

By: Senator(s) Sparks

To: Rules

SENATE BILL NO. 2449

1 AN ACT TO REVISE CERTAIN PROVISIONS OF THE OPTIONAL
2 RETIREMENT PROGRAM; TO TERMINATE THE OPTIONAL RETIREMENT PROGRAM
3 FOR EMPLOYEES HIRED ON OR AFTER JULY 1, 2025; TO BRING FORWARD
4 SECTIONS 25-11-401, 25-11-403, 25-11-405, 25-11-407, 25-11-409,
5 25-11-411, 25-11-413, 25-11-415, 25-11-417, 25-11-419, 25-11-421
6 AND 25-11-423, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF
7 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 25-11-401, Mississippi Code of 1972, is
10 brought forward as follows:

11 25-11-401. There is established an optional retirement
12 program for employees of the state institutions of higher learning
13 included in Section 37-101-1, Mississippi Code of 1972, who are
14 appointed or employed after July 1, 1990. To be eligible to
15 participate in the optional retirement program, a newly appointed
16 employee must:

17 (a) (i) Hold a teaching or administrative faculty
18 position, or

19 (ii) Hold a position as an intern or resident in
20 training at the University Medical Center or the College of



Veterinary Medicine at Mississippi State University under a
teaching program at such institutions; and

(b) Be eligible for membership in the Public Employees'
Retirement System of Mississippi.

SECTION 2. Section 25-11-403, Mississippi Code of 1972, is
brought forward as follows:

25-11-403. Retirement and death benefits shall be provided
to participants in the optional retirement program by contribution
to annuity contracts, fixed or variable in nature, mutual fund
accounts or similar investment products, or a combination thereof,
at the option of the participant. The state and the participants
shall contribute, in accordance with this article, toward the
purchase of benefits under those contracts or accounts, which
contracts or accounts shall become the property of the
participants.

SECTION 3. Section 25-11-405, Mississippi Code of 1972, is
brought forward as follows:

25-11-405. The Board of Trustees of the Public Employees'
Retirement System shall provide for the administration of the
optional retirement program. The board of trustees may delegate
to the state institutions of higher learning certain
responsibilities for administering the optional retirement program
with respect to each institution's own employees.

SECTION 4. Section 25-11-407, Mississippi Code of 1972, is
brought forward as follows:



25-11-407. The Board of Trustees of the Public Employees' Retirement System shall designate not less than three (3) nor more than five (5) companies to provide annuity contracts, mutual fund accounts or similar investment products, and the types of investment contracts or funds that may be offered by those companies. In making those designations, the board of trustees shall consider and be guided by:

(a) The nature and extent of the rights and benefits to be provided by those contracts or accounts, or both, for participants and their beneficiaries;

(b) The relation of those rights and benefits to the amount of contributions to be made;

(c) The suitability of those rights and benefits to the needs of the participants;

(d) The efficacy of the contracts or accounts, or both, in the recruitment and retention of faculty and administrators;

(e) The ability and experience of the designated companies in providing those suitable rights and benefits under those contracts or accounts, or both; and

(f) The ability and experience of the designated companies to provide both suitable participant investment guidance and investment options.

The companies shall act in a fiduciary capacity in selecting investment products that are suitable for the optional retirement program. It shall be the duty of the companies to report to and



71 seek approval from the board for the investment products made
72 available under this paragraph and to report the participant use
73 of those options annually. The board reserves the right to refuse
74 or discontinue any product offered by those companies.

75 **SECTION 5.** Section 25-11-409, Mississippi Code of 1972, is
76 brought forward as follows:

77 25-11-409. Eligible employees initially employed on or after
78 July 1, 1990, shall elect to participate in the optional
79 retirement program within thirty (30) days after (i) entry into
80 state service, or (ii) the effective date of the optional
81 retirement program, whichever is later. The election must be made
82 in writing and filed with the board of trustees and will be
83 effective as of the date of employment. If an eligible employee
84 fails to timely make the election provided in this section, he
85 shall become a member of the Public Employees' Retirement System
86 of Mississippi in accordance with Article 3 of this chapter.

87 **SECTION 6.** Section 25-11-411, Mississippi Code of 1972, is
88 brought forward as follows:

89 25-11-411. Each participant shall contribute monthly to the
90 optional retirement program the same amount that he or she would
91 be required to contribute to the Public Employees' Retirement
92 System of Mississippi if he or she were a member of that
93 retirement system. Participant contributions may be made by a
94 reduction in salary in accordance with the provisions of Section
95 403(b) of the United States Internal Revenue Code or any amendment



thereto, or in accordance with Section 25-11-124, as may be appropriate under the determination made in accordance with Section 25-11-421. The entirety of each participant's contribution shall be remitted to the appropriate company or companies for application to the participant's contracts or accounts, or both. Each employer of a participant in the optional retirement program shall contribute on behalf of each participant in the optional retirement program the same amount the employer would be required to contribute to the Public Employees' Retirement System of Mississippi if the participant were a member of the retirement system. The employer's contribution shall be remitted as follows:

(a) An amount equal to seven and one-fourth percent (7-1/4%) of the participant's total earned compensation as defined in Section 25-11-103 shall be remitted to the appropriate company or companies for application to the participant's contracts or accounts, or both;

(b) An amount equal to two and one-half percent (2-1/2%) of the participant's total earned compensation as defined in Section 25-11-103 shall be remitted to the Public Employees' Retirement System of Mississippi for application to the accrued liability contribution fund;

(c) The remainder, if any, shall be remitted to the appropriate company or companies for application to the participant's contracts or accounts, or both.



121 If the employer's contribution level is decreased below nine
122 and three-fourths percent (9-3/4%) of the employee's total earned
123 compensation, the remittance provided by paragraph (b) of this
124 section shall be reduced accordingly. There shall be no reduction
125 in the remittance provided by paragraph (a) of this section until
126 such time, if any, that the employer's contribution level is less
127 than seven and one-fourth percent (7-1/4%) of the participant's
128 total earned compensation. If the accrued liability contribution
129 is reduced or discontinued under Section 25-11-123, the amount of
130 the reduction, or the entirety of the employer's contribution, in
131 case of discontinuance, shall be remitted to the appropriate
132 company or companies for application to the participant's
133 contracts or accounts, or both. Any remittance required to be
134 made by the employer to the Public Employees' Retirement System of
135 Mississippi shall be made at the times the employer remits
136 contributions for members of the retirement system.

137 **SECTION 7.** Section 25-11-413, Mississippi Code of 1972, is
138 brought forward as follows:

139 25-11-413. Any person electing to participate in the
140 optional retirement program shall be ineligible for membership in
141 the Public Employees' Retirement System of Mississippi so long as
142 he is employed in a position for which the optional retirement
143 program is available. If an optional retirement program
144 participant assumes a position in state service other than as an
145 employee of a state institution of higher learning, he must at



that time begin membership in the Public Employees' Retirement System of Mississippi in accordance with Article 3 of this chapter.

SECTION 8. Section 25-11-415, Mississippi Code of 1972, is brought forward as follows:

25-11-415. The Public Employees' Retirement System of Mississippi may deduct not more than two percent (2%) of all employers' contributions and transfer such deductions to the expense fund of the Public Employees' Retirement System to defray the cost of administering the optional retirement program created by this article.

SECTION 9. Section 25-11-417, Mississippi Code of 1972, is brought forward as follows:

25-11-417. Benefits payable to participants under the optional retirement program are not obligations of the State of Mississippi. Those benefits and other rights of optional retirement program participants or their beneficiaries are the liability and responsibility solely of the designated company or companies. The benefits of participants whose funds are invested with annuity providers shall be governed solely by the terms of the contracts issued by that company or companies. The benefits of participants whose funds are invested in mutual funds or other similar investment products shall be limited to the value of the account.



170 **SECTION 10.** Section 25-11-419, Mississippi Code of 1972, is
171 brought forward as follows:

172 25-11-419. Annuity contracts, mutual fund accounts or
173 similar investment products authorized under the optional
174 retirement program and all rights thereto of a participant in the
175 optional retirement program shall be exempt from any state or
176 municipal tax (except to the extent that state income tax is
177 payable under Chapter 7, Title 27, Mississippi Code of 1972),
178 shall be exempt from any levy and sale, garnishment, attachment,
179 or any process whatsoever, and shall be unassignable except as
180 specifically otherwise provided in the contract or account.
181 Annuity contracts issued under the optional retirement program
182 shall be treated under the State Life and Health Insurance
183 Guaranty Association Act in the same manner as contracts qualified
184 under Section 403(b) of the Internal Revenue Code.

185 **SECTION 11.** Section 25-11-421, Mississippi Code of 1972, is
186 brought forward as follows:

187 25-11-421. The Board of Trustees of the Public Employees'
188 Retirement System shall determine whether the optional retirement
189 program shall be operated in conformity with Section 403(b) of the
190 Internal Revenue Code or be qualified under Section 401(a) of the
191 Internal Revenue Code (or any successor section). If the optional
192 retirement program is to be qualified, the board of trustees shall
193 file for a determination letter from the Internal Revenue Service
194 as soon as practicable, and not later than ninety (90) days, after



195 this article has been approved by the Governor or has been
196 approved by the Legislature subsequent to veto, and the
197 continuance of the optional retirement program shall be subject to
198 a favorable determination letter issued by the Internal Revenue
199 Service.

200 **SECTION 12.** Section 25-11-423, Mississippi Code of 1972, is
201 brought forward as follows:

202 25-11-423. After a period of three (3) years has elapsed
203 from March 24, 1990, and not later than December 1, 1993, the Board
204 of Trustees of the Public Employees' Retirement System shall have
205 an actuarial study conducted to determine what effect the optional
206 retirement system created by this article has had on the Public
207 Employees' Retirement System. The results of such study shall be
208 reported to the next regular session of the Legislature convening
209 after completion of the study.

210 **SECTION 13.** This act shall take effect and be in force from
211 and after July 1, 2025.

