

By: Senator(s) Doxey

To: Finance

SENATE BILL NO. 2469

1 AN ACT TO AMEND SECTION 25-11-103, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT FOR PERSONS WHO BECOME MEMBERS OF THE PUBLIC  
 3 EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2007, THE TERM  
 4 "AVERAGE COMPENSATION" SHALL MEAN THE AVERAGE ANNUAL EARNED  
 5 COMPENSATION OF AN EMPLOYEE FOR ANY PERIOD OF FIVE SUCCESSIVE  
 6 YEARS OF SERVICE AS AN EMPLOYEE DURING WHICH THE COMPENSATION WAS  
 7 THE HIGHEST; TO AMEND SECTION 25-11-111, MISSISSIPPI CODE OF 1972,  
 8 TO PROVIDE THAT PERSONS WHO BECOME MEMBERS OF THE PUBLIC  
 9 EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2007, MAY RETIRE  
 10 AT AGE 60 IF THEY HAVE AT LEAST TEN YEARS OF CREDITABLE SERVICE OR  
 11 AT ANY AGE IF THEY HAVE AT LEAST 30 YEARS OF CREDITABLE SERVICE;  
 12 TO AMEND SECTIONS 25-11-105, 25-11-109, 25-11-113, 25-11-114,  
 13 25-11-115, 25-11-117, 25-11-311 AND 25-11-315, MISSISSIPPI CODE OF  
 14 1972, TO PROVIDE THAT FOR PERSONS WHO BECOME MEMBERS OF THE PUBLIC  
 15 EMPLOYEES' RETIREMENT SYSTEM ON OR AFTER JULY 1, 2007, MUST HAVE  
 16 AT LEAST TEN YEARS OF MEMBERSHIP SERVICE BEFORE VARIOUS BENEFITS  
 17 ACCRUE AND BEFORE VARIOUS TYPES OF SERVICE MAY BE CLAIMED AS  
 18 CREDITABLE SERVICE; AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** Section 25-11-103, Mississippi Code of 1972, is  
 21 amended as follows:

22 25-11-103. The following words and phrases as used in  
 23 Articles 1 and 3, unless a different meaning is plainly required  
 24 by the context, have the following meanings:

25 (a) "Accumulated contributions" means the sum of all  
 26 the amounts deducted from the compensation of a member and  
 27 credited to his individual account in the annuity savings account,  
 28 together with regular interest as provided in Section 25-11-123.

29 (b) "Actuarial cost" means the amount of funds  
 30 presently required to provide future benefits as determined by the  
 31 board based on applicable tables and formulas provided by the  
 32 actuary.

33 (c) "Actuarial equivalent" means a benefit of equal  
 34 value to the accumulated contributions, annuity or benefit, as the

35 case may be, when computed upon the basis of such mortality tables  
36 as adopted by the board of trustees, and regular interest.

37 (d) "Actuarial tables" means such tables of mortality  
38 and rates of interest as adopted by the board in accordance with  
39 the recommendation of the actuary.

40 (e) "Agency" means any governmental body employing  
41 persons in the state service.

42 (f) "Average compensation" means:

43 (i) For persons who became a member of the system  
44 before July 1, 2007, the average of the four (4) highest years of  
45 earned compensation reported for an employee in a fiscal or  
46 calendar year period, or combination thereof that do not overlap,  
47 or the last forty-eight (48) consecutive months of earned  
48 compensation reported for an employee. The four (4) years need  
49 not be successive or joined years of service.

50 (ii) For persons who became members of the system  
51 on or after July 1, 2007, the average annual earned compensation  
52 for any period of five (5) successive or joined years of service  
53 as an employee during which the compensation was the highest. In  
54 the case of interruption of employment, the period of five (5)  
55 years shall be computed by joining employment periods immediately  
56 preceding and succeeding the interruption.

57 In no case shall the average compensation so determined be in  
58 excess of One Hundred Fifty Thousand Dollars (\$150,000.00). In  
59 computing the average compensation, any amount lawfully paid in a  
60 lump sum for personal leave or major medical leave shall be  
61 included in the calculation to the extent that the amount does not  
62 exceed an amount that is equal to thirty (30) days of earned  
63 compensation and to the extent that it does not cause the  
64 employees' earned compensation to exceed the maximum reportable  
65 amount specified in Section 25-11-103(k); however, this thirty-day  
66 limitation shall not prevent the inclusion in the calculation of  
67 leave earned under federal regulations before July 1, 1976, and

68 frozen as of that date as referred to in Section 25-3-99. Only  
69 the amount of lump-sum pay for personal leave due and paid upon  
70 the death of a member attributable for up to one hundred fifty  
71 (150) days shall be used in the deceased member's average  
72 compensation calculation in determining the beneficiary's  
73 benefits. In computing the average compensation, no amounts shall  
74 be used that are in excess of the amount on which contributions  
75 were required and paid, and no nontaxable amounts paid by the  
76 employer for health or life insurance premiums for the employee  
77 shall be used. If any member who is or has been granted any  
78 increase in annual salary or compensation of more than eight  
79 percent (8%) retires within twenty-four (24) months from the date  
80 that the increase becomes effective, then the board shall exclude  
81 that part of the increase in salary or compensation that exceeds  
82 eight percent (8%) in calculating that member's average  
83 compensation for retirement purposes. The board may enforce this  
84 provision by rule or regulation. However, increases in  
85 compensation in excess of eight percent (8%) per year granted  
86 within twenty-four (24) months of the date of retirement may be  
87 included in the calculation of average compensation if  
88 satisfactory proof is presented to the board showing that the  
89 increase in compensation was the result of an actual change in the  
90 position held or services rendered, or that the compensation  
91 increase was authorized by the State Personnel Board or was  
92 increased as a result of statutory enactment, and the employer  
93 furnishes an affidavit stating that the increase granted within  
94 the last twenty-four (24) months was not contingent on a promise  
95 or agreement of the employee to retire. Nothing in Section  
96 25-3-31 shall affect the calculation of the average compensation  
97 of any member for the purposes of this article. The average  
98 compensation of any member who retires before July 1, 1992, shall  
99 not exceed the annual salary of the Governor.

100 (g) "Beneficiary" means any person entitled to receive  
101 a retirement allowance, an annuity or other benefit as provided by  
102 Articles 1 and 3. The term "beneficiary" may also include an  
103 organization, estate, trust or entity; however, a beneficiary  
104 designated or entitled to receive monthly payments under an  
105 optional settlement based on life contingency or pursuant to a  
106 statutory monthly benefit may only be a natural person. In the  
107 event of the death before retirement of any member who became a  
108 member of the system before July 1, 2007, and whose spouse and/or  
109 children are not entitled to a retirement allowance on the basis  
110 that the member has less than four (4) years of service credit, or  
111 who became a member of the system on or after July 1, 2007, and  
112 whose spouse and/or children are not entitled to a retirement  
113 allowance on the basis that the member has less than ten (10)  
114 years of service credit, and/or has not been married for a minimum  
115 of one (1) year or the spouse has waived his or her entitlement to  
116 a retirement allowance under Section 25-11-114, the lawful spouse  
117 of a member at the time of the death of the member shall be the  
118 beneficiary of the member unless the member has designated another  
119 beneficiary after the date of marriage in writing, and filed that  
120 writing in the office of the executive director of the board of  
121 trustees. No designation or change of beneficiary shall be made  
122 in any other manner.

123 (h) "Board" means the board of trustees provided in  
124 Section 25-11-15 to administer the retirement system created under  
125 this article.

126 (i) "Creditable service" means "prior service,"  
127 "retroactive service" and all lawfully credited unused leave not  
128 exceeding the accrual rates and limitations provided in Section  
129 25-3-91 et seq., as of the date of withdrawal from service plus  
130 "membership service" for which credit is allowable as provided in  
131 Section 25-11-109. Except to limit creditable service reported to  
132 the system for the purpose of computing an employee's retirement

133 allowance or annuity or benefits provided in this article, nothing  
134 in this paragraph shall limit or otherwise restrict the power of  
135 the governing authority of a municipality or other political  
136 subdivision of the state to adopt such vacation and sick leave  
137 policies as it deems necessary.

138           (j) "Child" means either a natural child of the member,  
139 a child that has been made a child of the member by applicable  
140 court action before the death of the member, or a child under the  
141 permanent care of the member at the time of the latter's death,  
142 which permanent care status shall be determined by evidence  
143 satisfactory to the board.

144           (k) "Earned compensation" means the full amount earned  
145 by an employee for a given pay period including any maintenance  
146 furnished up to a maximum of One Hundred Fifty Thousand Dollars  
147 (\$150,000.00) per year, and proportionately for less than one (1)  
148 year of service. The value of that maintenance when not paid in  
149 money shall be fixed by the employing state agency, and, in case  
150 of doubt, by the board of trustees as defined in Section 25-11-15.  
151 Earned compensation shall not include any nontaxable amounts paid  
152 by the employer for health or life insurance premiums for an  
153 employee. In any case, earned compensation shall be limited to  
154 the regular periodic compensation paid, exclusive of litigation  
155 fees, bond fees, and other similar extraordinary nonrecurring  
156 payments. In addition, any member in a covered position, as  
157 defined by Public Employees' Retirement System laws and  
158 regulations, who is also employed by another covered agency or  
159 political subdivision shall have the earnings of that additional  
160 employment reported to the Public Employees' Retirement System  
161 regardless of whether the additional employment is sufficient in  
162 itself to be a covered position. In addition, computation of  
163 earned compensation shall be governed by the following:

164           (i) In the case of constables, the net earnings  
165 from their office after deduction of expenses shall apply, except

166 that in no case shall earned compensation be less than the total  
167 direct payments made by the state or governmental subdivisions to  
168 the official.

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

172 (iii) In the case of members of the State  
173 Legislature, all remuneration or amounts paid, except mileage  
174 allowance, shall apply.

175 (iv) The amount by which an eligible employee's  
176 salary is reduced under a salary reduction agreement authorized  
177 under Section 25-17-5 shall be included as earned compensation  
178 under this paragraph, provided this inclusion does not conflict  
179 with federal law, including federal regulations and federal  
180 administrative interpretations under the federal law, pertaining  
181 to the Federal Insurance Contributions Act or to Internal Revenue  
182 Code Section 125 cafeteria plans.

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

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

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

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

197           (m) "Employer" means the State of Mississippi or any of  
198 its departments, agencies or subdivisions from which any employee  
199 receives his compensation.

200           (n) "Executive director" means the secretary to the  
201 board of trustees, as provided in Section 25-11-15(9), and the  
202 administrator of the Public Employees' Retirement System and all  
203 systems under the management of the board of trustees. Wherever  
204 the term "Executive Secretary of the Public Employees' Retirement  
205 System" or "executive secretary" appears in this article or in any  
206 other provision of law, it shall be construed to mean the  
207 Executive Director of the Public Employees' Retirement System.

208           (o) "Fiscal year" means the period beginning on July 1  
209 of any year and ending on June 30 of the next succeeding year.

210           (p) "Medical board" means the board of physicians or  
211 any governmental or nongovernmental disability determination  
212 service designated by the board of trustees that is qualified to  
213 make disability determinations as provided for in Section  
214 25-11-119.

215           (q) "Member" means any person included in the  
216 membership of the system as provided in Section 25-11-105.

217           (r) "Membership service" means service as an employee  
218 rendered while a member of the retirement system.

219           (s) "Position" means any office or any employment in  
220 the state service, or two (2) or more of them, the duties of which  
221 call for services to be rendered by one (1) person, including  
222 positions jointly employed by federal and state agencies  
223 administering federal and state funds. The employer shall  
224 determine upon initial employment and during the course of  
225 employment of an employee who does not meet the criteria for  
226 coverage in the Public Employees' Retirement System based on the  
227 position held, whether the employee is or becomes eligible for  
228 coverage in the Public Employees' Retirement System based upon any  
229 other employment in a covered agency or political subdivision. If

230 or when the employee meets the eligibility criteria for coverage  
231 in the other position, then the employer must withhold  
232 contributions and report wages from the noncovered position in  
233 accordance with the provisions for reporting of earned  
234 compensation. Failure to deduct and report those contributions  
235 shall not relieve the employee or employer of liability thereof.  
236 The board shall adopt such rules and regulations as necessary to  
237 implement and enforce this provision.

238 (t) "Prior service" means:

239 (i) For persons who became members of the system  
240 before July 1, 2007, service rendered before February 1, 1953, for  
241 which credit is allowable under Sections 25-11-105 and 25-11-109,  
242 and which shall allow prior service for any person who is now or  
243 becomes a member of the Public Employees' Retirement System and  
244 who does contribute to the system for a minimum period of four (4)  
245 years.

246 (ii) For persons who became members of the system  
247 on or after July 1, 2007, service rendered before February 1,  
248 1953, for which credit is allowable under Sections 25-11-105 and  
249 25-11-109, and which shall allow prior service for any person who  
250 is now or becomes a member of the Public Employees' Retirement  
251 System and who does contribute to the system for a minimum period  
252 of ten (10) years.

253 (u) "Regular interest" means interest compounded  
254 annually at such a rate as determined by the board in accordance  
255 with Section 25-11-121.

256 (v) "Retirement allowance" means an annuity for life as  
257 provided in this article, payable each year in twelve (12) equal  
258 monthly installments beginning as of the date fixed by the board.  
259 The retirement allowance shall be calculated in accordance with  
260 Section 25-11-111. However, any spouse who received a spouse  
261 retirement benefit in accordance with Section 25-11-111(d) before  
262 March 31, 1971, and those benefits were terminated because of



263 eligibility for a social security benefit, may again receive his  
264 spouse retirement benefit from and after making application with  
265 the board of trustees to reinstate the spouse retirement benefit.

266 (w) "Retroactive service" means service rendered after  
267 February 1, 1953, for which credit is allowable under Section  
268 25-11-105(b) and Section 25-11-105(k).

269 (x) "System" means the Public Employees' Retirement  
270 System of Mississippi established and described in Section  
271 25-11-101.

272 (y) "State" means the State of Mississippi or any  
273 political subdivision thereof or instrumentality of the state.

274 (z) "State service" means all offices and positions of  
275 trust or employment in the employ of the state, or any political  
276 subdivision or instrumentality of the state, that elect to  
277 participate as provided by Section 25-11-105(f), including the  
278 position of elected or fee officials of the counties and their  
279 deputies and employees performing public services or any  
280 department, independent agency, board or commission thereof, and  
281 also includes all offices and positions of trust or employment in  
282 the employ of joint state and federal agencies administering state  
283 and federal funds and service rendered by employees of the public  
284 schools. Effective July 1, 1973, all nonprofessional public  
285 school employees, such as bus drivers, janitors, maids,  
286 maintenance workers and cafeteria employees, shall have the option  
287 to become members in accordance with Section 25-11-105(b), and  
288 shall be eligible to receive credit for services before July 1,  
289 1973, provided that the contributions and interest are paid by the  
290 employee in accordance with that section; in addition, the county  
291 or municipal separate school district may pay the employer  
292 contribution and pro rata share of interest of the retroactive  
293 service from available funds. From and after July 1, 1998,  
294 retroactive service credit shall be purchased at the actuarial  
295 cost in accordance with Section 25-11-105(b).

296 (aa) "Withdrawal from service" or "termination from  
297 service" means complete severance of employment in the state  
298 service of any member by resignation, dismissal or discharge.

299 (bb) The masculine pronoun, wherever used, includes the  
300 feminine pronoun.

301 **SECTION 2.** Section 25-11-111, Mississippi Code of 1972, is  
302 amended as follows:

303 25-11-111. (a) (1) Any member who became a member of the  
304 system before July 1, 2007, upon withdrawal from service upon or  
305 after attainment of the age of sixty (60) years who shall have  
306 completed at least four (4) years of creditable service, or any  
307 member who became a member of the system before July 1, 2007, upon  
308 withdrawal from service regardless of age who shall have completed  
309 at least twenty-five (25) years of creditable service, shall be  
310 entitled to receive a retirement allowance which shall begin on  
311 the first of the month following the date the member's application  
312 for the allowance is received by the board, but in no event before  
313 withdrawal from service.

314 (2) Any member who became a member of the system on or  
315 after July 1, 2007, upon withdrawal from service upon or after  
316 attainment of the age of sixty (60) years who shall have completed  
317 at least ten (10) years of creditable service, or any member who  
318 became a member of the system on or after July 1, 2007, upon  
319 withdrawal from service regardless of age who shall have completed  
320 at least thirty (30) years of creditable service, shall be  
321 entitled to receive a retirement allowance which shall begin on  
322 the first of the month following the date the member's application  
323 for the allowance is received by the board, but in no event before  
324 withdrawal from service.

325 (b) (1) Any member who became a member of the system before  
326 July 1, 2007, whose withdrawal from service occurs prior to  
327 attaining the age of sixty (60) years who shall have completed  
328 four (4) or more years of creditable service and shall not have

329 received a refund of his accumulated contributions shall be  
330 entitled to receive a retirement allowance, beginning upon his  
331 attaining the age of sixty (60) years, of the amount earned and  
332 accrued at the date of withdrawal from service.

333 (2) Any member who became a member of the system on or  
334 after July 1, 2007, whose withdrawal from service occurs prior to  
335 attaining the age of sixty (60) years who shall have completed ten  
336 (10) or more years of creditable service and shall not have  
337 received a refund of his accumulated contributions shall be  
338 entitled to receive a retirement allowance, beginning upon his  
339 attaining the age of sixty (60) years, of the amount earned and  
340 accrued at the date of withdrawal from service.

341 (c) Any member in service who has qualified for retirement  
342 benefits may select any optional method of settlement of  
343 retirement benefits by notifying the Executive Director of the  
344 Board of Trustees of the Public Employees' Retirement System in  
345 writing, on a form prescribed by the board, of the option he has  
346 selected and by naming the beneficiary of such option and  
347 furnishing necessary proof of age. Such option, once selected,  
348 may be changed at any time prior to actual retirement or death,  
349 but upon the death or retirement of the member, the optional  
350 settlement shall be placed in effect upon proper notification to  
351 the executive director.

352 (d) The annual amount of the retirement allowance shall  
353 consist of:

354 (1) A member's annuity which shall be the actuarial  
355 equivalent of the accumulated contributions of the member at the  
356 time of retirement computed according to the actuarial table in  
357 use by the system; and

358 (2) An employer's annuity which, together with the  
359 member's annuity provided above, shall be equal to two percent  
360 (2%) of the average compensation for each year of state service up  
361 to and including twenty-five (25) years of membership service, and

362 two and one-half percent (2-1/2%) of the average compensation for  
363 each year of state service exceeding twenty-five (25) years of  
364 membership service \* \* \*; and

365 \* \* \*

366 (3) A prior service annuity equal to two percent (2%)  
367 of the average compensation for each year of state service up to  
368 and including twenty-five (25) years of prior service, and two and  
369 one-half percent (2-1/2%) of the average compensation for each  
370 year of state service exceeding twenty-five (25) years of prior  
371 service for which the member is allowed credit. \* \* \*

372 \* \* \*

373 (4) Any retired member or beneficiary thereof who was  
374 eligible to receive a retirement allowance before July 1, 1991,  
375 and who is still receiving a retirement allowance on July 1, 1992,  
376 shall receive an increase in the annual retirement allowance of  
377 the retired member equal to one-eighth of one percent (1/8 of 1%)  
378 of the average compensation for each year of state service in  
379 excess of twenty-five (25) years of membership service up to and  
380 including thirty (30) years. The maximum increase shall be  
381 five-eighths of one percent (5/8 of 1%). In no case shall a  
382 member who has been retired prior to July 1, 1987, receive less  
383 than Ten Dollars (\$10.00) per month for each year of creditable  
384 service and proportionately for each quarter year thereof.  
385 Persons retired on or after July 1, 1987, shall receive at least  
386 Ten Dollars (\$10.00) per month for each year of service and  
387 proportionately for each quarter year thereof reduced for the  
388 option selected. However, such Ten Dollars (\$10.00) minimum per  
389 month for each year of creditable service shall not apply to a  
390 retirement allowance computed under Section 25-11-114 based on a  
391 percentage of the member's average compensation.

392 \* \* \*

393 (e) No member, except members excluded by the Age  
394 Discrimination in Employment Act Amendments of 1986 (Public Law

395 99-592), under either Article 1 or Article 3 in state service  
396 shall be required to retire because of age.

397 (f) No payment on account of any benefit granted under the  
398 provisions of this section shall become effective or begin to  
399 accrue until January 1, 1953.

400 (g) (1) A retiree or beneficiary may, on a form prescribed  
401 by and filed with the retirement system, irrevocably waive all or  
402 a portion of any benefits from the retirement system to which the  
403 retiree or beneficiary is entitled. Such waiver shall be binding  
404 on the heirs and assigns of any retiree or beneficiary and the  
405 same must agree to forever hold harmless the Public Employees'  
406 Retirement System of Mississippi from any claim to such waived  
407 retirement benefits.

408 (2) Any waiver pursuant to this subsection shall apply  
409 only to the person executing the waiver. A beneficiary shall be  
410 entitled to benefits according to the option selected by the  
411 member at the time of retirement. However, a beneficiary may, at  
412 the option of the beneficiary, execute a waiver of benefits  
413 pursuant to this subsection.

414 (3) The retirement system shall retain in the annuity  
415 reserve account amounts that are not used to pay benefits because  
416 of a waiver executed under this subsection.

417 (4) The board of trustees may provide rules and  
418 regulations for the administration of waivers under this  
419 subsection.

420 **SECTION 3.** Section 25-11-105, Mississippi Code of 1972, is  
421 amended as follows:

422 25-11-105. **I. THOSE WHO ARE ELIGIBLE FOR MEMBERSHIP**

423 The membership of this retirement system shall be composed as  
424 follows:

425 (a) (i) All persons who become employees in the state  
426 service after January 31, 1953, and whose wages are subject to  
427 payroll taxes and are lawfully reported on IRS Form W-2, except

428 those specifically excluded, or as to whom election is provided in  
429 Articles 1 and 3, shall become members of the retirement system as  
430 a condition of their employment.

431 (ii) From and after July 1, 2002, any individual  
432 who is employed by a governmental entity to perform professional  
433 services shall become a member of the system if the individual is  
434 paid regular periodic compensation for those services that is  
435 subject to payroll taxes, is provided all other employee benefits  
436 and meets the membership criteria established by the regulations  
437 adopted by the board of trustees that apply to all other members  
438 of the system; however, any active member employed in such a  
439 position on July 1, 2002, will continue to be an active member for  
440 as long as they are employed in any such position.

441 (b) All persons who become employees in the state  
442 service after January 31, 1953, except those specifically excluded  
443 or as to whom election is provided in Articles 1 and 3, unless  
444 they file with the board before the lapse of sixty (60) days of  
445 employment or sixty (60) days after the effective date of the  
446 cited articles, whichever is later, on a form prescribed by the  
447 board, a notice of election not to be covered by the membership of  
448 the retirement system and a duly executed waiver of all present  
449 and prospective benefits that would otherwise inure to them on  
450 account of their participation in the system, shall become members  
451 of the retirement system; however, no credit for prior service  
452 will be granted to members who became members of the system before  
453 July 1, 2007, until they have contributed to Article 3 of the  
454 retirement system for a minimum period of at least four (4) years,  
455 or to members who became members of the system on or after July 1,  
456 2007, until they have contributed to Article 3 of the retirement  
457 system for a minimum period of at least ten (10) years. Those  
458 members shall receive credit for services performed before January  
459 1, 1953, in employment now covered by Article 3, but no credit  
460 shall be granted for retroactive services between January 1, 1953,

461 and the date of their entry into the retirement system, unless the  
462 employee pays into the retirement system both the employer's and  
463 the employee's contributions on wages paid him during the period  
464 from January 31, 1953, to the date of his becoming a contributing  
465 member, together with interest at the rate determined by the board  
466 of trustees. Members reentering after withdrawal from service  
467 shall qualify for prior service under the provisions of Section  
468 25-11-117. From and after July 1, 1998, upon eligibility as noted  
469 above, the member may receive credit for such retroactive service  
470 provided:

471           (i) The member shall furnish proof satisfactory to  
472 the board of trustees of certification of that service from the  
473 covered employer where the services were performed; and

474           (ii) The member shall pay to the retirement system  
475 on the date he or she is eligible for that credit or at any time  
476 thereafter before the date of retirement the actuarial cost for  
477 each year of that creditable service. The provisions of this  
478 subparagraph (ii) shall be subject to the limitations of Section  
479 415 of the Internal Revenue Code and regulations promulgated under  
480 Section 415.

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

485           (c) All persons who become employees in the state  
486 service after January 31, 1953, and who are eligible for  
487 membership in any other retirement system shall become members of  
488 this retirement system as a condition of their employment, unless  
489 they elect at the time of their employment to become a member of  
490 that other system.

491           (d) All persons who are employees in the state service  
492 on January 31, 1953, and who are members of any nonfunded  
493 retirement system operated by the State of Mississippi, or any of

494 its departments or agencies, shall become members of this system  
495 with prior service credit unless, before February 1, 1953, they  
496 file a written notice with the board of trustees that they do not  
497 elect to become members.

498 (e) All persons who are employees in the state service  
499 on January 31, 1953, and who under existing laws are members of  
500 any fund operated for the retirement of employees by the State of  
501 Mississippi, or any of its departments or agencies, shall not be  
502 entitled to membership in this retirement system unless, before  
503 February 1, 1953, any such person indicates by a notice filed with  
504 the board, on a form prescribed by the board, his individual  
505 election and choice to participate in this system, but no such  
506 person shall receive prior service credit unless he becomes a  
507 member on or before February 1, 1953.

508 (f) Each political subdivision of the state and each  
509 instrumentality of the state or a political subdivision, or both,  
510 is authorized to submit, for approval by the board of trustees, a  
511 plan for extending the benefits of this article to employees of  
512 any such political subdivision or instrumentality. Each such plan  
513 or any amendment to the plan for extending benefits thereof shall  
514 be approved by the board of trustees if it finds that the plan, or  
515 the plan as amended, is in conformity with such requirements as  
516 are provided in Articles 1 and 3; however, upon approval of the  
517 plan or any such plan previously approved by the board of  
518 trustees, the approved plan shall not be subject to cancellation  
519 or termination by the political subdivision or instrumentality,  
520 except that any community hospital serving a municipality that  
521 joined the Public Employees' Retirement System as of November 1,  
522 1956, to offer social security coverage for its employees and  
523 subsequently extended retirement annuity coverage to its employees  
524 as of December 1, 1965, may, upon documentation of extreme  
525 financial hardship, have future retirement annuity coverage



526 cancelled or terminated at the discretion of the board of  
527 trustees. No such plan shall be approved unless:

528           (i) It provides that all services that constitute  
529 employment as defined in Section 25-11-5 and are performed in the  
530 employ of the political subdivision or instrumentality, by any  
531 employees thereof, shall be covered by the plan, with the  
532 exception of municipal employees who are already covered by  
533 existing retirement plans; however, those employees in this class  
534 may elect to come under the provisions of this article;

535           (ii) It specifies the source or sources from which  
536 the funds necessary to make the payments required by paragraph (d)  
537 of Section 25-11-123 and of paragraph (f)(v)2 and 3 of this  
538 section are expected to be derived and contains reasonable  
539 assurance that those sources will be adequate for that purpose;

540           (iii) It provides for such methods of  
541 administration of the plan by the political subdivision or  
542 instrumentality as are found by the board of trustees to be  
543 necessary for the proper and efficient administration thereof;

544           (iv) It provides that the political subdivision or  
545 instrumentality will make such reports, in such form and  
546 containing such information, as the board of trustees may from  
547 time to time require;

548           (v) It authorizes the board of trustees to  
549 terminate the plan in its entirety in the discretion of the board  
550 if it finds that there has been a failure to comply substantially  
551 with any provision contained in the plan, the termination to take  
552 effect at the expiration of such notice and on such conditions as  
553 may be provided by regulations of the board and as may be  
554 consistent with applicable federal law.

555           1. The board of trustees shall not finally  
556 refuse to approve a plan submitted under paragraph (f), and shall  
557 not terminate an approved plan without reasonable notice and  
558 opportunity for hearing to each political subdivision or

559 instrumentality affected by the board's decision. The board's  
560 decision in any such case shall be final, conclusive and binding  
561 unless an appeal is taken by the political subdivision or  
562 instrumentality aggrieved by the decision to the Circuit Court of  
563 Hinds County, Mississippi, in accordance with the provisions of  
564 law with respect to civil causes by certiorari.

565           2. Each political subdivision or  
566 instrumentality as to which a plan has been approved under this  
567 section shall pay into the contribution fund, with respect to  
568 wages (as defined in Section 25-11-5), at such time or times as  
569 the board of trustees may by regulation prescribe, contributions  
570 in the amounts and at the rates specified in the applicable  
571 agreement entered into by the board.

572           3. Every political subdivision or  
573 instrumentality required to make payments under paragraph (f)(v)2  
574 of this section is authorized, in consideration of the employees'  
575 retention in or entry upon employment after enactment of Articles  
576 1 and 3, to impose upon its employees, as to services that are  
577 covered by an approved plan, a contribution with respect to wages  
578 (as defined in Section 25-11-5) not exceeding the amount provided  
579 in Section 25-11-123(d) if those services constituted employment  
580 within the meaning of Articles 1 and 3, and to deduct the amount  
581 of the contribution from the wages as and when paid.

582 Contributions so collected shall be paid into the contribution  
583 fund as partial discharge of the liability of the political  
584 subdivisions or instrumentalities under paragraph (f)(v)2 of this  
585 section. Failure to deduct the contribution shall not relieve the  
586 employee or employer of liability for the contribution.

587           4. Any state agency, school, political  
588 subdivision, instrumentality or any employer that is required to  
589 submit contribution payments or wage reports under any section of  
590 this chapter shall be assessed interest on delinquent payments or  
591 wage reports as determined by the board of trustees in accordance

592 with rules and regulations adopted by the board and delinquent  
593 payments, assessed interest and any other amount certified by the  
594 board as owed by an employer, may be recovered by action in a  
595 court of competent jurisdiction against the reporting agency  
596 liable therefor or may, upon due certification of delinquency and  
597 at the request of the board of trustees, be deducted from any  
598 other monies payable to the reporting agency by any department or  
599 agency of the state.

600                   5. Each political subdivision of the state  
601 and each instrumentality of the state or a political subdivision  
602 or subdivisions that submit a plan for approval of the board, as  
603 provided in this section, shall reimburse the board for coverage  
604 into the expense account, its pro rata share of the total expense  
605 of administering Articles 1 and 3 as provided by regulations of  
606 the board.

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

613                   (h) An employee whose membership in this system is  
614 contingent on his own election, and who elects not to become a  
615 member, may thereafter apply for and be admitted to membership;  
616 but no such employee shall receive prior service credit unless he  
617 becomes a member before July 1, 1953, except as provided in  
618 paragraph (b).

619                   (i) If any member of this system changes his employment  
620 to any agency of the state having an actuarially funded retirement  
621 system, the board of trustees may authorize the transfer of the  
622 member's creditable service and of the present value of the  
623 member's employer's accumulation account and of the present value  
624 of the member's accumulated membership contributions to that other

625 system, provided that the employee agrees to the transfer of his  
626 accumulated membership contributions and provided that the other  
627 system is authorized to receive and agrees to make the transfer.

628 If any member of any other actuarially funded system  
629 maintained by an agency of the state changes his employment to an  
630 agency covered by this system, the board of trustees may authorize  
631 the receipt of the transfer of the member's creditable service and  
632 of the present value of the member's employer's accumulation  
633 account and of the present value of the member's accumulated  
634 membership contributions from the other system, provided that the  
635 employee agrees to the transfer of his accumulated membership  
636 contributions to this system and provided that the other system is  
637 authorized and agrees to make the transfer.

638 (j) Wherever state employment is referred to in this  
639 section, it includes joint employment by state and federal  
640 agencies of all kinds.

641 (k) Employees of a political subdivision or  
642 instrumentality who were employed by the political subdivision or  
643 instrumentality before an agreement between the entity and the  
644 Public Employees' Retirement System to extend the benefits of this  
645 article to its employees, and which agreement provides for the  
646 establishment of retroactive service credit, and who have been  
647 members of the retirement system who became members of the system  
648 before July 1, 2007, and have remained contributors to the  
649 retirement system for four (4) years, or who became members of the  
650 system on or after July 1, 2007, and have remained contributors to  
651 the retirement system for ten (10) years, may receive credit for  
652 that retroactive service with the political subdivision or  
653 instrumentality, provided that the employee and/or employer, as  
654 provided under the terms of the modification of the joinder  
655 agreement in allowing that coverage, pay into the retirement  
656 system the employer's and employee's contributions on wages paid  
657 the member during the previous employment, together with interest

658 or actuarial cost as determined by the board covering the period  
659 from the date the service was rendered until the payment for the  
660 credit for the service was made. Those wages shall be verified by  
661 the Social Security Administration or employer payroll records.  
662 Effective July 1, 1998, upon eligibility as noted above, a member  
663 may receive credit for that retroactive service with the political  
664 subdivision or instrumentality provided:

665           (i) The member shall furnish proof satisfactory to  
666 the board of trustees of certification of those services from the  
667 political subdivision or instrumentality where the services were  
668 rendered or verification by the Social Security Administration;  
669 and

670           (ii) The member shall pay to the retirement system  
671 on the date he or she is eligible for that credit or at any time  
672 thereafter before the date of retirement the actuarial cost for  
673 each year of that creditable service. The provisions of this  
674 subparagraph (ii) shall be subject to the limitations of Section  
675 415 of the Internal Revenue Code and regulations promulgated under  
676 Section 415.

677           Nothing contained in this paragraph (k) shall be construed to  
678 limit the authority of the board to allow the correction of  
679 reporting errors or omissions based on the payment of employee and  
680 employer contributions plus applicable interest. Payment for that  
681 time shall be made in increments of not less than one-quarter  
682 (1/4) year of creditable service beginning with the most recent  
683 service. Upon the payment of all or part of the required  
684 contributions, plus interest or the actuarial cost as provided  
685 above, the member shall receive credit for the period of  
686 creditable service for which full payment has been made to the  
687 retirement system.

688           (1) Through June 30, 1998, any state service eligible  
689 for retroactive service credit, no part of which has ever been  
690 reported, and requiring the payment of employee and employer

691 contributions plus interest, or, from and after July 1, 1998, any  
692 state service eligible for retroactive service credit, no part of  
693 which has ever been reported to the retirement system, and  
694 requiring the payment of the actuarial cost for that creditable  
695 service, may, at the member's option, be purchased in quarterly  
696 increments as provided above at the time that its purchase is  
697 otherwise allowed.

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

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

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

705 (a) Patient or inmate help in state charitable, penal  
706 or correctional institutions;

707 (b) Students of any state educational institution  
708 employed by any agency of the state for temporary, part-time or  
709 intermittent work;

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

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

717 **III. TERMINATION OF MEMBERSHIP**

718 Membership in this system shall cease by a member withdrawing  
719 his accumulated contributions, or by a member withdrawing from  
720 active service with a retirement allowance, or by a member's  
721 death.

722 **SECTION 4.** Section 25-11-109, Mississippi Code of 1972, is  
723 amended as follows:

724           25-11-109. (1) Under such rules and regulations as the  
725 board of trustees shall adopt, each person who becomes a member of  
726 this retirement system, as provided in Section 25-11-105, on or  
727 prior to July 1, 1953, or who became a member of the system before  
728 July 1, 2007, and contributes to the system for a minimum period  
729 of four (4) years, or who became a member of the system on or  
730 after July 1, 2007, and contributes to the system for a minimum  
731 period of ten (10) years, shall receive credit for all state  
732 service rendered before February 1, 1953. To receive such credit,  
733 such member shall file a detailed statement of all services as an  
734 employee rendered by him in the state service before February 1,  
735 1953. For any member who joined the system after July 1, 1953,  
736 and before July 1, 2007, any creditable service for which the  
737 member is not required to make contributions shall not be credited  
738 to the member until the member has contributed to the system for a  
739 minimum period of at least four (4) years. For any member who  
740 joined the system on or after July 1, 2007, any creditable service  
741 for which the member is not required to make contributions shall  
742 not be credited to the member until the member has contributed to  
743 the system for a minimum period of at least ten (10) years.

744           (2) In the computation of membership service or prior  
745 service under the provisions of this article, the total months of  
746 accumulative service during any fiscal year shall be calculated in  
747 accordance with the schedule as follows: ten (10) or more months  
748 of creditable service during any fiscal year shall constitute a  
749 year of creditable service; seven (7) months to nine (9) months  
750 inclusive, three-quarters (3/4) of a year of creditable service;  
751 four (4) months to six (6) months inclusive, one-half-year of  
752 creditable service; one (1) month to three (3) months inclusive,  
753 one-quarter (1/4) of a year of creditable service. In no case  
754 shall credit be allowed for any period of absence without  
755 compensation except for disability while in receipt of a  
756 disability retirement allowance, nor shall less than fifteen (15)

757 days of service in any month, or service less than the equivalent  
758 of one-half (1/2) of the normal working load for the position and  
759 less than one-half (1/2) of the normal compensation for the  
760 position in any month, constitute a month of creditable service,  
761 nor shall more than one (1) year of service be creditable for all  
762 services rendered in any one (1) fiscal year; however, for a  
763 school employee, substantial completion of the legal school term  
764 when and where the service was rendered shall constitute a year of  
765 service credit for both prior service and membership service. Any  
766 state or local elected official shall be deemed a full-time  
767 employee for the purpose of creditable service for prior service  
768 or membership service. However, an appointed or elected official  
769 compensated on a per diem basis only shall not be allowed  
770 creditable service for terms of office.

771 In the computation of any retirement allowance or any annuity  
772 or benefits provided in this article, any fractional period of  
773 service of less than one (1) year shall be taken into account and  
774 a proportionate amount of such retirement allowance, annuity or  
775 benefit shall be granted for any such fractional period of  
776 service.

777 In the computation of unused leave for creditable service  
778 authorized in Section 25-11-103, the following shall govern:  
779 twenty-one (21) days of unused leave shall constitute one (1)  
780 month of creditable service and in no case shall credit be allowed  
781 for any period of unused leave of less than fifteen (15) days.  
782 The number of months of unused leave shall determine the number of  
783 quarters or years of creditable service in accordance with the  
784 above schedule for membership and prior service. In order for the  
785 member to receive creditable service for the number of days of  
786 unused leave, the system must receive certification from the  
787 governing authority.



788 For the purpose of this subsection, for members of the system  
789 who are elected officers and who retire on or after July 1, 1987,  
790 the following shall govern:

791 (a) For service prior to July 1, 1984, the members  
792 shall receive credit for leave (combined personal and major  
793 medical) for service as an elected official prior to that date at  
794 the rate of thirty (30) days per year.

795 (b) For service on and after July 1, 1984, the member  
796 shall receive credit for personal and major medical leave  
797 beginning July 1, 1984, at the rates authorized in Sections  
798 25-3-93 and 25-3-95, computed as a full-time employee.

799 (3) Subject to the above restrictions and to such other  
800 rules and regulations as the board may adopt, the board shall  
801 verify, as soon as practicable after the filing of such statements  
802 of service, the services therein claimed.

803 (4) Upon verification of the statement of prior service, the  
804 board shall issue a prior service certificate certifying to each  
805 member the length of prior service for which credit shall have  
806 been allowed on the basis of his statement of service. So long as  
807 membership continues, a prior service certificate shall be final  
808 and conclusive for retirement purposes as to such service,  
809 provided that any member may within five (5) years from the date  
810 of issuance or modification of such certificate request the board  
811 of trustees to modify or correct his prior service certificate.  
812 Any modification or correction authorized shall only apply  
813 prospectively.

814 When membership ceases, such prior service certificates shall  
815 become void. Should the employee again become a member, he shall  
816 enter the system as an employee not entitled to prior service  
817 credit except as provided in Sections 25-11-105(I), 25-11-113 and  
818 25-11-117.

819 (5) Creditable service at retirement, on which the  
820 retirement allowance of a member shall be based, shall consist of

821 the membership service rendered by him since he last became a  
822 member, and also, if he has a prior service certificate which is  
823 in full force and effect, the amount of the service certified on  
824 his prior service certificate.

825 (6) Any member who served on active duty in the Armed Forces  
826 of the United States, who served in the Commissioned Corps of the  
827 United States Public Health Service prior to 1972 or who served in  
828 maritime service during periods of hostility in World War II,  
829 shall be entitled to creditable service at no cost for his service  
830 on active duty in the Armed Forces, in the Commissioned Corps of  
831 the United States Public Health Service prior to 1972 or in such  
832 maritime service, provided he entered state service after his  
833 discharge from the Armed Forces or entered state service after he  
834 completed such maritime service. The maximum period for such  
835 creditable service for all military service as defined in this  
836 subsection (6) shall not exceed four (4) years unless positive  
837 proof can be furnished by such person that he was retained in the  
838 Armed Forces during World War II or in maritime service during  
839 World War II by causes beyond his control and without opportunity  
840 of discharge. The member shall furnish proof satisfactory to the  
841 board of trustees of certification of military service or maritime  
842 service records showing dates of entrance into active duty service  
843 and the date of discharge. From and after July 1, 1993, no  
844 creditable service shall be granted for any military service or  
845 maritime service to a member who qualifies for a retirement  
846 allowance in another public retirement system administered by the  
847 Board of Trustees of the Public Employees' Retirement System based  
848 in whole or in part on such military or maritime service. In no  
849 case shall the member receive creditable service if the member  
850 received a dishonorable discharge from the Armed Forces of the  
851 United States.

852 (7) (a) Any member of the Public Employees' Retirement  
853 System whose membership service is interrupted as a result of

854 qualified military service within the meaning of Section 414(u)(5)  
855 of the Internal Revenue Code, and who has received the maximum  
856 service credit available under subsection (6) of this section,  
857 shall receive creditable service for the period of qualified  
858 military service that does not qualify as creditable service under  
859 subsection (6) of this section upon reentering membership service  
860 in an amount not to exceed five (5) years if:

861 (i) The member pays the contributions he would  
862 have made to the retirement system if he had remained in  
863 membership service for the period of qualified military service  
864 based upon his salary at the time his membership service was  
865 interrupted;

866 (ii) The member returns to membership service  
867 within ninety (90) days of the end of his qualified military  
868 service; and

869 (iii) The employer at the time the member's  
870 service was interrupted and to which employment the member returns  
871 pays the contributions it would have made into the retirement  
872 system for such period based on the member's salary at the time  
873 the service was interrupted.

874 (b) The payments required to be made in paragraph  
875 (a)(i) of this subsection may be made over a period beginning with  
876 the date of return to membership service and not exceeding three  
877 (3) times the member's qualified military service; however, in no  
878 event shall such period exceed five (5) years.

879 (c) The member shall furnish proof satisfactory to the  
880 board of trustees of certification of military service showing  
881 dates of entrance into qualified service and the date of discharge  
882 as well as proof that the member has returned to active employment  
883 within the time specified.

884 (8) Any member of the Public Employees' Retirement System  
885 who became a member of the system before July 1, 2007, and who has  
886 at least four (4) years of membership service credit, or who

887 became a member of the system on or after July 1, 2007, and who  
888 has at least ten (10) years of membership service credit, shall be  
889 entitled to receive a maximum of five (5) years creditable service  
890 for service rendered in another state as a public employee of such  
891 other state, or a political subdivision, public education system  
892 or other governmental instrumentality thereof, or service rendered  
893 as a teacher in American overseas dependent schools conducted by  
894 the Armed Forces of the United States for children of citizens of  
895 the United States residing in areas outside the continental United  
896 States, provided that:

897 (a) The member shall furnish proof satisfactory to the  
898 board of trustees of certification of such services from the  
899 state, public education system, political subdivision or  
900 retirement system of the state where the services were performed  
901 or the governing entity of the American overseas dependent school  
902 where the services were performed; and

903 (b) The member is not receiving or will not be entitled  
904 to receive from the public retirement system of the other state or  
905 from any other retirement plan, including optional retirement  
906 plans, sponsored by the employer, a retirement allowance including  
907 such services; and

908 (c) The member shall pay to the retirement system on  
909 the date he or she is eligible for credit for such out-of-state  
910 service or at any time thereafter prior to date of retirement the  
911 actuarial cost as determined by the actuary for each year of  
912 out-of-state creditable service. The provisions of this  
913 subsection are subject to the limitations of Section 415 of the  
914 Internal Revenue Code and regulations promulgated thereunder.

915 (9) Any member of the Public Employees' Retirement System  
916 who became a member of the system before July 1, 2007, and has at  
917 least four (4) years of membership service credit, or who became a  
918 member of the system on or after July 1, 2007, and has at least  
919 ten (10) years of membership service credit, and who receives, or

920 has received, professional leave without compensation for  
921 professional purposes directly related to the employment in state  
922 service shall receive creditable service for the period of  
923 professional leave without compensation provided:

924 (a) The professional leave is performed with a public  
925 institution or public agency of this state, or another state or  
926 federal agency;

927 (b) The employer approves the professional leave  
928 showing the reason for granting the leave and makes a  
929 determination that the professional leave will benefit the  
930 employee and employer;

931 (c) Such professional leave shall not exceed two (2)  
932 years during any ten-year period of state service;

933 (d) The employee shall serve the employer on a  
934 full-time basis for a period of time equivalent to the  
935 professional leave period granted immediately following the  
936 termination of the leave period;

937 (e) The contributing member shall pay to the retirement  
938 system the actuarial cost as determined by the actuary for each  
939 year of professional leave. The provisions of this subsection are  
940 subject to the regulations of the Internal Revenue Code  
941 limitations;

942 (f) Such other rules and regulations consistent  
943 herewith as the board may adopt and in case of question, the board  
944 shall have final power to decide the questions.

945 Any actively contributing member participating in the School  
946 Administrator Sabbatical Program established in Section 37-9-77  
947 shall qualify for continued participation under this subsection  
948 (9).

949 (10) Any member of the Public Employees' Retirement System  
950 who became a member of the system before July 1, 2007, and has at  
951 least four (4) years of credited membership service, or who became  
952 a member of the system on or after July 1, 2007, and has at least

953 ten (10) years of credited membership service shall be entitled to  
954 receive a maximum of ten (10) years creditable service for:

955 (a) Any service rendered as an employee of any  
956 political subdivision of this state, or any instrumentality  
957 thereof, which does not participate in the Public Employees'  
958 Retirement System; or

959 (b) Any service rendered as an employee of any  
960 political subdivision of this state, or any instrumentality  
961 thereof, which participates in the Public Employees' Retirement  
962 System but did not elect retroactive coverage; or

963 (c) Any service rendered as an employee of any  
964 political subdivision of this state, or any instrumentality  
965 thereof, for which coverage of the employee's position was or is  
966 excluded; provided that the member pays into the retirement system  
967 the actuarial cost as determined by the actuary for each year, or  
968 portion thereof, of such service. Payment for such service may be  
969 made in increments of one-quarter-year of creditable service.  
970 After a member has made full payment to the retirement system for  
971 all or any part of such service, the member shall receive  
972 creditable service for the period of such service for which full  
973 payment has been made to the retirement system.

974 **SECTION 5.** Section 25-11-113, Mississippi Code of 1972, is  
975 amended as follows:

976 25-11-113. (1) (a) Upon the application of a member or his  
977 employer, any active member in state service who became a member  
978 of the system before July 1, 2007, and who has at least four (4)  
979 years of membership service credit, or any active member in state  
980 service who became a member of the system on or after July 1,  
981 2007, who has at least ten (10) years of membership service  
982 credit, may be retired by the board of trustees on the first of  
983 the month following the date of filing such application on a  
984 disability retirement allowance, but in no event shall the  
985 disability retirement allowance commence before termination of

986 state service, provided that the medical board, after an  
987 evaluation of medical evidence that may or may not include an  
988 actual physical examination by the medical board, shall certify  
989 that the member is mentally or physically incapacitated for the  
990 further performance of duty, that such incapacity is likely to be  
991 permanent, and that the member should be retired; however, the  
992 board of trustees may accept a disability medical determination  
993 from the Social Security Administration in lieu of a certification  
994 from the medical board. For the purposes of disability  
995 determination, the medical board shall apply the following  
996 definition of disability: the inability to perform the usual  
997 duties of employment or the incapacity to perform such lesser  
998 duties, if any, as the employer, in its discretion, may assign  
999 without material reduction in compensation, or the incapacity to  
1000 perform the duties of any employment covered by the Public  
1001 Employees' Retirement System (Section 25-11-101 et seq.) that is  
1002 actually offered and is within the same general territorial work  
1003 area, without material reduction in compensation. The employer  
1004 shall be required to furnish the job description and duties of the  
1005 member. The employer shall further certify whether the employer  
1006 has offered the member other duties and has complied with the  
1007 applicable provisions of the Americans With Disabilities Act in  
1008 affording reasonable accommodations which would allow the employee  
1009 to continue employment.

1010 (b) Any inactive member who became a member of the  
1011 system before July 1, 2007, with four (4) or more years of  
1012 membership service credit, or any inactive member who became a  
1013 member of the system on or after July 1, 2007, with ten (10) or  
1014 more years of membership service credit, who has withdrawn from  
1015 active state service, is not eligible for a disability retirement  
1016 allowance unless the disability occurs within six (6) months of  
1017 the termination of active service and unless satisfactory proof is

1018 presented to the board of trustees that the disability was the  
1019 direct cause of withdrawal from state service.

1020 (c) Any member who is or becomes eligible for service  
1021 retirement benefits under Section 25-11-111 while pursuing a  
1022 disability retirement allowance under this section or Section  
1023 25-11-114 may elect to receive a service retirement allowance  
1024 pending a final determination on eligibility for a disability  
1025 retirement allowance or withdrawal of the application for the  
1026 disability retirement allowance. In such a case, an application  
1027 for a disability retirement allowance must be on file with the  
1028 system before the commencement of a service retirement allowance.  
1029 If the application is approved, the option selected and  
1030 beneficiary designated on the retirement application shall be used  
1031 to determine the disability retirement allowance. If the  
1032 application is not approved or if the application is withdrawn,  
1033 the service retirement allowance shall continue to be paid in  
1034 accordance with the option selected. No person may apply for a  
1035 disability retirement allowance after the person begins to receive  
1036 a service retirement allowance.

1037 (d) If the medical board certifies that the member is  
1038 not mentally or physically incapacitated for the future  
1039 performance of duty, the member may request, within sixty (60)  
1040 days, a hearing before the hearing officer as provided in Section  
1041 25-11-120. All hearings shall be held in accordance with rules  
1042 and regulations adopted by the board to govern such hearings.  
1043 Such hearing may be closed upon the request of the member.

1044 (e) The medical board may request additional medical  
1045 evidence and/or other physicians to conduct an evaluation of the  
1046 member's condition. If the medical board requests additional  
1047 medical evidence and the member refuses the request, the  
1048 application shall be considered void.

1049 (2) Allowance on disability retirement.



1050 (a) Upon retirement for disability, an eligible member  
1051 shall receive a retirement allowance if he has attained the age of  
1052 sixty (60) years.

1053 (b) Except as provided in paragraph (c) of this  
1054 subsection (2), an eligible member who is retired for disability  
1055 and who has not attained sixty (60) years of age shall receive a  
1056 disability benefit as computed in Section 25-11-111(d)(1) through  
1057 (d)(4) which shall consist of:

1058 (i) A member's annuity which shall be the  
1059 actuarial equivalent of his accumulated contributions at the time  
1060 of retirement; and

1061 (ii) An employer's annuity equal to the amount  
1062 that would have been payable as a retirement allowance for both  
1063 membership service and prior service had the member continued in  
1064 service to the age of sixty (60) years, which shall apply to the  
1065 allowance for disability retirement paid to retirees receiving  
1066 such allowance upon and after April 12, 1977. This employer's  
1067 annuity shall be computed on the basis of the average "earned  
1068 compensation" as defined in Section 25-11-103.

1069 (c) For persons who become members after June 30, 1992,  
1070 and for active members on June 30, 1992, who elect benefits under  
1071 this paragraph (c) instead of those provided under paragraph (b)  
1072 of this subsection (2), the disability allowance shall consist of  
1073 two (2) parts: a temporary allowance and a deferred allowance.

1074 The temporary allowance shall equal the greater of (i) forty  
1075 percent (40%) of average compensation at the time of disability,  
1076 plus ten percent (10%) of average compensation for each of the  
1077 first two (2) dependent children, as defined in Sections 25-11-103  
1078 and 25-11-114, or (ii) the accrued benefit based on actual  
1079 service. It shall be payable for a period of time based on the  
1080 member's age at disability, as follows:

1081	Age at Disability	Duration
1082	60 and earlier	to age 65

1083	61	to age 66
1084	62	to age 66
1085	63	to age 67
1086	64	to age 67
1087	65	to age 68
1088	66	to age 68
1089	67	to age 69
1090	68	to age 70
1091	69 and over	one year

1092           The deferred allowance shall commence when the temporary  
1093 allowance ceases and shall be payable for life. The deferred  
1094 allowance shall equal the greater of (i) the allowance that would  
1095 have been payable had the member continued in service to the  
1096 termination age of the temporary allowance, but no more than forty  
1097 percent (40%) of average compensation, or (ii) the accrued benefit  
1098 based on actual service at the time of disability. The deferred  
1099 allowance as determined at the time of disability shall be  
1100 adjusted in accordance with Section 25-11-112 for the period  
1101 during which the temporary annuity is payable. In no case shall a  
1102 member receive less than Ten Dollars (\$10.00) per month for each  
1103 year of service and proportionately for each quarter year thereof  
1104 reduced for the option selected.

1105           (d) The member may elect to receive the actuarial  
1106 equivalent of the disability retirement allowance in a reduced  
1107 allowance payable throughout life under any of the provisions of  
1108 the options provided under Section 25-11-115.

1109           (e) Should a disability retiree who has not selected an  
1110 option under Section 25-11-115 die before being repaid in  
1111 disability benefits the sum of his total contributions, then his  
1112 named beneficiary shall receive the difference in cash, which  
1113 shall apply to all deceased disability retirees from and after  
1114 January 1, 1953.

1115           (3) Reexamination of retirees retired on account of  
1116 disability. Except as otherwise provided in this section, once  
1117 each year during the first five (5) years following retirement of  
1118 a member on a disability retirement allowance, and once in every  
1119 period of three (3) years thereafter, the board of trustees may,  
1120 and upon his application shall, require any disability retiree who  
1121 has not yet attained the age of sixty (60) years or the  
1122 termination age of the temporary allowance under subsection (2)(c)  
1123 of this section to undergo a medical examination, such examination  
1124 to be made at the place of residence of the retiree or other place  
1125 mutually agreed upon by a physician or physicians designated by  
1126 the board. The board, however, in its discretion, may authorize  
1127 the medical board to establish reexamination schedules appropriate  
1128 to the medical condition of individual disability retirees.  
1129 Should any disability retiree who has not yet attained the age of  
1130 sixty (60) years or the termination age of the temporary allowance  
1131 under subsection (2)(c) of this section refuse to submit to any  
1132 medical examination provided herein, his allowance may be  
1133 discontinued until his withdrawal of such refusal; and should his  
1134 refusal continue for one (1) year, all his rights to a disability  
1135 benefit shall be revoked by the board of trustees.

1136           (4) If the medical board reports and certifies to the board  
1137 of trustees, after a comparable job analysis or other similar  
1138 study, that such disability retiree is engaged in, or is able to  
1139 engage in, a gainful occupation paying more than the difference  
1140 between his disability allowance, exclusive of cost of living  
1141 adjustments, and the average compensation, and if the board of  
1142 trustees concurs in such report, the disability benefit shall be  
1143 reduced to an amount which, together with the amount earnable by  
1144 him, shall equal the amount of his average compensation. If his  
1145 earning capacity be later changed, the amount of the benefit may  
1146 be further modified, provided that the revised benefit shall not  
1147 exceed the amount originally granted. A retiree receiving a

1148 disability benefit who is restored to active service at a salary  
1149 less than the average compensation shall not become a member of  
1150 the retirement system.

1151 (5) Should a disability retiree under the age of sixty (60)  
1152 years or the termination age of the temporary allowance under  
1153 subsection (2)(c) of this section be restored to active service at  
1154 a compensation not less than his average compensation, his  
1155 disability benefit shall cease, he shall again become a member of  
1156 the retirement system, and contributions shall be withheld and  
1157 reported. Any such prior service certificate, on the basis of  
1158 which his service was computed at the time of retirement, shall be  
1159 restored to full force and effect. In addition, upon his  
1160 subsequent retirement he shall be credited with all creditable  
1161 service as a member, but the total retirement allowance paid to  
1162 the retired member in his previous retirement shall be deducted  
1163 from his retirement reserve and taken into consideration in  
1164 recalculating the retirement allowance under a new option  
1165 selected.

1166 (6) If following reexamination in accordance with the  
1167 provisions contained in this section, the medical board determines  
1168 that a retiree retired on account of disability is physically and  
1169 mentally able to return to the employment from which he is  
1170 retired, the board of trustees, upon certification of such  
1171 findings from the medical board, shall, after a reasonable period  
1172 of time, terminate the disability allowance, whether or not the  
1173 retiree is reemployed or seeks such reemployment. In addition, if  
1174 the board of trustees determines that the retiree is no longer  
1175 sustaining a loss of income as established by documented evidence  
1176 of the retiree's earned income, the eligibility for a disability  
1177 allowance shall terminate and the allowance terminated within a  
1178 reasonable period of time. In the event the retirement allowance  
1179 is terminated under the provisions of this section, the retiree  
1180 may subsequently qualify for a retirement allowance under Section

1181 25-11-111 based on actual years of service credit plus credit for  
1182 the period during which a disability allowance was paid.

1183 (7) Any current member as of June 30, 1992, who retires on a  
1184 disability retirement allowance after June 30, 1992, and who has  
1185 not elected to receive benefits under subsection (2)(c) of this  
1186 section, shall relinquish all rights under the Age Discrimination  
1187 in Employment Act of 1967, as amended, with regard to the benefits  
1188 payable under this section.

1189 **SECTION 6.** Section 25-11-114, Mississippi Code of 1972, is  
1190 amended as follows:

1191 25-11-114. (1) The applicable benefits provided in  
1192 subsections (2) and (3) of this section shall be paid to eligible  
1193 beneficiaries of any member who became a member of the system  
1194 before July 1, 2007, and has completed four (4) or more years of  
1195 creditable service, or who became a member of the system on or  
1196 after July 1, 2007, and has completed ten (10) or more years of  
1197 creditable service, and who dies before retirement and who has not  
1198 filed a Pre-Retirement Optional Retirement Form as provided in  
1199 Section 25-11-111.

1200 (2) (a) The member's surviving spouse who has been married  
1201 to the member for not less than one (1) year immediately preceding  
1202 his death shall receive an annuity computed in accordance with  
1203 paragraph (d) of this subsection (2) as if the member:

1204 (i) Had retired on the date of his death with  
1205 entitlement to an annuity provided for in Section 25-11-111,  
1206 notwithstanding that he might not have attained age sixty (60) or  
1207 acquired the years of creditable service necessary for retirement  
1208 regardless of age;

1209 (ii) Had nominated his spouse as beneficiary; and

1210 (b) If, at the time of the member's death, there are no  
1211 dependent children, and the surviving spouse, who otherwise would  
1212 receive the annuity under this subsection (2), has filed with the  
1213 system a signed written waiver of his or her rights to the annuity

1214 and that waiver was in effect at the time of the member's death, a  
1215 lump-sum distribution of the deceased member's accumulated  
1216 contributions shall be refunded in accordance with Section  
1217 25-11-117.

1218 (c) The spouse annuity shall begin on the first day of  
1219 the month following the date of the member's death, but in case of  
1220 late filing, retroactive payments will be made for a period of not  
1221 more than one (1) year.

1222 (d) The spouse annuity shall be payable for life and  
1223 shall be the greater of twenty percent (20%) of the deceased  
1224 member's average compensation as defined in Section 25-11-103 at  
1225 the time of death or Fifty Dollars (\$50.00) monthly. Surviving  
1226 spouses of deceased members who previously received spouse  
1227 retirement benefits under this paragraph (d) from and after July  
1228 1, 1992, and whose benefits were terminated before July 1, 2004,  
1229 because of remarriage, may again receive the retirement benefits  
1230 authorized under this paragraph (d) by making application with the  
1231 board to reinstate those benefits. Any reinstatement of the  
1232 benefits shall be prospective only and shall begin after the first  
1233 of the month following the date of the application for  
1234 reinstatement, but no earlier than July 1, 2004.

1235 (e) However, the spouse may elect by an irrevocable  
1236 agreement on a form prescribed by the board of trustees to receive  
1237 a monthly allowance as computed under either paragraph (d) or this  
1238 paragraph. The irrevocable agreement shall constitute a waiver by  
1239 the spouse to any current and future monthly allowance under the  
1240 paragraph not elected, and the waiver shall be a complete and full  
1241 discharge of all obligations of the retirement system under that  
1242 paragraph.

1243 Any member who has completed the requisite minimum number of  
1244 years of membership service to qualify for a retirement allowance  
1245 at age sixty (60) and who dies before retirement and leaves a  
1246 spouse who has been married to the member for not less than one

1247 (1) year immediately preceding his death and has not exercised any  
1248 other option shall be deemed to have exercised Option 2 under  
1249 Section 25-11-115 for the benefit of his spouse, which spouse  
1250 shall be paid Option 2 settlement benefits under this article  
1251 beginning on the first of the month following the date of death,  
1252 but in case of late filing, retroactive payments will be made for  
1253 a period of not more than one (1) year. The method of calculating  
1254 the retirement benefits shall be on the same basis as provided in  
1255 Section 25-11-111(d). However, if the member dies before being  
1256 qualified for full unreduced benefits, then the benefits shall be  
1257 reduced by three percent (3%) per year for the lesser of either  
1258 the years of service or age required for full unreduced benefits  
1259 in Section 25-11-111(d).

1260 (3) (a) Subject to the maximum limitation provided in this  
1261 paragraph, the member's dependent children each shall receive an  
1262 annuity of the greater of ten percent (10%) of the member's  
1263 average compensation as defined in Section 25-11-103 at the time  
1264 of the death of the member or Fifty Dollars (\$50.00) monthly;  
1265 however, if there are more than three (3) dependent children, each  
1266 dependent child shall receive an equal share of a total annuity  
1267 equal to thirty percent (30%) of the member's average  
1268 compensation, provided that the total annuity shall not be less  
1269 than One Hundred Fifty Dollars (\$150.00) per month for all  
1270 children.

1271 (b) A child shall be considered to be a dependent child  
1272 until marriage, or the attainment of age nineteen (19), whichever  
1273 comes first; however, this age limitation shall be extended beyond  
1274 age nineteen (19), but in no event beyond the attainment of age  
1275 twenty-three (23), as long as the child is a student regularly  
1276 pursuing a full-time course of resident study or training in an  
1277 accredited high school, trade school, technical or vocational  
1278 institute, junior or community college, college, university or  
1279 comparable recognized educational institution duly licensed by a

1280 state. A student child whose birthday falls during the school  
1281 year (September 1 through June 30) is considered not to reach age  
1282 twenty-three (23) until the July 1 following the actual  
1283 twenty-third birthday. A full-time course of resident study or  
1284 training means a day or evening noncorrespondence course that  
1285 includes school attendance at the rate of at least thirty-six (36)  
1286 weeks per academic year or other applicable period with a subject  
1287 load sufficient, if successfully completed, to attain the  
1288 educational or training objective within the period generally  
1289 accepted as minimum for completion, by a full-time day student, of  
1290 the academic or training program concerned. Any child who is  
1291 physically or mentally incompetent, as adjudged by either a  
1292 Mississippi court of competent jurisdiction or by the board, shall  
1293 receive benefits for as long as the incompetency exists.

1294 (c) If there are more than three (3) dependent  
1295 children, upon a child's ceasing to be a dependent child, his  
1296 annuity shall terminate and there shall be a redetermination of  
1297 the amounts payable to any remaining dependent children.

1298 (d) Annuities payable under this subsection (3) shall  
1299 begin the first day of the month following the date of the  
1300 member's death or in case of late filing, retroactive payments  
1301 will be made for a period of not more than one (1) year. Those  
1302 benefits may be paid to a surviving parent or the lawful custodian  
1303 of a dependent child for the use and benefit of the child without  
1304 the necessity of appointment as guardian.

1305 (4) (a) Death benefits in the line of duty. Regardless of  
1306 the number of years of the member's creditable service, the spouse  
1307 and/or the dependent children of an active member who is killed in  
1308 the line of performance of duty or dies as a direct result of an  
1309 accident occurring in the line of performance of duty shall  
1310 qualify, on approval of the board, for a retirement allowance on  
1311 the first of the month following the date of death, but in the  
1312 case of late filing, retroactive payments will be made for a



1313 period of not more than one (1) year. The spouse shall receive a  
1314 retirement allowance for life equal to one-half (1/2) of the  
1315 average compensation as defined in Section 25-11-103. In addition  
1316 to the retirement allowance for the spouse, or if there is no  
1317 surviving spouse, the member's dependent child shall receive a  
1318 retirement allowance in the amount of one-fourth (1/4) of the  
1319 member's average compensation as defined in Section 25-11-103;  
1320 however, if there are two (2) or more dependent children, each  
1321 dependent child shall receive an equal share of a total annuity  
1322 equal to one-half (1/2) of the member's average compensation. If  
1323 there are more than two (2) dependent children, upon a child's  
1324 ceasing to be a dependent child, his annuity shall terminate and  
1325 there shall be a redetermination of the amounts payable to any  
1326 remaining dependent children. Those benefits shall cease to be  
1327 paid for the support and maintenance of each child upon the child  
1328 attaining the age of nineteen (19) years; however, the spouse  
1329 shall continue to be eligible for the aforesaid retirement  
1330 allowance. Those benefits may be paid to a surviving parent or  
1331 lawful custodian of the children for the use and benefit of the  
1332 children without the necessity of appointment as guardian. Any  
1333 spouse who received spouse retirement benefits under this  
1334 paragraph (a) from and after April 4, 1984, and whose benefits  
1335 were terminated before July 1, 2004, because of remarriage, may  
1336 again receive the retirement benefits authorized under this  
1337 paragraph (a) by making application with the board to reinstate  
1338 those benefits. Any reinstatement of the benefits shall be  
1339 prospective only and shall begin after the first of the month  
1340 following the date of the application for reinstatement, but not  
1341 earlier than July 1, 2004.

1342 (b) A child shall be considered to be a dependent child  
1343 until marriage, or the attainment of age nineteen (19), whichever  
1344 comes first; however, this age limitation shall be extended beyond  
1345 age nineteen (19), but in no event beyond the attainment of age

1346 twenty-three (23), as long as the child is a student regularly  
1347 pursuing a full-time course of resident study or training in an  
1348 accredited high school, trade school, technical or vocational  
1349 institute, junior or community college, college, university or  
1350 comparable recognized educational institution duly licensed by a  
1351 state. A student child whose birthday falls during the school  
1352 year (September 1 through June 30) is considered not to reach age  
1353 twenty-three (23) until the July 1 following the actual  
1354 twenty-third birthday. A full-time course of resident study or  
1355 training means a day or evening noncorrespondence course that  
1356 includes school attendance at the rate of at least thirty-six (36)  
1357 weeks per academic year or other applicable period with a subject  
1358 load sufficient, if successfully completed, to attain the  
1359 educational or training objective within the period generally  
1360 accepted as minimum for completion, by a full-time day student, of  
1361 the academic or training program concerned. Any child who is  
1362 physically or mentally incompetent, as adjudged by either a  
1363 Mississippi court of competent jurisdiction or by the board, shall  
1364 receive benefits for as long as the incompetency exists.

1365 (5) If all the annuities provided for in this section  
1366 payable on account of the death of a member terminate before there  
1367 has been paid an aggregate amount equal to the member's  
1368 accumulated contributions standing to the member's credit in the  
1369 annuity savings account at the time of the member's death, the  
1370 difference between the accumulated contributions and the aggregate  
1371 amount of annuity payments shall be paid to the person that the  
1372 member has nominated by written designation duly executed and  
1373 filed with the board. If there is no designated beneficiary  
1374 surviving at termination of benefits, the difference shall be  
1375 payable pursuant to Section 25-11-117.1(1).

1376 (6) Regardless of the number of years of creditable service  
1377 upon the application of a member or employer, any active member  
1378 who becomes disabled as a direct result of an accident or

1379 traumatic event resulting in a physical injury occurring in the  
1380 line of performance of duty, provided that the medical board or  
1381 other designated governmental agency after a medical examination  
1382 certifies that the member is mentally or physically incapacitated  
1383 for the further performance of duty and the incapacity is likely  
1384 to be permanent, may be retired by the board of trustees on the  
1385 first of the month following the date of filing the application  
1386 but in no event shall the retirement allowance begin before the  
1387 termination of state service. The retirement allowance shall  
1388 equal the allowance on disability retirement as provided in  
1389 Section 25-11-113 but shall not be less than fifty percent (50%)  
1390 of average compensation.

1391 Permanent and total disability resulting from a  
1392 cardiovascular, pulmonary or musculo-skeletal condition that was  
1393 not a direct result of a traumatic event occurring in the  
1394 performance of duty shall be deemed an ordinary disability. A  
1395 mental disability based exclusively on employment duties occurring  
1396 on an ongoing basis shall be deemed an ordinary disability.

1397 (7) If the deceased or disabled member became a member of  
1398 the system before July 1, 2007, and has less than four (4) years  
1399 of creditable service, or became a member of the system on or  
1400 after July 1, 2007, and has less than ten (10) years of creditable  
1401 service, the average compensation as defined in Section 25-11-103  
1402 shall be the average of all annual earned compensation in state  
1403 service for the purposes of benefits provided in this section.

1404 (8) In case of death or total and permanent disability under  
1405 subsection (4) or subsection (6) of this section and before the  
1406 board shall consider any application for a retirement allowance,  
1407 the employer must certify to the board that the member's death or  
1408 disability was a direct result of an accident or a traumatic event  
1409 occurring during and as a result of the performance of the regular  
1410 and assigned duties of the employee and that the death or

1411 disability was not the result of the willful negligence of the  
1412 employee.

1413         (9) The application for the retirement allowance must be  
1414 filed within one (1) year after death of an active member who is  
1415 killed in the line of performance of duty or dies as a direct  
1416 result of an accident occurring in the line of performance of duty  
1417 or traumatic event; but the board of trustees may consider an  
1418 application for disability filed after the one-year period if it  
1419 can be factually demonstrated to the satisfaction of the board of  
1420 trustees that the disability is due to the accident and that the  
1421 filing was not accomplished within the one-year period due to a  
1422 delayed manifestation of the disability or to circumstances beyond  
1423 the control of the member. However, in case of late filing,  
1424 retroactive payments will be made for a period of not more than  
1425 one (1) year only.

1426         (10) Notwithstanding any other section of this article and  
1427 in lieu of any payments to a designated beneficiary for a refund  
1428 of contributions under Section 25-11-117, the spouse and/or  
1429 children shall be eligible for the benefits payable under this  
1430 section, and the spouse may elect, for both the spouse and/or  
1431 children, to receive benefits in accordance with either  
1432 subsections (2) and (3) or subsection (4) of this section;  
1433 otherwise, the contributions to the credit of the deceased member  
1434 shall be refunded in accordance with Section 25-11-117.

1435         (11) If the member has previously received benefits from the  
1436 system to which he was not entitled and has not repaid in full all  
1437 amounts payable by him to the system, the annuity amounts  
1438 otherwise provided by this section shall be withheld and used to  
1439 effect repayment until the total of the withholdings repays in  
1440 full all amounts payable by him to the system.

1441         **SECTION 7.** Section 25-11-115, Mississippi Code of 1972, is  
1442 amended as follows:

1443           25-11-115. (1) Upon application for superannuation or  
1444 disability retirement, any member may elect to receive his benefit  
1445 in a retirement allowance payable throughout life with no further  
1446 payments to anyone at his death, except that in the event his  
1447 total retirement payments under this article do not equal his  
1448 total contributions under this article, his named beneficiary  
1449 shall receive the difference in cash at his death. Or he may  
1450 elect upon retirement, or upon becoming eligible for retirement,  
1451 to receive the actuarial equivalent subject to the provisions of  
1452 subsection (3) of this section of his retirement allowance in a  
1453 reduced retirement allowance payable throughout life with the  
1454 provision that:

1455           **Option 1.** If he dies before he has received in annuity  
1456 payment the value of the member's annuity savings account as it  
1457 was at the time of his retirement, the balance shall be paid to  
1458 his legal representative or to such person as he shall nominate by  
1459 written designation duly acknowledged and filed with the board; or

1460           **Option 2.** Upon his death, his reduced retirement allowance  
1461 shall be continued throughout the life of, and paid to, such  
1462 person as he has nominated by written designation duly  
1463 acknowledged and filed with the board of trustees at the time of  
1464 his retirement;

1465           **Option 3.** Upon his death, one-half (1/2) of his reduced  
1466 retirement allowance shall be continued throughout the life of,  
1467 and paid to, such person as he shall have nominated by written  
1468 designation duly acknowledged and filed with the board of trustees  
1469 at the time of his retirement, and the other one-half (1/2) of his  
1470 reduced retirement allowance to some other designated beneficiary;

1471           **Option 4-A.** Upon his death, one-half (1/2) of his reduced  
1472 retirement allowance, or such other specified amount, shall be  
1473 continued throughout the life of, and paid to, such person as he  
1474 shall have nominated by written designation duly acknowledged and  
1475 filed with the board of trustees at the time of his retirement; or

1476           **Option 4-B.** A reduced retirement allowance shall be  
1477 continued throughout the life of the retirant, but with the  
1478 further guarantee of payments to the named beneficiary,  
1479 beneficiaries or to the estate for a specified number of years  
1480 certain. If the retired member or the last designated beneficiary  
1481 receiving annuity payments dies prior to receiving all guaranteed  
1482 payments due, the actuarial equivalent of the remaining payments  
1483 shall be paid pursuant to Section 25-11-117.1(1);

1484           **Option 4-C.** Such retirement allowance otherwise payable may  
1485 be converted into a retirement allowance of equivalent actuarial  
1486 value in such an amount that, with the member's benefit under  
1487 Title II of the federal Social Security Act, the member will  
1488 receive, so far as possible, approximately the same amount  
1489 annually before and after the earliest age at which the member  
1490 becomes eligible to receive a social security benefit. This  
1491 option shall not be available to retirees whose retirement is  
1492 effective on or after July 1, 2004.

1493           **Option 6.** Any member who became a member of the system  
1494 before July 1, 2007, and who has at least twenty-eight (28) years  
1495 of creditable service at the time of retirement or who is at least  
1496 sixty-three (63) years of age and eligible to retire, or any  
1497 member who became a member of the system on or after July 1, 2007,  
1498 and who has at least thirty-three (33) years of creditable service  
1499 at the time of retirement or who is at least sixty-three (63)  
1500 years of age and eligible to retire, may select the maximum  
1501 retirement benefit or an optional benefit as provided in this  
1502 subsection together with a partial lump-sum distribution. The  
1503 amount of the lump-sum distribution under this option shall be  
1504 equal to the maximum monthly benefit multiplied by twelve (12),  
1505 twenty-four (24) or thirty-six (36) as selected by the member.  
1506 The maximum retirement benefit shall be actuarially reduced to  
1507 reflect the amount of the lump-sum distribution selected and  
1508 further reduced for any other optional benefit selected. The

1509 annuity and lump-sum distribution shall be computed to result in  
1510 no actuarial loss to the system. The lump-sum distribution shall  
1511 be made as a single payment payable at the time the first monthly  
1512 annuity payment is paid to the retiree. The amount of the  
1513 lump-sum distribution shall be deducted from the member's annuity  
1514 savings account in computing what contributions remain at the  
1515 death of the retiree and/or a beneficiary. The lump-sum  
1516 distribution option may be elected only once by a member upon  
1517 initial retirement, and may not be elected by a retiree, by  
1518 members applying for a disability retirement annuity, by survivors  
1519 or by a member selecting Option 4-C.

1520 (2) No change in the option selected shall be permitted  
1521 after the member's death or after the member has received his  
1522 first retirement check except as provided in subsections (3) and  
1523 (4) of this section and in Section 25-11-127. Members who are  
1524 pursuing a disability retirement allowance and simultaneously or  
1525 subsequently elect to begin to receive a service retirement  
1526 allowance while continuing to pursue a disability retirement  
1527 allowance, shall not be eligible to select Option 4-C or Option 6  
1528 and those options may not be selected at a later time if the  
1529 application for a disability retirement allowance is voided or  
1530 denied. However, any retired member who is receiving a retirement  
1531 allowance under Option 2 or Option 4-A upon July 1, 1992, and  
1532 whose designated beneficiary predeceased him or whose marriage to  
1533 a spouse who is his designated beneficiary is terminated by  
1534 divorce or other dissolution, upon written notification to the  
1535 retirement system of the death of the designated beneficiary or of  
1536 the termination of his marriage to his designated beneficiary, the  
1537 retirement allowance payable to the member after receipt of such  
1538 notification by the retirement system shall be equal to the  
1539 retirement allowance which would have been payable had the member  
1540 not elected the option. In addition, any retired member who is  
1541 receiving the maximum retirement allowance for life, a retirement

1542 allowance under Option 1 or who is receiving a retirement  
1543 allowance under Option 2 or Option 4-A on July 1, 1992, may elect  
1544 to provide survivor benefits under Option 2 or Option 4-A to a  
1545 spouse who was not previously the member's beneficiary and whom  
1546 the member married before July 1, 1992.

1547 (3) Any retired member who is receiving a reduced retirement  
1548 allowance under Option 2 or Option 4-A whose designated  
1549 beneficiary predeceases him, or whose marriage to a spouse who is  
1550 his designated beneficiary is terminated by divorce or other  
1551 dissolution, may elect to cancel his reduced retirement allowance  
1552 and receive the maximum retirement allowance for life in an amount  
1553 equal to the amount that would have been payable if the member had  
1554 not elected Option 2 or Option 4-A. Such election must be made in  
1555 writing to the office of the executive director of the system on a  
1556 form prescribed by the board. Any such election shall be  
1557 effective the first of the month following the date the election  
1558 is received by the system.

1559 (4) Any retired member who is receiving the maximum  
1560 retirement allowance for life, or a retirement allowance under  
1561 Option 1, and who marries after his retirement may elect to cancel  
1562 his maximum retirement allowance and receive a reduced retirement  
1563 allowance under Option 2 or Option 4-A to provide continuing  
1564 lifetime benefits to his spouse. Such election must be made in  
1565 writing to the office of the executive director of the system on a  
1566 form prescribed by the board not earlier than the date of the  
1567 marriage. Any such election shall be effective the first of the  
1568 month following the date the election is received by the system.

1569 (5) In the event the election of an optional benefit is made  
1570 after the member has attained the age of sixty-five (65) years,  
1571 the actuarial equivalent factor shall be used to compute the  
1572 reduced retirement allowance as if the election had been made on  
1573 his sixty-fifth birthday; however, from and after January 1, 2003,  
1574 if there is an election of Option 6 after the member has attained



1575 the age of sixty-five (65) years, the actuarial equivalent factor  
1576 based on the retiree's age at the time of retirement shall be used  
1577 to compute the reduced maximum monthly retirement allowance.  
1578 However, if a retiree marries or remarries after retirement and  
1579 elects either Option 2 or Option 4-A as provided in subsection (2)  
1580 or (4) of this section, the actuarial equivalent factor used to  
1581 compute the reduced retirement allowance shall be the factor for  
1582 the age of the retiree and his or her beneficiary at the time such  
1583 election for recalculation of benefits is made.

1584 (6) Notwithstanding any provision of Section 25-11-1 et  
1585 seq., no payments may be made for a retirement allowance on a  
1586 monthly basis for a period of time in excess of that allowed by  
1587 federal law.

1588 (7) If a retirant and his eligible beneficiary, if any, both  
1589 die before they have received in annuity payments a total amount  
1590 equal to the accumulated contributions standing to the retirant's  
1591 credit in the annuity savings account at the time of his  
1592 retirement, the difference between the accumulated contributions  
1593 and the total amount of annuities received by them shall be paid  
1594 to such persons as the retirant has nominated by written  
1595 designation duly executed and filed in the office of the executive  
1596 director. If no designated person survives the retirant and his  
1597 beneficiary, the difference, if any, shall be paid pursuant to  
1598 Section 25-11-117.1(1).

1599 (8) Any retired member who retired on Option 2(5) or 4-A(5)  
1600 prior to July 1, 1992, who is still receiving a retirement  
1601 allowance on July 1, 1994, shall receive an increase in the annual  
1602 retirement allowance effective July 1, 1994, equal to the amount  
1603 they would have received under Option 2 or Option 4-A without a  
1604 reduction for Option 5 based on the ages at retirement of the  
1605 retiree and beneficiary and option factors in effect on July 1,  
1606 1992. Such increase shall be prospective only.

1607           **SECTION 8.** Section 25-11-117, Mississippi Code of 1972, is  
1608 amended as follows:

1609           25-11-117. (1) A member may be paid a refund of the amount  
1610 of accumulated contributions to the credit of the member in the  
1611 annuity savings account, provided that the member has withdrawn  
1612 from state service and has not returned to state service on the  
1613 date the refund of the accumulated contributions would be paid.  
1614 That refund of the contributions to the credit of the member in  
1615 the annuity savings account shall be paid within ninety (90) days  
1616 from receipt in the office of the retirement system of the  
1617 properly completed form requesting the payment. In the event of  
1618 death before retirement of any member whose spouse and/or children  
1619 are not entitled to a retirement allowance, the accumulated  
1620 contributions to the credit of the deceased member in the annuity  
1621 savings account shall be paid to the designated beneficiary on  
1622 file in writing in the office of the executive director of the  
1623 board of trustees within ninety (90) days from receipt of a  
1624 properly completed form requesting the payment. If there is no  
1625 such designated beneficiary on file for the deceased member in the  
1626 office of the system, upon the filing of a proper request with the  
1627 board, the contributions to the credit of the deceased member in  
1628 the annuity savings account shall be refunded pursuant to Section  
1629 25-11-117.1(1). The payment of the refund shall discharge all  
1630 obligations of the retirement system to the member on account of  
1631 any creditable service rendered by the member prior to the receipt  
1632 of the refund. By the acceptance of the refund, the member shall  
1633 waive and relinquish all accrued rights in the system.

1634           (2) Under the Unemployment Compensation Amendments of 1992  
1635 (Public Law 102-318 (UCA)), a member or the spouse of a member who  
1636 is an eligible beneficiary entitled to a refund under this section  
1637 may elect, on a form prescribed by the board under rules and  
1638 regulations established by the board, to have an eligible rollover  
1639 distribution of accumulated contributions payable under this

1640 section paid directly to an eligible retirement plan, as defined  
1641 under applicable federal law, or an individual retirement account.  
1642 If the member or the spouse of a member who is an eligible  
1643 beneficiary makes that election and specifies the eligible  
1644 retirement plan or individual retirement account to which the  
1645 distribution is to be paid, the distribution will be made in the  
1646 form of a direct trustee-to-trustee transfer to the specified  
1647 eligible retirement plan. Flexible rollovers under this  
1648 subsection shall not be considered assignments under Section  
1649 25-11-129.

1650 (3) (a) If any person who became a member of the system  
1651 before July 1, 2007, has received a refund reenters the state  
1652 service and again becomes a member of the system, the member may  
1653 repay all or part of the amounts previously received as a refund,  
1654 together with regular interest covering the period from the date  
1655 of refund to the date of repayment; however, the amounts that are  
1656 repaid by the member and the creditable service related thereto  
1657 shall not be used in any benefit calculation or determination  
1658 until the member has remained a contributor to the system for a  
1659 period of at least four (4) years after the member's reentry into  
1660 state service. Repayment for that time shall be made in  
1661 increments of not less than one-quarter (1/4) year of creditable  
1662 service beginning with the most recent service for which refund  
1663 has been made. Upon the repayment of all or part of that refund  
1664 and interest, the member shall again receive credit for the period  
1665 of creditable service for which full repayment has been made to  
1666 the system.

1667 (b) If any person who became a member of the system on  
1668 or after July 1, 2007, has received a refund, reenters the state  
1669 service and again becomes a member of the system, the member may  
1670 repay all or part of the amounts previously received as a refund,  
1671 together with regular interest covering the period from the date  
1672 of refund to the date of repayment; however, the amounts that are

1673 repaid by the member and the creditable service related thereto  
1674 shall not be used in any benefit calculation or determination  
1675 until the member has remained a contributor to the system for a  
1676 period of at least ten (10) years after the member's reentry into  
1677 state service. Repayment for that time shall be made in  
1678 increments of not less than one-quarter (1/4) year of creditable  
1679 service beginning with the most recent service for which refund  
1680 has been made. Upon the repayment of all or part of that refund  
1681 and interest, the member shall again receive credit for the period  
1682 of creditable service for which full repayment has been made to  
1683 the system.

1684 (4) (a) In order to provide a source of income to members  
1685 who have applied for disability benefits under Section 25-11-113  
1686 or 25-11-114, the board may provide, at the employee's election, a  
1687 temporary benefit to be paid from the member's accumulated  
1688 contributions, if any, without forfeiting the right to pursue  
1689 disability benefits, provided that the member has exhausted all  
1690 personal and medical leave and has terminated his or her  
1691 employment. The board may prescribe rules and regulations for  
1692 carrying out the provisions of this subsection (4).

1693 (b) If a member who has elected to receive temporary  
1694 benefits under this subsection later applies for a refund of his  
1695 or her accumulated contributions, all amounts paid under this  
1696 subsection shall be deducted from the accumulated contributions  
1697 and the balance will be paid to the member. If a member who has  
1698 elected to receive temporary benefits under this subsection is  
1699 later approved for a disability retirement allowance, and a  
1700 service retirement allowance or survivor benefits are paid on the  
1701 account, the board shall adjust the benefits in such a manner that  
1702 no more than the actuarial equivalent of the benefits to which the  
1703 member or beneficiary was or is entitled shall be paid.

1704 (c) The board may study, develop and propose a  
1705 disability benefit structure, including short and long term

1706 disability benefits, provided that it is the actuarial equivalent  
1707 of the benefits currently provided in Section 25-11-113 or  
1708 25-11-114.

1709         **SECTION 9.** Section 25-11-311, Mississippi Code of 1972, is  
1710 amended as follows:

1711         25-11-311. (1) A member may be paid a refund of the amount  
1712 of accumulated contributions to the credit of the member in the  
1713 annuity savings account, provided the member has withdrawn from  
1714 state service and further provided the member has not returned to  
1715 state service on the date the refund of the accumulated  
1716 contributions would be paid. Such refund of the contributions to  
1717 the credit of the member in the annuity savings account shall be  
1718 paid within ninety (90) days from receipt in the office of the  
1719 retirement system of the properly completed form requesting such  
1720 payment. In the event of death prior to retirement of any member  
1721 whose spouse and/or children are not entitled to a retirement  
1722 allowance, the accumulated contributions to the credit of the  
1723 deceased member in the annuity savings account shall be paid to  
1724 the designated beneficiary on file in writing in the office of  
1725 executive secretary of the board of trustees within ninety (90)  
1726 days from receipt of a properly completed form requesting such  
1727 payment. If there is no such designated beneficiary on file for  
1728 such deceased member in the office of the system, upon the filing  
1729 of a proper request with the board, the contributions to the  
1730 credit of the deceased member in the annuity savings account shall  
1731 be refunded pursuant to Section 25-11-311.1(1). The payment of  
1732 the refund shall discharge all obligations of the retirement  
1733 system to the member on account of any creditable service rendered  
1734 by the member prior to the receipt of the refund. By the  
1735 acceptance of the refund, the member shall waive and relinquish  
1736 all accrued rights in the plan.

1737         (2) Pursuant to the Unemployment Compensation Amendments of  
1738 1992 (Public Law 102-318 (UCA)), a member or eligible beneficiary

1739 making application for a refund under this section may elect, on a  
1740 form prescribed by the board under rules and regulations  
1741 established by the board, to have an eligible rollover  
1742 distribution of accumulated contributions payable under this  
1743 section paid directly to an eligible retirement plan, as defined  
1744 under applicable federal law, or an individual retirement account.  
1745 If the member or eligible beneficiary makes such election and  
1746 specifies the eligible retirement plan or individual retirement  
1747 account to which such distribution is to be paid, the distribution  
1748 will be made in the form of a direct trustee-to-trustee transfer  
1749 to the specified eligible retirement plan. Flexible rollovers  
1750 under this subsection shall not be considered assignments under  
1751 Section 25-11-129.

1752 (3) If any person who has received a refund is reelected to  
1753 the Legislature or as President of the Senate and again becomes a  
1754 member of the plan, the member may repay all or part of the  
1755 amounts previously received as a refund, together with regular  
1756 interest covering the period from the date of refund to the date  
1757 of repayment. \* \* \* The amounts that are repaid by the member  
1758 before July 1, 2007, and the creditable service related thereto  
1759 shall not be used in any benefit calculation or determination  
1760 until the member has remained a contributor to the system for a  
1761 period of at least four (4) years subsequent to such member's  
1762 reentry into state service. The amounts that are repaid by the  
1763 member on or after July 1, 2007, and the creditable service  
1764 related thereto shall not be used in any benefit calculation or  
1765 determination until the member has remained a contributor to the  
1766 system for a period of at least ten (10) years subsequent to such  
1767 member's reentry into state service. Repayment for such time  
1768 shall be made in increments of not less than one-quarter (1/4)  
1769 year of creditable service beginning with the most recent service  
1770 for which refund has been made. Upon the repayment of all or part  
1771 of such refund and interest, the member shall again receive credit

1772 for the period of creditable service for which full repayment has  
1773 been made to the system.

1774 **SECTION 10.** Section 25-11-315, Mississippi Code of 1972, is  
1775 amended as follows:

1776 25-11-315. (1) Any member of the State Legislature or the  
1777 President of the Senate who becomes a member of the plan on July  
1778 1, 1989, shall be eligible for prior service as a member of the  
1779 State Legislature or as President of the Senate. Each member  
1780 shall submit to the board a verification of prior service as a  
1781 member of the State Legislature or as President of the Senate.  
1782 Upon receipt of such prior service statement, the board shall  
1783 issue a prior service certificate certifying to each member the  
1784 length of prior service for which credit has been allowed on the  
1785 basis of the statement of service. Additional prior service  
1786 regulations in force shall be those found in Section 25-11-101 et  
1787 seq.

1788 (2) Any member of the State Legislature or the President of  
1789 the Senate who becomes a member of this plan after July 1, 1989,  
1790 and before July 1, 2007, shall not be allowed prior service unless  
1791 the member serves as a member of the State Legislature or as  
1792 President of the Senate for a minimum of four (4) years and  
1793 contributes to the plan for a minimum period of four (4) years.

1794 (3) Any member of the State Legislature or the President of  
1795 the Senate who becomes a member of this plan on or after July 1,  
1796 2007, shall not be allowed prior service unless the member serves  
1797 as a member of the State Legislature or as President of the Senate  
1798 for a minimum of ten (10) years and contributes to the plan for a  
1799 minimum period of ten (10) years.

1800 **SECTION 11.** For purposes of Sections 25-11-103, 25-11-105,  
1801 25-11-109, 25-11-111, 25-11-113, 25-11-114, 25-11-115 and  
1802 25-11-117, if a member of the system withdrew from state service  
1803 and received a refund of the amount of the accumulated  
1804 contributions to the credit of the member in the annuity savings

1805 account before July 1, 2007, and the person reenters state service  
1806 and becomes a member of the system again on or after July 1, 2007,  
1807 and repays all or part of the amount received as a refund and  
1808 interest in order to receive creditable service for service  
1809 rendered before July 1, 2007, the member shall be considered to  
1810 have become a member of the system on or after July 1, 2007.

1811           **SECTION 12.** This act shall take effect and be in force from  
1812 and after July 1, 2007.