

By: Representative Yancey

To: Appropriations A

## HOUSE BILL NO. 561

1 AN ACT TO CREATE NEW SECTION 25-11-109.1, MISSISSIPPI CODE OF  
2 1972, TO PROVIDE THAT PUBLIC SCHOOL BUS DRIVERS SHALL RECEIVE  
3 CREDITABLE SERVICE FOR SERVICES PERFORMED ON OR AFTER JULY 1,  
4 2024, REGARDLESS OF THE NUMBER OF HOURS PER WEEK OR PER MONTH FOR  
5 WHICH THEY PERFORM THOSE SERVICES AND RECEIVE COMPENSATION; TO  
6 PROVIDE THAT A PUBLIC SCHOOL BUS DRIVER IS CONSIDERED TO BE A  
7 FULL-TIME EMPLOYEE IN ANY MONTH IN WHICH HE OR SHE WORKS FOR AT  
8 LEAST HALF THE FULL-TIME EQUIVALENT WORKLOAD FOR THE POSITION AND  
9 EARNS AT LEAST HALF THE NORMAL COMPENSATION FOR THE POSITION; TO  
10 PROVIDE THAT IF A PUBLIC SCHOOL BUS DRIVER WORKS AS A FULL-TIME  
11 EMPLOYEE FOR A NUMBER OF MONTHS THAT IS AT LEAST EQUAL TO THE  
12 NUMBER OF YEARS OF MEMBERSHIP SERVICE REQUIRED TO VEST IN THE  
13 SYSTEM, THEN THE SCHOOL BUS DRIVER SHALL BE ELIGIBLE TO RECEIVE A  
14 RETIREMENT ALLOWANCE; TO PROVIDE THAT IF A PUBLIC SCHOOL BUS  
15 DRIVER DOES NOT HAVE ENOUGH MONTHS WORKING AS A FULL-TIME EMPLOYEE  
16 TO BE EQUAL TO THE NUMBER OF YEARS OF MEMBERSHIP SERVICE REQUIRED  
17 TO VEST IN THE SYSTEM, BUT HAS COMPLETED AT LEAST FIFTEEN YEARS OF  
18 SERVICE WORKING AS A SCHOOL BUS DRIVER AFTER JULY 1, 2024, THEN  
19 THE SCHOOL BUS DRIVER SHALL BE ELIGIBLE TO RECEIVE A RETIREMENT  
20 ALLOWANCE; TO AMEND SECTIONS 25-11-103, 25-11-105, 25-11-109,  
21 25-11-111, 25-11-113 AND 25-11-114, MISSISSIPPI CODE OF 1972, TO  
22 CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

24 **SECTION 1.** The following shall be codified as Section  
25 25-11-109.1, Mississippi Code of 1972:

26 25-11-109.1. (1) Public school bus drivers shall receive  
27 creditable service for services performed on or after July 1,



28 2024, regardless of the number of hours per week or per month for  
29 which they perform those services and receive compensation.

30 (2) A public school bus driver is considered to be a  
31 full-time employee in any month in which he or she works for at  
32 least half the full-time equivalent workload for the position and  
33 earns at least half the normal compensation for the position.

34 (3) If a public school bus driver who became a member of the  
35 system before July 1, 2007, works as a full-time employee for a  
36 number of months that is at least equal to four (4) years of  
37 membership service, or a public school bus driver who became a  
38 member of the system on or after July 1, 2007, works as a  
39 full-time employee for a number of months that is at least equal  
40 to eight (8) years of membership service, then the school bus  
41 driver shall be eligible to receive a retirement allowance in  
42 accordance with the applicable provisions of Section 25-11-111.

43 (4) If a public school bus driver who became a member of the  
44 system before July 1, 2007, does not have enough months working as  
45 a full-time employee to be equal to at least four (4) years of  
46 membership service, or a public school bus driver who became a  
47 member of the system on or after July 1, 2007, does not have  
48 enough months working as a full-time employee to be equal to at  
49 least eight (8) years of membership service, but has completed at  
50 least fifteen (15) years of service working as a school bus driver  
51 after July 1, 2024, then the school bus driver shall be eligible



to receive a retirement allowance in accordance with the applicable provisions of Section 25-11-111.

**SECTION 2.** Section 25-11-103, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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



77                   (f) "Average compensation" means the average of the  
78 four (4) highest years of earned compensation reported for an  
79 employee in a fiscal or calendar year period, or combination  
80 thereof that do not overlap, or the last forty-eight (48)  
81 consecutive months of earned compensation reported for an  
82 employee. The four (4) years need not be successive or joined  
83 years of service. In computing the average compensation for  
84 retirement, disability or survivor benefits, any amount lawfully  
85 paid in a lump sum for personal leave or major medical leave shall  
86 be included in the calculation to the extent that the amount does  
87 not exceed an amount that is equal to thirty (30) days of earned  
88 compensation and to the extent that it does not cause the  
89 employee's earned compensation to exceed the maximum reportable  
90 amount specified in paragraph (k) of this subsection; however,  
91 this thirty-day limitation shall not prevent the inclusion in the  
92 calculation of leave earned under federal regulations before July  
93 1, 1976, and frozen as of that date as referred to in Section  
94 25-3-99. In computing the average compensation, no amounts shall  
95 be used that are in excess of the amount on which contributions  
96 were required and paid, and no nontaxable amounts paid by the  
97 employer for health or life insurance premiums for the employee  
98 shall be used. If any member who is or has been granted any  
99 increase in annual salary or compensation of more than eight  
100 percent (8%) retires within twenty-four (24) months from the date  
101 that the increase becomes effective, then the board shall exclude



that part of the increase in salary or compensation that exceeds eight percent (8%) in calculating that member's average compensation for retirement purposes. The board may enforce this provision by rule or regulation. However, increases in compensation in excess of eight percent (8%) per year granted within twenty-four (24) months of the date of retirement may be included in the calculation of average compensation if satisfactory proof is presented to the board showing that the increase in compensation was the result of an actual change in the position held or services rendered, or that the compensation increase was authorized by the State Personnel Board or was increased as a result of statutory enactment, and the employer furnishes an affidavit stating that the increase granted within the last twenty-four (24) months was not contingent on a promise or agreement of the employee to retire. Nothing in Section 25-3-31 shall affect the calculation of the average compensation of any member for the purposes of this article. The average compensation of any member who retires before July 1, 1992, shall not exceed the annual salary of the Governor.

(g) "Beneficiary" means any person entitled to receive a retirement allowance, an annuity or other benefit as provided by Articles 1 and 3. The term "beneficiary" may also include an organization, estate, trust or entity; however, a beneficiary designated or entitled to receive monthly payments under an optional settlement based on life contingency or under a statutory



127 monthly benefit may only be a natural person. In the event of the  
128 death before retirement of any member who became a member of the  
129 system before July 1, 2007, and whose spouse and/or children are  
130 not entitled to a retirement allowance on the basis that the  
131 member has less than four (4) years of membership service credit,  
132 or who became a member of the system on or after July 1, 2007, and  
133 whose spouse and/or children are not entitled to a retirement  
134 allowance on the basis that the member has less than eight (8)  
135 years of membership service credit, or who is a public school bus  
136 driver who is not eligible to receive a retirement allowance as  
137 provided in Section 25-11-109.1(3) and whose spouse and/or  
138 children are not entitled to a retirement allowance on the basis  
139 that the member has less than fifteen (15) years of membership  
140 service credit, and/or has not been married for a minimum of one  
141 (1) year or the spouse has waived his or her entitlement to a  
142 retirement allowance under Section 25-11-114, the lawful spouse of  
143 a member at the time of the death of the member shall be the  
144 beneficiary of the member unless the member has designated another  
145 beneficiary after the date of marriage in writing, and filed that  
146 writing in the office of the executive director of the board of  
147 trustees. No designation or change of beneficiary shall be made  
148 in any other manner.

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



152 (i) "Creditable service" means "prior service,"  
153 "retroactive service" and all lawfully credited unused leave not  
154 exceeding the accrual rates and limitations provided in Section  
155 25-3-91 et seq., as of the date of withdrawal from service plus  
156 "membership service" and other service for which credit is  
157 allowable as provided in Section 25-11-109. Except to limit  
158 creditable service reported to the system for the purpose of  
159 computing an employee's retirement allowance or annuity or  
160 benefits provided in this article, nothing in this paragraph shall  
161 limit or otherwise restrict the power of the governing authority  
162 of a municipality or other political subdivision of the state to  
163 adopt such vacation and sick leave policies as it deems necessary.

164 (j) "Child" means either a natural child of the member,  
165 a child that has been made a child of the member by applicable  
166 court action before the death of the member, or a child under the  
167 permanent care of the member at the time of the latter's death,  
168 which permanent care status shall be determined by evidence  
169 satisfactory to the board. For purposes of this paragraph, a  
170 natural child of the member is a child of the member that is  
171 conceived before the death of the member.

172 (k) "Earned compensation" means the full amount earned  
173 during a fiscal year by an employee not to exceed the employee  
174 compensation limit set pursuant to Section 401(a)(17) of the  
175 Internal Revenue Code for the calendar year in which the fiscal  
176 year begins and proportionately for less than one (1) year of



177 service. Except as otherwise provided in this paragraph, the  
178 value of maintenance furnished to an employee shall not be  
179 included in earned compensation. Earned compensation shall not  
180 include any amounts paid by the employer for health or life  
181 insurance premiums for an employee. Earned compensation shall be  
182 limited to the regular periodic compensation paid, exclusive of  
183 litigation fees, bond fees, performance-based incentive payments,  
184 and other similar extraordinary nonrecurring payments. In  
185 addition, any member in a covered position, as defined by Public  
186 Employees' Retirement System laws and regulations, who is also  
187 employed by another covered agency or political subdivision shall  
188 have the earnings of that additional employment reported to the  
189 Public Employees' Retirement System regardless of whether the  
190 additional employment is sufficient in itself to be a covered  
191 position. In addition, computation of earned compensation shall  
192 be governed by the following:

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

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





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

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

(vi) The maximum salary applicable for retirement 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



226 included in earned compensation. From and after July 1, 2013, the  
227 value of maintenance furnished to an employee shall be reported as  
228 earned compensation only if the proper amount of employer and  
229 employee contributions have been paid on the maintenance and the  
230 employee was receiving maintenance and having maintenance reported  
231 to the system as of June 30, 2013. The value of maintenance when  
232 not paid in money shall be fixed by the employing state agency,  
233 and, in case of doubt, by the board of trustees as defined in  
234 Section 25-11-15.

235 (ix) Except as otherwise provided in this  
236 paragraph, the value of any in-kind benefits provided by the  
237 employer shall not be included in earned compensation. As used in  
238 this subparagraph, "in-kind benefits" shall include, but not be  
239 limited to, group life insurance premiums, health or dental  
240 insurance premiums, nonpaid major medical and personal leave,  
241 employer contributions for social security and retirement, tuition  
242 reimbursement or educational funding, day care or transportation  
243 benefits.

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

247 (m) "Employer" means the State of Mississippi or any of  
248 its departments, agencies or subdivisions from which any employee  
249 receives his or her compensation.



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

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

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

(q) "Member" means any person included in the membership of the system as provided in Section 25-11-105. For purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111, 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the system withdrew from state service and received a refund of the amount of the accumulated contributions to the credit of the member in the annuity savings account before 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 all or part of the amount received as a refund and interest in order to receive



creditable service for service rendered before July 1, 2007, the member shall be considered to have become a member of the system on or after July 1, 2007, subject to the eight-year membership service requirement, as applicable in those sections. For purposes of Sections 25-11-103, 25-11-111, 25-11-114 and 25-11-115, if a member of the system withdrew from state service and received a refund of the amount of the accumulated contributions to the credit of the member in the annuity savings account before July 1, 2011, and the person reenters state service and becomes a member of the system again on or after July 1, 2011, and repays all or part of the amount received as a refund and interest in order to receive creditable service for service rendered before July 1, 2011, the member shall be considered to have become a member of the system on or after 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 employment of an employee who does not meet the criteria for coverage in the Public Employees' Retirement System based on the



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

(t) "Prior service" means:

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

(ii) For persons who became members of the system on or after July 1, 2007, service rendered before February 1, 1953, for which credit is allowable under Sections 25-11-105 and 25-11-109, and which shall allow prior service for any person who is now or becomes a member of the Public Employees' Retirement



System and who does contribute to the system for a minimum period of eight (8) years.

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

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

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

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

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



348           (z) "State service" means all offices and positions of  
349 trust or employment in the employ of the state, or any political  
350 subdivision or instrumentality of the state, that elect to  
351 participate as provided by Section 25-11-105(f), including the  
352 position of elected or fee officials of the counties and their  
353 deputies and employees performing public services or any  
354 department, independent agency, board or commission thereof, and  
355 also includes all offices and positions of trust or employment in  
356 the employ of joint state and federal agencies administering state  
357 and federal funds and service rendered by employees of the public  
358 schools. Effective July 1, 1973, all nonprofessional public  
359 school employees, such as bus drivers, janitors, maids,  
360 maintenance workers and cafeteria employees, shall have the option  
361 to become members in accordance with Section 25-11-105(b), and  
362 shall be eligible to receive credit for services before July 1,  
363 1973, provided that the contributions and interest are paid by the  
364 employee in accordance with that section; in addition, the county  
365 or municipal separate school district may pay the employer  
366 contribution and pro rata share of interest of the retroactive  
367 service from available funds. "State service" shall not include  
368 the President of the Mississippi Lottery Corporation and personnel  
369 employed by the Mississippi Lottery Corporation. From and after  
370 July 1, 1998, retroactive service credit shall be purchased at the  
371 actuarial cost in accordance with Section 25-11-105(b). Public  
372 school bus drivers shall be eligible to become or remain members



of the system regardless of the number of hours per week or per month for which they perform services and receive compensation, and their services as a bus driver are considered to be "state service" for the purpose of this article.

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

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

(2) For purposes of this article, the term "political subdivision" shall have the meaning ascribed to such term in Section 25-11-5 and shall also include public charter schools.

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

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

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

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

(ii) From and after July 1, 2002, any individual who is employed by a governmental entity to perform professional





398 services shall become a member of the system if the individual is  
399 paid regular periodic compensation for those services that is  
400 subject to payroll taxes, is provided all other employee benefits  
401 and meets the membership criteria established by the regulations  
402 adopted by the board of trustees that apply to all other members  
403 of the system; however, any active member employed in such a  
404 position on July 1, 2002, will continue to be an active member for  
405 as long as they are employed in any such position.

406 (b) All persons who become employees in the state  
407 service after January 31, 1953, except those specifically excluded  
408 or as to whom election is provided in Articles 1 and 3, unless  
409 they file with the board before the lapse of sixty (60) days of  
410 employment or sixty (60) days after the effective date of the  
411 cited articles, whichever is later, on a form prescribed by the  
412 board, a notice of election not to be covered by the membership of  
413 the retirement system and a duly executed waiver of all present  
414 and prospective benefits that would otherwise inure to them on  
415 account of their participation in the system, shall become members  
416 of the retirement system; however, no credit for prior service  
417 will be granted to members who became members of the system before  
418 July 1, 2007, until they have contributed to Article 3 of the  
419 retirement system for a minimum period of at least four (4) years,  
420 or to members who became members of the system on or after July 1,  
421 2007, until they have contributed to Article 3 of the retirement  
422 system for a minimum period of at least eight (8) years. Those



members shall receive credit for services performed before January 1, 1953, in employment now covered by Article 3, but no credit shall be granted for retroactive services between January 1, 1953, and the date of their entry into the retirement system, unless the employee pays into the retirement system both the employer's and the employee's contributions on wages paid him during the period from January 31, 1953, to the date of his becoming a contributing member, together with interest at the rate determined by the board of trustees. Members reentering after withdrawal from service shall qualify for prior service under the provisions of Section 25-11-117. From and after July 1, 1998, upon eligibility as noted above, the member may receive credit for such retroactive service provided:

(i) The member shall furnish proof satisfactory to the board of trustees of certification of that service from the covered employer where the services were performed; 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 (b) shall be construed to limit the authority of the board to allow the correction of



reporting errors or omissions based on the payment of the employee and employer contributions plus applicable interest.

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

(d) All persons who are employees in the state service on January 31, 1953, and who are members of any nonfunded 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.

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



473           (f) Each political subdivision of the state and each  
474 instrumentality of the state or a political subdivision, or both,  
475 is authorized to submit, for approval by the board of trustees, a  
476 plan for extending the benefits of this article to employees of  
477 any such political subdivision or instrumentality. Each such plan  
478 or any amendment to the plan for extending benefits thereof shall  
479 be approved by the board of trustees if it finds that the plan, or  
480 the plan as amended, is in conformity with such requirements as  
481 are provided in Articles 1 and 3; however, upon approval of the  
482 plan or any such plan previously approved by the board of  
483 trustees, the approved plan shall not be subject to cancellation  
484 or termination by the political subdivision or instrumentality.  
485 No such plan shall be approved unless:

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

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



498                   (iii) It provides for such methods of  
499 administration of the plan by the political subdivision or  
500 instrumentality as are found by the board of trustees to be  
501 necessary for the proper and efficient administration thereof;

502                   (iv) It provides that the political subdivision or  
503 instrumentality will make such reports, in such form and  
504 containing such information, as the board of trustees may from  
505 time to time require;

506                   (v) It authorizes the board of trustees to  
507 terminate the plan in its entirety in the discretion of the board  
508 if it finds that there has been a failure to comply substantially  
509 with any provision contained in the plan, the termination to take  
510 effect at the expiration of such notice and on such conditions as  
511 may be provided by regulations of the board and as may be  
512 consistent with applicable federal law.

513                   1. The board of trustees shall not finally  
514 refuse to approve a plan submitted under paragraph (f), and shall  
515 not terminate an approved plan without reasonable notice and  
516 opportunity for hearing to each political subdivision or  
517 instrumentality affected by the board's decision. The board's  
518 decision in any such case shall be final, conclusive and binding  
519 unless an appeal is taken by the political subdivision or  
520 instrumentality aggrieved by the decision to the Circuit Court of  
521 the First Judicial District of Hinds County, Mississippi, in



522 accordance with the provisions of law with respect to civil causes  
523 by certiorari.

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

531                   3. Every political subdivision or  
532 instrumentality required to make payments under paragraph (f)(v)2  
533 of this section is authorized, in consideration of the employees'  
534 retention in or entry upon employment after enactment of Articles  
535 1 and 3, to impose upon its employees, as to services that are  
536 covered by an approved plan, a contribution with respect to wages  
537 (as defined in Section 25-11-5) not exceeding the amount provided  
538 in Section 25-11-123(d) if those services constituted employment  
539 within the meaning of Articles 1 and 3, and to deduct the amount  
540 of the contribution from the wages as and when paid.  
541 Contributions so collected shall be paid into the contribution  
542 fund as partial discharge of the liability of the political  
543 subdivisions or instrumentalities under paragraph (f)(v)2 of this  
544 section. Failure to deduct the contribution shall not relieve the  
545 employee or employer of liability for the contribution.



4. Any state agency, school, political subdivision, instrumentality or any employer that is required to submit contribution payments or wage reports under any section of this chapter shall be assessed interest on delinquent payments or 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.

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

(g) 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



571 their individual entrance into this system. However, the board  
572 may not deny the right of membership in the system to public  
573 school bus drivers based on the number of hours per week or per  
574 month for which they perform services and receive compensation.

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

581 (i) If any member of this system changes his employment  
582 to any agency of the state having an actuarially funded retirement  
583 system, the board of trustees may authorize the transfer of the  
584 member's creditable service and of the present value of the  
585 member's employer's accumulation account and of the present value  
586 of the member's accumulated membership contributions to that other  
587 system, provided that the employee agrees to the transfer of his  
588 accumulated membership contributions and provided that the other  
589 system is authorized to receive and agrees to make the transfer.

590 If any member of any other actuarially funded system  
591 maintained by an agency of the state changes his employment to an  
592 agency covered by this system, the board of trustees may authorize  
593 the receipt of the transfer of the member's creditable service and  
594 of the present value of the member's employer's accumulation  
595 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.

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

(k) Employees of a political subdivision or instrumentality who were employed by the political subdivision or instrumentality before an agreement between the entity and the Public Employees' Retirement System to extend the benefits of this article to its employees, and which agreement provides for the establishment of retroactive service credit, and who became members of the retirement system before July 1, 2007, and have remained contributors to the retirement system for four (4) years, or who became members of the retirement system on or after July 1, 2007, and have remained contributors to the retirement system for eight (8) years, may receive credit for that retroactive service with the political subdivision or instrumentality, provided that the employee and/or employer, as provided under the terms of the modification of the joinder agreement in allowing that coverage, pay into the retirement system the employer's and employee's contributions on wages paid the member during the previous employment, together with interest or actuarial cost as determined by the board covering the period from the date the service was



621 rendered until the payment for the credit for the service was  
622 made. Those wages shall be verified by the Social Security  
623 Administration or employer payroll records. Effective July 1,  
624 1998, upon eligibility as noted above, a member may receive credit  
625 for that retroactive service with the political subdivision or  
626 instrumentality provided:

627 (i) The member shall furnish proof satisfactory to  
628 the board of trustees of certification of those services from the  
629 political subdivision or instrumentality where the services were  
630 rendered or verification by the Social Security Administration;  
631 and

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

639 Nothing contained in this paragraph (k) shall be construed to  
640 limit the authority of the board to allow the correction of  
641 reporting errors or omissions based on the payment of employee and  
642 employer contributions plus applicable interest. Payment for that  
643 time shall be made beginning with the most recent service. Upon  
644 the payment of all or part of the required contributions, plus  
645 interest or the actuarial cost as provided above, the member shall



646 receive credit for the period of creditable service for which full  
647 payment has been made to the retirement system.

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

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

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

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

665           (a) Patient or inmate help in state charitable, penal  
666 or correctional institutions;

667           (b) Students of any state educational institution  
668 employed by any agency of the state for temporary, part-time or  
669 intermittent work;



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

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

677 **III. TERMINATION OF MEMBERSHIP**

678 Membership in this system shall cease by a member withdrawing  
679 his accumulated contributions, or by a member withdrawing from  
680 active service with a retirement allowance, or by a member's  
681 death.

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

684 25-11-109. (1) Under such rules and regulations as the  
685 board of trustees shall adopt, each person who becomes a member of  
686 this retirement system, as provided in Section 25-11-105, on or  
687 before July 1, 1953, or who became a member of the system before  
688 July 1, 2007, and contributes to the system for a minimum period  
689 of four (4) years, or who became a member of the system on or  
690 after July 1, 2007, and contributes to the system for a minimum  
691 period of eight (8) years, shall receive credit for all state  
692 service rendered before February 1, 1953. To receive that credit,  
693 the member shall file a detailed statement of all services as an  
694 employee rendered by him in the state service before February 1,



1953. For any member who joined the system after July 1, 1953, and before July 1, 2007, any creditable service for 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 four (4) years. For any member who joined the system on or after July 1, 2007, any creditable service for 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. For any public school bus driver who is not eligible to receive a retirement allowance as provided in Section 25-11-109.1(3), any creditable service for 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 fifteen (15) years.

(2) (a) (i) In the computation of creditable service for service rendered before July 1, 2017, under the provisions of this article, the total months of accumulative service during any fiscal year shall be calculated in accordance with the schedule as follows: ten (10) or more months of creditable service during any fiscal year shall constitute a year of creditable service; seven (7) months to nine (9) months inclusive, three-quarters (3/4) of a year of creditable service; four (4) months to six (6) months inclusive, one-half (1/2) year of creditable service; one (1)



month to three (3) months inclusive, one-quarter (1/4) of a year of creditable service.

(ii) In the computation of creditable service rendered on or after July 1, 2017, under the provisions of this article, service credit shall be awarded in monthly increments in a manner prescribed by regulations of the board.

(b) In no case shall credit be allowed for any period of absence without compensation except for disability while in receipt of a disability retirement allowance, nor shall less than fifteen (15) days of service in any month, or service less than the equivalent of one-half (1/2) of the normal working load for the position and less than one-half (1/2) of the normal compensation for the position in any month, constitute a month of creditable service, nor shall more than one (1) year of service be creditable for all services rendered in any one (1) fiscal year; however, for a school employee, substantial completion of the legal school term when and where the service was rendered shall constitute a year of service credit. Any state or local elected official shall be deemed a full-time employee for the purpose of creditable service. However, an appointed or elected official compensated on a per diem basis only shall not be allowed creditable service for terms of office.

(c) In the computation of any retirement allowance or any annuity or benefits provided in this article, any fractional period of service of less than one (1) year shall be taken into



744 account and a proportionate amount of such retirement allowance,  
745 annuity or benefit shall be granted for any such fractional period  
746 of service.

747           (d)   (i)   In the computation of unused leave for  
748 creditable service authorized in Section 25-11-103, the following  
749 shall govern for members who retire before July 1, 2017:  
750 twenty-one (21) days of unused leave shall constitute one (1)  
751 month of creditable service and in no case shall credit be allowed  
752 for any period of unused leave of less than fifteen (15) days.  
753 The number of months of unused leave shall determine the number of  
754 quarters or years of creditable service in accordance with the  
755 above schedule for membership and prior service.

756           (ii)   In the computation of unused leave for  
757 creditable service authorized in Section 25-11-103, the following  
758 shall govern for members who retire on or after July 1, 2017:  
759 creditable service for unused leave shall be calculated in monthly  
760 increments in which one (1) month of service credit shall be  
761 awarded for each twenty-one (21) days of unused leave, except that  
762 the first fifteen (15) to fifty-seven (57) days of leave shall  
763 constitute three (3) months of service for those who became a  
764 member of the system before July 1, 2017.

765           (iii)   In order for the member to receive  
766 creditable service for the number of days of unused leave under  
767 this paragraph, the system must receive certification from the  
768 governing authority.



(e) For the purposes of this subsection, members of the system who retire on or after July 1, 2010, shall receive credit for one-half (1/2) day of leave for each full year of membership service accrued after June 30, 2010. The amount of leave received by a member under this paragraph shall be added to the lawfully credited unused leave for which creditable service is provided under Section 25-11-103(i).

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

(i) For service before July 1, 1984, the members shall receive credit for leave (combined personal and major medical) for service as an elected official before that date at the rate of thirty (30) days per year.

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

(iii) If a member is employed in a covered nonelected position and a covered elected position simultaneously, that member may not receive service credit for accumulated unused leave for both positions at retirement for the period during which the member was dually employed. During the period during which the member is dually employed, the member shall only receive





793 credit for leave as provided for in this paragraph for an elected  
794 official.

795 (3) Subject to the above restrictions and to such other  
796 rules and regulations as the board may adopt, the board shall  
797 verify, as soon as practicable after the filing of such statements  
798 of service, the services therein claimed.

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

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

815 (5) Creditable service at retirement, on which the  
816 retirement allowance of a member shall be based, shall consist of  
817 the membership service rendered by him since he last became a



818 member, and also, if he has a prior service certificate that is in  
819 full force and effect, the amount of the service certified on his  
820 prior service certificate.

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



843 Board of Trustees of the Public Employees' Retirement System  
844 based, in whole or in part, on such military or maritime service.  
845 In no case shall the member receive creditable service if the  
846 member received a dishonorable discharge from the Armed Forces of  
847 the United States.

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

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

862 (ii) The member returns to membership service  
863 within ninety (90) days of the end of his qualified military  
864 service; and

865 (iii) The employer at the time the member's  
866 service was interrupted and to which employment the member returns  
867 pays the contributions it would have made into the retirement



868 system for such period based on the member's salary at the time  
869 the service was interrupted.

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

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

880 (8) Any member of the Public Employees' Retirement System  
881 who became a member of the system before July 1, 2007, and who has  
882 at least four (4) years of membership service credit, or who  
883 became a member of the system on or after July 1, 2007, and who  
884 has at least eight (8) years of membership service credit, or who  
885 is a public school bus driver who is not eligible to receive a  
886 retirement allowance as provided in Section 25-11-109.1(3) and who  
887 has at least fifteen (15) years of membership service credit,  
888 shall be entitled to receive a maximum of five (5) years'  
889 creditable service for service rendered in another state as a  
890 public employee of such other state, or a political subdivision,  
891 public education system or other governmental instrumentality  
892 thereof, or service rendered as a teacher in American overseas



dependent schools conducted by the Armed Forces of the United States for children of citizens of the United States residing in areas outside the continental United States, provided that:

(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 plans, sponsored by the employer, a retirement allowance including such services; and

(c) 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.

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



918 member of the system on or after July 1, 2007, and has at least  
919 eight (8) years of membership service credit, or who is a public  
920 school bus driver who is not eligible to receive a retirement  
921 allowance as provided in Section 25-11-109.1(3) and who has at  
922 least fifteen (15) years of membership service credit, and who  
923 receives, or has received, professional leave without compensation  
924 for professional purposes directly related to the employment in  
925 state service shall receive creditable service for the period of  
926 professional leave without compensation provided:

927           (a) The professional leave is performed with a public  
928 institution or public agency of this state, or another state or  
929 federal agency;

930           (b) The employer approves the professional leave  
931 showing the reason for granting the leave and makes a  
932 determination that the professional leave will benefit the  
933 employee and employer;

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

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

940           (e) The contributing member shall pay to the retirement  
941 system the actuarial cost as determined by the actuary for each  
942 year of professional leave. The provisions of this subsection are



943 subject to the regulations of the Internal Revenue Code  
944 limitations;

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

948 Any actively contributing member participating in the School  
949 Administrator Sabbatical Program established in Section 37-9-77  
950 shall qualify for continued participation under this subsection  
951 (9).

952 (10) Any member of the Public Employees' Retirement System  
953 who became a member of the system before July 1, 2007, and has at  
954 least four (4) years of credited membership service, or who became  
955 a member of the system on or after July 1, 2007, and has at least  
956 eight (8) years of credited membership service, or who is a public  
957 school bus driver who is not eligible to receive a retirement  
958 allowance as provided in Section 25-11-109.1(3) and who has at  
959 least fifteen (15) years of credited membership service, shall be  
960 entitled to receive a maximum of ten (10) years creditable service  
961 for:

962 (a) Any service rendered as an employee of any  
963 political subdivision of this state, or any instrumentality  
964 thereof, that does not participate in the Public Employees'  
965 Retirement System; or

966 (b) Any service rendered as an employee of any  
967 political subdivision of this state, or any instrumentality



968 thereof, that participates in the Public Employees' Retirement  
969 System but did not elect retroactive coverage; or

970 (c) Any service rendered as an employee of any  
971 political subdivision of this state, or any instrumentality  
972 thereof, for which coverage of the employee's position was or is  
973 excluded; provided that the member pays into the retirement system  
974 the actuarial cost as determined by the actuary for each year, or  
975 portion thereof, of such service. After a member has made full  
976 payment to the retirement system for all or any part of such  
977 service, the member shall receive creditable service for the  
978 period of such service for which full payment has been made to the  
979 retirement system.

980 **SECTION 5.** Section 25-11-111, Mississippi Code of 1972, is  
981 amended as follows:

982 25-11-111. (a) (1) Any member who became a member of the  
983 system before July 1, 2007, upon withdrawal from service upon or  
984 after attainment of the age of sixty (60) years who has completed  
985 at least four (4) years of membership service, or any member who  
986 became a member of the system before July 1, 2011, upon withdrawal  
987 from service regardless of age who has completed at least  
988 twenty-five (25) years of creditable service, shall be entitled to  
989 receive a retirement allowance, which shall begin on the first of  
990 the month following the date the member's application for the  
991 allowance is received by the board, but in no event before  
992 withdrawal from service.





993           (2) Any member who became a member of the system on or  
994 after July 1, 2007, upon withdrawal from service upon or after  
995 attainment of the age of sixty (60) years who has completed at  
996 least eight (8) years of membership service, or any member who  
997 became a member of the system on or after July 1, 2011, upon  
998 withdrawal from service regardless of age who has completed at  
999 least thirty (30) years of creditable service, shall be entitled  
1000 to receive a retirement allowance, which shall begin on the first  
1001 of the month following the date the member's application for the  
1002 allowance is received by the board, but in no event before  
1003 withdrawal from service.

1004           (3) A public school bus driver who is not eligible to  
1005 receive a retirement allowance as provided in Section  
1006 25-11-109.1(3) who has completed at least fifteen (15) years of  
1007 service as a school bus driver after July 1, 2024, upon withdrawal  
1008 from service upon or after attainment of the age of sixty (60)  
1009 years, or if the school bus driver became a member of the system  
1010 before July 1, 2011, upon withdrawal from service regardless of  
1011 age and the completion of at least twenty-five (25) years of  
1012 creditable service, or if the school bus driver became a member of  
1013 the system on or after July 1, 2011, upon withdrawal from service  
1014 regardless of age and the completion of at least thirty (30) years  
1015 of creditable service, shall be entitled to receive a retirement  
1016 allowance, which shall begin on the first of the month following



1017 the date the member's application for the allowance is received by  
1018 the board, but in no event before withdrawal from service.

1019       (b)   (1)   Any member who became a member of the system before  
1020 July 1, 2007, whose withdrawal from service occurs before  
1021 attaining the age of sixty (60) years who has completed four (4)  
1022 or more years of membership service and has not received a refund  
1023 of his accumulated contributions, shall be entitled to receive a  
1024 retirement allowance, beginning upon his attaining the age of  
1025 sixty (60) years, of the amount earned and accrued at the date of  
1026 withdrawal from service. The retirement allowance shall begin on  
1027 the first of the month following the date the member's application  
1028 for the allowance is received by the board, but in no event before  
1029 withdrawal from service.

1030       (2)   Any member who became a member of the system on or  
1031 after July 1, 2007, whose withdrawal from service occurs before  
1032 attaining the age of sixty (60) years who has completed eight (8)  
1033 or more years of membership service and has not received a refund  
1034 of his accumulated contributions, shall be entitled to receive a  
1035 retirement allowance, beginning upon his attaining the age of  
1036 sixty (60) years, of the amount earned and accrued at the date of  
1037 withdrawal from service. The retirement allowance shall begin on  
1038 the first of the month following the date the member's application  
1039 for the allowance is received by the board, but in no event before  
1040 withdrawal from service.



1041           (3) A public school bus driver who is not eligible to  
1042 receive a retirement allowance as provided in Section  
1043 25-11-109.1(3) who has completed at least fifteen (15) years of  
1044 service as a school bus driver after July 1, 2024, whose  
1045 withdrawal from service occurs before attaining the age of sixty  
1046 (60) years shall be entitled to receive a retirement allowance,  
1047 beginning upon his or her attaining the age of sixty (60) years,  
1048 of the amount earned and accrued at the date of withdrawal from  
1049 service. The retirement allowance shall begin on the first of the  
1050 month following the date the member's application for the  
1051 allowance is received by the board, but in no event before  
1052 withdrawal from service.

1053           (c) Any member in service who has qualified for retirement  
1054 benefits may select any optional method of settlement of  
1055 retirement benefits by notifying the Executive Director of the  
1056 Board of Trustees of the Public Employees' Retirement System in  
1057 writing, on a form prescribed by the board, of the option he has  
1058 selected and by naming the beneficiary of the option and  
1059 furnishing necessary proof of age. The option, once selected, may  
1060 be changed at any time before actual retirement or death, but upon  
1061 the death or retirement of the member, the optional settlement  
1062 shall be placed in effect upon proper notification to the  
1063 executive director.



1064 (d) Any member who became a member of the system before July  
1065 1, 2011, shall be entitled to an annual retirement allowance which  
1066 shall consist of:

1067 (1) A member's annuity, which shall be the actuarial  
1068 equivalent of the accumulated contributions of the member at the  
1069 time of retirement computed according to the actuarial table in  
1070 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 twenty-five (25) years of creditable service, and  
1075 two and one-half percent (2-1/2%) of the average compensation for  
1076 each year of service exceeding twenty-five (25) years of  
1077 creditable service.

1078 (3) Any retired member or beneficiary thereof who was  
1079 eligible to receive a retirement allowance before July 1, 1991,  
1080 and who is still receiving a retirement allowance on July 1, 1992,  
1081 shall receive an increase in the annual retirement allowance of  
1082 the retired member equal to one-eighth of one percent (1/8 of 1%)  
1083 of the average compensation for each year of state service in  
1084 excess of twenty-five (25) years of membership service up to and  
1085 including thirty (30) years. The maximum increase shall be  
1086 five-eighths of one percent (5/8 of 1%). In no case shall a  
1087 member who has been retired before July 1, 1987, receive less than  
1088 Ten Dollars (\$10.00) per month for each year of creditable service



1089 and proportionately for each quarter year thereof. Persons  
1090 retired on or after July 1, 1987, shall receive at least Ten  
1091 Dollars (\$10.00) per month for each year of service and  
1092 proportionately for each quarter year thereof reduced for the  
1093 option selected. However, such Ten Dollars (\$10.00) minimum per  
1094 month for each year of creditable service shall not apply to a  
1095 retirement allowance computed under Section 25-11-114 based on a  
1096 percentage of the member's average compensation.

1097 (e) Any member who became a member of the system on or after  
1098 July 1, 2011, shall be entitled to an annual retirement allowance  
1099 which shall consist of:

1100 (1) A member's annuity, which shall be the actuarial  
1101 equivalent of the accumulated contributions of the member at the  
1102 time of retirement computed according to the actuarial table in  
1103 use by the system; and

1104 (2) An employer's annuity, which, together with the  
1105 member's annuity provided above, shall be equal to two percent  
1106 (2%) of the average compensation for each year of service up to  
1107 and including thirty (30) years of creditable service, and two and  
1108 one-half percent (2-1/2%) of average compensation for each year of  
1109 service exceeding thirty (30) years of creditable service.

1110 (f) Any member who became a member of the system on or after  
1111 July 1, 2011, upon withdrawal from service upon or after attaining  
1112 the age of sixty (60) years who has completed at least eight (8)  
1113 years of membership service, or any such member upon withdrawal



1114 from service regardless of age who has completed at least thirty  
1115 (30) years of creditable service, shall be entitled to receive a  
1116 retirement allowance computed in accordance with the formula set  
1117 forth in subsection (e) of this section. In the case of the  
1118 retirement of any member who has attained age sixty (60) but who  
1119 has not completed at least thirty (30) years of creditable  
1120 service, the retirement allowance shall be computed in accordance  
1121 with the formula set forth in subsection (e) of this section  
1122 except that the total annual retirement allowance shall be reduced  
1123 by an actuarial equivalent factor for each year of creditable  
1124 service below thirty (30) years or the number of years in age that  
1125 the member is below age sixty-five (65), whichever is less.

1126 (g) No member, except members excluded by the Age  
1127 Discrimination in Employment Act Amendments of 1986 (Public Law  
1128 99-592), under either Article 1 or Article 3 in state service  
1129 shall be required to retire because of age.

1130 (h) No payment on account of any benefit granted under the  
1131 provisions of this section shall become effective or begin to  
1132 accrue until January 1, 1953.

1133 (i) (1) A retiree or beneficiary may, on a form prescribed  
1134 by and filed with the retirement system, irrevocably waive all or  
1135 a portion of any benefits from the retirement system to which the  
1136 retiree or beneficiary is entitled. The waiver shall be binding  
1137 on the heirs and assigns of any retiree or beneficiary and the  
1138 same must agree to forever hold harmless the Public Employees'



1139 Retirement System of Mississippi from any claim to the waived  
1140 retirement benefits.

1141           (2) Any waiver under this subsection shall apply only  
1142 to the person executing the waiver. A beneficiary shall be  
1143 entitled to benefits according to the option selected by the  
1144 member at the time of retirement. However, a beneficiary may, at  
1145 the option of the beneficiary, execute a waiver of benefits under  
1146 this subsection.

1147           (3) The retirement system shall retain in the annuity  
1148 reserve account amounts that are not used to pay benefits because  
1149 of a waiver executed under this subsection.

1150           (4) The board of trustees may provide rules and  
1151 regulations for the administration of waivers under this  
1152 subsection.

1153           **SECTION 6.** Section 25-11-113, Mississippi Code of 1972, is  
1154 amended as follows:

1155           25-11-113. (1) (a) Upon the application of a member or his  
1156 employer, any active member in state service who became a member  
1157 of the system before July 1, 2007, and who has at least four (4)  
1158 years of membership service credit, or any active member in state  
1159 service who became a member of the system on or after July 1,  
1160 2007, who has at least eight (8) years of membership service  
1161 credit, or any active member who is a public school bus driver who  
1162 is not eligible to receive a retirement allowance as provided in  
1163 Section 25-11-109.1(3) who has completed at least fifteen (15)



1164 years of service as a school bus driver after July 1, 2024, may be  
1165 retired by the board of trustees on the first of the month  
1166 following the date of filing the application on a disability  
1167 retirement allowance, but in no event shall the disability  
1168 retirement allowance begin before termination of state service,  
1169 provided that the medical board, after an evaluation of medical  
1170 evidence that may or may not include an actual physical  
1171 examination by the medical board, certifies that the member is  
1172 mentally or physically incapacitated for the further performance  
1173 of duty, that the incapacity is likely to be permanent, and that  
1174 the member should be retired; however, the board of trustees may  
1175 accept a disability medical determination from the Social Security  
1176 Administration in lieu of a certification from the medical board.  
1177 If a member who has been approved for a disability retirement  
1178 allowance does not terminate state service within ninety (90) days  
1179 after approval, the disability retirement and the application for  
1180 disability retirement shall be void. For the purposes of  
1181 disability determination, the medical board shall apply the  
1182 following definition of disability: the inability to perform the  
1183 usual duties of employment or the incapacity to perform such  
1184 lesser duties, if any, as the employer, in its discretion, may  
1185 assign without material reduction in compensation, or the  
1186 incapacity to perform the duties of any employment covered by the  
1187 Public Employees' Retirement System (Section 25-11-101 et seq.)  
1188 that is actually offered and is within the same general





1189 territorial work area, without material reduction in compensation.  
1190 The employer shall be required to furnish the job description and  
1191 duties of the member. The employer shall further certify whether  
1192 the employer has offered the member other duties and has complied  
1193 with the applicable provisions of the Americans With Disabilities  
1194 Act in affording reasonable accommodations that would allow the  
1195 employee to continue employment.

1196 (b) Any member applying for a disability retirement  
1197 allowance must provide sufficient objective medical evidence in  
1198 support of his or her claim. All disability determinations,  
1199 whether the initial examination or reexamination, shall be based  
1200 on objective medical evidence. "Objective medical evidence" means  
1201 reports of examinations or treatments; medical signs that are  
1202 anatomical, physiological, or psychological abnormalities that are  
1203 observed and documented by medical professionals; psychiatric  
1204 signs that are medically demonstrable phenomena indicating  
1205 specific abnormalities of behavior, affect, thought, memory,  
1206 orientation, or contact with reality; or laboratory findings that  
1207 are anatomical, physiological, or psychological phenomena that are  
1208 shown by medically acceptable laboratory diagnostic techniques,  
1209 including, but not limited to, chemical tests, electrocardiograms,  
1210 electroencephalograms, X-rays, and psychological tests.  
1211 Nonmedical information shall not be considered objective medical  
1212 evidence.



1213 (c) Any inactive member who became a member of the  
1214 system before July 1, 2007, with four (4) or more years of  
1215 membership service credit, or any inactive member who became a  
1216 member of the system on or after July 1, 2007, with eight (8) or  
1217 more years of membership service credit, or any inactive member  
1218 who is a public school bus driver who is not eligible to receive a  
1219 retirement allowance as provided in Section 25-11-109.1(3) who has  
1220 completed at least fifteen (15) years of service as a school bus  
1221 driver after July 1, 2024, who has withdrawn from active state  
1222 service, is not eligible for a disability retirement allowance  
1223 unless the disability occurs within six (6) months of the  
1224 termination of active service and unless satisfactory proof is  
1225 presented to the board of trustees that the disability was the  
1226 direct cause of withdrawal from state service. Application for a  
1227 disability retirement allowance must be filed within one (1) year  
1228 of termination from active service. This period may be extended  
1229 by an additional year if it can be factually demonstrated to the  
1230 satisfaction of the board of trustees that throughout the initial  
1231 one-year period the member was incapable of applying for benefits  
1232 by reason of mental or physical impairment as certified by a  
1233 medical doctor.

1234 (d) Any member who is or becomes eligible for service  
1235 retirement benefits under Section 25-11-111 while pursuing a  
1236 disability retirement allowance under this section or Section  
1237 25-11-114 may elect to receive a service retirement allowance



1238 pending a final determination on eligibility for a disability  
1239 retirement allowance or withdrawal of the application for the  
1240 disability retirement allowance. In such a case, an application  
1241 for a disability retirement allowance must be on file with the  
1242 system before the beginning of a service retirement allowance. If  
1243 the application is approved, the option selected and beneficiary  
1244 designated on the retirement application shall be used to  
1245 determine the disability retirement allowance. If the application  
1246 is not approved or if the application is withdrawn, the service  
1247 retirement allowance shall continue to be paid in accordance with  
1248 the option selected. No person may apply for a disability  
1249 retirement allowance after the person begins to receive a service  
1250 retirement allowance.

1251 (e) If the medical board certifies that the member is  
1252 not mentally or physically incapacitated for the future  
1253 performance of duty, the member may request, within sixty (60)  
1254 days, a hearing before the hearing officer as provided in Section  
1255 25-11-120. All hearings shall be held in accordance with rules  
1256 and regulations adopted by the board to govern those hearings.  
1257 The hearing may be closed upon the request of the member.

1258 (f) The medical board may request additional medical  
1259 evidence and/or other physicians to conduct an evaluation of the  
1260 member's condition. If the medical board requests additional  
1261 medical evidence and the member refuses the request, the  
1262 application shall be considered void.



1263           (2) Allowance on disability retirement.

1264           (a) Upon retirement for disability, an eligible member  
1265 shall receive a retirement allowance if he has attained the age of  
1266 sixty (60) years.

1267           (b) Except as provided in paragraph (c) of this  
1268 subsection (2), an eligible member who is retired for disability  
1269 and who has not attained sixty (60) years of age shall receive a  
1270 disability benefit as computed in Section 25-11-111(d), which  
1271 shall consist of:

1272                 (i) A member's annuity, which shall be the  
1273 actuarial equivalent of his accumulated contributions at the time  
1274 of retirement; and

1275                 (ii) An employer's annuity equal to the amount  
1276 that would have been payable as a retirement allowance for  
1277 eligible creditable service if the member had continued in service  
1278 to the age of sixty (60) years, which shall apply to the allowance  
1279 for disability retirement paid to retirees receiving such  
1280 allowance upon and after April 12, 1977. This employer's annuity  
1281 shall be computed on the basis of the average "earned  
1282 compensation" as defined in Section 25-11-103.

1283           (c) For persons who become members after June 30, 1992,  
1284 and for active members on June 30, 1992, who elect benefits under  
1285 this paragraph (c) instead of those provided under paragraph (b)  
1286 of this subsection (2), the disability allowance shall consist of  
1287 two (2) parts: a temporary allowance and a deferred allowance.



1288           The temporary allowance shall equal the greater of (i) forty  
1289 percent (40%) of average compensation at the time of disability,  
1290 plus ten percent (10%) of average compensation for each of the  
1291 first two (2) dependent children, as defined in Sections 25-11-103  
1292 and 25-11-114, or (ii) the accrued benefit based on actual  
1293 service. It shall be payable for a period of time based on the  
1294 member's age at disability, as follows:

1295	Age at Disability	Duration
1296	60 and earlier	to age 65
1297	61	to age 66
1298	62	to age 66
1299	63	to age 67
1300	64	to age 67
1301	65	to age 68
1302	66	to age 68
1303	67	to age 69
1304	68	to age 70
1305	69 and over	one year

1306           The deferred allowance shall begin when the temporary  
1307 allowance ends and shall be payable for life. The deferred  
1308 allowance shall equal the greater of (i) the allowance that would  
1309 have been payable had the member continued in service to the  
1310 termination age of the temporary allowance, but no more than forty  
1311 percent (40%) of average compensation, or (ii) the accrued benefit  
1312 based on actual service at the time of disability. The deferred



1313 allowance as determined at the time of disability shall be  
1314 adjusted in accordance with Section 25-11-112 for the period  
1315 during which the temporary annuity is payable. In no case shall a  
1316 member receive less than Ten Dollars (\$10.00) per month for each  
1317 year of service and proportionately for each quarter year thereof  
1318 reduced for the option selected.

1319 (d) The member may elect to receive the actuarial  
1320 equivalent of the disability retirement allowance in a reduced  
1321 allowance payable throughout life under any of the provisions of  
1322 the options provided under Section 25-11-115.

1323 (e) If a disability retiree who has not selected an  
1324 option under Section 25-11-115 dies before being repaid in  
1325 disability benefits the sum of his total contributions, then his  
1326 named beneficiary shall receive the difference in cash, which  
1327 shall apply to all deceased disability retirees from and after  
1328 January 1, 1953.

1329 (3) Reexamination of retirees retired on account of  
1330 disability. Except as otherwise provided in this section, once  
1331 each year during the first five (5) years following retirement of  
1332 a member on a disability retirement allowance, and once in every  
1333 period of three (3) years thereafter, the board of trustees may,  
1334 and upon his application shall, require any disability retiree who  
1335 has not yet attained the age of sixty (60) years or the  
1336 termination age of the temporary allowance under subsection (2)(c)  
1337 of this section to undergo a medical examination, the examination



1338 to be made at the place of residence of the retiree or other place  
1339 mutually agreed upon by a physician or physicians designated by  
1340 the board. The board, however, in its discretion, may authorize  
1341 the medical board to establish reexamination schedules appropriate  
1342 to the medical condition of individual disability retirees. If  
1343 any disability retiree who has not yet attained the age of sixty  
1344 (60) years or the termination age of the temporary allowance under  
1345 subsection (2)(c) of this section refuses to submit to any medical  
1346 examination provided in this section, his allowance may be  
1347 discontinued until his withdrawal of that refusal; and if his  
1348 refusal continues for one (1) year, all his rights to a disability  
1349 benefit shall be revoked by the board of trustees.

1350 (4) If the medical board reports and certifies to the board  
1351 of trustees, after a comparable job analysis or other similar  
1352 study, that the disability retiree is engaged in, or is able to  
1353 engage in, a gainful occupation paying more than the difference  
1354 between his disability allowance, exclusive of cost-of-living  
1355 adjustments, and the average compensation, and if the board of  
1356 trustees concurs in the report, the disability benefit shall be  
1357 reduced to an amount that, together with the amount earnable by  
1358 him, equals the amount of his average compensation. If his  
1359 earning capacity is later changed, the amount of the benefit may  
1360 be further modified, provided that the revised benefit shall not  
1361 exceed the amount originally granted. A retiree receiving a  
1362 disability benefit who is restored to active service at a salary



1363 less than the average compensation shall not become a member of  
1364 the retirement system.

1365 (5) If a disability retiree under the age of sixty (60)  
1366 years or the termination age of the temporary allowance under  
1367 subsection (2)(c) of this section is restored to active service at  
1368 a compensation not less than his average compensation, his  
1369 disability benefit shall end, he shall again become a member of  
1370 the retirement system, and contributions shall be withheld and  
1371 reported. Any such prior service certificate, on the basis of  
1372 which his service was computed at the time of retirement, shall be  
1373 restored to full force and effect. In addition, upon his later  
1374 retirement he shall be credited with all creditable service as a  
1375 member, but the total retirement allowance paid to the retired  
1376 member in his previous retirement shall be deducted from his  
1377 retirement reserve and taken into consideration in recalculating  
1378 the retirement allowance under a new option selected.

1379 (6) If following reexamination in accordance with the  
1380 provisions contained in this section, the medical board determines  
1381 that a retiree retired on account of disability is physically and  
1382 mentally able to return to the employment from which he is  
1383 retired, the board of trustees, upon certification of those  
1384 findings from the medical board, shall, after a reasonable period  
1385 of time, terminate the disability allowance, whether or not the  
1386 retiree is reemployed or seeks that reemployment. In addition, if  
1387 the board of trustees determines that the retiree is no longer





1388 sustaining a loss of income as established by documented evidence  
1389 of the retiree's earned income, the eligibility for a disability  
1390 allowance shall terminate and the allowance terminated within a  
1391 reasonable period of time. If the retirement allowance is  
1392 terminated under the provisions of this section, the retiree may  
1393 later qualify for a retirement allowance under Section 25-11-111  
1394 based on actual years of service credit plus credit for the period  
1395 during which a disability allowance was paid.

1396 (7) Any current member as of June 30, 1992, who retires on a  
1397 disability retirement allowance after June 30, 1992, and who has  
1398 not elected to receive benefits under subsection (2)(c) of this  
1399 section, shall relinquish all rights under the Age Discrimination  
1400 in Employment Act of 1967, as amended, with regard to the benefits  
1401 payable under this section.

1402 **SECTION 7.** Section 25-11-114, Mississippi Code of 1972, is  
1403 amended as follows:

1404 25-11-114. (1) The applicable benefits provided in  
1405 subsections (2) and (3) of this section shall be paid to eligible  
1406 beneficiaries of any member who became a member of the system  
1407 before July 1, 2007, and has completed four (4) or more years of  
1408 membership service, or who became a member of the system on or  
1409 after July 1, 2007, and has completed eight (8) or more years of  
1410 membership service, or who is a public school bus driver who is  
1411 not eligible to receive a retirement allowance as provided in  
1412 Section 25-11-109.1(3) who has completed at least fifteen (15)



1413 years of service as a school bus driver after July 1, 2024, and  
1414 who dies before retirement and who has not filed a Pre-Retirement  
1415 Optional Retirement Form as provided in Section 25-11-111.

1416 (2) (a) The surviving spouse of a member who dies before  
1417 retirement shall receive a monthly benefit computed in accordance  
1418 with paragraph (d) of this subsection (2) as if the member had  
1419 nominated his spouse as beneficiary if:

1420 (i) The member completed the requisite minimum  
1421 number of years of membership service to qualify for a retirement  
1422 allowance at age sixty (60);

1423 (ii) The spouse has been married to the member for  
1424 not less than one (1) year preceding the death of the member;

1425 (iii) The member has not exercised any other  
1426 option.

1427 (b) If, at the time of the member's death, there are no  
1428 dependent children, and the surviving spouse, who otherwise would  
1429 receive the annuity under this subsection (2), has filed with the  
1430 system a signed written waiver of his or her rights to the annuity  
1431 and that waiver was in effect at the time of the member's death, a  
1432 lump-sum distribution of the deceased member's accumulated  
1433 contributions shall be refunded in accordance with Section  
1434 25-11-117.

1435 (c) The spouse annuity shall begin on the first day of  
1436 the month following the date of the member's death, but in case of



1437 late filing, retroactive payments will be made for a period of not  
1438 more than one (1) year.

1439 (d) The spouse of a member who is eligible to receive a  
1440 monthly benefit under paragraph (a) of this subsection (2) shall  
1441 receive a benefit for life equal to the higher of the following:

1442 (i) The greater of twenty percent (20%) of the  
1443 deceased member's average compensation as defined in Section  
1444 25-11-103 at the time of death or Fifty Dollars (\$50.00) monthly;  
1445 or

1446 (ii) Benefits calculated under Option 2 of Section  
1447 25-11-115. The method of calculating the retirement benefits  
1448 shall be on the same basis as provided in Section 25-11-111(d) or  
1449 (e), as applicable. However, if the member dies before being  
1450 qualified for a full, unreduced retirement allowance, then the  
1451 benefits shall be reduced by an actuarially determined percentage  
1452 or factor based on the lesser of either the number of years of  
1453 service credit or the number of years in age required to qualify  
1454 for a full, unreduced retirement allowance in Section 25-11-111(d)  
1455 or (e), as applicable.

1456 (e) The surviving spouse of a deceased member who  
1457 previously received spouse retirement benefits under paragraph  
1458 (d)(i) of this subsection from and after July 1, 1992, and whose  
1459 benefits were terminated before July 1, 2004, because of  
1460 remarriage, may again receive the retirement benefits authorized  
1461 under paragraph (d)(i) of this subsection by making application



1462 with the board to reinstate those benefits. Any reinstatement of  
1463 the benefits shall be prospective only and shall begin after the  
1464 first of the month following the date of the application for  
1465 reinstatement, but no earlier than July 1, 2004. From and after  
1466 July 1, 2010, any spouse who chose Option 2 from and after July 1,  
1467 1992, but before July 1, 2004, where the benefit, although payable  
1468 for life, was less than the benefit available under the  
1469 calculation in paragraph (d)(i) of this subsection shall have his  
1470 or her benefit increased to the amount which provides the greater  
1471 benefit.

1472 (3) (a) Subject to the maximum limitation provided in this  
1473 paragraph, the member's dependent children each shall receive an  
1474 annuity of the greater of ten percent (10%) of the member's  
1475 average compensation as defined in Section 25-11-103 at the time  
1476 of the death of the member or Fifty Dollars (\$50.00) monthly;  
1477 however, if there are more than three (3) dependent children, each  
1478 dependent child shall receive an equal share of a total annuity  
1479 equal to thirty percent (30%) of the member's average  
1480 compensation, provided that the total annuity shall not be less  
1481 than One Hundred Fifty Dollars (\$150.00) per month for all  
1482 children.

1483 (b) A child shall be considered to be a dependent child  
1484 until marriage, or the attainment of age nineteen (19), whichever  
1485 comes first; however, this age limitation shall be extended beyond  
1486 age nineteen (19), but in no event beyond the attainment of age



1487 twenty-three (23), as long as the child is a student regularly  
1488 pursuing a full-time course of resident study or training in an  
1489 accredited high school, trade school, technical or vocational  
1490 institute, junior or community college, college, university or  
1491 comparable recognized educational institution duly licensed by a  
1492 state. A student child who is receiving a retirement allowance as  
1493 of June 30, 2016, whose birthday falls during the school year  
1494 (September 1 through June 30) is considered not to reach age  
1495 twenty-three (23) until the July 1 following the actual  
1496 twenty-third birthday. A full-time course of resident study or  
1497 training means a day or evening noncorrespondence course that  
1498 includes school attendance at the rate of at least thirty-six (36)  
1499 weeks per academic year or other applicable period with a subject  
1500 load sufficient, if successfully completed, to attain the  
1501 educational or training objective within the period generally  
1502 accepted as minimum for completion, by a full-time day student, of  
1503 the academic or training program concerned. Any child who is  
1504 physically or mentally incompetent, as adjudged by either a  
1505 Mississippi court of competent jurisdiction or by the board, shall  
1506 receive benefits for as long as the incompetency exists.

1507 (c) If there are more than three (3) dependent  
1508 children, upon a child's ceasing to be a dependent child, his  
1509 annuity shall terminate and there shall be a redetermination of  
1510 the amounts payable to any remaining dependent children.



1511           (d) Annuities payable under this subsection (3) shall  
1512 begin the first day of the month following the date of the  
1513 member's death or in case of late filing, retroactive payments  
1514 will be made for a period of not more than one (1) year. Those  
1515 benefits may be paid to a surviving parent or the lawful custodian  
1516 of a dependent child for the use and benefit of the child without  
1517 the necessity of appointment as guardian.

1518           (4) (a) Death benefits in the line of duty. Regardless of  
1519 the number of years of the member's creditable service, the spouse  
1520 and/or the dependent children of an active member who is killed or  
1521 dies as a direct result of a physical injury sustained from an  
1522 accident or a traumatic event caused by external violence or  
1523 physical force occurring in the line of performance of duty shall  
1524 qualify, on approval of the board, for a retirement allowance on  
1525 the first of the month following the date of death, but in the  
1526 case of late filing, retroactive payments will be made for a  
1527 period of not more than one (1) year. The spouse shall receive a  
1528 retirement allowance for life equal to one-half (1/2) of the  
1529 average compensation as defined in Section 25-11-103. In addition  
1530 to the retirement allowance for the spouse, or if there is no  
1531 surviving spouse, the member's dependent child shall receive a  
1532 retirement allowance in the amount of one-fourth (1/4) of the  
1533 member's average compensation as defined in Section 25-11-103;  
1534 however, if there are two (2) or more dependent children, each  
1535 dependent child shall receive an equal share of a total annuity



1536 equal to one-half (1/2) of the member's average compensation. If  
1537 there are more than two (2) dependent children, upon a child's  
1538 ceasing to be a dependent child, his annuity shall terminate and  
1539 there shall be a redetermination of the amounts payable to any  
1540 remaining dependent children. Those benefits shall cease to be  
1541 paid for the support and maintenance of each child upon the child  
1542 attaining the age of nineteen (19) years; however, the spouse  
1543 shall continue to be eligible for the aforesaid retirement  
1544 allowance. Those benefits may be paid to a surviving parent or  
1545 lawful custodian of the children for the use and benefit of the  
1546 children without the necessity of appointment as guardian. Any  
1547 spouse who received spouse retirement benefits under this  
1548 paragraph (a) from and after April 4, 1984, and whose benefits  
1549 were terminated before July 1, 2004, because of remarriage, may  
1550 again receive the retirement benefits authorized under this  
1551 paragraph (a) by making application with the board to reinstate  
1552 those benefits. Any reinstatement of the benefits shall be  
1553 prospective only and shall begin after the first of the month  
1554 following the date of the application for reinstatement, but not  
1555 earlier than July 1, 2004.

1556           (b) A child shall be considered to be a dependent child  
1557 until marriage, or the attainment of age nineteen (19), whichever  
1558 comes first; however, this age limitation shall be extended beyond  
1559 age nineteen (19), but in no event beyond the attainment of age  
1560 twenty-three (23), as long as the child is a student regularly



1561 pursuing a full-time course of resident study or training in an  
1562 accredited high school, trade school, technical or vocational  
1563 institute, junior or community college, college, university or  
1564 comparable recognized educational institution duly licensed by a  
1565 state. A student child who is receiving a retirement allowance as  
1566 of June 30, 2016, whose birthday falls during the school year  
1567 (September 1 through June 30) is considered not to reach age  
1568 twenty-three (23) until the July 1 following the actual  
1569 twenty-third birthday. A full-time course of resident study or  
1570 training means a day or evening noncorrespondence course that  
1571 includes school attendance at the rate of at least thirty-six (36)  
1572 weeks per academic year or other applicable period with a subject  
1573 load sufficient, if successfully completed, to attain the  
1574 educational or training objective within the period generally  
1575 accepted as minimum for completion, by a full-time day student, of  
1576 the academic or training program concerned. Any child who is  
1577 physically or mentally incompetent, as adjudged by either a  
1578 Mississippi court of competent jurisdiction or by the board, shall  
1579 receive benefits for as long as the incompetency exists.

1580       (5) If all the annuities provided for in this section  
1581 payable on account of the death of a member terminate before there  
1582 has been paid an aggregate amount equal to the member's  
1583 accumulated contributions standing to the member's credit in the  
1584 annuity savings account at the time of the member's death, the  
1585 difference between the accumulated contributions and the aggregate





1586 amount of annuity payments shall be paid to the person that the  
1587 member has nominated by written designation duly executed and  
1588 filed with the board. If there is no designated beneficiary  
1589 surviving at termination of benefits, the difference shall be  
1590 payable under Section 25-11-117.1(1).

1591 (6) Regardless of the number of years of creditable service,  
1592 upon the application of a member or employer, any active member  
1593 who becomes disabled as a direct result of a physical injury  
1594 sustained from an accident or traumatic event caused by external  
1595 violence or physical force occurring in the line of performance of  
1596 duty, provided that the medical board or other designated  
1597 governmental agency after a medical examination certifies that the  
1598 member is mentally or physically incapacitated for the further  
1599 performance of duty and the incapacity is likely to be permanent,  
1600 may be retired by the board of trustees on the first of the month  
1601 following the date of filing the application but in no event shall  
1602 the retirement allowance begin before the termination of state  
1603 service. If a member who has been approved for a retirement  
1604 allowance under this subsection does not terminate state service  
1605 within ninety (90) days after the approval, the retirement  
1606 allowance and the application for the allowance shall be void.  
1607 The retirement allowance shall equal the allowance on disability  
1608 retirement as provided in Section 25-11-113 but shall not be less  
1609 than fifty percent (50%) of average compensation. Line of duty  
1610 disability benefits under this section shall be administered in



1611 accordance with the provisions of Section 25-11-113(1) (b), (c),  
1612 (d), (e) and (f), (3), (4), (5) and (6).

1613 (7) For purposes of determining death or disability benefits  
1614 under this section, the following shall apply:

1615 (a) Death or permanent and total disability resulting  
1616 from a cardiovascular, pulmonary or musculoskeletal condition that  
1617 was not a direct result of a physical injury sustained from an  
1618 accident or a traumatic event caused by external violence or  
1619 physical force occurring in the performance of duty shall be  
1620 deemed a natural death or an ordinary disability.

1621 (b) A mental disability based exclusively on employment  
1622 duties occurring on an ongoing basis shall be deemed an ordinary  
1623 disability.

1624 (8) If the deceased or disabled member has less than four  
1625 (4) years of membership service, the average compensation as  
1626 defined in Section 25-11-103 shall be the average of all annual  
1627 earned compensation in state service for the purposes of benefits  
1628 provided in this section.

1629 (9) In case of death or total and permanent disability under  
1630 subsection (4) or subsection (6) of this section and before the  
1631 board shall consider any application for a retirement allowance,  
1632 the employer must certify to the board that the member's death or  
1633 disability was a direct result of an accident or a traumatic event  
1634 occurring during and as a result of the performance of the regular  
1635 and assigned duties of the employee and that the death or



1636 disability was not the result of the willful negligence of the  
1637 employee.

1638       (10) The application for the retirement allowance must be  
1639 filed within one (1) year after death of an active member who is  
1640 killed in the line of performance of duty or dies as a direct  
1641 result of an accident occurring in the line of performance of duty  
1642 or traumatic event; but the board of trustees may consider an  
1643 application for disability filed after the one-year period if it  
1644 can be factually demonstrated to the satisfaction of the board of  
1645 trustees that the disability is due to the accident and that the  
1646 filing was not accomplished within the one-year period due to a  
1647 delayed manifestation of the disability or to circumstances beyond  
1648 the control of the member. However, in case of late filing,  
1649 retroactive payments will be made for a period of not more than  
1650 one (1) year only.

1651       (11) (a) Notwithstanding any other section of this article  
1652 and in lieu of any payments to a designated beneficiary for a  
1653 refund of contributions under Section 25-11-117, the spouse and/or  
1654 children shall be eligible for the benefits payable under this  
1655 section, and the spouse may elect, for both the spouse and/or  
1656 children, to receive benefits in accordance with either  
1657 subsections (2) and (3) or subsection (4) of this section;  
1658 otherwise, the contributions to the credit of the deceased member  
1659 shall be refunded in accordance with Section 25-11-117.



1660           (b) Notwithstanding any other section of this article,  
1661 a spouse who is entitled to receive a monthly benefit under either  
1662 subsection (2) or (4) of this section and who is also the named  
1663 beneficiary for a refund of accumulated contributions in the  
1664 member's annuity savings account, may, after the death of the  
1665 member, elect to receive a refund of accumulated contributions in  
1666 lieu of a monthly allowance, provided that there are no dependent  
1667 children entitled to benefits under subsection (3) of this  
1668 section.

1669           (12) If the member has previously received benefits from the  
1670 system to which he was not entitled and has not repaid in full all  
1671 amounts payable by him to the system, the annuity amounts  
1672 otherwise provided by this section shall be withheld and used to  
1673 effect repayment until the total of the withholdings repays in  
1674 full all amounts payable by him to the system.

1675           **SECTION 8.** This act shall take effect and be in force from  
1676 and after July 1, 2024.

