To: Finance

By: Senator(s) Wiggins

SENATE BILL NO. 2021

AN ACT TO CREATE THE "FIRST RESPONDER APPRECIATION AND RECRUITMENT ACT"; TO CREATE A NEW SECTION IN TITLE 25, CHAPTER 11, ARTICLE 3, MISSISSIPPI CODE OF 1972, TO IMPLEMENT THE "FIRST RESPONDERS RETIREMENT INCENTIVE"; TO PROVIDE, FOR THIS INCENTIVE, 5 THAT ANY MEMBER OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM HIRED 6 ON OR AFTER JULY 1, 2011, SHALL EARN ONE YEAR OF CREDITABLE 7 SERVICE AT NO COST TO MEMBERS FOR EVERY FIVE YEARS SERVED AS A FIRST RESPONDER IN THE STATE OF MISSISSIPPI; TO PROVIDE THAT, IN 8 9 ORDER TO USE THIS INCENTIVE, THE FIRST RESPONDER MUST NOT HAVE ANY 10 FELONY CONVICTIONS AT THE TIME OF RETIREMENT; TO AMEND SECTIONS 25-11-103, 25-11-105, 25-11-109, 25-11-111, 25-11-113, 25-11-114 11 12 AND 25-11-117, MISSISSIPPI CODE OF 1972, TO REDUCE THE VESTING 13 PERIOD FOR RETIREMENT BENEFITS IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM FROM EIGHT YEARS TO FOUR YEARS FOR PERSONS HAVING JOINED 14 15 THE SYSTEM ON OR AFTER JULY 1, 2007, BUT HAVING AT LEAST FOUR 16 YEARS OF SERVICE IN THE SYSTEM AS FIRST RESPONDERS; AND FOR 17 RELATED PURPOSES. 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI: 19 SECTION 1. This act shall be known and may be cited as the 20 "First Responder Appreciation and Recruitment Act." 21 SECTION 2. The section implements the "First Responders Retirement Incentive." Any member hired on or after July 1, 2011, 22 23 shall earn one (1) year of creditable service at no cost to members for every five (5) years served as a first responder in 24 the State of Mississippi. In order to use this incentive, the 25

- 26 first responder must not have any felony convictions at the time
- 27 of retirement.
- SECTION 3. Section 25-11-103, Mississippi Code of 1972, is
- 29 amended as follows:
- 30 25-11-103. (1) The following words and phrases as used in
- 31 Articles 1 and 3, unless a different meaning is plainly required
- 32 by the context, have the following meanings:
- 33 (a) "Accumulated contributions" means the sum of all
- 34 the amounts deducted from the compensation of a member and
- 35 credited to his or her individual account in the annuity savings
- 36 account, together with regular interest as provided in Section
- 37 25-11-123.
- 38 (b) "Actuarial cost" means the amount of funds
- 39 presently required to provide future benefits as determined by the
- 40 board based on applicable tables and formulas provided by the
- 41 actuary.
- 42 (c) "Actuarial equivalent" means a benefit of equal
- 43 value to the accumulated contributions, annuity or benefit, as the
- 44 case may be, when computed upon the basis of such mortality tables
- 45 as adopted by the board of trustees and regular interest.
- 46 (d) "Actuarial tables" mean such tables of mortality
- 47 and rates of interest as adopted by the board in accordance with
- 48 the recommendation of the actuary.
- (e) "Agency" means any governmental body employing
- 50 persons in the state service.

51	(f) "Average compensation" means the average of the
52	four (4) highest years of earned compensation reported for an
53	employee in a fiscal or calendar year period, or combination
54	thereof that do not overlap, or the last forty-eight (48)
55	consecutive months of earned compensation reported for an
56	employee. The four (4) years need not be successive or joined
57	years of service. In computing the average compensation for
58	retirement, disability or survivor benefits, any amount lawfully
59	paid in a lump sum for personal leave or major medical leave shall
50	be included in the calculation to the extent that the amount does
51	not exceed an amount that is equal to thirty (30) days of earned
52	compensation and to the extent that it does not cause the
53	employee's earned compensation to exceed the maximum reportable
54	amount specified in paragraph (k) of this <u>sub</u> section; however,
55	this thirty-day limitation shall not prevent the inclusion in the
56	calculation of leave earned under federal regulations before July
57	1, 1976, and frozen as of that date as referred to in Section
58	25-3-99. In computing the average compensation, no amounts shall
59	be used that are in excess of the amount on which contributions
70	were required and paid, and no nontaxable amounts paid by the
71	employer for health or life insurance premiums for the employee
72	shall be used. If any member who is or has been granted any
73	increase in annual salary or compensation of more than eight
7 4	percent (8%) retires within twenty-four (24) months from the date
75	that the increase becomes effective, then the board shall exclude

- 76 that part of the increase in salary or compensation that exceeds
- 77 eight percent (8%) in calculating that member's average
- 78 compensation for retirement purposes. The board may enforce this
- 79 provision by rule or regulation. However, increases in
- 80 compensation in excess of eight percent (8%) per year granted
- 81 within twenty-four (24) months of the date of retirement may be
- 82 included in the calculation of average compensation if
- 83 satisfactory proof is presented to the board showing that the
- 84 increase in compensation was the result of an actual change in the
- position held or services rendered, or that the compensation 85
- 86 increase was authorized by the State Personnel Board or was
- 87 increased as a result of statutory enactment, and the employer
- 88 furnishes an affidavit stating that the increase granted within
- 89 the last twenty-four (24) months was not contingent on a promise
- 90 or agreement of the employee to retire. Nothing in Section
- 91 25-3-31 shall affect the calculation of the average compensation
- 92 of any member for the purposes of this article. The average
- compensation of any member who retires before July 1, 1992, shall 93
- 94 not exceed the annual salary of the Governor.
- 95 "Beneficiary" means any person entitled to receive (a)
- 96 a retirement allowance, an annuity or other benefit as provided by
- Articles 1 and 3. The term "beneficiary" may also include an 97
- 98 organization, estate, trust or entity; however, a beneficiary
- 99 designated or entitled to receive monthly payments under an
- optional settlement based on life contingency or under a statutory 100

101	monthly benefit may only be a natural person. In the event of the
102	death before retirement of any member who became a member of the
103	system before July 1, 2007, or who became a member on or after
104	July 1, 2007, and maintained membership as a first responder for
105	at least four (4) years, and whose spouse and/or children are not
106	entitled to a retirement allowance on the basis that the member
107	has less than four (4) years of membership service credit, or who
108	became a member of the system on or after July 1, 2007, other than
109	one who maintained membership as a first responder for at least
110	four (4) years, and whose spouse and/or children are not entitled
111	to a retirement allowance on the basis that the member has less
112	than eight (8) years of membership service credit, and/or has not
113	been married for a minimum of one (1) year or the spouse has
114	waived his or her entitlement to a retirement allowance under
115	Section 25-11-114, the lawful spouse of a member at the time of
116	the death of the member shall be the beneficiary of the member
117	unless the member has designated another beneficiary after the
118	date of marriage in writing, and filed that writing in the office
119	of the executive director of the board of trustees. No
120	designation or change of beneficiary shall be made in any other
121	manner.

(h) "Board" means the board of trustees provided in

Section 25-11-15 to administer the retirement system created under

this article.

125	(i) "Creditable service" means "prior service,"
126	"retroactive service" and all lawfully credited unused leave not
127	exceeding the accrual rates and limitations provided in Section
128	25-3-91 et seq., as of the date of withdrawal from service plus
129	"membership service" and other service for which credit is
130	allowable as provided in Section 25-11-109. Except to limit
131	creditable service reported to the system for the purpose of
132	computing an employee's retirement allowance or annuity or
133	benefits provided in this article, nothing in this paragraph shall
134	limit or otherwise restrict the power of the governing authority
135	of a municipality or other political subdivision of the state to
136	adopt such vacation and sick leave policies as it deems necessary.

- (j) "Child" means either a natural child of the member, a child that has been made a child of the member by applicable court action before the death of the member, or a child under the permanent care of the member at the time of the latter's death, which permanent care status shall be determined by evidence satisfactory to the board. For purposes of this paragraph, a natural child of the member is a child of the member that is conceived before the death of the member.
- 145 (k) "Earned compensation" means the full amount earned 146 during a fiscal year by an employee not to exceed the employee 147 compensation limit set pursuant to Section 401(a)(17) of the 148 Internal Revenue Code for the calendar year in which the fiscal year begins and proportionately for less than one (1) year of 149

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150	service. Except as otherwise provided in this paragraph, the
151	value of maintenance furnished to an employee shall not be
152	included in earned compensation. Earned compensation shall not
153	include any amounts paid by the employer for health or life
154	insurance premiums for an employee. Earned compensation shall be
155	limited to the regular periodic compensation paid, exclusive of
156	litigation fees, bond fees, performance-based incentive payments,
157	and other similar extraordinary nonrecurring payments. In
158	addition, any member in a covered position, as defined by Public
159	Employees' Retirement System laws and regulations, who is also
160	employed by another covered agency or political subdivision shall
161	have the earnings of that additional employment reported to the
162	Public Employees' Retirement System regardless of whether the
163	additional employment is sufficient in itself to be a covered
164	position. In addition, computation of earned compensation shall
165	be governed by the following:

- 166 In the case of constables, the net earnings (i) 167 from their office after deduction of expenses shall apply, except 168 that in no case shall earned compensation be less than the total 169 direct payments made by the state or governmental subdivisions to 170 the official.
- 171 In the case of chancery or circuit clerks, (ii) 172 the net earnings from their office after deduction of expenses 173 shall apply as expressed in Section 25-11-123(f)(4).

174		(iii)	In the	case of	members of	the State	
175	Legislature,	all remun	neration	or amou	nts paid,	except milea	ge
176	allowance, sha	all apply	у.				

- 177 (iv) The amount by which an eligible employee's 178 salary is reduced under a salary reduction agreement authorized 179 under Section 25-17-5 shall be included as earned compensation 180 under this paragraph, provided this inclusion does not conflict 181 with federal law, including federal regulations and federal 182 administrative interpretations under the federal law, pertaining to the Federal Insurance Contributions Act or to Internal Revenue 183 184 Code Section 125 cafeteria plans.
- (v) Compensation in addition to an employee's base salary that is paid to the employee under the vacation and sick leave policies of a municipality or other political subdivision of the state that employs him or her that exceeds the maximums authorized by Section 25-3-91 et seq. shall be excluded from the calculation of earned compensation under this article.
- 191 (vi) The maximum salary applicable for retirement 192 purposes before July 1, 1992, shall be the salary of the Governor.
- (vii) Nothing in Section 25-3-31 shall affect the determination of the earned compensation of any member for the purposes of this article.
- (viii) The value of maintenance furnished to an employee before July 1, 2013, for which the proper amount of employer and employee contributions have been paid, shall be

199 included in earned compensation. From and after July 1, 2013, the 200 value of maintenance furnished to an employee shall be reported as 201 earned compensation only if the proper amount of employer and 202 employee contributions have been paid on the maintenance and the 203 employee was receiving maintenance and having maintenance reported 204 to the system as of June 30, 2013. The value of maintenance when 205 not paid in money shall be fixed by the employing state agency, 206 and, in case of doubt, by the board of trustees as defined in Section 25-11-15. 207

208 Except as otherwise provided in this 209 paragraph, the value of any in-kind benefits provided by the 210 employer shall not be included in earned compensation. As used in this subparagraph, "in-kind benefits" shall include, but not be 211 212 limited to, group life insurance premiums, health or dental 213 insurance premiums, nonpaid major medical and personal leave, 214 employer contributions for social security and retirement, tuition 215 reimbursement or educational funding, day care or transportation 216 benefits.

- 217 (1) "Employee" means any person legally occupying a 218 position in the state service, and shall include the employees of 219 the retirement system created under this article.
- 220 (m) "Employer" means the State of Mississippi or any of 221 its departments, agencies or subdivisions from which any employee 222 receives his or her compensation.

223	(n) "Executive director" means the secretary to the
224	board of trustees, as provided in Section 25-11-15(9), and the
225	administrator of the Public Employees' Retirement System and all
226	systems under the management of the board of trustees. Wherever
227	the term "Executive Secretary of the Public Employees' Retirement
228	System" or "executive secretary" appears in this article or in any
229	other provision of law, it shall be construed to mean the
230	Executive Director of the Public Employees' Retirement System.

- 231 (o) "Fiscal year" means the period beginning on July 1 232 of any year and ending on June 30 of the next succeeding year.
- 233 (p) "Medical board" means the board of physicians or
 234 any governmental or nongovernmental disability determination
 235 service designated by the board of trustees that is qualified to
 236 make disability determinations as provided for in Section
 237 25-11-119.
- 238 "Member" means any person included in the 239 membership of the system as provided in Section 25-11-105. 240 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111, 241 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the 242 system, other than one who maintained at least (4) years of 243 membership as a first responder, withdrew from state service and 244 received a refund of the amount of the accumulated contributions 245 to the credit of the member in the annuity savings account before 246 July 1, 2007, and the person reenters state service and becomes a member of the system again on or after July 1, 2007, and repays 247

248 all or part of the amount received as a refund and interest in 249 order to receive creditable service for service rendered before 250 July 1, 2007, the member shall be considered to have become a 251 member of the system on or after July 1, 2007, subject to the 252 eight-year membership service requirement, as applicable in those 253 sections. For purposes of Sections 25-11-103, 25-11-111, 254 25-11-114 and 25-11-115, if a member of the system withdrew from 255 state service and received a refund of the amount of the 256 accumulated contributions to the credit of the member in the 257 annuity savings account before July 1, 2011, and the person 258 reenters state service and becomes a member of the system again on 259 or after July 1, 2011, and repays all or part of the amount 260 received as a refund and interest in order to receive creditable 261 service for service rendered before July 1, 2011, the member shall 262 be considered to have become a member of the system on or after 263 July 1, 2011.

- (r) "Membership service" means service as an employee
 in a covered position rendered while a contributing member of the
 retirement system.
- (s) "Position" means any office or any employment in
 the state service, or two (2) or more of them, the duties of which
 call for services to be rendered by one (1) person, including
 positions jointly employed by federal and state agencies
 administering federal and state funds. The employer shall
 determine upon initial employment and during the course of

273	employment of an employee who does not meet the criteria for
274	coverage in the Public Employees' Retirement System based on the
275	position held, whether the employee is or becomes eligible for
276	coverage in the Public Employees' Retirement System based upon any
277	other employment in a covered agency or political subdivision. If
278	or when the employee meets the eligibility criteria for coverage
279	in the other position, then the employer must withhold
280	contributions and report wages from the noncovered position in
281	accordance with the provisions for reporting of earned
282	compensation. Failure to deduct and report those contributions
283	shall not relieve the employee or employer of liability thereof.
284	The board shall adopt such rules and regulations as necessary to
285	implement and enforce this provision.

286 (t) "Prior service" means:

- 287 (i) For persons who became members of the system 288 before July 1, 2007, or who became members on or after July 1, 289 2007, and maintained membership as first responders for at least 290 four (4) years, service rendered before February 1, 1953, for 291 which credit is allowable under Sections 25-11-105 and 25-11-109, 292 and which shall allow prior service for any person who is now or 293 becomes a member of the Public Employees' Retirement System and 294 who does contribute to the system for a minimum period of four (4) 295 years.
- 296 (ii) For persons who became members of the system
 297 on or after July 1, 2007, other than those who maintained

- 298 membership as first responders for at least four (4) years,
- 299 service rendered before February 1, 1953, for which credit is
- 300 allowable under Sections 25-11-105 and 25-11-109, and which shall
- 301 allow prior service for any person who is now or becomes a member
- 302 of the Public Employees' Retirement System and who does contribute
- 303 to the system for a minimum period of eight (8) years.
- 304 (u) "Regular interest" means interest compounded
- 305 annually at such a rate as determined by the board in accordance
- 306 with Section 25-11-121.
- 307 (v) "Retirement allowance" means an annuity for life as
- 308 provided in this article, payable each year in twelve (12) equal
- 309 monthly installments beginning as of the date fixed by the board.
- 310 The retirement allowance shall be calculated in accordance with
- 311 Section 25-11-111. However, any spouse who received a spouse
- 312 retirement benefit in accordance with Section 25-11-111(d) before
- 313 March 31, 1971, and those benefits were terminated because of
- 314 eligibility for a social security benefit, may again receive his
- 315 or her spouse retirement benefit from and after making application
- 316 with the board of trustees to reinstate the spouse retirement
- 317 benefit.
- 318 (w) "Retroactive service" means service rendered after
- 319 February 1, 1953, for which credit is allowable under Section
- 320 25-11-105(b) and Section 25-11-105(k).



322	System of Mississippi established and described in Section
323	25-11-101.
324	(y) "State" means the State of Mississippi or any
325	political subdivision thereof or instrumentality of the state.
326	(z) "State service" means all offices and positions of
327	trust or employment in the employ of the state, or any political
328	subdivision or instrumentality of the state, that elect to
329	participate as provided by Section 25-11-105(f), including the
330	position of elected or fee officials of the counties and their
331	deputies and employees performing public services or any
332	department, independent agency, board or commission thereof, and
333	also includes all offices and positions of trust or employment in
334	the employ of joint state and federal agencies administering state
335	and federal funds and service rendered by employees of the public
336	schools. Effective July 1, 1973, all nonprofessional public
337	school employees, such as bus drivers, janitors, maids,
338	maintenance workers and cafeteria employees, shall have the option
339	to become members in accordance with Section 25-11-105(b), and
340	shall be eligible to receive credit for services before July 1,
341	1973, provided that the contributions and interest are paid by the
342	employee in accordance with that section; in addition, the county
343	or municipal separate school district may pay the employer
344	contribution and pro rata share of interest of the retroactive
345	service from available funds. "State service" shall not include

(x) "System" means the Public Employees' Retirement

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346	the President of the Mississippi Lottery Corporation and personnel
347	employed by the Mississippi Lottery Corporation. From and after
348	July 1, 1998, retroactive service credit shall be purchased at the
349	actuarial cost in accordance with Section 25-11-105(b).
350	(aa) "Withdrawal from service" or "termination from
351	service" means complete severance of employment in the state
352	service of any member by resignation, dismissal or discharge.
353	(bb) * * * "Firefighter" means any firefighter who has
354	ten (10) or more years of service and is employed by the State of
355	Mississippi, or any political subdivision thereof, on a full-time
356	duty status, and any firefighter who has ten (10) or more years of
357	service and is registered with the State of Mississippi, or a
358	political subdivision thereof, on a volunteer firefighting status.
359	(cc) "Law enforcement officer" means any officer who
360	has been certified by the Mississippi Board on Law Enforcement
361	Officer Standards and Training and has ten (10) or more years of
362	service.
363	(dd) "First responder" means any firefighter or law
364	enforcement officer as defined in paragraph (bb) or (cc) of this
365	section.
366	(2) For purposes of this article, the term "political
367	subdivision" shall have the meaning ascribed to such term in
368	Section 25-11-5 and shall also include public charter schools.
369	SECTION 4. Section 25-11-105, Mississippi Code of 1972, is

amended as follows:

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371 $25-11-105$. I. THOSE WHO ARE ELIGIBLE FOR

- The membership of this retirement system shall be composed as
- 373 follows:
- 374 (a) (i) All persons who become employees in the state
- 375 service after January 31, 1953, and whose wages are subject to
- 376 payroll taxes and are lawfully reported on IRS Form W-2, except
- 377 those specifically excluded, or as to whom election is provided in
- 378 Articles 1 and 3, shall become members of the retirement system as
- 379 a condition of their employment.
- 380 (ii) From and after July 1, 2002, any individual
- 381 who is employed by a governmental entity to perform professional
- 382 services shall become a member of the system if the individual is
- 383 paid regular periodic compensation for those services that is
- 384 subject to payroll taxes, is provided all other employee benefits
- 385 and meets the membership criteria established by the regulations
- 386 adopted by the board of trustees that apply to all other members
- 387 of the system; however, any active member employed in such a
- 388 position on July 1, 2002, will continue to be an active member for
- 389 as long as they are employed in any such position.
- 390 (b) All persons who become employees in the state
- 391 service after January 31, 1953, except those specifically excluded
- 392 or as to whom election is provided in Articles 1 and 3, unless
- 393 they file with the board before the lapse of sixty (60) days of
- 394 employment or sixty (60) days after the effective date of the
- 395 cited articles, whichever is later, on a form prescribed by the

396	board, a notice of election not to be covered by the membership of
397	the retirement system and a duly executed waiver of all present
398	and prospective benefits that would otherwise inure to them on
399	account of their participation in the system, shall become members
400	of the retirement system; however, no credit for prior service
401	will be granted to members who became members of the system before
402	July 1, 2007, or who became members on or after July 1, 2007, and
403	maintained membership as first responders for at least four (4)
404	years, until they have contributed to Article 3 of the retirement
405	system for a minimum period of at least four (4) years, or to
406	members who became members of the system on or after July 1, 2007,
407	other than those who maintained membership as first responders for
408	at least four (4) years, until they have contributed to Article 3
409	of the retirement system for a minimum period of at least eight
410	(8) years. Those members shall receive credit for services
411	performed before January 1, 1953, in employment now covered by
412	Article 3, but no credit shall be granted for retroactive services
413	between January 1, 1953, and the date of their entry into the
414	retirement system, unless the employee pays into the retirement
415	system both the employer's and the employee's contributions on
416	wages paid him during the period from January 31, 1953, to the
417	date of his becoming a contributing member, together with interest
418	at the rate determined by the board of trustees. Members
419	reentering after withdrawal from service shall qualify for prior
420	service under the provisions of Section 25-11-117. From and after

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421	July	1,	1998,	upon	eligibility	as	noted	above,	the	member	may
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- 422 receive credit for such retroactive service provided:
- 423 (i) The member shall furnish proof satisfactory to
- 424 the board of trustees of certification of that service from the
- 425 covered employer where the services were performed; and
- 426 (ii) The member shall pay to the retirement system
- 427 on the date he or she is eligible for that credit or at any time
- 428 thereafter before the date of retirement the actuarial cost for
- 429 each year of that creditable service. The provisions of this
- 430 subparagraph (ii) shall be subject to the limitations of Section
- 431 415 of the Internal Revenue Code and regulations promulgated under
- 432 Section 415.
- Nothing contained in this paragraph (b) shall be construed to
- 434 limit the authority of the board to allow the correction of
- 435 reporting errors or omissions based on the payment of the employee
- 436 and employer contributions plus applicable interest.
- 437 (c) All persons who become employees in the state
- 438 service after January 31, 1953, and who are eligible for
- 439 membership in any other retirement system shall become members of
- 440 this retirement system as a condition of their employment, unless
- 441 they elect at the time of their employment to become a member of
- 442 that other system.
- (d) All persons who are employees in the state service
- 444 on January 31, 1953, and who are members of any nonfunded
- 445 retirement system operated by the State of Mississippi, or any of

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

- 450 All persons who are employees in the state service 451 on January 31, 1953, and who under existing laws are members of 452 any fund operated for the retirement of employees by the State of 453 Mississippi, or any of its departments or agencies, shall not be 454 entitled to membership in this retirement system unless, before 455 February 1, 1953, any such person indicates by a notice filed with 456 the board, on a form prescribed by the board, his individual 457 election and choice to participate in this system, but no such 458 person shall receive prior service credit unless he becomes a 459 member on or before February 1, 1953.
- 460 Each political subdivision of the state and each 461 instrumentality of the state or a political subdivision, or both, 462 is authorized to submit, for approval by the board of trustees, a 463 plan for extending the benefits of this article to employees of 464 any such political subdivision or instrumentality. Each such plan 465 or any amendment to the plan for extending benefits thereof shall 466 be approved by the board of trustees if it finds that the plan, or 467 the plan as amended, is in conformity with such requirements as 468 are provided in Articles 1 and 3; however, upon approval of the 469 plan or any such plan previously approved by the board of trustees, the approved plan shall not be subject to cancellation 470

471	or	termination	bу	the	political	subdivision	or	instrumentalit	У•

- 472 No such plan shall be approved unless:
- 473 (i) It provides that all services that constitute
- 474 employment as defined in Section 25-11-5 and are performed in the
- 475 employ of the political subdivision or instrumentality, by any
- 476 employees thereof, shall be covered by the plan, with the
- 477 exception of municipal employees who are already covered by
- 478 existing retirement plans; however, those employees in this class
- 479 may elect to come under the provisions of this article;
- 480 (ii) It specifies the source or sources from which
- 481 the funds necessary to make the payments required by paragraph (d)
- 482 of Section 25-11-123 and of paragraph (f) (v) 2 and 3 of this
- 483 section are expected to be derived and contains reasonable
- 484 assurance that those sources will be adequate for that purpose;
- 485 (iii) It provides for such methods of
- 486 administration of the plan by the political subdivision or
- 487 instrumentality as are found by the board of trustees to be
- 488 necessary for the proper and efficient administration thereof;
- 489 (iv) It provides that the political subdivision or
- 490 instrumentality will make such reports, in such form and
- 491 containing such information, as the board of trustees may from
- 492 time to time require;
- 493 (v) It authorizes the board of trustees to
- 494 terminate the plan in its entirety in the discretion of the board
- 495 if it finds that there has been a failure to comply substantially

496	with any provision contained in the plan, the termination to take
497	effect at the expiration of such notice and on such conditions as
498	may be provided by regulations of the board and as may be
499	consistent with applicable federal law.

- 500 1. The board of trustees shall not finally 501 refuse to approve a plan submitted under paragraph (f), and shall 502 not terminate an approved plan without reasonable notice and 503 opportunity for hearing to each political subdivision or 504 instrumentality affected by the board's decision. The board's decision in any such case shall be final, conclusive and binding 505 506 unless an appeal is taken by the political subdivision or 507 instrumentality aggrieved by the decision to the Circuit Court of 508 the First Judicial District of Hinds County, Mississippi, in 509 accordance with the provisions of law with respect to civil causes 510 by certiorari.
- 2. Each political subdivision or
 instrumentality as to which a plan has been approved under this
 section shall pay into the contribution fund, with respect to
 wages (as defined in Section 25-11-5), at such time or times as
 the board of trustees may by regulation prescribe, contributions
 in the amounts and at the rates specified in the applicable
 agreement entered into by the board.
- 3. Every political subdivision or instrumentality required to make payments under paragraph (f)(v)2 of this section is authorized, in consideration of the employees'

521 retention in or entry upon employment after enactment of Articles 522 1 and 3, to impose upon its employees, as to services that are 523 covered by an approved plan, a contribution with respect to wages 524 (as defined in Section 25-11-5) not exceeding the amount provided 525 in Section 25-11-123(d) if those services constituted employment 526 within the meaning of Articles 1 and 3, and to deduct the amount 527 of the contribution from the wages as and when paid. 528 Contributions so collected shall be paid into the contribution 529 fund as partial discharge of the liability of the political 530 subdivisions or instrumentalities under paragraph (f) (v) 2 of this section. Failure to deduct the contribution shall not relieve the 531 532 employee or employer of liability for the contribution. Any state agency, school, political 533 534 subdivision, instrumentality or any employer that is required to 535 submit contribution payments or wage reports under any section of 536 this chapter shall be assessed interest on delinquent payments or 537 wage reports as determined by the board of trustees in accordance

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

agency of the state.

546	5. Each political subdivision of the state
547	and each instrumentality of the state or a political subdivision
548	or subdivisions that submit a plan for approval of the board, as
549	provided in this section, shall reimburse the board for coverage
550	into the expense account, its pro rata share of the total expense
551	of administering Articles 1 and 3 as provided by regulations of
552	the board.

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- The board may, in its discretion, deny the right of membership in this system to any class of employees whose compensation is only partly paid by the state or who are occupying positions on a part-time or intermittent basis. The board may, in its discretion, make optional with employees in any such classes their individual entrance into this system.
 - An employee whose membership in this system is contingent on his own election, and who elects not to become a member, may thereafter apply for and be admitted to membership; but no such employee shall receive prior service credit unless he becomes a member before July 1, 1953, except as provided in paragraph (b).
- If any member of this system changes his employment (i) to any agency of the state having an actuarially funded retirement system, the board of trustees may authorize the transfer of the member's creditable service and of the present value of the member's employer's accumulation account and of the present value of the member's accumulated membership contributions to that other

571	system, provided that the employee agrees to the transfer of his
572	accumulated membership contributions and provided that the other
573	system is authorized to receive and agrees to make the transfer.

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

- Wherever state employment is referred to in this section, it includes joint employment by state and federal agencies of all kinds.
- 587 Employees of a political subdivision or (k) instrumentality who were employed by the political subdivision or 588 589 instrumentality before an agreement between the entity and the 590 Public Employees' Retirement System to extend the benefits of this 591 article to its employees, and which agreement provides for the 592 establishment of retroactive service credit, and who became 593 members of the retirement system before July 1, 2007, or who 594 became members on or after July 1, 2007, and maintained membership 595 as first responders for at least four (4) years, and have remained

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596	contributors to the retirement system for four (4) years, or who
597	became members of the retirement system on or after July 1, 2007,
598	other than those who maintained membership as first responders for
599	at least four (4) years, and have remained contributors to the
600	retirement system for eight (8) years, may receive credit for that
601	retroactive service with the political subdivision or
602	instrumentality, provided that the employee and/or employer, as
603	provided under the terms of the modification of the joinder
604	agreement in allowing that coverage, pay into the retirement
605	system the employer's and employee's contributions on wages paid
606	the member during the previous employment, together with interest
607	or actuarial cost as determined by the board covering the period
608	from the date the service was rendered until the payment for the
609	credit for the service was made. Those wages shall be verified by
610	the Social Security Administration or employer payroll records.
611	Effective July 1, 1998, upon eligibility as noted above, a member
612	may receive credit for that retroactive service with the political
613	subdivision or instrumentality provided:
C1 1	(1) = 1

- (i) The member shall furnish proof satisfactory to
 the board of trustees of certification of those services from the
 political subdivision or instrumentality where the services were
 rendered or verification by the Social Security Administration;
 and
- (ii) The member shall pay to the retirement system on the date he or she is eligible for that credit or at any time

thereafter before the date of retirement the actuarial cost for
each year of that creditable service. The provisions of this
subparagraph (ii) shall be subject to the limitations of Section
415 of the Internal Revenue Code and regulations promulgated under
Section 415.

Nothing contained in this paragraph (k) shall be construed to limit the authority of the board to allow the correction of reporting errors or omissions based on the payment of employee and employer contributions plus applicable interest. Payment for that time shall be made beginning with the most recent service. Upon the payment of all or part of the required contributions, plus interest or the actuarial cost as provided above, the member shall receive credit for the period of creditable service for which full payment has been made to the retirement system.

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

645	(m) All rights to purchase retroactive service credit
646	or repay a refund as provided in Section 25-11-101 et seq. shall
647	terminate upon retirement.
648	II. THOSE WHO ARE NOT ELIGIBLE FOR MEMBERSHIP
649	The following classes of employees and officers shall not
650	become members of this retirement system, any other provisions of
651	Articles 1 and 3 to the contrary notwithstanding:
652	(a) Patient or inmate help in state charitable, penal
653	or correctional institutions;
654	(b) Students of any state educational institution
655	employed by any agency of the state for temporary, part-time or
656	<pre>intermittent work;</pre>
657	(c) Participants of Comprehensive Employment and
658	Training Act of 1973 (CETA) being Public Law 93-203, who enroll on
659	or after July 1, 1979;
660	(d) From and after July 1, 2002, individuals who are
661	employed by a governmental entity to perform professional service
662	on less than a full-time basis who do not meet the criteria
663	established in I(a)(ii) of this section.
664	III. TERMINATION OF MEMBERSHIP
665	Membership in this system shall cease by a member withdrawing
666	his accumulated contributions, or by a member withdrawing from
667	active service with a retirement allowance, or by a member's

668 death.

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SECTION 5. Section 25-11-109, Mississippi Code of 1972, is amended as follows:

671 25-11-109. (1) Under such rules and regulations as the 672 board of trustees shall adopt, each person who becomes a member of 673 this retirement system, as provided in Section 25-11-105, on or 674 before July 1, 1953, or who became a member of the system before July 1, 2007, or who became a member on or after July 1, 2007, and 675 676 maintained membership as a first responder for at least four (4) 677 years, and contributes to the system for a minimum period of four 678 (4) years, or who became a member of the system on or after July 679 1, 2007, other than one who maintained membership as a first 680 responder for at least four (4) years, and contributes to the 681 system for a minimum period of eight (8) years, shall receive 682 credit for all state service rendered before February 1, 1953. 683 receive that credit, the member shall file a detailed statement of 684 all services as an employee rendered by him in the state service 685 before February 1, 1953. For any member who joined the system 686 after July 1, 1953, and before July 1, 2007, any creditable 687 service for which the member is not required to make contributions shall not be credited to the member until the member has 688 689 contributed to the system for a minimum period of at least four 690 (4) years. For any member who joined the system on or after July 691 1, 2007, other than one who maintained membership as a first 692 responder for at least four (4) years, any creditable service for 693 which the member is not required to make contributions shall not

- be credited to the member until the member has contributed to the system for a minimum period of at least eight (8) years.
- 696 In the computation of creditable service for (a) (i) 697 service rendered before July 1, 2017, under the provisions of this article, the total months of accumulative service during any 698 699 fiscal year shall be calculated in accordance with the schedule as 700 follows: ten (10) or more months of creditable service during any fiscal year shall constitute a year of creditable service; seven 701 702 (7) months to nine (9) months inclusive, three-quarters (3/4) of a 703 year of creditable service; four (4) months to six (6) months 704 inclusive, one-half (1/2) year of creditable service; one (1)705 month to three (3) months inclusive, one-quarter (1/4) of a year
- 707 (ii) In the computation of creditable service 708 rendered on or after July 1, 2017, under the provisions of this 709 article, service credit shall be awarded in monthly increments in 710 a manner prescribed by regulations of the board.
- 711 In no case shall credit be allowed for any period (b) 712 of absence without compensation except for disability while in 713 receipt of a disability retirement allowance, nor shall less than 714 fifteen (15) days of service in any month, or service less than 715 the equivalent of one-half (1/2) of the normal working load for 716 the position and less than one-half (1/2) of the normal 717 compensation for the position in any month, constitute a month of creditable service, nor shall more than one (1) year of service be 718

of creditable service.

- 719 creditable for all services rendered in any one (1) fiscal year;
- 720 however, for a school employee, substantial completion of the
- 721 legal school term when and where the service was rendered shall
- 722 constitute a year of service credit. Any state or local elected
- 723 official shall be deemed a full-time employee for the purpose of
- 724 creditable service. However, an appointed or elected official
- 725 compensated on a per diem basis only shall not be allowed
- 726 creditable service for terms of office.
- 727 (c) In the computation of any retirement allowance or
- 728 any annuity or benefits provided in this article, any fractional
- 729 period of service of less than one (1) year shall be taken into
- 730 account and a proportionate amount of such retirement allowance,
- 731 annuity or benefit shall be granted for any such fractional period
- 732 of service.
- 733 (d) (i) In the computation of unused leave for
- 734 creditable service authorized in Section 25-11-103, the following
- 735 shall govern for members who retire before July 1, 2017:
- 736 twenty-one (21) days of unused leave shall constitute one (1)
- 737 month of creditable service and in no case shall credit be allowed
- 738 for any period of unused leave of less than fifteen (15) days.
- 739 The number of months of unused leave shall determine the number of
- 740 quarters or years of creditable service in accordance with the
- 741 above schedule for membership and prior service.
- 742 (ii) In the computation of unused leave for
- 743 creditable service authorized in Section 25-11-103, the following

- 744 shall govern for members who retire on or after July 1, 2017:
- 745 creditable service for unused leave shall be calculated in monthly
- 746 increments in which one (1) month of service credit shall be
- 747 awarded for each twenty-one (21) days of unused leave, except that
- 748 the first fifteen (15) to fifty-seven (57) days of leave shall
- 749 constitute three (3) months of service for those who became a
- 750 member of the system before July 1, 2017.
- 751 (iii) In order for the member to receive
- 752 creditable service for the number of days of unused leave under
- 753 this paragraph, the system must receive certification from the
- 754 governing authority.
- 755 (e) For the purposes of this subsection, members of the
- 756 system who retire on or after July 1, 2010, shall receive credit
- 757 for one-half (1/2) day of leave for each full year of membership
- 758 service accrued after June 30, 2010. The amount of leave received
- 759 by a member under this paragraph shall be added to the lawfully
- 760 credited unused leave for which creditable service is provided
- 761 under Section 25-11-103(i).
- 762 (f) For the purpose of this subsection, for members of
- 763 the system who are elected officers and who retire on or after
- 764 July 1, 1987, the following shall govern:
- 765 (i) For service before July 1, 1984, the members
- 766 shall receive credit for leave (combined personal and major
- 767 medical) for service as an elected official before that date at
- 768 the rate of thirty (30) days per year.

769 (ii) For service on and after July 1, 1984, t	769	(ii)	For	service	on	and	after	July	<i>y</i> 1	, 1984	, t	$h \in$
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- 770 member shall receive credit for personal and major medical leave
- 771 beginning July 1, 1984, at the rates authorized in Sections
- 772 25-3-93 and 25-3-95, computed as a full-time employee.
- 773 (iii) If a member is employed in a covered
- 774 nonelected position and a covered elected position simultaneously,
- 775 that member may not receive service credit for accumulated unused
- 776 leave for both positions at retirement for the period during which
- 777 the member was dually employed. During the period during which
- 778 the member is dually employed, the member shall only receive
- 779 credit for leave as provided for in this paragraph for an elected
- 780 official.
- 781 (3) Subject to the above restrictions and to such other
- 782 rules and regulations as the board may adopt, the board shall
- 783 verify, as soon as practicable after the filing of such statements
- 784 of service, the services therein claimed.
- 785 (4) Upon verification of the statement of prior service, the
- 786 board shall issue a prior service certificate certifying to each
- 787 member the length of prior service for which credit shall have
- 788 been allowed on the basis of his statement of service. So long as
- 789 membership continues, a prior service certificate shall be final
- 790 and conclusive for retirement purposes as to such service,
- 791 provided that any member may within five (5) years from the date
- 792 of issuance or modification of such certificate request the board
- 793 of trustees to modify or correct his prior service certificate.

- 794 Any modification or correction authorized shall only apply 795 prospectively.
- 796 When membership ceases, such prior service certificates shall 797 become void. Should the employee again become a member, he shall 798 enter the system as an employee not entitled to prior service 799 credit except as provided in Sections 25-11-105(I), 25-11-113 and 800 25-11-117.
- 801 (5) Creditable service at retirement, on which the 802 retirement allowance of a member shall be based, shall consist of 803 the membership service rendered by him since he last became a 804 member, and also, if he has a prior service certificate that is in 805 full force and effect, the amount of the service certified on his 806 prior service certificate.
- 807 Any member who served on active duty in the Armed Forces 808 of the United States, who served in the Commissioned Corps of the 809 United States Public Health Service before 1972 or who served in 810 maritime service during periods of hostility in World War II, 811 shall be entitled to creditable service at no cost for his service 812 on active duty in the Armed Forces, in the Commissioned Corps of the United States Public Health Service before 1972 or in such 813 814 maritime service, provided he entered state service after his 815 discharge from the Armed Forces or entered state service after he completed such maritime service. The maximum period for such 816 817 creditable service for all military service as defined in this subsection (6) shall not exceed four (4) years unless positive 818

819 proof can be furnished by such person that he was retained in the 820 Armed Forces during World War II or in maritime service during 821 World War II by causes beyond his control and without opportunity 822 of discharge. The member shall furnish proof satisfactory to the board of trustees of certification of military service or maritime 823 824 service records showing dates of entrance into active duty service 825 and the date of discharge. From and after July 1, 1993, no 826 creditable service shall be granted for any military service or 827 maritime service to a member who qualifies for a retirement allowance in another public retirement system administered by the 828 829 Board of Trustees of the Public Employees' Retirement System 830 based, in whole or in part, on such military or maritime service. 831 In no case shall the member receive creditable service if the 832 member received a dishonorable discharge from the Armed Forces of 833 the United States.

(7) (a) Any member of the Public Employees' Retirement System whose membership service is interrupted as a result of qualified military service within the meaning of Section 414(u)(5) of the Internal Revenue Code, and who has received the maximum service credit available under subsection (6) of this section, shall receive creditable service for the period of qualified military service that does not qualify as creditable service under subsection (6) of this section upon reentering membership service in an amount not to exceed five (5) years if:

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844	have made to the retirement system if he had remained in
845	membership service for the period of qualified military service
846	based upon his salary at the time his membership service was
847	interrupted;
848	(ii) The member returns to membership service
849	within ninety (90) days of the end of his qualified military
850	service; and
851	(iii) The employer at the time the member's
852	service was interrupted and to which employment the member returns
853	pays the contributions it would have made into the retirement
854	system for such period based on the member's salary at the time
855	the service was interrupted.
856	(b) The payments required to be made in paragraph
857	(a)(i) of this subsection may be made over a period beginning with
858	the date of return to membership service and not exceeding three
859	(3) times the member's qualified military service; however, in no
860	event shall such period exceed five (5) years.
861	(c) The member shall furnish proof satisfactory to the
862	board of trustees of certification of military service showing

The member pays the contributions he would

866 (8) Any member of the Public Employees' Retirement System 867 who became a member of the system before July 1, 2007, or who

dates of entrance into qualified service and the date of discharge

as well as proof that the member has returned to active employment

within the time specified.

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868	became a member on or after July 1, 2007, and maintained
869	membership as a first responder for at least four (4) years, and
870	who has at least four (4) years of membership service credit, or
871	who became a member of the system on or after July 1, 2007, other
872	than one who maintained membership as a first responder for at
873	least four (4) years, and who has at least eight (8) years of
874	membership service credit, shall be entitled to receive a maximum
875	of five (5) years' creditable service for service rendered in
876	another state as a public employee of such other state, or a
877	political subdivision, public education system or other
878	governmental instrumentality thereof, or service rendered as a
879	teacher in American overseas dependent schools conducted by the
880	Armed Forces of the United States for children of citizens of the
881	United States residing in areas outside the continental United
882	States, provided that:
883	(a) The member shall furnish proof satisfactory to the

- (a) The member shall furnish proof satisfactory to the board of trustees of certification of such services from the state, public education system, political subdivision or retirement system of the state where the services were performed or the governing entity of the American overseas dependent school where the services were performed; and
- (b) The member is not receiving or will not be entitled to receive from the public retirement system of the other state or from any other retirement plan, including optional retirement

892	plans,	sponsored	d by	the	employer,	а	retirement	allowance	including
893	such s	ervices; a	and						

- The member shall pay to the retirement system on the date he or she is eligible for credit for such out-of-state service or at any time thereafter before the date of retirement the actuarial cost as determined by the actuary for each year of out-of-state creditable service. The provisions of this subsection are subject to the limitations of Section 415 of the Internal Revenue Code and regulations promulgated under that section.
 - who became a member of the Public Employees' Retirement System who became a member of the system before July 1, 2007, or who became a member on or after July 1, 2007, and maintained membership as a first responder for at least four (4) years, and has at least four (4) years of membership service credit, or who became a member of the system on or after July 1, 2007, other than one who maintained membership as a first responder for at least four (4) years, and has at least eight (8) years of membership service credit, and who receives, or has received, professional leave without compensation for professional purposes directly related to the employment in state service shall receive creditable service for the period of professional leave without compensation provided:

915	(a) The professional leave is performed with a public
916	institution or public agency of this state, or another state or
917	federal agency;
918	(b) The employer approves the professional leave
919	showing the reason for granting the leave and makes a
920	determination that the professional leave will benefit the
921	employee and employer;
922	(c) Such professional leave shall not exceed two (2)
923	years during any ten-year period of state service;
924	(d) The employee shall serve the employer on a
925	full-time basis for a period of time equivalent to the
926	professional leave period granted immediately following the
927	termination of the leave period;
928	(e) The contributing member shall pay to the retirement
929	system the actuarial cost as determined by the actuary for each
930	year of professional leave. The provisions of this subsection are
931	subject to the regulations of the Internal Revenue Code
932	limitations;
933	(f) Such other rules and regulations consistent
934	herewith as the board may adopt and in case of question, the board
935	shall have final power to decide the questions.
936	Any actively contributing member participating in the School
937	Administrator Sabbatical Program established in Section 37-9-77

shall qualify for continued participation under this subsection

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940	(10) Any member of the Public Employees, Retirement System
941	who became a member of the system before July 1, 2007, or who
942	became a member on or after July 1, 2007, and maintained
943	membership as a first responder for at least four (4) years, and
944	has at least four (4) years of credited membership service, or who
945	became a member of the system on or after July 1, 2007, other than
946	one who maintained membership as a first responder for at least
947	four (4) years, and has at least eight (8) years of credited
948	membership service, shall be entitled to receive a maximum of ten
949	(10) years creditable service for:
950	(a) Any service rendered as an employee of any
951	political subdivision of this state, or any instrumentality
952	thereof, that does not participate in the Public Employees'
953	Retirement System; or
954	(b) Any service rendered as an employee of any
955	political subdivision of this state, or any instrumentality
956	thereof, that participates in the Public Employees' Retirement
957	System but did not elect retroactive coverage; or
958	(c) Any service rendered as an employee of any
959	political subdivision of this state, or any instrumentality
960	thereof, for which coverage of the employee's position was or is
961	excluded; provided that the member pays into the retirement system
962	the actuarial cost as determined by the actuary for each year, or
963	portion thereof, of such service. After a member has made full

payment to the retirement system for all or any part of such

service, the member shall receive creditable service for the period of such service for which full payment has been made to the retirement system.

968 **SECTION 6.** Section 25-11-111, Mississippi Code of 1972, is 969 amended as follows:

970 25-11-111. (a) (1) Any member who became a member of the 971 system before July 1, 2007, or who became a member on or after 972 July 1, 2007, and maintained membership as a first responder for 973 at least four (4) years, upon withdrawal from service upon or 974 after attainment of the age of sixty (60) years who has completed 975 at least four (4) years of membership service, or any member who 976 became a member of the system before July 1, 2011, upon withdrawal 977 from service regardless of age who has completed at least 978 twenty-five (25) years of creditable service, shall be entitled to 979 receive a retirement allowance, which shall begin on the first of 980 the month following the date the member's application for the 981 allowance is received by the board, but in no event before 982 withdrawal from service.

(2) Any member who became a member of the system on or after July 1, 2007, other than one who maintained membership as a first responder for at least four (4) years, upon withdrawal from service upon or after attainment of the age of sixty (60) years who has completed at least eight (8) years of membership service, or any member who became a member of the system on or after July 1, 2011, upon withdrawal from service regardless of age who has

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on the first of the month following the date the member's application for the allowance is received by the board, but in no event before withdrawal from service.

(b) (1) Any member who became a member of the system before July 1, 2007, or who became a member on or after July 1, 2007, and maintained membership as a first responder for at least four (4) years, whose withdrawal from service occurs before attaining the age of sixty (60) years who has completed four (4) or more years of membership service and has not received a refund of his accumulated contributions, shall be entitled to receive a retirement allowance, beginning upon his attaining the age of sixty (60) years, of the amount earned and accrued at the date of withdrawal from service. The retirement allowance shall begin on the first of the month following the date the member's application for the allowance is received by the board, but in no event before withdrawal from service.

1008 (2) Any member who became a member of the system on or
1009 after July 1, 2007, other than one who maintained membership as a
1010 first responder for at least four (4) years, whose withdrawal from
1011 service occurs before attaining the age of sixty (60) years who
1012 has completed eight (8) or more years of membership service and
1013 has not received a refund of his accumulated contributions, shall
1014 be entitled to receive a retirement allowance, beginning upon his

1015 attaining the age of sixty (60) years, of the amount earned and 1016 accrued at the date of withdrawal from service. The retirement allowance shall begin on the first of the month following the date 1017 the member's application for the allowance is received by the 1018 1019 board, but in no event before withdrawal from service.

1020 Any member in service who has qualified for retirement benefits may select any optional method of settlement of 1021 1022 retirement benefits by notifying the Executive Director of the 1023 Board of Trustees of the Public Employees' Retirement System in 1024 writing, on a form prescribed by the board, of the option he has 1025 selected and by naming the beneficiary of the option and 1026 furnishing necessary proof of age. The option, once selected, may 1027 be changed at any time before actual retirement or death, but upon

the death or retirement of the member, the optional settlement 1028 1029 shall be placed in effect upon proper notification to the 1030 executive director.

1031 Any member who became a member of the system before July 1, 2011, shall be entitled to an annual retirement allowance which 1032 1033 shall consist of:

1034 A member's annuity, which shall be the actuarial 1035 equivalent of the accumulated contributions of the member at the 1036 time of retirement computed according to the actuarial table in 1037 use by the system; and

1038 An employer's annuity, which, together with the member's annuity provided above, shall be equal to two percent 1039

23/SS08/R190 PAGE 42 (icj\kr) 1040 (2%) of the average compensation for each year of service up to
1041 and including twenty-five (25) years of creditable service, and
1042 two and one-half percent (2-1/2%) of the average compensation for
1043 each year of service exceeding twenty-five (25) years of
1044 creditable service.

1045 Any retired member or beneficiary thereof who was eligible to receive a retirement allowance before July 1, 1991, 1046 1047 and who is still receiving a retirement allowance on July 1, 1992, 1048 shall receive an increase in the annual retirement allowance of 1049 the retired member equal to one-eighth of one percent (1/8 of 1%) 1050 of the average compensation for each year of state service in 1051 excess of twenty-five (25) years of membership service up to and 1052 including thirty (30) years. The maximum increase shall be 1053 five-eighths of one percent (5/8 of 1%). In no case shall a 1054 member who has been retired before July 1, 1987, receive less than 1055 Ten Dollars (\$10.00) per month for each year of creditable service 1056 and proportionately for each quarter year thereof. Persons 1057 retired on or after July 1, 1987, shall receive at least Ten 1058 Dollars (\$10.00) per month for each year of service and 1059 proportionately for each quarter year thereof reduced for the 1060 option selected. However, such Ten Dollars (\$10.00) minimum per 1061 month for each year of creditable service shall not apply to a retirement allowance computed under Section 25-11-114 based on a 1062 percentage of the member's average compensation. 1063

L064	(e) Any	member	who bec	came a	member	of the	system	on or	after
L065	July 1, 2011,	shall	be entit	tled to	o an anr	nual re	tirement	allow	vance
1066	which shall o	consist	of•						

- (1) A member's annuity, which shall be the actuarial equivalent of the accumulated contributions of the member at the time of retirement computed according to the actuarial table in use by the system; and
- 1071 (2) An employer's annuity, which, together with the
 1072 member's annuity provided above, shall be equal to two percent
 1073 (2%) of the average compensation for each year of service up to
 1074 and including thirty (30) years of creditable service, and two and
 1075 one-half percent (2-1/2%) of average compensation for each year of
 1076 service exceeding thirty (30) years of creditable service.
- 1077 Any member who became a member of the system on or after 1078 July 1, 2011, upon withdrawal from service upon or after attaining 1079 the age of sixty (60) years who has completed at least eight (8) 1080 years of membership service, or any such member upon withdrawal from service regardless of age who has completed at least thirty 1081 1082 (30) years of creditable service, or any such member who 1083 maintained membership as a first responder for at least four (4) 1084 years, upon withdrawal from service upon or after attaining the 1085 age of sixty (60) years who has completed at least four (4) years 1086 of membership service, shall be entitled to receive a retirement 1087 allowance computed in accordance with the formula set forth in 1088 subsection (e) of this section. In the case of the retirement of

1089 any member who has attained age sixty (60) but who has not 1090 completed at least thirty (30) years of creditable service, the retirement allowance shall be computed in accordance with the 1091 1092 formula set forth in subsection (e) of this section except that 1093 the total annual retirement allowance shall be reduced by an 1094 actuarial equivalent factor for each year of creditable service 1095 below thirty (30) years or the number of years in age that the 1096 member is below age sixty-five (65), whichever is less.

- 1097 (g) No member, except members excluded by the Age
 1098 Discrimination in Employment Act Amendments of 1986 (Public Law
 1099 99-592), under either Article 1 or Article 3 in state service
 1100 shall be required to retire because of age.
- (h) No payment on account of any benefit granted under the provisions of this section shall become effective or begin to accrue until January 1, 1953.
- 1104 (i) (1) A retiree or beneficiary may, on a form prescribed 1105 by and filed with the retirement system, irrevocably waive all or 1106 a portion of any benefits from the retirement system to which the 1107 retiree or beneficiary is entitled. The waiver shall be binding 1108 on the heirs and assigns of any retiree or beneficiary and the 1109 same must agree to forever hold harmless the Public Employees' 1110 Retirement System of Mississippi from any claim to the waived retirement benefits. 1111
- 1112 (2) Any waiver under this subsection shall apply only
 1113 to the person executing the waiver. A beneficiary shall be

1114	entitled	to	benefits	according	to	the	option	selected	by	the
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- 1115 member at the time of retirement. However, a beneficiary may, at
- 1116 the option of the beneficiary, execute a waiver of benefits under
- 1117 this subsection.
- 1118 (3) The retirement system shall retain in the annuity
- 1119 reserve account amounts that are not used to pay benefits because
- 1120 of a waiver executed under this subsection.
- 1121 (4) The board of trustees may provide rules and
- 1122 regulations for the administration of waivers under this
- 1123 subsection.
- 1124 **SECTION 7.** Section 25-11-113, Mississippi Code of 1972, is
- 1125 amended as follows:
- 1126 25-11-113. (1) (a) Upon the application of a member or his
- 1127 employer, any active member in state service who became a member
- 1128 of the system before July 1, 2007, or who became a member on or
- 1129 after July 1, 2007, and maintained membership as a first responder
- 1130 for at least four (4) years, and who has at least four (4) years
- 1131 of membership service credit, or any active member in state
- 1132 service who became a member of the system on or after July 1,
- 1133 2007, other than one who maintained membership as a first
- 1134 responder for at least four (4) years, who has at least eight (8)
- 1135 years of membership service credit, may be retired by the board of
- 1136 trustees on the first of the month following the date of filing
- 1137 the application on a disability retirement allowance, but in no
- 1138 event shall the disability retirement allowance begin before

L139	termination of state service, provided that the medical board,
L140	after an evaluation of medical evidence that may or may not
L141	include an actual physical examination by the medical board,
L142	certifies that the member is mentally or physically incapacitated
L143	for the further performance of duty, that the incapacity is likely
L144	to be permanent, and that the member should be retired; however,
L145	the board of trustees may accept a disability medical
L146	determination from the Social Security Administration in lieu of a
L147	certification from the medical board. If a member who has been
L148	approved for a disability retirement allowance does not terminate
L149	state service within ninety (90) days after approval, the
L150	disability retirement and the application for disability
L151	retirement shall be void. For the purposes of disability
L152	determination, the medical board shall apply the following
L153	definition of disability: the inability to perform the usual
L154	duties of employment or the incapacity to perform such lesser
L155	duties, if any, as the employer, in its discretion, may assign
L156	without material reduction in compensation, or the incapacity to
L157	perform the duties of any employment covered by the Public
L158	Employees' Retirement System (Section 25-11-101 et seq.) that is
L159	actually offered and is within the same general territorial work
L160	area, without material reduction in compensation. The employer
L161	shall be required to furnish the job description and duties of the
L162	member. The employer shall further certify whether the employer
L163	has offered the member other duties and has complied with the

applicable provisions of the Americans With Disabilities Act in affording reasonable accommodations that would allow the employee to continue employment.

- 1167 (b) Any member applying for a disability retirement 1168 allowance must provide sufficient objective medical evidence in 1169 support of his or her claim. All disability determinations, whether the initial examination or reexamination, shall be based 1170 1171 on objective medical evidence. "Objective medical evidence" means 1172 reports of examinations or treatments; medical signs that are 1173 anatomical, physiological, or psychological abnormalities that are 1174 observed and documented by medical professionals; psychiatric 1175 signs that are medically demonstrable phenomena indicating 1176 specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings that 1177 1178 are anatomical, physiological, or psychological phenomena that are 1179 shown by medically acceptable laboratory diagnostic techniques, 1180 including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests. 1181 1182 Nonmedical information shall not be considered objective medical 1183 evidence.
- 1184 (c) Any inactive member who became a member of the

 1185 system before July 1, 2007, or who became a member on or after

 1186 July 1, 2007, and maintained membership as a first responder for

 1187 at least four (4) years, with four (4) or more years of membership

 1188 service credit, or any inactive member who became a member of the

1189 system on or after July 1, 2007, other than one who maintained 1190 membership as a first responder for at least four (4) years, with eight (8) or more years of membership service credit, who has 1191 withdrawn from active state service, is not eligible for a 1192 1193 disability retirement allowance unless the disability occurs 1194 within six (6) months of the termination of active service and 1195 unless satisfactory proof is presented to the board of trustees that the disability was the direct cause of withdrawal from state 1196 1197 service. Application for a disability retirement allowance must be filed within one (1) year of termination from active service. 1198 1199 This period may be extended by an additional year if it can be 1200 factually demonstrated to the satisfaction of the board of 1201 trustees that throughout the initial one-year period the member 1202 was incapable of applying for benefits by reason of mental or 1203 physical impairment as certified by a medical doctor.

retirement benefits under Section 25-11-111 while pursuing a disability retirement allowance under this section or Section 25-11-114 may elect to receive a service retirement allowance pending a final determination on eligibility for a disability retirement allowance or withdrawal of the application for the disability retirement allowance. In such a case, an application for a disability retirement allowance must be on file with the system before the beginning of a service retirement allowance. If the application is approved, the option selected and beneficiary

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1214 de	signated	on	the	retirement	application	shall	be	used	to
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- 1215 determine the disability retirement allowance. If the application
- 1216 is not approved or if the application is withdrawn, the service
- 1217 retirement allowance shall continue to be paid in accordance with
- 1218 the option selected. No person may apply for a disability
- 1219 retirement allowance after the person begins to receive a service
- 1220 retirement allowance.
- 1221 (e) If the medical board certifies that the member is
- 1222 not mentally or physically incapacitated for the future
- 1223 performance of duty, the member may request, within sixty (60)
- 1224 days, a hearing before the hearing officer as provided in Section
- 1225 25-11-120. All hearings shall be held in accordance with rules
- 1226 and regulations adopted by the board to govern those hearings.
- 1227 The hearing may be closed upon the request of the member.
- 1228 (f) The medical board may request additional medical
- 1229 evidence and/or other physicians to conduct an evaluation of the
- 1230 member's condition. If the medical board requests additional
- 1231 medical evidence and the member refuses the request, the
- 1232 application shall be considered void.
- 1233 (2) Allowance on disability retirement.
- 1234 (a) Upon retirement for disability, an eligible member
- 1235 shall receive a retirement allowance if he has attained the age of
- 1236 sixty (60) years.
- 1237 (b) Except as provided in paragraph (c) of this
- 1238 subsection (2), an eligible member who is retired for disability

1239	and who has no	ot attained	sixty (60)	years of a	age shall	receive	a
1240	disability ben	nefit as com	puted in S	ection 25-2	11-111 (d),	which	

1241 shall consist of:

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1242 (i) A member's annuity, which shall be the 1243 actuarial equivalent of his accumulated contributions at the time 1244 of retirement; and

1245 An employer's annuity equal to the amount (ii) 1246 that would have been payable as a retirement allowance for 1247 eligible creditable service if the member had continued in service 1248 to the age of sixty (60) years, which shall apply to the allowance 1249 for disability retirement paid to retirees receiving such 1250 allowance upon and after April 12, 1977. This employer's annuity 1251 shall be computed on the basis of the average "earned 1252 compensation" as defined in Section 25-11-103.

For persons who become members after June 30, 1992, 1254 and for active members on June 30, 1992, who elect benefits under 1255 this paragraph (c) instead of those provided under paragraph (b) 1256 of this subsection (2), the disability allowance shall consist of 1257 two (2) parts: a temporary allowance and a deferred allowance. 1258 The temporary allowance shall equal the greater of (i) forty 1259 percent (40%) of average compensation at the time of disability, 1260 plus ten percent (10%) of average compensation for each of the first two (2) dependent children, as defined in Sections 25-11-103 1261

and 25-11-114, or (ii) the accrued benefit based on actual

1263	service.	Ιt	shall	be	payable	for	a	period	of	time	based	on	the
1264	member's	age	at di	sab:	ility, a	s foi	llo	ows:					

1265	Age at Disability	Duration
1266	60 and earlier	to age 65
1267	61	to age 66
1268	62	to age 66
1269	63	to age 67
1270	64	to age 67
1271	65	to age 68
1272	66	to age 68
1273	67	to age 69
1274	68	to age 70
1275	69 and over	one year

The deferred allowance shall begin when the temporary allowance ends and shall be payable for life. The deferred allowance shall equal the greater of (i) the allowance that would have been payable had the member continued in service to the termination age of the temporary allowance, but no more than forty percent (40%) of average compensation, or (ii) the accrued benefit based on actual service at the time of disability. The deferred allowance as determined at the time of disability shall be adjusted in accordance with Section 25-11-112 for the period during which the temporary annuity is payable. In no case shall a member receive less than Ten Dollars (\$10.00) per month for each

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- 1287 year of service and proportionately for each quarter year thereof 1288 reduced for the option selected.
- 1289 The member may elect to receive the actuarial (d) 1290 equivalent of the disability retirement allowance in a reduced 1291 allowance payable throughout life under any of the provisions of 1292 the options provided under Section 25-11-115.
- 1293 If a disability retiree who has not selected an 1294 option under Section 25-11-115 dies before being repaid in 1295 disability benefits the sum of his total contributions, then his 1296 named beneficiary shall receive the difference in cash, which 1297 shall apply to all deceased disability retirees from and after 1298 January 1, 1953.
- 1299 (3) Reexamination of retirees retired on account of disability. Except as otherwise provided in this section, once 1300 1301 each year during the first five (5) years following retirement of 1302 a member on a disability retirement allowance, and once in every 1303 period of three (3) years thereafter, the board of trustees may, and upon his application shall, require any disability retiree who 1304 1305 has not yet attained the age of sixty (60) years or the 1306 termination age of the temporary allowance under subsection (2)(c) 1307 of this section to undergo a medical examination, the examination 1308 to be made at the place of residence of the retiree or other place 1309 mutually agreed upon by a physician or physicians designated by the board. The board, however, in its discretion, may authorize 1310 the medical board to establish reexamination schedules appropriate 1311

- 1312 to the medical condition of individual disability retirees. any disability retiree who has not yet attained the age of sixty 1313 (60) years or the termination age of the temporary allowance under 1314 subsection (2)(c) of this section refuses to submit to any medical 1315 1316 examination provided in this section, his allowance may be 1317 discontinued until his withdrawal of that refusal; and if his refusal continues for one (1) year, all his rights to a disability 1318 1319 benefit shall be revoked by the board of trustees.
- 1320 If the medical board reports and certifies to the board 1321 of trustees, after a comparable job analysis or other similar 1322 study, that the disability retiree is engaged in, or is able to 1323 engage in, a gainful occupation paying more than the difference 1324 between his disability allowance, exclusive of cost-of-living 1325 adjustments, and the average compensation, and if the board of 1326 trustees concurs in the report, the disability benefit shall be 1327 reduced to an amount that, together with the amount earnable by 1328 him, equals the amount of his average compensation. If his earning capacity is later changed, the amount of the benefit may 1329 1330 be further modified, provided that the revised benefit shall not 1331 exceed the amount originally granted. A retiree receiving a 1332 disability benefit who is restored to active service at a salary 1333 less than the average compensation shall not become a member of 1334 the retirement system.
- 1335 (5) If a disability retiree under the age of sixty (60)
 1336 years or the termination age of the temporary allowance under

1337 subsection (2)(c) of this section is restored to active service at 1338 a compensation not less than his average compensation, his disability benefit shall end, he shall again become a member of 1339 the retirement system, and contributions shall be withheld and 1340 1341 reported. Any such prior service certificate, on the basis of 1342 which his service was computed at the time of retirement, shall be restored to full force and effect. In addition, upon his later 1343 retirement he shall be credited with all creditable service as a 1344 1345 member, but the total retirement allowance paid to the retired 1346 member in his previous retirement shall be deducted from his 1347 retirement reserve and taken into consideration in recalculating 1348 the retirement allowance under a new option selected.

(6) If following reexamination in accordance with the provisions contained in this section, the medical board determines that a retiree retired on account of disability is physically and mentally able to return to the employment from which he is retired, the board of trustees, upon certification of those findings from the medical board, shall, after a reasonable period of time, terminate the disability allowance, whether or not the retiree is reemployed or seeks that reemployment. In addition, if the board of trustees determines that the retiree is no longer sustaining a loss of income as established by documented evidence of the retiree's earned income, the eligibility for a disability allowance shall terminate and the allowance terminated within a reasonable period of time. If the retirement allowance is

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- 1362 terminated under the provisions of this section, the retiree may 1363 later qualify for a retirement allowance under Section 25-11-111 1364 based on actual years of service credit plus credit for the period
- 1365 during which a disability allowance was paid.
- 1366 Any current member as of June 30, 1992, who retires on a 1367 disability retirement allowance after June 30, 1992, and who has not elected to receive benefits under subsection (2)(c) of this 1368 1369 section, shall relinquish all rights under the Age Discrimination 1370 in Employment Act of 1967, as amended, with regard to the benefits 1371 payable under this section.
- 1372 SECTION 8. Section 25-11-114, Mississippi Code of 1972, is amended as follows: 1373
- 1374 The applicable benefits provided in 25-11-114. (1) 1375 subsections (2) and (3) of this section shall be paid to eligible 1376 beneficiaries of any member who became a member of the system 1377 before July 1, 2007, or who became a member on or after July 1, 1378 2007, and maintained membership as a first responder for at least
- four (4) years, and has completed four (4) or more years of
- 1380 membership service, or who became a member of the system on or
- 1381 after July 1, 2007, other than one who maintained membership as a
- 1382 first responder for at least four (4) years, and has completed
- 1383 eight (8) or more years of membership service, and who dies before
- 1384 retirement and who has not filed a Pre-Retirement Optional
- Retirement Form as provided in Section 25-11-111. 1385

L386	(2) (a) The surviving spouse of a member who dies before
L387	retirement shall receive a monthly benefit computed in accordance
L388	with paragraph (d) of this subsection (2) as if the member had
1389	nominated his spouse as beneficiary if.

- 1390 (i) The member completed the requisite minimum
 1391 number of years of membership service to qualify for a retirement
 1392 allowance at age sixty (60);
- 1393 (ii) The spouse has been married to the member for
 1394 not less than one (1) year preceding the death of the member;
 1395 (iii) The member has not exercised any other
 1396 option.
- 1397 (b) If, at the time of the member's death, there are no 1398 dependent children, and the surviving spouse, who otherwise would 1399 receive the annuity under this subsection (2), has filed with the 1400 system a signed written waiver of his or her rights to the annuity 1401 and that waiver was in effect at the time of the member's death, a 1402 lump-sum distribution of the deceased member's accumulated 1403 contributions shall be refunded in accordance with Section 1404 25-11-117.
- 1405 (c) The spouse annuity shall begin on the first day of 1406 the month following the date of the member's death, but in case of 1407 late filing, retroactive payments will be made for a period of not 1408 more than one (1) year.

1409	(d) The spouse of a member who is eligible to receive a
1410	monthly benefit under paragraph (a) of this subsection (2) shall
1411	receive a benefit for life equal to the higher of the following:
1412	(i) The greater of twenty percent (20%) of the
1413	deceased member's average compensation as defined in Section
1414	25-11-103 at the time of death or Fifty Dollars (\$50.00) monthly;
1415	or
1416	(ii) Benefits calculated under Option 2 of Section
1417	25-11-115. The method of calculating the retirement benefits
1418	shall be on the same basis as provided in Section 25-11-111(d) or
1419	(e), as applicable. However, if the member dies before being
1420	qualified for a full, unreduced retirement allowance, then the
1421	benefits shall be reduced by an actuarially determined percentage
1422	or factor based on the lesser of either the number of years of
1423	service credit or the number of years in age required to qualify
1424	for a full, unreduced retirement allowance in Section 25-11-111(d)
1425	or (e), as applicable.
1426	(e) The surviving spouse of a deceased member who
1427	previously received spouse retirement benefits under paragraph
1428	(d)(i) of this subsection from and after July 1, 1992, and whose
1429	benefits were terminated before July 1, 2004, because of
1430	remarriage, may again receive the retirement benefits authorized
1431	under paragraph (d)(i) of this subsection by making application
1432	with the board to reinstate those benefits. Any reinstatement of
1433	the benefits shall be prospective only and shall begin after the

1434 first of the month following the date of the application for

1435 reinstatement, but no earlier than July 1, 2004. From and after

1436 July 1, 2010, any spouse who chose Option 2 from and after July 1,

1437 1992, but before July 1, 2004, where the benefit, although payable

1438 for life, was less than the benefit available under the

1439 calculation in paragraph (d)(i) of this subsection shall have his

1440 or her benefit increased to the amount which provides the greater

1441 benefit.

1442 (3) (a) Subject to the maximum limitation provided in this

1443 paragraph, the member's dependent children each shall receive an

1444 annuity of the greater of ten percent (10%) of the member's

1445 average compensation as defined in Section 25-11-103 at the time

1446 of the death of the member or Fifty Dollars (\$50.00) monthly;

1447 however, if there are more than three (3) dependent children, each

1448 dependent child shall receive an equal share of a total annuity

1449 equal to thirty percent (30%) of the member's average

1450 compensation, provided that the total annuity shall not be less

1451 than One Hundred Fifty Dollars (\$150.00) per month for all

1452 children.

1453 (b) A child shall be considered to be a dependent child

1454 until marriage, or the attainment of age nineteen (19), whichever

1455 comes first; however, this age limitation shall be extended beyond

1456 age nineteen (19), but in no event beyond the attainment of age

1457 twenty-three (23), as long as the child is a student regularly

1458 pursuing a full-time course of resident study or training in an

1459	accredited high school, trade school, technical or vocational
1460	institute, junior or community college, college, university or
1461	comparable recognized educational institution duly licensed by a
1462	state. A student child who is receiving a retirement allowance as
1463	of June 30, 2016, whose birthday falls during the school year
1464	(September 1 through June 30) is considered not to reach age
1465	twenty-three (23) until the July 1 following the actual
1466	twenty-third birthday. A full-time course of resident study or
1467	training means a day or evening noncorrespondence course that
1468	includes school attendance at the rate of at least thirty-six (36)
1469	weeks per academic year or other applicable period with a subject
1470	load sufficient, if successfully completed, to attain the
1471	educational or training objective within the period generally
1472	accepted as minimum for completion, by a full-time day student, of
1473	the academic or training program concerned. Any child who is
1474	physically or mentally incompetent, as adjudged by either a
1475	Mississippi court of competent jurisdiction or by the board, shall
1476	receive benefits for as long as the incompetency exists.

- 1477 (C) If there are more than three (3) dependent children, upon a child's ceasing to be a dependent child, his 1478 1479 annuity shall terminate and there shall be a redetermination of 1480 the amounts payable to any remaining dependent children.
- 1481 Annuities payable under this subsection (3) shall 1482 begin the first day of the month following the date of the 1483 member's death or in case of late filing, retroactive payments

will be made for a period of not more than one (1) year. Those

benefits may be paid to a surviving parent or the lawful custodian

of a dependent child for the use and benefit of the child without

the necessity of appointment as guardian.

1488 (4)Death benefits in the line of duty. Regardless of (a) 1489 the number of years of the member's creditable service, the spouse 1490 and/or the dependent children of an active member who is killed or 1491 dies as a direct result of a physical injury sustained from an 1492 accident or a traumatic event caused by external violence or 1493 physical force occurring in the line of performance of duty shall 1494 qualify, on approval of the board, for a retirement allowance on 1495 the first of the month following the date of death, but in the 1496 case of late filing, retroactive payments will be made for a 1497 period of not more than one (1) year. The spouse shall receive a 1498 retirement allowance for life equal to one-half (1/2) of the 1499 average compensation as defined in Section 25-11-103. In addition 1500 to the retirement allowance for the spouse, or if there is no surviving spouse, the member's dependent child shall receive a 1501 1502 retirement allowance in the amount of one-fourth (1/4) of the 1503 member's average compensation as defined in Section 25-11-103; 1504 however, if there are two (2) or more dependent children, each 1505 dependent child shall receive an equal share of a total annuity equal to one-half (1/2) of the member's average compensation. If 1506 1507 there are more than two (2) dependent children, upon a child's ceasing to be a dependent child, his annuity shall terminate and 1508

1509 there shall be a redetermination of the amounts payable to any 1510 remaining dependent children. Those benefits shall cease to be paid for the support and maintenance of each child upon the child 1511 1512 attaining the age of nineteen (19) years; however, the spouse 1513 shall continue to be eliqible for the aforesaid retirement 1514 allowance. Those benefits may be paid to a surviving parent or lawful custodian of the children for the use and benefit of the 1515 1516 children without the necessity of appointment as guardian. 1517 spouse who received spouse retirement benefits under this paragraph (a) from and after April 4, 1984, and whose benefits 1518 were terminated before July 1, 2004, because of remarriage, may 1519 again receive the retirement benefits authorized under this 1520 1521 paragraph (a) by making application with the board to reinstate those benefits. Any reinstatement of the benefits shall be 1522 1523 prospective only and shall begin after the first of the month 1524 following the date of the application for reinstatement, but not 1525 earlier than July 1, 2004.

1526 (b) A child shall be considered to be a dependent child 1527 until marriage, or the attainment of age nineteen (19), whichever 1528 comes first; however, this age limitation shall be extended beyond 1529 age nineteen (19), but in no event beyond the attainment of age 1530 twenty-three (23), as long as the child is a student regularly 1531 pursuing a full-time course of resident study or training in an 1532 accredited high school, trade school, technical or vocational institute, junior or community college, college, university or 1533

1534 comparable recognized educational institution duly licensed by a 1535 A student child who is receiving a retirement allowance as of June 30, 2016, whose birthday falls during the school year 1536 1537 (September 1 through June 30) is considered not to reach age 1538 twenty-three (23) until the July 1 following the actual 1539 twenty-third birthday. A full-time course of resident study or training means a day or evening noncorrespondence course that 1540 1541 includes school attendance at the rate of at least thirty-six (36) 1542 weeks per academic year or other applicable period with a subject 1543 load sufficient, if successfully completed, to attain the 1544 educational or training objective within the period generally accepted as minimum for completion, by a full-time day student, of 1545 1546 the academic or training program concerned. Any child who is physically or mentally incompetent, as adjudged by either a 1547 Mississippi court of competent jurisdiction or by the board, shall 1548 1549 receive benefits for as long as the incompetency exists.

(5) If all the annuities provided for in this section payable on account of the death of a member terminate before there has been paid an aggregate amount equal to the member's accumulated contributions standing to the member's credit in the annuity savings account at the time of the member's death, the difference between the accumulated contributions and the aggregate amount of annuity payments shall be paid to the person that the member has nominated by written designation duly executed and filed with the board. If there is no designated beneficiary

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surviving at termination of benefits, the difference shall be payable under Section 25-11-117.1(1).

1561 Regardless of the number of years of creditable service, 1562 upon the application of a member or employer, any active member 1563 who becomes disabled as a direct result of a physical injury 1564 sustained from an accident or traumatic event caused by external violence or physical force occurring in the line of performance of 1565 1566 duty, provided that the medical board or other designated 1567 governmental agency after a medical examination certifies that the 1568 member is mentally or physically incapacitated for the further 1569 performance of duty and the incapacity is likely to be permanent, 1570 may be retired by the board of trustees on the first of the month 1571 following the date of filing the application but in no event shall the retirement allowance begin before the termination of state 1572 1573 If a member who has been approved for a retirement 1574 allowance under this subsection does not terminate state service 1575 within ninety (90) days after the approval, the retirement 1576 allowance and the application for the allowance shall be void. 1577 The retirement allowance shall equal the allowance on disability 1578 retirement as provided in Section 25-11-113 but shall not be less 1579 than fifty percent (50%) of average compensation. Line of duty 1580 disability benefits under this section shall be administered in accordance with the provisions of Section 25-11-113(1)(b), (c), 1581 (d), (e) and (f), (3), (4), (5) and (6). 1582

L583		(7)	For	purpos	es	of	determin	ning	death	or	disability	benefits
L584	under	this	sec	ction,	the	fo	ollowing	shal	.l app	lv:		

- 1585 (a) Death or permanent and total disability resulting
 1586 from a cardiovascular, pulmonary or musculoskeletal condition that
 1587 was not a direct result of a physical injury sustained from an
 1588 accident or a traumatic event caused by external violence or
 1589 physical force occurring in the performance of duty shall be
 1590 deemed a natural death or an ordinary disability.
- 1591 (b) A mental disability based exclusively on employment 1592 duties occurring on an ongoing basis shall be deemed an ordinary 1593 disability.
- (8) If the deceased or disabled member has less than four

 (4) years of membership service, the average compensation as

 defined in Section 25-11-103 shall be the average of all annual

 earned compensation in state service for the purposes of benefits

 provided in this section.
- 1599 In case of death or total and permanent disability under 1600 subsection (4) or subsection (6) of this section and before the 1601 board shall consider any application for a retirement allowance, 1602 the employer must certify to the board that the member's death or 1603 disability was a direct result of an accident or a traumatic event 1604 occurring during and as a result of the performance of the regular and assigned duties of the employee and that the death or 1605 1606 disability was not the result of the willful negligence of the 1607 employee.

1608	(10) The application for the retirement allowance must be
1609	filed within one (1) year after death of an active member who is
1610	killed in the line of performance of duty or dies as a direct
1611	result of an accident occurring in the line of performance of duty
1612	or traumatic event; but the board of trustees may consider an
1613	application for disability filed after the one-year period if it
1614	can be factually demonstrated to the satisfaction of the board of
1615	trustees that the disability is due to the accident and that the
1616	filing was not accomplished within the one-year period due to a
1617	delayed manifestation of the disability or to circumstances beyond
1618	the control of the member. However, in case of late filing,
1619	retroactive payments will be made for a period of not more than
1620	one (1) year only.

- 1621 (a) Notwithstanding any other section of this article 1622 and in lieu of any payments to a designated beneficiary for a 1623 refund of contributions under Section 25-11-117, the spouse and/or 1624 children shall be eligible for the benefits payable under this 1625 section, and the spouse may elect, for both the spouse and/or 1626 children, to receive benefits in accordance with either subsections (2) and (3) or subsection (4) of this section; 1627 1628 otherwise, the contributions to the credit of the deceased member 1629 shall be refunded in accordance with Section 25-11-117.
- 1630 Notwithstanding any other section of this article, 1631 a spouse who is entitled to receive a monthly benefit under either 1632 subsection (2) or (4) of this section and who is also the named

1633	beneficiary for a refund of accumulated contributions in the
1634	member's annuity savings account, may, after the death of the
1635	member, elect to receive a refund of accumulated contributions in
1636	lieu of a monthly allowance, provided that there are no dependent
1637	children entitled to benefits under subsection (3) of this
1638	section.

- (12) If the member has previously received benefits from the system to which he was not entitled and has not repaid in full all amounts payable by him to the system, the annuity amounts otherwise provided by this section shall be withheld and used to effect repayment until the total of the withholdings repays in full all amounts payable by him to the system.
- SECTION 9. Section 25-11-117, Mississippi Code of 1972, is amended as follows:
- 1647 25-11-117. (1) A member may be paid a refund of the amount of accumulated contributions to the credit of the member in the 1648 1649 annuity savings account, provided that the member has withdrawn 1650 from state service and has not returned to state service on the 1651 date the refund of the accumulated contributions would be paid. 1652 That refund of the contributions to the credit of the member in 1653 the annuity savings account shall be paid within ninety (90) days 1654 from receipt in the office of the retirement system of the 1655 properly completed form requesting the payment. In the event of 1656 death before retirement of any member whose spouse and/or children are not entitled to a retirement allowance, the accumulated 1657

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1658 contributions to the credit of the deceased member in the annuity 1659 savings account shall be paid to the designated beneficiary on 1660 file in writing in the office of the executive director of the 1661 board of trustees within ninety (90) days from receipt of a 1662 properly completed form requesting the payment. If there is no 1663 such designated beneficiary on file for the deceased member in the 1664 office of the system, upon the filing of a proper request with the board, the contributions to the credit of the deceased member in 1665 1666 the annuity savings account shall be refunded under Section 1667 25-11-117.1(1). The payment of the refund shall discharge all 1668 obligations of the retirement system to the member on account of 1669 any creditable service rendered by the member before the receipt 1670 of the refund. By the acceptance of the refund, the member shall waive and relinquish all accrued rights in the system. 1671

(2) Under the Unemployment Compensation Amendments of 1992 (Public Law 102-318 (UCA)), a member or the spouse of a member who is an eligible beneficiary entitled to a refund under this section may elect, on a form prescribed by the board under rules and regulations established by the board, to have an eligible rollover distribution of accumulated contributions payable under this section paid directly to an eligible retirement plan, as defined under applicable federal law, or an individual retirement account. If the member or the spouse of a member who is an eligible beneficiary makes that election and specifies the eligible retirement plan or individual retirement account to which the

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distribution is to be paid, the distribution will be made in the form of a direct trustee-to-trustee transfer to the specified eligible retirement plan. A nonspouse beneficiary may elect to have an eligible rollover distribution paid in the form of a direct trustee-to-trustee transfer to an individual retirement account established to receive the distribution on behalf of the nonspouse beneficiary. Flexible rollovers under this subsection shall not be considered assignments under Section 25-11-129.

If any person who has received a refund * * * (3) (a) reenters the state service and again becomes a member of the system before July 1, 2007, or if any person who has received a refund after at least (4) years of membership as a first responder reenters the state service and again becomes a member of the system on or after July 1, 2007, the member may repay all or part of the amounts previously received as a refund, together with regular interest covering the period from the date of refund to the date of repayment; however, the amounts that are repaid by the member and the creditable service related thereto shall not be used in any benefit calculation or determination until the member has remained a contributor to the system for a period of at least four (4) years after the member's reentry into state service. Repayment for that time shall be made beginning with the most recent service for which refund has been made. Upon the repayment of all or part of that refund and interest, the member shall again

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1707 receive credit for the period of creditable service for which full 1708 repayment has been made to the system.

- 1709 If any person who has received a refund, other than (b) one who maintained at least (4) years of membership as a first 1710 1711 responder, reenters the state service and again becomes a member 1712 of the system on or after July 1, 2007, the member may repay all or part of the amounts previously received as a refund, together 1713 1714 with regular interest covering the period from the date of refund 1715 to the date of repayment; however, the amounts that are repaid by the member and the creditable service related thereto shall not be 1716 1717 used in any benefit calculation or determination until the member 1718 has remained a contributor to the system for a period of at least 1719 eight (8) years after the member's reentry into state service. Repayment for that time shall be made beginning with the most 1720 1721 recent service for which refund has been made. Upon the repayment 1722 of all or part of that refund and interest, the member shall again 1723 receive credit for the period of creditable service for which full 1724 repayment has been made to the system.
- 1725 (4) In order to provide a source of income to members (a) 1726 who have applied for disability benefits under Section 25-11-113 1727 or 25-11-114, the board may provide, at the employee's election, a 1728 temporary benefit to be paid from the member's accumulated 1729 contributions, if any, without forfeiting the right to pursue 1730 disability benefits, provided that the member has exhausted all personal and medical leave and has terminated his or her 1731

1732	employment.	The bo	pard may	prescribe	rules an	d regulations	for
1733	carrying out	the pr	rovisions	s of this s	subsectio	n (4).	

- 1734 If a member who has elected to receive temporary 1735 benefits under this subsection later applies for a refund of his 1736 or her accumulated contributions, all amounts paid under this 1737 subsection shall be deducted from the accumulated contributions and the balance will be paid to the member. If a member who has 1738 1739 elected to receive temporary benefits under this subsection is 1740 later approved for a disability retirement allowance, and a 1741 service retirement allowance or survivor benefits are paid on the 1742 account, the board shall adjust the benefits in such a manner that 1743 no more than the actuarial equivalent of the benefits to which the member or beneficiary was or is entitled shall be paid. 1744
- 1745 (c) The board may study, develop and propose a
 1746 disability benefit structure, including short- and long-term
 1747 disability benefits, provided that it is the actuarial equivalent
 1748 of the benefits currently provided in Section 25-11-113 or
 1749 25-11-114.
- SECTION 10. Section 2 of this act shall be codified in Title 25, Chapter 11, Article 3, Mississippi Code of 1972.
- 1752 **SECTION 11.** This act shall take effect and be in force from 1753 and after July 1, 2023.