

1 SB388
2 136023-4
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

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8 SYNOPSIS: Under existing law, retirement benefits are
9 provided to public employees through the Teachers'
10 Retirement System and the Employees' Retirement
11 System.

12 This bill will establish a new defined
13 benefit retirement plan for any public employee who
14 is first hired on or after January 1, 2013, by an
15 employer who participates in the Teachers'
16 Retirement System or the Employees' Retirement
17 System.

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19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 To amend Sections 16-25-1, 16-25-3, 16-25-11.1,
24 16-25-14, 16-25-21, 36-26-36.1, 36-27-1, 36-27-4, 36-27-16,
25 36-27-24 and 36-27-59, Code of Alabama 1975, relating to
26 retirement benefits for employees who are members of the
27 Teachers' Retirement System or the Employees' Retirement

1 System, to establish a new defined benefit retirement plan for
2 employees who first become a member of either system on or
3 after January 1, 2013; to require those employees to pay a
4 percentage of their salary into the new plan; to establish
5 minimum age and service requirements in order for those
6 employees to retire under the new plan; and to provide for the
7 administration of the new plan by the Retirement Systems of
8 Alabama.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Sections 16-25-1, 16-25-3, 16-25-11.1,
11 16-25-14, 16-25-21, 36-26-36.1, 36-27-1, 36-27-4, 36-27-16,
12 36-27-24 and 36-27-59, Code of Alabama 1975, are amended to
13 read as follows:

14 "§16-25-1.

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

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

20 "(2) PUBLIC SCHOOL. Any day school conducted within
21 the state under the authority and supervision of a duly
22 elected or appointed county or city board of education and any
23 educational institution supported by and under the control of
24 the state or any private nondenominational school operated
25 nonprofit for the education of children of school age residing
26 within a district where no public school is available for the
27 children.

1 "(3) TEACHER. Any teacher, principal,
2 superintendent, supervisor, college professor, administrative
3 officer, or clerk employed in any public school or public
4 college within the state or employed in any private
5 nondenominational school operated nonprofit for the education
6 of children of school age residing within a district where no
7 public school is available for the children or any similar
8 employee or officer of the Department of Education or of the
9 Alabama Education Association, or any attendance worker 50
10 percent or more of whose salary is paid from public school
11 funds or any employee receiving a regular stated compensation
12 from the retirement system. In all cases of doubt, the Board
13 of Control shall determine whether any person is a teacher as
14 defined in this chapter.

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

20 "(5) EMPLOYER. The State of Alabama, the county
21 school board, the city school board, the State Board of
22 Education, or any governing body of any private
23 nondenominational school operated nonprofit for education of
24 children of school age residing within a district where no
25 public school is available for the children or any other
26 agency of and within the state by which a teacher is paid.

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

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

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

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

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

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

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

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

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

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

24 "(16) ACCUMULATED CONTRIBUTIONS. The sum of all the
25 amounts deducted from the compensation of a member and
26 credited to his or her individual account in the annuity

1 savings fund together with regular interest thereon as
2 provided in Section 16-25-21.

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

19 "(18) AVERAGE FINAL COMPENSATION. For any Tier I
20 Plan member, tThe average annual compensation of a teacher,
21 with respect to which he or she has made contributions
22 pursuant to paragraph b of subdivision (1) of Section 16-25-21
23 during the three years in his or her last 10 years of
24 creditable service for which the average is highest or during
25 his or her entire period of creditable service if less than
26 three years; except, that for any period prior to October 1,
27 1959, the compensation used in computing the average shall

1 include compensation in excess of the maximum amount with
2 respect to which members were required to contribute. For any
3 Tier II Plan member, the average annual compensation of the
4 member, with respect to which he or she has made contributions
5 pursuant to paragraph b of subdivision (1) of Section 16-25-21
6 during the five years in his or her last ten years of
7 creditable service for which the average is highest or during
8 his entire period of creditable service if less than five
9 years.

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

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

16 "(21) RETIREMENT ALLOWANCE. The sum of the "annuity"
17 and the "pension."

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

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

26 "(24) PENSION RESERVE. The present value of all
27 payments to be made on account of any pension or benefit in

1 lieu of any pension, computed upon the basis of the mortality
2 tables as shall be adopted by the Board of Control, and
3 regular interest.

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

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

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

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

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

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

27 "§16-25-3.

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

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

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

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

26 "(d) Notwithstanding, a teacher in service on
27 October 1, 1975, who has full-time military service in the

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

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

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

21 "(f) Except as provided in this section, no benefit
22 under the retirement system other than the return of
23 contributions as provided in subsection (g) of Section
24 16-25-14 shall become payable to or on account of any member
25 while he is not in service as a teacher, unless the member
26 withdraws from service after reaching age 60 for a Tier I plan
27 member, or age 62 for a Tier II plan member; provided, that a

1 teacher who becomes a member on or after October 1, 1963 must
2 have 10 or more years of creditable service when he withdraws
3 from service after reaching age 60 for a Tier I plan member,
4 or age 62 for a Tier II plan member.

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

23 "§16-25-11.1.

24 "(a) Teachers, as defined in subdivision (3) of
25 Section 16-25-1 or subsection (d) of Section 16-25-5, as
26 amended may use their accrued sick leave, up to a maximum
27 number of accrued sick leave days allowed by law, to be

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

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

23 "§16-25-14.

24 "(a) (1) Any Tier I plan member who withdraws from
25 service upon or after attainment of age 60 and any Tier II
26 plan member who withdraws from service upon or after
27 attainment of age 62 may retire upon written application to

1 the Board of Control setting forth at what time, not less than
2 30 days nor more than 90 days subsequent to the execution and
3 filing thereof, he desires to be retired; provided, that any
4 such member who became a member on or after October 1, 1963,
5 shall have completed 10 or more years of creditable service.

6 "(2) Any Tier I plan member who has attained age 60
7 and any Tier II plan member who has attained age 62 and has
8 previously withdrawn from service may retire upon written
9 application to the Board of Control setting forth at what
10 time, not less than 30 days nor more than 90 days subsequent
11 to the execution and filing thereof, he desires to be retired;
12 provided, that the said member shall have completed at the
13 time for his withdrawal from service the requirements
14 established by the Board of Control for eligibility for
15 deferred benefits pursuant to Section 16-25-3.

16 "(3) Any person who is presently covered or is
17 eligible to be covered under the Employees' Retirement System
18 of Alabama or the Teachers' Retirement System of Alabama and
19 who, prior to such coverage or eligibility for coverage,
20 served as head of any Alabama county's public library service
21 department shall have credited to him or her one year of
22 creditable service for each year served as such head, not to
23 exceed 12 years; provided, that such person shall pay into the
24 retirement system the employee's part of the cost or
25 contribution based on the salary paid to such person during
26 the time of his or her service in the above capacity, with

1 such cost or contribution to be calculated at the percent or
2 rate in effect on October 1, 1973.

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

13 "(b) Upon retirement from service, a Tier I plan
14 member shall receive a service retirement allowance which
15 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 annuity
20 allowable at the age of retirement, but not to exceed an
21 annuity allowable at age 65 computed on the basis of
22 contributions made prior to the attainment of age 65; and

23 "(3) If he has a prior service certificate in full
24 force and effect, an additional pension which shall be equal
25 to the annuity which would have been provided at age of
26 retirement, but not to exceed an annuity allowable at age 65
27 by twice the contributions which he would have made during the

1 period of prior service with which he is credited had the
2 system been in operation and had he contributed thereunder. In
3 lieu of a determination of the actual compensation of the
4 members that was received during such prior service, the Board
5 of Control may use for the purposes of this chapter the
6 compensation rates which, if they had progressed with the
7 rates of salary increase shown in the tables as prescribed in
8 subsection (o) of Section 16-25-19, would have resulted in the
9 same average salary of the member for the five years
10 immediately preceding the date of establishment as the records
11 show the member actually received.

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

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

19 "(2) If he became a member before October 1, 1971,
20 \$72 multiplied by the number of years of his creditable
21 service not in excess of 25 years.

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

26 "(d) Upon retirement from service, a Tier II plan
27 member shall receive a service retirement allowance which

1 shall consist of an annuity which shall be the actuarial
2 equivalent of the member's accumulated contributions at the
3 time of retirement and a pension which, when added to the
4 member's annuity, shall be equal to one and sixty-five
5 hundredths percent (1.65%) of the member's average final
6 compensation multiplied by the number of years of creditable
7 service. Notwithstanding the foregoing, the service retirement
8 allowance shall not exceed eighty percent (80%) of the
9 member's average final compensation.

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

1 and substantial gainful employment, and that such member
2 should be retired.

3 "(f) ~~(e)~~ Upon retirement for disability, a Tier I
4 plan member shall receive a service retirement allowance if he
5 has attained age 60 or if any law or part of any law
6 pertaining to retirement under the Teachers' Retirement System
7 of Alabama provides for service retirement after the
8 completion of 25 years of creditable service and the member
9 has completed 25 years of creditable service; otherwise, he
10 shall receive a disability retirement allowance which shall
11 consist of:

12 "(1) An annuity which shall be the actuarial
13 equivalent of his accumulated contributions at the time of
14 retirement; and

15 "(2) A pension which shall be equal to the pension
16 that would have been payable under subdivisions (2) and (3) of
17 subsection (b) of this section upon service retirement at age
18 60 had the member continued in service to said age without
19 change in compensation.

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

23 "a. Two and one-eightieth percent of the member's
24 average final compensation multiplied by the number of years
25 of creditable service.

1 "b. If he became a member before October 1, 1971,
2 \$54 multiplied by the number of years of his creditable
3 service not in excess of 25 years.

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

8 "(g) Upon retirement for disability, a Tier II plan
9 member shall receive a service retirement allowance if the
10 member has attained age 62, otherwise, the member shall
11 receive a disability retirement allowance which shall be equal
12 to one and sixty-five hundredths percent (1.65%) of the
13 member's average final compensation multiplied by the number
14 of years of creditable service.

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

1 until his withdrawal of such refusal, and should his refusal
2 continue for one year, all his rights in and to his pension
3 may be revoked by the Board of Control.

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

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

25 "(i) (g) (1) Should a member cease to be a teacher,
26 except by death or by retirement under the provisions of this
27 chapter, the contributions standing to the credit of his

1 individual account in the Annuity Savings Fund shall be paid
2 to him upon demand, and in addition to such payment there
3 shall be paid five-tenths of the interest accumulations
4 standing to the credit of his individual account if he shall
5 have not less than three but less than 16 years of membership
6 service, six-tenths of such interest accumulations if he shall
7 have not less than 16 but less than 21 years of membership
8 service, seven-tenths of such interest accumulations if he
9 shall have not less than 21 but less than 26 years of
10 membership service, and eight-tenths of such interest
11 accumulations if he shall have not less than 26 years of
12 membership service.

13 "(2) In case of the death of a member eligible for
14 service retirement pursuant to subsection (a) of this section,
15 an allowance shall be paid to the surviving spouse, or to such
16 other person who the member shall have designated, in an
17 amount that would have been payable if the member had retired
18 immediately prior to his death and had elected Option 3, as
19 set forth in subsection (h) of this section or, alternatively,
20 if the surviving spouse or other designee desires, he may
21 choose to receive, in lieu of the allowance provided under
22 Option 3, the accumulated contributions of the member plus an
23 amount equal to the accumulated contributions of the member
24 not to exceed \$5,000 or the accumulated contributions of the
25 member plus the benefit provided by Section 36-27B-3 if a
26 benefit is payable under such section.

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

16 "(3) ~~(4)~~ Upon the death of a member on account of
17 whom no survivor allowance is payable under subdivision (2) ~~or~~
18 ~~(3)~~ of this subsection, the accumulated contributions of the
19 member plus an amount equal to the accumulated contributions
20 not to exceed \$5,000 or the accumulated contributions of the
21 member plus the benefit provided by Section 36-27B-3 if a
22 benefit is payable under such section shall be paid to his
23 estate or to such person as he shall have nominated by written
24 designation duly executed and filed with the Board of Control.

25 "(j) ~~(h)~~ With the provision the election of an
26 option shall be effective on the effective date of retirement,
27 any member may elect prior to retirement to receive, in lieu

1 of his retirement allowance payable throughout life, the
2 actuarial equivalent at that time of his retirement allowance
3 in a reduced retirement allowance payable throughout life with
4 the provision that:

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

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

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

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

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

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

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

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

22 "(3) Prior to October 31, 1975 any beneficiary may
23 elect to leave on deposit with the system all or a specified
24 part of any increase in his monthly retirement allowance
25 payments arising in accordance with subdivision (1) or (2) of
26 this subsection. The portion of each monthly payment left in
27 the system in accordance with such election shall be credited,

1 together with regular interest thereon, to the individual
2 account of such beneficiary. Upon the death of such
3 beneficiary, the total amount standing to his credit,
4 including regular interest to the date of death, shall be paid
5 in a lump sum to his legal representative or to such person as
6 he shall have nominated by written designation duly
7 acknowledged and filed with the Board of Control.

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

21 "(n) ~~(i)~~ Notwithstanding any provision of this
22 section to the contrary, if a retired member who is receiving
23 a monthly benefit allowance provided under Option 2, 3, or 4
24 divorces his or her designated beneficiary, the member may
25 designate a replacement beneficiary for the beneficiary to
26 become effective two years after the date of designation of
27 the replacement beneficiary and an actuarial adjustment in the

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

7 "§16-25-21.

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

18 "(1) The Annuity Savings Fund shall be a fund in
19 which shall be accumulated contributions from the compensation
20 of members to provide for their annuities. Contributions to
21 and payments from the Annuity Savings Fund shall be made as
22 follows:

23 "a. Each employer shall cause to be deducted from
24 the salary of each member on each and every payroll of such
25 employer for each and every payroll period five percent of his
26 or her earnable compensation. For all pay dates beginning on
27 or after October 1, 2011, each employer shall cause to be

1 deducted from the salary of each member on each and every
2 payroll of such employer for each and every payroll period
3 seven and one-quarter percent (7.25%) of his or her earnable
4 compensation. For all pay dates beginning on or after October
5 1, 2012, each employer shall cause to be deducted from the
6 salary of each Tier I plan member on each and every payroll of
7 such employer for each and every payroll period seven and
8 one-half percent (7.5%) of his or her earnable compensation.
9 For all pay dates beginning on or after the effective date of
10 this act, each employer shall cause to be deducted from the
11 salary of each Tier II plan member on each and every payroll
12 period six percent (6%) of his or her earnable compensation.

13 In determining the amount earnable by a member in a payroll
14 period, the Board of Control may consider the rate of annual
15 compensation payable to such member on the first day of the
16 payroll period as continuing throughout such payroll period,
17 and it may omit deductions from compensation for any period
18 less than a full payroll period if a teacher was not a member
19 on the first day of the payroll period, and to facilitate the
20 making of deductions it may modify the deduction required of
21 any member by such an amount as shall not exceed one tenth of
22 one percent of the annual compensation upon the basis of which
23 such deduction is to be made.

24 "b. The deductions provided for herein shall be made
25 notwithstanding that the minimum compensation provided for by
26 law for any member shall be reduced thereby. Every member
27 shall be deemed to consent and agree to the deduction made and

1 provided for herein and shall receipt for his or her full
2 salary or compensation, and payment of salary or compensation
3 less such deduction shall be a full and complete discharge and
4 acquittance of all claims and demands whatsoever for the
5 service rendered by such person during the period covered by
6 such payment, except as to the benefits provided under this
7 chapter. The employer shall certify to the Board of Control on
8 each and every payroll or in such other manner as the board
9 may prescribe the amount to be deducted; and each of the
10 amounts shall be deducted, and when deducted shall be paid
11 into the Annuity Savings Fund and shall be credited, together
12 with regular interest thereon, to the individual account of
13 the member from whose compensation the deduction was made.

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

1 pension. The contributions and interest credits of a member
2 withdrawn by him or her, or paid to his or her estate or to
3 his or her designated beneficiary in event of his or her
4 death, shall be paid from the Annuity Savings Fund. Should a
5 member cease to be a member other than by retirement under the
6 provisions of this title, an amount equivalent to the
7 difference, if any, between his or her accumulated
8 contributions and the amount then paid shall be transferred to
9 the Expense Fund. Upon the retirement of a member or the death
10 of an eligible member where an allowance to the surviving
11 spouse is payable, his or her accumulated contributions shall
12 be transferred from the Annuity Savings Fund to the Pension
13 Accumulation Fund.

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

17 "(2) The Pension Accumulation Fund shall be the fund
18 in which shall be accumulated all reserves, other than amounts
19 held in the Annuity Savings Fund for the payment of all
20 pensions and other benefits. Contributions to and payments
21 from the Pension Accumulation Fund shall be made as follows:

22 "a. On account of each member there shall be paid
23 monthly by the employer an amount equal to a certain
24 percentage of the earnable compensation of each member to be
25 known as the "normal contribution" and an additional amount
26 equal to a percentage of his or her earnable compensation to
27 be known as the "accrued liability contribution," and these

1 two amounts shall be paid monthly into the Pension
2 Accumulation Fund. The Teachers' Retirement System shall
3 recommend to the Legislature on or before the first
4 legislative day of each regular session of the Legislature the
5 rate for the following fiscal year. The Legislature shall set
6 the rate in the annual appropriation bill.

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

20 "c.1. The accrued liability contribution rate shall
21 be computed by the actuary on the basis of each valuation as
22 the per centum rate of the total annual compensation of all
23 members which is sufficient to liquidate the unfunded accrued
24 liability over a period to be determined by the Board of
25 Control which shall be not less than 10 nor more than 30
26 years.

1 "2. The unfunded accrued liability shall be computed
2 by the actuary as the total liabilities of the system which
3 are not dischargeable by the assets of the Annuity Savings
4 Fund and the Pension Accumulation Fund and the present value
5 of the aforesaid normal contributions. For purposes of
6 computing the unfunded accrued liability the assets shall be
7 determined as follows:

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

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

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

26 "f. Upon the death of a member on account of whom no
27 survivor allowance is payable under subdivisions (2) and (3)

1 of subsection (i) ~~(g)~~ of Section 16-25-14, the death benefit
2 as provided in subdivision ~~(3)~~ 2 of subsection (i) ~~(g)~~ of such
3 section equal to the accumulated contributions not to exceed
4 \$5,000 shall be payable from the Pension Accumulation Fund.

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

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

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

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

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

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

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

23 "e. Where member contributions are made from
24 salaries paid by the Alabama Education Association, the
25 Alabama Education Association shall pay the employer costs
26 calculated as a percentage of the salaries of those employees
27 to be contributed as employer in accordance with subdivisions

1 (2) and (3) of this section. Such amounts shall be paid
2 monthly and at the same time as the member contributions are
3 made to the Teachers' Retirement System.

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

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

21 "§36-26-36.1.

22 "(a) Any Tier I plan member of the Teachers' or
23 Employees' Retirement System of Alabama not otherwise covered
24 by a provision to convert unused sick leave into membership
25 service for purposes of service retirement may, at their
26 option and in lieu of receiving payment for 50 percent of
27 their accrued and unused sick leave at the time of their

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

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

4 "§36-27-1.

5 "When used in this article, the following terms
6 shall have the following meanings, respectively, unless the
7 context clearly indicates otherwise:

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

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

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

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

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

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

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

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

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

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

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

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

23 "(13) ACCUMULATED CONTRIBUTIONS. The sum of all the
24 amounts deducted from the compensation of a member credited to
25 his or her individual account in the Annuity Savings Fund,
26 together with regular interest thereon, as provided in Section
27 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, tThe 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
27 respect to which members were required to contribute. For any

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

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

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

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

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

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

22 "(21) PENSION RESERVE. The present value of all
23 payments to be made on account of any pension or benefit in
24 lieu of any pension computed upon the basis of the mortality
25 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.

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

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

4 "(2) Any person who is an employee on October 1,
5 1945, shall become a member as of that date unless, within a
6 period of 90 days next following, such employee shall file
7 with the Board of Control on a form prescribed by the board a
8 notice of his election not to be covered in the membership of
9 the system and a duly executed waiver of all present and
10 prospective benefits which would otherwise inure to him on
11 account of his membership in the retirement system.

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

1 made as a member during the period of his employment from
2 October 1, 1945, to the date he became a member.

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

1 service as a county engineer after the date participation
2 becomes effective to the extent of the State Department of
3 Transportation's participation in his salary.

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

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

14 "(d) A member in service on January 1, 1976, who has
15 honorable duty consisting of active full-time military service
16 in the armed forces of the United States, exclusive of any
17 summer or weekend service in a reserve or national guard
18 component of any branch of the armed forces, and who has not
19 received credit toward retirement status in the Employees'
20 Retirement System of Alabama for said military service, may be
21 granted by the Board of Control membership service credit for
22 the period of such service in the armed forces; provided, that
23 such member pays into the Employees' Retirement System, in a
24 lump sum prior to October 1, 1976, an amount equal to four
25 percent of the average compensation paid to a state employee
26 during each claimed year of full-time military service, plus
27 and together therewith eight percent interest compounded from

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

1 military service; and provided further, that no member shall
2 receive more than four years' membership service credit for
3 military service, and no credit for military service shall be
4 granted if such member is receiving military service
5 retirement benefits, other than disability allowances or
6 benefits, from any branch of the United States armed forces,
7 or by reason of any service in any branch of the armed forces,
8 or, if such member received anything other than an honorable
9 discharge for and including the claimed military service.

10 "(e) No benefit under the retirement system other
11 than the return of contributions as provided in subdivision
12 (1) of subsection (c) of Section 36-27-16 shall become payable
13 to or on account of any member while he is not in service as
14 an employee, unless the member withdraws from service after
15 reaching age 60 for a Tier I plan member or age 62 for a Tier
16 II plan member, or, in the case of a state policeman, after
17 reaching age 56. Anything in this article to the contrary
18 notwithstanding, any member ~~who has completed 15 years of~~
19 ~~creditable service or~~ who has completed 10 years of creditable
20 service ~~and has attained age 55~~ at the time of his withdrawal
21 from service shall be eligible to continue in the membership
22 of the system until he files application for service
23 retirement in accordance with the provisions of subsection (a)
24 of Section 36-27-16.

25 "(f) Any member, who retired prior to January 1,
26 1976, who has service in the armed forces, as described in
27 this section, shall be entitled to claim such full-time

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

16 "(g) All retirement allowance payments due on or
17 after January 1, 1976, to members of the Employees' Retirement
18 System of Alabama who retired prior to said date and who have
19 complied with the provisions of this section shall be
20 redetermined as if the provisions of this section were in
21 effect at the time they retired; provided, that any increase
22 in the retirement allowance payment for a member who, prior to
23 October 1, 1975, retired under the provisions of any optional
24 benefit elected pursuant to Acts 1945, No. 515, as amended,
25 shall accrue only to the retired member, and no person
26 designated to receive any payments after the death of a

1 retired member under the provisions of any such optional
2 benefit shall receive any increase in such payments.

3 "§36-27-16.

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

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

20 "b. Any Tier I plan member who has attained age 60,
21 or age 52 in the case of a state policeman and any Tier II
22 plan member who has attained age 62, or age 56 in the case of
23 a state policeman, and has previously withdrawn from service
24 may retire upon written application to the Board of Control
25 setting forth at what time, not less than 30 days nor more
26 than 90 days subsequent to the execution and filing thereof,
27 he desires to be retired; provided, said member shall have at

1 the time of his withdrawal from service completed the age and
2 service requirements established by the Board of Control for
3 eligibility for deferred benefits; provided, that such minimum
4 number of years of creditable service shall not be less than
5 10 years nor more than 25 years.

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

22 "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

23 "a. Upon retirement from service a Tier I plan
24 member shall receive a service retirement allowance which
25 shall consist of:

26 "1. An annuity which shall be the actuarial
27 equivalent of his accumulated contributions at the time of his

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

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

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

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

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

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

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

18 "3. An additional pension, if he has a prior service
19 certificate in full force and effect, which shall be equal to
20 the annuity which would have been provided at the age of
21 retirement, but which shall not exceed an annuity allowable at
22 the age of retirement plus four years by twice the
23 contributions which he would have made during the period of
24 prior service with which he is credited had the system been in
25 operation and had he contributed thereunder. In lieu of a
26 determination of the actual compensation of a member that was
27 received during such prior service, the Board of Control may

1 use for the purpose of this article the compensation rate
2 which, if it had progressed with the rates of salary increase
3 shown in the tables as prescribed in subsection (n) of Section
4 36-27-23, would have resulted in the same average salary of
5 the member for the five years immediately preceding the date
6 of establishment as the records show the member actually
7 received.

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

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

16 "2. If he became a member before October 1, 1965,
17 \$72.00 multiplied by the number of years of his creditable
18 service not in excess of 25 years.

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

24 "1. Two and seven-eighths percent of the member's
25 average final compensation multiplied by the number of years
26 of his creditable service. Creditable service for any state
27 policeman under the age of 56 years who has completed 20 years

1 of creditable service as a state policeman shall include a
2 bonus equal to four additional years. Creditable service for a
3 state policeman 56 years or older shall include a bonus equal
4 to the years or portion thereof remaining until the member
5 reaches age 60; or

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

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

1 foregoing, the service retirement allowance shall not exceed
2 eighty percent (80%) of the member's average final
3 compensation.

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

16 "g. ~~e.~~ Anything in this article to the contrary
17 notwithstanding, in the application of the foregoing
18 provisions of this subdivision to a member whose creditable
19 service includes a period of service as a state policeman and
20 a period of service in another employment classification, the
21 benefit rates applicable to a member employed as a state
22 policeman shall apply to all creditable service as a state
23 policeman, and the benefit rates applicable to a member not
24 employed as a state policeman shall apply to all creditable
25 service, but in all other respects the pension under this
26 subdivision shall be determined on the basis of the member's

1 employment classification at the time of his withdrawal from
2 service.

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

11 "(b) (1) RETIREMENT OF DISABLED EMPLOYEES;
12 ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS.

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

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

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

25 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

26 "a. Upon retirement for disability a member shall
27 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 he is a Tier II plan member and he has
10 attained age 56; otherwise, he shall receive a disability
11 retirement allowance which shall consist of:

12 "1. An annuity which shall be the actuarial
13 equivalent of his accumulated contributions at the time of his
14 retirement;

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

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

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

4 "2. If he became a member before October 1, 1965,
5 \$54.00 multiplied by the number of years of his creditable
6 service not in excess of 25 years.

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

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

21 "2. If he became a member before October 1, 1965,
22 \$64.80 multiplied by the number of years of his creditable
23 service not in excess of 25 years.

24 "d. The annual disability retirement allowance
25 payable to a Tier II plan member not employed as a state
26 policeman shall be equal to one and sixty-five hundredths

1 percent (1.65%) of the member's average final compensation
2 multiplied by the number of years of creditable service.

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

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

20 "(3) REEXAMINATION OF BENEFICIARIES RETIRED ON
21 ACCOUNT OF DISABILITY. Once each year during the first five
22 years following the retirement of a member on a disability
23 retirement allowance and once every three-year period
24 thereafter, the Board of Control may, and upon his application
25 shall, require any disability beneficiary who has not yet
26 attained age 60 if the beneficiary is a Tier I plan member or
27 age 62 if the beneficiary is a Tier II plan member to undergo

1 a medical examination, such examination to be made at the
2 place of residence of such beneficiary or other place mutually
3 agreed upon by a physician or physicians of or designated by
4 the medical board. Should any disability beneficiary who has
5 not yet attained age 60 if the beneficiary is a Tier I plan
6 member or age 62 if the beneficiary is a Tier II plan member
7 refuse to submit to such medical examination, his allowance
8 may be discontinued until his withdrawal of such refusal, and,
9 should his refusal continue for one year, all his rights in
10 and to his pension may be revoked by the Board of Control;
11 provided, that these requirements relative to the medical
12 examination shall not apply in the case of a state policeman
13 retired for disability and who has attained age 52 if he is a
14 Tier I plan member or who has attained age 56 if he is a Tier
15 II plan member. Should the medical board report and certify to
16 the Board of Control that a disability beneficiary who is a
17 Tier I plan member is engaged in or is able to engage in a
18 gainful occupation paying more than the difference between his
19 retirement allowance and his average final compensation and
20 should the Board of Control concur in such report, then the
21 amount of his pension shall be reduced to an amount which,
22 together with his annuity and the amount earnable by him shall
23 equal the amount of his average final compensation. Should his
24 earning capacity be later changed, the amount of his pension
25 may be further modified; provided, that the new pension shall
26 not exceed the amount of the pension originally granted nor an
27 amount which, when added to the amount earnable by the

1 beneficiary, together with this annuity exceeds the amount of
2 his average final compensation.

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

9 "(c) Disposition of contributions and allowances
10 upon death, etc., of member.

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

26 "(2) In case of the death of a member eligible for
27 service retirement pursuant to subsection (a) of this section,

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

13 "(3) In case of the death of a Tier I plan member
14 not eligible for service retirement, after completion of 25
15 years of creditable service, an allowance shall be paid to the
16 surviving spouse, or to such other person who the member shall
17 have designated, in an amount that would have been payable if
18 the member had retired for disability immediately prior to his
19 death and had elected Option 3 as set forth in subsection (d)
20 of this section or, alternatively, if the surviving spouse or
21 other designee desires, he may choose to receive, in lieu of
22 the allowance provided under Option 3, the accumulated
23 contributions of the member plus an amount equal to the
24 accumulated contributions of the member not to exceed
25 \$5,000.00 or the accumulated contributions of the member plus
26 the benefit provided by Section 36-27B-3 if a benefit is
27 payable under such section;

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

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

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

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

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

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

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

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

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

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

10 "(2) Any person who, prior to October 1, 1963, was
11 in receipt of a benefit pursuant to Act No. 376, approved
12 November 6, 1959, but was not a member of the system at the
13 time of retirement shall not be entitled to receive an annual
14 retirement allowance from the system, effective October 1,
15 1971, as follows:

16 "a. If such person was retired on or before January
17 1, 1956, an amount equal to \$79.20 multiplied by the number of
18 years of his creditable service not in excess of 30 years.

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

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

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

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

22 "(h) Notwithstanding any provision of this section
23 to the contrary, if a retired member who is receiving a
24 monthly benefit allowance provided under Option 2, 3, or 4
25 divorces his or her designated beneficiary, the member may
26 designate a replacement beneficiary for the beneficiary to
27 become effective two years after the date of designation of

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

8 "§36-27-24.

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

19 "(b) Annuity Savings Fund. The Annuity Savings Fund
20 shall be a fund in which shall be accumulated contributions
21 from the compensation of members to provide for their
22 annuities.

23 "Contributions to and payments from the Annuity
24 Savings Fund shall be made as follows: Effective October 1,
25 1971, each employer shall cause to be deducted from the salary
26 of each member on each and every payroll of such employer for
27 each and every payroll period five percent of his or her

1 earnable compensation; except, that in the case of a state
2 policeman, the rate of 10 percent of earnable compensation
3 shall apply, and in computing all retirement benefits it shall
4 be assumed that a seven percent rate of contribution had
5 applied with respect to service as a state policeman prior to
6 July 1, 1957. For all pay dates beginning on or after October
7 1, 2011, each employer, except those employers participating
8 pursuant to Section 36-27-6, 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 seven and
11 one-quarter percent (7.25%) of his or her earnable
12 compensation; except, that in the case of a state policeman,
13 the rate of ten percent (10%) of earnable compensation shall
14 apply. For all pay dates beginning on or after October 1,
15 2012, each employer, except those employers participating
16 pursuant to Section 36-27-6, shall cause to be deducted from
17 the salary of each Tier I plan member on each and every
18 payroll of such employer for each and every payroll period
19 seven and one-half percent (7.5%) of his or her earnable
20 compensation; except, that in the case of a state policeman,
21 the rate of ten percent (10%) of earnable compensation shall
22 apply. For all pay dates beginning on or after the effective
23 date of this act, each employer shall cause to be deducted
24 from the salary of each Tier II plan member on each and every
25 payroll period six percent (6%) of his or her earnable
26 compensation; except that in the case of a state policeman,
27 the rate of ten percent (10%) shall apply. Any employer

1 participating under Section 36-27-6, by adoption of a
2 resolution, may elect for the increases in employee
3 contributions provided by Act 2011-676 to be withheld from the
4 earnable compensation of employees of the employer. In
5 determining the amount earnable by a member in a payroll
6 period, the Board of Control may consider the rate of annual
7 compensation payable to such member on the first day of the
8 payroll period as continuing through such payroll period, and
9 it may omit deductions from compensation for any period less
10 than a full payroll period if an employee was not a member on
11 the first day of the payroll period, and, to facilitate the
12 making of deductions, it may modify the deductions required of
13 any member by such an amount as shall not exceed one tenth of
14 one percent of the annual compensation upon the basis of which
15 such deductions are made.

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

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

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

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

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

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

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

26 "(c) Pension Accumulation Fund. The Pension
27 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
27 Control, the actuary engaged by the board to make such

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

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

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

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

25 "On September 30, 1997, the assets shall be
26 determined by using the market value of such assets. For
27 subsequent years the value of the assets shall be determined

1 by the system's actuary using a five year smoothed market
2 value.

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

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

18 "Upon the death of a member on account of whom no
19 survivor allowance is payable under subdivisions (2) and (3)
20 of subsection (c) of Section 36-27-16, the death benefit as
21 provided in subdivision (4) of subsection (c) of Section
22 36-27-16 equal to the accumulated contributions, not to exceed
23 \$5,000.00, shall be payable from the Pension Accumulation
24 Fund.

25 "(d) Expense Fund. The Expense Fund shall be the
26 fund from which the expenses of the administration of the
27 retirement system shall be paid, exclusive of amounts payable

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

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

22 "The employer's contribution on account of the
23 membership of employees whose salaries are paid in whole or in
24 part from funds derived from federal grants shall be paid from
25 funds derived from the federal grants in accordance with
26 statutes governing the administration of the grants and in
27 proportion to salaries paid therefrom. At such time and in

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

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

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

1 System in a format prescribed by the Employees' Retirement
2 System.

3 "§36-27-59.

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

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

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

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

26 "(b) (1) Any firefighter, law enforcement officer, or
27 correctional officer covered under the Employees' Retirement

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

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

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

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

1 2004. The member may purchase his or her claimed credit in
2 increments of five years, unless the total service credit is
3 less than five years, in which case the service shall be
4 purchased in its entirety. The member shall provide
5 certification from each employing agency, on forms prescribed
6 by the Teachers' or Employees' Retirement System, of each year
7 of claimed service, as a prerequisite to payment under this
8 section.

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

11 Section 2. The provisions of this act are severable.
12 If any part of this act is declared invalid or
13 unconstitutional, that declaration shall not affect the part
14 which remains

15 Section 3. All laws or parts of laws which conflict
16 with this act are repealed.

17 Section 4. This act shall become effective January
18 1, 2013, following its passage and approval by the Governor or
19 its otherwise becoming a law.