

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

February 19, 2016

An act to amend Sections 22106.1, 22120, 22508, 22508.5, 22509, 22515, 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, 26808, 26810, 28000, 28001, and 28002 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 introduced, 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 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

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 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. These provisions prescribe requirements for making this election effective, generally providing that they be made on a form prescribed by the system with 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) Federal law, the Uniformed Services Employment and Reemployment Rights Act, 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.

(4) 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) 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) 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) 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.

(8) 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 ~~22101.5. “Accumulated Defined Benefit Supplement account~~
4 ~~balance” means an amount equal to the sum of member~~
5 ~~contributions, the member contributions picked up by an employer,~~
6 ~~employer contributions, and interest credited on those contributions~~
7 ~~pursuant to Section 25005, that are credited by the system to the~~
8 ~~member’s Defined Benefit Supplement account.~~

9 SEC. 2. Section 22101.5 of the Education Code, as added by
10 Section 1 of Chapter 1021 of the Statutes of 2000, is amended to
11 read:

12 22101.5. “Accumulated Defined Benefit Supplement account
13 balance” means *the amount of* credits equal to the sum of member
14 contributions, the member contributions picked up by an employer,
15 employer contributions, interest credited pursuant to Section 25005
16 and additional earnings credited pursuant to Section 25006.

17 SEC. 3. Section 22106.1 of the Education Code is amended to
18 read:

19 22106.1. For the purposes of determining supplemental benefits
20 pursuant to Sections 24412 and 24415, *except as provided under*
21 *Section 24410*, “base allowance” means a monthly allowance under
22 the Defined Benefit Program prior to all allowance increases by
23 this part and after modification for an option, if applicable.

24 SEC. 4. Section 22120 of the Education Code is amended to
25 read:

26 22120. “Credited interest” means interest that is credited to
27 active members’ and inactive ~~members’~~, *members’* accumulated
28 ~~retirement contributions~~, *contributions* and accumulated annuity
29 deposit contributions at a rate set annually by the board as a plan
30 amendment with respect to the Defined Benefit Program.

31 SEC. 5. Section 22508 of the Education Code is amended to
32 read:

33 22508. (a) A member who becomes employed by the same or
34 a different school district or community college district, or a county
35 superintendent, or who becomes employed by the state in a position
36 described in subdivision (b), to perform service that requires
37 membership in a different public retirement system, and who is
38 not excluded from membership in that public retirement system,

1 may elect to have that service subject to coverage by the Defined
2 Benefit Program of this plan and excluded from coverage by the
3 other public retirement system. ~~The election shall be made in~~
4 ~~writing on a form prescribed by this system within 60 days from~~
5 ~~the date of hire in the position requiring membership in the other~~
6 ~~public retirement system.~~ If that election is made, the service
7 performed for the employer after the date of hire shall be
8 considered creditable service for purposes of this part.

9 (b) Subdivision (a) shall apply to a member who becomes
10 employed by the state only if the member is also one of the
11 following:

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

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

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

23 (c) (1) A member of the Public Employees’ Retirement System
24 described in paragraph (2) who is subsequently employed to
25 perform creditable service requiring coverage by the Defined
26 Benefit Program of this plan may elect to have that subsequent
27 service subject to coverage by the Public Employees’ Retirement
28 System and excluded from coverage by the Defined Benefit
29 Program pursuant to Section 20309 of the Government Code. If
30 the election is made, creditable service performed for the employer
31 after the date of hire shall be subject to coverage by the Public
32 Employees’ Retirement System.

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

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

1 SEC. 6. Section 22508.5 of the Education Code is amended to
2 read:

3 22508.5. (a) Any person who is a member of the Defined
4 Benefit Program of the State Teachers' Retirement Plan employed
5 by a community college district who subsequently is employed by
6 the Board of Governors of the California Community Colleges to
7 perform duties that are subject to membership in a different public
8 retirement system, ~~shall be excluded from membership in that~~
9 ~~different system if he or she elects, in writing, and files that election~~
10 ~~in the office of the State Teachers' Retirement System within 60~~
11 ~~days after the person's entry into the new position, to continue as~~
12 ~~a member of the Defined Benefit Program.~~ *system may elect to*
13 *have that service subject to coverage by the Defined Benefit*
14 *Program of this plan and excluded from coverage by the other*
15 *public retirement system.* Only a person who has achieved plan
16 vesting is eligible to elect to continue as a member of the program.

17 (b) A member of the Public Employees' Retirement System
18 who is employed by the Board of Governors of the California
19 Community Colleges who subsequently is employed by a
20 community college district to perform creditable service subject
21 to coverage under the Defined Benefit Program, may elect to have
22 that service subject to coverage by the Public Employees'
23 Retirement System and excluded from coverage under the Defined
24 Benefit Program pursuant to Section 20309 of the Government
25 Code.

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

28 SEC. 7. Section 22509 of the Education Code is amended to
29 read:

30 22509. (a) Within 10 working days of the date of hire of an
31 employee who has the right to make an election pursuant to Section
32 22508 or 22508.5, the employer shall inform the employee of the
33 right to make an election and shall make available to the employee
34 written information provided by each retirement system concerning
35 the benefits provided under that retirement system to assist the
36 employee in making an election.

37 (b) Any election made pursuant to subdivision (a) of Section
38 22508 or subdivision (a) of Section 22508.5 shall be ~~filed with the~~
39 ~~office of the State Teachers' Retirement System and a made in~~
40 *writing on a form prescribed by the system within 60 days from*

1 *the date of hire in the position requiring membership in the other*
2 *public retirement system and shall be received at the system's*
3 *headquarters office within 30 days after the date or the member's*
4 *signature. A copy of the election shall be filed with the other public*
5 *retirement system.* ~~Any~~

6 (c) Any election made pursuant to subdivision (c) of Section
7 22508 or subdivision (b) of Section 22508.5 shall be filed with the
8 office of the Public Employees' Retirement System and a copy of
9 the election shall be filed with the office of this system.

10 (e)

11 (d) Any election made pursuant to Section 22508 or Section
12 22508.5 shall become effective as of the first day of employment
13 in the position that qualified the employee to make an election.

14 SEC. 8. Section 22515 of the Education Code is amended to
15 read:

16 22515. (a) Persons excluded from membership pursuant to
17 Sections 22601.5, 22602, and 22604 may elect membership in the
18 Defined Benefit Program at any time while employed to perform
19 creditable service subject to coverage under that program. ~~The~~

20 (b) ~~The~~ election shall be in writing on a form prescribed by this
21 system and shall be ~~filed in the office of this system~~ *received at*
22 *the system's headquarters office within 30 days after the date of*
23 *the member's signature and* prior to submission of contributions.
24 *Membership in the Defined Benefit Program shall become effective*
25 *as of the first day of the pay period following the election. The*
26 election is irrevocable and shall remain in effect until the member
27 terminates employment and receives a refund of accumulated
28 retirement contributions. ~~The~~

29 (c) ~~The~~ amendments to this section enacted during the 1995–96
30 Regular Session shall be deemed to have become operative on July
31 1, 1996.

32 SEC. 9. Section 22703 of the Education Code is amended to
33 read:

34 22703. (a) Service shall be credited to the Defined Benefit
35 Program, except as provided in subdivision (b).

36 (b) A member's creditable service that exceeds 1.000 in a school
37 year shall not be credited to the Defined Benefit Program.
38 Commencing July 1, 2002, contributions by the employer and the
39 member that are deposited in the Teachers' Retirement Fund for
40 creditable compensation paid to the member for service that

1 exceeds 1.000 in a school year, exclusive of contributions pursuant
 2 to ~~Section~~ Sections 22901.7, 22950.5, and 22951, shall be credited
 3 to the Defined Benefit Supplement Program.

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

11 (d) The amendments to this section made during the second
 12 year of the 1999–2000 Regular Session shall become operative on
 13 July 1, 2002, if the revenue limit cost-of-living adjustment
 14 computed by the Superintendent of Public Instruction for the
 15 2001–02 fiscal year is equal to or greater than 3.5 percent.
 16 Otherwise the amendments to this section made during the second
 17 year of the 1999–2000 Regular Session shall become operative on
 18 July 1, 2003.

19 SEC. 10. Section 22717 of the Education Code is amended to
 20 read:

21 22717. (a) A member shall be granted credit at service
 22 retirement for each day of accumulated and unused sick leave days
 23 for which full salary is allowed to which the member was entitled
 24 on the member's final day of employment with the employer or
 25 employers subject to coverage by the Defined Benefit Program
 26 during the last school year in which he or she earned creditable
 27 compensation pursuant to Section 22119.2 or 22119.3. The system
 28 shall accept certification from each employer with which the
 29 member has accumulated sick leave days for that period, provided
 30 this leave has not been transferred to another employer.

31 (b) The amount of service credit to be granted shall be
 32 determined by dividing the number of days of accumulated and
 33 unused sick leave days by the number of days of service the
 34 employer requires the member's class of employees to perform in
 35 a school year during the member's final year of creditable service
 36 subject to coverage by the Defined Benefit Program, which shall
 37 not be less than the minimum standard specified in Section
 38 22138.5. The number of days shall not include school and legal
 39 holidays. In no event shall the divisor be less than 175. For
 40 members employed less than full time, the standards identified in

1 Section 22138.5 shall be considered as the minimum full-time
2 equivalent. For those standards identified in Section 22138.5 that
3 are applicable to teachers or instructors and that are expressed only
4 in terms of hours or instructional hours, the number of hours or
5 instructional hours shall be divided by six to determine the number
6 of days.

7 *(c) For members who are last employed with the state in a*
8 *position in which there are no contracted base service days, the*
9 *amount of service credit to be granted shall be 0.004 years of*
10 *service for each day of unused sick leave certified to the board by*
11 *the employer. The certification shall report only those days of*
12 *unused sick leave that were accrued by the member during the*
13 *normal course of his or her employment subject to coverage by*
14 *the Defined Benefit Program.*

15 ~~(e)~~

16 *(d) When the member has made application for service*
17 *retirement under this part, the employer shall certify to the board,*
18 *within 30 days following the effective date of the member's service*
19 *retirement or the date the application for retirement is received by*
20 *the system's headquarters office, whichever is later, the number*
21 *of days of accumulated and unused sick leave days that the member*
22 *was entitled to on the final day of employment. The board may*
23 *assess a penalty on delinquent reports.*

24 ~~(e)~~

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

27 SEC. 11. Section 22850 of the Education Code is amended to
28 read:

29 22850. (a) The Legislature hereby declares its intent to provide
30 benefits under this part to reemployed members who have been
31 absent from a position of employment subject to coverage under
32 the Defined Benefit Program to perform service in the uniformed
33 services of the United States in accordance with the Uniformed
34 Services Employment and Reemployment Rights Act of 1994
35 (Chapter 43 (commencing with Section 4301) of Title 38 of the
36 United States Code).

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

1 (c) “Service in the uniformed services” ~~services~~ *services,* for purposes
 2 *of determining plan vesting, eligibility for membership, and accrual*
 3 *of benefits,* means the performance of duty on a voluntary or
 4 involuntary basis in a uniformed service under competent authority
 5 and includes active duty, active duty for training, initial active duty
 6 for training, inactive duty training, ~~and~~ a period for which a
 7 member is absent from a position of employment for the purpose
 8 of an examination to determine the fitness of the member to
 9 perform any ~~duty~~ *duty, and the period of time following the actual*
 10 *service in the uniformed service through the last day a member is*
 11 *eligible to report back to work or to apply for reemployment as*
 12 *specified under Section 1002.259 of Title 20 of the Code of Federal*
 13 *Regulations.*

14 (d) “Uniformed services” means the Armed Forces of the United
 15 States of America, the Army National Guard and the Air National
 16 Guard when engaged in active duty for training, inactive duty
 17 training, or full-time National Guard duty, the commissioned corps
 18 of the Public Health Service, and any other category of persons
 19 designated by the President in time of war or emergency.

20 (e) Except as provided in Section 22851, no benefit shall accrue
 21 during the period of service in the uniformed services if the
 22 member does not return to employment, with the same employer
 23 which had employed the member immediately prior to the eligible
 24 period of service in the uniformed services, as prescribed in Chapter
 25 43 (commencing with Section 4301) of Title 38 of the United
 26 States Code.

27 SEC. 12. Section 22851 of the Education Code is amended to
 28 read:

29 22851. The right to pension benefits under this part of a
 30 member who dies or who returns to employment with the same
 31 employer which had employed the member immediately prior to
 32 the eligible period of service in the uniformed services, and is
 33 subject to Chapter 43 (commencing with Section 4301) of Title
 34 38 of the United States Code shall be determined under this section.

35 (a) (1) A reemployed or deceased member shall be treated as
 36 not having incurred a break in service by reason of that member’s
 37 eligible period or periods of service in the uniformed services.

38 (2) (A) Each eligible period of service served by a member in
 39 the uniformed services shall, upon return to employment, with the
 40 same employer which had employed the member immediately

1 prior to the eligible period of service in the uniformed services, or
2 upon death, be deemed to constitute service with the employer or
3 employers toward plan vesting and eligibility for membership in
4 the Defined Benefit Program. *Service that is deemed to the member*
5 *pursuant to this subparagraph shall not be used for benefit*
6 *calculations.*

7 (B) In cases of death during qualified military ~~service, service~~
8 *or if a member fails to remit the member contributions that would*
9 *have been required in respect of the eligible period of service in*
10 *the uniformed services, service shall be calculated under Section*
11 *22853.5 and shall be used exclusively for plan vesting and*
12 *eligibility for membership purposes. Service that is deemed to the*
13 *member in this way pursuant to this subparagraph shall not be*
14 *used for benefit calculations based on service credit balances.*
15 *calculations.*

16 (3) (A) *Each eligible period of service served by a member in*
17 *the uniformed services shall, upon his or her payment of the*
18 *member contributions required under this part, be deemed to*
19 *constitute service for the purposes of accruing benefits in the*
20 *Defined Benefit Program and the Defined Benefit Supplement*
21 *Program.*

22 ~~(3)~~

23 (B) A member who returns to employment, with the same
24 employer which had employed the member immediately prior to
25 the eligible period of service in the uniformed services shall not
26 be entitled to any benefits under this part in respect of service in
27 the uniformed services to which the member would not otherwise
28 have been entitled had the member remained continuously
29 employed and not undertaken such service in the uniformed
30 services.

31 (b) For purposes of ~~calculating benefits, accruing benefits in~~
32 *the Defined Benefit Program and Defined Benefit Supplement*
33 *Program, a member who returns to employment with the same*
34 *employer which had employed the member immediately prior to*
35 *the eligible period of service in the uniformed services shall be*
36 *entitled to service—credit credit, compensation earnable,*
37 *contributions, interest, and additional earnings credits under this*
38 *part for the eligible period of service in the uniformed services*
39 *upon his or her payment of the member contributions required*
40 *under Section 22901, and Section 22901.7, if applicable,*

1 that otherwise would have been due for such period of service had
2 the member remained continuously employed and not undertaken
3 such service in the uniformed services. No such payment of
4 member contributions may exceed the amount the member would
5 have been required to contribute under this part had the member
6 not served in the uniformed services and had remained
7 continuously employed by the employer throughout the eligible
8 period of service in the uniformed services. If a member fails to
9 remit the member contributions that would have been required
10 under Section ~~2290~~ 22901, and Section 22901.7 if applicable, in
11 respect of the eligible period of service in the uniformed services
12 no ~~service credit~~ benefits shall be provided under this part for the
13 period to which the omitted contributions relate.

14 (c) Any payment of member contributions to the Defined Benefit
15 Program *or the Defined Benefit Supplement Program* in this section
16 shall be made by the member during the period beginning with
17 the date of return to employment and may continue for three times
18 the period of the member's eligible service in the uniformed
19 services, not to exceed five years. Any payment of member
20 contributions to the Defined Benefit Program in this section by a
21 member who returned to employment prior to January 1, 1997,
22 and qualifies for benefits in accordance with the federal Uniformed
23 Services Employment and Reemployment Rights Act (38 U.S.C.
24 Secs. 4301 to 4335, incl.) shall be made by the member during the
25 period beginning with the date of notification of eligibility by the
26 employer to the system and may continue for three times the period
27 of the member's eligible service in the uniformed services, not to
28 exceed five years. Any subsequent request to purchase *service*
29 *credit* for this service shall be subject to the provisions of Chapter
30 14 (commencing with Section 22800). If all contributions due
31 under this part are not paid to the plan with respect to the Defined
32 Benefit Program within the specified repayment period and in
33 accordance with subdivision ~~(b)~~ of Section ~~22851~~ the contributions
34 shall be returned to the member at the end of the repayment period.
35 ~~Interest (b), the member shall be entitled to the benefits attributable~~
36 ~~to the contributions received or may request a return of his or her~~
37 ~~payments. Credited interest~~ on member contributions made for
38 the eligible period of service in the uniformed services shall not
39 be credited under this part until after the contributions due are paid
40 and then only prospectively to the member's account in accordance

1 with Section 22216. *For the Defined Benefit Supplement Program,*
2 *contributions, interest, and additional earnings credits the member*
3 *would have earned had the member remained continuously*
4 *employed during the period of eligible service in the uniformed*
5 *services shall be credited retroactively after all contributions due*
6 *are paid.*

7 SEC. 13. Section 22852 of the Education Code is amended to
8 read:

9 22852. (a) An employer reemploying a member of the Defined
10 Benefit Program with service subject to the requirements of
11 Chapter 43 (commencing with Section 4301) of Title 38 of the
12 United States Code shall be liable to the plan for the employer
13 contributions under this part, provided that employer was the last
14 employer employing the member immediately prior to the period
15 served by the member in the uniformed services.

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

20 (c) Subject to subdivision (e), the employer shall pay the
21 employer contributions for the eligible period of service in the
22 uniformed services that would have been required under Sections
23 ~~22950~~ 22950, 22950.5, and 22951 had the member remained
24 continuously employed during that period of eligible service in
25 the uniformed services.

26 (d) *In addition to any amount required pursuant to subdivision*
27 *(c), the employer shall pay the full cost of any interest and*
28 *additional earnings credits credited to the member's Defined*
29 *Benefit Supplement account pursuant to subdivision (b) of Section*
30 *22851.*

31 ~~(d)~~

32 (e) The employer shall not be liable for employer contributions
33 under this part for the eligible period of service in the uniformed
34 services to the extent that the member fails to remit the member
35 contributions for that period.

36 ~~(e)~~

37 (f) The employer shall provide information regarding the
38 reemployment of a member who is subject to Chapter 43
39 (commencing with Section 4301) of Title 38 of the United States

1 Code on a form prescribed by the system within 30 days of the
2 date of reemployment.

3 (f)

4 (g) Employers shall remit to the plan with respect to the Defined
5 Benefit Program *and the Defined Benefit Supplement Program*,
6 the employer contributions required under ~~subdivision (e)~~
7 *subdivisions (c) and (d)* within 60 working days of the date the
8 system notifies the employer of the amount of contributions due
9 with respect to the member who elects to remit the member
10 contributions for the eligible period of service in the uniformed
11 services.

12 (g)

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

17 SEC. 14. Section 22853 of the Education Code is amended to
18 read:

19 22853. For purposes of ~~computing an employer's contributions~~
20 ~~for the eligible period of service or the member's contributions~~
21 ~~under this part, the employee's compensation earnable during the~~
22 ~~period of this chapter, creditable compensation during the period~~
23 ~~of service in the uniformed services~~ shall be computed as follows:

24 (a) The *creditable* compensation ~~earnable~~ the member would
25 have received for the eligible period of ~~service~~; *service had the*
26 *member remained continuously employed.*

27 (b) In the event the *creditable* compensation ~~earnable~~ is not
28 reasonably certain, ~~the employer's contributions and member's~~
29 ~~contributions~~ *creditable compensation* shall be based on the
30 member's average *creditable* compensation ~~earnable~~ during the
31 12-month period immediately preceding the eligible period of
32 service in the uniformed services or, if shorter, the period of
33 employment immediately preceding that period of service.

34 SEC. 15. Section 22853.5 of the Education Code is amended
35 to read:

36 22853.5. For purposes of ~~computing service to award to~~
37 ~~members who die during qualified military service, service this~~
38 ~~chapter, compensation earnable during the period of service in~~
39 *the uniformed services* shall be computed as follows:

1 (a) ~~The service credit the member would have received for the~~
2 ~~eligible period of service through the beginning of the period of~~
3 ~~qualified military leave through the date of death. The~~
4 ~~compensation earnable that would have been applicable for the~~
5 ~~eligible period of service had the member remained continuously~~
6 ~~employed.~~

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

15 SEC. 16. Section 22854 of the Education Code is amended to
16 read:

17 22854. A reemployed member who has been absent from a
18 position of employment subject to coverage under the Defined
19 Benefit Program to perform service in the uniformed services,
20 pursuant to Section 22850, for a period in excess of five years shall
21 not be entitled to ~~service credit benefits~~ or credit for plan vesting
22 *or eligibility for membership* purposes under this ~~part~~, *chapter for*
23 *an amount exceeding five years*, except where the service in the
24 uniformed services has exceeded five years for the following
25 reasons:

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

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

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

39 (d) The member is ordered to do any of the following:

1 (1) Ordered to or retained on active duty under Section 672(a),
2 672(g), 673, 673(b), 673(c), or 688 of Title 10 of the United States
3 Code or under Section 331, 332, 359, 360, 367, or 712 of Title 14
4 of the United States Code.

5 (2) Ordered to or retained on active duty, other than for training,
6 under any provision of law during a war or during a national
7 emergency declared by the President or the Congress.

8 (3) Ordered to active duty, other than for training, in support,
9 as determined by the secretary concerned, of an operational mission
10 for which personnel have been ordered to active duty under Section
11 673(b) of Title 10 of the United States Code.

12 (4) Ordered to active duty in support, as determined by the
13 secretary concerned, of a critical mission or requirement of the
14 uniformed services.

15 (5) Called into federal service as a member of the National
16 Guard under Chapter 15 (commencing with Section 331) of Title
17 10 of the United States Code or under Section 3500 or 8500 of
18 Title 10 of the United States Code.

19 SEC. 17. Section 24005 of the Education Code is amended to
20 read:

21 24005. (a) A disability allowance under this part shall become
22 effective upon any date designated by the member, provided all
23 of the following conditions are met:

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

26 (2) The effective date is later than the last day ~~of creditable~~
27 ~~service for which compensation is payable to the member.~~ *the*
28 *member earned creditable compensation pursuant to Section*
29 *22119.2 or 22119.3.*

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

35 (b) If the member is employed to perform creditable service
36 subject to coverage under the Defined Benefit Program at the time
37 the disability allowance is approved under this part, the member
38 shall notify the system in writing, within 90 days, of the last day
39 on which the member will perform service. If the member does
40 not respond within 90 days, or if the last day on which service will

1 be performed is more than 90 days after the date the system notifies
2 the member of approval of the disability allowance, the member's
3 application for a disability allowance shall be rejected and a
4 disability allowance shall not be payable to the member.

5 SEC. 18. Section 24105 of the Education Code is amended to
6 read:

7 24105. (a) A disability retirement allowance under this part
8 shall become effective upon any date designated by the member,
9 provided that all of the following conditions are met:

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

12 (2) The effective date is later than the last day ~~of creditable~~
13 ~~service for which compensation is payable to the member.~~ *the*
14 *member earned creditable compensation pursuant to Section*
15 *22119.2 or 22119.3.*

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

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

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

34 SEC. 19. Section 24201.5 of the Education Code is amended
35 to read:

36 24201.5. (a) A member who is eligible and applies for a
37 disability allowance or retirement pursuant to Section 24001 or
38 24101 may apply to receive a service retirement allowance pending
39 the determination of his or her application for disability, subject
40 to all of the following:

1 (1) The member is eligible to retire for service under Section
2 24201 or 24203.

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

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

8 (B) The effective date is no earlier than the first day of the month
9 in which the application for disability benefits is received at the
10 system's headquarters office, unless the application for disability
11 benefits is denied or canceled and the member has indicated an
12 earlier service retirement date on the application to use if denied
13 or canceled. If the application for disability benefits is denied or
14 canceled, the service retirement date of a member who submits an
15 application for retirement pursuant to this section on or after
16 January 1, 2014, shall be no earlier than January 1, 2014.

17 (C) The effective date is later than the last day of ~~creditable~~
18 ~~service for which compensation is payable to the member.~~ *the*
19 *member earned creditable compensation pursuant to Section*
20 *22119.2 or 22119.3.*

21 (D) The effective date is no earlier than one year following the
22 date on which a retirement allowance was terminated pursuant to
23 Section 24208, unless the application for disability benefits is
24 denied or canceled and the member has indicated an earlier service
25 retirement date on the application to use if denied or canceled. If
26 the application for disability benefits is denied or canceled, the
27 service retirement date is no earlier than one day after the date on
28 which a retirement allowance was terminated pursuant to Section
29 24208, provided that the retirement allowance is terminated on or
30 after January 1, 2014.

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

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

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

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

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

8 ~~(6)~~

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

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

18 ~~(7)~~

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

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

26 (B) If the member receives a modified service retirement
27 allowance based on the election of an option pursuant to Section
28 24300.1 or 24307, that modified service retirement allowance shall
29 continue in effect and unchanged.

30 (C) If the member did not elect an option pursuant to Section
31 24300.1 or 24307 and receives an unmodified service retirement
32 allowance, that unmodified service retirement allowance shall
33 continue in effect and unchanged.

34 (b) A member who applies for service retirement under this
35 section may change or cancel his or her service retirement
36 application pursuant to Section 24204, or may terminate his or her
37 service retirement allowance pursuant to Section 24208.

38 (c) A member may not cancel his or her application for disability
39 prior to a determination of that application unless he or she submits
40 a written request to the system's headquarters office. If a member

1 elects to cancel his or her service retirement application or elects
2 to terminate his or her service retirement allowance as described
3 in subdivision (b), that election shall not cancel the application for
4 disability.

5 (d) (1) Subparagraph (C) of paragraph (1) of subdivision (a)
6 of Section 24001 and paragraph (3) of subdivision (a) of Section
7 24101 shall not apply to a member who cancels an application for
8 service retirement pursuant to Section 24204 or who terminates a
9 service retirement allowance pursuant to Section 24208, if all of
10 the following apply:

11 (A) The member earned at least one year of credited service
12 subsequent to the most recent terminated service retirement
13 allowance.

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

16 (2) If the member's application for disability under this section
17 is denied or canceled, subparagraph (C) of paragraph (1) of
18 subdivision (a) of Section 24001 and paragraph (3) of subdivision
19 (a) of Section 24101 shall apply if the member submits a new
20 application for disability.

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

25 (2) If the board approves the application for disability and the
26 member has received service retirement allowance payments under
27 this part, the effective date for the disability allowance or disability
28 retirement shall be the same as the effective date of the service
29 retirement allowance.

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

35 (g) If a member who applies for service retirement under this
36 section dies after the board has approved the member's application
37 for disability, the member shall be considered a disabled member,
38 or retired for disability, at the time of death, and any subsequent
39 benefits shall be paid accordingly, even if the member died prior

1 to receiving notification of the approval of his or her application
2 for disability.

3 (h) If the member changes or cancels his or her service
4 retirement application or terminates his or her service retirement
5 allowance as described in subdivision (b), the system shall make
6 appropriate adjustments to the applicable service retirement
7 allowance, disability allowance, or disability retirement allowance,
8 retroactive to the effective date of the disability allowance or
9 disability retirement allowance. Subdivision (a) of Section 24617
10 shall not apply.

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

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

17 SEC. 20. Section 24204 of the Education Code is amended to
18 read:

19 24204. (a) A service retirement allowance under this part shall
20 become effective upon any date designated by the member,
21 provided all of the following conditions are met:

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

25 (2) The effective date is later than the last day of ~~creditable~~
26 ~~service for which compensation is payable to the member.~~ *the*
27 *member earned creditable compensation pursuant to Section*
28 *22119.2 or 22119.3.*

29 (3) The effective date is no earlier than one day after the date
30 on which the retirement allowance was terminated under Section
31 24208.

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

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

38 (6) The effective date is no earlier than the date upon which the
39 member completes payment of a service credit purchase pursuant
40 to Section 22801, 22820, or 22826, or payment of a redeposit of

1 contributions pursuant to Section 23200, except as provided in
2 Section 22801 or 22829.

3 (b) A member who files an application for service retirement
4 may change or cancel his or her retirement application, as long as
5 the form provided by the system is received in the system's
6 headquarters office no later than 30 days from the date the
7 member's initial benefit payment for the member's most recent
8 retirement under the Defined Benefit Program is paid by the
9 system. If a member cancels his or her retirement application, the
10 member shall return the total gross distribution amount of all
11 payments for the canceled retirement benefit to the system's
12 headquarters office no later than 45 days from the date of the
13 member's initial benefit payment and shall be liable for any adverse
14 tax consequences that may result from these actions.

15 (c) The retirement date of a member who files an application
16 for retirement pursuant to Section 24201 on or after January 1,
17 2012, shall be no earlier than January 1, 2012.

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

21 SEC. 21. Section 24209 of the Education Code is amended to
22 read:

23 24209. (a) Upon retirement for service following reinstatement,
24 the member shall receive a service retirement allowance equal to
25 the sum of both of the following:

26 (1) An amount equal to the monthly allowance the member was
27 eligible to receive immediately preceding the most recent
28 reinstatement, exclusive of any amounts payable pursuant to
29 Section 22714 or 22715, increased by the improvement factor that
30 would have been applied to the allowance if the member had not
31 reinstated.

32 (2) An amount calculated pursuant to Section 24202, 24202.5,
33 24202.6, 24203, 24203.5, or 24206 based on credited service
34 accrued, including any service granted pursuant to Section 22717
35 or 22717.5, subsequent to the most recent reinstatement, the
36 member's age on the last day of the month in which the retirement
37 allowance begins to accrue, and final compensation.

38 (b) If the total amount of credited service accrued, other than
39 that accrued pursuant to Sections 22714, 22715, 22717, 22717.5,
40 and 22826, *except as provided in subdivision (c) of Section 22121,*

1 is equal to or greater than 30 years, the amounts identified in
2 paragraphs (1), for members who initially retired on or after
3 January 1, 1999, and (2) of subdivision (a) shall be calculated
4 pursuant to Section 24203.5.

5 (c) If the total amount of credited service accrued, other than
6 that accrued pursuant to Sections 22714, 22715, 22717, 22717.5,
7 and 22826, *except as provided in subdivision (c) of Section 22121*,
8 is equal to or greater than 30 years, upon retirement for service
9 following reinstatement, a member who retired pursuant to Section
10 24213, and received the terminated disability allowance for the
11 prior retirement, shall receive a service retirement allowance equal
12 to the sum of the following:

13 (1) An amount based on the credited service accrued, including
14 any service granted pursuant to Section 22717 or 22717.5, prior
15 to the effective date of the disability allowance, the member's age
16 at the prior retirement increased by the factor provided in Section
17 24203.5, and projected final compensation.

18 (2) An amount calculated pursuant to Section 24202, 24202.5,
19 24202.6, 24203.5, or 24206 based on credited service accrued,
20 including any service granted pursuant to Section 22717 or
21 22717.5, subsequent to the reinstatement, the member's age on
22 the last day of the month in which the retirement allowance begins
23 to accrue, and final compensation using compensation earnable,
24 or projected final compensation, or a combination of both.

25 (d) For purposes of this section, final compensation shall not
26 be based on a determination of compensation earnable as described
27 in subdivision (e) of Section 22115.

28 SEC. 22. Section 24209.3 of the Education Code is amended
29 to read:

30 24209.3. (a) Notwithstanding subdivision (a) of Section 24209,
31 and exclusive of any amounts payable during the prior retirement
32 for service pursuant to Section 22714, or 22715:

33 (1) A member who retired, other than pursuant to Section 24210,
34 24211, 24212, or 24213, and who reinstates and performs creditable
35 service, as defined in Section 22119.5, after the most recent
36 reinstatement, in an amount equal to two or more years of credited
37 service, shall, upon retirement for service on or after the effective
38 date of this section, receive a service retirement allowance equal
39 to the sum of the following:

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

7 (B) An amount calculated pursuant to this chapter based on
8 credited service accrued, including any service granted pursuant
9 to Section 22717 or 22717.5, subsequent to the most recent
10 reinstatement, using the member's age on the last day of the month
11 in which the retirement allowance begins to accrue, and final
12 compensation.

13 (2) A member who retired pursuant to Section 24210 and who
14 reinstates and performs creditable service, as defined in Section
15 22119.5, after the most recent reinstatement, in an amount equal
16 to two or more years of credited service, shall, upon retirement for
17 service on or after the effective date of this section, receive a
18 service retirement allowance equal to the sum of the following:

19 (A) 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, prior to the effective date of the
22 disability retirement, using the member's age at the subsequent
23 service retirement, from which age shall be deducted the total time
24 during which the member was retired for service, and indexed final
25 compensation to the effective date of the initial service retirement.

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

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

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

7 (A) The greater of (i) the disability allowance the member was
8 eligible to receive immediately prior to termination of that
9 allowance, excluding the children's portion, or (ii) an amount
10 calculated pursuant to this chapter based on credited service
11 accrued prior to the effective date of the disability allowance,
12 excluding credited service accrued or granted pursuant to Section
13 22717 or 22717.5 or Chapter 14 (commencing with Section 22800)
14 or Chapter 14.2 (commencing with Section 22820) or Chapter 19
15 (commencing with Section 23200), using the member's age at the
16 subsequent service retirement, from which age shall be deducted
17 the total time during which the member was retired for service,
18 and final compensation using compensation earnable, or projected
19 final compensation earnable, or a combination of both.

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

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

34 (ii) For a member who was receiving a benefit pursuant to
35 subdivision (b) of Section 24211, an amount calculated pursuant
36 to this chapter based on projected service at the time of the
37 retirement pursuant to Section 24211, excluding credited service
38 accrued or granted prior to the effective date of the disability
39 allowance or pursuant to Section 22717 or 22717.5 or Chapter 14
40 (commencing with Section 22800) or Chapter 14.2 (commencing

1 with Section 22820) or Chapter 19 (commencing with Section
2 23200), the member's age at the subsequent service retirement,
3 from which age shall be deducted the total time during which the
4 member was retired for service, and final compensation using
5 compensation earnable, or projected final compensation, or a
6 combination of both.

7 (C) An amount based on any credited service accrued or granted
8 pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing
9 with Section 22800) or Chapter 14.2 (commencing with Section
10 22820) or Chapter 19 (commencing with Section 23200), at the
11 time of the retirement pursuant to Section 24211, using the
12 member's age at the subsequent service retirement, from which
13 age shall be deducted the total time during which the member was
14 retired for service, and final compensation using compensation
15 earnable, or projected final compensation, or a combination of
16 both.

17 (D) An amount calculated pursuant to this chapter based on
18 credited service accrued subsequent to the most recent
19 reinstatement, including credited service accrued or granted
20 pursuant to Section 22714, 22715, 22717, or 22717.5 or Chapter
21 14 (commencing with Section 22800) or Chapter 14.2
22 (commencing with Section 22820) or Chapter 19 (commencing
23 with Section 23200), using the member's age on the last day of
24 the month in which the retirement allowance begins to accrue, and
25 final compensation using compensation earnable, or projected final
26 compensation, or a combination of both.

27 (4) A member who retired pursuant to Section 24212 or 24213
28 and who reinstates and performs creditable service, as defined in
29 Section 22119.5, after the most recent reinstatement, in an amount
30 equal to two or more years of credited service, shall, upon
31 retirement for service on or after the effective date of this section,
32 receive a service retirement allowance equal to the sum of the
33 following:

34 (A) An amount calculated pursuant to this chapter based on the
35 member's projected service at the time of the retirement pursuant
36 to Section 24212 or 24213, including credited service accrued or
37 granted pursuant to Section 22717 or 22717.5 or Chapter 14
38 (commencing with Section 22800) or Chapter 14.2 (commencing
39 with Section 22820) or Chapter 19 (commencing with Section
40 23200), using the member's age at the subsequent service

1 retirement, from which age shall be deducted the total time during
2 which the member was retired for service, and final compensation
3 using compensation earnable, or projected final compensation, or
4 a combination of both.

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

15 (b) If the total amount of credited service, other than projected
16 service, or service that accrued or was granted pursuant to Sections
17 22714, 22715, 22717, 22717.5, and 22826, *except as provided in*
18 *subdivision (c) of Section 22121*, is equal to or greater than the
19 number of years required to be eligible for an increased allowance
20 pursuant to this chapter or Section 22134.5, the amounts identified
21 in this section shall be calculated pursuant to the section authorizing
22 the increased benefit.

23 (c) For members receiving an allowance pursuant to Section
24 24410.5 or 24410.6, the amount payable pursuant to this section
25 shall not be less than the amount payable to the member as of the
26 effective date of reinstatement.

27 (d) The amount payable pursuant to this section shall not be
28 less than the amount that would be payable to the member pursuant
29 to Section 24209.

30 (e) For purposes of determining an allowance increase pursuant
31 to Sections 24415 and 24417, the calendar year of retirement shall
32 be the year of the subsequent retirement if the final compensation
33 used to calculate the allowance pursuant to this section is higher
34 than the final compensation used to calculate the allowance for
35 the prior retirement.

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

1 (g) For purposes of this section, final compensation shall not
2 be based on a determination of compensation earnable as described
3 in subdivision (e) of Section 22115.

4 SEC. 23. Section 24211 of the Education Code is amended to
5 read:

6 24211. When a member who has been granted a disability
7 allowance under this part after June 30, 1972, returns to
8 employment subject to coverage under the Defined Benefit
9 Program and performs:

10 (a) Less than three years of creditable service after termination
11 of the most recent disability allowance, the member shall receive
12 a retirement allowance which is the sum of the allowance calculated
13 on credited service accrued after the termination date of the
14 disability allowance, excluding credited service accrued or granted
15 pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing
16 with Section 22800) or Chapter 14.2 (commencing with Section
17 22820) or Chapter 19 (commencing with Section 23200), the age
18 of the member on the last day of the month in which the retirement
19 allowance begins to accrue, and final compensation using
20 compensation earnable or projected final compensation, or a
21 combination of both, plus the greater of either of the following:

22 (1) A service retirement allowance calculated on credited service
23 accrued as of the effective date of the disability allowance,
24 excluding credited service accrued or granted pursuant to Section
25 22717 or 22717.5 or Chapter 14 (commencing with Section 22800)
26 or Chapter 14.2 (commencing with Section 22820) or Chapter 19
27 (commencing with Section 23200), the member's age on the last
28 day of the month in which the retirement allowance begins to
29 accrue, and projected final compensation to the termination date
30 of the disability allowance.

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

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

37 (1) A service retirement allowance calculated on all actual and
38 projected service, excluding credited service accrued or granted
39 pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing
40 with Section 22800) or Chapter 14.2 (commencing with Section

1 22820) or Chapter 19 (commencing with Section 23200), the
2 member's age on the last day of the month in which the retirement
3 allowance begins to accrue, and final compensation using
4 compensation earnable, or projected final compensation, or a
5 combination of both.

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

9 (c) The allowance shall be increased by an amount based on
10 any credited service accrued or granted pursuant to Section 22714,
11 22715, 22717, or 22717.5 or Chapter 14 (commencing with Section
12 22800) or Chapter 14.2 (commencing with Section 22820) or
13 Chapter 19 (commencing with Section 23200), the member's age
14 on the last day of the month in which the retirement allowance
15 begins to accrue, and final compensation using compensation
16 earnable, or projected final compensation, or a combination of
17 both.

18 (d) If the total amount of credited service, other than projected
19 service or credited service that accrued or was granted pursuant
20 to Sections 22714, 22715, 22717, 22717.5, and 22826, *except as*
21 *provided in subdivision (c) of Section 22121*, is equal to or greater
22 than 30 years, the amounts identified in subdivisions (a) to (c),
23 inclusive, shall be calculated pursuant to Sections 24203.5 and
24 24203.6.

25 (e) For purposes of this section, final compensation shall not
26 be based on a determination of compensation earnable as described
27 in subdivision (e) of Section 22115.

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

31 SEC. 24. Section 24212 of the Education Code is amended to
32 read:

33 24212. (a) If a disability allowance granted under this part
34 after June 30, 1972, is terminated for reasons other than those
35 specified in Section 24213 and the member does not return to
36 employment subject to coverage under the Defined Benefit
37 Program, the member's service retirement allowance, when
38 payable, shall be based on projected service, excluding credited
39 service accrued or granted pursuant to Section 22717 or 22717.5
40 or Chapter 14 (commencing with Section 22800) or Chapter 14.2

1 (commencing with Section 22820), or Chapter 19 (commencing
2 with Section 23200), projected final compensation, and the
3 member's age on the last day of the month in which the retirement
4 allowance begins to accrue. The allowance payable under this
5 section, excluding annuities payable from accumulated annuity
6 deposit contributions, shall not be greater than the disability
7 allowance the member was eligible to receive immediately prior
8 to the earlier of the termination of that allowance or at normal
9 retirement age, excluding children's portions.

10 (b) The allowance shall be increased by an amount based on
11 any credited service accrued or granted pursuant to Section 22717
12 or 22717.5 or Chapter 14 (commencing with Section 22800) or
13 Chapter 14.2 (commencing with Section 22820) or Chapter 19
14 (commencing with Section 23200), the member's age on the last
15 day of the month in which the retirement allowance begins to
16 accrue, and final compensation using compensation earnable, or
17 projected final compensation, or a combination of both.

18 (c) If the total amount of credited service, other than projected
19 service or credited service that accrued or was granted pursuant
20 to Sections 22717, 22717.5, and 22826, *except as provided in*
21 *subdivision (c) of Section 22121*, is equal to or greater than 30
22 years, the amounts identified in subdivisions (a) and (b) shall be
23 calculated pursuant to Sections 24203.5 and 24203.6.

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

27 SEC. 25. Section 24213 of the Education Code is amended to
28 read:

29 24213. (a) When a member who has been granted a disability
30 allowance under this part after June 30, 1972, attains normal
31 retirement age, or at a later date when there is no dependent child,
32 the disability allowance shall be terminated and the member shall
33 be eligible for service retirement. The retirement allowance shall
34 be calculated on the projected final compensation and projected
35 service to normal retirement age, excluding credited service accrued
36 or granted pursuant to Section 22717 or 22717.5 or Chapter 14
37 (commencing with Section 22800) or Chapter 14.2 (commencing
38 with Section 22820) or Chapter 19 (commencing with Section
39 23200), and the member's age on the last day of the month in
40 which the retirement allowance begins to accrue. The allowance

1 payable under this section, excluding annuities payable from
2 accumulated annuity deposit contributions, shall not be greater
3 than the disability allowance the member was eligible to receive
4 immediately prior to normal retirement age, excluding children's
5 portions.

6 (b) The allowance shall be increased by an amount based on
7 any credited service accrued or granted pursuant to Section 22717
8 or 22717.5 or Chapter 14 (commencing with Section 22800) or
9 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 normal retirement age.

13 (c) If the total amount of credited service accrued, other than
14 projected service or credited service that accrued or was granted
15 pursuant to Sections 22717, 22717.5, and 22826, *except as*
16 *provided in subdivision (c) of Section 22121*, is equal to or greater
17 than 30 years, the amounts identified in subdivisions (a) and (b)
18 shall be calculated pursuant to Sections 24203.5 and 24203.6.

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

22 SEC. 26. Section 24322 of the Education Code is amended to
23 read:

24 24322. (a) An option elected under Section 24300, 24300.1,
25 or 24307 may be canceled by a retired member if the option
26 beneficiary is the retired member's spouse or former spouse and
27 a final decree of dissolution of marriage or a judgment of nullity
28 has been entered or an order of separate maintenance has been
29 made on or after January 1, 1978, by a court of competent
30 jurisdiction. A retired member may cancel the option before or
31 after issuance of the first retirement allowance payment.

32 (b) The retired member shall notify the ~~board~~ *board*, in writing
33 *on a properly executed form provided by the system* of cancellation
34 of the option. Notification shall not be earlier than the effective
35 date of the decree, judgment, or order and shall include a certified
36 copy of the final decree of dissolution, or judgment of nullity, or
37 an order of separate maintenance, and any property settlement
38 agreement.

39 (c) Upon notification to the board, the retired member may elect:

40 (1) to receive the unmodified retirement allowance from the date

1 of receipt of the notification; or (2) a new joint and survivor option
2 under Section 24300.1 and may designate one or multiple new
3 option beneficiaries. Modification of the retirement allowance
4 because of the newly elected option or newly designated
5 beneficiary or beneficiaries shall be based on the ages of the retired
6 member and the new option beneficiary or beneficiaries as of the
7 effective date of the new option. The election of a new joint and
8 survivor option or the designation of a new option beneficiary or
9 beneficiaries shall be consistent with the final decree of dissolution,
10 judgment of nullity, order of separate maintenance, or property
11 settlement agreement, and shall not result in any additional liability
12 to the Teachers' Retirement Fund. The effective date of the change
13 shall be the date notification is received by the board.

14 SEC. 27. Section 24410 of the Education Code is amended to
15 read:

16 24410. (a) If projected final compensation is used to calculate
17 the service retirement allowance following the termination of the
18 disability allowance or if the disability allowance is continued as
19 the lesser of the two allowance calculations under Section 24212
20 or 24213, then the original disability allowance effective date shall
21 be retained as the base date for purposes of determining
22 postretirement benefit increases.

23 (b) If the disability allowance effective date is used pursuant to
24 subdivision (a), then ~~the original disability allowance the member~~
25 ~~was eligible to receive on that date shall be used for the purpose~~
26 ~~of determining postretirement benefit increases. This subdivision~~
27 ~~shall not apply to an action filed in superior court before January~~
28 ~~1, 2014. for purposes of determining supplemental benefits~~
29 ~~pursuant to Sections 24412 and 24415, the base allowance shall~~
30 ~~be determined as follows:~~

31 (1) *If the disability allowance is continued pursuant to Section*
32 *24212 or 24213, the base allowance shall be equal to the disability*
33 *allowance prior to all allowance increases made pursuant to this*
34 *part.*

35 (2) *If the disability allowance is not continued pursuant to*
36 *Section 24212 or 24213, the base allowance shall be based on the*
37 *factors used to calculate the service retirement allowance, except*
38 *that projected final compensation shall be replaced with the final*
39 *compensation upon which the disability allowance was based using*
40 *compensation earnable without the adjustment pursuant to*

1 *subdivision (f) of Section 22134 and subdivision (e) of Section*
2 *22134.5.*

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

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

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

10 SEC. 28. Section 24606 of the Education Code is amended to
11 read:

12 24606. (a) If any ~~warrant drawn in~~ payment of contributions
13 or accumulated contributions or benefits under this plan remains
14 unclaimed ~~or~~ *and, after a good faith effort*, the legal claimant
15 cannot be found, the board shall redeposit the proceeds ~~of the~~
16 ~~warrant~~ in the retirement fund, and shall hold the proceeds for the
17 legal claimant without further accumulation of interest. The
18 redeposit does not operate to establish the membership of the
19 claimant in this plan.

20 (b) Subdivision (a) applies to warrants drawn and canceled by
21 the Controller ~~pursuant to Section 17070 of the Government Code,~~
22 ~~except that, upon~~ *and payments rejected via electronic funds*
23 *transfer. Upon notice of cancellation, cancellation or rejection,*
24 the proceeds revert to and become a part of the retirement fund,
25 and shall be applied to meet the liabilities of the retirement fund.

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

30 SEC. 29. Section 25001 of the Education Code is amended to
31 read:

32 25001. (a) The board shall establish a segregated account
33 within the retirement fund to be known as the Gain and Loss
34 Reserve, and the board shall have sole authority over the reserve.
35 The Gain and Loss Reserve shall be maintained for the Defined
36 Benefit Supplement Program and may be used to credit interest at
37 the minimum interest rate for plan years in which the board
38 determines that the obligation cannot be met from investment
39 earnings. The Gain and Loss Reserve may also be used to provide

1 additions to the Annuitant Reserve for monthly annuities payable
2 under the Defined Benefit Supplement Program.

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

6 (c) The board may allocate excess earnings of the plan with
7 respect to assets attributable to the Defined Benefit Supplement
8 Program to the Gain and Loss Reserve. In addition, the board may
9 allocate any liability gains and losses attributable to the Defined
10 Benefit Supplement Program to the Gain and Loss Reserve. Upon
11 the recommendation of the actuary, the board shall determine
12 annually the amount, if any, that is to be allocated to the Gain and
13 Loss Reserve for that plan year. That determination shall be made
14 upon recommendation of the actuary ~~after adoption of~~ *based on*
15 the actuarial valuation undertaken following the plan year pursuant
16 to Section 22311.5, but no later than June 30 following the end of
17 the plan year. In determining whether to allocate excess earnings
18 to the Gain and Loss Reserve, the board shall consider all of the
19 following:

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

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

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

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

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

31 SEC. 30. Section 25006 of the Education Code is amended to
32 read:

33 25006. (a) The board may declare an additional earnings credit
34 to be applied to Defined Benefit Supplement accounts for a plan
35 year. Prior to declaring an additional earnings credit, the board
36 shall consider all of the following:

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

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

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

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

8 (b) For any plan year that the board declares an additional
9 earnings credit, the board shall specify the amount to be added to
10 members' accounts as a percentage increase. The additional
11 earnings credit shall be applied to the balance of credits in each
12 member's nominal account as of the last day of the plan year and
13 shall be applied as of the date specified by the board. The additional
14 earnings credit shall not be added to the balance of credits
15 transferred from a member's Defined Benefit Supplement account
16 to the Annuitant Reserve.

17 (c) The declaration of an additional earnings credit shall be
18 made as a plan amendment adopted by the board with respect to
19 the Defined Benefit Supplement Program upon recommendation
20 of the actuary ~~after adoption of~~ *based on* the actuarial valuation
21 undertaken following the plan year pursuant to Section 22311.5,
22 but no later than June 30 following the end of the plan year.

23 SEC. 31. Section 26202 of the Education Code is amended to
24 read:

25 26202. (a) The board shall establish a Gain and Loss Reserve
26 within the Teachers' Retirement Fund for the Cash Balance Benefit
27 Program. The board has sole authority to administer the Gain and
28 Loss Reserve to be drawn upon to the extent necessary to credit
29 interest to employee accounts and employer accounts at the
30 minimum interest rate during years in which the investment
31 earnings of the plan with respect to the Cash Balance Benefit
32 Program are not sufficient for that purpose, and, where necessary,
33 to provide additions to the Annuitant Reserve for monthly annuity
34 payments.

35 (b) The board shall establish and periodically review goals
36 regarding the sufficiency of the Gain and Loss Reserve based on
37 the recommendation of the actuary.

38 (c) In the event that the total amount of investment earnings of
39 the plan with respect to the Cash Balance Benefit Program for any
40 plan year exceeds the sum of the total amount required to credit

1 all employee and employer accounts at the minimum interest rate
2 for the plan year plus the administrative costs of the plan with
3 respect to the Cash Balance Benefit Program for the plan year, the
4 board shall determine the amount, if any, that is to be credited to
5 the Gain and Loss Reserve for the plan year. That determination
6 shall be made upon recommendation of the actuary ~~following the~~
7 ~~adoption by the board of~~ *based on* the actuarial valuation
8 undertaken following the plan year pursuant to Section ~~26202,~~
9 ~~26211~~ but no later than June 30 following the end of the plan year.
10 In determining whether an amount is to be credited to the Gain
11 and Loss Reserve, the board shall consider the sufficiency of the
12 reserve in light of the goal established for the sufficiency and the
13 recommendations of the actuary.

14 SEC. 32. Section 26808 of the Education Code is amended to
15 read:

16 26808. (a) The annuity elected under this chapter shall be
17 determined as a value actuarially equivalent to the sum of the
18 employee account and the employer account as of the retirement
19 date. The annuity shall be calculated using the age of the participant
20 and, if the participant elected a joint and survivor option, the age
21 of the beneficiary on the retirement date.

22 (b) In the case of a participant who previously received an
23 annuity that was terminated pursuant to Section ~~26505 or~~ 26810,
24 the portion of the annuity derived from the amounts credited to
25 the employee account and employer account as of the date of
26 reemployment shall be calculated using the actuarial assumptions
27 in effect on the previous retirement date using the age of the
28 participant and, if the participant elected a joint and survivor option,
29 the age of the beneficiary on the current retirement date.

30 SEC. 33. Section 26810 of the Education Code is amended to
31 read:

32 26810. (a) A participant who is employed to perform creditable
33 service subject to coverage by the Cash Balance Benefit Program
34 while receiving an annuity under the program may ~~voluntarily~~
35 terminate the annuity upon ~~employment~~ *written request to the*
36 *system* and make contributions to the program based on salary paid
37 by the employer for the employment, ~~provided the participant has~~
38 ~~attained normal retirement age and has been receiving a retirement~~
39 ~~annuity for at least one year. The participant shall continue to be~~
40 ~~subject to Section 26808.~~ *subject to the following conditions:*

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

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

6 ~~(b) The participant shall request in writing within 60 days of~~
7 ~~employment that the annuity be terminated. Termination of the~~
8 ~~participant's annuity shall become effective on the first day of the~~
9 ~~month following the month in which verification of the~~
10 ~~participant's employment is received by the system from the~~
11 ~~participant's employer.~~

12 ~~(e)~~

13 (b) Upon ~~voluntary~~ termination of the annuity, the employee
14 and employer account of the participant shall be credited with
15 respective balances that reflect the actuarial equivalent of the
16 participant's retirement benefit as of the date the participant
17 terminates the annuity and the Annuitant Reserve shall be reduced
18 by the amount of the credits.

19 ~~(d)~~

20 (c) The portion of the annuity derived from the amounts credited
21 to the employee account and employer account, as of the date the
22 participant terminates the annuity, shall be calculated using the
23 actuarial assumptions in effect on the initial retirement date using
24 the age of the participant and, if the participant elected a joint and
25 survivor ~~option option~~, the age of the beneficiary on the current
26 retirement date.

27 ~~(e)~~

28 (d) Upon election of a subsequent annuity, the credits in the
29 participant's employee account and employer account shall be
30 transferred to the Annuitant Reserve.

31 SEC. 34. Section 28000 of the Education Code is amended to
32 read:

33 28000. (a) The Legislature hereby finds and declares its intent
34 to preserve and protect the rights of reemployed participants who
35 have been absent from a position of employment covered by the
36 Cash Balance Benefit Program to serve in the uniformed services
37 of the United States of America in accordance with the Uniformed
38 Services Employment and Reemployment Rights Act of 1994
39 (Chapter 43 (commencing with Section 4301) of Title 38 of the
40 United States Code).

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

4 (c) The term “service in the uniformed ~~services~~” *services,*” for
5 *purposes of determining plan vesting, eligibility for membership,*
6 *and accrual of benefits,* means the performance of duty on a
7 voluntary or involuntary basis in a uniformed service under
8 competent authority and includes active duty, active duty for
9 training, initial active duty for training, inactive duty training, ~~and~~
10 a period for which a participant is absent from a position of
11 employment for the purpose of an examination to determine the
12 fitness of the participant to perform any such ~~duty.~~ *duty, and the*
13 *period of time following the actual service in the uniformed service*
14 *through the last day a member is eligible to report back to work*
15 *or to apply for reemployment as specified under Section 1002.259*
16 *of Title 20 of the Code of Federal Regulations.*

17 (d) The term “uniformed services” means the Armed Forces of
18 the United States of America, the Army National Guard and the
19 Air National Guard when engaged in active duty for training,
20 inactive duty training, or full-time National Guard duty, the
21 commissioned corps of the Public Health Service, and any other
22 category of persons designated by the President in time of war or
23 emergency.

24 (e) No entitlement of the right to contribute toward credits under
25 the Cash Balance Benefit Program pursuant to this chapter by the
26 participant as a result of service in the uniformed services shall
27 accrue if the participant does not return to employment with the
28 same employer or employers which employed the participant
29 immediately prior to the eligible period of service in the uniformed
30 services as prescribed in Chapter 43 (commencing with Section
31 4301) of Title 38 of the United States Code.

32 SEC. 35. Section 28001 of the Education Code is amended to
33 read:

34 28001. (a) The participant who returns to employment with
35 the same employer which had employed the participant
36 immediately prior to the eligible period of service in the uniformed
37 services, in accordance with the requirements of Chapter 43
38 (commencing with Section 4301) of Title 38 of the United States
39 Code, shall be treated as not having incurred a break in the
40 performance of creditable service by reason of that participant’s

1 period or periods of service in the uniformed services. The length
2 of each period of service in the uniformed services shall not exceed
3 five years unless otherwise permitted pursuant to Section 28004.
4 Each period of service in the uniformed services by the participant
5 shall, upon that participant's return to employment with the same
6 employer or employers which had employed the participant
7 immediately prior to the eligible period of service in the uniformed
8 services, constitute employment toward the performance of
9 creditable service provided that participant elects to remit the
10 employee contributions that would have been made during the
11 period of service in the uniformed services. The remittance of
12 employee contributions shall be calculated pursuant to Sections
13 26501 and 28003. In no event shall that remittance exceed the
14 amount the participant would have been required to contribute
15 during that period of performance of creditable service had the
16 participant remained continuously employed by the last employer
17 and not served in the uniformed services throughout that period.

18 (b) Notwithstanding Section 26506, remittance of employee
19 contributions in accordance with subdivision (a) shall be made by
20 the employer pursuant to Section 26502 upon the employer's
21 receipt of written consent of the participant specifying a schedule
22 of repayments. That remittance shall commence during the period
23 beginning with the date of return to employment and may continue
24 for three times the period of the participant's eligible period of
25 service in the uniformed services, not to exceed five years. The
26 plan's receipt of the remittance payments to the plan with respect
27 to the Cash Balance Benefit Program shall be credited pursuant to
28 Chapter 7 of this part. ~~Interest on the payments of remitted~~
29 ~~employee contributions made for the period of service in the~~
30 ~~uniformed services shall not be credited in the participant's account~~
31 ~~until after such payments are received and only prospectively to~~
32 ~~the participant's account in accordance with Section 26604.~~
33 *Contributions, interest, and additional earnings credits the*
34 *participant would have earned had the participant remained*
35 *continuously employed during the period of eligible service in the*
36 *uniformed services shall be credited to employee and employer*
37 *accounts retroactively upon receipt of the employee contributions.*
38 Upon receipt of the remittance payments to the plan, the payments
39 shall be subject to the same terms and conditions under the program
40 as if the payments had been employee contributions made by the

1 participant had the participant not served for a period in the
2 uniformed services. In no event shall the current year contributions
3 and contributions made for purposes of purchasing service exceed
4 the maximum exclusion allowance as set forth in the Internal
5 Revenue Code.

6 SEC. 36. Section 28002 of the Education Code is amended to
7 read:

8 28002. (a) Except as provided in subdivision (b), an employer
9 reemploying a participant with service subject to the requirements
10 of Chapter 43 (commencing with Section 4301) of Title 38 of the
11 United States Code, shall be liable to remit the employer
12 contributions provided that employer employed the participant
13 immediately prior to the eligible period of service in the uniformed
14 services. ~~That remittance shall exclude interest and the~~ *The*
15 contribution rate by the employer shall be to the same extent as
16 that for contributions to the Cash Balance Benefit Program for
17 other employees during the same period. *In addition to*
18 *contributions due pursuant to this subdivision, the employer shall*
19 *remit an amount that is the equivalent of the full cost of any interest*
20 *and additional earnings credits credited pursuant to Section 28001.*
21 ~~The employer shall, within 30 days of the date of reemployment,~~
22 ~~provide information as required by the board, on a form provided~~
23 ~~by the system, notifying the system of reemployment.~~ *shall provide*
24 *information regarding the reemployment of a participant who is*
25 *subject to Chapter 43 (commencing with Section 4301) of Title 38*
26 *of the United States Code on a form prescribed by the system within*
27 *30 days of the date of reemployment.* Following receipt of that
28 notice, the system shall calculate in accordance with Section 28003
29 the total amount of employer contributions due for the participant
30 for the full period of service in the uniformed services. Within 60
31 working days of notification by the plan of amount due, the
32 employer shall remit to the plan all employer contributions.

33 (b) The employer shall not be liable for employer contributions
34 for the period of service in the uniformed services if the participant
35 elects not to remit the employee contributions for that period
36 through the employer as required under Section 28001. In the event
37 the participant does not remit all of the employee contributions
38 within the prescribed repayment period, the total amount of the
39 employer contributions ~~shall remain with the plan and credited to~~
40 ~~the participant's employer account with respect to the Cash Balance~~

- 1 ~~Benefit Program.~~ *that were remitted for that period shall be*
- 2 *adjusted pursuant to Section 26302.*

O