

By: Representative Stringer

To: Appropriations

## HOUSE BILL NO. 1232

1 AN ACT TO AMEND SECTIONS 25-11-403, 25-11-407, 25-11-411,  
2 25-11-417 AND 25-11-419, MISSISSIPPI CODE OF 1972, TO EXPAND THE  
3 INVESTMENTS AVAILABLE TO PARTICIPANTS IN THE OPTIONAL RETIREMENT  
4 PROGRAM TO INCLUDE MUTUAL FUND ACCOUNTS AND SIMILAR INVESTMENT  
5 PRODUCTS IN ADDITION TO ANNUITY CONTRACTS; AND FOR RELATED  
6 PURPOSES.

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

8 **SECTION 1.** Section 25-11-403, Mississippi Code of 1972, is  
9 amended as follows:

10 25-11-403. Retirement and death benefits shall be provided  
11 to participants in the optional retirement program by contribution  
12 to annuity contracts, fixed or variable in nature, mutual fund  
13 accounts or similar investment products, or a combination thereof,  
14 at the option of the participant. The state and the participants  
15 shall contribute, in accordance with this article, toward the  
16 purchase of benefits under those contracts or accounts, which  
17 contracts or accounts shall become the property of the  
18 participants.

19 **SECTION 2.** Section 25-11-407, Mississippi Code of 1972, is  
20 amended as follows:

21 25-11-407. The Board of Trustees of the Public Employees'  
22 Retirement System shall designate not less than three (3) nor more  
23 than five (5) companies to provide annuity contracts, mutual fund  
24 accounts or similar investment products, and the types of  
25 investment contracts or funds that may be offered by those  
26 companies. In making those designations, the board of trustees  
27 shall consider and be guided by:

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

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

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

35 (d) The efficacy of the contracts or accounts, or both,  
36 in the recruitment and retention of faculty and  
37 administrators; \* \* \*

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

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

44 The companies shall act in a fiduciary capacity in selecting  
45 investment products that are suitable for the optional retirement  
46 program. It shall be the duty of the companies to report to and  
47 seek approval from the board for the investment products made  
48 available under this paragraph and to report the participant use  
49 of those options annually. The board reserves the right to refuse  
50 or discontinue any product offered by those companies.

51 **SECTION 3.** Section 25-11-411, Mississippi Code of 1972, is  
52 amended as follows:

53 25-11-411. Each participant shall contribute monthly to the  
54 optional retirement program the same amount that he or she would  
55 be required to contribute to the Public Employees' Retirement  
56 System of Mississippi if he or she were a member of that  
57 retirement system. Participant contributions may be made by a  
58 reduction in salary in accordance with the provisions of Section  
59 403(b) of the United States Internal Revenue Code or any amendment  
60 thereto, or in accordance with Section 25-11-124, as may be

61 appropriate under the determination made in accordance with  
62 Section 25-11-421. The entirety of each participant's  
63 contribution shall be remitted to the appropriate company or  
64 companies for application to the participant's \* \* \* contracts or  
65 accounts, or both. Each employer of a participant in the optional  
66 retirement program shall contribute on behalf of each participant  
67 in the optional retirement program the same amount the employer  
68 would be required to contribute to the Public Employees'  
69 Retirement System of Mississippi if the participant were a member  
70 of the retirement system. The employer's contribution shall be  
71 remitted as follows:

72 (a) An amount equal to seven and one-fourth percent  
73 (7-1/4%) of the participant's total earned compensation as defined  
74 in Section 25-11-103 shall be remitted to the appropriate company  
75 or companies for application to the participant's \* \* \* contracts  
76 or accounts, or both;

77 (b) An amount equal to two and one-half percent  
78 (2-1/2%) of the participant's total earned compensation as defined  
79 in Section 25-11-103 shall be remitted to the Public Employees'  
80 Retirement System of Mississippi for application to the accrued  
81 liability contribution fund;

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

85 If the employer's contribution level is decreased below nine  
86 and three-fourths percent (9-3/4%) of the employee's total earned  
87 compensation, the remittance provided by paragraph (b) of this  
88 section shall be reduced accordingly. There shall be no reduction  
89 in the remittance provided by paragraph (a) of this section until  
90 such time, if any, that the employer's contribution level is less  
91 than seven and one-fourth percent (7-1/4%) of the participant's  
92 total earned compensation. If the accrued liability contribution  
93 is reduced or discontinued under Section 25-11-123, the amount of

94 the reduction, or the entirety of the employer's contribution, in  
95 case of discontinuance, shall be remitted to the appropriate  
96 company or companies for application to the participant's \* \* \*  
97 contracts or accounts, or both. Any remittance required to be  
98 made by the employer to the Public Employees' Retirement System of  
99 Mississippi shall be made at the times the employer remits  
100 contributions for members of the retirement system.

101 **SECTION 4.** Section 25-11-417, Mississippi Code of 1972, is  
102 amended as follows:

103 25-11-417. Benefits payable to participants under the  
104 optional retirement program are not obligations of the State of  
105 Mississippi. Those benefits and other rights of optional  
106 retirement program participants or their beneficiaries are the  
107 liability and responsibility solely of the designated company or  
108 companies. The benefits of participants whose funds are invested  
109 with annuity providers shall be governed solely by the terms of  
110 the \* \* \* contracts issued by that company or companies. The  
111 benefits of participants whose funds are invested in mutual funds  
112 or other similar investment products shall be limited to the value  
113 of the account.

114 **SECTION 5.** Section 25-11-419, Mississippi Code of 1972, is  
115 amended as follows:

116 25-11-419. Annuity contracts, mutual fund accounts or  
117 similar investment products authorized under the optional  
118 retirement program and all rights thereto of a participant in the  
119 optional retirement program shall be exempt from any state or  
120 municipal tax (except to the extent that state income tax is  
121 payable under Chapter 7, Title 27, Mississippi Code of 1972),  
122 shall be exempt from any levy and sale, garnishment, attachment,  
123 or any process whatsoever, and shall be unassignable except as  
124 specifically otherwise provided in the \* \* \* contract or account.  
125 Annuity contracts issued under the optional retirement program  
126 shall be treated under the State Life and Health Insurance

127 Guaranty Association Act in the same manner as contracts qualified  
128 under Section 403(b) of the Internal Revenue Code.

129         **SECTION 6.** This act shall take effect and be in force from  
130 and after July 1, 2005.