

1 HB437
2 199048-1
3 By Representative Ingram
4 RFD: Ways and Means General Fund
5 First Read: 16-APR-19

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

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14 A BILL
15 TO BE ENTITLED
16 AN ACT

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18 To amend Sections 36-26-36.1, 36-27-1, 36-27-16,
19 36-27-24, and 36-27-59, Code of Alabama 1975, relating to
20 retirement benefits for employees who are members of the
21 Employees' Retirement System, to establish a new defined
22 benefit retirement plan for employees who first become a
23 member of the Employees' Retirement System on or after October
24 1, 2020, or any Tier II plan member who has elected to join
25 the new plan.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 36-26-36.1, 36-27-1, 36-27-16,
2 36-27-24, and 36-27-59, Code of Alabama 1975, are amended to
3 read as follows:

4 "§36-26-36.1.

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

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

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

11 "§36-27-1.

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

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

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

1 and Partlow State School and Hospital and the Alabama State
2 Port Authority, however paid.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 "§36-27-16.

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

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

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

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

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

19 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 "(e) Effect of return to active service. Should any
19 beneficiary be restored to active service, his or her
20 retirement allowance shall be suspended until he or she again
21 withdraws from service and he or she shall not again become a
22 member of the retirement system nor shall he or she make
23 contributions; except, that should such beneficiary who has
24 been restored to active service continue in service for a
25 period of two or more years from the date of his or her
26 reentry into active service, he or she may request the Board
27 of Control to allow him or her to again become a member of the

1 retirement system. The Board of Control may grant the request
2 for restoration to membership; provided, that such beneficiary
3 whose retirement allowance has been suspended shall repay to
4 the system all moneys received by him or her as benefits
5 during any periods subsequent to the date of his or her
6 reentry into active service and shall make a contribution
7 equal to the amount he or she would have contributed had he or
8 she been a member during the period of his or her restoration
9 to active service on a suspended allowance basis together with
10 the interest which would have been credited to the
11 contributions on account of such period of restoration up to
12 the date such contribution is made.

13 "(f) (1) REDETERMINATION, ETC., OF CERTAIN
14 ALLOWANCES. All retirement allowance payments due on or after
15 October 1, 1975, to members who retired prior to that date
16 shall be redetermined as if the provisions of this section in
17 effect on October 1, 1975, were in effect at the time the
18 member retired. Anything in this article to the contrary
19 notwithstanding, the annual retirement allowance of any member
20 not employed as a state policeman who retired on or before
21 January 1, 1956, shall not be less than \$79.20 multiplied by
22 the number of years of his or her creditable service not in
23 excess of 30 years in the case of service retirement of \$59.40
24 multiplied by the number of years of his or her creditable
25 service not in excess of 30 years in the case of disability
26 retirement. Any increase provided in the retirement allowance
27 payment under this subdivision for a member who retired under

1 the provisions of any optional benefit elected pursuant to
2 subsection (d) of this section shall accrue only to the
3 retired member, and no person designated to receive any
4 payments after the death of a retired member under the
5 provisions of any such optional benefit shall receive any
6 increase in such payments under this subdivision.

7 Notwithstanding, any member who retired prior to October 1,
8 1975, and who chose either Option 2 or Option 3 may elect to
9 receive a reduced allowance and to stipulate that the
10 actuarial equivalent of the increase in his or her retirement
11 allowance, which became effective on that date, be ascribed to
12 his or her designated beneficiary; provided, that such member
13 shall clearly express this intention by filing a written
14 application to the effect with the Secretary-Treasurer of the
15 Employees' Retirement System of Alabama prior to October 1,
16 1976.

17 "(2) Any person who, prior to October 1, 1963, was
18 in receipt of a benefit pursuant to Act No. 376, approved
19 November 6, 1959, but was not a member of the system at the
20 time of retirement shall not be entitled to receive an annual
21 retirement allowance from the system, effective October 1,
22 1971, as follows:

23 "a. If such person was retired on or before January
24 1, 1956, an amount equal to \$79.20 multiplied by the number of
25 years of his or her creditable service not in excess of 30
26 years.

1 "b. If such person was retired after January 1,
2 1956, an amount equal to \$72.00 multiplied by the number of
3 years of his or her creditable service not in excess of 25
4 years.

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

20 "(g) Notwithstanding any other provisions of this
21 section to the contrary, when a designated beneficiary for a
22 member predeceases the member who is receiving a monthly
23 benefit allowance provided under Option 2, 3, or 4, the member
24 may designate a replacement beneficiary for the deceased
25 beneficiary to become effective two years after the date of
26 designation of the replacement beneficiary and an actuarial
27 adjustment in the monthly benefit allowance of the member to

1 cover any cost associated with designating a replacement
2 beneficiary shall be reflected thereafter in the monthly
3 benefit allowance received by the member, commencing with the
4 first benefit allowance check received by the member following
5 the date of designation of the replacement beneficiary.

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

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

23 "§36-27-24.

24 "(a) Effective October 1, 1997, all the assets of
25 the retirement system shall be credited according to the
26 purpose for which they are held among three funds, namely, the
27 Annuity Savings Fund, the Pension Accumulation Fund, and the

1 Expense Fund. The operation of the former Pension Reserve Fund
2 and the Annuity Reserve Fund shall be discontinued as of such
3 date and the balance of the former Pension Reserve Fund shall
4 be transferred to the Pension Accumulation Fund, and the
5 balance of the former Annuity Reserve Fund shall be
6 transferred to the Pension Accumulation Fund.

7 "(b) Annuity Savings Fund. The Annuity Savings Fund
8 shall be a fund in which shall be accumulated contributions
9 from the compensation of members to provide for their
10 annuities.

11 "Contributions to and payments from the Annuity
12 Savings Fund shall be made as follows: Effective October 1,
13 1971, each employer shall cause to be deducted from the salary
14 of each member on each and every payroll of such employer for
15 each and every payroll period five percent of his or her
16 earnable compensation; except, that in the case of a state
17 policeman, the rate of 10 percent of earnable compensation
18 shall apply, and in computing all retirement benefits it shall
19 be assumed that a seven percent rate of contribution had
20 applied with respect to service as a state policeman prior to
21 July 1, 1957. For all pay dates beginning on or after October
22 1, 2011, each employer, except those employers participating
23 pursuant to Section 36-27-6, shall cause to be deducted from
24 the salary of each member on each and every payroll of such
25 employer for each and every payroll period seven and
26 one-quarter percent (7.25%) of his or her earnable
27 compensation; except, that in the case of a state policeman,

1 the rate of ten percent (10%) of earnable compensation shall
2 apply. For all pay dates beginning on or after October 1,
3 2012, each employer, except those employers participating
4 pursuant to Section 36-27-6, shall cause to be deducted from
5 the salary of each Tier I plan member on each and every
6 payroll of such employer for each and every payroll period
7 seven and one-half percent (7.5%) of his or her earnable
8 compensation; except, that in the case of a state policeman,
9 the rate of ten percent (10%) of earnable compensation shall
10 apply. For all pay dates beginning on or after January 1,
11 2013, each employer shall cause to be deducted from the salary
12 of each Tier II plan member on each and every payroll period
13 six percent (6%) of his or her earnable compensation; except
14 that in the case of a state policeman, the rate of ten percent
15 (10%) shall apply and in the case of a correctional officer,
16 firefighter, or law enforcement officer as defined in Section
17 36-27-59, the rate of seven percent (7%) shall apply. For all
18 pay dates beginning on or after October 1, 2020, each employer
19 shall cause to be deducted from the salary of each Tier III
20 plan member on each and every payroll period seven and
21 one-half percent (7.5%) of his or her earnable compensation;
22 except in the case of a Tier III plan member who is a
23 correctional officer, firefighter, or law enforcement officer
24 as defined in Section 36-27-59, the rate of seven and
25 three-quarters percent (7.75%) shall apply. Any employer
26 participating under Section 36-27-6, by adoption of a
27 resolution, may elect for the increases in employee

1 contributions provided by Act 2011-676 to be withheld from the
2 earnable compensation of employees of the employer. In
3 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
26 in such other manner as the board may prescribe the amounts to
27 be deducted, and each of the amounts shall be deducted and,

1 when deducted, shall be paid into the Annuity Savings Fund and
2 shall be credited, together with regular interest thereon, to
3 the individual account of the member from whose compensation
4 the deduction was made.

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

20 "The contributions and interest credits of a member
21 withdrawn by him or her or paid to his or her estate or to his
22 or her designated beneficiary in event of his or her death
23 shall be paid from the Annuity Savings Fund. Should a member
24 cease to be a member other than by retirement under the
25 provisions of this article, an amount equivalent to the
26 difference, if any, between his or her accumulated
27 contributions and the amount then paid shall be transferred to

1 the Expense Fund. Upon the retirement of a member or the death
2 of an eligible member where an allowance to a surviving spouse
3 or other designated beneficiary is payable, his or her
4 accumulated contributions shall be transferred from the
5 Annuity Savings Fund to the Pension Accumulation Fund.

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

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

24 "(c) Pension Accumulation Fund. The Pension
25 Accumulation Fund shall be the fund in which shall be
26 accumulated all reserves other than the amounts held in the
27 Annuity Savings Fund for the payment of all pensions, all

1 allowances granted to surviving spouses or other designated
2 beneficiaries and other benefits payable from contributions
3 made by the employer and from which shall be paid all
4 pensions, all allowances granted to surviving spouses or other
5 designated beneficiaries and other benefits on account of
6 members with prior service credit.

7 "Contributions to and payments from the Pension
8 Accumulation Fund shall be made as follows: On account of each
9 member there shall be paid monthly by the employer an amount
10 equal to a certain percentage of the earnable compensation of
11 each member to be known as the "normal contribution" and an
12 additional amount equal to a percentage of his or her earnable
13 compensation to be known as the "accrued liability
14 contribution," and these two amounts shall be paid monthly
15 into the Pension Accumulation Fund; provided, that in the case
16 of a state policeman, such percentage rates of contributions
17 shall be calculated separately. The percentage rate of such
18 contributions shall be fixed for each fiscal year on the basis
19 of the liabilities of the retirement system as shown by the
20 last annual actuarial valuation, and such percentage rate as
21 established by such valuation shall take effect the following
22 October 1 and continue in effect for the fiscal year.

23 "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
26 valuation required by this article during the period over
27 which the accrued liability contribution is payable shall,

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

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

16 "The unfunded accrued liability shall be computed by
17 the actuary as the total liabilities of the system which are
18 not dischargeable by the assets of the Annuity Savings Fund
19 and the Pension Accumulation Fund and the present value of the
20 aforesaid normal contributions.

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

23 "On September 30, 1997, the assets shall be
24 determined by using the market value of such assets. For
25 subsequent years the value of the assets shall be determined
26 by the system's actuary using a five year smoothed market
27 value.

1 "The total amount payable in each year to the
2 Pension Accumulation Fund shall be not less than the sum of
3 the percentage rates known as the normal contribution rate and
4 the accrued liability contribution rate of the total
5 compensation earnable by all members during the preceding
6 year.

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

16 "Upon the death of a member on account of whom no
17 survivor allowance is payable under subdivisions (2) and (3)
18 of subsection (c) of Section 36-27-16, the death benefit as
19 provided in subdivision (4) of subsection (c) of Section
20 36-27-16 equal to the accumulated contributions, not to exceed
21 \$5,000.00, shall be payable from the Pension Accumulation
22 Fund.

23 "(d) Expense Fund. The Expense Fund shall be the
24 fund from which the expenses of the administration of the
25 retirement system shall be paid, exclusive of amounts payable
26 as retirement allowances and as other benefits provided in
27 this chapter. In addition thereto and on account of each

1 member of the retirement system, there shall be paid monthly
2 by the employer an amount equal to a certain percentage of the
3 earnable compensation of each member for the administrative
4 expenses of the retirement system. The percentage rate of such
5 contribution shall be fixed by the Board of Control on the
6 basis of the cost exclusive of that provided by interest not
7 returnable. Any amounts credited to the accounts of the
8 members withdrawing before retirement and not returnable under
9 the provisions of subsection (c) of Section 36-27-16 shall be
10 credited to the Expense Fund.

11 "(e) Employer's contributions. For each biennium
12 beginning October 1, 1965, each employer shall pay to the
13 retirement system the rates provided in this section and
14 thereafter, at least 30 days preceding October 1 of each
15 fiscal year, the Board of Control shall certify to the chief
16 fiscal officer of each employer the percentage rates of
17 earnable compensation of the members required to be paid to
18 the retirement system in accordance with subsections (c) and
19 (d) of this section.

20 "The employer's contribution on account of the
21 membership of employees whose salaries are paid in whole or in
22 part from funds derived from federal grants shall be paid from
23 funds derived from the federal grants in accordance with
24 statutes governing the administration of the grants and in
25 proportion to salaries paid therefrom. At such time and in
26 such manner as may be required, the Board of Control shall
27 certify to each department of state receiving a federal grant

1 the amount due and payable from the grant as the employer's
2 contribution to the retirement system on account of the
3 membership of the department whose salaries are paid in whole
4 or in part from funds derived from such federal grants. The
5 fiscal agent of the department shall authorize the state
6 Comptroller to draw a warrant or warrants in payment of the
7 amount certified as due and payable from federal grants.

8 "(f) Appropriations. There is hereby appropriated
9 annually from the fund from which salaries of the employees of
10 each employer are paid the amounts sufficient to carry out the
11 provisions of this section. In the case of those departments
12 supported wholly by transfers from other state funds, there is
13 hereby appropriated from the supporting funds such additional
14 amounts as may be necessary to pay the employer contribution
15 of each department so supported in the same proportion as the
16 other state funds contribute to the support and maintenance of
17 such department.

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

1 "§36-27-59.

2 "(a) When used in this section, the following terms
3 shall have the following meanings, unless the context clearly
4 indicates otherwise:

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

8 "(2) FIREFIGHTER. A full-time firefighter employed
9 with the State of Alabama, a municipal fire department, or a
10 fire district who has a level one minimum standard
11 certification by the Firefighters Personnel Standards and
12 Education Commission, or a firefighter employed by the Alabama
13 Forestry Commission who has been certified by the State
14 Forester as having met the wild land firefighter training
15 standard of the National Wildfire Coordinating Group.

16 "(3) LAW ENFORCEMENT OFFICER. A full-time law
17 enforcement officer, not covered as a state policeman,
18 employed with any state agency, department, board, commission,
19 or institution or a full-time law enforcement officer employed
20 by a local unit of the Employees' Retirement System under
21 Section 36-27-6 who is certified as a law enforcement officer
22 by the Alabama Peace Officers' Standards and Training
23 Commission.

24 "(b) (1) Any firefighter, law enforcement officer, or
25 correctional officer covered under the Employees' Retirement
26 System or the Teachers' Retirement System as a Tier I plan
27 member, upon attainment of the requisite years of creditable

1 service or who otherwise qualifies for service or disability
2 retirement, shall be awarded one year of hazardous duty time
3 for every five years of service as a firefighter, a law
4 enforcement officer, or a correctional officer provided that
5 the person has made the additional contribution provided in
6 subdivision (2) or paid the additional contribution required
7 in subsection (c) for each year of service used in determining
8 hazardous duty time for the person. Proportional credit shall
9 be awarded for any period of service less than five years.

10 "(2) Effective January 1, 2001, and each pay period
11 thereafter, each active employee who is a firefighter, law
12 enforcement officer, or correctional officer, as defined in
13 subsection (a), shall contribute to the Teachers' or
14 Employees' Retirement System of Alabama six percent of his or
15 her earnable compensation. For all pay dates beginning on or
16 after October 1, 2011, each active employee who is a
17 firefighter, law enforcement officer, or correctional officer,
18 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-quarter percent (8.25%) of his or her earnable
22 compensation. For all pay dates beginning on or after October
23 1, 2012, each active employee who is a Tier I plan member and
24 who is a firefighter, law enforcement officer, or correctional
25 officer, as defined in subsection (a), except those employees
26 participating pursuant to Section 36-27-6, shall contribute to
27 the Teachers' or Employees' Retirement System of Alabama eight

1 and one-half percent (8.5%) of his or her earnable
2 compensation. Any employer participating under Section
3 36-27-6, by adoption of a resolution, may elect for the
4 increases in employee contributions provided by Act 2011-676
5 to be withheld from the earnable compensation of employees of
6 the employer.

7 "(c) Any member of the Employees' Retirement System
8 or the Teachers' Retirement System eligible under subsection
9 (b) may receive credit for his or her eligible prior service
10 provided the member pays to the Secretary-Treasurer of the
11 Employees' Retirement System or the Secretary-Treasurer of the
12 Teachers' Retirement System one percent of his or her current
13 annual earnable compensation or previous year's annual
14 earnable compensation, whichever is higher, for each year of
15 claimed credit within two years of January 1, 2001, except
16 that any firefighter employed by the Alabama Forestry
17 Commission shall make such payment within two years of
18 December 28, 2001. Any member participating in the Employees'
19 Retirement System under Section 36-27-6, who has eligible
20 prior service under this section and who also had no prior
21 eligibility to purchase prior service credit under this
22 subsection, may purchase prior service credit under this
23 section at the same rate provided in subsection (b) within one
24 year of the effective date of his or her enrollment with the
25 Employees' Retirement System or within one year of August 1,
26 2004. The member may purchase his or her claimed credit in
27 increments of five years, unless the total service credit is

1 less than five years, in which case the service shall be
2 purchased in its entirety. The member shall provide
3 certification from each employing agency, on forms prescribed
4 by the Teachers' or Employees' Retirement System, of each year
5 of claimed service, as a prerequisite to payment under this
6 section.

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

9 Section 2. This act shall become effective
10 immediately following its passage and approval by the
11 Governor, or its otherwise becoming law.