

Senate Engrossed

ASRS; modifications

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

**CHAPTER 145**  
**SENATE BILL 1083**

AN ACT

AMENDING SECTIONS 15-187, 38-711, 38-714, 38-737, 38-740, 38-741, 38-747, 38-750, 38-757, 38-758, 38-760, 38-762, 38-763, 38-764, 38-766, 38-768, 38-770, 38-775, 38-781, 38-797.06 AND 38-797.07, ARIZONA REVISED STATUTES; REPEALING SECTION 38-797.09, ARIZONA REVISED STATUTES; AMENDING SECTION 38-921, ARIZONA REVISED STATUTES; 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 15-187, Arizona Revised Statutes, is amended to  
3 read:

4 15-187. Charter schools; teachers; employment benefits

5 A. A teacher who is employed by or teaching at a charter school and  
6 who was previously employed as a teacher at a school district shall not  
7 lose any right of certification, retirement or salary status or any other  
8 benefit provided by law, by the rules of the governing board of the school  
9 district or by the rules of the board of directors of the charter school  
10 due to teaching at a charter school on the teacher's return to the school  
11 district.

12 B. A teacher who is employed by or teaching at a charter school and  
13 who submits an employment application to the school district where the  
14 teacher was employed immediately before employment by or at a charter  
15 school shall be given employment preference by the school district if both  
16 of the following conditions are met:

17 1. The teacher submits an employment application to the school  
18 district ~~no~~ NOT later than three years after ceasing employment with the  
19 school district.

20 2. A suitable position is available at the school district.

21 C. A charter school that is sponsored by a university, a community  
22 college district, a group of community college districts, the state board  
23 of education or the state board for charter schools is eligible to  
24 participate in the Arizona state retirement system pursuant to title 38,  
25 chapter 5, article 2. The charter school is a political subdivision of  
26 this state for purposes of title 38, chapter 5, ~~article~~ ARTICLES 2  
27 AND 2.1.

28 D. Notwithstanding any other law, a charter school shall not adopt  
29 policies that provide employment retention priority for teachers based on  
30 tenure or seniority.

31 Sec. 2. Section 38-711, Arizona Revised Statutes, is amended to  
32 read:

33 38-711. Definitions

34 In this article, unless the context otherwise requires:

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

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

43 3. "ASRS" means the Arizona state retirement system established by  
44 this article.

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

3           5. "Average monthly compensation" means:

4           (a) For a member whose membership in ASRS commenced before  
5 January 1, 1984 and who left the member's contributions on deposit or  
6 reinstated forfeited credited service pursuant to section 38-742 for a  
7 period of employment that commenced before January 1, 1984, the higher of  
8 either:

9           (i) The monthly average of compensation that is calculated pursuant  
10 to subdivision (b) of this paragraph.

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

30           (b) For a member whose membership in ASRS commenced on or after  
31 January 1, 1984 but before July 1, 2011, the monthly average of  
32 compensation on which contributions were remitted during a period of  
33 thirty-six consecutive months during which a member receives the highest  
34 compensation within the last one hundred twenty months of credited  
35 service. Any month for which no contributions are reported to ASRS or  
36 that falls within a period of nonpaid or partially paid leave of absence  
37 or sabbatical leave shall be excluded from the computation. The  
38 thirty-six consecutive months may entirely precede, may be both before and  
39 after or may be completely after any excluded months. If the member was  
40 employed for less than thirty-six consecutive months, the average monthly  
41 compensation shall be based on the total consecutive months worked.

42           (c) For a member whose membership in ASRS commenced on or after  
43 July 1, 2011, the monthly average of compensation on which contributions  
44 were remitted during a period of sixty consecutive months during which a  
45 member receives the highest compensation within the last one hundred

1 twenty months of credited service. Any month for which no contributions  
2 are reported to ASRS or that falls within a period of nonpaid or partially  
3 paid leave of absence or sabbatical leave shall be excluded from the  
4 computation. The sixty consecutive months may entirely precede, may be  
5 both before and after or may be completely after any excluded months. If  
6 the member was employed for less than sixty consecutive months, the  
7 average monthly compensation shall be based on the total consecutive  
8 months worked.

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

10 7. "Compensation" means:

11 (a) For members whose membership began on or before December 31,  
12 2019, the gross amount paid to a member by an employer as salary or wages,  
13 including amounts that are subject to deferred compensation or tax shelter  
14 agreements, for services rendered to or for an employer, or that would  
15 have been paid to the member except for the member's election or a legal  
16 requirement that all or part of the gross amount be used for other  
17 purposes, but does not include amounts paid in excess of compensation  
18 limits established in section 38-746. Compensation includes amounts paid  
19 as salary or wages to a member by a second employer if the member meets  
20 the requirements prescribed in paragraph 23, subdivision (b) of this  
21 section with that second employer. Compensation, as provided in paragraph  
22 5, subdivision (b) or (c) of this section, does not include:

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

27 (ii) Damages, costs, attorney fees, interest or other penalties  
28 paid pursuant to a court order or a compromise settlement or agreement to  
29 satisfy a grievance or claim even though the amount of the payment is  
30 based in whole or in part on previous salary or wage levels, except that,  
31 if the court order or compromise settlement or agreement directs salary or  
32 wages to be paid for a specific period of time, the payment is  
33 compensation for that specific period of time. If the amount directed to  
34 be paid is less than the actual salary or wages that would have been paid  
35 for the period if service had been performed, the contributions for the  
36 period shall be based on the amount of compensation that would have been  
37 paid if the service had been performed.

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

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

42 (v) Amounts that are paid as salary or wages to a member for which  
43 employer contributions have not been paid.

1 (b) For a member whose membership began on or after January 1,  
2 2020, only gross wages paid to a member by the employer for services  
3 rendered to the employer during the period considered as credited service,  
4 including amounts reported as wages and tips and other compensation on the  
5 member's federal form W-2 wage and tax statement, including pretax  
6 deductions, except for the following:

7 (i) Payments made for accrued leave that is not being used to  
8 replace regular work hours, whether paid in a lump sum or in installments.

9 (ii) Payments made on termination from employment, whether paid in  
10 a lump sum or in installments or as a bonus or an incentive for  
11 termination or retirement.

12 (iii) Employer-paid contributions that are made to, and any  
13 distributions from, plans, programs or arrangements qualified under  
14 section 117, 125, 129, 401, 403, 408 or 457 of the internal revenue code.

15 (iv) Payments for allowances.

16 (v) Reimbursements for employee business expenses or employee  
17 personal expenses.

18 (vi) Employer-paid contributions for coverage under, or  
19 distributions from, an accident, health or life insurance plan, program or  
20 arrangement.

21 (vii) Payments made in lieu of any employer-paid insurance  
22 coverage.

23 (viii) Workers' compensation, unemployment compensation payments  
24 and disability payments.

25 (ix) Merit awards pursuant to section 38-613.

26 (x) Payments paid pursuant to a court order or settlement agreement  
27 to satisfy a claim even though the amount of the payment is based on  
28 previous salary or wage levels, except if the court order or settlement  
29 agreement directs salary or wages to be paid for a specific period of  
30 time, the payment is compensation for that specific period of time.

31 (xi) Payments made in the form of goods or services in lieu of  
32 gross wages.

33 (xii) Any other payment that is not reported as wages and tips and  
34 other compensation on the member's federal W-2 wage and tax statement for  
35 actual services rendered.

36 (xiii) Payments in excess of the section ~~415~~ 401(a)(17) of the  
37 internal revenue code limits established in section 38-746.

38 (xiv) Payments for any other employment benefit.

39 (xv) Payments for which employer or employee contributions have not  
40 been paid.

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

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

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

5           (a) Annualized compensation of the typical pay period amount  
6 immediately before the date of a request to ASRS to purchase credited  
7 service pursuant to section 38-743, 38-744 or 38-745. The typical pay  
8 period amount shall be determined by taking the five pay periods  
9 immediately before the date of a request, disregarding the highest and  
10 lowest compensation amount pay periods and averaging the three remaining  
11 pay periods.

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

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

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

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

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

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

32           13. "Employer" means:

33           (a) This state.

34           (b) Participating political subdivisions.

35           (c) Participating political subdivision entities.

36           14. "Employer contributions" means all amounts paid into ASRS by an  
37 employer on behalf of a member.

38           15. "Fiscal year" means the period from July 1 of any year to June  
39 30 of the following year.

40           16. "Inactive member" means a member who previously made  
41 contributions to ASRS and who satisfies each of the following:

42           (a) Has not retired.

43           (b) Is not eligible for active membership in ASRS.

44           (c) Is not currently making contributions to ASRS.

45           (d) Has not withdrawn contributions from ASRS.

- 1           17. "Interest" means the assumed actuarial investment earnings rate  
2 approved by the board.
- 3           18. "Internal revenue code" means the United States internal  
4 revenue code of 1986, as amended.
- 5           19. "Investment manager" means the persons, companies, banks,  
6 insurance company investment funds, mutual fund companies, management or  
7 any combinations of those entities that are appointed by ASRS and that  
8 have responsibility and authority for investment of the monies of ASRS.
- 9           20. "Late retirement" means retirement after normal retirement.
- 10          21. "Leave of absence" means any unpaid leave authorized by the  
11 employer, including leaves authorized for sickness or disability or to  
12 pursue education or training.
- 13          22. "Life annuity" means equal monthly installments payable during  
14 the member's lifetime after retirement.
- 15          23. "Member":
- 16           (a) Means any employee of an employer on the effective date.
- 17           (b) Means all employees of an employer who are eligible for  
18 membership pursuant to section 38-727 and who are engaged to work at least  
19 twenty weeks in each fiscal year and at least twenty hours each week.
- 20           (c) Means any person receiving a benefit under ASRS.
- 21           (d) Means any person who is a former active member of ASRS and who  
22 has not withdrawn contributions from ASRS pursuant to section 38-740.
- 23           (e) Does not include any employee of an employer who is otherwise  
24 eligible pursuant to this article and who begins service in a limited  
25 appointment for not more than eighteen months on or after July 1, 1979.  
26 If the employment exceeds eighteen months, the employee shall be covered  
27 by ASRS as of the beginning of the nineteenth month of employment. In  
28 order to be excluded under this subdivision, classifications of employees  
29 designated by employers as limited appointments must be approved by the  
30 director.
- 31           (f) Does not include any leased employee. For the purposes of  
32 section 414(n) of the internal revenue code, "leased employee" means an  
33 individual who:
- 34           (i) Is not otherwise an employee of an employer.
- 35           (ii) Pursuant to a leasing agreement between the employer and  
36 another person, performs services for the employer on a substantially  
37 full-time basis for at least one year.
- 38           (iii) Performs services under the primary direction or control of  
39 the employer.
- 40          24. "Member contributions" means all amounts paid to ASRS by a  
41 member.
- 42          25. "Normal costs" means the sum of the individual normal costs for  
43 all active members for each fiscal year. The normal cost for an  
44 individual active member is the cost that is assigned to the fiscal year,  
45 through June 29, 2016, using the projected unit credit method and,

1 beginning June 30, 2016, using the actuarial cost method determined by the  
2 board pursuant to section 38-714.

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

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

6 (a) For a member whose membership commenced before July 1, 2011:

7 (i) A member's sixty-fifth birthday.

8 (ii) A member's sixty-second birthday and completion of at least  
9 ten years of credited service.

10 (iii) The first day that the sum of a member's age and years of  
11 total credited service equals eighty.

12 (b) For a member whose membership commenced on or after July 1,  
13 2011:

14 (i) A member's sixty-fifth birthday.

15 (ii) A member's sixty-second birthday and completion of at least  
16 ten years of credited service.

17 (iii) A member's sixtieth birthday and completion of at least  
18 twenty-five years of credited service.

19 (iv) A member's fifty-fifth birthday and completion of at least  
20 thirty years of credited service.

21 28. "Political subdivision" means any political subdivision of this  
22 state and includes a political subdivision entity.

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

24 (a) That is located in this state.

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

27 (c) Where a majority of the membership of the entity is composed of  
28 political subdivisions.

29 (d) Whose primary purpose is the performance of a  
30 government-related service.

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

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

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

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

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



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

4           33. "Vested" means that a member is eligible to receive a future  
5 retirement benefit.

6           Sec. 3. Section 38-714, Arizona Revised Statutes, is amended to  
7 read:

8           38-714. Powers and duties of ASRS and board

9           A. ASRS shall have the powers and privileges of a corporation,  
10 shall have an official seal and shall transact all business in the name  
11 "Arizona state retirement system", and in that name may sue and be sued.

12           B. The board is responsible for supervising the administration of  
13 this article by the director of ASRS.

14           C. The board is responsible for the performance of fiduciary duties  
15 and other responsibilities required to preserve and protect the retirement  
16 trust fund established by section 38-712.

17           D. The board shall not advocate for or against legislation  
18 providing for benefit modifications, except that the board shall provide  
19 technical and administrative information regarding the impact of benefit  
20 modification legislation.

21           E. The board may:

22           1. Determine the rights, benefits or obligations of any person  
23 under this article and any member under articles 2.1 and 7 of this chapter  
24 and afford any person dissatisfied with a determination a hearing on the  
25 determination. The board may delegate the duty and authority to act on  
26 the board's behalf to a committee of the board for the purposes of this  
27 paragraph and title 41, chapter 6, article 10 relating to any decision  
28 made under this paragraph by that committee of the board.

29           2. Determine the amount, manner and time of payment of any benefits  
30 under this article.

31           3. Recommend amendments to this article and articles 2.1 and 7 of  
32 this chapter that are required for efficient and effective administration.

33           4. Adopt, amend or repeal rules for the administration of the plan,  
34 this article and articles 2.1 and 7 of this chapter.

35           F. Beginning June 30, 2016, the board shall determine which of the  
36 generally accepted actuarial cost methods shall be used in the annual  
37 actuarial valuation of the plan.

38           G. The board and ASRS are not subject to title 41, chapter 6,  
39 except title 41, chapter 6, article 10, for actuarial assumptions and  
40 calculations, investment strategy and decisions and accounting  
41 methodology.

42           H. The board shall submit to the governor and legislature for each  
43 fiscal year ~~no~~ NOT later than eight months after the close of the fiscal  
44 year a report of its operations and the operations of ASRS. The report

1 shall follow generally accepted accounting principles and generally  
2 accepted financial reporting standards and shall include:

3 1. A report on an actuarial valuation of ASRS assets and  
4 liabilities.

5 2. Any other statistical and financial data that may be necessary  
6 for the proper understanding of the financial condition of ASRS and the  
7 results of board operations.

8 3. On request of the governor or the legislature, a list of  
9 investments owned. This list shall be provided in an electronic format.

10 4. An estimate of the aggregate fees paid for private equity  
11 investments, including management fees and performance fees.

12 I. The board shall:

13 1. Prepare and publish a synopsis of the annual report for the  
14 information of ASRS members.

15 2. Contract for a study of the mortality, disability, service and  
16 other experiences of the members and employers participating in ASRS. The  
17 study shall be conducted for fiscal year 1990-1991 and for at least every  
18 fifth fiscal year thereafter. A report of the study shall be completed  
19 within eight months after the close of the applicable fiscal year and  
20 shall be submitted to the governor and the legislature.

21 3. Conduct an annual actuarial valuation of ASRS assets and  
22 liabilities.

23 J. The auditor general may make an annual audit of ASRS and  
24 transmit the results to the governor and the legislature.

25 K. IN DETERMINING THE PAST SERVICE FUNDING PERIOD, THE BOARD SHALL  
26 SEEK TO IMPROVE THE FUNDED STATUS WHENEVER THE TRUST FUND ESTABLISHED BY  
27 SECTION 38-712 IS LESS THAN ONE HUNDRED PERCENT FUNDED.

28 Sec. 4. Section 38-737, Arizona Revised Statutes, is amended to  
29 read:

30 38-737. Employer contributions

31 A. Employer contributions shall be a percentage of compensation of  
32 all employees of the employers WHO MEET THE ELIGIBILITY REQUIREMENTS  
33 CONTAINED IN THIS ARTICLE, excluding the compensation of those employees  
34 who are members of the defined contribution program administered by ASRS,  
35 as determined by the ASRS actuary pursuant to this section for June 30 of  
36 the fiscal year immediately preceding the preceding fiscal year, except  
37 that beginning with fiscal year 2001-2002 the contribution rate shall not  
38 be less than two percent of compensation of all employees of the  
39 employers. Beginning July 1, 2011 through June 29, 2016, the total  
40 employer contribution shall be determined on the projected unit credit  
41 method. Beginning June 30, 2016, the board shall determine the actuarial  
42 cost method pursuant to section 38-714. The total employer contributions  
43 shall be equal to the employer normal cost plus the amount required to  
44 amortize the past service funding requirement over a period that is  
45 determined by the board and consistent with generally accepted actuarial

1 standards. ~~In determining the past service funding period, the board~~  
2 ~~shall seek to improve the funded status whenever the ASRS trust fund is~~  
3 ~~less than one hundred percent funded.~~

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

7 C. The required employer contributions shall be determined on an  
8 annual basis by an actuary who is selected by the board and who is a  
9 fellow of the society of actuaries. ASRS shall provide by December 1 of  
10 each fiscal year to the governor, the speaker of the house of  
11 representatives and the president of the senate the contribution rate for  
12 the ensuing fiscal year and the unfunded actuarial accrued liability, the  
13 funded status based on the actuarial value of assets and market value of  
14 assets and the annualized rate of return and the ten-year rate of return  
15 as of June 30 of the prior fiscal year.

16 Sec. 5. Section 38-740, Arizona Revised Statutes, is amended to  
17 read:

18 38-740. Return of contributions

19 A. A member whose membership commenced before July 1, 2011 and who  
20 leaves employment other than by retirement or death may elect to receive a  
21 return of the contributions as follows:

22 1. If the member has less than five years of credited service, ~~the~~  
23 ~~member~~ ASRS shall ~~receive~~ DISBURSE all of the member's contributions.

24 2. If a member has five or more years of credited service, ~~the~~  
25 ~~member~~ ASRS shall ~~receive~~ DISBURSE the member's contributions and an  
26 amount equal to a percentage of the employer contributions paid on behalf  
27 of the member. This amount excludes payments made by an employer pursuant  
28 to section 38-738, subsection B, paragraph 3, unless the member has made  
29 the payment required by section 38-738, subsection B, paragraph 1. The  
30 percentage of employer contributions paid on behalf of the member shall be  
31 as follows:

32 (a) 5.0 to 5.9 years of credited service, twenty-five ~~per cent~~  
33 PERCENT.

34 (b) 6.0 to 6.9 years of credited service, forty ~~per cent~~ PERCENT.

35 (c) 7.0 to 7.9 years of credited service, fifty-five ~~per cent~~  
36 PERCENT.

37 (d) 8.0 to 8.9 years of credited service, seventy ~~per cent~~ PERCENT.

38 (e) 9.0 to 9.9 years of credited service, eighty-five ~~per cent~~  
39 PERCENT.

40 (f) 10.0 or more years of credited service, one hundred ~~per cent~~  
41 PERCENT.

42 3. Interest on the returned contributions as determined by the  
43 board.

1 B. A member whose membership commenced on or after July 1, 2011 and  
2 who leaves employment other than by retirement or death may elect to  
3 receive a return of all of the member's contributions with interest as  
4 determined by the board.

5 C. Notwithstanding subsection B of this section, if a member has  
6 five or more years of credited service and the member is terminated solely  
7 because of an employer reduction in force by reason of a lack of monies or  
8 elimination of the member's position, the member is entitled to receive  
9 the amounts prescribed in subsection A of this section.

10 D. Withdrawal of contributions with interest constitutes a  
11 withdrawal from membership in ASRS and results in a forfeiture of all  
12 other benefits under ASRS.

13 E. If ~~a member~~ ASRS has ~~received~~ DISBURSED an overpayment pursuant  
14 to section 38-765 or 38-797.08, ASRS shall withhold the overpayment amount  
15 plus any required income tax withholding from the return of contributions.

16 F. Notwithstanding any other provision of this article, a member  
17 who has not received a return of contributions pursuant to this section  
18 may combine any two or more periods of service for purposes of determining  
19 the member's benefits.

20 G. If ~~a member receives~~ ASRS DISBURSES more than the amount due to  
21 a member OR AN ALTERNATE PAYEE pursuant to this section, the ~~member~~ PERSON  
22 WHO RECEIVED THE OVERPAYMENT shall repay the amount of the overpayment  
23 together with interest at the interest rate earned on ASRS investments as  
24 reported on a quarterly basis, but not less than the valuation rate  
25 established by the board, from the time of overpayment to the settlement  
26 of the debt.

27 Sec. 6. Section 38-741, Arizona Revised Statutes, is amended to  
28 read:

29 38-741. Reemployment of inactive member

30 A. ASRS shall return to active status an inactive member who  
31 terminates employment with an employer without terminating membership in  
32 ASRS and who later is reemployed by the same or another employer.

33 B. On retirement, ~~the member~~ ASRS shall ~~receive~~ DISBURSE benefits  
34 derived from service for all employers that employed the member.

35 C. Retirement benefits attributable to service before membership in  
36 ASRS, if any, shall be paid only by the employer from which the retiring  
37 member obtained entitlement to the benefits as provided in section 38-729.

38 Sec. 7. Section 38-747, Arizona Revised Statutes, is amended to  
39 read:

40 38-747. Purchase of credited service; payment; limitations;  
41 definitions

42 A. A member who purchases credited service pursuant to section  
43 38-738, 38-742, 38-743, 38-744, 38-745 or 38-922 shall either:

44 1. Make payments directly to ASRS as provided in subsection H of  
45 this section.

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

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

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

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

32           3. A member who makes an irrevocable election pursuant to this  
33 subsection to have the member's employer make payments for less than all  
34 of the amounts payable for the member's purchase of credited service may  
35 irrevocably elect to have the member's employer make payments for all or  
36 any portion of the remaining amounts payable for the member's purchase of  
37 credited service. A member who makes one or more irrevocable elections  
38 pursuant to this subsection may also make other contributions to ASRS  
39 pursuant to subsection H of this section to the extent of any remaining  
40 amounts payable for which the member has not made an election pursuant to  
41 this subsection. An additional election or contribution with respect to a  
42 portion of the amounts payable for the member's purchase of credited  
43 service does not alter, amend or revoke an irrevocable election already  
44 made pursuant to this subsection for any other portion of the amounts  
45 payable for the member's purchase of credited service.

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

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

20           6. Unless otherwise provided, member contributions paid by an  
21 employer pursuant to this subsection are treated for all other purposes  
22 under ASRS in the same manner and to the same extent as member  
23 contributions that are not paid by an employer pursuant to this  
24 subsection. ASRS shall not grant credited service for contributions made  
25 pursuant to this subsection until those contributions are received by  
26 ASRS. ASRS may assess interest or administrative charges attributable to  
27 any salary reduction election made pursuant to this subsection. The  
28 interest or administrative charges shall be added to the amount of  
29 contributions that is made to ASRS by the member each payroll period and  
30 that is paid by the member's employer. The interest or administrative  
31 charges shall not be treated as member contributions for any purposes  
32 under this article and a member or a member's beneficiary does not have a  
33 right to the return of the interest or administrative charges pursuant to  
34 any other provision of this article. Interest assessed pursuant to this  
35 subsection shall be at the rate specified by the board pursuant to section  
36 38-711, paragraph 2.

37           7. If a member transfers employment from one participating employer  
38 with which the member has made an irrevocable election pursuant to this  
39 subsection to another participating employer, the member and the successor  
40 participating employer shall complete the terms of the irrevocable  
41 election that the member made with the original participating employer.

42           C. A member who elects before July 1, 1999 to receive retirement  
43 benefits based on section 38-771, subsection C, paragraph 2 or a member  
44 who elects to make contributions to ASRS pursuant to section 38-771.01,  
45 subsection F, paragraph 4 shall either make the member's additional

1 contributions required pursuant to section 38-771, subsection E or allowed  
2 pursuant to section 38-771.01, subsection F, paragraph 4 directly to ASRS  
3 as provided in subsection H of this section or shall elect to have the  
4 member's employer make payments for those additional contributions as  
5 provided in subsection D of this section. A member who elected to be  
6 covered or who was deemed to be covered by section 38-771 on or before  
7 December 31, 1995 or who elects to make member contributions pursuant to  
8 section 38-771.01, subsection F, paragraph 3 is deemed to have made an  
9 irrevocable election pursuant to subsection D of this section to make the  
10 member's contributions to ASRS that are required by section 38-771,  
11 subsection D or allowed by section 38-771.01, subsection F, paragraph 3.

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

16 1. A member may make member contributions pursuant to section  
17 38-771, subsection E or section 38-771.01, subsection F, paragraph 4  
18 through a salary reduction program elected pursuant to this subsection.  
19 If a member makes an irrevocable election pursuant to this subsection  
20 before July 1, 1999 to have the member's employer make payments for  
21 additional contributions pursuant to section 38-771, subsection E, the  
22 election continues in effect from and after June 30, 1999 and shall not be  
23 revoked, amended or altered by any election made pursuant to section  
24 38-771.01 or otherwise. The amounts paid pursuant to a salary reduction  
25 program are in lieu of contributions by the electing member. The member's  
26 salary or other compensation shall be reduced by the amount paid by the  
27 employer pursuant to this subsection.

28 2. Before a member's termination of employment, the member may make  
29 an election pursuant to this subsection at any time after the date the  
30 member elects to receive retirement benefits based on section 38-771,  
31 subsection C, paragraph 2 but before July 1, 1999 or at any time after the  
32 member elects to make member contributions pursuant to section 38-771.01,  
33 subsection F, paragraph 4. The election shall specify the number of  
34 payroll periods that deductions will be made from the member's  
35 compensation and the dollar amount of deductions for each payroll period  
36 during the specified number of payroll periods. After an election is made  
37 pursuant to this subsection, the election is binding on and irrevocable  
38 for the member and the member's employer during the member's remaining  
39 period of employment.

40 3. After a member makes or is deemed to have made an irrevocable  
41 election pursuant to this subsection, the member does not have the option  
42 of choosing to receive the contributed amounts directly. A member who  
43 makes an irrevocable election pursuant to this subsection to have the  
44 member's employer make payments for less than all of the amounts payable  
45 for the member's additional contributions allowed by section 38-771.01,

1 subsection F, paragraph 4 may irrevocably elect to have the member's  
2 employer make payments for all or any portion of the remaining amounts  
3 payable for the member's additional contributions. A member who makes one  
4 or more irrevocable elections pursuant to this subsection may also make  
5 other contributions to ASRS pursuant to section 38-771.01, subsection F,  
6 paragraph 4 or pursuant to subsection H of this section to the extent of  
7 any remaining amounts payable for which the member has not made an  
8 election pursuant to this subsection. An additional election or  
9 contribution with respect to a portion of the amounts payable for the  
10 member's additional contributions pursuant to section 38-771.01,  
11 subsection F, paragraph 4 does not alter, amend or revoke an irrevocable  
12 election already made pursuant to this subsection for any other portion of  
13 the amounts payable for the member's additional contributions allowed by  
14 section 38-771.01, subsection F, paragraph 4.

15 4. If on termination of the member's employment all amounts have  
16 not been paid to ASRS pursuant to the member's irrevocable election  
17 pursuant to this subsection, the member may pay ASRS, within thirty days  
18 after the member's termination of employment and subject to other  
19 limitations prescribed in this section, all or any portion of the unpaid  
20 amounts as provided in subsection H of this section. These payments do  
21 not alter, amend or revoke any irrevocable election already made pursuant  
22 to this subsection with respect to any amount to be paid by the member's  
23 employer while the member is employed by the member's employer.

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

33 6. Unless otherwise provided, member contributions paid by an  
34 employer pursuant to this subsection are treated for all other purposes  
35 under ASRS in the same manner and to the same extent as member  
36 contributions that are not paid by an employer pursuant to this  
37 subsection.

38 7. If a member transfers employment from one participating employer  
39 with which the member has made an irrevocable election pursuant to this  
40 subsection to another participating employer, the member and the successor  
41 participating employer shall complete the terms of the irrevocable  
42 election that the member made with the original participating employer.

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

44 1. Except to the extent paragraphs 2 and 3 of this subsection apply  
45 to certain contributions made by a member to ASRS and to the extent



1 permitted under section 414(v) of the internal revenue code, if  
2 applicable, in any one limitation year, the annual additions contributed  
3 or allocated to ASRS for or on behalf of a member shall not exceed the  
4 lesser of either:

5 (a) ~~Forty thousand dollars~~ \$40,000 or a larger amount that is  
6 prescribed by the board and that is due to any cost of living adjustment  
7 announced by the United States secretary of the treasury pursuant to  
8 section 415(d) of the internal revenue code. The board shall increase the  
9 amount prescribed by this subdivision as of the effective date of the  
10 increase announced by the United States secretary of the treasury.

11 (b) One hundred percent of the member's compensation for the  
12 limitation year. The compensation limit prescribed in this subdivision  
13 does not apply to any contribution to ASRS for medical benefits after a  
14 member's separation from service, within the meaning prescribed in section  
15 401(h) or 419A(f)(2) of the internal revenue code, that is otherwise  
16 treated as an annual addition.

17 2. Unless paragraph 4 of this subsection applies, for plan years  
18 beginning on or after July 1, 1998, in any one limitation year, the annual  
19 additions credited to ASRS for or on behalf of a member who makes  
20 contributions to ASRS to purchase credited service pursuant to section  
21 38-743, 38-744, 38-745 or 38-922 and with respect to which an irrevocable  
22 election has not been made pursuant to subsection B of this section shall  
23 not exceed the greater of either:

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

29 (b) Except as provided in paragraph 3 of this subsection, the  
30 requirements of paragraph 1 of this subsection. The contributions shall  
31 be treated as annual additions and any of the member's other annual  
32 additions for the limitation year shall be taken into account. For the  
33 purposes of applying the requirements of paragraph 1 of this subsection  
34 under this subdivision, the percentage of compensation limit in paragraph  
35 1, subdivision (b) of this paragraph does not apply.

36 3. For plan years beginning on or after July 1, 1998, the  
37 requirements of paragraph 1 of this subsection shall not be applied to  
38 reduce the amount of credited service that may be purchased by an eligible  
39 member pursuant to section 38-743, 38-744, 38-745 or 38-922 to an amount  
40 that is less than the amount of credited service allowed to be purchased  
41 pursuant to those sections on August 5, 1997 without the application of  
42 any of the limits prescribed in this section or section 415 of the  
43 internal revenue code. For the purposes of this paragraph, "eligible  
44 member" means a person who first becomes a member of ASRS before July 1,  
45 1999.

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

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

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

16           F. If a member's contributions are subject to the limitations of  
17 subsection E of this section, the contributions shall be treated as being  
18 made to a separate defined contribution plan. If the member's  
19 contributions exceed the limits prescribed in subsection E of this section  
20 when taking into account other member and employer contributions to ASRS  
21 on behalf of the member for the limitation year, the amount to be paid by  
22 the member shall be reduced to not exceed the limits prescribed in  
23 subsection E of this section and the remaining amount shall be carried  
24 forward to the next limitation year, unless the limits are exceeded in the  
25 next limitation year. If the limits are exceeded in the next limitation  
26 year, the procedure prescribed by this subsection shall be repeated until  
27 all payments have been made.

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

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

34           2. Holding the amounts in a suspense account established pursuant  
35 to subsection L of this section and allocating the amounts as either  
36 member or employer contributions for the benefit of the member in the next  
37 limitation year and before any further member or employer contributions  
38 are made that would constitute annual additions made to a defined  
39 contribution plan pursuant to section 415 of the internal revenue code.  
40 ASRS shall allocate contributions as prescribed in this section, and the  
41 amount allocated shall reduce the amount of the member or employer  
42 contributions for the limitation year in which the allocation is made.

43           H. To the extent that a payment under this subsection does not  
44 alter, amend or revoke any one or more currently effective irrevocable  
45 elections made by the member pursuant to subsection B or D of this

1 section, the board may accept contributions made pursuant to section  
2 38-771 or member contributions for the payment for credited service  
3 purchases pursuant to section 38-738, 38-742, 38-743, 38-744, 38-745 or  
4 38-922 or contributions made pursuant to section 38-771.01, subsection F,  
5 paragraph 4, in whole or in part, by any one or a combination of the  
6 following methods:

7 1. In lump sum payments.

8 2. Subject to the limitations prescribed in sections 401(a)(31) and  
9 402(c) of the internal revenue code and subsection J of this section,  
10 accepting a direct transfer of any eligible rollover distribution from one  
11 or more:

12 (a) Retirement programs that are qualified under section 401(a) or  
13 403(a) of the internal revenue code.

14 (b) Annuity contracts described in section 403(b) of the internal  
15 revenue code.

16 (c) Eligible deferred compensation plans described in section  
17 457(b) of the internal revenue code that are maintained by a state, a  
18 political subdivision of a state or any agency or instrumentality of a  
19 state or a political subdivision of a state.

20 3. Accepting from a member a direct transfer from an individual  
21 retirement account or individual retirement annuity described in section  
22 408(a) or 408(b) of the internal revenue code of an amount that would  
23 otherwise be eligible to be rolled over to ASRS under the provisions of  
24 section 408(d)(3)(A)(ii) of the internal revenue code if the amount had  
25 been received by the member and would have otherwise been includible in  
26 the member's gross income but for the direct transfer.

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

29 I. To the extent that a payment under this subsection does not  
30 alter, amend or revoke any one or more currently effective irrevocable  
31 elections made by a member pursuant to subsection B or D of this section,  
32 the board may accept a direct trustee-to-trustee transfer from retirement  
33 programs that are qualified under section 401(a) or 403(a) of the internal  
34 revenue code, an annuity contract described in section 403(b) of the  
35 internal revenue code or an eligible deferred compensation plan described  
36 in section 457(b) of the internal revenue code for the payment for  
37 credited service purchases pursuant to section 38-742, 38-743, 38-744,  
38 38-745 or 38-922. If a direct trustee-to-trustee transfer is from a  
39 retirement program that is qualified under section 401(a) of the internal  
40 revenue code and that includes a cash or deferred arrangement described in  
41 section 401(k) of the internal revenue code, the member on whose behalf  
42 the transfer was made is not eligible to retire under section 38-764,  
43 subsection ~~F~~ H before the date the member attains fifty-nine and one-half  
44 years of age.

1 J. ASRS shall separately account for all amounts rolled over or  
2 directly transferred to ASRS. Subject to the limitations contained in the  
3 internal revenue code applicable to the type of plan from which an  
4 eligible rollover distribution is transferred, to the extent any eligible  
5 rollover distribution that is directly transferred to ASRS consists wholly  
6 or partially of amounts that would otherwise not be included in the  
7 member's gross income if not so transferred, ASRS shall separately account  
8 for the amounts so transferred, and earnings on those amounts, including  
9 separately accounting for the portion of the amount that is includable in  
10 gross income and the portion of the amount that is not includable in gross  
11 income.

12 K. ASRS shall not grant credited service under section 38-738,  
13 38-742, 38-743, 38-744 or 38-922 for contributions made pursuant to  
14 subsection H of this section until the contributions are received by ASRS.  
15 ASRS may assess interest or administrative charges attributable to any  
16 installment payment made pursuant to subsection H, paragraph 4 of this  
17 section to purchase credited service pursuant to section 38-738, 38-742,  
18 38-743, 38-744 or 38-922. The interest or administrative charges shall be  
19 added to the amount of contributions made to ASRS by the member. The  
20 interest or administrative charges shall not be treated as member  
21 contributions for any purposes under this article, and a member or a  
22 member's beneficiary does not have a right to the return of the interest  
23 or administrative charges pursuant to any other provision of this article.  
24 Interest assessed pursuant to this subsection shall be at the rate  
25 specified by the board pursuant to section 38-711, paragraph 2.

26 L. Notwithstanding any provision of this article to the contrary,  
27 if the annual additions credited on behalf of an ASRS member during any  
28 limitation year exceed the limits of section 415(c) of the internal  
29 revenue code and subsection E of this section, ASRS may only correct the  
30 excess pursuant to the employee plans compliance resolution system  
31 prescribed in internal revenue service revenue procedure 2008-50 or any  
32 future guidance issued by the internal revenue service, including the  
33 preamble of the final treasury regulations issued under section 415 of the  
34 internal revenue code.

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

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

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

43 1. The amount of the member contributions made to ASRS to purchase  
44 credited service pursuant to section 38-738, 38-743, 38-744, 38-745 or

1 38-922 and with respect to which an irrevocable election made pursuant to  
2 subsection B of this section is not in effect.

3 2. The amount of member and employer contributions made to ASRS on  
4 behalf of a member who elected or was deemed to have elected to receive  
5 retirement benefits pursuant to section 38-771 or who is entitled to  
6 benefits pursuant to section 38-771.01, except that, other than as  
7 provided in subsection P of this section, corrective contributions shall  
8 be considered annual additions for the limitation years to which the  
9 contributions relate and interest and gains shall not be considered as  
10 annual additions for the purpose of any limitation prescribed in this  
11 article or in section 415 of the internal revenue code. If the corrective  
12 contributions exceed the limit on annual additions for a limitation year  
13 prior to the limitation year in which the corrective contributions are  
14 contributed by the employer to ASRS, the retirement benefit attributable  
15 to the excess corrective contributions shall be treated as an excess  
16 benefit and shall be payable to the member as any other excess benefit is  
17 payable pursuant to section 38-774, and the employer shall pay the excess  
18 corrective contributions to the separate unfunded governmental excess  
19 benefit arrangement administered by the board pursuant to section 38-774.

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

23 4. Any forfeitures, including any income attributable to  
24 forfeitures, allocated for or on behalf of a member of ASRS or any other  
25 plan that are treated as being allocated under a defined contribution plan  
26 maintained by an employer of the member.

27 P. To the extent any portion of the subject benefits, if treated as  
28 subject to the benefit limitations of section 415(b) of the internal  
29 revenue code, exceed the applicable limitation on benefits pursuant to  
30 section 38-769 for the form of distribution, a percentage of corrective  
31 contributions and interest and gains shall be treated as annual additions  
32 for the limitation year in which contributed by the employer to  
33 ASRS. This percentage of corrective contributions and interest and gains  
34 shall be equal to the percentage determined by dividing the subject  
35 benefits that exceed the limitation on benefits pursuant to section 38-769  
36 by the subject benefits. If the corrective contributions and interest and  
37 gains that are treated as annual additions for the limitation year in  
38 which the corrective contributions and interest and gains are contributed  
39 by the employer to ASRS exceed the limit on annual additions for the  
40 limitation year, the retirement benefit attributable to the excess shall  
41 be treated as an excess benefit and shall be payable to the member as any  
42 other excess benefit is payable pursuant to section 38-774, and the  
43 employer shall pay the excess to the separate unfunded governmental excess  
44 benefit arrangement administered by the board pursuant to section 38-774.

1 Q. Subsection 0 of this section shall be construed and interpreted  
2 in accordance with section 415 of the internal revenue code and the final  
3 treasury regulations issued under that section.

4 R. For the purposes of this section:

5 1. "Compensation" has the same meaning prescribed in section  
6 38-769.

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

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

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

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

19 6. "Limitation year" has the same meaning prescribed in section  
20 38-769.

21 7. "Participating employer" means an employer that participates in  
22 ASRS.

23 8. "Subject benefits" means the retirement benefit received by a  
24 member pursuant to section 38-771.01 minus the sum of the portion of such  
25 retirement benefit attributable to contributions that were made by or on  
26 behalf of the member to the defined contribution program administered by  
27 ASRS for periods before July 1, 1981 and contributions that were made by  
28 the member after June 30, 1981 and that were not picked up as provided in  
29 section 414(h)(2) of the internal revenue code.

30 Sec. 8. Section 38-750, Arizona Revised Statutes, is amended to  
31 read:

32 38-750. Transfers out of the system

33 A. If an employee has made an irrevocable election pursuant to  
34 section 38-747, subsection B or D and transfers participation to another  
35 defined benefit retirement system or plan of this state without a  
36 termination of employment, within ninety days after the date of the  
37 transfer, ASRS shall transfer to the subsequent defined benefit retirement  
38 system or plan the amount the employee paid for the purchase of the  
39 credited service plus interest as determined by ASRS.

40 B. If the assets transferred from ASRS are less than the cost of  
41 the benefits accrued relative to the credited service as calculated  
42 pursuant to section 38-922, subsection B, paragraph 2, and unless a law  
43 otherwise provides, the employee shall elect either to pay the difference  
44 to the subsequent defined benefit retirement system or plan or accept a  
45 reduced amount of service credits. If the employee elects to pay the

1 difference, the amount paid shall be added to the employee's accumulated  
2 contribution account balance. If the employee elects to accept a reduced  
3 amount of service credits, the amount of service credits granted shall be  
4 equal to the amount of service credits purchased multiplied by the ratio  
5 of the amount of assets transferred to the amount calculated pursuant to  
6 section 38-922, subsection B, paragraph 2.

7 C. The transferred employee and the employer shall complete the  
8 terms of the irrevocable election by making payments to ASRS.

9 D. If the employee is given an election to transfer to another  
10 defined benefit retirement system or plan of this state or to remain with  
11 the employee's current retirement system, on termination of employment the  
12 employee shall elect to have ASRS:

13 1. Promptly transfer to the subsequent defined benefit retirement  
14 system or plan the **PRINCIPAL** amount paid by the employee for the purchase  
15 of credited service plus interest as determined by ASRS. If an unfunded  
16 liability is created, subsection B of this section applies. If the  
17 employee fails to elect to have the assets transferred within thirty days  
18 after termination of employment, the employee is deemed to have made an  
19 election as prescribed in paragraph 2.

20 2. On written request by the employee, promptly return to the  
21 employee the **PRINCIPAL** amount paid by the employee for the purchase of  
22 credited service plus interest as determined by ASRS. If no application  
23 is received by ASRS within sixty days after termination of employment,  
24 ASRS shall issue the payment directly to the employee.

25 E. If the employee is not given an election to transfer to another  
26 defined benefit retirement system or plan of this state or to remain with  
27 the employee's current retirement system, after termination of employment  
28 the employee may elect, ~~—~~ within thirty days of termination of employment  
29 to have ASRS promptly transfer to the subsequent defined benefit  
30 retirement system or plan the **PRINCIPAL** amount paid by the employee for  
31 the purchase of credited service plus interest as determined by ASRS. If  
32 an unfunded liability is created, subsection B of this section  
33 applies. If the employee fails to make the election under this  
34 subsection, ASRS shall deem the employee as an inactive member of ASRS.

35 F. If an employee is given an election to transfer to another  
36 defined benefit retirement system or plan of this state or to remain with  
37 the employee's current retirement system and the employee is receiving a  
38 benefit pursuant to this article based on the employee's own service or  
39 article 2.1 of this chapter, the employee is eligible to transfer to the  
40 retirement system or plan, but the election to transfer terminates the  
41 benefit from ASRS on the effective date of the transfer.

42 G. If an employee is not given an election to transfer to another  
43 defined benefit retirement system or plan of this state or to remain with  
44 the employee's current retirement system and the employee is receiving a  
45 benefit pursuant to this article based on the employee's own service or

1 article 2.1 of this chapter, the employee is not eligible to transfer to  
2 another retirement system or plan.

3 Sec. 9. Section 38-757, Arizona Revised Statutes, is amended to  
4 read:

5 38-757. Normal retirement

6 A. After application on a form prescribed by the director, a member  
7 may retire on reaching the member's normal retirement date. Except as  
8 provided in section 13-713, a member's right to the member's normal  
9 retirement benefit as described in subsection B of this section is  
10 nonforfeitable by an employer or ASRS on attainment of the member's normal  
11 retirement date.

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

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

19 (a) 2.10 ~~per cent~~ PERCENT if the member does not have more than  
20 19.99 years of credited service.

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

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

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

27 2. The member's average monthly compensation.

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

31 Sec. 10. Section 38-758, Arizona Revised Statutes, is amended to  
32 read:

33 38-758. Early retirement

34 A. A member who has attained age fifty, WHO HAS TERMINATED  
35 EMPLOYMENT WITH ALL EMPLOYERS and who has five years of total credited  
36 service is eligible to elect, in a form and manner prescribed by the  
37 board, to receive a reduced retirement income.

38 B. For a member whose membership in ASRS commenced before July 1,  
39 2011, the benefit payable to a member electing early retirement shall be  
40 determined by reducing the normal retirement benefit computed in  
41 accordance with section 38-757 either:

42 1. At the rate of three ~~per cent~~ PERCENT per year from age sixty to  
43 age sixty-five and five ~~per cent~~ PERCENT per year from age fifty to age  
44 sixty. The reduction in normal retirement benefits pursuant to this  
45 paragraph for an eligible member electing early retirement shall be based



1 on the period from the date of commencement of early retirement benefits  
2 to the member's sixtieth birthday if the member has at least twenty years  
3 of total credited service, sixty-second birthday if the member has at  
4 least ten but less than twenty years of total credited service or  
5 sixty-fifth birthday if the member has at least five but less than ten  
6 years of total credited service.

7 2. If the sum of a member's age and years of total credited service  
8 equals seventy-seven or more, but is less than eighty, at the rate of  
9 three ~~per cent~~ PERCENT for each unit of one or fraction of one by which  
10 the sum is less than eighty.

11 C. For a member whose membership in ASRS commenced on or after July  
12 1, 2011, the benefit payable to a member electing early retirement shall  
13 be determined by reducing the normal retirement benefit computed in  
14 accordance with section 38-757 at the rate of three ~~per cent~~ PERCENT per  
15 year from age sixty to age sixty-five and five ~~per cent~~ PERCENT per year  
16 from age fifty to age sixty. The reduction in normal retirement benefits  
17 pursuant to this subsection for an eligible member electing early  
18 retirement shall be based on the period from the date of commencement of  
19 early retirement benefits to the member's sixty-second birthday if the  
20 member has at least ten years of total credited service or sixty-fifth  
21 birthday if the member has at least five but less than ten years of total  
22 credited service.

23 Sec. 11. Section 38-760, Arizona Revised Statutes, is amended to  
24 read:

25 38-760. Optional forms of retirement benefits

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

28 B. The optional retirement benefits available under this section  
29 include the following:

30 1. Joint and survivor LIFE annuity in a reduced amount payable to  
31 the retiring member during life, with the provisions that after the  
32 member's death all, two-thirds or one-half of the retirement income, as  
33 the member elects, shall be continued during the lifetime of the  
34 contingent annuitant designated by the retiring member subject to the  
35 restrictions prescribed in section 38-764. The amount of retirement  
36 income shall be the actuarial equivalent of the retirement income to which  
37 the member would be entitled under normal or early retirement. The  
38 election in a manner prescribed by the board shall name the contingent  
39 annuitant. The election may be revoked at any time before the member's  
40 effective date of retirement. At any time after benefits have commenced,  
41 the member may name a different contingent annuitant or rescind the  
42 election by written notice to the board as follows:

43 (a) If a different contingent annuitant is named, the LIFE annuity  
44 of the member under the same joint and survivor LIFE annuity option  
45 previously elected shall be adjusted to the actuarial equivalent of the

1 original annuity, based on the age of the new contingent annuitant. The  
2 adjustment shall include all postretirement increases in retirement income  
3 that are authorized by law after the member's date of retirement. Payment  
4 of this adjusted LIFE annuity shall continue under the provisions of the  
5 option previously elected by the member.

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

13 (c) If a member whose original date of retirement is before July 1,  
14 2008 rescinds the joint and survivor LIFE annuity option previously  
15 elected and receives the straight life annuity pursuant to subdivision (b)  
16 of this paragraph, the member may again elect the same joint and survivor  
17 LIFE annuity option previously elected subject to the same restrictions  
18 prescribed in subdivision (a) of this paragraph.

19 (d) A member whose original date of retirement is on or after July  
20 1, 2008 may exercise a one-time election to rescind the joint and survivor  
21 LIFE annuity option elected by the member if the contingent annuitant dies  
22 or ceases to be a contingent annuitant pursuant to the terms of a  
23 qualified domestic relations order.

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

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

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

15 3. Beginning on July 1, 2002, a lump sum payment equal to not more  
16 than thirty-six months of the member's retirement benefits based on the  
17 actuarial equivalent of the retirement income to which the member would be  
18 entitled under normal or early retirement. The member's benefit shall be  
19 actuarially reduced to provide for the lump sum payment. The lump sum  
20 payment shall be made at the time of retirement. If a member has received  
21 an overpayment pursuant to section 38-765 or 38-797.08, ASRS shall  
22 withhold the overpayment amount plus any required income tax withholding  
23 from the partial lump sum. Any benefit increase granted to a member who  
24 elects a lump sum payment pursuant to this paragraph is subject to the  
25 following conditions:

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

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

32 4. Other forms of actuarially reduced optional benefits prescribed  
33 by the board.

34 C. A member who is married at the time of retirement shall elect  
35 ~~a monthly benefit in the form of~~ a joint and survivor LIFE annuity  
36 pursuant to subsection B, paragraph 1 of this section, and the member's  
37 current spouse shall be the contingent annuitant unless the member's  
38 current spouse consents to a waiver of this requirement pursuant to  
39 section 38-776 or the election would violate another law, an existing  
40 contract or a court order. If the married member does not elect a type of  
41 joint and survivor LIFE annuity for the member's current spouse and the  
42 member's current spouse has not waived the requirements of this  
43 subsection, ASRS shall cancel the member's retirement. The member may  
44 reapply for retirement at any time in a manner established by ASRS.

1           Sec. 12. Section 38-762, Arizona Revised Statutes, is amended to  
2 read:

3           38-762. Survivor benefits before retirement; definition

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

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

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

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

22           C. In lieu of a single payment, a designated beneficiary who is  
23 eligible for a survivor benefit pursuant to subsection A of this section  
24 may elect to receive the actuarial equivalent of the survivor benefit as  
25 monthly income for life, if the resulting monthly amount is greater than  
26 or equal to the amount determined by the board under section 38-764,  
27 subsection ~~F~~ E.

28           D. If a member dies before distribution of the member's benefits  
29 commences, the member's entire benefits shall be distributed within the  
30 required distribution provisions of section 401(a)(9) of the internal  
31 revenue code and the regulations that are issued under that section by the  
32 United States secretary of the treasury as prescribed in section 38-775.

33           E. If a deceased member did not designate a beneficiary or the  
34 beneficiary named by a member predeceases the member, ASRS shall pay the  
35 member's survivor benefit to the following persons in the following order  
36 of priority:

37           1. The member's surviving spouse.

38           2. The member's surviving natural or adopted children in equal  
39 shares.

40           3. The member's surviving parents in equal shares.

41           4. The member's estate.

42           F. Any payment pursuant to this section is payment for the account  
43 of the member or the member's beneficiary and all persons entitled to  
44 payment and, to the extent of the payment, is a full and complete

1 discharge of all liability of the board or ASRS, or both, under or in  
2 connection with ASRS.

3 G. For the purposes of this section, "designated beneficiary" means  
4 any individual designated by the member as the member's beneficiary.

5 Sec. 13. Section 38-763, Arizona Revised Statutes, is amended to  
6 read:

7 38-763. Survivor benefits after retirement

8 A. Except as provided in subsection B of this section, if a member  
9 dies after distribution of retirement benefits commences, ASRS shall  
10 continue to distribute the remaining portion of retirement benefits within  
11 the required distribution provisions of section 401(a)(9) of the internal  
12 revenue code and the regulations that are issued under that section by the  
13 United States secretary of the treasury as prescribed in section 38-775.

14 B. On the death of a retired member who is receiving benefits, the  
15 estate or beneficiary of the member is entitled to receive at least the  
16 amount of the member's contribution to ASRS plus interest, as determined  
17 by the director, less the benefits ~~received by the member~~ DISTRIBUTED BY  
18 ASRS. This amount is payable either as a lump sum or at the same periodic  
19 rate in effect at the time of the member's death, as determined by the  
20 estate or beneficiary.

21 Sec. 14. Section 38-764, Arizona Revised Statutes, is amended to  
22 read:

23 38-764. Commencement of retirement; payment of retirement  
24 benefits; lump sum payments

25 A. Retirement is deemed to commence on a date elected by the  
26 member. That date shall not be earlier than the day following the date of  
27 termination of employment, the date ASRS receives the member's completed  
28 retirement application or the date specified by the member pursuant to  
29 subsection ~~I~~ H of this section.

30 B. ~~Except as provided in subsection C of this section,~~ All  
31 retirement benefits:

32 1. Are normally payable in monthly installments beginning on the  
33 commencement of retirement as prescribed in subsection A of this section.

34 2. Continue to and include the first day of the month in which  
35 death occurs or continue until the date of their cessation in accordance  
36 with any optional method of payment that may have been elected.

37 ~~C. In the case of incapacity of a retired member or contingent~~  
38 ~~annuitant, or in the case of any other emergency, as determined by the~~  
39 ~~board, the board may make the payment to or on behalf of the retired~~  
40 ~~member or contingent annuitant or to another person or persons the board~~  
41 ~~determines to be lawfully entitled to receive payment. The payment is~~  
42 ~~payment for the account of the retired member or contingent annuitant and~~  
43 ~~all persons entitled to payment and, to the extent of the payment, is a~~  
44 ~~full and complete discharge of all liability of the board or ASRS, or~~  
45 ~~both, under or in connection with ASRS.~~

1 ~~D.~~ C. Except as provided in subsection ~~E.~~ D of this section, at  
2 the request of a retired member, a retired member's guardian or a court  
3 appointed conservator, the board may pay any increase in retirement  
4 benefits or the entire retirement benefit in a lump sum payment based on  
5 the actuarial present value of the benefit or the increase in the benefit  
6 if the payment of the benefits would result in ineligibility, reduction or  
7 elimination of social service programs provided to the member by this  
8 state, its political subdivisions or the federal government.

9 ~~E.~~ D. The board may pay the entire retirement benefit in a lump  
10 sum pursuant to subsection ~~D.~~ C of this section only if continued  
11 membership in ASRS will result in additional requests for lump sum  
12 payments based on cost of living adjustments or the establishment of  
13 minimum benefit awards.

14 ~~F.~~ E. If any benefit that is payable as a series of periodic  
15 payments amounts to less than a threshold amount determined by the board,  
16 the board, in its sole discretion and based on uniform rules it  
17 establishes, may order the amount to be paid in a lump sum. A member who  
18 receives a lump sum payment pursuant to this subsection remains a member  
19 of ASRS and is eligible for the coverage provided pursuant to section  
20 38-782 and the payment pursuant to section 38-783, but is not eligible  
21 for a benefit increase pursuant to section 38-767.

22 ~~G.~~ F. All distributions of retirement benefits to a member shall  
23 be distributed within the required distribution provisions of section  
24 401(a)(9) of the internal revenue code and the regulations that are issued  
25 under that section by the United States secretary of the treasury as  
26 prescribed in section 38-775.

27 ~~H.~~ G. A member may elect to cancel the effective date of  
28 retirement within thirty days of retirement or before the member's receipt  
29 of retirement benefits, whichever is later.

30 ~~I.~~ H. A member who attains a normal retirement date may retire at  
31 any time without terminating employment if the member is employed for less  
32 than the hours required for active membership pursuant to section 38-711,  
33 paragraph 23, subdivision (b).

34 Sec. 15. Section 38-766, Arizona Revised Statutes, is amended to  
35 read:

36 38-766. Retired members; return to work; suspension of  
37 benefits; exceptions; maximum benefit

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

42 1. Terminates employment and files an application for reretirement  
43 on a form that is approved by the director.

44 2. Attains a normal retirement date, no longer meets the  
45 requirements for active membership pursuant to this subsection and files

1 an application for reretirement on a form that is approved by the  
2 director.

3 B. A retired member whose retirement benefits have been suspended  
4 pursuant to subsection A of this section shall repay ASRS any retirement  
5 benefits received by the member from the date ASRS notifies the member in  
6 writing that the member's employment resulted in active membership in ASRS  
7 pursuant to subsection A of this section, from the date ASRS determines  
8 that the member knew or should have known that the member's employment  
9 resulted in membership in ASRS pursuant to subsection A of this section or  
10 for any other period that approximates the duration of the violation, as  
11 determined by ASRS.

12 C. A member who satisfies subsection A, paragraph 1 or 2 of this  
13 section is entitled to receive an annuity recomputed to include the  
14 additional compensation and credited service. However, the recomputed  
15 annuity shall be in the original optional form chosen pursuant to section  
16 38-760, with the same beneficiary, if applicable, as when the member first  
17 retired, unless the member has resumed active membership for at least  
18 sixty consecutive months. A member who retired under a provision of law  
19 allowing increased benefits if the retirement occurred during a specific  
20 period of time and who subsequently becomes an employee under ASRS shall  
21 not retain the increased benefits under the prior law when benefits are  
22 computed for the member's most recent retirement.

23 D. Notwithstanding subsection A of this section, ASRS shall not  
24 suspend the payment of retirement benefits if a retired member begins or  
25 returns to employment with an employer in a position that satisfies all of  
26 the following:

27 1. Results in a true change in position, job duties and job title  
28 from the position occupied by the member before ASRS retirement.

29 2. Either:

30 (a) Requires participation in another state retirement system, plan  
31 or program and the retired member makes contributions or waives  
32 participation pursuant to section 38-804, subsection A.

33 (b) ~~Permits~~ **ALLOWS** a member to elect to participate in another  
34 state retirement system, plan or program and the member makes such an  
35 election.

36 3. Does not require membership in the defined benefit plan  
37 established by this article.

38 E. A retired member who returns to work pursuant to subsection D of  
39 this section does not accrue credited service, member service as provided  
40 in section 15-1628, subsection B, paragraph 4, additional account  
41 balances, retirement benefits or long-term disability program benefits  
42 pursuant to article 2.1 of this chapter for the period the retired member  
43 returns to work. The period the retired member returns to work is not  
44 eligible for purchase under section 38-743 or 38-744.

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

4 G. An employer that engaged the retired member to work pursuant to  
5 this section shall pay to ASRS an amount equal to the rate established by  
6 the actuary pursuant to section 38-766.02, subsection B for the period  
7 starting with the first day the retired member began working after  
8 retirement through the earlier of:

9 1. The date the member terminates employment.

10 ~~2. The date the employer begins payment for that member pursuant to~~  
11 ~~section 38-766.02.~~

12 ~~3.~~ 2. The date the member resumes active membership pursuant to  
13 subsection A of this section and the member and employer are required to  
14 make contributions pursuant to section 38-736, 38-737 or 38-738.

15 Sec. 16. Section 38-768, Arizona Revised Statutes, is amended to  
16 read:

17 38-768. Minimum retirement benefit

18 A. Notwithstanding any other provision of this article, a retired  
19 member or beneficiary who is entitled to a benefit under this article  
20 shall receive at least a minimum monthly benefit that is computed pursuant  
21 to subsection B of this section if the retired member or beneficiary is at  
22 least seventy-five years of age and if the retired member or beneficiary  
23 is any of the following:

24 1. Retired from ASRS with at least twenty years of credited  
25 service.

26 2. A beneficiary of ASRS who is receiving benefits derived from a  
27 retired member who had at least twenty years of credited service.

28 3. A member with at least twenty years of service who irrevocably  
29 revokes the receipt of benefits determined on the basis of membership in  
30 the defined contribution program administered by ASRS and who elects to  
31 receive benefits under this article.

32 4. A beneficiary who is receiving benefits derived from a retired  
33 member who had at least twenty years of service, who irrevocably revoked  
34 the receipt of benefits determined on the basis of membership in the  
35 defined contribution program administered by ASRS and who elected to  
36 receive benefits under this article.

37 B. The minimum monthly benefit provided by subsection A of this  
38 section:

39 1. For retired members, is ~~six hundred dollars~~ \$600.

40 2. For beneficiaries, is the amount determined by paragraph 1 of  
41 this subsection and reduced in accordance with the option chosen by  
42 multiplying the amount determined by paragraph 1 of this subsection by the  
43 actuarial figure for the option chosen and by the percentage of the option  
44 chosen.



1 C. If the minimum monthly benefit pursuant to subsections A and B  
2 of this section is more than the retired member's or beneficiary's current  
3 monthly benefit, the retired member or beneficiary is eligible to receive  
4 a monthly benefit equal to the minimum benefit. If the retired member's  
5 or beneficiary's current monthly benefit is more than the minimum benefit,  
6 the retired member's or beneficiary's benefit remains the same.

7 D. A member who receives a lump sum payment pursuant to section  
8 38-764, subsection ~~C~~ C is not eligible for a minimum benefit as provided  
9 by this section.

10 Sec. 17. Section 38-770, Arizona Revised Statutes, is amended to  
11 read:

12 38-770. Eligible rollover distribution; definitions

13 A. Notwithstanding any other provision of this article that would  
14 limit a distributee's election under this section, a distributee may  
15 elect, at any time and in the manner prescribed by the board, to have any  
16 portion of an eligible rollover distribution paid directly to an eligible  
17 retirement plan specified by the distributee in a direct rollover.

18 B. An eligible rollover distribution may commence less than thirty  
19 days after the notice required under section 402(f) of the internal  
20 revenue code is given to the distributee, provided that both:

21 1. ASRS clearly informs the distributee that the distributee has a  
22 right to a period of at least thirty days after receiving the notice to  
23 consider the decision of whether or not to elect a direct rollover.

24 2. The distributee, after receiving the notice, affirmatively  
25 elects a distribution.

26 C. In addition to the other elections ~~permitted~~ ALLOWED in this  
27 section, effective for distributions made from and after December 31,  
28 2006, a designated beneficiary of a member who is not the member's  
29 surviving spouse may elect, at any time and in the manner prescribed by  
30 ASRS, to have any portion of an eligible rollover distribution paid  
31 directly to an eligible retirement plan described in subsection D,  
32 paragraph 3, subdivisions (a) and (b) of this section. For the purposes  
33 of this subsection, "designated beneficiary" has the same meaning  
34 prescribed in section 38-775.

35 D. For the purposes of this section:

36 1. "Direct rollover" means a payment by ASRS to the eligible  
37 retirement plan specified by the distributee.

38 2. "Distributee" means a member, a member's surviving spouse or a  
39 member's spouse or former spouse who is the alternate payee under an  
40 acceptable domestic relations order as defined in section 38-773.

41 3. "Eligible retirement plan" means any of the following that  
42 accepts a distributee's eligible rollover distribution:

43 (a) An individual retirement account described in section 408(a) of  
44 the internal revenue code.

1 (b) An individual retirement annuity described in section 408(b) of  
2 the internal revenue code.

3 (c) An annuity plan described in section 403(a) of the internal  
4 revenue code.

5 (d) A qualified trust described in section 401(a) of the internal  
6 revenue code.

7 (e) An annuity contract described in section 403(b) of the internal  
8 revenue code.

9 (f) An eligible deferred compensation plan described in section  
10 457(b) of the internal revenue code that is maintained by a state, a  
11 political subdivision of a state or any agency or instrumentality of a  
12 state or a political subdivision of a state and that agrees to separately  
13 account for amounts transferred into the eligible deferred compensation  
14 plan from ASRS.

15 (g) Beginning January 1, 2008, a Roth individual retirement account  
16 described in section 408A of the internal revenue code.

17 (h) FOR DISTRIBUTIONS MADE AFTER DECEMBER 18, 2015, A SIMPLE  
18 RETIREMENT ACCOUNT THAT SATISFIES THE REQUIREMENTS OF SECTION 408(p) OF  
19 THE INTERNAL REVENUE CODE.

20 4. "Eligible rollover distribution" means distribution of all or  
21 any portion of the balance to the credit of the distributee but does not  
22 include any of the following:

23 (a) Any distribution that is one of a series of substantially equal  
24 periodic payments made not less frequently than annually for the life or  
25 life expectancy of the member or the joint lives or joint life  
26 expectancies of the member and the member's designated beneficiary or for  
27 a specified period of ten years or more.

28 (b) Any distribution to the extent the distribution is required  
29 under section 401(a)(9) of the internal revenue code.

30 (c) Except as provided in this paragraph, the portion of any  
31 distribution that is not includable in gross income. A distribution does  
32 not fail to be an eligible rollover distribution merely because the  
33 portion consists of after-tax employee contributions that are not  
34 includable in gross income if the portion is paid only to an individual  
35 retirement account or annuity described in section 408(a) or 408(b) of the  
36 internal revenue code, to a qualified plan described in section 401(a) of  
37 the internal revenue code or an annuity contract described in section  
38 403(b) of the internal revenue code that agrees to separately account for  
39 amounts so transferred, and earnings on those amounts, including  
40 separately accounting for the portion of the distribution that is  
41 includable in gross income and the portion of the distribution that is not  
42 includable in gross income.

43 (d) Any distribution that is made due to hardship of the member.

1           Sec. 18. Section 38-775, Arizona Revised Statutes, is amended to  
2 read:

3           38-775. Required distributions; definitions

4           A. This section applies for purposes of determining required  
5 minimum distributions for calendar years beginning on and after January 1,  
6 2006. In applying the requirements of this section, the following  
7 operational provisions govern:

8           1. Except as provided in the following sentence, the requirements  
9 of this section take precedence over any inconsistent provisions of this  
10 article and article 2.1 of this chapter. The rules of this section shall  
11 not restrict any form, calculation, adjustment or payment of benefit  
12 provided under this article in effect on April 17, 2002, if the form,  
13 calculation, adjustment or payment of benefit satisfied section 401(a)(9)  
14 of the internal revenue code based on a reasonable and good faith  
15 interpretation of that section.

16           2. All distributions required under this section shall be  
17 determined and made pursuant to section 401(a)(9) of the internal revenue  
18 code and the regulations that are issued under that section by the United  
19 States secretary of the treasury.

20           3. Notwithstanding this section, other than paragraph 2 of this  
21 subsection, distributions may be made under a designation made before  
22 January 1, 1984, pursuant to section 242(b)(2) of the tax equity and  
23 fiscal responsibility act of 1982 (P.L. 97-248) and the provisions of this  
24 article that relate to that section.

25           B. The member's entire interest shall be distributed, or begin to  
26 be distributed, to the member not later than the member's required  
27 beginning date.

28           C. If the member dies before distributions begin, the member's  
29 entire interest shall be distributed, or begin to be distributed, not  
30 later than as follows:

31           1. If the member's surviving spouse is the member's sole designated  
32 beneficiary, except as provided in paragraph ~~6~~ 4 of this subsection,  
33 distributions to the surviving spouse shall begin by December 31 of the  
34 calendar year immediately following the calendar year in which the member  
35 died, or by December 31 of the calendar year in which the member would  
36 have attained seventy-two years of age, if later.

37           2. If the member's surviving spouse is not the member's sole  
38 designated beneficiary, except as provided in paragraph ~~6~~ 4 of this  
39 subsection, distributions to the designated beneficiary shall begin by  
40 December 31 of the calendar year immediately following the calendar year  
41 in which the member died.

42           ~~3. If there is no designated beneficiary as of September 30 of the~~  
43 ~~year following the year of the member's death, the member's entire~~  
44 ~~interest shall be distributed by December 31 of the calendar year~~  
45 ~~containing the fifth anniversary of the member's death.~~

1 ~~4. If the member's surviving spouse is the member's sole designated~~  
2 ~~beneficiary and the surviving spouse dies after the member but before~~  
3 ~~distributions to the surviving spouse begin, this subsection, other than~~  
4 ~~paragraph 1 of this subsection, applies as if the surviving spouse were~~  
5 ~~the member.~~

6 ~~5.~~ 3. For purposes of this subsection and subsection G of this  
7 section, distributions are considered to begin on the member's required  
8 beginning date or, ~~if paragraph 4 of this subsection applies,~~ the date  
9 distributions are required to begin to the surviving spouse under  
10 paragraph 1 of this subsection. If annuity payments irrevocably commence  
11 to the member before the member's required beginning date, or to the  
12 member's surviving spouse before the date distributions are required to  
13 begin to the surviving spouse under paragraph 1 of this subsection, the  
14 date distributions are considered to begin is the date distributions  
15 actually commence.

16 ~~6.~~ 4. If the member dies before distributions begin and there is a  
17 designated beneficiary, distribution to the designated beneficiary is not  
18 required to begin by the date prescribed in paragraph 1 or 2 of this  
19 subsection as long as the member's entire interest will be distributed to  
20 the designated beneficiary by December 31 of the calendar year containing  
21 the fifth anniversary of the member's death. If the member's surviving  
22 spouse is the member's sole designated beneficiary and the surviving  
23 spouse dies after the member but before distributions to either the member  
24 or the surviving spouse begin, this paragraph applies as if the surviving  
25 spouse were the member.

26 D. Unless the member's interest is distributed in the form of an  
27 annuity purchased from an insurance company or in a single sum on or  
28 before the required beginning date, as of the first distribution, calendar  
29 year distributions shall be made pursuant to subsections E, F and G of  
30 this section. If the member's interest is distributed in the form of an  
31 annuity purchased from an insurance company, distributions shall be made  
32 pursuant to the requirements of section 401(a)(9) of the internal revenue  
33 code and the regulations that are issued under that section by the United  
34 States secretary of the treasury. Any part of the member's interest that  
35 is in the form of an individual account described in section 414(k) of the  
36 internal revenue code shall be distributed in a manner satisfying the  
37 requirements of section 401(a)(9) of the internal revenue code and the  
38 regulations that are issued under that section by the United States  
39 secretary of the treasury that apply to individual accounts.

40 E. The following provisions govern the determination of the amount  
41 to be distributed each calendar year:

42 1. If the member's interest is paid in the form of annuity  
43 distributions, payments under the annuity shall satisfy the following  
44 requirements:

1 (a) The annuity distributions shall be paid in periodic payments  
2 made at intervals not longer than one year.

3 (b) The distribution period shall be over a life or lives or over a  
4 period certain not longer than the period described in subsection F or G  
5 of this section.

6 (c) Once payments have begun over a period certain, the period  
7 certain shall not be changed even if the period certain is shorter than  
8 the maximum allowed.

9 (d) Payments shall either be nonincreasing or increase only as  
10 follows:

11 (i) By an annual percentage increase that does not exceed the  
12 annual percentage increase in a cost-of-living index that is based on  
13 prices of all items and issued by the bureau of labor statistics.

14 (ii) To the extent of the reduction in the amount of the member's  
15 payments to provide for a survivor benefit on death, but only if the  
16 beneficiary whose life was being used to determine the distribution period  
17 described in subsection F of this section dies or is no longer the  
18 member's beneficiary pursuant to a qualified domestic relations order  
19 within the meaning of section 414(p) of the internal revenue code.

20 (iii) To provide cash refunds of employee contributions on the  
21 member's death.

22 (iv) To pay increased benefits that result from a plan amendment.

23 2. The amount that must be distributed on or before the member's  
24 required beginning date or, if the member dies before distributions begin,  
25 the date distributions are required to begin under subsection C, paragraph  
26 1 or 2 of this section, is the payment that is required for one payment  
27 interval. The second payment need not be made until the end of the next  
28 payment interval even if that payment interval ends in the next calendar  
29 year. Payment intervals are the periods for which payments are received,  
30 such as bimonthly, monthly, semiannually or annually. All of the member's  
31 benefit accruals as of the last day of the first distribution calendar  
32 year shall be included in the calculation of the amount of the annuity  
33 payments for payment intervals ending on or after the member's required  
34 beginning date.

35 3. Any additional benefits accruing to the member in a calendar  
36 year after the first distribution calendar year shall be distributed  
37 beginning with the first payment interval ending in the calendar year  
38 immediately following the calendar year in which the amount accrues.

39 F. The following provisions govern annuity distributions that  
40 commence during a member's lifetime:

41 1. If the member's interest is being distributed in the form of a  
42 joint and survivor annuity for the joint lives of the member and a  
43 nonspouse beneficiary, annuity payments to be made on or after the  
44 member's required beginning date to the designated beneficiary after the  
45 member's death must not at any time exceed the applicable percentage of

1 the annuity payment for the period that would have been payable to the  
2 member using the table set forth in question and answer number 2 of  
3 section 1.401(a)(9)-6 of the regulations issued by the United States  
4 secretary of the treasury. If the form of distribution combines a joint  
5 and survivor annuity for the joint lives of the member and a nonspouse  
6 beneficiary and a period certain annuity, the requirement in the preceding  
7 sentence applies to annuity payments to be made to the designated  
8 beneficiary after the expiration of the period certain.

9 2. Unless the member's spouse is the sole designated beneficiary  
10 and the form of distribution is a period certain and no life annuity, the  
11 period certain for an annuity distribution commencing during the member's  
12 lifetime may not exceed the applicable distribution period for the member  
13 under the uniform lifetime table prescribed in section 1.401(a)(9)-9 of  
14 the regulations issued by the United States secretary of the treasury for  
15 the calendar year that contains the annuity starting date. If the annuity  
16 starting date precedes the year in which the member reaches seventy years  
17 of age, the applicable distribution period for the member is the  
18 distribution period for seventy years of age under the uniform lifetime  
19 table set forth in section 1.401(a)(9)-9 of the regulations issued by the  
20 United States secretary of the treasury plus the excess of seventy over  
21 the age of the member as of the member's birthday in the year that  
22 contains the annuity starting date. If the member's spouse is the  
23 member's sole designated beneficiary and the form of distribution is a  
24 period certain and no life annuity, the period certain may not exceed the  
25 longer of the member's applicable distribution period, as determined under  
26 this paragraph, or the joint life and last survivor expectancy of the  
27 member and the member's spouse as determined under the joint and last  
28 survivor table prescribed in section 1.401(a)(9)-9 of the regulations  
29 issued by the United States secretary of the treasury, using the member's  
30 and spouse's attained ages as of the member's and spouse's birthdays in  
31 the calendar year that contains the annuity starting date.

32 G. The following provisions govern minimum distributions if a  
33 member dies before the date distributions begin:

34 1. Except as provided in subsection C, paragraph ~~6~~ 4 of this  
35 section, if the member dies before the date distribution of the member's  
36 interest begins and there is a designated beneficiary, the member's entire  
37 interest shall be distributed, beginning not later than the time  
38 prescribed in subsection C, paragraph 1 or 2 of this section, over the  
39 life of the designated beneficiary or over a period certain not exceeding  
40 either of the following:

41 (a) Unless the annuity starting date is before the first  
42 distribution calendar year, the life expectancy of the designated  
43 beneficiary determined using the beneficiary's age as of the beneficiary's  
44 birthday in the calendar year immediately following the calendar year of  
45 the member's death.

1 (b) If the annuity starting date is before the first distribution  
2 calendar year, the life expectancy of the designated beneficiary  
3 determined using the beneficiary's age as of the beneficiary's birthday in  
4 the calendar year that contains the annuity starting date.

5 2. If the member dies before the date distributions begin and there  
6 is no designated beneficiary as of September 30 of the year following the  
7 year of the member's death, distribution of the member's entire interest  
8 shall be completed by December 31 of the calendar year containing the  
9 fifth anniversary of the member's death.

10 3. If the member dies before the date distribution of the member's  
11 interest begins, the member's surviving spouse is the member's sole  
12 designated beneficiary and the surviving spouse dies before distributions  
13 to the surviving spouse begin, this subsection applies as if the surviving  
14 spouse were the member, except that the time by which distributions must  
15 begin shall be determined without regard to subsection C, paragraph 1 of  
16 this section.

17 H. If a member dies after the member's required beginning date and  
18 the member had not commenced distribution of retirement benefits, ASRS  
19 shall treat the member as having commenced distribution of retirement  
20 benefits on the member's required beginning date. Notwithstanding section  
21 38-776, ASRS shall determine the member's retirement benefit as a straight  
22 annuity as of the date of the member's required beginning date. The  
23 member's estate is entitled to the member's benefit payments and any  
24 remaining member contributions on account shall be disbursed pursuant to  
25 section 38-763.

26 I. For the purposes of this section:

27 1. "Designated beneficiary" means the individual who is designated  
28 as the member's beneficiary to receive benefits under this article and is  
29 the designated beneficiary under section 401(a)(9) of the internal revenue  
30 code and question and answer number 1 of section 1.401(a)(9)-4 of the  
31 regulations issued by the United States secretary of the treasury.

32 2. "Distribution calendar year" means a calendar year for which a  
33 minimum distribution is required. For distributions beginning before the  
34 member's death, the first distribution calendar year is the calendar year  
35 immediately preceding the calendar year that contains the member's  
36 required beginning date. For distributions beginning after the member's  
37 death, the first distribution calendar year is the calendar year in which  
38 distributions are required to begin pursuant to subsection C of this  
39 section.

40 3. "Life expectancy" means life expectancy as computed by use of  
41 the single life table in section 1.401(a)(9)-9 of the regulations issued  
42 by the United States secretary of the treasury.

43 4. "Required beginning date" means the date payment of a member's  
44 benefits shall commence in accordance with section 401(a)(9)(C) of the  
45 internal revenue code.

1           Sec. 19. Section 38-781, Arizona Revised Statutes, is amended to  
2 read:

3           38-781. Supplemental employee deferral plan; public  
4           employees; administration; immunity; definitions

5           A. One or more supplemental employee deferral plans may be  
6 established pursuant to this section to provide public employees an  
7 opportunity to save additional tax-deferred monies for retirement.

8           B. ASRS may establish, administer, manage and operate supplemental  
9 employee deferral plans for employers.

10          C. ASRS may:

11           1. Employ services it deems necessary, including legal services,  
12 for the operation and administration of the plans.

13           2. Administer the plans through contracts with multiple vendors.

14           3. Perform all acts, whether or not expressly authorized, that it  
15 deems necessary and proper for the operation and protection of the plans.

16           4. For the purposes of this section, enter into intergovernmental  
17 agreements pursuant to title 11, chapter 7, article 3.

18          D. A supplemental employee deferral plan ~~is in addition to and~~ does  
19 not replace an employee's existing state defined benefit retirement plan.

20          E. If an employer, including this state, elects to participate in a  
21 supplemental employee deferral plan, any employee of the employer who  
22 meets the eligibility requirements that are prescribed by ASRS for  
23 participation in the supplemental employee deferral plan may participate  
24 in the supplemental employee deferral plan.

25          F. Notwithstanding subsection E of this section, on or after  
26 July 1, 2022, an employee of an employer **WHO IS NOT ELIGIBLE TO**  
27 **PARTICIPATE IN A PUBLIC RETIREMENT SYSTEM ESTABLISHED BY ARTICLE 3, 3.1,**  
28 **4, 4.1 OR 6 OF THIS CHAPTER** may elect to participate in a supplemental  
29 employee deferral plan if the employee meets the eligibility requirements  
30 that are prescribed by ASRS for participation in the supplemental employee  
31 deferral plan.

32          G. Employee participation in a supplemental employee deferral plan  
33 requires the participant's employer to make salary reductions from the  
34 participant's compensation at no cost to the employee, ASRS or any vendor  
35 retained by ASRS and contribute such salary reductions to the plan. An  
36 employer may make employer contributions to the supplemental employee  
37 deferral plan if the plan allows. The employer shall submit any reports  
38 required by the plan. If the participant is an active member, any  
39 compensation deferred by an employee under a plan shall be included as  
40 regular compensation or compensation for the purpose of computing the  
41 retirement and pension benefits provided in this article earned by any  
42 employee participating in the plan.

43          H. Employee contributions and earnings on employee contributions  
44 are immediately vested. Employer contributions, if any, and the earnings  
45 on employer contributions shall vest according to the schedule established



1 by the employer, if the employer completes and submits a schedule to  
2 ASRS. If the employer does not complete and submit a schedule to ASRS,  
3 employer contributions, if any, and the earnings on employer contributions  
4 shall vest according to the default schedule established by ASRS.

5 I. Notwithstanding any other law, this state and its officers and  
6 employees, the board and ASRS are immune from civil liability and are not  
7 subject to suit directly or by way of contribution for any act or omission  
8 resulting in any damage or injury arising out of the supplemental employee  
9 deferral plan.

10 J. For the purposes of this section:

11 1. "State" means this state, including any department, office,  
12 board, commission, agency or university, but does not mean any school  
13 district or community college district.

14 2. "Supplemental employee deferral plan" means a tax deferred  
15 annuity described in section 403(b) of the internal revenue code,  
16 including a custodial account described in 403(b)(7) of the internal  
17 revenue code, and an eligible deferred compensation plan described in  
18 section 457(b) of the internal revenue code. A supplemental employee  
19 deferral plan shall comply with all applicable provisions of the section  
20 of the internal revenue code under which such plan is adopted and  
21 maintained.

22 Sec. 20. Section 38-797.06, Arizona Revised Statutes, is amended to  
23 read:

24 38-797.06. Contribution rate; annual report

25 A. The board shall select an actuary to determine required employer  
26 contributions on an annual basis. The actuary shall be a fellow of the  
27 society of actuaries.

28 B. Employer contributions shall be a percentage of compensation of  
29 all employees of the employers WHO MEET THE ELIGIBILITY REQUIREMENTS OF  
30 ARTICLE 2 OF THIS CHAPTER, as the ASRS actuary determines pursuant to this  
31 section. The actuary shall make this determination in an annual valuation  
32 performed as of June 30. The valuation as of June 30 of a calendar year  
33 shall determine the percentage to be applied to compensation for the  
34 fiscal year beginning July 1 of the following calendar year. The actuary  
35 shall determine the total employer contribution using an actuarial cost  
36 method consistent with generally accepted actuarial standards. The total  
37 employer contributions shall be equal to the employer normal cost plus the  
38 amount required to amortize the past service funding requirement over a  
39 period consistent with generally accepted actuarial standards.

40 C. All contributions made by the employer and allocated to the LTD  
41 trust fund established by section 38-797.02 are irrevocable and shall be  
42 used as benefits under this article or to pay expenses of the LTD program.

43 D. ASRS shall provide a preliminary report on or before November 30  
44 of the valuation year and a final report on or before January 15 of the  
45 following year to the governor, the speaker of the house of

1 representatives and the president of the senate on the contribution rate  
2 for the ensuing fiscal year.

3 Sec. 21. Section 38-797.07, Arizona Revised Statutes, is amended to  
4 read:

5 38-797.07. LTD program benefits; limitations; definitions

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

7 1. Except as provided in paragraph 9 of this subsection, monthly  
8 LTD program benefits shall not exceed two-thirds of a member's monthly  
9 compensation, reduced by:

10 (a) For a member whose disability commences before July 1, 2008,  
11 sixty-four percent of social security disability benefits that the member  
12 and the member's dependents are eligible to receive.

13 (b) For a member whose disability commences on or after July 1,  
14 2008, eighty-five percent of social security disability benefits that the  
15 member and the member's dependents are eligible to receive, but not  
16 including:

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

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

22 (c) For a member whose disability commences before July 1, 2008,  
23 eighty-three percent of social security retirement benefits that the  
24 member is eligible to receive.

25 (d) For a member whose disability commences on or after July 1,  
26 2008, eighty-five percent of social security retirement benefits that the  
27 member is eligible to receive, but not including any cost-of-living  
28 adjustments that are granted after the member commences benefits under  
29 this section.

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

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

33 (i) The veteran's disability payment is for the same condition or a  
34 condition related to the condition currently causing the member's  
35 disability.

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

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

43 (h) Fifty percent of any salary, wages, commissions or other  
44 employment-related pay that the member receives or is entitled to receive  
45 from any gainful employment in which the member actually engages.

1           2. For a member whose disability commences on or after August 2,  
2 2012, a member's monthly income from the monthly LTD program benefits and  
3 sources listed in paragraph 1 of this subsection shall not exceed one  
4 hundred percent of the member's monthly compensation at the time  
5 disability commences. ASRS shall offset the member's monthly LTD program  
6 benefits by the amount necessary to reduce the member's total monthly  
7 income to meet the limit prescribed in this paragraph.

8           3. Monthly LTD program benefits are not payable until a member has  
9 had a disability for a period of six consecutive months.

10          4. Monthly LTD program benefits are not payable to a member who  
11 files an initial claim for disability more than twelve months after the  
12 date of the member's date of disability unless the member demonstrates to  
13 ASRS good cause for not filing the initial claim within twelve months  
14 after the date of disability.

15          5. Monthly LTD program benefits are not payable to a member who is  
16 receiving retirement benefits from ASRS, unless the retirement benefits  
17 are required pursuant to section 38-775.

18          6. Monthly LTD program benefits are not payable to a member whose  
19 disability is due to, or a result of, any of the following:

20           (a) An intentionally self-inflicted injury.

21           (b) War, whether declared or not.

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

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

29           (i) Has been an active member of an employer for twelve continuous  
30 months.

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

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

38          7. Monthly LTD program benefits cease to be payable to a member at  
39 the earliest of the following:

40           (a) The date the member ceases to have a disability.

41           (b) The date the member:

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

43           (ii) Refuses to undergo any medical examination or refuses to  
44 participate in any work rehabilitation program for which the member is  
45 reasonably qualified by education, training or experience and that is

1 requested by the insurance company or claims administrator that is  
2 selected by the board to administer the LTD program.

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

5 (d) The later of the following:

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

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

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

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

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

18 8. Monthly LTD program benefits are payable only for disabilities  
19 that commence on or after July 1, 1988.

20 9. Except as provided in paragraph 2 of this subsection, the  
21 minimum benefit for a member who is entitled to receive monthly LTD  
22 program benefits is \$50 per month.

23 10. Members are eligible to receive the LTD program benefits and  
24 payments described in paragraph 1 of this subsection, and the reductions  
25 provided by paragraph 1 of this subsection apply even though the social  
26 security benefits are not actually paid as follows:

27 (a) For primary and dependent social security benefits, the members  
28 are eligible for the social security benefits until the social security  
29 benefits are actually awarded, or if the social security benefits are  
30 denied, until the member pursues the social security appeal process  
31 through a hearing before a social security administrative law judge or  
32 until the insurance company or claims administrator determines that the  
33 member is not eligible for social security benefits.

34 (b) For benefits and payments from any other source provided in  
35 paragraph 1 of this subsection, the members are eligible for the benefits  
36 if it is reasonable to believe that those benefits will be paid on proper  
37 completion of the claim or would have been paid except for the failure of  
38 the member to pursue the claim in time.

39 11. A member shall be considered to have a disability if based on  
40 objective medical evidence:

41 (a) During the first thirty months of a period of disability, the  
42 member is unable to perform one or more duties of the occupation held by  
43 the member when the member developed a disability.

1 (b) For a member who has received monthly LTD program benefits for  
2 twenty-four months within a five-year period, the member is unable to  
3 perform any work for compensation or gain for which the member is  
4 reasonably qualified by education, training or experience in an amount at  
5 least equal to the scheduled LTD program benefits prescribed in paragraph  
6 1 of this subsection.

7 B. A member who is eligible pursuant to article 2 of this chapter  
8 and who receives monthly LTD program benefits is entitled to receive  
9 service credit pursuant to article 2 of this chapter from the time  
10 disability commences until LTD program benefits cease to be payable,  
11 except that for a member who receives monthly LTD program benefits on or  
12 after June 30, 1999, the number of years of service credited to the  
13 member's retirement account during the period ~~the member receives~~ ASRS  
14 DISBURSES LTD program benefit payments shall not cause the member's total  
15 credited service for retirement benefits to exceed the greater of thirty  
16 years or the total years of service credited to the member's retirement  
17 account on the commencement of disability.

18 C. This section does not prohibit a member whose disability has  
19 been established to the satisfaction of the board from relying on  
20 treatment by prayer through spiritual means in accordance with the tenets  
21 and practice of a recognized church, religious denomination or Native  
22 American traditional medicine by a duly accredited practitioner of the  
23 church, denomination or Native American traditional medicine without  
24 suffering reduction or suspension of the member's monthly LTD program  
25 benefits.

26 D. ASRS may suspend or terminate benefits under this article if a  
27 member fails to provide information, data, paperwork or other materials  
28 that are requested by ASRS or the insurance company or claims  
29 administrator that is selected by the board to administer the LTD program.  
30 ASRS or its contracted administrator may investigate information that  
31 indicates a member may have falsified information or records related to  
32 LTD program eligibility or benefits or may not otherwise meet the  
33 requirements of LTD program eligibility. In connection with an  
34 investigation involving the LTD program, ASRS or its contracted  
35 administrator may collect and examine any statement or evidence, or may  
36 authorize a third party to collect and examine any statement or evidence,  
37 that relates to a member falsifying information or records related to LTD  
38 program eligibility or benefits. If the member provides the information  
39 requested, ASRS shall retroactively reinstate the benefits or claim for  
40 which the member qualifies under this article.

41 E. For the purposes of this section:

42 1. "Objective medical evidence" means evidence that established  
43 facts and conditions, as perceived without distortion by personal  
44 feelings, prejudices or interpretations, and includes x-rays, quantitative

1 tests, laboratory findings, data, records, reports from the attending  
2 physician and reports from a consulting physician, as applicable.

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

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

12 Sec. 22. Repeal

13 Section 38-797.09, Arizona Revised Statutes, is repealed.

14 Sec. 23. Section 38-921, Arizona Revised Statutes, is amended to  
15 read:

16 38-921. Transfer of retirement service credits from one  
17 retirement system or plan to another retirement  
18 system or plan in this state; definitions

19 A. An active or inactive member of a state retirement system or  
20 plan, including the retirement system provided for in article 2 of this  
21 chapter, the elected officials' retirement plan provided for in article 3  
22 of this chapter, the public safety personnel retirement system provided  
23 for in article 4 of this chapter or the corrections officer retirement  
24 plan provided for in article 6 of this chapter, may transfer service  
25 credits from one system or plan to the member's current or former system  
26 or plan pursuant to section 38-922 if all of the following conditions are  
27 met:

28 1. The board governing the retirement system or plan from which the  
29 service credits are being transferred mutually agrees with the board  
30 governing the retirement system or plan to which the service credits are  
31 being transferred regarding the terms of the transfer.

32 2. The transfer does not cause either the retirement system or plan  
33 to which the transfer is made or the retirement system or plan from which  
34 the transfer is made to incur any unfunded accrued liabilities as a result  
35 of the transfer.

36 3. The member initiates the transfer by making written application  
37 to the governing board of the retirement system or plan to which the  
38 member is contributing **OR HAS CONTRIBUTED**.

39 B. For the purposes of this section:

40 1. "Active member" means a member who satisfies the eligibility  
41 criteria of the state retirement system or plan and who is currently  
42 making member contributions to or receiving credited service from the  
43 state retirement system or plan.

- 1           2. "Inactive member" means a member of the state retirement system  
2 or plan who previously made contributions to the state retirement system  
3 or plan and who satisfies each of the following:
- 4           (a) Has not retired.
  - 5           (b) Is not eligible for active membership in the state retirement  
6 system or plan.
  - 7           (c) Is not currently making contributions to the state retirement  
8 system or plan.
  - 9           (d) Has not withdrawn contributions from the state retirement  
10 system or plan.

APPROVED BY THE GOVERNOR APRIL 14, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 14, 2022.