

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.

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