

1 SB388  
2 136023-8  
3 By Senators Orr, Pittman, Allen, Waggoner, Blackwell, Taylor,  
4 Brewbaker and Marsh  
5 RFD: Finance and Taxation General Fund  
6 First Read: 08-MAR-12

1 SB388

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3  
4 ENROLLED, An Act,

5 To amend Sections 16-25-1, 16-25-3, 16-25-11.1,  
6 16-25-14, 16-25-21, 36-26-36.1, 36-27-1, 36-27-4, 36-27-16,  
7 36-27-24 and 36-27-59, Code of Alabama 1975, relating to  
8 retirement benefits for employees who are members of the  
9 Teachers' Retirement System or the Employees' Retirement  
10 System, to establish a new defined benefit retirement plan for  
11 employees who first become a member of either system on or  
12 after January 1, 2013; to require those employees to pay a  
13 percentage of their salary into the new plan; to establish  
14 minimum age and service requirements in order for those  
15 employees to retire under the new plan; and to provide for the  
16 administration of the new plan by the Retirement Systems of  
17 Alabama.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 16-25-1, 16-25-3, 16-25-11.1,  
20 16-25-14, 16-25-21, 36-26-36.1, 36-27-1, 36-27-4, 36-27-16,  
21 36-27-24 and 36-27-59, Code of Alabama 1975, are amended to  
22 read as follows:

23 "§16-25-1.

1           "For the purposes of this chapter the following  
2 terms, unless a different meaning is plainly required by the  
3 context, shall have the following respective meanings:

4           "(1) RETIREMENT SYSTEM. The Teachers' Retirement  
5 System of Alabama as defined in Section 16-25-2.

6           "(2) PUBLIC SCHOOL. Any day school conducted within  
7 the state under the authority and supervision of a duly  
8 elected or appointed county or city board of education and any  
9 educational institution supported by and under the control of  
10 the state or any private nondenominational school operated  
11 nonprofit for the education of children of school age residing  
12 within a district where no public school is available for the  
13 children.

14           "(3) TEACHER. Any teacher, principal,  
15 superintendent, supervisor, college professor, administrative  
16 officer, or clerk employed in any public school or public  
17 college within the state or employed in any private  
18 nondenominational school operated nonprofit for the education  
19 of children of school age residing within a district where no  
20 public school is available for the children or any similar  
21 employee or officer of the Department of Education or of the  
22 Alabama Education Association, or any attendance worker 50  
23 percent or more of whose salary is paid from public school  
24 funds or any employee receiving a regular stated compensation  
25 from the retirement system. In all cases of doubt, the Board

1 of Control shall determine whether any person is a teacher as  
2 defined in this chapter.

3 "(4) SUPPORT PERSONNEL or EMPLOYEE. Any maid,  
4 custodian, adult bus driver, lunchroom, or cafeteria worker,  
5 secretary, clerk, clerical assistant, maintenance worker, or  
6 other non-certificated employee who works an average of 20  
7 hours weekly.

8 "(5) EMPLOYER. The State of Alabama, the county  
9 school board, the city school board, the State Board of  
10 Education, or any governing body of any private  
11 nondenominational school operated nonprofit for education of  
12 children of school age residing within a district where no  
13 public school is available for the children or any other  
14 agency of and within the state by which a teacher is paid.

15 "(6) MEMBER. Any teacher included in the membership  
16 of the system as provided in Section 16-25-3.

17 "(7) BOARD OF CONTROL. The board provided for in  
18 Section 16-25-19 to administer the retirement system.

19 "(8) MEDICAL BOARD. The board of physicians provided  
20 for in Section 16-25-19.

21 "(9) TRUSTEES. The members of the Board of Control  
22 to administer the trust funds.

23 "(10) SERVICE. Service as a teacher.

1           "(11) PRIOR SERVICE. Service rendered prior to the  
2 date of establishment of the retirement system for which  
3 credit is allowable under Section 16-25-11.

4           "(12) MEMBERSHIP SERVICE. Service as a teacher  
5 rendered while a member of the retirement system and on  
6 account of which contributions are made.

7           "(13) CREDITABLE SERVICE. "Prior service" plus  
8 "membership service" rendered since last becoming a member.

9           "(14) BENEFICIARY. Any person in receipt of a  
10 pension, an annuity, a retirement allowance, or other benefit  
11 as provided by this chapter.

12           "(15) REGULAR INTEREST. Interest compounded annually  
13 at the rate determined by the Board of Control in accordance  
14 with subsection (b) of Section 16-25-20.

15           "(16) ACCUMULATED CONTRIBUTIONS. The sum of all the  
16 amounts deducted from the compensation of a member and  
17 credited to his or her individual account in the annuity  
18 savings fund together with regular interest thereon as  
19 provided in Section 16-25-21.

20           "(17) EARNABLE COMPENSATION. The full rate of the  
21 compensation that would be payable to a teacher if he or she  
22 worked the full normal working time. In cases where  
23 compensation includes maintenance, the Board of Control shall  
24 fix the value of that part of the compensation not paid in  
25 money. Earnable compensation shall not exceed the limitations

1 imposed by Section 401(a)(17) of the Internal Revenue Code for  
2 public pension funds except that any employee who was a member  
3 of the Teachers' Retirement System before the first plan year  
4 beginning after December 31, 1995, shall not be subject to the  
5 earning limitations set forth in Section 401(a)(17). For Tier  
6 II plan members, earnable compensation shall include overtime  
7 payments that are made to the member but shall not include  
8 subsistence payments that are made to the member and shall not  
9 exceed one hundred twenty-five percent (125%) of the member's  
10 annual base compensation, as certified by the employer.

11 "(18) AVERAGE FINAL COMPENSATION. For any Tier I  
12 Plan member, the average annual compensation of a teacher,  
13 with respect to which he or she has made contributions  
14 pursuant to paragraph b of subdivision (1) of Section 16-25-21  
15 during the three years in his or her last 10 years of  
16 creditable service for which the average is highest or during  
17 his or her entire period of creditable service if less than  
18 three years; except, that for any period prior to October 1,  
19 1959, the compensation used in computing the average shall  
20 include compensation in excess of the maximum amount with  
21 respect to which members were required to contribute. For any  
22 Tier II Plan member, the average annual compensation of the  
23 member, with respect to which he or she has made contributions  
24 pursuant to paragraph b of subdivision (1) of Section 16-25-21  
25 during the five years in his or her last ten years of

1       creditable service for which the average is highest or during  
2       his entire period of creditable service if less than five  
3       years.

4               "(19) ANNUITY. Payments for life derived from the  
5       "accumulated contributions" of a member. All annuities shall  
6       be payable in equal monthly installments.

7               "(20) PENSION. Payments for life derived from money  
8       provided by the employer. All pensions shall be payable in  
9       equal monthly installments.

10              "(21) RETIREMENT ALLOWANCE. The sum of the "annuity"  
11       and the "pension."

12              "(22) RETIREMENT. Withdrawal from active service  
13       with a retirement allowance or optional benefit in lieu  
14       thereof granted under this chapter.

15              "(23) ANNUITY RESERVE. The present value of all  
16       payments to be made on account of any annuity or benefit in  
17       lieu of any annuity, computed upon the basis of the mortality  
18       tables as shall be adopted by the Board of Control, and  
19       regular interest.

20              "(24) PENSION RESERVE. The present value of all  
21       payments to be made on account of any pension or benefit in  
22       lieu of any pension, computed upon the basis of the mortality  
23       tables as shall be adopted by the Board of Control, and  
24       regular interest.

1           "(25) ACTUARIAL EQUIVALENT. A benefit of equal  
2 value, when computed upon the basis of the mortality tables as  
3 shall be adopted by the Board of Control, and regular  
4 interest.

5           "(26) NORMAL CONTRIBUTION. The contributions of the  
6 state necessary to provide a pension equal to the annuity  
7 which the member's contribution made prior to age 65 with  
8 interest will provide at age of retirement not to exceed 65.

9           "(27) TIER I PLAN. The defined benefit pension plan  
10 provided by the Retirement System to Tier I plan members.

11           "(28) TIER II PLAN. The defined benefit pension plan  
12 provided by the Retirement System to Tier II plan members.

13           "(29) TIER I PLAN MEMBER. Any member of the  
14 Retirement System who had service for which he or she received  
15 credit in the Teachers' Retirement System or in the Employees'  
16 Retirement System prior to the effective date of this act.

17           "(30) TIER II PLAN MEMBER. Any member of the  
18 Retirement System who first began eligible employment with a  
19 Teachers' Retirement System or an Employees' Retirement System  
20 participating employer on or after the effective date of this  
21 act and who had no eligible service in the Teachers'  
22 Retirement System or the Employees' Retirement System prior to  
23 the effective date of this act.

24           "§16-25-3.



1           "(a) The membership of the retirement system shall  
2 consist of the following: All persons who shall become  
3 teachers after the date of establishment shall become members  
4 of the retirement system as a condition of their employment.  
5 Any person who is a teacher on the date of establishment shall  
6 become a member as of that date unless within a period of 90  
7 days next following such teacher shall file with the Board of  
8 Control on a form prescribed by the board a notice of his  
9 election not to be covered in the membership of the system and  
10 a duly executed waiver of all present and prospective benefits  
11 which would otherwise inure to him on account of his  
12 participation in the retirement system.

13           "(b) A teacher in service on October 1, 1973, whose  
14 membership in the retirement system was contingent on his own  
15 election and who elected not to become a member may thereafter  
16 apply for and be admitted to membership with all prior service  
17 credit and with all membership service credit as otherwise  
18 provided for in this chapter by applying for such membership  
19 within 150 days from September 17, 1973; provided, that said  
20 teacher pays to the treasurer of the said retirement system on  
21 or before October 1, 1974, a sum equal to the total  
22 contributions which he would have made as a member during the  
23 period of his employment as a teacher from September 1, 1941  
24 to the date of his application for membership, plus compound  
25 interest of eight percent on such contributions. Any member or

1 any retired member who at one time taught as a nonmember may  
2 now receive credit for prior service and for the years taught  
3 as a nonmember; provided, that said member or said retired  
4 member, within 150 days from September 17, 1973, pays to the  
5 treasurer of the said retirement system a sum equal to the  
6 total contributions which he would have made as a member  
7 during the period of his employment as a teacher from  
8 September 1, 1941 to the date he became a member, plus  
9 compound interest of eight percent on such contributions. As  
10 soon as practicable after the expiration of the time for  
11 making such elections, the Department of Education, at the  
12 request of the Governor, shall furnish him a report of the  
13 number of teachers in service who applied for membership or  
14 credit for prior service. The Board of Control of the  
15 Teachers' Retirement System shall determine and report to the  
16 Governor the employer cost for such coverage.

17 "(c) The Board of Control may, in its discretion,  
18 deny the right to become members to any class of teachers  
19 whose compensation is only partly paid by the state or who are  
20 serving on a temporary or other than per annum basis, and it  
21 also may, in its discretion, make optional with members in any  
22 such class their individual entrance into the retirement  
23 system. Should any member in any period of six consecutive  
24 years after becoming a member be absent from service more than  
25 five years or withdraw his contributions, as provided in

1 subsection (g) of Section 16-25-14, or retire or die, he shall  
2 thereupon cease to be a member.

3 "(d) Notwithstanding, a teacher in service on  
4 October 1, 1975, who has full-time military service in the  
5 armed forces of the United States, exclusive of service in a  
6 reserve or national guard component of any branch of the armed  
7 forces, and who has not received credit toward retirement  
8 status in the Teachers' Retirement System of Alabama for said  
9 military service, may be granted by the Board of Control  
10 membership service credit for the period of such service in  
11 the armed forces; provided, that such member pays into the  
12 Teachers' Retirement System, in a lump sum prior to October 1,  
13 1976, an amount equal to four percent of the average  
14 compensation paid to a teacher during each claimed year of  
15 full-time military service, plus and together therewith, eight  
16 percent interest compounded from the last date of such claimed  
17 military service; provided further, that such a member shall  
18 not receive membership service credit for more than four years  
19 of military service and shall receive no credit for military  
20 service if such member is receiving military service  
21 retirement benefits, other than disability allowances or  
22 benefits, from any branch of the United States armed forces or  
23 by reason of any such service in any branch of the armed  
24 forces or if such member received anything other than an

1 honorable discharge for and including the claimed military  
2 service.

3 "(e) Anything in this chapter to the contrary  
4 notwithstanding, if any person becoming a member of the  
5 Teachers' Retirement System after October 1, 1975 shall have  
6 served in the armed forces of the United States, exclusive of  
7 service in a reserve or national guard component of any branch  
8 of the armed forces, such member may be granted by the Board  
9 of Control membership service credit for such period of  
10 service in the armed forces; provided, that such member pays  
11 into the Teachers' Retirement System, in a lump sum within one  
12 year next after the first day of the pay period in which the  
13 first deduction to the Teachers' Retirement System is made,  
14 after having been honorably discharged from the armed forces,  
15 an amount equal to four percent of the average compensation  
16 paid to a teacher during each claimed year of full-time  
17 military service, plus and together therewith, eight percent  
18 interest compounded from the last date of such claimed  
19 military service; provided further, that no member shall  
20 receive more than four years' membership service credit for  
21 military service, and no credit for military service shall be  
22 granted if such member is receiving military service  
23 retirement benefits, other than disability allowances or  
24 benefits, from any branch of the United States armed forces or  
25 by reason of any service in any branch of the armed forces or

1 if such member received anything other than an honorable  
2 discharge for and including the claimed military service.

3 " (f) Anything in this title to the contrary  
4 notwithstanding, any member who, at the time of his withdrawal  
5 from service, has completed the age and service requirements  
6 established by the Board of Control for eligibility for  
7 deferred benefits shall be eligible to continue in the  
8 membership of the system until he files application for  
9 service retirement in accordance with the provisions of  
10 Section 16-25-14. The Board of Control shall, from time to  
11 time, establish the minimum age and the minimum number of  
12 years of creditable service which shall be required in order  
13 that a member may be eligible for deferred benefits; provided,  
14 that such minimum number of years of creditable service shall  
15 not be less than 10 years nor more than 25 years.

16 "§16-25-11.1.

17 "(a) Teachers, as defined in subdivision (3) of  
18 Section 16-25-1 or subsection (d) of Section 16-25-5, as  
19 amended may use their accrued sick leave, up to a maximum  
20 number of accrued sick leave days allowed by law, to be  
21 included as membership service in determining the total years  
22 of creditable service in the Teachers' Retirement System of  
23 Alabama; provided, any teacher not authorized by law to  
24 receive sick leave may use any accrued sick leave provided by  
25 his or her employer, provided, that employer is lawfully

1 empowered to grant such leave, which cannot be without pay;  
2 and provided further that the amount of such accrued leave  
3 shall not exceed the maximum number of accrued sick leave days  
4 allowed by law for a classroom teacher employed by a city or  
5 county board of education. Unused sick leave may be converted  
6 to membership service only for the purpose of applying for  
7 service retirement. Said conversion shall not apply to  
8 eligibility for deferred retirement; provided that a person  
9 eligible for service retirement, if also eligible for  
10 disability retirement, may elect disability retirement and  
11 also receive credit for accumulated sick leave pursuant to  
12 this section. This section shall not be applicable to any  
13 person who is eligible to receive partial payment for accrued  
14 sick leave pursuant to Section 36-26-36.

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

18 "§16-25-14.

19 "(a) (1) Any Tier I plan member who withdraws from  
20 service upon or after attainment of age 60 and any Tier II  
21 plan member who withdraws from service upon or after  
22 attainment of age 62, or in the case of a Tier II plan member  
23 who is a correctional officer, firefighter, or law enforcement  
24 officer as defined in Section 36-27-59, who withdraws from  
25 service upon or after attainment of age 56 with at least ten

1 years of creditable service as a correctional officer,  
2 firefighter or law enforcement officer may retire upon written  
3 application to the Board of Control setting forth at what  
4 time, not less than 30 days nor more than 90 days subsequent  
5 to the execution and filing thereof, he desires to be retired;  
6 provided, that any such member who became a member on or after  
7 October 1, 1963, shall have completed 10 or more years of  
8 creditable service.

9 "(2) Any Tier I plan member who has attained age 60  
10 and any Tier II plan member who has attained age 62, or in the  
11 case of a Tier II plan member who is a correctional officer,  
12 firefighter, or law enforcement officer as defined in Section  
13 36-27-59, who has attained age 56 with at least ten years of  
14 creditable service as a correctional officer, firefighter or  
15 law enforcement officer and has previously withdrawn from  
16 service may retire upon written application to the Board of  
17 Control setting forth at what time, not less than 30 days nor  
18 more than 90 days subsequent to the execution and filing  
19 thereof, he desires to be retired; provided, that the said  
20 member shall have completed at the time for his withdrawal  
21 from service the requirements established by the Board of  
22 Control for eligibility for deferred benefits pursuant to  
23 Section 16-25-3.

24 "(3) Any person who is presently covered or is  
25 eligible to be covered under the Employees' Retirement System

1 of Alabama or the Teachers' Retirement System of Alabama and  
2 who, prior to such coverage or eligibility for coverage,  
3 served as head of any Alabama county's public library service  
4 department shall have credited to him or her one year of  
5 creditable service for each year served as such head, not to  
6 exceed 12 years; provided, that such person shall pay into the  
7 retirement system the employee's part of the cost or  
8 contribution based on the salary paid to such person during  
9 the time of his or her service in the above capacity, with  
10 such cost or contribution to be calculated at the percent or  
11 rate in effect on October 1, 1973.

12 "(4) Any Tier I plan member of the Teachers'  
13 Retirement System of Alabama, who withdraws from service after  
14 the completion of at least 25 years of creditable service, may  
15 retire upon written application to the Board of Control of the  
16 Teachers' Retirement System setting forth at what time, not  
17 less than 30 days nor more than 90 days subsequent to the  
18 execution and filing thereof, he desires to be retired;  
19 provided, that any such member who became a Tier I plan member  
20 on or after October 1, 1963 shall have completed 10 or more  
21 years of creditable service.

22 "(b) Upon retirement from service, a Tier I plan  
23 member shall receive a service retirement allowance which  
24 shall consist of:



1           "(1) An annuity which shall be the actuarial  
2 equivalent of his accumulated contributions at the time of his  
3 retirement;

4           "(2) A pension which shall be equal to the annuity  
5 allowable at the age of retirement, but not to exceed an  
6 annuity allowable at age 65 computed on the basis of  
7 contributions made prior to the attainment of age 65; and

8           "(3) If he has a prior service certificate in full  
9 force and effect, an additional pension which shall be equal  
10 to the annuity which would have been provided at age of  
11 retirement, but not to exceed an annuity allowable at age 65  
12 by twice the contributions which he would have made during the  
13 period of prior service with which he is credited had the  
14 system been in operation and had he contributed thereunder. In  
15 lieu of a determination of the actual compensation of the  
16 members that was received during such prior service, the Board  
17 of Control may use for the purposes of this chapter the  
18 compensation rates which, if they had progressed with the  
19 rates of salary increase shown in the tables as prescribed in  
20 subsection (o) of Section 16-25-19, would have resulted in the  
21 same average salary of the member for the five years  
22 immediately preceding the date of establishment as the records  
23 show the member actually received.

24           "(c) The annual service retirement pension payable  
25 to a Tier I plan member retiring on or after October 1, 1975,

1 shall not be less than an amount which when added to his  
2 annuity is equal to the greater of the following two amounts:

3 "(1) Two and one-eightieth percent of the member's  
4 average final compensation multiplied by the number of years  
5 of his creditable service; or

6 "(2) If he became a member before October 1, 1971,  
7 \$72 multiplied by the number of years of his creditable  
8 service not in excess of 25 years.

9 "Notwithstanding, a member who retired prior to  
10 October 1, 1971, under service retirement shall receive \$120  
11 multiplied by the number of years of his creditable service  
12 not in excess of 25 years.

13 "(d) Upon retirement from service, a Tier II plan  
14 member shall receive a service retirement allowance which  
15 shall consist of an annuity which shall be the actuarial  
16 equivalent of the member's accumulated contributions at the  
17 time of retirement and a pension which, when added to the  
18 member's annuity, shall be equal to one and sixty-five  
19 hundredths percent (1.65%) of the member's average final  
20 compensation multiplied by the number of years of creditable  
21 service. Notwithstanding the foregoing, the service retirement  
22 allowance shall not exceed eighty percent (80%) of the  
23 member's average final compensation.

24 "(e) Upon the application of a Tier I plan member in  
25 service or of his employer, any member who has had 10 or more

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

19 "(f) Upon retirement for disability, a Tier I plan  
20 member shall receive a service retirement allowance if he has  
21 attained age 60 or if any law or part of any law pertaining to  
22 retirement under the Teachers' Retirement System of Alabama  
23 provides for service retirement after the completion of 25  
24 years of creditable service and the member has completed 25

1 years of creditable service; otherwise, he shall receive a  
2 disability retirement allowance which shall consist of:

3 "(1) An annuity which shall be the actuarial  
4 equivalent of his accumulated contributions at the time of  
5 retirement; and

6 "(2) A pension which shall be equal to the pension  
7 that would have been payable under subdivisions (2) and (3) of  
8 subsection (b) of this section upon service retirement at age  
9 60 had the member continued in service to said age without  
10 change in compensation.

11 "The annual disability retirement pension shall not  
12 be less than an amount which when added to his annuity is  
13 equal to the greater of the following amounts:

14 "a. Two and one-eightieth percent of the member's  
15 average final compensation multiplied by the number of years  
16 of creditable service.

17 "b. If he became a member before October 1, 1971,  
18 \$54 multiplied by the number of years of his creditable  
19 service not in excess of 25 years.

20 "Notwithstanding, a member who retired prior to  
21 October 1, 1971, for disability shall receive \$90 multiplied  
22 by the number of years of his creditable service not in excess  
23 of 25 years.

24 "(g) Upon retirement for disability, a Tier II plan  
25 member shall receive a service retirement allowance if the

1 member has attained age 62, or in the case of a Tier II plan  
2 member who is a correctional officer, firefighter, or law  
3 enforcement officer as defined in Section 36-27-59, if the  
4 member has attained age 56 with at least ten years of  
5 creditable service as a correctional officer, firefighter or  
6 law enforcement officer, otherwise, the member shall receive a  
7 disability retirement allowance which shall be equal to one  
8 and sixty-five hundredths percent (1.65%) of the member's  
9 average final compensation multiplied by the number of years  
10 of creditable service.

11 "(h) (1) Once each year during the first five years  
12 following the retirement of a member on a disability  
13 retirement allowance and once in every three-year period  
14 thereafter, the Board of Control may and upon his application  
15 shall require any disability beneficiary who has not yet  
16 attained age 60 for a Tier I plan member or age 62 for a Tier  
17 II plan member to undergo a medical examination, such  
18 examination to be made at the place of residence of such  
19 beneficiary or other place mutually agreed upon by a physician  
20 of or designated by the medical board. Should any disability  
21 beneficiary who has not yet attained age 60 for a Tier I plan  
22 member or age 62 for a Tier II plan member refuse to submit to  
23 such medical examination, his pension may be discontinued  
24 until his withdrawal of such refusal, and should his refusal  
25 continue for one year, all his rights in and to his pension

1 may be revoked by the Board of Control; provided, that these  
2 requirements relative to the medical examination shall not  
3 apply in the case of a Tier II plan member who is a  
4 correctional officer, firefighter, or law enforcement officer  
5 as defined in Section 36-27-59 retired for disability and who  
6 has attained age 56 with at least ten years of creditable  
7 service as a correctional officer, firefighter or law  
8 enforcement officer.

9           "(2) Should the medical board report and certify to  
10 the Board of Control that a disability beneficiary who is a  
11 Tier I plan member is engaged in or is able to engage in a  
12 gainful occupation paying more than the difference between his  
13 retirement allowance and his average final compensation and  
14 should the Board of Control concur in such report, then the  
15 amount of his pension shall be reduced to an amount which,  
16 together with his annuity and the amount earnable by him,  
17 shall equal the amount of his average final compensation.  
18 Should his earning capacity be later changed, the amount of  
19 his pension may be further modified; provided, that the new  
20 pension shall not exceed the amount of the pension originally  
21 granted nor an amount which, when added to the amount earnable  
22 by the beneficiary together with his annuity, equals the  
23 amount of his average final compensation.

24           "(3) Should the medical board report and certify to  
25 the Board of Control that a disability beneficiary who is a

1 Tier II plan member has the capacity to engage in regular and  
2 substantial gainful employment, the Board of Control shall  
3 discontinue the beneficiary's retirement allowance until the  
4 beneficiary is otherwise eligible for service retirement.

5 "(i) (1) Should a member cease to be a teacher,  
6 except by death or by retirement under the provisions of this  
7 chapter, the contributions standing to the credit of his  
8 individual account in the Annuity Savings Fund shall be paid  
9 to him upon demand, and in addition to such payment there  
10 shall be paid five-tenths of the interest accumulations  
11 standing to the credit of his individual account if he shall  
12 have not less than three but less than 16 years of membership  
13 service, six-tenths of such interest accumulations if he shall  
14 have not less than 16 but less than 21 years of membership  
15 service, seven-tenths of such interest accumulations if he  
16 shall have not less than 21 but less than 26 years of  
17 membership service, and eight-tenths of such interest  
18 accumulations if he shall have not less than 26 years of  
19 membership service.

20 "(2) In case of the death of a member eligible for  
21 service retirement pursuant to subsection (a) of this section,  
22 an allowance shall be paid to the surviving spouse, or to such  
23 other person who the member shall have designated, in an  
24 amount that would have been payable if the member had retired  
25 immediately prior to his death and had elected Option 3, as

1 set forth in subsection (h) of this section or, alternatively,  
2 if the surviving spouse or other designee desires, he may  
3 choose to receive, in lieu of the allowance provided under  
4 Option 3, the accumulated contributions of the member plus an  
5 amount equal to the accumulated contributions of the member  
6 not to exceed \$5,000 or the accumulated contributions of the  
7 member plus the benefit provided by Section 36-27B-3 if a  
8 benefit is payable under such section.

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

18 "(j) With the provision the election of an option  
19 shall be effective on the effective date of retirement, any  
20 member may elect prior to retirement to receive, in lieu of  
21 his retirement allowance payable throughout life, the  
22 actuarial equivalent at that time of his retirement allowance  
23 in a reduced retirement allowance payable throughout life with  
24 the provision that:



1           "(1) OPTION 1. If he dies before he has received in  
2 annuity payments the present value of his annuity as it was at  
3 the time of his retirement, the balance shall be paid to his  
4 legal representatives or to such person as he shall nominate  
5 by written designation duly acknowledged and filed with the  
6 Board of Control;

7           "(2) OPTION 2. Upon his death, his reduced  
8 retirement allowance shall be continued throughout the life of  
9 and paid to such person as he shall nominate by written  
10 designation duly acknowledged and filed with the Board of  
11 Control at the time of his retirement;

12           "(3) OPTION 3. Upon his death, one half of his  
13 reduced retirement allowance shall be continued throughout the  
14 life of and paid to such person as he shall nominate by  
15 written designation duly acknowledged and filed with the Board  
16 of Control at the time of his retirement; or

17           "(4) OPTION 4. Some other benefit or benefits shall  
18 be paid either to the member or to such person or persons as  
19 he shall nominate; provided, that such other benefit or  
20 benefits, together with the reduced retirement allowance,  
21 shall be certified by the actuary to be of equivalent  
22 actuarial value to his retirement allowance and shall be  
23 approved by the Board of Control.

24           "(k) Should any beneficiary be restored to active  
25 service, his retirement allowance shall be suspended until he

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

19 "(1) (1) All retirement allowance payments due on or  
20 after October 1, 1975, to members who retired prior to October  
21 1, 1975, shall be redetermined as if the provisions of  
22 subsections (b) and (e) of this section which became effective  
23 on said date were in effect at the time the member retired;  
24 provided, that the annual retirement allowance of any member  
25 who retired on or before January 1, 1956 shall be not less

1 than \$132 multiplied by the number of years of his creditable  
2 service not in excess of 30 years in the case of service  
3 retirement or \$99 multiplied by the number of years of  
4 creditable service not in excess of 30 years in the case of  
5 disability retirements. Any increase provided in the  
6 retirement allowance payment under this subsection for a  
7 member who retired under the provisions of any optional  
8 benefit elected pursuant to subsection (h) of this section  
9 shall accrue only to the retired member, and no person  
10 designated to receive any payments after the death of a  
11 retired member under the provisions of any such optional  
12 benefit shall receive any increase in such payments under this  
13 subsection.

14 "(2) Any person who served at least 30 years as a  
15 teacher in the public schools of Alabama and was never a  
16 member of the system and who, prior to October 1, 1963, was in  
17 receipt of a benefit for old age assistance pursuant to  
18 subsections (1) and (2) of Section 1 of Act 116, approved  
19 August 24, 1959, shall be entitled to receive an annual  
20 retirement allowance of \$3,960 from the system, effective as  
21 of October 1, 1973.

22 "(3) Prior to October 31, 1975 any beneficiary may  
23 elect to leave on deposit with the system all or a specified  
24 part of any increase in his monthly retirement allowance  
25 payments arising in accordance with subdivision (1) or (2) of

1 this subsection. The portion of each monthly payment left in  
2 the system in accordance with such election shall be credited,  
3 together with regular interest thereon, to the individual  
4 account of such beneficiary. Upon the death of such  
5 beneficiary, the total amount standing to his credit,  
6 including regular interest to the date of death, shall be paid  
7 in a lump sum to his legal representative or to such person as  
8 he shall have nominated by written designation duly  
9 acknowledged and filed with the Board of Control.

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

23 "(n) Notwithstanding any provision of this section  
24 to the contrary, if a retired member who is receiving a  
25 monthly benefit allowance provided under Option 2, 3, or 4

1 divorces his or her designated beneficiary, the member may  
2 designate a replacement beneficiary for the beneficiary to  
3 become effective two years after the date of designation of  
4 the replacement beneficiary and an actuarial adjustment in the  
5 monthly benefit allowance of the member to cover any cost  
6 associated with designating a replacement beneficiary shall be  
7 reflected thereafter in the monthly benefit allowance received  
8 by the member, commencing with the first benefit allowance  
9 check received by the member following the date of designation  
10 of the replacement beneficiary.

11 "§16-25-21.

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

22 "(1) The Annuity Savings Fund shall be a fund in  
23 which shall be accumulated contributions from the compensation  
24 of members to provide for their annuities. Contributions to

1 and payments from the Annuity Savings Fund shall be made as  
2 follows:

3 "a. Each employer shall cause to be deducted from  
4 the salary of each member on each and every payroll of such  
5 employer for each and every payroll period five percent of his  
6 or her earnable compensation. For all pay dates beginning on  
7 or after October 1, 2011, each employer shall cause to be  
8 deducted from the salary of each member on each and every  
9 payroll of such employer for each and every payroll period  
10 seven and one-quarter percent (7.25%) of his or her earnable  
11 compensation. For all pay dates beginning on or after October  
12 1, 2012, each employer shall cause to be deducted from the  
13 salary of each Tier I plan member on each and every payroll of  
14 such employer for each and every payroll period seven and  
15 one-half percent (7.5%) of his or her earnable compensation.  
16 For all pay dates beginning on or after the effective date of  
17 this act, each employer shall cause to be deducted from the  
18 salary of each Tier II plan member on each and every payroll  
19 period six percent (6%) of his or her earnable compensation;  
20 except in the case of a Tier II plan member who is a  
21 correctional officer, firefighter, or law enforcement officer  
22 as defined in Section 36-27-59, the rate of seven percent (7%)  
23 shall apply. In determining the amount earnable by a member in  
24 a payroll period, the Board of Control may consider the rate  
25 of annual compensation payable to such member on the first day

1 of the payroll period as continuing throughout such payroll  
2 period, and it may omit deductions from compensation for any  
3 period less than a full payroll period if a teacher was not a  
4 member on the first day of the payroll period, and to  
5 facilitate the making of deductions it may modify the  
6 deduction required of any member by such an amount as shall  
7 not exceed one tenth of one percent of the annual compensation  
8 upon the basis of which such deduction is to be made.

9 "b. The deductions provided for herein shall be made  
10 notwithstanding that the minimum compensation provided for by  
11 law for any member shall be reduced thereby. Every member  
12 shall be deemed to consent and agree to the deduction made and  
13 provided for herein and shall receipt for his or her full  
14 salary or compensation, and payment of salary or compensation  
15 less such deduction shall be a full and complete discharge and  
16 acquittance of all claims and demands whatsoever for the  
17 service rendered by such person during the period covered by  
18 such payment, except as to the benefits provided under this  
19 chapter. The employer shall certify to the Board of Control on  
20 each and every payroll or in such other manner as the board  
21 may prescribe the amount to be deducted; and each of the  
22 amounts shall be deducted, and when deducted shall be paid  
23 into the Annuity Savings Fund and shall be credited, together  
24 with regular interest thereon, to the individual account of  
25 the member from whose compensation the deduction was made.

1            "c. In addition to the contributions deducted from  
2            compensation as hereinbefore provided, subject to the approval  
3            of the Board of Control, any member may deposit in the Annuity  
4            Savings Fund by a single payment or by an increased rate of  
5            contribution an amount computed to be sufficient to purchase  
6            an additional annuity which, together with his or her  
7            prospective retirement allowance, will provide for him or her  
8            a total retirement allowance not to exceed one half of his or  
9            her average final compensation at age 60. Such additional  
10           amounts so deposited shall become a part of his or her  
11           accumulated contributions except in the case of retirement,  
12           when they shall be treated as excess contributions returnable  
13           to the member in cash or as an annuity of equivalent actuarial  
14           value and shall not be considered in computing his or her  
15           pension. The contributions and interest credits of a member  
16           withdrawn by him or her, or paid to his or her estate or to  
17           his or her designated beneficiary in event of his or her  
18           death, shall be paid from the Annuity Savings Fund. Should a  
19           member cease to be a member other than by retirement under the  
20           provisions of this title, an amount equivalent to the  
21           difference, if any, between his or her accumulated  
22           contributions and the amount then paid shall be transferred to  
23           the Expense Fund. Upon the retirement of a member or the death  
24           of an eligible member where an allowance to the surviving  
25           spouse is payable, his or her accumulated contributions shall



1 be transferred from the Annuity Savings Fund to the Pension  
2 Accumulation Fund.

3 "d. Notwithstanding the preceding provisions, no  
4 deductions shall be made from any member's salary on account  
5 of which the employer's contribution is in default.

6 "(2) The Pension Accumulation Fund shall be the fund  
7 in which shall be accumulated all reserves, other than amounts  
8 held in the Annuity Savings Fund for the payment of all  
9 pensions and other benefits. Contributions to and payments  
10 from the Pension Accumulation Fund shall be made as follows:

11 "a. On account of each member there shall be paid  
12 monthly by the employer an amount equal to a certain  
13 percentage of the earnable compensation of each member to be  
14 known as the "normal contribution" and an additional amount  
15 equal to a percentage of his or her earnable compensation to  
16 be known as the "accrued liability contribution," and these  
17 two amounts shall be paid monthly into the Pension  
18 Accumulation Fund. The Teachers' Retirement System shall  
19 recommend to the Legislature on or before the first  
20 legislative day of each regular session of the Legislature the  
21 rate for the following fiscal year. The Legislature shall set  
22 the rate in the annual appropriation bill.

23 "b. On the basis of regular interest and of such  
24 mortality and other tables as shall be adopted by the Board of  
25 Control, the actuary engaged by the board to make such

1 valuation required by this title shall, immediately after  
2 making such valuation, determine the uniform and constant  
3 percentage of the earnable compensation of the average new  
4 entrant which, if contributed on the basis of his or her  
5 compensation throughout his or her entire period of active  
6 service, would be sufficient to provide for the payment of any  
7 pension payable on his or her account. The rate per centum so  
8 determined shall be known as the "normal contribution" rate.  
9 The normal contribution rate shall be determined by the  
10 actuary after each valuation.

11 "c.1. The accrued liability contribution rate shall  
12 be computed by the actuary on the basis of each valuation as  
13 the per centum rate of the total annual compensation of all  
14 members which is sufficient to liquidate the unfunded accrued  
15 liability over a period to be determined by the Board of  
16 Control which shall be not less than 10 nor more than 30  
17 years.

18 "2. The unfunded accrued liability shall be computed  
19 by the actuary as the total liabilities of the system which  
20 are not dischargeable by the assets of the Annuity Savings  
21 Fund and the Pension Accumulation Fund and the present value  
22 of the aforesaid normal contributions. For purposes of  
23 computing the unfunded accrued liability the assets shall be  
24 determined as follows:

1           "On June 30, 1997, the assets shall be determined by  
2 using the market value of such assets. For subsequent years  
3 the value of the assets shall be determined by the system's  
4 actuary using a five year smoothed market value.

5           "d. The total amount payable in each year to the  
6 Pension Accumulation Fund shall be not less than the sum of  
7 the per centum rates known as the normal contribution rate and  
8 the accrued liability contribution rate of the total  
9 compensation earnable by all members during the year.

10           "e. All interest and dividends earned on the funds  
11 of the retirement system shall be credited to the Pension  
12 Accumulation Fund. The amounts needed to allow regular  
13 interest on the reserves in the Annuity Savings Fund shall be  
14 transferred in accordance with the provisions of this chapter  
15 from the Pension Accumulation Fund. The Board of Control, in  
16 its discretion, may transfer to and from the Pension  
17 Accumulation Fund the amount of any surplus or deficit which  
18 may develop in the Annuity Savings Fund or the Expense Fund.

19           "f. Upon the death of a member on account of whom no  
20 survivor allowance is payable under subdivision (2) of  
21 subsection (i) of Section 16-25-14, the death benefit as  
22 provided in subdivision 2 of subsection (i) of such section  
23 equal to the accumulated contributions not to exceed \$5,000  
24 shall be payable from the Pension Accumulation Fund.

1           "(3) The Expense Fund shall be the fund from which  
2 the expenses of the administration of the retirement system  
3 shall be paid, exclusive of amounts payable as retirement  
4 allowances and as other benefits provided herein. Any amounts  
5 credited to the accounts of members withdrawing before  
6 retirement and not returnable under the provisions of  
7 subsection (i) of Section 16-25-14 shall be credited to the  
8 Expense Fund. Any additional contributions required to meet  
9 the expenses of the retirement system shall be made as  
10 provided in paragraphs c., d., and e. of subdivision (4) of  
11 this section.

12           "(4)a. On or before October 1 of each year, each  
13 local board of education, the State Board of Education, the  
14 governing boards of the University of Alabama, Auburn  
15 University, and the University of Montevallo and the Executive  
16 Committee of the Alabama Education Association shall file with  
17 the Board of Control of the retirement system a certified  
18 statement containing the following information concerning the  
19 members of the retirement system employed by such boards for  
20 the scholastic year beginning on July first preceding the  
21 date: Name, address, monthly salary, annual salary, and such  
22 other information as the Board of Control may require. On or  
23 before July 31 of each year, each local board of education;  
24 the State Board of Education; the governing boards of the  
25 University of Alabama, Auburn University, and the University

1 of Montevallo and the Executive Committee of the Alabama  
2 Education Association shall file with the Board of Control of  
3 the retirement system a certified statement containing the  
4 following information concerning members of the retirement  
5 system employed by such boards during the scholastic year  
6 ending on June 30 preceding the date: Name, address, monthly  
7 salary actually paid, total annual salary actually paid, and  
8 such other information as the Board of Control may require.

9 "b. The collection of members' contributions shall  
10 be as follows: Each local board of education, the State Board  
11 of Education, the governing boards of the University of  
12 Alabama, Auburn University, and the University of Montevallo  
13 and the Executive Committee of the Alabama Education  
14 Association shall cause to be deducted on each and every  
15 payroll period subsequent to the date of the establishment of  
16 the retirement system the contributions payable by each member  
17 as provided in this chapter. Each employer shall transmit  
18 monthly, or at such time as the Board of Control shall  
19 designate, the total amount so deducted to the  
20 Secretary-Treasurer of the Board of Control accompanied by an  
21 itemized statement of the contributions of each individual  
22 member of the retirement system. The Secretary-Treasurer of  
23 the Board of Control after making a record of all such  
24 receipts shall transmit the same to the State Treasurer to be  
25 held for use according to the provisions of this chapter.

1 Notwithstanding anything in this section, the Board of Control  
2 may modify the form of reports required of employers and may  
3 modify the method of collecting the contributions of members  
4 so that employers may retain the amounts so deducted and have  
5 a corresponding amount deducted from funds otherwise payable  
6 to them.

7 "c. The employer's contributions shall be made from  
8 the same funds used to pay salaries based on the employer cost  
9 rate determined under paragraph a. of subdivision (2).

10 "d. Where member contributions are made from  
11 salaries paid from federal funds, the employer shall pay from  
12 federal funds to the Teachers' Retirement System the amount  
13 calculated as a percentage of the salaries of those teachers  
14 to be contributed by the employer in accordance with  
15 subdivisions (2) and (3) of this section. Such amounts shall  
16 be paid at the same time as the member contributions are made  
17 to the retirement system. The provisions of this paragraph  
18 shall not apply to funds received under the provisions of the  
19 Hatch Act of 1887, as amended in 1955, and the  
20 McIntyre-Stennis Act (Cooperative Forestry Research Act of  
21 1962) of the Congress of the United States, for the support of  
22 agriculturally related research.

23 "e. Where member contributions are made from  
24 salaries paid by the Alabama Education Association, the  
25 Alabama Education Association shall pay the employer costs

1 calculated as a percentage of the salaries of those employees  
2 to be contributed as employer in accordance with subdivisions  
3 (2) and (3) of this section. Such amounts shall be paid  
4 monthly and at the same time as the member contributions are  
5 made to the Teachers' Retirement System.

6 "f. To the extent that employer cost is collected  
7 for any increase in benefits payable to retired employees of  
8 local boards of education and state institutions of higher  
9 education who are retired under the Employees' Retirement  
10 System, there shall be a transfer of funds from these funds to  
11 the Employees' Retirement System for each year such benefits  
12 are payable.

13 "g. Employer cost provided for in this article  
14 together with member contributions required under this article  
15 shall be paid to the Teachers' Retirement System on the first  
16 day of the month following the month in which the related  
17 member salary is earned. Delinquent accounts shall accrue  
18 interest at the actuarial assumed investment rate beginning 30  
19 days after the original due date. The member contributions for  
20 each member shall be reported to the Teachers' Retirement  
21 System in a format prescribed by the Teachers' Retirement  
22 System.

23 "§36-26-36.1.

24 "(a) Any Tier I plan member of the Teachers' or  
25 Employees' Retirement System of Alabama not otherwise covered

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



1 plan member shall receive both service credit provided for by  
2 this section and payment or partial payment for accrued sick  
3 leave pursuant to any other provision of law.

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

7 "§36-27-1.

8 "When used in this article, the following terms  
9 shall have the following meanings, respectively, unless the  
10 context clearly indicates otherwise:

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

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

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

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

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

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

11           "(7) SERVICE. Service as an employee paid for by an  
12 employer.

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

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

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

21           "(11) BENEFICIARY. Any person in receipt of a  
22 pension, an annuity, a retirement allowance or other benefit  
23 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 II plan members, earnable compensation shall include overtime  
21 payments that are made to the member but shall not include  
22 subsistence payments that are made to the member and shall not  
23 exceed one hundred twenty-five percent (125%) of the member's  
24 annual base compensation, as certified by the employer.

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

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

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

24           "(18) RETIREMENT ALLOWANCE. The sum of the "annuity"  
25 and the "pension."

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

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

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

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

15           "(23) STATE POLICEMAN. An employee in the classified  
16 service under the Merit System Act approved by the State  
17 Personnel Board to perform the duties of highway patrolman or  
18 a beverage control agent or a crime investigator. The term  
19 shall not include a member employed as a policeman under  
20 Section 36-27-6.

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

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

1           "(26) TIER I PLAN MEMBER. Any member of the  
2 Retirement System who had service for which he or she received  
3 credit in the Employees' Retirement System or in the Teachers'  
4 Retirement System prior to the effective date of this act.

5           "(27) TIER II PLAN MEMBER. Any member of the  
6 Retirement System who first began eligible employment with an  
7 Employees' Retirement System or a Teachers' Retirement System  
8 participating employer on or after the effective date of this  
9 act and who had no eligible service in the Employees'  
10 Retirement System or the Teachers' Retirement System prior to  
11 the effective date of this act.

12           "§36-27-4.

13           "(a) The membership of the retirement system shall  
14 be composed as follows:

15           "(1) All persons who shall become employees after  
16 October 1, 1945, shall become members of the retirement system  
17 as a condition of their employment.

18           "(2) Any person who is an employee on October 1,  
19 1945, shall become a member as of that date unless, within a  
20 period of 90 days next following, such employee shall file  
21 with the Board of Control on a form prescribed by the board a  
22 notice of his election not to be covered in the membership of  
23 the system and a duly executed waiver of all present and  
24 prospective benefits which would otherwise inure to him on  
25 account of his membership in the retirement system.

1           "(3) An employee whose membership in the retirement  
2 system is contingent on his own election and who elects not to  
3 become a member may thereafter apply for and be admitted to  
4 membership with all prior service credit as otherwise provided  
5 for in this article by applying for such membership at any  
6 time prior to July 1, 1962; provided, that said employee pays  
7 to the treasurer of the said retirement system on or before  
8 July 1, 1962, a sum equal to the total contributions which he  
9 would have made as a member during the period of his service  
10 as an employee from October 1, 1945, to the date of his  
11 application for membership. Any member or retired employee who  
12 at one time worked as a nonmember may now receive credit for  
13 prior service and for the years worked as a nonmember;  
14 provided, that said member or retired employee pays to the  
15 treasurer of the retirement system on or before July 1, 1962,  
16 a sum equal to the total contributions which he would have  
17 made as a member during the period of his employment from  
18 October 1, 1945, to the date he became a member.

19           "(4) All county engineers of the several counties of  
20 the state in whose salaries the State Department of  
21 Transportation participates, except county engineers who are  
22 already members of this retirement system under provisions of  
23 this article or who are covered under the provisions of a  
24 county retirement system supported by funds of the employing  
25 county. The effective date for the inclusion of county

1 engineers in the system shall be October 1, 1964. Membership  
2 in the retirement system shall be optional for county  
3 engineers employed on the date participation becomes  
4 effective, and any county engineer who elects to enroll in the  
5 retirement system within one year thereafter may be admitted  
6 to membership with all prior service credit and all membership  
7 service credit; provided, that said county engineer pays to  
8 the treasurer of the retirement system at the time he enrolls  
9 a sum equal to the total employee contributions and interest  
10 he would have had to his credit had he been a member during  
11 the period of his service as county engineer from October 1,  
12 1945, to the date of his application for membership. Should a  
13 county engineer employed on the date participation becomes  
14 effective elect to enroll as a member without paying such  
15 prior membership contributions and interest, he may become a  
16 member without credit for service prior to date of his  
17 enrollment. Membership shall be compulsory for all county  
18 engineers who are eligible for such membership upon entering  
19 service as a county engineer after the date participation  
20 becomes effective to the extent of the State Department of  
21 Transportation's participation in his salary.

22 "(b) The Board of Control may, in its discretion,  
23 deny the right to become members to any class of employees  
24 whose compensation is only partly paid by the state, except as  
25 provided in this article.



1           "(c) Should any member in any period of six  
2 consecutive years after becoming a member be absent from  
3 service more than five years or withdraw his contributions, as  
4 provided in subdivision (1) of subsection (c) of Section  
5 36-27-16, or retire or die, he shall thereupon cease to be a  
6 member.

7           "(d) A member in service on January 1, 1976, who has  
8 honorable duty consisting of active full-time military service  
9 in the armed forces of the United States, exclusive of any  
10 summer or weekend service in a reserve or national guard  
11 component of any branch of the armed forces, and who has not  
12 received credit toward retirement status in the Employees'  
13 Retirement System of Alabama for said military service, may be  
14 granted by the Board of Control membership service credit for  
15 the period of such service in the armed forces; provided, that  
16 such member pays into the Employees' Retirement System, in a  
17 lump sum prior to October 1, 1976, an amount equal to four  
18 percent of the average compensation paid to a state employee  
19 during each claimed year of full-time military service, plus  
20 and together therewith eight percent interest compounded from  
21 the last date of such claimed military service; and provided  
22 further, that such a member shall not receive membership  
23 service credit for more than four years of military service,  
24 and shall receive no credit for military service if such  
25 member is receiving military service retirement benefits,

1 other than disability allowances or benefits, from any branch  
2 of the United States armed forces, or by reason of any such  
3 service in any branch of the armed forces, or, if such member  
4 received anything other than an honorable discharge for and  
5 including the claimed military service. Anything in this  
6 article to the contrary notwithstanding, if any person  
7 becoming a member of the Employees' Retirement System after  
8 January 1, 1976, shall have honorable duty consisting of  
9 active full-time military service in the armed forces of the  
10 United States, exclusive of any summer or weekend service in a  
11 reserve or national guard component of any branch of the armed  
12 forces, such member may be granted by the Board of Control  
13 membership service credit for such period of service in the  
14 armed forces; provided, that such member pays into the  
15 Employees' Retirement System, in a lump sum within one year  
16 next after the first day of the pay period in which the first  
17 deduction to the Employees' Retirement System is made after  
18 having been honorably discharged from the armed forces, an  
19 amount equal to four percent of the average compensation paid  
20 to a state employee during each claimed year of full-time  
21 military service, plus and together therewith eight percent  
22 interest compounded from the last date of such claimed  
23 military service; and provided further, that no member shall  
24 receive more than four years' membership service credit for  
25 military service, and no credit for military service shall be

1 granted if such member is receiving military service  
2 retirement benefits, other than disability allowances or  
3 benefits, from any branch of the United States armed forces,  
4 or by reason of any service in any branch of the armed forces,  
5 or, if such member received anything other than an honorable  
6 discharge for and including the claimed military service.

7 "(e) Any member, who retired prior to January 1,  
8 1976, who has service in the armed forces, as described in  
9 this section, shall be entitled to claim such full-time  
10 military service; provided, that such retired member pays into  
11 the Employees' Retirement System, in a lump sum prior to  
12 October 1, 1976, an amount equal to four percent of the  
13 average compensation paid to a state employee during such  
14 claimed year of full-time military service, plus and together  
15 therewith eight percent compounded from the last date of such  
16 claimed military service; and provided further, that such  
17 retired member shall not receive membership service credit for  
18 more than four years of military service, and shall receive no  
19 credit for military service, if such member is receiving  
20 military service retirement benefits, other than disability  
21 allowance or benefits, from any branch of the armed forces, or  
22 by reason of any such service in any branch of the armed  
23 forces. The provisions of this subsection shall be retroactive  
24 to October 1, 1975.

1           "(f) All retirement allowance payments due on or  
2 after January 1, 1976, to members of the Employees' Retirement  
3 System of Alabama who retired prior to said date and who have  
4 complied with the provisions of this section shall be  
5 redetermined as if the provisions of this section were in  
6 effect at the time they retired; provided, that any increase  
7 in the retirement allowance payment for a member who, prior to  
8 October 1, 1975, retired under the provisions of any optional  
9 benefit elected pursuant to Acts 1945, No. 515, as amended,  
10 shall accrue only to the retired member, and no person  
11 designated to receive any payments after the death of a  
12 retired member under the provisions of any such optional  
13 benefit shall receive any increase in such payments.

14           "§36-27-16.

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

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

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

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

1 number of years of creditable service shall not be less than  
2 10 years nor more than 25 years.

3 "c. In addition to any law or part of law relating  
4 to service retirement under the Employees' Retirement System  
5 of Alabama, any Tier I plan member of the Employees'  
6 Retirement System who withdraws from service after completion  
7 of not less than 25 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 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 said  
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 accumulated contributions at the time of his  
25 retirement; except, that in the case of a state policeman who

1 has completed 20 years of creditable service as a state  
2 policeman who retires after age 56 but prior to age 60, the  
3 annuity shall be equal to the annuity that would have been  
4 payable upon service retirement at age 60 had the member  
5 continued in service to said age 60 without change in  
6 compensation;

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

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

1 pension, if he has a prior service certificate in full force  
2 and effect, which shall be equal to the annuity which would  
3 have been provided at age 60, but which shall not exceed an  
4 annuity allowable at age 60 by twice the contributions which  
5 he would have made during the period of prior service with  
6 which he is credited had the system been in operation and had  
7 he contributed thereunder.

8 "b. Notwithstanding the provisions of subparagraphs  
9 1, 2, and 3 of paragraph a of this subdivision, a state  
10 policeman who is a Tier I plan member and who has completed 20  
11 years of service as a state policeman who retires after age 52  
12 but prior to age 56 shall receive:

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

16 "2. A pension which shall be equal to the annuity  
17 that he would have received had he contributed for four years  
18 without change in compensation; and

19 "3. An additional pension, if he has a prior service  
20 certificate in full force and effect, which shall be equal to  
21 the annuity which would have been provided at the age of  
22 retirement, but which shall not exceed an annuity allowable at  
23 the age of retirement plus four years by twice the  
24 contributions which he would have made during the period of  
25 prior service with which he is credited had the system been in



1 operation and had he contributed thereunder. In lieu of a  
2 determination of the actual compensation of a member that was  
3 received during such prior service, the Board of Control may  
4 use for the purpose of this article the compensation rate  
5 which, if it had progressed with the rates of salary increase  
6 shown in the tables as prescribed in subsection (n) of Section  
7 36-27-23, would have resulted in the same average salary of  
8 the member for the five years immediately preceding the date  
9 of establishment as the records show the member actually  
10 received.

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

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

19 "2. If he became a member before October 1, 1965,  
20 \$72.00 multiplied by the number of years of his creditable  
21 service not in excess of 25 years.

22 "d. The annual service retirement pension payable to  
23 a Tier I plan member employed as a state policeman retiring on  
24 or after October 1, 1975, shall not be less than an amount

1       which, when added to his annuity is equal to the greater of  
2       the following two amounts:

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

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

1            "e. Upon retirement from service, a Tier II plan  
2 member who is not employed as a state policeman shall receive  
3 a service retirement allowance which shall consist of an  
4 annuity which shall be the actuarial equivalent of the  
5 member's accumulated contributions at the time of retirement  
6 and a pension which, when added to the member's annuity, shall  
7 be equal to one and sixty-five hundredths percent (1.65%) of  
8 the member's average final compensation multiplied by the  
9 number of years of creditable service. Notwithstanding the  
10 foregoing, the service retirement allowance shall not exceed  
11 eighty percent (80%) of the member's average final  
12 compensation.

13            "f. Upon retirement from service, a Tier II plan  
14 member who is employed as a state policeman shall receive a  
15 service retirement allowance which shall consist of an annuity  
16 which shall be the actuarial equivalent of the member's  
17 accumulated contributions at the time of retirement and a  
18 pension which, when added to the member's annuity, shall be  
19 equal to two and three-eighths percent (2.375%) of the  
20 member's average final compensation multiplied by the member's  
21 number of years of creditable service. Notwithstanding the  
22 foregoing, the service retirement allowance shall not exceed  
23 eighty percent (80%) of the member's average final  
24 compensation.

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

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

22           "(b) (1) RETIREMENT OF DISABLED EMPLOYEES;  
23 ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.

24           "a. Upon application of a Tier I plan member in  
25 service or of his employer, any member who has had 10 or more

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

19 "b. Without regard to the number of years of  
20 creditable service, a member employed as a state policeman, a  
21 municipal police officer or a deputy sheriff, or a member  
22 employed as a state, municipal or county firefighter who is  
23 not covered through his current employer under the United  
24 States Social Security Act, who as a result of his employment,  
25 in the line of duty and not as a result of his own misconduct,

1 shall become permanently and totally disabled to the extent  
2 that he cannot perform his duties or duties of a less  
3 strenuous nature, as an employee of the State of Alabama or as  
4 an employee of an employer participating under the provisions  
5 of Section 36-27-6, shall be retired on a disability  
6 retirement allowance, not less than 30 nor more than 90 days  
7 next following the date of filing of such application,  
8 provided that the medical board, after a medical examination  
9 of such member shall certify that such member is mentally or  
10 physically incapacitated for the further performance of duty,  
11 that such incapacity is likely to be permanent, and that such  
12 member should be retired.

13 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

14 "a. Upon retirement for disability a member shall  
15 receive a service retirement allowance if he is a Tier I plan  
16 member and he has attained age 60 or if he is a Tier II plan  
17 member and he has attained age 62, or if any law or part of  
18 any law pertaining to retirement under the Employees'  
19 Retirement System of Alabama provides for service retirement  
20 after the completion of 25 years of creditable service without  
21 a reduction in the retirement allowance and the member has  
22 completed 25 years of creditable service, or, in the case of a  
23 state policeman, if he is a Tier I plan member and he has  
24 attained age 52 or, in the case of a state policeman or a  
25 correctional officer, firefighter, or law enforcement officer

1 as defined in Section 36-27-59 with at least ten years of  
2 creditable service as a correctional officer, firefighter or  
3 law enforcement officer, if he is a Tier II plan member and he  
4 has attained age 56; otherwise, he shall receive a disability  
5 retirement allowance which shall consist of:

6 "1. An annuity which shall be the actuarial  
7 equivalent of his accumulated contributions at the time of his  
8 retirement;

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

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

20 "1. Two and one-eightieth percent of the member's  
21 average final compensation multiplied by the number of years  
22 of creditable service.

23 "2. If he became a member before October 1, 1965,  
24 \$54.00 multiplied by the number of years of his creditable  
25 service not in excess of 25 years.

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

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

15            "2. If he became a member before October 1, 1965,  
16 \$64.80 multiplied by the number of years of his creditable  
17 service not in excess of 25 years.

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

23            "e. The annual disability retirement allowance  
24 payable to a Tier II plan member employed as a state policeman  
25 shall be equal to two and three-eighths percent (2.375%) of



1 the member's average final compensation multiplied by the  
2 number of years of creditable service.

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

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

1 the medical board. Should any disability beneficiary who has  
2 not yet attained age 60 if the beneficiary is a Tier I plan  
3 member or age 62 if the beneficiary is a Tier II plan member  
4 refuse to submit to such medical examination, his allowance  
5 may be discontinued until his withdrawal of such refusal, and,  
6 should his refusal continue for one year, all his rights in  
7 and to his pension may be revoked by the Board of Control;  
8 provided, that these requirements relative to the medical  
9 examination shall not apply in the case of a state policeman  
10 retired for disability and who has attained age 52 if he is a  
11 Tier I plan member or in the case of a state policeman or a  
12 correctional officer, firefighter, or law enforcement officer  
13 as defined in Section 36-27-59 with at least ten years of  
14 creditable service as a correctional officer, firefighter or  
15 law enforcement officer retired for disability who has  
16 attained age 56 if he is a Tier II plan member. Should the  
17 medical board report and certify to the Board of Control that  
18 a disability beneficiary who is a Tier I plan member is  
19 engaged in or is able to engage in a gainful occupation paying  
20 more than the difference between his retirement allowance and  
21 his average final compensation and should the Board of Control  
22 concur in such report, then the amount of his pension shall be  
23 reduced to an amount which, together with his annuity and the  
24 amount earnable by him shall equal the amount of his average  
25 final compensation. Should his earning capacity be later

1 changed, the amount of his pension may be further modified;  
2 provided, that the new pension shall not exceed the amount of  
3 the pension originally granted nor an amount which, when added  
4 to the amount earnable by the beneficiary, together with this  
5 annuity exceeds the amount of his average final compensation.

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

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

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

1 membership service and eight-tenths of such interest  
2 accumulations if he shall have not less than 26 years of  
3 membership service.

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

18 "(3) In case of the death of a Tier I plan member  
19 not eligible for service retirement, after completion of 25  
20 years of creditable service, an allowance shall be paid to the  
21 surviving spouse, or to such other person who the member shall  
22 have designated, in an amount that would have been payable if  
23 the member had retired for disability immediately prior to his  
24 death and had elected Option 3 as set forth in subsection (d)  
25 of this section or, alternatively, if the surviving spouse or

1 other designee desires, he may choose to receive, in lieu of  
2 the allowance provided under Option 3, the accumulated  
3 contributions of the member plus an amount equal to the  
4 accumulated contributions of the member not to exceed  
5 \$5,000.00 or the accumulated contributions of the member plus  
6 the benefit provided by Section 36-27B-3 if a benefit is  
7 payable under such section;

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

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

24 "(1) OPTION 1. If he dies before he has received in  
25 annuity payments the present value of his annuity as it was at

1 the time of his retirement, the balance shall be paid to his  
2 legal representatives or to such person as he shall nominate  
3 by written designation duly acknowledged and filed with the  
4 Board of Control;

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

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

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

22 "(e) Effect of return to active service. Should any  
23 beneficiary be restored to active service, his retirement  
24 allowance shall be suspended until he again withdraws from  
25 service and he shall not again become a member of the

1 retirement system nor shall he make contributions; except,  
2 that should such beneficiary who has been restored to active  
3 service continue in service for a period of two or more years  
4 from the date of his reentry into active service, he may  
5 request the Board of Control to allow him to again become a  
6 member of the retirement system. The Board of Control may  
7 grant the request for restoration to membership; provided,  
8 that such beneficiary whose retirement allowance has been  
9 suspended shall repay to the system all moneys received by him  
10 as benefits during any periods subsequent to the date of his  
11 reentry into active service and shall make a contribution  
12 equal to the amount he would have contributed had he been a  
13 member during the period of his restoration to active service  
14 on a suspended allowance basis together with the interest  
15 which would have been credited to the contributions on account  
16 of such period of restoration up to the date such contribution  
17 is made.

18 "(f) (1) REDETERMINATION, ETC., OF CERTAIN  
19 ALLOWANCES. All retirement allowance payments due on or after  
20 October 1, 1975, to members who retired prior to said date  
21 shall be redetermined as if the provisions of this section in  
22 effect on October 1, 1975, were in effect at the time the  
23 member retired. Anything in this article to the contrary  
24 notwithstanding, the annual retirement allowance of any member  
25 not employed as a state policeman who retired on or before

1 January 1, 1956, shall not be less than \$79.20 multiplied by  
2 the number of years of his creditable service not in excess of  
3 30 years in the case of service retirement of \$59.40  
4 multiplied by the number of years of his creditable service  
5 not in excess of 30 years in the case of disability  
6 retirement. Any increase provided in the retirement allowance  
7 payment under this subdivision for a member who retired under  
8 the provisions of any optional benefit elected pursuant to  
9 subsection (d) of this section shall accrue only to the  
10 retired member, and no person designated to receive any  
11 payments after the death of a retired member under the  
12 provisions of any such optional benefit shall receive any  
13 increase in such payments under this subdivision.

14 Notwithstanding, any member who retired prior to October 1,  
15 1975, and who chose either Option 2 or Option 3 may elect to  
16 receive a reduced allowance and to stipulate that the  
17 actuarial equivalent of the increase in his retirement  
18 allowance, which became effective on said date, be ascribed to  
19 his designated beneficiary; provided, that such member shall  
20 clearly express this intention by filing a written application  
21 to said effect with the Secretary-Treasurer of the Employees'  
22 Retirement System of Alabama prior to October 1, 1976.

23 "(2) Any person who, prior to October 1, 1963, was  
24 in receipt of a benefit pursuant to Act No. 376, approved  
25 November 6, 1959, but was not a member of the system at the



1 time of retirement shall not be entitled to receive an annual  
2 retirement allowance from the system, effective October 1,  
3 1971, as follows:

4 "a. If such person was retired on or before January  
5 1, 1956, an amount equal to \$79.20 multiplied by the number of  
6 years of his creditable service not in excess of 30 years.

7 "b. If such person was retired after January 1,  
8 1956, an amount equal to \$72.00 multiplied by the number of  
9 years of his creditable service not in excess of 25 years.

10 "(3) Prior to October 31, 1975, any beneficiary may  
11 elect to leave on deposit with the system all or a specified  
12 part of any increase in his monthly retirement allowance  
13 payments arising in accordance with subdivisions (1) or (2) of  
14 this subsection over the monthly allowance which he was  
15 receiving prior to October 1, 1975. The portion of each  
16 monthly payment left in the system in accordance with such  
17 election shall be credited, together with regular interest  
18 thereon, to the individual account of such beneficiary. Upon  
19 the death of such beneficiary the total amount standing to his  
20 credit, including regular interest to the date of death, shall  
21 be paid in a lump sum to his legal representatives or to such  
22 person as he shall have nominated by written designation duly  
23 acknowledged and filed with the Board of Control.

24 "(g) Notwithstanding any other provisions of this  
25 section to the contrary, when a designated beneficiary for a

1 member predeceases the member who is receiving a monthly  
2 benefit allowance provided under Option 2, 3, or 4, the member  
3 may designate a replacement beneficiary for the deceased  
4 beneficiary to become effective two years after the date of  
5 designation of the replacement beneficiary and an actuarial  
6 adjustment in the monthly benefit allowance of the member to  
7 cover any cost associated with designating a replacement  
8 beneficiary shall be reflected thereafter in the monthly  
9 benefit allowance received by the member, commencing with the  
10 first benefit allowance check received by the member following  
11 the date of designation of the replacement beneficiary.

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

25 "§36-27-24.

1           "(a) Effective October 1, 1997, all the assets of  
2 the retirement system shall be credited according to the  
3 purpose for which they are held among three funds, namely, the  
4 Annuity Savings Fund, the Pension Accumulation Fund, and the  
5 Expense Fund. The operation of the former Pension Reserve Fund  
6 and the Annuity Reserve Fund shall be discontinued as of such  
7 date and the balance of the former Pension Reserve Fund shall  
8 be transferred to the Pension Accumulation Fund, and the  
9 balance of the former Annuity Reserve Fund shall be  
10 transferred to the Pension Accumulation Fund.

11           "(b) Annuity Savings Fund. The Annuity Savings Fund  
12 shall be a fund in which shall be accumulated contributions  
13 from the compensation of members to provide for their  
14 annuities.

15           "Contributions to and payments from the Annuity  
16 Savings Fund shall be made as follows: Effective October 1,  
17 1971, each employer shall cause to be deducted from the salary  
18 of each member on each and every payroll of such employer for  
19 each and every payroll period five percent of his or her  
20 earnable compensation; except, that in the case of a state  
21 policeman, the rate of 10 percent of earnable compensation  
22 shall apply, and in computing all retirement benefits it shall  
23 be assumed that a seven percent rate of contribution had  
24 applied with respect to service as a state policeman prior to  
25 July 1, 1957. For all pay dates beginning on or after October

1 1, 2011, each employer, except those employers participating  
2 pursuant to Section 36-27-6, shall cause to be deducted from  
3 the salary of each member on each and every payroll of such  
4 employer for each and every payroll period seven and  
5 one-quarter percent (7.25%) of his or her earnable  
6 compensation; except, that in the case of a state policeman,  
7 the rate of ten percent (10%) of earnable compensation shall  
8 apply. For all pay dates beginning on or after October 1,  
9 2012, each employer, except those employers participating  
10 pursuant to Section 36-27-6, shall cause to be deducted from  
11 the salary of each Tier I plan member on each and every  
12 payroll of such employer for each and every payroll period  
13 seven and one-half percent (7.5%) of his or her earnable  
14 compensation; except, that in the case of a state policeman,  
15 the rate of ten percent (10%) of earnable compensation shall  
16 apply. For all pay dates beginning on or after the effective  
17 date of this act, each employer shall cause to be deducted  
18 from the salary of each Tier II plan member on each and every  
19 payroll period six percent (6%) of his or her earnable  
20 compensation; except that in the case of a state policeman,  
21 the rate of ten percent (10%) shall apply and in the case of a  
22 correctional officer, firefighter, or law enforcement officer  
23 as defined in Section 36-27-59, the rate of seven percent (7%)  
24 shall apply. Any employer participating under Section 36-27-6,  
25 by adoption of a resolution, may elect for the increases in

1 employee contributions provided by Act 2011-676 to be withheld  
2 from the earnable compensation of employees of the employer.  
3 In determining the amount earnable by a member in a payroll  
4 period, the Board of Control may consider the rate of annual  
5 compensation payable to such member on the first day of the  
6 payroll period as continuing through such payroll period, and  
7 it may omit deductions from compensation for any period less  
8 than a full payroll period if an employee was not a member on  
9 the first day of the payroll period, and, to facilitate the  
10 making of deductions, it may modify the deductions required of  
11 any member by such an amount as shall not exceed one tenth of  
12 one percent of the annual compensation upon the basis of which  
13 such deductions are made.

14 "The deductions provided for in this subsection  
15 shall be made notwithstanding that the minimum compensation  
16 provided for by law for any member shall be reduced thereby.  
17 Every member shall be deemed to consent and agree to the  
18 deduction made and provided for in this subsection and shall  
19 receipt for his or her full salary or compensation and payment  
20 of salary or compensation less such deductions shall be a full  
21 and complete discharge and acquittance of all claims and  
22 demands whatsoever for the services rendered by such person  
23 during the period covered by such payment, except as to the  
24 benefits provided under this article. The employer shall  
25 certify to the Board of Control in each and every payroll or

1 in such other manner as the board may prescribe the amounts to  
2 be deducted, and each of the amounts shall be deducted and,  
3 when deducted, shall be paid into the Annuity Savings Fund and  
4 shall be credited, together with regular interest thereon, to  
5 the individual account of the member from whose compensation  
6 the deduction was made.

7 "In addition to the contributions deducted from  
8 compensation as provided in this subsection, subject to the  
9 approval of the Board of Control, any member may deposit in  
10 the Annuity Savings Fund by a single payment or by an  
11 increased rate of contribution an amount computed to be  
12 sufficient to purchase an additional annuity which, together  
13 with his or her prospective retirement allowance, will provide  
14 for him or her a total retirement allowance not to exceed one  
15 half of his or her average final compensation at age 60. Such  
16 additional amounts so deposited shall become a part of his or  
17 her accumulated contributions, except in the case of  
18 retirement, when they shall be treated as excess contributions  
19 returnable to the member in cash or as an annuity of  
20 equivalent actuarial value and shall not be considered in  
21 computing his or her pension.

22 "The contributions and interest credits of a member  
23 withdrawn by him or her or paid to his or her estate or to his  
24 or her designated beneficiary in event of his or her death  
25 shall be paid from the Annuity Savings Fund. Should a member

1       cease to be a member other than by retirement under the  
2       provisions of this article, an amount equivalent to the  
3       difference, if any, between his or her accumulated  
4       contributions and the amount then paid shall be transferred to  
5       the Expense Fund. Upon the retirement of a member or the death  
6       of an eligible member where an allowance to a surviving spouse  
7       or other designated beneficiary is payable, his or her  
8       accumulated contributions shall be transferred from the  
9       Annuity Savings Fund to the Pension Accumulation Fund.

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

13                "The State Personnel Board, with the approval of the  
14       Governor, may provide that the state shall pick up member  
15       contributions to the Employees' Retirement System of Alabama  
16       as required by this subsection on behalf of all state  
17       employees who participate in the Employees' Retirement System  
18       by a corresponding reduction in the salary of the member, such  
19       pick-up to be mandatory for all such employees, and the  
20       contributions so picked up shall be treated as employer  
21       contributions in determining tax treatment under the Internal  
22       Revenue Code. These contributions shall be paid from the same  
23       source of funds which is used in paying earnings to the  
24       employee. If employee contributions are so picked up they  
25       shall be treated for all other purposes of state law in the

1 same manner and to the same extent as employee contributions  
2 made prior to the date picked up.

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

13 "Contributions to and payments from the Pension  
14 Accumulation Fund shall be made as follows: On account of each  
15 member there shall be paid monthly by the employer an amount  
16 equal to a certain percentage of the earnable compensation of  
17 each member to be known as the "normal contribution" and an  
18 additional amount equal to a percentage of his or her earnable  
19 compensation to be known as the "accrued liability  
20 contribution," and these two amounts shall be paid monthly  
21 into the Pension Accumulation Fund; provided, that in the case  
22 of a state policeman, such percentage rates of contributions  
23 shall be calculated separately. The percentage rate of such  
24 contributions shall be fixed for each fiscal year on the basis  
25 of the liabilities of the retirement system as shown by the



1 last annual actuarial valuation, and such percentage rate as  
2 established by such valuation shall take effect the following  
3 October 1 and continue in effect for the fiscal year.

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

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

24 "The unfunded accrued liability shall be computed by  
25 the actuary as the total liabilities of the system which are

1 not dischargeable by the assets of the Annuity Savings Fund  
2 and the Pension Accumulation Fund and the present value of the  
3 aforesaid normal contributions.

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

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

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

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

1 thereafter, at least 30 days preceding October 1 of each  
2 fiscal year, the Board of Control shall certify to the chief  
3 fiscal officer of each employer the percentage rates of  
4 earnable compensation of the members required to be paid to  
5 the retirement system in accordance with subsections (c) and  
6 (d) of this section.

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

22 "(f) Appropriations. There is hereby appropriated  
23 annually from the fund from which salaries of the employees of  
24 each employer are paid the amounts sufficient to carry out the  
25 provisions of this section. In the case of those departments

1 supported wholly by transfers from other state funds, there is  
2 hereby appropriated from the supporting funds such additional  
3 amounts as may be necessary to pay the employer contribution  
4 of each department so supported in the same proportion as the  
5 other state funds contribute to the support and maintenance of  
6 such department.

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

17 "§36-27-59.

18 "(a) When used in this section, the following terms  
19 shall have the following meanings, unless the context clearly  
20 indicates otherwise:

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

24 "(2) FIREFIGHTER. A full-time firefighter employed  
25 with the State of Alabama, a municipal fire department, or a

1 fire district who has a level one minimum standard  
2 certification by the Firefighters Personnel Standards and  
3 Education Commission, or a firefighter employed by the Alabama  
4 Forestry Commission who has been certified by the State  
5 Forester as having met the wild land firefighter training  
6 standard of the National Wildfire Coordinating Group.

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

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

1 hazardous duty time for the person. Proportional credit shall  
2 be awarded for any period of service less than five years.

3 "(2) Effective January 1, 2001, and each pay period  
4 thereafter, each active employee who is a firefighter, law  
5 enforcement officer, or correctional officer, as defined in  
6 subsection (a), shall contribute to the Teachers' or  
7 Employees' Retirement System of Alabama six percent of his or  
8 her earnable compensation. For all pay dates beginning on or  
9 after October 1, 2011, each active employee who is a  
10 firefighter, law enforcement officer, or correctional officer,  
11 as defined in subsection (a), except those employees  
12 participating pursuant to Section 36-27-6, shall contribute to  
13 the Teachers' or Employees' Retirement System of Alabama eight  
14 and one-quarter percent (8.25%) of his or her earnable  
15 compensation. For all pay dates beginning on or after October  
16 1, 2012, each active employee who is a Tier I plan member and  
17 who is a firefighter, law enforcement officer, or correctional  
18 officer, as defined in subsection (a), except those employees  
19 participating pursuant to Section 36-27-6, shall contribute to  
20 the Teachers' or Employees' Retirement System of Alabama eight  
21 and one-half percent (8.5%) of his or her earnable  
22 compensation. Any employer participating under Section  
23 36-27-6, by adoption of a resolution, may elect for the  
24 increases in employee contributions provided by Act 2011-676

1 to be withheld from the earnable compensation of employees of  
2 the employer.

3 "(c) Any member of the Employees' Retirement System  
4 or the Teachers' Retirement System eligible under subsection  
5 (b) may receive credit for his or her eligible prior service  
6 provided the member pays to the Secretary-Treasurer of the  
7 Employees' Retirement System or the Secretary-Treasurer of the  
8 Teachers' Retirement System one percent of his or her current  
9 annual earnable compensation or previous year's annual  
10 earnable compensation, whichever is higher, for each year of  
11 claimed credit within two years of January 1, 2001, except  
12 that any firefighter employed by the Alabama Forestry  
13 Commission shall make such payment within two years of  
14 December 28, 2001. Any member participating in the Employees'  
15 Retirement System under Section 36-27-6, who has eligible  
16 prior service under this section and who also had no prior  
17 eligibility to purchase prior service credit under this  
18 subsection, may purchase prior service credit under this  
19 section at the same rate provided in subsection (b) within one  
20 year of the effective date of his or her enrollment with the  
21 Employees' Retirement System or within one year of August 1,  
22 2004. The member may purchase his or her claimed credit in  
23 increments of five years, unless the total service credit is  
24 less than five years, in which case the service shall be  
25 purchased in its entirety. The member shall provide



1 certification from each employing agency, on forms prescribed  
2 by the Teachers' or Employees' Retirement System, of each year  
3 of claimed service, as a prerequisite to payment under this  
4 section.

5 "(d) The provisions of this section shall not apply  
6 to any Tier II plan member."

7 Section 2. Any future act to increase the retirement  
8 age for Tier II plan members above the age of 62 shall require  
9 a two-thirds vote of the elected membership of each house of  
10 the legislature.

11 Section 3. The provisions of this act are severable.  
12 If any part of this act is declared invalid or  
13 unconstitutional, that declaration shall not affect the part  
14 which remains

15 Section 4. All laws or parts of laws which conflict  
16 with this act are repealed.

17 Section 5. This act shall become effective January  
18 1, 2013, following its passage and approval by the Governor or  
19 its otherwise becoming a law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB388

Senate 10-APR-12

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 08-MAY-12

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By: Senator Orr