

1 SB388
2 136023-7
3 By Senators Orr, Pittman, Allen, Waggoner, Blackwell, Taylor,
4 Brewbaker and Marsh
5 RFD: Finance and Taxation General Fund
6 First Read: 08-MAR-12

1 SB388

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Sections 16-25-1, 16-25-3, 16-25-11.1,
26 16-25-14, 16-25-21, 36-26-36.1, 36-27-1, 36-27-4, 36-27-16,

1 36-27-24 and 36-27-59, Code of Alabama 1975, are amended to
2 read as follows:

3 "§16-25-1.

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

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

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

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

1 funds or any employee receiving a regular stated compensation
2 from the retirement system. In all cases of doubt, the Board
3 of Control shall determine whether any person is a teacher as
4 defined in this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

20 "(17) EARNABLE COMPENSATION. The full rate of the
21 compensation that would be payable to a teacher if he or she
22 worked the full normal working time. In cases where
23 compensation includes maintenance, the Board of Control shall
24 fix the value of that part of the compensation not paid in
25 money. Earnable compensation shall not exceed the limitations
26 imposed by Section 401(a)(17) of the Internal Revenue Code for

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

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

1 his entire period of creditable service if less than five
2 years.

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

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

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

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

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

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

24 "(25) ACTUARIAL EQUIVALENT. A benefit of equal
25 value, when computed upon the basis of the mortality tables as

1 shall be adopted by the Board of Control, and regular
2 interest.

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

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

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

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

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

22 "§16-25-3.

23 "(a) The membership of the retirement system shall
24 consist of the following: All persons who shall become
25 teachers after the date of establishment shall become members
26 of the retirement system as a condition of their employment.

1 Any person who is a teacher on the date of establishment shall
2 become a member as of that date unless within a period of 90
3 days next following such teacher shall file with the Board of
4 Control on a form prescribed by the board a notice of his
5 election not to be covered in the membership of the system and
6 a duly executed waiver of all present and prospective benefits
7 which would otherwise inure to him on account of his
8 participation in the retirement system.

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

1 total contributions which he would have made as a member
2 during the period of his employment as a teacher from
3 September 1, 1941 to the date he became a member, plus
4 compound interest of eight percent on such contributions. As
5 soon as practicable after the expiration of the time for
6 making such elections, the Department of Education, at the
7 request of the Governor, shall furnish him a report of the
8 number of teachers in service who applied for membership or
9 credit for prior service. The Board of Control of the
10 Teachers' Retirement System shall determine and report to the
11 Governor the employer cost for such coverage.

12 "(c) The Board of Control may, in its discretion,
13 deny the right to become members to any class of teachers
14 whose compensation is only partly paid by the state or who are
15 serving on a temporary or other than per annum basis, and it
16 also may, in its discretion, make optional with members in any
17 such class their individual entrance into the retirement
18 system. Should any member in any period of six consecutive
19 years after becoming a member be absent from service more than
20 five years or withdraw his contributions, as provided in
21 subsection (g) of Section 16-25-14, or retire or die, he shall
22 thereupon cease to be a member.

23 "(d) Notwithstanding, a teacher in service on
24 October 1, 1975, who has full-time military service in the
25 armed forces of the United States, exclusive of service in a
26 reserve or national guard component of any branch of the armed

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

21 "(e) Anything in this chapter to the contrary
22 notwithstanding, if any person becoming a member of the
23 Teachers' Retirement System after October 1, 1975 shall have
24 served in the armed forces of the United States, exclusive of
25 service in a reserve or national guard component of any branch
26 of the armed forces, such member may be granted by the Board

1 of Control membership service credit for such period of
2 service in the armed forces; provided, that such member pays
3 into the Teachers' Retirement System, in a lump sum within one
4 year next after the first day of the pay period in which the
5 first deduction to the Teachers' Retirement System is made,
6 after having been honorably discharged from the armed forces,
7 an amount equal to four percent of the average compensation
8 paid to a teacher during each claimed year of full-time
9 military service, plus and together therewith, eight percent
10 interest compounded from the last date of such claimed
11 military service; provided further, that no member shall
12 receive more than four years' membership service credit for
13 military service, and no credit for military service shall be
14 granted if such member is receiving military service
15 retirement benefits, other than disability allowances or
16 benefits, from any branch of the United States armed forces or
17 by reason of any service in any branch of the armed forces or
18 if such member received anything other than an honorable
19 discharge for and including the claimed military service.

20 ~~"(f) Except as provided in this section, no benefit~~
21 ~~under the retirement system other than the return of~~
22 ~~contributions as provided in subsection (g) of Section~~
23 ~~16-25-14 shall become payable to or on account of any member~~
24 ~~while he is not in service as a teacher, unless the member~~
25 ~~withdraws from service after reaching age 60; provided, that a~~
26 ~~teacher who becomes a member on or after October 1, 1963 must~~

1 ~~have 10 or more years of creditable service when he withdraws~~
2 ~~from service after reaching age 60.~~

3 "~~(g)~~ (f) Anything in this title to the contrary
4 notwithstanding, any member who, at the time of his withdrawal
5 from service, has completed the age and service requirements
6 established by the Board of Control for eligibility for
7 deferred benefits shall be eligible to continue in the
8 membership of the system until he files application for
9 service retirement in accordance with the provisions of
10 Section 16-25-14. The Board of Control shall, from time to
11 time, establish the minimum age and the minimum number of
12 years of creditable service which shall be required in order
13 that a member may be eligible for deferred benefits; provided,
14 that such minimum number of years of creditable service shall
15 not be less than 10 years nor more than 25 years. ~~Unless and~~
16 ~~until changed by the Board of Control, the requirements for~~
17 ~~deferred benefits shall be the completion of 25 years of~~
18 ~~creditable service or the completion of 10 years of creditable~~
19 ~~service and the attainment of age 55 at the time of withdrawal~~
20 ~~from service.~~

21 "§16-25-11.1.

22 "(a) Teachers, as defined in subdivision (3) of
23 Section 16-25-1 or subsection (d) of Section 16-25-5, as
24 amended may use their accrued sick leave, up to a maximum
25 number of accrued sick leave days allowed by law, to be
26 included as membership service in determining the total years

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

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

22 "§16-25-14.

23 "(a) (1) Any Tier I plan member who withdraws from
24 service upon or after attainment of age 60 and any Tier II
25 plan member who withdraws from service upon or after
26 attainment of age 62, or in the case of a Tier II plan member

1 who is a correctional officer, firefighter, or law enforcement
2 officer as defined in Section 36-27-59, who withdraws from
3 service upon or after attainment of age 56 with at least ten
4 years of creditable service as a correctional officer,
5 firefighter or law enforcement officer may retire upon written
6 application to the Board of Control setting forth at what
7 time, not less than 30 days nor more than 90 days subsequent
8 to the execution and filing thereof, he desires to be retired;
9 provided, that any such member who became a member on or after
10 October 1, 1963, shall have completed 10 or more years of
11 creditable service.

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

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

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

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

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

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

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

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

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

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

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

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

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

24 "(e) ~~(d)~~ Upon the application of a Tier I plan
25 member in service or of his employer, any member who has had
26 10 or more years of creditable service may be retired by the

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

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

1 "(1) An annuity which shall be the actuarial
2 equivalent of his accumulated contributions at the time of
3 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 said 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 annuity is
11 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 became a member before October 1, 1971,
16 \$54 multiplied by the number of years of his creditable
17 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 creditable service not in excess
21 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
26 enforcement officer as defined in Section 36-27-59, if the

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

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

1 as defined in Section 36-27-59 retired for disability and who
2 has attained age 56 with at least ten years of creditable
3 service as a correctional officer, firefighter or law
4 enforcement officer.

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

20 "(3) Should the medical board report and certify to
21 the Board of Control that a disability beneficiary who is a
22 Tier II plan member has the capacity to engage in regular and
23 substantial gainful employment, the Board of Control shall
24 discontinue the beneficiary's retirement allowance until the
25 beneficiary is otherwise eligible for service retirement.

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

16 "(2) In case of the death of a member eligible for
17 service retirement pursuant to subsection (a) of this section,
18 an allowance shall be paid to the surviving spouse, or to such
19 other person who the member shall have designated, in an
20 amount that would have been payable if the member had retired
21 immediately prior to his death and had elected Option 3, as
22 set forth in subsection (h) of this section or, alternatively,
23 if the surviving spouse or other designee desires, he may
24 choose to receive, in lieu of the allowance provided under
25 Option 3, the accumulated contributions of the member plus an
26 amount equal to the accumulated contributions of the member

1 not to exceed \$5,000 or the accumulated contributions of the
2 member plus the benefit provided by Section 36-27B-3 if a
3 benefit is payable under such section.

4 ~~"(3) In case of the death of a member not eligible~~
5 ~~for service retirement after completion of 25 years of~~
6 ~~creditable service, an allowance shall be paid to the~~
7 ~~surviving spouse, or to such other person who the member shall~~
8 ~~have designated, in an amount that would have been payable if~~
9 ~~the member had retired for disability immediately prior to his~~
10 ~~death and had elected Option 3, as set forth in subsection (h)~~
11 ~~of this section or, alternatively, if the surviving spouse or~~
12 ~~other designee desires, he may choose to receive, in lieu of~~
13 ~~the allowance provided under Option 3, the accumulated~~
14 ~~contributions of the member plus an amount equal to the~~
15 ~~accumulated contributions of the member not to exceed \$5,000~~
16 ~~or the accumulated contributions of the member plus the~~
17 ~~benefit provided by Section 36-27B-3 if a benefit is payable~~
18 ~~under such section.~~

19 ~~"(3) (4)~~ Upon the death of a member on account of
20 whom no survivor allowance is payable under subdivision (2) ~~or~~
21 ~~(3)~~ of this subsection, the accumulated contributions of the
22 member plus an amount equal to the accumulated contributions
23 not to exceed \$5,000 or the accumulated contributions of the
24 member plus the benefit provided by Section 36-27B-3 if a
25 benefit is payable under such section shall be paid to his

1 estate or to such person as he shall have nominated by written
2 designation duly executed and filed with the Board of Control.

3 "(j) ~~(h)~~ With the provision the election of an
4 option shall be effective on the effective date of retirement,
5 any member may elect prior to retirement to receive, in lieu
6 of his retirement allowance payable throughout life, the
7 actuarial equivalent at that time of his retirement allowance
8 in a reduced retirement allowance payable throughout life with
9 the provision that:

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

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

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

1 "(4) OPTION 4. Some other benefit or benefits shall
2 be paid either to the member or to such person or persons as
3 he shall nominate; provided, that such other benefit or
4 benefits, together with the reduced retirement allowance,
5 shall be certified by the actuary to be of equivalent
6 actuarial value to his retirement allowance and shall be
7 approved by the Board of Control.

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

1 the contributions on account of such period of restoration up
2 to the date such contribution is made.

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

23 "(2) Any person who served at least 30 years as a
24 teacher in the public schools of Alabama and was never a
25 member of the system and who, prior to October 1, 1963, was in
26 receipt of a benefit for old age assistance pursuant to

1 subsections (1) and (2) of Section 1 of Act 116, approved
2 August 24, 1959, shall be entitled to receive an annual
3 retirement allowance of \$3,960 from the system, effective as
4 of October 1, 1973.

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 monthly retirement allowance
8 payments arising in accordance with subdivision (1) or (2) of
9 this subsection. The portion of each monthly payment left in
10 the system in accordance with such election shall be credited,
11 together with regular interest thereon, to the individual
12 account of such beneficiary. Upon the death of such
13 beneficiary, the total amount standing to his credit,
14 including regular interest to the date of death, shall be paid
15 in a lump sum to his legal representative or to such person as
16 he shall have nominated by written designation duly
17 acknowledged and filed with the Board of Control.

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

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

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

18 "§16-25-21.

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

1 of the former Annuity Reserve Fund shall be transferred to the
2 Pension Accumulation Fund.

3 "(1) The Annuity Savings Fund shall be a fund in
4 which shall be accumulated contributions from the compensation
5 of members to provide for their annuities. Contributions to
6 and payments from the Annuity Savings Fund shall be made as
7 follows:

8 "a. Each employer shall cause to be deducted from
9 the salary of each member on each and every payroll of such
10 employer for each and every payroll period five percent of his
11 or her earnable compensation. For all pay dates beginning on
12 or after October 1, 2011, each employer shall cause to be
13 deducted from the salary of each member on each and every
14 payroll of such employer for each and every payroll period
15 seven and one-quarter percent (7.25%) of his or her earnable
16 compensation. For all pay dates beginning on or after October
17 1, 2012, each employer shall cause to be deducted from the
18 salary of each Tier I plan member on each and every payroll of
19 such employer for each and every payroll period seven and
20 one-half percent (7.5%) of his or her earnable compensation.
21 For all pay dates beginning on or after the effective date of
22 this act, each employer shall cause to be deducted from the
23 salary of each Tier II plan member on each and every payroll
24 period six percent (6%) of his or her earnable compensation;
25 except in the case of a Tier II plan member who is a
26 correctional officer, firefighter, or law enforcement officer

1 as defined in Section 36-27-59, the rate of seven percent (7%)
2 shall apply. In determining the amount earnable by a member in
3 a payroll period, the Board of Control may consider the rate
4 of annual compensation payable to such member on the first day
5 of the payroll period as continuing throughout such payroll
6 period, and it may omit deductions from compensation for any
7 period less than a full payroll period if a teacher was not a
8 member on the first day of the payroll period, and to
9 facilitate the making of deductions it may modify the
10 deduction required of any member by such an amount as shall
11 not exceed one tenth of one percent of the annual compensation
12 upon the basis of which such deduction is to be made.

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

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

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

1 of an eligible member where an allowance to the surviving
2 spouse is payable, his or her accumulated contributions shall
3 be transferred from the Annuity Savings Fund to the Pension
4 Accumulation Fund.

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

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

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

25 "b. On the basis of regular interest and of such
26 mortality and other tables as shall be adopted by the Board of

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

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

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

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

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

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

19 "f. Upon the death of a member on account of whom no
20 survivor allowance is payable under subdivisions (2) ~~and (3)~~
21 of subsection (i) ~~(g)~~ of Section 16-25-14, the death benefit
22 as provided in subdivision ~~(3)~~ 2 of subsection (i) ~~(g)~~ of such
23 section equal to the accumulated contributions not to exceed
24 \$5,000 shall be payable from the Pension Accumulation Fund.

25 "(3) The Expense Fund shall be the fund from which
26 the expenses of the administration of the retirement system

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

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

1 following information concerning members of the retirement
2 system employed by such boards during the scholastic year
3 ending on June 30 preceding the date: Name, address, monthly
4 salary actually paid, total annual salary actually paid, and
5 such other information as the Board of Control may require.

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

1 a corresponding amount deducted from funds otherwise payable
2 to them.

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

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

19 "e. Where member contributions are made from
20 salaries paid by the Alabama Education Association, the
21 Alabama Education Association shall pay the employer costs
22 calculated as a percentage of the salaries of those employees
23 to be contributed as employer in accordance with subdivisions
24 (2) and (3) of this section. Such amounts shall be paid
25 monthly and at the same time as the member contributions are
26 made to the Teachers' Retirement System.

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

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

18 "§36-26-36.1.

19 "(a) Any Tier I plan member of the Teachers' or
20 Employees' Retirement System of Alabama not otherwise covered
21 by a provision to convert unused sick leave into membership
22 service for purposes of service retirement may, at their
23 option and in lieu of receiving payment for 50 percent of
24 their accrued and unused sick leave at the time of their
25 retirement as provided in Section 36-26-36, or any other
26 payment that may be provided for such unused sick leave, use

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

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

1 "§36-27-1.

2 "When used in this article, the following terms
3 shall have the following meanings, respectively, unless the
4 context clearly indicates otherwise:

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

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

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

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

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

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

5 "(7) SERVICE. Service as an employee paid for by an
6 employer.

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

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

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

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

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

21 "(13) ACCUMULATED CONTRIBUTIONS. The sum of all the
22 amounts deducted from the compensation of a member credited to
23 his or her individual account in the Annuity Savings Fund,
24 together with regular interest thereon, as provided in Section
25 36-27-24.

1 "(14) EARNABLE COMPENSATION. The full rate of
2 compensation that would be payable to an employee if he or she
3 worked the full normal work-time. In cases where compensation
4 includes maintenance, the Board of Control shall fix the value
5 of that part of the compensation not paid in money. Earnable
6 compensation shall not exceed the limitations imposed by
7 Section 401(a) (17) of the Internal Revenue Code for public
8 pension funds, except that any employee who was a member of
9 the Employees' Retirement System before the first plan year
10 beginning after December 31, 1995, shall not be subject to the
11 earning limitations set forth in Section 401(a) (17). For Tier
12 II plan members, earnable compensation shall include overtime
13 payments that are made to the member but shall not include
14 subsistence payments that are made to the member and shall not
15 exceed one hundred twenty-five percent (125%) of the member's
16 annual base compensation, as certified by the employer.

17 "(15) AVERAGE FINAL COMPENSATION. For any Tier I
18 plan member, the average annual compensation of the member an
19 ~~employee~~, with respect to which he or she had made
20 contributions pursuant to subsection (b) of Section 36-27-24
21 during the three years, in his or her last 10 years of
22 creditable service for which the average is highest or during
23 his or her entire period of creditable service if less than
24 three years; except, that for any period prior to November 1,
25 1959, the compensation used in computing the average shall
26 include compensation in excess of the maximum amount with

1 respect to which members were required to contribute. For any
2 Tier II plan member, the average annual compensation of the
3 member, with respect to which he or she has made contributions
4 pursuant to subsection (b) of Section 36-27-24 during the five
5 years, in his or her last ten years of creditable service for
6 which the average is highest or during his entire period of
7 creditable service if less than five years.

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

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

14 "(18) RETIREMENT ALLOWANCE. The sum of the "annuity"
15 and the "pension."

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

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

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

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

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

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

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

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

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

25 "§36-27-4.

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

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

6 "(2) Any person who is an employee on October 1,
7 1945, shall become a member as of that date unless, within a
8 period of 90 days next following, such employee shall file
9 with the Board of Control on a form prescribed by the board a
10 notice of his election not to be covered in the membership of
11 the system and a duly executed waiver of all present and
12 prospective benefits which would otherwise inure to him on
13 account of his membership in the retirement system.

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

1 provided, that said member or retired employee pays to the
2 treasurer of the retirement system on or before July 1, 1962,
3 a sum equal to the total contributions which he would have
4 made as a member during the period of his employment from
5 October 1, 1945, to the date he became a member.

6 "(4) All county engineers of the several counties of
7 the state in whose salaries the State Department of
8 Transportation participates, except county engineers who are
9 already members of this retirement system under provisions of
10 this article or who are covered under the provisions of a
11 county retirement system supported by funds of the employing
12 county. The effective date for the inclusion of county
13 engineers in the system shall be October 1, 1964. Membership
14 in the retirement system shall be optional for county
15 engineers employed on the date participation becomes
16 effective, and any county engineer who elects to enroll in the
17 retirement system within one year thereafter may be admitted
18 to membership with all prior service credit and all membership
19 service credit; provided, that said county engineer pays to
20 the treasurer of the retirement system at the time he enrolls
21 a sum equal to the total employee contributions and interest
22 he would have had to his credit had he been a member during
23 the period of his service as county engineer from October 1,
24 1945, to the date of his application for membership. Should a
25 county engineer employed on the date participation becomes
26 effective elect to enroll as a member without paying such

1 prior membership contributions and interest, he may become a
2 member without credit for service prior to date of his
3 enrollment. Membership shall be compulsory for all county
4 engineers who are eligible for such membership upon entering
5 service as a county engineer after the date participation
6 becomes effective to the extent of the State Department of
7 Transportation's participation in his salary.

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

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

18 "(d) A member in service on January 1, 1976, who has
19 honorable duty consisting of active full-time military service
20 in the armed forces of the United States, exclusive of any
21 summer or weekend service in a reserve or national guard
22 component of any branch of the armed forces, and who has not
23 received credit toward retirement status in the Employees'
24 Retirement System of Alabama for said military service, may be
25 granted by the Board of Control membership service credit for
26 the period of such service in the armed forces; provided, that

1 such member pays into the Employees' Retirement System, in a
2 lump sum prior to October 1, 1976, an amount equal to four
3 percent of the average compensation paid to a state employee
4 during each claimed year of full-time military service, plus
5 and together therewith eight percent interest compounded from
6 the last date of such claimed military service; and provided
7 further, that such a member shall not receive membership
8 service credit for more than four years of military service,
9 and shall receive no credit for military service if such
10 member is receiving military service retirement benefits,
11 other than disability allowances or benefits, from any branch
12 of the United States armed forces, or by reason of any such
13 service in any branch of the armed forces, or, if such member
14 received anything other than an honorable discharge for and
15 including the claimed military service. Anything in this
16 article to the contrary notwithstanding, if any person
17 becoming a member of the Employees' Retirement System after
18 January 1, 1976, shall have honorable duty consisting of
19 active full-time military service in the armed forces of the
20 United States, exclusive of any summer or weekend service in a
21 reserve or national guard component of any branch of the armed
22 forces, such member may be granted by the Board of Control
23 membership service credit for such period of service in the
24 armed forces; provided, that such member pays into the
25 Employees' Retirement System, in a lump sum within one year
26 next after the first day of the pay period in which the first

1 deduction to the Employees' Retirement System is made after
2 having been honorably discharged from the armed forces, an
3 amount equal to four percent of the average compensation paid
4 to a state employee during each claimed year of full-time
5 military service, plus and together therewith eight percent
6 interest compounded from the last date of such claimed
7 military service; and provided further, that no member shall
8 receive more than four years' membership service credit for
9 military service, and no credit for military service shall be
10 granted if such member is receiving military service
11 retirement benefits, other than disability allowances or
12 benefits, from any branch of the United States armed forces,
13 or by reason of any service in any branch of the armed forces,
14 or, if such member received anything other than an honorable
15 discharge for and including the claimed military service.

16 ~~"(e) No benefit under the retirement system other~~
17 ~~than the return of contributions as provided in subdivision~~
18 ~~(1) of subsection (c) of Section 36-27-16 shall become payable~~
19 ~~to or on account of any member while he is not in service as~~
20 ~~an employee, unless the member withdraws from service after~~
21 ~~reaching age 60, or, in the case of a state policeman, after~~
22 ~~reaching age 56. Anything in this article to the contrary~~
23 ~~notwithstanding, any member who has completed 15 years of~~
24 ~~creditable service or who has completed 10 years of creditable~~
25 ~~service and has attained age 55 at the time of his withdrawal~~
26 ~~from service shall be eligible to continue in the membership~~

1 ~~of the system until he files application for service~~
2 ~~retirement in accordance with the provisions of subsection (a)~~
3 ~~of Section 36-27-16.~~

4 "~~(f)~~(e) Any member, who retired prior to January 1,
5 1976, who has service in the armed forces, as described in
6 this section, shall be entitled to claim such full-time
7 military service; provided, that such retired member pays into
8 the Employees' Retirement System, in a lump sum prior to
9 October 1, 1976, an amount equal to four percent of the
10 average compensation paid to a state employee during such
11 claimed year of full-time military service, plus and together
12 therewith eight percent compounded from the last date of such
13 claimed military service; and provided further, that such
14 retired member shall not receive membership service credit for
15 more than four years of military service, and shall receive no
16 credit for military service, if such member is receiving
17 military service retirement benefits, other than disability
18 allowance or benefits, from any branch of the armed forces, or
19 by reason of any such service in any branch of the armed
20 forces. The provisions of this subsection shall be retroactive
21 to October 1, 1975.

22 "~~(g)~~(f) All retirement allowance payments due on or
23 after January 1, 1976, to members of the Employees' Retirement
24 System of Alabama who retired prior to said date and who have
25 complied with the provisions of this section shall be
26 redetermined as if the provisions of this section were in

1 effect at the time they retired; provided, that any increase
2 in the retirement allowance payment for a member who, prior to
3 October 1, 1975, retired under the provisions of any optional
4 benefit elected pursuant to Acts 1945, No. 515, as amended,
5 shall accrue only to the retired member, and no person
6 designated to receive any payments after the death of a
7 retired member under the provisions of any such optional
8 benefit shall receive any increase in such payments.

9 "§36-27-16.

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

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

1 creditable service as a correctional officer, firefighter or
2 law enforcement officer shall be eligible to file application
3 for service retirement upon attaining age 56.

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

21 "c. In addition to any law or part of law relating
22 to service retirement under the Employees' Retirement System
23 of Alabama, any Tier I plan member of the Employees'
24 Retirement System who withdraws from service after completion
25 of not less than 25 years of creditable service may retire
26 without a reduction in retirement allowance upon written

1 application to the Board of Control of the Employees'
2 Retirement System setting forth the first day of which month,
3 not less than 30 days or more than 90 days subsequent to the
4 execution and filing thereof, he desires to be retired,
5 provided that no person whose employer participates in the
6 Employees' Retirement System under Section 36-27-6 shall be
7 entitled to the benefits provided in this paragraph unless
8 such employer elects to come under the provisions of said
9 paragraph. Any employer making such election must bear the
10 cost of such benefit.

11 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

12 "a. Upon retirement from service a Tier I plan
13 member shall receive a service retirement allowance which
14 shall consist of:

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

24 "2. A pension which shall be equal to the annuity
25 allowance at age of retirement, but not to exceed an annuity
26 allowable at age 65, computed on the basis of contributions

1 made prior to attainment of age 65; except, that in the case
2 of a state policeman who has completed 20 years of creditable
3 service as a state policeman who retires after age 56 but
4 prior to age 60, the pension shall be equal to the annuity
5 that he would have received had he contributed to age 60
6 without change in compensation; and

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

24 "b. Notwithstanding the provisions of subparagraphs
25 1, 2, and 3 of paragraph a of this subdivision, a state
26 policeman who is a Tier I plan member and who has completed 20

1 years of service as a state policeman who retires after age 52
2 but prior to age 56 shall receive:

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

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

9 "3. An additional pension, if he has a prior service
10 certificate in full force and effect, which shall be equal to
11 the annuity which would have been provided at the age of
12 retirement, but which shall not exceed an annuity allowable at
13 the age of retirement plus four years by twice the
14 contributions which he would have made during the period of
15 prior service with which he is credited had the system been in
16 operation and had he contributed thereunder. In lieu of a
17 determination of the actual compensation of a member that was
18 received during such prior service, the Board of Control may
19 use for the purpose of this article the compensation rate
20 which, if it had progressed with the rates of salary increase
21 shown in the tables as prescribed in subsection (n) of Section
22 36-27-23, would have resulted in the same average salary of
23 the member for the five years immediately preceding the date
24 of establishment as the records show the member actually
25 received.

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

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

9 "2. If he became a member before October 1, 1965,
10 \$72.00 multiplied by the number of years of his creditable
11 service not in excess of 25 years.

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

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

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

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

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

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

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

24 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

25 "a. Upon retirement for disability a member shall
26 receive a service retirement allowance if he is a Tier I plan

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

16 "1. An annuity which shall be the actuarial
17 equivalent of his accumulated contributions at the time of his
18 retirement;

19 "2. A pension which shall be equal to the pension
20 that would have been payable under subparagraphs 2 and 3 of
21 paragraph a of subdivision (2) of subsection (a) of this
22 section upon service retirement at age 65 had the member
23 continued in service to said age without change in
24 compensation.

25 "b. The annual disability retirement pension payable
26 to 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 annuity is equal to the
3 greatest 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 creditable service.

7 "2. If he became a member before October 1, 1965,
8 \$54.00 multiplied by the number of years of his creditable
9 service not in excess of 25 years.

10 "c. The annual disability retirement pension payable
11 to a Tier I plan member employed as a state policeman retiring
12 on or after October 1, 1975, shall not be less than an amount
13 which when added to his annuity is equal to the greater of the
14 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 creditable service. Creditable service for any state
18 policeman under the age of 56 years who has completed 20 years
19 of creditable service as a state policeman shall include a
20 bonus equal to four additional years. Creditable service for a
21 state policeman 56 years or older shall include a bonus equal
22 to the years or portion thereof remaining until the member
23 reaches age 60; or

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

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

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

11 "f. ~~d.~~ Anything in this chapter to the contrary
12 notwithstanding in the application of the provisions of this
13 subdivision to a member whose creditable service includes a
14 period of service as a state policeman and a period of service
15 in another employment classification the benefit rates
16 applicable to a member employed as a state policeman shall
17 apply to all creditable service as a state policeman, and the
18 benefit rates applicable to a member not employed as a state
19 policeman shall apply to all other creditable service, but in
20 all other respects the pension under this subdivision shall be
21 determined on the basis of the member's employment
22 classification at the time of his withdrawal from service.

23 "(3) REEXAMINATION OF BENEFICIARIES RETIRED ON
24 ACCOUNT OF DISABILITY. Once each year during the first five
25 years following the retirement of a member on a disability
26 retirement allowance and once every three-year period

1 thereafter, the Board of Control may, and upon his application
2 shall, require any disability beneficiary who has not yet
3 attained age 60 if the beneficiary is a Tier I plan member or
4 age 62 if the beneficiary is a Tier II plan member to undergo
5 a medical examination, such examination to be made at the
6 place of residence of such beneficiary or other place mutually
7 agreed upon by a physician or physicians of or designated by
8 the medical board. Should any disability beneficiary who has
9 not yet attained age 60 if the beneficiary is a Tier I plan
10 member or age 62 if the beneficiary is a Tier II plan member
11 refuse to submit to such medical examination, his allowance
12 may be discontinued until his withdrawal of such refusal, and,
13 should his refusal continue for one year, all his rights in
14 and to his pension may be revoked by the Board of Control;
15 provided, that these requirements relative to the medical
16 examination shall not apply in the case of a state policeman
17 retired for disability and who has attained age 52 if he is a
18 Tier I plan member or in the case of a state policeman or 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 retired for disability who has
23 attained age 56 if he is a Tier II plan member. Should the
24 medical board report and certify to the Board of Control that
25 a disability beneficiary who is a Tier I plan member is
26 engaged in or is able to engage in a gainful occupation paying

1 more than the difference between his retirement allowance and
2 his average final compensation and should the Board of Control
3 concur in such report, then the amount of his pension shall be
4 reduced to an amount which, together with his annuity and the
5 amount earnable by him shall equal the amount of his average
6 final compensation. Should his earning capacity be later
7 changed, the amount of his pension may be further modified;
8 provided, that the new pension shall not exceed the amount of
9 the pension originally granted nor an amount which, when added
10 to the amount earnable by the beneficiary, together with this
11 annuity exceeds the amount of his average final compensation.

12 "Should the medical board report and certify to the
13 Board of Control that a disability beneficiary who is a Tier
14 II plan member has the capacity to engage in regular and
15 substantial gainful employment, the Board of Control shall
16 discontinue the beneficiary's retirement allowance until the
17 beneficiary is otherwise eligible for service retirement.

18 "(c) Disposition of contributions and allowances
19 upon death, etc., of member.

20 "(1) Should a member cease to be an employee except
21 by death or by retirement under the provisions of this
22 article, the contributions standing to the credit of his
23 individual account in the Annuity Savings Fund shall be paid
24 to him upon demand and, in addition to such payment, there
25 shall be paid five-tenths of the interest accumulations
26 standing to the credit of his individual account if he shall

1 have not less than three but less than 16 years of membership
2 service, six-tenths of such interest accumulations if he shall
3 have not less than 16 but less than 21 years of membership
4 service, seven-tenths of such interest accumulations if he
5 shall have not less than 21 but less than 26 years of
6 membership service and eight-tenths of such interest
7 accumulations if he shall have not less than 26 years of
8 membership service.

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

23 "(3) In case of the death of a Tier I plan member
24 not eligible for service retirement, after completion of 25
25 years of creditable service, an allowance shall be paid to the
26 surviving spouse, or to such other person who the member shall

1 have designated, in an amount that would have been payable if
2 the member had retired for disability immediately prior to his
3 death and had elected Option 3 as set forth in subsection (d)
4 of this section or, alternatively, if the surviving spouse or
5 other designee desires, he may choose to receive, in lieu of
6 the 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 "(4) Upon the death of a member on account of whom
13 no survivor allowance is payable under subdivisions (2) or (3)
14 of this subsection, the accumulated contributions of the
15 member plus an amount equal to the accumulated contributions
16 not to exceed \$5,000 or the accumulated contributions of the
17 member plus the benefit provided by Section 36-27B-3 if a
18 benefit is payable under such section shall be paid to his
19 estate or to such person as he shall have nominated by written
20 designation duly executed and filed with the Board of Control.

21 "(d) Optional allowances. With the provision that
22 the election of an option shall be effective on the effective
23 date of retirement, any member may elect prior to retirement
24 to receive, in lieu of his retirement allowance payable
25 throughout life, the actuarial equivalent, at that time, of

1 his retirement allowance in a reduced retirement allowance
2 payable throughout life with the provisions that:

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

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

14 "(3) OPTION 3. Upon his death, one half of his
15 reduced allowance shall be continued throughout the life of
16 and paid to such person as he shall nominate by written
17 designation duly acknowledged and filed with the Board of
18 Control at the time of his 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 shall nominate; provided, that such other benefits,
22 together with the reduced retirement allowance, shall be
23 certified by the actuary to be of equivalent actuarial value
24 to his retirement allowance and shall be approved by the Board
25 of Control.

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

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

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

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

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

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

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

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

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

1 "§36-27-24.

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

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

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

1 1, 2011, each employer, except those employers participating
2 pursuant to Section 36-27-6, shall cause to be deducted from
3 the salary of each member on each and every payroll of such
4 employer for each and every payroll period seven and
5 one-quarter percent (7.25%) of his or her earnable
6 compensation; except, that in the case of a state policeman,
7 the rate of ten percent (10%) of earnable compensation shall
8 apply. For all pay dates beginning on or after October 1,
9 2012, each employer, except those employers participating
10 pursuant to Section 36-27-6, shall cause to be deducted from
11 the salary of each Tier I plan member on each and every
12 payroll of such employer for each and every payroll period
13 seven and one-half percent (7.5%) of his or her earnable
14 compensation; except, that in the case of a state policeman,
15 the rate of ten percent (10%) of earnable compensation shall
16 apply. For all pay dates beginning on or after the effective
17 date of this act, each employer shall cause to be deducted
18 from the salary of each Tier II plan member on each and every
19 payroll period six percent (6%) of his or her earnable
20 compensation; except that in the case of a state policeman,
21 the rate of ten percent (10%) shall apply and in the case of a
22 correctional officer, firefighter, or law enforcement officer
23 as defined in Section 36-27-59, the rate of seven percent (7%)
24 shall apply. Any employer participating under Section 36-27-6,
25 by adoption of a resolution, may elect for the increases in
26 employee contributions provided by Act 2011-676 to be withheld

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

13 "The deductions provided for in this subsection
14 shall be made notwithstanding that the minimum compensation
15 provided for by law for any member shall be reduced thereby.
16 Every member shall be deemed to consent and agree to the
17 deduction made and provided for in this subsection and shall
18 receipt for his or her full salary or compensation and payment
19 of salary or compensation less such deductions shall be a full
20 and complete discharge and acquittance of all claims and
21 demands whatsoever for the services rendered by such person
22 during the period covered by such payment, except as to the
23 benefits provided under this article. The employer shall
24 certify to the Board of Control in each and every payroll or
25 in such other manner as the board may prescribe the amounts to
26 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

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

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

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

25 "(c) Pension Accumulation Fund. The Pension
26 Accumulation Fund shall be the fund in which shall be

1 accumulated all reserves other than the amounts held in the
2 Annuity Savings Fund for the payment of all pensions, all
3 allowances granted to surviving spouses or other designated
4 beneficiaries and other benefits payable from contributions
5 made by the employer and from which shall be paid all
6 pensions, all allowances granted to surviving spouses or other
7 designated beneficiaries and other benefits on account of
8 members with prior service credit.

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

25 "On the basis of regular interest and of such
26 mortality and other tables as shall be adopted by the Board of

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

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

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

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

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

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

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

21 "Upon the death of a member on account of whom no
22 survivor allowance is payable under subdivisions (2) and (3)
23 of subsection (c) of Section 36-27-16, the death benefit as
24 provided in subdivision (4) of subsection (c) of Section
25 36-27-16 equal to the accumulated contributions, not to exceed

1 \$5,000.00, shall be payable from the Pension Accumulation
2 Fund.

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

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

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

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

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

11 "§36-27-59.

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

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

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

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

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

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

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

20 "(c) Any member of the Employees' Retirement System
21 or the Teachers' Retirement System eligible under subsection
22 (b) may receive credit for his or her eligible prior service
23 provided the member pays to the Secretary-Treasurer of the
24 Employees' Retirement System or the Secretary-Treasurer of the
25 Teachers' Retirement System one percent of his or her current
26 annual earnable compensation or previous year's annual

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

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

23 Section 2. Any future act to increase the retirement
24 age for Tier II plan members above the age of 62 shall require
25 a two-thirds vote of the elected membership of each house of
26 the legislature.

1 Section 3. The provisions of this act are severable.
2 If any part of this act is declared invalid or
3 unconstitutional, that declaration shall not affect the part
4 which remains

5 Section 4. All laws or parts of laws which conflict
6 with this act are repealed.

7 Section 5. This act shall become effective January
8 1, 2013, following its passage and approval by the Governor or
9 its otherwise becoming a law.

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Senate

Read for the first time and referred to the Senate committee on Finance and Taxation General Fund ...	08-MAR-12
Read for the second time and placed on the calen- dar 2 amendments.....	22-MAR-12
Read for the third time and passed as amended	10-APR-12

Patrick Harris
Secretary