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3 By Representative Pettus  
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ENROLLED, An Act,

To amend Sections 16-25-14 and 36-27-16, as amended by Act 2019-221 and Act 2019-316, 2019 Regular Session, Code of Alabama 1975, relating to inservice death benefits for firefighters, law enforcement officers, and correctional officers; to allow hazardous duty time to be used in calculating the requisite years of service for inservice death benefits; and to provide for a retroactive effective date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 16-25-14 and 36-27-16, as amended by Act 2019-221 and Act 2019-316, 2019 Regular Session, of the Code of Alabama 1975, are amended to read as follows:

"§16-25-14.

"(a) (1) Any Tier I plan member who withdraws from service upon or after attainment of age 60 and any Tier II plan member who withdraws from service upon or after attainment of age 62, or in the case of a Tier II plan member who is a correctional officer, firefighter, or law enforcement officer as defined in Section 36-27-59, who withdraws from service upon or after attainment of age 56 with at least ten years of creditable service as a correctional officer, firefighter, or law enforcement officer may retire upon written application to the Board of Control setting forth at

1        what time, not less than 30 days nor more than 90 days  
2        subsequent to the execution and filing thereof, he or she  
3        desires to be retired; provided, that any such member who  
4        became a member on or after October 1, 1963, shall have  
5        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, or in the  
8        case of a Tier II plan member who is a correctional officer,  
9        firefighter, or law enforcement officer as defined in Section  
10       36-27-59, who has attained age 56 with at least ten years of  
11       creditable service as a correctional officer, firefighter, or  
12       law enforcement officer and has previously withdrawn from  
13       service may retire upon written application to the Board of  
14       Control setting forth at what time, not less than 30 days nor  
15       more than 90 days subsequent to the execution and filing  
16       thereof, he or she desires to be retired; provided, that the  
17       member shall have completed at the time for his or her  
18       withdrawal from service the requirements established by the  
19       Board of Control for eligibility for deferred benefits  
20       pursuant to Section 16-25-3.

21               "(3) Any person who is presently covered or is  
22       eligible to be covered under the Employees' Retirement System  
23       of Alabama or the Teachers' Retirement System of Alabama and  
24       who, prior to such coverage or eligibility for coverage,  
25       served as head of any Alabama county's public library service

1 department shall have credited to him or her one year of  
2 creditable service for each year served as such head, not to  
3 exceed 12 years; provided, that such person shall pay into the  
4 retirement system the employee's part of the cost or  
5 contribution based on the salary paid to such person during  
6 the time of his or her service in the above capacity, with  
7 such cost or contribution to be calculated at the percent or  
8 rate in effect on October 1, 1973.

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

19 "(b) Upon retirement from service, a Tier I plan  
20 member shall receive a service retirement allowance which  
21 shall consist of:

22 "(1) An annuity which shall be the actuarial  
23 equivalent of his or her accumulated contributions at the time  
24 of his or her retirement;

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

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

22           "(c) The annual service retirement pension payable  
23 to a Tier I plan member retiring on or after October 1, 1975,  
24 shall not be less than an amount which when added to his or

1 her annuity is equal to the greater of the following two  
 2 amounts:

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

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

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

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

24 "(e) Upon the application of a Tier I plan member in  
 25 service or of his or her employer, any member who has had 10

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

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

1 she shall receive a disability retirement allowance which  
2 shall consist of:

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

6 "(2) A pension which shall be equal to the pension  
7 that would have been payable under subdivisions (2) and (3) of  
8 subsection (b) of this section upon service retirement at age  
9 60 had the member continued in service to that age without  
10 change in compensation.

11 "The annual disability retirement pension shall not  
12 be less than an amount which when added to his or her annuity  
13 is equal to the greater of the following amounts:

14 "a. Two and one-eightieth percent of the member's  
15 average final compensation multiplied by the number of years  
16 of creditable service.

17 "b. If he or she became a member before October 1,  
18 1971, \$54 multiplied by the number of years of his or her  
19 creditable service not in excess of 25 years.

20 "Notwithstanding, a member who retired prior to  
21 October 1, 1971, for disability shall receive \$90 multiplied  
22 by the number of years of his or her creditable service not in  
23 excess of 25 years.

24 "(g) Upon retirement for disability, a Tier II plan  
25 member shall receive a service retirement allowance if the

1 member has attained age 62, or in the case of a Tier II plan  
2 member who is a correctional officer, firefighter, or law  
3 enforcement officer as defined in Section 36-27-59, if the  
4 member has attained age 56 with at least ten years of  
5 creditable service as a correctional officer, firefighter, or  
6 law enforcement officer, otherwise, the member shall receive a  
7 disability retirement allowance which shall be equal to one  
8 and sixty-five hundredths percent (1.65%) of the member's  
9 average final compensation multiplied by the number of years  
10 of creditable service.

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

1 rights in and to his or her pension may be revoked by the  
2 Board of Control; provided, that these requirements relative  
3 to the medical examination shall not apply in the case of a  
4 Tier II plan member who is a correctional officer,  
5 firefighter, or law enforcement officer as defined in Section  
6 36-27-59 retired for disability and who has attained age 56  
7 with at least ten years of creditable service as a  
8 correctional officer, firefighter, or law enforcement officer.

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

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

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

22           "(2) In case of the death of a member eligible for  
23 service retirement pursuant to subsection (a) of this section,  
24 an allowance shall be paid to the surviving spouse, or to such  
25 other person who the member shall have designated, in an

1 amount that would have been payable if the member had retired  
2 immediately prior to his or her death and had elected Option  
3 3, as set forth in subsection (j) of this section or,  
4 alternatively, if the surviving spouse or other designee  
5 desires, he or she may choose to receive, in lieu of the  
6 allowance provided under Option 3, the accumulated  
7 contributions of the member plus an amount equal to the  
8 accumulated contributions of the member not to exceed \$5,000  
9 or the accumulated contributions of the member plus the  
10 benefit provided by Section 36-27B-3 if a benefit is payable  
11 under such section. For purposes of this subsection only,  
12 hazardous duty time, as set forth in subdivision (1) of  
13 subsection (b) of Section 36-27-59, may be used in calculating  
14 the requisite years of service for firefighters, law  
15 enforcement officers, and correctional officers even if the  
16 member has not otherwise attained 25 years of creditable  
17 service.

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

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

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

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

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

22 "(3) OPTION 3. Upon his or her death, one half of  
23 his or her reduced retirement allowance shall be continued  
24 throughout the life of and paid to the person as he or she  
25 shall nominate by written designation duly acknowledged and

1 filed with the Board of Control at the time of his or her  
2 retirement; or

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

10 "(5) OPTION 5. At the time of retirement, he or she  
11 shall receive a partial lump sum distribution as a single  
12 payment not to exceed the sum of 24 months of the maximum  
13 monthly retirement allowance the member could receive. This  
14 option may be elected in addition to the election of another  
15 option under this subsection and the further reduced monthly  
16 retirement allowance shall be calculated in accordance with  
17 the selected option. This option shall not be available to a  
18 member who is receiving a disability retirement.

19 "(k) Should any beneficiary be restored to active  
20 service, his or her retirement allowance shall be suspended  
21 until he or she again withdraws from service and, he or she  
22 shall not again become a member, nor shall he or she make  
23 contributions; except, that should such beneficiary who has  
24 been restored to active service continue in service for a  
25 period of two or more years from the date of his or her

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

15 "(1) (1) All retirement allowance payments due on or  
16 after October 1, 1975, to members who retired prior to October  
17 1, 1975, shall be redetermined as if the provisions of  
18 subsections (b) and (e) of this section which became effective  
19 on said date were in effect at the time the member retired;  
20 provided, that the annual retirement allowance of any member  
21 who retired on or before January 1, 1956, shall be not less  
22 than \$132 multiplied by the number of years of his or her  
23 creditable service not in excess of 30 years in the case of  
24 service retirement or \$99 multiplied by the number of years of  
25 creditable service not in excess of 30 years in the case of

1 disability retirements. Any increase provided in the  
2 retirement allowance payment under this subsection for a  
3 member who retired under the provisions of any optional  
4 benefit elected pursuant to subsection (j) of this section  
5 shall accrue only to the retired member, and no person  
6 designated to receive any payments after the death of a  
7 retired member under the provisions of any such optional  
8 benefit shall receive any increase in such payments under this  
9 subsection.

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

18 "(3) Prior to October 31, 1975 any beneficiary may  
19 elect to leave on deposit with the system all or a specified  
20 part of any increase in his or her monthly retirement  
21 allowance payments arising in accordance with subdivision (1)  
22 or (2) of this subsection. The portion of each monthly payment  
23 left in the system in accordance with such election shall be  
24 credited, together with regular interest thereon, to the  
25 individual account of such beneficiary. Upon the death of such

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

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

20 "(n) Notwithstanding any provision of this section  
21 to the contrary, if a retired member who is receiving a  
22 monthly benefit allowance provided under Option 2, 3, or 4  
23 divorces his or her designated beneficiary, the member may  
24 designate a replacement beneficiary for the beneficiary to  
25 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 "(o) Any future act to increase the retirement age  
9 for Tier II plan members above the age of 62 shall require a  
10 two-thirds vote of the elected membership of each house of the  
11 Legislature.

12 "§36-27-16.

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

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

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

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

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

17            "(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24           "e. Upon retirement from service, a Tier II plan  
25 member who is not employed as a state policeman shall receive

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

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

23 "g. Anything in this article to the contrary  
24 notwithstanding, in the application of the foregoing  
25 provisions of this subdivision to a member whose creditable

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

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

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

21 "a. Upon application of a Tier I plan member in  
22 service or of his or her employer, any member who has had 10  
23 or more years of creditable service who becomes disabled may  
24 be retired on a disability retirement allowance by the Board  
25 of Control not less than 30 nor more than 90 days next

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

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

1 employee of the State of Alabama or as an employee of an  
2 employer participating under the provisions of Section  
3 36-27-6, shall be retired on a disability retirement  
4 allowance, not less than 30 nor more than 90 days next  
5 following the date of filing of such application, provided  
6 that the medical board, after a medical examination of such  
7 member shall certify that such member is mentally or  
8 physically incapacitated for the further performance of duty,  
9 that such incapacity is likely to be permanent, and that such  
10 member should be retired.

11 "(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE.

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

1 correctional officer, firefighter, or law enforcement officer,  
2 if he or she is a Tier II plan member and he or she has  
3 attained age 56; otherwise, he or she shall receive a  
4 disability retirement allowance which shall consist of:

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

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

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

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

22 "2. If he or she became a member before October 1,  
23 1965, \$54.00 multiplied by the number of years of his or her  
24 creditable service not in excess of 25 years.

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

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

15            "2. If he or she became a member before October 1,  
16 1965, \$64.80 multiplied by the number of years of his or her  
17 creditable service not in excess of 25 years.

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

23            "e. The annual disability retirement allowance  
24 payable to a Tier II plan member employed as a state policeman  
25 shall be equal to two and three-eighths percent (2.375%) of

1 the member's average final compensation multiplied by the  
2 number of years of creditable service.

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

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

1 mutually agreed upon by a physician or physicians of or  
2 designated by the medical board. Should any disability  
3 beneficiary who has not yet attained age 60 if the beneficiary  
4 is a Tier I plan member or age 62 if the beneficiary is a Tier  
5 II plan member refuse to submit to such medical examination,  
6 his or her allowance may be discontinued until his or her  
7 withdrawal of such refusal, and, should his or her refusal  
8 continue for one year, all his or her rights in and to his or  
9 her pension may be revoked by the Board of Control; provided,  
10 that these requirements relative to the medical examination  
11 shall not apply in the case of a state policeman retired for  
12 disability and who has attained age 52 if he or she is a Tier  
13 I plan member or in the case of a state policeman or a  
14 correctional officer, firefighter, or law enforcement officer  
15 as defined in Section 36-27-59 with at least ten years of  
16 creditable service as a correctional officer, firefighter, or  
17 law enforcement officer retired for disability who has  
18 attained age 56 if he or she is a Tier II plan member. Should  
19 the medical board report and certify to the Board of Control  
20 that a disability beneficiary who is a Tier I plan member is  
21 engaged in or is able to engage in a gainful occupation paying  
22 more than the difference between his or her retirement  
23 allowance and his or her average final compensation and should  
24 the Board of Control concur in such report, then the amount of  
25 his or her pension shall be reduced to an amount which,

1 together with his or her annuity and the amount earnable by  
2 him or her shall equal the amount of his or her average final  
3 compensation. Should his or her earning capacity be later  
4 changed, the amount of his or her pension may be further  
5 modified; provided, that the new pension shall not exceed the  
6 amount of the pension originally granted nor an amount which,  
7 when added to the amount earnable by the beneficiary, together  
8 with this annuity exceeds the amount of his or her average  
9 final compensation.

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

16 "(c) Disposition of contributions and allowances  
17 upon death, etc., of member.

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

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

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

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

1 surviving spouse, or to such other person who the member shall  
2 have designated, in an amount that would have been payable if  
3 the member had retired for disability immediately prior to his  
4 or her death and had elected Option 3 as set forth in  
5 subsection (d) of this section or, alternatively, if the  
6 surviving spouse or other designee desires, he or she 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. For purposes of this  
13 subsection only, hazardous duty time, as set forth in  
14 subdivision (1) of subsection (b) of Section 36-27-59, may be  
15 used in calculating the requisite years of service for  
16 firefighters, law enforcement officers, and correctional  
17 officers even if the member has not otherwise attained 25  
18 years of creditable service;

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

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

4 "(d) Optional allowances. With the provision that  
5 the election of an option shall be effective on the effective  
6 date of retirement, any member may elect prior to retirement  
7 to receive, in lieu of his or her retirement allowance payable  
8 throughout life, the actuarial equivalent, at that time, of  
9 his or her retirement allowance in a reduced retirement  
10 allowance payable throughout life with the provisions that:

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

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

23 "(3) OPTION 3. Upon his or her death, one half of  
24 his or her reduced allowance shall be continued throughout the  
25 life of and paid to the person as he or she shall nominate by

1 written designation duly acknowledged and filed with the Board  
2 of Control at the time of his or her retirement; or

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

10 "(5) OPTION 5. At the time of retirement, he or she  
11 shall receive a partial lump sum distribution as a single  
12 payment not to exceed the sum of 24 months of the maximum  
13 monthly retirement allowance the member could receive. This  
14 option may be elected in addition to the election of another  
15 option under this subsection and the further reduced monthly  
16 retirement allowance shall be calculated in accordance with  
17 the selected option. This option shall not be available to a  
18 member who is receiving a disability retirement.

19 "(e) Effect of return to active service. Should any  
20 beneficiary be restored to active service, his or her  
21 retirement allowance shall be suspended until he or she again  
22 withdraws from service and he or she shall not again become a  
23 member of the retirement system nor shall he or she make  
24 contributions; except, that should such beneficiary who has  
25 been restored to active service continue in service for a

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

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

1 excess of 30 years in the case of service retirement of \$59.40  
2 multiplied by the number of years of his or her creditable  
3 service not in excess of 30 years in the case of disability  
4 retirement. Any increase provided in the retirement allowance  
5 payment under this subdivision for a member who retired under  
6 the provisions of any optional benefit elected pursuant to  
7 subsection (d) of this section shall accrue only to the  
8 retired member, and no person designated to receive any  
9 payments after the death of a retired member under the  
10 provisions of any such optional benefit shall receive any  
11 increase in such payments under this subdivision.

12 Notwithstanding, any member who retired prior to October 1,  
13 1975, and who chose either Option 2 or Option 3 may elect to  
14 receive a reduced allowance and to stipulate that the  
15 actuarial equivalent of the increase in his or her retirement  
16 allowance, which became effective on that date, be ascribed to  
17 his or her designated beneficiary; provided, that such member  
18 shall clearly express this intention by filing a written  
19 application to the effect with the Secretary-Treasurer of the  
20 Employees' Retirement System of Alabama prior to October 1,  
21 1976.

22 "(2) Any person who, prior to October 1, 1963, was  
23 in receipt of a benefit pursuant to Act No. 376, approved  
24 November 6, 1959, but was not a member of the system at the  
25 time of retirement shall not be entitled to receive an annual

1 retirement allowance from the system, effective October 1,  
2 1971, as follows:

3 "a. If such person was retired on or before January  
4 1, 1956, an amount equal to \$79.20 multiplied by the number of  
5 years of his or her creditable service not in excess of 30  
6 years.

7 "b. If such person was retired after January 1,  
8 1956, an amount equal to \$72.00 multiplied by the number of  
9 years of his or her creditable service not in excess of 25  
10 years.

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

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

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

1 check received by the member following the date of designation  
2 of the replacement beneficiary.

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

7 Section 2. This act shall become effective  
8 immediately following its passage and approval by the  
9 Governor, or its otherwise becoming law, and shall be  
10 retroactive to January 1, 2021.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 09-FEB-21.

Jeff Woodard  
Clerk

Senate	08-APR-21	Amended and Passed
House	15-APR-21	Concurred in Senate Amendment