

By: Senator(s) Thames

To: Finance

SENATE BILL NO. 2659  
(As Sent to Governor)

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

53 AMEND SECTION 63-15-71, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
54 THE DEPARTMENT OF PUBLIC SAFETY SHALL CHARGE A \$2.00 FEE PER  
55 ABSTRACT TO BE DEPOSITED INTO THE DISABILITY AND RELIEF FUND FOR  
56 THE MISSISSIPPI HIGHWAY SAFETY PATROL; AND FOR 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 those articles, to continue to  
80 receive the spouse retirement benefits for life even if the spouse  
81 remarries. The resolution also may provide that surviving spouses  
82 of deceased members who received spouse retirement benefits that  
83 were terminated upon remarriage may again receive the spouse  
84 retirement benefits from and after making application with the  
85 Board of Trustees of the Public Employees' Retirement System to  
86 reinstate the benefits. Any reinstatement of spouse retirement

87 benefits shall be prospective only from and after the first of the  
88 month following the date of application for reinstatement.

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

92 (a) The municipal retirement fund or disability and  
93 relief fund is actuarially sound, as shown by the most recent  
94 actuarial study required by Section 21-29-27, 21-29-119 or  
95 21-29-221;

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

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

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

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

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

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

118 (a) The State Treasurer;

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

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

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

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

151           (f) Two (2) retired members who are receiving a  
152 retirement allowance from the system, who shall be elected by the  
153 retired members or beneficiaries receiving a retirement allowance  
154 from the system and by the retired members or beneficiaries of the  
155 municipal systems, the firemen's and policemen's disability and  
156 relief funds and the Mississippi Highway Safety Patrol Retirement  
157 System administered by the board of trustees, to serve for a term  
158 of six (6) years under rules and regulations adopted by the board  
159 to govern that election; however, any retired member of the board  
160 in office on April 19, 1993, shall serve as a retired trustee  
161 until the end of the term for which he was elected;

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

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

180           (i) Any person eligible to vote for the election of a  
181 member of the board of trustees and who meets the qualifications  
182 for the office may seek election to the office and serve if  
183 elected. For purposes of determining eligibility to seek office

184 as a member of the board of trustees, the required creditable  
185 service in "the system" shall include each system administered by  
186 the board of trustees in which the person is a member.

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

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

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

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

215 (6) Subject to the limitations of Articles 1 and 3, the  
216 board shall establish rules and regulations for the administration

217 of the system created by those articles and for the transaction of  
218 its business, and to give force and effect to the provisions of  
219 those articles wherever necessary to carry out the intent and  
220 purposes of the Legislature. The cited articles are remedial law  
221 and shall be liberally construed to accomplish their purposes.

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

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

247 (9) The board shall elect a chairman and shall by a majority  
248 vote of all of its members appoint a secretary whose title shall  
249 be executive director, who shall serve at the will and pleasure of

250 the board, who shall not be a member of the board of trustees, who  
251 shall be entitled to membership in the system, and who shall act  
252 as secretary of the board. The board of trustees shall employ  
253 such actuarial, clerical and other employees as are required to  
254 transact the business of the system, and shall fix the  
255 compensation of all employees, subject to the rules and  
256 regulations of the State Personnel Board.

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

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

281 (12) There shall be an investment advisory board to provide  
282 advice and counsel to the board of trustees regarding the



283 investment of the funds of the system. The advisory board shall  
284 consist of three (3) members, one (1) appointed by the Governor,  
285 one (1) appointed by the Lieutenant Governor, and one (1)  
286 appointed by the Speaker of the House of Representatives. Each  
287 member of the advisory board shall be someone who is not a public  
288 employee who has had at least ten (10) years' experience in  
289 investment banking or commercial banking or who has had at least  
290 ten (10) years' professional experience in managing investments.  
291 Each member of the advisory board shall serve for a term  
292 concurrent with the term of the appointing authority. Any vacancy  
293 on the advisory board shall be filled by appointment of the  
294 original appointing authority for the remainder of the unexpired  
295 term. Members of the advisory board shall receive no compensation  
296 for their services, but shall be reimbursed for their actual and  
297 necessary expenses incurred in the performance of their duties, as  
298 provided in Section 25-3-41 for state officers and employees. The  
299 advisory board shall operate under the rules and regulations of  
300 the board of trustees and shall meet at such times as determined  
301 by the board of trustees.

302 (13) The Lieutenant Governor may designate two (2) Senators  
303 and the Speaker of the House of Representatives may designate two  
304 (2) Representatives to attend any meeting of the Board of Trustees  
305 of the Public Employees' Retirement System. The appointing  
306 authorities may designate alternate members from their respective  
307 houses to serve when the regular designees are unable to attend  
308 the meetings of the board. The legislative designees shall have  
309 no jurisdiction or vote on any matter within the jurisdiction of  
310 the board. For attending meetings of the board, the legislators  
311 shall receive per diem and expenses, which shall be paid from the  
312 contingent expense funds of their respective houses in the same  
313 amounts as provided for committee meetings when the Legislature is  
314 not in session; however, no per diem and expenses for attending  
315 meetings of the board will be paid while the Legislature is in

316 session. No per diem and expenses will be paid except for  
317 attending meetings of the board without prior approval of the  
318 proper committee in their respective houses.

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

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

324 (a) "Accumulated contributions" \* \* \* means the sum of  
325 all the amounts deducted from the compensation of a member and  
326 credited to his individual account in the annuity savings account,  
327 together with regular interest \* \* \* as provided in Section  
328 25-11-123.

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

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

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

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

343 (f) "Average compensation" \* \* \* means the average of  
344 the four (4) highest years of earned compensation reported for an  
345 employee in a fiscal or calendar year period, or combination  
346 thereof that do not overlap, or the last forty-eight (48)  
347 consecutive months of earned compensation reported for an  
348 employee. The four (4) years need not be successive or joined

349 years of service. In no case shall the average compensation so  
350 determined be in excess of One Hundred Fifty Thousand Dollars  
351 (\$150,000.00). In computing the average compensation, any amount  
352 lawfully paid in a lump sum for personal leave or major medical  
353 leave shall be included in the calculation to the extent that the  
354 amount does not exceed an amount that is equal to thirty (30) days  
355 of earned compensation and to the extent that it does not cause  
356 the employees' earned compensation to exceed the maximum  
357 reportable amount specified in Section 25-11-103(k); however, this  
358 thirty-day limitation shall not prevent the inclusion in the  
359 calculation of leave earned under federal regulations before July  
360 1, 1976, and frozen as of that date as referred to in Section  
361 25-3-99. Only the amount of lump sum pay for personal leave due  
362 and paid upon the death of a member attributable for up to one  
363 hundred fifty (150) days shall be used in the deceased member's  
364 average compensation calculation in determining the beneficiary's  
365 benefits. In computing the average compensation, no amounts shall  
366 be used that are in excess of the amount on which contributions  
367 were required and paid, and no nontaxable amounts paid by the  
368 employer for health or life insurance premiums for the employee  
369 shall be used. If any member who is or has been granted any  
370 increase in annual salary or compensation of more than eight  
371 percent (8%) retires within twenty-four (24) months from the date  
372 that the increase becomes effective, then the board shall exclude  
373 that part of the increase in salary or compensation that exceeds  
374 eight percent (8%) in calculating that member's average  
375 compensation for retirement purposes. The board may enforce this  
376 provision by rule or regulation. However, increases in  
377 compensation in excess of eight percent (8%) per year granted  
378 within twenty-four (24) months of the date of retirement may be  
379 included in the calculation of average compensation if  
380 satisfactory proof is presented to the board showing that the  
381 increase in compensation was the result of an actual change in the

382 position held or services rendered, or that the compensation  
383 increase was authorized by the State Personnel Board or was  
384 increased as a result of statutory enactment, and the employer  
385 furnishes an affidavit stating that the increase granted within  
386 the last twenty-four (24) months was not contingent on a promise  
387 or agreement of the employee to retire. Nothing in Section  
388 25-3-31 shall affect the calculation of the average compensation  
389 of any member for the purposes of this article. The average  
390 compensation of any member who retires before July 1, 1992, shall  
391 not exceed the annual salary of the Governor.

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

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

414 (i) "Creditable service" \* \* \* means "prior service,"  
415 "retroactive service" and all lawfully credited unused leave not  
416 exceeding the accrual rates and limitations provided in Section  
417 25-3-91 et seq., as of the date of withdrawal from service plus  
418 "membership service" for which credit is allowable as provided in  
419 Section 25-11-109. Except to limit creditable service reported to  
420 the system for the purpose of computing an employee's retirement  
421 allowance or annuity or benefits provided in this article, nothing  
422 in this paragraph shall limit or otherwise restrict the power of  
423 the governing authority of a municipality or other political  
424 subdivision of the state to adopt such vacation and sick leave  
425 policies as it deems necessary.

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

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

447 covered agency or political subdivision shall have the earnings of  
448 that additional employment reported to the Public Employees'  
449 Retirement System regardless of whether the additional employment  
450 is sufficient in itself to be a covered position. In addition,  
451 computation of earned compensation shall be governed by the  
452 following:

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

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

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

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

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

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

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

483 (l) "Employee" means any person legally occupying a  
484 position in the state service, and shall include the employees of  
485 the retirement system created under this article.

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

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

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

500 (p) "Medical board" \* \* \* means the board of physicians  
501 or any governmental or nongovernmental disability determination  
502 service designated by the board of trustees that is qualified to  
503 make disability determinations as provided for in Section  
504 25-11-119.

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

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

509 (s) "Position" means any office or any employment in  
510 the state service, or two (2) or more of them, the duties of which  
511 call for services to be rendered by one (1) person, including  
512 positions jointly employed by federal and state agencies

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

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

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

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



545 spouse retirement benefit from and after making application with  
546 the board of trustees to reinstate the spouse retirement benefit.

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

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

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

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

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

580 (bb) The masculine pronoun, wherever used, \* \* \*  
581 includes the feminine pronoun.

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

584 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

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

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

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

603 (b) All persons who \* \* \* become employees in the state  
604 service after January 31, 1953, except those specifically excluded  
605 or as to whom election is provided in Articles 1 and 3, unless  
606 they \* \* \* file with the board before the lapse of sixty (60) days  
607 of employment or sixty (60) days after the effective date of the  
608 cited articles, whichever is later, on a form prescribed by the  
609 board, a notice of election not to be covered by the membership of

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

629 (1) The member shall furnish proof satisfactory to  
630 the board of trustees of certification of that 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 that credit or at any time  
634 thereafter before the date of retirement the actuarial cost for  
635 each year of that 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 under  
638 Section 415.

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 \* \* \* 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 that 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,  
654 they \* \* \* file a written notice with the board of trustees that  
655 they 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 \* \* \* indicates by a notice  
662 filed with the board, on a form prescribed by the board, his  
663 individual election and choice to participate in this system, but  
664 no such person shall receive prior service credit unless he  
665 becomes a 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 \* \* \* 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 the plan, or the plan as amended, is in conformity with such  
674 requirements as are provided in Articles 1 and 3; however, upon  
675 approval of the plan or any such plan previously approved by the

676 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 that 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 those sources will be adequate for that 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 the plan, the termination to take  
710 effect at the expiration of such notice and on such conditions as  
711 may be provided by regulations of the board and as may be  
712 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 by the board's decision. The board's  
718 decision in any such case shall be final, conclusive and binding  
719 unless an appeal is taken by the political subdivision or  
720 instrumentality aggrieved by the decision to the Circuit Court of  
721 Hinds County, Mississippi, in accordance with the provisions of  
722 law with respect to civil causes 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 of this section is authorized, in consideration of the employees'  
733 retention in or entry upon employment after enactment of Articles  
734 1 and 3, to impose upon its employees, as to services that are  
735 covered by an approved plan, a contribution with respect to wages  
736 (as defined in Section 25-11-5) not exceeding the amount provided  
737 in Section 25-11-123(d) if those services constituted employment  
738 within the meaning of Articles 1 and 3, and to deduct the amount  
739 of the contribution from the wages as and when paid.

740 Contributions so collected shall be paid into the contribution  
741 fund as partial discharge of the liability of the political

742 subdivisions or instrumentalities under paragraph (f)(5)B of this  
743 section. Failure to deduct the contribution shall not relieve the  
744 employee or employer of liability for the contribution.

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 the 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 the 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 that submit 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 before July 1, 1953, except as provided in  
776 paragraph (b).

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

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

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

800 (k) Employees of a political subdivision or  
801 instrumentality who were employed by the political subdivision or  
802 instrumentality before an agreement between the 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 that retroactive service with the political subdivision or  
809 instrumentality, provided that the employee and/or employer, as  
810 provided under the terms of the modification of the joinder  
811 agreement in allowing that coverage, pay into the retirement  
812 system the employer's and employee's contributions on wages paid  
813 the member during the 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 the service was made. Those 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 that retroactive service with the political  
820 subdivision or instrumentality provided:

821 (1) The member shall furnish proof satisfactory to  
822 the board of trustees of certification of those 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 that credit or at any time  
828 thereafter before the date of retirement the actuarial cost for  
829 each year of that 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 under  
832 Section 415.

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 that  
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 the 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 (1) 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 that creditable  
851 service, may, at the member's option, be purchased in quarterly  
852 increments as provided above at the time that 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 those 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. The irrevocable agreement shall constitute a waiver by  
924 the spouse to any current and future monthly allowance under the  
925 paragraph not elected, and the waiver shall be a complete and full  
926 discharge of all obligations of the retirement system under that  
927 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 the 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 the 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. Those  
986 benefits may be paid to a surviving parent or the lawful custodian  
987 of a dependent child for the use and benefit of the 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. Those benefits shall cease to be  
1011 paid for the support and maintenance of each child upon the child  
1012 attaining the age of nineteen (19) years; however, the spouse  
1013 shall continue to be eligible for the aforesaid retirement  
1014 allowance. Those benefits may be paid to a surviving parent or  
1015 lawful custodian of the 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 those 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 the person that 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 that the medical board or  
1065 other 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 the 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 the application  
1070 but in no event shall the retirement allowance begin 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 that 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) If the deceased or disabled member has less than four  
1082 (4) years of creditable service, the average compensation as  
1083 defined in Section 25-11-103 shall be the average of all annual  
1084 earned compensation in state service for the purposes of benefits  
1085 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 the 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 under this  
1112 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 that 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 that he  
1139 would have paid into that system if he had been a member of that  
1140 system for each year of creditable service that is being  
1141 transferred, together with regular interest that would have been  
1142 earned by that system on those contributions, and he must also  
1143 pay, or the system from which he is transferring must pay, into  
1144 the system to which he is being transferred, an amount equal to  
1145 that which the employer would have paid if he had been a member of  
1146 that system for each year transferred, together with regular  
1147 interest that would have been earned by that system on those  
1148 contributions. The retirement system from which he is being  
1149 transferred shall be required to pay into the system to which he  
1150 is transferring any funds credited to his account. Any additional  
1151 funds that may be required shall be paid by the person being  
1152 transferred. Those payments may be made in quarterly increments.  
1153 Failure to make these proper adjustment payments will void any  
1154 transfer of service credits.

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

1171 law enforcement or fire department service, as noted above, within  
1172 and for the State of Mississippi or the political subdivisions  
1173 thereof, shall apply to the time required by law necessary to  
1174 effect the retirement or disability of the officer.

1175         **SECTION 8.** Section 25-13-12, Mississippi Code of 1972, is  
1176 amended as follows:

1177         25-13-12. (1) Any member who is receiving a retirement  
1178 allowance for service or disability retirement, or any beneficiary  
1179 thereof, who has received a monthly benefit for at least one (1)  
1180 full fiscal year, shall be eligible to receive an additional  
1181 benefit, on December 1 or July 1 of the year as provided in  
1182 subsection (6) or (7) of this section, equal to the sum of:

1183             (a) An amount equal to three percent (3%) of the annual  
1184 retirement allowance multiplied by the number of full fiscal years  
1185 in retirement before the end of the fiscal year in which the  
1186 member reaches age sixty (60) or the age established in the latest  
1187 phase that has been implemented under subsection (3) of this  
1188 section, plus

1189             (b) An additional amount equal to three percent (3%)  
1190 compounded by the number of full fiscal years in retirement  
1191 beginning with the fiscal year in which the member reaches age  
1192 sixty (60) or the age established in the latest phase that has  
1193 been implemented under subsection (3) of this section, multiplied  
1194 by the amount of the annual retirement allowance.

1195         (2) The calculation of the beneficiary's additional benefit  
1196 provided in this section shall be based on the member's age and  
1197 full fiscal years in retirement as if the member had lived.

1198         (3) From and after July 1, 2003, the board shall begin  
1199 implementing a reduction in the age at which compounding of the  
1200 portion of the additional benefit provided in subsection (1)(b) of  
1201 this section will begin, which changes shall be implemented in  
1202 phases as set forth in the table in this subsection. The board  
1203 shall implement the phases systematically upon July 1 after the

1204 board's actuary certifies that implementation of a phase will not  
 1205 cause the unfunded accrued actuarial liability amortization period  
 1206 for the retirement system to exceed twenty (20) years. The board  
 1207 shall have the exclusive authority to set the assumptions that are  
 1208 used in the actuarial valuation in accordance with Section  
 1209 25-13-29.

1210 IMPLEMENTATION TABLE FOR AGE OF  
 1211 COMPOUNDING THE ADDITIONAL BENEFIT

1212 PHASE	1213 AGE AT WHICH 1214 COMPOUNDING 1215 THE ADDITIONAL 1216 BENEFIT BEGINS
1217 Phase 1	Age 59
1218 Phase 2	Age 58
1219 Phase 3	Age 57
1220 Phase 4	Age 56
1221 Phase 5	Age 55

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

1237 under this section to a deceased beneficiary who was receiving a  
1238 monthly benefit shall be payable in accordance with the provisions  
1239 of Section 25-13-21.1(2). If the additional benefit is being  
1240 received in one (1) payment each year, the additional benefit  
1241 shall be prorated based on the number of months in which a  
1242 retirement allowance was received during the fiscal year when (i)  
1243 the monthly benefit payable to a beneficiary terminates due to the  
1244 expiration of an option, remarriage or cessation of dependent  
1245 status or due to the retiree's return to covered employment, and  
1246 (ii) the monthly benefit terminates on or after July 1 and before  
1247 December 1.

1248 (5) Each retired member or beneficiary thereof who receives  
1249 an annual retirement allowance based on the average compensation  
1250 for a period of five (5) successive or joined years and who  
1251 receives a retirement allowance for the month of June 1986, shall  
1252 receive an ad hoc increase of three percent (3%) in such  
1253 retirement allowance effective July 1, 1986.

1254 (6) The additional benefit provided in this section shall be  
1255 paid in one (1) payment in December of each year to those persons  
1256 who are receiving a retirement allowance on December 1 of that  
1257 year, unless an election is made under subsection (7) of this  
1258 section. The board, in its discretion, may allow a retired member  
1259 or a beneficiary thereof who is receiving the additional benefit  
1260 in one (1) payment each year to have the additional benefit paid  
1261 in monthly installments if the retired member or beneficiary  
1262 submits satisfactory documentation that the continued receipt of  
1263 the additional benefit in one (1) payment each year will cause a  
1264 financial hardship to the retired member or beneficiary.

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

1270 this section in twelve (12) equal monthly installments beginning  
1271 on July 1 of the year. This irrevocable agreement shall be  
1272 binding on the member and subsequent beneficiaries. Payment of  
1273 those monthly installments shall not extend beyond the month in  
1274 which a retirement allowance is due and payable. Any retired  
1275 member or beneficiary thereof who previously elected to receive  
1276 the additional annual payment in monthly installments may elect,  
1277 upon application on a form prescribed by the board, to have that  
1278 payment made in one (1) payment in December of each year. This  
1279 written election must be filed in the office of the Public  
1280 Employees' Retirement System before June 1, 2003, and shall be  
1281 effective for the fiscal year beginning July 1, 2003. The board,  
1282 in its discretion, may allow a retired member or a beneficiary  
1283 thereof who is receiving the additional benefit in monthly  
1284 installments to have the additional benefit paid in one (1)  
1285 payment in December of each year if the retired member or  
1286 beneficiary submits satisfactory documentation that the continued  
1287 receipt of the additional benefit in monthly installments will  
1288 cause financial hardship to the retired member or beneficiary.

1289 (8) The additional benefit or benefits provided in this  
1290 section are for the fiscal year in which they are paid.

1291 (9) The amount of the additional benefit provided in  
1292 subsection (1)(b) of this section is calculated using the  
1293 following formula:

1294 
$$[(1.03)^n - 1] \times [\text{annual retirement allowance}],$$

1295 where  $n$  is the number of full fiscal years in retirement beginning  
1296 with the fiscal year in which the member reaches age sixty (60) or  
1297 the age established in the latest phase that has been implemented  
1298 under subsection (3) of this section.

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

1303 receive the additional benefit provided in this section in one (1)  
1304 payment in December of the current fiscal year, any remaining  
1305 amounts shall be paid in a lump sum to the designated beneficiary.

1306 (11) When a member retires after July 1 and has previously  
1307 received a retirement allowance for one or more full fiscal years,  
1308 the retired member shall be eligible immediately for the  
1309 additional benefit. The additional benefit shall be based on the  
1310 current retirement allowance and the number of full fiscal years  
1311 in retirement and shall be prorated and paid in monthly  
1312 installments based on the number of months a retirement allowance  
1313 is paid during the fiscal year.

1314 **SECTION 9.** Section 25-13-13, Mississippi Code of 1972, is  
1315 amended as follows:

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



1336 Any reinstatement of the benefits shall be prospective only and  
1337 shall begin after the first of the month following the date of the  
1338 application for reinstatement, but no earlier than July 1, 2004.

1339 (2) Upon the death of any highway patrolman who has served  
1340 the minimum retirement period required for eligibility for this  
1341 retirement program, his or her spouse and family shall receive all  
1342 the benefits payable to the highway patrolman's beneficiaries as  
1343 if he or she had retired at the time of his or her death. Those  
1344 benefits continue to be paid to the spouse for life. The benefits  
1345 are payable on a monthly basis. Surviving spouses of deceased  
1346 members who previously received spouse retirement benefits under  
1347 this subsection from and after July 1, 1958, and whose benefits  
1348 were terminated before July 1, 2004, because of remarriage, may  
1349 again receive the retirement benefits authorized under this  
1350 subsection by making application with the board to reinstate the  
1351 benefits. Any reinstatement of the benefits shall be prospective  
1352 only and shall begin after the first of the month following the  
1353 date of the application for reinstatement, but no earlier than  
1354 July 1, 2004.

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

1369 benefits shall cease to be paid for the support and maintenance of  
1370 each child upon the child attaining the age of nineteen (19)  
1371 years; however, the spouse shall continue to be eligible for the  
1372 aforesaid retirement allowance. Benefits may be paid to a  
1373 surviving parent or lawful custodian of the children for the use  
1374 and benefit of the children without the necessity of appointment  
1375 as guardian. The retirement allowance shall continue to be paid  
1376 to the spouse for life. Surviving spouses of deceased members who  
1377 previously received spouse retirement benefits under this  
1378 subsection from and after July 1, 1958, and whose benefits were  
1379 terminated before July 1, 2004, because of remarriage, may again  
1380 receive the retirement benefits authorized under this subsection  
1381 by making application with the board to reinstate the benefits.  
1382 Any reinstatement of the benefits shall be prospective only and  
1383 shall begin after the first of the month following the date of the  
1384 application for reinstatement, but no earlier than July 1, 2004.

1385 (4) All benefits accruing to any child under the provisions  
1386 of this chapter shall be paid to the parent custodian of the  
1387 children or the legal guardian.

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

1402 July 1 following the actual twenty-third birthday. A full-time  
1403 course of resident study or training means a day or evening  
1404 noncorrespondence course that includes school attendance at the  
1405 rate of at least thirty-six (36) weeks per academic year or other  
1406 applicable period with a subject load sufficient, if successfully  
1407 completed, to attain the educational or training objective within  
1408 the period generally accepted as minimum for completion, by a  
1409 full-time day student, of the academic or training program  
1410 concerned.

1411 (6) If all the annuities provided for in this section  
1412 payable on the account of the death of a member terminate before  
1413 there has been paid an aggregate amount equal to the member's  
1414 accumulated contributions standing to the member's credit in the  
1415 annuity savings account at the time of the member's death, the  
1416 difference between the accumulated contributions and the aggregate  
1417 amount of annuity payments shall be paid to the person as the  
1418 member has nominated by written designation duly executed and  
1419 filed with the board of trustees in the office of the Public  
1420 Employees' Retirement System. If there is no designated  
1421 beneficiary surviving at termination of benefits, the difference  
1422 shall be payable pursuant to Section 25-13-21.1(1).

1423 (7) All benefits paid to a spouse or child due to the death  
1424 of a member before or after retirement shall be paid in accordance  
1425 with the statutory provisions set forth as of the date of death.

1426 **SECTION 10.** Section 21-29-45, Mississippi Code of 1972, is  
1427 amended as follows:

1428 **[For any municipality that has not elected to authorize the**  
1429 **continuation of or reinstatement of spouse retirement benefits**  
1430 **under the provisions of Section 21-29-329, this section shall read**  
1431 **as follows:]**

1432 21-29-45. Upon proper application to the general retirement  
1433 board, the benefits to dependents of deceased members and  
1434 retirants shall be paid as follows:

1435           (a) If any member dies for causes other than the  
1436 performance of duty in the service of the municipality before  
1437 completing five (5) years' service, there shall be paid to his or  
1438 her designated beneficiary or his or her legal representative, if  
1439 no beneficiary has been designated, from the employees' savings  
1440 fund the sum equal to the amount accumulated in his or her  
1441 individual account.

1442           (b) If any member dies who has not had less than five  
1443 (5) and not more than twenty (20) years' service with the  
1444 municipality, there shall be paid to the spouse, from the  
1445 retirement reserve fund, for each year's active service, not to  
1446 exceed a period of twenty (20) years, one-fortieth (1/40) of the  
1447 average monthly salary or compensation received by the member in  
1448 the four-year or two-year period, as the case may be, next  
1449 preceding the death, for the use of the spouse and the child or  
1450 children of the deceased member under the age of eighteen (18)  
1451 years, so long as the spouse remains unmarried. If, after the  
1452 marriage of the spouse, there remains a child or children of the  
1453 deceased member under the age of eighteen (18) years, the payments  
1454 shall continue to be made to a parent or lawful custodian of the  
1455 child or children without the necessity of appointment as guardian  
1456 for the benefit of the child or children, so long as the child or  
1457 children are under the age of eighteen (18) years. After the  
1458 death or marriage of the spouse, all payments to the spouse shall  
1459 cease, and after the death or attainment of eighteen (18) years of  
1460 any child or children of the deceased, all payments to the child  
1461 or children over eighteen (18) years of age shall cease. If the  
1462 deceased member is not survived by a spouse or child or children  
1463 under the age of eighteen (18) years, but is survived by a  
1464 father \* \* \* or a mother dependent upon him or her, the payments  
1465 shall continue to be made to the dependent father or mother, or  
1466 both, so long as each lives. The word "dependent," as used in

1467 this section, shall mean "wholly dependent," as determined by the  
1468 retirement board.

1469 (c) If any member dies after having completed twenty  
1470 (20) years' service as required by Section 21-29-31, or if any  
1471 retirant dies, there shall be paid from the retirement reserve  
1472 fund to the spouse or the dependents designated in paragraph (b)  
1473 of this section, the amount of benefits or retirement pay equal to  
1474 the sum being paid to the deceased member or retirant, or which  
1475 would have been paid to the deceased member or retirant if he or  
1476 she had applied for benefits under this section, on the date of  
1477 his or her death.

1478 (d) If any member dies before becoming eligible to  
1479 receive benefits under this article as a result of the performance  
1480 of duty to the municipality, there shall be paid to the spouse or  
1481 dependents designated in paragraph (b) of this section from the  
1482 retirement reserve fund, an amount equal to fifty percent (50%) of  
1483 the monthly salary of the deceased member on the date of his or  
1484 her death. This amount shall be paid to the same beneficiaries  
1485 and for the same period of time as those beneficiaries and periods  
1486 of time set forth in paragraph (b) of this section.

1487 **[For any municipality that has elected to authorize the**  
1488 **continuation of or reinstatement of spouse retirement benefits**  
1489 **under the provisions of Section 21-29-329, this section shall read**  
1490 **as follows:]**

1491 21-29-45. Upon proper application to the general retirement  
1492 board, the benefits to dependents of deceased members and  
1493 retirants shall be paid as follows:

1494 (a) If any member dies for causes other than the  
1495 performance of duty in the service of the municipality before  
1496 completing five (5) years' service, there shall be paid to his or  
1497 her designated beneficiary or his or her legal representative, if  
1498 no beneficiary has been designated, from the employees' savings

1499 fund the sum equal to the amount accumulated in his or her  
1500 individual account.

1501 (b) If any member dies who has not had less than five  
1502 (5) and not more than twenty (20) years' service with the  
1503 municipality, there shall be paid to the spouse, from the  
1504 retirement reserve fund, for each year's active service, not to  
1505 exceed a period of twenty (20) years, one-fortieth (1/40) of the  
1506 average monthly salary or compensation received by the member in  
1507 the four-year or two-year period, as the case may be, next  
1508 preceding the death, for the use of the spouse and the child or  
1509 children of the deceased member under the age of eighteen (18)  
1510 years, so long as the spouse lives. If, after the death of the  
1511 spouse, there remains a child or children of the deceased member  
1512 under the age of eighteen (18) years, the payments shall continue  
1513 to be made to a parent or lawful custodian of the child or  
1514 children without the necessity of appointment as guardian for the  
1515 benefit of the child or children, so long as the child or children  
1516 are under the age of eighteen (18) years. After the death \* \* \*  
1517 of the spouse, all payments to the spouse shall cease, and after  
1518 the death or attainment of eighteen (18) years of any child or  
1519 children of the deceased member, all payments to the child or  
1520 children over eighteen (18) years of age shall cease. If the  
1521 deceased member is not survived by a spouse, child or children  
1522 under the age of eighteen (18) years, but is survived by a  
1523 father \* \* \* or a mother dependent upon him or her, the payments  
1524 shall continue to be made to the dependent father or mother, or  
1525 both, so long as each lives. The word "dependent," as used in  
1526 this section, shall mean "wholly dependent," as determined by the  
1527 retirement board.

1528 (c) If any member dies after having completed twenty  
1529 (20) years' service as required by Section 21-29-31, or if any  
1530 retirant dies, there shall be paid from the retirement reserve  
1531 fund to the spouse or the dependents designated in paragraph (b)

1532 of this section, the amount of benefits or retirement pay equal to  
1533 the sum being paid to the deceased member or retirant, or which  
1534 would have been paid to the deceased member or retirant if he or  
1535 she had applied for benefits under this section, on the date of  
1536 his or her death.

1537 (d) If any member dies before becoming eligible to  
1538 receive benefits under this article as a result of the performance  
1539 of duty to the municipality, there shall be paid to the spouse or  
1540 dependents designated in paragraph (b) of this section from the  
1541 retirement reserve fund, an amount equal to fifty percent (50%) of  
1542 the monthly salary of the deceased member on the date of his or  
1543 her death. This amount shall be paid to the same beneficiaries  
1544 and for the same period of time as those beneficiaries and periods  
1545 of time set forth in paragraph (b) of this section.

1546 **SECTION 11.** Section 21-29-145, Mississippi Code of 1972, is  
1547 amended as follows:

1548 **[For any municipality that has not elected to authorize the**  
1549 **continuation of or reinstatement of spouse retirement benefits**  
1550 **under the provisions of Section 21-29-329, this section shall read**  
1551 **as follows:]**

1552 21-29-145. (1) If any member of the fire or police  
1553 department dies in active service, or dies in inactive service on  
1554 account of disability approved for disability relief under the  
1555 provisions of Section 21-29-133, as a result of injury received  
1556 while in the discharge of duty in the service of the fire  
1557 department or police department, or dies as a result of sickness  
1558 or disease, due to the discharge of duty while in service as a  
1559 member of the fire or police department, or if the member dies  
1560 while entitled to relief after retirement under Section 21-29-139,  
1561 the amount of disability relief or retirement being paid, or which  
1562 should have been properly paid, shall continue to be paid from the  
1563 fund to the spouse of the deceased member for the use of the  
1564 spouse \* \* \* and the child or children of the deceased member, so

1565 long as the spouse remains unmarried. If, after the marriage of  
1566 the spouse, there remains a child or children of the deceased  
1567 member, the payments shall continue to be made to a parent or  
1568 lawful custodian of the child or children without the necessity of  
1569 appointment as guardian for the benefit of the child or children.  
1570 After the death or marriage of the spouse, all payments to the  
1571 spouse shall cease, and after the death of any child or children  
1572 of the deceased member, all payments to the child or children  
1573 shall cease. If the deceased member is not survived by spouse or  
1574 child or children, but is survived by a father, \* \* \*  
1575 mother \* \* \*, or an unmarried sister dependent upon him or her,  
1576 the payments shall continue to be made to the dependent father or  
1577 mother or both, so long as each lives, or if there is no dependent  
1578 father or mother surviving the deceased member, the payments shall  
1579 continue to be made to the unmarried dependent sister or dependent  
1580 sisters of the deceased, so long as the beneficiary or  
1581 beneficiaries \* \* \* remain unmarried. Upon the death or marriage  
1582 of any such sister, all payments shall cease to her. Payments to  
1583 dependents under this section are for services rendered by the  
1584 members of the fire and/or police department, and the amount of  
1585 payment is within the discretion of the board of disability and  
1586 relief, but in no event shall the amount payable under this  
1587 section be in excess of the amount that would have been payable as  
1588 disability and relief to a member of the department. If the  
1589 father, \* \* \* mother \* \* \*, or \* \* \* sisters are not wholly  
1590 dependent, then they shall not receive any amount in excess of the  
1591 difference between the income of the father, mother, sister or  
1592 sisters, and the amount that the deceased member would have been  
1593 entitled to.

1594 (2) For purposes of this section:

1595 (a) \* \* \* "Dependent" means wholly dependent upon the  
1596 deceased at the time of his death.

1597 (b) \* \* \* "Child" or "children" means:



1598 (i) Children of the deceased member under the age  
1599 of eighteen (18);

1600 (ii) Children of the deceased member eighteen (18)  
1601 years of age or older who have not yet reached their twenty-third  
1602 birthday and are pursuing a full-time education; or

1603 (iii) Children of the deceased member who, though  
1604 eighteen (18) years of age or older, are wholly dependent upon the  
1605 deceased member and incapable of self-support by reason of mental  
1606 or physical disability.

1607 **[For any municipality that has elected to authorize the**  
1608 **continuation of or reinstatement of spouse retirement benefits**  
1609 **under the provisions of Section 21-29-329, this section shall read**  
1610 **as follows:]**

1611 21-29-145. (1) If any member of the fire or police  
1612 department dies in active service, or dies in inactive service on  
1613 account of disability approved for disability relief under the  
1614 provisions of Section 21-29-133, as a result of injury received  
1615 while in the discharge of duty in the service of the fire  
1616 department or police department, or dies as a result of sickness  
1617 or disease, due to the discharge of duty while in service as a  
1618 member of the fire or police department, or if the member dies  
1619 while entitled to relief after retirement under Section 21-29-139,  
1620 the amount of disability relief or retirement being paid, or which  
1621 should have been properly paid, shall continue to be paid from the  
1622 fund to the spouse of the deceased member for life for the use of  
1623 the spouse \* \* \* and the child or children of the deceased member.  
1624 If the deceased member is not survived by a spouse, but there  
1625 remains a child or children of the deceased member, the payments  
1626 shall continue to be made to a parent or lawful custodian of the  
1627 child or children without the necessity of appointment as guardian  
1628 for the benefit of the child or children. After the death \* \* \*  
1629 of the spouse, all payments to the spouse shall cease, and after  
1630 the death of any child or children of the deceased member, all

1631 payments to the child or children shall cease. If the deceased  
1632 member is not survived by spouse or child or children, but is  
1633 survived by a father, \* \* \* mother \* \* \* or an unmarried sister  
1634 dependent upon him or her, the payments shall continue to be made  
1635 to the dependent father or mother or both, so long as each lives.  
1636 If there is no dependent father or mother surviving the deceased  
1637 member, the payments shall continue to be made to the unmarried  
1638 dependent sister or \* \* \* sisters of the deceased member, so long  
1639 as the beneficiary or beneficiaries \* \* \* remain unmarried. Upon  
1640 the death or marriage of any such sister, all payments shall cease  
1641 to her. Payments to dependents under this section are for  
1642 services rendered by the members of the fire and/or police  
1643 department, and the amount of payment is within the discretion of  
1644 the board of disability and relief, but in no event shall the  
1645 amount payable under this section be in excess of the amount that  
1646 would have been payable as disability and relief to a member of  
1647 the department. If the father, \* \* \* mother \* \* \* or \* \* \*  
1648 sisters are not wholly dependent, then they shall not receive any  
1649 amount in excess of the difference between the income of the  
1650 father, mother, sister or sisters, and the amount that the  
1651 deceased member would have been entitled to.

1652 (2) For the purposes of this section:

1653 (a) \* \* \* "Dependent" means wholly dependent upon the  
1654 deceased member at the time of his or her death.

1655 (b) \* \* \* "Child" or "children" means:

1656 (i) Children of the deceased member under the age  
1657 of eighteen (18);

1658 (ii) Children of the deceased member who are  
1659 eighteen (18) years of age or older who have not yet reached their  
1660 twenty-third birthday and are pursuing a full-time education; or

1661 (iii) Children of the deceased member who, though  
1662 eighteen (18) years of age or older, are wholly dependent upon the

1663 deceased member and incapable of self-support by reason of mental  
1664 or physical disability.

1665 **SECTION 12.** Section 21-29-147, Mississippi Code of 1972, is  
1666 amended as follows:

1667 **[For any municipality that has not elected to authorize the**  
1668 **continuation of or reinstatement of spouse retirement benefits**  
1669 **under the provisions of Section 21-29-329, this section shall read**  
1670 **as follows:]**

1671 21-29-147. (1) If any member of a fire or police department  
1672 dies while a member of the fire or police department, and \* \* \*  
1673 has had not less than five (5) years' service with the department,  
1674 there shall be paid from the firemen's and policemen's disability  
1675 and relief fund benefits as follows:

1676 (a) For each year's active service, not to exceed a  
1677 period of twenty (20) years, one-fortieth (1/40) of the average  
1678 monthly salary or compensation received by the member in the  
1679 six-month period next preceding his or her death; and

1680 (b) For each full year of active service in excess of  
1681 twenty (20) years service, an additional payment in a sum equal to  
1682 one and seven-tenths percent (1-7/10%) of the same average monthly  
1683 base salary and longevity pay received by the member in the  
1684 six-month period next preceding his or her death (provided that no  
1685 such payment shall exceed sixty-six and two-thirds percent  
1686 (66-2/3%) of the average monthly base salary and longevity pay  
1687 received by a member for the six-month period next preceding his  
1688 or her death) to the spouse of the deceased member for the use of  
1689 the spouse and the child or children of the deceased member under  
1690 the age of eighteen (18) years, so long as he or she remains  
1691 unmarried, and if, after the marriage of the spouse, there remains  
1692 a child or children of the deceased member still under the age of  
1693 eighteen (18) years, the payments shall continue to be made to a  
1694 parent or lawful custodian of the child or children without the  
1695 necessity of appointment as guardian for the benefit of the child

1696 or children, so long as the child or children are under the age of  
1697 eighteen (18) years. After the death or marriage of the spouse,  
1698 all payments to the spouse shall cease, and after the death or  
1699 attainment of the age of eighteen (18) years of any child or  
1700 children of the deceased member, all payments to the child or  
1701 children over eighteen (18) years of age shall cease. If the  
1702 deceased member is not survived by spouse or child or children  
1703 under the age of eighteen (18) years, but is survived by a  
1704 father, \* \* \* mother \* \* \* or an unmarried sister dependent upon  
1705 him or her, the payments shall continue to be made to the  
1706 dependent father or mother or both, so long as each lives. If  
1707 there is no dependent father or mother surviving the deceased  
1708 member, the payments shall continue to be made to the dependent  
1709 sister or \* \* \* sisters of the deceased member, or dependent  
1710 incurable children of the deceased member, so long as the  
1711 beneficiary or beneficiaries \* \* \* remain unmarried. Upon the  
1712 death or marriage of any such sisters, all payments shall cease to  
1713 her. The word "dependent" as used in this section shall mean  
1714 "wholly dependent."

1715 (2) It is the intention of the Legislature that the benefits  
1716 authorized by paragraph (b) of subsection (1) of this section,  
1717 shall be paid to all qualified and eligible spouses whose deceased  
1718 spouses died before March 27, 1978.

1719 **[For any municipality that has elected to authorize the**  
1720 **continuation of or reinstatement of spouse retirement benefits**  
1721 **under the provisions of Section 21-29-329, this section shall read**  
1722 **as follows:]**

1723 21-29-147. (1) If any member of a fire or police department  
1724 dies while a member of the fire or police department, and who has  
1725 had not less than five (5) years' service with the department,  
1726 there shall be paid from the firemen's and policemen's disability  
1727 and relief fund benefits as follows:

1728           (a) For each year's active service, not to exceed a  
1729 period of twenty (20) years, one-fortieth (1/40) of the average  
1730 monthly salary or compensation received by the member in the  
1731 six-month period next preceding his or her death; and

1732           (b) For each full year of active service in excess of  
1733 twenty (20) years service, an additional payment in a sum equal to  
1734 one and seven-tenths percent (1-7/10%) of the same average monthly  
1735 base salary and longevity pay received by the member in the  
1736 six-month period next preceding his or her death (provided that no  
1737 such payment shall exceed sixty-six and two-thirds percent  
1738 (66-2/3%) of the average monthly base salary and longevity pay  
1739 received by a member for the six-month period next preceding his  
1740 or her death) to the spouse of the deceased member for life for  
1741 the use of the spouse and the child or children of the deceased  
1742 member under the age of eighteen (18) years. If the deceased  
1743 member is not survived by a spouse, but there remains a child or  
1744 children of the deceased member still under the age of eighteen  
1745 (18) years, the payments shall \* \* \* be made to a parent or lawful  
1746 custodian of the child or children without the necessity of  
1747 appointment as guardian for the benefit of the child or children,  
1748 so long as the child or children are under the age of eighteen  
1749 (18) years. After the death \* \* \* of the spouse, all payments to  
1750 the spouse shall cease, and after the death or attainment of the  
1751 age of eighteen (18) years of any child or children of the  
1752 deceased member, all payments to the child or children over  
1753 eighteen (18) years of age shall cease. If the deceased member is  
1754 not survived by spouse or child or children under the age of  
1755 eighteen (18) years, but is survived by a father, \* \* \*  
1756 mother \* \* \* or an unmarried sister dependent upon him or her, the  
1757 payments shall continue to be made to the dependent father or  
1758 mother or both, so long as each lives. If there is no dependent  
1759 father or mother surviving the deceased member, the payments shall  
1760 continue to be made to the dependent sister or \* \* \* sisters of

1761 the deceased member, or dependent incurable children of the  
1762 deceased member, so long as the beneficiary or beneficiaries \* \* \*  
1763 remain unmarried. Upon the death or marriage of any such sisters,  
1764 all payments shall cease to her. The word "dependent" as used in  
1765 this section shall mean "wholly dependent."

1766 (2) It is the intention of the Legislature that the benefits  
1767 authorized by paragraph (b) of subsection (1) of this section  
1768 shall be paid to all qualified and eligible spouses whose deceased  
1769 spouses died before March 27, 1978.

1770 **SECTION 13.** Section 21-29-255, Mississippi Code of 1972, is  
1771 amended as follows:

1772 **[For any municipality that has not elected to authorize the**  
1773 **continuation of or reinstatement of spouse retirement benefits**  
1774 **under the provisions of Section 21-29-329, this section shall read**  
1775 **as follows:]**

1776 21-29-255. (1) If any member of the fire or police  
1777 department dies in active service, or dies in inactive service on  
1778 account of disability approved for disability relief under Section  
1779 21-29-241, as a result of injury received while in the discharge  
1780 of duty in the service of the fire department or police  
1781 department, or dies as a result of sickness or disease, due to the  
1782 discharge of duty while in service as a member of the fire or  
1783 police department, or if the member dies while entitled to relief  
1784 after retirement under Section 21-29-245, the amount of disability  
1785 relief or retirement relief being paid, or which should have been  
1786 properly paid, shall continue to be paid from the fund to the  
1787 spouse of the deceased member for the use of the spouse and the  
1788 child, or children of the deceased member, so long as the spouse  
1789 remains unmarried. If, after the marriage of the spouse, there  
1790 remains a child or children of the deceased member, the payments  
1791 shall continue to be made to a parent or lawful custodian of the  
1792 child or children without the necessity of appointment as guardian  
1793 for the benefit of the child or children. After the death or

1794 marriage of the spouse, all payments to the spouse shall cease,  
1795 and after the death of any child or children of the deceased, all  
1796 payments to the child or children shall cease. If the deceased  
1797 member is not survived by a spouse or child or children, but is  
1798 survived by a father \* \* \* or a mother dependent upon him or her,  
1799 the payments shall continue to be made to the dependent father or  
1800 mother, or both, so long as each lives. If there is no dependent  
1801 father or mother surviving the deceased member, the payments shall  
1802 continue to be made to the unmarried dependent sister or \* \* \*  
1803 sisters of the deceased member, so long as the beneficiary or  
1804 beneficiaries \* \* \* remain unmarried. Upon the death or marriage  
1805 of any such sister, all payments shall cease to her. Payments to  
1806 dependents under this section are for services rendered to the  
1807 members of the fire and/or police department, and the amount of  
1808 payments is within the discretion of the board of disability and  
1809 relief, but in no event shall the amount payable under this  
1810 section be in excess of the amount that would have been payable as  
1811 disability and relief to a member of the department.

1812 If any member of the fire or police department dies while a  
1813 member of the fire department or police department, and the member  
1814 has not less than five (5) years' service with the department,  
1815 there shall be paid from the firemen's and policemen's disability  
1816 and relief fund the following benefits:

1817 (a) For each year's active service, not to exceed a  
1818 period of twenty (20) years, one-fortieth (1/40) of the average  
1819 monthly salary or compensation received by the member in the  
1820 six-month period next preceding his or her death; and

1821 (b) For each full year of active service in excess of  
1822 twenty (20) years' service, an additional payment in a sum equal  
1823 to one and seven-tenths percent (1-7/10%) of the same average  
1824 monthly base salary and longevity pay received by the member in  
1825 the six-month period next preceding his or her death (provided  
1826 that no such payment shall exceed sixty-six and two-thirds percent

1827 (66-2/3%) of the average monthly base salary and longevity pay  
1828 received by a member for the six-month period next preceding his  
1829 or her death) to the spouse of the deceased member for the use of  
1830 the spouse and the child or children of the deceased member, so  
1831 long as the spouse remains unmarried and if, after the marriage of  
1832 the spouse, there remains a child or children of the deceased  
1833 member, the payments shall continue to be made to a parent or  
1834 lawful custodian of the child or children without the necessity of  
1835 appointment as guardian for the benefit of the child or children,  
1836 and after the death or marriage of the spouse, all payments to the  
1837 spouse shall cease, and after the death of any child or children  
1838 of the deceased member, all payments to the child or children  
1839 shall cease. If the deceased member is not survived by a spouse  
1840 or child or children, but is survived by a father, \* \* \*  
1841 mother \* \* \* or an unmarried sister dependent upon him or her, the  
1842 payments shall continue to be made to the dependent father or  
1843 mother or both, so long as each lives, or if there is no dependent  
1844 father or mother surviving the deceased member, the payments shall  
1845 continue to be made to the dependent sister or \* \* \* sisters of  
1846 the deceased member, or dependent incurable children, so long as  
1847 the beneficiary or beneficiaries \* \* \* remain unmarried. Upon the  
1848 death or marriage of any such sisters, all payments shall cease to  
1849 her. \* \* \*

1850 (2) For purposes of this section:

1851 (a) \* \* \* "Dependent" means wholly dependent.

1852 (b) \* \* \* "Child" or "children" means:

1853 (i) Children of the deceased member under the age  
1854 of eighteen (18);

1855 (ii) Children of the deceased member eighteen (18)  
1856 years of age or older who have not yet reached their twenty-third  
1857 birthday and are pursuing a full-time education; or

1858 (iii) Children of the deceased member who, though  
1859 eighteen (18) years of age or older, are wholly dependent upon the



1860 deceased member and incapable of self-support by reason of mental  
1861 or physical disability.

1862 **[For any municipality that has elected to authorize the**  
1863 **continuation of or reinstatement of spouse retirement benefits**  
1864 **under the provisions of Section 21-29-329, this section shall read**  
1865 **as follows:]**

1866 21-29-255. (1) If any member of the fire or police  
1867 department dies in active service, or dies in inactive service on  
1868 account of disability approved for disability relief under Section  
1869 21-29-241, as a result of injury received while in the discharge  
1870 of duty in the service of the fire department or police  
1871 department, or dies as a result of sickness or disease, due to the  
1872 discharge of duty while in service as a member of the fire or  
1873 police department, or if the member dies while entitled to relief  
1874 after retirement under Section 21-29-245, the amount of disability  
1875 relief or retirement relief being paid, or which should have been  
1876 properly paid, shall continue to be paid from the fund to the  
1877 spouse of the deceased member for life for the use of the spouse  
1878 and the child or children of the deceased member. If the deceased  
1879 member is not survived by a spouse, but there remains a child or  
1880 children of the deceased member, the payments shall continue to be  
1881 made to a parent or lawful custodian of the child or children  
1882 without the necessity of appointment as guardian for the benefit  
1883 of the child or children. After the death \* \* \* of the spouse,  
1884 all payments to the spouse shall cease, and after the death of any  
1885 child or children of the deceased member, all payments to the  
1886 child or children shall cease. If the deceased member is not  
1887 survived by a spouse or child or children, but is survived by a  
1888 father \* \* \* or a mother dependent upon him or her, the payments  
1889 shall continue to be made to the dependent father or mother, or  
1890 both, so long as each lives, or if there is no dependent father or  
1891 mother surviving the deceased member, the payments shall continue  
1892 to be made to the unmarried dependent sister or \* \* \* sisters of

1893 the deceased member, so long as the beneficiary or  
1894 beneficiaries \* \* \* remain unmarried. Upon the death or marriage  
1895 of any such sister, all payments shall cease to her. Payments to  
1896 dependents under this section are for services rendered to the  
1897 members of the fire and/or police department, and the amount of  
1898 payments is within the discretion of the board of disability and  
1899 relief, but in no event shall the amount payable under this  
1900 section be in excess of the amount that would have been payable as  
1901 disability and relief to a member of the department.

1902 If any member of the fire or police department dies while a  
1903 member of the fire department or police department, and the member  
1904 has had not less than five (5) years' service with the department,  
1905 there shall be paid from the firemen's and policemen's disability  
1906 and relief fund the following benefits:

1907 (a) For each year's active service, not to exceed a  
1908 period of twenty (20) years, one-fortieth (1/40) of the average  
1909 monthly salary or compensation received by the member in the  
1910 six-month period next preceding his or her death; and

1911 (b) For each full year of active service in excess of  
1912 twenty (20) years service, an additional payment in a sum equal to  
1913 one and seven-tenths percent (1-7/10%) of the same average monthly  
1914 base salary and longevity pay received by the member in the  
1915 six-month period next preceding his or her death (provided that no  
1916 such payment shall exceed sixty-six and two-thirds percent  
1917 (66-2/3%) of the average monthly base salary and longevity pay  
1918 received by a member for the six-month period next preceding his  
1919 or her death) to the spouse of the deceased member for the use of  
1920 the spouse and the child or children of the deceased member, so  
1921 long as the spouse lives and if, after the death of the spouse,  
1922 there remains a child or children of the deceased member, the  
1923 payments shall continue to be made to a parent or lawful custodian  
1924 of the child or children without the necessity of appointment as  
1925 guardian for the benefit of the child or children. After the

1926 death \* \* \* of the spouse, all payments to the spouse shall cease,  
1927 and after the death of any child or children of the deceased  
1928 member, all payments to the child or children shall cease. If the  
1929 deceased member is not survived by spouse or child or children,  
1930 but is survived by a father, \* \* \* mother \* \* \* or an unmarried  
1931 sister dependent upon him or her, the payments shall continue to  
1932 be made to the dependent father or mother or both, so long as each  
1933 lives, or if there is no dependent father or mother surviving the  
1934 deceased member, the payments shall continue to be made to the  
1935 dependent sister or \* \* \* sisters of the deceased, or dependent  
1936 incurable children, so long as the beneficiary or beneficiaries  
1937 remains unmarried. Upon the death or marriage of any such  
1938 sisters, all payments shall cease to her. \* \* \*

1939 (2) For the purposes of this section:

1940 (a) \* \* \* "Dependent" means wholly dependent.

1941 (b) \* \* \* "Child" or "children" means:

1942 (i) Children of the deceased member under the age  
1943 of eighteen (18);

1944 (ii) Children of the deceased member eighteen (18)  
1945 years of age or older who have not yet reached their twenty-third  
1946 birthday and are pursuing a full-time education; or

1947 (iii) Children of the deceased member who, though  
1948 eighteen (18) years of age or older, are wholly dependent upon the  
1949 deceased and incapable of self-support by reason of mental or  
1950 physical disability.

1951 **SECTION 14.** Section 63-15-71, Mississippi Code of 1972, is  
1952 amended as follows:

1953 63-15-71. (1) The department shall, upon request and  
1954 receipt of proper fees, furnish any person a certified abstract of  
1955 the operating record of any person subject to the provisions of  
1956 this chapter, which abstract shall also fully designate the motor  
1957 vehicles, if any, registered in the name of such person. If there  
1958 shall be no record of any conviction of such person of violating

1959 any law relating to the operation of a motor vehicle or of any  
1960 injury or damage caused by such person, the department shall so  
1961 certify.

1962 (2) In addition to any other fees, the department shall  
1963 charge and collect Two Dollars (\$2.00) for furnishing a certified  
1964 abstract to any person. This additional fee shall be deposited  
1965 into the Disability and Relief Fund for the Mississippi Highway  
1966 Safety Patrol.

1967 **SECTION 15.** Sections 1, 4 and 8 of this act shall take  
1968 effect and be in force from and after the passage of this act.  
1969 The remainder of this act shall take effect and be in force from  
1970 and after July 1, 2004.