

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 875
94TH GENERAL ASSEMBLY

Reported from the Committee on Pensions, Veterans' Affairs and General Laws, April 19, 2007, with recommendation that the Senate Committee Substitute do pass.

2171S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 50.1250, 87.006, 104.010, 104.040, 104.160, 104.312, 104.320, 104.344, 104.352, 104.354, 104.380, 104.395, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1039, 104.1051, 104.1072, 104.1087, 104.1090, 105.910, 105.915, 105.920, 169.070, 169.466, 169.471, and 169.670 RSMo, and to enact in lieu thereof thirty-one new sections relating to employee benefit plans.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 50.1250, 87.006, 104.010, 104.040, 104.160, 104.312, 104.320, 104.344, 104.352, 104.354, 104.380, 104.395, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1039, 104.1051, 104.1072, 104.1087, 104.1090, 105.910, 105.915, 105.920, 169.070, 169.466, 169.471, and 169.670, RSMo, is repealed and thirty-one new sections enacted in lieu thereof, to be known as sections 50.1250, 87.006, 104.010, 104.040, 104.160, 104.312, 104.320, 104.344, 104.352, 104.354, 104.380, 104.395, 104.606, 104.1003, 104.1012, 104.1015, 104.1021, 104.1024, 104.1027, 104.1039, 104.1051, 104.1072, 104.1087, 104.1090, 105.910, 105.915, 169.070, 169.466, 169.471, 169.670, and 321.800, to read as follows:

50.1250. 1. If a member has less than five years of creditable service upon termination of employment, the member shall forfeit the portion of his or her defined contribution account attributable to board matching contributions or county matching contributions pursuant to section 50.1230. The proceeds of such forfeiture shall be applied towards matching contributions made by the board for the calendar year in which the forfeiture occurs. If the board does not approve

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

7 a matching contribution, then forfeitures shall revert to the county employees'
8 retirement fund. The proceeds of such forfeiture with respect to county matching
9 contributions shall be applied toward matching contributions made by the
10 respective county in accordance with rules prescribed by the board.

11 2. A member shall be eligible to receive a distribution of the member's
12 defined contribution account in such form selected by the member as permitted
13 under and in accordance with the rules and regulations formulated and adopted
14 by the board from time to time, and commencing as soon as administratively
15 feasible following separation from service, unless the member elects to receive the
16 account balance at a later time, but no later than his or her required beginning
17 date. Notwithstanding the foregoing, if the value of a member's defined
18 contribution account balance is **[five] one** thousand dollars or less at the time of
19 the member's separation from service, without respect to any board-matching
20 contributions or employer-matching contribution which might be allocated
21 following the member's separation from service, then his or her defined
22 contribution account shall be distributed to the member in a single sum as soon
23 as administratively feasible following his or her separation from service. The
24 amount of the distribution shall be the amount determined as of the valuation
25 date described in section 50.1240, if the member has at least five years of
26 creditable service. If the member has less than five years of creditable service
27 upon his or her separation from service, then the amount of the distribution shall
28 equal the portion of the member's defined contribution account attributable to the
29 member's seed contributions pursuant to section 50.1220, if any, determined as
30 of the valuation date.

31 3. If the member dies before receiving the member's account balance, the
32 member's designated beneficiary shall receive the member's defined contribution
33 account balance, as determined as of the immediately preceding valuation date,
34 in a single sum. The member's beneficiary shall be his or her spouse, if married,
35 or his or her estate, if not married, unless the member designates an alternative
36 beneficiary in accordance with procedures established by the board.

87.006. 1. Notwithstanding the provisions of any law to the contrary, and
2 only for the purpose of computing retirement benefits provided by an established
3 retirement plan, after five years' service, any condition of impairment of health
4 caused by any disease of the lungs or respiratory tract, hypotension,
5 hypertension, or disease of the heart resulting in total or partial disability or
6 death to a uniformed member of a paid fire department, who successfully passed

7 a physical examination within five years prior to the time a claim is made for
8 such disability or death, which examination failed to reveal any evidence of such
9 condition, shall be presumed to have been suffered in line of duty, unless the
10 contrary be shown by competent evidence.

11 **2. Any condition of cancer affecting the skin or the central**
12 **nervous, lymphatic, digestive, hematological, urinary, skeletal, oral,**
13 **breast, testicular, genitourinary, liver or prostate systems, as well as**
14 **any condition of cancer which may result from exposure to heat or**
15 **radiation or to a known or suspected carcinogen as determined by the**
16 **International Agency for Research on Cancer, which results in the total**
17 **or partial disability or death to a uniformed member of a paid fire**
18 **department who successfully passed a physical examination within five**
19 **years prior to the time a claim is made for disability or death, which**
20 **examination failed to reveal any evidence of such condition, shall be**
21 **presumed to have been suffered in the line of duty unless the contrary**
22 **be shown by competent evidence and it can be proven to a reasonable**
23 **degree of medical certainty that the condition did not result nor was**
24 **contributed to by the voluntary use of tobacco.**

25 **3.** This section shall apply to paid members of all fire departments of all
26 counties, cities, towns, fire districts, and other governmental units.

104.010. 1. The following words and phrases as used in sections 104.010
2 to 104.800, unless a different meaning is plainly required by the context, shall
3 mean:

4 (1) "Accumulated contributions", the sum of all deductions for retirement
5 benefit purposes from a member's compensation which shall be credited to the
6 member's individual account and interest allowed thereon;

7 (2) "Active armed warfare", any declared war, or the Korean or
8 Vietnamese Conflict;

9 (3) "Actuarial equivalent", a benefit which, when computed upon the basis
10 of actuarial tables and interest, is equal in value to a certain amount or other
11 benefit;

12 (4) "Actuarial tables", the actuarial tables approved and in use by a board
13 at any given time;

14 (5) "Actuary", the actuary who is a member of the American Academy of
15 Actuaries or who is an enrolled actuary under the Employee Retirement Income
16 Security Act of 1974 and who is employed by a board at any given time;

17 (6) "Annuity", annual payments, made in equal monthly installments, to
18 a retired member from funds provided for in, or authorized by, this chapter;

19 (7) "Average compensation", the average compensation of a member for
20 the thirty-six consecutive months of service prior to retirement when the
21 member's compensation was greatest; or if the member is on workers'
22 compensation leave of absence or a medical leave of absence due to an employee
23 illness, the amount of compensation the member would have received may be
24 used, as reported and verified by the employing department; or if the member had
25 less than thirty-six months of service, the average annual compensation paid to
26 the member during the period up to thirty-six months for which the member
27 received creditable service when the member's compensation was the greatest; or
28 if the member is on military leave, the amount of compensation the member
29 would have received may be used as reported and verified by the employing
30 department or, if such amount is not determinable, the amount of the employee's
31 average rate of compensation during the twelve-month period immediately
32 preceding such period of leave, or if shorter, the period of employment
33 immediately preceding such period of leave. **The board of each system may**
34 **promulgate rules for purposes of calculating average compensation and**
35 **other retirement provisions to accommodate for any state payroll**
36 **system in which compensation is received on a monthly, semimonthly,**
37 **biweekly, or other basis;**

38 (8) "Beneficiary", any person entitled to or nominated by a member or
39 retiree who may be legally entitled to receive benefits pursuant to this chapter;

40 (9) "Biennial assembly", the completion of no less than two years of
41 creditable service or creditable prior service by a member of the general assembly;

42 (10) "Board of trustees", "board", or "trustees", a board of trustees as
43 established for the applicable system pursuant to this chapter;

44 (11) "Chapter", sections 104.010 to 104.800;

45 (12) "Compensation":

46 (a) All salary and wages payable out of any state, federal, trust, or other
47 funds to an employee for personal services performed for a department; but
48 including only amounts for which contributions have been made in accordance
49 with section 104.436, or section 104.070, whichever is applicable, and excluding
50 any nonrecurring single sum payments or amounts paid after the member's
51 termination of employment unless such amounts paid after such termination are
52 a final installment of salary or wages at the same rate as in effect immediately

53 prior to termination of employment in accordance with a state payroll system
54 adopted on or after January 1, 2000, or any other one-time payments made as a
55 result of such payroll system;

56 (b) All salary and wages which would have been payable out of any state,
57 federal, trust or other funds to an employee on workers' compensation leave of
58 absence during the period the employee is receiving a weekly workers'
59 compensation benefit, as reported and verified by the employing department;

60 (c) Effective December 31, 1995, compensation in excess of the limitations
61 set forth in Internal Revenue Code Section 401(a)(17) shall be disregarded. The
62 limitation on compensation for eligible employees shall not be less than the
63 amount which was allowed to be taken into account under the system as in effect
64 on July 1, 1993. For this purpose, an "eligible employee" is an individual who
65 was a member of the system before the first plan year beginning after December
66 31, 1995;

67 (13) "Consumer price index", the Consumer Price Index for All Urban
68 Consumers for the United States, or its successor index, as approved by a board,
69 as such index is defined and officially reported by the United States Department
70 of Labor, or its successor agency;

71 (14) "Creditable prior service", the service of an employee which was
72 either rendered prior to the establishment of a system, or prior to the date the
73 employee last became a member of a system, and which is recognized in
74 determining the member's eligibility and for the amount of the member's benefits
75 under a system;

76 (15) "Creditable service", the sum of membership service and creditable
77 prior service, to the extent such service is standing to a member's credit as
78 provided in this chapter; except that in no case shall more than one day of
79 creditable service or creditable prior service be credited any member for any one
80 calendar day of eligible service credit as provided by law;

81 (16) "Deferred normal annuity", the annuity payable to any former
82 employee who terminated employment as an employee or otherwise withdrew
83 from service with a vested right to a normal annuity, payable at a future date;

84 (17) "Department", any department or agency of the executive, legislative
85 or judicial branch of the state of Missouri receiving state appropriations,
86 including allocated funds from the federal government but not including any body
87 corporate or politic unless its employees are eligible for retirement coverage from
88 a system pursuant to this chapter as otherwise provided by law;

89 (18) "Disability benefits", benefits paid to any employee while totally
90 disabled as provided in this chapter;

91 (19) "Early retirement age", a member's attainment of fifty-five years of
92 age and the completion of ten or more years of creditable service, except for
93 uniformed members of the water patrol;

94 (20) "Employee":

95 (a) Any elective or appointive officer or person employed by the state who
96 is employed, promoted or transferred by a department into a new or existing
97 position and earns a salary or wage in a position normally requiring the
98 performance by the person of duties during not less than one thousand **forty**
99 hours per year, including each member of the general assembly but not including
100 any patient or inmate of any state, charitable, penal or correctional
101 institution. [Beginning September 1, 2001, the term "year" as used in this
102 subdivision shall mean the twelve-month period beginning on the first day of
103 employment.] However, persons who are members of the public school retirement
104 system and who are employed by a state agency other than an institution of
105 higher learning shall be deemed employees for purposes of participating in all
106 insurance programs administered by a board established pursuant to section
107 104.450. This definition shall not exclude any employee as defined in this
108 subdivision who is covered only under the federal Old Age and Survivors'
109 Insurance Act, as amended. As used in this chapter, the term "employee" shall
110 include:

111 a. Persons who are currently receiving annuities or other retirement
112 benefits from some other retirement or benefit fund, so long as they are not
113 simultaneously accumulating creditable service in another retirement or benefit
114 system which will be used to determine eligibility for or the amount of a future
115 retirement benefit;

116 b. Persons who have elected to become or who have been made members
117 of a system pursuant to section 104.342;

118 (b) Any person who **is not a retiree and** has performed services in the
119 employ of the general assembly or either house thereof, or any employee of any
120 member of the general assembly while acting in the person's official capacity as
121 a member, and whose position does not normally require the person to perform
122 duties during at least one thousand **forty** hours per year, with a month of service
123 being any monthly pay period in which the employee was paid for full-time
124 employment for that monthly period; **except that persons described in this**

125 **paragraph shall not include any such persons who are employed on or**
126 **after August 28, 2007, and who have not previously been employed in**
127 **such positions;**

128 (c) "Employee" does not include special consultants employed pursuant to
129 section 104.610;

130 (d) [As used in this chapter, the hours governing the definition of
131 employee shall be applied only from August 13, 1988, forward;

132 (e)] The system shall consider a person who is employed in multiple
133 positions simultaneously within a single agency to be working in a single position
134 for purposes of determining whether the person is an employee as defined in this
135 subdivision;

136 (21) "Employer", a department of the state;

137 (22) "Executive director", the executive director employed by a board
138 established pursuant to the provisions of this chapter;

139 (23) "Fiscal year", the period beginning July first in any year and ending
140 June thirtieth the following year;

141 (24) "Full biennial assembly", the period of time beginning on the first day
142 the general assembly convenes for a first regular session until the last day of the
143 following year;

144 (25) "Fund", the benefit fund of a system established pursuant to this
145 chapter;

146 (26) "Interest", interest at such rate as shall be determined and prescribed
147 from time to time by a board;

148 (27) "Member", as used in sections 104.010 to 104.272 or 104.601 to
149 104.800 shall mean [a member of the highways and transportation employees'
150 and highway patrol retirement system without regard to whether or not the
151 member has been retired] **an employee, retiree, or former employee**
152 **entitled to a deferred annuity covered by the Missouri department of**
153 **transportation and highway patrol employees' retirement**
154 **system.** "Member", as used in this section and sections 104.312 to 104.800, shall
155 mean [a member of] **an employee, retiree, or former employee entitled to**
156 **deferred annuity covered by** the Missouri state employees' retirement system
157 [without regard to whether or not the member has been retired];

158 (28) "Membership service", the service after becoming a member that is
159 recognized in determining a member's eligibility for and the amount of a
160 member's benefits under a system;

161 (29) "Military service", all active service performed in the United States
162 Army, Air Force, Navy, Marine Corps, Coast Guard, and members of the United
163 States Public Health Service or any women's auxiliary thereof; and service in the
164 Army national guard and Air national guard when engaged in active duty for
165 training, inactive duty training or full-time national guard duty, and service by
166 any other category of persons designated by the President in time of war or
167 emergency;

168 (30) "Normal annuity", the annuity provided to a member upon retirement
169 at or after the member's normal retirement age;

170 (31) "Normal retirement age", an employee's attainment of sixty-five years
171 of age and the completion of four years of creditable service or the attainment of
172 age sixty-five years of age and the completion of five years of creditable service
173 by a member who has terminated employment and is entitled to a deferred
174 normal annuity or the member's attainment of age sixty and the completion of
175 fifteen years of creditable service, except that normal retirement age for
176 uniformed members of the highway patrol shall be fifty-five years of age and the
177 completion of four years of creditable service and uniformed employees of the
178 water patrol shall be fifty-five years of age and the completion of four years of
179 creditable service or the attainment of age fifty-five and the completion of five
180 years of creditable service by a member of the water patrol who has terminated
181 employment and is entitled to a deferred normal annuity and members of the
182 general assembly shall be fifty-five years of age and the completion of three full
183 biennial assemblies. Notwithstanding any other provision of law to the contrary,
184 a member of the highways and transportation employees' and highway patrol
185 retirement system or a member of the Missouri state employees' retirement
186 system shall be entitled to retire with a normal annuity and shall be entitled to
187 elect any of the survivor benefit options and shall also be entitled to any other
188 provisions of this chapter that relate to retirement with a normal annuity if the
189 sum of the member's age and creditable service equals eighty years or more and
190 if the member is at least forty-eight years of age;

191 (32) "Payroll deduction", deductions made from an employee's
192 compensation;

193 (33) "Prior service credit", the service of an employee rendered prior to the
194 date the employee became a member which service is recognized in determining
195 the member's eligibility for benefits from a system but not in determining the
196 amount of the member's benefit;

197 (34) "Reduced annuity", an actuarial equivalent of a normal annuity;
198 (35) "Retiree", a member who is not an employee and who is receiving an
199 annuity from a system pursuant to this chapter;

200 (36) "System" or "retirement system", the [highways and transportation
201 employees' and highway patrol retirement system] **Missouri department of**
202 **transportation and highway patrol employees' retirement system**, as
203 created by sections 104.010 to 104.270, or sections 104.601 to 104.800, or the
204 Missouri state employees' retirement system as created by sections 104.320 to
205 104.800;

206 (37) "Uniformed members of the highway patrol", the superintendent,
207 lieutenant colonel, majors, captains, director of radio, lieutenants, sergeants,
208 corporals, and patrolmen of the Missouri state highway patrol who normally
209 appear in uniform;

210 (38) "Uniformed members of the water patrol", employees of the Missouri
211 state water patrol of the department of public safety who are classified as water
212 patrol officers who have taken the oath of office prescribed by the provisions of
213 chapter 306, RSMo, and who have those peace officer powers given by the
214 provisions of chapter 306, RSMo;

215 (39) "Vesting service", the sum of a member's prior service credit and
216 creditable service which is recognized in determining the member's eligibility for
217 benefits under the system.

218 2. Benefits paid pursuant to the provisions of this chapter shall not exceed
219 the limitations of Internal Revenue Code Section 415, the provisions of which are
220 hereby incorporated by reference. **Notwithstanding any other law to the**
221 **contrary, the board of trustees may establish a benefit plan under**
222 **Section 415(m) of the Internal Revenue Code of 1986, as amended. Such**
223 **plan shall be created solely for the purposes described in Section**
224 **415(m)(3)(A) of the Internal Revenue Code of 1986, as amended. The**
225 **board of trustees may promulgate regulations necessary to implement**
226 **the provisions of this subsection and to create and administer such**
227 **benefit plan.**

104.040. 1. Any member shall be entitled to creditable prior service
2 within the meaning of sections 104.010 to [104.270] **104.272** for all service in the
3 United States Army, Navy, or other armed services of the United States, or any
4 women's auxiliary thereof in time of active armed warfare, if such member was
5 a state employee immediately prior to his or her entry into the armed services

6 and became an employee of the state within ninety days after termination of such
7 service by an honorable discharge or release to inactive status; the requirement
8 of section 104.010 of duties during not less than one thousand hours for status
9 as an "employee" shall not apply to persons who apply for creditable prior service
10 pursuant to the provisions of this section.

11 2. Any member of the system who served as an employee prior to the
12 original effective date of sections 104.010 to [104.270] **104.272**, but was not an
13 employee on that date, shall be entitled to creditable prior service that such
14 member would have been entitled to had such member become a member of the
15 retirement system on the date of its inception if such member has, or hereafter
16 attains, one year of continuous membership service.

17 3. Any employee who completes one continuous year of creditable service
18 in the system shall receive credit for service with a state department, if such
19 service has not otherwise been credited.

20 4. Any member who had served in the armed forces of the United States
21 prior to becoming a member, or who is otherwise ineligible pursuant to subsection
22 1 of this section or other provisions of this chapter, and who became a member
23 after his or her discharge under honorable conditions may elect, prior to
24 retirement, to purchase all of his or her creditable prior service equivalent to such
25 service in the armed forces, but not to exceed four years, if the member is not
26 receiving and is not eligible to receive retirement credits or benefits from any
27 other public or private retirement plan for the service to be purchased, and an
28 affidavit so stating shall be filed by the member with the retirement
29 system. However, if the member is eligible to receive retirement credits in a
30 United States military service retirement system, the member shall be permitted
31 to purchase creditable prior service equivalent to his or her service in the armed
32 services, but not to exceed four years, any other provision of law to the contrary
33 notwithstanding. The purchase shall be effected by the member's paying to the
34 retirement system an amount equal to what would have been contributed by the
35 state in his or her behalf had the member been a member for the period for which
36 the member is electing to purchase credit and had his or her compensation during
37 such period of membership been the same as the annual salary rate at which the
38 member was initially employed as a member, with the calculations based on the
39 contribution rate in effect on the date of his or her employment with simple
40 interest calculated from date of employment from which the member could first
41 receive creditable service to the date of election pursuant to this subsection. The

42 payment shall be made over a period of not longer than two years, measured from
43 the date of election, and with simple interest on the unpaid balance. Payments
44 made for such creditable prior service pursuant to this subsection shall be treated
45 by the retirement system as would contributions made by the state and shall not
46 be subject to any prohibition on member contributions or refund provisions in
47 effect at the time of enactment of this subsection.

48 5. Any uniformed member of the highway patrol who served as a certified
49 police officer prior to becoming a member may elect, prior to retirement, to
50 purchase all of his or her creditable prior service equivalent to such service in the
51 police force, but not to exceed four years, if he or she is not receiving and is not
52 eligible to receive credits or benefits from any other public or private retirement
53 plan for the service to be purchased, and an affidavit so stating shall be filed by
54 the member with the retirement system. The purchase shall be effected by the
55 member's paying to the retirement system an amount equal to what would have
56 been contributed by the state in his or her behalf had he or she been a member
57 of the system for the period for which the member is electing to purchase credit
58 and had his compensation during such period been the same as the annual salary
59 rate at which the member was initially employed as a member, with the
60 calculations based on the contribution rate in effect on the date of his or her
61 employment with simple interest calculated from the date of employment from
62 which the member could first receive creditable service to the date of election
63 pursuant to the provisions of this section. The payment shall be made over a
64 period of not longer than two years, measured from the date of election, and with
65 simple interest on the unpaid balance. Payments made for such creditable prior
66 service pursuant to the provisions of this section shall be treated by the
67 retirement system as would contributions made by the state and shall not be
68 subject to any prohibition on member contributions or refund provisions in effect
69 at the time of enactment of this section.

70 6. Any [uniformed] member of the [highway patrol] **system under**
71 **section 104.030 or 104.170 who is an active employee and** who served as
72 a nonfederal full-time public employee in this state prior to becoming a member
73 may elect, prior to retirement, to purchase all of his or her creditable prior service
74 equivalent to such service, but not to exceed four years, if he or she is not
75 receiving and is not eligible to receive credits or benefits from any other public
76 plan for the service to be purchased[, and an affidavit so stating shall be filed by
77 the member with the retirement system]. The purchase shall be effected by the

78 member's paying to the retirement system an amount equal to what would have
79 been contributed by the state in his or her behalf had he or she been a member
80 of the system for the period for which the member is electing to purchase credit
81 and had his compensation during such period been the same as the annual salary
82 rate at which the member was initially employed as a member, with the
83 calculations based on the contribution rate in effect on the date of his or her
84 employment with simple interest calculated from the date of employment from
85 which the member could first receive creditable service to the date of election
86 pursuant to the provisions of this section. The payment shall be made over a
87 period of not longer than two years, measured from the date of election, and with
88 simple interest on the unpaid balance. Payments made for such creditable prior
89 service pursuant to the provisions of this section shall be treated by the
90 retirement system as would contributions made by the state and shall not be
91 subject to any prohibition on member contributions or refund provisions in effect
92 at the time of enactment of this section. **All purchase payments under this**
93 **subsection must be completed prior to retirement or prior to**
94 **termination of employment. If a member who purchased creditable**
95 **service under this subsection dies prior to retirement, the surviving**
96 **spouse may, upon written request, receive a refund of the amount**
97 **contributed for such purchase of such creditable service. The surviving**
98 **spouse shall not be eligible for a refund under this subsection if he or**
99 **she is entitled to survivorship benefits payable under section 104.140.**
100 **A member who is entitled to a deferred annuity under section 104.035**
101 **shall be ineligible to purchase service under this subsection.**

104.160. The board of trustees shall consist of three members of the state
2 highways and transportation commission elected by the members of the
3 commission. The superintendent of the highway patrol and the director of the
4 department of transportation shall serve as members by virtue of their respective
5 offices, and their successors shall succeed them as members of the board of
6 trustees. In addition, one member of the senate appointed by the president pro
7 tem of the senate and one member of the house of representatives, appointed by
8 the speaker of the house shall serve as members of the board of trustees. In
9 addition to the appointed legislators, two active employee members of the system
10 shall be elected by a plurality vote of the active employee members of the system,
11 herein designated for four-year terms to commence July 1, 1982, and every four
12 years thereafter. One elected member shall be elected from the active employees

13 of the department of transportation and one elected member shall be elected from
14 the active employees of the civilian or uniformed highway patrol. In addition to
15 the two active employee members, [one retired member] **two retirees** of the
16 system shall be elected to serve on the board by a plurality vote of the [retired
17 members] **retirees** of the system. [The retired member] **One retiree** shall be
18 elected by the retired employees of the transportation department and **one**
19 **retiree shall be elected by** the retired [members] **employees** of the civilian
20 or uniformed highway patrol. [The first retired member elected to the board shall
21 serve for a term which shall commence on January 1, 1993, and expire on June
22 30, 1994. Subsequently elected retired members shall serve for four-year terms
23 commencing on July 1, 1994, and every four years thereafter, which shall coincide
24 with the terms of the active employee members of the board.] **The retiree**
25 **serving on the board on August 28, 2007, shall continue to serve on the**
26 **board as the representative of the retired employees of the**
27 **transportation department until June 30, 2010. An election shall be**
28 **held prior to January 1, 2008, for the retiree to be elected by the**
29 **retired employees of the civilian or uniformed highway patrol with said**
30 **term to commence on January 1, 2008, and expire on June 30, 2010. All**
31 **terms of elected retired employees shall be for four years after June 30,**
32 **2010.** The board shall determine the procedures for nomination and election of
33 the elective board members. Nominations may be entered by any member of the
34 system, provided members of the system have a reasonable opportunity to vote.

104.312. 1. The provisions of subsection 2 of section 104.250, subsection
2 2 of section 104.540, subsection 2 of section 287.820, RSMo, and section 476.688,
3 RSMo, to the contrary notwithstanding, any pension, annuity, benefit, right, or
4 retirement allowance provided pursuant to this chapter, chapter 287, RSMo, or
5 chapter 476, RSMo, is marital property and after August 28, 1994, a court of
6 competent jurisdiction may divide the pension, annuity, benefits, rights, and
7 retirement allowance provided pursuant to this chapter, chapter 287, RSMo, or
8 chapter 476, RSMo, between the parties to any action for dissolution of marriage.
9 A division of benefits order issued pursuant to this section:

10 (1) Shall not require the applicable retirement system to provide any form
11 or type of annuity or retirement plan not selected by the member and not
12 normally made available by that system;

13 (2) Shall not require the applicable retirement system to commence
14 payments until the member submits a valid application for an annuity and the

15 annuity becomes payable in accordance with the application;

16 (3) Shall identify the monthly amount to be paid to the alternate payee,
17 which shall be expressed as a percentage and which shall not exceed fifty percent
18 of the amount of the member's annuity accrued during all or part of the time
19 while the member and alternate payee were married; and which shall be based
20 on the member's vested annuity on the date of the dissolution of marriage or an
21 earlier date as specified in the order, which amount shall be adjusted
22 proportionately if the member's annuity is reduced due to early retirement **or the**
23 **member's annuity is reduced pursuant to section 104.395 under an**
24 **annuity option in which the member named the alternate payee as**
25 **beneficiary prior to the dissolution of marriage or pursuant to section**
26 **104.090 under an annuity option in which the member on or after**
27 **August 28, 2007, named the alternative payee as beneficiary prior to the**
28 **dissolution of marriage**, and the percentage established shall be applied to the
29 pro rata portion of any lump sum distribution pursuant to subsection 6 of section
30 104.335, accrued during the time while the member and alternate payee were
31 married;

32 (4) Shall not require the payment of an annuity amount to the member
33 and alternate payee which in total exceeds the amount which the member would
34 have received without regard to the order;

35 (5) Shall provide that any benefit formula increases, additional years of
36 service, increased average compensation or other type of increases accrued after
37 the date of the dissolution of marriage shall accrue solely to the benefit of the
38 member; except that on or after September 1, 2001, any annual benefit increase
39 shall not be considered to be an increase accrued after the date of termination of
40 marriage and shall be part of the monthly amount subject to division pursuant
41 to any order issued after September 1, 2001;

42 (6) Shall terminate upon the death of either the member or the alternate
43 payee, whichever occurs first;

44 (7) Shall not create an interest which is assignable or subject to any legal
45 process;

46 (8) Shall include the name, address and Social Security number of both
47 the member and the alternate payee, and the identity of the retirement system
48 to which it applies;

49 (9) Shall be consistent with any other division of benefits orders which are
50 applicable to the same member.

51 2. A system established by this chapter shall provide the court having
52 jurisdiction of a dissolution of marriage proceeding or the parties to the
53 proceeding with information necessary to issue a division of benefits order
54 concerning a member of the system, upon written request from either the court,
55 the member or the member's spouse, which cites this section and identifies the
56 case number and parties.

57 3. A system established by this chapter shall have the discretionary
58 authority to reject a division of benefits order for the following reasons:

59 (1) The order does not clearly state the rights of the member and the
60 alternate payee;

61 (2) The order is inconsistent with any law governing the retirement
62 system.

63 4. The amount paid to an alternate payee under an order issued pursuant
64 to this section shall be based on [what the member would have received had the
65 member elected coverage under the closed plan pursuant to section 104.1015
66 regardless of the actual election made by the member pursuant to that section]
67 **the plan the member was in on the date of the dissolution of marriage;**
68 except that any annual benefit increases subject to division shall be based on the
69 actual annual benefit increases received after the retirement plan election.

104.320. 1. For the purpose of providing retirement income and other
2 benefits to employees of the state, there is hereby created and established a
3 retirement system which shall be a body corporate and an instrumentality of the
4 state, which shall be under the management of a board of trustees herein
5 described, and shall be known as the "Missouri State Employees' Retirement
6 System". In the system shall be vested the powers and duties specified in
7 sections 104.010 and 104.320 to 104.800 and such other powers as may be
8 necessary or proper to enable it, its officers, employees, and agents to carry out
9 fully and effectively all the purposes of sections 104.010 and 104.320 to 104.800.

10 **2. Notwithstanding any provision of law to the contrary, the**
11 **system is also authorized and empowered to provide services in**
12 **connection with medical benefit funds established or maintained for**
13 **state employees, retirees, and their dependents who are participants in**
14 **a state medical plan administered by the Missouri consolidated health**
15 **plan established under section 103.005, RSMo, or other medical benefit**
16 **plans established or maintained by the state for its employees, retirees,**
17 **and their dependents. All such plans described in this section shall be**

18 welfare plans referred to as "State Medical Plans". The services to be
19 provided by the system shall include, but not be limited to, the
20 investment of assets of such state medical plans. Such services to be
21 provided by the system shall be provided under a trust agreement
22 between the board, as trustee, and the state medical plan, subject to
23 approval by the board of trustees of the Missouri state employees'
24 retirement system and the state medical plan. The system shall be
25 vested with the powers and duties specified in section 104.010 and
26 sections 104.320 to 104.1093 and such other powers as may be necessary
27 or proper to enable it, its officers, employees, and agents to carry out
28 fully and effectively all the purposes of this subsection. Whenever the
29 system is acting under section 104.010 and sections 104.320 to 104.1093
30 with respect to services provided under this subsection, the provisions
31 of such sections shall be read to apply to services provided under this
32 subsection and not to services provided under subsection 1 of this
33 section.

34 3. Notwithstanding any provision of law to the contrary, the
35 board shall set up and maintain a separate employee and retiree
36 medical benefit trust for each state medical plan that the system
37 contracts with under subsection 2 of this section in which shall be
38 placed contributions made to the board by the state of Missouri, either
39 directly or indirectly through the medical benefit plan, to fund benefits
40 payable under such state medical plan. No such contributions made
41 from the medical benefit plan's trust fund shall be transferred to the
42 board without the approval of the medical benefit plan's governing
43 body. All property, money, funds, investments, and rights so received
44 and accepted by the board together with proceeds and reinvestments
45 thereof shall be dedicated to and held in a separate trust, known as the
46 medical benefit trust, for the exclusive purpose of satisfying the
47 obligations of the applicable state medical plan to pay health care and
48 other medical benefits to employee and retiree participants and their
49 dependents under such state medical plan. At no time shall any part
50 of a medical benefit trust be used for or diverted to any purpose other
51 than for the exclusive purpose of satisfying the obligations of the
52 applicable state medical plan to provide health care and other medical
53 benefits to employee and retiree participants and their dependents,
54 including payment of benefits on behalf of such participants under such

55 state medical plan and payment of reasonable expenses of the medical
56 benefit trust. The board may establish one or more trust instruments
57 that set forth the terms and conditions for holding, investing, and
58 distributing assets of a medical benefit trust that are consistent with
59 subsection 2 of this section. Such medical benefit trust may be
60 irrevocable. A separate account for a state medical plan may be
61 established under a separate trust instrument. The board may
62 consolidate the retiree assets of one or more medical benefit trusts in
63 a single fund or funds, a "master trust", that may be commingled for
64 investment purposes, and subject to the applicable trust agreement,
65 may commingle the retiree assets of one or more medical benefit trusts
66 with assets of the system for investment purposes. In the event the
67 board commingles assets of one or more trusts for investment purposes,
68 it shall maintain separate bookkeeping accounts reflecting the separate
69 share in each investment pool of each participating trust. The board
70 shall have power to purchase, acquire, hold, invest, lend, lease, sell,
71 assign, transfer, and dispose of all property, rights, and securities and
72 enter into written contracts all as may be necessary or proper to carry
73 out the purposes of this subsection and subsection 2 of this
74 section. Whenever the system is acting under section 104.010 and
75 sections 104.320 to 104.1093 with respect to an account established
76 under this subsection, the provisions of such sections shall be read to
77 apply to an account provided under this subsection and not accounts
78 established under subsection 1 of section 104.440.

79 4. The board shall make such payments from a medical benefit
80 trust to or for the benefit of the participants in a state medical plan
81 and their dependents, at such time, in such manner, in such amounts,
82 in such form, and for such purposes as may be specified in one or more
83 directives by the state medical plan administrator authorized to direct
84 payment of benefits under such state medical plan from time to time or
85 as provided in a trust agreement governing such medical benefit trust,
86 and the board shall have no responsibility and shall be without liability
87 for any payment made under such direction. The board shall be under
88 no duty or obligation to make any inquiry or investigation as to
89 whether any direction is made under the provisions of any state
90 medical plan and shall not be responsible in any respect for the
91 administration of any state medical plan. Payment in response to such

92 direction shall be a complete discharge of the board of its
93 responsibility for the holding and safekeeping of such assets and any
94 assets paid over shall no longer constitute part of the medical benefit
95 trust.

96 5. The board shall invest the funds of a medical benefit trust in
97 the same manner as it invests funds of the retirement system as
98 permitted by sections 105.686 to 105.690, RSMo.

99 6. The board may authorize the executive director to assist with
100 programs and procedures pertaining to payroll for state employees and
101 any state employee benefits as requested by the office of administration
102 or other state agencies.

104.344. Notwithstanding any other law to the contrary, any person who
2 is actively employed by the state of Missouri in a position covered by a retirement
3 plan administered by the Missouri state employees' retirement system and who
4 had nonfederal full-time public employment in the state of Missouri [or who had
5 provided full-time services for compensation to the state of Missouri under a
6 contract], and who by virtue of such employment was a member of a retirement
7 system or other employer-sponsored retirement plan other than the Missouri
8 state employees' retirement system but is not vested in such other retirement
9 system or plan, or was not a member of any retirement system or plan, may elect,
10 prior to retirement, to purchase all of the member's creditable prior service but
11 not to exceed four years for such service in any plan administered by the Missouri
12 state employees' retirement system in which the person is receiving service credit
13 for active employment or is eligible for a deferred annuity. The purchase shall
14 be effected by the person paying to the Missouri state employees' retirement
15 system an amount equal to what would have been contributed by the state in his
16 or her behalf had the person been a member for the period for which he or she is
17 electing to purchase credit and had the person's compensation during such period
18 been the same as the annual salary rate at which the person was initially
19 employed in a position covered by a plan administered by the Missouri state
20 employees' retirement system **or the Missouri department of transportation**
21 **and highway patrol employees' retirement system**, with the calculations
22 based on the contribution rate in effect on the date of his or her employment
23 under the provisions of the Missouri state employees' retirement system with
24 simple interest calculated from the date of employment from which the person
25 could first receive creditable service from the Missouri state employees'

26 retirement system to the date of election to purchase such service. The payment
27 shall be made over a period of not longer than two years, with simple interest on
28 the unpaid balance. In no event shall any [person receive credit or benefits under
29 any other] **individual be eligible to purchase creditable service under**
30 **this section if such individual after the completion of such purchase**
31 **has or will receive credit or service under another** retirement plan as
32 defined pursuant to section 105.691, RSMo, for [creditable service] **the same**
33 **time period of service being** purchased pursuant to the provisions of this
34 section. The contribution rate for any judge who elects to purchase service for a
35 period prior to July 1, 1998, shall be equal to a contribution rate which would be
36 used if the judicial system were funded on an actuarial basis prior to that date.

104.352. 1. [Any employee or former employee described in paragraph (b)
2 of subdivision (18) of section 104.010 is entitled to credit for all prior service and
3 membership service as if he had been a member of the system on the date of its
4 inception. Any such employee shall be considered a member of the system from
5 the date of his or her employment and shall receive credit for each month of
6 service for which he is employed with service being computed as if part-time
7 employment with the general assembly were full-time employment for the period
8 the member was so employed.

9 2.] Each employee described in paragraph (b) of subdivision [(18)] **(20)** of
10 section 104.010 shall be entitled to the same insurance benefits provided under
11 sections 103.003 to 103.175, RSMo to employees described in paragraph (a) of
12 subdivision [(18)] **(20)** of section 104.010 to cover the medical expenses of such
13 employees and their spouses and children. Such insurance benefits shall be made
14 available to employees described in paragraph (b) of subdivision [(18)] **(20)** of
15 section 104.010 upon their initial employment as such employees in the same
16 manner provided for employees described in paragraph (a) of subdivision [(18)]
17 **(20)** of section 104.010, and shall be continued during any period of time, not to
18 exceed one year, in which such employees are not paid for full-time employment,
19 so long as such employees pay the same amount for such insurance benefits as
20 is required of employees described in paragraph (a) of subdivision [(18)] **(20)** of
21 section 104.010 who continue receiving such insurance benefits during a leave of
22 absence without pay from their employment with the state. Any employee
23 described in paragraph (b) of subdivision [(18)] **(20)** of section 104.010 who is
24 reemployed by the general assembly or either house thereof, or by any member
25 of the general assembly while acting in his official capacity as a member, by the

26 thirteenth legislative day of the session of the general assembly immediately
27 following the session of the general assembly in which such employee was last so
28 employed, without having elected to discontinue the insurance benefits described
29 in this subsection, shall be entitled to continue such insurance benefits without
30 having to prove insurability for himself or any of his covered dependents for
31 whom he has paid for such coverage continuously since last employed as an
32 employee described in paragraph (b) of subdivision [(18)] **(20)** of section
33 104.010. Any employee described in paragraph (b) of subdivision [(18)] **(20)** of
34 section 104.010 who is not reemployed by the general assembly or either house
35 thereof, or by any member of the general assembly while acting in his official
36 capacity as a member, by the thirteenth legislative day of the session of the
37 general assembly immediately following the session of the general assembly in
38 which such employee was last so employed, shall be deemed terminated as an
39 employee as of such thirteenth legislative day, and the insurance benefits
40 provided for such employee under this subsection and sections 103.003 to 103.175,
41 RSMo, shall be terminated as provided for employees described in paragraph (a)
42 of subdivision [(18)] **(20)** of section 104.010 whose employment is
43 terminated. During each month of service in which an employee described in
44 paragraph (b) of subdivision [(18)] **(20)** of section 104.010 is employed, the state
45 shall make any contribution required by sections 103.003 to 103.175, RSMo, for
46 such employee.

47 **[3.] 2.** Any employee described in paragraph (b) of subdivision [(18)] **(20)**
48 of section 104.010 who is actively employed on or after September 28, 1992, shall
49 be deemed vested for purposes of determining eligibility for benefits under
50 sections 104.320 to 104.620 after being so employed for at least sixty months.

104.354. In each fiscal year in which retirement benefits are to be paid to
2 retired employees described in paragraph (b) of subdivision [(18)] **(20)** of section
3 104.010 because of the provisions of section 104.352, funding for such benefits
4 shall be provided as set forth in section 104.436. All benefits paid because of the
5 provisions of section 104.352 shall be paid by the retirement system along with
6 all other retirement benefits due such retired employees under the retirement
7 system.

104.380. If a retired member is elected to any state office or is appointed
2 to any state office or is employed by a department in a position normally
3 requiring the performance by the person of duties during not less than one
4 thousand **forty** hours per year, the member shall not receive an annuity for any

5 month or part of a month for which the member serves as an officer or employee,
6 but the member shall be considered to be a new employee with no previous
7 creditable service and must accrue creditable service **continuously for at least**
8 **one year** in order to receive any additional annuity. Any retired member who
9 again becomes an employee and who accrues additional creditable service and
10 later retires shall receive an additional amount of monthly annuity calculated to
11 include only the creditable service and the average compensation earned by the
12 member since such employment or creditable service earned as a member of the
13 general assembly. Years of membership service and twelfths of a year are to be
14 used in calculating any additional annuity except for creditable service earned as
15 a member of the general assembly, and such additional annuity shall be based on
16 the type of service accrued. In either event, the original annuity and the
17 additional annuity, if any, shall be paid commencing with the end of the first
18 month after the month during which the member's term of office has been
19 completed, or the member's employment terminated. If a retired member is
20 employed by a department in a position that does not normally require the person
21 to perform duties during at least one thousand **forty** hours per year, the member
22 shall not be considered an employee as defined pursuant to section 104.010. A
23 retired member who becomes reemployed as an employee on or after August 28,
24 2001, in a position covered by the highways and transportation employees' and
25 highway patrol retirement system shall not be eligible to receive retirement
26 benefits or additional creditable service from the state employees' retirement
27 system.

104.395. 1. In lieu of the normal annuity otherwise payable to a member
2 pursuant to [section] **sections** 104.335, 104.370, 104.371, 104.374, or 104.400,
3 and prior to the last business day of the month before the annuity starting date
4 pursuant to section 104.401, a member shall elect whether or not to have such
5 member's normal annuity reduced as provided by the options set forth in this
6 section; provided that if such election has not been made within such time,
7 annuity payments due beginning on and after such annuity starting date shall
8 be made the month following the receipt by the system of such election, and
9 further provided, that if such person dies after such annuity starting date but
10 before making such election, no benefits shall be paid except as required pursuant
11 to section 104.420:

12 Option 1. An actuarial reduction approved by the board of the member's
13 annuity in reduced monthly payments for life during retirement with the

14 provision that upon the member's death the reduced annuity at the date of the
15 member's death shall be continued throughout the life of, and be paid to, the
16 member's spouse to whom the member was married at the date of retirement and
17 who was nominated by the member to receive such payments in the member's
18 application for retirement or as otherwise provided pursuant to subsection 5 of
19 this section. Such annuity shall be reduced in the same manner as an annuity
20 under option 2 as in effect immediately prior to August 28, 1997. The surviving
21 spouse shall designate a beneficiary to receive any final monthly payment due
22 after the death of the surviving spouse; or

23 Option 2. The member's normal annuity in regular monthly payments for
24 life during the member's retirement with the provision that upon the member's
25 death a survivor's benefit equal to one-half the member's annuity at the date of
26 the member's death shall be paid to the member's spouse to whom the member
27 was married at the date of retirement and who was nominated by the member to
28 receive such payments in the member's application for retirement or as otherwise
29 provided pursuant to subsection 5 of this section, in regular monthly payments
30 for life. The surviving spouse shall designate a beneficiary to receive any final
31 monthly payment due after the death of the surviving spouse; or

32 Option 3. An actuarial reduction approved by the board of the member's
33 normal annuity in reduced monthly payments for the member's life with the
34 provision that if the member dies prior to the member having received one
35 hundred twenty monthly payments of the member's reduced annuity, the
36 member's reduced annuity to which the member would have been entitled had the
37 member lived shall be paid for the remainder of the one hundred twenty months'
38 period to such person as the member shall have nominated by written designation
39 duly executed and filed with the board. If there is no such beneficiary surviving
40 the retirant, the reserve for such annuity for the remainder of such one hundred
41 twenty months' period shall be paid [to the retirant's estate] **as provided under**
42 **subsection 3 of section 104.620**. If such beneficiary dies after the member's
43 date of death but before having received the remainder of the one hundred twenty
44 monthly payments of the retiree's reduced annuity, the reserve for such annuity
45 for the remainder of such one hundred twenty-month period shall be paid [to the
46 beneficiary's estate] **as provided under subsection 3 of section 104.620**; or

47 Option 4. An actuarial reduction approved by the board of the member's
48 normal annuity in reduced monthly payments for the member's life with the
49 provision that if the member dies prior to the member having received sixty

50 monthly payments of the member's reduced annuity, the member's reduced
51 annuity to which the member would have been entitled had the member lived
52 shall be paid for the remainder of the sixty months' period to such person as the
53 member shall have nominated by written designation duly executed and filed
54 with the board. If there be no such beneficiary surviving the retirant, the reserve
55 for such annuity for the remainder of such sixty months' period shall be paid [to
56 the retirant's estate] **as provided under subsection 3 of section 104.620.** If
57 such beneficiary dies after the member's date of death but before having received
58 the remainder of the sixty monthly payments of the retiree's reduced annuity, the
59 reserve for such annuity for the remainder of the sixty-month period shall be paid
60 [to the beneficiary's estate] **as provided under subsection 3 of section**
61 **104.620.**

62 2. Effective July 1, 2000, if a member is married as of the annuity starting
63 date to a person who has been the member's spouse, the member's annuity shall
64 be paid pursuant to the provisions of either option 1 or option 2 as set forth in
65 subsection 1 of this section, at the member's choice, with the spouse as the
66 member's designated beneficiary unless the spouse consents in writing to the
67 member electing another available form of payment.

68 3. For members who retire on or after August 28, 1995, in the event such
69 member elected a joint and survivor option pursuant to the provisions of this
70 section and the member's eligible spouse or eligible former spouse precedes the
71 member in death, the member's annuity shall revert effective the first of the
72 month following the death of the spouse or eligible former spouse regardless of
73 when the board receives the member's written application for the benefit provided
74 in this subsection, to an amount equal to the member's normal annuity, as
75 adjusted for early retirement if applicable; such benefit shall include any
76 increases the member would have received since the date of retirement had the
77 member elected a normal annuity. **If a member dies prior to notifying the**
78 **system of the spouse's death, the benefit will not revert to a normal**
79 **annuity and no retroactive payments shall be made.**

80 4. Effective on or after August 28, 1995, any retired member who had
81 elected a joint and survivor option and whose spouse or eligible former spouse
82 precedes or preceded the member in death shall upon application to the board be
83 made, constituted, appointed and employed by the board as a special consultant
84 on the problems of retirement, aging and other state matters. As a special
85 consultant pursuant to the provisions of this section, the member's reduced

86 annuity shall revert to a normal annuity as adjusted for early retirement, if
87 applicable, effective the first of the month following the death of the spouse or
88 eligible former spouse or August 28, 1995, whichever is later, [regardless of when
89 the board receives the member's written application] **if the member cancels**
90 **the member's original joint and survivor election**; such annuity shall
91 include any increases the retired member would have received since the date of
92 retirement had the member elected a normal annuity.

93 5. Effective July 1, 2000, a member may make an election under option
94 1 or 2 after the date retirement benefits are initiated if the member makes such
95 election within one year from the date of marriage or July 1, 2000, whichever is
96 later, under any of the following circumstances:

97 (1) The member elected to receive a normal annuity and was not eligible
98 to elect option 1 or 2 on the date retirement benefits were initiated; or

99 (2) The member's annuity reverted to a normal annuity pursuant to
100 subsection 3 or 4 of this section and the member remarried.

101 6. Any person who terminates employment or retires prior to July 1, 2000,
102 shall be made, constituted, appointed and employed by the board as a special
103 consultant on the problems of retirement, aging and other state matters, and for
104 such services shall be eligible to elect to receive the benefits described in
105 subsection 5 of this section.

106 7. Effective September 1, 2001, the retirement application of any member
107 who fails to make an election pursuant to subsection 1 of this section within
108 ninety days of the annuity starting date contained in such retirement application
109 shall be nullified. Any member whose retirement application is nullified shall not
110 receive retirement benefits until the member files a new application for
111 retirement pursuant to section 104.401 and makes the election pursuant to
112 subsection 1 of this section. In no event shall any retroactive retirement benefits
113 be paid.

114 8. **A member may change a member's election made under this**
115 **section at any time prior to the system mailing or electronically**
116 **transferring the first annuity payment to such member.**

104.606. Any member of either system who purchases creditable
2 **service or credited service under this chapter or chapter 105, RSMo,**
3 **shall apply and complete the purchase prior to applying to receive a**
4 **retirement annuity in order to receive credit for such purchase.**

 104.1003. 1. Unless a different meaning is plainly required by the

2 context, the following words and phrases as used in sections 104.1003 to 104.1093
3 shall mean:

4 (1) "Act", the "Year 2000 Plan" created by sections 104.1003 to 104.1093;

5 (2) "Actuary", an actuary who is experienced in retirement plan financing
6 and who is either a member of the American Academy of Actuaries or an enrolled
7 actuary under the Employee Retirement Income Security Act of 1974;
8 (3) "Annuity", annual benefit amounts, paid in equal monthly
9 installments, from funds provided for in, or authorized by, sections 104.1003 to
10 104.1093;

11 (4) "Annuity starting date" means the first day of the first month with
12 respect to which an amount is paid as an annuity pursuant to sections 104.1003
13 to 104.1093;

14 (5) "Beneficiary", any person or entity entitled to receive an annuity or
15 other benefit pursuant to sections 104.1003 to 104.1093 based upon the
16 employment record of another person;

17 (6) "Board of trustees", "board", or "trustees", a governing body or bodies
18 established for the year 2000 plan pursuant to sections 104.1003 to 104.1093;

19 (7) "Closed plan", a benefit plan created pursuant to this chapter and
20 administered by a system prior to July 1, 2000. No person first employed on or
21 after July 1, 2000, shall become a member of the closed plan, but the closed plan
22 shall continue to function for the benefit of persons covered by and remaining in
23 the closed plan and their beneficiaries;

24 (8) "Consumer price index", the Consumer Price Index for All Urban
25 Consumers for the United States, or its successor index, as approved by the
26 board, as such index is defined and officially reported by the United States
27 Department of Labor, or its successor agency;

28 (9) "Credited service", the total credited service to a member's credit as
29 provided in sections 104.1003 to 104.1093; **except that in no case shall more**
30 **than one day of credited service be credited to any member or vested**
31 **former member for any one calendar day of eligible credit as provided**
32 **by law;**

33 (10) "Department", any department or agency of the executive, legislative,
34 or judicial branch of the state of Missouri receiving state appropriations,
35 including allocated funds from the federal government but not including any body
36 corporate or politic unless its employees are eligible for retirement coverage from
37 a system pursuant to this chapter as otherwise provided by law;

38 (11) "Early retirement eligibility", a member's attainment of fifty-seven
39 years of age and the completion of at least five years of credited service;

40 (12) "Effective date", July 1, 2000;

41 (13) "Employee" shall be any person who is employed by a department and
42 is paid a salary or wage by a department in a position normally requiring the
43 performance of duties of not less than one thousand **forty** hours per year,
44 provided:

45 (a) The term "employee" shall not include any patient or inmate of any
46 state, charitable, penal or correctional institution, or any person who is employed
47 by a department in a position that is covered by a state-sponsored defined benefit
48 retirement plan not created by this chapter;

49 (b) The term "employee" shall be modified as provided by other provisions
50 of sections 104.1003 to 104.1093;

51 (c) The system shall consider a person who is employed in multiple
52 positions simultaneously within a single agency to be working in a single position
53 for purposes of determining whether the person is an employee as defined in this
54 subdivision;

55 (d) Beginning September 1, 2001, the term "year" as used in this
56 subdivision shall mean the twelve-month period beginning on the first day of
57 employment;

58 **(e) The term "employee" shall include any person as defined**
59 **under paragraph (b) of subdivision (20) of subsection 1 of section**
60 **104.010 who is first employed on or after July 1, 2000, but prior to**
61 **August 28, 2007;**

62 (14) "Employer", a department;

63 (15) "Executive director", the executive director employed by a board
64 established pursuant to the provisions of sections 104.1003 to 104.1093;

65 (16) "Final average pay", the average pay of a member for the thirty-six
66 full consecutive months of service before termination of employment when the
67 member's pay was greatest; or if the member was on workers' compensation leave
68 of absence or a medical leave of absence due to an employee illness, the amount
69 of pay the member would have received but for such leave of absence as reported
70 and verified by the employing department; or if the member was employed for
71 less than thirty-six months, the average monthly pay of a member during the
72 period for which the member was employed. **The board of each system may**
73 **promulgate rules for purposes of calculating final average pay and**

74 **other retirement provisions to accommodate for any state payroll**
75 **system in which pay is received on a monthly, semimonthly, biweekly,**
76 **or other basis;**

77 (17) "Fund", a fund of the year 2000 plan established pursuant to sections
78 104.1003 to 104.1093;

79 (18) "Investment return", or "interest", rates as shall be determined and
80 prescribed from time to time by a board;

81 (19) "Member", a person who is included in the membership of the system,
82 as set forth in section 104.1009;

83 (20) "Normal retirement eligibility", a member's attainment of at least
84 sixty-two years of age and the completion of at least five or more years of credited
85 service or, the attainment of at least forty-eight years of age with a total of years
86 of age and years of credited service which is at least eighty or, in the case of a
87 member of the highway patrol who shall be subject to the mandatory retirement
88 provisions of section 104.080, the mandatory retirement age and completion of
89 five years of credited service or, the attainment of at least forty-eight years of age
90 with a total of years of age and years of credited service which is at least eighty;

91 (21) "Pay" shall include:

92 (a) All salary and wages payable to an employee for personal services
93 performed for a department; but excluding:

94 a. Any amounts paid after an employee's employment is terminated,
95 unless the payment is made as a final installment of salary or wages at the same
96 rate as in effect immediately prior to termination of employment in accordance
97 with a state payroll system adopted on or after January 1, 2000;

98 b. Any amounts paid upon termination of employment for unused annual
99 leave or unused sick leave;

100 c. Pay in excess of the limitations set forth in Section 401(a)(17) of the
101 Internal Revenue Code of 1986 as amended and other applicable federal laws or
102 regulations; [and]

103 d. Any nonrecurring single sum payments; **and**

104 **e. Any amounts for which contributions have not been made in**
105 **accordance with section 104.1066;**

106 (b) All salary and wages which would have been payable to an employee
107 on workers' compensation leave of absence during the period the employee is
108 receiving a weekly workers' compensation benefit, as reported and verified by the
109 employing department;

110 (c) All salary and wages which would have been payable to an employee
111 on a medical leave due to employee illness, as reported and verified by the
112 employing department;

113 (d) For purposes of members of the general assembly, pay shall be the
114 annual salary provided to each senator and representative pursuant to section
115 21.140, RSMo, plus any salary adjustment pursuant to section 21.140, RSMo;

116 (22) "Retiree", a person receiving an annuity from the year 2000 plan
117 based upon the person's employment record;

118 (23) "State", the state of Missouri;

119 (24) "System" or "retirement system", the Missouri state employees'
120 retirement system or the [transportation department and highway patrol
121 retirement system] **Missouri department of transportation and highway
122 patrol employees' retirement system**, as the case may be;

123 (25) "Vested former member", a person entitled to receive a deferred
124 annuity pursuant to section 104.1036;

125 (26) "Year 2000 plan", the benefit plan created by sections 104.1003 to
126 104.1093.

127 **2. Benefits paid under the provisions of this chapter shall not**
128 **exceed the limitations of Internal Revenue Code Section 415, the**
129 **provisions of which are hereby incorporated by**
130 **reference. Notwithstanding any other law to the contrary, the board of**
131 **trustees may establish a benefit plan under Section 415(m) of the**
132 **Internal Revenue Code of 1986, as amended. Such plan shall be created**
133 **solely for the purposes described in Section 415(m)(3)(A) of the Internal**
134 **Revenue Code of 1986, as amended. The board of trustees may**
135 **promulgate regulations necessary to implement the provisions of this**
136 **subsection and to create and administer such benefit plan.**

104.1012. 1. Any new state employee who would have become a member
2 of the closed plan administered by the transportation department and highway
3 patrol retirement system except for the creation of the year 2000 plan and
4 persons covered by the closed plan administered by the highway and
5 transportation employees' and highway patrol retirement system who elect year
6 2000 plan coverage as provided in section 104.1015 shall have their year 2000
7 plan coverage managed by that board.

8 2. Any new state employee who would have become a member of the
9 closed plan administered by the Missouri state employees' retirement system

10 except for the creation of the year 2000 plan or persons covered by the closed plan
11 administered by the Missouri state employees' retirement system who elect year
12 2000 plan coverage as provided in section 104.1015 shall have their year 2000
13 plan coverage managed by that board.

14 **3. In the event either board of trustees elects to provide**
15 **employees, members, or vested former members under either the closed**
16 **plan or the year 2000 plan with education or advice pertaining to any**
17 **aspect of retirement planning, the board will not be liable for the**
18 **retirement or investment decisions made or not made by employees,**
19 **members, or vested former members so long as the board acts with the**
20 **same care, skills, prudence, and diligence in the selection and**
21 **monitoring of providers of education and advice, under the**
22 **circumstances then prevailing that a prudent person acting in a similar**
23 **capacity and familiar with those matters would use in the conduct of**
24 **a similar enterprise with similar aims.**

104.1015. 1. Persons covered by a closed plan on July 1, 2000, shall elect
2 whether or not to change to year 2000 plan coverage. Any such person who elects
3 to be covered by the year 2000 plan shall forfeit all rights to receive benefits
4 under this chapter except as provided under the year 2000 plan and all creditable
5 service of such person under the closed plan shall be credited under the year 2000
6 plan. Any such person who elects not to be covered by the year 2000 plan shall
7 waive all rights to receive benefits under the year 2000 plan. In no event shall
8 any retroactive annuity be paid to such persons pursuant to sections 104.1003 to
9 104.1093 except as described in subsection 2 of this section.

10 2. Each retiree of the closed plan on July 1, 2000, shall be furnished by
11 the appropriate system a written comparison of the retiree's closed plan coverage
12 and the retiree's potential year 2000 plan coverage. A retiree shall elect whether
13 or not to change to year 2000 plan coverage by making a written election, on a
14 form furnished by the appropriate board, and providing that form to the system
15 by no later than twelve months after July 1, 2000, and any retiree who fails to
16 make such election within such time period shall be deemed to have elected to
17 remain covered under the closed plan; provided the election must be after the
18 retiree has received from the appropriate system such written comparison. The
19 retirement option elected under the year 2000 plan shall be the same as the
20 retirement option elected under the closed plan, except any retiree who is
21 receiving one of the options providing for a continuing lifetime annuity to a

22 surviving spouse under the closed plan may elect to receive an annuity under
23 option 1 or 2 of section 104.1027, or a life annuity under subsection 2 of section
24 104.1024, provided the person who was married to the member at the time of
25 retirement, if any, consents in writing to such election made pursuant to section
26 104.1024, or to any election described in this section if the person was married
27 to a member of the Missouri state employees' retirement system. The effective
28 date of payment of an annuity under the year 2000 plan as provided in this
29 subsection shall begin on July 1, 2000. No adjustment shall be made to
30 retirement benefits paid to the retiree prior to July 1, 2000. In order to calculate
31 a new monthly annuity for retirees electing coverage under the year 2000 plan
32 pursuant to this subsection, the following calculations shall be made:

33 (1) Except as otherwise provided in this subsection, the retiree's gross
34 monthly retirement annuity in effect immediately prior to July 1, 2000, shall be
35 multiplied by the percentage increase in the life annuity formula between the
36 closed plan and the year 2000 plan. This amount shall be added to the retiree's
37 gross monthly retirement annuity in effect immediately prior to July 1, 2000, to
38 arrive at the retiree's new monthly retirement annuity in the year 2000 plan on
39 July 1, 2000. The age of eligibility and reduction factors applicable to the
40 retiree's original annuity under the closed plan shall remain the same in the
41 annuity payable under the year 2000 plan, except as provided in subdivision (2)
42 of this subsection.

43 (2) If option 1 or 2 pursuant to section 104.1027 is chosen by the retiree
44 under the year 2000 plan, the new monthly retirement annuity calculated
45 pursuant to subdivision (1) of this subsection shall be recalculated using the
46 reduction factors for the option chosen pursuant to section 104.1027.

47 (3) If a temporary annuity is payable pursuant to subsection 4 of section
48 104.1024 the additional temporary annuity shall be calculated by multiplying the
49 retiree's credited service by the retiree's final average pay by eight-tenths of one
50 percent.

51 (4) Cost-of-living adjustments paid pursuant to section 104.1045 will
52 commence on the anniversary of the retiree's annuity starting date coincident
53 with or next following July 1, 2000.

54 (5) Any retiree or other person described in this section who elects
55 coverage under the year 2000 plan based on service rendered as a member of the
56 general assembly or as a statewide elected official shall receive an annuity under
57 the year 2000 plan calculated pursuant to the provisions of section 104.1084

58 using the current monthly pay at the time of the election with future COLAs
59 calculated pursuant to subsection 7 of section 104.1084.

60 3. Each person who is an employee and covered by the closed plan and not
61 a retiree of the closed plan on July 1, 2000, shall elect whether or not to change
62 to year 2000 plan coverage prior to the last business day of the month before the
63 person's annuity starting date, and if such election has not been made within
64 such time, annuity payments due beginning on and after the month of the
65 annuity starting date shall be made the month following the receipt by the
66 appropriate system of such election and any other information required by the
67 year 2000 plan created by sections 104.1003 to 104.1093; provided, such election
68 must be after the person has received from the year 2000 plan a written
69 comparison of the person's closed plan coverage and the person's potential year
70 2000 plan coverage and the election must be made in writing on a form furnished
71 by the appropriate board. If such person dies after the annuity starting date but
72 before making such election and providing such other information, no benefits
73 shall be paid except as required pursuant to section 104.420 or subsection 2 of
74 section 104.372 for members of the general assembly.

75 4. Each person who is not an employee and not a retiree and is eligible
76 for a deferred annuity from the closed plan on July 1, 2000, shall elect whether
77 or not to change to the year 2000 plan coverage prior to the last business day of
78 the month before the person's annuity starting date, and if such election has not
79 been made within such time, annuity payments due beginning on and after the
80 month of the annuity starting date shall be made the month following the receipt
81 by the appropriate system of such election and any other information required by
82 the year 2000 plan created by sections 104.1003 to 104.1093; provided, the
83 election must be after the person has received from the year 2000 plan a written
84 comparison of the person's closed plan coverage and the person's potential year
85 2000 plan coverage and the election must be made in writing on a form furnished
86 by the appropriate board. If such person dies after the annuity starting date but
87 before making such election and providing such other information, no benefits
88 shall be paid except as required pursuant to section 104.420 or subsection 2 of
89 section 104.372 for members of the general assembly.

90 5. Each person who is not an employee and not a retiree and is eligible
91 for a deferred annuity from the closed plan and returns to covered employment
92 on or after July 1, 2000, shall be covered under the closed plan; provided, such
93 person shall elect whether or not to change to the year 2000 plan coverage prior

94 to the last business day of the month before the person's annuity starting date,
95 and if such election has not been made within such time, annuity payments due
96 beginning on and after the month of the annuity starting date shall be made the
97 month following the receipt by the appropriate system of such election and any
98 other information required by the year 2000 plan created by sections 104.1003 to
99 104.1093 and the election must be after the person has received from the year
100 2000 plan a written comparison of the person's closed plan coverage and the
101 person's potential year 2000 plan coverage and the election must be made in
102 writing on a form furnished by the appropriate board. If such person dies after
103 the annuity starting date but before making such election and providing such
104 other information, no benefits shall be paid except as required under section
105 104.420 or subsection 2 of section 104.372 for members of the general assembly.

106 6. Each person who is not an employee and not a retiree and not eligible
107 for a deferred annuity from the closed plan but has forfeited creditable service
108 with the closed plan and becomes an employee on or after August 28, 2002, shall
109 be changed to year 2000 plan coverage and upon receiving credited service
110 continuously for one year shall receive credited service for all such forfeited
111 creditable service under the closed plan.

112 7. Each person who was employed as a member of the general assembly
113 through December 31, 2000, covered under the closed plan, and has served at
114 least two full biennial assemblies as defined in subdivision (24) of subsection 1
115 of section 104.010 but who is not eligible for a deferred annuity under the closed
116 plan shall be eligible to receive benefits under the new plan pursuant to
117 subdivision (5) of subsection 2 of this section upon meeting the age requirements
118 under the new plan.

119 8. The retirees and persons described in subsections 2 and 4 of this
120 section shall be eligible for benefits under those subsections pursuant to
121 subsection 8 of section 104.610.

122 **9. A member may change a member's plan election made under**
123 **this section at any time prior to the system mailing or electronically**
124 **transferring the first annuity payment to such member.**

104.1021. 1. The appropriate board shall determine how much credited
2 service shall be given each member consistent with this section.

3 2. If a member terminates employment and is eligible to receive an
4 annuity pursuant to the year 2000 plan, or becomes a vested former member at
5 the time of termination, the member's or former member's unused sick leave as

6 reported through the financial and human resources system maintained by the
7 office of administration, or if a department's employees are not paid salaries or
8 wages through such system, as reported directly by the department, for which the
9 member has not been paid will be converted to credited service at the time of
10 application for retirement benefits. The member shall receive one-twelfth of a
11 year of credited service for each one hundred and sixty-eight hours of such
12 unused sick leave. The employing department shall not certify unused sick leave
13 unless such unused sick leave could have been used by the member for sickness
14 or injury. The rate of accrual of sick leave for purposes of computing years of
15 service pursuant to this section shall be no greater than ten hours per
16 month. Such credited service shall not be used in determining the member's
17 eligibility for retirement or final average pay. Such credited service shall be
18 added to the credited service in the last position of employment held as a member
19 of the system.

20 3. If a member is employed in a covered position and simultaneously
21 employed in one or more other covered or noncovered positions, credited service
22 shall be determined as if all such employment were in one position, and covered
23 pay shall be the total of pay for all such positions.

24 4. In calculating any annuity, "credited service" means a period expressed
25 as whole years and any fraction of a year measured in twelfths that begins on the
26 date an employee commences employment in a covered position and ends on the
27 date such employee's membership terminates pursuant to section 104.1018 plus
28 any additional period for which the employee is credited with service pursuant
29 to this section.

30 5. A member shall be credited for all military service after membership
31 commences as required by state and federal law.

32 6. Any member who had active military service in the United States
33 Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard,
34 or any reserve component thereof prior to last becoming a member, or who is
35 otherwise ineligible to receive credited service pursuant to subsection 1 or 5 of
36 this section, and who became a member after the person's discharge from military
37 service under honorable conditions may elect, prior to retirement, to purchase
38 credited service for all such military service, but not to exceed four years,
39 provided the person is not receiving and is not eligible to receive retirement
40 credits or benefits from any other public or private retirement plan, other than
41 a United States military service retirement system, for the military service to be

42 purchased along with the submission of appropriate documentation verifying the
43 member's dates of active service. The purchase shall be effected by the member
44 paying to the system an amount equal to the state's contributions that would
45 have been made to the system on the member's behalf had the member been a
46 member for the period for which the member is electing to purchase credit and
47 had the member's pay during such period of membership been the same as the
48 annual pay rate as of the date the member was initially employed as a member,
49 with the calculations based on the contribution rate in effect on the date of such
50 member's employment with simple interest calculated from the date of
51 employment to the date of election pursuant to this subsection. The payment
52 shall be made over a period of not longer than two years, measured from the date
53 of election, and with simple interest on the unpaid balance. If a member who
54 purchased credited service pursuant to this subsection dies prior to retirement,
55 the surviving spouse may, upon written request, receive a refund of the amount
56 contributed for such purchase of such credited service, provided the surviving
57 spouse is not entitled to survivorship benefits payable pursuant to the provisions
58 of section 104.1030.

59 7. Any member of the Missouri state employees' retirement system shall
60 receive credited service for the creditable prior service that such employee would
61 have been entitled to under the closed plan pursuant to section 104.339,
62 subsections 2, and 6 to 9 of section 104.340, subsection 12 of section 104.342,
63 section 104.344, subsection 4 of section 104.345, subsection 4 of section 104.372,
64 section 178.640, RSMo, and section 211.393, RSMo, provided such service has not
65 been credited under the closed plan.

66 8. Any member who has service in both systems and dies or terminates
67 employment shall have the member's service in the other system transferred to
68 the last system that covered such member and any annuity payable to such
69 member shall be paid by that system. Any such member may elect to transfer
70 service between systems prior to termination of employment, provided, any
71 annuity payable to such member shall be paid by the last system that covered
72 such member prior to the receipt of such annuity.

73 9. In no event shall any person or member receive credited service
74 pursuant to the year 2000 plan if that same service is credited for retirement
75 benefits under any defined benefit retirement system not created pursuant to this
76 chapter.

77 10. Any additional credited service as described in subsections 5 to 7 of

78 this section shall be added to the credited service in the first position of
79 employment held as a member of the system. Any additional creditable service
80 received pursuant to section 105.691, RSMo, shall be added to the credited service
81 in the position of employment held at the time the member completes the
82 purchase or transfer pursuant to such section.

83 11. A member may not purchase any credited service described in this
84 section unless the member has met the five-year minimum service requirement
85 as provided in subdivisions (11) and (20) of **subsection 1 of** section 104.1003, the
86 **[two] three** full biennial assemblies minimum service requirement as provided
87 in section 104.1084, or the four-year minimum service requirement as provided
88 in section 104.1084.

89 12. Absences taken by an employee without compensation for sickness and
90 injury of the employee of less than twelve months or for leave taken by such
91 employee without compensation pursuant to the provisions of the Family and
92 Medical Leave Act of 1993 shall be counted as years of credited service.

104.1024. 1. Any member who terminates employment may retire on or
2 after attaining normal retirement eligibility by making application in written
3 form and manner approved by the appropriate board. The written application
4 shall set forth the annuity starting date which shall not be earlier than the first
5 day of the second month following the month of the execution and filing of the
6 member's application for retirement nor later than the first day of the fourth
7 month following the month of the execution and filing of the member's application
8 for retirement. **The payment of the annuity shall be made the last**
9 **working day of each month, providing all documentation required**
10 **under section 104.1027 for the calculation and payment of the benefits**
11 **is received by the board.**

12 2. A member's annuity shall be paid in the form of a life annuity, except
13 as provided in section 104.1027, and shall be an amount for life equal to one and
14 seven-tenths percent of the final average pay of the member multiplied by the
15 member's years of credited service.

16 3. The life annuity defined in subsection 2 of this section shall not be less
17 than a monthly amount equal to fifteen dollars multiplied by the member's full
18 years of credited service.

19 4. If as of the annuity starting date of a member who has attained normal
20 retirement eligibility the sum of the member's years of age and years of credited
21 service equals eighty or more years and if the member's age is at least forty-eight

22 years but less than sixty-two years, or, in the case of a member of the highway
23 patrol who shall be subject to the mandatory retirement provision of section
24 104.080, the mandatory retirement age and completion of five years of credited
25 service, then in addition to the life annuity described in subsection 2 of this
26 section, the member shall receive a temporary annuity equal to eight-tenths of
27 one percent of the member's final average pay multiplied by the member's years
28 of credited service. The temporary annuity and any cost-of-living adjustments
29 attributable to the temporary annuity pursuant to section 104.1045 shall
30 terminate at the end of the calendar month in which the earlier of the following
31 events occurs: the member's death or the member's attainment of the earliest age
32 of eligibility for reduced Social Security retirement benefits, **but no later than**
33 **age sixty-two.**

34 5. The annuity described in subsection 2 of this section for any person
35 who has credited service not covered by the federal Social Security Act, as
36 provided in sections 105.300 to 105.445, RSMo, shall be calculated as follows: the
37 life annuity shall be an amount equal to two and five-tenths percent of the final
38 average pay of the member multiplied by the number of years of service not
39 covered by the federal Social Security Act in addition to one and seven-tenths
40 percent of the final average pay of the member multiplied by the member's years
41 of credited service covered by the federal Social Security Act.

42 6. Effective July 1, 2002, any member, except an elected official or a
43 member of the general assembly, who has not been paid retirement benefits and
44 continues employment for at least two years beyond the date of normal retirement
45 eligibility, may elect to receive an annuity and lump sum payment or payments,
46 determined as follows:

47 (1) A retroactive starting date shall be established which shall be a date
48 selected by the member; provided, however, that the retroactive starting date
49 selected by the member shall not be a date which is earlier than the date when
50 a normal annuity would have first been payable. In addition, the retroactive
51 starting date shall not be more than five years prior to the annuity starting
52 date. The member's selection of a retroactive starting date shall be done in
53 twelve-month increments, except this restriction shall not apply when the
54 member selects the total available time between the retroactive starting date and
55 the annuity starting date;

56 (2) The prospective annuity payable as of the annuity starting date shall
57 be determined pursuant to the provisions of this section, with the exception that

58 it shall be the amount which would have been payable at the annuity starting
59 date had the member actually retired on the retroactive starting date under the
60 retirement plan selected by the member. Other than for the lump sum payment
61 or payments specified in subdivision (3) of this subsection, no other amount shall
62 be due for the period between the retroactive starting date and the annuity
63 starting date;

64 (3) The lump sum payable shall be ninety percent of the annuity amounts
65 which would have been paid to the member from the retroactive starting date to
66 the annuity starting date had the member actually retired on the retroactive
67 starting date and received a life annuity. The member shall elect to receive the
68 lump sum amount either in its entirety at the same time as the initial annuity
69 payment is made or in three equal annual installments with the first payment
70 made at the same time as the initial annuity payment;

71 (4) Any annuity payable pursuant to this section that is subject to a
72 division of benefit order pursuant to section 104.1051 shall be calculated as
73 follows:

74 (a) Any service of a member between the retroactive starting date and the
75 annuity starting date shall not be considered credited service except for purposes
76 of calculating the division of benefit; and

77 (b) The lump sum payment described in subdivision (3) of this section
78 shall not be subject to any division of benefit order; and

79 (5) For purposes of determining annual benefit increases payable as part
80 of the lump sum and annuity provided pursuant to this section, the retroactive
81 starting date shall be considered the member's date of retirement.

104.1027. 1. Prior to the last business day of the month before the
2 annuity starting date, a member or a vested former member shall elect whether
3 or not to have such member's or such vested former member's life annuity
4 reduced, but not any temporary annuity which may be payable, and designate a
5 beneficiary, as provided by the options set forth in this section; provided that if
6 such election has not been made within such time, annuity payments due
7 beginning on and after the month of the annuity starting date shall be made the
8 month following the receipt by the appropriate system of such election and any
9 other information required by the year 2000 plan created by sections 104.1003 to
10 104.1093, and further provided, that if such person dies after the annuity starting
11 date but before making such election and providing such other information, no
12 benefits shall be paid except as required pursuant to section 104.1030:

13 Option 1. A retiree's life annuity shall be reduced to a certain percent of
14 the annuity otherwise payable. Such percent shall be ninety percent adjusted as
15 follows: if the retiree's age on the annuity starting date is younger than sixty-two
16 years, an increase of three-tenths of one percent for each year the retiree's age is
17 younger than age sixty-two years[, to a maximum increase of three and six-tenths
18 percent]; and if the beneficiary's age is younger than the retiree's age on the
19 annuity starting date, a decrease of three-tenths of one percent for each year of
20 age difference; and if the retiree's age is younger than the beneficiary's age on the
21 annuity starting date, an increase of three-tenths of one percent for each year of
22 age difference; provided, after all adjustments the option 1 percent cannot exceed
23 ninety-five percent. Upon the retiree's death, fifty percent of the retiree's reduced
24 annuity shall be paid to such beneficiary who was the retiree's spouse on the
25 annuity starting date or as otherwise provided by subsection 5 of this section.

26 Option 2. A retiree's life annuity shall be reduced to a certain percent of
27 the annuity otherwise payable. Such percent shall be eighty-three percent
28 adjusted as follows: if the retiree's age on the annuity starting date is younger
29 than sixty-two years, an increase of four-tenths of one percent for each year the
30 retiree's age is younger than sixty-two years[, to a maximum increase of four and
31 eight-tenths percent]; and if the beneficiary's age is younger than the retiree's age
32 on the annuity starting date, a decrease of five-tenths of one percent for each year
33 of age difference; and if the retiree's age is younger than the beneficiary's age on
34 the annuity starting date, an increase of five-tenths of one percent for each year
35 of age difference; provided, after all adjustments the option 2 percent cannot
36 exceed ninety percent. Upon the retiree's death one hundred percent of the
37 retiree's reduced annuity shall be paid to such beneficiary who was the retiree's
38 spouse on the annuity starting date or as otherwise provided by subsection 5 of
39 this section.

40 Option 3. A retiree's life annuity shall be reduced to ninety-five percent
41 of the annuity otherwise payable. If the retiree dies before having received one
42 hundred twenty monthly payments, the reduced annuity shall be continued for
43 the remainder of the one hundred twenty-month period to the retiree's designated
44 beneficiary provided that if there is no beneficiary surviving the retiree, the
45 present value of the remaining annuity payments shall be paid **as provided**
46 **under subsection 3 of section 104.620** [to the retiree's estate]. If the
47 beneficiary survives the retiree but dies before receiving the remainder of such
48 one hundred twenty monthly payments, the present value of the remaining

49 annuity payments shall be paid **as provided under subsection 3 of section**
50 **104.620** [to the beneficiary's estate].

51 Option 4. A retiree's life annuity shall be reduced to ninety percent of the
52 annuity otherwise payable. If the retiree dies before having received one hundred
53 eighty monthly payments, the reduced annuity shall be continued for the
54 remainder of the one hundred eighty-month period to the retiree's designated
55 beneficiary provided that if there is no beneficiary surviving the retiree, the
56 present value of the remaining annuity payments shall be paid **as provided**
57 **under subsection 3 of section 104.620** [to the retiree's estate]. If the
58 beneficiary survives the retiree but dies before receiving the remainder of such
59 one hundred eighty monthly payments, the present value of the remaining
60 annuity payments shall be paid **as provided under subsection 3 of section**
61 **104.620** [to the beneficiary's estate].

62 2. If a member is married as of the annuity starting date, the member's
63 annuity shall be paid under the provisions of either option 1 or option 2 as set
64 forth in subsection 1 of this section, at the member's choice, with the spouse as
65 the member's designated beneficiary unless the spouse consents in writing to the
66 member electing another available form of payment.

67 3. If a member has elected at the annuity starting date option 1 or 2
68 pursuant to this section and if the member's spouse or eligible former spouse dies
69 after the annuity starting date but before the member dies, then the member may
70 cancel the member's election and return to the life annuity form of payment and
71 annuity amount, effective the first of the month following the date of such
72 spouse's or eligible former spouse's death. **If a member dies prior to**
73 **notifying the system of the spouse's death, the benefit will not revert**
74 **to a life annuity and no retroactive payments shall be made.**

75 4. If a member designates a spouse as a beneficiary pursuant to this
76 section and subsequently that marriage ends as a result of a dissolution of
77 marriage, such dissolution shall not affect the option election pursuant to this
78 section and the former spouse shall continue to be eligible to receive survivor
79 benefits upon the death of the member.

80 5. Effective July 1, 2000, a member may make an election under option
81 1 or 2 after the annuity starting date as described in this section if the member
82 makes such election within one year from the date of marriage or July 1, 2000,
83 whichever is later, pursuant to any of the following circumstances:

84 (1) The member elected to receive a life annuity and was not eligible to

85 elect option 1 or 2 on the annuity starting date; or

86 (2) The member's annuity reverted to a normal or early retirement
87 annuity pursuant to subsection 3 of this section, and the member remarried.

88 6. Effective September 1, 2001, the retirement application of any member
89 who fails to make an election pursuant to subsection 1 of this section within
90 ninety days of the annuity starting date contained in such retirement application
91 shall be nullified. Any member whose retirement application is nullified shall not
92 receive retirement benefits until the member files a new application for
93 retirement pursuant to section 104.1024 and makes the election pursuant to
94 subsection 1 of this section. In no event shall any retroactive retirement benefits
95 be paid.

96 **7. A member may change a member's election made under this**
97 **section at any time prior to the system mailing or electronically**
98 **transferring the first annuity payment to such member.**

104.1039. If a retiree is employed as an employee by a department, the
2 retiree shall not receive an annuity payment for any calendar month in which the
3 retiree is so employed. While reemployed the retiree shall be considered to be a
4 new employee with no previous credited service [upon subsequent retirement]
5 **and must accrue credited service continuously for at least one year in**
6 **order to receive any additional annuity.** Such retiree shall receive an
7 additional annuity in addition to the original annuity, calculated based only on
8 the credited service and the pay earned by such retiree during reemployment and
9 paid in accordance with the annuity option originally elected; provided such
10 retiree who ceases to receive an annuity pursuant to this section shall not receive
11 such additional annuity if such retiree is employed by a department in a position
12 that is covered by a state-sponsored defined benefit retirement plan not created
13 pursuant to this chapter. The original annuity and any additional annuity shall
14 be paid commencing as of the end of the first month after the month during which
15 the retiree's reemployment terminates.

104.1051. 1. Any annuity provided pursuant to the year 2000 plan is
2 marital property and a court of competent jurisdiction may divide such annuity
3 between the parties to any action for dissolution of marriage if at the time of the
4 dissolution the member has at least five years of credited service pursuant to
5 sections 104.1003 to 104.1093. A division of benefits order issued pursuant to
6 this section:

7 (1) Shall not require the applicable retirement system to provide any form

8 or type of annuity or retirement plan not selected by the member;

9 (2) Shall not require the applicable retirement system to commence
10 payments until the member's annuity starting date;

11 (3) Shall identify the monthly amount to be paid to the former spouse,
12 which shall be expressed as a percentage and which shall not exceed fifty percent
13 of the amount of the member's annuity accrued during all or part of the period
14 of the marriage of the member and former spouse and which shall be based on the
15 member's vested annuity on the date of the dissolution of marriage or an earlier
16 date as specified in the order, which amount shall be adjusted proportionately
17 upon the annuity starting date if the member's annuity is reduced due to the
18 receipt of an early retirement annuity **or the member's annuity is reduced**
19 **pursuant to section 104.1027 under an annuity option in which the**
20 **member named the alternate payee as beneficiary prior to the**
21 **dissolution of marriage;**

22 (4) Shall not require the payment of an annuity amount to the member
23 and former spouse which in total exceeds the amount which the member would
24 have received without regard to the order;

25 (5) Shall provide that any annuity increases, additional years of credited
26 service, increased final average pay, increased pay pursuant to subsections 2 and
27 5 of section 104.1084, or other type of increases accrued after the date of the
28 dissolution of marriage and any temporary annuity received pursuant to
29 subsection 4 of section 104.1024 shall accrue solely to the benefit of the member;
30 except that on or after September 1, 2001, any cost-of-living adjustment (COLA)
31 due after the annuity starting date shall not be considered to be an increase
32 accrued after the date of termination of marriage and shall be part of the monthly
33 amount subject to division pursuant to any order issued after September 1, 2001;

34 (6) Shall terminate upon the death of either the member or the former
35 spouse, whichever occurs first;

36 (7) Shall not create an interest which is assignable or subject to any legal
37 process;

38 (8) Shall include the name, address, date of birth, and Social Security
39 number of both the member and the former spouse, and the identity of the
40 retirement system to which it applies;

41 (9) Shall be consistent with any other division of benefits orders which are
42 applicable to the same member.

43 2. A system shall provide the court having jurisdiction of a dissolution of

44 a marriage proceeding or the parties to the proceeding with information necessary
45 to issue a division of benefits order concerning a member of the system, upon
46 written request from either the court, the member, or the member's spouse, citing
47 this section and identifying the case number and parties.

48 3. A system shall have the discretionary authority to reject a division of
49 benefits order for the following reasons:

50 (1) The order does not clearly state the rights of the member and the
51 former spouse;

52 (2) The order is inconsistent with any law governing the retirement
53 system.

54 **4. Any member of the closed plan who elected the year 2000 plan**
55 **pursuant to section 104.1015 and then becomes divorced and subject to**
56 **a division of benefits order shall have the division of benefits order**
57 **calculated pursuant to the provisions of the year 2000 plan.**

104.1072. 1. Each board shall provide or contract, or both, for life
2 insurance benefits for employees covered pursuant to the year 2000 plan as
3 follows:

4 (1) Employees shall be provided fifteen thousand dollars of life insurance
5 until December 31, 2000. Effective January 1, 2001, the system shall provide or
6 contract or both for basic life insurance for employees covered under any
7 retirement plan administered by the system pursuant to this chapter, persons
8 covered by sections 287.812 to 287.856, RSMo, for employees who are members
9 of the judicial retirement system as provided in section 476.590, RSMo, and, at
10 the election of the state highways and transportation commission, employees who
11 are members of the highways and transportation employees' and highway patrol
12 retirement system, in the amount equal to one times annual pay, subject to a
13 minimum amount of fifteen thousand dollars. The board shall establish by rule
14 or contract the method for determining the annual rate of pay and any other
15 terms of such insurance as it deems necessary to implement the requirements
16 pursuant to this section. Annual rate of pay shall not include overtime or any
17 other irregular payments as determined by the board. Such life insurance shall
18 provide for triple indemnity in the event the cause of death is a proximate result
19 of a personal injury or disease arising out of and in the course of actual
20 performance of duty as an employee;

21 (2) Any member who terminates employment after reaching normal or
22 early retirement eligibility and becomes a retiree within sixty days of such

23 termination shall receive five thousand dollars of life insurance coverage.

24 2. (1) In addition to the life insurance authorized by the provisions of
25 subsection 1 of this section, any person for whom life insurance is provided or
26 contracted for pursuant to such subsection may purchase, at the person's own
27 expense and only if monthly voluntary payroll deductions are authorized,
28 additional life insurance at a cost to be stipulated in a contract with a private
29 insurance company or as may be required by a system if the board of trustees
30 determines that the system should provide such insurance itself. The maximum
31 amount of additional life insurance which may be so purchased prior to January
32 1, 2004, is that amount which equals six times the amount of the person's annual
33 rate of pay, subject to any maximum established by a board, except that if such
34 maximum amount is not evenly divisible by one thousand dollars, then the
35 maximum amount of additional insurance which may be purchased is the next
36 higher amount evenly divisible by one thousand dollars. The maximum amount
37 of additional life insurance which may be so purchased on or after January 1,
38 2004, is an amount to be stipulated in a contract with a private insurance
39 company or as may be required by the system if the board of trustees determines
40 that the system should provide the insurance itself.

41 (2) Any person defined in subdivision (1) of this subsection may retain an
42 amount not to exceed sixty thousand dollars of life insurance following the date
43 of his or her retirement if such person becomes a retiree the month following
44 termination of employment and makes written application for such life insurance
45 at the same time such person's application is made to the board for retirement
46 benefits. Such life insurance shall only be provided if such person pays the entire
47 cost of the insurance, as determined by the board, by allowing voluntary
48 deductions from the member's annuity.

49 (3) In addition to the life insurance authorized in subdivision (1) of this
50 subsection, any person for whom life insurance is provided or contracted for
51 pursuant to this subsection may purchase, at the person's own expense and only
52 if monthly voluntary payroll deductions are authorized, life insurance covering
53 the person's children or the person's spouse or both at coverage amounts to be
54 determined by the board at a cost to be stipulated in a contract with a private
55 insurer or as may be required by the system if the board of trustees determines
56 that the system should provide such insurance itself.

57 (4) Effective July 1, 2000, any member who applies and is eligible to
58 receive an annuity based on the attainment of at least forty-eight years of age

59 with a total of years of age and years of credited service which is at least eighty
60 shall be eligible to retain any optional life insurance described in subdivision (1)
61 of this subsection. The amount of such retained insurance shall not be greater
62 than the amount in effect during the month prior to termination of
63 employment. Such insurance may be retained until the member's attainment of
64 the earliest age for eligibility for reduced Social Security retirement benefits **but**
65 **no later than age sixty-two**, at which time the amount of such insurance that
66 may be retained shall be that amount permitted pursuant to subdivision (2) of
67 this subsection.

68 3. The state highways and transportation commission may provide for
69 insurance benefits to cover medical expenses for members of the highways and
70 transportation employees' and highway patrol retirement system. The state
71 highways and transportation commission may provide medical benefits for
72 dependents of members and for retired members. Contributions by the state
73 highways and transportation commission to provide the benefits shall be on the
74 same basis as provided for other state employees pursuant to the provisions of
75 section 104.515. Except as otherwise provided by law, the cost of benefits for
76 dependents of members and for retirees and their dependents shall be paid by the
77 members or retirees. The commission may contract with other persons or entities
78 including but not limited to third-party administrators, health network providers
79 and health maintenance organizations for all, or any part of, the benefits provided
80 for in this section. The commission may require reimbursement of any medical
81 claims paid by the commission's medical plan for which there was third-party
82 liability.

83 4. The highways and transportation employees' and highway patrol
84 retirement system may request the state highways and transportation
85 commission to provide life insurance benefits as required in subsections 1 and 2
86 of this section. If the state highways and transportation commission agrees to the
87 request, the highways and transportation employees' and highway patrol
88 retirement system shall reimburse the state highways and transportation
89 commission for any and all costs for life insurance provided pursuant to
90 subdivision (2) of subsection 1 of this section. The person who is covered
91 pursuant to subsection 2 of this section shall be solely responsible for the costs
92 of any additional life insurance. In lieu of the life insurance benefit in
93 subdivision (2) of subsection 1 of this section, the highways and transportation
94 employees' and highway patrol retirement system is authorized in its sole

95 discretion to provide a death benefit of five thousand dollars.

96 5. To the extent that the board enters or has entered into any contract
97 with any insurer or service organization to provide life insurance provided for
98 pursuant to this section:

99 (1) The obligation to provide such life insurance shall be primarily that
100 of the insurer or service organization and secondarily that of the board;

101 (2) Any member who has been denied life insurance benefits by the
102 insurer or service organization and has exhausted all appeal procedures provided
103 by the insurer or service organization may appeal such decision by filing a
104 petition against the insurer or service organization in a court of law in the
105 member's county of residence; and

106 (3) The board and the system shall not be liable for life insurance benefits
107 provided by an insurer or service organization pursuant to this section and shall
108 not be subject to any cause of action with regard to life insurance benefits or the
109 denial of life insurance benefits by the insurer or service organization unless the
110 member has obtained judgment against the insurer or service organization for life
111 insurance benefits and the insurer or service organization is unable to satisfy
112 that judgment.

 104.1087. 1. If a member has credited service with more than one
2 selected plan at time of separation of covered employment from all selected plans,
3 then the annuity payable from each selected plan shall be based upon the annuity
4 program, pay record and service record with that selected plan; provided,
5 however, that the total of credited service with all selected plans shall be used for
6 the sole purpose of determining whether or not the member has met the credited
7 service requirement contained in subdivisions (11) and (20) of **subsection 1 of**
8 section 104.1003 and subsections 1 and 4 of section 104.1084 for each selected
9 plan.

10 2. The selected plans cited in this section are:

11 (1) Year 2000 plan - basic provisions;

12 (2) Year 2000 plan - general assembly provisions;

13 (3) Year 2000 plan - statewide elected official provisions.

 104.1090. 1. Any member who as described in subdivision (1) of
2 subsection 1 of section 104.1009 has been employed in a position covered by the
3 system for at least ten or more years and has received credited service for such
4 employment in the year 2000 plan shall receive additional credited service for
5 previous public employment within the state covered by another retirement plan

6 as defined in section 105.691, RSMo, if all of the following conditions are met:

7 (1) Such member has a vested right to receive a retirement benefit from
8 the other retirement plan at the time of application pursuant to this section;

9 (2) The other retirement plan transfers to the system an amount equal to
10 the employee's account balance under a defined contribution plan or the amount
11 equal to the employee's pension benefit obligation under a defined benefit plan
12 at the time of transfer to the extent that obligation is funded as of the plan's most
13 recent actuarial valuation, not to exceed one hundred percent, as determined by
14 the other retirement plan's actuary using the same assumption used in
15 performing the last regular actuarial valuation of the transferring plan, except
16 that in no event shall the transferred amount be less than the employee's
17 accumulated contributions on deposit with the transferring plan;

18 (3) No such credited service remains credited in such other retirement
19 plan; [and]

20 (4) The member applies for the additional credited service prior to the
21 members's annuity starting date in manner and form established by the
22 appropriate board. Such additional credited service shall be added to the credited
23 service in the first position of employment held as a member of the system; **and**

24 **(5) The other retirement plan enters into an agreement with the**
25 **system to comply with the provisions of this section.**

26 2. Any member described in subsection 3 of section 104.1015 who elects
27 to be covered by the year 2000 plan shall be eligible to receive service under the
28 terms and conditions of subsection 1 of this section.

105.910. 1. Sections 105.900 to [105.925] **105.927** shall provide for the
2 establishment of the "Missouri State Public Employees Deferred Compensation
3 Fund". This fund shall be administered by the Missouri state public employees
4 deferred compensation commission. The commission shall approve any deferred
5 compensation agreement entered into by the state [pursuant to] **under** sections
6 105.900 to [105.925] **105.927** and shall oversee the orderly administration of the
7 fund in compliance with the subsequent provisions of sections 105.900 to
8 [105.925] **105.927**.

9 2. Such commission shall have five commissioners, including one member
10 of the Missouri state house of representatives to be selected by the speaker of the
11 house, one member of the Missouri state senate to be selected by the president
12 pro tempore of the senate, and three other such commissioners to be appointed
13 by the governor of the state of Missouri by and with the advice and consent of the

14 senate. The legislators appointed as commissioners shall serve during their
15 terms of office in the general assembly. The commissioners appointed by the
16 governor shall serve a term of three years; except that, of the commissioners first
17 appointed, one shall be appointed for a term of one year, one shall be appointed
18 for a term of two years, and one shall be appointed for a term of three years. The
19 commission shall annually elect a chairman and shall be required to meet not less
20 than quarterly or at any other such time as called by the chairman or a majority
21 of the commission.

22 **3. On August 28, 2007, the commission shall transfer**
23 **administration of the fund to the board of trustees of the Missouri state**
24 **employees' retirement system. Following such transfer:**

25 **(1) The board shall assume sole control over and shall be**
26 **authorized to administer the fund beginning on the first day of the**
27 **month following the month that the commission transfers**
28 **administration to the board;**

29 **(2) The commission shall provide for the orderly transfer of all**
30 **records pertaining to the fund, and shall take any other action**
31 **necessary for the board to assume its duties under section 105.915; and**

32 **(3) The commission shall be dissolved upon such transfer.**

105.915. 1. [Subject to the approval of Missouri state public employees
2 deferred compensation commission, the office of administration] **The board of**
3 **trustees of the Missouri state employees' retirement system shall**
4 **[establish and] administer [a] the deferred compensation [plan] fund for the**
5 **employees of the state of Missouri that was previously administered by the**
6 **deferred compensation commission, as established in section 105.910,**
7 **prior to August 28, 2007. The board shall be vested with the same**
8 **powers that it has under chapter 104, RSMo, to enable it and its**
9 **officers, employees, and agents to administer the fund under sections**
10 **105.900 to 105.927. Two of the commissioners serving on the deferred**
11 **compensation commission immediately prior to the transfer made to**
12 **the board under section 105.910 shall serve as ex officio members of the**
13 **board solely to participate in the duties of administering the deferred**
14 **compensation fund. One such commissioner serving as an ex officio**
15 **board member shall be a member of the house of representatives**
16 **selected by the speaker of the house of representatives, and such**
17 **commissioner's service on the board shall cease on December 31,**

18 **2009. The other commissioner serving as an ex officio board member**
19 **shall be the chairman of the deferred compensation commission**
20 **immediately prior to the transfer made to the board under section**
21 **105.910, and such commissioner's service on the board shall cease**
22 **December 31, 2008.**

23 **2.** Participation in such plan shall be by a specific written agreement
24 between [such] state employees and the state, which shall provide for the
25 deferral of such [amount] amounts of compensation as requested by the
26 employee **subject to any limitations imposed under federal**
27 **law.** Participating employees must authorize that such deferrals be made from
28 their wages for the purpose of participation in such program. **All assets and**
29 **income of such fund shall be held in trust by the board for the**
30 **exclusive benefit of participants and their beneficiaries. Assets of such**
31 **trust may be pooled solely for investment management purposes with**
32 **assets of the trust established under section 104.320, RSMo.**

33 **[2.] 3.** Notwithstanding any other provision of [this code] **sections**
34 **105.900 to 105.927,** funds held for the state by the [Missouri public employees
35 deferred compensation commission pursuant to] **board in accordance with**
36 written deferred compensation [agreement] **agreements** between the state and
37 participating employees may be invested[,] in such investments as are deemed
38 appropriate by the [office of administration and approved by the commission,
39 including, but not limited to, life insurance or annuity contracts or mutual funds]
40 **board.** [It is further provided that all such insurance, annuities, mutual funds,
41 or other such investment products to be offered pursuant to this plan shall have
42 been reviewed and selected by the commission based on a competitive bidding
43 process as established by such specifications and considerations as are deemed
44 appropriate by the commission. Such investments shall not be construed to be
45 a prohibited use of the general assets of the state] **All administrative costs of**
46 **the program described in this section, including staffing and overhead**
47 **expenses, may be paid out of assets of the fund, which may reduce the**
48 **amount due participants in the fund. Such investments shall not be**
49 **construed to be a prohibited use of the general assets of the state.**

50 **[3.] 4.** [In no case shall such investment be offered by other than such
51 persons and companies authorized and duly licensed by the state of Missouri and
52 applicable federal regulatory agencies to offer such insurance or investment
53 programs in compliance with all relevant provisions of this code.] **Investments**

54 offered under the deferred compensation fund for the employees of the
55 state of Missouri shall be made available at the discretion of the board.

56 **5. The board and employees of the Missouri state employees'**
57 **retirement system shall be immune from suit and shall not be subject**
58 **to any claim or liability associated with any administrative actions or**
59 **decisions made by the commission with regard to the deferred**
60 **compensation program prior to the transfer made to the board under**
61 **section 105.910.**

62 **6. The board and employees of the system shall not be liable for**
63 **the investment decisions made or not made by participating employees**
64 **as long as the board acts with the same skill, prudence, and diligence**
65 **in the selection and monitoring of providers of investment products,**
66 **education, advice, or any default investment option, under the**
67 **circumstances then prevailing that a prudent person acting in a similar**
68 **capacity and familiar with those matters would use in the conduct of**
69 **a similar enterprise with similar aims.**

70 **7. The system shall be immune from suit and shall not be subject**
71 **to any claim or liability associated with the administration of the**
72 **deferred compensation fund by the board and employees of the system.**

169.070. 1. The retirement allowance of a member whose age at
2 retirement is sixty years or more and whose creditable service is five years or
3 more, or whose sum of age and creditable service equals eighty years or more, or
4 who has attained age fifty-five and whose creditable service is twenty-five years
5 or more or whose creditable service is thirty years or more regardless of age, may
6 be the sum of the following items, not to exceed one hundred percent of the
7 member's final average salary:

8 (1) Two and five-tenths percent of the member's final average salary for
9 each year of membership service;

10 (2) Six-tenths of the amount payable for a year of membership service for
11 each year of prior service not exceeding thirty years.

12 In lieu of the retirement allowance otherwise provided in subdivisions (1) and (2)
13 of this subsection, a member may elect to receive a retirement allowance of:

14 (3) Between July 1, 1998, and July 1, [2008] **2013**, two and four-tenths
15 percent of the member's final average salary for each year of membership service,
16 if the member's creditable service is twenty-nine years or more but less than
17 thirty years, and the member has not attained age fifty-five;

18 (4) Between July 1, 1998, and July 1, [2008] **2013**, two and
19 thirty-five-hundredths percent of the member's final average salary for each year
20 of membership service, if the member's creditable service is twenty-eight years
21 or more but less than twenty-nine years, and the member has not attained age
22 fifty-five;

23 (5) Between July 1, 1998, and July 1, [2008] **2013**, two and three-tenths
24 percent of the member's final average salary for each year of membership service,
25 if the member's creditable service is twenty-seven years or more but less than
26 twenty-eight years, and the member has not attained age fifty-five;

27 (6) Between July 1, 1998, and July 1, [2008] **2013**, two and
28 twenty-five-hundredths percent of the member's final average salary for each year
29 of membership service, if the member's creditable service is twenty-six years or
30 more but less than twenty-seven years, and the member has not attained age
31 fifty-five;

32 (7) Between July 1, 1998, and July 1, [2008] **2013**, two and two-tenths
33 percent of the member's final average salary for each year of membership service,
34 if the member's creditable service is twenty-five years or more but less than
35 twenty-six years, and the member has not attained age fifty-five;

36 (8) Between July 1, 2001, and July 1, [2008] **2013**, two and fifty-five
37 hundredths percent of the member's final average salary for each year of
38 membership service, if the member's creditable service is thirty-one years or more
39 regardless of age.

40 2. In lieu of the retirement allowance provided in subsection 1 of this
41 section, a member whose age is sixty years or more on September 28, 1975, may
42 elect to have the member's retirement allowance calculated as a sum of the
43 following items:

44 (1) Sixty cents plus one and five-tenths percent of the member's final
45 average salary for each year of membership service;

46 (2) Six-tenths of the amount payable for a year of membership service for
47 each year of prior service not exceeding thirty years;

48 (3) Three-fourths of one percent of the sum of subdivisions (1) and (2) of
49 this subsection for each month of attained age in excess of sixty years but not in
50 excess of age sixty-five.

51 3. (1) In lieu of the retirement allowance provided either in subsection 1
52 or 2 of this section, collectively called "option 1", a member whose creditable
53 service is twenty-five years or more or who has attained the age of fifty-five with

54 five or more years of creditable service may elect in the member's application for
55 retirement to receive the actuarial equivalent of the member's retirement
56 allowance in reduced monthly payments for life during retirement with the
57 provision that:

Option 2. Upon the member's death the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member as the member shall have nominated in the member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the retired member elected option 1;

OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the total of the remainder of such one hundred twenty monthly payments shall be paid to the

90 estate of the last person to receive a monthly allowance. If the total of the one
91 hundred twenty payments paid to the retired individual and the beneficiary of the
92 retired individual is less than the total of the member's accumulated
93 contributions, the difference shall be paid to the beneficiary in a lump sum;

94 OR

95 Option 6. Upon the death of the member prior to the member having
96 received sixty monthly payments of the member's reduced allowance, the
97 remainder of the sixty monthly payments of the reduced allowance shall be paid
98 to such beneficiary as the member shall have nominated in the member's election
99 of the option or in a subsequent nomination. If there is no beneficiary so
100 nominated who survives the member for the remainder of the sixty monthly
101 payments, the total of the remainder of such sixty monthly payments shall be
102 paid to the estate of the last person to receive a monthly allowance. If the total
103 of the sixty payments paid to the retired individual and the beneficiary of the
104 retired individual is less than the total of the member's accumulated
105 contributions, the difference shall be paid to the beneficiary in a lump sum.

106 (2) The election of an option may be made only in the application for
107 retirement and such application must be filed prior to the date on which the
108 retirement of the member is to be effective. If either the member or the person
109 nominated to receive the survivorship payments dies before the effective date of
110 retirement, the option shall not be effective, provided that:

111 (a) If the member or a person retired on disability retirement dies after
112 acquiring twenty-five or more years of creditable service or after attaining the age
113 of fifty-five years and acquiring five or more years of creditable service and before
114 retirement, except retirement with disability benefits, and the person named by
115 the member as the member's beneficiary has an insurable interest in the life of
116 the deceased member, the designated beneficiary may elect to receive either
117 survivorship benefits under option 2 or a payment of the accumulated
118 contributions of the member. If survivorship benefits under option 2 are elected
119 and the member at the time of death would have been eligible to receive an
120 actuarial equivalent of the member's retirement allowance, the designated
121 beneficiary may further elect to defer the option 2 payments until the date the
122 member would have been eligible to receive the retirement allowance provided in
123 subsection 1 or 2 of this section;

124 (b) If the member or a person retired on disability retirement dies before
125 attaining age fifty-five but after acquiring five but fewer than twenty-five years

126 of creditable service, and the person named as the member's beneficiary has an
127 insurable interest in the life of the deceased member, the designated beneficiary
128 may elect to receive either a payment of the member's accumulated contributions,
129 or survivorship benefits under option 2 to begin on the date the member would
130 first have been eligible to receive an actuarial equivalent of the member's
131 retirement allowance, or to begin on the date the member would first have been
132 eligible to receive the retirement allowance provided in subsection 1 or 2 of this
133 section.

134 4. If the total of the retirement or disability allowance paid to an
135 individual before the death of the individual is less than the accumulated
136 contributions at the time of retirement, the difference shall be paid to the
137 beneficiary of the individual, or to the (1) surviving spouse, (2) surviving children
138 in equal shares, (3) surviving parents in equal shares, or (4) estate of the
139 individual in that order of precedence. If an optional benefit as provided in
140 option 2, 3 or 4 in subsection 3 of this section had been elected, and the
141 beneficiary dies after receiving the optional benefit, and if the total retirement
142 allowance paid to the retired individual and the beneficiary of the retired
143 individual is less than the total of the contributions, the difference shall be paid
144 to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving
145 parents in equal shares, or (4) estate of the beneficiary, in that order of
146 precedence, unless the retired individual designates a different recipient with the
147 board at or after retirement.

148 5. If a member dies before receiving a retirement allowance, the member's
149 accumulated contributions at the time of the death of the member shall be paid
150 to the beneficiary of the member or, if there is no beneficiary, to the (1) surviving
151 spouse, (2) surviving children in equal shares, (3) surviving parents in equal
152 shares, or (4) to the estate of the member in that order of precedence; except that,
153 no such payment shall be made if the beneficiary elects option 2 in subsection 3
154 of this section, unless the beneficiary dies before having received benefits
155 pursuant to that subsection equal to the accumulated contributions of the
156 member, in which case the amount of accumulated contributions in excess of the
157 total benefits paid pursuant to that subsection shall be paid to the (1) surviving
158 spouse, (2) surviving children in equal shares, (3) surviving parents in equal
159 shares, or (4) estate of the beneficiary, in that order of precedence.

160 6. If a member ceases to be a public school employee as herein defined
161 and certifies to the board of trustees that such cessation is permanent, or if the

162 membership of the person is otherwise terminated, the member shall be paid the
163 member's accumulated contributions with interest.

164 7. Notwithstanding any provisions of sections 169.010 to 169.141 to the
165 contrary, if a member ceases to be a public school employee after acquiring five
166 or more years of membership service in Missouri, the member may at the option
167 of the member leave the member's contributions with the retirement system and
168 claim a retirement allowance any time after reaching the minimum age for
169 voluntary retirement. When the member's claim is presented to the board, the
170 member shall be granted an allowance as provided in sections 169.010 to 169.141
171 on the basis of the member's age, years of service, and the provisions of the law
172 in effect at the time the member requests the member's retirement to become
173 effective.

174 8. The retirement allowance of a member retired because of disability
175 shall be nine-tenths of the allowance to which the member's creditable service
176 would entitle the member if the member's age were sixty, or fifty percent of
177 one-twelfth of the annual salary rate used in determining the member's
178 contributions during the last school year for which the member received a year
179 of creditable service immediately prior to the member's disability, whichever is
180 greater, except that no such allowance shall exceed the retirement allowance to
181 which the member would have been entitled upon retirement at age sixty if the
182 member had continued to teach from the date of disability until age sixty at the
183 same salary rate.

184 9. Notwithstanding any provisions of sections 169.010 to 169.141 to the
185 contrary, from October 13, 1961, the contribution rate pursuant to sections
186 169.010 to 169.141 shall be multiplied by the factor of two-thirds for any member
187 of the system for whom federal Old Age and Survivors Insurance tax is paid from
188 state or local tax funds on account of the member's employment entitling the
189 person to membership in the system. The monetary benefits for a member who
190 elected not to exercise an option to pay into the system a retroactive contribution
191 of four percent on that part of the member's annual salary rate which was in
192 excess of four thousand eight hundred dollars but not in excess of eight thousand
193 four hundred dollars for each year of employment in a position covered by this
194 system between July 1, 1957, and July 1, 1961, as provided in subsection 10 of
195 this section as it appears in RSMo, 1969, shall be the sum of:

196 (1) For years of service prior to July 1, 1946, six-tenths of the full amount
197 payable for years of membership service;

198 (2) For years of membership service after July 1, 1946, in which the full
199 contribution rate was paid, full benefits under the formula in effect at the time
200 of the member's retirement;

201 (3) For years of membership service after July 1, 1957, and prior to July
202 1, 1961, the benefits provided in this section as it appears in RSMo, 1959; except
203 that if the member has at least thirty years of creditable service at retirement the
204 member shall receive the benefit payable pursuant to that section as though the
205 member's age were sixty-five at retirement;

206 (4) For years of membership service after July 1, 1961, in which the
207 two-thirds contribution rate was paid, two-thirds of the benefits under the
208 formula in effect at the time of the member's retirement.

209 10. The monetary benefits for each other member for whom federal Old
210 Age and Survivors Insurance tax is or was paid at any time from state or local
211 funds on account of the member's employment entitling the member to
212 membership in the system shall be the sum of:

213 (1) For years of service prior to July 1, 1946, six-tenths of the full amount
214 payable for years of membership service;

215 (2) For years of membership service after July 1, 1946, in which the full
216 contribution rate was paid, full benefits under the formula in effect at the time
217 of the member's retirement;

218 (3) For years of membership service after July 1, 1957, in which the
219 two-thirds contribution rate was paid, two-thirds of the benefits under the
220 formula in effect at the time of the member's retirement.

221 11. Any retired member of the system who was retired prior to September
222 1, 1972, or beneficiary receiving payments under option 1 or option 2 of
223 subsection 3 of this section, as such option existed prior to September 1, 1972,
224 will be eligible to receive an increase in the retirement allowance of the member
225 of two percent for each year, or major fraction of more than one-half of a year,
226 which the retired member has been retired prior to July 1, 1975. This increased
227 amount shall be payable commencing with January, 1976, and shall thereafter
228 be referred to as the member's retirement allowance. The increase provided for
229 in this subsection shall not affect the retired member's eligibility for
230 compensation provided for in section 169.580 or 169.585, nor shall the amount
231 being paid pursuant to these sections be reduced because of any increases
232 provided for in this section.

233 12. If the board of trustees determines that the cost of living, as measured

234 by generally accepted standards, increases two percent or more in the preceding
235 fiscal year, the board shall increase the retirement allowances which the retired
236 members or beneficiaries are receiving by two percent of the amount being
237 received by the retired member or the beneficiary at the time the annual increase
238 is granted by the board with the provision that the increases provided for in this
239 subsection shall not become effective until the fourth January first following the
240 member's retirement or January 1, 1977, whichever later occurs, or in the case
241 of any member retiring on or after July 1, 2000, the increase provided for in this
242 subsection shall not become effective until the third January first following the
243 member's retirement, or in the case of any member retiring on or after July 1,
244 2001, the increase provided for in this subsection shall not become effective until
245 the second January first following the member's retirement. Commencing with
246 January 1, 1992, if the board of trustees determines that the cost of living has
247 increased five percent or more in the preceding fiscal year, the board shall
248 increase the retirement allowances by five percent. The total of the increases
249 granted to a retired member or the beneficiary after December 31, 1976, may not
250 exceed eighty percent of the retirement allowance established at retirement or as
251 previously adjusted by other subsections. If the cost of living increases less than
252 five percent, the board of trustees may determine the percentage of increase to
253 be made in retirement allowances, but at no time can the increase exceed five
254 percent per year. If the cost of living decreases in a fiscal year, there will be no
255 increase in allowances for retired members on the following January first.

256 13. The board of trustees may reduce the amounts which have been
257 granted as increases to a member pursuant to subsection 12 of this section if the
258 cost of living, as determined by the board and as measured by generally accepted
259 standards, is less than the cost of living was at the time of the first increase
260 granted to the member; except that, the reductions shall not exceed the amount
261 of increases which have been made to the member's allowance after December 31,
262 1976.

263 14. Any application for retirement shall include a sworn statement by the
264 member certifying that the spouse of the member at the time the application was
265 completed was aware of the application and the plan of retirement elected in the
266 application.

267 15. Notwithstanding any other provision of law, any person retired prior
268 to September 28, 1983, who is receiving a reduced retirement allowance under
269 option 1 or option 2 of subsection 3 of this section, as such option existed prior to

270 September 28, 1983, and whose beneficiary nominated to receive continued
271 retirement allowance payments under the elected option dies or has died, shall
272 upon application to the board of trustees have his or her retirement allowance
273 increased to the amount he or she would have been receiving had the option not
274 been elected, actuarially adjusted to recognize any excessive benefits which would
275 have been paid to him or her up to the time of application.

276 16. Benefits paid pursuant to the provisions of the public school
277 retirement system of Missouri shall not exceed the limitations of Section 415 of
278 Title 26 of the United States Code except as provided pursuant to this
279 subsection. Notwithstanding any other law to the contrary, the board of trustees
280 may establish a benefit plan pursuant to Section 415(m) of Title 26 of the United
281 States Code. Such plan shall be created solely for the purpose described in
282 Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees
283 may promulgate regulations necessary to implement the provisions of this
284 subsection and to create and administer such benefit plan.

285 17. Notwithstanding any other provision of law to the contrary, any
286 person retired before, on, or after May 26, 1994, shall be made, constituted,
287 appointed and employed by the board as a special consultant on the matters of
288 education, retirement and aging, and upon request shall give written or oral
289 opinions to the board in response to such requests. As compensation for such
290 duties the person shall receive an amount based on the person's years of service
291 so that the total amount received pursuant to sections 169.010 to 169.141 shall
292 be at least the minimum amounts specified in subdivisions (1) to (4) of this
293 subsection. In determining the minimum amount to be received, the amounts in
294 subdivisions (3) and (4) of this subsection shall be adjusted in accordance with the
295 actuarial adjustment, if any, that was applied to the person's retirement
296 allowance. In determining the minimum amount to be received, beginning
297 September 1, 1996, the amounts in subdivisions (1) and (2) of this subsection
298 shall be adjusted in accordance with the actuarial adjustment, if any, that was
299 applied to the person's retirement allowance due to election of an optional form
300 of retirement having a continued monthly payment after the person's
301 death. Notwithstanding any other provision of law to the contrary, no person
302 retired before, on, or after May 26, 1994, and no beneficiary of such a person,
303 shall receive a retirement benefit pursuant to sections 169.010 to 169.141 based
304 on the person's years of service less than the following amounts:

305 (1) Thirty or more years of service, one thousand two hundred dollars;

306 (2) At least twenty-five years but less than thirty years, one thousand
307 dollars;

308 (3) At least twenty years but less than twenty-five years, eight hundred
309 dollars;

310 (4) At least fifteen years but less than twenty years, six hundred dollars.

311 18. Notwithstanding any other provisions of law to the contrary, any
312 person retired prior to May 26, 1994, and any designated beneficiary of such a
313 retired member who was deceased prior to July 1, 1999, shall be made,
314 constituted, appointed and employed by the board as a special consultant on the
315 matters of education, retirement or aging and upon request shall give written or
316 oral opinions to the board in response to such requests. Beginning September 1,
317 1996, as compensation for such service, the member shall have added, pursuant
318 to this subsection, to the member's monthly annuity as provided by this section
319 a dollar amount equal to the lesser of sixty dollars or the product of two dollars
320 multiplied by the member's number of years of creditable service. Beginning
321 September 1, 1999, the designated beneficiary of the deceased member shall as
322 compensation for such service have added, pursuant to this subsection, to the
323 monthly annuity as provided by this section a dollar amount equal to the lesser
324 of sixty dollars or the product of two dollars multiplied by the member's number
325 of years of creditable service. The total compensation provided by this section
326 including the compensation provided by this subsection shall be used in
327 calculating any future cost-of-living adjustments provided by subsection 12 of this
328 section.

329 19. Any member who has retired prior to July 1, 1998, and the designated
330 beneficiary of a deceased retired member shall be made, constituted, appointed
331 and employed by the board as a special consultant on the matters of education,
332 retirement and aging, and upon request shall give written or oral opinions to the
333 board in response to such requests. As compensation for such duties the person
334 shall receive a payment equivalent to eight and seven-tenths percent of the
335 previous month's benefit, which shall be added to the member's or beneficiary's
336 monthly annuity and which shall not be subject to the provisions of subsections
337 12 and 13 of this section for the purposes of the limit on the total amount of
338 increases which may be received.

339 20. Any member who has retired shall be made, constituted, appointed
340 and employed by the board as a special consultant on the matters of education,
341 retirement and aging, and upon request shall give written or oral opinions to the

342 board in response to such request. As compensation for such duties, the
343 beneficiary of the retired member, or, if there is no beneficiary, the (1) surviving
344 spouse, (2) surviving children in equal shares, (3) surviving parents in equal
345 shares, or (4) estate of the retired member, in that order of precedence, shall
346 receive as a part of compensation for these duties a death benefit of five thousand
347 dollars.

348 21. Any member who has retired prior to July 1, 1999, and the designated
349 beneficiary of a retired member who was deceased prior to July 1, 1999, shall be
350 made, constituted, appointed and employed by the board as a special consultant
351 on the matters of education, retirement and aging, and upon request shall give
352 written or oral opinions to the board in response to such requests. As
353 compensation for such duties, the person shall have added, pursuant to this
354 subsection, to the monthly annuity as provided by this section a dollar amount
355 equal to five dollars times the member's number of years of creditable service.

356 22. Any member who has retired prior to July 1, 2000, and the designated
357 beneficiary of a deceased retired member shall be made, constituted, appointed
358 and employed by the board as a special consultant on the matters of education,
359 retirement and aging, and upon request shall give written or oral opinions to the
360 board in response to such requests. As compensation for such duties, the person
361 shall receive a payment equivalent to three and five-tenths percent of the
362 previous month's benefit, which shall be added to the member or beneficiary's
363 monthly annuity and which shall not be subject to the provisions of subsections
364 12 and 13 of this section for the purposes of the limit on the total amount of
365 increases which may be received.

366 23. Any member who has retired prior to July 1, 2001, and the designated
367 beneficiary of a deceased retired member shall be made, constituted, appointed
368 and employed by the board as a special consultant on the matters of education,
369 retirement and aging, and upon request shall give written or oral opinions to the
370 board in response to such requests. As compensation for such duties, the person
371 shall receive a dollar amount equal to three dollars times the member's number
372 of years of creditable service, which shall be added to the member's or
373 beneficiary's monthly annuity and which shall not be subject to the provisions of
374 subsections 12 and 13 of this section for the purposes of the limit on the total
375 amount of increases which may be received.

169.466. 1. Any retired member with fifteen or more years of creditable
2 service at retirement receiving [a pension] **retirement benefits** on August 28,

3 1997, shall receive on January first of each year, commencing on January 1, 1998,
4 an increase in the amount of [pension] **benefits** received by the retired member
5 pursuant to sections 169.410 to 169.540 during the preceding year of one hundred
6 percent of the increase in the consumer price index calculated in the manner
7 provided in this section; except that, no such increase in [pension] **retirement**
8 **benefits** shall be paid for any year if such increase in the consumer price index
9 is less than one percent. Such annual [pension] **retirement benefit** increase,
10 however, shall not exceed three percent [and the total increases in the amount
11 of pension benefits received by any retired member shall not, in the aggregate,
12 exceed ten percent of the pension benefits such retired member received during
13 the year preceding January first of the first year the retired member is entitled
14 to receive an increase pursuant to this section]. A retired member qualified to
15 receive an annual [pension] **retirement benefit** increase pursuant to this
16 section shall not be eligible to receive an additional benefit until the January first
17 after the first anniversary of the date on which he or she commenced receiving
18 [a pension] **retirement benefits** pursuant to sections 169.410 to
19 169.540. Benefits shall not be decreased in the case of a decrease in the
20 consumer price index for any year.

21 2. For the purpose of this section, any increase in the consumer price
22 index shall be determined by the board of trustees in November of each year
23 based on the consumer price index for the twelve-month period ended on
24 September thirtieth of such year over the consumer price index for the
25 twelve-month period ended on September thirtieth of the year immediately prior
26 thereto. Any increase so determined shall be applied by the board of trustees in
27 calculating increases in [pension] **retirement** benefits that become payable
28 pursuant to this section for the twelve-month period beginning on the January
29 first immediately following such determination.

30 3. An annual increase in [pension] **retirement** benefits, if any, shall be
31 payable monthly with monthly installments of other [pension] **retirement**
32 benefits pursuant to sections 169.410 to 169.540.

169.471. 1. The board of education is authorized from time to time, in its
2 discretion, to increase the [pension] **retirement** benefits now or hereafter
3 provided pursuant to sections 169.410 to 169.540 and to adopt and implement
4 additional [pension] **retirement** benefits and plans, including without limitation,
5 early retirement plans, deferred retirement option plans and cost-of-living
6 adjustments, but excluding compensation to retired members pursuant to section

7 169.475, and for such purpose the contribution rate of members of the retirement
8 system may be increased to provide part of the cost thereof, subject to the
9 following conditions:

10 (1) Any such increase in [pension] **retirement** benefits and additional
11 [pension] **retirement** benefits and plans shall be approved by the board of
12 trustees;

13 (2) The board of trustees shall have presented to the board of education
14 the projected increases in rates of contribution which will be required to be made
15 by members and the board of education to the retirement system to pay the cost
16 of such increases in [pension] **retirement** benefits and additional [pension]
17 **retirement** benefits and plans; and

18 (3) Any increase in the contribution rate of members of the retirement
19 system shall be approved by the board of trustees and shall be deducted from the
20 compensation of each member by the employing board and transferred and
21 credited to the individual account of each member from whose compensation the
22 deduction was made, and shall be administered in accordance with sections
23 169.410 to 169.540; provided that, any such increase in the members' contribution
24 rate shall not exceed one-half of one percent of compensation in any year for such
25 increases to [pension] **retirement** benefits and additional [pension] **retirement**
26 benefits and plans adopted during such year by the board of education pursuant
27 to this section, and all such increases in the members' contribution rate shall, in
28 the aggregate, not exceed two percent of compensation.

29 **2. The board of trustees is authorized from time to time, in its**
30 **discretion, to increase the retirement benefits, now or hereinafter**
31 **provided under sections 169.410 to 169.540, and to adopt and implement**
32 **additional retirement benefits for persons who have retired, including**
33 **cost-of-living adjustments, provided that the board of trustees finds the**
34 **additional benefit will not require an increase in the contribution rate**
35 **required by the members, will not increase the contribution required**
36 **from the board of education, and is actuarially sound. In the event the**
37 **board of trustees authorizes an increase under this section, it shall**
38 **certify in writing to the board of education the findings, including but**
39 **not limited to all actuarial assumptions, upon which the board of**
40 **trustees determined that the increase in benefits would result in no**
41 **increase in contributions by members or the board of education.**

169.670. 1. The retirement allowance of a member whose age at

2 retirement is sixty years or more and whose creditable service is five years or
3 more, or whose sum of age and creditable service equals eighty years or more, or
4 whose creditable service is thirty years or more regardless of age, shall be the
5 sum of the following items:

6 (1) For each year of membership service, one and sixty-one hundredths
7 percent of the member's final average salary;

8 (2) Six-tenths of the amount payable for a year of membership service for
9 each year of prior service;

10 (3) Eighty-five one-hundredths of one percent of any amount by which the
11 member's average compensation for services rendered prior to July 1, 1973,
12 exceeds the average monthly compensation on which federal Social Security taxes
13 were paid during the period over which such average compensation was
14 computed, for each year of membership service credit for services rendered prior
15 to July 1, 1973, plus six-tenths of the amount payable for a year of membership
16 service for each year of prior service credit;

17 (4) In lieu of the retirement allowance otherwise provided by subdivisions
18 (1) to (3) of this subsection, between July 1, 2001, and July 1, **[2008] 2013**, a
19 member may elect to receive a retirement allowance of:

20 (a) One and fifty-nine hundredths percent of the member's final average
21 salary for each year of membership service, if the member's creditable service is
22 twenty-nine years or more but less than thirty years and the member has not
23 attained the age of fifty-five;

24 (b) One and fifty-seven hundredths percent of the member's final average
25 salary for each year of membership service, if the member's creditable service is
26 twenty-eight years or more but less than twenty-nine years, and the member has
27 not attained the age of fifty-five;

28 (c) One and fifty-five hundredths percent of the member's final average
29 salary for each year of membership service, if the member's creditable service is
30 twenty-seven years or more but less than twenty-eight years and the member has
31 not attained the age of fifty-five;

32 (d) One and fifty-three hundredths percent of the member's final average
33 salary for each year of membership service, if the member's creditable service is
34 twenty-six years or more but less than twenty-seven years and the member has
35 not attained the age of fifty-five;

36 (e) One and fifty-one hundredths percent of the member's final average
37 salary for each year of membership service, if the member's creditable service is

38 twenty-five years or more but less than twenty-six years and the member has not
39 attained the age of fifty-five; and

40 (5) In addition to the retirement allowance provided in subdivisions (1)
41 to (3) of this subsection, a member retiring on or after July 1, 2001, whose
42 creditable service is thirty years or more or whose sum of age and creditable
43 service is eighty years or more, shall receive a temporary retirement allowance
44 equivalent to eight-tenths of one percent of the member's final average salary
45 multiplied by the member's years of service until such time as the member
46 reaches the minimum age for Social Security retirement benefits.

47 2. If the board of trustees determines that the cost of living, as measured
48 by generally accepted standards, increases five percent or more in the preceding
49 fiscal year, the board shall increase the retirement allowances which the retired
50 members or beneficiaries are receiving by five percent of the amount being
51 received by the retired member or the beneficiary at the time the annual increase
52 is granted by the board; provided that, the increase provided in this subsection
53 shall not become effective until the fourth January first following a member's
54 retirement or January 1, 1982, whichever occurs later, and the total of the
55 increases granted to a retired member or the beneficiary after December 31, 1981,
56 may not exceed eighty percent of the retirement allowance established at
57 retirement or as previously adjusted by other provisions of law. If the cost of
58 living increases less than five percent, the board of trustees may determine the
59 percentage of increase to be made in retirement allowances, but at no time can
60 the increase exceed five percent per year. If the cost of living decreases in a fiscal
61 year, there will be no increase in allowances for retired members on the following
62 January first.

63 3. The board of trustees may reduce the amounts which have been granted
64 as increases to a member pursuant to subsection 2 of this section if the cost of
65 living, as determined by the board and as measured by generally accepted
66 standards, is less than the cost of living was at the time of the first increase
67 granted to the member; provided that, the reductions shall not exceed the amount
68 of increases which have been made to the member's allowance after December 31,
69 1981.

70 4. (1) In lieu of the retirement allowance provided in subsection 1 of this
71 section, called "option 1", a member whose creditable service is twenty-five years
72 or more or who has attained age fifty-five with five or more years of creditable
73 service may elect, in the application for retirement, to receive the actuarial

74 equivalent of the member's retirement allowance in reduced monthly payments
75 for life during retirement with the provision that:

Option 2. Upon the member's death, the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member as the member shall have nominated in the member's election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

83 OR

Option 3. Upon the death of the member three-fourths of the reduced retirement allowance shall be continued throughout the life of and paid to such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance will be increased to the amount the retired member would be receiving had the member elected option 1;

91 OR

Option 4. Upon the death of the member one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as has an insurable interest in the life of the member and as the member shall have nominated in an election of the option, and provided further that if the person so nominated dies before the retired member, the retirement allowance shall be increased to the amount the retired member would be receiving had the member elected option 1;

99 OR

Option 5. Upon the death of the member prior to the member having received one hundred twenty monthly payments of the member's reduced allowance, the remainder of the one hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as the member shall have nominated in the member's election of the option or in a subsequent nomination. If there is no beneficiary so nominated who survives the member for the remainder of the one hundred twenty monthly payments, the reserve for the remainder of such one hundred twenty monthly payments shall be paid to the estate of the last person to receive a monthly allowance. If the total of the one hundred twenty payments paid to the retired individual and the beneficiary of the

110 retired individual is less than the total of the member's accumulated
111 contributions, the difference shall be paid to the beneficiary in a lump sum;

112 OR

113 Option 6. Upon the death of the member prior to the member having
114 received sixty monthly payments of the member's reduced allowance, the
115 remainder of the sixty monthly payments of the reduced allowance shall be paid
116 to such beneficiary as the member shall have nominated in the member's election
117 of the option or in a subsequent nomination. If there is no beneficiary so
118 nominated who survives the member for the remainder of the sixty monthly
119 payments, the reserve for the remainder of such sixty monthly payments shall be
120 paid to the estate of the last person to receive a monthly allowance. If the total
121 of the sixty payments paid to the retired individual and the beneficiary of the
122 retired individual is less than the total of the member's accumulated
123 contributions, the difference shall be paid to the beneficiary in a lump sum;

124 OR

125 Option 7. A plan of variable monthly benefit payments which provides, in
126 conjunction with the member's retirement benefits under the federal Social
127 Security laws, level or near-level retirement benefit payments to the member for
128 life during retirement, and if authorized, to an appropriate beneficiary designated
129 by the member. Such a plan shall be actuarially equivalent to the retirement
130 allowance under option 1 and shall be available for election only if established by
131 the board of trustees under duly adopted rules.

132 (2) The election of an option may be made only in the application for
133 retirement and such application must be filed prior to the date on which the
134 retirement of the member is to be effective. If either the member or the person
135 nominated dies before the effective date of retirement, the option shall not be
136 effective, provided that:

137 (a) If the member or a person retired on disability retirement dies after
138 attaining age fifty-five and acquiring five or more years of creditable service or
139 after acquiring twenty-five or more years of creditable service and before
140 retirement, except retirement with disability benefits, and the person named by
141 the member as the member's beneficiary has an insurable interest in the life of
142 the deceased member, the designated beneficiary may elect to receive either
143 survivorship payments under option 2 or a payment of the member's accumulated
144 contributions. If survivorship benefits under option 2 are elected and the member
145 at the time of death would have been eligible to receive an actuarial equivalent

146 of the member's retirement allowance, the designated beneficiary may further
147 elect to defer the option 2 payments until the date the member would have been
148 eligible to receive the retirement allowance provided in subsection 1 of this
149 section.

150 (b) If the member or a person retired on disability retirement dies before
151 attaining age fifty-five but after acquiring five but fewer than twenty-five years
152 of creditable service, and the person named as the beneficiary has an insurable
153 interest in the life of the deceased member or disability retiree, the designated
154 beneficiary may elect to receive either a payment of the person's accumulated
155 contributions, or survivorship benefits under option 2 to begin on the date the
156 member would first have been eligible to receive an actuarial equivalent of the
157 person's retirement allowance, or to begin on the date the member would first
158 have been eligible to receive the retirement allowance provided in subsection 1
159 of this section.

160 5. If the total of the retirement or disability allowances paid to an
161 individual before the person's death is less than the person's accumulated
162 contributions at the time of the person's retirement, the difference shall be paid
163 to the person's beneficiary or, if there is no beneficiary, to the (1) surviving
164 spouse, (2) surviving children in equal shares, (3) surviving parents in equal
165 shares, or (4) person's estate in that order of precedence; provided, however, that
166 if an optional benefit, as provided in option 2, 3 or 4 in subsection 4, had been
167 elected and the beneficiary dies after receiving the optional benefit, then, if the
168 total retirement allowances paid to the retired individual and the individual's
169 beneficiary are less than the total of the contributions, the difference shall be
170 paid to the (1) surviving spouse, (2) surviving children in equal shares, (3)
171 surviving parents in equal shares, or (4) estate of the beneficiary, in that order
172 of precedence, unless the retired individual designates a different recipient with
173 the board at or after retirement.

174 6. If a member dies before receiving a retirement allowance, the member's
175 accumulated contributions at the time of the member's death shall be paid to the
176 member's beneficiary or, if there is no beneficiary, to the (1) surviving spouse, (2)
177 surviving children in equal shares, (3) surviving parents in equal shares, or (4)
178 to the member's estate; provided, however, that no such payment shall be made
179 if the beneficiary elects option 2 in subsection 4 of this section, unless the
180 beneficiary dies before having received benefits pursuant to that subsection equal
181 to the accumulated contributions of the member, in which case the amount of

182 accumulated contributions in excess of the total benefits paid pursuant to that
183 subsection shall be paid to the (1) surviving spouse, (2) surviving children in
184 equal shares, (3) surviving parents in equal shares, or (4) estate of the
185 beneficiary, in that order of precedence.

186 7. If a member ceases to be an employee as defined in section 169.600 and
187 certifies to the board of trustees that such cessation is permanent or if the
188 person's membership is otherwise terminated, the person shall be paid the
189 person's accumulated contributions with interest.

190 8. Notwithstanding any provisions of sections 169.600 to 169.715 to the
191 contrary, if a member ceases to be an employee as defined in section 169.600 after
192 acquiring five or more years of creditable service, the member may, at the option
193 of the member, leave the member's contributions with the retirement system and
194 claim a retirement allowance any time after the member reaches the minimum
195 age for voluntary retirement. When the member's claim is presented to the
196 board, the member shall be granted an allowance as provided in sections 169.600
197 to 169.715 on the basis of the member's age and years of service.

198 9. The retirement allowance of a member retired because of disability
199 shall be nine-tenths of the allowance to which the member's creditable service
200 would entitle the member if the member's age were sixty.

201 10. Notwithstanding any provisions of sections 169.600 to 169.715 to the
202 contrary, any member who is a member prior to October 13, 1969, may elect to
203 have the member's retirement allowance computed in accordance with sections
204 169.600 to 169.715 as they existed prior to October 13, 1969.

205 11. Any application for retirement shall include a sworn statement by the
206 member certifying that the spouse of the member at the time the application was
207 completed was aware of the application and the plan of retirement elected in the
208 application.

209 12. Notwithstanding any other provision of law, any person retired prior
210 to August 14, 1984, who is receiving a reduced retirement allowance under option
211 1 or 2 of subsection 4 of this section, as the option existed prior to August 14,
212 1984, and whose beneficiary nominated to receive continued retirement allowance
213 payments under the elected option dies or has died, shall upon application to the
214 board of trustees have the person's retirement allowance increased to the amount
215 the person would have been receiving had the person not elected the option,
216 actuarially adjusted to recognize any excessive benefits which would have been
217 paid to the person up to the time of the application.

218 13. Benefits paid pursuant to the provisions of the public education
219 employee retirement system of Missouri shall not exceed the limitations of
220 Section 415 of Title 26 of the United States Code, except as provided under this
221 subsection. Notwithstanding any other law, the board of trustees may establish
222 a benefit plan under Section 415(m) of Title 26 of the United States Code. Such
223 plan shall be credited solely for the purpose described in Section 415(m)(3)(A) of
224 Title 26 of the United States Code. The board of trustees may promulgate
225 regulations necessary to implement the provisions of this subsection and to create
226 and administer such benefit plan.

227 14. Any member who has retired prior to July 1, 1999, and the designated
228 beneficiary of a deceased retired member upon request shall be made, constituted,
229 appointed and employed by the board as a special consultant on the matters of
230 education, retirement and aging. As compensation for such duties the person
231 shall receive a payment equivalent to seven and four-tenths percent of the
232 previous month's benefit, which shall be added to the member's or beneficiary's
233 monthly annuity and which shall not be subject to the provisions of subsections
234 2 and 3 of this section for the purposes of the limit on the total amount of
235 increases which may be received.

236 15. Any member who has retired prior to July 1, 2000, and the designated
237 beneficiary of a deceased retired member upon request shall be made, constituted,
238 appointed and employed by the board as a special consultant on the matters of
239 education, retirement and aging. As compensation for such duties the person
240 shall receive a payment equivalent to three and four-tenths percent of the
241 previous month's benefit, which shall be added to the member's or beneficiary's
242 monthly annuity and which shall not be subject to the provisions of subsections
243 2 and 3 of this section for the purposes of the limit on the total amount of
244 increases which may be received.

245 16. Any member who has retired prior to July 1, 2001, and the designated
246 beneficiary of a deceased retired member upon request shall be made, constituted,
247 appointed and employed by the board as a special consultant on the matters of
248 education, retirement and aging. As compensation for such duties the person
249 shall receive a payment equivalent to seven and one-tenth percent of the previous
250 month's benefit, which shall be added to the member's or beneficiary's monthly
251 annuity and which shall not be subject to the provisions of subsections 2 and 3
252 of this section for the purposes of the limit on the total amount of increases which
253 may be received.

321.800. Notwithstanding any other law to the contrary, any
2 board of directors established under the provisions of this chapter
3 administering its own retirement or other benefits related plan shall
4 administer such plan by a separate five-member pension board of
5 trustees. Pension plan participants shall elect three such participants
6 to be submitted to the board of directors. The board of directors shall
7 select two of the three participants to serve on the five-member pension
8 board of trustees. The board of directors shall be the other three
9 members of the five-member pension board of trustees.

[105.920. The financial liability of the state, or political
2 subdivision under a deferred compensation program shall be
3 limited in each instance to the value of the particular fixed or
4 variable life insurance or annuity contract, mutual funds or other
5 such investment options purchased on behalf of any employee.]

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