) years. Thereafter, their successors shall be  
173 elected for terms of six (6) years. All elections shall be held  
174 in accordance with rules and regulations adopted by the board to  
175 govern those elections and the board shall be the sole judge of  
176 all questions arising incident to or connected with the elections.

177 (i) Any person eligible to vote for the election of a  
178 member of the board of trustees and who meets the qualifications  
179 for the office may seek election to the office and serve if  
180 elected. For purposes of determining eligibility to seek office  
181 as a member of the board of trustees, the required creditable  
182 service in "the system" shall include each system administered by  
183 the board of trustees in which the person is a member.

184           The members described above and serving on the board on June  
185 30, 1989, shall continue to serve on the board until the  
186 expiration of their terms.

187           (3) If a vacancy occurs in the office of a trustee, the  
188 vacancy shall be filled for the unexpired term in the same manner  
189 as the office was previously filled. However, if the unexpired  
190 term is six (6) months or less, an election shall be held to fill  
191 the office vacated for the next succeeding full term of office,  
192 and the person so elected to fill the next full term shall be  
193 appointed by the board to fill the remainder of the unexpired  
194 term. Whenever any member who is elected to a position to  
195 represent a class of members ceases to be a member of that class,  
196 that board member is no longer eligible for membership on the  
197 board. The position shall be declared vacant, and the unexpired  
198 term shall be filled in the same manner as the office was  
199 previously filled.

200           (4) Each trustee shall, within ten (10) days after his  
201 appointment or election, take an oath of office as provided by law  
202 and, in addition, shall take an oath that he will diligently and  
203 honestly administer the affairs of the \* \* \* board, and that he  
204 will not knowingly violate or willingly permit to be violated any  
205 of the provisions of law applicable to Articles 1 and 3. The oath  
206 shall be signed by the member making it, certified by the officer  
207 before whom it is taken, and immediately filed in the office of  
208 the Secretary of State.

209           (5) Each trustee shall be entitled to one (1) vote. Six (6)  
210 members shall constitute a quorum at any meeting of the board, and  
211 a majority of those present shall be necessary for a decision.

212           (6) Subject to the limitations of Articles 1 and 3, the  
213 board shall establish rules and regulations for the administration  
214 of the system created by those articles and for the transaction of  
215 its business, and to give force and effect to the provisions of  
216 those articles wherever necessary to carry out the intent and

217 purposes of the Legislature. The cited articles are remedial law  
218 and shall be liberally construed to accomplish their purposes.

219 (7) Notwithstanding any other law to the contrary, in the  
220 event of a natural disaster or other occurrence that results in  
221 the failure of the retirement system's computer system or a  
222 significant disruption of the normal activities of the retirement  
223 system, the executive director of the board, or his deputy, shall  
224 be authorized to contract with another entity, governmental or  
225 private, during the period of the failure or disruption, for  
226 services, commodities, work space and supplies as necessary to  
227 carry out the administration of all systems and programs  
228 administered by the board. The board shall be authorized to pay  
229 the reasonable cost of those services, commodities, work space and  
230 supplies. At the meeting of the board next following the  
231 execution of a contract authorized under this subsection,  
232 documentation of the contract, including a description of the  
233 services, commodities, work space or supplies, the price thereof  
234 and the nature of the disaster or occurrence, shall be presented  
235 to the board and placed on the minutes of the board. Because of  
236 their emergency nature, purchases made under this subsection shall  
237 not be required to comply with the provisions of Section 31-7-13  
238 or any other law governing public purchases.

239 (8) \* \* \* The computer equipment and software owned by the  
240 Public Employees' Retirement System are assets of the Trust Fund  
241 by virtue of the Constitution, Section 272-A and acquisition and  
242 operation thereof shall be under the jurisdiction of the Public  
243 Employees' Retirement System.

244 (9) The board shall elect a chairman and shall by a majority  
245 vote of all of its members appoint a secretary whose title shall  
246 be executive director, who shall serve at the will and pleasure of  
247 the board, who shall not be a member of the board of trustees, who  
248 shall be entitled to membership in the system, and who shall act  
249 as secretary of the board. The board of trustees shall employ

250 such actuarial, clerical and other employees as are required to  
251 transact the business of the system, and shall fix the  
252 compensation of all employees, subject to the rules and  
253 regulations of the State Personnel Board.

254 (10) Each member of the board shall receive as compensation  
255 for his services Three Hundred Dollars (\$300.00) per month. All  
256 members of the board shall be reimbursed for their necessary  
257 traveling expenses, which shall be paid in accordance with the  
258 requirements of Section 25-3-41 or other applicable statutes with  
259 respect to traveling expenses of state officials and employees on  
260 official business. All members of the board shall be entitled to  
261 be members of the system and shall be entitled to creditable  
262 service for all time served as a member of the board, except for  
263 the retired members, who shall not be entitled to be a member of  
264 the system and who shall be eligible to receive the retirement  
265 allowance and compensation for services from the system while  
266 serving as a member of the board.

267 (11) All expenses of the board incurred in the  
268 administration of Articles 1 and 3 shall be paid from such funds  
269 as may be appropriated by the Legislature for that purpose or from  
270 administrative fees collected from political subdivisions or  
271 juristic entities of the state. Each political subdivision of the  
272 state and each instrumentality of the state or of a political  
273 subdivision or subdivisions that submit a plan for approval by the  
274 board as provided in Section 25-11-11 shall reimburse the board,  
275 for coverage into the administrative expense fund, its pro rata  
276 share of the total expense of administering Articles 1 and 3 as  
277 provided by regulations of the board.

278 (12) There shall be an investment advisory board to provide  
279 advice and counsel to the board of trustees regarding the  
280 investment of the funds of the system. The advisory board shall  
281 consist of three (3) members, one (1) appointed by the Governor,  
282 one (1) appointed by the Lieutenant Governor, and one (1)



283 appointed by the Speaker of the House of Representatives. Each  
284 member of the advisory board shall be someone who is not a public  
285 employee who has had at least ten (10) years' experience in  
286 investment banking or commercial banking or who has had at least  
287 ten (10) years' professional experience in managing investments.  
288 Each member of the advisory board shall serve for a term  
289 concurrent with the term of the appointing authority. Any vacancy  
290 on the advisory board shall be filled by appointment of the  
291 original appointing authority for the remainder of the unexpired  
292 term. Members of the advisory board shall receive no compensation  
293 for their services, but shall be reimbursed for their actual and  
294 necessary expenses incurred in the performance of their duties, as  
295 provided in Section 25-3-41 for state officers and employees. The  
296 advisory board shall operate under the rules and regulations of  
297 the board of trustees and shall meet at such times as determined  
298 by the board of trustees.

299 (13) The Lieutenant Governor may designate two (2) Senators  
300 and the Speaker of the House of Representatives may designate two  
301 (2) Representatives to attend any meeting of the Board of Trustees  
302 of the Public Employees' Retirement System. The appointing  
303 authorities may designate alternate members from their respective  
304 houses to serve when the regular designees are unable to attend  
305 the meetings of the board. The legislative designees shall have  
306 no jurisdiction or vote on any matter within the jurisdiction of  
307 the board. For attending meetings of the board, the legislators  
308 shall receive per diem and expenses, which shall be paid from the  
309 contingent expense funds of their respective houses in the same  
310 amounts as provided for committee meetings when the Legislature is  
311 not in session; however, no per diem and expenses for attending  
312 meetings of the board will be paid while the Legislature is in  
313 session. No per diem and expenses will be paid except for  
314 attending meetings of the board without prior approval of the  
315 proper committee in their respective houses.

316           **SECTION 4.** Section 25-11-103, Mississippi Code of 1972, is  
317 amended as follows:

318           25-11-103. The following words and phrases as used in  
319 Articles 1 and 3, unless a different meaning is plainly required  
320 by the context, \* \* \* have the following meanings:

321           (a) "Accumulated contributions" \* \* \* means the sum of  
322 all the amounts deducted from the compensation of a member and  
323 credited to his individual account in the annuity savings account,  
324 together with regular interest \* \* \* as provided in Section  
325 25-11-123.

326           (b) "Actuarial cost" \* \* \* means the amount of funds  
327 presently required to provide future benefits as determined by the  
328 board based on applicable tables and formulas provided by the  
329 actuary.

330           (c) "Actuarial equivalent" \* \* \* means a benefit of  
331 equal value to the accumulated contributions, annuity or benefit,  
332 as the case may be, when computed upon the basis of such mortality  
333 tables as \* \* \* adopted by the board of trustees, and regular  
334 interest.

335           (d) "Actuarial tables" \* \* \* means such tables of  
336 mortality and rates of interest as \* \* \* adopted by the board in  
337 accordance with the recommendation of the actuary.

338           (e) "Agency" \* \* \* means any governmental body  
339 employing persons in the state service.

340           (f) "Average compensation" \* \* \* means the average of  
341 the four (4) highest years of earned compensation reported for an  
342 employee in a fiscal or calendar year period, or combination  
343 thereof that do not overlap, or the last forty-eight (48)  
344 consecutive months of earned compensation reported for an  
345 employee. The four (4) years need not be successive or joined  
346 years of service. In no case shall the average compensation so  
347 determined be in excess of One Hundred Fifty Thousand Dollars  
348 (\$150,000.00). In computing the average compensation, any amount

349 lawfully paid in a lump sum for personal leave or major medical  
350 leave shall be included in the calculation to the extent that the  
351 amount does not exceed an amount that is equal to thirty (30) days  
352 of earned compensation and to the extent that it does not cause  
353 the employees' earned compensation to exceed the maximum  
354 reportable amount specified in Section 25-11-103(k); however, this  
355 thirty-day limitation shall not prevent the inclusion in the  
356 calculation of leave earned under federal regulations before July  
357 1, 1976, and frozen as of that date as referred to in Section  
358 25-3-99. Only the amount of lump sum pay for personal leave due  
359 and paid upon the death of a member attributable for up to one  
360 hundred fifty (150) days shall be used in the deceased member's  
361 average compensation calculation in determining the beneficiary's  
362 benefits. In computing the average compensation, no amounts shall  
363 be used that are in excess of the amount on which contributions  
364 were required and paid, and no nontaxable amounts paid by the  
365 employer for health or life insurance premiums for the employee  
366 shall be used. If any member who is or has been granted any  
367 increase in annual salary or compensation of more than eight  
368 percent (8%) retires within twenty-four (24) months from the date  
369 that the increase becomes effective, then the board shall exclude  
370 that part of the increase in salary or compensation that exceeds  
371 eight percent (8%) in calculating that member's average  
372 compensation for retirement purposes. The board may enforce this  
373 provision by rule or regulation. However, increases in  
374 compensation in excess of eight percent (8%) per year granted  
375 within twenty-four (24) months of the date of retirement may be  
376 included in the calculation of average compensation if  
377 satisfactory proof is presented to the board showing that the  
378 increase in compensation was the result of an actual change in the  
379 position held or services rendered, or that the compensation  
380 increase was authorized by the State Personnel Board or was  
381 increased as a result of statutory enactment, and the employer

382 furnishes an affidavit stating that the increase granted within  
383 the last twenty-four (24) months was not contingent on a promise  
384 or agreement of the employee to retire. Nothing in Section  
385 25-3-31 shall affect the calculation of the average compensation  
386 of any member for the purposes of this article. The average  
387 compensation of any member who retires before July 1, 1992, shall  
388 not exceed the annual salary of the Governor.

389 (g) "Beneficiary" \* \* \* means any person entitled to  
390 receive a retirement allowance, an annuity or other benefit as  
391 provided by Articles 1 and 3. The term "beneficiary" may also  
392 include an organization, estate, trust or entity; however, a  
393 beneficiary designated or entitled to receive monthly payments  
394 under an optional settlement based on life contingency or pursuant  
395 to a statutory monthly benefit may only be a natural person. In  
396 the event of the death before retirement of any member whose  
397 spouse and/or children are not entitled to a retirement allowance  
398 on the basis that the member has less than four (4) years of  
399 service credit and/or has not been married for a minimum of one  
400 (1) year or the spouse has waived his or her entitlement to a  
401 retirement allowance under Section 25-11-114, the lawful spouse of  
402 a member at the time of the death of the member shall be the  
403 beneficiary of the member unless the member has designated another  
404 beneficiary after the date of marriage in writing, and filed that  
405 writing in the office of the executive director of the board of  
406 trustees. No designation or change of beneficiary shall be made  
407 in any other manner.

408 (h) "Board" \* \* \* means the board of trustees provided  
409 in Section 25-11-15 to administer the retirement system \* \* \*  
410 created under this article.

411 (i) "Creditable service" \* \* \* means "prior service,"  
412 "retroactive service" and all lawfully credited unused leave not  
413 exceeding the accrual rates and limitations provided in Section  
414 25-3-91 et seq., as of the date of withdrawal from service plus

415 "membership service" for which credit is allowable as provided in  
416 Section 25-11-109. Except to limit creditable service reported to  
417 the system for the purpose of computing an employee's retirement  
418 allowance or annuity or benefits provided in this article, nothing  
419 in this paragraph shall limit or otherwise restrict the power of  
420 the governing authority of a municipality or other political  
421 subdivision of the state to adopt such vacation and sick leave  
422 policies as it deems necessary.

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

429 (k) "Earned compensation" \* \* \* means the full amount  
430 earned by an employee for a given pay period including any  
431 maintenance furnished up to a maximum of One Hundred Fifty  
432 Thousand Dollars (\$150,000.00) per year, and proportionately for  
433 less than one (1) year of service. The value of that maintenance  
434 when not paid in money shall be fixed by the employing state  
435 agency, and, in case of doubt, by the board of trustees as defined  
436 in Section 25-11-15. Earned compensation shall not include any  
437 nontaxable amounts paid by the employer for health or life  
438 insurance premiums for an employee. In any case, earned  
439 compensation shall be limited to the regular periodic compensation  
440 paid, exclusive of litigation fees, bond fees, and other similar  
441 extraordinary nonrecurring payments. In addition, any member in a  
442 covered position, as defined by Public Employees' Retirement  
443 System laws and regulations, who is also employed by another  
444 covered agency or political subdivision shall have the earnings of  
445 that additional employment reported to the Public Employees'  
446 Retirement System regardless of whether the additional employment  
447 is sufficient in itself to be a covered position. In addition,

448 computation of earned compensation shall be governed by the  
449 following:

450 (i) In the case of constables, the net earnings  
451 from their office after deduction of expenses shall apply, except  
452 that in no case shall earned compensation be less than the total  
453 direct payments made by the state or governmental subdivisions to  
454 the official.

455 (ii) In the case of chancery or circuit clerks,  
456 the net earnings from their office after deduction of expenses  
457 shall apply as expressed in Section 25-11-123(f)(4).

458 (iii) In the case of members of the State  
459 Legislature, all remuneration or amounts paid, except mileage  
460 allowance, shall apply.

461 (iv) The amount by which an eligible employee's  
462 salary is reduced under a salary reduction agreement authorized  
463 under Section 25-17-5 shall be included as earned compensation  
464 under this paragraph, provided this inclusion does not conflict  
465 with federal law, including federal regulations and federal  
466 administrative interpretations under the federal law, pertaining  
467 to the Federal Insurance Contributions Act or to Internal Revenue  
468 Code Section 125 cafeteria plans.

469 (v) Compensation in addition to an employee's base  
470 salary that is paid to the employee under the vacation and sick  
471 leave policies of a municipality or other political subdivision of  
472 the state that employs him that exceeds the maximums authorized by  
473 Section 25-3-91 et seq. shall be excluded from the calculation of  
474 earned compensation under this article.

475 (vi) The maximum salary applicable for retirement  
476 purposes before July 1, 1992, shall be the salary of the Governor.

477 (vii) Nothing in Section 25-3-31 shall affect the  
478 determination of the earned compensation of any member for the  
479 purposes of this article.

480           (1) "Employee" means any person legally occupying a  
481 position in the state service, and shall include the employees of  
482 the retirement system created under this article.

483           (m) "Employer" \* \* \* means the State of Mississippi or  
484 any of its departments, agencies or subdivisions from which any  
485 employee receives his compensation.

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

494           (o) "Fiscal year" \* \* \* means the period beginning on  
495 July 1 of any year and ending on June 30 of the next succeeding  
496 year.

497           (p) "Medical board" \* \* \* means the board of physicians  
498 or any governmental or nongovernmental disability determination  
499 service designated by the board of trustees that is qualified to  
500 make disability determinations as provided for in Section  
501 25-11-119.

502           (q) "Member" \* \* \* means any person included in the  
503 membership of the system as provided in Section 25-11-105.

504           (r) "Membership service" \* \* \* means service as an  
505 employee rendered while a member of the retirement system.

506           (s) "Position" means any office or any employment in  
507 the state service, or two (2) or more of them, the duties of which  
508 call for services to be rendered by one (1) person, including  
509 positions jointly employed by federal and state agencies  
510 administering federal and state funds. The employer shall  
511 determine upon initial employment and during the course of  
512 employment of an employee who does not meet the criteria for

513 coverage in the Public Employees' Retirement System based on the  
514 position held, whether the employee is or becomes eligible for  
515 coverage in the Public Employees' Retirement System based upon any  
516 other employment in a covered agency or political subdivision. If  
517 or when the employee meets the eligibility criteria for coverage  
518 in the other position, then the employer must withhold  
519 contributions and report wages from the noncovered position in  
520 accordance with the provisions for reporting of earned  
521 compensation. Failure to deduct and report those contributions  
522 shall not relieve the employee or employer of liability thereof.  
523 The board shall adopt such rules and regulations as necessary to  
524 implement and enforce this provision.

525 (t) "Prior service" \* \* \* means service rendered before  
526 February 1, 1953, for which credit is allowable under Sections  
527 25-11-105 and 25-11-109, and which shall allow prior service for  
528 any person who is now or becomes a member of the Public Employees'  
529 Retirement System and who does contribute to the system for a  
530 minimum period of four (4) years.

531 (u) "Regular interest" \* \* \* means interest compounded  
532 annually at such a rate as \* \* \* determined by the board in  
533 accordance with Section 25-11-121.

534 (v) "Retirement allowance" \* \* \* means an annuity for  
535 life as provided in this article, payable each year in twelve (12)  
536 equal monthly installments beginning as of the date fixed by the  
537 board. The retirement allowance shall be calculated in accordance  
538 with Section 25-11-111. However, any spouse who received a spouse  
539 retirement benefit in accordance with Section 25-11-111(d) before  
540 March 31, 1971, and those benefits were terminated because of  
541 eligibility for a social security benefit, may again receive his  
542 spouse retirement benefit from and after making application with  
543 the board of trustees to reinstate the spouse retirement benefit.



544 (w) "Retroactive service" \* \* \* means service rendered  
545 after February 1, 1953, for which credit is allowable under  
546 Section 25-11-105(b) and Section 25-11-105(k).

547 (x) "System" \* \* \* means the Public Employees'  
548 Retirement System of Mississippi established and described in  
549 Section 25-11-101.

550 (y) "State" \* \* \* means the State of Mississippi or any  
551 political subdivision thereof or instrumentality of the state.

552 (z) "State service" \* \* \* means all offices and  
553 positions of trust or employment in the employ of the state, or  
554 any political subdivision or instrumentality of the state, that  
555 elect to participate as provided by Section 25-11-105(f),  
556 including the position of elected or fee officials of the counties  
557 and their deputies and employees performing public services or any  
558 department, independent agency, board or commission thereof,  
559 and \* \* \* also includes all offices and positions of trust or  
560 employment in the employ of joint state and federal agencies  
561 administering state and federal funds and service rendered by  
562 employees of the public schools. Effective July 1, 1973, all  
563 nonprofessional public school employees, such as bus drivers,  
564 janitors, maids, maintenance workers and cafeteria employees,  
565 shall have the option to become members in accordance with Section  
566 25-11-105(b), and shall be eligible to receive credit for services  
567 before July 1, 1973, provided that the contributions and interest  
568 are paid by the employee in accordance with that section; in  
569 addition, the county or municipal separate school district may pay  
570 the employer contribution and pro rata share of interest of the  
571 retroactive service from available funds. From and after July 1,  
572 1998, retroactive service credit shall be purchased at the  
573 actuarial cost in accordance with Section 25-11-105(b).

574 (aa) "Withdrawal from service" or "termination from  
575 service" \* \* \* means complete severance of employment in the state  
576 service of any member by resignation, dismissal or discharge.

577 (bb) The masculine pronoun, wherever used, \* \* \*  
578 includes the feminine pronoun.

579 **SECTION 5.** Section 25-11-105, Mississippi Code of 1972, is  
580 amended as follows:

581 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

582 The membership of this retirement system shall be composed as  
583 follows:

584 (a) (i) All persons who \* \* \* become employees in the  
585 state service after January 31, 1953, and whose wages are subject  
586 to payroll taxes and are lawfully reported on IRS Form W-2, except  
587 those specifically excluded, or as to whom election is provided in  
588 Articles 1 and 3, shall become members of the retirement system as  
589 a condition of their employment.

590 (ii) From and after July 1, 2002, any individual  
591 who is employed by a governmental entity to perform professional  
592 services shall become a member of the system if the individual is  
593 paid regular periodic compensation for those services that is  
594 subject to payroll taxes, is provided all other employee benefits  
595 and meets the membership criteria established by the regulations  
596 adopted by the board of trustees that apply to all other members  
597 of the system; however, any active member employed in such a  
598 position on July 1, 2002, will continue to be an active member for  
599 as long as they are employed in any such position.

600 (b) All persons who \* \* \* become employees in the state  
601 service after January 31, 1953, except those specifically excluded  
602 or as to whom election is provided in Articles 1 and 3, unless  
603 they \* \* \* file with the board before the lapse of sixty (60) days  
604 of employment or sixty (60) days after the effective date of the  
605 cited articles, whichever is later, on a form prescribed by the  
606 board, a notice of election not to be covered by the membership of  
607 the retirement system and a duly executed waiver of all present  
608 and prospective benefits that would otherwise inure to them on  
609 account of their participation in the system, shall become members

610 of the retirement system; however, no credit for prior service  
611 will be granted to members until they have contributed to Article  
612 3 of the retirement system for a minimum period of at least four  
613 (4) years. Those members shall receive credit for services  
614 performed before January 1, 1953, in employment now covered by  
615 Article 3, but no credit shall be granted for retroactive services  
616 between January 1, 1953, and the date of their entry into the  
617 retirement system, unless the employee pays into the retirement  
618 system both the employer's and the employee's contributions on  
619 wages paid him during the period from January 31, 1953, to the  
620 date of his becoming a contributing member, together with interest  
621 at the rate determined by the board of trustees. Members  
622 reentering after withdrawal from service shall qualify for prior  
623 service under the provisions of Section 25-11-117. From and after  
624 July 1, 1998, upon eligibility as noted above, the member may  
625 receive credit for such retroactive service provided:

626 (1) The member shall furnish proof satisfactory to  
627 the board of trustees of certification of that service from the  
628 covered employer where the services were performed; and

629 (2) The member shall pay to the retirement system  
630 on the date he or she is eligible for that credit or at any time  
631 thereafter before the date of retirement the actuarial cost for  
632 each year of that creditable service. The provisions of this  
633 subparagraph (2) shall be subject to the limitations of Section  
634 415 of the Internal Revenue Code and regulations promulgated under  
635 Section 415.

636 Nothing contained in this paragraph (b) shall be construed to  
637 limit the authority of the board to allow the correction of  
638 reporting errors or omissions based on the payment of the employee  
639 and employer contributions plus applicable interest.

640 (c) All persons who \* \* \* become employees in the state  
641 service after January 31, 1953, and who are eligible for  
642 membership in any other retirement system shall become members of

643 this retirement system as a condition of their employment, unless  
644 they elect at the time of their employment to become a member of  
645 that other system.

646 (d) All persons who are employees in the state service  
647 on January 31, 1953, and who are members of any nonfunded  
648 retirement system operated by the State of Mississippi, or any of  
649 its departments or agencies, shall become members of this system  
650 with prior service credit unless, before February 1, 1953,  
651 they \* \* \* file a written notice with the board of trustees that  
652 they do not elect to become members.

653 (e) All persons who are employees in the state service  
654 on January 31, 1953, and who under existing laws are members of  
655 any fund operated for the retirement of employees by the State of  
656 Mississippi, or any of its departments or agencies, shall not be  
657 entitled to membership in this retirement system unless, before  
658 February 1, 1953, any such person \* \* \* indicates by a notice  
659 filed with the board, on a form prescribed by the board, his  
660 individual election and choice to participate in this system, but  
661 no such person shall receive prior service credit unless he  
662 becomes a member on or before February 1, 1953.

663 (f) Each political subdivision of the state and each  
664 instrumentality of the state or a political subdivision, or both,  
665 is \* \* \* authorized to submit, for approval by the board of  
666 trustees, a plan for extending the benefits of this article to  
667 employees of any such political subdivision or instrumentality.  
668 Each such plan or any amendment to the plan for extending benefits  
669 thereof shall be approved by the board of trustees if it finds  
670 that the plan, or the plan as amended, is in conformity with such  
671 requirements as are provided in Articles 1 and 3; however, upon  
672 approval of the plan or any such plan previously approved by the  
673 board of trustees, the approved plan shall not be subject to  
674 cancellation or termination by the political subdivision or  
675 instrumentality, except that any community hospital serving a

676 municipality that joined the Public Employees' Retirement System  
677 as of November 1, 1956, to offer social security coverage for its  
678 employees and subsequently extended retirement annuity coverage to  
679 its employees as of December 1, 1965, may, upon documentation of  
680 extreme financial hardship, have future retirement annuity  
681 coverage cancelled or terminated at the discretion of the board of  
682 trustees. No such plan shall be approved unless:

683           (1) It provides that all services that constitute  
684 employment as defined in Section 25-11-5 and are performed in the  
685 employ of the political subdivision or instrumentality, by any  
686 employees thereof, shall be covered by the plan, with the  
687 exception of municipal employees who are already covered by  
688 existing retirement plans; however, those employees in this class  
689 may elect to come under the provisions of this article;

690           (2) It specifies the source or sources from which  
691 the funds necessary to make the payments required by paragraph (d)  
692 of Section 25-11-123 and of paragraph (f)(5)B and C of this  
693 section are expected to be derived and contains reasonable  
694 assurance that those sources will be adequate for that purpose;

695           (3) It provides for such methods of administration  
696 of the plan by the political subdivision or instrumentality as are  
697 found by the board of trustees to be necessary for the proper and  
698 efficient administration thereof;

699           (4) It provides that the political subdivision or  
700 instrumentality will make such reports, in such form and  
701 containing such information, as the board of trustees may from  
702 time to time require;

703           (5) It authorizes the board of trustees to  
704 terminate the plan in its entirety in the discretion of the board  
705 if it finds that there has been a failure to comply substantially  
706 with any provision contained in the plan, the termination to take  
707 effect at the expiration of such notice and on such conditions as

708 may be provided by regulations of the board and as may be  
709 consistent with applicable federal law.

710           A. The board of trustees shall not finally  
711 refuse to approve a plan submitted under paragraph (f), and shall  
712 not terminate an approved plan without reasonable notice and  
713 opportunity for hearing to each political subdivision or  
714 instrumentality affected by the board's decision. The board's  
715 decision in any such case shall be final, conclusive and binding  
716 unless an appeal is taken by the political subdivision or  
717 instrumentality aggrieved by the decision to the Circuit Court of  
718 Hinds County, Mississippi, in accordance with the provisions of  
719 law with respect to civil causes by certiorari.

720           B. Each political subdivision or  
721 instrumentality as to which a plan has been approved under this  
722 section shall pay into the contribution fund, with respect to  
723 wages (as defined in Section 25-11-5), at such time or times as  
724 the board of trustees may by regulation prescribe, contributions  
725 in the amounts and at the rates specified in the applicable  
726 agreement entered into by the board.

727           C. Every political subdivision or  
728 instrumentality required to make payments under paragraph (f)(5)B  
729 of this section is authorized, in consideration of the employees'  
730 retention in or entry upon employment after enactment of Articles  
731 1 and 3, to impose upon its employees, as to services that are  
732 covered by an approved plan, a contribution with respect to wages  
733 (as defined in Section 25-11-5) not exceeding the amount provided  
734 in Section 25-11-123(d) if those services constituted employment  
735 within the meaning of Articles 1 and 3, and to deduct the amount  
736 of the contribution from the wages as and when paid.  
737 Contributions so collected shall be paid into the contribution  
738 fund as partial discharge of the liability of the political  
739 subdivisions or instrumentalities under paragraph (f)(5)B of this

740 section. Failure to deduct the contribution shall not relieve the  
741 employee or employer of liability for the contribution.

742 D. Any state agency, school, political  
743 subdivision, instrumentality or any employer that is required to  
744 submit contribution payments or wage reports under any section of  
745 this chapter shall be assessed interest on delinquent payments or  
746 wage reports as determined by the board of trustees in accordance  
747 with rules and regulations adopted by the board and delinquent  
748 payments, assessed interest and any other amount certified by the  
749 board as owed by an employer, may be recovered by action in a  
750 court of competent jurisdiction against the reporting agency  
751 liable therefor or may, upon due certification of delinquency and  
752 at the request of the board of trustees, be deducted from any  
753 other monies payable to the reporting agency by any department or  
754 agency of the state.

755 E. Each political subdivision of the state  
756 and each instrumentality of the state or a political subdivision  
757 or subdivisions that submit a plan for approval of the board, as  
758 provided in this section, shall reimburse the board for coverage  
759 into the expense account, its pro rata share of the total expense  
760 of administering Articles 1 and 3 as provided by regulations of  
761 the board.

762 (g) The board may, in its discretion, deny the right of  
763 membership in this system to any class of employees whose  
764 compensation is only partly paid by the state or who are occupying  
765 positions on a part-time or intermittent basis. The board may, in  
766 its discretion, make optional with employees in any such classes  
767 their individual entrance into this system.

768 (h) An employee whose membership in this system is  
769 contingent on his own election, and who elects not to become a  
770 member, may thereafter apply for and be admitted to membership;  
771 but no such employee shall receive prior service credit unless he

772 becomes a member before July 1, 1953, except as provided in  
773 paragraph (b).

774 (i) If any member of this system \* \* \* changes his  
775 employment to any agency of the state having an actuarially funded  
776 retirement system, the board of trustees may authorize the  
777 transfer of the member's creditable service and of the present  
778 value of the member's employer's accumulation account and of the  
779 present value of the member's accumulated membership contributions  
780 to that other system, provided that the employee agrees to the  
781 transfer of his accumulated membership contributions and provided  
782 that the other system is authorized to receive and agrees to make  
783 the transfer.

784 If any member of any other actuarially funded system  
785 maintained by an agency of the state changes his employment to an  
786 agency covered by this system, the board of trustees may authorize  
787 the receipt of the transfer of the member's creditable service and  
788 of the present value of the member's employer's accumulation  
789 account and of the present value of the member's accumulated  
790 membership contributions from the other system, provided that the  
791 employee agrees to the transfer of his accumulated membership  
792 contributions to this system and provided that the other system is  
793 authorized and agrees to make the transfer.

794 (j) Wherever \* \* \* state employment is referred to in  
795 this section, it \* \* \* includes joint employment by state and  
796 federal agencies of all kinds.

797 (k) Employees of a political subdivision or  
798 instrumentality who were employed by the political subdivision or  
799 instrumentality before an agreement between the entity and the  
800 Public Employees' Retirement System to extend the benefits of this  
801 article to its employees, and which agreement provides for the  
802 establishment of retroactive service credit, and who have been  
803 members of the retirement system and have remained contributors to  
804 the retirement system for four (4) years, may receive credit for



805 that retroactive service with the political subdivision or  
806 instrumentality, provided that the employee and/or employer, as  
807 provided under the terms of the modification of the joinder  
808 agreement in allowing that coverage, pay into the retirement  
809 system the employer's and employee's contributions on wages paid  
810 the member during the previous employment, together with interest  
811 or actuarial cost as determined by the board covering the period  
812 from the date the service was rendered until the payment for the  
813 credit for the service was made. Those wages shall be verified by  
814 the Social Security Administration or employer payroll records.  
815 Effective July 1, 1998, upon eligibility as noted above, a member  
816 may receive credit for that retroactive service with the political  
817 subdivision or instrumentality provided:

818           (1) The member shall furnish proof satisfactory to  
819 the board of trustees of certification of those services from the  
820 political subdivision or instrumentality where the services were  
821 rendered or verification by the Social Security Administration;  
822 and

823           (2) The member shall pay to the retirement system  
824 on the date he or she is eligible for that credit or at any time  
825 thereafter before the date of retirement the actuarial cost for  
826 each year of that creditable service. The provisions of this  
827 subparagraph (2) shall be subject to the limitations of Section  
828 415 of the Internal Revenue Code and regulations promulgated under  
829 Section 415.

830           Nothing contained in this paragraph (k) shall be construed to  
831 limit the authority of the board to allow the correction of  
832 reporting errors or omissions based on the payment of employee and  
833 employer contributions plus applicable interest. Payment for that  
834 time shall be made in increments of not less than one-quarter  
835 (1/4) year of creditable service beginning with the most recent  
836 service. Upon the payment of all or part of the required  
837 contributions, plus interest or the actuarial cost as provided

838 above, the member shall receive credit for the period of  
839 creditable service for which full payment has been made to the  
840 retirement system.

841 (l) Through June 30, 1998, any state service eligible  
842 for retroactive service credit, no part of which has ever been  
843 reported, and requiring the payment of employee and employer  
844 contributions plus interest, or, from and after July 1, 1998, any  
845 state service eligible for retroactive service credit, no part of  
846 which has ever been reported to the retirement system, and  
847 requiring the payment of the actuarial cost for that creditable  
848 service, may, at the member's option, be purchased in quarterly  
849 increments as provided above at the time that its purchase is  
850 otherwise allowed.

851 (m) All rights to purchase retroactive service credit  
852 or repay a refund as provided in Section 25-11-101 et seq. shall  
853 terminate upon retirement.

854 **II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP**

855 The following classes of employees and officers shall not  
856 become members of this retirement system, any other provisions of  
857 Articles 1 and 3 to the contrary notwithstanding:

858 (a) Patient or inmate help in state charitable, penal  
859 or correctional institutions;

860 (b) Students of any state educational institution  
861 employed by any agency of the state for temporary, part-time or  
862 intermittent work;

863 (c) Participants of Comprehensive Employment and  
864 Training Act of 1973 (CETA) being Public Law 93-203, who enroll on  
865 or after July 1, 1979;

866 (d) From and after July 1, 2002, individuals who are  
867 employed by a governmental entity to perform professional service  
868 on less than a full-time basis who do not meet the criteria  
869 established in I(a)(ii) of this section.

870 **III. TERMINATION OF MEMBERSHIP**

871 Membership in this system shall cease by a member withdrawing  
872 his accumulated contributions, or by a member withdrawing from  
873 active service with a retirement allowance, or by a member's  
874 death.

875 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is  
876 amended as follows:

877 25-11-114. (1) The applicable benefits provided in  
878 subsections (2) and (3) of this section shall be paid to eligible  
879 beneficiaries of any member who has completed four (4) or more  
880 years of creditable service and who dies before retirement and who  
881 has not filed a Pre-Retirement Optional Retirement Form as  
882 provided in Section 25-11-111.

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

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

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

892 (b) If, at the time of the member's death, there are no  
893 dependent children, and the surviving spouse, who otherwise would  
894 receive the annuity under this subsection (2), has filed with the  
895 system a signed written waiver of his or her rights to the annuity  
896 and that waiver was in effect at the time of the member's death, a  
897 lump sum distribution of the deceased member's accumulated  
898 contributions shall be refunded in accordance with Section  
899 25-11-117.

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

904           (d) The spouse annuity shall be payable for life and  
905 shall be the greater of twenty percent (20%) of the deceased  
906 member's average compensation as defined in Section 25-11-103 at  
907 the time of death or Fifty Dollars (\$50.00) monthly. Surviving  
908 spouses of deceased members who previously received spouse  
909 retirement benefits under this paragraph (d) from and after July  
910 1, 1992, and whose benefits were terminated before July 1, 2004,  
911 because of remarriage, may again receive the retirement benefits  
912 authorized under this paragraph (d) by making application with the  
913 board to reinstate those benefits. Any reinstatement of the  
914 benefits shall be prospective only and shall begin after the first  
915 of the month following the date of the application for  
916 reinstatement, but no earlier than July 1, 2004.

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

925           Any member who has completed four (4) or more years of  
926 creditable service and who dies before retirement and leaves a  
927 spouse who has been married to the member for not less than one  
928 (1) year immediately preceding his death and has not exercised any  
929 other option shall be deemed to have exercised Option 2 under  
930 Section 25-11-115 for the benefit of his spouse, which spouse  
931 shall be paid Option 2 settlement benefits under this article  
932 beginning on the first of the month following the date of death,  
933 but in case of late filing, retroactive payments will be made for  
934 a period of not more than one (1) year. The method of calculating  
935 the retirement benefits shall be on the same basis as provided in  
936 Section 25-11-111(d). However, if the member dies before being

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

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

952 (b) A child shall be considered to be a dependent child  
953 until marriage, or the attainment of age nineteen (19), whichever  
954 comes first; however, this age limitation shall be extended beyond  
955 age nineteen (19), but in no event beyond the attainment of age  
956 twenty-three (23), as long as the child is a student regularly  
957 pursuing a full-time course of resident study or training in an  
958 accredited high school, trade school, technical or vocational  
959 institute, junior or community college, college, university or  
960 comparable recognized educational institution duly licensed by a  
961 state. A student child whose birthday falls during the school  
962 year (September 1 through June 30) is considered not to reach age  
963 twenty-three (23) until the July 1 following the actual  
964 twenty-third birthday. A full-time course of resident study or  
965 training means a day or evening noncorrespondence course that  
966 includes school attendance at the rate of at least thirty-six (36)  
967 weeks per academic year or other applicable period with a subject  
968 load sufficient, if successfully completed, to attain the  
969 educational or training objective within the period generally

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

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

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

986 (4) (a) Death benefits in the line of duty. Regardless of  
987 the number of years of the member's creditable service, the spouse  
988 and/or the dependent children of an active member who is killed in  
989 the line of performance of duty or dies as a direct result of an  
990 accident occurring in the line of performance of duty shall  
991 qualify, on approval of the board, for a retirement allowance on  
992 the first of the month following the date of death, but in the  
993 case of late filing, retroactive payments will be made for a  
994 period of not more than one (1) year. The spouse shall receive a  
995 retirement allowance for life equal to one-half (1/2) of the  
996 average compensation as defined in Section 25-11-103. In addition  
997 to the retirement allowance for the spouse, or if there is no  
998 surviving spouse, the member's dependent child shall receive a  
999 retirement allowance in the amount of one-fourth (1/4) of the  
1000 member's average compensation as defined in Section 25-11-103;  
1001 however, if there are two (2) or more dependent children, each  
1002 dependent child shall receive an equal share of a total annuity

1003 equal to one-half (1/2) of the member's average compensation. If  
1004 there are more than two (2) dependent children, upon a child's  
1005 ceasing to be a dependent child, his annuity shall terminate and  
1006 there shall be a redetermination of the amounts payable to any  
1007 remaining dependent children. Those benefits shall cease to be  
1008 paid for the support and maintenance of each child upon the child  
1009 attaining the age of nineteen (19) years; however, the spouse  
1010 shall continue to be eligible for the aforesaid retirement  
1011 allowance. Those benefits may be paid to a surviving parent or  
1012 lawful custodian of the children for the use and benefit of the  
1013 children without the necessity of appointment as guardian. Any  
1014 spouse who received spouse retirement benefits under this  
1015 paragraph (a) from and after April 4, 1984, and whose benefits  
1016 were terminated before July 1, 2004, because of remarriage, may  
1017 again receive the retirement benefits authorized under this  
1018 paragraph (a) by making application with the board to reinstate  
1019 those benefits. Any reinstatement of the benefits shall be  
1020 prospective only and shall begin after the first of the month  
1021 following the date of the application for reinstatement, but not  
1022 earlier than July 1, 2004.

1023 (b) A child shall be considered to be a dependent child  
1024 until marriage, or the attainment of age nineteen (19), whichever  
1025 comes first; however, this age limitation shall be extended beyond  
1026 age nineteen (19), but in no event beyond the attainment of age  
1027 twenty-three (23), as long as the child is a student regularly  
1028 pursuing a full-time course of resident study or training in an  
1029 accredited high school, trade school, technical or vocational  
1030 institute, junior or community college, college, university or  
1031 comparable recognized educational institution duly licensed by a  
1032 state. A student child whose birthday falls during the school  
1033 year (September 1 through June 30) is considered not to reach age  
1034 twenty-three (23) until the July 1 following the actual  
1035 twenty-third birthday. A full-time course of resident study or

1036 training means a day or evening noncorrespondence course that  
1037 includes school attendance at the rate of at least thirty-six (36)  
1038 weeks per academic year or other applicable period with a subject  
1039 load sufficient, if successfully completed, to attain the  
1040 educational or training objective within the period generally  
1041 accepted as minimum for completion, by a full-time day student, of  
1042 the academic or training program concerned. Any child who is  
1043 physically or mentally incompetent, as adjudged by either a  
1044 Mississippi court of competent jurisdiction or by the board, shall  
1045 receive benefits for as long as the incompetency exists.

1046 (5) If all the annuities provided for in this section  
1047 payable on account of the death of a member terminate before there  
1048 has been paid an aggregate amount equal to the member's  
1049 accumulated contributions standing to the member's credit in the  
1050 annuity savings account at the time of the member's death, the  
1051 difference between the accumulated contributions and the aggregate  
1052 amount of annuity payments shall be paid to the person that the  
1053 member has nominated by written designation duly executed and  
1054 filed with the board. If there is no designated beneficiary  
1055 surviving at termination of benefits, the difference shall be  
1056 payable pursuant to Section 25-11-117.1(1).

1057 (6) Regardless of the number of years of creditable service  
1058 upon the application of a member or employer, any active member  
1059 who becomes disabled as a direct result of an accident or  
1060 traumatic event resulting in a physical injury occurring in the  
1061 line of performance of duty, provided that the medical board or  
1062 other designated governmental agency after a medical examination  
1063 certifies that the member is mentally or physically incapacitated  
1064 for the further performance of duty and the incapacity is likely  
1065 to be permanent, may be retired by the board of trustees on the  
1066 first of the month following the date of filing the application  
1067 but in no event shall the retirement allowance begin before the  
1068 termination of state service. The retirement allowance shall



1069 equal the allowance on disability retirement as provided in  
1070 Section 25-11-113 but shall not be less than fifty percent (50%)  
1071 of average compensation.

1072 Permanent and total disability resulting from a  
1073 cardiovascular, pulmonary or musculo-skeletal condition that was  
1074 not a direct result of a traumatic event occurring in the  
1075 performance of duty shall be deemed an ordinary disability. A  
1076 mental disability based exclusively on employment duties occurring  
1077 on an ongoing basis shall be deemed an ordinary disability.

1078 (7) If the deceased or disabled member has less than four  
1079 (4) years of creditable service, the average compensation as  
1080 defined in Section 25-11-103 shall be the average of all annual  
1081 earned compensation in state service for the purposes of benefits  
1082 provided in this section.

1083 (8) In case of death or total and permanent disability under  
1084 subsection (4) or subsection (6) of this section and before the  
1085 board shall consider any application for a retirement allowance,  
1086 the employer must certify to the board that the member's death or  
1087 disability was a direct result of an accident or a traumatic event  
1088 occurring during and as a result of the performance of the regular  
1089 and assigned duties of the employee and that the death or  
1090 disability was not the result of the willful negligence of the  
1091 employee.

1092 (9) The application for the retirement allowance must be  
1093 filed within one (1) year after death of an active member who is  
1094 killed in the line of performance of duty or dies as a direct  
1095 result of an accident occurring in the line of performance of duty  
1096 or traumatic event; but the board of trustees may consider an  
1097 application for disability filed after the one-year period if it  
1098 can be factually demonstrated to the satisfaction of the board of  
1099 trustees that the disability is due to the accident and that the  
1100 filing was not accomplished within the one-year period due to a  
1101 delayed manifestation of the disability or to circumstances beyond

1102 the control of the member. However, in case of late filing,  
1103 retroactive payments will be made for a period of not more than  
1104 one (1) year only.

1105 (10) Notwithstanding any other section of this article and  
1106 in lieu of any payments to a designated beneficiary for a refund  
1107 of contributions under Section 25-11-117, the spouse and/or  
1108 children shall be eligible for the benefits payable under this  
1109 section, and the spouse may elect, for both the spouse and/or  
1110 children, to receive benefits in accordance with either  
1111 subsections (2) and (3) or subsection (4) of this section;  
1112 otherwise, the contributions to the credit of the deceased member  
1113 shall be refunded in accordance with Section 25-11-117.

1114 (11) If the member has previously received benefits from the  
1115 system to which he was not entitled and has not repaid in full all  
1116 amounts payable by him to the system, the annuity amounts  
1117 otherwise provided by this section shall be withheld and used to  
1118 effect repayment until the total of the withholdings repays in  
1119 full all amounts payable by him to the system.

1120 **SECTION 7.** Section 25-11-137, Mississippi Code of 1972, is  
1121 amended as follows:

1122 25-11-137. (1) (a) Any law enforcement officer or fireman  
1123 who has been covered under this article or under Section 21-29-101  
1124 et seq., Section 21-29-201 et seq., or Section 25-13-1 et seq.,  
1125 and who changes his employment from one jurisdiction to another  
1126 jurisdiction, or has previously made that change, may elect to  
1127 transfer retirement service credit earned while covered under the  
1128 retirement system of the former jurisdiction to that of the latter  
1129 as provided in this section.

1130 (b) Any \* \* \* law enforcement officer or fireman  
1131 transferring as described in paragraph (a) of this subsection and  
1132 having paid retirement funds under this article or under Section  
1133 21-29-101 et seq., Section 21-29-201 et seq., or Section 25-13-1  
1134 et seq., must pay into the retirement system to which he is

1135 transferring the full amount of employee contributions that he  
1136 would have paid into that system if he had been a member of that  
1137 system for each year of creditable service that is being  
1138 transferred, together with regular interest that would have been  
1139 earned by that system on those contributions, and he must also  
1140 pay, or the system from which he is transferring must pay, into  
1141 the system to which he is being transferred, an amount equal to  
1142 that which the employer would have paid if he had been a member of  
1143 that system for each year transferred, together with regular  
1144 interest that would have been earned by that system on those  
1145 contributions. The retirement system from which he is being  
1146 transferred shall be required to pay into the system to which he  
1147 is transferring any funds credited to his account. Any additional  
1148 funds that may be required shall be paid by the person being  
1149 transferred. Those payments may be made in quarterly increments.  
1150 Failure to make these proper adjustment payments will void any  
1151 transfer of service credits.

1152 (2) The benefits that are being currently paid by the system  
1153 in which the law enforcement officer or fireman has last been a  
1154 member, and the requirements for retirement or disability  
1155 benefits, shall be those applicable to the officer falling under  
1156 the provisions of this section. Any law enforcement officer or  
1157 fireman who elects to transfer retirement service credit may  
1158 immediately transfer the funds and service as provided for in  
1159 subsection (1) of this section; however, the amounts that are  
1160 transferred by the law enforcement officer or fireman and his  
1161 employer, if applicable, and the service credit related to the  
1162 transfer of funds, shall not be used in any benefit calculation or  
1163 determination of eligibility for benefits until the person has  
1164 remained a contributing member of the retirement system to which  
1165 he is transferring for the minimum period necessary to qualify for  
1166 a monthly retirement allowance or benefit. Upon the complete  
1167 transfer and payment of that credit, all time spent in the covered

1168 law enforcement or fire department service, as noted above, within  
1169 and for the State of Mississippi or the political subdivisions  
1170 thereof, shall apply to the time required by law necessary to  
1171 effect the retirement or disability of the officer.

1172       **SECTION 8.** Section 25-13-12, Mississippi Code of 1972, is  
1173 amended as follows:

1174       25-13-12. (1) Any member who is receiving a retirement  
1175 allowance for service or disability retirement, or any beneficiary  
1176 thereof, who has received a monthly benefit for at least one (1)  
1177 full fiscal year, shall be eligible to receive an additional  
1178 benefit, on December 1 or July 1 of the year as provided in  
1179 subsection (6) or (7) of this section, equal to the sum of:

1180           (a) An amount equal to three percent (3%) of the annual  
1181 retirement allowance multiplied by the number of full fiscal years  
1182 in retirement before the end of the fiscal year in which the  
1183 member reaches age sixty (60) or the age established in the latest  
1184 phase that has been implemented under subsection (3) of this  
1185 section, plus

1186           (b) An additional amount equal to three percent (3%)  
1187 compounded by the number of full fiscal years in retirement  
1188 beginning with the fiscal year in which the member reaches age  
1189 sixty (60) or the age established in the latest phase that has  
1190 been implemented under subsection (3) of this section, multiplied  
1191 by the amount of the annual retirement allowance.

1192       (2) The calculation of the beneficiary's additional benefit  
1193 provided in this section shall be based on the member's age and  
1194 full fiscal years in retirement as if the member had lived.

1195       (3) From and after July 1, 2003, the board shall begin  
1196 implementing a reduction in the age at which compounding of the  
1197 portion of the additional benefit provided in subsection (1)(b) of  
1198 this section will begin, which changes shall be implemented in  
1199 phases as set forth in the table in this subsection. The board  
1200 shall implement the phases systematically upon July 1 after the

1201 board's actuary certifies that implementation of a phase will not  
1202 cause the unfunded accrued actuarial liability amortization period  
1203 for the retirement system to exceed twenty (20) years. The board  
1204 shall have the exclusive authority to set the assumptions that are  
1205 used in the actuarial valuation in accordance with Section  
1206 25-13-29.

1207 IMPLEMENTATION TABLE FOR AGE OF  
1208 COMPOUNDING THE ADDITIONAL BENEFIT

1209 PHASE	1210 AGE AT WHICH
1211	1212 COMPOUNDING
1213	1214 THE ADDITIONAL
1215	1216 BENEFIT BEGINS

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1217 Phase 1	1218 Age 59
1219 Phase 2	1220 Age 58
1221 Phase 3	1222 Age 57
1223 Phase 4	1224 Age 56
1225 Phase 5	1226 Age 55

1227 (4) If a retiree who is receiving a retirement allowance  
1228 that will terminate upon the retiree's death is receiving the  
1229 additional benefit in one (1) payment and dies on or after July 1  
1230 but before December 1, the beneficiary designated on the  
1231 retirement application, if any, shall receive in a single payment  
1232 a fractional part of the additional benefit based on the number of  
1233 months in which a retirement allowance was received during the  
1234 fiscal year. If there is no surviving beneficiary, payment shall  
1235 be made in accordance with Section 25-13-21.1(1). Likewise, if a  
1236 retiree is receiving a retirement allowance that will terminate  
1237 upon the retiree's death in two (2) to six (6) monthly  
1238 installments, any remaining payments of the additional benefit  
1239 will be paid in a lump sum to the beneficiary designated on the  
1240 application, or if none, in accordance with Section 25-13-21.1(1).  
1241 Any similar remaining payments of the additional benefit payable

1234 under this section to a deceased beneficiary who was receiving a  
1235 monthly benefit shall be payable in accordance with the provisions  
1236 of Section 25-13-21.1(2). If the additional benefit is being  
1237 received in one (1) payment each year, the additional benefit  
1238 shall be prorated based on the number of months in which a  
1239 retirement allowance was received during the fiscal year when (i)  
1240 the monthly benefit payable to a beneficiary terminates due to the  
1241 expiration of an option, remarriage or cessation of dependent  
1242 status or due to the retiree's return to covered employment, and  
1243 (ii) the monthly benefit terminates on or after July 1 and before  
1244 December 1.

1245 (5) Each retired member or beneficiary thereof who receives  
1246 an annual retirement allowance based on the average compensation  
1247 for a period of five (5) successive or joined years and who  
1248 receives a retirement allowance for the month of June 1986, shall  
1249 receive an ad hoc increase of three percent (3%) in such  
1250 retirement allowance effective July 1, 1986.

1251 (6) The additional benefit provided in this section shall be  
1252 paid in one (1) payment in December of each year to those persons  
1253 who are receiving a retirement allowance on December 1 of that  
1254 year, unless an election is made under subsection (7) of this  
1255 section. The board, in its discretion, may allow a retired member  
1256 or a beneficiary thereof who is receiving the additional benefit  
1257 in one (1) payment each year to have the additional benefit paid  
1258 in monthly installments if the retired member or beneficiary  
1259 submits satisfactory documentation that the continued receipt of  
1260 the additional benefit in one (1) payment each year will cause a  
1261 financial hardship to the retired member or beneficiary.

1262 (7) Retired members or beneficiaries thereof who are  
1263 receiving a retirement allowance may elect by an irrevocable  
1264 agreement in writing filed in the Office of the Public Employees'  
1265 Retirement System no less than thirty (30) days before July 1 of  
1266 any year, to begin receiving the additional benefit provided in

1267 this section in twelve (12) equal monthly installments beginning  
1268 on July 1 of the year. This irrevocable agreement shall be  
1269 binding on the member and subsequent beneficiaries. Payment of  
1270 those monthly installments shall not extend beyond the month in  
1271 which a retirement allowance is due and payable. Any retired  
1272 member or beneficiary thereof who previously elected to receive  
1273 the additional annual payment in monthly installments may elect,  
1274 upon application on a form prescribed by the board, to have that  
1275 payment made in one (1) payment in December of each year. This  
1276 written election must be filed in the office of the Public  
1277 Employees' Retirement System before June 1, 2003, and shall be  
1278 effective for the fiscal year beginning July 1, 2003. The board,  
1279 in its discretion, may allow a retired member or a beneficiary  
1280 thereof who is receiving the additional benefit in monthly  
1281 installments to have the additional benefit paid in one (1)  
1282 payment in December of each year if the retired member or  
1283 beneficiary submits satisfactory documentation that the continued  
1284 receipt of the additional benefit in monthly installments will  
1285 cause financial hardship to the retired member or beneficiary.

1286 (8) The additional benefit or benefits provided in this  
1287 section are for the fiscal year in which they are paid.

1288 (9) The amount of the additional benefit provided in  
1289 subsection (1)(b) of this section is calculated using the  
1290 following formula:

1291  $[(1.03)^n - 1] \times [\text{annual retirement allowance}]$ ,  
1292 where  $n$  is the number of full fiscal years in retirement beginning  
1293 with the fiscal year in which the member reaches age sixty (60) or  
1294 the age established in the latest phase that has been implemented  
1295 under subsection (3) of this section.

1296 (10) In the event of death of a retired member or a  
1297 beneficiary thereof who is receiving the additional annual payment  
1298 in two (2) to six (6) monthly installments under an election made  
1299 before July 1, 2002, and who would otherwise be eligible to

1300 receive the additional benefit provided in this section in one (1)  
1301 payment in December of the current fiscal year, any remaining  
1302 amounts shall be paid in a lump sum to the designated beneficiary.

1303 (11) When a member retires after July 1 and has previously  
1304 received a retirement allowance for one or more full fiscal years,  
1305 the retired member shall be eligible immediately for the  
1306 additional benefit. The additional benefit shall be based on the  
1307 current retirement allowance and the number of full fiscal years  
1308 in retirement and shall be prorated and paid in monthly  
1309 installments based on the number of months a retirement allowance  
1310 is paid during the fiscal year.

1311 **SECTION 9.** Section 25-13-13, Mississippi Code of 1972, is  
1312 amended as follows:

1313 25-13-13. (1) Upon the death of any highway patrolman who  
1314 has retired for service or disability and who has not elected any  
1315 other option under Section 25-13-16, his or her spouse shall  
1316 receive one-half (1/2) the benefit that he or she was receiving  
1317 and each child not having attained his nineteenth birthday shall  
1318 receive one-fourth (1/4) of the benefit, but not more than  
1319 one-half (1/2) of the benefits shall be paid for the support and  
1320 maintenance of two (2) or more children. Upon each child's  
1321 attaining the age of nineteen (19) years, the child shall no  
1322 longer be eligible for the benefit, and when all of the children  
1323 have attained their nineteenth birthday, only the spouse shall be  
1324 eligible for one-half (1/2) the amount of the benefit. The spouse  
1325 shall continue to be eligible for the benefit in the amount of  
1326 fifty percent (50%) of his or her retirement benefit so long as  
1327 the spouse may live \* \* \*. Surviving spouses of deceased members  
1328 who previously received spouse retirement benefits under this  
1329 subsection from and after July 1, 1958, and whose benefits were  
1330 terminated before July 1, 2004, because of remarriage, may again  
1331 receive the retirement benefits authorized under this subsection  
1332 by making application with the board to reinstate the benefits.



1333 Any reinstatement of the benefits shall be prospective only and  
1334 shall begin after the first of the month following the date of the  
1335 application for reinstatement, but no earlier than July 1, 2004.

1336 (2) Upon the death of any highway patrolman who has served  
1337 the minimum retirement period required for eligibility for this  
1338 retirement program, his or her spouse and family shall receive all  
1339 the benefits payable to the highway patrolman's beneficiaries as  
1340 if he or she had retired at the time of his or her death. Those  
1341 benefits continue to be paid to the spouse for life. The benefits  
1342 are payable on a monthly basis. Surviving spouses of deceased  
1343 members who previously received spouse retirement benefits under  
1344 this subsection from and after July 1, 1958, and whose benefits  
1345 were terminated before July 1, 2004, because of remarriage, may  
1346 again receive the retirement benefits authorized under this  
1347 subsection by making application with the board to reinstate the  
1348 benefits. Any reinstatement of the benefits shall be prospective  
1349 only and shall begin after the first of the month following the  
1350 date of the application for reinstatement, but no earlier than  
1351 July 1, 2004.

1352 (3) The spouse and/or the dependent children of an active  
1353 member who is killed in the line of performance of duty or dies as  
1354 a direct result of an accident occurring in the line of  
1355 performance of duty shall qualify, on approval of the board, for a  
1356 retirement allowance on the first of the month following the date  
1357 of death, but not before receipt of application by the board. The  
1358 spouse shall receive a retirement allowance equal to one-half  
1359 (1/2) of the average compensation of the deceased highway  
1360 patrolman. In addition to the retirement allowance for the  
1361 spouse, or if there is no surviving spouse, a retirement allowance  
1362 shall be paid in the amount of one-fourth (1/4) of the average  
1363 compensation for the support and maintenance of one (1) child or  
1364 in the amount of one-half (1/2) of the average compensation for  
1365 the support and maintenance of two (2) or more children. Those

1366 benefits shall cease to be paid for the support and maintenance of  
1367 each child upon the child attaining the age of nineteen (19)  
1368 years; however, the spouse shall continue to be eligible for the  
1369 aforesaid retirement allowance. Benefits may be paid to a  
1370 surviving parent or lawful custodian of the children for the use  
1371 and benefit of the children without the necessity of appointment  
1372 as guardian. The retirement allowance shall continue to be paid  
1373 to the spouse for life. Surviving spouses of deceased members who  
1374 previously received spouse retirement benefits under this  
1375 subsection from and after July 1, 1958, and whose benefits were  
1376 terminated before July 1, 2004, because of remarriage, may again  
1377 receive the retirement benefits authorized under this subsection  
1378 by making application with the board to reinstate the benefits.  
1379 Any reinstatement of the benefits shall be prospective only and  
1380 shall begin after the first of the month following the date of the  
1381 application for reinstatement, but no earlier than July 1, 2004.

1382 (4) All benefits accruing to any child under the provisions  
1383 of this chapter shall be paid to the parent custodian of the  
1384 children or the legal guardian.

1385 (5) Children receiving the benefits provided in this section  
1386 who are permanently or totally disabled shall continue to receive  
1387 the benefits for as long as the medical board or other designated  
1388 governmental agency certifies that the disability continues. The  
1389 age limitation for benefits payable to a child under any provision  
1390 of this section shall be extended beyond age nineteen (19), but in  
1391 no event beyond the attainment of age twenty-three (23), as long  
1392 as the child is a student regularly pursuing a full-time course of  
1393 resident study or training in an accredited high school, trade  
1394 school, technical or vocational institute, junior or community  
1395 college, college, university or comparable recognized educational  
1396 institution duly licensed by a state. A student child whose  
1397 birthday falls during the school year (September 1 through June  
1398 30) is considered not to reach age twenty-three (23) until the

1399 July 1 following the actual twenty-third birthday. A full-time  
1400 course of resident study or training means a day or evening  
1401 noncorrespondence course that includes school attendance at the  
1402 rate of at least thirty-six (36) weeks per academic year or other  
1403 applicable period with a subject load sufficient, if successfully  
1404 completed, to attain the educational or training objective within  
1405 the period generally accepted as minimum for completion, by a  
1406 full-time day student, of the academic or training program  
1407 concerned.

1408 (6) If all the annuities provided for in this section  
1409 payable on the account of the death of a member terminate before  
1410 there has been paid an aggregate amount equal to the member's  
1411 accumulated contributions standing to the member's credit in the  
1412 annuity savings account at the time of the member's death, the  
1413 difference between the accumulated contributions and the aggregate  
1414 amount of annuity payments shall be paid to the person as the  
1415 member has nominated by written designation duly executed and  
1416 filed with the board of trustees in the office of the Public  
1417 Employees' Retirement System. If there is no designated  
1418 beneficiary surviving at termination of benefits, the difference  
1419 shall be payable pursuant to Section 25-13-21.1(1).

1420 (7) All benefits paid to a spouse or child due to the death  
1421 of a member before or after retirement shall be paid in accordance  
1422 with the statutory provisions set forth as of the date of death.

1423 **SECTION 10.** Section 21-29-45, Mississippi Code of 1972, is  
1424 amended as follows:

1425 **[For any municipality that has not elected to authorize the**  
1426 **continuation of or reinstatement of spouse retirement benefits**  
1427 **under the provisions of Section 21-29-329, this section shall read**  
1428 **as follows:]**

1429 21-29-45. Upon proper application to the general retirement  
1430 board, the benefits to dependents of deceased members and  
1431 retirants shall be paid as follows:

1432           (a) If any member dies for causes other than the  
1433 performance of duty in the service of the municipality before  
1434 completing five (5) years' service, there shall be paid to his or  
1435 her designated beneficiary or his or her legal representative, if  
1436 no beneficiary has been designated, from the employees' savings  
1437 fund the sum equal to the amount accumulated in his or her  
1438 individual account.

1439           (b) If any member dies who has not had less than five  
1440 (5) and not more than twenty (20) years' service with the  
1441 municipality, there shall be paid to the spouse, from the  
1442 retirement reserve fund, for each year's active service, not to  
1443 exceed a period of twenty (20) years, one-fortieth (1/40) of the  
1444 average monthly salary or compensation received by the member in  
1445 the four-year or two-year period, as the case may be, next  
1446 preceding the death, for the use of the spouse and the child or  
1447 children of the deceased member under the age of eighteen (18)  
1448 years, so long as the spouse remains unmarried. If, after the  
1449 marriage of the spouse, there remains a child or children of the  
1450 deceased member under the age of eighteen (18) years, the payments  
1451 shall continue to be made to a parent or lawful custodian of the  
1452 child or children without the necessity of appointment as guardian  
1453 for the benefit of the child or children, so long as the child or  
1454 children are under the age of eighteen (18) years. After the  
1455 death or marriage of the spouse, all payments to the spouse shall  
1456 cease, and after the death or attainment of eighteen (18) years of  
1457 any child or children of the deceased, all payments to the child  
1458 or children over eighteen (18) years of age shall cease. If the  
1459 deceased member is not survived by a spouse or child or children  
1460 under the age of eighteen (18) years, but is survived by a  
1461 father \* \* \* or a mother dependent upon him or her, the payments  
1462 shall continue to be made to the dependent father or mother, or  
1463 both, so long as each lives. The word "dependent," as used in

1464 this section, shall mean "wholly dependent," as determined by the  
1465 retirement board.

1466 (c) If any member dies after having completed twenty  
1467 (20) years' service as required by Section 21-29-31, or if any  
1468 retirant dies, there shall be paid from the retirement reserve  
1469 fund to the spouse or the dependents designated in paragraph (b)  
1470 of this section, the amount of benefits or retirement pay equal to  
1471 the sum being paid to the deceased member or retirant, or which  
1472 would have been paid to the deceased member or retirant if he or  
1473 she had applied for benefits under this section, on the date of  
1474 his or her death.

1475 (d) If any member dies before becoming eligible to  
1476 receive benefits under this article as a result of the performance  
1477 of duty to the municipality, there shall be paid to the spouse or  
1478 dependents designated in paragraph (b) of this section from the  
1479 retirement reserve fund, an amount equal to fifty percent (50%) of  
1480 the monthly salary of the deceased member on the date of his or  
1481 her death. This amount shall be paid to the same beneficiaries  
1482 and for the same period of time as those beneficiaries and periods  
1483 of time set forth in paragraph (b) of this section.

1484 **[For any municipality that has elected to authorize the**  
1485 **continuation of or reinstatement of spouse retirement benefits**  
1486 **under the provisions of Section 21-29-329, this section shall read**  
1487 **as follows:]**

1488 21-29-45. Upon proper application to the general retirement  
1489 board, the benefits to dependents of deceased members and  
1490 retirants shall be paid as follows:

1491 (a) If any member dies for causes other than the  
1492 performance of duty in the service of the municipality before  
1493 completing five (5) years' service, there shall be paid to his or  
1494 her designated beneficiary or his or her legal representative, if  
1495 no beneficiary has been designated, from the employees' savings

1496 fund the sum equal to the amount accumulated in his or her  
1497 individual account.

1498 (b) If any member dies who has not had less than five  
1499 (5) and not more than twenty (20) years' service with the  
1500 municipality, there shall be paid to the spouse, from the  
1501 retirement reserve fund, for each year's active service, not to  
1502 exceed a period of twenty (20) years, one-fortieth (1/40) of the  
1503 average monthly salary or compensation received by the member in  
1504 the four-year or two-year period, as the case may be, next  
1505 preceding the death, for the use of the spouse and the child or  
1506 children of the deceased member under the age of eighteen (18)  
1507 years, so long as the spouse lives. If, after the death of the  
1508 spouse, there remains a child or children of the deceased member  
1509 under the age of eighteen (18) years, the payments shall continue  
1510 to be made to a parent or lawful custodian of the child or  
1511 children without the necessity of appointment as guardian for the  
1512 benefit of the child or children, so long as the child or children  
1513 are under the age of eighteen (18) years. After the death \* \* \*  
1514 of the spouse, all payments to the spouse shall cease, and after  
1515 the death or attainment of eighteen (18) years of any child or  
1516 children of the deceased member, all payments to the child or  
1517 children over eighteen (18) years of age shall cease. If the  
1518 deceased member is not survived by a spouse, child or children  
1519 under the age of eighteen (18) years, but is survived by a  
1520 father \* \* \* or a mother dependent upon him or her, the payments  
1521 shall continue to be made to the dependent father or mother, or  
1522 both, so long as each lives. The word "dependent," as used in  
1523 this section, shall mean "wholly dependent," as determined by the  
1524 retirement board.

1525 (c) If any member dies after having completed twenty  
1526 (20) years' service as required by Section 21-29-31, or if any  
1527 retirant dies, there shall be paid from the retirement reserve  
1528 fund to the spouse or the dependents designated in paragraph (b)

1529 of this section, the amount of benefits or retirement pay equal to  
1530 the sum being paid to the deceased member or retirant, or which  
1531 would have been paid to the deceased member or retirant if he or  
1532 she had applied for benefits under this section, on the date of  
1533 his or her death.

1534 (d) If any member dies before becoming eligible to  
1535 receive benefits under this article as a result of the performance  
1536 of duty to the municipality, there shall be paid to the spouse or  
1537 dependents designated in paragraph (b) of this section from the  
1538 retirement reserve fund, an amount equal to fifty percent (50%) of  
1539 the monthly salary of the deceased member on the date of his or  
1540 her death. This amount shall be paid to the same beneficiaries  
1541 and for the same period of time as those beneficiaries and periods  
1542 of time set forth in paragraph (b) of this section.

1543 **SECTION 11.** Section 21-29-145, Mississippi Code of 1972, is  
1544 amended as follows:

1545 **[For any municipality that has not elected to authorize the**  
1546 **continuation of or reinstatement of spouse retirement benefits**  
1547 **under the provisions of Section 21-29-329, this section shall read**  
1548 **as follows:]**

1549 21-29-145. (1) If any member of the fire or police  
1550 department dies in active service, or dies in inactive service on  
1551 account of disability approved for disability relief under the  
1552 provisions of Section 21-29-133, as a result of injury received  
1553 while in the discharge of duty in the service of the fire  
1554 department or police department, or dies as a result of sickness  
1555 or disease, due to the discharge of duty while in service as a  
1556 member of the fire or police department, or if the member dies  
1557 while entitled to relief after retirement under Section 21-29-139,  
1558 the amount of disability relief or retirement being paid, or which  
1559 should have been properly paid, shall continue to be paid from the  
1560 fund to the spouse of the deceased member for the use of the  
1561 spouse \* \* \* and the child or children of the deceased member, so

1562 long as the spouse remains unmarried. If, after the marriage of  
1563 the spouse, there remains a child or children of the deceased  
1564 member, the payments shall continue to be made to a parent or  
1565 lawful custodian of the child or children without the necessity of  
1566 appointment as guardian for the benefit of the child or children.  
1567 After the death or marriage of the spouse, all payments to the  
1568 spouse shall cease, and after the death of any child or children  
1569 of the deceased member, all payments to the child or children  
1570 shall cease. If the deceased member is not survived by spouse or  
1571 child or children, but is survived by a father, \* \* \*  
1572 mother \* \* \*, or an unmarried sister dependent upon him or her,  
1573 the payments shall continue to be made to the dependent father or  
1574 mother or both, so long as each lives, or if there is no dependent  
1575 father or mother surviving the deceased member, the payments shall  
1576 continue to be made to the unmarried dependent sister or dependent  
1577 sisters of the deceased, so long as the beneficiary or  
1578 beneficiaries \* \* \* remain unmarried. Upon the death or marriage  
1579 of any such sister, all payments shall cease to her. Payments to  
1580 dependents under this section are for services rendered by the  
1581 members of the fire and/or police department, and the amount of  
1582 payment is within the discretion of the board of disability and  
1583 relief, but in no event shall the amount payable under this  
1584 section be in excess of the amount that would have been payable as  
1585 disability and relief to a member of the department. If the  
1586 father, \* \* \* mother \* \* \*, or \* \* \* sisters are not wholly  
1587 dependent, then they shall not receive any amount in excess of the  
1588 difference between the income of the father, mother, sister or  
1589 sisters, and the amount that the deceased member would have been  
1590 entitled to.

1591 (2) For purposes of this section:

1592 (a) \* \* \* "Dependent" means wholly dependent upon the  
1593 deceased at the time of his death.

1594 (b) \* \* \* "Child" or "children" means:



1595 (i) Children of the deceased member under the age  
1596 of eighteen (18);

1597 (ii) Children of the deceased member eighteen (18)  
1598 years of age or older who have not yet reached their twenty-third  
1599 birthday and are pursuing a full-time education; or

1600 (iii) Children of the deceased member who, though  
1601 eighteen (18) years of age or older, are wholly dependent upon the  
1602 deceased member and incapable of self-support by reason of mental  
1603 or physical disability.

1604 **[For any municipality that has elected to authorize the**  
1605 **continuation of or reinstatement of spouse retirement benefits**  
1606 **under the provisions of Section 21-29-329, this section shall read**  
1607 **as follows:]**

1608 21-29-145. (1) If any member of the fire or police  
1609 department dies in active service, or dies in inactive service on  
1610 account of disability approved for disability relief under the  
1611 provisions of Section 21-29-133, as a result of injury received  
1612 while in the discharge of duty in the service of the fire  
1613 department or police department, or dies as a result of sickness  
1614 or disease, due to the discharge of duty while in service as a  
1615 member of the fire or police department, or if the member dies  
1616 while entitled to relief after retirement under Section 21-29-139,  
1617 the amount of disability relief or retirement being paid, or which  
1618 should have been properly paid, shall continue to be paid from the  
1619 fund to the spouse of the deceased member for life for the use of  
1620 the spouse \* \* \* and the child or children of the deceased member.  
1621 If the deceased member is not survived by a spouse, but there  
1622 remains a child or children of the deceased member, the payments  
1623 shall continue to be made to a parent or lawful custodian of the  
1624 child or children without the necessity of appointment as guardian  
1625 for the benefit of the child or children. After the death \* \* \*  
1626 of the spouse, all payments to the spouse shall cease, and after  
1627 the death of any child or children of the deceased member, all

1628 payments to the child or children shall cease. If the deceased  
1629 member is not survived by spouse or child or children, but is  
1630 survived by a father, \* \* \* mother \* \* \* or an unmarried sister  
1631 dependent upon him or her, the payments shall continue to be made  
1632 to the dependent father or mother or both, so long as each lives.  
1633 If there is no dependent father or mother surviving the deceased  
1634 member, the payments shall continue to be made to the unmarried  
1635 dependent sister or \* \* \* sisters of the deceased member, so long  
1636 as the beneficiary or beneficiaries \* \* \* remain unmarried. Upon  
1637 the death or marriage of any such sister, all payments shall cease  
1638 to her. Payments to dependents under this section are for  
1639 services rendered by the members of the fire and/or police  
1640 department, and the amount of payment is within the discretion of  
1641 the board of disability and relief, but in no event shall the  
1642 amount payable under this section be in excess of the amount that  
1643 would have been payable as disability and relief to a member of  
1644 the department. If the father, \* \* \* mother \* \* \* or \* \* \*  
1645 sisters are not wholly dependent, then they shall not receive any  
1646 amount in excess of the difference between the income of the  
1647 father, mother, sister or sisters, and the amount that the  
1648 deceased member would have been entitled to.

1649 (2) For the purposes of this section:

1650 (a) \* \* \* "Dependent" means wholly dependent upon the  
1651 deceased member at the time of his or her death.

1652 (b) \* \* \* "Child" or "children" means:

1653 (i) Children of the deceased member under the age  
1654 of eighteen (18);

1655 (ii) Children of the deceased member who are  
1656 eighteen (18) years of age or older who have not yet reached their  
1657 twenty-third birthday and are pursuing a full-time education; or

1658 (iii) Children of the deceased member who, though  
1659 eighteen (18) years of age or older, are wholly dependent upon the

1660 deceased member and incapable of self-support by reason of mental  
1661 or physical disability.

1662         **SECTION 12.** Section 21-29-147, Mississippi Code of 1972, is  
1663 amended as follows:

1664         [For any municipality that has not elected to authorize the  
1665 continuation of or reinstatement of spouse retirement benefits  
1666 under the provisions of Section 21-29-329, this section shall read  
1667 as follows:]

1668         21-29-147. (1) If any member of a fire or police department  
1669 dies while a member of the fire or police department, and \* \* \*  
1670 has had not less than five (5) years' service with the department,  
1671 there shall be paid from the firemen's and policemen's disability  
1672 and relief fund benefits as follows:

1673             (a) For each year's active service, not to exceed a  
1674 period of twenty (20) years, one-fortieth (1/40) of the average  
1675 monthly salary or compensation received by the member in the  
1676 six-month period next preceding his or her death; and

1677             (b) For each full year of active service in excess of  
1678 twenty (20) years service, an additional payment in a sum equal to  
1679 one and seven-tenths percent (1-7/10%) of the same average monthly  
1680 base salary and longevity pay received by the member in the  
1681 six-month period next preceding his or her death (provided that no  
1682 such payment shall exceed sixty-six and two-thirds percent  
1683 (66-2/3%) of the average monthly base salary and longevity pay  
1684 received by a member for the six-month period next preceding his  
1685 or her death) to the spouse of the deceased member for the use of  
1686 the spouse and the child or children of the deceased member under  
1687 the age of eighteen (18) years, so long as he or she remains  
1688 unmarried, and if, after the marriage of the spouse, there remains  
1689 a child or children of the deceased member still under the age of  
1690 eighteen (18) years, the payments shall continue to be made to a  
1691 parent or lawful custodian of the child or children without the  
1692 necessity of appointment as guardian for the benefit of the child

1693 or children, so long as the child or children are under the age of  
1694 eighteen (18) years. After the death or marriage of the spouse,  
1695 all payments to the spouse shall cease, and after the death or  
1696 attainment of the age of eighteen (18) years of any child or  
1697 children of the deceased member, all payments to the child or  
1698 children over eighteen (18) years of age shall cease. If the  
1699 deceased member is not survived by spouse or child or children  
1700 under the age of eighteen (18) years, but is survived by a  
1701 father, \* \* \* mother \* \* \* or an unmarried sister dependent upon  
1702 him or her, the payments shall continue to be made to the  
1703 dependent father or mother or both, so long as each lives. If  
1704 there is no dependent father or mother surviving the deceased  
1705 member, the payments shall continue to be made to the dependent  
1706 sister or \* \* \* sisters of the deceased member, or dependent  
1707 incurable children of the deceased member, so long as the  
1708 beneficiary or beneficiaries \* \* \* remain unmarried. Upon the  
1709 death or marriage of any such sisters, all payments shall cease to  
1710 her. The word "dependent" as used in this section shall mean  
1711 "wholly dependent."

1712 (2) It is the intention of the Legislature that the benefits  
1713 authorized by paragraph (b) of subsection (1) of this section,  
1714 shall be paid to all qualified and eligible spouses whose deceased  
1715 spouses died before March 27, 1978.

1716 **[For any municipality that has elected to authorize the**  
1717 **continuation of or reinstatement of spouse retirement benefits**  
1718 **under the provisions of Section 21-29-329, this section shall read**  
1719 **as follows:]**

1720 21-29-147. (1) If any member of a fire or police department  
1721 dies while a member of the fire or police department, and who has  
1722 had not less than five (5) years' service with the department,  
1723 there shall be paid from the firemen's and policemen's disability  
1724 and relief fund benefits as follows:

1725 (a) For each year's active service, not to exceed a  
1726 period of twenty (20) years, one-fortieth (1/40) of the average  
1727 monthly salary or compensation received by the member in the  
1728 six-month period next preceding his or her death; and

1729 (b) For each full year of active service in excess of  
1730 twenty (20) years service, an additional payment in a sum equal to  
1731 one and seven-tenths percent (1-7/10%) of the same average monthly  
1732 base salary and longevity pay received by the member in the  
1733 six-month period next preceding his or her death (provided that no  
1734 such payment shall exceed sixty-six and two-thirds percent  
1735 (66-2/3%) of the average monthly base salary and longevity pay  
1736 received by a member for the six-month period next preceding his  
1737 or her death) to the spouse of the deceased member for life for  
1738 the use of the spouse and the child or children of the deceased  
1739 member under the age of eighteen (18) years. If the deceased  
1740 member is not survived by a spouse, but there remains a child or  
1741 children of the deceased member still under the age of eighteen  
1742 (18) years, the payments shall \* \* \* be made to a parent or lawful  
1743 custodian of the child or children without the necessity of  
1744 appointment as guardian for the benefit of the child or children,  
1745 so long as the child or children are under the age of eighteen  
1746 (18) years. After the death \* \* \* of the spouse, all payments to  
1747 the spouse shall cease, and after the death or attainment of the  
1748 age of eighteen (18) years of any child or children of the  
1749 deceased member, all payments to the child or children over  
1750 eighteen (18) years of age shall cease. If the deceased member is  
1751 not survived by spouse or child or children under the age of  
1752 eighteen (18) years, but is survived by a father, \* \* \*  
1753 mother \* \* \* or an unmarried sister dependent upon him or her, the  
1754 payments shall continue to be made to the dependent father or  
1755 mother or both, so long as each lives. If there is no dependent  
1756 father or mother surviving the deceased member, the payments shall  
1757 continue to be made to the dependent sister or \* \* \* sisters of

1758 the deceased member, or dependent incurable children of the  
1759 deceased member, so long as the beneficiary or beneficiaries \* \* \*  
1760 remain unmarried. Upon the death or marriage of any such sisters,  
1761 all payments shall cease to her. The word "dependent" as used in  
1762 this section shall mean "wholly dependent."

1763 (2) It is the intention of the Legislature that the benefits  
1764 authorized by paragraph (b) of subsection (1) of this section  
1765 shall be paid to all qualified and eligible spouses whose deceased  
1766 spouses died before March 27, 1978.

1767 **SECTION 13.** Section 21-29-255, Mississippi Code of 1972, is  
1768 amended as follows:

1769 **[For any municipality that has not elected to authorize the**  
1770 **continuation of or reinstatement of spouse retirement benefits**  
1771 **under the provisions of Section 21-29-329, this section shall read**  
1772 **as follows:]**

1773 21-29-255. (1) If any member of the fire or police  
1774 department dies in active service, or dies in inactive service on  
1775 account of disability approved for disability relief under Section  
1776 21-29-241, as a result of injury received while in the discharge  
1777 of duty in the service of the fire department or police  
1778 department, or dies as a result of sickness or disease, due to the  
1779 discharge of duty while in service as a member of the fire or  
1780 police department, or if the member dies while entitled to relief  
1781 after retirement under Section 21-29-245, the amount of disability  
1782 relief or retirement relief being paid, or which should have been  
1783 properly paid, shall continue to be paid from the fund to the  
1784 spouse of the deceased member for the use of the spouse and the  
1785 child, or children of the deceased member, so long as the spouse  
1786 remains unmarried. If, after the marriage of the spouse, there  
1787 remains a child or children of the deceased member, the payments  
1788 shall continue to be made to a parent or lawful custodian of the  
1789 child or children without the necessity of appointment as guardian  
1790 for the benefit of the child or children. After the death or

1791 marriage of the spouse, all payments to the spouse shall cease,  
1792 and after the death of any child or children of the deceased, all  
1793 payments to the child or children shall cease. If the deceased  
1794 member is not survived by a spouse or child or children, but is  
1795 survived by a father \* \* \* or a mother dependent upon him or her,  
1796 the payments shall continue to be made to the dependent father or  
1797 mother, or both, so long as each lives. If there is no dependent  
1798 father or mother surviving the deceased member, the payments shall  
1799 continue to be made to the unmarried dependent sister or \* \* \*  
1800 sisters of the deceased member, so long as the beneficiary or  
1801 beneficiaries \* \* \* remain unmarried. Upon the death or marriage  
1802 of any such sister, all payments shall cease to her. Payments to  
1803 dependents under this section are for services rendered to the  
1804 members of the fire and/or police department, and the amount of  
1805 payments is within the discretion of the board of disability and  
1806 relief, but in no event shall the amount payable under this  
1807 section be in excess of the amount that would have been payable as  
1808 disability and relief to a member of the department.

1809 If any member of the fire or police department dies while a  
1810 member of the fire department or police department, and the member  
1811 has not less than five (5) years' service with the department,  
1812 there shall be paid from the firemen's and policemen's disability  
1813 and relief fund the following benefits:

1814 (a) For each year's active service, not to exceed a  
1815 period of twenty (20) years, one-fortieth (1/40) of the average  
1816 monthly salary or compensation received by the member in the  
1817 six-month period next preceding his or her death; and

1818 (b) For each full year of active service in excess of  
1819 twenty (20) years' service, an additional payment in a sum equal  
1820 to one and seven-tenths percent (1-7/10%) of the same average  
1821 monthly base salary and longevity pay received by the member in  
1822 the six-month period next preceding his or her death (provided  
1823 that no such payment shall exceed sixty-six and two-thirds percent

1824 (66-2/3%) of the average monthly base salary and longevity pay  
1825 received by a member for the six-month period next preceding his  
1826 or her death) to the spouse of the deceased member for the use of  
1827 the spouse and the child or children of the deceased member, so  
1828 long as the spouse remains unmarried and if, after the marriage of  
1829 the spouse, there remains a child or children of the deceased  
1830 member, the payments shall continue to be made to a parent or  
1831 lawful custodian of the child or children without the necessity of  
1832 appointment as guardian for the benefit of the child or children,  
1833 and after the death or marriage of the spouse, all payments to the  
1834 spouse shall cease, and after the death of any child or children  
1835 of the deceased member, all payments to the child or children  
1836 shall cease. If the deceased member is not survived by a spouse  
1837 or child or children, but is survived by a father, \* \* \*  
1838 mother \* \* \* or an unmarried sister dependent upon him or her, the  
1839 payments shall continue to be made to the dependent father or  
1840 mother or both, so long as each lives, or if there is no dependent  
1841 father or mother surviving the deceased member, the payments shall  
1842 continue to be made to the dependent sister or \* \* \* sisters of  
1843 the deceased member, or dependent incurable children, so long as  
1844 the beneficiary or beneficiaries \* \* \* remain unmarried. Upon the  
1845 death or marriage of any such sisters, all payments shall cease to  
1846 her. \* \* \*

1847 (2) For purposes of this section:

1848 (a) \* \* \* "Dependent" means wholly dependent.

1849 (b) \* \* \* "Child" or "children" means:

1850 (i) Children of the deceased member under the age  
1851 of eighteen (18);

1852 (ii) Children of the deceased member eighteen (18)  
1853 years of age or older who have not yet reached their twenty-third  
1854 birthday and are pursuing a full-time education; or

1855 (iii) Children of the deceased member who, though  
1856 eighteen (18) years of age or older, are wholly dependent upon the



1857 deceased member and incapable of self-support by reason of mental  
1858 or physical disability.

1859 **[For any municipality that has elected to authorize the**  
1860 **continuation of or reinstatement of spouse retirement benefits**  
1861 **under the provisions of Section 21-29-329, this section shall read**  
1862 **as follows:]**

1863 21-29-255. (1) If any member of the fire or police  
1864 department dies in active service, or dies in inactive service on  
1865 account of disability approved for disability relief under Section  
1866 21-29-241, as a result of injury received while in the discharge  
1867 of duty in the service of the fire department or police  
1868 department, or dies as a result of sickness or disease, due to the  
1869 discharge of duty while in service as a member of the fire or  
1870 police department, or if the member dies while entitled to relief  
1871 after retirement under Section 21-29-245, the amount of disability  
1872 relief or retirement relief being paid, or which should have been  
1873 properly paid, shall continue to be paid from the fund to the  
1874 spouse of the deceased member for life for the use of the spouse  
1875 and the child or children of the deceased member. If the deceased  
1876 member is not survived by a spouse, but there remains a child or  
1877 children of the deceased member, the payments shall continue to be  
1878 made to a parent or lawful custodian of the child or children  
1879 without the necessity of appointment as guardian for the benefit  
1880 of the child or children. After the death \* \* \* of the spouse,  
1881 all payments to the spouse shall cease, and after the death of any  
1882 child or children of the deceased member, all payments to the  
1883 child or children shall cease. If the deceased member is not  
1884 survived by a spouse or child or children, but is survived by a  
1885 father \* \* \* or a mother dependent upon him or her, the payments  
1886 shall continue to be made to the dependent father or mother, or  
1887 both, so long as each lives, or if there is no dependent father or  
1888 mother surviving the deceased member, the payments shall continue  
1889 to be made to the unmarried dependent sister or \* \* \* sisters of

1890 the deceased member, so long as the beneficiary or  
1891 beneficiaries \* \* \* remain unmarried. Upon the death or marriage  
1892 of any such sister, all payments shall cease to her. Payments to  
1893 dependents under this section are for services rendered to the  
1894 members of the fire and/or police department, and the amount of  
1895 payments is within the discretion of the board of disability and  
1896 relief, but in no event shall the amount payable under this  
1897 section be in excess of the amount that would have been payable as  
1898 disability and relief to a member of the department.

1899 If any member of the fire or police department dies while a  
1900 member of the fire department or police department, and the member  
1901 has had not less than five (5) years' service with the department,  
1902 there shall be paid from the firemen's and policemen's disability  
1903 and relief fund the following benefits:

1904 (a) For each year's active service, not to exceed a  
1905 period of twenty (20) years, one-fortieth (1/40) of the average  
1906 monthly salary or compensation received by the member in the  
1907 six-month period next preceding his or her death; and

1908 (b) For each full year of active service in excess of  
1909 twenty (20) years service, an additional payment in a sum equal to  
1910 one and seven-tenths percent (1-7/10%) of the same average monthly  
1911 base salary and longevity pay received by the member in the  
1912 six-month period next preceding his or her death (provided that no  
1913 such payment shall exceed sixty-six and two-thirds percent  
1914 (66-2/3%) of the average monthly base salary and longevity pay  
1915 received by a member for the six-month period next preceding his  
1916 or her death) to the spouse of the deceased member for the use of  
1917 the spouse and the child or children of the deceased member, so  
1918 long as the spouse lives and if, after the death of the spouse,  
1919 there remains a child or children of the deceased member, the  
1920 payments shall continue to be made to a parent or lawful custodian  
1921 of the child or children without the necessity of appointment as  
1922 guardian for the benefit of the child or children. After the

1923 death \* \* \* of the spouse, all payments to the spouse shall cease,  
1924 and after the death of any child or children of the deceased  
1925 member, all payments to the child or children shall cease. If the  
1926 deceased member is not survived by spouse or child or children,  
1927 but is survived by a father, \* \* \* mother \* \* \* or an unmarried  
1928 sister dependent upon him or her, the payments shall continue to  
1929 be made to the dependent father or mother or both, so long as each  
1930 lives, or if there is no dependent father or mother surviving the  
1931 deceased member, the payments shall continue to be made to the  
1932 dependent sister or \* \* \* sisters of the deceased, or dependent  
1933 incurable children, so long as the beneficiary or beneficiaries  
1934 remains unmarried. Upon the death or marriage of any such  
1935 sisters, all payments shall cease to her. \* \* \*

1936 (2) For the purposes of this section:

1937 (a) \* \* \* "Dependent" means wholly dependent.

1938 (b) \* \* \* "Child" or "children" means:

1939 (i) Children of the deceased member under the age  
1940 of eighteen (18);

1941 (ii) Children of the deceased member eighteen (18)  
1942 years of age or older who have not yet reached their twenty-third  
1943 birthday and are pursuing a full-time education; or

1944 (iii) Children of the deceased member who, though  
1945 eighteen (18) years of age or older, are wholly dependent upon the  
1946 deceased and incapable of self-support by reason of mental or  
1947 physical disability.

1948 **SECTION 14.** Sections 1, 4 and 8 of this act shall take  
1949 effect and be in force from and after the passage of this act.  
1950 The remainder of this act shall take effect and be in force from  
1951 and after July 1, 2004.