

By: Senator(s) Thames

To: Finance

SENATE BILL NO. 2659  
(As Passed the Senate)

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 SUCH 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 SUCH RESOLUTION MAY ALSO PROVIDE THAT SURVIVING SPOUSES OF  
14 DECEASED MEMBERS WHO RECEIVED SPOUSE RETIREMENT BENEFITS WHICH  
15 WERE TERMINATED UPON REMARRIAGE TO AGAIN RECEIVE SPOUSE RETIREMENT  
16 BENEFITS; TO PROVIDE THE CONDITIONS MUST BE MET IN ORDER FOR SUCH  
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" SHALL  
24 NOT 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 PAYMENT 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 WHICH  
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 SUBSEQUENT RETIREMENT; TO  
51 AMEND SECTIONS 21-29-45, 21-29-145, 21-29-147 AND 21-29-255,  
52 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS

53 ACT; TO BRING FORWARD SECTION 63-15-71, MISSISSIPPI CODE OF 1972,  
54 WHICH REQUIRES THE DEPARTMENT OF PUBLIC SAFETY TO FURNISH  
55 CERTIFIED ABSTRACTS OF OPERATING RECORDS OF DRIVERS; AND FOR  
56 RELATED PURPOSES.

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

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

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

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

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

88 first of the month following the date of application for  
89 reinstatement.

90 (2) The continuation or reinstatement of spouse retirement  
91 benefits authorized under this subsection shall not be continued  
92 or reinstated unless all of the following requirements are met:

93 (a) The municipal retirement fund or disability and  
94 relief fund is actuarially sound, as shown by the most recent  
95 actuarial study required by Section 21-29-119;

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

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

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

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

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

115 (2) The board shall consist of ten (10) trustees, as  
116 follows:

117 (a) The State Treasurer;

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

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

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

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

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

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

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

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

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

186           The members described above and serving on the board on June  
187 30, 1989, shall continue to serve on the board until the  
188 expiration of their terms.

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

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

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

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

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

221 (7) Notwithstanding any other law to the contrary, in the  
222 event of a natural disaster or other occurrence that results in  
223 the failure of the retirement system's computer system or a  
224 significant disruption of the normal activities of the retirement  
225 system, the executive director of the board, or his deputy, shall  
226 be authorized to contract with another entity, governmental or  
227 private, during the period of such failure or disruption, for  
228 services, commodities, work space and supplies as necessary to  
229 carry out the administration of all systems and programs  
230 administered by the board. The board shall be authorized to pay  
231 the reasonable cost of such services, commodities, work space and  
232 supplies. At the meeting of the board next following the  
233 execution of a contract authorized pursuant to this subsection,  
234 documentation of the contract, including a description of the  
235 services, commodities, work space or supplies, the price thereof  
236 and the nature of the disaster or occurrence, shall be presented  
237 to the board and placed on the minutes of the board. Because of  
238 their emergency nature, purchases made pursuant to this subsection  
239 shall not be required to comply with the provisions of Section  
240 31-7-13 or any other law governing public purchases.

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

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

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

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

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

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



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

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

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

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

323           (a) "Accumulated contributions" shall mean the sum of  
324 all the amounts deducted from the compensation of a member and  
325 credited to his individual account in the annuity savings account,  
326 together with regular interest thereon as provided in Section  
327 25-11-123.

328           (b) "Actuarial cost" shall mean the amount of funds  
329 presently required to provide future benefits as determined by the  
330 board based on applicable tables and formulas provided by the  
331 actuary.

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

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

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

342           (f) "Average compensation" shall mean the average of  
343 the four (4) highest years of earned compensation reported for an  
344 employee in a fiscal or calendar year period, or combination  
345 thereof which do not overlap, or the last forty-eight (48)  
346 consecutive months of earned compensation reported for an  
347 employee. The four (4) years need not be successive or joined  
348 years of service. In no case shall the average compensation so  
349 determined be in excess of One Hundred Fifty Thousand Dollars  
350 (\$150,000.00). In computing the average compensation, any amount

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

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

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

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

413 (i) "Creditable service" shall mean "prior service,"  
414 "retroactive service" and all lawfully credited unused leave not  
415 exceeding the accrual rates and limitations provided in Section  
416 25-3-91 et seq., as of the date of withdrawal from service plus

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

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

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

450 computation of earned compensation shall be governed by the  
451 following:

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

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

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

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

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

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

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

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

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

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

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

499           (p) "Medical board" shall mean the board of physicians  
500 or any governmental or nongovernmental disability determination  
501 service designated by the board of trustees that is qualified to  
502 make disability determinations as provided for in Section  
503 25-11-119.

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

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

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

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

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

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

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



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

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

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

554 (z) "State service" shall mean all offices and  
555 positions of trust or employment in the employ of the state, or  
556 any political subdivision or instrumentality thereof, which elect  
557 to participate as provided by Section 25-11-105(f), including the  
558 position of elected or fee officials of the counties and their  
559 deputies and employees performing public services or any  
560 department, independent agency, board or commission thereof, and  
561 shall also include all offices and positions of trust or  
562 employment in the employ of joint state and federal agencies  
563 administering state and federal funds and service rendered by  
564 employees of the public schools. Effective July 1, 1973, all  
565 nonprofessional public school employees, such as bus drivers,  
566 janitors, maids, maintenance workers and cafeteria employees,  
567 shall have the option to become members in accordance with Section  
568 25-11-105(b), and shall be eligible to receive credit for services  
569 before July 1, 1973, provided that the contributions and interest  
570 are paid by the employee in accordance with that section; in  
571 addition, the county or municipal separate school district may pay  
572 the employer contribution and pro rata share of interest of the  
573 retroactive service from available funds. From and after July 1,  
574 1998, retroactive service credit shall be purchased at the  
575 actuarial cost in accordance with Section 25-11-105(b).

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

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

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

583 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

584 The membership of this retirement system shall be composed as  
585 follows:

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

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

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

612 become members of the retirement system; however, no credit for  
613 prior service will be granted to members until they have  
614 contributed to Article 3 of the retirement system for a minimum  
615 period of at least four (4) years. Such members shall receive  
616 credit for services performed prior to January 1, 1953, in  
617 employment now covered by Article 3, but no credit shall be  
618 granted for retroactive services between January 1, 1953, and the  
619 date of their entry into the retirement system unless the employee  
620 pays into the retirement system both the employer's and the  
621 employee's contributions on wages paid him during the period from  
622 January 31, 1953, to the date of his becoming a contributing  
623 member, together with interest at the rate determined by the board  
624 of trustees. Members reentering after withdrawal from service  
625 shall qualify for prior service under the provisions of Section  
626 25-11-117. From and after July 1, 1998, upon eligibility as noted  
627 above, the member may receive credit for such retroactive service  
628 provided:

629 (1) The member shall furnish proof satisfactory to  
630 the board of trustees of certification of such service from the  
631 covered employer where the services were performed; and

632 (2) The member shall pay to the retirement system  
633 on the date he or she is eligible for such credit or at any time  
634 thereafter prior to the date of retirement the actuarial cost for  
635 each year of such creditable service. The provisions of this  
636 subparagraph (2) shall be subject to the limitations of Section  
637 415 of the Internal Revenue Code and regulations promulgated  
638 thereunder.

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

643 (c) All persons who shall become employees in the state  
644 service after January 31, 1953, and who are eligible for

645 membership in any other retirement system shall become members of  
646 this retirement system as a condition of their employment unless  
647 they elect at the time of their employment to become a member of  
648 such other system.

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

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

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

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

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

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

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

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

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

711 conditions as may be provided by regulations of the board and as  
712 may be consistent with applicable federal law.

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

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

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

743 deduct such contribution shall not relieve the employee or  
744 employer of liability thereof.

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

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

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

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

775 becomes a member prior to July 1, 1953, except as provided in  
776 paragraph (b).

777 (i) In the event any member of this system should  
778 change his employment to any agency of the state having an  
779 actuarially funded retirement system, the board of trustees may  
780 authorize the transfer of the member's creditable service and of  
781 the present value of the member's employer's accumulation account  
782 and of the present value of the member's accumulated membership  
783 contributions to such other system, provided the employee agrees  
784 to the transfer of his accumulated membership contributions and  
785 provided such other system is authorized to receive and agrees to  
786 make such transfer.

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

797 (j) Wherever herein state employment is referred to, it  
798 shall include joint employment by state and federal agencies of  
799 all kinds.

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



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

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

826           (2) The member shall pay to the retirement system  
827 on the date he or she is eligible for such credit or at any time  
828 thereafter prior to the date of retirement the actuarial cost for  
829 each year of such creditable service. The provisions of this  
830 subparagraph (2) shall be subject to the limitations of Section  
831 415 of the Internal Revenue Code and regulations promulgated  
832 thereunder.

833           Nothing contained in this paragraph (k) shall be construed to  
834 limit the authority of the board to allow the correction of  
835 reporting errors or omissions based on the payment of employee and  
836 employer contributions plus applicable interest. Payment for such  
837 time shall be made in increments of not less than one-quarter  
838 (1/4) year of creditable service beginning with the most recent  
839 service. Upon the payment of all or part of such required  
840 contributions, plus interest or the actuarial cost as provided

841 above, the member shall receive credit for the period of  
842 creditable service for which full payment has been made to the  
843 retirement system.

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

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

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

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

861 (a) Patient or inmate help in state charitable, penal  
862 or correctional institutions;

863 (b) Students of any state educational institution  
864 employed by any agency of the state for temporary, part-time or  
865 intermittent work;

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

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

873 **III. TERMINATION OF MEMBERSHIP**

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

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

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

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

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

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

895 (b) If, at the time of the member's death, there are no  
896 dependent children, and the surviving spouse, who otherwise would  
897 receive the annuity under this subsection (2), has filed with the  
898 system a signed written waiver of his or her rights to the annuity  
899 and that waiver was in effect at the time of the member's death, a  
900 lump sum distribution of the deceased member's accumulated  
901 contributions shall be refunded in accordance with Section  
902 25-11-117.

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

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

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

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

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

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

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

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

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

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

989 (4) (a) Death benefits in the line of duty. Regardless of  
990 the number of years of the member's creditable service, the spouse  
991 and/or the dependent children of an active member who is killed in  
992 the line of performance of duty or dies as a direct result of an  
993 accident occurring in the line of performance of duty shall  
994 qualify, on approval of the board, for a retirement allowance on  
995 the first of the month following the date of death, but in the  
996 case of late filing, retroactive payments will be made for a  
997 period of not more than one (1) year. The spouse shall receive a  
998 retirement allowance for life equal to one-half (1/2) of the  
999 average compensation as defined in Section 25-11-103. In addition  
1000 to the retirement allowance for the spouse, or if there is no  
1001 surviving spouse, the member's dependent child shall receive a  
1002 retirement allowance in the amount of one-fourth (1/4) of the  
1003 member's average compensation as defined in Section 25-11-103;  
1004 however, if there are two (2) or more dependent children, each  
1005 dependent child shall receive an equal share of a total annuity

1006 equal to one-half (1/2) of the member's average compensation. If  
1007 there are more than two (2) dependent children, upon a child's  
1008 ceasing to be a dependent child, his annuity shall terminate and  
1009 there shall be a redetermination of the amounts payable to any  
1010 remaining dependent children. Such benefits shall cease to be  
1011 paid for the support and maintenance of each child upon such child  
1012 attaining the age of nineteen (19) years; however, the spouse  
1013 shall continue to be eligible for the aforesaid retirement  
1014 allowance. Such benefits may be paid to a surviving parent or  
1015 lawful custodian of such children for the use and benefit of the  
1016 children without the necessity of appointment as guardian. Any  
1017 spouse who received spouse retirement benefits under this  
1018 paragraph (a) from and after April 4, 1984, and whose benefits  
1019 were terminated before July 1, 2004, because of remarriage, may  
1020 again receive the retirement benefits authorized under this  
1021 paragraph (a) by making application with the board to reinstate  
1022 such benefits. Any reinstatement of the benefits shall be  
1023 prospective only and shall begin after the first of the month  
1024 following the date of the application for reinstatement but not  
1025 earlier than July 1, 2004.

1026 (b) A child shall be considered to be a dependent child  
1027 until marriage, or the attainment of age nineteen (19), whichever  
1028 comes first; however, this age limitation shall be extended beyond  
1029 age nineteen (19), but in no event beyond the attainment of age  
1030 twenty-three (23), as long as the child is a student regularly  
1031 pursuing a full-time course of resident study or training in an  
1032 accredited high school, trade school, technical or vocational  
1033 institute, junior or community college, college, university or  
1034 comparable recognized educational institution duly licensed by a  
1035 state. A student child whose birthday falls during the school  
1036 year (September 1 through June 30) is considered not to reach age  
1037 twenty-three (23) until the July 1 following the actual  
1038 twenty-third birthday. A full-time course of resident study or

1039 training means a day or evening noncorrespondence course that  
1040 includes school attendance at the rate of at least thirty-six (36)  
1041 weeks per academic year or other applicable period with a subject  
1042 load sufficient, if successfully completed, to attain the  
1043 educational or training objective within the period generally  
1044 accepted as minimum for completion, by a full-time day student, of  
1045 the academic or training program concerned. Any child who is  
1046 physically or mentally incompetent, as adjudged by either a  
1047 Mississippi court of competent jurisdiction or by the board, shall  
1048 receive benefits for as long as the incompetency exists.

1049 (5) If all the annuities provided for in this section  
1050 payable on account of the death of a member terminate before there  
1051 has been paid an aggregate amount equal to the member's  
1052 accumulated contributions standing to the member's credit in the  
1053 annuity savings account at the time of the member's death, the  
1054 difference between the accumulated contributions and the aggregate  
1055 amount of annuity payments shall be paid to such person as the  
1056 member has nominated by written designation duly executed and  
1057 filed with the board. If there is no designated beneficiary  
1058 surviving at termination of benefits, the difference shall be  
1059 payable pursuant to Section 25-11-117.1(1).

1060 (6) Regardless of the number of years of creditable service  
1061 upon the application of a member or employer, any active member  
1062 who becomes disabled as a direct result of an accident or  
1063 traumatic event resulting in a physical injury occurring in the  
1064 line of performance of duty, provided the medical board or other  
1065 designated governmental agency after a medical examination  
1066 certifies that the member is mentally or physically incapacitated  
1067 for the further performance of duty and such incapacity is likely  
1068 to be permanent, may be retired by the board of trustees on the  
1069 first of the month following the date of filing such application  
1070 but in no event shall the retirement allowance commence before the  
1071 termination of state service. The retirement allowance shall



1072 equal the allowance on disability retirement as provided in  
1073 Section 25-11-113 but shall not be less than fifty percent (50%)  
1074 of average compensation.

1075 Permanent and total disability resulting from a  
1076 cardiovascular, pulmonary or musculo-skeletal condition which was  
1077 not a direct result of a traumatic event occurring in the  
1078 performance of duty shall be deemed an ordinary disability. A  
1079 mental disability based exclusively on employment duties occurring  
1080 on an ongoing basis shall be deemed an ordinary disability.

1081 (7) In the event the deceased or disabled member has less  
1082 than four (4) years of creditable service, the average  
1083 compensation as defined in Section 25-11-103 shall be the average  
1084 of all annual earned compensation in state service for the  
1085 purposes of benefits provided in this section.

1086 (8) In case of death or total and permanent disability under  
1087 subsection (4) or subsection (6) of this section and before the  
1088 board shall consider any application for a retirement allowance,  
1089 the employer must certify to the board that the member's death or  
1090 disability was a direct result of an accident or a traumatic event  
1091 occurring during and as a result of the performance of the regular  
1092 and assigned duties of the employee and that the death or  
1093 disability was not the result of the willful negligence of the  
1094 employee.

1095 (9) The application for such retirement allowance must be  
1096 filed within one (1) year after death of an active member who is  
1097 killed in the line of performance of duty or dies as a direct  
1098 result of an accident occurring in the line of performance of duty  
1099 or traumatic event; but the board of trustees may consider an  
1100 application for disability filed after the one-year period if it  
1101 can be factually demonstrated to the satisfaction of the board of  
1102 trustees that the disability is due to the accident and that the  
1103 filing was not accomplished within the one-year period due to a  
1104 delayed manifestation of the disability or to circumstances beyond

1105 the control of the member. However, in case of late filing,  
1106 retroactive payments will be made for a period of not more than  
1107 one (1) year only.

1108 (10) Notwithstanding any other section of this article and  
1109 in lieu of any payments to a designated beneficiary for a refund  
1110 of contributions under Section 25-11-117, the spouse and/or  
1111 children shall be eligible for the benefits payable pursuant to  
1112 this section, and the spouse may elect, for both the spouse and/or  
1113 children, to receive benefits in accordance with either  
1114 subsections (2) and (3) or subsection (4) of this section;  
1115 otherwise, the contributions to the credit of the deceased member  
1116 shall be refunded in accordance with Section 25-11-117.

1117 (11) If the member has previously received benefits from the  
1118 system to which he was not entitled and has not repaid in full all  
1119 amounts payable by him to the system, the annuity amounts  
1120 otherwise provided by this section shall be withheld and used to  
1121 effect repayment until the total of the withholdings repays in  
1122 full all amounts payable by him to the system.

1123 **SECTION 7.** Section 25-11-137, Mississippi Code of 1972, is  
1124 amended as follows:

1125 25-11-137. (1) (a) Any law enforcement officer or fireman  
1126 who has been covered under this article or under Section 21-29-101  
1127 et seq., Section 21-29-201 et seq., or Section 25-13-1 et seq.,  
1128 and who changes his employment from one jurisdiction to another  
1129 jurisdiction, or has previously made such change, may elect to  
1130 transfer retirement service credit earned while covered under the  
1131 retirement system of the former jurisdiction to that of the latter  
1132 as provided in this section.

1133 (b) Any \* \* \* law enforcement officer or fireman  
1134 transferring as described in paragraph (a) of this subsection and  
1135 having paid retirement funds under this article or under Section  
1136 21-29-101 et seq., Section 21-29-201 et seq., or Section 25-13-1  
1137 et seq., must pay into the retirement system to which he is

1138 transferring the full amount of employee contributions which he  
1139 would have paid into that system had he been a member of that  
1140 system for each year of creditable service which is being  
1141 transferred, together with regular interest which would have been  
1142 earned by that system thereon, and he must also pay, or the system  
1143 from which he is transferring must pay, into the system to which  
1144 he is being transferred an amount equal to that which the employer  
1145 would have paid had he been a member of that system for each year  
1146 transferred, together with regular interest which would have been  
1147 earned by that system thereon. The retirement system from which  
1148 he is being transferred shall be required to pay into the system  
1149 to which he is transferring any funds credited to his account.  
1150 Any additional funds which may be required shall be paid by the  
1151 person being transferred. Such payments may be made in quarterly  
1152 increments. Failure to make these proper adjustment payments will  
1153 void any transfer of service credits.

1154 (2) The benefits which are being currently paid by the  
1155 system in which the law enforcement officer or fireman has last  
1156 been a member, and the requirements for retirement or disability  
1157 benefits, shall be those applicable to such officer falling under  
1158 the provisions of this section. Any law enforcement officer or  
1159 fireman who elects to transfer retirement service credit may  
1160 immediately transfer such funds and service as provided for in  
1161 subsection (1) of this section; however, the amounts that are  
1162 transferred by the law enforcement officer or fireman and his  
1163 employer, if applicable, and the service credit related to the  
1164 transfer of funds, shall not be used in any benefit calculation or  
1165 determination of eligibility for benefits until the person has  
1166 remained a contributing member of the retirement system to which  
1167 he is transferring for the minimum period necessary to qualify for  
1168 a monthly retirement allowance or benefit. Upon the complete  
1169 transfer and payment of such credit, all time spent in the covered  
1170 law enforcement or fire department service, as noted above, within

1171 and for the State of Mississippi or the political subdivisions  
1172 thereof, shall apply to the time required by law necessary to  
1173 effect the retirement or disability of the officer.

1174       **SECTION 8.** Section 25-13-12, Mississippi Code of 1972, is  
1175 amended as follows:

1176       25-13-12. (1) Any member who is receiving a retirement  
1177 allowance for service or disability retirement, or any beneficiary  
1178 thereof, who has received a monthly benefit for at least one (1)  
1179 full fiscal year, shall be eligible to receive an additional  
1180 benefit, on December 1 or July 1 of the year as provided in  
1181 subsection (6) or (7) of this section, equal to the sum of:

1182           (a) An amount equal to three percent (3%) of the annual  
1183 retirement allowance multiplied by the number of full fiscal years  
1184 in retirement before the end of the fiscal year in which the  
1185 member reaches age sixty (60) or the age established in the latest  
1186 phase that has been implemented under subsection (3) of this  
1187 section, plus

1188           (b) An additional amount equal to three percent (3%)  
1189 compounded by the number of full fiscal years in retirement  
1190 beginning with the fiscal year in which the member reaches age  
1191 sixty (60) or the age established in the latest phase that has  
1192 been implemented under subsection (3) of this section, multiplied  
1193 by the amount of the annual retirement allowance.

1194       (2) The calculation of the beneficiary's additional benefit  
1195 provided in this section shall be based on the member's age and  
1196 full fiscal years in retirement as if the member had lived.

1197       (3) From and after July 1, 2003, the board shall begin  
1198 implementing a reduction in the age at which compounding of the  
1199 portion of the additional benefit provided in subsection (1)(b) of  
1200 this section will begin, which changes shall be implemented in  
1201 phases as set forth in the table in this subsection. The board  
1202 shall implement the phases systematically upon July 1 after the  
1203 board's actuary certifies that implementation of a phase will not

1204 cause the unfunded accrued actuarial liability amortization period  
 1205 for the retirement system to exceed twenty (20) years. The board  
 1206 shall have the exclusive authority to set the assumptions that are  
 1207 used in the actuarial valuation in accordance with Section  
 1208 25-13-29.

1209 IMPLEMENTATION TABLE FOR AGE OF  
 1210 COMPOUNDING THE ADDITIONAL BENEFIT

1211	PHASE	AGE AT WHICH
1212		COMPOUNDING
1213		THE ADDITIONAL
1214		BENEFIT BEGINS
1216	Phase 1	Age 59
1217	Phase 2	Age 58
1218	Phase 3	Age 57
1219	Phase 4	Age 56
1220	Phase 5	Age 55

1221 (4) If a retiree who is receiving a retirement allowance  
 1222 that will terminate upon the retiree's death is receiving the  
 1223 additional benefit in one (1) payment and dies on or after July 1  
 1224 but before December 1, the beneficiary designated on the  
 1225 retirement application, if any, shall receive in a single payment  
 1226 a fractional part of the additional benefit based on the number of  
 1227 months in which a retirement allowance was received during the  
 1228 fiscal year. If there is no surviving beneficiary, payment shall  
 1229 be made in accordance with Section 25-13-21.1(1). Likewise, if a  
 1230 retiree is receiving a retirement allowance that will terminate  
 1231 upon the retiree's death in two (2) to six (6) monthly  
 1232 installments, any remaining payments of the additional benefit  
 1233 will be paid in a lump sum to the beneficiary designated on the  
 1234 application, or if none, in accordance with Section 25-13-21.1(1).  
 1235 Any similar remaining payments of the additional benefit payable  
 1236 under this section to a deceased beneficiary who was receiving a

1237 monthly benefit shall be payable in accordance with the provisions  
1238 of Section 25-13-21.1(2). If the additional benefit is being  
1239 received in one (1) payment each year, the additional benefit  
1240 shall be prorated based on the number of months in which a  
1241 retirement allowance was received during the fiscal year when (i)  
1242 the monthly benefit payable to a beneficiary terminates due to the  
1243 expiration of an option, remarriage or cessation of dependent  
1244 status or due to the retiree's return to covered employment, and  
1245 (ii) the monthly benefit terminates on or after July 1 and before  
1246 December 1.

1247 (5) Each retired member or beneficiary thereof who receives  
1248 an annual retirement allowance based on the average compensation  
1249 for a period of five (5) successive or joined years and who  
1250 receives a retirement allowance for the month of June 1986, shall  
1251 receive an ad hoc increase of three percent (3%) in such  
1252 retirement allowance effective July 1, 1986.

1253 (6) The additional benefit provided in this section shall be  
1254 paid in one (1) payment in December of each year to those persons  
1255 who are receiving a retirement allowance on December 1 of that  
1256 year, unless an election is made under subsection (7) of this  
1257 section. The board, in its discretion, may allow a retired member  
1258 or a beneficiary thereof who is receiving the additional benefit  
1259 in one (1) payment each year to have the additional benefit paid  
1260 in monthly installments if the retired member or beneficiary  
1261 submits satisfactory documentation that the continued receipt of  
1262 the additional benefit in one (1) payment each year will cause a  
1263 financial hardship to the retired member or beneficiary.

1264 (7) Retired members or beneficiaries thereof who are  
1265 receiving a retirement allowance may elect by an irrevocable  
1266 agreement in writing filed in the Office of the Public Employees'  
1267 Retirement System no less than thirty (30) days before July 1 of  
1268 any year, to begin receiving the additional benefit provided in  
1269 this section in twelve (12) equal monthly installments beginning

1270 on July 1 of the year. This irrevocable agreement shall be  
1271 binding on the member and subsequent beneficiaries. Payment of  
1272 those monthly installments shall not extend beyond the month in  
1273 which a retirement allowance is due and payable. Any retired  
1274 member or beneficiary thereof who previously elected to receive  
1275 the additional annual payment in monthly installments may elect,  
1276 upon application on a form prescribed by the board, to have that  
1277 payment made in one (1) payment in December of each year. This  
1278 written election must be filed in the office of the Public  
1279 Employees' Retirement System before June 1, 2003, and shall be  
1280 effective for the fiscal year beginning July 1, 2003. The board,  
1281 in its discretion, may allow a retired member or a beneficiary  
1282 thereof who is receiving the additional benefit in monthly  
1283 installments to have the additional benefit paid in one (1)  
1284 payment in December of each year if the retired member or  
1285 beneficiary submits satisfactory documentation that the continued  
1286 receipt of the additional benefit in monthly installments will  
1287 cause financial hardship to the retired member or beneficiary.

1288 (8) The additional benefit or benefits provided in this  
1289 section are for the fiscal year in which they are paid.

1290 (9) The amount of the additional benefit provided in  
1291 subsection (1)(b) of this section is calculated using the  
1292 following formula:

1293 
$$[(1.03)^n - 1] \times [\text{annual retirement allowance}],$$

1294 where  $n$  is the number of full fiscal years in retirement beginning  
1295 with the fiscal year in which the member reaches age sixty (60) or  
1296 the age established in the latest phase that has been implemented  
1297 under subsection (3) of this section.

1298 (10) In the event of death of a retired member or a  
1299 beneficiary thereof who is receiving the additional annual payment  
1300 in two (2) to six (6) monthly installments under an election made  
1301 before July 1, 2002, and who would otherwise be eligible to  
1302 receive the additional benefit provided in this section in one (1)

1303 payment in December of the current fiscal year, any remaining  
1304 amounts shall be paid in a lump sum to the designated beneficiary.

1305 (11) When a member retires after July 1 and has previously  
1306 received a retirement allowance for one or more full fiscal years,  
1307 the retired member shall be eligible immediately for the  
1308 additional benefit. The additional benefit shall be based on the  
1309 current retirement allowance and the number of full fiscal years  
1310 in retirement and shall be prorated and paid in monthly  
1311 installments based on the number of months a retirement allowance  
1312 is paid during the fiscal year.

1313 **SECTION 9.** Section 25-13-13, Mississippi Code of 1972, is  
1314 amended as follows:

1315 25-13-13. (1) Upon the death of any highway patrolman who  
1316 has retired for service or disability and who has not elected any  
1317 other option under Section 25-13-16, his or her spouse shall  
1318 receive one-half (1/2) the benefit which he or she was receiving  
1319 and each child not having attained his nineteenth birthday shall  
1320 receive one-fourth (1/4) of the benefit, but not more than  
1321 one-half (1/2) of the benefits shall be paid for the support and  
1322 maintenance of two (2) or more children. Upon each child's  
1323 attaining the age of nineteen (19) years, the child shall no  
1324 longer be eligible for such benefit, and when all of such children  
1325 have attained their nineteenth birthday, only the spouse shall be  
1326 eligible for one-half (1/2) the amount of the benefit. The spouse  
1327 shall continue to be eligible for such benefit in the amount of  
1328 fifty percent (50%) of his retirement benefit so long as the  
1329 spouse may live \* \* \*. Surviving spouses of deceased members who  
1330 previously received spouse retirement benefits under this  
1331 subsection from and after July 1, 1958, and whose benefits were  
1332 terminated before July 1, 2004, because of remarriage, may again  
1333 receive the retirement benefits authorized under this subsection  
1334 by making application with the board to reinstate such benefits.  
1335 Any reinstatement of the benefits shall be prospective only and



1336 shall begin after the first of the month following the date of the  
1337 application for reinstatement but no earlier than July 1, 2004.

1338 (2) Upon the death of any highway patrolman who has served  
1339 the minimum retirement period required for eligibility for such  
1340 retirement program, his spouse and family shall receive all the  
1341 benefits payable to the highway patrolman's beneficiaries as if he  
1342 had retired at the time of his death. Such benefits continue to  
1343 be paid to the spouse for life. Such benefits are payable on a  
1344 monthly basis. Surviving spouses of deceased members who  
1345 previously received spouse retirement benefits under this  
1346 subsection from and after July 1, 1958, and whose benefits were  
1347 terminated before July 1, 2004, because of remarriage, may again  
1348 receive the retirement benefits authorized under this subsection  
1349 by making application with the board to reinstate such benefits.  
1350 Any reinstatement of the benefits shall be prospective only and  
1351 shall begin after the first of the month following the date of the  
1352 application for reinstatement but no earlier than July 1, 2004.

1353 (3) The spouse and/or the dependent children of an active  
1354 member who is killed in the line of performance of duty or dies as  
1355 a direct result of an accident occurring in the line of  
1356 performance of duty shall qualify, on approval of the board, for a  
1357 retirement allowance on the first of the month following the date  
1358 of death, but not before receipt of application by the board. The  
1359 spouse shall receive a retirement allowance equal to one-half  
1360 (1/2) of the average compensation of the deceased highway  
1361 patrolman. In addition to the retirement allowance for the  
1362 spouse, or if there is no surviving spouse, a retirement allowance  
1363 shall be paid in the amount of one-fourth (1/4) of the average  
1364 compensation for the support and maintenance of one (1) child or  
1365 in the amount of one-half (1/2) of the average compensation for  
1366 the support and maintenance of two (2) or more children. Such  
1367 benefits shall cease to be paid for the support and maintenance of  
1368 each child upon such child attaining the age of nineteen (19)

1369 years; however, the spouse shall continue to be eligible for the  
1370 aforesaid retirement allowance. Benefits may be paid to a  
1371 surviving parent or lawful custodian of such children for the use  
1372 and benefit of the children without the necessity of appointment  
1373 as guardian. Such retirement allowance shall continue to be paid  
1374 to the spouse for life. Surviving spouses of deceased members who  
1375 previously received spouse retirement benefits under this  
1376 subsection from and after July 1, 1958, and whose benefits were  
1377 terminated before July 1, 2004, because of remarriage, may again  
1378 receive the retirement benefits authorized under this subsection  
1379 by making application with the board to reinstate such benefits.  
1380 Any reinstatement of the benefits shall be prospective only and  
1381 shall begin after the first of the month following the date of the  
1382 application for reinstatement but no earlier than July 1, 2004.

1383 (4) All benefits accruing to any child under the provisions  
1384 of this chapter shall be paid to the parent custodian of the  
1385 children or the legal guardian.

1386 (5) Children receiving the benefits provided herein, who are  
1387 permanently or totally disabled, shall continue to receive such  
1388 benefits for as long as the medical board or other designated  
1389 governmental agency certifies that such disability continues. The  
1390 age limitation for benefits payable to a child under any provision  
1391 of this section shall be extended beyond age nineteen (19), but in  
1392 no event beyond the attainment of age twenty-three (23), as long  
1393 as the child is a student regularly pursuing a full-time course of  
1394 resident study or training in an accredited high school, trade  
1395 school, technical or vocational institute, junior or community  
1396 college, college, university or comparable recognized educational  
1397 institution duly licensed by a state. A student child whose  
1398 birthday falls during the school year (September 1 through June  
1399 30) is considered not to reach age twenty-three (23) until the  
1400 July 1 following the actual twenty-third birthday. A full-time  
1401 course of resident study or training means a day or evening

1402 noncorrespondence course that includes school attendance at the  
1403 rate of at least thirty-six (36) weeks per academic year or other  
1404 applicable period with a subject load sufficient, if successfully  
1405 completed, to attain the educational or training objective within  
1406 the period generally accepted as minimum for completion, by a  
1407 full-time day student, of the academic or training program  
1408 concerned.

1409 (6) If all the annuities provided for in this section  
1410 payable on the account of the death of a member terminate before  
1411 there has been paid an aggregate amount equal to the member's  
1412 accumulated contributions standing to the member's credit in the  
1413 annuity savings account at the time of the member's death, the  
1414 difference between the accumulated contributions and the aggregate  
1415 amount of annuity payments shall be paid to such person as the  
1416 member has nominated by written designation duly executed and  
1417 filed with the board of trustees in the Office of the Public  
1418 Employees' Retirement System. If there is no designated  
1419 beneficiary surviving at termination of benefits, the difference  
1420 shall be payable pursuant to Section 25-13-21.1(1).

1421 (7) All benefits paid to a spouse or child due to the death  
1422 of a member before or after retirement shall be paid in accordance  
1423 with the statutory provisions set forth as of the date of death.

1424 **SECTION 10.** Section 21-29-45, Mississippi Code of 1972, is  
1425 amended as follows:

1426 **[For any municipality that has not elected to authorize the**  
1427 **continuation of or reinstatement of spouse retirement benefits**  
1428 **under the provisions of Section 21-29-329, this section shall read**  
1429 **as follows:]**

1430 21-29-45. Upon proper application to the general retirement  
1431 board, the benefits to dependents of deceased members and  
1432 retirants shall be paid as follows:

1433 (a) If any member dies for causes other than the  
1434 performance of duty in the service of the municipality prior to

1435 completing five (5) years' service, there shall be paid to his  
1436 designated beneficiary or his legal representative, if no  
1437 beneficiary has been designated, from the employees' savings fund  
1438 the sum equal to the amount accumulated in his 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 such  
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 such 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 shall remain unmarried. If, after  
1449 the marriage of the spouse, there remains a child or children of  
1450 the deceased member under the age of eighteen (18) years, the  
1451 payments shall continue to be made to a parent or lawful custodian  
1452 of the child or children without the necessity of appointment as  
1453 guardian for the benefit of the child or children, so long as the  
1454 child or children shall be under the age of eighteen (18) years.  
1455 After the death or marriage of the spouse, all payments to the  
1456 spouse shall cease, and after the death or attainment of eighteen  
1457 (18) years of any child or children of the deceased, all payments  
1458 to the child or children over eighteen (18) years of age shall  
1459 cease. If the deceased member is not survived by a spouse or  
1460 child or children under the age of eighteen (18) years, but is  
1461 survived by a father \* \* \* or a mother dependent upon him, the  
1462 payments shall continue to be made to the dependent father or  
1463 mother, or both, so long as each lives. The word "dependent," as  
1464 used in this section, shall mean "wholly dependent," as determined  
1465 by the retirement board.

1466 (c) If any member dies after having completed twenty  
1467 (20) years' service as required by Section 21-29-31, or should any

1468 retirant die, there shall be paid from the retirement reserve fund  
1469 to the spouse or the dependents designated in paragraph (b) of  
1470 this section the amount of benefits or retirement pay equal to the  
1471 sum being paid to the deceased member or retirant, or which would  
1472 have been paid to the deceased member or retirant had he applied  
1473 for benefits under this section, on the date of his death.

1474 (d) If any member dies prior to becoming eligible to  
1475 receive benefits hereunder as a result of the performance of duty  
1476 to the municipality, there shall be paid to the spouse or  
1477 dependents designated in paragraph (b) of this section from the  
1478 retirement reserve fund an amount equal to fifty percent (50%) of  
1479 the monthly salary of the deceased member on the date of his  
1480 death. This amount shall be paid to the same beneficiaries and  
1481 for the same period of time as those beneficiaries and periods of  
1482 time set forth in paragraph (b) of this section.

1483 **[For any municipality that has elected to authorize the**  
1484 **continuation of or reinstatement of spouse retirement benefits**  
1485 **under the provisions of Section 21-29-329, this section shall read**  
1486 **as follows:]**

1487 21-29-45. Upon proper application to the general retirement  
1488 board, the benefits to dependents of deceased members and  
1489 retirants shall be paid as follows:

1490 (a) Should any member die for causes other than the  
1491 performance of duty in the service of the municipality prior to  
1492 completing five (5) years' service, there shall be paid to his  
1493 designated beneficiary or his legal representative, if no  
1494 beneficiary has been designated, from the employees' savings fund  
1495 the sum equal to the amount accumulated in his individual account.

1496 (b) If any member dies who has not had less than five  
1497 (5) and not more than twenty (20) years' service with such  
1498 municipality, there shall be paid to the spouse, from the  
1499 retirement reserve fund, for each year's active service, not to  
1500 exceed a period of twenty (20) years, one-fortieth (1/40) of the

1501 average monthly salary or compensation received by such member in  
1502 the four-year or two-year period, as the case may be, next  
1503 preceding the death, for the use of the spouse and the child or  
1504 children of the deceased member under the age of eighteen (18)  
1505 years, so long as the spouse shall live. If, after the death of  
1506 the spouse there remains a child or children of the deceased  
1507 member under the age of eighteen (18) years, the payments shall  
1508 continue to be made to a parent or lawful custodian of the child  
1509 or children without the necessity of appointment as guardian for  
1510 the benefit of the child or children, so long as the child or  
1511 children shall be under the age of eighteen (18) years. After the  
1512 death \* \* \* of the spouse, all payments to the spouse shall cease,  
1513 and after the death or attainment of eighteen (18) years of any  
1514 child or children of the deceased member, all payments to the  
1515 child or children over eighteen (18) years of age shall cease. If  
1516 the deceased member is not survived by a spouse, child or children  
1517 under the age of eighteen (18) years, but is survived by a  
1518 father \* \* \* or a mother dependent upon him, the payments shall  
1519 continue to be made to the dependent father or mother, or both, so  
1520 long as each lives. The word "dependent," as used in this  
1521 section, shall mean "wholly dependent," as determined by the  
1522 retirement board.

1523 (c) Should any member die after having completed twenty  
1524 (20) years' service as required by Section 21-29-31, or should any  
1525 retirant die, there shall be paid from the retirement reserve fund  
1526 to the spouse or the dependents designated in paragraph (b) of  
1527 this section, the amount of benefits or retirement pay equal to  
1528 the sum being paid to the deceased member or retirant, or which  
1529 would have been paid to the deceased member or retirant had he  
1530 applied for benefits under this section, on the date of his death.

1531 (d) Should any member die prior to becoming eligible to  
1532 receive benefits under this section as a result of the performance  
1533 of duty to the municipality, there shall be paid to the spouse or

1534 dependents designated in paragraph (b) of this section from the  
1535 retirement reserve fund, an amount equal to fifty percent (50%) of  
1536 the monthly salary of the deceased member on the date of his  
1537 death. This amount shall be paid to the same beneficiaries and  
1538 for the same period of time as those beneficiaries and periods of  
1539 time set forth in paragraph (b) of this section.

1540 **SECTION 11.** Section 21-29-145, Mississippi Code of 1972, is  
1541 amended as follows:

1542 **[For any municipality that has not elected to authorize the**  
1543 **continuation of or reinstatement of spouse retirement benefits**  
1544 **under the provisions of Section 21-29-329, this section shall read**  
1545 **as follows:]**

1546 21-29-145. (1) If any member of the fire or police  
1547 department dies in active service, or dies in inactive service on  
1548 account of disability approved for disability relief under the  
1549 provisions of Section 21-29-133, as a result of injury received  
1550 while in the discharge of duty in the service of the fire  
1551 department or police department, or dies as a result of sickness  
1552 or disease, due to the discharge of duty while in service as a  
1553 member of said fire or police department, or if the member dies  
1554 while entitled to relief after retirement under Section 21-29-139,  
1555 the amount of disability relief or retirement being paid, or which  
1556 should have been properly paid, shall continue to be paid from the  
1557 fund to the spouse of the deceased member for the use of the  
1558 spouse \* \* \* and the child or children of the deceased member, so  
1559 long as the spouse shall remain unmarried. If, after the marriage  
1560 of the spouse, there remains a child, or children, of the deceased  
1561 member, the payments shall continue to be made to a parent or  
1562 lawful custodian of the child or children without the necessity of  
1563 appointment as guardian for the benefit of the child or children.  
1564 After the death or marriage of the spouse, all payments to the  
1565 spouse shall cease, and after the death of any child or children  
1566 of the deceased member all payments to the child or children shall

1567 cease. If the deceased member is not survived by spouse or child  
1568 or children, but is survived by a father, \* \* \* mother \* \* \*, or  
1569 an unmarried sister dependent upon him or her, the payments shall  
1570 continue to be made to the dependent father or mother or both, so  
1571 long as each lives, or if there is no dependent father or mother  
1572 surviving the deceased member, the payments shall continue to be  
1573 made to the unmarried dependent sister or dependent sisters of the  
1574 deceased, so long as the beneficiary or beneficiaries shall remain  
1575 unmarried. Upon the death or marriage of any such sister, all  
1576 payments shall cease to her. Payments to dependents under this  
1577 section are for services rendered by the members of the fire  
1578 and/or police department, and the amount of payment is within the  
1579 discretion of the board of disability and relief, but in no event  
1580 shall the amount payable under this section be in excess of the  
1581 amount that would have been payable as disability and relief to a  
1582 member of the department. If the father, \* \* \* mother \* \* \*,  
1583 or \* \* \* sisters are not wholly dependent, then they shall not  
1584 receive any amount in excess of the difference between the income  
1585 of the father, mother, sister or sisters, and the amount that the  
1586 deceased member would have been entitled to.

1587 (2) For purposes of this section:

1588 (a) \* \* \* "Dependent" \* \* \* means wholly dependent upon  
1589 the deceased at the time of his death.

1590 (b) \* \* \* "Child" or "children" means:

1591 (i) Children of the deceased member under the age  
1592 of eighteen (18);

1593 (ii) Children of the deceased member eighteen (18)  
1594 years of age or older who have not yet reached their twenty-third  
1595 birthday and are pursuing a full-time education; or

1596 (iii) Children of the deceased member who, though  
1597 eighteen (18) years of age or older, are wholly dependent upon the  
1598 deceased member and incapable of self support by reason of mental  
1599 or physical disability.



1600           [For any municipality that has elected to authorize the  
1601 continuation of or reinstatement of spouse retirement benefits  
1602 under the provisions of Section 21-29-329, this section shall read  
1603 as follows:]

1604           21-29-145. (1) If any member of the fire or police  
1605 department dies in active service, or dies in inactive service on  
1606 account of disability approved for disability relief under the  
1607 provisions of Section 21-29-133, as a result of injury received  
1608 while in the discharge of duty in the service of the fire  
1609 department or police department, or dies as a result of sickness  
1610 or disease, due to the discharge of duty while in service as a  
1611 member of the fire or police department, or if the member dies  
1612 while entitled to relief after retirement under Section 21-29-139,  
1613 the amount of disability relief or retirement being paid, or which  
1614 should have been properly paid, shall continue to be paid from the  
1615 fund to the spouse of the deceased member for life for the use of  
1616 the spouse \* \* \* and the child or children of the deceased  
1617 member \* \* \*. If \* \* \* the deceased member is not survived by a  
1618 spouse but there remains a child or children of the deceased  
1619 member the payments shall continue to be made to a parent or  
1620 lawful custodian of the child or children without the necessity of  
1621 appointment as guardian for the benefit of the child or children.  
1622 After the death \* \* \* of the spouse, all payments to the spouse  
1623 shall cease, and after the death of any child or children of the  
1624 deceased member all payments to the child or children shall cease.  
1625 If the deceased member is not survived by spouse or child or  
1626 children, but is survived by a father, \* \* \* mother \* \* \* or an  
1627 unmarried sister dependent upon him or her, the payments shall  
1628 continue to be made to the dependent father or mother or both, so  
1629 long as each lives. If there is no dependent father or mother  
1630 surviving the deceased member, the payments shall continue to be  
1631 made to the unmarried dependent sister or \* \* \* sisters of the  
1632 deceased member, so long as the beneficiary or beneficiaries \* \* \*

1633 remain unmarried. Upon the death or marriage of any such sister,  
1634 all payments shall cease to her. Payments to dependents under  
1635 this section are for services rendered by the members of the fire  
1636 and/or police department, and the amount of payment is within the  
1637 discretion of the board of disability and relief, but in no event  
1638 shall the amount payable under this section be in excess of the  
1639 amount that would have been payable as disability and relief to a  
1640 member of the department. If the father, \* \* \* mother \* \* \*  
1641 or \* \* \* sisters are not wholly dependent, then they shall not  
1642 receive any amount in excess of the difference between the income  
1643 of the father, mother, sister or sisters, and the amount that the  
1644 deceased member would have been entitled to.

1645 (2) For the purposes of this section:

1646 (a) \* \* \* "Dependent" \* \* \* means wholly dependent upon  
1647 the deceased member at the time of his or her death.

1648 (b) \* \* \* "Child" or "children" means:

1649 (i) Children of the deceased member under the age  
1650 of eighteen (18);

1651 (ii) Children of the deceased member who are  
1652 eighteen (18) years of age or older who have not yet reached their  
1653 twenty-third birthday and are pursuing a full-time education; or

1654 (iii) Children of the deceased member who, though  
1655 eighteen (18) years of age or older, are wholly dependent upon the  
1656 deceased member and incapable of self support by reason of mental  
1657 or physical disability.

1658 **SECTION 12.** Section 21-29-147, Mississippi Code of 1972, is  
1659 amended as follows:

1660 **[For any municipality that has not elected to authorize the**  
1661 **continuation of or reinstatement of spouse retirement benefits**  
1662 **under the provisions of Section 21-29-329, this section shall read**  
1663 **as follows:]**

1664 21-29-147. (1) If any member of a fire or police department  
1665 dies while a member of the fire or police department, and \* \* \*

1666 has had not less than five (5) years' service with the department,  
1667 there shall be paid from the firemen's and policemen's disability  
1668 and relief fund benefits as follows:

1669 (a) For each year's active service, not to exceed a  
1670 period of twenty (20) years, one-fortieth (1/40) of the average  
1671 monthly salary or compensation received by the member in the  
1672 six-month period next preceding his death; and

1673 (b) For each full year of active service in excess of  
1674 twenty (20) years service, an additional payment in a sum equal to  
1675 one and seven-tenths percent (1-7/10%) of the same average monthly  
1676 base salary and longevity pay received by the member in the  
1677 six-month period next preceding his or her death (provided that no  
1678 such payment shall exceed sixty-six and two-thirds percent  
1679 (66-2/3%) of the average monthly base salary and longevity pay  
1680 received by a member for the six-month period next preceding his  
1681 death) to the spouse of the deceased member for the use of the  
1682 spouse and the child or children of the deceased member, under the  
1683 age of eighteen (18) years, so long as he or she remains  
1684 unmarried \* \* \* and if, after the marriage of the spouse, there  
1685 remains a child, or children of the deceased member still under  
1686 the age of eighteen (18) years, the payments shall continue to be  
1687 made to a parent or lawful custodian of the child or children  
1688 without the necessity of appointment as guardian for the benefit  
1689 of the child or children, so long as the child or children are  
1690 under the age of eighteen (18) years. After the death or marriage  
1691 of the spouse, all payments to the spouse shall cease, and after  
1692 the death or attainment of the age of eighteen (18) years of any  
1693 child or children of the deceased member, all payments to such  
1694 child or children over eighteen (18) years of age shall cease. If  
1695 the deceased member is not survived by spouse or child or children  
1696 under the age of eighteen (18) years, but is survived by a  
1697 father, \* \* \* mother \* \* \* or an unmarried sister dependent upon  
1698 him or her, such payments shall continue to be made to such

1699 dependent father or mother or both, so long as each lives. If  
1700 there is no dependent father or mother surviving the deceased  
1701 member, such payments shall continue to be made to the dependent  
1702 sister or \* \* \* sisters of the deceased member, or dependent  
1703 incurable children of the deceased member, so long as such  
1704 beneficiary or beneficiaries \* \* \* remain unmarried. Upon the  
1705 death or marriage of any such sisters, all payments shall cease to  
1706 her. The word "dependent" as used in this section shall mean  
1707 "wholly dependent."

1708 (2) It is the intention of the Legislature that the benefits  
1709 authorized by paragraph (b) of subsection (1) of this section,  
1710 shall be paid to all qualified and eligible spouses whose deceased  
1711 spouses died before March 27, 1978.

1712 **[For any municipality that has elected to authorize the**  
1713 **continuation of or reinstatement of spouse retirement benefits**  
1714 **under the provisions of Section 21-29-329, this section shall read**  
1715 **as follows:]**

1716 21-29-147. (1) If any member of a fire or police department  
1717 dies while a member of the fire or police department, and who has  
1718 had not less than five (5) years' service with the department,  
1719 there shall be paid from the firemen's and policemen's disability  
1720 and relief fund benefits as follows:

1721 (a) For each year's active service, not to exceed a  
1722 period of twenty (20) years, one-fortieth (1/40) of the average  
1723 monthly salary or compensation received by the member in the  
1724 six-month period next preceding his death; and

1725 (b) For each full year of active service in excess of  
1726 twenty (20) years service, an additional payment in a sum equal to  
1727 one and seven-tenths percent (1-7/10%) of the same average monthly  
1728 base salary and longevity pay received by the member in the  
1729 six-month period next preceding his death (provided that no such  
1730 payment shall exceed sixty-six and two-thirds percent (66-2/3%) of  
1731 the average monthly base salary and longevity pay received by a

1732 member for the six-month period next preceding his or her death)  
1733 to the spouse of the deceased member for life for the use of the  
1734 spouse and the child or children of the deceased member, under the  
1735 age of eighteen (18) years. \* \* \* If the deceased member is not  
1736 survived by a spouse but there remains a child, or children of the  
1737 deceased member still under the age of eighteen (18) years, the  
1738 payments shall \* \* \* to be made to a parent or lawful custodian of  
1739 the child or children without the necessity of appointment as  
1740 guardian for the benefit of the child or children, so long as the  
1741 child or children are under the age of eighteen (18) years. After  
1742 the death \* \* \* of the spouse, all payments to the spouse shall  
1743 cease, and after the death or attainment of the age of eighteen  
1744 (18) years of any child or children of the deceased member, all  
1745 payments to the child or children over eighteen (18) years of age  
1746 shall cease. If the deceased member is not survived by spouse or  
1747 child or children under the age of eighteen (18) years, but is  
1748 survived by a father, \* \* \* mother \* \* \* or an unmarried sister  
1749 dependent upon him or her, such payments shall continue to be made  
1750 to such dependent father or mother or both, so long as each lives.  
1751 If there is no dependent father or mother surviving the deceased  
1752 member, such payments shall continue to be made to the dependent  
1753 sister or \* \* \* sisters of the deceased member, or dependent  
1754 incurable children of the deceased member, so long as the  
1755 beneficiary or beneficiaries \* \* \* remain unmarried. Upon the  
1756 death or marriage of any such sisters, all payments shall cease to  
1757 her. The word "dependent" as used in this section shall mean  
1758 "wholly dependent."

1759 (2) It is the intention of the Legislature that the benefits  
1760 authorized by paragraph (b) of subsection (1) of this section  
1761 shall be paid to all qualified and eligible spouses whose deceased  
1762 spouses died before March 27, 1978.

1763 **SECTION 13.** Section 21-29-255, Mississippi Code of 1972, is  
1764 amended as follows:

1765           [For any municipality that has not elected to authorize the  
1766 continuation of or reinstatement of spouse retirement benefits  
1767 under the provisions of Section 21-29-329, this section shall read  
1768 as follows:]

1769           21-29-255. (1) If any member of the fire or police  
1770 department dies in active service, or dies in inactive service on  
1771 account of disability approved for disability relief under Section  
1772 21-29-241, as a result of injury received while in the discharge  
1773 of duty in the service of the fire department or police  
1774 department, or dies as a result of sickness or disease, due to the  
1775 discharge of duty while in service as a member of the fire or  
1776 police department, or if the member dies while entitled to relief  
1777 after retirement under Section 21-29-245, the amount of disability  
1778 relief or retirement relief being paid, or which should have been  
1779 properly paid, shall continue to be paid from the fund to the  
1780 spouse of the deceased member for the use of such spouse and the  
1781 child, or children of the deceased member, so long as such spouse  
1782 remains unmarried. If, after the marriage of such spouse there  
1783 remains a child, or children, of the deceased member, the payments  
1784 shall continue to be made to a parent or lawful custodian of the  
1785 child or children without the necessity of appointment as guardian  
1786 for the benefit of the child or children. After the death or  
1787 marriage of the spouse, all payments to the spouse shall cease,  
1788 and after the death of any child or children of the deceased, all  
1789 payments to the child or children shall cease. If the deceased  
1790 member is not survived by a spouse or child or children, but is  
1791 survived by a father \* \* \* or a mother dependent upon him or her,  
1792 the payments shall continue to be made to the dependent father or  
1793 mother, or both, so long as each lives. If there is no dependent  
1794 father or mother surviving the deceased member, the payments shall  
1795 continue to be made to the unmarried dependent sister or \* \* \*  
1796 sisters of the deceased member, so long as such beneficiary or  
1797 beneficiaries \* \* \* remain unmarried. Upon the death or marriage

1798 of any such sister, all payments shall cease to her. Payments to  
1799 dependents under this section are for services rendered to the  
1800 members of the fire and/or police department, and the amount of  
1801 payments is within the discretion of the board of disability and  
1802 relief, but in no event shall the amount payable under this  
1803 section be in excess of the amount that would have been payable as  
1804 disability and relief to a member of the department.

1805 If any member of the fire or police department dies while a  
1806 member of the fire department or police department, and the member  
1807 has not less than five (5) years' service with the department,  
1808 there shall be paid from the firemen's and policemen's disability  
1809 and relief fund the following benefits:

1810 (a) For each year's active service, not to exceed a  
1811 period of twenty (20) years, one-fortieth (1/40) of the average  
1812 monthly salary or compensation received by the member in the  
1813 six-month period next preceding his death; and

1814 (b) For each full year of active service in excess of  
1815 twenty (20) years' service, an additional payment in a sum equal  
1816 to one and seven-tenths percent (1-7/10%) of the same average  
1817 monthly base salary and longevity pay received by the member in  
1818 the six-month period next preceding his death (provided that no  
1819 such payment shall exceed sixty-six and two-thirds percent  
1820 (66-2/3%) of the average monthly base salary and longevity pay  
1821 received by a member for the six-month period next preceding his  
1822 death) to the spouse of the deceased member for the use of the  
1823 spouse and the child or children of the deceased member, so long  
1824 as the spouse shall remain unmarried and if, after the marriage of  
1825 the spouse, there remains a child, or children of the deceased  
1826 member, the payments shall continue to be made to a parent or  
1827 lawful custodian of the child or children without the necessity of  
1828 appointment as guardian for the benefit of the child or children  
1829 and after the death or marriage of the spouse, all payments to the  
1830 spouse shall cease, and after the death of any child or children

1831 of the deceased member, all payments to such child or children  
1832 shall cease. If the deceased member is not survived by a spouse  
1833 or child or children, but is survived by a father, \* \* \*  
1834 mother \* \* \* or an unmarried sister dependent upon him or her, the  
1835 payments shall continue to be made to the dependent father or  
1836 mother or both, so long as each lives, or if there is no dependent  
1837 father or mother surviving the deceased member, the payments shall  
1838 continue to be made to the dependent sister or \* \* \* sisters of  
1839 the deceased member, or dependent incurable children, so long as  
1840 such beneficiary or beneficiaries \* \* \* remain unmarried. Upon  
1841 the death or marriage of any such sisters, all payments shall  
1842 cease to her. \* \* \*

1843 (2) For purposes of this section:

1844 (a) \* \* \* "Dependent" \* \* \* means wholly dependent.

1845 (b) \* \* \* "Child" or "children" means:

1846 (i) Children of the deceased member under the age  
1847 of eighteen (18);

1848 (ii) Children of the deceased member eighteen (18)  
1849 years of age or older who have not yet reached their twenty-third  
1850 birthday and are pursuing a full-time education; or

1851 (iii) Children of the deceased member who, though  
1852 eighteen (18) years of age or older, are wholly dependent upon the  
1853 deceased member and incapable of self support by reason of mental  
1854 or physical disability.

1855 **[For any municipality that has elected to authorize the**  
1856 **continuation of or reinstatement of spouse retirement benefits**  
1857 **under the provisions of Section 21-29-329, this section shall read**  
1858 **as follows:]**

1859 21-29-255. (1) If any member of the fire or police  
1860 department dies in active service, or dies in inactive service on  
1861 account of disability approved for disability relief under Section  
1862 21-29-241, as a result of injury received while in the discharge  
1863 of duty in the service of the fire department or police



1864 department, or dies as a result of sickness or disease, due to the  
1865 discharge of duty while in service as a member of the fire or  
1866 police department, or if the member dies while entitled to relief  
1867 after retirement under Section 21-29-245, the amount of disability  
1868 relief or retirement relief being paid, or which should have been  
1869 properly paid, shall continue to be paid from the fund to the  
1870 spouse of the deceased member for life for the use of the spouse  
1871 and the child, or children of the deceased member \* \* \*. If the  
1872 deceased member is not survived by a spouse but there remains a  
1873 child or children of the deceased member, the payments shall  
1874 continue to be made to a parent or lawful custodian of the child  
1875 or children without the necessity of appointment as guardian for  
1876 the benefit of the child or children. After the death \* \* \* of  
1877 the spouse, all payments to the spouse shall cease, and after the  
1878 death of any child or children of the deceased member, all  
1879 payments to the child or children shall cease. If the deceased  
1880 member is not survived by a spouse or child or children, but is  
1881 survived by a father \* \* \* or a mother dependent upon him or her,  
1882 the payments shall continue to be made to the dependent father or  
1883 mother, or both, so long as each lives, or if there is no  
1884 dependent father or mother surviving the deceased member, the  
1885 payments shall continue to be made to the unmarried dependent  
1886 sister or \* \* \* sisters of the deceased member, so long as the  
1887 beneficiary or beneficiaries \* \* \* remain unmarried. Upon the  
1888 death or marriage of any such sister, all payments shall cease to  
1889 her. Payments to dependents under this section are for services  
1890 rendered to the members of the fire and/or police department, and  
1891 the amount of payments is within the discretion of the board of  
1892 disability and relief, but in no event shall the amount payable  
1893 under this section be in excess of the amount that would have been  
1894 payable as disability and relief to a member of the department.

1895 If any member of the fire or police department dies while a  
1896 member of the fire department or police department, and the member

1897 shall have had not less than five (5) years' service with the  
1898 department, there shall be paid from the firemen's and policemen's  
1899 disability and relief fund the following benefits:

1900 (a) For each year's active service, not to exceed a  
1901 period of twenty (20) years, one-fortieth (1/40) of the average  
1902 monthly salary or compensation received by the member in the  
1903 six-month period next preceding his death; and

1904 (b) For each full year of active service in excess of  
1905 twenty (20) years service, an additional payment in a sum equal to  
1906 one and seven-tenths percent (1-7/10%) of the same average monthly  
1907 base salary and longevity pay received by the member in the  
1908 six-month period next preceding the member's death (provided that  
1909 no such payment shall exceed sixty-six and two-thirds percent  
1910 (66-2/3%) of the average monthly base salary and longevity pay  
1911 received by a member for the six-month period next preceding the  
1912 member's death) to the spouse of the deceased member for the use  
1913 of the spouse and the child or children of the deceased member, so  
1914 long as the spouse shall lives and if, after the death of the  
1915 spouse there remains a child or children of the deceased member,  
1916 the payments shall continue to be made to a parent or lawful  
1917 custodian of the child or children without the necessity of  
1918 appointment as guardian for the benefit of the child or children.  
1919 After the death \* \* \* of the spouse, all payments to the spouse  
1920 shall cease, and after the death of any child or children of the  
1921 deceased member, all payments to the child or children shall  
1922 cease. If the deceased member is not survived by spouse or child  
1923 or children, but is survived by a father, \* \* \* mother \* \* \* or an  
1924 unmarried sister dependent upon him, the payments shall continue  
1925 to be made to the dependent father or mother or both, so long as  
1926 each shall live, or if there is no dependent father or mother  
1927 surviving the deceased member, the payments shall continue to be  
1928 made to the dependent sister or \* \* \* sisters of the deceased, or  
1929 dependent incurable children, so long as the beneficiary or

1930 beneficiaries shall remain unmarried. Upon the death or marriage  
1931 of any such sisters, all payments shall cease to her. \* \* \*

1932 (2) For the purposes of this section:

1933 (a) \* \* \* "Dependent" \* \* \* means wholly dependent.

1934 (b) \* \* \* "Child" or "children" means:

1935 (i) Children of the deceased member under the age  
1936 of eighteen (18);

1937 (ii) Children of the deceased member eighteen (18)  
1938 years of age or older who have not yet reached their twenty-third  
1939 birthday and are pursuing a full-time education; or

1940 (iii) Children of the deceased member who, though  
1941 eighteen (18) years of age or older, are wholly dependent upon the  
1942 deceased and incapable of self support by reason of mental or  
1943 physical disability.

1944 **SECTION 14.** Section 63-15-71, Mississippi Code of 1972, is  
1945 brought forward as follows:

1946 63-15-71. The department shall, upon request and receipt of  
1947 proper fees, furnish any person a certified abstract of the  
1948 operating record of any person subject to the provisions of this  
1949 chapter, which abstract shall also fully designate the motor  
1950 vehicles, if any, registered in the name of such person. If there  
1951 shall be no record of any conviction of such person of violating  
1952 any law relating to the operation of a motor vehicle or of any  
1953 injury or damage caused by such person, the department shall so  
1954 certify.

1955 **SECTION 15.** Sections 1, 4 and 8 of this act shall take  
1956 effect and be in force from and after the passage of this act.  
1957 The remainder of this act shall take effect and be in force from  
1958 and after July 1, 2004.