

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HOUSE BILL 2111

AN ACT

AMENDING SECTIONS 38-711, 38-730, 38-740, 38-742, 38-743 AND 38-744, ARIZONA REVISED STATUTES; AMENDING SECTION 38-745, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 244, SECTION 1; REPEALING SECTION 38-745, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 244, SECTION 2; AMENDING SECTIONS 38-749, 38-757, 38-762, 38-766 AND 38-797, ARIZONA REVISED STATUTES; REPEALING SECTION 38-797.06, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 2.1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-797.06; AMENDING SECTION 38-797.07, ARIZONA REVISED STATUTES; REPEALING LAWS 2007, CHAPTER 244, SECTION 4; MAKING AN APPROPRIATION; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-711, Arizona Revised Statutes, is amended to
3 read:

4 38-711. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Active member" means a member as defined in paragraph 23,
7 subdivision (b) of this section who satisfies the eligibility criteria
8 prescribed in section 38-727 and who is currently making member contributions
9 as prescribed in section 38-736.

10 2. "Actuarial equivalent" means equality in value of the aggregate
11 amounts expected to be received under two different forms of payment, based
12 on mortality and interest rate assumptions approved from time to time by the
13 board.

14 3. "ASRS" means the Arizona state retirement system established by
15 this article.

16 4. "Assets" means the resources of ASRS including all cash,
17 investments or securities.

18 5. "Average monthly compensation" means:

19 (a) For a member whose membership in ASRS commenced before January 1,
20 1984 and who left the member's contributions on deposit or reinstated
21 forfeited credited service pursuant to section 38-742 for a period of
22 employment that commenced before January 1, 1984, THE HIGHER OF EITHER:

23 (i) THE MONTHLY AVERAGE OF COMPENSATION THAT IS CALCULATED PURSUANT TO
24 SUBDIVISION (b) OF THIS PARAGRAPH.

25 (ii) The monthly average of compensation on which contributions were
26 remitted during a period of sixty consecutive months during which the member
27 receives the highest compensation within the last one hundred twenty months
28 of credited service. Any month for which no contributions are reported to
29 ASRS or that falls within a period of nonpaid or partially paid leave of
30 absence or sabbatical leave shall be excluded from the computation. The
31 sixty consecutive months may entirely precede, may be both before and after
32 or may be completely after any excluded months. If the member was employed
33 for less than sixty consecutive months, the average monthly compensation is
34 based on the total consecutive months worked. Payments for accumulated
35 vacation or annual leave, sick leave, compensatory time or other forms of
36 termination pay which, before August 12, 2005, constitute compensation for
37 members whose membership in ASRS commenced before January 1, 1984, do not
38 cease to be included as compensation if paid in the form of nonelective
39 employer contributions under a 26 United States Code section 403(b) plan if
40 all payments of employer and employee contributions are made at the time of
41 termination. Contributions shall be made to ASRS on these amounts pursuant
42 to sections 38-735, 38-736 and 38-737.

43 (b) ~~Effective July 1, 1985,~~ FOR A MEMBER WHOSE MEMBERSHIP IN ASRS
44 COMMENCED ON OR AFTER JANUARY 1, 1984 BUT BEFORE JULY 1, 2010, the monthly
45 average of compensation on which contributions were remitted during a period

1 of thirty-six consecutive months during which a member receives the highest
2 compensation within the last one hundred twenty months of credited service.
3 Any month for which no contributions are reported to ASRS or that falls
4 within a period of nonpaid or partially paid leave of absence or sabbatical
5 leave shall be excluded from the computation. The thirty-six consecutive
6 months may entirely precede, may be both before and after or may be
7 completely after any excluded months. If the member was employed for less
8 than thirty-six consecutive months, the average monthly compensation shall be
9 based on the total consecutive months worked. ~~This subdivision applies only
10 to members whose membership in ASRS was effective after December 31, 1983 or
11 who agree in writing as a binding condition of eligibility for being granted
12 the benefit advantages available under this subdivision to have their benefit
13 computed on the basis of the definition of compensation.~~

14 (c) FOR A MEMBER WHOSE MEMBERSHIP IN ASRS COMMENCED ON OR AFTER JULY
15 1, 2010, THE MONTHLY AVERAGE OF COMPENSATION ON WHICH CONTRIBUTIONS WERE
16 REMITTED DURING A PERIOD OF SIXTY CONSECUTIVE MONTHS DURING WHICH A MEMBER
17 RECEIVES THE HIGHEST COMPENSATION WITHIN THE LAST ONE HUNDRED TWENTY MONTHS
18 OF CREDITED SERVICE. ANY MONTH FOR WHICH NO CONTRIBUTIONS ARE REPORTED TO
19 ASRS OR THAT FALLS WITHIN A PERIOD OF NONPAID OR PARTIALLY PAID LEAVE OF
20 ABSENCE OR SABBATICAL LEAVE SHALL BE EXCLUDED FROM THE COMPUTATION. THE
21 SIXTY CONSECUTIVE MONTHS MAY ENTIRELY PRECEDE, MAY BE BOTH BEFORE AND AFTER
22 OR MAY BE COMPLETELY AFTER ANY EXCLUDED MONTHS. IF THE MEMBER WAS EMPLOYED
23 FOR LESS THAN SIXTY CONSECUTIVE MONTHS, THE AVERAGE MONTHLY COMPENSATION
24 SHALL BE BASED ON THE TOTAL CONSECUTIVE MONTHS WORKED.

25 6. "Board" means the ASRS board established in section 38-713.

26 7. "Compensation" means the gross amount paid to a member by an
27 employer as salary or wages, including amounts that are subject to deferred
28 compensation or tax shelter agreements, for services rendered to or for an
29 employer, or that would have been paid to the member except for the member's
30 election or a legal requirement that all or part of the gross amount be used
31 for other purposes, but does not include amounts paid in excess of
32 compensation limits established in section 38-746. Compensation includes
33 amounts paid as salary or wages to a member by a second employer **IF THE
34 MEMBER MEETS THE REQUIREMENTS PRESCRIBED IN PARAGRAPH 23, SUBDIVISION (b) OF
35 THIS SECTION WITH THAT SECOND EMPLOYER.** Compensation, as provided in
36 paragraph 5, subdivision (b) OR (c) of this section, does not include:

37 (a) Lump sum payments, on termination of employment, for accumulated
38 vacation or annual leave, sick leave, compensatory time or any other form of
39 termination pay whether the payments are made in one payment or by
40 installments over a period of time.

41 (b) Damages, costs, attorney fees, interest or other penalties paid
42 pursuant to a court order or a compromise settlement or agreement to satisfy
43 a grievance or claim even though the amount of the payment is based in whole
44 or in part on previous salary or wage levels, except that, if the court order
45 or compromise settlement or agreement directs salary or wages to be paid for

1 a specific period of time, the payment is compensation for that specific
2 period of time. If the amount directed to be paid is less than the actual
3 salary or wages that would have been paid for the period if service had been
4 performed, the contributions for the period shall be based on the amount of
5 compensation that would have been paid if the service had been performed.

6 (c) Payment, at the member's option, in lieu of fringe benefits that
7 are normally paid for or provided by the employer.

8 (d) Merit awards pursuant to section 38-613 and performance bonuses
9 paid to assistant attorneys general pursuant to section 41-192.

10 (e) AMOUNTS THAT ARE PAID AS SALARY OR WAGES TO A MEMBER FOR WHICH
11 EMPLOYER CONTRIBUTIONS HAVE NOT BEEN PAID.

12 8. "Contingent annuitant" means the person named by a member to
13 receive retirement income payable following a member's death after retirement
14 as provided in section 38-760.

15 9. "Credited service" means, subject to section 38-739, the number of
16 years standing to the member's credit on the books of ASRS during which the
17 member made the required contributions.

18 10. "Current annual compensation" means the greater of:

19 (a) Annualized compensation of the typical pay period amount
20 immediately before the date of a request to ASRS to purchase credited service
21 pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount
22 shall be determined by taking the five pay periods immediately before the
23 date of a request, disregarding the highest and lowest compensation amount
24 pay periods and averaging the three remaining pay periods.

25 (b) Annualized compensation of the partial year, disregarding the
26 first compensation amount pay period, if the member has less than twelve
27 months total credited service on the date of a request to purchase credited
28 service pursuant to section 38-743, 38-744 or 38-745.

29 (c) The sum of the twelve months of compensation immediately before
30 the date of a request to ASRS to purchase credited service pursuant to
31 section 38-743, 38-744 or 38-745.

32 (d) The sum of the thirty-six months of compensation immediately
33 before the date of a request to ASRS to purchase credited service pursuant to
34 section 38-743, 38-744 or 38-745 divided by three.

35 (e) If the member has retired one or more times from ASRS, the average
36 monthly compensation that was used for calculating the member's last pension
37 benefit times twelve.

38 11. "Early retirement" means retirement before a member's normal
39 retirement date after five years of total credited service and attainment of
40 age fifty.

41 12. "Effective date" means July 1, 1970, except with respect to
42 employers and members whose contributions to ASRS commence thereafter, the
43 effective date of their membership in ASRS is as specified in the applicable
44 joinder agreement.

- 1 13. "Employer" means:
2 (a) This state.
3 (b) Participating political subdivisions.
4 (c) Participating political subdivision entities.
5 14. "Employer contributions" means all amounts paid into ASRS by an
6 employer on behalf of a member.
7 15. "Fiscal year" means the period from July 1 of any year to June 30
8 of the following year.
9 16. "Inactive member" means a member who previously made contributions
10 to ASRS and who satisfies each of the following:
11 (a) Has not retired.
12 (b) Is not eligible for active membership in ASRS.
13 (c) Is not currently making contributions to ASRS.
14 (d) Has not withdrawn contributions from ASRS.
15 17. "Interest" means the assumed actuarial investment earnings rate
16 approved by the board.
17 18. "Internal revenue code" means the United States internal revenue
18 code of 1986, as amended.
19 19. "Investment management" means the persons, companies, banks,
20 insurance company investment funds, mutual fund companies, management or any
21 combinations of those entities that are appointed by ASRS and that have
22 responsibility and authority for investment of the monies of ASRS.
23 20. "Late retirement" means retirement after normal retirement.
24 21. "Leave of absence" means any unpaid leave authorized by the
25 employer, including leaves authorized for sickness or disability or to pursue
26 education or training.
27 22. "Life annuity" means equal monthly installments payable during the
28 member's lifetime after retirement.
29 23. "Member":
30 (a) Means any employee of an employer on the effective date.
31 (b) Means all employees of an employer who are eligible for membership
32 pursuant to section 38-727 and who are engaged to work at least twenty weeks
33 in each fiscal year and at least twenty hours each week.
34 (c) Means any person receiving a benefit under ASRS.
35 (d) Means any person who is a former active member of ASRS and who has
36 not withdrawn contributions from ASRS pursuant to section 38-740.
37 (e) Does not include any employee of an employer who is otherwise
38 eligible pursuant to this article and who begins service in a limited
39 appointment for not more than eighteen months on or after July 1, 1979. If
40 the employment exceeds eighteen months, the employee shall be covered by ASRS
41 as of the beginning of the nineteenth month of employment. In order to be
42 excluded under this subdivision, classifications of employees designated by
43 employers as limited appointments must be approved by the director.

1 (f) Does not include any leased employee. For the purposes of section
2 414(n) of the internal revenue code, "leased employee" means an individual
3 who:

4 (i) Is not otherwise an employee of an employer.

5 (ii) Pursuant to a leasing agreement between the employer and another
6 person, performs services for the employer on a substantially full-time basis
7 for at least one year.

8 (iii) Performs services under the primary direction or control of the
9 employer.

10 24. "Member contributions" means all amounts paid to ASRS by a member.

11 25. "Normal costs" means the sum of the individual normal costs for all
12 active members for each fiscal year. The normal cost for an individual
13 active member is the cost that is assigned to the fiscal year using the
14 projected unit credit method.

15 26. "Normal retirement age" means the age at which a member reaches the
16 member's normal retirement date.

17 27. "Normal retirement date" means the earliest of the following:

18 (a) A member's sixty-fifth birthday.

19 (b) A member's sixty-second birthday and completion of at least ten
20 years of credited service.

21 (c) FOR A MEMBER WHOSE MEMBERSHIP COMMENCED BEFORE JULY 1, 2010, the
22 first day that the sum of a member's age and years of total credited service
23 equals eighty. FOR A MEMBER WHOSE MEMBERSHIP COMMENCED ON OR AFTER JULY 1,
24 2010, THE FIRST DAY THAT THE SUM OF A MEMBER'S AGE AND YEARS OF TOTAL
25 CREDITED SERVICE EQUALS EIGHTY-FIVE.

26 28. "Political subdivision" means any political subdivision of this
27 state and includes a political subdivision entity.

28 29. "Political subdivision entity" means an entity:

29 (a) That is located in this state.

30 (b) That is created in whole or in part by political subdivisions,
31 including instrumentalities of political subdivisions.

32 (c) Where a majority of the membership of the entity is composed of
33 political subdivisions.

34 (d) Whose primary purpose is the performance of a government related
35 service.

36 30. "Retired member" means a member who is receiving retirement
37 benefits pursuant to this article.

38 31. "Service year" means fiscal year, except that:

39 (a) If the normal work year required of a member is less than the full
40 fiscal year but is for a period of at least nine months, the service year is
41 the normal work year.

42 (b) For a salaried member employed on a contract basis under one
43 contract, or two or more consecutive contracts, for a total period of at
44 least nine months, the service year is the total period of the contract or
45 consecutive contracts.

1 (c) In determining average monthly compensation pursuant to paragraph
2 5 of this section, the service year is considered to be twelve months of
3 compensation.

4 32. "State" means this state, including any department, office, board,
5 commission, agency, institution or other instrumentality of this state.

6 33. "Vested" means that a member is eligible to receive a future
7 retirement benefit.

8 Sec. 2. Section 38-730, Arizona Revised Statutes, is amended to read:

9 38-730. Charter city or ASRS retirement service credits;
10 transfers

11 A. On application the retirement service credits of an employee of a
12 charter city that is not an employer under ASRS or an employee of an employer
13 that is an employer under ASRS whose job functions are shifted by law from
14 one employer jurisdiction to another shall be transferred to the retirement
15 system of the new employer.

16 B. An employee of a charter city that is not an employer under ASRS or
17 an employee of an employer that is an employer under ASRS who becomes
18 employed by the other employer jurisdiction may apply to have the employee's
19 retirement service credits transferred to the retirement system of the new
20 employer. The retirement service credits of an employee of a charter city
21 that is not an employer under ASRS shall not be transferred unless the
22 governing body of that city approves the transfer. The retirement service
23 credits of an employee of an employer that is an employer under ASRS shall
24 not be transferred unless the board approves the transfer.

25 C. The retirement system that transfers the retirement service credits
26 shall pay to the retirement system of the new employer an amount equal to the
27 present value, as of the date of the transfer, of all benefits generated by
28 the transferred service credits in the retirement system of the new employer
29 as determined by the governing board of the retirement system of the new
30 employer. The amount of any payment under this subsection shall include the
31 accumulated retirement contributions of the employee whose retirement service
32 credits are transferred.

33 D. The accumulated retirement contributions of an employee whose
34 retirement service credits are transferred that are paid to the retirement
35 system of the new employer shall not be withdrawn by the employee unless the
36 employee's employment terminates.

37 E. THE RETIREMENT SYSTEM TO WHICH THE EMPLOYEE IS TRANSFERRING SHALL
38 NOT APPLY SERVICE CREDITS TO THE EMPLOYEE'S ACCOUNT UNTIL SUCH TIME AS
39 COMPLETE PAYMENT IS MADE TO THE RETIREMENT SYSTEM TO WHICH THE EMPLOYEE IS
40 TRANSFERRING. ON COMPLETION OF THE TRANSFER PROVIDED FOR IN THIS SECTION,
41 THE EMPLOYEE'S RIGHTS IN THE RETIREMENT SYSTEM FROM WHICH THE EMPLOYEE IS
42 TRANSFERRING ARE EXTINGUISHED.

1 Sec. 3. Section 38-740, Arizona Revised Statutes, is amended to read:
2 38-740. Return of contributions

3 A. ~~Any~~ A member WHOSE MEMBERSHIP COMMENCED BEFORE JULY 1, 2010 AND who
4 leaves employment other than by retirement or death may elect to receive a
5 return of the contributions as follows:

6 1. If the member has less than five years of credited service, the
7 member shall receive ALL OF the member's contributions.

8 2. If a member has five or more years of credited service, the member
9 shall receive the member's contributions and an amount equal to a percentage
10 of the employer contributions paid on behalf of the member. The percentage
11 of employer contributions paid on behalf of the member shall be as follows:

12 (a) 5.0 to 5.9 years of credited service, twenty-five per cent.

13 (b) 6.0 to 6.9 years of credited service, forty per cent.

14 (c) 7.0 to 7.9 years of credited service, fifty-five per cent.

15 (d) 8.0 to 8.9 years of credited service, seventy per cent.

16 (e) 9.0 to 9.9 years of credited service, eighty-five per cent.

17 (f) 10.0 or more years of credited service, one hundred per cent.

18 3. Interest on the returned contributions as determined by the board.

19 B. A MEMBER WHOSE MEMBERSHIP COMMENCED ON OR AFTER JULY 1, 2010 AND
20 WHO LEAVES EMPLOYMENT OTHER THAN BY RETIREMENT OR DEATH MAY ELECT TO RECEIVE
21 A RETURN OF ALL OF THE MEMBER'S CONTRIBUTIONS WITH INTEREST ON THE RETURNED
22 CONTRIBUTIONS AS DETERMINED BY THE BOARD.

23 C. NOTWITHSTANDING SUBSECTION B, IF A MEMBER HAS FIVE OR MORE YEARS OF
24 CREDITED SERVICE AND THE MEMBER IS TERMINATED SOLELY BECAUSE OF AN EMPLOYER
25 REDUCTION IN FORCE BY REASON OF A LACK OF MONIES OR ELIMINATION OF THE
26 MEMBER'S POSITION, THE MEMBER IS ENTITLED TO RECEIVE THE AMOUNTS IN
27 SUBSECTION A.

28 ~~B.~~ D. Withdrawal of contributions with interest constitutes a
29 withdrawal from membership in ASRS and results in a forfeiture of all other
30 benefits under ASRS.

31 ~~C.~~ E. Notwithstanding any other provision of this article, a member
32 who has not received a return of contributions pursuant to this section may
33 combine any two or more periods of service for purposes of determining the
34 member's benefits.

35 ~~D.~~ F. If a member receives more than the amount due to a member
36 pursuant to this section, the member shall repay the amount of the
37 overpayment together with interest at the interest rate earned on ASRS
38 investments as reported on a quarterly basis, but not less than the valuation
39 rate established by the board, from the time of overpayment to the settlement
40 of the debt.

41 Sec. 4. Section 38-742, Arizona Revised Statutes, is amended to read:
42 38-742. Reinstatement

43 A. If an active member who received a return of contributions on
44 termination of employment and by receipt of those contributions forfeited
45 credited service earned on that employment, as provided in section 38-740,

1 subsection A OR B, is subsequently reemployed by an employer, the member's
2 service shall be credited only from the date the member's most recent
3 reemployment period commenced.

4 B. Notwithstanding subsection A of this section, the member may
5 redeposit the amount of the contributions the member received at the time of
6 the member's separation from service, with interest on that amount to the
7 date of redeposit at the interest rate assumption approved by the board for
8 actuarial equivalency. On satisfaction of this obligation, the member's
9 service credits acquired by the previous employment shall be reinstated. The
10 member is subject to the benefits and duties in effect at the time of the
11 member's most recent reemployment except as provided in section 38-711,
12 paragraph 5, subdivision (a). If a member redeposits less than the amount
13 required under this subsection, ASRS shall proportionately reduce the
14 member's reinstated service credits.

15 C. A member who is receiving benefits pursuant to section 38-797.07
16 and who received a return of contributions on termination of employment and
17 by receipt of those contributions forfeited credited service earned on that
18 employment, as provided in section 38-740, subsection A OR B, may redeposit
19 the amount of the contributions the member received at the time of the
20 member's previous separation from service, with interest on that amount to
21 the date of redeposit at the interest rate assumption approved by the board
22 for actuarial equivalency. On redeposit of the contributions and interest,
23 the member's service credits acquired by the previous employment shall be
24 reinstated. The member is subject to the benefits and duties in effect at
25 the time of the member's most recent reemployment except as provided in
26 section 38-711, paragraph 5, subdivision (a). If a member redeposits less
27 than the amount required under this subsection, ASRS shall proportionately
28 reduce the member's reinstated service credits.

29 Sec. 5. Section 38-743, Arizona Revised Statutes, is amended to read:
30 38-743. Public service credit

31 A. If an active member of ASRS or a member who is receiving benefits
32 pursuant to section 38-797.07 was previously employed by the United States
33 government, a state, TERRITORY, COMMONWEALTH, OVERSEAS POSSESSION OR INSULAR
34 AREA of the United States or a political subdivision of a state, TERRITORY,
35 COMMONWEALTH, OVERSEAS POSSESSION OR INSULAR AREA of the United States,
36 excluding any time worked for a prison while the member was incarcerated, the
37 member may receive credited service for this prior employment if the member
38 pays into ASRS the amount prescribed in subsection B of this section.

39 B. A member who elects to receive credit for service with the United
40 States government, a state, TERRITORY, COMMONWEALTH, OVERSEAS POSSESSION OR
41 INSULAR AREA of the United States or a political subdivision of a state,
42 TERRITORY, COMMONWEALTH, OVERSEAS POSSESSION OR INSULAR AREA of the United
43 States shall pay to ASRS an amount equal to the present value of the
44 additional benefit that is derived from the purchased credited service using
45 the actuarial assumptions that are approved by the board.

1 C. A member who previously was a member of another public employee
2 retirement system and who receives or is eligible to receive retirement
3 benefits from that system for any period of employment is ineligible to
4 receive retirement benefits from ASRS for the same period.

5 D. BEGINNING JULY 1, 2010, A MEMBER SHALL HAVE AT LEAST FIVE YEARS OF
6 CREDITED SERVICE IN ASRS BEFORE ELECTING TO RECEIVE CREDIT FOR SERVICE
7 PURSUANT TO THIS SECTION.

8 Sec. 6. Section 38-744, Arizona Revised Statutes, is amended to read:
9 38-744. Leave of absence; credit for leave without pay

10 A. If an active member of ASRS or a member who is receiving benefits
11 pursuant to section 38-797.07 is officially granted a leave of absence from
12 employment without pay and returns to employment with the same employer,
13 unless employment could not be resumed because of disability or
14 nonavailability of a position, the member may elect to be credited with
15 service for retirement purposes for not more than one year of the leave by
16 paying to ASRS the amounts as provided in subsection B of this section, if
17 the member has not withdrawn contributions from ASRS and the member's
18 employer has certified that the leave of absence benefits or is in the best
19 interests of the employer.

20 B. A member who elects to be credited with a leave period as provided
21 in subsection A of this section shall pay to ASRS an amount equal to the
22 present value of the additional benefit that is derived from the purchased
23 credited service using the actuarial assumptions that are approved by the
24 board.

25 C. BEGINNING JULY 1, 2010, A MEMBER SHALL HAVE AT LEAST FIVE YEARS OF
26 CREDITED SERVICE IN ASRS BEFORE ELECTING TO RECEIVE CREDIT FOR SERVICE
27 PURSUANT TO THIS SECTION.

28 ~~C.~~ D. For the purposes of subsection A of this section, each employer
29 shall adopt rules establishing guidelines for a leave of absence that
30 benefits or is in the best interests of the employer.

31 Sec. 7. Section 38-745, Arizona Revised Statutes, as amended by Laws
32 2007, chapter 244, section 1, is amended to read:

33 38-745. Credit for military service

34 A. An active member of ASRS or a member who is receiving benefits
35 pursuant to section 38-797.07 may purchase credited service in ASRS for
36 active military service if ~~both~~ ALL of the following apply:

37 1. The member was honorably separated from the military service.

38 2. The member submits a copy of the member's military service record
39 (DD-214) or its equivalent with the member's application for military service
40 credit.

41 3. BEGINNING JULY 1, 2010, A MEMBER HAS AT LEAST FIVE YEARS OF
42 CREDITED SERVICE IN ASRS.

43 B. The cost to purchase military service credit is an amount equal to
44 the present value of the additional benefit that is derived from the

1 purchased credited service using the actuarial assumptions that are approved
2 by the board.

3 C. An active member of ASRS who is called to active military service
4 may receive credited service for not more than sixty months of active
5 military service, except as provided by the uniformed services employment and
6 reemployment rights act (38 United States Code section 4312(c)). The
7 member's employer shall make employer contributions and member contributions
8 for the member if the member meets the following requirements:

9 1. Was an active member of ASRS on the day before the member began
10 active military service.

11 2. Is a member of the Arizona national guard or is a member of the
12 reserves of any military establishment of the United States.

13 3. Volunteers or is ordered into active military service of the United
14 States as part of a military call-up.

15 4. One of the following occurs:

16 (a) Is honorably separated from active military service and returns to
17 employment for the same employer from which the member left for active
18 military service within ninety days after the date active military service is
19 terminated.

20 (b) Is hospitalized as a result of military service and returns to
21 employment for the same employer from which the member left for active
22 military service within ninety days after release from service related
23 hospitalization.

24 (c) Becomes disabled as a result of or during the military service and
25 is unable to return to the same employer.

26 (d) Dies as a result of or during the military service.

27 D. Contributions made pursuant to subsection C of this section shall
28 be for the period of time beginning on the date the member began active
29 military service and ending on the later of one of the following dates:

30 1. The date the member is separated from active military service.

31 2. The date the member is released from service related
32 hospitalization or one year after initiation of service related
33 hospitalization, whichever date is earlier.

34 3. One year after the date of disability.

35 4. The date the member dies as a result of or during active military
36 service.

37 E. Notwithstanding any other law, on payment of the contributions made
38 pursuant to subsection C of this section, the member shall be credited with
39 service for retirement purposes for the period of time of active military
40 service of not more than sixty months.

41 F. The employer shall make contributions pursuant to subsection C of
42 this section as follows:

43 1. Contributions shall be based on the compensation that a member
44 would have received but for the period that the member was ordered into
45 active military service.

1 2. If the employer cannot reasonably determine a member's rate of
2 compensation for the period that the member was ordered into active military
3 service, the employer shall make contributions based on the member's average
4 rate of compensation during the twelve-month period immediately preceding the
5 period of active military service.

6 3. If a member has been employed less than twelve months before being
7 ordered into active military service, the employer shall make contributions
8 based on the employment period immediately preceding the period of active
9 military service.

10 4. Employer contributions shall be made in a lump sum and without
11 penalty when the member returns to employment, when it is determined that the
12 member is unable to return to employment because of a disability as a result
13 of or that occurred during military service or on receipt of the member's
14 death certificate. If a member suffers a service related death, the employer
15 shall make the employer and member contributions up to and including the date
16 of the member's death. Death benefits shall be calculated as prescribed by
17 law.

18 G. In computing the length of total credited service of a member for
19 the purpose of determining retirement benefits or eligibility, the period of
20 military service, as prescribed by this section, shall be included.

21 H. Notwithstanding any other law, the member is not required to
22 reimburse the member's employer or ASRS for any contribution made pursuant to
23 subsection C of this section.

24 I. In addition to, but not in duplication of, the provisions of
25 subsection C of this section, contributions, benefits and credited service
26 provided pursuant to this section shall be provided in accordance with
27 section 414(u) of the internal revenue code.

28 Sec. 8. Repeal

29 Section 38-745, Arizona Revised Statutes, as amended by Laws 2007,
30 chapter 244, section 2, is repealed.

31 Sec. 9. Section 38-749, Arizona Revised Statutes, is amended to read:

32 38-749. Employer termination incentive program; employer
33 payment of actuarial cost; definition

34 A. If a termination incentive program that is offered by an employer
35 results in an actuarial unfunded liability to ASRS, the employer shall pay to
36 ASRS the amount of the unfunded liability. ASRS shall determine the amount
37 of the unfunded liability in consultation with its actuary.

38 B. An employer shall notify ASRS if the employer plans to implement a
39 termination incentive program that may affect ASRS funding.

40 C. If ASRS determines that an employer has implemented a termination
41 incentive program that results in an actuarial unfunded liability to ASRS,
42 ASRS shall assess the cost of the unfunded liability to that employer. If
43 the employer does not remit full payment of all monies due within ninety days
44 after being notified by ASRS of the amount due, the unpaid amount accrues
45 interest until the amount is paid in full. The interest rate is the interest

1 rate assumption that is approved by the board for actuarial equivalency for
2 the period in question to the date payment is received.

3 D. For the purposes of this section, "termination incentive program":

4 1. Means a total increase in compensation of thirty per cent or more
5 that is given to a member in any one or more years of the last three years
6 before termination if that increase in compensation is used to calculate the
7 member's retirement benefit and that increase in compensation is not
8 attributed to a:

9 (a) Promotion.

10 (b) Reclassification of the position.

11 (c) Merit or a cost of living increase.

12 2. Means any monies, credited service or points that the employer
13 provides to a member ~~in exchange for a~~ **CONDITIONED ON THE** member's ~~written~~
14 ~~agreement to terminate on or before a date certain~~ **TERMINATION**.

15 3. Does not include payments to an employee for:

16 (a) Compensation for accrued vacation.

17 (b) Compensation for accrued sick leave.

18 (c) Compensatory time.

19 Sec. 10. Section 38-757, Arizona Revised Statutes, is amended to read:

20 **38-757. Normal retirement**

21 A. After application on a form prescribed by the director, a member
22 may retire on reaching the member's normal retirement date.

23 B. Except as provided in section 38-768 ~~and subsection C of this~~
24 ~~section~~, a member who meets the requirements for retirement benefits at
25 normal retirement shall receive a monthly life annuity that equals the result
26 of paragraph 1 multiplied by paragraph 2 when those paragraphs are defined as
27 follows:

28 1. The number of whole and fractional years of credited service times
29 the following:

30 (a) 2.10 per cent if the member does not have more than 19.99 years of
31 credited service.

32 (b) 2.15 per cent if the member has at least 20.00 years of credited
33 service but not more than 24.99 years of credited service.

34 (c) 2.20 per cent if the member has at least 25.00 years of credited
35 service but not more than 29.99 years of credited service.

36 (d) 2.30 per cent if the member has at least 30.00 years of credited
37 service.

38 2. The member's average monthly compensation.

39 ~~C. For a person who becomes a member on or after the effective date of~~
40 ~~this amendment to this section, the amount of a member's monthly life annuity~~
41 ~~computed pursuant to subsection B of this section shall not be more than~~
42 ~~eighty per cent of the member's average monthly compensation. This~~
43 ~~limitation does not preclude benefit increases pursuant to section 38-767.~~

1 ~~D.~~ C. Employers shall provide evidence of, and certify to, in a
2 manner provided by the board, the member's average monthly compensation if
3 that information is not already available from the records of ASRS.

4 Sec. 11. Section 38-762, Arizona Revised Statutes, is amended to read:
5 38-762. Survivor benefits before retirement; definition

6 A. On the ~~termination of employment by~~ death of any active or inactive
7 member before retirement, the designated beneficiary of the member shall be
8 paid a survivor benefit equal to the sum of both of the following:

9 1. Two times the member's contribution and interest to the defined
10 benefit plan established by this article for credited service that a member
11 earned by working for an employer, plus all contributions and interest made
12 for the purchase of military service, leave without pay or other public
13 service credit.

14 2. The amount of the member's employee account and the member's
15 employer account together with supplemental credits, if any, transferred from
16 the defined contribution program administered by ASRS to the defined benefit
17 program established by this article.

18 B. Subsection A, paragraphs 1 and 2 of this section shall be
19 accumulated at compound interest at a rate determined by the board through
20 the day of the payment of the benefit.

21 C. In lieu of a single payment, a designated beneficiary who is
22 eligible for a survivor benefit pursuant to subsection A of this section of
23 more than five thousand dollars may elect to receive the actuarial equivalent
24 of the survivor benefit pursuant to one of the following options:

25 1. A monthly income for five, ten or fifteen years certain and for
26 life thereafter.

27 2. Another form of optional benefits approved by the board.

28 D. On the death of an active or inactive member who has reached an
29 early retirement date applicable to the member or who has a minimum of
30 fifteen years of credited service and whose designated beneficiary is a
31 spouse, child under the age of twenty-one or handicapped child age twenty-one
32 or older, including a legally adopted child or a stepchild, ASRS shall pay
33 the designated beneficiary a survivor benefit equal to the present value, on
34 the date following the date of the member's death, of the life annuity that
35 would have been payable to the designated beneficiary if the member had
36 retired on the date of the member's death and elected to receive an annuity
37 in the form of a joint and survivor annuity providing the same amount of
38 annuity to the surviving beneficiary as the reduced amount that would have
39 been payable during the lifetime of the member. If there is more than one
40 designated beneficiary under this subsection, ASRS shall determine the amount
41 of the annuity and its present value as if the oldest of the beneficiaries
42 was the sole beneficiary. Payment under this subsection shall be in lieu of,
43 but not less than, any payment under subsection A of this section. Payment
44 under this subsection, at the election of the designated beneficiary, may be
45 made in a single sum or may be made in accordance with subsection C of this

1 section. A beneficiary may not elect this option unless a benefit of
2 twenty-five dollars or more per month is payable to the designated
3 beneficiary or the designated beneficiary's estate.

4 E. If a member dies before distribution of the member's benefits
5 commences, the member's entire benefits shall be distributed within the
6 required distribution provisions of section 401(a)(9) of the internal revenue
7 code and the regulations that are issued under that section by the United
8 States secretary of the treasury as prescribed in section 38-775.

9 F. If a deceased member did not designate a beneficiary or the
10 beneficiary named by a member predeceases the member, ASRS shall pay the
11 member's survivor benefit to the following persons in the following order of
12 priority:

- 13 1. The member's surviving spouse.
- 14 2. The member's surviving children, including adopted children, in
15 equal shares.
- 16 3. The member's surviving parents in equal shares.
- 17 4. The member's estate.

18 G. Any payment pursuant to this section is payment for the account of
19 the member or the member's beneficiary and all persons entitled to payment
20 and, to the extent of the payment, is a full and complete discharge of all
21 liability of the board or ASRS, or both, under or in connection with ASRS.

22 H. For the purposes of this section, "designated beneficiary" means
23 any individual designated by the member as the member's beneficiary.

24 Sec. 12. Section 38-766, Arizona Revised Statutes, is amended to read:
25 38-766. Retired members; return to work; maximum benefit

26 A. A retired member who is engaged to work by an employer for at least
27 twenty weeks in each fiscal year and at least twenty hours per week resumes
28 active membership in ASRS. ASRS shall suspend payment of the member's
29 retirement benefits until the member either:

- 30 1. Terminates employment.
- 31 2. Attains a normal retirement date and no longer meets the
32 requirements for active membership pursuant to this subsection.

33 B. A member who satisfies subsection A, paragraph 1 or 2 of this
34 section is entitled to receive an annuity recomputed to include the
35 additional compensation and credited service. However, the recomputed
36 annuity shall be in the original optional form chosen pursuant to section
37 38-760, with the same beneficiary, if applicable, as when the member first
38 retired, UNLESS THE MEMBER HAS RESUMED ACTIVE MEMBERSHIP FOR AT LEAST SIXTY
39 CONSECUTIVE MONTHS. A member who retired under a provision of law allowing
40 increased benefits if the retirement occurred during a specific period of
41 time and who subsequently becomes an employee under ASRS shall not retain the
42 increased benefits under the prior law when benefits are computed for the
43 member's most recent retirement.

1 C. Section 38-769, subsection L applies when determining the maximum
2 benefit that may be paid to a retired member who resumes active membership
3 and subsequently retires.

4 Sec. 13. Section 38-797, Arizona Revised Statutes, is amended to read:

5 38-797. Definitions

6 In this article, unless the context otherwise requires:

7 1. "ASRS" means the Arizona state retirement system established by
8 article 2 of this chapter.

9 2. "Assets" means the accumulated resources of the LTD program.

10 3. "Board" means the ASRS board established pursuant to section
11 38-713.

12 4. "Compensation" ~~means the gross amount paid to a member by an~~
13 ~~employer as salary or wages, including amounts that are subject to deferred~~
14 ~~compensation or tax shelter agreements, for services rendered to or for an~~
15 ~~employer, or that would have been paid to the member except for the member's~~
16 ~~election or a legal requirement that all or part of the gross amount be used~~
17 ~~for other purposes. Compensation does not include:~~

18 ~~(a) Lump sum payments on termination of employment for accumulated~~
19 ~~vacation or annual leave, sick leave, compensatory time or any other form of~~
20 ~~termination pay whether the payments are made in one payment or by~~
21 ~~installments over a period of time.~~

22 ~~(b) Damages, costs, attorney fees, interest or other penalties paid~~
23 ~~pursuant to a court order or a compromise settlement or agreement to satisfy~~
24 ~~a grievance or claim even though the amount of the payment is based in whole~~
25 ~~or in part on previous salary or wage levels, except that, if the court order~~
26 ~~or compromise settlement or agreement directs salary or wages to be paid for~~
27 ~~a specific period of time, the payment is compensation for that specific~~
28 ~~period of time.~~

29 ~~(c) Payment, at the member's option, in lieu of fringe benefits that~~
30 ~~are normally paid for or provided by the employer.~~

31 ~~(d) Merit awards pursuant to section 38-613 and performance bonuses~~
32 ~~paid to assistant attorneys general pursuant to section 41-192 HAS THE SAME~~
33 ~~MEANING PRESCRIBED IN SECTION 38-711.~~

34 5. "Depository" means a bank in which the monies of the LTD program
35 are deposited and collateralized as provided by law.

36 6. "Employer" ~~means:~~

37 ~~(a) This state.~~

38 ~~(b) Participating political subdivisions~~ HAS THE SAME MEANING
39 PRESCRIBED IN SECTION 38-711.

40 7. "Employer contributions" means all amounts paid into the LTD
41 program by an employer.

42 8. "Fiscal year" ~~means the period from July 1 of any year to June 30~~
43 ~~of the following year~~ HAS THE SAME MEANING PRESCRIBED IN SECTION 38-711.

44 9. "LTD program" means the long-term disability program established by
45 this article.

- 1 10. "Member" has the same meaning prescribed in section 38-711.
- 2 11. "Monthly compensation" means one-twelfth of a member's annual
3 compensation paid and payable in the fiscal year during which a member
4 becomes disabled.
- 5 12. "Normal retirement date" ~~means the earliest of the following:~~
6 ~~(a) A member's sixty fifth birthday.~~
7 ~~(b) A member's sixty second birthday and completion of at least ten~~
8 ~~years of credited service.~~
9 ~~(c) The first day that the sum of a member's age and years of total~~
10 ~~credited service equals eighty~~ HAS THE SAME MEANING PRESCRIBED IN SECTION
11 38-711.
- 12 13. "Political subdivision" ~~means any political subdivision of this~~
13 ~~state~~ HAS THE SAME MEANING PRESCRIBED IN SECTION 38-711.
- 14 14. "State" ~~means this state, including any department, office, board,~~
15 ~~commission, agency, institution or other instrumentality of this state~~ HAS
16 THE SAME MEANING PRESCRIBED IN SECTION 38-711.
- 17 Sec. 14. Repeal
- 18 Section 38-797.06, Arizona Revised Statutes, is repealed.
- 19 Sec. 15. Title 38, chapter 5, article 2.1, Arizona Revised Statutes,
20 is amended by adding a new section 38-797.06, to read:
- 21 38-797.06. Contribution rate; annual report
- 22 A. THE BOARD SHALL SELECT AN ACTUARY TO DETERMINE REQUIRED EMPLOYER
23 CONTRIBUTIONS ON AN ANNUAL BASIS. THE ACTUARY SHALL BE A FELLOW OF THE
24 SOCIETY OF ACTUARIES.
- 25 B. EMPLOYER CONTRIBUTIONS SHALL BE A PERCENTAGE OF COMPENSATION OF ALL
26 EMPLOYEES OF THE EMPLOYERS, AS THE ASRS ACTUARY DETERMINES PURSUANT TO THIS
27 SECTION. THE ACTUARY SHALL MAKE THIS DETERMINATION IN AN ANNUAL VALUATION
28 PERFORMED AS OF JUNE 30. THE VALUATION AS OF JUNE 30 OF A CALENDAR YEAR
29 SHALL DETERMINE THE PERCENTAGE TO BE APPLIED TO COMPENSATION FOR THE FISCAL
30 YEAR BEGINNING JULY 1 OF THE FOLLOWING CALENDAR YEAR. THE ACTUARY SHALL
31 DETERMINE THE TOTAL EMPLOYER CONTRIBUTION USING AN ACTUARIAL COST METHOD
32 CONSISTENT WITH GENERALLY ACCEPTED ACTUARIAL STANDARDS. THE TOTAL EMPLOYER
33 CONTRIBUTIONS SHALL BE EQUAL TO THE EMPLOYER NORMAL COST PLUS THE AMOUNT
34 REQUIRED TO AMORTIZE THE PAST SERVICE FUNDING REQUIREMENT OVER A PERIOD
35 CONSISTENT WITH GENERALLY ACCEPTED ACTUARIAL STANDARDS.
- 36 C. ALL CONTRIBUTIONS MADE BY THE EMPLOYER AND ALLOCATED TO THE LTD
37 TRUST FUND ESTABLISHED BY SECTION 38-797.02 ARE IRREVOCABLE AND SHALL BE USED
38 AS BENEFITS UNDER THIS ARTICLE OR TO PAY EXPENSES OF THE LTD PROGRAM.
- 39 D. ASRS SHALL PROVIDE A PRELIMINARY REPORT ON OR BEFORE NOVEMBER 30 OF
40 THE VALUATION YEAR AND A FINAL REPORT ON OR BEFORE JANUARY 15 OF THE
41 FOLLOWING YEAR TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES
42 AND THE PRESIDENT OF THE SENATE ON THE CONTRIBUTION RATE FOR THE ENSUING
43 FISCAL YEAR.

1 Sec. 16. Section 38-797.07, Arizona Revised Statutes, is amended to
2 read:

3 38-797.07. LTD program benefits; limitations; definitions

4 A. The LTD program is subject to the following limitations:

5 1. Except as provided in paragraph 7 of this subsection, monthly LTD
6 PROGRAM benefits shall not exceed two-thirds of a member's monthly
7 compensation at the time disability commences, reduced by:

8 (a) For a member whose disability commences before July 1, 2008,
9 sixty-four per cent of social security disability benefits that the member ~~or~~
10 AND the member's dependents are eligible to receive.

11 (b) For a member whose disability commences on or after July 1, 2008,
12 eighty-five per cent of social security disability benefits that the member
13 ~~or~~ AND the member's dependents are eligible to receive, but not including:

14 (i) The amount of attorney fees approved pursuant to social security
15 administration rules and reasonable documented costs paid to an attorney to
16 secure that disability benefit.

17 (ii) Any cost-of-living adjustments that are granted after the member
18 commences benefits under this section.

19 (c) For a member whose disability commences before July 1, 2008,
20 eighty-three per cent of social security retirement benefits that the member
21 is eligible to receive.

22 (d) For a member whose disability commences on or after July 1, 2008,
23 eighty-five per cent of social security retirement benefits that the member
24 is eligible to receive, but not including any cost-of-living adjustments that
25 are granted after the member commences benefits under this section.

26 (e) All of any workers' compensation benefits.

27 (f) All of any payments for a veteran's disability if both of the
28 following apply:

29 (i) The veteran's disability payment is for the same condition or a
30 condition related to the condition currently causing the member's total
31 disability.

32 (ii) The veteran's disability is due to, or a result of, service in
33 the armed forces of the United States.

34 (g) All of any other benefits by reason of employment that are
35 financed partly or wholly by an employer, including payments for sick leave.
36 This subdivision does not include any retirement benefit that is received by
37 the member pursuant to a state retirement system or plan other than ASRS.

38 (h) Fifty per cent of any salary, wages, commissions or other
39 employment related pay that the member receives or is entitled to receive
40 from any gainful employment in which the member actually engages.

41 2. Monthly LTD PROGRAM benefits are not payable until a member has
42 been totally disabled for a period of six consecutive months.

43 3. Monthly LTD PROGRAM benefits are not payable to a member who is
44 receiving retirement benefits from ASRS.

1 4. Monthly LTD PROGRAM benefits are not payable to a member whose
2 disability is due to, or a result of, any of the following:

3 (a) An intentionally self-inflicted injury.

4 (b) War, whether declared or not.

5 (c) An injury incurred while engaged in a felonious criminal act or
6 enterprise.

7 (d) For a member whose most recent membership in the LTD program
8 commences before July 1, 2008, an injury or sickness for which the member
9 received medical treatment within three months before the date of the
10 member's coverage under the LTD program. This subdivision does not apply to
11 a member who either:

12 (i) Has been an active member of an employer for twelve continuous
13 months.

14 (ii) Is employed by an employer before July 1, 1988.

15 (e) For a member whose most recent membership in the LTD program
16 commences on or after July 1, 2008, an injury or sickness for which the
17 member received medical treatment within six months before the date of the
18 member's coverage under the LTD program. This subdivision does not apply to
19 a member who has been an active member of an employer for twelve continuous
20 months.

21 5. Monthly LTD PROGRAM benefits cease to be payable to a member at the
22 earliest of the following:

23 (a) The date the member ceases to be totally disabled.

24 (b) The date the member:

25 (i) Ceases to be under the direct care of a doctor.

26 (ii) Refuses to undergo any medical examination or refuses to
27 participate in any work rehabilitation program for which the member is
28 reasonably qualified by education, training or experience and that is
29 requested by the insurance company or claims administrator that is selected
30 by the board to administer the LTD program.

31 (c) The date the member withdraws employee contributions with interest
32 and ceases to be a member.

33 (d) The later of the following:

34 (i) The member's normal retirement date.

35 (ii) The month following sixty months of payments if disability occurs
36 before sixty-five years of age.

37 (iii) The month following attainment of seventy years of age if
38 disability occurs at sixty-five years of age or after but before sixty-nine
39 years of age.

40 (iv) The month following twelve months of payments if disability
41 occurs at or after sixty-nine years of age.

42 (e) If the member is convicted of a criminal offense and sentenced to
43 more than six months in a jail, prison or other penal institution, the first
44 day of the month following the first thirty continuous days of the member's
45 confinement for the remainder of the confinement.

1 6. Monthly LTD PROGRAM benefits are payable ~~under the LTD program~~ only
2 for disabilities that commence on or after July 1, 1988.

3 7. The minimum benefit for a member who is entitled to receive MONTHLY
4 LTD PROGRAM benefits ~~under the LTD program~~ is fifty dollars per month.

5 8. Members are eligible to receive the LTD PROGRAM benefits and
6 payments described in paragraph 1 of this subsection, and the reductions
7 provided by paragraph 1 of this subsection apply even though the SOCIAL
8 SECURITY benefits are not actually paid as follows:

9 (a) For primary and dependent social security benefits, the members
10 are eligible for the SOCIAL SECURITY benefits until the SOCIAL SECURITY
11 benefits are actually awarded, or if the SOCIAL SECURITY benefits are denied,
12 until the member pursues the social security appeal process through a hearing
13 before a social security administrative law judge or until the insurance
14 company or claims administrator determines that the member is not eligible
15 for social security ~~disability~~ benefits.

16 (b) For benefits and payments from any other source provided in
17 paragraph 1 of this subsection, the members are eligible for the benefits if
18 it is reasonable to believe that ~~the~~ THOSE benefits will be paid on proper
19 completion of the claim or would have been paid except for the failure of the
20 member to pursue the claim in time.

21 9. A member shall be considered totally disabled if:

22 (a) During the first thirty months of a period of disability, the
23 member is unable to perform all duties of the position held by the member
24 when the member became totally disabled.

25 (b) For a member who has received monthly LTD PROGRAM benefits for
26 twenty-four months within a five-year period, the member is unable to perform
27 any work for compensation or gain for which the member is reasonably
28 qualified by education, training or experience in an amount at least equal to
29 the scheduled LTD PROGRAM benefits prescribed in paragraph 1 of this
30 subsection.

31 B. A member who receives monthly LTD PROGRAM benefits ~~from the LTD~~
32 ~~program~~ is entitled to receive service credit pursuant to article 2 of this
33 chapter from the time disability commences until LTD PROGRAM benefits cease
34 to be payable, except that for a member who receives monthly LTD PROGRAM
35 benefits ~~from the LTD program~~ on or after June 30, 1999 the number of years
36 of service credited to the member's retirement account during the period the
37 member receives LTD PROGRAM benefit payments shall not cause the member's
38 total credited service for retirement benefits to exceed the greater of
39 thirty years or the total years of service credited to the member's
40 retirement account on the commencement of disability.

41 C. This section does not prohibit a member whose disability has been
42 established to the satisfaction of the board from relying on treatment by
43 prayer through spiritual means in accordance with the tenets and practice of
44 a recognized church, religious denomination or Native American traditional
45 medicine by a duly accredited practitioner of the church, denomination or

1 Native American traditional medicine without suffering reduction or
2 suspension of the member's monthly LTD PROGRAM benefits.

3 D. For the purposes of this section:

4 1. "Received medical treatment" means that the member consulted with
5 or received the advice of a licensed medical or dental practitioner,
6 including advice given during a routine examination, and it includes
7 situations in which the member received medical or dental care, treatment or
8 services, including the taking of drugs, medication, insulin or similar
9 substances.

10 2. "Social security" and "social security disability" includes the
11 railroad retirement act of 1974 (P.L. 93-445; 88 Stat. 1305; 45 United States
12 Code sections 231 through 231u).

13 Sec. 17. Repeal

14 Laws 2007, chapter 244, section 4 is repealed.

15 Sec. 18. Appropriation; Arizona state retirement system;
16 exemption

17 A. The sum of \$1,341,722 is appropriated from the Arizona state
18 retirement system account in fiscal year 2009-2010 to the Arizona state
19 retirement system for administrative implementation of this act.

20 B. The appropriation made in subsection A of this section is exempt
21 from the provisions of section 35-190, Arizona Revised Statutes, relating to
22 lapsing of appropriations.

23 Sec. 19. Retroactivity

24 A. Section 38-745, Arizona Revised Statutes, as amended by section 7
25 of this act, applies retroactively to from and after June 30, 2009.

26 B. Sections 8 and 18 of this act are effective retroactively to from
27 and after June 30, 2009.