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3 HOUSE STATE GOVERNMENT COMMITTEE SUBSTITUTE FOR HB466  
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8 SYNOPSIS:           Currently, members of the Retirement Systems  
9                   of Alabama are allowed to make contributions to  
10                   individual retirement accounts administered by the  
11                   Retirement Systems of Alabama. This bill would  
12                   require all new employees, beginning January 1,  
13                   2017, to be automatically enrolled in such a  
14                   retirement account and would provide for opt-out  
15                   provisions as well as provisions for enrollment in  
16                   alternative accounts at the employee's choosing.  
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18                                   A BILL  
19                                   TO BE ENTITLED  
20                                   AN ACT  
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22                   Relating to individual retirement accounts  
23                   administered by the Retirement Systems of Alabama; to amend  
24                   Section 36-27A-5, Code of Alabama 1975, relating to  
25                   contributions to individual retirement accounts, to require  
26                   public employees first employed by a participating employer of  
27                   the Teachers' Retirement System, Employees' Retirement System,

1 or Judicial Retirement Fund on or after January 1, 2017 to  
2 make contributions to such individual retirement accounts  
3 through an automatic enrollment process, and to provide for  
4 opt-out provisions or enrollment in alternative retirement  
5 accounts offered by employers under certain conditions.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 36-27A-5, Code of Alabama 1975,  
8 is hereby amended to read as follows:

9 "§36-27A-5.

10 "(a) The PEIRAF shall be available to all public  
11 employees in the State of Alabama who are members of the  
12 Teachers' Retirement System, the Employees' Retirement System  
13 or the Judicial Retirement Fund. In addition, any employee of  
14 an employer eligible to participate in the Employees'  
15 Retirement System pursuant to the provisions of Section  
16 36-27-6, or any public official or employee of the State of  
17 Alabama or any political subdivision thereof, shall be  
18 eligible to participate under the provisions of this chapter.  
19 Participation in this fund shall be on a strictly voluntary  
20 basis under such rules and regulations as shall be adopted by  
21 the board of control and in accordance with the provisions  
22 contained in the Internal Revenue Code as it relates to  
23 individual retirement accounts for public employees. Any  
24 person who shall become ineligible for participation in the  
25 PEIRAF due to the termination of his employment with an  
26 eligible employer may leave his contributions on account with  
27 the PEIRAF; however, no further contributions may be accepted

1 on his account unless such person shall become reemployed by  
2 an eligible employer.

3 "(b) (1) All public employees in the State of  
4 Alabama, except those who participate in the Employees'  
5 Retirement System pursuant to the provisions of Section  
6 36-27-6 and those who participate in the Teachers' Retirement  
7 System as employees of public colleges and universities, who  
8 first begin employment with a participating employer of the  
9 Teachers' Retirement System, the Employees' Retirement System,  
10 or the Judicial Retirement Fund on or after January 1, 2017  
11 shall, unless electing otherwise, be automatically enrolled at  
12 the time of employment in the PEIRAF under such rules and  
13 regulations as shall be adopted by the board of control and in  
14 accordance with the provisions contained in the Internal  
15 Revenue Code as it relates to individual retirement accounts  
16 for public employees. All employers participating in the  
17 Employees' Retirement System pursuant to the provisions of  
18 Section 36-27-6 may elect to participate in the automatic  
19 enrollment program, except that only those counties  
20 participating in the Employees' Retirement System that have  
21 adopted the higher employee contribution rate provided for in  
22 Act No. 2011-676 shall be eligible to elect to participate in  
23 the automatic enrollment program.

24 "(2) (i) A public employee enrolled in the fund  
25 pursuant to this subsection (b) may elect to opt out of the  
26 fund and withdraw any of his or her contributions at any time.  
27 Provided however, that the employee may withdraw without any

1 penalty his or her contributions within 90 days after the date  
2 of the public employee's first contribution to the fund.

3 (ii) In addition to enrollment in the PEIRAF, or as  
4 an alternative thereto, a public employee may elect at the  
5 time of hire or at any time to enroll in any other deferred  
6 compensation plan offered by the public employee's employer,  
7 including any other deferred compensation plan authorized by  
8 the state personnel board, provided that the employer  
9 discloses, along with any minimum contribution requirements,  
10 whether fees or any other expenses are to be charged or  
11 applied to participating employees in the alternate plan  
12 offered by the employer and also discloses that employees who  
13 participate in the PEIRAF do so at no cost to the  
14 participating employee pursuant to the provisions of this  
15 Chapter.

16 (3) The default contribution amount for a public  
17 employee automatically enrolled in the PEIRAF pursuant to this  
18 subsection shall be one and one-half percent (1.5%) of the  
19 public employee's pre-tax includible compensation to the  
20 public employee's account in the same manner as otherwise  
21 provided for the operation of the fund. At the time of  
22 enrollment, a public employee may adjust the public employee's  
23 contribution amount, subject to any limitations on  
24 contributions established by the board of control or mandated  
25 by state or federal law.

26 "(4) For employers who participate in the automatic  
27 enrollment program, the board of control may adopt an

1 auto-escalation program through which the contributions of  
2 employees enrolled in the fund would automatically increase as  
3 the employee's salary increases, under such rules and  
4 regulations as shall be adopted by the board of control. Such  
5 program, if adopted by the board of control, shall be optional  
6 for participating employees, and each participating employee  
7 may elect to opt out of the auto-escalation program at any  
8 time. Any employer participating in the Employees' Retirement  
9 System pursuant to the provisions of Section 36-27-6 that has  
10 elected to participate in the automatic enrollment program may  
11 also elect to participate in any auto-escalation program  
12 adopted by the board of control.

13 "(5) All other terms of participation in the PEIRAF  
14 will be governed by the rules and regulations adopted by the  
15 board of control.

16 "(6) The employer of a public employee shall provide  
17 notice in writing to the employee at the time of employment or  
18 hire of the employee's automatic enrollment in the PEIRAF, and  
19 the right of the employee to opt out of the fund or, if  
20 applicable, into a different plan offered by the employer in  
21 accordance with this subsection. The notice shall also include  
22 information on the right of the public employee to opt out of  
23 the PEIRAF and withdraw his or her contributions without  
24 penalty during the 90-day opt out period, as well as any other  
25 disclosures required under this subsection or Chapter, as  
26 applicable.

1                   (7) If the period allowed for a permissible  
2 withdrawal under the United States Internal Revenue Code  
3 regulations is modified so that it is different from the  
4 90-day opt out period provided for in this subsection (b),  
5 then the applicable period for permissible withdrawal under  
6 this subsection (b) shall be deemed to be such period allowed  
7 for withdrawal of contributions without penalty by the United  
8 States Internal Revenue Code.

9                   "(8) Participation in the fund or any other deferred  
10 compensation plan pursuant to this subsection shall be in  
11 addition to participation in the Retirement Systems of Alabama  
12 pursuant to Chapter 18 of Title 12, Chapter 25 of Title 16,  
13 and Chapter 27 of Title 36.

14                   Section 2. (a) Other than the PEIRAF fund provided  
15 for in Section 36-27A-1, et. seq., any third party  
16 administrator or provider of a deferred compensation plan  
17 offered by a public employee's employer shall be selected in  
18 accordance with all applicable competitive bid and procurement  
19 laws.

20                   (b) Other than the PEIRAF fund provided for in  
21 Section 36-27A-1, et. seq., and except as otherwise required  
22 under the Internal Revenue Code, each such deferred  
23 compensation plan and its trust shall be established and  
24 maintained for the exclusive benefit, as defined by law of the  
25 plan's participants and their beneficiaries, and all assets of  
26 any such plan shall be held for the exclusive benefit of the  
27 plan's participants and their beneficiaries. For the purposes

1 and within the meaning of Section 19-3B-102, each such plan is  
2 declared to be a trust created by statute and is therefore  
3 required to be administered in the manner of an express trust.

4 (c) Other than the PEIRAF fund provided for in  
5 Section 36-27A-1, et. seq., a third party administrator or  
6 provider of a plan under this act, or any prospective third  
7 party administrator or provider seeking to implement a plan  
8 under this act, shall be considered a Principal for the  
9 purpose and application of Chapter 25 of Title 36 of the Code  
10 of Alabama.

11 Section 3. This act shall become effective on the  
12 first day of the third month following its passage and  
13 approval by the Governor, or its otherwise becoming law.