

1 SB72  
2 127683-2  
3 By Senators Marsh, Pittman, Holtzclaw, Williams, Glover,  
4 McGill and Beason  
5 RFD: Finance and Taxation Education  
6 First Read: 01-MAR-11

1 SB72

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4 ENROLLED, An Act,

5 To amend Sections 16-25-150 and 36-27-170 of the  
6 Code of Alabama 1975, relating to the Deferred Retirement  
7 Option Plan, to prohibit new participation in the plan and  
8 limit interest paid on accounts; and to create a Joint Interim  
9 Legislative Committee on Teacher and Public Employee  
10 Retention.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 16-25-150 and 36-27-170 of the  
13 Code of Alabama 1975, are amended to read as follows;

14 "§16-25-150.

15 "(a) As governed by this subsection, there exists as  
16 a part of this retirement system an optional account known as  
17 the Deferred Retirement Option Plan, which may be cited as  
18 "DROP." The purpose of DROP is to allow, contractually, in  
19 lieu of immediate withdrawal from service and receipt of a  
20 retirement allowance, continued employment for a specific  
21 period of time, coupled with the deferral of receipt of a  
22 retirement allowance until the end of the period of  
23 participation, at which time the member shall withdraw from  
24 service.

1           "(b) Participation in DROP is an option available to  
2 any member of this retirement system who meets all of the  
3 following requirements:

4           "(1) Has at least 25 years of creditable service  
5 exclusive of sick leave.

6           "(2) Is at least 55 years of age.

7           "(3) Is eligible for service retirement.

8           "(c) An election to participate in DROP may be made  
9 in one year increments not to exceed five years, nor to be  
10 less than three years. A member may participate in DROP only  
11 one time. Any voluntary termination within the first three  
12 years in DROP will result in a forfeiture of the portion of  
13 his or her DROP account that constitutes the retirement  
14 allowance. However, member contributions will not be  
15 forfeited, nor will any interest attributable to the  
16 retirement allowance. There will be no penalty forfeiture if  
17 the participation period is interrupted due to an involuntary  
18 dismissal, disability, involuntary transfer of his or her  
19 spouse, or death of the participant.

20           "(d) A member who chooses to participate in DROP may  
21 elect an option allowance set out for members of the Teachers'  
22 Retirement System in subsection (h) of Section 16-25-14 at the  
23 beginning of the participation period. Otherwise, he or she  
24 shall receive the maximum benefit. Such election shall be

1       irrevocable once the participation period begins except as  
2       otherwise provided in this chapter.

3               "(e) For purposes of DROP, sick leave may not be  
4       converted for purposes of establishing retirement eligibility,  
5       nor used in the calculation of the original retirement  
6       allowance except as provided in Section 16-25-151.

7               "(f) The election to participate in DROP shall be  
8       made in accordance with procedures set forth in a uniform and  
9       nondiscriminatory election and application form adopted by the  
10      Board of Control. The election to participate in DROP may be  
11      made at any time on or after the date the member becomes  
12      eligible to participate as set out in subsection (b). Such  
13      application must be made at least 30 days, but not more than  
14      90 days, before the effective date of participation in DROP.

15              "(g) Upon the effective date of the commencement in  
16      DROP, the member's service shall remain as it existed on that  
17      date for the duration of DROP. Once a member enters DROP,  
18      service credit purchases are prohibited. Both the employer and  
19      employee member contribution shall continue to be made. The  
20      monthly retirement allowance that would have been payable, had  
21      the person elected to withdraw from service and receive a  
22      retirement allowance, shall be paid into a DROP account that  
23      reflects the credits attributed to the person in DROP.  
24      However, the monies shall remain a part of the regular  
25      retirement fund until disbursed to the participating member in

1 accordance with this section. Any monies paid into this  
2 account are subject to the exemptions set out in Section  
3 16-25-23.

4 "(h) (1) The DROP account shall earn interest at the  
5 same rate that interest is posted to active member accounts as  
6 defined in subdivision (15) of Section 16-25-1. A person who  
7 participates in this plan shall not be eligible to receive a  
8 retiree cost-of-living increase while participating in DROP,  
9 and shall not be eligible for a retiree cost-of-living  
10 increase until participation in the plan ceases and he or she  
11 withdraws from service and has been receiving a retirement  
12 allowance for at least one full year.

13 "(2) Notwithstanding any other provision of this  
14 chapter, for any member who has fulfilled his or her  
15 obligation under DROP and does not withdraw from service and  
16 any member who begins participation in DROP on or before April  
17 1, 2011, and fulfills his or her obligation under DROP and  
18 does not withdraw from service, the amount of interest payable  
19 on benefit deposits after the effective date of this act shall  
20 be the lesser of (1) the investment performance of the  
21 immediately preceding fiscal year but no less than \$0, or (2)  
22 as provided in subdivision (1) of subsection (d) of Section  
23 16-25-151.

24 "(i) DROP shall not be subject to any fees, charges,  
25 or other similar expenses of any kind for any purpose.

1           "(j) Participation in DROP shall not affect the  
2 rights of any education employee including, but not limited  
3 to, the Fair Dismissal Act, Section 36-26-100 et seq., the  
4 tenure law, Section 16-24-1, et seq., or any other fringe  
5 benefit.

6           "(k) Participation in DROP shall not affect the  
7 accrual of annual and sick leave by the participant.

8           "(l) Participants in DROP may receive salary  
9 cost-of-living adjustments and salary increases.

10           "(m) No person may begin participation in DROP after  
11 April 1, 2011.

12           "§36-27-170.

13           "(a) As governed by this subsection, there exists as  
14 a part of this retirement system, an optional account known as  
15 the Deferred Retirement Option Plan, which may be cited as  
16 "DROP." The purpose of DROP is to allow, contractually, in  
17 lieu of immediate withdrawal from service and receipt of a  
18 retirement allowance, continued employment for a specific  
19 period of time, coupled with the deferral of receipt of a  
20 retirement allowance until the end of such period of  
21 participation, at which time the member shall withdraw from  
22 service.

23           "(b) Participation in DROP is an option available to  
24 any member of this retirement system who meets all of the  
25 following:

1           "(1) Has at least 25 years of creditable service  
2 exclusive of sick leave.

3           "(2) Is at least 55 years of age, or in the case of  
4 a state police member, is at least 52 years of age.

5           "(3) Is eligible for service retirement.

6           "(c) An election to participate in DROP may be made  
7 in one year increments not to exceed five years, nor to be  
8 less than three years. A member may participate in DROP only  
9 one time. Any voluntary termination within the first three  
10 years in DROP will result in a forfeiture of a portion of his  
11 or her DROP account that constitutes the retirement allowance.  
12 However, member contributions will not be forfeited nor will  
13 any interest attributable to the retirement allowance. There  
14 will be no forfeiture if the participation period is  
15 interrupted due to an involuntary dismissal, disability,  
16 involuntary transfer of his or her spouse, or death of the  
17 participant.

18           "(d) A member who chooses to participate in DROP may  
19 elect an option allowance set out for members of the  
20 Employees' Retirement System in subsection (d) of Section  
21 36-27-16 at the beginning of the participation period.  
22 Otherwise, he or she shall receive the maximum benefit. Such  
23 election shall be irrevocable once the participation period  
24 begins except as otherwise provided in this chapter.

1           "(e) For purposes of DROP, sick leave may not be  
2 converted for purposes of establishing retirement eligibility,  
3 nor used in the calculation of the original retirement  
4 allowance except as provided in Section 36-27-171. A person  
5 electing to enter the DROP program is not eligible for a  
6 lump-sum payment for any annual or sick leave until withdrawal  
7 from service.

8           "(f) The election to participate in DROP shall be  
9 made in accordance with procedures set forth in a uniform and  
10 nondiscriminatory election and application form adopted by the  
11 Board of Control. The election to participate in DROP may be  
12 made at any time on or after the date the member becomes  
13 eligible to participate as set out in subsection (b). Such  
14 application must be made at least 30 days, but not more than  
15 90 days, before the effective date of participation in DROP.

16           "(g) Upon the effective date of the commencement in  
17 DROP, the member's service shall remain as it existed on that  
18 date for the duration of DROP. Once a member enters DROP,  
19 service credit purchases are prohibited. Both the employer and  
20 employee member contribution shall continue to be made. The  
21 monthly retirement allowance that would have been payable, had  
22 the person elected to withdraw from service and receive a  
23 retirement allowance, shall be paid into a DROP account that  
24 reflects the credits attributed to the person in DROP.  
25 However, the monies shall remain a part of the regular



1 retirement fund until disbursed to the participating member in  
2 accordance with this section. Any monies paid into this  
3 account are subject to the exemptions set out in Section  
4 36-27-28.

5 "(h) (1) The DROP account shall earn interest at the  
6 same rate that interest is posted to active member accounts as  
7 defined in subdivision (12) of Section 36-27-1. A person who  
8 participates in this plan shall not be eligible to receive a  
9 retiree cost-of-living increase while participating in DROP,  
10 and shall not be eligible for a retiree cost-of-living  
11 increase until participation in the plan ceases and he or she  
12 withdraws from service and has been receiving a retirement  
13 allowance for at least one full year.

14 "(2) Notwithstanding any other provision of this  
15 chapter, for any member who has fulfilled his or her  
16 obligation under DROP and does not withdraw from service and  
17 any member who begins participation in DROP on or before April  
18 1, 2011, and fulfills his or her obligation under DROP and  
19 does not withdraw from service, the amount of interest payable  
20 on benefit deposits after the effective date of this act shall  
21 be the lesser of (1) the investment performance of the  
22 immediately preceding fiscal year but no less than \$0, or (2)  
23 as provided in subdivision (1) of subsection (d) of Section  
24 36-27-171.

1           "(i) DROP shall not be subject to any fees, charges,  
2 or other similar expenses of any kind for any purpose.

3           "(j) Participation in DROP shall not affect the  
4 rights of any state employee under the state personnel system,  
5 including, but not limited to, his or her rights to longevity  
6 pay.

7           "(k) Participation in DROP shall not affect the  
8 accrual of annual and sick leave by the participant.

9           "(l) Participants in DROP may receive salary  
10 cost-of-living adjustments and salary increases.

11           "(m) No person may begin participation in DROP after  
12 April 1, 2011."

13           Section 2. (a) The Alabama Legislature recognizes  
14 that the State of Alabama cannot reach its fullest potential  
15 without attracting and retaining the best and brightest  
16 classroom teachers and other public employees of the highest  
17 caliber, regardless of their race, gender, occupation, or  
18 geographic location. It is the intent of the Legislature that  
19 a committee should be formed to study how the State can most  
20 effectively retain our best and brightest classroom teachers  
21 and public employees, while making the most efficient use of  
22 taxpayer money.

23           (b) The "Keeping Alabama's Best" Joint Interim  
24 Legislative Committee on Teacher and Public Employee Retention  
25 is hereby created. The committee shall be comprised of six

1 members as follows: The Speaker of the House of  
2 Representatives shall appoint three members of the House of  
3 Representatives, with at least one appointed member being from  
4 the minority party; and the President Pro Tempore of the  
5 Senate shall appoint three members of the Senate, with at  
6 least one appointed member being appointed from the minority  
7 party. The membership of the committee shall be inclusive and  
8 reflect the racial, gender, geographic, urban/rural, and  
9 economic diversity of the state. The chair and vice chair of  
10 the committee shall be elected at the first meeting by the  
11 members of the committee. The chair shall be a member of the  
12 House of Representatives and the vice chair shall be a member  
13 of the Senate. The committee shall study ways to ensure that  
14 the "best and brightest" employees of the state, including  
15 classroom teachers and employees of other public educational  
16 institutions, are encouraged to continue their service to the  
17 citizens of Alabama. The committee shall report its findings,  
18 conclusions, and recommendations to the Legislature not later  
19 than the fifth legislative day of the 2012 Regular Session,  
20 whereupon the committee shall stand dissolved and discharged  
21 of any further duties and liabilities. When making its  
22 recommendations, the committee shall carefully consider the  
23 impact such recommendations have on state budgets and  
24 finances, and shall report to the Legislature only those  
25 recommendations that are either revenue-neutral or result in a

1 cost savings to the state. Upon the request of the chair, the  
2 Secretary of the Senate and the Clerk of the House of  
3 Representatives shall provide necessary clerical assistance  
4 for the work of the committee. Members of the committee shall  
5 serve without compensation.

6 Section 3. The provisions of this act are severable.  
7 If any part of this act is declared invalid or  
8 unconstitutional, that declaration shall not affect that part  
9 which remains.

10 Section 4. This act shall become effective  
11 immediately following its passage and approval by the  
12 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB72  
Senate 08-MAR-11  
I hereby certify that the within Act originated in and passed the Senate, as amended.

Senate 22-MAR-11  
I hereby certify that the within Act originated in and passed the Senate, as amended by Conference Committee Report.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 10-MAR-11, as amended

House of Representatives  
Passed: 22-MAR-2011, as amended by Conference Committee Report.

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1 By: Senator Marsh