

By: Senator(s) Tollison, Albritton, Browning, Butler, Carmichael, Chaney, Cuevas, Dawkins, Dearing, Frazier, Gollott, Horhn, Hyde-Smith, Jackson (11th), Jackson (15th), Jackson (32nd), Jordan, King, Kirby, Lee (35th), Lee (47th), Little, Mettetal, Nunnelee, Pickering, Posey, Simmons, Thames, Thomas, Walley, White, Wilemon, Williamson

To: Judiciary, Division B

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2559

1 AN ACT TO CREATE THE LAW ENFORCEMENT OFFICERS DISABILITY  
2 BENEFITS TRUST FUND; TO AMEND SECTION 99-19-73, MISSISSIPPI CODE  
3 OF 1972, TO PROVIDE REVENUES FOR THE FUND BY STATEWIDE MONETARY  
4 ASSESSMENT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** (1) Whenever used in this section, the term:

7 (a) "Covered individual" means a law enforcement  
8 officer or firefighter as defined in this section while actively  
9 engaged in protecting the lives and property of the citizens of  
10 this state when employed by an employer as defined in this  
11 section; it does not include employees of independent contractors.

12 (b) "Employer" means a state board, commission,  
13 department, division, bureau, or agency, or a county, municipality  
14 or other political subdivision of the state, which employs,  
15 appoints or otherwise engages the services of covered individuals.

16 (c) "Firefighter" means an individual who is trained  
17 for the prevention and control of loss of life and property from  
18 fire or other emergencies, who is assigned to fire-fighting  
19 activity, and is required to respond to alarms and perform  
20 emergency actions at the location of a fire, hazardous materials  
21 or other emergency incident.

22 (d) "Law enforcement officer" means any lawfully sworn  
23 officer or employee of the state or any political subdivision of  
24 the state whose duties require the officer or employee to  
25 investigate, pursue, apprehend, arrest, transport or maintain  
26 custody of persons who are charged with, suspected of committing,  
27 or convicted of a crime.

28           (2) (a) The Department of Public Safety shall make a  
29 monthly disability benefit payment equal to thirty-four percent  
30 (34%) of the covered individual's regular base salary at the time  
31 of injury when a covered individual, while engaged in the  
32 performance of the individual's official duties, is accidentally  
33 or intentionally injured in the line of duty as a direct result of  
34 a single incident. The benefit shall be payable for the period of  
35 time the covered individual is physically unable to perform the  
36 duties of the covered individual's employment, not to exceed  
37 twelve (12) total payments for any one (1) injury. Chronic or  
38 repetitive injury is not covered. Benefits made available under  
39 this section shall be in addition to any workers' compensation  
40 benefits and shall be limited to the difference between the amount  
41 of workers' compensation benefits and the amount of the covered  
42 individual's regular base salary. Compensation under this section  
43 shall not be awarded where a penal violation committed by the  
44 covered individual contributed to the disability or the injury was  
45 intentionally self-inflicted.

46           (b) Payments made under this subsection are exempt from  
47 the claims and demands of creditors of the covered individual.

48           (3) (a) There is established in the State Treasury a  
49 special fund to be known as the Law Enforcement Officers  
50 Disability Benefits Trust Fund. The trust fund shall be funded by  
51 any funds made available by the Legislature or by donation,  
52 contribution, gift or any other source.

53           (b) The State Treasurer shall invest the monies of the  
54 trust fund in any of the investments authorized for the funds of  
55 the Public Employees' Retirement System under Section 25-11-121,  
56 and those investments shall be subject to the limitations  
57 prescribed by Section 25-11-121.

58           (c) Unexpended amounts remaining in the trust fund at  
59 the end of the state fiscal year shall not lapse into the State

60 General Fund, and any income earned on amounts in the trust fund  
61 shall be deposited to the credit of the trust fund.

62 (4) The Department of Public Safety shall be responsible for  
63 the management of the trust fund and the disbursement of  
64 disability benefits authorized under this section. The Department  
65 of Public Safety shall adopt rules and regulations necessary to  
66 implement and standardize the payment of disability benefits under  
67 this section, to administer the trust fund created by this section  
68 and to carry out the purposes of this section.

69 **SECTION 2.** Section 99-19-73, Mississippi Code of 1972, is  
70 amended as follows:

71 99-19-73. (1) **Traffic Violations.** In addition to any  
72 monetary penalties and any other penalties imposed by law, there  
73 shall be imposed and collected the following state assessment from  
74 each person upon whom a court imposes a fine or other penalty for  
75 any violation in Title 63, Mississippi Code of 1972, except  
76 offenses relating to the Mississippi Implied Consent Law (Section  
77 63-11-1 et seq.) and offenses relating to vehicular parking or  
78 registration:

79	FUND	AMOUNT
80	State Court Education Fund.....	\$ 1.50
81	State Prosecutor Education Fund.....	1.00
82	Driver Training Penalty Assessment Fund.....	7.00
83	Law Enforcement Officers Training Fund.....	5.00
84	Spinal Cord and Head Injury Trust Fund	
85	(for all moving violations).....	4.00
86	Emergency Medical Services Operating Fund.....	10.00
87	Mississippi Leadership Council on Aging Fund.....	1.00
88	Law Enforcement Officers and Fire Fighters Death	
89	Benefits Trust Fund.....	.50
90	<u>Law Enforcement Officers Disability Benefits Trust</u>	
91	<u>Fund</u> .....	<u>1.00</u>
92	State Prosecutor Compensation Fund for the purpose	

93	of providing additional compensation for legal	
94	assistants to district attorneys.....	1.00
95	Crisis Intervention Mental Health Fund.....	10.00
96	Drug Court Fund.....	10.00
97	TOTAL STATE ASSESSMENT.....	<u>52.00</u>

98 (2) **Implied Consent Law Violations.** In addition to any  
99 monetary penalties and any other penalties imposed by law, there  
100 shall be imposed and collected the following state assessment from  
101 each person upon whom a court imposes a fine or any other penalty  
102 for any violation of the Mississippi Implied Consent Law (Section  
103 63-11-1 et seq.):

104	FUND	AMOUNT
105	Crime Victims' Compensation Fund.....	\$ 10.00
106	State Court Education Fund.....	1.50
107	State Prosecutor Education Fund.....	1.00
108	Driver Training Penalty Assessment Fund.....	22.00
109	Law Enforcement Officers Training Fund.....	11.00
110	Emergency Medical Services Operating Fund.....	10.00
111	Mississippi Alcohol Safety Education Program Fund....	5.00
112	Federal-State Alcohol Program Fund.....	10.00
113	Mississippi Crime Laboratory	
114	Implied Consent Law Fund.....	25.00
115	Spinal Cord and Head Injury Trust Fund.....	25.00
116	Capital Defense Counsel Special Fund.....	1.00
117	State General Fund.....	35.00
118	Law Enforcement Officers and Fire Fighters Death	
119	Benefits Trust Fund.....	.50
120	<u>Law Enforcement Officers Disability Benefits Trust</u>	
121	<u>Fund</u> .....	<u>1.00</u>
122	State Prosecutor Compensation Fund for the purpose	
123	of providing additional compensation for legal	
124	assistants to district attorneys.....	1.00
125	Crisis Intervention Mental Health Fund.....	10.00

126 Drug Court Fund..... 10.00  
 127 TOTAL STATE ASSESSMENT..... \$179.00

128 (3) **Game and Fish Law Violations.** In addition to any  
 129 monetary penalties and any other penalties imposed by law, there  
 130 shall be imposed and collected the following state assessment from  
 131 each person upon whom a court imposes a fine or other penalty for  
 132 any violation of the game and fish statutes or regulations of this  
 133 state:

134 FUND	AMOUNT
135 State Court Education Fund.....	\$ 1.50
136 State Prosecutor Education Fund.....	1.00
137 Law Enforcement Officers Training Fund.....	5.00
138 Hunter Education and Training Program Fund.....	5.00
139 State General Fund.....	30.00
140 Law Enforcement Officers and Fire Fighters Death	
141 Benefits Trust Fund.....	.50
142 <u>Law Enforcement Officers Disability Benefits Trust</u>	
143 <u>Fund</u> .....	<u>1.00</u>
144 State Prosecutor Compensation Fund for the purpose	
145 of providing additional compensation for legal	
146 assistants to district attorneys.....	1.00
147 Crisis Intervention Mental Health Fund.....	10.00
148 Drug Court Fund.....	10.00
149 TOTAL STATE ASSESSMENT.....	\$ <u>65.00</u>

150 (4) **Litter Law Violations.** In addition to any monetary  
 151 penalties and any other penalties imposed by law, there shall be  
 152 imposed and collected the following state assessment from each  
 153 person upon whom a court imposes a fine or other penalty for any  
 154 violation of Section 97-15-29 or 97-15-30:

155 FUND	AMOUNT
156 Statewide Litter Prevention Fund.....	\$ 25.00
157 State Prosecutor Compensation Fund for the purpose	
158 of providing additional compensation for legal	

159	assistants to district attorneys.....	1.00
160	Crisis Intervention Mental Health Fund.....	10.00
161	Drug Court Fund.....	10.00
162	<u>Law Enforcement Officers Disability Benefits Trust</u>	
163	<u>Fund</u> .....	<u>1.00</u>
164	TOTAL STATE ASSESSMENT.....	\$ <u>47.00</u>

165 (5) **Other Misdemeanors.** In addition to any monetary  
166 penalties and any other penalties imposed by law, there shall be  
167 imposed and collected the following state assessment from each  
168 person upon whom a court imposes a fine or other penalty for any  
169 misdemeanor violation not specified in subsection (1), (2) or (3)  
170 of this section, except offenses relating to vehicular parking or  
171 registration:

172	FUND	AMOUNT
173	Crime Victims' Compensation Fund.....	\$ 10.00
174	State Court Education Fund.....	1.50
175	State Prosecutor Education Fund.....	1.00
176	Law Enforcement Officers Training Fund.....	5.00
177	Capital Defense Counsel Special Fund.....	1.00
178	State General Fund.....	30.00
179	State Crime Stoppers Fund.....	1.50
180	Law Enforcement Officers and Fire Fighters Death	
181	Benefits Trust Fund.....	.50
182	<u>Law Enforcement Officers Disability Benefits Trust</u>	
183	<u>Fund</u> .....	<u>1.00</u>
184	State Prosecutor Compensation Fund for the purpose	
185	of providing additional compensation for legal	
186	assistants to district attorneys.....	1.00
187	Crisis Intervention Mental Health Fund.....	10.00
188	Drug Court Fund.....	8.00
189	Judicial Performance Fund.....	2.00
190	TOTAL STATE ASSESSMENT.....	\$ <u>72.50</u>

191           (6) **Other Felonies.** In addition to any monetary penalties  
 192 and any other penalties imposed by law, there shall be imposed and  
 193 collected the following state assessment from each person upon  
 194 whom a court imposes a fine or other penalty for any felony  
 195 violation not specified in subsection (1), (2) or (3) of this  
 196 section:

197           FUND	AMOUNT
198           Crime Victims' Compensation Fund.....	\$ 10.00
199           State Court Education Fund.....	1.50
200           State Prosecutor Education Fund.....	1.00
201           Law Enforcement Officers Training Fund.....	5.00
202           Capital Defense Counsel Special Fund.....	1.00
203           State General Fund.....	60.00
204           Criminal Justice Fund.....	50.00
205           Law Enforcement Officers and Fire Fighters Death	
206                Benefits Trust Fund.....	.50
207 <u>Law Enforcement Officers Disability Benefits Trust</u>	
208 <u>Fund</u> .....	<u>1.00</u>
209           State Prosecutor Compensation Fund for the purpose	
210                of providing additional compensation for legal	
211                assistants to district attorneys.....	1.00
212           Crisis Intervention Mental Health Fund.....	10.00
213           Drug Court Fund.....	10.00
214           TOTAL STATE ASSESSMENT.....	<u>\$151.00</u>

215           (7) If a fine or other penalty imposed is suspended, in  
 216 whole or in part, such suspension shall not affect the state  
 217 assessment under this section. No state assessment imposed under  
 218 the provisions of this section may be suspended or reduced by the  
 219 court.

220           (8) After a determination by the court of the amount due, it  
 221 shall be the duty of the clerk of the court to promptly collect  
 222 all state assessments imposed under the provisions of this  
 223 section. The state assessments imposed under the provisions of

224 this section may not be paid by personal check. It shall be the  
225 duty of the chancery clerk of each county to deposit all such  
226 state assessments collected in the circuit, county and justice  
227 courts in such county on a monthly basis with the State Treasurer  
228 pursuant to appropriate procedures established by the State  
229 Auditor. The chancery clerk shall make a monthly lump-sum deposit  
230 of the total state assessments collected in the circuit, county  
231 and justice courts in such county under this section, and shall  
232 report to the Department of Finance and Administration the total  
233 number of violations under each subsection for which state  
234 assessments were collected in the circuit, county and justice  
235 courts in such county during such month. It shall be the duty of  
236 the municipal clerk of each municipality to deposit all such state  
237 assessments collected in the municipal court in such municipality  
238 on a monthly basis with the State Treasurer pursuant to  
239 appropriate procedures established by the State Auditor. The  
240 municipal clerk shall make a monthly lump-sum deposit of the total  
241 state assessments collected in the municipal court in such  
242 municipality under this section, and shall report to the  
243 Department of Finance and Administration the total number of  
244 violations under each subsection for which state assessments were  
245 collected in the municipal court in such municipality during such  
246 month.

247 (9) It shall be the duty of the Department of Finance and  
248 Administration to deposit on a monthly basis all such state  
249 assessments into the proper special fund in the State Treasury.  
250 The monthly deposit shall be based upon the number of violations  
251 reported under each subsection and the pro rata amount of such  
252 assessment due to the appropriate special fund. The Department of  
253 Finance and Administration shall issue regulations providing for  
254 the proper allocation of these special funds.

255 (10) The State Auditor shall establish by regulation  
256 procedures for refunds of state assessments, including refunds



257 associated with assessments imposed before July 1, 1990, and  
258 refunds after appeals in which the defendant's conviction is  
259 reversed. The Auditor shall provide in such regulations for  
260 certification of eligibility for refunds and may require the  
261 defendant seeking a refund to submit a verified copy of a court  
262 order or abstract by which such defendant is entitled to a refund.  
263 All refunds of state assessments shall be made in accordance with  
264 the procedures established by the Auditor.

265       **SECTION 3.** Section 2 of this act shall take effect and be in  
266 force from and after July 1, 2005, and Section 1 of this act shall  
267 take effect and be in force from and after July 1, 2006.