

AMENDED IN ASSEMBLY MAY 27, 2016

**SENATE BILL**

**No. 1352**

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**Introduced by Committee on Public Employment and Retirement  
(Senators Pan (Chair), Beall, Hall, Moorlach, and Morrell)**

February 19, 2016

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An act to amend Sections 22106.1, 22115.2, 22120, 22134, 22134.5, 22508, 22508.5, 22509, 22515, 22664, 22703, 22717, 22850, 22851, 22852, 22853, 22853.5, 22854, 24005, 24105, 24201.5, 24204, 24209, 24209.3, 24211, 24212, 24213, 24322, 24410, 24606, 25001, 25006, 26202, 26604, 26808, 26810, 28000, 28001, and 28002 of, ~~and to amend, repeal, and add Sections 22905 and 26603 of, to add Section 22168.5 to, to repeal Sections 22109.5 and 22136 of, and to repeal and amend Section 22101.5 of,~~ the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 1352, as amended, Committee on Public Employment and Retirement. State teachers' retirement.

Existing law, the Teachers' Retirement Law, establishes the State Teachers' Retirement System (STRS) and creates the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program, based on final compensation, credited service, and age at retirement, subject to certain variations. STRS is administrated by the Teachers' Retirement Board. The Defined Benefit Program is funded by employer and employee contributions, as well as investment returns and state appropriations, which are deposited or credited to the Teachers' Retirement Fund.

(1) Existing law authorizes a disabled member to apply for a disability allowance or a disability retirement if he or she has ~~five~~ 5 or more years

of service and specified requirements are met. STRS provides retired and disabled members certain supplemental benefits, including those that maintain purchasing power up to a specified percent. Existing law prescribes base dates for purposes of applying postretirement benefit increases based on whether final compensation is used to calculate a service retirement upon termination of a disability allowance or if the disability allowance is continued, as specified. Existing law defines base allowance for these ~~purposes~~ *purposes*.

This bill would provide that definition of base allowance does not apply to provisions relating to base dates, as described above. The bill would, instead, revise the base date provisions to prescribe a method for their determination when applied to supplemental benefits and a disability allowance effective date is used.

*(2) Existing law defines a break in service for the purpose of defining a member's final compensation and defines final compensation with respect to a member whose salary while an active member was reduced because of a reduction in school funds, as specified. Existing law provides that, for these purposes, periods in which a member's salary was reduced may be aggregated, as specified.*

*This bill would repeal these provisions and revise definitions of final compensation to address breaks in service, including with reference to periods during which a member's salary was reduced because of a reduction in school funds. The bill would define school term for these purposes. The bill would define final compensation for purposes of calculating a benefit that does not include service credit, which would include disability and family allowances. The bill, among other things, would also revise and clarify provisions relating to determining final compensation in connection with concurrent retirement when a member has concurrent membership in another retirement system. The bill would make various conforming changes in connection with these changes.*

~~(2)~~

*(3) Existing law authorizes members who become employed in specified capacities in positions that are covered by other retirement systems, or who perform service that may be excluded from coverage in certain respects, to elect coverage under the ~~defined benefit program~~. *Defined Benefit Program*. These provisions prescribe requirements for making this election effective, generally providing that they be made on a form prescribed by the system ~~with~~ *within* 60 days of hire.*

This bill would revise these requirements to require that the election forms be received by STRS, as specified, within 30 days of signature.

(3)

(4) Federal law, the Uniformed Services Employment and Reemployment Rights Act, *Act of 1994*, requires pension plans to treat members who return from military service as if they did not have a break in service for purposes of certain provisions, which requirements are reflected in various provisions of the Teachers' Retirement Law. Existing law establishes the Defined Benefit Supplement Program for the purpose of providing supplemental benefits to members whose earnings are in excess of specified amounts. Existing law establishes the Cash Balance Benefit Program, administered by the Teachers' Retirement Board, as a separate benefit program within the State Teachers' Retirement Plan in order to provide a retirement plan for persons employed to perform creditable service for less than 50% of full-time service.

This bill would make clarifying, conforming, and technical changes to reflect the requirements of federal law and specifically to account for its application to the Defined Benefit Supplement Program.

(5) *Existing law requires that specified member contributions and employer contributions be credited to a member's individual account in the Defined Benefit Program or the Defined Benefit Supplement Program pursuant to the applicable provisions in the Teachers' Retirement Law. Existing law requires the system to make a determination regarding the timing of the crediting of contributions relating compensation for creditable service in excess of one year. Existing law prescribes how these provisions become operative based on a computation to be made by the Superintendent of Public Instruction for the 2001–02 fiscal year.*

*This bill would repeal and reenact these provisions, as of July 1, 2018, eliminating obsolete language regarding their operation and establishing when contributions are credited without regard to a determination by the system.*

(4)

(6) Existing law requires that disability allowances and disability retirement allowances become effective on a date designated by the member, subject to certain requirements, including that the date is later than the last day of creditable service for which compensation is payable.

This bill would revise the reference to creditable service to instead refer to the last day the member earned creditable compensation, as defined.

(5)

(7) Existing law prescribes different methods of calculating a STRS service retirement, which depend on whether a member had previously received a disability allowance, disability retirement, or service retirement subsequent to which he or she reinstated in the system. Existing law identifies different methods of calculating service credit in this context, which may be applied to certain benefit enhancements such as that related to longevity. Existing law generally permits unused sick leave to be used for the purpose of calculating service credit, subject to a specified calculation.

This bill would provide, for purposes of the service retirements described above, that a certain amount of credited service that results from application of unused sick leave is to be applied to specified benefit enhancements. The bill would prohibit a member who elects a lump-sum retirement benefit from being eligible for specified disability benefits. The bill would prescribe a method for calculating service credit from unused sick leave for specified members.

(6)

(8) Existing law requires amounts of benefits that cannot be paid because a member or beneficiary cannot be located be returned to the retirement fund. Existing law prohibits interest from accruing on returned warrants in payment of benefits and contributions that are drawn and canceled by the Controller.

This bill would prohibit the accruing of interest on payments rejected pursuant to electronic fund transfers.

(7)

(9) Existing law permits a participant in the Cash Balance Benefit Program, who is employed while receiving an annuity under the program, to terminate the annuity and again make contributions to the program, subject to certain conditions, including that the participant has reached normal retirement age and has been receiving an annuity for at least a year.

This bill would revise the conditions pursuant to which an annuity may be terminated to eliminate the requirements that the participant has reached normal retirement age and has been receiving an annuity for at least a year, and prescribe administrative provisions.

(10) *Existing law requires that employee contributions and employer contributions for the Cash Balance Benefit Program be credited to their respective accounts as of the first working day following the date all contributions to fully satisfy the contribution report, as specified, are received by the system.*

*This bill, on and after July 1, 2018, would require that employee contributions and employer contributions be credited to their respective accounts as of the day contributions are required to be transmitted to the plan. The bill would also make a conforming change.*

(8)

(11) This bill would also make other technical, clarifying, and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 22101.5 of the Education Code, as added  
2 by Section 3 of Chapter 74 of the Statutes of 2000, is repealed.

3 SEC. 2. Section 22101.5 of the Education Code, as added by  
4 Section 1 of Chapter 1021 of the Statutes of 2000, is amended to  
5 read:

6 22101.5. “Accumulated Defined Benefit Supplement account  
7 balance” means the amount of credits equal to the sum of member  
8 contributions, the member contributions picked up by an employer,  
9 employer contributions, interest credited pursuant to Section 25005  
10 and additional earnings credited pursuant to Section 25006.

11 SEC. 3. Section 22106.1 of the Education Code is amended to  
12 read:

13 22106.1. For the purposes of determining supplemental benefits  
14 pursuant to Sections 24412 and 24415, except as provided under  
15 Section 24410, “base allowance” means a monthly allowance under  
16 the Defined Benefit Program prior to all allowance increases by  
17 this part and after modification for an option, if applicable.

18 SEC. 4. Section 22109.5 of the Education Code is repealed.

19 ~~22109.5. “Break in service,” for purposes of determining a~~  
20 ~~member’s final compensation, means:~~

21 ~~(a) With respect to service of a member employed as a full-time~~  
22 ~~employee and service performed by a member employed as a~~  
23 ~~part-time employee, any period of time covering a pay period~~  
24 ~~during which a member is on an unpaid leave of absence or a pay~~  
25 ~~period in which a member has not performed any creditable service.~~

26 ~~(b) For a member who has been employed in a substitute~~  
27 ~~position:~~

1 ~~(1) And has a change in assignment during a school year to a~~  
2 ~~full-time or part-time position, a break in service is determined on~~  
3 ~~the same basis as for the full-time or part-time employment during~~  
4 ~~the same school year.~~

5 ~~(2) For less than 50 percent of their teaching career for which~~  
6 ~~service is credited, a break in service is determined on the same~~  
7 ~~basis as full-time employment.~~

8 ~~(3) For more than 50 percent of their teaching career for which~~  
9 ~~service is credited, a break in service is any period of time within~~  
10 ~~a school year for which compensation is not paid and service is~~  
11 ~~not credited.~~

12 ~~(e) If a member commenced performing service at the beginning~~  
13 ~~of a school term, the months not recognized as part of the school~~  
14 ~~term are not a break in service; however, if the member commenced~~  
15 ~~performing service after the school term began, or did not complete~~  
16 ~~the school term, the months not recognized as part of the school~~  
17 ~~term are a break in service. The school term shall be no less than~~  
18 ~~the days or hours specified as full time in Section 22138.5.~~

19 ~~(d) Earnable salaries for a full pay period, but not beyond the~~  
20 ~~effective date of retirement, shall be used in determining final~~  
21 ~~compensation when the member performed service within that pay~~  
22 ~~period.~~

23 *SEC. 5. Section 22115.2 of the Education Code is amended to*  
24 *read:*

25 22115.2. “Concurrent membership” means membership in the  
26 Defined Benefit Program by an individual who is credited with  
27 service that is not used as a basis for benefits under any other public  
28 retirement system and is also a member of the California Public  
29 Employees’ Retirement System, the Legislators’ Retirement  
30 System, the University of California Retirement System, county  
31 retirement systems established under Chapter 3 (commencing with  
32 Section 31450) of Part 3 of Division 4 of Title 3 of the Government  
33 Code, or the San Francisco Employees’ Retirement System. A  
34 member with concurrent membership shall have the right to the  
35 following:

36 (a) Have final compensation determined pursuant to subdivision  
37 ~~(e)~~ (d) of Section 22134 or subdivision ~~(e)~~ (d) of Section 22134.5.

38 (b) Redeposit accumulated retirement contributions pursuant  
39 to Section 23201.

1 (c) Apply for retirement pursuant to paragraph (2) of subdivision  
2 (a) of Section 24201.

3 ~~SEC. 4.~~

4 *SEC. 6.* Section 22120 of the Education Code is amended to  
5 read:

6 22120. “Credited interest” means interest that is credited to  
7 active members’ and inactive members’ accumulated retirement  
8 contributions and accumulated annuity deposit contributions at a  
9 rate set annually by the board as a plan amendment with respect  
10 to the Defined Benefit Program.

11 *SEC. 7.* Section 22134 of the Education Code is amended to  
12 read:

13 22134. (a) “Final compensation” means the highest average  
14 annual compensation earnable, as defined by Section 22115, by a  
15 member during any period of 36 consecutive months *of service*  
16 while an active member of the Defined Benefit Program or time  
17 during which he or she was not a member but for which the  
18 member has received credit under the Defined Benefit Program,  
19 except time that was so credited for service performed outside this  
20 state prior to July 1, 1944.

21 (b) For purposes of this section, periods of service separated by  
22 breaks in service *or by periods in which a member’s salary was*  
23 *reduced because of a reduction in school funds as certified by the*  
24 *employer* may be aggregated, if the periods of service are  
25 consecutive except for the ~~breaks.~~ *breaks or periods of salary*  
26 *reduction.*

27 (c) *The following shall be considered periods of service for the*  
28 *purpose of determining final compensation:*

29 (1) *The full pay period if the member earns creditable*  
30 *compensation within that pay period, but not beyond the benefit*  
31 *effective date except as provided in paragraph (3).*

32 (2) *The months of the school year preceding the school term if*  
33 *the member earns creditable compensation during the first pay*  
34 *period of that school term.*

35 (3) *The months of the school year following the school term if*  
36 *the member earns creditable compensation during the last pay*  
37 *period of that school term.*

38 (4) *Any period that is excluded from the school term if a member*  
39 *earns creditable compensation during the pay periods immediately*  
40 *preceding and immediately following the excluded period.*

1     ~~(e)~~

2     ~~(d)~~ The determination of final compensation of a member who  
 3 is eligible for concurrent retirement as defined in Section 22115.5  
 4 shall take into consideration the compensation ~~earnable a person~~  
 5 ~~could earn for services rendered on a full-time basis while a~~  
 6 ~~member of any other system, a retirement system with which the~~  
 7 ~~member has concurrent membership, as defined in Section 22115.2,~~  
 8 provided that both of the following exist:

9     (1) Service under any other system was not performed during  
 10 the same pay period with service under the Defined Benefit  
 11 Program.

12     (2) Retirement *for service* under the Defined Benefit Program  
 13 is concurrent with the member's retirement *for service* under any  
 14 other system pursuant to Section 22115.5.

15     ~~(d)~~

16     ~~(e)~~ The *creditable* compensation ~~earnable~~ for the first ~~position~~  
 17 ~~in which California service was credited~~ *school year in which a*  
 18 *member earned creditable compensation* shall be used when  
 19 *additional months of creditable compensation* ~~earnable is are~~  
 20 required for the purpose of determining final ~~compensation under~~  
 21 ~~Section 23805.~~ *compensation.*

22     ~~(e)~~

23     ~~(f)~~ If a member has received service credit for part-time service  
 24 performed prior to July 1, 1956, the member's final compensation  
 25 shall be adjusted for that service in excess of one year by the ratio  
 26 that part-time service bears to full-time service.

27     ~~(f)~~ ~~The board may specify a different final compensation with~~  
 28 ~~respect to disability allowances, disability retirement allowances,~~  
 29 ~~family allowances, and children's portions of survivor benefit~~  
 30 ~~allowances payable on and after January 1, 1978. The compensation~~  
 31 ~~earnable for periods of part-time service shall be adjusted by the~~  
 32 ~~ratio that part-time service bears to full-time service.~~

33     ~~(g)~~ *For purposes of calculating a benefit that does not include*  
 34 *service credit, final compensation shall be the highest average*  
 35 *annual creditable compensation earned by a member during any*  
 36 *period of 36 consecutive months of service, excluding compensation*  
 37 *for which contributions are credited to the Defined Benefit*  
 38 *Supplement Program. Final compensation determined pursuant*  
 39 *to this subdivision shall not exceed the amount determined pursuant*  
 40 *to subdivision (a).*

1 (g)

2 (h) The amendment of former Section 22127 made by Chapter  
3 782 of the Statutes of 1982 does not constitute a change in, but is  
4 declaratory of, the existing law.

5 SEC. 8. Section 22134.5 of the Education Code is amended to  
6 read:

7 22134.5. (a) Notwithstanding Section 22134, “final  
8 compensation” means the highest average annual compensation  
9 earnable, as defined in Section 22115, by a member during any  
10 period of 12 consecutive months of service while an active member  
11 of the Defined Benefit Program or time during which he or she  
12 was not a member but for which the member has received credit  
13 under the Defined Benefit Program, except time that was so  
14 credited for service performed outside this state prior to July 1,  
15 1944.

16 (b) For purposes of this section, periods of service separated by  
17 breaks in service may be aggregated, if the periods of service are  
18 consecutive except for the breaks.

19 (c) The following shall be considered periods of service for the  
20 purpose of determining final compensation:

21 (1) The full pay period if the member earns creditable  
22 compensation within that pay period, but not beyond the benefit  
23 effective date except as provided in paragraph (3).

24 (2) The months of the school year preceding the school term if  
25 the member earns creditable compensation during the first pay  
26 period of that school term.

27 (3) The months of the school year following the school term if  
28 the member earns creditable compensation during the last pay  
29 period of that school term.

30 (4) Any period that is excluded from the school term if a member  
31 earns creditable compensation during the pay periods immediately  
32 preceding and immediately following the excluded period.

33 (e)

34 (d) The determination of final compensation of a member who  
35 is eligible for concurrent retirement as defined in Section 22115.5  
36 shall take into consideration the compensation ~~earnable~~ a person  
37 could earn for services rendered on a full-time basis while a  
38 member of ~~any other system~~, a retirement system with which the  
39 member has concurrent membership, as defined in Section 22115.2,  
40 provided that both of the following exist:

1 (1) Service under any other system was not performed during  
2 the same pay period with service under the Defined Benefit  
3 Program.

4 (2) Retirement *for service* under the Defined Benefit Program  
5 is concurrent with the member's retirement *for service* under any  
6 other system pursuant to Section 22115.5.

7 ~~(d)~~

8 (e) If a member has received service credit for part-time service  
9 performed prior to July 1, 1956, the member's final compensation  
10 shall be adjusted for that service in excess of one year by the ratio  
11 that part-time service bears to full-time service.

12 ~~(e) The board may specify a different final compensation with~~  
13 ~~respect to disability allowances, disability retirement allowances,~~  
14 ~~family allowances, and children's portions of survivor benefit~~  
15 ~~allowances payable on and after January 1, 1978. The compensation~~  
16 ~~earnable for periods of part-time service shall be adjusted by the~~  
17 ~~ratio that part-time service bears to full-time service.~~

18 (f) *For purposes of calculating a benefit that does not include*  
19 *service credit, final compensation shall be the highest average*  
20 *annual creditable compensation earned by a member during any*  
21 *period of 12 consecutive months of service, excluding compensation*  
22 *for which contributions are credited to the Defined Benefit*  
23 *Supplement Program. Final compensation determined pursuant*  
24 *to this subdivision shall not exceed the amount determined pursuant*  
25 *to subdivision (a).*

26 ~~(f)~~

27 (g) This section shall apply to the following:

28 (1) A member who has 25 or more years of credited service,  
29 excluding service credited pursuant to the following:

30 (A) Section 22714.

31 (B) Section 22715.

32 (C) Section 22717, except as provided in subdivision (c) of  
33 Section 22121.

34 (D) Section 22826.

35 (2) A nonmember spouse, if the member had 25 or more years  
36 of credited service, as calculated in paragraph (1), on the date the  
37 parties separated, as established in the judgment or court order  
38 pursuant to Section 22652.

39 (3) This section shall not apply to a member subject to the  
40 California Public Employees' Pension Reform Act of 2013.

1 *SEC. 9. Section 22136 of the Education Code is repealed.*

2 ~~22136. (a) “Final compensation” with respect to a member~~  
3 ~~whose salary while an active member was reduced because of a~~  
4 ~~reduction in school funds as certified by the employer means the~~  
5 ~~highest average annual compensation earnable, as defined by~~  
6 ~~Section 22115, by the member during any 36 months while~~  
7 ~~employed to perform creditable service subject to coverage by the~~  
8 ~~Defined Benefit Program.~~

9 ~~(b) For the purposes of this section, periods of service separated~~  
10 ~~by breaks in service or periods in which a member’s salary was~~  
11 ~~reduced may be aggregated, if the periods of service are~~  
12 ~~consecutive except for the breaks or periods of the salary reduction.~~

13 *SEC. 10. Section 22168.5 is added to the Education Code, to*  
14 *read:*

15 *22168.5. “School term” means a minimum period of 35 weeks*  
16 *beginning the first day and ending the last day creditable service*  
17 *is required to be performed by a member employed on a full-time*  
18 *basis, excluding any period that has been excluded pursuant to a*  
19 *publicly available written contractual agreement. The school term*  
20 *shall also be the same for a member who is not employed on a*  
21 *full-time basis who is performing the same duties as a member*  
22 *employed on a full-time basis.*

23 ~~SEC. 5.~~

24 *SEC. 11. Section 22508 of the Education Code is amended to*  
25 *read:*

26 *22508. (a) A member who becomes employed by the same or*  
27 *a different school district or community college district, or a county*  
28 *superintendent, or who becomes employed by the state in a position*  
29 *described in subdivision (b), to perform service that requires*  
30 *membership in a different public retirement system, and who is*  
31 *not excluded from membership in that public retirement system,*  
32 *may elect to have that service subject to coverage by the Defined*  
33 *Benefit Program of this plan and excluded from coverage by the*  
34 *other public retirement system. If that election is made, the service*  
35 *performed for the employer after the date of hire shall be*  
36 *considered creditable service for purposes of this part.*

37 *(b) Subdivision (a) shall apply to a member who becomes*  
38 *employed by the state only if the member is also one of the*  
39 *following:*

1 (1) Represented by a state bargaining unit that represents  
2 educational consultants, professional educators, or librarians  
3 employed by the state.

4 (2) Excluded from the definition of “state employee” in  
5 subdivision (c) of Section 3513 of the Government Code, but  
6 performing, supervising, or managing work similar to work  
7 performed by employees described in paragraph (1).

8 (3) In a position not covered by civil service and in the executive  
9 branch of government, but performing, supervising, or managing  
10 work similar to work performed by employees described in  
11 paragraph (1).

12 (c) (1) A member of the Public Employees’ Retirement System  
13 described in paragraph (2) who is subsequently employed to  
14 perform creditable service requiring coverage by the Defined  
15 Benefit Program of this plan may elect to have that subsequent  
16 service subject to coverage by the Public Employees’ Retirement  
17 System and excluded from coverage by the Defined Benefit  
18 Program pursuant to Section 20309 of the Government Code. If  
19 the election is made, creditable service performed for the employer  
20 after the date of hire shall be subject to coverage by the Public  
21 Employees’ Retirement System.

22 (2) This subdivision shall apply to a member of the Public  
23 Employees’ Retirement System who either (A) is employed by a  
24 school district, community college district, a county superintendent,  
25 or the State Department of Education or (B) has at least five years  
26 of credited service under the system.

27 (d) An election made by a member pursuant to this section shall  
28 be irrevocable.

29 ~~SEC. 6.~~

30 *SEC. 12.* Section 22508.5 of the Education Code is amended  
31 to read:

32 22508.5. (a) Any person who is a member of the Defined  
33 Benefit Program of the State Teachers’ Retirement Plan employed  
34 by a community college district who subsequently is employed by  
35 the Board of Governors of the California Community Colleges to  
36 perform duties that are subject to membership in a different public  
37 retirement system may elect to have that service subject to coverage  
38 by the Defined Benefit Program of this plan and excluded from  
39 coverage by the other public retirement system. Only a person who

1 has achieved plan vesting is eligible to elect to continue as a  
2 member of the program.

3 (b) A member of the Public Employees' Retirement System  
4 who is employed by the Board of Governors of the California  
5 Community Colleges who subsequently is employed by a  
6 community college district to perform creditable service subject  
7 to coverage under the Defined Benefit Program, may elect to have  
8 that service subject to coverage by the Public Employees'  
9 Retirement System and excluded from coverage under the Defined  
10 Benefit Program pursuant to Section 20309 of the Government  
11 Code.

12 (c) This section shall apply to changes in employment effective  
13 on or after January 1, 1998.

14 ~~SEC. 7.~~

15 *SEC. 13.* Section 22509 of the Education Code is amended to  
16 read:

17 22509. (a) Within 10 working days of the date of hire of an  
18 employee who has the right to make an election pursuant to Section  
19 22508 or 22508.5, the employer shall inform the employee of the  
20 right to make an election and shall make available to the employee  
21 written information provided by each retirement system concerning  
22 the benefits provided under that retirement system to assist the  
23 employee in making an election.

24 (b) Any election made pursuant to subdivision (a) of Section  
25 22508 or subdivision (a) of Section 22508.5 shall be made in  
26 writing on a form prescribed by the system within 60 days from  
27 the date of hire in the position requiring membership in the other  
28 public retirement system and shall be received at the system's  
29 headquarters office within 30 days after the date ~~of~~ of the member's  
30 signature. A copy of the election shall be filed with the other public  
31 retirement system.

32 (c) Any election made pursuant to subdivision (c) of Section  
33 22508 or subdivision (b) of Section 22508.5 shall be filed with the  
34 office of the Public Employees' Retirement System and a copy of  
35 the election shall be filed with the office of this system.

36 (d) Any election made pursuant to Section 22508 or Section  
37 22508.5 shall become effective as of the first day of employment  
38 in the position that qualified the employee to make an election.

1     ~~SEC. 8.~~

2     ~~SEC. 14.~~ Section 22515 of the Education Code is amended to  
3 read:

4     22515. (a) Persons excluded from membership pursuant to  
5 Sections 22601.5, 22602, and 22604 may elect membership in the  
6 Defined Benefit Program at any time while employed to perform  
7 creditable service subject to coverage under that program.

8     (b) The election shall be in writing on a form prescribed by this  
9 system and shall be received at the system's headquarters office  
10 within 30 days after the date of the member's signature and prior  
11 to submission of contributions. Membership in the Defined Benefit  
12 Program shall become effective as of the first day of the pay period  
13 following the election. The election is irrevocable and shall remain  
14 in effect until the member terminates employment and receives a  
15 refund of accumulated retirement contributions.

16     (c) The amendments to this section enacted during the 1995–96  
17 Regular Session shall be deemed to have become operative on July  
18 1, 1996.

19     ~~SEC. 15.~~ *Section 22664 of the Education Code is amended to*  
20 *read:*

21     22664. The nonmember spouse who is awarded a separate  
22 account shall have the right to a service retirement allowance and,  
23 if applicable, a retirement benefit under this part.

24     (a) The nonmember spouse shall be eligible to retire for service  
25 under this part if the following conditions are satisfied:

26     (1) The member had at least five years of credited service during  
27 the period of marriage, at least one year of which had been  
28 performed subsequent to the most recent refund to the member of  
29 accumulated retirement contributions. The credited service may  
30 include service credited to the account of the member as of the  
31 date of the dissolution or legal separation, previously refunded  
32 service, out-of-state service, and permissive service credit that the  
33 member is eligible to purchase at the time of the dissolution or  
34 legal separation.

35     (2) The nonmember spouse has at least two and one-half years  
36 of credited service in his or her separate account.

37     (3) The nonmember spouse has attained 55 years of age or more.

38     (b) A service retirement allowance of a nonmember spouse  
39 under this part shall become effective upon a date designated by  
40 the nonmember spouse, provided:

1 (1) The requirements of subdivision (a) are satisfied.

2 (2) The nonmember spouse has filed an application for service  
3 retirement on a properly executed form provided by the system,  
4 that is executed no earlier than six months before the effective date  
5 of the retirement allowance.

6 (3) The effective date is no earlier than the first day of the month  
7 that the application is received at the system’s headquarters office  
8 and the effective date is after the date the judgment or court order  
9 pursuant to Section 22652 was entered.

10 (c) (1) Upon service retirement at normal retirement age under  
11 this part, the nonmember spouse shall receive a retirement  
12 allowance that shall consist of an annual allowance payable in  
13 monthly installments equal to 2 percent of final compensation for  
14 each year of credited service.

15 (2) If the nonmember spouse’s retirement is effective at less  
16 than normal retirement age and between early retirement age under  
17 this part and normal retirement age, the retirement allowance shall  
18 be reduced by one-half of 1 percent for each full month, or fraction  
19 of a month, that will elapse until the nonmember spouse would  
20 have reached normal retirement age.

21 (3) If the nonmember spouse’s service retirement is effective  
22 at an age greater than normal retirement age and is effective on or  
23 after January 1, 1999, the percentage of final compensation for  
24 each year of credited service shall be determined pursuant to the  
25 following table:

Age at Retirement	Percentage
27 60¼ .....	2.033
28 60½ .....	2.067
29 60¾ .....	2.10
30 61 .....	2.133
31 61¼ .....	2.167
32 61½ .....	2.20
33 61¾ .....	2.233
34 62 .....	2.267
35 62¼ .....	2.30
36 62½ .....	2.333
37 62¾ .....	2.367
38 63 and over .....	2.40

40

1 (4) In computing the retirement allowance of the nonmember  
2 spouse, the age of the nonmember spouse on the last day of the  
3 month that the retirement allowance begins to accrue shall be used.

4 (5) Final compensation, for purposes of calculating the service  
5 retirement allowance of the nonmember spouse under this  
6 subdivision, shall be calculated according to the definition of final  
7 compensation in Section 22134, 22134.5, ~~22135, or 22136, or~~  
8 ~~22135~~, whichever is applicable, and shall be based on the member's  
9 compensation earnable up to the date the parties separated, as  
10 established in the judgment or court order pursuant to Section  
11 22652. The nonmember spouse shall not be entitled to use any  
12 other calculation of final compensation.

13 (d) Upon service retirement under this part, the nonmember  
14 spouse shall receive a retirement benefit based on an amount equal  
15 to the balance of credits in the nonmember spouse's Defined  
16 Benefit Supplement account on the date the retirement benefit  
17 becomes payable.

18 (1) A retirement benefit shall be a lump-sum payment, or an  
19 annuity payable in monthly installments, or a combination of both  
20 a lump-sum payment and an annuity, as elected by the nonmember  
21 spouse on the application for a retirement benefit. A retirement  
22 benefit paid as an annuity under this chapter shall be subject to  
23 Sections 22660, 25011, and 25011.1.

24 (2) Upon distribution of the entire retirement benefit in a  
25 lump-sum payment, no other benefit shall be payable to the  
26 nonmember spouse or the nonmember spouse's beneficiary under  
27 the Defined Benefit Supplement Program.

28 (e) If the member is or was receiving a disability allowance  
29 under this part with an effective date before or on the date the  
30 parties separated as established in the judgment or court order  
31 pursuant to Section 22652, or at any time applies for and receives  
32 a disability allowance with an effective date that is before or  
33 coincides with the date the parties separated as established in the  
34 judgment or court order pursuant to Section 22652, the nonmember  
35 spouse shall not be eligible to retire until after the disability  
36 allowance of the member terminates. If the member who is or was  
37 receiving a disability allowance returns to employment to perform  
38 creditable service subject to coverage under the Defined Benefit  
39 Program or has his or her allowance terminated under Section  
40 24015, the nonmember spouse may not be paid a retirement

1 allowance until at least six months after termination of the disability  
2 allowance and the return of the member to employment to perform  
3 creditable service subject to coverage under the Defined Benefit  
4 Program, or the termination of the disability allowance and the  
5 employment or self-employment of the member in any capacity,  
6 notwithstanding Section 22132. If at the end of the six-month  
7 period, the member has not had a recurrence of the original  
8 disability or has not had his or her earnings fall below the amounts  
9 described in Section 24015, the nonmember spouse may be paid  
10 a retirement allowance if all other eligibility requirements are met.

11 (1) The retirement allowance of the nonmember spouse under  
12 this subdivision shall be calculated as follows: the disability  
13 allowance the member was receiving, exclusive of the portion for  
14 dependent children, shall be divided between the share of the  
15 member and the share of the nonmember spouse. The share of the  
16 nonmember spouse shall be the amount obtained by multiplying  
17 the disability allowance, exclusive of the portion for dependent  
18 children, by the years of service credited to the separate account  
19 of the nonmember spouse, including service projected to the date  
20 of separation, and dividing by the projected service of the member.  
21 The nonmember spouse's retirement allowance shall be the lesser  
22 of the share of the nonmember spouse under this subdivision or  
23 the retirement allowance under subdivision (c).

24 (2) The share of the member shall be the total disability  
25 allowance reduced by the share of the nonmember spouse. The  
26 share of the member shall be considered the disability allowance  
27 of the member for purposes of Section 24213.

28 (f) The nonmember spouse who receives a retirement allowance  
29 is not a retired member under this part. However, the allowance  
30 of the nonmember spouse shall be increased by application of the  
31 improvement factor and shall be eligible for the application of  
32 supplemental increases and other benefit maintenance provisions  
33 under this part, including, but not limited to, Sections 24412 and  
34 24415 based on the same criteria used for the application of these  
35 benefit maintenance increases to the service retirement allowances  
36 of members.

37 (g) Paragraphs (1) to (3), inclusive, of subdivision (c) shall not  
38 apply to a nonmember spouse of a member subject to the California  
39 Public Employees' Pension Reform Act of 2013. For a person who  
40 is a nonmember spouse of a member subject to the California

1 Public Employees' Pension Reform Act of 2013 and is awarded  
2 a separate account, the retirement allowance shall equal the  
3 percentage of final compensation for each year of credited service  
4 that is equal to the percentage specified in Section 24202.6 based  
5 on the age of the nonmember spouse on the effective date of the  
6 allowance.

7 ~~SEC. 9.~~

8 *SEC. 16.* Section 22703 of the Education Code is amended to  
9 read:

10 22703. (a) Service shall be credited to the Defined Benefit  
11 Program, except as provided in subdivision (b).

12 (b) A member's creditable service that exceeds 1.000 in a school  
13 year shall not be credited to the Defined Benefit Program.  
14 Commencing July 1, 2002, contributions by the employer and the  
15 member that are deposited in the Teachers' Retirement Fund for  
16 creditable compensation paid to the member for service that  
17 exceeds 1.000 in a school year, exclusive of contributions pursuant  
18 to Sections 22901.7, 22950.5, and 22951, shall be credited to the  
19 Defined Benefit Supplement Program.

20 (c) In lieu of any other benefits provided by this part, any  
21 member who performed service prior to July 1, 1956, shall receive  
22 retirement benefits for that service at least equal to the benefits  
23 that the member would have received for that service under the  
24 provisions of this part as they existed on June 30, 1956. This  
25 subdivision shall not apply to service that is credited in the San  
26 Francisco Employees' Retirement System.

27 (d) The amendments to this section made during the second  
28 year of the 1999–2000 Regular Session shall become operative on  
29 July 1, 2002, if the revenue limit cost-of-living adjustment  
30 computed by the Superintendent of Public Instruction for the  
31 2001–02 fiscal year is equal to or greater than 3.5 percent.  
32 Otherwise the amendments to this section made during the second  
33 year of the 1999–2000 Regular Session shall become operative on  
34 July 1, 2003.

35 ~~SEC. 10.~~

36 *SEC. 17.* Section 22717 of the Education Code is amended to  
37 read:

38 22717. (a) A member shall be granted credit at service  
39 retirement for each day of accumulated and unused sick leave days  
40 for which full salary is allowed to which the member was entitled

1 on the member's final day of employment with the employer or  
2 employers subject to coverage by the Defined Benefit Program  
3 during the last school year in which he or she earned creditable  
4 compensation pursuant to Section 22119.2 or 22119.3. The system  
5 shall accept certification from each employer with which the  
6 member has accumulated sick leave days for that period, provided  
7 this leave has not been transferred to another employer.

8 (b) The amount of service credit to be granted shall be  
9 determined by dividing the number of days of accumulated and  
10 unused sick leave days by the number of days of service the  
11 employer requires the member's class of employees to perform in  
12 a school year during the member's final year of creditable service  
13 subject to coverage by the Defined Benefit Program, which shall  
14 not be less than the minimum standard specified in Section  
15 22138.5. The number of days shall not include school and legal  
16 holidays. In no event shall the divisor be less than 175. For  
17 members employed less than full time, the standards identified in  
18 Section 22138.5 shall be considered as the minimum full-time  
19 equivalent. For those standards identified in Section 22138.5 that  
20 are applicable to teachers or instructors and that are expressed only  
21 in terms of hours or instructional hours, the number of hours or  
22 instructional hours shall be divided by six to determine the number  
23 of days.

24 (c) For members who are last employed with the state in a  
25 position in which there are no contracted base service days, the  
26 amount of service credit to be granted shall be 0.004 years of  
27 service for each day of unused sick leave certified to the board by  
28 the employer. The certification shall report only those days of  
29 unused sick leave that were accrued by the member during the  
30 normal course of his or her employment subject to coverage by  
31 the Defined Benefit Program.

32 (d) When the member has made application for service  
33 retirement under this part, the employer shall certify to the board,  
34 within 30 days following the effective date of the member's service  
35 retirement or the date the application for retirement is received by  
36 the system's headquarters office, whichever is later, the number  
37 of days of accumulated and unused sick leave days that the member  
38 was entitled to on the final day of employment. The board may  
39 assess a penalty on delinquent reports.

1 (e) This section shall be applicable to any person who retires  
2 on or after January 1, 1999.

3 ~~SEC. 11.~~

4 *SEC. 18.* Section 22850 of the Education Code is amended to  
5 read:

6 22850. (a) The Legislature hereby declares its intent to provide  
7 benefits under this part to reemployed members who have been  
8 absent from a position of employment subject to coverage under  
9 the Defined Benefit Program to perform service in the uniformed  
10 services of the United States in accordance with the Uniformed  
11 Services Employment and Reemployment Rights Act of 1994  
12 (Chapter 43 (commencing with Section 4301) of Title 38 of the  
13 United States Code).

14 (b) The system shall comply with Chapter 43 (commencing  
15 with Section 4301) of Title 38 of the United States Code, as that  
16 chapter may be amended from time to time.

17 (c) “Service in the uniformed services,” for purposes of  
18 determining plan vesting, eligibility for membership, and accrual  
19 of benefits, means the performance of duty on a voluntary or  
20 involuntary basis in a uniformed service under competent authority  
21 and includes active duty, active duty for training, initial active duty  
22 for training, inactive duty training, a period for which a member  
23 is absent from a position of employment for the purpose of an  
24 examination to determine the fitness of the member to perform  
25 any duty, and the period of time following the actual service in  
26 the uniformed service through the last day a member is eligible to  
27 report back to work or to apply for reemployment as specified  
28 under Section 1002.259 of Title 20 of the Code of Federal  
29 Regulations.

30 (d) “Uniformed services” means the Armed Forces of the United  
31 States of America, the Army National Guard and the Air National  
32 Guard when engaged in active duty for training, inactive duty  
33 training, or full-time National Guard duty, the commissioned corps  
34 of the *United States* Public Health Service, and any other category  
35 of persons designated by the President in time of war or emergency.

36 (e) Except as provided in Section 22851, no benefit shall accrue  
37 during the period of service in the uniformed services if the  
38 member does not return to employment, with the same employer  
39 which had employed the member immediately prior to the eligible  
40 period of service in the uniformed services, as prescribed in Chapter

1 43 (commencing with Section 4301) of Title 38 of the United  
2 States Code.

3 ~~SEC. 12.~~

4 *SEC. 19.* Section 22851 of the Education Code is amended to  
5 read:

6 22851. The right to pension benefits under this part of a  
7 member who dies or who returns to employment with the same  
8 employer which had employed the member immediately prior to  
9 the eligible period of service in the uniformed services, and is  
10 subject to Chapter 43 (commencing with Section 4301) of Title  
11 38 of the United States Code shall be determined under this section.

12 (a) (1) A reemployed or deceased member shall be treated as  
13 not having incurred a break in service by reason of that member's  
14 eligible period or periods of service in the uniformed services.

15 (2) (A) Each eligible period of service served by a member in  
16 the uniformed services shall, upon return to employment, with the  
17 same employer which had employed the member immediately  
18 prior to the eligible period of service in the uniformed services, or  
19 upon death, be deemed to constitute service with the employer or  
20 employers toward plan vesting and eligibility for membership in  
21 the Defined Benefit Program. Service that is deemed to the member  
22 pursuant to this subparagraph shall not be used for benefit  
23 calculations.

24 (B) In cases of death during qualified military service or if a  
25 member fails to remit the member contributions that would have  
26 been required in respect of the eligible period of service in the  
27 uniformed services, service shall be used exclusively for plan  
28 vesting and eligibility for membership purposes. Service that is  
29 deemed to the member pursuant to this subparagraph shall not be  
30 used for benefit calculations.

31 (3) (A) Each eligible period of service served by a member in  
32 the uniformed services shall, upon his or her payment of the  
33 member contributions required under this part, be deemed to  
34 constitute service for the purposes of accruing benefits in the  
35 Defined Benefit Program and the Defined Benefit Supplement  
36 Program.

37 (B) A member who returns to employment, with the same  
38 employer which had employed the member immediately prior to  
39 the eligible period of service in the uniformed services shall not  
40 be entitled to any benefits under this part in respect of service in

1 the uniformed services to which the member would not otherwise  
2 have been entitled had the member remained continuously  
3 employed and not undertaken such service in the uniformed  
4 services.

5 (b) For purposes of accruing benefits in the Defined Benefit  
6 Program and Defined Benefit Supplement Program, a member  
7 who returns to employment with the same employer which had  
8 employed the member immediately prior to the eligible period of  
9 service in the uniformed services shall be entitled to service credit,  
10 compensation earnable, contributions, interest, and additional  
11 earnings credits under this part for the eligible period of service  
12 in the uniformed services upon his or her payment of the member  
13 contributions required under Section ~~22901~~, 22901 and Section  
14 22901.7, if applicable, that otherwise would have been due for  
15 such period of service had the member remained continuously  
16 employed and not undertaken such service in the uniformed  
17 services. No such payment of member contributions may exceed  
18 the amount the member would have been required to contribute  
19 under this part had the member not served in the uniformed services  
20 and had remained continuously employed by the employer  
21 throughout the eligible period of service in the uniformed services.  
22 If a member fails to remit the member contributions that would  
23 have been required under Section ~~22901~~, 22901 and Section  
24 22901.7 if applicable, in respect of the eligible period of service  
25 in the uniformed services no benefits shall be provided under this  
26 part for the period to which the omitted contributions relate.

27 (c) Any payment of member contributions to the Defined Benefit  
28 Program or the Defined Benefit Supplement Program in this section  
29 shall be made by the member during the period beginning with  
30 the date of return to employment and may continue for three times  
31 the period of the member's eligible service in the uniformed  
32 services, not to exceed five years. Any payment of member  
33 contributions to the Defined Benefit Program in this section by a  
34 member who returned to employment prior to January 1, 1997,  
35 and qualifies for benefits in accordance with the federal Uniformed  
36 Services Employment and Reemployment Rights Act of 1994 (38  
37 U.S.C. Secs. 4301 to 4335, incl.) shall be made by the member  
38 during the period beginning with the date of notification of  
39 eligibility by the employer to the system and may continue for  
40 three times the period of the member's eligible service in the

1 uniformed services, not to exceed five years. Any subsequent  
2 request to purchase service credit for this service shall be subject  
3 to the provisions of Chapter 14 (commencing with Section 22800).  
4 If all contributions due under this part are not paid to the plan with  
5 respect to the Defined Benefit Program within the specified  
6 repayment period and in accordance with subdivision (b), the  
7 member shall be entitled to the benefits attributable to the  
8 contributions received or may request a return of his or her  
9 payments. Credited interest on member contributions made for the  
10 eligible period of service in the uniformed services shall not be  
11 credited under this part until after the contributions due are paid  
12 and then only prospectively to the member's account in accordance  
13 with Section 22216. For the Defined Benefit Supplement Program,  
14 contributions, interest, and additional earnings credits the member  
15 would have earned had the member remained continuously  
16 employed during the period of eligible service in the uniformed  
17 services shall be credited retroactively after all contributions due  
18 are paid.

19 ~~SEC. 13.~~

20 *SEC. 20.* Section 22852 of the Education Code is amended to  
21 read:

22 22852. (a) An employer reemploying a member of the Defined  
23 Benefit Program with service subject to the requirements of  
24 Chapter 43 (commencing with Section 4301) of Title 38 of the  
25 United States Code shall be liable to the plan for the employer  
26 contributions under this part, provided that employer was the last  
27 employer employing the member immediately prior to the period  
28 served by the member in the uniformed services.

29 (b) For purposes of determining the amount of that liability  
30 under this part and any obligation to the plan with respect to the  
31 Defined Benefit Program, interest shall not be included in the  
32 liability to the plan.

33 (c) Subject to subdivision (e), the employer shall pay the  
34 employer contributions for the eligible period of service in the  
35 uniformed services that would have been required under Sections  
36 22950, 22950.5, and 22951 had the member remained continuously  
37 employed during that period of eligible service in the uniformed  
38 services.

39 (d) In addition to any amount required pursuant to subdivision  
40 (c), the employer shall pay the full cost of any interest and

1 additional earnings credits credited to the member's Defined  
2 Benefit Supplement account pursuant to subdivision (b) of Section  
3 22851.

4 (e) The employer shall not be liable for employer contributions  
5 under this part for the eligible period of service in the uniformed  
6 services to the extent that the member fails to remit the member  
7 contributions for that period.

8 (f) The employer shall provide information regarding the  
9 reemployment of a member who is subject to Chapter 43  
10 (commencing with Section 4301) of Title 38 of the United States  
11 Code on a form prescribed by the system within 30 days of the  
12 date of reemployment.

13 (g) Employers shall remit to the plan with respect to the Defined  
14 Benefit Program and the Defined Benefit Supplement Program,  
15 the employer contributions required under subdivisions (c) and  
16 (d) within 60 working days of the date the system notifies the  
17 employer of the amount of contributions due with respect to the  
18 member who elects to remit the member contributions for the  
19 eligible period of service in the uniformed services.

20 (h) If the employee does not comply with subdivision (b) of  
21 Section 22851 within the time period specified, the employer  
22 contributions that were remitted for that period shall be adjusted  
23 pursuant to Section 23008.

24 ~~SEC. 14.~~

25 *SEC. 21.* Section 22853 of the Education Code is amended to  
26 read:

27 22853. For purposes of this chapter, creditable compensation  
28 during the period of service in the uniformed services shall be  
29 computed as follows:

30 (a) The creditable compensation the member would have  
31 received for the eligible period of service had the member remained  
32 continuously employed.

33 (b) In the event the creditable compensation is not reasonably  
34 certain, creditable compensation shall be based on the member's  
35 average creditable compensation during the 12-month period  
36 immediately preceding the eligible period of service in the  
37 uniformed services or, if shorter, the period of employment  
38 immediately preceding that period of service.

1 ~~SEC. 15.~~

2 *SEC. 22.* Section 22853.5 of the Education Code is amended  
3 to read:

4 22853.5. For purposes of this chapter, compensation earnable  
5 during the period of service in the uniformed services shall be  
6 computed as follows:

7 (a) The compensation earnable that would have been applicable  
8 for the eligible period of service had the member remained  
9 continuously employed.

10 (b) In the event the compensation earnable that would have been  
11 applicable is not reasonably certain, compensation earnable shall  
12 be based on the member's compensation earnable earned during  
13 the 12-month period immediately preceding the eligible period of  
14 service in the uniformed services or, if shorter, the period of  
15 employment immediately preceding that period of service prorated  
16 over the period of service in the uniformed services.

17 ~~SEC. 16.~~

18 *SEC. 23.* Section 22854 of the Education Code is amended to  
19 read:

20 22854. A reemployed member who has been absent from a  
21 position of employment subject to coverage under the Defined  
22 Benefit Program to perform service in the uniformed services,  
23 pursuant to Section 22850, for a period in excess of five years shall  
24 not be entitled to benefits or credit for plan vesting or eligibility  
25 for membership purposes under this chapter for an amount  
26 exceeding five years, except where the service in the uniformed  
27 services has exceeded five years for the following reasons:

28 (a) The member is required to serve beyond five years to  
29 complete an initial period of obligated service.

30 (b) The member was unable to obtain orders releasing the  
31 member from a period of service in the uniformed services before  
32 the expiration of the five-year period and that inability was through  
33 no fault of the member.

34 (c) The member served in the uniformed services as required  
35 pursuant to Section 270 of Title 10 of the United States Code,  
36 Section 502(a) or 503 of Title 32 of the United States Code, or to  
37 fulfill additional training requirements determined and certified  
38 in writing by the Secretary of Defense, to be necessary for  
39 professional development, or for completion of skill training or  
40 retraining.

- 1 (d) The member is ordered to do any of the following:
- 2 (1) Ordered to or retained on active duty under Section 672(a),
- 3 672(g), 673, 673(b), 673(c), or 688 of Title 10 of the United States
- 4 Code or under Section 331, 332, 359, 360, 367, or 712 of Title 14
- 5 of the United States Code.
- 6 (2) Ordered to or retained on active duty, other than for training,
- 7 under any provision of law during a war or during a national
- 8 emergency declared by the President or the Congress.
- 9 (3) Ordered to active duty, other than for training, in support,
- 10 as determined by the secretary concerned, of an operational mission
- 11 for which personnel have been ordered to active duty under Section
- 12 673(b) of Title 10 of the United States Code.
- 13 (4) Ordered to active duty in support, as determined by the
- 14 secretary concerned, of a critical mission or requirement of the
- 15 uniformed services.
- 16 (5) Called into federal service as a member of the National
- 17 Guard under Chapter 15 (commencing with Section 331) of Title
- 18 10 of the United States Code or under Section 3500 or 8500 of
- 19 Title 10 of the United States Code.
- 20 *SEC. 24. Section 22905 of the Education Code is amended to*
- 21 *read:*
- 22 22905. (a) Member contributions pursuant to Sections 22901,
- 23 22901.3, and 22901.7, employer contributions pursuant to Section
- 24 22903 or 22904, and member contributions made by an employer
- 25 pursuant to Section 22909 shall be credited to the member’s
- 26 individual account under the Defined Benefit Program or the
- 27 Defined Benefit Supplement Program, whichever is applicable
- 28 pursuant to the provisions of this part.
- 29 (b) Except as provided in subdivision (g), member and employer
- 30 contributions, exclusive of contributions pursuant to Sections
- 31 22901.7, 22950.5, and 22951, on a member’s compensation under
- 32 the following circumstances shall be credited to the member’s
- 33 Defined Benefit Supplement account:
- 34 (1) Compensation for creditable service that exceeds one year
- 35 in a school year.
- 36 (2) Compensation that is determined by the system to have been
- 37 paid to enhance a member’s benefits pursuant to subdivision (b)
- 38 of Section 22119.2 or to not reflect sound principles that support
- 39 the integrity of the retirement fund pursuant to subdivision (f) of
- 40 Section 22119.2.

1 (3) Compensation that is paid for a limited number of times as  
2 specified by law, a collective bargaining agreement, or an  
3 employment agreement.

4 (c) A member may not make voluntary pretax or posttax  
5 contributions under the Defined Benefit Supplement Program,  
6 except as provided in subdivision (d), nor may a member redeposit  
7 amounts previously distributed based on the balance in the  
8 member's Defined Benefit Supplement account.

9 (d) Member and employer contributions pursuant to paragraph  
10 (1) of subdivision (b) under the Defined Benefit Supplement  
11 Program shall be credited to the accounts of members as of July  
12 1 each year following a determination by the system under the  
13 provisions of this part that those contributions should be credited  
14 to the Defined Benefit Supplement Program. Any other  
15 contributions under the Defined Benefit Supplement Program  
16 pursuant to paragraph (2) or (3) of subdivision (b), shall be credited  
17 to the individual account of the member upon receipt by the system.  
18 Contributions to a member's Defined Benefit Supplement account  
19 shall be identified separately from the member's contributions  
20 credited under the Defined Benefit Program.

21 (e) Any contributions on compensation that is creditable to the  
22 Defined Benefit Supplement account shall be limited to the  
23 contributions made pursuant to Sections 22901, 22901.3, 22950,  
24 and 22951. Any excess member contributions, as determined by  
25 the system, shall be returned to the member through the employer  
26 and any excess employer contributions shall be returned to the  
27 employer.

28 (f) The provisions of this section shall become operative on July  
29 1, 2002, if the revenue limit cost-of-living adjustment computed  
30 by the Superintendent of Public Instruction for the 2001–02 fiscal  
31 year is equal to or greater than 3.5 percent. Otherwise this section  
32 shall become operative on July 1, 2003.

33 (g) Paragraphs (2) and (3) of subdivision (b) shall not apply to  
34 a member subject to the California Public Employees' Pension  
35 Reform Act of 2013.

36 (h) *This section shall become inoperative on July 1, 2018, and,*  
37 *as of January 1, 2019, is repealed.*

38 *SEC. 25. Section 22905 is added to the Education Code, to*  
39 *read:*

1 22905. (a) Member contributions pursuant to Sections 22901,  
2 22901.3, and 22901.7, employer contributions pursuant to Section  
3 22903 or 22904, and member contributions made by an employer  
4 pursuant to Section 22909 shall be credited to the member's  
5 individual account under the Defined Benefit Program or the  
6 Defined Benefit Supplement Program, whichever is applicable  
7 pursuant to the provisions of this part.

8 (b) Except as provided in subdivision (e), member and employer  
9 contributions, exclusive of contributions pursuant to Sections  
10 22901.7, 22950.5, and 22951, on a member's compensation under  
11 the following circumstances shall be credited to the member's  
12 Defined Benefit Supplement account:

13 (1) Compensation for creditable service that exceeds one year  
14 in a school year shall be credited effective on the July 1  
15 immediately following the period for which the compensation is  
16 earned.

17 (2) Compensation that is determined by the system to have been  
18 paid to enhance a member's benefits pursuant to subdivision (b)  
19 of Section 22119.2 or to not reflect sound principles that support  
20 the integrity of the retirement fund pursuant to subdivision (f) of  
21 Section 22119.2 shall be credited effective as of the earliest day  
22 contributions are due in the office pursuant to Section 23002.

23 (3) Compensation that is paid for a limited number of times as  
24 specified by law, a collective bargaining agreement, or an  
25 employment agreement shall be credited effective as of the earliest  
26 day contributions are due in the office pursuant to Section 23002.

27 (c) A member shall not make voluntary pretax or posttax  
28 contributions under the Defined Benefit Supplement Program nor  
29 may a member redeposit amounts previously distributed based on  
30 the balance in the member's Defined Benefit Supplement account.

31 (d) Any contributions on compensation that is creditable to the  
32 Defined Benefit Supplement account shall be limited to the  
33 contributions made pursuant to Sections 22901, 22901.3, 22950,  
34 and 22951. Any excess member contributions, as determined by  
35 the system, shall be returned to the member through the employer  
36 and any excess employer contributions shall be returned to the  
37 employer.

38 (e) Paragraphs (2) and (3) of subdivision (b) shall not apply to  
39 a member subject to the California Public Employees' Pension  
40 Reform Act of 2013.

1 (f) *This section shall become operative on July 1, 2018.*

2 ~~SEC. 17:~~

3 *SEC. 26.* Section 24005 of the Education Code is amended to  
4 read:

5 24005. (a) A disability allowance under this part shall become  
6 effective upon any date designated by the member, provided all  
7 of the following conditions are met:

8 (1) An application for disability allowance is filed on a properly  
9 executed form prescribed by the system.

10 (2) The effective date is later than the last day the member  
11 earned creditable compensation pursuant to Section 22119.2 or  
12 22119.3.

13 (3) The effective date is no earlier than either the first day of  
14 the month in which the application is received by the system's  
15 headquarters office or the date upon and continuously after which  
16 the member is determined to the satisfaction of the board to have  
17 been mentally incompetent.

18 (b) If the member is employed to perform creditable service  
19 subject to coverage under the Defined Benefit Program at the time  
20 the disability allowance is approved under this part, the member  
21 shall notify the system in writing, within 90 days, of the last day  
22 on which the member will perform service. If the member does  
23 not respond within 90 days, or if the last day on which service will  
24 be performed is more than 90 days after the date the system notifies  
25 the member of approval of the disability allowance, the member's  
26 application for a disability allowance shall be rejected and a  
27 disability allowance shall not be payable to the member.

28 ~~SEC. 18:~~

29 *SEC. 27.* Section 24105 of the Education Code is amended to  
30 read:

31 24105. (a) A disability retirement allowance under this part  
32 shall become effective upon any date designated by the member,  
33 provided that all of the following conditions are met:

34 (1) An application for disability retirement is filed on a properly  
35 executed form prescribed by the system.

36 (2) The effective date is later than the last day the member  
37 earned creditable compensation pursuant to Section 22119.2 or  
38 22119.3.

39 (3) The effective date is no earlier than either the first day of  
40 the month in which the application is received at the system's

1 headquarters office or the date upon and continuously after which  
2 the member is determined to the satisfaction of the board to have  
3 been mentally incompetent.

4 (4) The application for disability retirement contains an election  
5 of either an unmodified allowance or an allowance modified under  
6 an option as provided in Section 24332.

7 (b) If the member is employed to perform creditable service  
8 subject to coverage under the Defined Benefit Program at the time  
9 the disability retirement is approved, the member shall notify the  
10 system in writing, within 90 days, of the last day on which the  
11 member will perform service. If the member does not respond  
12 within 90 days, or if the last day on which service will be  
13 performed is more than 90 days after the date the system notifies  
14 the member of the approval of disability retirement, the member's  
15 application for disability retirement shall be rejected and a  
16 disability retirement allowance shall not be payable to the member.

17 ~~SEC. 19.~~

18 *SEC. 28.* Section 24201.5 of the Education Code is amended  
19 to read:

20 24201.5. (a) A member who is eligible and applies for a  
21 disability allowance or retirement pursuant to Section 24001 or  
22 24101 may apply to receive a service retirement allowance pending  
23 the determination of his or her application for disability, subject  
24 to all of the following:

25 (1) The member is eligible to retire for service under Section  
26 24201 or 24203.

27 (2) The member submits the application on a form provided by  
28 the system, subject to all of the following:

29 (A) The application is executed no earlier than the date the  
30 application for disability benefits is executed and no earlier than  
31 six months before the effective date of the retirement allowance.

32 (B) The effective date is no earlier than the first day of the month  
33 in which the application for disability benefits is received at the  
34 system's headquarters office, unless the application for disability  
35 benefits is denied or canceled and the member has indicated an  
36 earlier service retirement date on the application to use if denied  
37 or canceled. If the application for disability benefits is denied or  
38 canceled, the service retirement date of a member who submits an  
39 application for retirement pursuant to this section on or after  
40 January 1, 2014, shall be no earlier than January 1, 2014.

1 (C) The effective date is later than the last day the member  
2 earned creditable compensation pursuant to Section 22119.2 or  
3 22119.3.

4 (D) The effective date is no earlier than one year following the  
5 date on which a retirement allowance was terminated pursuant to  
6 Section 24208, unless the application for disability benefits is  
7 denied or canceled and the member has indicated an earlier service  
8 retirement date on the application to use if denied or canceled. If  
9 the application for disability benefits is denied or canceled, the  
10 service retirement date is no earlier than one day after the date on  
11 which a retirement allowance was terminated pursuant to Section  
12 24208, provided that the retirement allowance is terminated on or  
13 after January 1, 2014.

14 (E) The effective date is no earlier than one year following the  
15 date on which a retirement allowance was terminated pursuant to  
16 subdivision (a) of Section 24117.

17 (3) The effective date of the service retirement allowance can  
18 be no earlier than the date upon and continuously after which the  
19 member is determined to the satisfaction of the board to have been  
20 mentally incompetent.

21 (4) A member who applies for service retirement under this  
22 section is not eligible to receive a lump-sum payment and an  
23 actuarially reduced monthly allowance pursuant to Section 24221.

24 (5) A member who applies for service retirement under this  
25 section is not eligible to receive an allowance calculated pursuant  
26 to Section 24205.

27 (6) A member who applies for service retirement under this  
28 section and elects to receive his or her retirement benefit pursuant  
29 to Section 25009 as a lump-sum payment is not eligible to elect a  
30 disability benefit pursuant to Section 25016 or 25018.1.

31 (7) (A) Except as described in subparagraph (B), a member  
32 who applies for service retirement under this section shall not  
33 receive service credit for each day of accumulated and unused  
34 leave of absence for illness or injury or for education pursuant to  
35 Section 22717 or 22717.5.

36 (B) If the application for disability is denied or canceled, the  
37 member's service retirement allowance shall be adjusted to the  
38 effective date of the service retirement to include service credited  
39 pursuant to Section 22717 or 22717.5.

1 (8) If the application for disability is denied or canceled, a  
2 member who applies for a service retirement allowance under this  
3 section is subject to all of the following:

4 (A) Unless otherwise provided in this part, a member who, on  
5 his or her application for service retirement, elects an option  
6 pursuant to Section 24300.1 or 24307 may not change or revoke  
7 that option.

8 (B) If the member receives a modified service retirement  
9 allowance based on the election of an option pursuant to Section  
10 24300.1 or 24307, that modified service retirement allowance shall  
11 continue in effect and unchanged.

12 (C) If the member did not elect an option pursuant to Section  
13 24300.1 or 24307 and receives an unmodified service retirement  
14 allowance, that unmodified service retirement allowance shall  
15 continue in effect and unchanged.

16 (b) A member who applies for service retirement under this  
17 section may change or cancel his or her service retirement  
18 application pursuant to Section 24204, or may terminate his or her  
19 service retirement allowance pursuant to Section 24208.

20 (c) A member may not cancel his or her application for disability  
21 prior to a determination of that application unless he or she submits  
22 a written request to the system's headquarters office. If a member  
23 elects to cancel his or her service retirement application or elects  
24 to terminate his or her service retirement allowance as described  
25 in subdivision (b), that election shall not cancel the application for  
26 disability.

27 (d) (1) Subparagraph (C) of paragraph (1) of subdivision (a)  
28 of Section 24001 and paragraph (3) of subdivision (a) of Section  
29 24101 shall not apply to a member who cancels an application for  
30 service retirement pursuant to Section 24204 or who terminates a  
31 service retirement allowance pursuant to Section 24208, if all of  
32 the following apply:

33 (A) The member earned at least one year of credited service  
34 subsequent to the most recent terminated service retirement  
35 allowance.

36 (B) The member's application for disability under this section  
37 is pending determination by the board.

38 (2) If the member's application for disability under this section  
39 is denied or canceled, subparagraph (C) of paragraph (1) of  
40 subdivision (a) of Section 24001 and paragraph (3) of subdivision

1 (a) of Section 24101 shall apply if the member submits a new  
2 application for disability.

3 (e) (1) If the board approves the application for disability, and  
4 notwithstanding subdivision (f) of Section 24204, the board shall  
5 cancel the member's application for service retirement and shall  
6 authorize payment of a disability allowance or disability retirement.

7 (2) If the board approves the application for disability and the  
8 member has received service retirement allowance payments under  
9 this part, the effective date for the disability allowance or disability  
10 retirement shall be the same as the effective date of the service  
11 retirement allowance.

12 (f) If a member who applies for service retirement under this  
13 section dies prior to a determination by the board on the application  
14 for disability, the member shall be considered retired for service  
15 at the time of death, and any subsequent benefits shall be paid  
16 accordingly.

17 (g) If a member who applies for service retirement under this  
18 section dies after the board has approved the member's application  
19 for disability, the member shall be considered a disabled member,  
20 or retired for disability, at the time of death, and any subsequent  
21 benefits shall be paid accordingly, even if the member died prior  
22 to receiving notification of the approval of his or her application  
23 for disability.

24 (h) If the member changes or cancels his or her service  
25 retirement application or terminates his or her service retirement  
26 allowance as described in subdivision (b), the system shall make  
27 appropriate adjustments to the applicable service retirement  
28 allowance, disability allowance, or disability retirement allowance,  
29 retroactive to the effective date of the disability allowance or  
30 disability retirement allowance. Subdivision (a) of Section 24617  
31 shall not apply.

32 (i) The system may recover a service retirement allowance  
33 overpayment made to a member by deducting that overpayment  
34 from any subsequent disability benefit payable to the member.

35 (j) Nothing in this section shall be construed to allow a member  
36 or beneficiary to receive more than one type of retirement or  
37 disability allowance for the same period of time.

38 ~~SEC. 20.~~

39 *SEC. 29.* Section 24204 of the Education Code is amended to  
40 read:

1 24204. (a) A service retirement allowance under this part shall  
2 become effective upon any date designated by the member,  
3 provided all of the following conditions are met:

4 (1) An application for service retirement allowance is filed on  
5 a form provided by the system, which is executed no earlier than  
6 six months before the effective date of retirement allowance.

7 (2) The effective date is later than the last day the member  
8 earned creditable compensation pursuant to Section 22119.2 or  
9 22119.3.

10 (3) The effective date is no earlier than one day after the date  
11 on which the retirement allowance was terminated under Section  
12 24208.

13 (4) The effective date is no earlier than one year following the  
14 date on which the retirement allowance was terminated under  
15 subdivision (a) of Section 24117.

16 (5) The effective date is no earlier than the date upon and  
17 continuously after which the member is determined to the  
18 satisfaction of the board to have been mentally incompetent.

19 (6) The effective date is no earlier than the date upon which the  
20 member completes payment of a service credit purchase pursuant  
21 to Section 22801, 22820, or 22826, or payment of a redeposit of  
22 contributions pursuant to Section 23200, except as provided in  
23 Section 22801 or 22829.

24 (b) A member who files an application for service retirement  
25 may change or cancel his or her retirement application, as long as  
26 the form provided by the system is received in the system's  
27 headquarters office no later than 30 days from the date the  
28 member's initial benefit payment for the member's most recent  
29 retirement under the Defined Benefit Program is paid by the  
30 system. If a member cancels his or her retirement application, the  
31 member shall return the total gross distribution amount of all  
32 payments for the canceled retirement benefit to the system's  
33 headquarters office no later than 45 days from the date of the  
34 member's initial benefit payment and shall be liable for any adverse  
35 tax consequences that may result from these actions.

36 (c) The retirement date of a member who files an application  
37 for retirement pursuant to Section 24201 on or after January 1,  
38 2012, shall be no earlier than January 1, 2012.

1 (d) Nothing in this section shall be construed to allow a member  
2 to receive more than one type of retirement or disability allowance  
3 for the same period of time by virtue of his or her own membership.

4 ~~SEC. 21.~~

5 *SEC. 30.* Section 24209 of the Education Code is amended to  
6 read:

7 24209. (a) Upon retirement for service following reinstatement,  
8 the member shall receive a service retirement allowance equal to  
9 the sum of both of the following:

10 (1) An amount equal to the monthly allowance the member was  
11 eligible to receive immediately preceding the most recent  
12 reinstatement, exclusive of any amounts payable pursuant to  
13 Section 22714 or 22715, increased by the improvement factor that  
14 would have been applied to the allowance if the member had not  
15 reinstated.

16 (2) An amount calculated pursuant to Section 24202, 24202.5,  
17 24202.6, 24203, 24203.5, or 24206 based on credited service  
18 accrued, including any service granted pursuant to Section 22717  
19 or 22717.5, subsequent to the most recent reinstatement, the  
20 member's age on the last day of the month in which the retirement  
21 allowance begins to accrue, and final compensation.

22 (b) If the total amount of credited service accrued, other than  
23 that accrued pursuant to Sections 22714, 22715, 22717, 22717.5,  
24 and 22826, except as provided in subdivision (c) of Section 22121,  
25 is equal to or greater than 30 years, the amounts identified in  
26 paragraphs (1), for members who initially retired on or after  
27 January 1, 1999, and (2) of subdivision (a) shall be calculated  
28 pursuant to Section 24203.5.

29 (c) If the total amount of credited service accrued, other than  
30 that accrued pursuant to Sections 22714, 22715, 22717, 22717.5,  
31 and 22826, except as provided in subdivision (c) of Section 22121,  
32 is equal to or greater than 30 years, upon retirement for service  
33 following reinstatement, a member who retired pursuant to Section  
34 24213, and received the terminated disability allowance for the  
35 prior retirement, shall receive a service retirement allowance equal  
36 to the sum of the following:

37 (1) An amount based on the credited service accrued, including  
38 any service granted pursuant to Section 22717 or 22717.5, prior  
39 to the effective date of the disability allowance, the member's age

1 at the prior retirement increased by the factor provided in Section  
2 24203.5, and projected final compensation.

3 (2) An amount calculated pursuant to Section 24202, 24202.5,  
4 24202.6, 24203.5, or 24206 based on credited service accrued,  
5 including any service granted pursuant to Section 22717 or  
6 22717.5, subsequent to the reinstatement, the member's age on  
7 the last day of the month in which the retirement allowance begins  
8 to accrue, and final compensation using compensation earnable,  
9 or projected final compensation, or a combination of both.

10 (d) For purposes of this section, final compensation shall not  
11 be based on a determination of compensation earnable as described  
12 in subdivision-(e) (f) of Section 22115.

13 ~~SEC. 22.~~

14 *SEC. 31.* Section 24209.3 of the Education Code is amended  
15 to read:

16 24209.3. (a) Notwithstanding subdivision (a) of Section 24209,  
17 and exclusive of any amounts payable during the prior retirement  
18 for service pursuant to Section 22714, or 22715:

19 (1) A member who retired, other than pursuant to Section 24210,  
20 24211, 24212, or 24213, and who reinstates and performs creditable  
21 service, as defined in Section 22119.5, after the most recent  
22 reinstatement, in an amount equal to two or more years of credited  
23 service, shall, upon retirement for service on or after the effective  
24 date of this section, receive a service retirement allowance equal  
25 to the sum of the following:

26 (A) An amount calculated pursuant to this chapter based on  
27 credited service accrued, including any service granted pursuant  
28 to Section 22717 or 22717.5, prior to the most recent reinstatement,  
29 using the member's age at the subsequent service retirement, from  
30 which age shall be deducted the total time during which the  
31 member was retired for service, and final compensation.

32 (B) An amount calculated pursuant to this chapter based on  
33 credited service accrued, including any service granted pursuant  
34 to Section 22717 or 22717.5, subsequent to the most recent  
35 reinstatement, using the member's age on the last day of the month  
36 in which the retirement allowance begins to accrue, and final  
37 compensation.

38 (2) A member who retired pursuant to Section 24210 and who  
39 reinstates and performs creditable service, as defined in Section  
40 22119.5, after the most recent reinstatement, in an amount equal

1 to two or more years of credited service, shall, upon retirement for  
2 service on or after the effective date of this section, receive a  
3 service retirement allowance equal to the sum of the following:

4 (A) An amount calculated pursuant to this chapter based on  
5 credited service accrued, including any service granted pursuant  
6 to Section 22717 or 22717.5, prior to the effective date of the  
7 disability retirement, using the member's age at the subsequent  
8 service retirement, from which age shall be deducted the total time  
9 during which the member was retired for service, and indexed final  
10 compensation to the effective date of the initial service retirement.

11 (B) An amount calculated pursuant to this chapter based on the  
12 credited service accrued, including any service granted pursuant  
13 to Section 22717 or 22717.5, after termination of the disability  
14 retirement, excluding credited service accrued or granted  
15 subsequent to the most recent reinstatement, using the member's  
16 age at the subsequent service retirement, from which age shall be  
17 deducted the total time during which the member was retired for  
18 service, and final compensation.

19 (C) An amount calculated pursuant to this chapter based on  
20 credited service accrued, including any service granted pursuant  
21 to Section 22717 or 22717.5, subsequent to the most recent  
22 reinstatement, using the member's age on the last day of the month  
23 in which the retirement allowance begins to accrue, and final  
24 compensation.

25 (3) A member who retired pursuant to Section 24211 and who  
26 reinstates and performs creditable service, as defined in Section  
27 22119.5, after the most recent reinstatement, in an amount equal  
28 to two or more years of credited service, shall, upon retirement for  
29 service on or after the effective date of this section, receive a  
30 service retirement allowance equal to the sum of the following:

31 (A) The greater of (i) the disability allowance the member was  
32 eligible to receive immediately prior to termination of that  
33 allowance, excluding the children's portion, or (ii) an amount  
34 calculated pursuant to this chapter based on credited service  
35 accrued prior to the effective date of the disability allowance,  
36 excluding credited service accrued or granted pursuant to Section  
37 22717 or 22717.5 or Chapter 14 (commencing with Section 22800)  
38 or Chapter 14.2 (commencing with Section 22820) or Chapter 19  
39 (commencing with Section 23200), using the member's age at the  
40 subsequent service retirement, from which age shall be deducted

1 the total time during which the member was retired for service,  
2 and final compensation using compensation earnable, or projected  
3 final compensation earnable, or a combination of both.

4 (B) An amount equal to either of the following:

5 (i) For a member who was receiving a benefit pursuant to  
6 subdivision (a) of Section 24211, an amount calculated pursuant  
7 to this chapter based on credited service accrued at the time of the  
8 retirement pursuant to Section 24211, excluding credited service  
9 accrued or granted prior to the effective date of the disability  
10 allowance or pursuant to Section 22717 or 22717.5 or Chapter 14  
11 (commencing with Section 22800) or Chapter 14.2 (commencing  
12 with Section 22820) or Chapter 19 (commencing with Section  
13 23200), the member's age at the subsequent service retirement,  
14 from which age shall be deducted the total time during which the  
15 member was retired for service, and final compensation using  
16 compensation earnable, or projected final compensation, or a  
17 combination of both.

18 (ii) For a member who was receiving a benefit pursuant to  
19 subdivision (b) of Section 24211, an amount calculated pursuant  
20 to this chapter based on projected service at the time of the  
21 retirement pursuant to Section 24211, excluding credited service  
22 accrued or granted prior to the effective date of the disability  
23 allowance or pursuant to Section 22717 or 22717.5 or Chapter 14  
24 (commencing with Section 22800) or Chapter 14.2 (commencing  
25 with Section 22820) or Chapter 19 (commencing with Section  
26 23200), the member's age at the subsequent service retirement,  
27 from which age shall be deducted the total time during which the  
28 member was retired for service, and final compensation using  
29 compensation earnable, or projected final compensation, or a  
30 combination of both.

31 (C) An amount based on any credited service accrued or granted  
32 pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing  
33 with Section 22800) or Chapter 14.2 (commencing with Section  
34 22820) or Chapter 19 (commencing with Section 23200), at the  
35 time of the retirement pursuant to Section 24211, using the  
36 member's age at the subsequent service retirement, from which  
37 age shall be deducted the total time during which the member was  
38 retired for service, and final compensation using compensation  
39 earnable, or projected final compensation, or a combination of  
40 both.

1 (D) An amount calculated pursuant to this chapter based on  
2 credited service accrued subsequent to the most recent  
3 reinstatement, including credited service accrued or granted  
4 pursuant to Section 22714, 22715, 22717, or 22717.5 or Chapter  
5 14 (commencing with Section 22800) or Chapter 14.2  
6 (commencing with Section 22820) or Chapter 19 (commencing  
7 with Section 23200), using the member's age on the last day of  
8 the month in which the retirement allowance begins to accrue, and  
9 final compensation using compensation earnable, or projected final  
10 compensation, or a combination of both.

11 (4) A member who retired pursuant to Section 24212 or 24213  
12 and who reinstates and performs creditable service, as defined in  
13 Section 22119.5, after the most recent reinstatement, in an amount  
14 equal to two or more years of credited service, shall, upon  
15 retirement for service on or after the effective date of this section,  
16 receive a service retirement allowance equal to the sum of the  
17 following:

18 (A) An amount calculated pursuant to this chapter based on the  
19 member's projected service at the time of the retirement pursuant  
20 to Section 24212 or 24213, including credited service accrued or  
21 granted pursuant to Section 22717 or 22717.5 or Chapter 14  
22 (commencing with Section 22800) or Chapter 14.2 (commencing  
23 with Section 22820) or Chapter 19 (commencing with Section  
24 23200), using the member's age at the subsequent service  
25 retirement, from which age shall be deducted the total time during  
26 which the member was retired for service, and final compensation  
27 using compensation earnable, or projected final compensation, or  
28 a combination of both.

29 (B) An amount calculated pursuant to this chapter based on  
30 credited service accrued subsequent to the most recent  
31 reinstatement, including credited service accrued or granted  
32 pursuant to Section 22714, 22715, 22717, or 22717.5 or Chapter  
33 14 (commencing with Section 22800) or Chapter 14.2  
34 (commencing with Section 22820) or Chapter 19 (commencing  
35 with Section 23200), using the member's age on the last day of  
36 the month in which the retirement allowance begins to accrue, and  
37 final compensation using compensation earnable, or projected final  
38 compensation, or a combination of both.

39 (b) If the total amount of credited service, other than projected  
40 service, or service that accrued or was granted pursuant to Sections

1 22714, 22715, 22717, 22717.5, and 22826, except as provided in  
2 subdivision (c) of Section 22121, is equal to or greater than the  
3 number of years required to be eligible for an increased allowance  
4 pursuant to this chapter or Section 22134.5, the amounts identified  
5 in this section shall be calculated pursuant to the section authorizing  
6 the increased benefit.

7 (c) For members receiving an allowance pursuant to Section  
8 24410.5 or 24410.6, the amount payable pursuant to this section  
9 shall not be less than the amount payable to the member as of the  
10 effective date of reinstatement.

11 (d) The amount payable pursuant to this section shall not be  
12 less than the amount that would be payable to the member pursuant  
13 to Section 24209.

14 (e) For purposes of determining an allowance increase pursuant  
15 to Sections 24415 and 24417, the calendar year of retirement shall  
16 be the year of the subsequent retirement if the final compensation  
17 used to calculate the allowance pursuant to this section is higher  
18 than the final compensation used to calculate the allowance for  
19 the prior retirement.

20 (f) The allowance paid pursuant to this section to a member  
21 receiving a lump-sum payment pursuant to Section 24221 shall be  
22 actuarially reduced to reflect that lump-sum payment.

23 (g) For purposes of this section, final compensation shall not  
24 be based on a determination of compensation earnable as described  
25 in subdivision ~~(e)~~ (f) of Section 22115.

26 ~~SEC. 23.~~

27 *SEC. 32.* Section 24211 of the Education Code is amended to  
28 read:

29 24211. When a member who has been granted a disability  
30 allowance under this part after June 30, 1972, returns to  
31 employment subject to coverage under the Defined Benefit  
32 Program and performs:

33 (a) Less than three years of creditable service after termination  
34 of the most recent disability allowance, the member shall receive  
35 a retirement allowance which is the sum of the allowance calculated  
36 on credited service accrued after the termination date of the  
37 disability allowance, excluding credited service accrued or granted  
38 pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing  
39 with Section 22800) or Chapter 14.2 (commencing with Section  
40 22820) or Chapter 19 (commencing with Section 23200), the age

1 of the member on the last day of the month in which the retirement  
2 allowance begins to accrue, and final compensation using  
3 compensation earnable or projected final compensation, or a  
4 combination of both, plus the greater of either of the following:

5 (1) A service retirement allowance calculated on credited service  
6 accrued as of the effective date of the disability allowance,  
7 excluding credited service accrued or granted pursuant to Section  
8 22717 or 22717.5 or Chapter 14 (commencing with Section 22800)  
9 or Chapter 14.2 (commencing with Section 22820) or Chapter 19  
10 (commencing with Section 23200), the member's age on the last  
11 day of the month in which the retirement allowance begins to  
12 accrue, and projected final compensation to the termination date  
13 of the disability allowance.

14 (2) The disability allowance the member was eligible to receive  
15 immediately prior to termination of the most recent disability  
16 allowance, excluding children's portions.

17 (b) Three or more years of creditable service after termination  
18 of the most recent disability allowance, the member shall receive  
19 a retirement allowance that is the greater of the following:

20 (1) A service retirement allowance calculated on all actual and  
21 projected service, excluding credited service accrued or granted  
22 pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing  
23 with Section 22800) or Chapter 14.2 (commencing with Section  
24 22820) or Chapter 19 (commencing with Section 23200), the  
25 member's age on the last day of the month in which the retirement  
26 allowance begins to accrue, and final compensation using  
27 compensation earnable, or projected final compensation, or a  
28 combination of both.

29 (2) The disability allowance the member was eligible to receive  
30 immediately prior to termination of the most recent disability  
31 allowance, excluding children's portions.

32 (c) The allowance shall be increased by an amount based on  
33 any credited service accrued or granted pursuant to Section 22714,  
34 22715, 22717, or 22717.5 or Chapter 14 (commencing with Section  
35 22800) or Chapter 14.2 (commencing with Section 22820) or  
36 Chapter 19 (commencing with Section 23200), the member's age  
37 on the last day of the month in which the retirement allowance  
38 begins to accrue, and final compensation using compensation  
39 earnable, or projected final compensation, or a combination of  
40 both.

1 (d) If the total amount of credited service, other than projected  
2 service or credited service that accrued or was granted pursuant  
3 to Sections 22714, 22715, 22717, 22717.5, and 22826, except as  
4 provided in subdivision (c) of Section 22121, is equal to or greater  
5 than 30 years, the amounts identified in subdivisions (a) to (c),  
6 inclusive, shall be calculated pursuant to Sections 24203.5 and  
7 24203.6.

8 (e) For purposes of this section, final compensation shall not  
9 be based on a determination of compensation earnable as described  
10 in subdivision ~~(e)~~ (f) of Section 22115.

11 (f) Upon retirement, the member may elect to modify the service  
12 retirement allowance payable in accordance with any option  
13 provided under this part.

14 ~~SEC. 24.~~

15 *SEC. 33.* Section 24212 of the Education Code is amended to  
16 read:

17 24212. (a) If a disability allowance granted under this part  
18 after June 30, 1972, is terminated for reasons other than those  
19 specified in Section 24213 and the member does not return to  
20 employment subject to coverage under the Defined Benefit  
21 Program, the member's service retirement allowance, when  
22 payable, shall be based on projected service, excluding credited  
23 service accrued or granted pursuant to Section 22717 or 22717.5  
24 or Chapter 14 (commencing with Section 22800) or Chapter 14.2  
25 (commencing with Section 22820), or Chapter 19 (commencing  
26 with Section 23200), projected final compensation, and the  
27 member's age on the last day of the month in which the retirement  
28 allowance begins to accrue. The allowance payable under this  
29 section, excluding annuities payable from accumulated annuity  
30 deposit contributions, shall not be greater than the disability  
31 allowance the member was eligible to receive immediately prior  
32 to the earlier of the termination of that allowance or at normal  
33 retirement age, excluding children's portions.

34 (b) The allowance shall be increased by an amount based on  
35 any credited service accrued or granted pursuant to Section 22717  
36 or 22717.5 or Chapter 14 (commencing with Section 22800) or  
37 Chapter 14.2 (commencing with Section 22820) or Chapter 19  
38 (commencing with Section 23200), the member's age on the last  
39 day of the month in which the retirement allowance begins to

1 accrue, and final compensation using compensation earnable, or  
2 projected final compensation, or a combination of both.

3 (c) If the total amount of credited service, other than projected  
4 service or credited service that accrued or was granted pursuant  
5 to Sections 22717, 22717.5, and 22826, except as provided in  
6 subdivision (c) of Section 22121, is equal to or greater than 30  
7 years, the amounts identified in subdivisions (a) and (b) shall be  
8 calculated pursuant to Sections 24203.5 and 24203.6.

9 (d) Upon retirement, the member may elect to modify the service  
10 retirement allowance payable in accordance with any option  
11 provided under this part.

12 ~~SEC. 25.~~

13 *SEC. 34.* Section 24213 of the Education Code is amended to  
14 read:

15 24213. (a) When a member who has been granted a disability  
16 allowance under this part after June 30, 1972, attains normal  
17 retirement age, or at a later date when there is no dependent child,  
18 the disability allowance shall be terminated and the member shall  
19 be eligible for service retirement. The retirement allowance shall  
20 be calculated on the projected final compensation and projected  
21 service to normal retirement age, excluding credited service accrued  
22 or granted pursuant to Section 22717 or 22717.5 or Chapter 14  
23 (commencing with Section 22800) or Chapter 14.2 (commencing  
24 with Section 22820) or Chapter 19 (commencing with Section  
25 23200), and the member's age on the last day of the month in  
26 which the retirement allowance begins to accrue. The allowance  
27 payable under this section, excluding annuities payable from  
28 accumulated annuity deposit contributions, shall not be greater  
29 than the disability allowance the member was eligible to receive  
30 immediately prior to normal retirement age, excluding children's  
31 portions.

32 (b) The allowance shall be increased by an amount based on  
33 any credited service accrued or granted pursuant to Section 22717  
34 or 22717.5 or Chapter 14 (commencing with Section 22800) or  
35 Chapter 14.2 (commencing with Section 22820) or Chapter 19  
36 (commencing with Section 23200), the member's age on the last  
37 day of the month in which the retirement allowance begins to  
38 accrue, and projected final compensation to normal retirement age.

39 (c) If the total amount of credited service accrued, other than  
40 projected service or credited service that accrued or was granted

1 pursuant to Sections 22717, 22717.5, and 22826, except as  
2 provided in subdivision (c) of Section 22121, is equal to or greater  
3 than 30 years, the amounts identified in subdivisions (a) and (b)  
4 shall be calculated pursuant to Sections 24203.5 and 24203.6.

5 (d) Upon retirement, the member may elect to modify the service  
6 retirement allowance payable in accordance with any option  
7 provided under this part.

8 ~~SEC. 26.~~

9 *SEC. 35.* Section 24322 of the Education Code is amended to  
10 read:

11 24322. (a) An option elected under Section 24300, 24300.1,  
12 or 24307 may be canceled by a retired member if the option  
13 beneficiary is the retired member's spouse or former spouse and  
14 a final decree of dissolution of marriage or a judgment of nullity  
15 has been entered or an order of separate maintenance has been  
16 made on or after January 1, 1978, by a court of competent  
17 jurisdiction. A retired member may cancel the option before or  
18 after issuance of the first retirement allowance payment.

19 (b) The retired member shall notify the board, in writing on a  
20 properly executed form provided by the ~~system~~ *system*, of  
21 cancellation of the option. Notification shall not be earlier than  
22 the effective date of the decree, judgment, or order and shall include  
23 a certified copy of the final decree of dissolution, or judgment of  
24 nullity, or an order of separate maintenance, and any property  
25 settlement agreement.

26 (c) Upon notification to the board, the retired member may elect:  
27 (1) to receive the unmodified retirement allowance from the date  
28 of receipt of the notification; or (2) a new joint and survivor option  
29 under Section 24300.1 and may designate one or multiple new  
30 option beneficiaries. Modification of the retirement allowance  
31 because of the newly elected option or newly designated  
32 beneficiary or beneficiaries shall be based on the ages of the retired  
33 member and the new option beneficiary or beneficiaries as of the  
34 effective date of the new option. The election of a new joint and  
35 survivor option or the designation of a new option beneficiary or  
36 beneficiaries shall be consistent with the final decree of dissolution,  
37 judgment of nullity, order of separate maintenance, or property  
38 settlement agreement, and shall not result in any additional liability  
39 to the Teachers' Retirement Fund. The effective date of the change  
40 shall be the date notification is received by the board.

1 ~~SEC. 27.~~

2 *SEC. 36.* Section 24410 of the Education Code is amended to  
3 read:

4 24410. (a) If projected final compensation is used to calculate  
5 the service retirement allowance following the termination of the  
6 disability allowance or if the disability allowance is continued as  
7 the lesser of the two allowance calculations under Section 24212  
8 or 24213, then the original disability allowance effective date shall  
9 be retained as the base date for purposes of determining  
10 postretirement benefit increases.

11 (b) If the disability allowance effective date is used pursuant to  
12 subdivision (a), then for purposes of determining supplemental  
13 benefits pursuant to Sections 24412 and 24415, the base allowance  
14 shall be determined as follows:

15 (1) If the disability allowance is continued pursuant to Section  
16 24212 or 24213, the base allowance shall be equal to the disability  
17 allowance prior to all allowance increases made pursuant to this  
18 part.

19 (2) If the disability allowance is not continued pursuant to  
20 Section 24212 or 24213, the base allowance shall be based on the  
21 factors used to calculate the service retirement allowance, except  
22 that projected final compensation shall be replaced with the final  
23 compensation upon which the disability allowance was based using  
24 ~~compensation earnable without the adjustment pursuant to~~  
25 ~~subdivision (f) of Section 22134 and subdivision (e) of Section~~  
26 ~~22134.5: based.~~

27 (3) The base allowance determined pursuant to this subdivision  
28 shall be modified for an option, if applicable.

29 (c) This section shall be applicable for determining the base  
30 date for applicable postretirement increases made on or after  
31 January 1, 1982.

32 (d) This section shall only apply to service retirements effective  
33 the day after the termination date of the disability allowance.

34 ~~SEC. 28.~~

35 *SEC. 37.* Section 24606 of the Education Code is amended to  
36 read:

37 24606. (a) If any payment of contributions or accumulated  
38 contributions or benefits under this plan remains unclaimed and,  
39 after a good faith effort, the legal claimant cannot be found, the  
40 board shall redeposit the proceeds in the retirement fund, and shall

1 hold the proceeds for the legal claimant without further  
2 accumulation of interest. The redeposit does not operate to establish  
3 the membership of the claimant in this plan.

4 (b) Subdivision (a) applies to warrants drawn and canceled by  
5 the Controller and payments rejected via electronic funds transfer.  
6 Upon notice of cancellation or rejection, the proceeds revert to  
7 and become a part of the retirement fund, and shall be applied to  
8 meet the liabilities of the retirement fund.

9 (c) The board may at any time after reversion of proceeds, as  
10 provided above to the retirement fund, and upon receipt of proper  
11 information satisfactory to it, return from the retirement fund an  
12 amount equal to those proceeds to the credit of the legal claimant.

13 ~~SEC. 29.~~

14 *SEC. 38.* Section 25001 of the Education Code is amended to  
15 read:

16 25001. (a) The board shall establish a segregated account  
17 within the retirement fund to be known as the Gain and Loss  
18 Reserve, and the board shall have sole authority over the reserve.  
19 The Gain and Loss Reserve shall be maintained for the Defined  
20 Benefit Supplement Program and may be used to credit interest at  
21 the minimum interest rate for plan years in which the board  
22 determines that the obligation cannot be met from investment  
23 earnings. The Gain and Loss Reserve may also be used to provide  
24 additions to the Annuitant Reserve for monthly annuities payable  
25 under the Defined Benefit Supplement Program.

26 (b) The board shall establish a goal for the balance of the Gain  
27 and Loss Reserve and periodically shall review the sufficiency of  
28 the reserve based on the recommendations of the actuary.

29 (c) The board may allocate excess earnings of the plan with  
30 respect to assets attributable to the Defined Benefit Supplement  
31 Program to the Gain and Loss Reserve. In addition, the board may  
32 allocate any liability gains and losses attributable to the Defined  
33 Benefit Supplement Program to the Gain and Loss Reserve. Upon  
34 the recommendation of the actuary, the board shall determine  
35 annually the amount, if any, that is to be allocated to the Gain and  
36 Loss Reserve for that plan year. That determination shall be made  
37 upon recommendation of the actuary based on the actuarial  
38 valuation undertaken following the plan year pursuant to Section  
39 22311.5, but no later than June 30 following the end of the plan  
40 year. In determining whether to allocate excess earnings to the

1 Gain and Loss Reserve, the board shall consider all of the  
2 following:

3 (1) Whether or not the plan has excess earnings attributable to  
4 the Defined Benefit Supplement Program.

5 (2) The sufficiency of the Gain and Loss Reserve in light of the  
6 goal established pursuant to subdivision (b).

7 (3) The amount required for the plan's administrative costs with  
8 respect to the Defined Benefit Supplement Program.

9 (4) The amount required for crediting members' accounts at the  
10 minimum interest rate.

11 (d) In determining whether to allocate liability gains and losses  
12 to the Gain and Loss Reserve, the board shall consider the matters  
13 described in paragraphs (2), (3), and (4) of subdivision (c).

14 ~~SEC. 30.~~

15 *SEC. 39.* Section 25006 of the Education Code is amended to  
16 read:

17 25006. (a) The board may declare an additional earnings credit  
18 to be applied to Defined Benefit Supplement accounts for a plan  
19 year. Prior to declaring an additional earnings credit, the board  
20 shall consider all of the following:

21 (1) Whether the plan's investment earnings with respect to the  
22 Defined Benefit Supplement Program for the plan year exceed the  
23 amount required to meet the liabilities identified in paragraphs (2),  
24 (3), and (4).

25 (2) The amount required for the plan year to credit interest on  
26 members' nominal accounts at the minimum interest rate.

27 (3) The amount of the plan's administrative expenses with  
28 respect to the Defined Benefit Supplement Program for the plan  
29 year.

30 (4) The sufficiency of the Gain and Loss Reserve and whether  
31 any additions must be made to that reserve.

32 (b) For any plan year that the board declares an additional  
33 earnings credit, the board shall specify the amount to be added to  
34 members' accounts as a percentage increase. The additional  
35 earnings credit shall be applied to the balance of credits in each  
36 member's nominal account as of the last day of the plan year and  
37 shall be applied as of the date specified by the board. The additional  
38 earnings credit shall not be added to the balance of credits  
39 transferred from a member's Defined Benefit Supplement account  
40 to the Annuitant Reserve.

1 (c) The declaration of an additional earnings credit shall be  
2 made as a plan amendment adopted by the board with respect to  
3 the Defined Benefit Supplement Program upon recommendation  
4 of the actuary based on the actuarial valuation undertaken following  
5 the plan year pursuant to Section 22311.5, but no later than June  
6 30 following the end of the plan year.

7 ~~SEC. 31.~~

8 *SEC. 40.* Section 26202 of the Education Code is amended to  
9 read:

10 26202. (a) The board shall establish a Gain and Loss Reserve  
11 within the Teachers' Retirement Fund for the Cash Balance Benefit  
12 Program. The board has sole authority to administer the Gain and  
13 Loss Reserve to be drawn upon to the extent necessary to credit  
14 interest to employee accounts and employer accounts at the  
15 minimum interest rate during years in which the investment  
16 earnings of the plan with respect to the Cash Balance Benefit  
17 Program are not sufficient for that purpose, and, where necessary,  
18 to provide additions to the Annuitant Reserve for monthly annuity  
19 payments.

20 (b) The board shall establish and periodically review goals  
21 regarding the sufficiency of the Gain and Loss Reserve based on  
22 the recommendation of the actuary.

23 (c) In the event that the total amount of investment earnings of  
24 the plan with respect to the Cash Balance Benefit Program for any  
25 plan year exceeds the sum of the total amount required to credit  
26 all employee and employer accounts at the minimum interest rate  
27 for the plan year plus the administrative costs of the plan with  
28 respect to the Cash Balance Benefit Program for the plan year, the  
29 board shall determine the amount, if any, that is to be credited to  
30 the Gain and Loss Reserve for the plan year. That determination  
31 shall be made upon recommendation of the actuary based on the  
32 actuarial valuation undertaken following the plan year pursuant to  
33 Section 26211 but no later than June 30 following the end of the  
34 plan year. In determining whether an amount is to be credited to  
35 the Gain and Loss Reserve, the board shall consider the sufficiency  
36 of the reserve in light of the goal established for the sufficiency  
37 and the recommendations of the actuary.

38 *SEC. 41.* Section 26603 of the Education Code is amended to  
39 read:

1 26603. (a) All employee contributions shall be credited to  
2 employee accounts and all employer contributions shall be credited  
3 to employer accounts as of the first working day following the  
4 date all contributions to fully satisfy the contribution report as  
5 submitted by the employer are received by the system.

6 (b) *This section shall become inoperative on July 1, 2018, and,  
7 as of January 1, 2019, is repealed.*

8 SEC. 42. Section 26603 is added to the Education Code, to  
9 read:

10 26603. (a) *All employee contributions shall be credited to  
11 employee accounts and all employer contributions shall be credited  
12 to employer accounts effective as of the day contributions are  
13 required to be transmitted to the plan pursuant to subdivision (a)  
14 of Section 26303.*

15 (b) *This section shall become operative on July 1, 2018.*

16 SEC. 43. Section 26604 of the Education Code is amended to  
17 read:

18 26604. (a) Beginning June 1, 1996, prior to the Cash Balance  
19 Plan becoming effective, and prior to the beginning of each plan  
20 year thereafter, the board, by plan amendment with respect to the  
21 Cash Balance Benefit Program, shall declare the minimum interest  
22 rate for crediting employee accounts and employer accounts with  
23 respect to the Cash Balance Benefit Program during the following  
24 plan year.

25 (b) All interest shall be computed at the minimum interest rate  
26 on the balance of the employee account and the employer account  
27 and shall be compounded daily.

28 ~~(e) Interest for contributions credited during that month to the  
29 respective account shall accrue at the minimum interest rate from  
30 the first working day following the date contributions are received  
31 in full by the system pursuant to Section 26603.~~

32 ~~(d)~~

33 (c) Interest shall not be credited to employee accounts and  
34 employer accounts that have been transferred to the Annuitant  
35 Reserve for payment of an annuity.

36 ~~SEC. 32.~~

37 SEC. 44. Section 26808 of the Education Code is amended to  
38 read:

39 26808. (a) The annuity elected under this chapter shall be  
40 determined as a value actuarially equivalent to the sum of the

1 employee account and the employer account as of the retirement  
2 date. The annuity shall be calculated using the age of the participant  
3 and, if the participant elected a joint and survivor option, the age  
4 of the beneficiary on the retirement date.

5 (b) In the case of a participant who previously received an  
6 annuity that was terminated pursuant to Section 26810, the portion  
7 of the annuity derived from the amounts credited to the employee  
8 account and employer account as of the date of reemployment  
9 shall be calculated using the actuarial assumptions in effect on the  
10 previous retirement date using the age of the participant and, if the  
11 participant elected a joint and survivor option, the age of the  
12 beneficiary on the current retirement date.

13 ~~SEC. 33.~~

14 *SEC. 45.* Section 26810 of the Education Code is amended to  
15 read:

16 26810. (a) A participant who is employed to perform creditable  
17 service subject to coverage by the Cash Balance Benefit Program  
18 while receiving an annuity under the program may terminate the  
19 annuity upon written request to the system and make contributions  
20 to the program based on salary paid by the employer for the  
21 employment, subject to the following conditions:

22 (1) The request for termination of the annuity is filed on a form  
23 prescribed by the system, and the form is executed no earlier than  
24 six months before the effective date of the termination.

25 (2) Termination of the participant's annuity shall become  
26 effective on the first day of the month designated by the participant.

27 (b) Upon termination of the annuity, the employee and employer  
28 account of the participant shall be credited with respective balances  
29 that reflect the actuarial equivalent of the participant's retirement  
30 benefit as of the date the participant terminates the annuity and  
31 the Annuitant Reserve shall be reduced by the amount of the  
32 credits.

33 (c) The portion of the annuity derived from the amounts credited  
34 to the employee account and employer account, as of the date the  
35 participant terminates the annuity, shall be calculated using the  
36 actuarial assumptions in effect on the initial retirement date using  
37 the age of the participant and, if the participant elected a joint and  
38 survivor option, the age of the beneficiary on the current retirement  
39 date.

1 (d) Upon election of a subsequent annuity, the credits in the  
2 participant’s employee account and employer account shall be  
3 transferred to the Annuitant Reserve.

4 ~~SEC. 34.~~

5 *SEC. 46.* Section 28000 of the Education Code is amended to  
6 read:

7 28000. (a) The Legislature hereby finds and declares its intent  
8 to preserve and protect the rights of reemployed participants who  
9 have been absent from a position of employment covered by the  
10 Cash Balance Benefit Program to serve in the uniformed services  
11 of the United States of America in accordance with the Uniformed  
12 Services Employment and Reemployment Rights Act of 1994  
13 (Chapter 43 (commencing with Section 4301) of Title 38 of the  
14 United States Code).

15 (b) The plan shall comply with Chapter 43 (commencing with  
16 Section 4301) of Title 38 of the United States Code, as that chapter  
17 may be amended from time to time.

18 (c) The term “service in the uniformed services,” for purposes  
19 of determining plan vesting, eligibility for membership, and accrual  
20 of benefits, means the performance of duty on a voluntary or  
21 involuntary basis in a uniformed service under competent authority  
22 and includes active duty, active duty for training, initial active duty  
23 for training, inactive duty training, a period for which a participant  
24 is absent from a position of employment for the purpose of an  
25 examination to determine the fitness of the participant to perform  
26 any such duty, and the period of time following the actual service  
27 in the uniformed service through the last day a member is eligible  
28 to report back to work or to apply for reemployment as specified  
29 under Section 1002.259 of Title 20 of the Code of Federal  
30 Regulations.

31 (d) The term “uniformed services” means the Armed Forces of  
32 the United States of America, the Army National Guard and the  
33 Air National Guard when engaged in active duty for training,  
34 inactive duty training, or full-time National Guard duty, the  
35 commissioned corps of the *United States* Public Health Service,  
36 and any other category of persons designated by the President in  
37 time of war or emergency.

38 (e) No entitlement of the right to contribute toward credits under  
39 the Cash Balance Benefit Program pursuant to this chapter by the  
40 participant as a result of service in the uniformed services shall

1 accrue if the participant does not return to employment with the  
2 same employer or employers which employed the participant  
3 immediately prior to the eligible period of service in the uniformed  
4 services as prescribed in Chapter 43 (commencing with Section  
5 4301) of Title 38 of the United States Code.

6 ~~SEC. 35.~~

7 *SEC. 47.* Section 28001 of the Education Code is amended to  
8 read:

9 28001. (a) The participant who returns to employment with  
10 the same employer which had employed the participant  
11 immediately prior to the eligible period of service in the uniformed  
12 services, in accordance with the requirements of Chapter 43  
13 (commencing with Section 4301) of Title 38 of the United States  
14 Code, shall be treated as not having incurred a break in the  
15 performance of creditable service by reason of that participant's  
16 period or periods of service in the uniformed services. The length  
17 of each period of service in the uniformed services shall not exceed  
18 five years unless otherwise permitted pursuant to Section 28004.  
19 Each period of service in the uniformed services by the participant  
20 shall, upon that participant's return to employment with the same  
21 employer or employers which had employed the participant  
22 immediately prior to the eligible period of service in the uniformed  
23 services, constitute employment toward the performance of  
24 creditable service provided that participant elects to remit the  
25 employee contributions that would have been made during the  
26 period of service in the uniformed services. The remittance of  
27 employee contributions shall be calculated pursuant to Sections  
28 26501 and 28003. In no event shall that remittance exceed the  
29 amount the participant would have been required to contribute  
30 during that period of performance of creditable service had the  
31 participant remained continuously employed by the last employer  
32 and not served in the uniformed services throughout that period.

33 (b) Notwithstanding Section 26506, remittance of employee  
34 contributions in accordance with subdivision (a) shall be made by  
35 the employer pursuant to Section 26502 upon the employer's  
36 receipt of written consent of the participant specifying a schedule  
37 of repayments. That remittance shall commence during the period  
38 beginning with the date of return to employment and may continue  
39 for three times the period of the participant's eligible period of  
40 service in the uniformed services, not to exceed five years. The

1 plan's receipt of the remittance payments to the plan with respect  
2 to the Cash Balance Benefit Program shall be credited pursuant to  
3 Chapter 7 of this part. Contributions, interest, and additional  
4 earnings credits the participant would have earned had the  
5 participant remained continuously employed during the period of  
6 eligible service in the uniformed services shall be credited to  
7 employee and employer accounts retroactively upon receipt of the  
8 employee contributions. Upon receipt of the remittance payments  
9 to the plan, the payments shall be subject to the same terms and  
10 conditions under the program as if the payments had been employee  
11 contributions made by the participant had the participant not served  
12 for a period in the uniformed services. In no event shall the current  
13 year contributions and contributions made for purposes of  
14 purchasing service exceed the maximum exclusion allowance as  
15 set forth in the Internal Revenue Code.

16 ~~SEC. 36.~~

17 *SEC. 48.* Section 28002 of the Education Code is amended to  
18 read:

19 28002. (a) Except as provided in subdivision (b), an employer  
20 reemploying a participant with service subject to the requirements  
21 of Chapter 43 (commencing with Section 4301) of Title 38 of the  
22 United States Code, shall be liable to remit the employer  
23 contributions provided that employer employed the participant  
24 immediately prior to the eligible period of service in the uniformed  
25 services. The contribution rate by the employer shall be to the  
26 same extent as that for contributions to the Cash Balance Benefit  
27 Program for other employees during the same period. In addition  
28 to contributions due pursuant to this subdivision, the employer  
29 shall remit an amount that is the equivalent of the full cost of any  
30 interest and additional earnings credits credited pursuant to Section  
31 28001. The employer shall provide information regarding the  
32 reemployment of a participant who is subject to Chapter 43  
33 (commencing with Section 4301) of Title 38 of the United States  
34 Code on a form prescribed by the system within 30 days of the  
35 date of reemployment. Following receipt of that notice, the system  
36 shall calculate in accordance with Section 28003 the total amount  
37 of employer contributions due for the participant for the full period  
38 of service in the uniformed services. Within 60 working days of  
39 notification by the plan of amount due, the employer shall remit  
40 to the plan all employer contributions.

1 (b) The employer shall not be liable for employer contributions  
2 for the period of service in the uniformed services if the participant  
3 elects not to remit the employee contributions for that period  
4 through the employer as required under Section 28001. In the event  
5 the participant does not remit all of the employee contributions  
6 within the prescribed repayment period, the total amount of the  
7 employer contributions that were remitted for that period shall be  
8 adjusted pursuant to Section 26302.

O