

1 HB268  
2 199048-2  
3 By Representative Ingram  
4 RFD: Ways and Means General Fund  
5 First Read: 18-FEB-20

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8 SYNOPSIS: This bill would establish a new defined  
9 benefit retirement plan for any public employee who  
10 is first hired on or after October 1, 2020, by an  
11 employer who participates in the Employees'  
12 Retirement System.

13  
14 A BILL  
15 TO BE ENTITLED  
16 AN ACT

17  
18 To amend Sections 36-26-36.1, 36-27-1, 36-27-16, as  
19 last amended by Act 2019-316, 2019 Regular Session, 36-27-24,  
20 and 36-27-59, Code of Alabama 1975, relating to retirement  
21 benefits for employees who are members of the Employees'  
22 Retirement System, to establish a new defined benefit  
23 retirement plan for employees who first become a member of the  
24 Employees' Retirement System on or after October 1, 2020, or  
25 any Tier II plan member who has elected to join the new plan.  
26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1                   Section 1. Sections 36-26-36.1, 36-27-1, 36-27-16,  
2 as last amended by Act 2019-316, 2019 Regular Session,  
3 36-27-24, and 36-27-59, Code of Alabama 1975, are amended to  
4 read as follows:

5                   "§36-26-36.1.

6                   "(a) Any Tier I or Tier III plan member of the  
7 Teachers' or Employees' Retirement System of Alabama not  
8 otherwise covered by a provision to convert unused sick leave  
9 into membership service for purposes of service retirement  
10 may, at their option and in lieu of receiving payment for 50  
11 percent of their accrued and unused sick leave at the time of  
12 their retirement as provided in Section 36-26-36, or any other  
13 payment that may be provided for such unused sick leave, use  
14 their accrued sick leave, up to a maximum number of 180  
15 accrued sick leave days or as otherwise allowed by law,  
16 whichever is greater, to be included as membership service in  
17 determining the total years of creditable service in the  
18 Employees' Retirement System of Alabama or the Teachers'  
19 Retirement System of Alabama; provided that no employee of an  
20 employer participating in the Employees' Retirement System  
21 pursuant to Section 36-27-6 shall be entitled to the benefits  
22 provided herein unless such employer shall elect to come under  
23 the provisions of this section and further elects to fund the  
24 benefits provided herein. Unused sick leave may be converted  
25 to membership service only for the purpose of applying for  
26 service retirement and may be considered in the determination  
27 of eligibility for retirement. The conversion shall not apply

1 to eligibility for deferred retirement. It is further provided  
2 that if a Tier I or Tier III plan member eligible for service  
3 retirement is also eligible for disability retirement the  
4 member may elect disability retirement and also receive credit  
5 for accumulated sick leave pursuant to this section. No Tier I  
6 or Tier III plan member shall receive both service credit  
7 provided for by this section and payment or partial payment  
8 for accrued sick leave pursuant to any other provision of law.

9 "(b) The conversion of accrued sick leave into  
10 creditable service provided in this section shall not apply to  
11 any Tier II plan member.

12 "§36-27-1.

13 "When used in this article, the following terms  
14 shall have the following meanings, respectively, unless the  
15 context clearly indicates otherwise:

16 "(1) RETIREMENT SYSTEM. The Employees' Retirement  
17 System of Alabama as defined in Section 36-27-2.

18 "(2) EMPLOYEE. Any regular employee of the State of  
19 Alabama whose salary is paid by state warrant by the state,  
20 except a member of the Legislature of the state, a person who  
21 is covered or eligible to be covered under the Teachers'  
22 Retirement System of Alabama or any other retirement system to  
23 which contributions are made by the state, an elective  
24 official of the state government, and a temporary employee or  
25 person engaged under retainer or special agreement. In all  
26 cases of doubt the Board of Control shall determine who is an  
27 employee within the meaning of this article. The term shall

1 include any regular employee of the Alabama state hospitals  
2 and Partlow State School and Hospital and the Alabama State  
3 Port Authority, however paid.

4 "(3) EMPLOYER. The State of Alabama or any  
5 department, commission, institution, or any other agency of  
6 and within the state by which an employee is paid, including  
7 employers as provided in Section 36-27-6.

8 "(4) MEMBER. Any employee included in the membership  
9 of the system as provided in Section 36-27-4.

10 "(5) BOARD OF CONTROL. The board provided for in  
11 Section 36-27-23 to administer the retirement system.

12 "(6) MEDICAL BOARD. The board of physicians provided  
13 for in Section 36-27-23.

14 "(7) SERVICE. Service as an employee paid for by an  
15 employer.

16 "(8) PRIOR SERVICE. Service rendered prior to the  
17 date of establishment of the retirement system for which  
18 credit is allowable under Section 36-27-11.

19 "(9) MEMBERSHIP SERVICE. Service as an employee  
20 rendered while a member of the retirement system and on  
21 account of which contributions are made.

22 "(10) CREDITABLE SERVICE. "Prior service" plus  
23 "membership service" rendered since last becoming a member.

24 "(11) BENEFICIARY. Any person in receipt of a  
25 pension, an annuity, a retirement allowance or other benefit  
26 as provided by this article.

1           "(12) REGULAR INTEREST. Interest compounded annually  
2 at the rate determined by the Board of Control in accordance  
3 with subsection (f) of Section 36-27-25.

4           "(13) ACCUMULATED CONTRIBUTIONS. The sum of all the  
5 amounts deducted from the compensation of a member credited to  
6 his or her individual account in the Annuity Savings Fund,  
7 together with regular interest thereon, as provided in Section  
8 36-27-24.

9           "(14) EARNABLE COMPENSATION. The full rate of  
10 compensation that would be payable to an employee if he or she  
11 worked the full normal work-time. In cases where compensation  
12 includes maintenance, the Board of Control shall fix the value  
13 of that part of the compensation not paid in money. Earnable  
14 compensation shall not exceed the limitations imposed by  
15 Section 401(a) (17) of the Internal Revenue Code for public  
16 pension funds, except that any employee who was a member of  
17 the Employees' Retirement System before the first plan year  
18 beginning after December 31, 1995, shall not be subject to the  
19 earning limitations set forth in Section 401(a) (17). For Tier  
20 I plan members, the term earnable compensation for retirement  
21 purposes shall not include subsistence payments that are made  
22 to a member and shall include overtime payments that are made  
23 to a member; however, earnable compensation shall not exceed  
24 120 percent of any members' annual base compensation as  
25 certified by the employer. For Tier II and Tier III plan  
26 members, earnable compensation shall include overtime payments  
27 that are made to the member but shall not include subsistence

1 payments that are made to the member and shall not exceed one  
2 hundred twenty-five percent (125%) of the member's annual base  
3 compensation, as certified by the employer.

4 "(15) AVERAGE FINAL COMPENSATION. For any Tier I  
5 plan member, the average annual compensation of the member,  
6 with respect to which he or she had made contributions  
7 pursuant to subsection (b) of Section 36-27-24 during the  
8 three years, in his or her last 10 years of creditable service  
9 for which the average is highest or during his or her entire  
10 period of creditable service if less than three years; except,  
11 that for any period prior to November 1, 1959, the  
12 compensation used in computing the average shall include  
13 compensation in excess of the maximum amount with respect to  
14 which members were required to contribute. For any Tier II or  
15 Tier III plan member, the average annual compensation of the  
16 member, with respect to which he or she has made contributions  
17 pursuant to subsection (b) of Section 36-27-24 during the five  
18 years, in his or her last ten years of creditable service for  
19 which the average is highest or during his or her entire  
20 period of creditable service if less than five years.

21 "(16) ANNUITY. Payments for life derived from the  
22 "accumulated contributions" of a member. All annuities shall  
23 be payable in equal monthly installments.

24 "(17) PENSION. Payments for life derived from money  
25 provided by the employer. All pensions shall be payable in  
26 equal monthly installments.

1           "(18) RETIREMENT ALLOWANCE. The sum of the "annuity"  
2 and the "pension."

3           "(19) RETIREMENT. Withdrawal from active service  
4 with a retirement allowance or optional benefit in lieu  
5 thereof granted under this article.

6           "(20) ANNUITY RESERVE. The present value of all  
7 payments to be made on account of any annuity or benefit in  
8 lieu of any annuity computed upon the basis of the mortality  
9 tables adopted by the Board of Control and regular interest.

10          "(21) PENSION RESERVE. The present value of all  
11 payments to be made on account of any pension or benefit in  
12 lieu of any pension computed upon the basis of the mortality  
13 tables adopted by the Board of Control and regular interest.

14          "(22) ACTUARIAL EQUIVALENT. A benefit of equal value  
15 when computed upon the basis of the mortality tables adopted  
16 by the Board of Control and regular interest.

17          "(23) STATE POLICEMAN. An employee in the classified  
18 service under the Merit System Act approved by the State  
19 Personnel Board to perform the duties of highway patrolman or  
20 a beverage control agent or a crime investigator. The term  
21 includes any employee hired by the Alabama State Law  
22 Enforcement Agency after January 1, 2015, who is certified by  
23 the Alabama Peace Officers' Standards and Training Commission  
24 and performs law enforcement duties. Such an employee of the  
25 Alabama State Law Enforcement Agency shall pay the same  
26 employee contribution rate as and receive the same benefits as  
27 ~~Tier II~~ law enforcement officers, as defined by Section

1 36-27-59(a) (3). The term shall not include a member employed  
2 as a policeman under Section 36-27-6.

3 "(24) TIER I PLAN. The defined benefit pension plan  
4 provided by the Retirement System to Tier I plan members.

5 "(25) TIER II PLAN. The defined benefit pension plan  
6 provided by the Retirement System to Tier II plan members.

7 "(26) TIER III PLAN. The defined benefit pension  
8 plan provided by the Retirement System to Tier III plan  
9 members.

10 "~~(26)~~ (27) TIER I PLAN MEMBER. Any member of the  
11 Retirement System who had service for which he or she received  
12 credit in the Employees' Retirement System or in the Teachers'  
13 Retirement System prior to January 1, 2013.

14 "~~(27)~~ (28) TIER II PLAN MEMBER. Any member of the  
15 Retirement System who first began eligible employment with an  
16 Employees' Retirement System or a Teachers' Retirement System  
17 participating employer on or after January 1, 2013, and prior  
18 to October 1, 2020, and who had no eligible service in the  
19 Employees' Retirement System or the Teachers' Retirement  
20 System prior to January 1, 2013, and who opted to remain a  
21 Tier II plan member on or before January 1, 2021, in the  
22 manner prescribed by the Board of Control. Any member of the  
23 Retirement System who first began eligible employment with an  
24 Employees' Retirement System or a Teachers' Retirement System  
25 participating employer on or after January 1, 2013, who had no  
26 eligible service in the Employees' Retirement System or the  
27 Teachers' Retirement System prior to January 1, 2013, and

1 whose employer participates in the Employees' Retirement  
2 System pursuant to Section 36-27-6.

3 "(29) TIER III PLAN MEMBER. Any member of the  
4 Retirement System who first began eligible employment with a  
5 Teachers' Retirement System or an Employees' Retirement System  
6 participating employer on or after January 1, 2013, and who  
7 had no eligible service in the Teachers' Retirement System or  
8 the Employees' Retirement System prior to January 1, 2013.  
9 This term shall not include any active Tier II Plan member of  
10 the Retirement System who opted to remain a Tier II Plan  
11 member on or before January 1, 2021, in the manner prescribed  
12 by the Board of Control or any member of the Retirement System  
13 whose employer participates in the Employees' Retirement  
14 System pursuant to Section 36-27-6.

15 "§36-27-16.

16 "(a) (1) RETIREMENT, ETC., OF EMPLOYEES GENERALLY;  
17 ELIGIBILITY FOR SERVICE RETIREMENT BENEFITS.

18 "a. Any Tier I plan member who withdraws from  
19 service upon or after attainment of age 60 and any Tier II or  
20 Tier III plan member who withdraws from service upon or after  
21 attainment of age 62 may retire upon written application to  
22 the Board of Control setting forth at what time, not less than  
23 30 days nor more than 90 days subsequent to the execution and  
24 filing thereof, he or she desires to be retired; provided,  
25 that any such member who became a member on or after October  
26 1, 1963, shall have completed 10 or more years of creditable  
27 service; provided further, that a Tier I plan member employed

1 as a state policeman shall be eligible to file application for  
2 service retirement upon attaining age 52 and a Tier II or Tier  
3 III plan member employed as a state policeman or employed as a  
4 correctional officer, firefighter, or law enforcement officer  
5 as defined in Section 36-27-59 with at least ten years of  
6 creditable service as a correctional officer, firefighter, or  
7 law enforcement officer shall be eligible to file application  
8 for service retirement upon attaining age 56.

9 "b. Any Tier I plan member who has attained age 60,  
10 or age 52 in the case of a state policeman and any Tier II or  
11 Tier III plan member who has attained age 62, or age 56 in the  
12 case of a state policeman or in the case of a correctional  
13 officer, firefighter, or law enforcement officer as defined in  
14 Section 36-27-59 who has at least ten years of creditable  
15 service as a correctional officer, firefighter, or law  
16 enforcement officer, and has previously withdrawn from service  
17 may retire upon written application to the Board of Control  
18 setting forth at what time, not less than 30 days nor more  
19 than 90 days subsequent to the execution and filing thereof,  
20 he or she desires to be retired; provided, the member shall  
21 have at the time of his or her withdrawal from service  
22 completed the age and service requirements established by the  
23 Board of Control for eligibility for deferred benefits;  
24 provided, that such minimum number of years of creditable  
25 service shall not be less than 10 years nor more than 25  
26 years.

1            "c. In addition to any law or part of law relating  
2 to service retirement under the Employees' Retirement System  
3 of Alabama, any Tier I plan member of the Employees'  
4 Retirement System who withdraws from service after completion  
5 of not less than 25 years of creditable service, or any Tier  
6 III plan member, who withdraws from service after completion  
7 of not less than 30 years of creditable service, may retire  
8 without a reduction in retirement allowance upon written  
9 application to the Board of Control of the Employees'  
10 Retirement System setting forth the first day of which month,  
11 not less than 30 days or more than 90 days subsequent to the  
12 execution and filing thereof, he or she desires to be retired,  
13 provided that no person whose employer participates in the  
14 Employees' Retirement System under Section 36-27-6 shall be  
15 entitled to the benefits provided in this paragraph unless  
16 such employer elects to come under the provisions of the  
17 paragraph. Any employer making such election must bear the  
18 cost of such benefit.

19            "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

20            "a. Upon retirement from service a Tier I plan  
21 member shall receive a service retirement allowance which  
22 shall consist of:

23            "1. An annuity which shall be the actuarial  
24 equivalent of his or her accumulated contributions at the time  
25 of his or her retirement; except, that in the case of a state  
26 policeman who has completed 20 years of creditable service as  
27 a state policeman who retires after age 56 but prior to age

1 60, the annuity shall be equal to the annuity that would have  
2 been payable upon service retirement at age 60 had the member  
3 continued in service to age 60 without change in compensation;

4 "2. A pension which shall be equal to the annuity  
5 allowance at age of retirement, but not to exceed an annuity  
6 allowable at age 65, computed on the basis of contributions  
7 made prior to attainment of age 65; except, that in the case  
8 of a state policeman who has completed 20 years of creditable  
9 service as a state policeman who retires after age 56 but  
10 prior to age 60, the pension shall be equal to the annuity  
11 that he or she would have received had he or she contributed  
12 to age 60 without change in compensation; and

13 "3. An additional pension, if he or she has a prior  
14 service certificate in full force and effect, which shall be  
15 equal to the annuity which would have been provided at the age  
16 of retirement, but which shall not exceed an annuity allowable  
17 at age 65 by twice the contributions which he or she would  
18 have made during the period of prior service with which he or  
19 she is credited had the system been in operation and had he or  
20 she contributed thereunder; except, that in case of a state  
21 policeman who has completed 20 years of creditable service as  
22 a state policeman who retired after age 56 but prior to age  
23 60, an additional pension, if he or she has a prior service  
24 certificate in full force and effect, which shall be equal to  
25 the annuity which would have been provided at age 60, but  
26 which shall not exceed an annuity allowable at age 60 by twice  
27 the contributions which he or she would have made during the

1 period of prior service with which he or she is credited had  
2 the system been in operation and had he or she contributed  
3 thereunder.

4 "b. Notwithstanding the provisions of subparagraphs  
5 1, 2, and 3 of paragraph a. of this subdivision, a state  
6 policeman who is a Tier I plan member and who has completed 20  
7 years of service as a state policeman who retires after age 52  
8 but prior to age 56 shall receive:

9 "1. An annuity which shall be equal to the annuity  
10 that would have been payable had the member continued in  
11 service for four years without change in compensation;

12 "2. A pension which shall be equal to the annuity  
13 that he or she would have received had he or she contributed  
14 for four years without change in compensation; and

15 "3. An additional pension, if he or she has a prior  
16 service certificate in full force and effect, which shall be  
17 equal to the annuity which would have been provided at the age  
18 of retirement, but which shall not exceed an annuity allowable  
19 at the age of retirement plus four years by twice the  
20 contributions which he or she would have made during the  
21 period of prior service with which he or she is credited had  
22 the system been in operation and had he or she contributed  
23 thereunder. In lieu of a determination of the actual  
24 compensation of a member that was received during such prior  
25 service, the Board of Control may use for the purpose of this  
26 article the compensation rate which, if it had progressed with  
27 the rates of salary increase shown in the tables as prescribed

1 in subsection (n) of Section 36-27-23, would have resulted in  
2 the same average salary of the member for the five years  
3 immediately preceding the date of establishment as the records  
4 show the member actually received.

5 "c. The annual service retirement pension payable to  
6 a Tier I plan member not employed as a state policeman  
7 retiring on or after October 1, 1975, shall not be less than  
8 an amount which, when added to his or her annuity, is equal to  
9 the greater of the following two amounts:

10 "1. Two and one-eightieth percent of the member's  
11 average final compensation multiplied by the number of years  
12 of his or her creditable service; or

13 "2. If he or she became a member before October 1,  
14 1965, \$72.00 multiplied by the number of years of his or her  
15 creditable service not in excess of 25 years.

16 "d. The annual service retirement pension payable to  
17 a Tier I plan member employed as a state policeman retiring on  
18 or after October 1, 1975, shall not be less than an amount  
19 which, when added to his or her annuity is equal to the  
20 greater of the following two amounts:

21 "1. Two and seven-eighths percent of the member's  
22 average final compensation multiplied by the number of years  
23 of his or her creditable service. Creditable service for any  
24 state policeman under the age of 56 years who has completed 20  
25 years of creditable service as a state policeman shall include  
26 a bonus equal to four additional years. Creditable service for  
27 a state policeman 56 years or older shall include a bonus

1 equal to the years or portion thereof remaining until the  
2 member reaches age 60; or

3 "2. If he or she became a member before October 1,  
4 1965, \$86.40 multiplied by the number of years of his or her  
5 creditable service not in excess of 25 years; provided,  
6 however, that if such member has completed 20 years of  
7 creditable service as a state policeman and has not attained  
8 age 60 at the time of retirement, the pension shall be  
9 determined as provided in this subparagraph on the basis of  
10 the number of years of creditable service which he or she  
11 would have had if he or she had remained in service for four  
12 years, except that, in the case of those state policemen  
13 retiring at age 56 or after, the number of years in  
14 determining the pension shall not exceed the number of years  
15 of creditable service which he or she would have had if he or  
16 she had remained in service to age 60.

17 "e. Upon retirement from service, a Tier II plan  
18 member who is not employed as a state policeman shall receive  
19 a service retirement allowance which shall consist of an  
20 annuity which shall be the actuarial equivalent of the  
21 member's accumulated contributions at the time of retirement  
22 and a pension which, when added to the member's annuity, shall  
23 be equal to one and sixty-five hundredths percent (1.65%) of  
24 the member's average final compensation multiplied by the  
25 number of years of creditable service. Notwithstanding the  
26 foregoing, the service retirement allowance shall not exceed

1 eighty percent (80%) of the member's average final  
2 compensation.

3 "f. Upon retirement from service, a Tier II plan  
4 member who is employed as a state policeman shall receive a  
5 service retirement allowance which shall consist of an annuity  
6 which shall be the actuarial equivalent of the member's  
7 accumulated contributions at the time of retirement and a  
8 pension which, when added to the member's annuity, shall be  
9 equal to two and three-eighths percent (2.375%) of the  
10 member's average final compensation multiplied by the member's  
11 number of years of creditable service. Notwithstanding the  
12 foregoing, the service retirement allowance shall not exceed  
13 eighty percent (80%) of the member's average final  
14 compensation.

15 "g. Upon retirement from service, a Tier III plan  
16 member shall receive a service retirement allowance which  
17 shall consist of an annuity which shall be the actuarial  
18 equivalent of the member's accumulated contributions at the  
19 time of retirement and a pension which, when added to the  
20 member's annuity, shall be equal to two percent (2%) of the  
21 member's average final compensation multiplied by the number  
22 of years of creditable service. Notwithstanding the foregoing,  
23 the service retirement allowance shall not exceed eighty  
24 percent (80%) of the member's average final compensation.

25 "g.h. Anything in this article to the contrary  
26 notwithstanding, in the application of the foregoing  
27 provisions of this subdivision to a member whose creditable

1 service includes a period of service as a state policeman and  
2 a period of service in another employment classification, the  
3 benefit rates applicable to a member employed as a state  
4 policeman shall apply to all creditable service as a state  
5 policeman, and the benefit rates applicable to a member not  
6 employed as a state policeman shall apply to all creditable  
7 service, but in all other respects the pension under this  
8 subdivision shall be determined on the basis of the member's  
9 employment classification at the time of his or her withdrawal  
10 from service.

11 "h.i. The annual service retirement pension payable  
12 to any state employee who had attained age 60 on or before  
13 October 1, 1945, who declined membership in the Employees'  
14 Retirement System of Alabama in the manner prescribed in  
15 Section 36-27-4 and who retires as a state employee after  
16 completing a minimum of 15 years' service shall be \$72.00  
17 multiplied by the number of years of his or her service not in  
18 excess of 25 years.

19 "(b) (1) RETIREMENT OF DISABLED EMPLOYEES;  
20 ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.

21 "a. Upon application of a Tier I plan member in  
22 service or of his or her employer, any member who has had 10  
23 or more years of creditable service who becomes disabled may  
24 be retired on a disability retirement allowance by the Board  
25 of Control not less than 30 nor more than 90 days next  
26 following the date of filing of such application; provided,  
27 that the medical board, after a medical examination of such

1 member, shall certify that such member is mentally or  
2 physically incapacitated for the further performance of duty,  
3 that such incapacity is likely to be permanent and that such  
4 member should be retired. Upon the application of a Tier II or  
5 Tier III plan member in service or his or her employer, any  
6 member who has had 10 or more years of creditable service may  
7 be retired by the Board of Control on a disability retirement  
8 allowance not less than 30 nor more than 90 days next  
9 following the date of filing such application; provided, that  
10 the medical board, after a medical examination of such member,  
11 shall certify that the member is totally and permanently  
12 mentally or physically incapacitated from regular and  
13 substantial gainful employment, and that member should be  
14 retired.

15 "b. Without regard to the number of years of  
16 creditable service, a member employed as a state policeman, a  
17 municipal police officer or a deputy sheriff, or a member  
18 employed as a state, municipal, or county firefighter who is  
19 not covered through his or her current employer under the  
20 United States Social Security Act, who as a result of his or  
21 her employment, in the line of duty and not as a result of his  
22 or her own misconduct, shall become permanently and totally  
23 disabled to the extent that he or she cannot perform his or  
24 her duties or duties of a less strenuous nature, as an  
25 employee of the State of Alabama or as an employee of an  
26 employer participating under the provisions of Section  
27 36-27-6, shall be retired on a disability retirement

1 allowance, not less than 30 nor more than 90 days next  
2 following the date of filing of such application, provided  
3 that the medical board, after a medical examination of such  
4 member shall certify that such member is mentally or  
5 physically incapacitated for the further performance of duty,  
6 that such incapacity is likely to be permanent, and that such  
7 member should be retired.

8 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

9 "a. Upon retirement for disability a member shall  
10 receive a service retirement allowance if he or she is a Tier  
11 I plan member and he or she has attained age 60 or if he or  
12 she is a Tier II or Tier III plan member and he or she has  
13 attained age 62, or if any law or part of any law pertaining  
14 to retirement under the Employees' Retirement System of  
15 Alabama provides for service retirement after the completion  
16 of 25 years of creditable service or 30 years of creditable  
17 service without a reduction in the retirement allowance and  
18 the member has completed 25 years of creditable service or 30  
19 years of creditable service, whichever is applicable, or, in  
20 the case of a state policeman, if he or she is a Tier I plan  
21 member and he or she has attained age 52 or, in the case of a  
22 state policeman or a correctional officer, firefighter, or law  
23 enforcement officer as defined in Section 36-27-59 with at  
24 least ten years of creditable service as a correctional  
25 officer, firefighter, or law enforcement officer, if he or she  
26 is a Tier II or Tier III plan member and he or she has

1 attained age 56; otherwise, he or she shall receive a  
2 disability retirement allowance which shall consist of:

3 "1. An annuity which shall be the actuarial  
4 equivalent of his or her accumulated contributions at the time  
5 of his or her retirement;

6 "2. A pension which shall be equal to the pension  
7 that would have been payable under subparagraphs 2 and 3 of  
8 paragraph a. of subdivision (2) of subsection (a) of this  
9 section upon service retirement at age 65 had the member  
10 continued in service to that age without change in  
11 compensation.

12 "b. The annual disability retirement pension payable  
13 to a Tier I plan member not employed as a state policeman  
14 retiring on or after October 1, 1975, shall not be less than  
15 an amount which when added to his or her annuity is equal to  
16 the greatest of the following two amounts:

17 "1. Two and one-eightieth percent of the member's  
18 average final compensation multiplied by the number of years  
19 of creditable service.

20 "2. If he or she became a member before October 1,  
21 1965, \$54.00 multiplied by the number of years of his or her  
22 creditable service not in excess of 25 years.

23 "c. The annual disability retirement pension payable  
24 to a Tier I plan member employed as a state policeman retiring  
25 on or after October 1, 1975, shall not be less than an amount  
26 which when added to his or her annuity is equal to the greater  
27 of the following two amounts:

1           "1. Two and seven-eighths percent of the member's  
2 average final compensation multiplied by the number of years  
3 of his or her creditable service. Creditable service for any  
4 state policeman under the age of 56 years who has completed 20  
5 years of creditable service as a state policeman shall include  
6 a bonus equal to four additional years. Creditable service for  
7 a state policeman 56 years or older shall include a bonus  
8 equal to the years or portion thereof remaining until the  
9 member reaches age 60; or

10           "2. If he or she became a member before October 1,  
11 1965, \$64.80 multiplied by the number of years of his or her  
12 creditable service not in excess of 25 years.

13           "d. The annual disability retirement allowance  
14 payable to a Tier II plan member not employed as a state  
15 policeman shall be equal to one and sixty-five hundredths  
16 percent (1.65%) of the member's average final compensation  
17 multiplied by the number of years of creditable service.

18           "e. The annual disability retirement allowance  
19 payable to a Tier II plan member employed as a state policeman  
20 shall be equal to two and three-eighths percent (2.375%) of  
21 the member's average final compensation multiplied by the  
22 number of years of creditable service.

23           "f. The annual disability retirement allowance  
24 payable to a Tier III plan member shall be equal to two  
25 percent (2%) of the member's average final compensation  
26 multiplied by the number of years of creditable service.

1           "~~f.g.~~ Anything in this chapter to the contrary  
2 notwithstanding in the application of the provisions of this  
3 subdivision to a member whose creditable service includes a  
4 period of service as a state policeman and a period of service  
5 in another employment classification the benefit rates  
6 applicable to a member employed as a state policeman shall  
7 apply to all creditable service as a state policeman, and the  
8 benefit rates applicable to a member not employed as a state  
9 policeman shall apply to all other creditable service, but in  
10 all other respects the pension under this subdivision shall be  
11 determined on the basis of the member's employment  
12 classification at the time of his or her withdrawal from  
13 service.

14           "(3) REEXAMINATION OF BENEFICIARIES RETIRED ON  
15 ACCOUNT OF DISABILITY. Once each year during the first five  
16 years following the retirement of a member on a disability  
17 retirement allowance and once every three-year period  
18 thereafter, the Board of Control may, and upon his or her  
19 application shall, require any disability beneficiary who has  
20 not yet attained age 60 if the beneficiary is a Tier I plan  
21 member or age 62 if the beneficiary is a Tier II or Tier III  
22 plan member to undergo a medical examination, such examination  
23 to be made at the place of residence of such beneficiary or  
24 other place mutually agreed upon by a physician or physicians  
25 of or designated by the medical board. Should any disability  
26 beneficiary who has not yet attained age 60 if the beneficiary  
27 is a Tier I plan member or age 62 if the beneficiary is a Tier

1 II or Tier III plan member refuse to submit to such medical  
2 examination, his or her allowance may be discontinued until  
3 his or her withdrawal of such refusal, and, should his or her  
4 refusal continue for one year, all his or her rights in and to  
5 his or her pension may be revoked by the Board of Control;  
6 provided, that these requirements relative to the medical  
7 examination shall not apply in the case of a state policeman  
8 retired for disability and who has attained age 52 if he or  
9 she is a Tier I plan member or in the case of a state  
10 policeman or a correctional officer, firefighter, or law  
11 enforcement officer as defined in Section 36-27-59 with at  
12 least ten years of creditable service as a correctional  
13 officer, firefighter, or law enforcement officer retired for  
14 disability who has attained age 56 if he or she is a Tier II  
15 or Tier III plan member. Should the medical board report and  
16 certify to the Board of Control that a disability beneficiary  
17 who is a Tier I plan member is engaged in or is able to engage  
18 in a gainful occupation paying more than the difference  
19 between his or her retirement allowance and his or her average  
20 final compensation and should the Board of Control concur in  
21 such report, then the amount of his or her pension shall be  
22 reduced to an amount which, together with his or her annuity  
23 and the amount earnable by him or her shall equal the amount  
24 of his or her average final compensation. Should his or her  
25 earning capacity be later changed, the amount of his or her  
26 pension may be further modified; provided, that the new  
27 pension shall not exceed the amount of the pension originally

1 granted nor an amount which, when added to the amount earnable  
2 by the beneficiary, together with this annuity exceeds the  
3 amount of his or her average final compensation.

4 "Should the medical board report and certify to the  
5 Board of Control that a disability beneficiary who is a Tier  
6 II or Tier III plan member has the capacity to engage in  
7 regular and substantial gainful employment, the Board of  
8 Control shall discontinue the beneficiary's retirement  
9 allowance until the beneficiary is otherwise eligible for  
10 service retirement.

11 "(c) Disposition of contributions and allowances  
12 upon death, etc., of member.

13 "(1) Should a member cease to be an employee except  
14 by death or by retirement under the provisions of this  
15 article, the contributions standing to the credit of his or  
16 her individual account in the Annuity Savings Fund shall be  
17 paid to him or her upon demand and, in addition to such  
18 payment, there shall be paid five-tenths of the interest  
19 accumulations standing to the credit of his or her individual  
20 account if he or she shall have not less than three but less  
21 than 16 years of membership service, six-tenths of such  
22 interest accumulations if he or she shall have not less than  
23 16 but less than 21 years of membership service, seven-tenths  
24 of such interest accumulations if he or she shall have not  
25 less than 21 but less than 26 years of membership service and  
26 eight-tenths of such interest accumulations if he or she shall  
27 have not less than 26 years of membership service.

1           "(2) In case of the death of a member eligible for  
2 service retirement pursuant to subsection (a) of this section,  
3 an allowance shall be paid to the surviving spouse, or to such  
4 other person who the member shall have designated, in an  
5 amount that would have been payable if the member had retired  
6 immediately prior to his or her death and had elected Option  
7 3, as set forth in subsection (d) of this section or,  
8 alternatively, if the surviving spouse or other designee  
9 desires, he or she may choose to receive, in lieu of the  
10 allowance provided under Option 3, the accumulated  
11 contributions of the member plus an amount equal to the  
12 accumulated contributions of the member not to exceed  
13 \$5,000.00 or the accumulated contributions of the member plus  
14 the benefit provided by Section 36-27B-3 if a benefit is  
15 payable under such section;

16           "(3) In case of the death of a Tier I plan member  
17 not eligible for service retirement, after completion of 25  
18 years of creditable service, an allowance shall be paid to the  
19 surviving spouse, or to such other person who the member shall  
20 have designated, in an amount that would have been payable if  
21 the member had retired for disability immediately prior to his  
22 or her death and had elected Option 3 as set forth in  
23 subsection (d) of this section or, alternatively, if the  
24 surviving spouse or other designee desires, he or she may  
25 choose to receive, in lieu of the allowance provided under  
26 Option 3, the accumulated contributions of the member plus an  
27 amount equal to the accumulated contributions of the member

1 not to exceed \$5,000.00 or the accumulated contributions of  
2 the member plus the benefit provided by Section 36-27B-3 if a  
3 benefit is payable under such section;

4 "(4) Upon the death of a member on account of whom  
5 no survivor allowance is payable under subdivisions (2) or (3)  
6 of this subsection, the accumulated contributions of the  
7 member plus an amount equal to the accumulated contributions  
8 not to exceed \$5,000 or the accumulated contributions of the  
9 member plus the benefit provided by Section 36-27B-3 if a  
10 benefit is payable under such section shall be paid to his or  
11 her estate or to such person as he or she shall have nominated  
12 by written designation duly executed and filed with the Board  
13 of Control.

14 "(d) Optional allowances. With the provision that  
15 the election of an option shall be effective on the effective  
16 date of retirement, any member may elect prior to retirement  
17 to receive, in lieu of his or her retirement allowance payable  
18 throughout life, the actuarial equivalent, at that time, of  
19 his or her retirement allowance in a reduced retirement  
20 allowance payable throughout life with the provisions that:

21 "(1) OPTION 1. If he or she dies before he or she  
22 has received in annuity payments the present value of his or  
23 her annuity as it was at the time of his or her retirement,  
24 the balance shall be paid to his or her legal representatives  
25 or to such person as he or she shall nominate by written  
26 designation duly acknowledged and filed with the Board of  
27 Control;

1           "(2) OPTION 2. Upon his or her death, his or her  
2 reduced retirement allowance shall be continued throughout the  
3 life of and paid to such person as he or she shall nominate by  
4 written designation duly acknowledged and filed with the Board  
5 of Control at the time of his or her retirement;

6           "(3) OPTION 3. Upon his or her death, one half of  
7 his or her reduced allowance shall be continued throughout the  
8 life of and paid to such person as he or she shall nominate by  
9 written designation duly acknowledged and filed with the Board  
10 of Control at the time of his or her retirement; or

11           "(4) OPTION 4. Some other benefit or benefits shall  
12 be paid either to the member or to such person or persons as  
13 he or she shall nominate; provided, that such other benefits,  
14 together with the reduced retirement allowance, shall be  
15 certified by the actuary to be of equivalent actuarial value  
16 to his or her retirement allowance and shall be approved by  
17 the Board of Control.

18           "(5) OPTION 5. At the time of retirement, he or she  
19 shall receive a partial lump sum distribution as a single  
20 payment not to exceed the sum of 24 months of the maximum  
21 monthly retirement allowance the member could receive. This  
22 option may be elected in addition to the election of another  
23 option under this subsection and the further reduced monthly  
24 retirement allowance shall be calculated in accordance with  
25 the selected option. This option shall not be available to a  
26 member who is receiving a disability retirement.

1           "(e) Effect of return to active service. Should any  
2 beneficiary be restored to active service, his or her  
3 retirement allowance shall be suspended until he or she again  
4 withdraws from service and he or she shall not again become a  
5 member of the retirement system nor shall he or she make  
6 contributions; except, that should such beneficiary who has  
7 been restored to active service continue in service for a  
8 period of two or more years from the date of his or her  
9 reentry into active service, he or she may request the Board  
10 of Control to allow him or her to again become a member of the  
11 retirement system. The Board of Control may grant the request  
12 for restoration to membership; provided, that such beneficiary  
13 whose retirement allowance has been suspended shall repay to  
14 the system all moneys received by him or her as benefits  
15 during any periods subsequent to the date of his or her  
16 reentry into active service and shall make a contribution  
17 equal to the amount he or she would have contributed had he or  
18 she been a member during the period of his or her restoration  
19 to active service on a suspended allowance basis together with  
20 the interest which would have been credited to the  
21 contributions on account of such period of restoration up to  
22 the date such contribution is made.

23           "(f) (1) REDETERMINATION, ETC., OF CERTAIN  
24 ALLOWANCES. All retirement allowance payments due on or after  
25 October 1, 1975, to members who retired prior to that date  
26 shall be redetermined as if the provisions of this section in  
27 effect on October 1, 1975, were in effect at the time the

1 member retired. Anything in this article to the contrary  
2 notwithstanding, the annual retirement allowance of any member  
3 not employed as a state policeman who retired on or before  
4 January 1, 1956, shall not be less than \$79.20 multiplied by  
5 the number of years of his or her creditable service not in  
6 excess of 30 years in the case of service retirement of \$59.40  
7 multiplied by the number of years of his or her creditable  
8 service not in excess of 30 years in the case of disability  
9 retirement. Any increase provided in the retirement allowance  
10 payment under this subdivision for a member who retired under  
11 the provisions of any optional benefit elected pursuant to  
12 subsection (d) of this section shall accrue only to the  
13 retired member, and no person designated to receive any  
14 payments after the death of a retired member under the  
15 provisions of any such optional benefit shall receive any  
16 increase in such payments under this subdivision.  
17 Notwithstanding, any member who retired prior to October 1,  
18 1975, and who chose either Option 2 or Option 3 may elect to  
19 receive a reduced allowance and to stipulate that the  
20 actuarial equivalent of the increase in his or her retirement  
21 allowance, which became effective on that date, be ascribed to  
22 his or her designated beneficiary; provided, that such member  
23 shall clearly express this intention by filing a written  
24 application to the effect with the Secretary-Treasurer of the  
25 Employees' Retirement System of Alabama prior to October 1,  
26 1976.

1           "(2) Any person who, prior to October 1, 1963, was  
2 in receipt of a benefit pursuant to Act No. 376, approved  
3 November 6, 1959, but was not a member of the system at the  
4 time of retirement shall not be entitled to receive an annual  
5 retirement allowance from the system, effective October 1,  
6 1971, as follows:

7           "a. If such person was retired on or before January  
8 1, 1956, an amount equal to \$79.20 multiplied by the number of  
9 years of his or her creditable service not in excess of 30  
10 years.

11           "b. If such person was retired after January 1,  
12 1956, an amount equal to \$72.00 multiplied by the number of  
13 years of his or her creditable service not in excess of 25  
14 years.

15           "(3) Prior to October 31, 1975, any beneficiary may  
16 elect to leave on deposit with the system all or a specified  
17 part of any increase in his or her monthly retirement  
18 allowance payments arising in accordance with subdivisions (1)  
19 or (2) of this subsection over the monthly allowance which he  
20 or she was receiving prior to October 1, 1975. The portion of  
21 each monthly payment left in the system in accordance with  
22 such election shall be credited, together with regular  
23 interest thereon, to the individual account of such  
24 beneficiary. Upon the death of such beneficiary the total  
25 amount standing to his or her credit, including regular  
26 interest to the date of death, shall be paid in a lump sum to  
27 his or her legal representatives or to such person as he or

1 she shall have nominated by written designation duly  
2 acknowledged and filed with the Board of Control.

3 "(g) Notwithstanding any other provisions of this  
4 section to the contrary, when a designated beneficiary for a  
5 member predeceases the member who is receiving a monthly  
6 benefit allowance provided under Option 2, 3, or 4, the member  
7 may designate a replacement beneficiary for the deceased  
8 beneficiary to become effective two years after the date of  
9 designation of the replacement beneficiary and an actuarial  
10 adjustment in the monthly benefit allowance of the member to  
11 cover any cost associated with designating a replacement  
12 beneficiary shall be reflected thereafter in the monthly  
13 benefit allowance received by the member, commencing with the  
14 first benefit allowance check received by the member following  
15 the date of designation of the replacement beneficiary.

16 "(h) Notwithstanding any provision of this section  
17 to the contrary, if a retired member who is receiving a  
18 monthly benefit allowance provided under Option 2, 3, or 4  
19 divorces his or her designated beneficiary, the member may  
20 designate a replacement beneficiary for the beneficiary to  
21 become effective two years after the date of designation of  
22 the replacement beneficiary and an actuarial adjustment in the  
23 monthly benefit allowance of the member to cover any cost  
24 associated with designating a replacement beneficiary shall be  
25 reflected thereafter in the monthly benefit allowance received  
26 by the member, commencing with the first benefit allowance

1 check received by the member following the date of designation  
2 of the replacement beneficiary.

3 "(i) Any future act to increase the retirement age  
4 for Tier II plan members above the age of 62 shall require a  
5 two-thirds vote of the elected membership of each house of the  
6 Legislature.

7 "§36-27-24.

8 "(a) Effective October 1, 1997, all the assets of  
9 the retirement system shall be credited according to the  
10 purpose for which they are held among three funds, namely, the  
11 Annuity Savings Fund, the Pension Accumulation Fund, and the  
12 Expense Fund. The operation of the former Pension Reserve Fund  
13 and the Annuity Reserve Fund shall be discontinued as of such  
14 date and the balance of the former Pension Reserve Fund shall  
15 be transferred to the Pension Accumulation Fund, and the  
16 balance of the former Annuity Reserve Fund shall be  
17 transferred to the Pension Accumulation Fund.

18 "(b) Annuity Savings Fund. The Annuity Savings Fund  
19 shall be a fund in which shall be accumulated contributions  
20 from the compensation of members to provide for their  
21 annuities.

22 "Contributions to and payments from the Annuity  
23 Savings Fund shall be made as follows: Effective October 1,  
24 1971, each employer shall cause to be deducted from the salary  
25 of each member on each and every payroll of such employer for  
26 each and every payroll period five percent of his or her  
27 earnable compensation; except, that in the case of a state

1 policeman, the rate of 10 percent of earnable compensation  
2 shall apply, and in computing all retirement benefits it shall  
3 be assumed that a seven percent rate of contribution had  
4 applied with respect to service as a state policeman prior to  
5 July 1, 1957. For all pay dates beginning on or after October  
6 1, 2011, each employer, except those employers participating  
7 pursuant to Section 36-27-6, shall cause to be deducted from  
8 the salary of each member on each and every payroll of such  
9 employer for each and every payroll period seven and  
10 one-quarter percent (7.25%) of his or her earnable  
11 compensation; except, that in the case of a state policeman,  
12 the rate of ten percent (10%) of earnable compensation shall  
13 apply. For all pay dates beginning on or after October 1,  
14 2012, each employer, except those employers participating  
15 pursuant to Section 36-27-6, shall cause to be deducted from  
16 the salary of each Tier I plan member on each and every  
17 payroll of such employer for each and every payroll period  
18 seven and one-half percent (7.5%) of his or her earnable  
19 compensation; except, that in the case of a state policeman,  
20 the rate of ten percent (10%) of earnable compensation shall  
21 apply. For all pay dates beginning on or after January 1,  
22 2013, each employer shall cause to be deducted from the salary  
23 of each Tier II plan member on each and every payroll period  
24 six percent (6%) of his or her earnable compensation; except  
25 that in the case of a state policeman, the rate of ten percent  
26 (10%) shall apply and in the case of a correctional officer,  
27 firefighter, or law enforcement officer as defined in Section

1 36-27-59, the rate of seven percent (7%) shall apply. For all  
2 pay dates beginning on or after October 1, 2020, each employer  
3 shall cause to be deducted from the salary of each Tier III  
4 plan member on each and every payroll period seven and  
5 one-half percent (7.5%) of his or her earnable compensation;  
6 except in the case of a Tier III plan member who is a  
7 correctional officer, firefighter, or law enforcement officer  
8 as defined in Section 36-27-59, the rate of seven and  
9 three-quarters percent (7.75%) shall apply. Any employer  
10 participating under Section 36-27-6, by adoption of a  
11 resolution, may elect for the increases in employee  
12 contributions provided by Act 2011-676 to be withheld from the  
13 earnable compensation of employees of the employer. In  
14 determining the amount earnable by a member in a payroll  
15 period, the Board of Control may consider the rate of annual  
16 compensation payable to such member on the first day of the  
17 payroll period as continuing through such payroll period, and  
18 it may omit deductions from compensation for any period less  
19 than a full payroll period if an employee was not a member on  
20 the first day of the payroll period, and, to facilitate the  
21 making of deductions, it may modify the deductions required of  
22 any member by such an amount as shall not exceed one tenth of  
23 one percent of the annual compensation upon the basis of which  
24 such deductions are made.

25 "The deductions provided for in this subsection  
26 shall be made notwithstanding that the minimum compensation  
27 provided for by law for any member shall be reduced thereby.

1 Every member shall be deemed to consent and agree to the  
2 deduction made and provided for in this subsection and shall  
3 receipt for his or her full salary or compensation and payment  
4 of salary or compensation less such deductions shall be a full  
5 and complete discharge and acquittance of all claims and  
6 demands whatsoever for the services rendered by such person  
7 during the period covered by such payment, except as to the  
8 benefits provided under this article. The employer shall  
9 certify to the Board of Control in each and every payroll or  
10 in such other manner as the board may prescribe the amounts to  
11 be deducted, and each of the amounts shall be deducted and,  
12 when deducted, shall be paid into the Annuity Savings Fund and  
13 shall be credited, together with regular interest thereon, to  
14 the individual account of the member from whose compensation  
15 the deduction was made.

16 "In addition to the contributions deducted from  
17 compensation as provided in this subsection, subject to the  
18 approval of the Board of Control, any member may deposit in  
19 the Annuity Savings Fund by a single payment or by an  
20 increased rate of contribution an amount computed to be  
21 sufficient to purchase an additional annuity which, together  
22 with his or her prospective retirement allowance, will provide  
23 for him or her a total retirement allowance not to exceed one  
24 half of his or her average final compensation at age 60. Such  
25 additional amounts so deposited shall become a part of his or  
26 her accumulated contributions, except in the case of  
27 retirement, when they shall be treated as excess contributions

1 returnable to the member in cash or as an annuity of  
2 equivalent actuarial value and shall not be considered in  
3 computing his or her pension.

4 "The contributions and interest credits of a member  
5 withdrawn by him or her or paid to his or her estate or to his  
6 or her designated beneficiary in event of his or her death  
7 shall be paid from the Annuity Savings Fund. Should a member  
8 cease to be a member other than by retirement under the  
9 provisions of this article, an amount equivalent to the  
10 difference, if any, between his or her accumulated  
11 contributions and the amount then paid shall be transferred to  
12 the Expense Fund. Upon the retirement of a member or the death  
13 of an eligible member where an allowance to a surviving spouse  
14 or other designated beneficiary is payable, his or her  
15 accumulated contributions shall be transferred from the  
16 Annuity Savings Fund to the Pension Accumulation Fund.

17 "Notwithstanding the preceding provisions, no  
18 deductions shall be made from any member's salary on account  
19 of which the employer's contributions are in default.

20 "The State Personnel Board, with the approval of the  
21 Governor, may provide that the state shall pick up member  
22 contributions to the Employees' Retirement System of Alabama  
23 as required by this subsection on behalf of all state  
24 employees who participate in the Employees' Retirement System  
25 by a corresponding reduction in the salary of the member, such  
26 pick-up to be mandatory for all such employees, and the  
27 contributions so picked up shall be treated as employer

1 contributions in determining tax treatment under the Internal  
2 Revenue Code. These contributions shall be paid from the same  
3 source of funds which is used in paying earnings to the  
4 employee. If employee contributions are so picked up they  
5 shall be treated for all other purposes of state law in the  
6 same manner and to the same extent as employee contributions  
7 made prior to the date picked up.

8 "(c) Pension Accumulation Fund. The Pension  
9 Accumulation Fund shall be the fund in which shall be  
10 accumulated all reserves other than the amounts held in the  
11 Annuity Savings Fund for the payment of all pensions, all  
12 allowances granted to surviving spouses or other designated  
13 beneficiaries and other benefits payable from contributions  
14 made by the employer and from which shall be paid all  
15 pensions, all allowances granted to surviving spouses or other  
16 designated beneficiaries and other benefits on account of  
17 members with prior service credit.

18 "Contributions to and payments from the Pension  
19 Accumulation Fund shall be made as follows: On account of each  
20 member there shall be paid monthly by the employer an amount  
21 equal to a certain percentage of the earnable compensation of  
22 each member to be known as the "normal contribution" and an  
23 additional amount equal to a percentage of his or her earnable  
24 compensation to be known as the "accrued liability  
25 contribution," and these two amounts shall be paid monthly  
26 into the Pension Accumulation Fund; provided, that in the case  
27 of a state policeman, such percentage rates of contributions

1 shall be calculated separately. The percentage rate of such  
2 contributions shall be fixed for each fiscal year on the basis  
3 of the liabilities of the retirement system as shown by the  
4 last annual actuarial valuation, and such percentage rate as  
5 established by such valuation shall take effect the following  
6 October 1 and continue in effect for the fiscal year.

7 "On the basis of regular interest and of such  
8 mortality and other tables as shall be adopted by the Board of  
9 Control, the actuary engaged by the board to make such  
10 valuation required by this article during the period over  
11 which the accrued liability contribution is payable shall,  
12 immediately after making such valuation, determine the uniform  
13 and constant percentage of the earnable compensation of the  
14 average new entrant which, if contributed on the basis of his  
15 or her compensation throughout his or her entire period of  
16 active service, would be sufficient to provide for the payment  
17 of any pension payable on his or her account. The percentage  
18 rate so determined shall be known as the "normal contribution"  
19 rate. The normal rate of contributions shall be determined by  
20 the actuary after each valuation.

21 "The accrued liability contribution rate shall be  
22 computed by the actuary on the basis of each valuation as the  
23 percentage rate of the total annual compensation of all  
24 members which is sufficient to liquidate the accrued liability  
25 over a period to be determined by the Board of Control which  
26 shall be not less than 10 nor more than 30 years.

1           "The unfunded accrued liability shall be computed by  
2 the actuary as the total liabilities of the system which are  
3 not dischargeable by the assets of the Annuity Savings Fund  
4 and the Pension Accumulation Fund and the present value of the  
5 aforesaid normal contributions.

6           "For purposes of computing the unfunded accrued  
7 liability the assets shall be determined as follows:

8           "On September 30, 1997, the assets shall be  
9 determined by using the market value of such assets. For  
10 subsequent years the value of the assets shall be determined  
11 by the system's actuary using a five year smoothed market  
12 value.

13           "The total amount payable in each year to the  
14 Pension Accumulation Fund shall be not less than the sum of  
15 the percentage rates known as the normal contribution rate and  
16 the accrued liability contribution rate of the total  
17 compensation earnable by all members during the preceding  
18 year.

19           "All interest and dividends earned on the funds of  
20 the retirement system shall be credited to the Pension  
21 Accumulation Fund. The amounts needed to allow a regular  
22 interest on the reserves in the Annuity Savings Fund shall be  
23 transferred in accordance with this article from the Pension  
24 Accumulation Fund. The Board of Control, in its discretion,  
25 may transfer to and from the Pension Accumulation Fund the  
26 amounts of any surplus or deficit which may develop in the  
27 Annuity Savings Fund, or the Expense Fund.

1           "Upon the death of a member on account of whom no  
2 survivor allowance is payable under subdivisions (2) and (3)  
3 of subsection (c) of Section 36-27-16, the death benefit as  
4 provided in subdivision (4) of subsection (c) of Section  
5 36-27-16 equal to the accumulated contributions, not to exceed  
6 \$5,000.00, shall be payable from the Pension Accumulation  
7 Fund.

8           "(d) Expense Fund. The Expense Fund shall be the  
9 fund from which the expenses of the administration of the  
10 retirement system shall be paid, exclusive of amounts payable  
11 as retirement allowances and as other benefits provided in  
12 this chapter. In addition thereto and on account of each  
13 member of the retirement system, there shall be paid monthly  
14 by the employer an amount equal to a certain percentage of the  
15 earnable compensation of each member for the administrative  
16 expenses of the retirement system. The percentage rate of such  
17 contribution shall be fixed by the Board of Control on the  
18 basis of the cost exclusive of that provided by interest not  
19 returnable. Any amounts credited to the accounts of the  
20 members withdrawing before retirement and not returnable under  
21 the provisions of subsection (c) of Section 36-27-16 shall be  
22 credited to the Expense Fund.

23           "(e) Employer's contributions. For each biennium  
24 beginning October 1, 1965, each employer shall pay to the  
25 retirement system the rates provided in this section and  
26 thereafter, at least 30 days preceding October 1 of each  
27 fiscal year, the Board of Control shall certify to the chief

1 fiscal officer of each employer the percentage rates of  
2 earnable compensation of the members required to be paid to  
3 the retirement system in accordance with subsections (c) and  
4 (d) of this section.

5 "The employer's contribution on account of the  
6 membership of employees whose salaries are paid in whole or in  
7 part from funds derived from federal grants shall be paid from  
8 funds derived from the federal grants in accordance with  
9 statutes governing the administration of the grants and in  
10 proportion to salaries paid therefrom. At such time and in  
11 such manner as may be required, the Board of Control shall  
12 certify to each department of state receiving a federal grant  
13 the amount due and payable from the grant as the employer's  
14 contribution to the retirement system on account of the  
15 membership of the department whose salaries are paid in whole  
16 or in part from funds derived from such federal grants. The  
17 fiscal agent of the department shall authorize the state  
18 Comptroller to draw a warrant or warrants in payment of the  
19 amount certified as due and payable from federal grants.

20 "(f) Appropriations. There is hereby appropriated  
21 annually from the fund from which salaries of the employees of  
22 each employer are paid the amounts sufficient to carry out the  
23 provisions of this section. In the case of those departments  
24 supported wholly by transfers from other state funds, there is  
25 hereby appropriated from the supporting funds such additional  
26 amounts as may be necessary to pay the employer contribution  
27 of each department so supported in the same proportion as the

1 other state funds contribute to the support and maintenance of  
2 such department.

3 "(g) Employer cost provided for in this article  
4 together with member contributions required under this article  
5 shall be paid to the Employees' Retirement System on the first  
6 day of the month following the month in which the related  
7 member salary is earned. Delinquent accounts shall accrue  
8 interest at the actuarial assumed investment rate beginning 30  
9 days after the original due date. The member contributions for  
10 each member shall be reported to the Employees' Retirement  
11 System in a format prescribed by the Employees' Retirement  
12 System.

13 "§36-27-59.

14 "(a) When used in this section, the following terms  
15 shall have the following meanings, unless the context clearly  
16 indicates otherwise:

17 "(1) CORRECTIONAL OFFICER. A full-time correctional  
18 officer who is certified as a correctional officer by the  
19 Alabama Peace Officers' Standards and Training Commission.

20 "(2) FIREFIGHTER. A full-time firefighter employed  
21 with the State of Alabama, a municipal fire department, or a  
22 fire district who has a level one minimum standard  
23 certification by the Firefighters Personnel Standards and  
24 Education Commission, or a firefighter employed by the Alabama  
25 Forestry Commission who has been certified by the State  
26 Forester as having met the wild land firefighter training  
27 standard of the National Wildfire Coordinating Group.

1           "(3) LAW ENFORCEMENT OFFICER. A full-time law  
2 enforcement officer, not covered as a state policeman,  
3 employed with any state agency, department, board, commission,  
4 or institution or a full-time law enforcement officer employed  
5 by a local unit of the Employees' Retirement System under  
6 Section 36-27-6 who is certified as a law enforcement officer  
7 by the Alabama Peace Officers' Standards and Training  
8 Commission.

9           "(b) (1) Any firefighter, law enforcement officer, or  
10 correctional officer covered under the Employees' Retirement  
11 System or the Teachers' Retirement System as a Tier I plan  
12 member, upon attainment of the requisite years of creditable  
13 service or who otherwise qualifies for service or disability  
14 retirement, shall be awarded one year of hazardous duty time  
15 for every five years of service as a firefighter, a law  
16 enforcement officer, or a correctional officer provided that  
17 the person has made the additional contribution provided in  
18 subdivision (2) or paid the additional contribution required  
19 in subsection (c) for each year of service used in determining  
20 hazardous duty time for the person. Proportional credit shall  
21 be awarded for any period of service less than five years.

22           "(2) Effective January 1, 2001, and each pay period  
23 thereafter, each active employee who is a firefighter, law  
24 enforcement officer, or correctional officer, as defined in  
25 subsection (a), shall contribute to the Teachers' or  
26 Employees' Retirement System of Alabama six percent of his or  
27 her earnable compensation. For all pay dates beginning on or

1 after October 1, 2011, each active employee who is a  
2 firefighter, law enforcement officer, or correctional officer,  
3 as defined in subsection (a), except those employees  
4 participating pursuant to Section 36-27-6, shall contribute to  
5 the Teachers' or Employees' Retirement System of Alabama eight  
6 and one-quarter percent (8.25%) of his or her earnable  
7 compensation. For all pay dates beginning on or after October  
8 1, 2012, each active employee who is a Tier I plan member and  
9 who is a firefighter, law enforcement officer, or correctional  
10 officer, as defined in subsection (a), except those employees  
11 participating pursuant to Section 36-27-6, shall contribute to  
12 the Teachers' or Employees' Retirement System of Alabama eight  
13 and one-half percent (8.5%) of his or her earnable  
14 compensation. Any employer participating under Section  
15 36-27-6, by adoption of a resolution, may elect for the  
16 increases in employee contributions provided by Act 2011-676  
17 to be withheld from the earnable compensation of employees of  
18 the employer.

19 "(c) Any member of the Employees' Retirement System  
20 or the Teachers' Retirement System eligible under subsection  
21 (b) may receive credit for his or her eligible prior service  
22 provided the member pays to the Secretary-Treasurer of the  
23 Employees' Retirement System or the Secretary-Treasurer of the  
24 Teachers' Retirement System one percent of his or her current  
25 annual earnable compensation or previous year's annual  
26 earnable compensation, whichever is higher, for each year of  
27 claimed credit within two years of January 1, 2001, except

1 that any firefighter employed by the Alabama Forestry  
2 Commission shall make such payment within two years of  
3 December 28, 2001. Any member participating in the Employees'  
4 Retirement System under Section 36-27-6, who has eligible  
5 prior service under this section and who also had no prior  
6 eligibility to purchase prior service credit under this  
7 subsection, may purchase prior service credit under this  
8 section at the same rate provided in subsection (b) within one  
9 year of the effective date of his or her enrollment with the  
10 Employees' Retirement System or within one year of August 1,  
11 2004. The member may purchase his or her claimed credit in  
12 increments of five years, unless the total service credit is  
13 less than five years, in which case the service shall be  
14 purchased in its entirety. The member shall provide  
15 certification from each employing agency, on forms prescribed  
16 by the Teachers' or Employees' Retirement System, of each year  
17 of claimed service, as a prerequisite to payment under this  
18 section.

19 "(d) The provisions of this section shall not apply  
20 to any Tier II or Tier III plan member."

21 Section 2. This act shall become effective  
22 immediately following its passage and approval by the  
23 Governor, or its otherwise becoming law.