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3 By Representative Baker
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ENROLLED, An Act,

To amend Sections 16-25-14 and 36-27-16, Code of Alabama 1975, relating to the retirement of members of the Teachers' Retirement System and the Employees' Retirement System who elect to receive a reduced retirement allowance; to provide an additional option of electing to receive a partial lump-sum distribution as a single payment, under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 16-25-14 and 36-27-16, Code of Alabama 1975, are amended to read as follows:

"§16-25-14.

"(a) (1) Any Tier I plan member who withdraws from service upon or after attainment of age 60 and any Tier II plan member who withdraws from service upon or after attainment of age 62, or in the case of a Tier II plan member who is a correctional officer, firefighter, or law enforcement officer as defined in Section 36-27-59, who withdraws from service upon or after attainment of age 56 with at least ten years of creditable service as a correctional officer, firefighter, or law enforcement officer may retire upon written application to the Board of Control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he or she

1 desires to be retired; provided, that any such member who
2 became a member on or after October 1, 1963, shall have
3 completed 10 or more years of creditable service.

4 "(2) Any Tier I plan member who has attained age 60
5 and any Tier II plan member who has attained age 62, or in the
6 case of a Tier II plan member who is a correctional officer,
7 firefighter, or law enforcement officer as defined in Section
8 36-27-59, who has attained age 56 with at least ten years of
9 creditable service as a correctional officer, firefighter, or
10 law enforcement officer and has previously withdrawn from
11 service may retire upon written application to the Board of
12 Control setting forth at what time, not less than 30 days nor
13 more than 90 days subsequent to the execution and filing
14 thereof, he or she desires to be retired; provided, that the
15 member shall have completed at the time for his or her
16 withdrawal from service the requirements established by the
17 Board of Control for eligibility for deferred benefits
18 pursuant to Section 16-25-3.

19 "(3) Any person who is presently covered or is
20 eligible to be covered under the Employees' Retirement System
21 of Alabama or the Teachers' Retirement System of Alabama and
22 who, prior to such coverage or eligibility for coverage,
23 served as head of any Alabama county's public library service
24 department shall have credited to him or her one year of
25 creditable service for each year served as such head, not to

1 exceed 12 years; provided, that such person shall pay into the
2 retirement system the employee's part of the cost or
3 contribution based on the salary paid to such person during
4 the time of his or her service in the above capacity, with
5 such cost or contribution to be calculated at the percent or
6 rate in effect on October 1, 1973.

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

17 "(b) Upon retirement from service, a Tier I plan
18 member shall receive a service retirement allowance which
19 shall consist of:

20 "(1) An annuity which shall be the actuarial
21 equivalent of his or her accumulated contributions at the time
22 of his or her retirement;

23 "(2) A pension which shall be equal to the annuity
24 allowable at the age of retirement, but not to exceed an

1 annuity allowable at age 65 computed on the basis of
2 contributions made prior to the attainment of age 65; and

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

20 "(c) The annual service retirement pension payable
21 to a Tier I plan member retiring on or after October 1, 1975,
22 shall not be less than an amount which when added to his or
23 her annuity is equal to the greater of the following two
24 amounts:

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

4 "(2) If he or she became a member before October 1,
5 1971, \$72 multiplied by the number of years of his or her
6 creditable service not in excess of 25 years.

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

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

22 "(e) Upon the application of a Tier I plan member in
23 service or of his or her employer, any member who has had 10
24 or more years of creditable service may be retired by the
25 Board of Control on a disability retirement allowance not less

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

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

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

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

9 The annual disability retirement pension shall not
10 be less than an amount which when added to his or her annuity
11 is equal to the greater of the following amounts:

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

15 "b. If he or she became a member before October 1,
16 1971, \$54 multiplied by the number of years of his or her
17 creditable service not in excess of 25 years.

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

22 "(g) Upon retirement for disability, a Tier II plan
23 member shall receive a service retirement allowance if the
24 member has attained age 62, or in the case of a Tier II plan
25 member who is a correctional officer, firefighter, or law

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

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

1 to the medical examination shall not apply in the case of a
2 Tier II plan member who is a correctional officer,
3 firefighter, or law enforcement officer as defined in Section
4 36-27-59 retired for disability and who has attained age 56
5 with at least ten years of creditable service as a
6 correctional officer, firefighter, or law enforcement officer.

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

23 "(3) Should the medical board report and certify to
24 the Board of Control that a disability beneficiary who is a
25 Tier II plan member has the capacity to engage in regular and

1 substantial gainful employment, the Board of Control shall
2 discontinue the beneficiary's retirement allowance until the
3 beneficiary is otherwise eligible for service retirement.

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

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

1 alternatively, if the surviving spouse or other designee
2 desires, he or she may choose to receive, in lieu of the
3 allowance provided under Option 3, the accumulated
4 contributions of the member plus an amount equal to the
5 accumulated contributions of the member not to exceed \$5,000
6 or the accumulated contributions of the member plus the
7 benefit provided by Section 36-27B-3 if a benefit is payable
8 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 or her estate or to
16 such person as he shall have nominated by written designation
17 duly 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 or her retirement allowance payable throughout life, the
22 actuarial equivalent at that time of his or her retirement
23 allowance in a reduced retirement allowance payable throughout
24 life with the provision that:

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

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

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

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

1 "(5) OPTION 5. At the time of retirement, he or she
2 shall receive a partial lump sum distribution as a single
3 payment not to exceed the sum of 24 months of the maximum
4 monthly retirement allowance the member could receive. This
5 option may be elected in addition to the election of another
6 option under this subsection and the further reduced monthly
7 retirement allowance shall be calculated in accordance with
8 the selected option. This option shall not be available to a
9 member who is receiving a disability retirement.

10 "(k) Should any beneficiary be restored to active
11 service, his or her retirement allowance shall be suspended
12 until he or she again withdraws from service and, he or she
13 shall not again become a member, nor shall he or she make
14 contributions; except, that should such beneficiary who has
15 been restored to active service continue in service for a
16 period of two or more years from the date of his or her
17 reentry into active service, he or she may request the Board
18 of Control to allow him or her to again become a member of the
19 retirement system. The Board of Control may grant the request
20 for restoration to membership; provided, that such beneficiary
21 whose retirement allowance has been suspended shall repay to
22 the system all moneys received by him or her as benefits
23 during any period subsequent to the date of his or her reentry
24 into active service; provided further, that he or she shall
25 make a contribution equal to the amount he or she would have

1 contributed had he or she been a member during the period of
2 his or her restoration to active service on a suspended
3 allowance basis, together with the interest which would have
4 been credited to the contributions on account of such period
5 of restoration up to the date such contribution is made.

6 "(1) (1) All retirement allowance payments due on or
7 after October 1, 1975, to members who retired prior to October
8 1, 1975, shall be redetermined as if the provisions of
9 subsections (b) and (e) of this section which became effective
10 on said date were in effect at the time the member retired;
11 provided, that the annual retirement allowance of any member
12 who retired on or before January 1, 1956, shall be not less
13 than \$132 multiplied by the number of years of his or her
14 creditable service not in excess of 30 years in the case of
15 service retirement or \$99 multiplied by the number of years of
16 creditable service not in excess of 30 years in the case of
17 disability retirements. Any increase provided in the
18 retirement allowance payment under this subsection for a
19 member who retired under the provisions of any optional
20 benefit elected pursuant to subsection (j) of this section
21 shall accrue only to the retired member, and no person
22 designated to receive any payments after the death of a
23 retired member under the provisions of any such optional
24 benefit shall receive any increase in such payments under this
25 subsection.

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

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

23 "(m) Notwithstanding any other provisions of this
24 section to the contrary, when a designated beneficiary for a
25 member predeceases the member who is receiving a monthly

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

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

24 "(o) Any future act to increase the retirement age
25 for Tier II plan members above the age of 62 shall require a

1 two-thirds vote of the elected membership of each house of the
 2 Legislature.

3 "§36-27-16.

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

6 "a. Any Tier I plan member who withdraws from
 7 service upon or after attainment of age 60 and any Tier II
 8 plan member who withdraws from service upon or after
 9 attainment of age 62 may retire upon written application to
 10 the Board of Control setting forth at what time, not less than
 11 30 days nor more than 90 days subsequent to the execution and
 12 filing thereof, he or she desires to be retired; provided,
 13 that any such member who became a member on or after October
 14 1, 1963, shall have completed 10 or more years of creditable
 15 service; provided further, that a Tier I plan member employed
 16 as a state policeman shall be eligible to file application for
 17 service retirement upon attaining age 52 and a Tier II plan
 18 member employed as a state policeman or employed as a
 19 correctional officer, firefighter, or law enforcement officer
 20 as defined in Section 36-27-59 with at least ten years of
 21 creditable service as a correctional officer, firefighter, or
 22 law enforcement officer shall be eligible to file application
 23 for service retirement upon attaining age 56.

24 "b. Any Tier I plan member who has attained age 60,
 25 or age 52 in the case of a state policeman and any Tier II

1 plan member who has attained age 62, or age 56 in the case of
2 a state policeman or in the case of a correctional officer,
3 firefighter, or law enforcement officer as defined in Section
4 36-27-59 who has at least ten years of creditable service as
5 a correctional officer, firefighter, or law enforcement
6 officer, and has previously withdrawn from service may retire
7 upon written application to the Board of Control setting forth
8 at what time, not less than 30 days nor more than 90 days
9 subsequent to the execution and filing thereof, he or she
10 desires to be retired; provided, the member shall have at the
11 time of his or her withdrawal from service completed the age
12 and service requirements established by the Board of Control
13 for eligibility for deferred benefits; provided, that such
14 minimum number of years of creditable service shall not be
15 less than 10 years nor more than 25 years.

16 "c. In addition to any law or part of law relating
17 to service retirement under the Employees' Retirement System
18 of Alabama, any Tier I plan member of the Employees'
19 Retirement System who withdraws from service after completion
20 of not less than 25 years of creditable service may retire
21 without a reduction in retirement allowance upon written
22 application to the Board of Control of the Employees'
23 Retirement System setting forth the first day of which month,
24 not less than 30 days or more than 90 days subsequent to the
25 execution and filing thereof, he or she desires to be retired,

1 provided that no person whose employer participates in the
2 Employees' Retirement System under Section 36-27-6 shall be
3 entitled to the benefits provided in this paragraph unless
4 such employer elects to come under the provisions of the
5 paragraph. Any employer making such election must bear the
6 cost of such benefit.

7 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

8 "a. Upon retirement from service a Tier I plan
9 member shall receive a service retirement allowance which
10 shall consist of:

11 "1. An annuity which shall be the actuarial
12 equivalent of his or her accumulated contributions at the time
13 of his or her retirement; except, that in the case of a state
14 policeman who has completed 20 years of creditable service as
15 a state policeman who retires after age 56 but prior to age
16 60, the annuity shall be equal to the annuity that would have
17 been payable upon service retirement at age 60 had the member
18 continued in service to age 60 without change in compensation;

19 "2. A pension which shall be equal to the annuity
20 allowance at age of retirement, but not to exceed an annuity
21 allowable at age 65, computed on the basis of contributions
22 made prior to attainment of age 65; except, that in the case
23 of a state policeman who has completed 20 years of creditable
24 service as a state policeman who retires after age 56 but
25 prior to age 60, the pension shall be equal to the annuity

1 that he or she would have received had he or she contributed
2 to age 60 without change in compensation; and

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

21 "b. Notwithstanding the provisions of subparagraphs
22 1, 2, and 3 of paragraph a. of this subdivision, a state
23 policeman who is a Tier I plan member and who has completed 20
24 years of service as a state policeman who retires after age 52
25 but prior to age 56 shall receive:

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

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

7 "3. An additional pension, if he or she has a prior
8 service certificate in full force and effect, which shall be
9 equal to the annuity which would have been provided at the age
10 of retirement, but which shall not exceed an annuity allowable
11 at the age of retirement plus four years by twice the
12 contributions which he or she would have made during the
13 period of prior service with which he or she is credited had
14 the system been in operation and had he or she contributed
15 thereunder. In lieu of a determination of the actual
16 compensation of a member that was received during such prior
17 service, the Board of Control may use for the purpose of this
18 article the compensation rate which, if it had progressed with
19 the rates of salary increase shown in the tables as prescribed
20 in subsection (n) of Section 36-27-23, would have resulted in
21 the 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 to
25 a Tier I plan member not employed as a state policeman

1 retiring on or after October 1, 1975, shall not be less than
2 an amount which, when added to his or her annuity, is equal to
3 the greater of the following two amounts:

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

7 "2. If he or she became a member before October 1,
8 1965, \$72.00 multiplied by the number of years of his or her
9 creditable service not in excess of 25 years.

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

15 "1. Two and seven-eighths percent of the member's
16 average final compensation multiplied by the number of years
17 of his or her creditable service. Creditable service for any
18 state policeman under the age of 56 years who has completed 20
19 years of creditable service as a state policeman shall include
20 a bonus equal to four additional years. Creditable service for
21 a state policeman 56 years or older shall include a bonus
22 equal to the years or portion thereof remaining until the
23 member reaches age 60; or

24 "2. If he or she became a member before October 1,
25 1965, \$86.40 multiplied by the number of years of his or her

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

13 "e. Upon retirement from service, a Tier II plan
14 member who is not employed as a state policeman shall receive
15 a service retirement allowance which shall consist of an
16 annuity which shall be the actuarial equivalent of the
17 member's accumulated contributions at the time of retirement
18 and a pension which, when added to the member's annuity, shall
19 be equal to one and sixty-five hundredths percent (1.65%) of
20 the member's average final compensation multiplied by the
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 "f. Upon retirement from service, a Tier II plan
2 member who is employed as a state policeman shall receive a
3 service retirement allowance which shall consist of an annuity
4 which shall be the actuarial equivalent of the member's
5 accumulated contributions at the time of retirement and a
6 pension which, when added to the member's annuity, shall be
7 equal to two and three-eighths percent (2.375%) of the
8 member's average final compensation multiplied by the member's
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 "g. Anything in this article to the contrary
14 notwithstanding, in the application of the foregoing
15 provisions of this subdivision to a member whose creditable
16 service includes a period of service as a state policeman and
17 a period of service in another employment classification, the
18 benefit rates applicable to a member employed as a state
19 policeman shall apply to all creditable service as a state
20 policeman, and the benefit rates applicable to a member not
21 employed as a state policeman shall apply to all creditable
22 service, but in all other respects the pension under this
23 subdivision shall be determined on the basis of the member's
24 employment classification at the time of his or her withdrawal
25 from service.

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

9 "(b) (1) RETIREMENT OF DISABLED EMPLOYEES;
10 ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.

11 "a. Upon application of a Tier I plan member in
12 service or of his or her employer, any member who has had 10
13 or more years of creditable service who becomes disabled may
14 be retired on a disability retirement allowance by the Board
15 of Control not less than 30 nor more than 90 days next
16 following the date of filing of such application; provided,
17 that the medical board, after a medical examination of such
18 member, shall certify that such member is mentally or
19 physically incapacitated for the further performance of duty,
20 that such incapacity is likely to be permanent and that such
21 member should be retired. Upon the application of a Tier II
22 plan member in service or his or her employer, any member who
23 has had 10 or more years of creditable service may be retired
24 by the Board of Control on a disability retirement allowance
25 not less than 30 nor more than 90 days next following the date

1 of filing such application; provided, that the medical board,
2 after a medical examination of such member, shall certify that
3 the member is totally and permanently mentally or physically
4 incapacitated from regular and substantial gainful employment,
5 and that such member should be retired.

6 "b. Without regard to the number of years of
7 creditable service, a member employed as a state policeman, a
8 municipal police officer or a deputy sheriff, or a member
9 employed as a state, municipal, or county firefighter who is
10 not covered through his or her current employer under the
11 United States Social Security Act, who as a result of his or
12 her employment, in the line of duty and not as a result of his
13 or her own misconduct, shall become permanently and totally
14 disabled to the extent that he or she cannot perform his or
15 her duties or duties of a less strenuous nature, as an
16 employee of the State of Alabama or as an employee of an
17 employer participating under the provisions of Section
18 36-27-6, shall be retired on a disability retirement
19 allowance, not less than 30 nor more than 90 days next
20 following the date of filing of such application, provided
21 that the medical board, after a medical examination of such
22 member shall certify that such member is mentally or
23 physically incapacitated for the further performance of duty,
24 that such incapacity is likely to be permanent, and that such
25 member should be retired.

1 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

2 "a. Upon retirement for disability a member shall
3 receive a service retirement allowance if he or she is a Tier
4 I plan member and he or she has attained age 60 or if he or
5 she is a Tier II plan member and he or she has attained age
6 62, or if any law or part of any law pertaining to retirement
7 under the Employees' Retirement System of Alabama provides for
8 service retirement after the completion of 25 years of
9 creditable service without a reduction in the retirement
10 allowance and the member has completed 25 years of creditable
11 service, or, in the case of a state policeman, if he or she is
12 a Tier I plan member and he or she has attained age 52 or, in
13 the case of a state policeman or a correctional officer,
14 firefighter, or law enforcement officer as defined in Section
15 36-27-59 with at least ten years of creditable service as a
16 correctional officer, firefighter, or law enforcement officer,
17 if he or she is a Tier II plan member and he or she has
18 attained age 56; otherwise, he or she shall receive a
19 disability retirement allowance which shall consist of:

20 "1. An annuity which shall be the actuarial
21 equivalent of his or her accumulated contributions at the time
22 of his or her retirement;

23 "2. A pension which shall be equal to the pension
24 that would have been payable under subparagraphs 2 and 3 of
25 paragraph a. of subdivision (2) of subsection (a) of this

1 section upon service retirement at age 65 had the member
2 continued in service to that age without change in
3 compensation.

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

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

12 "2. If he or she became a member before October 1,
13 1965, \$54.00 multiplied by the number of years of his or her
14 creditable service not in excess of 25 years.

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

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

1 a state policeman 56 years or older shall include a bonus
2 equal to the years or portion thereof remaining until the
3 member reaches age 60; or

4 "2. If he or she became a member before October 1,
5 1965, \$64.80 multiplied by the number of years of his or her
6 creditable service not in excess of 25 years.

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

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

17 "f. Anything in this chapter to the contrary
18 notwithstanding in the application of the provisions of this
19 subdivision to a member whose creditable service includes a
20 period of service as a state policeman and a period of service
21 in another employment classification the benefit rates
22 applicable to a member employed as a state policeman shall
23 apply to all creditable service as a state policeman, and the
24 benefit rates applicable to a member not employed as a state
25 policeman shall apply to all other creditable service, but in

1 all other respects the pension under this subdivision shall be
2 determined on the basis of the member's employment
3 classification at the time of his or her withdrawal from
4 service.

5 "(3) REEXAMINATION OF BENEFICIARIES RETIRED ON
6 ACCOUNT OF DISABILITY. Once each year during the first five
7 years following the retirement of a member on a disability
8 retirement allowance and once every three-year period
9 thereafter, the Board of Control may, and upon his or her
10 application shall, require any disability beneficiary who has
11 not yet attained age 60 if the beneficiary is a Tier I plan
12 member or age 62 if the beneficiary is a Tier II plan member
13 to undergo a medical examination, such examination to be made
14 at the place of residence of such beneficiary or other place
15 mutually agreed upon by a physician or physicians of or
16 designated by the medical board. Should any disability
17 beneficiary who has not yet attained age 60 if the beneficiary
18 is a Tier I plan member or age 62 if the beneficiary is a Tier
19 II plan member refuse to submit to such medical examination,
20 his or her allowance may be discontinued until his or her
21 withdrawal of such refusal, and, should his or her refusal
22 continue for one year, all his or her rights in and to his or
23 her pension may be revoked by the Board of Control; provided,
24 that these requirements relative to the medical examination
25 shall not apply in the case of a state policeman retired for

1 disability and who has attained age 52 if he or she is a Tier
2 I plan member or in the case of a state policeman or a
3 correctional officer, firefighter, or law enforcement officer
4 as defined in Section 36-27-59 with at least ten years of
5 creditable service as a correctional officer, firefighter, or
6 law enforcement officer retired for disability who has
7 attained age 56 if he or she is a Tier II plan member. Should
8 the medical board report and certify to the Board of Control
9 that a disability beneficiary who is a Tier I plan member is
10 engaged in or is able to engage in a gainful occupation paying
11 more than the difference between his or her retirement
12 allowance and his or her average final compensation and should
13 the Board of Control concur in such report, then the amount of
14 his or her pension shall be reduced to an amount which,
15 together with his or her annuity and the amount earnable by
16 him or her shall equal the amount of his or her average final
17 compensation. Should his or her earning capacity be later
18 changed, the amount of his or her pension may be further
19 modified; provided, that the new pension shall not exceed the
20 amount of the pension originally granted nor an amount which,
21 when added to the amount earnable by the beneficiary, together
22 with this annuity exceeds the amount of his or her average
23 final compensation.

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

1 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 "(c) Disposition of contributions and allowances
6 upon death, etc., of member.

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

22 "(2) In case of the death of a member eligible for
23 service retirement pursuant to subsection (a) of this section,
24 an allowance shall be paid to the surviving spouse, or to such
25 other person who the member shall have designated, in an

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

12 "(3) In case of the death of a Tier I plan member
13 not eligible for service retirement, after completion of 25
14 years of creditable service, an allowance shall be paid to the
15 surviving spouse, or to such other person who the member shall
16 have designated, in an amount that would have been payable if
17 the member had retired for disability immediately prior to his
18 or her death and had elected Option 3 as set forth in
19 subsection (d) of this section or, alternatively, if the
20 surviving spouse or other designee desires, he or she may
21 choose to receive, in lieu of the allowance provided under
22 Option 3, the accumulated contributions of the member plus an
23 amount equal to the accumulated contributions of the member
24 not to exceed \$5,000.00 or the accumulated contributions of

1 the member plus the benefit provided by Section 36-27B-3 if a
2 benefit is payable under such section;

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

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

20 "(1) OPTION 1. If he or she dies before he or she
21 has received in annuity payments the present value of his or
22 her annuity as it was at the time of his or her retirement,
23 the balance shall be paid to his or her legal representatives
24 or to such person as he or she shall nominate by written

1 designation duly acknowledged and filed with the Board of
2 Control;

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

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

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

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

1 retirement allowance shall be calculated in accordance with
2 the selected option. This option shall not be available to a
3 member who is receiving a disability retirement.

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

1 "(f) (1) REDETERMINATION, ETC., OF CERTAIN
2 ALLOWANCES. All retirement allowance payments due on or after
3 October 1, 1975, to members who retired prior to that date
4 shall be redetermined as if the provisions of this section in
5 effect on October 1, 1975, were in effect at the time the
6 member retired. Anything in this article to the contrary
7 notwithstanding, the annual retirement allowance of any member
8 not employed as a state policeman who retired on or before
9 January 1, 1956, shall not be less than \$79.20 multiplied by
10 the number of years of his or her creditable service not in
11 excess of 30 years in the case of service retirement of \$59.40
12 multiplied by the number of years of his or her creditable
13 service not in excess of 30 years in the case of disability
14 retirement. Any increase provided in the retirement allowance
15 payment under this subdivision for a member who retired under
16 the provisions of any optional benefit elected pursuant to
17 subsection (d) of this section shall accrue only to the
18 retired member, and no person designated to receive any
19 payments after the death of a retired member under the
20 provisions of any such optional benefit shall receive any
21 increase in such payments under this subdivision.
22 Notwithstanding, any member who retired prior to October 1,
23 1975, and who chose either Option 2 or Option 3 may elect to
24 receive a reduced allowance and to stipulate that the
25 actuarial equivalent of the increase in his or her retirement

1 allowance, which became effective on that date, be ascribed to
2 his or her designated beneficiary; provided, that such member
3 shall clearly express this intention by filing a written
4 application to the effect with the Secretary-Treasurer of the
5 Employees' Retirement System of Alabama prior to October 1,
6 1976.

7 "(2) Any person who, prior to October 1, 1963, was
8 in receipt of a benefit pursuant to Act No. 376, approved
9 November 6, 1959, but was not a member of the system at the
10 time of retirement shall not be entitled to receive an annual
11 retirement allowance from the system, effective October 1,
12 1971, as follows:

13 "a. If such person was retired on or before January
14 1, 1956, an amount equal to \$79.20 multiplied by the number of
15 years of his or her creditable service not in excess of 30
16 years.

17 "b. If such person was retired after January 1,
18 1956, an amount equal to \$72.00 multiplied by the number of
19 years of his or her creditable service not in excess of 25
20 years.

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

1 or she was receiving prior to October 1, 1975. The portion of
2 each monthly payment left in the system in accordance with
3 such election shall be credited, together with regular
4 interest thereon, to the individual account of such
5 beneficiary. Upon the death of such beneficiary the total
6 amount standing to his or her credit, including regular
7 interest to the date of death, shall be paid in a lump sum to
8 his or her legal representatives or to such person as he or
9 she shall have nominated by written designation duly
10 acknowledged and filed with the Board of Control.

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

24 "(h) Notwithstanding any provision of this section
25 to the contrary, if a retired member who is receiving a

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

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

16 Section 2. In order to allow time for the Retirement
17 Systems of Alabama and the Department of Finance to implement
18 the lump-sum option provided in Section 1, Option 5, as
19 provided in Section 1, shall become available to all members
20 who have a retirement date on or after October 1, 2019.

21 Section 3. This act shall become effective
22 immediately following its passage and approval by the
23 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives
I hereby certify that the within Act originated in
and was passed by the House 04-APR-19.

Jeff Woodard
Clerk

Senate	<hr/> <p>23-MAY-19</p> <hr/>	Passed
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