

1 HB76
2 203448-2
3 By Representatives Baker and Collins
4 RFD: Ways and Means Education
5 First Read: 04-FEB-20
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SYNOPSIS: This bill would establish a new defined benefit retirement plan, effective October 1, 2020, for any public employee who is first hired on or after January 1, 2013, by an employer who participates in the Teachers' Retirement System.

A BILL
TO BE ENTITLED
AN ACT

To amend Sections 16-25-1, 16-25-11.1, 16-25-14, and 16-25-21, Code of Alabama 1975, relating to retirement benefits for employees who are members of the Teachers' Retirement System; to establish a new defined benefit retirement plan for employees who first become a member of the Teachers' Retirement System on or after January 1, 2013, except for those Tier II plan members that opt out by June 1, 2021.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. This act shall be known and may be cited
2 as the Education Workforce Investment Act.

3 Section 2. Sections 16-25-1, 16-25-11.1, 16-25-14,
4 and 16-25-21, Code of Alabama 1975, are amended to read as
5 follows:

6 "§16-25-1.

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

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

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

20 "(3) TEACHER. Any teacher, principal,
21 superintendent, supervisor, college professor, administrative
22 officer, or clerk employed in any public school or public
23 college within the state or employed in any private
24 nondenominational school operated nonprofit for the education
25 of children of school age residing within a district where no
26 public school is available for the children or any similar
27 employee or officer of the Department of Education or of the

1 Alabama Education Association, or any attendance worker 50
2 percent or more of whose salary is paid from public school
3 funds or any employee receiving a regular stated compensation
4 from the retirement system. In all cases of doubt, the Board
5 of Control shall determine whether any person is a teacher as
6 defined in this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 of the Teachers' Retirement System before the first plan year
2 beginning after December 31, 1995, shall not be subject to the
3 earning limitations set forth in Section 401(a)(17). For Tier
4 I plan members, the term earnable compensation for retirement
5 purposes shall include overtime payments that are made to a
6 member; however, earnable compensation shall not exceed 120
7 percent of any member's annual base compensation as certified
8 by the employer. For Tier II plan and Tier III plan members,
9 earnable compensation shall include overtime payments that are
10 made to the member but shall not include subsistence payments
11 that are made to the member and shall not exceed one hundred
12 twenty-five percent (125%) of the member's annual base
13 compensation, as certified by the employer.

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

1 (1) of Section 16-25-21 during the five years in his or her
2 last ten years of creditable service for which the average is
3 highest or during his or her entire period of creditable
4 service if less than five years.

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

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

11 "(21) RETIREMENT ALLOWANCE. The sum of the "annuity"
12 and the "pension."

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

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

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

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

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

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

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

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

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

14 "~~(29)~~ (30) TIER I PLAN MEMBER. Any member of the
15 Retirement System who had service for which he or she received
16 credit in the Teachers' Retirement System or in the Employees'
17 Retirement System prior to January 1, 2013.

18 "~~(30)~~ (31) TIER II PLAN MEMBER. Any member of the
19 Retirement System who first began eligible employment with a
20 Teachers' Retirement System or an Employees' Retirement System
21 participating employer on or after January 1, 2013, and prior
22 to October 1, 2020, and who had no eligible service in the
23 Teachers' Retirement System or the Employees' Retirement
24 System prior to January 1, 2013, and who opted to remain a
25 Tier II Plan member on or before June 1, 2021, in the manner
26 prescribed by the Board of Control, except for those Tier II

1 Plan members who begin active service with the Retirement
2 System on or after October 1, 2020.

3 "(32) TIER III PLAN MEMBER. As of October 1, 2020,
4 any member of the Retirement System who first began eligible
5 employment with a Teachers' Retirement System or an Employees'
6 Retirement System participating employer on or after January
7 1, 2013, and who had no eligible service in the Teachers'
8 Retirement System or the Employees' Retirement System prior to
9 January 1, 2013. This term does not include any active Tier II
10 Plan member of the Retirement System who opted to remain a
11 Tier II Plan member on or before June 1, 2021, in the manner
12 prescribed by the Board of Control.

13 "§16-25-11.1.

14 "(a) Teachers, as defined in subdivision (3) of
15 Section 16-25-1 or subsection (d) of Section 16-25-5, as
16 amended, may use their accrued sick leave, up to a maximum
17 number of accrued sick leave days allowed by law, to be
18 included as membership service in determining the total years
19 of creditable service in the Teachers' Retirement System of
20 Alabama; provided, any teacher not authorized by law to
21 receive sick leave may use any accrued sick leave provided by
22 his or her employer, provided, that employer is lawfully
23 empowered to grant such leave, which cannot be without pay;
24 and provided further that the amount of such accrued leave
25 shall not exceed the maximum number of accrued sick leave days
26 allowed by law for a classroom teacher employed by a city or
27 county board of education. Unused sick leave may be converted

1 to membership service only for the purpose of applying for
2 service retirement. The conversion shall not apply to
3 eligibility for deferred retirement; provided that a person
4 eligible for service retirement, if also eligible for
5 disability retirement, may elect disability retirement and
6 also receive credit for accumulated sick leave pursuant to
7 this section. This section shall not be applicable to any
8 person who is eligible to receive partial payment for accrued
9 sick leave pursuant to Section 36-26-36. This section shall
10 apply to all Tier III plan members.

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

14 "§16-25-14.

15 "(a) (1) Any Tier I plan member who withdraws from
16 service upon or after attainment of age 60 and any Tier II or
17 Tier III plan member who withdraws from service upon or after
18 attainment of age 62, or in the case of a Tier II or Tier III
19 plan member who is a correctional officer, firefighter, or law
20 enforcement officer as defined in Section 36-27-59, who
21 withdraws from service upon or after attainment of age 56 with
22 at least ten years of creditable service as a correctional
23 officer, firefighter, or law enforcement officer may retire
24 upon written application to the Board of Control setting forth
25 at what time, not less than 30 days nor more than 90 days
26 subsequent to the execution and filing thereof, he or she
27 desires to be retired; provided, that any such member who

1 became a member on or after October 1, 1963, shall have
2 completed 10 or more years of creditable service.

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

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

1 the time of his or her service in the above capacity, with
2 such cost or contribution to be calculated at the percent or
3 rate in effect on October 1, 1973.

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

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

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

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

26 "(3) If he or she has a prior service certificate in
27 full force and effect, an additional pension which shall be

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

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

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

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

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

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

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

26 "(f) Anything in this article to the contrary
27 notwithstanding, in the application of the provisions of

1 Sections 36-27-16 and 16-25-14 to a member whose creditable
2 service includes periods of service to different Tier plans,
3 the benefit rates of each respective Tier plan shall be
4 applicable to the creditable service earned while in each
5 respective Tier plan. In all other respects the pension under
6 this section shall be determined on the basis of the member's
7 Tier plan at the time of his or her withdrawal from service.

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

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

3 ~~"(f)~~ (h) Upon retirement for disability, a Tier I
4 plan member shall receive a service retirement allowance if he
5 or she 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 or
10 she shall receive a disability retirement allowance which
11 shall consist of:

12 "(1) An annuity which shall be the actuarial
13 equivalent of his or her accumulated contributions at the time
14 of 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 that 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 or her annuity
22 is 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 or she became a member before October 1,
2 1971, \$54 multiplied by the number of years of his or her
3 creditable 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 or her creditable service not in
7 excess of 25 years.

8 "~~(g)~~ (i) Upon retirement for disability, a Tier II
9 plan member shall receive a service retirement allowance if
10 the member has attained age 62, or in the case of a Tier II
11 plan member who is a correctional officer, firefighter, or law
12 enforcement officer as defined in Section 36-27-59, if the
13 member has attained age 56 with at least ten years of
14 creditable service as a correctional officer, firefighter, or
15 law enforcement officer, otherwise, the member shall receive a
16 disability retirement allowance which shall be equal to one
17 and sixty-five hundredths percent (1.65%) of the member's
18 average final compensation multiplied by the number of years
19 of creditable service.

20 "(j) Upon retirement for disability, a Tier III plan
21 member shall receive a service retirement allowance if the
22 member has attained age 62, or in the case of a Tier III plan
23 member who is a correctional officer, firefighter, or law
24 enforcement officer as defined in Section 36-27-59, if the
25 member has attained age 56 with at least 10 years of
26 creditable service as a correctional officer, firefighter, or
27 law enforcement officer, or if the member has completed 30

1 years of creditable service, otherwise, the member shall
2 receive a disability retirement allowance which shall be equal
3 to two percent (2%) of the member's average final compensation
4 multiplied by the number of years of creditable service.

5 ~~"(h)~~ (k) (1) Once each year during the first five
6 years following the retirement of a member on a disability
7 retirement allowance and once in every three-year period
8 thereafter, the Board of Control may and upon his or her
9 application shall require any disability beneficiary who has
10 not yet attained age 60 for a Tier I plan member or age 62 for
11 a Tier II or Tier III plan member to undergo a medical
12 examination, such examination to be made at the place of
13 residence of such beneficiary or other place mutually agreed
14 upon by a physician of or designated by the medical board.
15 Should any disability beneficiary who has not yet attained age
16 60 for a Tier I plan member or age 62 for a Tier II or Tier
17 III plan member refuse to submit to such medical examination,
18 his or her pension may be discontinued until his or her
19 withdrawal of such refusal, and should his refusal continue
20 for one year, all his or her rights in and to his or her
21 pension may be revoked by the Board of Control; provided, that
22 these requirements relative to the medical examination shall
23 not apply in the case of a Tier II or Tier III plan member who
24 is a correctional officer, firefighter, or law enforcement
25 officer as defined in Section 36-27-59 retired for disability
26 and who has attained age 56 with at least ten years of

1 creditable service as a correctional officer, firefighter, or
2 law enforcement officer.

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

26 "~~(i)~~ (1) (1) Should a member cease to be a teacher,
27 except by death or by retirement under the provisions of this

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

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

1 benefit provided by Section 36-27B-3 if a benefit is payable
2 under such section.

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

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

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

26 "(2) OPTION 2. Upon his or her death, his or her
27 reduced retirement allowance shall be continued throughout the

1 life of and paid to such person as he or she shall nominate by
2 written designation duly acknowledged and filed with the Board
3 of Control at the time of his or her retirement;

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

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

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

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

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

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

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

26 "~~(m)~~ (p) Notwithstanding any other provisions of
27 this section to the contrary, when a designated beneficiary

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

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

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

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

3 "§16-25-21.

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

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

19 "a. Each employer shall cause to be deducted from
20 the salary of each member on each and every payroll of such
21 employer for each and every payroll period five percent of his
22 or her earnable compensation. For all pay dates beginning on
23 or after October 1, 2011, each employer shall cause to be
24 deducted from the salary of each member on each and every
25 payroll of such employer for each and every payroll period
26 seven and one-quarter percent (7.25%) of his or her earnable
27 compensation. For all pay dates beginning on or after October

1 1, 2012, each employer shall cause to be deducted from the
2 salary of each Tier I plan member on each and every payroll of
3 such employer for each and every payroll period seven and
4 one-half percent (7.5%) of his or her earnable compensation.
5 For all pay dates beginning on or after January 1, 2013, each
6 employer shall cause to be deducted from the salary of each
7 Tier II plan member on each and every payroll period six
8 percent (6%) of his or her earnable compensation; except in
9 the case of a Tier II plan member who is a correctional
10 officer, firefighter, or law enforcement officer as defined in
11 Section 36-27-59, the rate of seven percent (7%) shall apply.
12 For all pay dates beginning on or after October 1, 2020, each
13 employer shall cause to be deducted from the salary of each
14 Tier III plan member on each and every payroll period seven
15 and one-half percent (7.5%) of his or her earnable
16 compensation; except in the case of a Tier III plan member who
17 is a correctional officer, firefighter, or law enforcement
18 officer as defined in Section 36-27-59, the rate of seven and
19 three-quarters percent (7.75%) shall apply. In determining the
20 amount earnable by a member in a payroll period, the Board of
21 Control may consider the rate of annual compensation payable
22 to such member on the first day of the payroll period as
23 continuing throughout such payroll period, and it may omit
24 deductions from compensation for any period less than a full
25 payroll period if a teacher was not a member on the first day
26 of the payroll period, and to facilitate the making of
27 deductions it may modify the deduction required of any member

1 by such an amount as shall not exceed one tenth of one percent
2 of the annual compensation upon the basis of which such
3 deduction is to be made.

4 "b. The deductions provided for herein shall be made
5 notwithstanding that the minimum compensation provided for by
6 law for any member shall be reduced thereby. Every member
7 shall be deemed to consent and agree to the deduction made and
8 provided for herein and shall receipt for his or her full
9 salary or compensation, and payment of salary or compensation
10 less such deduction shall be a full and complete discharge and
11 acquittance of all claims and demands whatsoever for the
12 service rendered by such person during the period covered by
13 such payment, except as to the benefits provided under this
14 chapter. The employer shall certify to the Board of Control on
15 each and every payroll or in such other manner as the board
16 may prescribe the amount to be deducted; and each of the
17 amounts shall be deducted, and when deducted shall be paid
18 into the Annuity Savings Fund and shall be credited, together
19 with regular interest thereon, to the individual account of
20 the member from whose compensation the deduction was made.

21 "c. In addition to the contributions deducted from
22 compensation as hereinbefore provided, subject to the approval
23 of the Board of Control, any member may deposit in the Annuity
24 Savings Fund by a single payment or by an increased rate of
25 contribution an amount computed to be sufficient to purchase
26 an additional annuity which, together with his or her
27 prospective retirement allowance, will provide for him or her

1 a total retirement allowance not to exceed one half of his or
2 her average final compensation at age 60. Such additional
3 amounts so deposited shall become a part of his or her
4 accumulated contributions except in the case of retirement,
5 when they shall be treated as excess contributions returnable
6 to the member in cash or as an annuity of equivalent actuarial
7 value and shall not be considered in computing his or her
8 pension. The contributions and interest credits of a member
9 withdrawn by him or her, or paid to his or her estate or to
10 his or her designated beneficiary in event of his or her
11 death, shall be paid from the Annuity Savings Fund. Should a
12 member cease to be a member other than by retirement under the
13 provisions of this title, an amount equivalent to the
14 difference, if any, between his or her accumulated
15 contributions and the amount then paid shall be transferred to
16 the Expense Fund. Upon the retirement of a member or the death
17 of an eligible member where an allowance to the surviving
18 spouse is payable, his or her accumulated contributions shall
19 be transferred from the Annuity Savings Fund to the Pension
20 Accumulation Fund.

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

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

1 pensions and other benefits. Contributions to and payments
2 from the Pension Accumulation Fund shall be made as follows:

3 "a. On account of each member there shall be paid
4 monthly by the employer an amount equal to a certain
5 percentage of the earnable compensation of each member to be
6 known as the "normal contribution" and an additional amount
7 equal to a percentage of his or her earnable compensation to
8 be known as the "accrued liability contribution," and these
9 two amounts shall be paid monthly into the Pension
10 Accumulation Fund. The Teachers' Retirement System shall
11 recommend to the Legislature on or before the first
12 legislative day of each regular session of the Legislature the
13 rate for the following fiscal year. The Legislature shall set
14 the rate in the annual appropriation bill.

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

1 "c.1. The accrued liability contribution rate shall
2 be computed by the actuary on the basis of each valuation as
3 the per centum rate of the total annual compensation of all
4 members which is sufficient to liquidate the unfunded accrued
5 liability over a period to be determined by the Board of
6 Control which shall be not less than 10 nor more than 30
7 years.

8 "2. The unfunded accrued liability shall be computed
9 by the actuary as the total liabilities of the system which
10 are not dischargeable by the assets of the Annuity Savings
11 Fund and the Pension Accumulation Fund and the present value
12 of the aforesaid normal contributions. For purposes of
13 computing the unfunded accrued liability the assets shall be
14 determined as follows:

15 "On June 30, 1997, the assets shall be determined by
16 using the market value of such assets. For subsequent years
17 the value of the assets shall be determined by the system's
18 actuary using a five year smoothed market value.

19 "d. The total amount payable in each year to the
20 Pension Accumulation Fund shall be not less than the sum of
21 the per centum rates known as the normal contribution rate and
22 the accrued liability contribution rate of the total
23 compensation earnable by all members during the year.

24 "e. All interest and dividends earned on the funds
25 of the retirement system shall be credited to the Pension
26 Accumulation Fund. The amounts needed to allow regular
27 interest on the reserves in the Annuity Savings Fund shall be

1 transferred in accordance with the provisions of this chapter
2 from the Pension Accumulation Fund. The Board of Control, in
3 its discretion, may transfer to and from the Pension
4 Accumulation Fund the amount of any surplus or deficit which
5 may develop in the Annuity Savings Fund or the Expense Fund.

6 "f. Upon the death of a member on account of whom no
7 survivor allowance is payable under subdivision (2) of
8 subsection ~~(i)~~ (k) of Section 16-25-14, the death benefit as
9 provided in subdivision 2 of subsection ~~(i)~~ (k) of such
10 section equal to the accumulated contributions not to exceed
11 \$5,000 shall be payable from the Pension Accumulation Fund.

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

23 "(4)a. On or before October 1 of each year, each
24 local board of education, the State Board of Education, the
25 governing boards of the University of Alabama, Auburn
26 University, and the University of Montevallo and the Executive
27 Committee of the Alabama Education Association shall file with

1 the Board of Control of the retirement system a certified
2 statement containing the following information concerning the
3 members of the retirement system employed by such boards for
4 the scholastic year beginning on July first preceding the
5 date: Name, address, monthly salary, annual salary, and such
6 other information as the Board of Control may require. On or
7 before July 31 of each year, each local board of education;
8 the State Board of Education; the governing boards of the
9 University of Alabama, Auburn University, and the University
10 of Montevallo and the Executive Committee of the Alabama
11 Education Association shall file with the Board of Control of
12 the retirement system a certified statement containing the
13 following information concerning members of the retirement
14 system employed by such boards during the scholastic year
15 ending on June 30 preceding the date: Name, address, monthly
16 salary actually paid, total annual salary actually paid, and
17 such other information as the Board of Control may require.

18 "b. The collection of members' contributions shall
19 be as follows: Each local board of education, the State Board
20 of Education, the governing boards of the University of
21 Alabama, Auburn University, and the University of Montevallo
22 and the Executive Committee of the Alabama Education
23 Association shall cause to be deducted on each and every
24 payroll period subsequent to the date of the establishment of
25 the retirement system the contributions payable by each member
26 as provided in this chapter. Each employer shall transmit
27 monthly, or at such time as the Board of Control shall

1 designate, the total amount so deducted to the
2 Secretary-Treasurer of the Board of Control accompanied by an
3 itemized statement of the contributions of each individual
4 member of the retirement system. The Secretary-Treasurer of
5 the Board of Control after making a record of all such
6 receipts shall transmit the same to the State Treasurer to be
7 held for use according to the provisions of this chapter.
8 Notwithstanding anything in this section, the Board of Control
9 may modify the form of reports required of employers and may
10 modify the method of collecting the contributions of members
11 so that employers may retain the amounts so deducted and have
12 a corresponding amount deducted from funds otherwise payable
13 to them.

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

17 "d. Where member contributions are made from
18 salaries paid from federal funds, the employer shall pay from
19 federal funds to the Teachers' Retirement System the amount
20 calculated as a percentage of the salaries of those teachers
21 to be contributed by the employer in accordance with
22 subdivisions (2) and (3) of this section. Such amounts shall
23 be paid at the same time as the member contributions are made
24 to the retirement system. The provisions of this paragraph
25 shall not apply to funds received under the provisions of the
26 Hatch Act of 1887, as amended in 1955, and the
27 McIntyre-Stennis Act (Cooperative Forestry Research Act of

1 1962) of the Congress of the United States, for the support of
2 agriculturally related research.

3 "e. Where member contributions are made from
4 salaries paid by the Alabama Education Association, the
5 Alabama Education Association shall pay the employer costs
6 calculated as a percentage of the salaries of those employees
7 to be contributed as employer in accordance with subdivisions
8 (2) and (3) of this section. Such amounts shall be paid
9 monthly and at the same time as the member contributions are
10 made to the Teachers' Retirement System.

11 "f. To the extent that employer cost is collected
12 for any increase in benefits payable to retired employees of
13 local boards of education and state institutions of higher
14 education who are retired under the Employees' Retirement
15 System, there shall be a transfer of funds from these funds to
16 the Employees' Retirement System for each year such benefits
17 are payable.

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

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