

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

CHAPTER 110
SENATE BILL 1170

AN ACT

AMENDING SECTIONS 38-737 AND 38-747, ARIZONA REVISED STATUTES; AMENDING SECTION 38-755, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 87, SECTION 4 AND CHAPTER 88, SECTION 1; AMENDING SECTION 38-757, ARIZONA REVISED STATUTES; AMENDING SECTION 38-760, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 88, SECTION 2 AND CHAPTER 362, SECTION 11; AMENDING SECTIONS 38-762, 38-767, 38-769, 38-776 AND 38-782, ARIZONA REVISED STATUTES; 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 38-737, Arizona Revised Statutes, is amended to
3 read:

4 38-737. Employer contributions

5 A. Employer contributions shall be a percentage of compensation of all
6 employees of the employers, excluding the compensation of those employees who
7 are members of the defined contribution program administered by ASRS, as
8 determined by the ASRS actuary pursuant to this section for June 30 of the
9 fiscal year immediately preceding the preceding fiscal year, except that
10 beginning with fiscal year 2001-2002 the contribution rate shall not be less
11 than two per cent of compensation of all employees of the employers.
12 Beginning July 1, 2011, the total employer contribution shall be determined
13 on the projected unit credit method. The total employer contributions shall
14 be equal to the employer normal cost plus the amount required to amortize the
15 past service funding requirement over a ~~rolling-thirty-year~~ period THAT IS
16 DETERMINED BY THE BOARD AND CONSISTENT WITH GENERALLY ACCEPTED ACTUARIAL
17 STANDARDS. IN DETERMINING THE PAST SERVICE FUNDING PERIOD, THE BOARD SHALL
18 SEEK TO IMPROVE THE FUNDED STATUS WHENEVER THE ASRS TRUST FUND IS LESS THAN
19 ONE HUNDRED PER CENT FUNDED.

20 B. All contributions made by the employer and allocated to the fund
21 established by section 38-712 are irrevocable and shall be used as benefits
22 under this article or to pay expenses of ASRS.

23 C. The required employer contributions shall be determined on an
24 annual basis by an actuary who is selected by the board and who is a fellow
25 of the society of actuaries. ASRS shall provide a preliminary report by
26 November 1 and a final report by December 15 of each fiscal year to the
27 governor, the speaker of the house of representatives and the president of
28 the senate on the contribution rate for the ensuing fiscal year.

29 Sec. 2. Section 38-747, Arizona Revised Statutes, is amended to read:

30 38-747. Purchase of credited service; payment; limitations;
31 definitions

32 A. A member who purchases credited service pursuant to section 38-738,
33 38-742, 38-743, 38-744, 38-745 or 38-922 shall either:

34 1. Make payments directly to ASRS as provided in subsection H of this
35 section.

36 2. Elect to have the member's employer make payments as provided in
37 subsection B of this section.

38 B. A member may elect to have the member's employer make payments for
39 all or any portion of the amounts payable for the member's purchase of
40 credited service pursuant to the sections prescribed in subsection A of this
41 section through a salary reduction program in accordance with the following:

42 1. The amounts paid pursuant to a salary reduction program are in lieu
43 of contributions by the electing member. The electing member's salary or
44 other compensation shall be reduced by the amount paid by the employer
45 pursuant to this subsection. For the purposes of this paragraph, "other
46 compensation" includes a member's termination pay.

1 2. The member shall make an election pursuant to this subsection at
2 any time on or after the date the member elects to purchase credited service
3 pursuant to the sections prescribed in subsection A of this section and
4 before the member's termination of employment. The election shall specify
5 the number of payroll periods that deductions will be made from the member's
6 compensation and the dollar amount of deductions for each payroll period
7 during the specified number of payroll periods. In the case of an election
8 to utilize all or any part of the member's termination pay to purchase
9 credited service, the member's election shall be made at least three full
10 calendar months before the date of the member's termination of employment and
11 entitlement to receive the termination pay. After an election is made
12 pursuant to this subsection, the election is binding on and irrevocable for
13 the member and the member's employer during the member's remaining period of
14 current employment. After a member makes an irrevocable election pursuant to
15 this subsection, the member does not have the option of choosing to receive
16 the contributed amounts directly. For the purposes of this paragraph,
17 "termination pay" means any lump sum that is paid at the member's termination
18 of employment for accrued vacation, sick leave or overtime pay.

19 3. A member who makes an irrevocable election pursuant to this
20 subsection to have the member's employer make payments for less than all of
21 the amounts payable for the member's purchase of credited service may
22 irrevocably elect to have the member's employer make payments for all or any
23 portion of the remaining amounts payable for the member's purchase of
24 credited service. A member who makes one or more irrevocable elections
25 pursuant to this subsection may also make other contributions to ASRS
26 pursuant to subsection H of this section to the extent of any remaining
27 amounts payable for which the member has not made an election pursuant to
28 this subsection. An additional election or contribution with respect to a
29 portion of the amounts payable for the member's purchase of credited service
30 does not alter, amend or revoke an irrevocable election already made pursuant
31 to this subsection for any other portion of the amounts payable for the
32 member's purchase of credited service.

33 4. If on termination of the member's employment with an ASRS employer
34 all amounts have not been paid to ASRS pursuant to the member's irrevocable
35 election pursuant to this subsection, the member may pay ASRS, within thirty
36 days after the member's termination of employment and subject to other
37 limitations prescribed in this section, all or any portion of the unpaid
38 amounts as provided in subsection H of this section. These payments do not
39 alter, amend or revoke any irrevocable election already made pursuant to this
40 subsection with respect to any amount to be paid by the member's employer
41 while the member is employed by the member's employer.

1 5. Amounts paid by an employer pursuant to this subsection shall be
2 treated as employer contributions for the purpose of determining tax
3 treatment under the internal revenue code. The effective date of employer
4 payments pursuant to this subsection shall not be before the date ASRS
5 receives notification from the United States internal revenue service that
6 pursuant to section 414(h)(2) of the internal revenue code the amounts paid
7 by an employer pursuant to this subsection will not be included in the
8 member's gross income for income tax purposes until those amounts are
9 distributed by refund or retirement benefit payments.

10 6. Unless otherwise provided, member contributions paid by an employer
11 pursuant to this subsection are treated for all other purposes under ASRS in
12 the same manner and to the same extent as member contributions that are not
13 paid by an employer pursuant to this subsection. ASRS shall not grant
14 credited service for contributions made pursuant to this subsection until
15 those contributions are received by ASRS. ASRS may assess interest or
16 administrative charges attributable to any salary reduction election made
17 pursuant to this subsection. The interest or administrative charges shall be
18 added to the amount of contributions that is made to ASRS by the member each
19 payroll period and that is paid by the member's employer. The interest or
20 administrative charges shall not be treated as member contributions for any
21 purposes under this article and a member or a member's beneficiary does not
22 have a right to the return of the interest or administrative charges pursuant
23 to any other provision of this article. Interest assessed pursuant to this
24 subsection shall be at the rate specified by the board pursuant to section
25 38-711, paragraph 2.

26 7. If a member transfers employment from one participating employer
27 with which the member has made an irrevocable election pursuant to this
28 subsection to another participating employer, the member and the successor
29 participating employer shall complete the terms of the irrevocable election
30 that the member made with the original participating employer.

31 C. A member who elects before July 1, 1999 to receive retirement
32 benefits based on section 38-771, subsection C, paragraph 2 or a member who
33 elects to make contributions to ASRS pursuant to section 38-771.01,
34 subsection F, paragraph 4 shall either make the member's additional
35 contributions required pursuant to section 38-771, subsection E or allowed
36 pursuant to section 38-771.01, subsection F, paragraph 4 directly to ASRS as
37 provided in subsection H of this section or shall elect to have the member's
38 employer make payments for those additional contributions as provided in
39 subsection D of this section. A member who elected to be covered or who was
40 deemed to be covered by section 38-771 on or before December 31, 1995 or who
41 elects to make member contributions pursuant to section 38-771.01, subsection
42 F, paragraph 3 is deemed to have made an irrevocable election pursuant to
43 subsection D of this section to make the member's contributions to ASRS that
44 are required by section 38-771, subsection D or allowed by section 38-771.01,
45 subsection F, paragraph 3.

1 D. Any member contributions that are required by section 38-771,
2 subsection D or that are allowed pursuant to section 38-771.01, subsection F,
3 paragraph 3 are deemed to be made by the member to ASRS through a salary
4 reduction program in accordance with the following:

5 1. A member may make member contributions pursuant to section 38-771,
6 subsection E or section 38-771.01, subsection F, paragraph 4 through a salary
7 reduction program elected pursuant to this subsection. If a member makes an
8 irrevocable election pursuant to this subsection before July 1, 1999 to have
9 the member's employer make payments for additional contributions pursuant to
10 section 38-771, subsection E, the election continues in effect from and after
11 June 30, 1999 and shall not be revoked, amended or altered by any election
12 made pursuant to section 38-771.01 or otherwise. The amounts paid pursuant
13 to a salary reduction program are in lieu of contributions by the electing
14 member. The member's salary or other compensation shall be reduced by the
15 amount paid by the employer pursuant to this subsection.

16 2. Before a member's termination of employment, the member may make an
17 election pursuant to this subsection at any time after the date the member
18 elects to receive retirement benefits based on section 38-771, subsection C,
19 paragraph 2 but before July 1, 1999 or at any time after the member elects to
20 make member contributions pursuant to section 38-771.01, subsection F,
21 paragraph 4. The election shall specify the number of payroll periods that
22 deductions will be made from the member's compensation and the dollar amount
23 of deductions for each payroll period during the specified number of payroll
24 periods. After an election is made pursuant to this subsection, the election
25 is binding on and irrevocable for the member and the member's employer during
26 the member's remaining period of employment.

27 3. After a member makes or is deemed to have made an irrevocable
28 election pursuant to this subsection, the member does not have the option of
29 choosing to receive the contributed amounts directly. A member who makes an
30 irrevocable election pursuant to this subsection to have the member's
31 employer make payments for less than all of the amounts payable for the
32 member's additional contributions allowed by section 38-771.01, subsection F,
33 paragraph 4 may irrevocably elect to have the member's employer make payments
34 for all or any portion of the remaining amounts payable for the member's
35 additional contributions. A member who makes one or more irrevocable
36 elections pursuant to this subsection may also make other contributions to
37 ASRS pursuant to section 38-771.01, subsection F, paragraph 4 or pursuant to
38 subsection H of this section to the extent of any remaining amounts payable
39 for which the member has not made an election pursuant to this subsection.
40 An additional election or contribution with respect to a portion of the
41 amounts payable for the member's additional contributions pursuant to section
42 38-771.01, subsection F, paragraph 4 does not alter, amend or revoke an
43 irrevocable election already made pursuant to this subsection for any other
44 portion of the amounts payable for the member's additional contributions
45 allowed by section 38-771.01, subsection F, paragraph 4.

1 4. If on termination of the member's employment all amounts have not
2 been paid to ASRS pursuant to the member's irrevocable election pursuant to
3 this subsection, the member may pay ASRS, within thirty days after the
4 member's termination of employment and subject to other limitations
5 prescribed in this section, all or any portion of the unpaid amounts as
6 provided in subsection H of this section. These payments do not alter, amend
7 or revoke any irrevocable election already made pursuant to this subsection
8 with respect to any amount to be paid by the member's employer while the
9 member is employed by the member's employer.

10 5. Amounts paid by an employer pursuant to this subsection shall be
11 treated as employer contributions for the purpose of determining tax
12 treatment under the internal revenue code. The effective date of employer
13 payments pursuant to this subsection shall not be before the date ASRS
14 receives notification from the United States internal revenue service that
15 pursuant to section 414(h)(2) of the internal revenue code the amounts paid
16 by an employer pursuant to this subsection will not be included in the
17 member's gross income for income tax purposes until those amounts are
18 distributed by refund or retirement benefit payments.

19 6. Unless otherwise provided, member contributions paid by an employer
20 pursuant to this subsection are treated for all other purposes under ASRS in
21 the same manner and to the same extent as member contributions that are not
22 paid by an employer pursuant to this subsection.

23 7. If a member transfers employment from one participating employer
24 with which the member has made an irrevocable election pursuant to this
25 subsection to another participating employer, the member and the successor
26 participating employer shall complete the terms of the irrevocable election
27 that the member made with the original participating employer.

28 E. The following limits apply to contributions to ASRS:

29 1. Except to the extent paragraphs 2 and 3 of this subsection apply to
30 certain contributions made by a member to ASRS and to the extent permitted
31 under section 414(v) of the internal revenue code, if applicable, in any one
32 limitation year, the annual additions contributed or allocated to ASRS for or
33 on behalf of a member shall not exceed the lesser of either:

34 (a) Forty thousand dollars or a larger amount that is prescribed by
35 the board and that is due to any cost of living adjustment announced by the
36 United States secretary of the treasury pursuant to section 415(d) of the
37 internal revenue code. The board shall increase the amount prescribed by
38 this subdivision as of the effective date of the increase announced by the
39 United States secretary of the treasury.

40 (b) One hundred per cent of the member's compensation for the
41 limitation year. The compensation limit prescribed in this subdivision does
42 not apply to any contribution to ASRS for medical benefits after a member's
43 separation from service, within the meaning prescribed in section 401(h) or
44 419A(f)(2) of the internal revenue code, that is otherwise treated as an
45 annual addition.

1 2. Unless paragraph 4 of this subsection applies, for plan years
2 beginning on or after July 1, 1998, in any one limitation year, the annual
3 additions credited to ASRS for or on behalf of a member who makes
4 contributions to ASRS to purchase credited service pursuant to section
5 38-743, 38-744, 38-745 or 38-922 and with respect to which an irrevocable
6 election has not been made pursuant to subsection B of this section shall not
7 exceed the greater of either:

8 (a) The requirements of section 38-769. For the purposes of applying
9 the limits prescribed in section 38-769 under this subdivision, the accrued
10 benefit derived from the contributions shall be treated as an annual benefit
11 and the reduced limit for certain early retirement in section 38-769,
12 subsection C, paragraph 2 does not apply.

13 (b) Except as provided in paragraph 3 of this subsection, the
14 requirements of paragraph 1 of this subsection. The contributions shall be
15 treated as annual additions and any of the member's other annual additions
16 for the limitation year shall be taken into account. For the purposes of
17 applying the requirements of paragraph 1 of this subsection under this
18 subdivision, the percentage of compensation limit in paragraph 1, subdivision
19 (b) of this paragraph does not apply.

20 3. For plan years beginning on or after July 1, 1998, the requirements
21 of paragraph 1 of this subsection shall not be applied to reduce the amount
22 of credited service that may be purchased by an eligible member pursuant to
23 section 38-743, 38-744, 38-745 or 38-922 to an amount that is less than the
24 amount of credited service allowed to be purchased pursuant to those sections
25 on August 5, 1997 without the application of any of the limits prescribed in
26 this section or section 415 of the internal revenue code. For the purposes
27 of this paragraph, "eligible member" means a person who first becomes a
28 member of ASRS before July 1, 1999.

29 4. Member contributions to ASRS to purchase credited service pursuant
30 to section 38-743, 38-744 or 38-922 shall not be made by a member if
31 recognition of that service would cause a member to receive a retirement
32 benefit for the same service from ASRS and one or more other retirement
33 plans. This paragraph does not apply to either of the following:

34 (a) Contributions made by an eligible member as defined in paragraph 3
35 of this subsection, except that any service purchase by an eligible member is
36 subject to any other limitations, including limitations on duplicative
37 service purchase, otherwise provided in this article.

38 (b) Any member contributions with respect to which an irrevocable
39 election has been made by a member pursuant to subsection B of this section,
40 except that the service purchase is subject to any other limitations,
41 including limitations on duplicative service purchase, otherwise provided in
42 this article.

43 F. If a member's contributions are subject to the limitations of
44 subsection E of this section, the contributions shall be treated as being
45 made to a separate defined contribution plan. If the member's contributions
46 exceed the limits prescribed in subsection E of this section when taking into

1 account other member and employer contributions to ASRS on behalf of the
2 member for the limitation year, the amount to be paid by the member shall be
3 reduced to not exceed the limits prescribed in subsection E of this section
4 and the remaining amount shall be carried forward to the next limitation
5 year, unless the limits are exceeded in the next limitation year. If the
6 limits are exceeded in the next limitation year, the procedure prescribed by
7 this subsection shall be repeated until all payments have been made.

8 G. If, after the application of subsection F of this section, the
9 annual additions on behalf of a member exceed the limitations prescribed in
10 subsection E of this section, ASRS shall dispose of excess amounts by either
11 of the following:

12 1. Returning to the member any contributions that are made by the
13 member and that are nondeductible under the internal revenue code.

14 2. Holding the amounts in a suspense account established pursuant to
15 subsection L of this section and allocating the amounts as either member or
16 employer contributions for the benefit of the member in the next limitation
17 year and before any further member or employer contributions are made that
18 would constitute annual additions made to a defined contribution plan
19 pursuant to section 415 of the internal revenue code. ASRS shall allocate
20 contributions as prescribed in this section, and the amount allocated shall
21 reduce the amount of the member or employer contributions for the limitation
22 year in which the allocation is made.

23 H. To the extent that a payment under this subsection does not alter,
24 amend or revoke any one or more currently effective irrevocable elections
25 made by the member pursuant to subsection B or D of this section, the board
26 may accept contributions made pursuant to section 38-771 or member
27 contributions for the payment for credited service purchases pursuant to
28 section 38-738, 38-742, 38-743, 38-744, 38-745 or 38-922 or contributions
29 made pursuant to section 38-771.01, subsection F, paragraph 4, in whole or in
30 part, by any one or a combination of the following methods:

31 1. In lump sum payments.

32 2. Subject to the limitations prescribed in sections 401(a)(31) and
33 402(c) of the internal revenue code and subsection J of this section,
34 accepting a direct transfer of any eligible rollover distribution or a
35 contribution by a member of an eligible rollover distribution from one or
36 more:

37 (a) Retirement programs that are qualified under section 401(a) or
38 403(a) of the internal revenue code.

39 (b) Annuity contracts described in section 403(b) of the internal
40 revenue code.

41 (c) Eligible deferred compensation plans described in section 457(b)
42 of the internal revenue code that are maintained by a state, a political
43 subdivision of a state or any agency or instrumentality of a state or a
44 political subdivision of a state.

45 3. Subject to the limitations prescribed in section 408(d)(3)(A)(ii)
46 of the internal revenue code, accepting from a member a rollover contribution

1 of that portion of a distribution from an individual retirement account or
2 individual retirement annuity described in section 408(a) or 408(b) of the
3 internal revenue code that is eligible to be rolled over and would otherwise
4 be includable as gross income.

5 4. Providing by rule that the contributions may be made in installment
6 payments over a period of time.

7 I. To the extent that a payment under this subsection does not alter,
8 amend or revoke any one or more currently effective irrevocable elections
9 made by a member pursuant to subsection B or D of this section, the board may
10 accept a direct trustee-to-trustee transfer from retirement programs that are
11 qualified under section 401(a) or 403(a) of the internal revenue code, an
12 annuity contract described in section 403(b) of the internal revenue code or
13 an eligible deferred compensation plan described in section 457(b) of the
14 internal revenue code for the payment for credited service purchases pursuant
15 to section 38-742, 38-743, 38-744, 38-745 or 38-922. If a direct
16 trustee-to-trustee transfer is from a retirement program that is qualified
17 under section 401(a) of the internal revenue code and that includes a cash or
18 deferred arrangement described in section 401(k) of the internal revenue
19 code, the member on whose behalf the transfer was made is not eligible to
20 retire under section 38-764, subsection I before the date the member attains
21 fifty-nine and one-half years of age.

22 J. ASRS shall separately account for all amounts rolled over or
23 directly transferred to ASRS. Subject to the limitations contained in the
24 internal revenue code applicable to the type of plan from which an eligible
25 rollover distribution is transferred, to the extent any eligible rollover
26 distribution that is directly transferred to ASRS consists wholly or
27 partially of amounts that would otherwise not be included in the member's
28 gross income if not so transferred, ASRS shall separately account for the
29 amounts so transferred, and earnings on those amounts, including separately
30 accounting for the portion of the amount that is includable in gross income
31 and the portion of the amount that is not includable in gross income.

32 K. ASRS shall not grant credited service under section 38-738, 38-742,
33 38-743, 38-744 or 38-922 for contributions made pursuant to subsection H of
34 this section until the contributions are received by ASRS. ASRS may assess
35 interest or administrative charges attributable to any installment payment
36 made pursuant to subsection H, paragraph 4 of this section to purchase
37 credited service pursuant to section 38-738, 38-742, 38-743, 38-744 or
38 38-922. The interest or administrative charges shall be added to the amount
39 of contributions made to ASRS by the member. The interest or administrative
40 charges shall not be treated as member contributions for any purposes under
41 this article, and a member or a member's beneficiary does not have a right to
42 the return of the interest or administrative charges pursuant to any other
43 provision of this article. Interest assessed pursuant to this subsection
44 shall be at the rate specified by the board pursuant to section 38-711,
45 paragraph 2.

1 ~~L. ASRS shall establish a suspense account that conforms with 26 Code~~
2 ~~of Federal Regulations section 1.415-6(b)(6) regarding excess annual~~
3 ~~additions.~~

4 L. NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, IF
5 THE ANNUAL ADDITIONS CREDITED ON BEHALF OF AN ASRS MEMBER DURING ANY
6 LIMITATION YEAR EXCEED THE LIMITS OF SECTION 415(c) OF THE INTERNAL REVENUE
7 CODE AND SUBSECTION E OF THIS SECTION, ASRS MAY ONLY CORRECT THE EXCESS
8 PURSUANT TO THE EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM PRESCRIBED IN
9 INTERNAL REVENUE SERVICE REVENUE PROCEDURE 2008-50 OR ANY FUTURE GUIDANCE
10 ISSUED BY THE INTERNAL REVENUE SERVICE, INCLUDING THE PREAMBLE OF THE FINAL
11 TREASURY REGULATIONS ISSUED UNDER SECTION 415 OF THE INTERNAL REVENUE CODE.

12 M. If the member retires before all payments are made pursuant to this
13 section, ASRS shall calculate the member's benefits based only on the
14 payments actually made.

15 N. On satisfaction of the requirements of this section, ASRS shall
16 adjust the member's credited service history and add any additional service
17 credits acquired.

18 O. Annual additions on behalf of a member in any limitation year shall
19 be the sum of:

20 1. The amount of the member contributions made to ASRS to purchase
21 credited service pursuant to section 38-738, 38-743, 38-744, 38-745 or 38-922
22 and with respect to which an irrevocable election made pursuant to subsection
23 B of this section is not in effect.

24 2. The amount of member and employer contributions made to ASRS on
25 behalf of a member who elected or was deemed to have elected to receive
26 retirement benefits pursuant to section 38-771 or who is entitled to benefits
27 pursuant to section 38-771.01, except that, other than as provided in
28 subsection P of this section, corrective contributions shall be considered
29 annual additions for the limitation years to which the contributions relate
30 and interest and gains shall not be considered as annual additions for the
31 purpose of any limitation prescribed in this article or in section 415 of the
32 internal revenue code. If the corrective contributions exceed the limit on
33 annual additions for a limitation year prior to the limitation year in which
34 the corrective contributions are contributed by the employer to ASRS, the
35 retirement benefit attributable to the excess corrective contributions shall
36 be treated as an excess benefit and shall be payable to the member as any
37 other excess benefit is payable pursuant to section 38-774, and the employer
38 shall pay the excess corrective contributions to the separate unfunded
39 governmental excess benefit arrangement administered by the board pursuant to
40 section 38-774.

41 3. Any member or employer contributions made to ASRS or any other plan
42 that are treated as being made to a defined contribution plan maintained by
43 an employer of the member.

44 4. Any forfeitures, including any income attributable to forfeitures,
45 allocated for or on behalf of a member of ASRS or any other plan that are

1 treated as being allocated under a defined contribution plan maintained by an
2 employer of the member.

3 P. To the extent any portion of the subject benefits, if treated as
4 subject to the benefit limitations of section 415(b) of the internal revenue
5 code, exceed the applicable limitation on benefits pursuant to section 38-769
6 for the form of distribution, a percentage of corrective contributions and
7 interest and gains shall be treated as annual additions for the limitation
8 year in which contributed by the employer to ASRS. This percentage of
9 corrective contributions and interest and gains shall be equal to the
10 percentage determined by dividing the subject benefits that exceed the
11 limitation on benefits pursuant to section 38-769 by the subject benefits.
12 If the corrective contributions and interest and gains that are treated as
13 annual additions for the limitation year in which the corrective
14 contributions and interest and gains are contributed by the employer to ASRS
15 exceed the limit on annual additions for the limitation year, the retirement
16 benefit attributable to the excess shall be treated as an excess benefit and
17 shall be payable to the member as any other excess benefit is payable
18 pursuant to section 38-774, and the employer shall pay the excess to the
19 separate unfunded governmental excess benefit arrangement administered by the
20 board pursuant to section 38-774.

21 Q. Subsection 0 of this section shall be construed and interpreted in
22 accordance with ~~26 Code of Federal Regulations section 1.415-6 to the extent~~
23 ~~that section is applicable~~ SECTION 415 OF THE INTERNAL REVENUE CODE AND THE
24 FINAL TREASURY REGULATIONS ISSUED UNDER THAT SECTION.

25 R. For the purposes of this section:

26 1. "Compensation" has the same meaning prescribed in section 38-769.

27 2. "Corrective contributions" means any contributions that are paid by
28 an employer pursuant to section 38-771.01, subsection C, paragraph 3 and that
29 are attributable to employer contributions that should have been made for
30 prior limitation years.

31 3. "Defined contribution plan" has the same meaning prescribed in
32 section 38-769.

33 4. "Eligible rollover distribution" has the same meaning prescribed in
34 section 38-770.

35 5. "Interest and gains" means employer contributions to ASRS pursuant
36 to section 38-771.01, subsection C, paragraphs 3, 5 and 6 that are
37 attributable to earnings and supplemental credits that would have been earned
38 or added to a member's annuity payment.

39 6. "Limitation year" has the same meaning prescribed in section
40 38-769.

41 7. "Participating employer" means an employer that participates in
42 ASRS.

43 8. "Subject benefits" means the retirement benefit received by a
44 member pursuant to section 38-771.01 minus the sum of the portion of such
45 retirement benefit attributable to contributions that were made by or on
46 behalf of the member to the defined contribution program administered by ASRS

1 for periods before July 1, 1981 and contributions that were made by the
2 member after June 30, 1981 and that were not picked up as provided in section
3 414(h)(2) of the internal revenue code.

4 Sec. 3. Section 38-755, Arizona Revised Statutes, as amended by Laws
5 2012, chapter 87, section 4 and chapter 88, section 1, is amended to read:

6 38-755. Information as to member's status; beneficiary
7 designation; spousal consent; confidentiality

8 A. Subject to rules prescribed by the board, on application of a
9 member, the board shall furnish information concerning the member's status.
10 In addition, the board shall furnish to each member an account, that may be
11 electronic or online, showing the status of the member's account, including
12 the name of the member's beneficiary as last listed with the board.

13 B. The member may change the member's beneficiary at any time in a
14 manner established by ASRS.

15 C. A member who is married shall name and maintain the member's
16 current spouse as a beneficiary to receive at least fifty per cent of the
17 member's account, UNLESS NAMING OR MAINTAINING THE CURRENT SPOUSE AS A
18 BENEFICIARY VIOLATES ANOTHER LAW, AN EXISTING CONTRACT OR A COURT ORDER. The
19 member's current spouse may consent to a waiver of this requirement pursuant
20 to section 38-776.

21 D. IN ORDER TO PROTECT A MEMBER'S IDENTITY FROM FRAUD, ABUSE, THEFT OR
22 CIVIL OR CRIMINAL ACTIVITY, INFORMATION ABOUT A MEMBER IS NOT SUBJECT TO
23 INSPECTION PURSUANT TO TITLE 39, CHAPTER 1, ARTICLE 2, EXCEPT THAT THE
24 FOLLOWING INFORMATION ABOUT A MEMBER IS SUBJECT TO INSPECTION:

25 1. THE MEMBER'S NAME.

26 2. WHETHER THE MEMBER IS AN ACTIVE MEMBER AS DEFINED IN SECTION
27 38-711, AN INACTIVE MEMBER AS DEFINED IN SECTION 38-711 OR A RETIRED MEMBER
28 AS DEFINED IN SECTION 38-711.

29 3. THE MEMBER'S CURRENT OR MOST RECENT EMPLOYER.

30 4. FOR A RETIRED MEMBER, THE AVERAGE MONTHLY COMPENSATION, AS DEFINED
31 IN SECTION 38-711, USED TO CALCULATE THE MEMBER'S RETIREMENT BENEFIT.

32 5. THE CREDITED SERVICE AS DEFINED IN SECTION 38-711 ON ACCOUNT FOR AN
33 ACTIVE OR INACTIVE MEMBER OR THE CREDITED SERVICE USED TO CALCULATE THE
34 RETIREMENT BENEFIT FOR A RETIRED MEMBER.

35 6. THE GROSS PENSION AMOUNT ACTUALLY PAID TO A RETIRED MEMBER.

36 7. THE MOST RECENT RETIREMENT DATE.

37 8. THE CURRENT ACCOUNT BALANCE FOR AN ACTIVE OR INACTIVE MEMBER.

38 9. THE GROSS LONG-TERM DISABILITY PROGRAM BENEFIT ACTUALLY PAID TO A
39 DISABLED MEMBER PURSUANT TO ARTICLE 2.1 OF THIS CHAPTER.

40 10. THE AMOUNT PAID TO PURCHASE CREDITED SERVICE PURSUANT TO SECTION
41 38-743, 38-744 OR 38-745.

42 11. THE AMOUNT OF CREDITED SERVICE PURCHASED PURSUANT TO SECTION
43 38-743, 38-744 OR 38-745.

44 E. ASRS SHALL NOT PERMIT ANY UNREDACTED RECORD TO BE INSPECTED THAT
45 CONTAINS A MEMBER'S SOCIAL SECURITY NUMBER, BANK ACCOUNT INFORMATION,
46 ADDRESS, TELEPHONE NUMBER, E-MAIL ADDRESS, MEDICAL RECORDS, HEALTH INSURANCE

1 INFORMATION, BENEFICIARY OR SURVIVOR INFORMATION OR DISABILITY INFORMATION OR
2 ANY INFORMATION THAT IS PROTECTED BY ANY FEDERAL OR STATE LAW.

3 Sec. 4. Section 38-757, Arizona Revised Statutes, is amended to read:
4 38-757. Normal retirement

5 A. After application on a form prescribed by the director, a member
6 may retire on reaching the member's normal retirement date. EXCEPT AS
7 PROVIDED IN SECTION 13-713, A MEMBER'S RIGHT TO THE MEMBER'S NORMAL
8 RETIREMENT BENEFIT AS DESCRIBED IN SUBSECTION B OF THIS SECTION IS
9 NONFORFEITABLE BY AN EMPLOYER OR ASRS ON ATTAINMENT OF THE MEMBER'S NORMAL
10 RETIREMENT DATE.

11 B. Except as provided in section 38-768, a member who meets the
12 requirements for retirement benefits at normal retirement shall receive a
13 monthly life annuity that equals the result of paragraph 1 OF THIS SUBSECTION
14 multiplied by paragraph 2 OF THIS SUBSECTION when those paragraphs are
15 defined as follows:

16 1. The number of whole and fractional years of credited service times
17 the following:

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

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

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

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

26 2. The member's average monthly compensation.

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

30 Sec. 5. Section 38-760, Arizona Revised Statutes, as amended by Laws
31 2012, chapter 88, section 2 and chapter 362, section 11, is amended to read:
32 38-760. Optional forms of retirement benefits

33 A. On retirement, members may elect an optional form of retirement
34 benefit as provided in this section.

35 B. The optional retirement benefits available under this section
36 include the following:

37 1. Joint and survivor annuity in a reduced amount payable to the
38 retiring member during life, with the provisions that after the member's
39 death all, two-thirds or one-half of the retirement income, as the member
40 elects, shall be continued during the lifetime of the contingent annuitant
41 designated by the retiring member subject to the restrictions prescribed in
42 section 38-764. The amount of retirement income shall be the actuarial
43 equivalent of the retirement income to which the member would be entitled
44 under normal or early retirement. The election in a manner prescribed by the
45 board shall name the contingent annuitant. The election may be revoked at
46 any time before the member's effective date of retirement. At any time after

1 benefits have commenced, the member may name a different contingent annuitant
2 or rescind the election by written notice to the board as follows:

3 (a) If a different contingent annuitant is named, the annuity of the
4 member under the same joint and survivor annuity option previously elected
5 shall be adjusted to the actuarial equivalent of the original annuity, based
6 on the age of the new contingent annuitant. The adjustment shall include all
7 postretirement increases in retirement income that are authorized by law
8 after the member's date of retirement. Payment of this adjusted annuity
9 shall continue under the provisions of the option previously elected by the
10 member.

11 (b) If the member rescinds the election, the member shall thereafter
12 receive a straight life annuity equal to what the member would otherwise be
13 entitled to receive if the member had not elected the joint and survivor
14 annuity option, including all postretirement increases in retirement income
15 that are authorized by law after the date of retirement. The increased
16 payment shall continue during the remainder of the member's lifetime.

17 (c) If a member whose original date of retirement is before July 1,
18 2008 rescinds the joint and survivor annuity option previously elected and
19 receives the straight life annuity pursuant to subdivision (b) of this
20 paragraph, the member may again elect the same joint and survivor annuity
21 option previously elected subject to the same restrictions prescribed in
22 subdivision (a) of this paragraph.

23 (d) A member whose original date of retirement is on or after July 1,
24 2008 may exercise a one-time election to rescind the joint and survivor
25 annuity option elected by the member if the contingent annuitant dies or
26 ceases to be a contingent annuitant pursuant to the terms of a qualified
27 domestic relations order.

28 (e) If the member's contingent annuitant is the member's current
29 spouse, the member shall obtain the consent of the contingent annuitant
30 pursuant to section 38-776 before the member names a new contingent annuitant
31 or before the member rescinds the election, except that consent is not
32 required if the rescission is pursuant to subdivision (d) of this paragraph.

33 2. A period certain and life annuity actuarially reduced with payments
34 for five, ten or fifteen years that are not dependent on the continued
35 lifetime of the member but whose payments continue for the member's lifetime
36 beyond the five, ten or fifteen year period. At the time of electing this
37 option the member shall name a period certain beneficiary or beneficiaries
38 who are entitled to receive the payments for any portion of the period
39 certain beyond the lifetime of the member. The member may name a different
40 beneficiary at any time. If no beneficiary survives the member, any
41 remaining payments are the property of the member's estate. A member who
42 retires after August 9, 2001 and before July 1, 2008 may rescind the election
43 of a period certain and life annuity. If the member rescinds the election of
44 a period certain and life annuity, the member shall thereafter receive a
45 straight life annuity equal to what the member would otherwise be entitled to
46 receive if the member had not elected the period certain and life annuity

1 option, including all postretirement increases in retirement income that are
2 authorized by law after the date of retirement. The increased payment shall
3 continue during the remainder of the member's lifetime. If the member
4 reverts to a straight life annuity pursuant to this paragraph, the member may
5 again elect a period certain and life annuity subject to the same provisions
6 of the period certain and life annuity previously elected by the member. If
7 the member's contingent annuitant is the member's current spouse, the member
8 shall obtain the consent of the contingent annuitant pursuant to section
9 38-776 before the member rescinds the election of a period certain and life
10 annuity or again elects a period certain and life annuity. A member whose
11 original date of retirement is on or after July 1, 2008 may exercise a
12 one-time election to rescind the period certain and life annuity option
13 elected by the member if the beneficiary dies or ceases to be a beneficiary
14 pursuant to the terms of a qualified domestic relations order or at the
15 expiration of the member's period certain term.

16 3. Beginning on July 1, 2002, a lump sum payment equal to not more
17 than thirty-six months of the member's retirement benefits based on the
18 actuarial equivalent of the retirement income to which the member would be
19 entitled under normal or early retirement. The member's benefit shall be
20 actuarially reduced to provide for the lump sum payment. The lump sum
21 payment shall be made at the time of retirement. Any benefit increase
22 granted to a member who elects a lump sum payment pursuant to this paragraph
23 is subject to the following conditions:

24 (a) If the benefit increase is a percentage increase of the member's
25 retirement benefit, the increase shall be based on the actuarially reduced
26 retirement benefit of the member.

27 (b) If the benefit increase is pursuant to section 38-767, the amount
28 of the member's benefit increase shall be calculated without regard to the
29 lump sum payment pursuant to this paragraph.

30 4. Other forms of actuarially reduced optional benefits prescribed by
31 the board.

32 C. A member who is married at the time of retirement shall elect a
33 monthly benefit in the form of a joint and survivor annuity pursuant to
34 subsection B, paragraph 1 of this section, and the member's current spouse
35 shall be the contingent annuitant unless the member's current spouse consents
36 to a waiver of this requirement pursuant to section 38-776 **OR THE ELECTION**
37 **WOULD VIOLATE ANOTHER LAW, AN EXISTING CONTRACT OR A COURT ORDER.** If the
38 married member does not elect a type of joint and survivor annuity for the
39 member's current spouse and the member's current spouse has not waived the
40 requirements of this subsection, ASRS shall cancel the member's retirement.
41 The member may reapply for retirement at any time in a manner established by
42 ASRS.

43 Sec. 6. Section 38-762, Arizona Revised Statutes, is amended to read:
44 **38-762. Survivor benefits before retirement; definition**

1 A. On the death of any active or inactive member before retirement,
2 the designated beneficiary of the member shall be paid a survivor benefit
3 equal to the sum of both of the following:

4 1. The member's contribution and interest and the employer's
5 contribution and interest to the defined benefit plan established by this
6 article for credited service that a member earned by working for an employer,
7 plus all contributions and interest made for the purchase of military
8 service, leave without pay or other public service credit. This amount
9 excludes payments made by an employer pursuant to section 38-738, subsection
10 B, paragraph 3, unless the member has made the payment required by section
11 38-738, subsection B, paragraph 1.

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

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

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

23 1. ~~A AS monthly income for five, ten or fifteen years certain and for~~
24 ~~life, thereafter.~~

25 2. ~~Another form of optional benefits approved by the board.~~

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

1 AMOUNT IS GREATER THAN OR EQUAL TO THE AMOUNT DETERMINED BY THE BOARD UNDER
2 SECTION 38-764, SUBSECTION F.

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

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

- 12 1. The member's surviving spouse.
- 13 2. The member's surviving natural or adopted children in equal shares.
- 14 3. The member's surviving parents in equal shares.
- 15 4. The member's estate.

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

20 ~~H.~~ G. For the purposes of this section, ~~+~~

21 ~~1.~~ "designated beneficiary" means any individual designated by the
22 member as the member's beneficiary.

23 ~~2.~~ ~~"Disabled" means a person is incapable of self-sustaining~~
24 ~~employment by reason of mental or physical handicap and is chiefly dependent~~
25 ~~on the member for support.~~

26 Sec. 7. Section 38-767, Arizona Revised Statutes, is amended to read:
27 38-767. Benefit increases: applicability

28 A. FOR A MEMBER WHOSE MEMBERSHIP COMMENCED BEFORE THE EFFECTIVE DATE
29 OF THIS AMENDMENT TO THIS SECTION, effective July 1 of each year, each
30 retired member or beneficiary of a retired member is entitled to receive a
31 permanent benefit increase in the base benefit equal to the amount determined
32 in subsection D of this section if the retired member or beneficiary of a
33 retired member was receiving benefits on or before July 31 of the previous
34 calendar year. The annual permanent benefit increases shall be paid on a
35 monthly basis. The benefit increase shall commence on July 1.

36 B. The total amount of the percentage increase provided in subsection
37 A of this section shall not exceed four per cent in aggregate for all persons
38 eligible for an increase. The percentage payable from excess investment
39 earnings shall be determined as follows:

- 40 1. Determine any excess investment earnings account balance available.
- 41 2. Determine the total excess investment earnings as provided in
42 subsection C of this section.
- 43 3. Add the amount determined in paragraph 1 of this subsection to the
44 amount determined in paragraph 2 of this subsection.

1 4. Determine one per cent of the actuarial present value of benefits
2 for retired members and beneficiaries as of June 30 of the year prior to the
3 year for which an increase is being granted.

4 5. Divide the amount determined in paragraph 3 of this subsection by
5 the amount determined in paragraph 4 of this subsection. If the quotient is
6 equal to or more than four, the percentage increase payable from excess
7 investment earnings on accounts associated with those persons eligible for an
8 annual benefit increase pursuant to subsection A of this section is four per
9 cent. If the quotient is one or more but less than four, the percentage
10 increase payable from excess investment earnings on accounts associated with
11 those persons eligible for an annual benefit increase pursuant to subsection
12 A of this section is that per cent rounded to the nearest tenth of a per
13 cent. If the quotient is less than one, no benefit increases shall be
14 granted.

15 C. The excess investment earnings on accounts associated with those
16 persons eligible for an annual benefit increase pursuant to subsection A of
17 this section are equal to the actuarial present value of benefits for all
18 retired members and beneficiaries as of June 30 of the year prior to the year
19 for which an increase is being granted multiplied by the positive difference,
20 if any, between the yield rate on the actuarial value of ASRS assets for the
21 fiscal year that ended June 30 of the year prior to the year for which an
22 increase is being granted and eight per cent. The excess investment earnings
23 on accounts associated with those persons eligible for an annual benefit
24 increase pursuant to subsection A of this section are zero if the yield rate
25 on ASRS assets is less than or equal to eight per cent.

26 D. The permanent benefit increase for each person entitled to receive
27 an increase pursuant to subsection A of this section shall be determined
28 based on years of credited service as follows:

29 1. Multiply the percentage determined in subsection B, paragraph 5 of
30 this section by the actuarial present value of benefits for retired members
31 and beneficiaries as of June 30 of the year prior to the year for which an
32 increase is being granted.

33 2. Determine the actuarial present value of a one dollar per year of
34 credited service annual increase in the base benefit amounts as of June 30 of
35 the year prior to the year for which an increase is being granted, received
36 by all persons entitled to receive an increase pursuant to subsection A of
37 this section.

38 3. Divide the amount determined in paragraph 1 of this subsection by
39 the amount determined in paragraph 2 of this subsection.

40 4. Multiply the amount determined in paragraph 3 of this subsection by
41 the number of years of credited service for each retired member and the
42 number of years of credited service earned by a retired member for each
43 beneficiary entitled to receive an increase pursuant to subsection A of this
44 section.

45 E. Any excess investment earnings on accounts associated with those
46 persons eligible for an annual benefit increase pursuant to subsection A of

1 this section from any year that are not used for benefit adjustments for that
2 year are available for future benefit increases in the following years.

3 F. Monies available for future benefit increases shall earn interest
4 at a rate of eight per cent per year. This interest shall be used to pay the
5 additional benefit increases provided for in subsection G of this section.

6 G. In addition to a benefit increase pursuant to subsection A of this
7 section, if a retired member WHO WAS ELIGIBLE FOR AN ANNUAL BENEFIT INCREASE
8 PURSUANT TO SUBSECTION A OF THIS SECTION had more than ten years of credited
9 service, the retired member or beneficiary of the retired member is entitled
10 to receive a benefit increase based on the number of years following
11 retirement as follows:

12 1. At least five years but less than ten years, a monthly benefit
13 increase equal to the amount determined in subsection H of this section.

14 2. At least ten years but less than fifteen years, a monthly benefit
15 increase equal to two times the amount determined in subsection H of this
16 section.

17 3. At least fifteen years but less than twenty years, a monthly
18 benefit increase equal to three times the amount determined in subsection H
19 of this section.

20 4. At least twenty years but less than twenty-five years, a monthly
21 benefit increase equal to four times the amount determined in subsection H of
22 this section.

23 5. At least twenty-five years but less than thirty years, a monthly
24 benefit increase equal to five times the amount determined in subsection H of
25 this section.

26 6. At least thirty years, a monthly benefit increase equal to six
27 times the amount determined in subsection H of this section.

28 H. The amount of the monthly benefit increase under subsection G of
29 this section for a retired member or beneficiary of a retired member who is
30 entitled to the increase when at least five years but less than ten years
31 have elapsed since the retired member's retirement date is equal to the
32 amount obtained by dividing the amount of interest credited pursuant to
33 subsection F of this section by the amount that equals the sum of:

34 1. The actuarial present value, as of June 30 of the year prior to the
35 year for which the increase is granted, of a benefit increase of one dollar
36 per month for the retired members and beneficiaries of retired members who
37 are eligible for an increase under subsection G of this section and for whom
38 at least five years but less than ten years have elapsed since the retired
39 members' retirement dates.

40 2. The actuarial present value, as of June 30 of the year prior to the
41 year for which the increase is granted, of a benefit increase of two dollars
42 per month for the retired members and beneficiaries of retired members who
43 are eligible for an increase under subsection G of this section and for whom
44 at least ten years but less than fifteen years have elapsed since the retired
45 members' retirement dates.

1 3. The actuarial present value, as of June 30 of the year prior to the
2 year for which the increase is granted, of a benefit increase of three
3 dollars per month for the retired members and beneficiaries of retired
4 members who are eligible for an increase under subsection G of this section
5 and for whom at least fifteen years but less than twenty years have elapsed
6 since the retired members' retirement dates.

7 4. The actuarial present value, as of June 30 of the year prior to the
8 year for which the increase is granted, of a benefit increase of four dollars
9 per month for the retired members and beneficiaries of retired members who
10 are eligible for an increase under subsection G of this section and for whom
11 at least twenty years but less than twenty-five years have elapsed since the
12 retired members' retirement dates.

13 5. The actuarial present value, as of June 30 of the year prior to the
14 year for which the increase is granted, of a benefit increase of five dollars
15 per month for the retired members and beneficiaries of retired members who
16 are eligible for an increase under subsection G of this section and for whom
17 at least twenty-five years but less than thirty years have elapsed since the
18 retired members' retirement dates.

19 6. The actuarial present value, as of June 30 of the year prior to the
20 year for which the increase is granted, of a benefit increase of six dollars
21 per month for the retired members and beneficiaries of retired members who
22 are eligible for an increase under subsection G of this section and for whom
23 at least thirty years have elapsed since the retired members' retirement
24 dates.

25 I. A member of the defined contribution program administered by ASRS
26 is only eligible for the benefit increases pursuant to this section if the
27 member elects to transfer irrevocably from the defined contribution program
28 administered by ASRS to the defined benefit program established by this
29 article.

30 J. The cost of the benefit increases granted pursuant to this section
31 shall be added to the existing liabilities of ASRS.

32 K. As used in this section, the actuarial present value of benefits
33 for retired members and beneficiaries does not include the value of benefits
34 provided pursuant to section 38-783.

1 Sec. 8. Section 38-769, Arizona Revised Statutes, is amended to read:
2 38-769. Maximum retirement benefits; termination; definitions

3 A. Notwithstanding any other provision of this article, except as
4 provided in subsection C of this section, the employer provided portion of a
5 member's annual benefit payable in the form of a straight life annuity, at
6 any time within a limitation year, shall not exceed one hundred sixty
7 thousand dollars or a larger amount that is effective as of January 1 of each
8 calendar year, is prescribed by the board and is due to any cost of living
9 adjustment announced by the United States secretary of the treasury pursuant
10 to section 415(d) of the internal revenue code. The board shall increase the
11 amount pursuant to this subsection as of the effective date of the increase
12 as prescribed by the United States secretary of the treasury. Benefit
13 increases provided in this section resulting from the increase in the
14 limitations of section 415(b) of the internal revenue code as amended by the
15 economic growth and tax relief reconciliation act of 2001 shall be provided
16 to all current and former members who have benefits that are limited by
17 section 415(b) of the internal revenue code and who have an accrued benefit
18 under ASRS immediately before July 1, 2001, other than an accrued benefit
19 resulting from a benefit increase solely as a result of the increases
20 provided by this section resulting from the increase in the limitations of
21 section 415(b) of the internal revenue code as amended by the economic growth
22 and tax relief reconciliation act of 2001.

23 B. Notwithstanding the limitations of subsection A of this section,
24 the benefits payable to a member are deemed not to exceed the limitations
25 determined under subsection A of this section if the retirement benefits
26 payable to the member under this article do not exceed ten thousand dollars
27 for the limitation year and if an employer has not at any time maintained a
28 defined contribution plan in which the member has participated.

29 C. The limitations determined under subsection A of this section are
30 subject to the following adjustments:

31 1. If a member has less than ten years of membership in ASRS, the
32 maximum dollar limitation determined under subsection A of this section shall
33 be multiplied by a fraction, the numerator of which is the number of years,
34 or partial years, of membership in ASRS and the denominator of which is ten.
35 The reduction provided in this paragraph also applies to the ten thousand
36 dollar floor limitation provided in subsection B of this section, except that
37 the reduction applies to years of service with an employer rather than to
38 years of membership in ASRS. The reduction in this paragraph does not reduce
39 the limitations determined under subsection A of this section to an amount
40 less than one-tenth of the limitations as determined without regard to this
41 paragraph.

42 ~~2. If a member's annual benefit commences before the member attains
43 sixty-two years of age, the defined benefit dollar limitation applicable to
44 the member at the earlier age is an annual benefit payable in the form of a
45 straight life annuity beginning at the earlier age that is the actuarial
46 equivalent of the defined benefit dollar limitation applicable to the member~~

1 ~~at age sixty two and that is adjusted under paragraph 1 of this subsection,~~
2 ~~if required. The defined benefit dollar limitation applicable at an age~~
3 ~~before age sixty two is determined as the lesser of:~~

4 ~~(a) The actuarial equivalent at that age of the defined benefit dollar~~
5 ~~limitation computed using the interest rate specified by the board in section~~
6 ~~38 711, paragraph 2 and the mortality table or other tabular factors~~
7 ~~prescribed in paragraph 5 of this subsection.~~

8 ~~(b) The actuarial equivalent at that age of the defined benefit dollar~~
9 ~~limitation computed using a five per cent interest rate and the applicable~~
10 ~~mortality table prescribed in paragraph 5 of this subsection. Any decrease~~
11 ~~in the defined benefit dollar limitation determined in accordance with this~~
12 ~~paragraph shall not reflect a mortality decrement if benefits are not~~
13 ~~forfeited on the death of the member. If any benefits are forfeited on~~
14 ~~death, the full mortality decrement is taken into account.~~

15 ~~3. If a member's annual benefit commences after sixty-five years of~~
16 ~~age, the limitation determined under subsection A of this section applicable~~
17 ~~to the member at the later age is the annual benefit payable in the form of a~~
18 ~~straight life annuity beginning at the later age that is actuarially~~
19 ~~equivalent to the defined benefit dollar limitation applicable to the~~
20 ~~participant at age sixty-five and that is adjusted under paragraph 1 of this~~
21 ~~subsection, if required. The actuarial equivalent of the defined benefit~~
22 ~~dollar limitation applicable at an age after age sixty-five is determined as~~
23 ~~the lesser of:~~

24 ~~(a) The actuarial equivalent at that age of the defined benefit dollar~~
25 ~~limitation computed using the interest rate specified by the board as~~
26 ~~provided in section 38 711, paragraph 2 and the mortality table or other~~
27 ~~tabular factors prescribed in paragraph 5 of this subsection.~~

28 ~~(b) The actuarial equivalent at that age of the defined benefit dollar~~
29 ~~limitation computed using a five per cent interest rate assumption and the~~
30 ~~applicable mortality table prescribed in paragraph 5 of this subsection. For~~
31 ~~the purposes of this subdivision, mortality between age sixty-five and the~~
32 ~~age at which benefits commence shall be ignored.~~

33 ~~4. If the member's benefit is paid in a form other than a straight~~
34 ~~life annuity, the benefit paid may not exceed the actuarial equivalent of the~~
35 ~~maximum annual benefit payable as a straight life annuity disregarding the~~
36 ~~portion of any joint and survivor annuity that constitutes a qualified joint~~
37 ~~and survivor annuity as defined in section 417 of the internal revenue code.~~
38 ~~Effective for plan years beginning from and after June 30, 2004, actuarial~~
39 ~~equivalency under this paragraph shall be determined by the use of an~~
40 ~~interest rate assumption equal to one of the following rates:~~

41 ~~(a) For benefits paid under ASRS in a form to which section 417(e)(3)~~
42 ~~of the internal revenue code would apply if that section of the internal~~
43 ~~revenue code were applicable to ASRS, the greater of:~~

44 ~~(i) Five and one-half per cent a year.~~

45 ~~(ii) The rate that provides a benefit of not more than one hundred~~
46 ~~five per cent of the benefit that would be provided if the applicable~~

1 ~~interest rate, as defined in section 417(e)(3) of the internal revenue code,~~
2 ~~were the interest rate assumption.~~

3 ~~(iii) The rate specified by the board as provided in section 38-711,~~
4 ~~paragraph 2.~~

5 ~~(b) For benefits paid under ASRS in a form to which section 417(e)(3)~~
6 ~~of the internal revenue code does not apply if that section of the internal~~
7 ~~revenue code were applicable to ASRS, five per cent per year.~~

8 ~~In the case of any member or beneficiary receiving a distribution from and~~
9 ~~after December 31, 2003 but before January 1, 2005, the amount payable under~~
10 ~~any form of benefit subject to adjustment under this paragraph shall not,~~
11 ~~solely by reason of the interest rate assumptions contained in this~~
12 ~~paragraph, be less than the amount that would have been payable had the~~
13 ~~amount payable been determined using the applicable interest rate in effect~~
14 ~~as of the last day of the plan year beginning July 1, 2003.~~

15 ~~5. For the purposes of adjusting any benefit or limitation under~~
16 ~~paragraph 2, 3 or 4 of this subsection, the board shall use the mortality~~
17 ~~table prescribed by the United States secretary of the treasury as required~~
18 ~~by section 415(b)(2)(E)(v) of the internal revenue code, which, effective for~~
19 ~~distributions with annuity starting dates from and after December 30, 2002,~~
20 ~~shall be the mortality table published by the internal revenue service in~~
21 ~~revenue ruling 2001-62, as modified by the internal revenue service in~~
22 ~~revenue ruling 2007-67, until later changed or modified by the internal~~
23 ~~revenue service.~~

24 2. IF THE MEMBER'S BENEFIT UNDER ASRS COMMENCES BEFORE THE MEMBER
25 REACHES SIXTY-TWO YEARS OF AGE, THE BENEFIT WILL BE LIMITED TO:

26 (a) IF THE ANNUITY STARTING DATE IS IN A LIMITATION YEAR BEGINNING
27 BEFORE JULY 1, 2007, THE ANNUAL AMOUNT OF A BENEFIT PAYABLE IN THE FORM OF A
28 STRAIGHT LIFE ANNUITY COMMENCING AT THE MEMBER'S ANNUITY STARTING DATE THAT
29 IS THE ACTUARIAL EQUIVALENT OF THE DOLLAR LIMITATION UNDER SECTION
30 415(b)(1)(A) OF THE INTERNAL REVENUE CODE AS ADJUSTED IN SUBSECTION A OF THIS
31 SECTION, WITH ACTUARIAL EQUIVALENCE COMPUTED USING WHICHEVER OF THE FOLLOWING
32 PRODUCES THE SMALLER ANNUAL AMOUNT:

33 (i) THE INTEREST RATE AND MORTALITY TABLE OR OTHER TABULAR FACTOR
34 SPECIFIED BY THE BOARD FOR DETERMINING ACTUARIAL EQUIVALENCE FOR EARLY
35 RETIREMENT PURPOSES.

36 (ii) A FIVE PER CENT INTEREST RATE ASSUMPTION AND THE APPLICABLE
37 MORTALITY TABLE.

38 (b) IF THE ANNUITY STARTING DATE IS IN A LIMITATION YEAR BEGINNING ON
39 OR AFTER JULY 1, 2007 AND ASRS DOES NOT HAVE AN IMMEDIATELY COMMENCING
40 STRAIGHT LIFE ANNUITY PAYABLE AT BOTH AGE SIXTY-TWO AND THE AGE OF BENEFIT
41 COMMENCEMENT, THE ANNUAL AMOUNT OF A BENEFIT PAYABLE IN THE FORM OF A
42 STRAIGHT LIFE ANNUITY COMMENCING AT THE MEMBER'S ANNUITY STARTING DATE THAT
43 IS THE ACTUARIAL EQUIVALENT OF THE DOLLAR LIMITATION UNDER SECTION
44 415(b)(1)(A) OF THE INTERNAL REVENUE CODE AS ADJUSTED IN SUBSECTION A OF THIS
45 SECTION, WITH ACTUARIAL EQUIVALENCE COMPUTED USING A FIVE PER CENT INTEREST

1 RATE ASSUMPTION AND THE APPLICABLE MORTALITY TABLE AND EXPRESSING THE
2 MEMBER'S AGE BASED ON COMPLETED CALENDAR MONTHS AS OF THE ANNUITY START DATE.

3 (c) IF THE ANNUITY STARTING DATE IS IN A LIMITATION YEAR BEGINNING ON
4 OR AFTER JULY 1, 2007 AND ASRS HAS AN IMMEDIATELY COMMENCING STRAIGHT LIFE
5 ANNUITY PAYABLE AT BOTH AGE SIXTY-TWO AND THE AGE OF BENEFIT COMMENCEMENT,
6 THE LESSER OF:

7 (i) THE ADJUSTED DOLLAR LIMITATION DETERMINED IN ACCORDANCE WITH
8 SUBDIVISION (b) OF THIS PARAGRAPH, DETERMINED WITHOUT APPLYING THE
9 LIMITATIONS OF SECTION 415 OF THE INTERNAL REVENUE CODE.

10 (ii) THE PRODUCT OF THE DOLLAR LIMITATION UNDER SECTION 415(b)(1)(A)
11 OF THE INTERNAL REVENUE CODE AS ADJUSTED IN SUBSECTION A OF THIS SECTION,
12 MULTIPLIED BY THE RATIO OF THE ANNUAL AMOUNT OF THE IMMEDIATELY COMMENCING
13 STRAIGHT LIFE ANNUITY UNDER ASRS AT THE MEMBER'S ANNUITY STARTING DATE TO THE
14 ANNUAL AMOUNT OF THE IMMEDIATELY COMMENCING STRAIGHT LIFE ANNUITY UNDER ASRS
15 AT AGE SIXTY-TWO, DETERMINED WITHOUT APPLYING THE LIMITATIONS OF SECTION 415
16 OF THE INTERNAL REVENUE CODE.

17 3. IF THE RETIREMENT BENEFIT UNDER ASRS COMMENCES AFTER THE MEMBER
18 REACHES SIXTY-FIVE YEARS OF AGE, THE DOLLAR LIMITATION UNDER SECTION
19 415(b)(1)(A) OF THE INTERNAL REVENUE CODE AS ADJUSTED IN SUBSECTION A OF THIS
20 SECTION ON THAT BENEFIT IS INCREASED TO:

21 (a) IF THE ANNUITY STARTING DATE IS IN A LIMITATION YEAR BEGINNING
22 BEFORE JULY 1, 2007, THE ANNUAL AMOUNT OF A BENEFIT PAYABLE IN THE FORM OF A
23 STRAIGHT LIFE ANNUITY COMMENCING AT THE MEMBER'S ANNUITY STARTING DATE THAT
24 IS THE ACTUARIAL EQUIVALENT OF THE DOLLAR LIMITATION UNDER SECTION
25 415(b)(1)(A) AS ADJUSTED UNDER SECTION 415(d) OF THE INTERNAL REVENUE CODE,
26 WITH ACTUARIAL EQUIVALENCE COMPUTED USING WHICHEVER OF THE FOLLOWING PRODUCES
27 THE SMALLER ANNUAL AMOUNT:

28 (i) THE INTEREST RATE AND MORTALITY TABLE OR OTHER TABULAR FACTOR
29 SPECIFIED BY THE BOARD FOR DETERMINING ACTUARIAL EQUIVALENCE FOR DELAYED
30 RETIREMENT PURPOSES.

31 (ii) A FIVE PER CENT INTEREST RATE ASSUMPTION AND THE APPLICABLE
32 MORTALITY TABLE.

33 (b) IF THE ANNUITY STARTING DATE IS IN A LIMITATION YEAR BEGINNING ON
34 OR AFTER JULY 1, 2007 AND ASRS DOES NOT HAVE AN IMMEDIATELY COMMENCING
35 STRAIGHT LIFE ANNUITY PAYABLE AT BOTH AGE SIXTY-FIVE AND THE AGE OF BENEFIT
36 COMMENCEMENT, THE ANNUAL AMOUNT OF A BENEFIT PAYABLE IN THE FORM OF A
37 STRAIGHT LIFE ANNUITY COMMENCING AT THE MEMBER'S ANNUITY STARTING DATE THAT
38 IS THE ACTUARIAL EQUIVALENT OF THE DOLLAR LIMITATION UNDER SECTION
39 415(b)(1)(A) OF THE INTERNAL REVENUE CODE AS ADJUSTED IN SUBSECTION A OF THIS
40 SECTION, WITH ACTUARIAL EQUIVALENCE COMPUTED USING A FIVE PER CENT INTEREST
41 RATE ASSUMPTION AND THE APPLICABLE MORTALITY TABLE AND EXPRESSING THE
42 MEMBER'S AGE BASED ON COMPLETED CALENDAR MONTHS AS OF THE ANNUITY STARTING
43 DATE.

44 (c) IF THE ANNUITY STARTING DATE IS IN A LIMITATION YEAR BEGINNING ON
45 OR AFTER JULY 1, 2007 AND ASRS HAS AN IMMEDIATELY COMMENCING STRAIGHT LIFE

1 ANNUITY PAYABLE AT BOTH AGE SIXTY-FIVE AND THE AGE OF BENEFIT COMMENCEMENT,
2 THE LESSER OF:

3 (i) THE ADJUSTED DOLLAR LIMITATION DETERMINED IN ACCORDANCE WITH
4 SUBDIVISION (b) OF THIS PARAGRAPH, DETERMINED WITHOUT APPLYING THE
5 LIMITATIONS OF SECTION 415 OF THE INTERNAL REVENUE CODE.

6 (ii) THE PRODUCT OF THE DOLLAR LIMITATION UNDER SECTION 415(b)(1)(A)
7 OF THE INTERNAL REVENUE CODE AS ADJUSTED IN SUBSECTION A OF THIS SECTION,
8 MULTIPLIED BY THE RATIO OF THE ANNUAL AMOUNT OF THE IMMEDIATELY COMMENCING
9 STRAIGHT LIFE ANNUITY UNDER ASRS AT THE MEMBER'S ANNUITY STARTING DATE TO THE
10 ANNUAL AMOUNT OF THE IMMEDIATELY COMMENCING STRAIGHT LIFE ANNUITY UNDER ASRS
11 AT AGE SIXTY-FIVE, DETERMINED WITHOUT APPLYING THE LIMITATIONS OF SECTION 415
12 OF THE INTERNAL REVENUE CODE.

13 4. FOR PURPOSES OF APPLYING THE LIMITS OF SECTION 415 OF THE INTERNAL
14 REVENUE CODE, A RETIREMENT BENEFIT THAT IS PAYABLE IN ANY FORM OTHER THAN A
15 STRAIGHT LIFE ANNUITY AND THAT IS NOT SUBJECT TO SECTION 417(e)(3) OF THE
16 INTERNAL REVENUE CODE MUST BE ADJUSTED TO AN ACTUARIALLY EQUIVALENT STRAIGHT
17 LIFE ANNUITY THAT EQUALS EITHER:

18 (a) FOR LIMITATION YEARS BEGINNING ON OR AFTER JULY 1, 2007, THE
19 GREATER OF THE ANNUAL AMOUNT OF THE STRAIGHT LIFE ANNUITY, IF ANY, PAYABLE
20 UNDER ASRS AT THE SAME ANNUITY STARTING DATE, AND THE ANNUAL AMOUNT OF A
21 STRAIGHT LIFE ANNUITY COMMENCING AT THE SAME ANNUITY STARTING DATE THAT HAS
22 THE SAME ACTUARIAL PRESENT VALUE AS THE MEMBER'S FORM OF BENEFIT COMPUTED
23 USING AN INTEREST RATE OF FIVE PER CENT AND THE APPLICABLE MORTALITY TABLE
24 UNDER SECTION 417(e)(3) OF THE INTERNAL REVENUE CODE.

25 (b) FOR LIMITATION YEARS BEGINNING BEFORE JULY 1, 2007, THE ANNUAL
26 AMOUNT OF A STRAIGHT LIFE ANNUITY COMMENCING AT THE SAME ANNUITY STARTING
27 DATE THAT HAS THE SAME ACTUARIAL PRESENT VALUE AS THE MEMBER'S FORM OF
28 BENEFIT COMPUTED USING WHICHEVER OF THE FOLLOWING PRODUCES THE GREATER ANNUAL
29 AMOUNT:

30 (i) THE INTEREST RATE AND MORTALITY TABLE OR OTHER TABULAR FACTOR
31 SPECIFIED BY THE BOARD FOR ADJUSTING BENEFITS IN THE SAME FORM.

32 (ii) A FIVE PER CENT INTEREST RATE ASSUMPTION AND THE APPLICABLE
33 MORTALITY TABLE.

34 5. FOR THE PURPOSE OF APPLYING THE LIMITS OF SECTION 415 OF THE
35 INTERNAL REVENUE CODE, A RETIREMENT BENEFIT THAT IS PAYABLE IN ANY FORM OTHER
36 THAN A STRAIGHT LIFE ANNUITY TO WHICH SECTION 417(e)(3) OF THE INTERNAL
37 REVENUE CODE WOULD APPLY IF THAT SECTION OF THE INTERNAL REVENUE CODE WERE
38 APPLICABLE TO ASRS MUST BE ADJUSTED TO AN ACTUARIALLY EQUIVALENT STRAIGHT
39 LIFE ANNUITY THAT EQUALS:

40 (a) IF THE ANNUITY STARTING DATE IS IN A PLAN YEAR BEGINNING ON OR
41 AFTER JULY 1, 2006, THE ANNUAL AMOUNT OF THE STRAIGHT LIFE ANNUITY COMMENCING
42 AT THE SAME ANNUITY STARTING DATE THAT HAS THE SAME ACTUARIAL PRESENT VALUE
43 AS THE MEMBER'S FORM OF BENEFIT, USING WHICHEVER OF THE FOLLOWING PRODUCES
44 THE GREATER ANNUAL AMOUNT:

45 (i) THE INTEREST RATE AND MORTALITY TABLE OR OTHER TABULAR FACTOR
46 SPECIFIED BY THE BOARD FOR ADJUSTING BENEFITS IN THE SAME FORM.

1 (ii) A FIVE AND ONE-HALF PER CENT INTEREST RATE ASSUMPTION AND THE
2 APPLICABLE MORTALITY TABLE.

3 (iii) THE APPLICABLE INTEREST RATE UNDER SECTION 417(e)(3) OF THE
4 INTERNAL REVENUE CODE AND THE APPLICABLE MORTALITY TABLE, DIVIDED BY 1.05.

5 (b) IF THE ANNUITY STARTING DATE IS IN A PLAN YEAR BEGINNING IN JULY
6 1, 2004 OR JULY 1, 2005, THE ANNUAL AMOUNT OF THE STRAIGHT LIFE ANNUITY
7 COMMENCING AT THE SAME ANNUITY STARTING DATE THAT HAS THE SAME ACTUARIAL
8 PRESENT VALUE AS THE MEMBER'S FORM OF BENEFIT PAYABLE, USING WHICHEVER OF THE
9 FOLLOWING PRODUCES THE GREATER ANNUAL AMOUNT:

10 (i) THE INTEREST RATE AND MORTALITY TABLE OR OTHER TABULAR FACTOR
11 SPECIFIED BY THE BOARD FOR ADJUSTING BENEFITS IN THE SAME FORM.

12 (ii) A FIVE AND ONE-HALF PER CENT INTEREST ASSUMPTION AND THE
13 APPLICABLE MORTALITY TABLE.

14 (c) IF THE ANNUITY STARTING DATE IS ON OR AFTER JULY 1, 2004 AND
15 BEFORE DECEMBER 31, 2004, AND ASRS APPLIES THE TRANSITION RULE IN SECTION
16 101(d)(3) OF THE PENSION FUNDING EQUITY ACT OF 2005 IN LIEU OF THE RULE IN
17 SUBDIVISION (b) OF THIS PARAGRAPH, THE ANNUAL AMOUNT OF THE STRAIGHT LIFE
18 ANNUITY COMMENCING AT THE SAME ANNUITY STARTING DATE THAT HAS THE SAME
19 ACTUARIAL PRESENT VALUE AS THE MEMBER'S FORM OF BENEFIT, DETERMINED IN
20 ACCORDANCE WITH INTERNAL REVENUE SERVICE NOTICE 2004-78.

21 6. WHEN CALCULATING THE LIMITATIONS OF PARAGRAPH 4 OR 5 OF THIS
22 SUBSECTION, THE PORTION OF ANY JOINT OR SURVIVOR ANNUITY THAT CONSTITUTES A
23 QUALIFIED JOINT AND SURVIVOR ANNUITY AS DEFINED IN SECTION 417 OF THE
24 INTERNAL REVENUE CODE SHALL BE DISREGARDED.

25 D. Subsection C, paragraphs 1 and 2 of this section do not apply to
26 income received from ASRS as a pension, annuity or similar allowance as a
27 result of the recipient becoming disabled by personal injury or sickness or
28 to amounts received from ASRS by beneficiaries, survivors or the estate of a
29 member as a result of the death of the member.

30 E. Notwithstanding any other provision of this section, the annual
31 benefit payable under this article may be reduced to the extent necessary, as
32 determined by the board, to prevent disqualification of ASRS under section
33 415 of the internal revenue code that imposes additional limitations on the
34 annual benefits payable to members who also may be participating in another
35 tax qualified pension or savings plan of this state. An employer shall not
36 provide employee retirement or deferred benefits if the benefits authorized
37 by this section and as required by federal law result in the failure of ASRS
38 to meet federal qualification standards as applied to public pension plans.
39 The board shall advise affected members of any additional information
40 concerning their annual benefits required by this subsection. All benefits
41 payable pursuant to this subsection shall comply with the limitations of
42 benefits contained in section 415 of the internal revenue code and the final
43 treasury regulations issued under that section. Notwithstanding any
44 provision of this article to the contrary, if the annual benefits within the
45 meaning of section 415 of the internal revenue code ~~are exceeded~~ for any
46 member EXCEED THE LIMITS OF SECTION 415(b) OF THE INTERNAL REVENUE CODE AND

1 THIS SECTION, ASRS may only correct the excess pursuant to the employee plans
2 compliance resolution system prescribed in internal revenue service revenue
3 procedure 2008-50 or any future guidance by the internal revenue service,
4 including the preamble of the final treasury regulations issued under section
5 415 of the internal revenue code.

6 F. If the maximum amount of benefit allowed under section 415 of the
7 internal revenue code is increased after the commencement date of a member's
8 benefit due to any cost of living adjustment announced by the United States
9 secretary of the treasury pursuant to the provisions of section 415(d) of the
10 internal revenue code, the amount of the monthly benefit payable under ASRS
11 to a member whose benefit is restricted due to the provisions of section
12 415(d) of the internal revenue code shall be increased by the board as of the
13 date prescribed by the United States secretary of the treasury on which the
14 increase shall become effective. The increase shall reflect the increase in
15 the amount of retirement income that may be payable under this article as a
16 result of the cost of living adjustment.

17 G. In determining the adjustments to the defined benefit dollar
18 limitation authorized by subsection A of this section, the board shall
19 prescribe a larger defined benefit dollar limitation if prescribed by the
20 United States secretary of the treasury pursuant to section 415(d) of the
21 internal revenue code. An adjustment to the defined benefit dollar
22 limitation prescribed in subsection A of this section is not effective before
23 the first calendar year for which the United States secretary of the treasury
24 publishes the adjustment. After it is prescribed by the board, the new
25 defined benefit dollar limitation applies to the limitation year ending with
26 or within the calendar year for which the secretary of the treasury makes the
27 adjustment.

28 H. For the purposes of the limitations prescribed by this section, all
29 member and employer contributions made to ASRS to provide a member benefits
30 pursuant to section 38-771 or 38-771.01 and all member contributions that are
31 not treated as picked up by the employer under section 414(h)(2) of the
32 internal revenue code shall be treated as made to a separate defined
33 contribution plan.

34 I. On termination OR PARTIAL TERMINATION of ASRS, the accrued benefit
35 of each member is, as of the date of termination OR PARTIAL TERMINATION,
36 fully vested and nonforfeitable TO THE EXTENT THEN FUNDED.

37 J. If ASRS terminates, the benefit of any highly compensated employee
38 as defined in section 414(q) of the internal revenue code and any highly
39 compensated former employee is limited to a benefit that is nondiscriminatory
40 under section 401(a)(4) of the internal revenue code and as follows:

41 1. Benefits distributed to any of the twenty-five active and former
42 highly compensated employees with the greatest compensation in the current or
43 any prior fiscal year are restricted so that the annual payments are no
44 greater than an amount equal to the payment that would be made on behalf of
45 the member under a straight life annuity that is the actuarial equivalent of
46 the sum of the member's accrued benefit, the member's other benefits under

1 ASRS, excluding a social security supplement as defined in 26 Code of Federal
2 Regulations section 1.411(a)-7(C)(4)(ii), and the amount the member is
3 entitled to receive under a social security supplement.

4 2. Paragraph 1 of this subsection does not apply if either:

5 (a) After payment of the benefit to a member described in paragraph 1
6 of this subsection, the value of ASRS assets equals or exceeds one hundred
7 ten per cent of the value of the current liabilities, as defined in section
8 412(l)(7) of the internal revenue code, of ASRS.

9 (b) The value of the benefits for a member described in paragraph 1 of
10 this subsection is less than one per cent of the value of the current
11 liabilities, as defined in section 412(l)(7) of the internal revenue code, of
12 ASRS before distribution.

13 (c) The value of the benefits payable by ASRS to a member described in
14 paragraph 1 of this subsection does not exceed three thousand five hundred
15 dollars.

16 K. For the purposes of subsection J of this section, "benefit"
17 includes loans in excess of the amount prescribed in section 72(p)(2)(A) of
18 the internal revenue code, any periodic income, any withdrawal values payable
19 to a living member and any death benefits not provided for by insurance on
20 the member's life.

21 L. On retirement of a member who was a retired member, who resumed
22 active membership and who subsequently retires, the limitations of this
23 section in effect on the member's subsequent retirement apply to the member's
24 retirement benefit payable as recomputed pursuant to section 38-766. In
25 addition, the sum of the present value of the member's recomputed retirement
26 benefits plus the present value of the benefits the member received during
27 the member's prior retirement shall not exceed the present value of the
28 limitations in effect on the member's subsequent retirement. The limitations
29 prescribed in this subsection shall not reduce a member's retirement benefit
30 below the retirement benefit the member was receiving before the member
31 resumed active membership. For the purposes of determining present value
32 under this subsection, the board shall use the actuarial equivalent
33 assumptions provided in section 38-711, paragraph 2.

34 M. For the purposes of this section:

35 1. The following adjustments shall be made to the definition of
36 compensation prescribed in subsection 0 of this section:

37 (a) Compensation shall be adjusted for the types of compensation that
38 are prescribed in this paragraph and that are paid after a member's severance
39 from employment with an employer. Amounts described in subdivisions (b), (c)
40 and (d) OF THIS PARAGRAPH may be included only as compensation to the extent
41 the amounts are paid by the later of two and one-half months after severance
42 from employment or by the end of the limitation year that includes the date
43 of the severance from employment. Any other payment of compensation paid
44 after severance of employment that is not described in the types of
45 compensation prescribed in this paragraph is not considered compensation for

1 purposes of this section, even if payment is made within the time period
2 prescribed in this subdivision.

3 (b) Compensation shall include regular pay after severance of
4 employment if the payment is regular compensation for services performed
5 during the member's regular working hours or compensation for services
6 performed outside the member's regular working hours, such as overtime or
7 shift differential, commission, bonus or other similar payments, and the
8 payment would have been paid to the member before a severance from employment
9 if the member had continued in employment with the employer.

10 (c) Leave cash-outs shall be included in compensation if those amounts
11 would have been included in compensation if they were paid before the
12 member's severance from employment and the amounts are payment for unused
13 accrued bona fide sick, vacation or other leave, but only if the member would
14 have been able to use the leave if employment had continued.

15 (d) Deferred compensation shall be included in compensation if the
16 compensation would have been included in compensation if it had been paid
17 before the member's severance from employment and the compensation is
18 received pursuant to a nonqualified unfunded deferred compensation plan, but
19 only if the payment would have been paid at the same time if the member had
20 continued in employment with the employer and only to the extent that the
21 payment is includable in the member's gross income.

22 (e) Compensation does include payments to an individual who does not
23 currently perform services for an employer by reason of qualified military
24 service as defined in section 414(u)(5) of the internal revenue code to the
25 extent those payments do not exceed the amounts the individual would have
26 received if the individual had continued to perform services for the employer
27 rather than entering qualified military service.

28 (f) Compensation does not include compensation paid to a member who is
29 permanently and totally disabled as defined in section 22(e)(3) of the
30 internal revenue code.

31 (g) Compensation shall include amounts that are includable in the
32 gross income of a member as required by section 409A or section 457(f)(1)(A)
33 of the internal revenue code or because the amounts are constructively
34 received by the member.

35 2. Compensation for a limitation year shall not include amounts earned
36 but not paid during the limitation year solely because of the timing of pay
37 periods and pay dates.

38 3. Payments awarded by an administrative agency or court or pursuant
39 to a bona fide agreement by an employer to compensate a member for lost wages
40 are compensation for the limitation year to which the back pay relates, but
41 only to the extent the payments represent wages and compensation that would
42 otherwise be included in compensation under this section.

43 N. The definition of limitation year prescribed in subsection 0 of
44 this section may only be changed by an amendment to subsection 0, except that
45 if ASRS is terminated effective as of a date other than the last day of the

1 limitation year, the termination shall be treated as if this section has been
2 amended to change the definition of limitation year.

3 0. For the purposes of this section:

4 1. Annual additions shall be determined as provided in section 38-747,
5 subsection 0.

6 2. "Annual benefit" means a benefit, including any portion of a
7 member's retirement benefit payable to an alternate payee under a qualified
8 domestic relations order that satisfies the requirements prescribed in
9 section 414(p)(1)(A)(i) of the internal revenue code and section 38-773,
10 payable annually in the form of a straight life annuity, disregarding the
11 portion of a joint and survivor annuity that constitutes a qualified joint
12 and survivor annuity as defined in section 417 of the internal revenue code,
13 with no ancillary or incidental benefits or rollover contributions and
14 excluding any portion of the benefit derived from member contributions or
15 other contributions that are treated as a separate defined contribution plan
16 under section 415 of the internal revenue code but including any of those
17 contributions that are picked up by the employer under section 414(h) of the
18 internal revenue code, or that otherwise are not treated as a separate
19 defined contribution plan. If the benefit is payable in another form, the
20 determination as to whether the limitation described in subsection A of this
21 section has been satisfied shall be made by the board by adjusting the
22 benefit so that it is actuarially equivalent to the annual benefit described
23 in this paragraph in accordance with the regulations promulgated by the
24 United States secretary of the treasury. In addition, for determining the
25 annual benefit attributable to member contributions, the factors described in
26 section 411(c)(2)(B) of the internal revenue code and the regulations
27 promulgated under the internal revenue code shall be used by the board
28 regardless of whether section 411 of the internal revenue code applies to
29 ASRS. The factors described in section 411(c)(2)(B) of the internal revenue
30 code shall be those factors described under section 417(e)(3) of the internal
31 revenue code and determined on the basis of the 417(e) mortality table and an
32 interest rate as prescribed in subsection C, ~~paragraphs 4 and~~ PARAGRAPH 5 of
33 this section.

34 3. "APPLICABLE MORTALITY TABLE" MEANS THE MORTALITY TABLE DESCRIBED IN
35 INTERNAL REVENUE SERVICE REVENUE RULING 2001-62.

36 ~~3-~~ 4. "Compensation" means the member's earned income, wages,
37 salaries, fees for professional service and other amounts received for
38 personal services actually rendered in the course of employment with the
39 employer and includes amounts described in sections 104(a)(3) and 105(a) of
40 the internal revenue code, but only to the extent that these amounts are
41 includable in the gross income of the member. Compensation also includes any
42 elective deferral as defined in section 402(g)(3) of the internal revenue
43 code and any amount that is contributed or deferred by an employer at the
44 election of a member and that is not includable in the gross income of the
45 member by reason of section 125, 132(f)(4) or 457 of the internal revenue
46 code. Compensation does not mean:

1 (a) Employer contributions to a plan of deferred compensation to the
2 extent the contributions are not included in the gross income of the employee
3 for the taxable year in which contributed and any distributions from a plan
4 of deferred compensation, regardless of whether the amounts are includable in
5 gross income of the employee when distributed, except that any amount
6 received by a member pursuant to an unfunded nonqualified plan may be
7 considered as compensation for the purposes of this section in the year the
8 amounts are includable in the gross income of the member under the internal
9 revenue code.

10 (b) Other amounts that receive special tax benefits, such as premiums
11 for group term life insurance, but only to the extent that the premiums are
12 not includable in the gross income of the employee, qualified transportation
13 fringe benefits as defined in section 132 of the internal revenue code and,
14 effective for plan years beginning from and after December 31, 1987, any
15 amounts under section 125 of the internal revenue code that are not available
16 to a ~~participant~~ MEMBER in cash in lieu of group health coverage because the
17 member is unable to certify that the member has other health coverage.

18 ~~4.~~ 5. "Defined benefit dollar limitation" means the dollar limitation
19 determined under subsection A of this section.

20 ~~5.~~ 6. "Defined benefit plan" has the same meaning prescribed in
21 section 414(j) of the internal revenue code.

22 ~~6.~~ 7. "Defined contribution plan" has the same meaning prescribed in
23 section 414(i) of the internal revenue code.

24 ~~7.~~ 8. "Limitation year" and "years of service" ~~means~~ MEAN the fiscal
25 year.

26 Sec. 9. Section 38-776, Arizona Revised Statutes, is amended to read:
27 ~~38-776.~~ Spousal waiver and consent

28 A. A member's current spouse may consent to one of the following
29 requirements established in section 38-755 or 38-760 by signing and
30 submitting an acknowledgement in a manner established by ASRS:

31 1. A change of beneficiary that provides the member's current spouse
32 with less than fifty per cent of the member's account balance.

33 2. The member's retirement application that does not name the member's
34 current spouse as a contingent annuitant of a joint and survivor annuity.

35 3. A change or rescission of the member's current spouse's contingent
36 annuitant status.

37 B. If the member's current spouse is not capable of executing the
38 acknowledgement because of an incapacitating mental or physical condition, a
39 power of attorney or guardian may execute the acknowledgment on the current
40 spouse's behalf.

41 C. The member may affirm in writing under penalty of perjury in a
42 manner determined by ASRS that spousal consent is not required because of one
43 of the following reasons:

44 1. The member is not married.

45 2. The member's current spouse has no identifiable community property
46 interest in the member's benefits.

1 3. The member does not know, and has taken all reasonable steps to
2 determine, the location of the member's current spouse.

3 4. The member has received notification from the board that a domestic
4 relations order is acceptable pursuant to section 38-773 and that domestic
5 relations order requires ASRS to pay benefits to an alternate payee that is
6 contrary to the requirements of section 38-760.

7 5. Obtaining consent violates another law, ~~or~~ AN existing CONTRACT OR
8 A court order.

9 D. This section does not abrogate any community property laws of this
10 state.

11 E. Payments or distributions made by ASRS in good faith reliance on
12 the consent or waiver of a member's current spouse, the affirmations of a
13 member contained in documents submitted to ASRS pursuant to this section or
14 the member's indication to ASRS that the member is not married constitute a
15 full and complete discharge and release of all liability of the board or
16 ASRS, or both, respecting these payments or distributions.

17 F. If questions arise as to the distribution of a particular member's
18 account, ASRS shall use reasonable judgment to distribute the account in a
19 manner that is consistent with Arizona community property laws and
20 interpretations of those laws.

21 Sec. 10. Section 38-782, Arizona Revised Statutes, is amended to read:

22 38-782. Group health and accident coverage for retired public
23 employees and elected officials and their dependents;
24 definition

25 A. The board shall establish group health and accident coverage for
26 eligible retired, SURVIVING and disabled members and their dependents.
27 ~~Eligible retired and disabled members are those members who are receiving~~
28 ~~retirement benefits from ASRS or long term disability benefits pursuant to~~
29 ~~section 38-651.03 or article 2.1 of this chapter and who elect not to obtain~~
30 ~~health and accident insurance through their former employer. THE BOARD MAY~~
31 ~~ESTABLISH A SELF-INSURANCE PROGRAM FOR THE PURPOSES OF THIS SUBSECTION IF THE~~
32 ~~BOARD DETERMINES THAT SELF-INSURING WOULD BE LESS EXPENSIVE THAN AND AT LEAST~~
33 ~~AS EFFECTIVE AS A FULLY INSURED PLAN, WHILE CONSIDERING THE RISKS AND COSTS.~~
34 ~~IF THE BOARD ESTABLISHES A SELF-INSURANCE PROGRAM, THE BOARD SHALL PROVIDE~~
35 ~~THAT THE SELF-INSURANCE PROGRAM INCLUDE ALL HEALTH COVERAGE BENEFITS THAT ARE~~
36 ~~REQUIRED PURSUANT TO TITLE 20. ASRS SHALL ESTABLISH A SEPARATE ACCOUNT FOR~~
37 ~~ANY SELF-INSURANCE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION IN AN AMOUNT~~
38 ~~DETERMINED APPROPRIATE BY ASRS. ASRS SHALL NOT USE OR DIVERT ANY PART OF THE~~
39 ~~CORPUS OR INCOME OF THE ACCOUNT FOR ANY PURPOSE OTHER THAN TO ADMINISTER THE~~
40 ~~SELF-INSURANCE PROGRAM UNLESS THE BOARD DETERMINES THAT A SELF-INSURANCE~~
41 ~~PROGRAM SHOULD NO LONGER BE OFFERED. IF A SELF-INSURANCE PROGRAM IS NO~~
42 ~~LONGER OFFERED, MONIES IN THE ACCOUNT SHALL BE TRANSFERRED TO ANOTHER ACCOUNT~~
43 ~~OF ASRS AS DETERMINED BY ASRS.~~ If an insured retired or disabled member dies
44 before the insured member's dependent beneficiary or an insured surviving
45 dependent, the dependent beneficiary or insured surviving dependent is
46 entitled to coverage at group rates if the dependent beneficiary or surviving

1 dependent elects to continue in the coverage within six months of the insured
2 member's death and the dependent beneficiary or surviving dependent agrees to
3 pay the cost of the premium for group health and accident insurance. On
4 notification of the insured member's death, the board shall immediately
5 notify a dependent beneficiary or an insured surviving dependent of the
6 provisions of this section.

7 B. Retired members of the public safety personnel retirement system,
8 the elected officials' retirement plan, the corrections officer retirement
9 plan or the optional retirement programs authorized pursuant to sections
10 15-1451 and 15-1628 and their dependents who are receiving benefits from the
11 public safety personnel retirement system, the elected officials' retirement
12 plan, the corrections officer retirement plan or the optional retirement
13 programs authorized pursuant to sections 15-1451 and 15-1628 and who are not
14 covered by section 38-651.01 may participate in group health and accident
15 coverage provided pursuant to this section. On the death of an insured
16 member of the public safety personnel retirement system, the elected
17 officials' retirement plan, the corrections officer retirement plan or the
18 optional retirement programs authorized pursuant to sections 15-1451 and
19 15-1628, the insured surviving dependent is entitled to coverage at group
20 rates. Except as provided in subsection H of this section, the surviving
21 dependent shall be charged amounts that are sufficient to pay for the premium
22 and administrative expense of providing the coverage.

23 C. The board may enter into agreements with retired, **SURVIVING** and
24 disabled members of ASRS who elect to obtain the coverage provided pursuant
25 to subsection A of this section. Those agreements may include provisions for
26 the deduction from the retirement benefits of the members who elect to obtain
27 the coverage of amounts sufficient to pay for the premium not covered under
28 retirement benefits and the administrative expense of providing the coverage.

29 D. The board of trustees of the public safety personnel retirement
30 system may enter into agreements with retired members of the public safety
31 personnel retirement system, the elected officials' retirement plan, the
32 corrections officer retirement plan and their dependents who elect to obtain
33 the coverage provided pursuant to this section. Those agreements may include
34 provisions for the deduction from the retirement benefits of the members who
35 elect to obtain the coverage of amounts sufficient to pay for the premium not
36 covered under their retirement benefits and the administrative expense of
37 providing the coverage.

38 E. The board may enter into agreements with retired members of the
39 optional retirement programs authorized pursuant to sections 15-1451 and
40 15-1628 and their dependents who elect to obtain the coverage provided
41 pursuant to this section. Those agreements may include provisions for the
42 payment of amounts sufficient to pay for the premium and administrative
43 expense of providing the coverage.

44 F. If an insured member receiving long-term disability benefits
45 pursuant to article 2.1 of this chapter becomes ineligible for the long-term
46 disability benefits, the member and the covered dependents of the member may

1 continue to participate in the group health and accident coverage provided
2 pursuant to this section subject to the following conditions:

3 1. Participation in the coverage is limited to twelve months from the
4 date the member ceases eligibility for benefits under article 2.1 of this
5 chapter or the member commences employment, whichever occurs first.

6 2. The member shall pay the full premium cost of the coverage
7 selected, and the member is not eligible for benefits pursuant to section
8 38-783.

9 3. If a member who participates in the coverage dies during the twelve
10 month period provided by this subsection, covered dependents of the member
11 may continue coverage after the death of the member through the end of the
12 twelve month period. Covered dependents of the member who continue coverage
13 pursuant to this paragraph shall pay the full premium cost of the coverage
14 selected and are not eligible for benefits pursuant to section 38-783.

15 G. Retired, SURVIVING or disabled members who are not eligible for
16 medicare, who live in this state, who enroll in a qualifying health
17 maintenance organization under this section and who reside outside the area
18 of a qualifying health maintenance organization shall be offered the option
19 of enrolling with a qualified health maintenance organization offered through
20 their provider under the same premiums as if they lived within the area
21 boundaries of the qualified health maintenance organization provided that:

22 1. All medical services are rendered and received at an office
23 designated by the qualifying health maintenance organization or at a facility
24 referred by the health maintenance organization.

25 2. All nonemergency or nonurgent travel, ambulatory and other expenses
26 from the residence area of the member to the designated office of the
27 qualifying health maintenance organization or the facility referred by the
28 health maintenance organization are the responsibility of and at the expense
29 of the member.

30 3. All emergency or urgent travel, ambulatory and other expenses from
31 the residence area of the member to the designated office of the qualifying
32 health maintenance organization or the facility referred by the health
33 maintenance organization shall be paid pursuant to any agreement between the
34 health maintenance organization and the member living outside the area of the
35 qualifying health maintenance organization.

36 H. Public monies shall not be spent to pay all or any part of the
37 insurance premium pursuant to this section except for monies authorized to be
38 paid for any insured from the retirement plan from which the insured is
39 receiving benefits.

40 I. FOR THE PURPOSES OF THIS SECTION, "ELIGIBLE RETIRED, SURVIVING AND
41 DISABLED MEMBER" MEANS A RETIRED MEMBER WHO IS RECEIVING RETIREMENT BENEFITS
42 FROM ASRS, A DESIGNATED BENEFICIARY OF A DECEASED MEMBER WHO IS RECEIVING A
43 SURVIVOR BENEFIT PURSUANT TO SECTION 38-762, SUBSECTION C AS MONTHLY INCOME
44 OR A DISABLED MEMBER WHO IS RECEIVING LONG-TERM DISABILITY BENEFITS PURSUANT
45 TO SECTION 38-651.03 OR ARTICLE 2.1 OF THIS CHAPTER, AND WHO DOES NOT

1 OTHERWISE ELECT TO OBTAIN COVERAGE UNDER A GROUP HEALTH AND ACCIDENT
2 INSURANCE PLAN OR PROGRAM.

3 Sec. 11. Appropriation; ASRS; exemption

4 A. The sum of \$200,000 is appropriated from the Arizona state
5 retirement system administration account fund in fiscal year 2013-2014 to the
6 Arizona state retirement system for the implementation of this act.

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

10 Sec. 12. Retroactivity

11 The amendments to the following sections apply retroactively to from
12 and after June 30, 2013:

13 1. Section 38-755, Arizona Revised Statutes, as amended by Laws 2012,
14 chapter 87, section 4 and chapter 88, section 1, and this act.

15 2. Section 38-760, Arizona Revised Statutes, as amended by Laws 2012,
16 chapter 88, section 2 and chapter 362, section 11, and this act.

17 3. Section 38-776, Arizona Revised Statutes, as amended by this act.

18 Sec. 13. Effective date

19 Section 38-762, Arizona Revised Statutes, as amended by this act, is
20 effective from and after December 31, 2013.

APPROVED BY THE GOVERNOR APRIL 16, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2013.