

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 233**  
**97TH GENERAL ASSEMBLY**

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Reported from the Committee on Seniors, Families and Pensions, April 15, 2013, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

TERRY L. SPIELER, Secretary.

0763S.04C

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**AN ACT**

To repeal sections 104.010, 104.040, 104.090, 104.140, 104.200, 104.272, 104.312, 104.352, 104.354, 104.380, 104.395, 104.420, 104.490, 104.601, 104.620, 104.800, 104.1003, 104.1015, 104.1021, 104.1030, 104.1039, 104.1051, 104.1054, 104.1060, 105.684, and 476.515, RSMo, and to enact in lieu thereof twenty-six new sections relating to the administration of state employee benefits.

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

Section A. Sections 104.010, 104.040, 104.090, 104.140, 104.200, 104.272, 104.312, 104.352, 104.354, 104.380, 104.395, 104.420, 104.490, 104.601, 104.620, 104.800, 104.1003, 104.1015, 104.1021, 104.1030, 104.1039, 104.1051, 104.1054, 104.1060, 105.684, and 476.515, RSMo, are repealed and twenty-six new sections enacted in lieu thereof, to be known as sections 104.010, 104.040, 104.090, 104.140, 104.200, 104.272, 104.312, 104.352, 104.354, 104.380, 104.395, 104.420, 104.490, 104.601, 104.620, 104.800, 104.1003, 104.1015, 104.1021, 104.1030, 104.1039, 104.1051, 104.1054, 104.1060, 105.684, and 476.515, to read as follows:

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

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

(2) "Active armed warfare", any declared war, or the Korean or

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

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) **"Annuity starting date", the first day of the first month with**  
20 **respect to which an amount is paid as an annuity under sections**  
21 **104.010 to 104.800, and the terms retirement, time of retirement, and**  
22 **date of retirement shall mean "annuity starting date" as defined in this**  
23 **subdivision unless the context in which the term is used indicates**  
24 **otherwise;**

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

43 **[(8)] (9) "Beneficiary", any [person] persons or entities entitled to or**

44 nominated by a member or retiree who may be legally entitled to receive benefits  
45 pursuant to this chapter;

46       [(9)] (10) "Biennial assembly", the completion of no less than two years  
47 of creditable service or creditable prior service by a member of the general  
48 assembly;

49       [(10)] (11) "Board of trustees", "board", or "trustees", a board of trustees  
50 as established for the applicable system pursuant to this chapter;

51       [(11)] (12) "Chapter", sections 104.010 to 104.800;

52       [(12)] (13) "Compensation":

53       (a) All salary and wages payable out of any state, federal, trust, or other  
54 funds to an employee for personal services performed for a department; but  
55 including only amounts for which contributions have been made in accordance  
56 with section 104.436, or section 104.070, whichever is applicable, and excluding  
57 any nonrecurring single sum payments or amounts paid after the member's  
58 termination of employment unless such amounts paid after such termination are  
59 a final installment of salary or wages at the same rate as in effect immediately  
60 prior to termination of employment in accordance with a state payroll system  
61 adopted on or after January 1, 2000, or any other one-time payments made as a  
62 result of such payroll system;

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

67       (c) Effective December 31, 1995, compensation in excess of the limitations  
68 set forth in Internal Revenue Code Section 401(a)(17) shall be disregarded. The  
69 limitation on compensation for eligible employees shall not be less than the  
70 amount which was allowed to be taken into account under the system as in effect  
71 on July 1, 1993. For this purpose, an "eligible employee" is an individual who  
72 was a member of the system before the first plan year beginning after December  
73 31, 1995;

74       [(13)] (14) "Consumer price index", the Consumer Price Index for All  
75 Urban Consumers for the United States, or its successor index, as approved by  
76 a board, as such index is defined and officially reported by the United States  
77 Department of Labor, or its successor agency;

78       [(14)] (15) "Creditable prior service", the service of an employee which  
79 was either rendered prior to the establishment of a system, or prior to the date

80 the employee last became a member of a system, and which is recognized in  
81 determining the member's eligibility and for the amount of the member's benefits  
82 under a system;

83       [(15)] **(16)** "Creditable service", the sum of membership service and  
84 creditable prior service, to the extent such service is standing to a member's  
85 credit as provided in this chapter; except that in no case shall more than one day  
86 of creditable service or creditable prior service be credited any member for any  
87 one calendar day of eligible service credit as provided by law;

88       [(16)] **(17)** "Deferred normal annuity", the annuity payable to any former  
89 employee who terminated employment as an employee or otherwise withdrew  
90 from service with a vested right to a normal annuity, payable at a future date;

91       [(17)] **(18)** "Department", any department or agency of the executive,  
92 legislative or judicial branch of the state of Missouri receiving state  
93 appropriations, including allocated funds from the federal government but not  
94 including any body corporate or politic unless its employees are eligible for  
95 retirement coverage from a system pursuant to this chapter as otherwise provided  
96 by law;

97       [(18)] **(19)** "Disability benefits", benefits paid to any employee while  
98 totally disabled as provided in this chapter;

99       [(19)] **(20)** "Early retirement age", a member's attainment of fifty-five  
100 years of age and the completion of ten or more years of creditable service, except  
101 for uniformed members of the water patrol;

102       [(20)] **(21)** "Employee":

103       (a) **Effective August 28, 2007**, any elective or appointive officer or  
104 person employed by the state who is employed, promoted or transferred by a  
105 department into a new or existing position and earns a salary or wage in a  
106 position normally requiring the performance by the person of duties during not  
107 less than one thousand forty hours per year, including each member of the  
108 general assembly but not including any patient or inmate of any state, charitable,  
109 penal or correctional institution. However, persons who are members of the  
110 public school retirement system and who are employed by a state agency other  
111 than an institution of higher learning shall be deemed employees for purposes of  
112 participating in all insurance programs administered by a board established  
113 pursuant to section 104.450. This definition shall not exclude any employee as  
114 defined in this subdivision who is covered only under the federal Old Age and  
115 Survivors' Insurance Act, as amended. As used in this chapter, the term

116 "employee" shall include:

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

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

124       (b) Any person who is not a retiree and has performed services in the  
125 employ of the general assembly or either house thereof, or any employee of any  
126 member of the general assembly while acting in the person's official capacity as  
127 a member, and whose position does not normally require the person to perform  
128 duties during at least one thousand forty hours per year, with a month of service  
129 being any monthly pay period in which the employee was paid for full-time  
130 employment for that monthly period; except that persons described in this  
131 paragraph shall not include any such persons who are employed on or after  
132 August 28, 2007, and who have not previously been employed in such positions;

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

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

139       [(21)] **(22)** "Employer", a department of the state;

140       [(22)] **(23)** "Executive director", the executive director employed by a  
141 board established pursuant to the provisions of this chapter;

142       [(23)] **(24)** "Fiscal year", the period beginning July first in any year and  
143 ending June thirtieth the following year;

144       [(24)] **(25)** "Full biennial assembly", the period of time beginning on the  
145 first day the general assembly convenes for a first regular session until the last  
146 day of the following year;

147       [(25)] **(26)** "Fund", the benefit fund of a system established pursuant to  
148 this chapter;

149       [(26)] **(27)** "Interest", interest at such rate as shall be determined and  
150 prescribed from time to time by a board;

151       [(27)] **(28)** "Member", as used in sections 104.010 to 104.272 or 104.601

152 to 104.800 shall mean an employee, retiree, or former employee entitled to a  
153 deferred annuity covered by the Missouri department of transportation and  
154 highway patrol employees' retirement system. "Member", as used in this section  
155 and sections 104.312 to 104.800, shall mean an employee, retiree, or former  
156 employee entitled to deferred annuity covered by the Missouri state employees'  
157 retirement system;

158 [(28)] (29) "Membership service", the service after becoming a member  
159 that is recognized in determining a member's eligibility for and the amount of a  
160 member's benefits under a system;

161 [(29)] (30) "Military service", all active service performed in the United  
162 States Army, Air Force, Navy, Marine Corps, Coast Guard, and members of the  
163 United States Public Health Service or any women's auxiliary thereof; and service  
164 in the Army National Guard and Air National Guard when engaged in active duty  
165 for training, inactive duty training or full-time National Guard duty, and service  
166 by any other category of persons designated by the President in time of war or  
167 emergency;

168 [(30)] (31) "Normal annuity", the annuity provided to a member upon  
169 retirement at or after the member's normal retirement age;

170 [(31)] (32) "Normal retirement age", an employee's attainment of  
171 sixty-five years of age and the completion of four years of creditable service or the  
172 attainment of age sixty-five years of age and the completion of five years of  
173 creditable service by a member who has terminated employment and is entitled  
174 to a deferred normal annuity or the member's attainment of age sixty and the  
175 completion of fifteen years of creditable service, except that normal retirement  
176 age for uniformed members of the highway patrol shall be fifty-five years of age  
177 and the completion of four years of creditable service and uniformed employees  
178 of the water patrol shall be fifty-five years of age and the completion of four years  
179 of 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] **Missouri department of transportation and highway**  
186 **patrol employees' retirement system** or a member of the Missouri state  
187 employees' retirement system shall be entitled to retire with a normal annuity

188 and shall be entitled to elect any of the survivor benefit options and shall also be  
189 entitled to any other provisions of this chapter that relate to retirement with a  
190 normal annuity if the sum of the member's age and creditable service equals  
191 eighty years or more and if the member is at least forty-eight years of age;

192       [(32)] **(33)** "Payroll deduction", deductions made from an employee's  
193 compensation;

194       [(33)] **(34)** "Prior service credit", the service of an employee rendered  
195 prior to the date the employee became a member which service is recognized in  
196 determining the member's eligibility for benefits from a system but not in  
197 determining the amount of the member's benefit;

198       [(34)] **(35)** "Reduced annuity", an actuarial equivalent of a normal  
199 annuity;

200       [(35)] **(36)** "Retiree", a member who is not an employee and who is  
201 receiving an annuity from a system pursuant to this chapter;

202       [(36)] **(37)** "System" or "retirement system", the Missouri department of  
203 transportation and highway patrol employees' retirement system, as created by  
204 sections 104.010 to 104.270, or sections 104.601 to 104.800, or the Missouri state  
205 employees' retirement system as created by sections 104.320 to 104.800;

206       [(37)] **(38)** "Uniformed members of the highway patrol", the  
207 superintendent, lieutenant colonel, majors, captains, director of radio,  
208 lieutenants, sergeants, corporals, and patrolmen of the Missouri state highway  
209 patrol who normally appear in uniform;

210       [(38)] **(39)** "Uniformed members of the water patrol", employees of the  
211 Missouri state water patrol of the department of public safety who are classified  
212 as water patrol officers who have taken the oath of office prescribed by the  
213 provisions of chapter 306 and who have those peace officer powers given by the  
214 provisions of chapter 306;

215       [(39)] **(40)** "Vesting service", the sum of a member's prior service credit  
216 and creditable service which is recognized in determining the member's eligibility  
217 for 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 contrary,  
221 the board of trustees may establish a benefit plan under Section 415(m) of the  
222 Internal Revenue Code of 1986, as amended. Such plan shall be created solely  
223 for the purposes described in Section 415(m)(3)(A) of the Internal Revenue Code

224 of 1986, as amended. The board of trustees may promulgate regulations  
225 necessary to implement the provisions of this subsection and to create and  
226 administer such benefit plan.

104.040. 1. Any member shall be entitled to creditable prior service  
2 within the meaning of sections 104.010 to 104.272 for all service in the United  
3 States Army, Navy, or other armed services of the United States, or any women's  
4 auxiliary thereof in time of active armed warfare, if such member was a state  
5 employee immediately prior to his or her entry into the armed services and  
6 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 **forty** hours for  
9 status as an "employee" shall not apply to persons who apply for creditable prior  
10 service 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 104.272, but was not an employee on  
13 that date, shall be entitled to creditable prior service that such member would  
14 have been entitled to had such member become a member of the retirement  
15 system on the date of its inception if such member has, or hereafter attains, one  
16 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 member of the system under section 104.030 or 104.170 who is an  
71 active employee and who served as a nonfederal full-time public employee in this  
72 state prior to becoming a member may elect, prior to retirement, to purchase all  
73 of his or her creditable prior service equivalent to such service, but not to exceed  
74 four years, if he or she is not receiving and is not eligible to receive credits or  
75 benefits from any other public plan for the service to be purchased. The purchase  
76 shall be effected by the member's paying to the retirement system an amount  
77 equal to what would have been contributed by the state in his or her behalf had  
78 he or she been a member of the system for the period for which the member is  
79 electing to purchase credit and had his compensation during such period been the  
80 same as the annual salary rate at which the member was initially employed as  
81 a member, with the calculations based on the contribution rate in effect on the  
82 date of his or her employment with simple interest calculated from the date of  
83 employment from which the member could first receive creditable service to the  
84 date of election pursuant to the provisions of this section. The payment shall be  
85 made over a period of not longer than two years, measured from the date of  
86 election, and with simple interest on the unpaid balance. Payments made for  
87 such creditable prior service pursuant to the provisions of this section shall be  
88 treated by the retirement system as would contributions made by the state and  
89 shall not be subject to any prohibition on member contributions or refund  
90 provisions in effect at the time of enactment of this section. All purchase  
91 payments under this subsection must be completed prior to retirement or prior  
92 to termination of employment. If a member who purchased creditable service  
93 under this subsection dies prior to retirement, the surviving spouse may, upon  
94 written request, receive a refund of the amount contributed for such purchase of  
95 such creditable service. The surviving spouse shall not be eligible for a refund  
96 under this subsection if he or she is entitled to survivorship benefits payable  
97 under section 104.140. A member who is entitled to a deferred annuity under  
98 section 104.035 shall be ineligible to purchase service under this subsection.

          104.090. 1. The normal annuity of a member shall equal one and  
2 six-tenths percent of the average compensation of the member multiplied by the  
3 number of years of creditable service of such member. In addition, the normal  
4 annuity of a uniformed member of the patrol shall be increased by thirty-three  
5 and one-third percent.

6           2. In addition, a uniformed member of the highway patrol who is retiring  
7 with a normal annuity after attaining normal retirement age shall receive an

8 additional sum of ninety dollars per month as a contribution by the system until  
9 such member attains the age of sixty-five years, when such contribution shall  
10 cease. To qualify for the contribution provided in this subsection by the system,  
11 the retired uniformed member of the highway patrol is made, constituted,  
12 appointed and employed by the board as a special consultant on the problems of  
13 retirement, aging and other state matters. Such additional contribution shall be  
14 reduced each month by such amount earned by the retired uniformed member of  
15 the highway patrol in gainful employment. In order to qualify for the additional  
16 contribution provided in this subsection, the retired uniformed member of the  
17 highway patrol shall have been:

18 (1) Hired by the Missouri state highway patrol prior to January 1, 1995;  
19 and

20 (2) Employed by the Missouri state highway patrol or receiving long-term  
21 disability or work-related disability benefits on the day before the effective date  
22 of the member's retirement.

23 3. In lieu of the annuity payable to the member pursuant to section  
24 104.100, a member whose age at retirement is forty-eight or more may elect in the  
25 member's application for retirement to receive [either] **one of the following**:

26 Option 1. An actuarial reduction approved by the board of the member's  
27 annuity in reduced monthly payments for life during retirement with the  
28 provision that upon the member's death the reduced annuity at date of death  
29 shall be continued throughout the life of, and be paid to, the member's spouse; or

30 Option 2. The member's normal annuity in regular monthly payments for  
31 life during retirement with the provision that upon the member's death a  
32 survivor's benefit equal to one-half the member's normal annuity at date of death  
33 shall be paid to the member's spouse in regular monthly payments for life; or

34 Option 3. An actuarial reduction approved by the board of **the** member's  
35 normal annuity in reduced monthly payments for the member's life with the  
36 provision that if the member dies prior to the member's having received one  
37 hundred twenty monthly payments of the member's reduced annuity, the  
38 member's reduced allowance to which the member would have been entitled had  
39 the member lived shall be paid for the remainder of the one hundred  
40 twenty-month period to such [person] **beneficiary** as the member shall have  
41 nominated by written designation duly executed and filed with the board. If  
42 there is no beneficiary surviving the retiree, the reserve for such allowance for  
43 the remainder of such one hundred twenty-month period shall be paid to the

44 retiree's estate; or

45           Option 4. An actuarial reduction approved by the board of the member's  
46 normal annuity in reduced monthly payments for the member's life with the  
47 provision that if the member dies prior to the member having received sixty  
48 monthly payments of the member's reduced annuity, the member's reduced  
49 allowance to which the member would have been entitled had the member lived  
50 shall be paid for the remainder of the sixty-month period to such [person]  
51 **beneficiary** as the member shall have nominated by written designation duly  
52 executed and filed with the board. If there is no beneficiary surviving the retiree,  
53 the reserve for such allowance for the remainder of such sixty-month period shall  
54 be paid to the retiree's estate.

55           4. The election may be made only in the application for retirement, and  
56 such application shall be filed at least thirty days but not more than ninety days  
57 prior to the date on which the retirement of the member is to be effective,  
58 provided that if either the member or the spouse nominated to receive the  
59 survivorship payment dies before the effective date of retirement, the election  
60 shall not be effective. If after the reduced annuity commences, the spouse  
61 predeceases the retired member, the reduced annuity continues to the retired  
62 member during the member's lifetime.

63           5. Effective July 1, 2000, a member may make an election under option  
64 1 or 2 after the date retirement benefits are initiated if the member makes the  
65 election within one year from the date of marriage or July 1, 2000, whichever is  
66 later, under any of the following circumstances:

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

69           (2) The member's annuity reverted to a normal annuity pursuant to  
70 subsection 8 of section 104.103 and the member remarried; or

71           (3) The member elected option 1 or 2 but the member's spouse at the time  
72 of retirement has died and the member has remarried.

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

78           7. For retirement applications filed on or after August 28, 2004, the  
79 beneficiary for either option 1 or option 2 of subsection 3 of this section shall be

80 the member's spouse at the time of retirement. If the member's marriage ends  
81 after retirement as a result of a dissolution of marriage, such dissolution shall not  
82 affect the option election and the former spouse shall continue to be eligible to  
83 receive survivor benefits upon death of the member.

84 8. Any application for retirement shall only become effective on the first  
85 day of the month.

104.140. 1. (1) If a member who has five or more years of creditable  
2 service dies before retirement, the member's surviving spouse, to whom the  
3 member was married on the date of the member's death, if any, shall receive the  
4 reduced survivorship benefits provided in option 1 of subsection 3 of section  
5 104.090 calculated as if the member were of normal retirement age and had  
6 retired as of the date of the member's death and had elected option 1[;].

7 (2) If there is no eligible surviving spouse, or when a spouse's annuity has  
8 ceased to be payable, the member's eligible surviving children under twenty-one  
9 years of age shall receive monthly, in equal shares, an amount equal to eighty  
10 percent of the member's accrued annuity calculated as if the member were of  
11 normal retirement age and retired as of the date of death. Benefits otherwise  
12 payable to a child under eighteen years of age shall be payable to the surviving  
13 parent as natural guardian of such child if such parent has custody or assumes  
14 custody of such minor child, or to the legal [guardian] **conservator** of such child,  
15 until such child attains age eighteen, and thereafter, the benefit may be paid to  
16 the child until age twenty-one; provided, the age twenty-one maximum shall be  
17 extended for any child who has been found totally incapacitated by a court of  
18 competent jurisdiction[;].

19 (3) No benefit is payable pursuant to this section if no eligible surviving  
20 spouse or children under twenty-one years of age survive the member. Benefits  
21 cease pursuant to this section when there is no eligible surviving beneficiary  
22 through either death of the eligible surviving spouse or through either death or  
23 the attainment of twenty-one years of age by the eligible surviving children. If  
24 the member's surviving children are receiving equal shares of the benefit  
25 described in subdivision (2) of this subsection, and one or more of such children  
26 become ineligible by reason of death or the attainment of twenty-one years of age,  
27 the benefit shall be reallocated so that the remaining eligible children receive  
28 equal shares of the total benefit as described in subdivision (2) of this subsection.

29 2. Effective January 1, 1985, if an employee who has three or more, but  
30 less than five years of creditable service dies before retirement, the surviving

31 spouse of the deceased employee, if married to the deceased employee on the date  
32 of the employee's death, or the deceased employee's surviving eligible children  
33 under the age of twenty-one, shall receive a total monthly payment equal to  
34 twenty-five percent of the deceased employee's accrued monthly benefit calculated  
35 as if the employee were of normal retirement age as of the date of death. If the  
36 surviving spouse dies leaving any eligible children under the age of twenty-one  
37 years, the payment shall continue until the children reach twenty-one years of  
38 age. If there is no surviving spouse eligible for benefits under this subsection,  
39 but there are any children of the deceased employee eligible for payments, the  
40 payments shall continue until the children reach twenty-one years of age. Any  
41 benefits payable to eligible children under twenty-one years of age shall be made  
42 on a pro rata basis among the surviving children under twenty-one years of age.

43         3. For the purpose of computing the amount of a benefit payable pursuant  
44 to this section, if the board finds that the death was a natural and proximate  
45 result of a personal injury or disease arising out of and in the course of the  
46 member's actual performance of duty as an employee, then the minimum benefit  
47 to such member's surviving spouse or, if no surviving spouse benefits are payable,  
48 the minimum benefit that shall be divided among and paid to such member's  
49 surviving eligible children under the age of twenty-one shall be fifty percent of  
50 the member's final average compensation. The service requirements of  
51 subsections 1 and 2 of this section shall not apply to any benefit payable  
52 pursuant to this subsection.

104.200. Should any error in any records result in any member's or  
2 beneficiary's receiving more or less than he would have been entitled to receive  
3 had the records been correct, the board shall correct such error, and, as far as  
4 practicable, make future payments in such a manner that the actuarial  
5 equivalent of the benefit to which such member or beneficiary was entitled shall  
6 be paid, and to this end may recover any overpayments. **In all cases in which**  
7 **such error has been made, no such error shall be corrected unless the**  
8 **system discovers or is notified of such error within ten years after the**  
9 **initial date of error.**

104.272. Other provisions of law to the contrary notwithstanding, any  
2 person who is an employee of state government and a member of the  
3 [transportation department employees' and highway patrol] **Missouri**  
4 **department of transportation and highway patrol employees'** retirement  
5 system is entitled to credit for all of his service during employment with the

6 department of transportation or the state highway patrol if he is an employee of  
7 that same agency upon retirement regardless of whether he was classified as  
8 full-time, part-time or temporary, and the requirement of section 104.010 of  
9 duties during not less than one thousand **forty** hours for status as an employee  
10 shall not apply to persons applying for retirement credit under the provisions of  
11 this section.

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, and section 476.688 to the  
3 contrary notwithstanding, any pension, annuity, benefit, right, or retirement  
4 allowance provided pursuant to this chapter, chapter 287, or chapter 476 is  
5 marital property and after August 28, 1994, a court of competent jurisdiction may  
6 divide the pension, annuity, benefits, rights, and retirement allowance provided  
7 pursuant to this chapter, chapter 287, or chapter 476 between the parties to any  
8 action for dissolution of marriage. A division of benefits order issued pursuant  
9 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 annuity option  
24 in which the member named the alternate payee as beneficiary prior to the  
25 dissolution of marriage or pursuant to section 104.090 under an annuity option  
26 in which the member on or after August 28, 2007, named the alternative payee  
27 as beneficiary prior to the dissolution of marriage, and the percentage established  
28 shall be applied to the pro rata portion of any lump sum distribution pursuant  
29 to subsection 6 of section 104.335, accrued during the time while the member and  
30 alternate payee were married;

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

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

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

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

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

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

50           **(10) Shall not require the applicable retirement system to**  
51 **continue payments to the alternate payee if the member's retirement**  
52 **benefit is suspended or waived as provided by this chapter but such**  
53 **payments shall resume when the retiree begins to receive retirement**  
54 **benefits in the future.**

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

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

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

65           (2) The order is inconsistent with any law governing the retirement  
66 system.



67           4. The amount paid to an alternate payee under an order issued pursuant  
68 to this section shall be based on the plan the member was in on the date of the  
69 dissolution of marriage; except that any annual benefit increases subject to  
70 division shall be based on the actual annual benefit increases received after the  
71 retirement plan election.

104.352. 1. Each employee described in paragraph (b) of subdivision  
2 ~~[(20)]~~ **(21)** of section 104.010 shall be entitled to the same insurance benefits  
3 provided under sections 103.003 to 103.175 to employees described in paragraph  
4 (a) of subdivision ~~[(20)]~~ **(21)** of section 104.010 to cover the medical expenses of  
5 such employees and their spouses and children. Such insurance benefits shall be  
6 made available to employees described in paragraph (b) of subdivision ~~[(20)]~~ **(21)**  
7 of section 104.010 upon their initial employment as such employees in the same  
8 manner provided for employees described in paragraph (a) of subdivision ~~[(20)]~~  
9 **(21)** of section 104.010, and shall be continued during any period of time, not to  
10 exceed one year, in which such employees are not paid for full-time employment,  
11 so long as such employees pay the same amount for such insurance benefits as  
12 is required of employees described in paragraph (a) of subdivision ~~[(20)]~~ **(21)** of  
13 section 104.010 who continue receiving such insurance benefits during a leave of  
14 absence without pay from their employment with the state. Any employee  
15 described in paragraph (b) of subdivision ~~[(20)]~~ **(21)** of section 104.010 who is  
16 reemployed by the general assembly or either house thereof, or by any member  
17 of the general assembly while acting in his official capacity as a member, by the  
18 thirteenth legislative day of the session of the general assembly immediately  
19 following the session of the general assembly in which such employee was last so  
20 employed, without having elected to discontinue the insurance benefits described  
21 in this subsection, shall be entitled to continue such insurance benefits without  
22 having to prove insurability for himself or any of his covered dependents for  
23 whom he has paid for such coverage continuously since last employed as an  
24 employee described in paragraph (b) of subdivision ~~[(20)]~~ **(21)** of section  
25 104.010. Any employee described in paragraph (b) of subdivision ~~[(20)]~~ **(21)** of  
26 section 104.010 who is not reemployed by the general assembly or either house  
27 thereof, or by any member of the general assembly while acting in his official  
28 capacity as a member, by the thirteenth legislative day of the session of the  
29 general assembly immediately following the session of the general assembly in  
30 which such employee was last so employed, shall be deemed terminated as an  
31 employee as of such thirteenth legislative day, and the insurance benefits

32 provided for such employee under this subsection and sections 103.003 to 103.175  
33 shall be terminated as provided for employees described in paragraph (a) of  
34 subdivision [(20)] **(21)** of section 104.010 whose employment is  
35 terminated. During each month of service in which an employee described in  
36 paragraph (b) of subdivision [(20)] **(21)** of section 104.010 is employed, the state  
37 shall make any contribution required by sections 103.003 to 103.175 for such  
38 employee.

39         2. Any employee described in paragraph (b) of subdivision [(20)] **(21)** of  
40 section 104.010 who is actively employed on or after September 28, 1992, shall be  
41 deemed vested for purposes of determining eligibility for benefits under sections  
42 104.320 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 [(20)] **(21)** 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 one  
8 year in order to receive any additional annuity. Any retired member who again  
9 becomes an employee and who accrues additional creditable service and later  
10 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] **Missouri department of transportation**  
26 **and highway patrol employees' retirement system** shall not be eligible to  
27 receive retirement benefits or additional creditable service from the state  
28 employees' retirement system. **Annual benefit increases paid under section**  
29 **104.415 shall not accrue while a retired member is employed as**  
30 **described in this section. Any future annual benefit increases paid**  
31 **after the member terminates such employment will be paid in the same**  
32 **month as the member's original annual benefit increases were**  
33 **paid. Benefits paid under subsection 3 of section 104.374 are not**  
34 **applicable to any additional annuity paid under this section.**

104.395. 1. In lieu of the normal annuity otherwise payable to a member  
2 pursuant to sections 104.335, 104.370, 104.371, 104.374, or 104.400, and prior to  
3 the last business day of the month before the annuity starting date pursuant to  
4 section 104.401, a member shall elect whether or not to have such member's  
5 normal annuity reduced as provided by the options set forth in this section;  
6 provided that if such election has not been made within such time, annuity  
7 payments due beginning on and after such annuity starting date shall be made  
8 the month following the receipt by the system of such election, and further  
9 provided, that if such person dies after such annuity starting date but before  
10 making such election, no benefits shall be paid except as required pursuant to  
11 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] **beneficiary** as the member shall have nominated by  
39 written designation duly executed and filed with the board. If there is no such  
40 beneficiary surviving the retirant, the reserve for such annuity for the remainder  
41 of such one hundred twenty months' period shall be paid as provided under  
42 subsection 3 of section 104.620. If such beneficiary dies after the member's date  
43 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 as  
46 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]  
53 **beneficiary** as the member shall have nominated by written designation duly  
54 executed and filed with the board. If there be no such beneficiary surviving the  
55 retirant, the reserve for such annuity for the remainder of such sixty months'  
56 period shall be paid as provided under subsection 3 of section 104.620. If such

57 beneficiary dies after the member's date of death but before having received the  
58 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 as provided under subsection 3 of section 104.620.

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

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

79         4. Effective on or after August 28, 1995, any retired member who had  
80 elected a joint and survivor option and whose spouse or eligible former spouse  
81 precedes or preceded the member in death shall upon application to the board be  
82 made, constituted, appointed and employed by the board as a special consultant  
83 on the problems of retirement, aging and other state matters. As a special  
84 consultant pursuant to the provisions of this section, the member's reduced  
85 annuity shall revert to a normal annuity as adjusted for early retirement, if  
86 applicable, effective the first of the month following the death of the spouse or  
87 eligible former spouse or August 28, 1995, whichever is later, if the member  
88 cancels the member's original joint and survivor election; such annuity shall  
89 include any increases the retired member would have received since the date of  
90 retirement had the member elected a normal annuity.

91         5. Effective July 1, 2000, a member may make an election under option  
92 1 or 2 after the date retirement benefits are initiated if the member makes such

93 election within one year from the date of marriage or July 1, 2000, whichever is  
94 later, under any of the following circumstances:

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

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

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

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

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

104.420. 1. Unless otherwise provided by law, if a member or disabled  
2 member who has a vested right to a normal annuity dies prior to retirement,  
3 regardless of the age of the member at the time of death, the member's or  
4 disabled member's surviving spouse, to whom the member or disabled member  
5 was married on the date of the member's death, if any, shall receive the reduced  
6 survivorship benefits provided in option 1 of section 104.395 calculated as if the  
7 member were of normal retirement age and had retired as of the date of the  
8 member's death and had elected option 1.

9 2. If there is no eligible surviving spouse, or when a spouse annuity has  
10 ceased to be payable, the member's or disabled member's eligible surviving  
11 children under twenty-one years of age shall receive monthly, in equal shares, an  
12 amount equal to eighty percent of the member's or disabled member's accrued  
13 annuity calculated as if the member or disabled member were of a normal  
14 retirement age and retired as of the date of death. Benefits otherwise payable to

15 a child under eighteen years of age shall be payable to the surviving parent as  
16 natural guardian of such child if such parent has custody or assumes custody of  
17 such minor child, or to the legal [guardian] **conservator** of such child, until such  
18 child attains age eighteen; thereafter, the benefit may be paid to the child until  
19 age twenty-one; provided the age twenty-one maximum shall be extended for any  
20 child who has been found totally incapacitated by a court of competent  
21 jurisdiction.

22 3. No benefit is payable pursuant to this section if no eligible surviving  
23 spouse or children under twenty-one years of age survive the member or disabled  
24 member. Benefits cease pursuant to this section when there is no eligible  
25 surviving beneficiary through either death of the eligible surviving spouse or  
26 through either death or the attainment of twenty-one years of age by the eligible  
27 surviving children. If the member's or disabled member's surviving children are  
28 receiving equal shares of the benefit described in subsection 2 of this section, and  
29 one or more of such children become ineligible by reason of death or the  
30 attainment of twenty-one years of age, the benefit shall be reallocated so that the  
31 remaining eligible children receive equal shares of the total benefit as described  
32 in subsection 2 of this section.

33 4. For the purpose of computing the amount of an annuity payable  
34 pursuant to this section, if the board finds that the death was the natural and  
35 proximate result of a personal injury or disease arising out of and in the course  
36 of the member's actual performance of duty as an employee, then the minimum  
37 annuity to such member's surviving spouse or, if no surviving spouse benefits are  
38 payable, the minimum annuity that shall be divided among and paid to such  
39 member's surviving children shall be fifty percent of the member's final average  
40 compensation; except that for members of the general assembly and statewide  
41 elected officials with twelve or more years of service, the monthly rate of  
42 compensation in effect on the date of death shall be used in lieu of final average  
43 compensation. The vesting service requirement of subsection 1 of this section  
44 shall not apply to any annuity payable pursuant to this subsection.

104.490. 1. Should any error result in any member or beneficiary  
2 receiving more or less than he or she would have been entitled to receive had the  
3 error not occurred, the board shall correct such error, and, as far as practicable,  
4 make future payments in such a manner that the actuarial equivalent of the  
5 benefit to which such member or beneficiary was entitled shall be paid, and to  
6 this end may recover any overpayments. **In all cases in which such error has**

7 **been made, no such error shall be corrected unless the system discovers**  
8 **or is notified of such error within ten years after the initial date of**  
9 **error.**

10           2. A person who knowingly makes a false statement, or falsifies or permits  
11 to be falsified a record of the system, in an attempt to defraud the system is  
12 subject to fine or imprisonment pursuant to the Missouri revised statutes.

13           3. The board of trustees of the Missouri state employees' retirement  
14 system shall cease paying benefits to any survivor or beneficiary who is charged  
15 with the intentional killing of a member without legal excuse or justification. A  
16 survivor or beneficiary who is convicted of such charge shall no longer be entitled  
17 to receive benefits. If the survivor or beneficiary is not convicted of such charge,  
18 the board shall resume payment of benefits and shall pay the survivor or  
19 beneficiary any benefits that were suspended pending resolution of such charge.

          104.601. Any member retiring pursuant to the provisions of this chapter  
2 or any member retiring pursuant to provisions of chapter 169 who is a member  
3 of the public school retirement system and who is employed by a [state agency]  
4 **department** other than an institution of higher learning, after working  
5 continuously until reaching retirement age, shall be credited with all his or her  
6 unused sick leave as reported **by the last department that employed the**  
7 **member prior to retirement** through the financial and human resources  
8 system maintained by the office of administration, or if a state agency's  
9 employees are not paid salaries or wages through such system, as reported  
10 directly by the [state agency] **last department that employed the member**  
11 **prior to retirement.** When calculating years of service, each member shall be  
12 entitled to one-twelfth of a year of creditable service for each one hundred  
13 sixty-eight hours of unused accumulated sick leave earned by the member. The  
14 employing agency shall not certify unused sick leave unless such unused sick  
15 leave could have been used by the member for sickness or injury. The rate of  
16 accrual of sick leave for purposes of computing years of service pursuant to this  
17 section shall be no greater than ten hours per month. Nothing under this section  
18 shall allow a member to vest in the retirement system by using such credited sick  
19 leave to reach the time of vesting.

          104.620. 1. Any member who has not received a lump sum payment equal  
2 to the sum total of the contributions that the member paid into the retirement  
3 system, plus interest credited to his or her account, shall be entitled to such a  
4 lump sum payment. Lump sum payments made pursuant to this section shall not



5 be reduced by any retirement benefits which a member is entitled to receive, but  
6 shall be paid in full out of appropriate funds pursuant to appropriations for this  
7 purpose.

8         2. In the event any accumulated contributions standing to a member of  
9 the Missouri state employees' retirement system's credit remains unclaimed by  
10 such member for a period of four years or more, such accumulated contributions  
11 shall automatically revert to the credit of the fund for the Missouri state  
12 employees' retirement system. If an application is made, after such reversion, for  
13 such accumulated contributions, the board shall pay such contributions from the  
14 fund for the Missouri state employees' retirement system; except that, no interest  
15 shall be paid on such funds after the date of the reversion to the fund for the  
16 Missouri state employees' retirement system.

17         3. In the event any amount is due a deceased member, survivor, or  
18 beneficiary who dies after September 1, 2002, **and the member's survivor's or**  
19 **beneficiary's financial institution is unable to accept the final payments**  
20 **due to the member, survivor, or beneficiary**, such amount shall be paid to  
21 the person or entity designated in writing as beneficiary to receive such amount  
22 by such member, survivor, or beneficiary. The member, survivor, or beneficiary  
23 may designate in writing a beneficiary to receive any final payment due after the  
24 death of a member, survivor, or beneficiary pursuant to this chapter. If no living  
25 person or entity so designated as beneficiary exists at the time of death, such  
26 amount shall be paid to the surviving spouse married to the deceased member,  
27 survivor, or beneficiary at the time of death. If no surviving spouse exists, such  
28 amount shall be paid to the surviving children [or their descendants] of such  
29 member, survivor, or beneficiary in equal parts. If no surviving children [or any  
30 of their descendants] exist, such amount shall be paid to the surviving parents  
31 of such member, survivor, or beneficiary in equal parts. If no surviving parents  
32 exist, such amount shall be paid to the surviving brothers[, or sisters[, or their  
33 descendants] of such member, survivor, or beneficiary in equal parts. If no  
34 surviving brothers[, or sisters[, or their descendants] exist, payment may be  
35 made as otherwise permitted by law. Notwithstanding this subsection, any  
36 amount due to a deceased member as payment of all or part of a lump sum  
37 pursuant to section 104.625 shall be paid to the member's surviving spouse  
38 married to the member at the time of death, and otherwise payment may be made  
39 as provided in this subsection. In the event any amount that is due to a [member  
40 of] **person from** either system remains unclaimed [by such member] for a period

41 of four years or more, such amount shall automatically revert to the credit of the  
42 fund of the member's system. If an application is made after such reversion for  
43 such amount, the board shall pay such amount **to the person** from the board's  
44 fund [to the member], except that no interest shall be paid on such funds after  
45 the date of the reversion to the fund.

46 4. The beneficiary of any member who purchased creditable service in the  
47 Missouri state employees' retirement system shall receive a refund upon the  
48 member's death equal to the amount of any purchase less any retirement benefits  
49 received by the member unless an annuity is payable to a survivor or beneficiary  
50 as a result of the member's death. In that event, the beneficiary of the survivor  
51 or beneficiary who received the annuity shall receive a refund upon the survivor's  
52 or beneficiary's death equal to the amount of the member's purchase of service  
53 less any annuity amounts received by the member and the survivor or beneficiary.

104.800. 1. Except as otherwise provided by law, any person having  
2 earned creditable service pursuant to the provisions of the state employees'  
3 retirement system or pursuant to the provisions of the state transportation  
4 department employees' and highway patrol retirement system or having service  
5 as a statewide state elective officer or having service as a member of the general  
6 assembly or having service pursuant to the provisions of sections 287.812 to  
7 287.855, or having service as a judge, as defined in section 476.515, may elect  
8 prior to retirement and not after retirement, to make a one-time transfer of credit  
9 for such service or such creditable service to or from any other retirement system  
10 or type of service specified in this section or sections 56.800 to 56.840 for which  
11 the person has accumulated service or creditable service. The amount of  
12 transferred credit shall be accumulated with the amount of such creditable  
13 service or such service earned by the person in the retirement system or type of  
14 service to which the service is transferred for purposes of determining the  
15 benefits to which the person is entitled under the retirement system or type of  
16 service to which the service is transferred. The transfer of such creditable service  
17 or service shall become effective [on the first day of the second month following  
18 the month in which] **at the time** the person files written notification of the  
19 person's election with the retirement boards affected by such service  
20 transfer. When the election to transfer creditable service or service becomes  
21 effective, the person shall thereby forfeit any claim to any benefit under the  
22 provisions of the retirement system or type of service, as the case may be, from  
23 which the service or creditable service was transferred regardless of the amount

24 of service or creditable service previously earned in such retirement system or  
25 type of service. Any person who has transferred service pursuant to this  
26 subsection prior to August 28, 2002, and who is an employee covered by a  
27 retirement plan described in this subsection after that date, may elect to make  
28 an additional transfer of service prior to retirement if additional service would  
29 otherwise be available to be transferred except for the forfeiture of that service  
30 after the previous transfer. In no event shall the amount of service that a person  
31 shall be entitled to transfer pursuant to the provisions of this section exceed eight  
32 years.

33         2. In the event of the death of a member before retirement and prior to  
34 exercising transfer rights pursuant to the provisions of this section, survivorship  
35 benefits shall be computed as if such person had in fact exercised or not exercised  
36 the person's transfer rights to produce the most advantageous benefit possible.

37         3. Any person that has earned creditable service pursuant to the  
38 provisions governing the Missouri state employees' retirement system or pursuant  
39 to the provisions of chapter 287 or chapter 476, who terminated employment prior  
40 to August 13, 1986, shall, upon application to the board of trustees of the  
41 Missouri state employees' retirement system, be made, constituted and appointed  
42 and employed by the board as a special consultant on the problems of retirement,  
43 aging and other state matters for the remainder of the person's life. Upon  
44 request of the board or the court from which the person retired, the consultant  
45 shall give opinions or be available to give opinions in writing or orally in response  
46 to such request. As compensation for such services, the consultant shall be  
47 eligible, prior to retirement, to make a one-time transfer of creditable service as  
48 provided in this section.

          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] **persons or entities** entitled to  
15 receive an annuity or other benefit pursuant to sections 104.1003 to 104.1093  
16 based upon the 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 than  
30 one day of credited service be credited to any member or vested former member  
31 for any one calendar day of eligible credit as provided by law;

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

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

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

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

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

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

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

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

57 (e) The term "employee" shall include any person as defined under  
58 paragraph (b) of subdivision [(20)] **(21)** of subsection 1 of section 104.010 who is  
59 first employed on or after July 1, 2000, but prior to August 28, 2007;

60 (14) "Employer", a department;

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

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

74 (17) "Fund", a fund of the year 2000 plan established pursuant to sections  
75 104.1003 to 104.1093;

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

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

80 (20) "Normal retirement eligibility", a member's attainment of at least  
81 sixty-two years of age and the completion of at least five or more years of credited  
82 service or, the attainment of at least forty-eight years of age with a total of years  
83 of age and years of credited service which is at least eighty or, in the case of a

84 member of the highway patrol who shall be subject to the mandatory retirement  
85 provisions of section 104.080, the mandatory retirement age and completion of  
86 five years of credited service or, the attainment of at least forty-eight years of age  
87 with a total of years of age and years of credited service which is at least eighty;

88 (21) "Pay" shall include:

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

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

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

97 c. Pay in excess of the limitations set forth in Section 401(a)(17) of the  
98 Internal Revenue Code of 1986 as amended and other applicable federal laws or  
99 regulations;

100 d. Any nonrecurring single sum payments; and

101 e. Any amounts for which contributions have not been made in accordance  
102 with section 104.1066;

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

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

110 (d) For purposes of members of the general assembly, pay shall be the  
111 annual salary provided to each senator and representative pursuant to section  
112 21.140, plus any salary adjustment pursuant to section 21.140;

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

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

116 (24) "System" or "retirement system", the Missouri state employees'  
117 retirement system or the Missouri department of transportation and highway  
118 patrol employees' retirement system, as the case may be;

119 (25) "Vested former member", a person entitled to receive a deferred

120 annuity pursuant to section 104.1036;

121 (26) "Year 2000 plan", the benefit plan created by sections 104.1003 to  
122 104.1093.

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

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. **Any person who**  
10 **elects year 2000 plan coverage under subsection 3, 4, 5, or 6 of this**  
11 **section shall be in the closed plan until the person's annuity starting**  
12 **date.**

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

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

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

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

50 (3) If a temporary annuity is payable pursuant to subsection 4 of section  
51 104.1024 the additional temporary annuity shall be calculated by multiplying the  
52 retiree's credited service by the retiree's final average pay by eight-tenths of one  
53 percent;

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

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



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

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

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

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

97 to the last business day of the month before the person's annuity starting date,  
98 and if such election has not been made within such time, annuity payments due  
99 beginning on and after the month of the annuity starting date shall be made the  
100 month following the receipt by the appropriate system of such election and any  
101 other information required by the year 2000 plan created by sections 104.1003 to  
102 104.1093 and the election must be after the person has received from the year  
103 2000 plan a written comparison of the person's closed plan coverage and the  
104 person's potential year 2000 plan coverage and the election must be made in  
105 writing on a form furnished by the appropriate board. If such person dies after  
106 the annuity starting date but before making such election and providing such  
107 other information, no benefits shall be paid except as required under section  
108 104.420 or subsection 2 of section 104.372 for members of the general assembly.

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

115         7. Each person who was employed as a member of the general assembly  
116 through December 31, 2000, covered under the closed plan, and has served at  
117 least two full biennial assemblies as defined in subdivision [(24)] **(25)** of  
118 subsection 1 of section 104.010 but who is not eligible for a deferred annuity  
119 under the closed plan shall be eligible to receive benefits under the new plan  
120 pursuant to subdivision (5) of subsection 2 of this section upon meeting the age  
121 requirements under the new plan.

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

125         9. A member may change a member's plan election made under this  
126 section at any time prior to the system mailing or electronically transferring the  
127 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 **by the last department that employed the member**  
8 **prior to retirement**, or if a department's employees are not paid salaries or  
9 wages through such system, as reported directly by the department **that last**  
10 **employed the member prior to retirement**, for which the member has not  
11 been paid will be converted to credited service at the time of application for  
12 retirement benefits. The member shall receive one-twelfth of a year of credited  
13 service for each one hundred and sixty-eight hours of such unused sick  
14 leave. The employing department shall not certify unused sick leave unless such  
15 unused sick leave could have been used by the member for sickness or  
16 injury. The rate of accrual of sick leave for purposes of computing years of  
17 service pursuant to this section shall be no greater than ten hours per  
18 month. Such credited service shall not be used in determining the member's  
19 eligibility for retirement or final average pay. Such credited service shall be  
20 added to the credited service in the last position of employment held as a member  
21 of the system.

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

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

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

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

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

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

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

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

78 chapter.

79           10. Any additional credited service as described in subsections 5 to 7 of  
80 this section shall be added to the credited service in the first position of  
81 employment held as a member of the system. Any additional creditable service  
82 received pursuant to section 105.691 shall be added to the credited service in the  
83 position of employment held at the time the member completes the purchase or  
84 transfer pursuant to such section.

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

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

          104.1030. 1. If a member with five or more years of credited service or a  
2 vested former member dies before such member's or such vested former member's  
3 annuity starting date, the applicable annuity provided in this section shall be  
4 paid.

5           2. The member's surviving spouse who was married to the member at the  
6 date of death shall receive an annuity computed as if such member had:

7           (1) Retired on the date of death with a normal retirement annuity based  
8 upon credited service and final average pay to the date of death, and without  
9 reduction if the member's age was younger than normal retirement eligibility;

10          (2) Elected option 2 provided for in section 104.1027; and

11          (3) Designated such spouse as beneficiary under such option.

12           3. If a spouse annuity is not payable pursuant to the provisions of  
13 subsection 2 of this section, or when a spouse annuity has ceased to be payable,  
14 eighty percent of an annuity computed in the same manner as if the member had  
15 retired on the date of death with a normal retirement annuity based upon  
16 credited service and final average pay to the date of death and without reduction  
17 if the member's age at death was younger than normal retirement eligibility shall  
18 be divided equally among the dependent children of the deceased member. A  
19 child shall be a dependent child until death or attainment of age twenty-one,

20 whichever occurs first; provided the age twenty-one maximum shall be extended  
21 for any child who has been found totally incapacitated by a court of competent  
22 jurisdiction. **Benefits otherwise payable to a child under eighteen years**  
23 **of age shall be payable to the surviving parent as a natural guardian of**  
24 **such child if such parent has custody or assumes custody of such minor**  
25 **child or to the legal conservator of such child until such child attains**  
26 **age eighteen.** Upon a child ceasing to be a dependent child, that child's portion  
27 of the dependent annuity shall cease to be paid, and the amounts payable to any  
28 remaining dependent children shall be proportionately increased.

29 4. For the purpose of computing the amount of an annuity payable  
30 pursuant to this section, if the board finds that the death was the natural and  
31 proximate result of a personal injury or disease arising out of and in the course  
32 of his or her actual performance of duty as an employee, then the minimum  
33 annuity to such member's spouse or, if no spouse benefits are payable, the  
34 minimum annuity that shall be divided among and paid to such member's  
35 dependent children shall be fifty percent of final average pay. The credited  
36 service requirement of subsection 1 of this section shall not apply to any annuity  
37 payable pursuant to this subsection.

38 5. The provisions of this section shall apply to members of the general  
39 assembly and statewide elected officials except that the credited service and  
40 monthly pay requirements described in section 104.1084 shall apply  
41 notwithstanding any other language to the contrary contained in this section.

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 and must accrue credited service  
5 continuously for at least one year in order to receive any additional  
6 annuity. Such retiree shall receive an additional annuity in addition to the  
7 original annuity, calculated based only on the credited service and the pay earned  
8 by such retiree during reemployment and paid in accordance with the annuity  
9 option originally elected; provided such retiree who ceases to receive an annuity  
10 pursuant to this section shall not receive such additional annuity if such retiree  
11 is employed by a department in a position that is covered by a state-sponsored  
12 defined benefit retirement plan not created pursuant to this chapter. The  
13 original annuity and any additional annuity shall be paid commencing as of the  
14 end of the first month after the month during which the retiree's reemployment

15 terminates. **Cost-of-living adjustments paid under section 104.1045 shall**  
16 **not accrue while a retiree is employed as described in this section. Any**  
17 **future cost-of-living adjustments paid after the retiree terminates such**  
18 **employment will be paid in the same month as the retiree's original**  
19 **annual benefit increases were paid.**

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 member  
20 named the alternate payee as beneficiary prior to the dissolution of marriage;

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

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

32 amount subject to division pursuant to any order issued after September 1, 2001;

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

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

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

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

42 **(10) Shall not require the applicable retirement system to**  
43 **continue payments to the alternate payee if the member's retirement**  
44 **benefit is suspended or waived as provided by this chapter but such**  
45 **payments shall resume when the retiree begins to receive retirement**  
46 **benefits in the future.**

47 2. A system shall provide the court having jurisdiction of a dissolution of  
48 a marriage proceeding or the parties to the proceeding with information necessary  
49 to issue a division of benefits order concerning a member of the system, upon  
50 written request from either the court, the member, or the member's spouse, citing  
51 this section and identifying the case number and parties.

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

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

56 (2) The order is inconsistent with any law governing the retirement  
57 system.

58 4. Any member of the closed plan who elected the year 2000 plan  
59 pursuant to section 104.1015 and then becomes divorced and subject to a division  
60 of benefits order shall have the division of benefits order calculated pursuant to  
61 the provisions of the year 2000 plan.

104.1054. 1. The benefits provided to each member and each member's  
2 spouse, beneficiary, or former spouse under the year 2000 plan are hereby made  
3 obligations of the state of Missouri and are an incident of every member's  
4 continued employment with the state. No alteration, amendment, or repeal of the  
5 year 2000 plan shall affect the then-existing rights of members, or their spouses,  
6 beneficiaries or former spouses, but shall be effective only as to rights which



7 would otherwise accrue hereunder as a result of services rendered by a member  
8 after such alteration, amendment, or repeal.

9       2. Except as otherwise provided in section 104.1051, any annuity, benefit,  
10 funds, property, or rights created by, or accruing or paid to, any person covered  
11 under the year 2000 plan shall not be subject to execution, garnishment,  
12 attachment, writ of sequestration, or any other process or claim whatsoever, and  
13 shall be unassignable, except with regard to the collection of child support and  
14 maintenance, and except that a beneficiary may assign life insurance  
15 proceeds. Any retiree may request the executive director, in writing, to withhold  
16 and pay on his behalf to the proper person, from each of his monthly annuity  
17 payments, if the payment is large enough, the contribution due from the retiree  
18 to any group providing state-sponsored life or medical insurance and to the  
19 Missouri state employees charitable campaign.

20       3. The executive director shall, when requested in writing by a retiree,  
21 withhold and pay over the funds authorized in subsection 2 of this section until  
22 such time as the request to do so is revoked by the death or written revocation  
23 of the retiree.

24       4. In the event any amount is due a deceased member, survivor, or  
25 beneficiary who dies after September 1, 2002, **and the member's survivor's,**  
26 **or beneficiary's financial institution is unable to accept the final**  
27 **payments due to the member, survivor, or beneficiary,** such amount shall  
28 be paid to the person or entity designated in writing as beneficiary to receive such  
29 amount by such member, survivor, or beneficiary. The member, survivor, or  
30 beneficiary may designate in writing a beneficiary to receive any final payment  
31 due after the death of a member, survivor, or beneficiary pursuant to this  
32 chapter. If no living person or entity so designated as beneficiary exists at the  
33 time of death, such amount shall be paid to the surviving spouse married to the  
34 deceased member, survivor, or beneficiary at the time of death. If no surviving  
35 spouse exists, such amount shall be paid to the surviving children [or their  
36 descendants] of such member, survivor, or beneficiary in equal parts. If no  
37 surviving children [or any of their descendants] exist, such amount shall be paid  
38 to the surviving parents of such member, survivor, or beneficiary in equal parts.  
39 If no surviving parents exist, such amount shall be paid to the surviving  
40 brothers[,] **or** sisters[, or their descendants] of such member, survivor, or  
41 beneficiary in equal parts. If no surviving brothers[,] **or** sisters[, or their  
42 descendants] exist, payment may be made as otherwise permitted by

43 law. Notwithstanding this subsection, any amount due to a deceased member as  
44 payment of all or part of a lump sum pursuant to subsection 6 of section 104.1024  
45 shall be paid to the member's surviving spouse married to the member at the  
46 time of death, and otherwise payment may be made as provided in this  
47 subsection. In the event any amount that is due to a person from either system  
48 remains unclaimed [by such member] for a period of four years or more, such  
49 amount shall automatically revert to the credit of the fund of the member's  
50 system. If an application is made for such amount after such reversion, the board  
51 shall pay such amount to the person from the board's fund, except that no  
52 interest shall be paid on such amounts after the date of the reversion to the fund.

53 5. All annuities payable pursuant to the year 2000 plan shall be  
54 determined based upon the law in effect on the last date of termination of  
55 employment.

56 6. The beneficiary of any member who purchased creditable service in the  
57 Missouri state employees' retirement system shall receive a refund upon the  
58 member's death equal to the amount of any purchase less any retirement benefits  
59 received by the member unless an annuity is payable to a survivor or beneficiary  
60 as a result of the member's death. In such event, the beneficiary of the survivor  
61 or beneficiary who received the annuity shall receive a refund upon the survivor's  
62 or beneficiary's death equal to the amount of the member's purchase of services  
63 less any annuity amounts received by the member and the survivor or beneficiary.

104.1060. 1. Should any error result in any person receiving more or less  
2 than the person would have been entitled to receive had the error not occurred,  
3 the board shall correct such error, and, as far as practicable, make future  
4 payments in such a manner that the actuarial equivalent of the annuity to which  
5 such person was entitled shall be paid, and to this end may recover any  
6 overpayments. In all cases in which [an] **such** error has been made, no such  
7 error shall be corrected unless the system discovers or is notified of such error  
8 within ten years after the **initial** date of error.

9 2. A person who knowingly makes a false statement, or falsifies or permits  
10 to be falsified a record of the system, in an attempt to defraud the system shall  
11 be subject to fine or imprisonment under the Missouri revised statutes.

12 3. A board shall not pay an annuity to any survivor or beneficiary who is  
13 charged with the intentional killing of a member, retiree or survivor without legal  
14 excuse or justification. A survivor or beneficiary who is convicted of such charge  
15 shall no longer be entitled to receive an annuity. If the survivor or beneficiary

16 is not convicted of such charge, the board shall resume annuity payments and  
17 shall pay the survivor or beneficiary any annuity payments that were suspended  
18 pending resolution of such charge.

105.684. 1. Notwithstanding any law to the contrary, no plan shall adopt  
2 or implement any additional benefit increase, supplement, enhancement, lump  
3 sum benefit payments to participants, or cost-of-living adjustment beyond current  
4 plan provisions in effect prior to August 28, 2007, unless the plan's actuary  
5 determines that the funded ratio **of the most recent periodic actuarial**  
6 **valuation and** prior to such adoption or implementation is at least eighty  
7 percent and will not be less than seventy-five percent after such adoption or  
8 implementation.

9 2. The unfunded actuarial accrued liabilities associated with benefit  
10 changes described in this section shall be amortized over a period not to exceed  
11 twenty years for purposes of determining the contributions associated with the  
12 adoption or implementation of any such benefit increase, supplement, or  
13 enhancement.

14 3. Any plan with a funded ratio below sixty percent shall have the actuary  
15 prepare an accelerated contribution schedule based on a descending amortization  
16 period for inclusion in the actuarial valuation.

17 4. Nothing in this section shall apply to any plan established under  
18 chapter 70 or chapter 476.

19 **5. Nothing in this section shall prevent a plan from adopting and**  
20 **implementing any provision necessary to maintain a plan's status as a**  
21 **qualified trust pursuant to 26 U.S.C. 401(a).**

476.515. 1. As used in sections 476.515 to 476.565, unless the context  
2 clearly indicates otherwise, the following terms mean:

3 (1) "Beneficiary", a surviving spouse married to the deceased judge  
4 continuously for a period of at least two years immediately preceding the judge's  
5 death or if there is no surviving spouse eligible to receive benefits pursuant to  
6 sections 476.515 to 476.565, the term "beneficiary" shall mean any [minor] child  
7 **under age twenty-one** of the deceased judge, who shall share in the benefits  
8 on an equal basis with all other beneficiaries;

9 (2) "Benefit", a series of equal monthly payments payable during the life  
10 of a judge retiring pursuant to the provisions of sections 476.515 to 476.565 or  
11 payable to a beneficiary as provided in sections 476.515 to 476.565; all benefits  
12 paid pursuant to sections 476.515 to 476.565 in excess of any contributions made

13 to the system by a judge shall be considered to be a part of the compensation  
14 provided a judge for the judge's services;

15 (3) "Commissioner of administration", the commissioner of administration  
16 of the state of Missouri;

17 (4) "Judge", any person who has served or is serving as a judge or  
18 commissioner of the supreme court or of the court of appeals; or as a judge of any  
19 circuit court, probate court, magistrate court, court of common pleas or court of  
20 criminal corrections of this state; as a justice of the peace; or as commissioner or  
21 deputy commissioner of the circuit court appointed after February 29, 1972;

22 (5) "Salary", the total compensation paid for personal services as a judge  
23 by the state or any of its political subdivisions.

24 2. A surviving spouse whose benefits were terminated because of  
25 remarriage prior to October 1, 1984, shall, upon written application to the board  
26 within six months after October 1, 1984, have the surviving spouse's rights as a  
27 beneficiary restored. Benefits shall resume as of October 1, 1984.

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