

AMENDED IN ASSEMBLY MAY 26, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2700

Introduced by Assembly Member Lempert
(Principal coauthor: Assembly Member Knox)
(Coauthor: Assembly Member Thompson)

February 25, 2000

~~An act to amend Section 22119.2 of, and to add Chapter 36.5 (commencing with Section 24960) to Part 13 of, the Education Code, to amend Sections 22008, 22102, 22105, 22107, 22108, 22115, 22132, 22140, 22161.5, 22170, 22304, 22309, 22453, 22651, 22652, 22655, 22656, 22658, 22659, 22660, 22661, 22662, 22664, 22665, 22703, 22706, 23100, 24202.5, 24206, 24400, 24402, 24411, 24412, 24415, 24417, and 24600 of, to amend and renumber Sections 25000, 25100, 25110, 25115, 25120, and 25125 of, to amend, repeal, and add Sections 22119.2 and 22905 to, to add Sections 22102.5, 22104.7, 22104.9, 22105.5, 22127.2, 22133.5, 22139.5, 22146.7, 22156.05, 22166.5, 22176, 22302, 22311.5, 22311.7, 22955.5, 24300.5, and 24305.3 to, to add Chapter 38 (commencing with Section 25000) to Part 13 of Division 1 of Title 1 of, to repeal Section 26402 of, and to repeal and add Sections 22158, 22162, 22311, 22460, 22906, 23300, and 23881 to, the Education Code, relating to retirement, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2700, as amended, Lempert. State teachers' retirement: *Defined Benefit Supplement Program.*

Existing law defines creditable compensation for purposes of the Defined Benefit Program established by the State Teachers' Retirement Law. That definition excludes money paid for service performed in excess of the full-time equivalent for the position and money paid for overtime or summer school service and aggregate service performed as a member in excess of one year of service credit for any one school year.

~~This bill would direct the Teachers' Retirement Board to develop and administer the California State Teachers' Retirement System Additional Compensation Allowance Program, a supplemental benefits program, for members of the Defined Benefit Program. This bill would create a special fund known as the California State Teachers' Retirement System Additional Compensation Allowance Program Fund, a continuously appropriated fund, in which each member of the Defined Benefit Program would have an individual account to which, on January 1, 2003, and annually thereafter, each member would be credited an amount equal to 16% of the members' compensation for creditable service during the prior school year.~~

~~The bill would also revise and recast the definition of creditable compensation. The bill would delete the provisions described above that specifically exclude money paid for service in excess of the full-time equivalent for a position, for overtime and summer school service, and for aggregate service in excess of one year of service credit for any one school year. The bill would also specifically exclude from that definition compensation that is not payable in cash.~~

This bill would establish the Defined Benefit Supplement Program, as specified, for members of the Defined Benefit Program, pursuant to which members and employers would commencing on July 1, 2002, make specified contributions to the Teachers' Retirement Fund based on the member's overtime, extra-curricular, and other service, as specified, thereby making an appropriation, and members would receive retirement, disability, final, or termination benefits, payable in a lump-sum or annuity, as specified. The bill would make related technical and conforming changes.



Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

1 ~~SECTION 1.—Section 22119.2 of the Education Code is~~
2 *SECTION 1. Section 22008 of the Education Code is*
3 *amended to read:*
4 22008. For the purposes of payments into or out of the
5 retirement fund for adjustments of errors or omissions
6 with respect to the Defined Benefit Program *or the*
7 *Defined Benefit Supplement Program*, the period of
8 limitation of actions shall be applied, except as provided
9 in Sections 23302 and 24613, as follows:
10 (a) No action may be commenced by or against the
11 board, the system, or the plan more than three years after
12 all obligations to or on behalf of the member, former
13 member, or beneficiary have been discharged.
14 (b) If the system makes an error that results in
15 incorrect payment to a member, former member, or
16 beneficiary, the system’s right to commence recovery
17 shall expire three years from the date the incorrect
18 payment was made.
19 (c) If an incorrect payment is made due to lack of
20 information or inaccurate information regarding the
21 eligibility of a member, former member, or beneficiary to
22 receive benefits under the plan, the period of limitation
23 shall commence with the discovery of the incorrect
24 payment.
25 (d) Notwithstanding any other provision of this
26 section, if an incorrect payment has been made on the
27 basis of fraud or intentional misrepresentation by a
28 member, beneficiary, or other party in relation to or on
29 behalf of a member or beneficiary, the three-year period
30 of limitation shall not be deemed to commence or to have
31 commenced until the system discovers the incorrect
32 payment.
33 (e) The collection of overpayments under
34 subdivisions (b), (c), and (d) shall be made pursuant to
35 Section 24617.



1 SEC. 2. Section 22102 of the Education Code is
2 amended to read:

3 22102. “Accumulated retirement contributions”
4 means the sum of ~~all the~~ member contributions ~~and all,~~
5 ~~the~~ member contributions ~~paid~~ picked up by ~~the~~ an
6 employer pursuant to Sections 22903 and 22904 ~~with,~~ and
7 credited interest ~~and does~~ on those contributions.
8 Accumulated retirement contributions shall not include
9 accumulated annuity deposit contributions ~~and,~~
10 accumulated tax-sheltered annuity contributions,
11 accumulated Defined Benefit Supplement contributions,
12 or additional earnings credit.

13 SEC. 3. Section 22102.5 is added to the Education
14 Code, to read:

15 22102.5. “Accumulated Defined Benefit Supplement
16 contributions” means the sum of member contributions,
17 the member contributions picked up by an employer,
18 employer contributions, and interest credited on those
19 contributions pursuant to Section 25008, that are credited
20 by the system to the member’s Defined Benefit
21 Supplement account.

22 SEC. 4. Section 22104.7 is added to the Education
23 Code, to read:

24 22104.7. “Additional earnings credit” means an
25 amount derived from investment income for the plan
26 year as determined by the board and added to members’
27 Defined Benefit Supplement accounts in addition to the
28 amount credited at the minimum interest rate for that
29 plan year.

30 SEC. 5. Section 22104.9 is added to the Education
31 Code, to read:

32 22104.9. “Annuitant Reserve” means a segregated
33 account within the retirement fund established and
34 maintained for expenditure on annuities payable under
35 the Defined Benefit Supplement Program.

36 SEC. 6. Section 22105 of the Education Code is
37 amended to read:

38 22105. ~~“Annuity”~~(a) “Annuity,” with respect to the
39 Defined Benefit Program, means payments for life



1 derived from the “accumulated annuity deposit
2 contributions” of a member.

3 (b) “Annuity,” with respect to the Defined Benefit
4 Supplement Program, means an alternative payment
5 arrangement wherein a benefit based on the balance in
6 a member’s Defined Benefit Supplement account is paid
7 monthly rather than in a lump-sum.

8 SEC. 7. Section 22105.5 is added to the Education
9 Code, to read:

10 22105.5. “Annuity beneficiary” means the person or
11 persons designated by a member pursuant to Section
12 25011 or 25018 to receive an annuity under the Defined
13 Benefit Supplement Program upon the member’s death.

14 SEC. 8. Section 22107 of the Education Code is
15 amended to read:

16 22107. ~~“Beneficiary”~~ (a) “Beneficiary,” with respect
17 to the Defined Benefit Program, means any person or
18 entity receiving or entitled to receive an allowance ~~and~~
19 ~~or lump-sum payment pursuant to this part~~ under the
20 Defined Benefit Program because of the disability or
21 death of a member.

22 (b) “Beneficiary,” with respect to the Defined Benefit
23 Supplement Program, means any person or entity
24 receiving or entitled to receive a final benefit under the
25 Defined Benefit Supplement Program upon the death of
26 a member.

27 SEC. 9. Section 22108 of the Education Code is
28 amended to read:

29 22108. (a) “Benefit” or ~~“benefits”~~ “benefits,” with
30 respect to the Defined Benefit Program, means any
31 monthly payment due a retired member, disabled
32 member, or beneficiary, and includes lump-sum
33 payments due on account of death.

34 (b) “Benefit” and “benefits,” with respect to the
35 Defined Benefit Supplement Program, means a
36 distribution of funds that represent the balance in a
37 member’s accumulated Defined Benefit Supplement
38 account.

39 SEC. 10. Section 22115 of the Education Code is
40 amended to read:



1 22115. (a) “Compensation earnable” means the
2 ~~annual~~ creditable compensation ~~that a person would~~
3 ~~could~~ earn in a school year ~~if he or she were employed for~~
4 ~~creditable service performed~~ on a full-time basis ~~and if~~
5 ~~that person worked full time in that position,~~ *excluding*
6 *service for which contributions are credited by the*
7 *system to the Defined Benefit Supplement Program.*

8 (b) The board may determine compensation earnable
9 for persons employed on a part-time basis.

10 ~~(c) For purposes of determining final compensation~~
11 ~~for persons employed on a part time basis, compensation~~
12 ~~earnable shall be determined by dividing the creditable~~
13 ~~compensation earned by the service credit. When service~~
14 ~~credit for a school year is less than 1.000, compensation~~
15 ~~earnable shall be the product obtained when creditable~~
16 ~~compensation paid in that year is divided by the service~~
17 ~~credit for that year, except as provided in subdivision (d).~~

18 (d) *When a member earns creditable compensation*
19 *at multiple pay rates during a school year and service*
20 *credit at the highest pay rate is at least .900 of a year,*
21 *compensation earnable shall be determined as if all*
22 *service credit for that year had been earned at the highest*
23 *pay rate. This subdivision shall be applicable only for*
24 *purposes of determining final compensation. When a*
25 *member earns creditable compensation at multiple pay*
26 *rates during a school year and service credit at the highest*
27 *pay rate is less than .900 of a year, compensation earnable*
28 *shall be determined pursuant to subdivision (c).*

29 (e) *The amendments to this section made during the*
30 *second year of the 1999-2000 Regular Session shall become*
31 *operative on July 1, 2002.*

32 *SEC. 11. Section 22119.2 of the Education Code is*
33 *amended to read:*

34 22119.2. (a) “Creditable compensation” means
35 salary and other remuneration payable in cash by an
36 employer to a member for creditable service. Creditable
37 compensation shall include:

38 (1) Money paid in accordance with a salary schedule
39 based on years of training and years of experience for
40 creditable service performed up to and including the



1 full-time equivalent for the position in which the service
2 is performed.

3 (2) For members not paid according to a salary
4 schedule, money paid for creditable service performed
5 up to and including the full-time equivalent for the
6 position in which the service is performed.

7 (3) Money paid for the member's absence from
8 performance of creditable service as approved by the
9 employer, except as provided in paragraph (7) of
10 subdivision (b).

11 (4) Member contributions picked up by an employer
12 pursuant to Section 22903 or 22904.

13 (5) Amounts deducted by an employer from the
14 member's salary, including deductions for participation
15 in a deferred compensation plan; deductions for the
16 purchase of annuity contracts, tax-deferred retirement
17 plans, or other insurance programs; and deductions for
18 participation in a plan that meets the requirements of
19 Section 125, 401(k), or 403(b) of Title 26 of the United
20 States Code.

21 (6) Money paid by an employer in addition to salary
22 paid under paragraph (1) or (2) if paid to all employees
23 in a class in the same dollar amount, the same percentage
24 of salary, or the same percentage of the amount being
25 distributed.

26 (7) Money paid in accordance with a salary schedule
27 by an employer to an employee for achieving
28 certification from a national board awarding
29 certifications, in which eligibility for this certification is
30 based, in part, on years of training or years of experience
31 in teaching service, if the compensation is paid by the
32 employer to all employees who achieved this
33 certification.

34 (8) Any other payments the board determines to be
35 "creditable compensation."

36 (b) "Creditable compensation" does not mean and
37 shall not include:

38 (1) Money paid for service performed in excess of the
39 full-time equivalent for the position.



- 1 (2) Money paid for overtime or summer school
2 service, or money paid for the aggregate service
3 performed as a member of the Defined Benefit Program
4 in excess of one year of service credit for any one school
5 year.
- 6 (3) Money paid for service that is not creditable
7 service pursuant to Section 22119.5.
- 8 (4) Money paid by an employer in addition to salary
9 paid under paragraph (1) or (2) of subdivision (a) if not
10 paid to all employees in a class in the same dollar amount,
11 the same percentage of salary, or the same percentage of
12 the amount being distributed, except as provided in
13 paragraph (7) of subdivision (a).
- 14 (5) Fringe benefits provided by an employer.
- 15 (6) Job-related expenses paid or reimbursed by an
16 employer.
- 17 (7) Money paid for unused accumulated leave.
- 18 (8) Severance pay or compensatory damages or
19 money paid to a member in excess of salary as a
20 compromise settlement.
- 21 (9) Annuity contracts, tax-deferred retirement
22 programs, or other insurance programs, including, but
23 not limited to, plans that meet the requirements of
24 Section 125, 401(k), or 403(b) of Title 26 of the United
25 States Code that are purchased by an employer for the
26 member and are not deducted from the member's salary.
- 27 (10) Any payments determined by the board to have
28 been made by an employer for the principal purpose of
29 enhancing a member's benefits under the Defined
30 Benefit Program. An increase in the salary of a member
31 who is the only employee in a class pursuant to
32 subdivision (b) of Section 22112.5 that arises out of an
33 employer's restructuring of compensation during the
34 member's final compensation period shall be presumed
35 to have been granted for the principal purpose of
36 enhancing benefits under the Defined Benefit Program
37 and shall not be creditable compensation. If the board
38 determines sufficient evidence is provided to the system
39 to rebut this presumption, the increase in salary shall be
40 deemed creditable compensation.



1 (11) Any other payments the board determines not to
2 be “creditable compensation.”

3 (c) Any employer or person who knowingly or
4 willfully reports compensation in a manner inconsistent
5 with subdivision (a) or (b) shall reimburse the plan for
6 any overpayment of benefits that occurs because of that
7 inconsistent reporting and may be subject to prosecution
8 for fraud, theft, or embezzlement in accordance with the
9 Penal Code. The system may establish procedures to
10 ensure that compensation reported by an employer is in
11 compliance with this section.

12 (d) The definition of “creditable compensation” in
13 this section is designed in accordance with sound funding
14 principles that support the integrity of the retirement
15 fund. These principles include, but are not limited to,
16 consistent treatment of compensation throughout the
17 career of the individual member, consistent treatment of
18 compensation for an entire class of employees, the
19 prevention of adverse selection, and the exclusion of
20 adjustments to, or increases in, compensation for the
21 principal purpose of enhancing benefits.

22 (e) This section shall be deemed to have become
23 operative on July 1, 1996.

24 (f) *This section shall become inoperative on July 1,*
25 *2002, and, as of January 1, 2003, is repealed, unless a later*
26 *enacted statute, that becomes operative on or before*
27 *January 1, 2003, deletes or extends the dates on which it*
28 *becomes inoperative and is repealed.*

29 *SEC. 12. Section 22119.2 is added to the Education*
30 *Code, to read:*

31 22119.2. (a) “Creditable compensation” means
32 remuneration that is payable in cash by an employer to
33 all persons in the same class of employees for performing
34 creditable service. Creditable compensation shall
35 include:

36 (1) Salary paid in accordance with a salary schedule or
37 employment agreement.

38 (2) Remuneration that is paid in addition to salary,
39 providing it is payable to all persons who are in the same
40 class of employees in the same dollar amount, the same



1 *percentage of salary, or the same percentage of the*
2 *amount being distributed.*

3 *(3) Remuneration that is paid for the use of sick leave,*
4 *vacation, and other employer-approved leave, except as*
5 *provided in paragraph (5) of subdivision (b).*

6 *(4) Member contributions that are picked up by an*
7 *employer pursuant to Section 22903 or 22904.*

8 *(5) Amounts that are deducted from a member's*
9 *compensation, including, but not limited to, salary*
10 *deductions for participation in a deferred compensation*
11 *plan; deductions to purchase an annuity contract, tax-*
12 *deferred retirement plan, or insurance program; and*
13 *contributions to a plan that meets the requirements of*
14 *Section 125, 401(k), or 403(b) of Title 26 of the United*
15 *States Code.*

16 *(6) Any other payments the board determines to be*
17 *“creditable compensation.”*

18 *(b) Any salary or other remuneration determined by*
19 *the board to have been paid for the principal purpose of*
20 *enhancing a member's benefits under the plan shall not*
21 *be credited under the Defined Benefit Program.*
22 *Contributions on that compensation shall be credited to*
23 *the Defined Benefit Supplement Program. A*
24 *presumption by the board that salary or other*
25 *remuneration was paid for the principal purpose of*
26 *enhancing the member's benefits under the plan may be*
27 *rebutted by the member or by the employer on behalf of*
28 *the member. Upon receipt of sufficient evidence to the*
29 *contrary, a presumption by the board that salary or other*
30 *remuneration was paid for the principal purpose of*
31 *enhancing the member's benefits under the plan may be*
32 *reversed.*

33 *(c) “Creditable compensation” does not mean and*
34 *shall not include:*

35 *(1) Remuneration that is not payable in cash or is not*
36 *payable to all persons who are in the same class of*
37 *employees.*

38 *(2) Remuneration that is paid for service that is not*
39 *creditable service pursuant to Section 22119.5.*



1 (3) *Remuneration that is paid in addition to salary if it*
2 *is not payable to all persons in the same class of employees*
3 *in the same dollar amount, the same percentage of salary,*
4 *or the same percentage of the amount being distributed*
5 *pursuant to paragraph (2) of subdivision (a).*

6 (4) *Remuneration that is paid for unused accumulated*
7 *leave.*

8 (5) *Annuity contracts, tax-deferred retirement plans,*
9 *or insurance programs and contributions to plans that*
10 *meet the requirements of Section 125, 401(k), or 403(b)*
11 *of Title 26 of the United States Code when the cost is*
12 *covered by an employer and is not deducted from the*
13 *member's salary.*

14 (6) *Fringe benefits provided by an employer.*

15 (7) *Job-related expenses paid or reimbursed by an*
16 *employer.*

17 (8) *Severance pay or compensatory damages or*
18 *money paid to a member in excess of salary as a*
19 *compromise settlement.*

20 (9) *Any other payments the board determines not to*
21 *be "creditable compensation."*

22 (d) *An employer or individual who knowingly or*
23 *willfully reports compensation in a manner inconsistent*
24 *with subdivision (a) or (c) shall reimburse the plan for*
25 *benefit overpayments that occur because of that*
26 *inconsistent reporting and may be subject to prosecution*
27 *for fraud, theft, or embezzlement in accordance with the*
28 *Penal Code. The system may establish procedures to*
29 *ensure that compensation reported by an employer is in*
30 *compliance with this section.*

31 (e) *This definition of "creditable compensation"*
32 *reflects sound principles that support the integrity of the*
33 *retirement fund. Those principles include, but are not*
34 *limited to, consistent treatment of compensation*
35 *throughout a member's career, consistent treatment of*
36 *compensation among an entire class of employees,*
37 *preventing adverse selection, and excluding from*
38 *compensation earnable remuneration that is paid for the*
39 *principal purpose of enhancing a member's benefits*
40 *under the plan.*



1 (f) *The section shall become operative July 1, 2002.*

2 *SEC. 13. Section 22127.2 is added to the Education*
3 *Code, to read:*

4 *22127.2. “Disability benefit” means the amount*
5 *payable under the Defined Benefit Supplement Program*
6 *based on the balance in a member’s Defined Benefit*
7 *Supplement account to either a disabled member*
8 *pursuant to Section 24005 or to a member who retired for*
9 *disability pursuant to Section 24105.*

10 *SEC. 14. Section 22132 of the Education Code is*
11 *amended to read:*

12 *22132. “Employed” or “employment” means*
13 *employment to perform creditable service subject to*
14 *coverage by the State Teachers’ Retirement Defined*
15 *Benefit Program under the Defined Benefit Program or*
16 *the Defined Benefit Supplement Program, except as*
17 *otherwise specifically provided under this part.*

18 *SEC. 15. Section 22133.5 is added to the Education*
19 *Code, to read:*

20 *22133.5. “Final benefit” means the amount payable*
21 *under the Defined Benefit Supplement Program upon*
22 *the death of the member to a beneficiary.*

23 *SEC. 16. Section 22139.5 is added to the Education*
24 *Code, to read:*

25 *22139.5. “Gain and Loss Reserve” means a segregated*
26 *account within the retirement fund that is established*
27 *and maintained to do either of the following:*

28 *(a) Credit interest to members’ Defined Benefit*
29 *Supplement accounts at the minimum interest rate for*
30 *plan years in which the board determines that the*
31 *obligation cannot be met from the plan’s investment*
32 *earnings with respect to the Defined Benefit Supplement*
33 *Program.*

34 *(b) Provide additions to the Annuitant Reserve to*
35 *meet the plan’s obligation for annuities payable under the*
36 *Defined Benefit Supplement Program.*

37 *SEC. 17. Section 22140 of the Education Code is*
38 *amended to read:*

39 *22140. (a) “Improvement ~~factor~~ factor,” with*
40 *respect to the Defined Benefit Program, means an*



1 increase of 2 percent in ~~benefits for~~ *monthly allowances*.
2 *The improvement factor shall be added to a monthly*
3 *allowance each year commencing on September 1,*
4 *commencing on September 1* following the first
5 anniversary of the effective date of retirement, or the
6 date on which the monthly ~~benefits~~ *allowance*
7 commenced to accrue to any beneficiary ~~other than a~~
8 ~~retired member~~, or other periods specifically stated in
9 this part.

10 (b) *“Improvement factor,” with respect to the*
11 *Defined Benefit Supplement Program, means an*
12 *increase of 2 percent in monthly annuities. The*
13 *improvement factor shall be added to a monthly annuity*
14 *each year on September 1, commencing on the*
15 *September 1 following the first anniversary of the date*
16 *the annuity first became payable.*

17 (c) The *improvement factor* shall not be compounded
18 nor shall it be applicable to annuities payable from the
19 accumulated annuity deposit contributions or the
20 accumulated tax-sheltered annuity contributions. The
21 Legislature reserves the right to adjust the amount of the
22 improvement factor up or down as economic conditions
23 dictate. No adjustments of the improvement factor shall
24 reduce the monthly retirement allowance or ~~benefit~~
25 *annuity* below that which would be payable to the
26 recipient under this part had this section not been
27 enacted.

28 *SEC. 18. Section 22146.7 is added to the Education*
29 *Code, to read:*

30 22146.7. *“Minimum interest rate” means the annual*
31 *interest rate determined by the board at which interest*
32 *will be credited to Defined Benefit Supplement accounts*
33 *for a plan year.*

34 *SEC. 19. Section 22156.05 is added to the Education*
35 *Code, to read:*

36 22156.05. *“Plan year” means the period of time*
37 *beginning on July 1 of one calendar year and ending on*
38 *June 30 of the following calendar year. For purposes of the*
39 *Defined Benefit Supplement Program, the board shall*
40 *designate by plan amendment the initial plan year.*



1 SEC. 20. Section 22158 of the Education Code is
2 repealed.

3 ~~22158. “Projected service” means the credited~~
4 ~~service plus the service which would have been earned~~
5 ~~had the member continued to earn credited service to the~~
6 ~~earlier of normal retirement age or the date the disability~~
7 ~~allowance is terminated at the same rate as the highest of~~
8 ~~any one of the three school years immediately preceding~~
9 ~~death or the date the disability allowance began to~~
10 ~~accrue.~~

11 SEC. 21. Section 22158 is added to the Education
12 Code, to read:

13 22158. (a) “Projected service” means the sum of
14 credited service plus the credited service that would have
15 been earned for the school years during which a disability
16 allowance was payable if the member had performed
17 creditable service during that time.

18 (b) Projected service for a school year shall be
19 determined on the basis of the highest credited service
20 earned by the member during any one of the three school
21 years immediately preceding the member’s death or the
22 date the disability allowance began to accrue.

23 (c) Projected service shall not include credited service
24 for which contributions have been credited to the
25 Defined Benefit Supplement Program.

26 SEC. 22. Section 22161.5 of the Education Code is
27 amended to read:

28 22161.5. “Refund” means ~~a~~ the lump-sum return of
29 ~~the~~ a member’s accumulated retirement contributions
30 under the Defined Benefit Program and does not include
31 accumulated contributions credited to the Defined
32 Benefit Supplement Program.

33 SEC. 23. Section 22162 of the Education Code is
34 repealed.

35 ~~22162. “Regular interest”, with respect to the Defined~~
36 ~~Benefit Program, is interest that is compounded annually~~
37 ~~based upon the annual equivalent of the prior year’s~~
38 ~~average yield to maturity on the investment grade~~
39 ~~fixed-income securities with respect to the Defined~~



1 ~~Benefit Program. The regular interest rate shall be~~
2 ~~adopted annually by the board as a plan amendment.~~

3 *SEC. 24. Section 22162 is added to the Education*
4 *Code, to read:*

5 *22162. "Regular interest" means interest that is*
6 *compounded annually based on the annual equivalent of*
7 *the prior year's average yield to maturity on the*
8 *investment-grade fixed income securities attributable to*
9 *the Defined Benefit Program, but not on assets*
10 *attributable to the Defined Benefit Supplement*
11 *Program. The regular interest rate shall be adopted*
12 *annually by the board as a plan amendment with respect*
13 *to the Defined Benefit Program.*

14 *SEC. 25. Section 22166.5 is added to the Education*
15 *Code, to read:*

16 *22166.5. "Retirement benefit" means the amount*
17 *payable under the Defined Benefit Supplement Program*
18 *based on the balance in the member's Defined Benefit*
19 *Supplement account to a member who has retired for*
20 *service under the Defined Benefit Program.*

21 *SEC. 26. Section 22170 of the Education Code is*
22 *amended to read:*

23 *22170. "Service" means service work performed for*
24 *compensation in a position subject to coverage under the*
25 *Defined Benefit Program, except as otherwise*
26 *specifically provided in this part, providing the*
27 *contributions on compensation for that work are not*
28 *credited to the Defined Benefit Supplement Program.*

29 *SEC. 27. Section 22176 is added to the Education*
30 *Code, to read:*

31 *22176. "Termination benefit" means the balance in*
32 *the member's Defined Benefit Supplement account that*
33 *is payable to the member in a lump-sum when the*
34 *member has terminated all employment to perform*
35 *creditable service subject to coverage by the plan.*

36 *SEC. 28. Section 22302 is added to the Education*
37 *Code, to read:*

38 *22302. The board may contract with a qualified*
39 *third-party administrator for custodial, record keeping,*
40 *or other administrative services necessary to carry into*



1 *effect the provisions of Chapter 38 (commencing with*
2 *Section 25000) of this part or Part 14.*

3 *SEC. 29. Section 22304 of the Education Code is*
4 *amended to read:*

5 22304. (a) The costs of administration of the plan
6 shall be paid from the retirement fund and those costs
7 may not exceed the amount made available by law during
8 any fiscal period.

9 (b) The administrative costs of the plan shall be
10 divided proportionately in accordance with the assets of
11 the Defined Benefit Program, *the Defined Benefit*
12 *Supplement Program*, and the Cash Balance Benefit
13 Program.

14 *SEC. 30. Section 22309 of the Education Code is*
15 *amended to read:*

16 22309. (a) The board shall issue to each active and
17 inactive member, *no less frequently than annually* after
18 the close of the school year, a statement of ~~his or her~~ *the*
19 *member's* individual ~~account~~ *Defined Benefit Program*
20 *and Defined Benefit Supplement accounts*, provided the
21 employer or member has informed the system of the
22 member's current mailing address.

23 (b) The board shall periodically make a good faith
24 effort to locate inactive members to provide these
25 members with information concerning any benefit for
26 which they may be eligible.

27 *SEC. 31. Section 22311 of the Education Code is*
28 *repealed.*

29 ~~22311. (a) The board shall keep in convenient form~~
30 ~~any data necessary for the actuarial valuation of the plan.~~

31 ~~(b) The board shall make an actuarial investigation~~
32 ~~into the mortality, service, and other experience of~~
33 ~~members and beneficiaries of the Defined Benefit~~
34 ~~Program as well as an actuarial review of the goals~~
35 ~~regarding the sufficiency of the Gain and Loss Reserve~~
36 ~~with respect to the Cash Balance Benefit Program. This~~
37 ~~investigation and review shall include an actuarial~~
38 ~~valuation of the assets and liabilities of the plan, and shall~~
39 ~~be performed at least once every six years. The actuary~~
40 ~~shall perform the actuarial valuation using actuarial~~



1 ~~assumptions adopted by the board and that are, in the~~
2 ~~aggregate, reasonably related to the past experience of~~
3 ~~the plan and the best estimate by the actuary of the future~~
4 ~~experience of the plan. The report of the actuary of the~~
5 ~~results of the actuarial valuation shall identify and include~~
6 ~~the components of normal cost and adequate information~~
7 ~~to determine the effects of changes in actuarial~~
8 ~~assumptions. Copies of the report on the actuarial~~
9 ~~valuation shall be transmitted to the Governor and to the~~
10 ~~Legislature. Upon the basis of any or all of the actuarial~~
11 ~~investigation and valuation, the board shall adopt for the~~
12 ~~plan any rates of return on investments, rates of~~
13 ~~contribution to the retirement fund, mortality, service,~~
14 ~~and other tables it deems necessary.~~

15 *SEC. 32. Section 22311 is added to the Education*
16 *Code, to read:*

17 *22311. The board shall maintain all data necessary to*
18 *perform an actuarial investigation of the demographic*
19 *and economic experience of the plan and for the actuarial*
20 *valuation of the assets and liabilities of the plan.*

21 *SEC. 33. Section 22311.5 is added to the Education*
22 *Code, to read:*

23 *22311.5. The board shall acquire the services of an*
24 *actuary to do all of the following:*

25 *(a) Make recommendations to the board for the*
26 *adoption of actuarial assumptions that, in the aggregate,*
27 *are reasonably related to the past experience of the plan*
28 *and reflect the actuary's informed estimate of the future*
29 *experience.*

30 *(b) Make an actuarial investigation of the*
31 *demographic and economic experience, including the*
32 *mortality, service, and other experience, of the plan with*
33 *respect to members and beneficiaries of the Defined*
34 *Benefit Program, the Defined Benefit Supplement*
35 *Program, and the Cash Balance Benefit Program.*

36 *(c) Make an actuarial review of the goals regarding*
37 *the sufficiency of the Gain and Loss Reserves with respect*
38 *to the Defined Benefit Supplement Program and the*
39 *Cash Balance Benefit Program and recommend to the*
40 *board the goal for maintaining sufficient Gain and Loss*



1 *Reserves for the Defined Benefit Supplement Program*
2 *and the Cash Balance Benefit Program.*

3 (d) *Recommend to the board the amount, if any, to be*
4 *transferred to the separate Gain and Loss Reserves from*
5 *the investment earnings of the plan with respect to the*
6 *Defined Benefit Supplement Program and the Cash*
7 *Balance Benefit Program.*

8 (e) *At least once every six years, using actuarial*
9 *assumptions adopted by the board, perform an actuarial*
10 *valuation of the plan that identifies the assets and*
11 *liabilities of the plan, and report the findings to the board.*
12 *The report of the actuary on the results of the actuarial*
13 *valuation shall identify and include the components of*
14 *normal cost and adequate information to determine the*
15 *effects of changes in actuarial assumptions. Copies of the*
16 *report on the actuarial valuation shall be transmitted to*
17 *the Governor and to the Legislature.*

18 (f) *Recommend to the board all rates and factors*
19 *necessary to administer the plan, including, but not*
20 *limited to, mortality tables, annuity factors, interest rates,*
21 *and additional earnings credits.*

22 (g) *Recommend to the board a strategy for amortizing*
23 *any unfunded actuarial obligation.*

24 (h) *As requested by the board, perform any other*
25 *actuarial services that may be required for administration*
26 *of the plan.*

27 SEC. 34. *Section 22311.7 is added to the Education*
28 *Code, to read:*

29 22311.7. *Upon the basis of the actuarial investigation*
30 *and actuarial valuation pursuant to Section 22311.5, or any*
31 *part thereof, the board shall adopt actuarial assumptions,*
32 *rates, factors, and tables as the board determines are*
33 *necessary for administration of the plan and its programs.*

34 SEC. 35. *Section 22453 of the Education Code is*
35 *amended to read:*

36 22453. (a) *Except as provided in Section 22454, the*
37 *signature of the spouse of a member shall be required on*
38 *any application for, or cancellation of, an unmodified*
39 *allowance, the election, change, or cancellation of an*
40 *option, request for a refund of the member's accumulated*



1 retirement contributions, *accumulated Defined Benefit*
2 *Supplement contributions*, or accumulated annuity
3 deposit contributions, or other requests related to the
4 selection of benefits by a member in which a spousal
5 interest may be present, unless the member declares, in
6 writing, under penalty of perjury, that one of the
7 following conditions exists:

8 (1) The member does not know, and has taken all
9 reasonable steps to determine, the whereabouts of the
10 spouse.

11 (2) The spouse is incapable of executing the
12 acknowledgment because of an incapacitating mental or
13 physical condition.

14 (3) The member and spouse have executed a marriage
15 settlement agreement pursuant to Part 5 (commencing
16 with Section 1500) of Division 4 of the Family Code that
17 makes the community property law inapplicable to the
18 marriage.

19 (4) The member is not married.

20 (5) The current spouse has no identifiable community
21 property interest in the benefit.

22 (b) This section is not applicable to an application for
23 a disability allowance.

24 (c) The sole purpose of this section is to provide for
25 spousal protection in the selection of specified benefits
26 made by a member.

27 *SEC. 36. Section 22460 of the Education Code is*
28 *repealed.*

29 ~~22460. Employers shall notify all members who~~
30 ~~terminate employment with less than five years' credited~~
31 ~~California service that the only benefit for which they are~~
32 ~~eligible at any time is the refund of accumulated~~
33 ~~contributions, the rate of interest that will be earned, and~~
34 ~~actions that may be taken by the board if the~~
35 ~~contributions are not withdrawn. Employers shall~~
36 ~~transmit the information to the member as part of the~~
37 ~~usual separation documents.~~

38 *SEC. 37. Section 22460 is added to the Education*
39 *Code, to read:*



1 22460. (a) If a member terminates employment with
2 less than five years of credited service, the employer shall
3 notify the member of the following:

4 (1) That unless the member is eligible, or becomes
5 eligible in the future, for concurrent retirement pursuant
6 to paragraph (2) of subdivision (a) of Section 24201, the
7 member is eligible only for a refund of accumulated
8 retirement contributions and the return of the balance in
9 the member's Defined Benefit Supplement account.

10 (2) The current rate of interest that shall be earned on
11 accumulated retirement contributions that are not
12 refunded and the current minimum interest rate that
13 shall be applied to the balance in the member's Defined
14 Benefit Supplement account.

15 (3) Actions that may be taken by the board if
16 accumulated retirement contributions are not refunded
17 and the balance in the member's Defined Benefit
18 Supplement account is not returned.

19 (b) Employers shall transmit to a member who
20 terminates employment with less than five years of
21 credited service the information specified in subdivision
22 (a) as part of the usual separation documents.

23 SEC. 38. Section 22651 of the Education Code is
24 amended to read:

25 22651. For purposes of this chapter and Section 23300,
26 "nonmember spouse" means ~~the~~ a member's spouse or
27 former spouse who is being or has been awarded a
28 community property interest in the service credit ~~and~~,
29 accumulated retirement contributions, *accumulated*
30 *Defined Benefit Supplement contributions*, or ~~the~~
31 benefits of ~~a~~ the member under this part. A nonmember
32 spouse who is awarded a separate account of service
33 credit and accumulated retirement contributions, *or who*
34 *is awarded a separate account of accumulated Defined*
35 *Benefit Supplement contributions*, or who receives a
36 retirement allowance *or retirement annuity* under this
37 part, or who is awarded an interest in a member's
38 retirement allowance *or retirement annuity* under this
39 part is not a member.



1 SEC. 39. Section 22652 of the Education Code is
2 amended to read:

3 22652. (a) Upon the legal separation or dissolution of
4 marriage of a member, *other than a retired member*, the
5 court shall include in the judgment or a court order the
6 date on which the parties separated.

7 (b) The court may order in the judgment or court
8 order that the accumulated retirement contributions and
9 service credit *or accumulated Defined Benefit*
10 *Supplement contributions* under this part that are
11 attributable to periods of service during the marriage be
12 divided into two separate and distinct accounts in the
13 name of the member and the nonmember spouse,
14 respectively. Any service credit or accumulated
15 retirement contributions *or accumulated Defined*
16 *Benefit Supplement contributions* under this part that
17 are not explicitly awarded by the judgment or court order
18 shall be deemed the exclusive property of the member—~~in~~
19 *under the Defined Benefit Program or the Defined*
20 *Benefit Supplement Program.*

21 (c) The determination of the court of community
22 property rights pursuant to this section shall be consistent
23 with this chapter and shall address the rights of the
24 nonmember spouse *under this part*, including, but not
25 limited to, the following:

26 (1) The right to a retirement allowance—~~under this part~~
27 *and, if applicable, a retirement annuity.*

28 (2) The right to a refund of accumulated retirement
29 contributions—~~under this part and the lump-sum payment~~
30 *of accumulated Defined Benefit Supplement*
31 *contributions awarded to the nonmember spouse.*

32 (3) The right to redeposit accumulated retirement
33 contributions—~~which are previously refunded to the~~
34 *member which the member is eligible—~~for~~ to redeposit*
35 ~~under this part by the member under pursuant to~~
36 Sections 23200 to 23203, inclusive, and *shall specify* the
37 shares of the *redeposit amount awarded to the member*
38 and the nonmember spouse—~~of the eligible redeposit~~
39 ~~amount.~~



1 (4) The right to purchase additional service credit
2 ~~under this part which~~ *that the member* is eligible for to
3 purchase ~~by the member under~~ *pursuant to* Sections
4 22800 to 22810, inclusive, and *shall specify* the shares of
5 the *additional service credit awarded to the member* and
6 the nonmember spouse ~~of the service credit eligible for~~
7 ~~purchase.~~

8 *SEC. 40. Section 22655 of the Education Code is*
9 *amended to read:*

10 22655. (a) Upon the legal separation or dissolution of
11 marriage of a retired member, the court may include in
12 the judgment or court order a determination of the
13 community property rights of the parties in the *retired*
14 *member's* retirement allowance *and, if applicable,*
15 *retirement annuity* under this part ~~of the retired member~~
16 consistent with this section. Upon election under
17 subparagraph (B) of paragraph (3) of subdivision (a) of
18 Section 2610 of the Family Code, the court order
19 awarding the nonmember spouse a community property
20 share in the benefits of a retired member shall be
21 consistent with this section.

22 (b) If the court does not award the entire retirement
23 allowance *or retirement annuity* under this part to the
24 retired member and the retired member is receiving a
25 retirement allowance that has not been modified
26 pursuant to Section 24300, *or a single life annuity*
27 *pursuant to Section 25011 or 25018*, the court shall require
28 only that the system pay the nonmember spouse, by
29 separate warrant ~~from the plan~~, his or her community
30 property share of the *retired member's* retirement
31 allowance *or retirement annuity, or both*, under this part
32 ~~of the retired member.~~

33 (c) If the court does not award the entire retirement
34 allowance *or retirement annuity* under this part to the
35 retired member and the retired member is receiving an
36 allowance ~~which~~ *that* has been actuarially modified
37 pursuant to Section 24300, *or a joint and survivor annuity*
38 *pursuant to Section 25011 or 25018*, the court shall order
39 only one of the following:



1 (1) The retired member shall maintain the retirement
2 allowance *or retirement annuity, or both*, under this part
3 without change.

4 (2) The retired member shall cancel the option—~~under~~
5 ~~which that modified~~ the retirement allowance—~~is modified~~
6 under this part pursuant to Section 24305 and select a new
7 joint and survivor option or a new beneficiary or both,
8 and the system shall pay the nonmember spouse, by
9 separate warrant—~~from the plan~~, his or her community
10 property share of the retirement allowance under this
11 part of the retired member, the option beneficiary, or
12 both.

13 (3) *The retired member shall cancel the joint and*
14 *survivor annuity under which the annuity is being paid*
15 *pursuant to Section 24305.5, and select a new joint and*
16 *survivor annuity or a new annuity beneficiary or both,*
17 *and the system shall pay the nonmember spouse, by*
18 *separate warrant, his or her community property share of*
19 *the retirement annuity payable to the retired member,*
20 *the annuity beneficiary, or both.*

21 (4) *The retired member shall take the action specified*
22 *in both paragraphs (2) and (3).*

23 (5) The retired member shall cancel the option—~~under~~
24 ~~which that modified~~ the retirement allowance—~~is modified~~
25 under this part pursuant to Section 24305 and select an
26 unmodified retirement allowance and the system shall
27 pay the nonmember spouse, by separate warrant—~~from~~
28 ~~the plan~~, his or her community property share of the
29 *retired member's* retirement allowance—~~of the retired~~
30 ~~member~~ under this part.

31 (6) *The retired member shall cancel the joint and*
32 *survivor annuity under which the annuity is being paid*
33 *pursuant to Section 24305.5, and select a single life*
34 *annuity, and the system shall pay the nonmember spouse,*
35 *by separate warrant, his or her community property*
36 *share of the retirement annuity payable to the retired*
37 *member.*

38 (7) *The retired member shall take the action specified*
39 *in both paragraphs (5) and (6).*



1 (d) If the option beneficiary *or annuity beneficiary or*
2 *both* under this part, other than the nonmember spouse,
3 predeceases the retired member, the court shall order
4 the retired member to select a new option beneficiary
5 ~~under this part~~ pursuant to Section 24306, *or a new*
6 *annuity beneficiary pursuant to Section 24306.5* and shall
7 order the system to pay the nonmember spouse, by
8 separate warrant ~~from the plan~~, his or her share of the
9 community property interest in the retirement
10 allowance *or retirement annuity or both* under this part
11 of the retired member or the new option beneficiary; or
12 ~~both annuity beneficiary or each of them.~~

13 (e) The right of the nonmember spouse to receive his
14 or her community property share of the *retired*
15 *member's* retirement allowance ~~under this part of the~~
16 ~~retired member~~ *or retirement annuity or both* under this
17 section shall terminate upon the death of the nonmember
18 spouse. However, the nonmember spouse may designate
19 a beneficiary *under the Defined Benefit Program and a*
20 *payee under the Defined Benefit Supplement Program*
21 to receive his or her community property share of the
22 retired member's accumulated retirement contributions
23 *and accumulated Defined Benefit Supplement*
24 *contributions* under this part in the event that *there are*
25 *remaining* accumulated retirement contributions
26 ~~become payable~~ *and accumulated Defined Benefit*
27 *Supplement contributions to be paid upon the death of*
28 *the nonmember spouse.*

29 *SEC. 41. Section 22656 of the Education Code is*
30 *amended to read:*

31 22656. No judgment or court order issued pursuant to
32 this chapter is binding on the ~~plan~~ *system* with respect to
33 the *Defined Benefit Program and the Defined Benefit*
34 *Supplement Program* until the ~~plan~~ *system* has been
35 joined as a party to the action and has been served with
36 a certified copy of the judgment or court order.

37 *SEC. 42. Section 22658 of the Education Code is*
38 *amended to read:*



1 22658. (a) A separate account awarded to a
2 nonmember spouse pursuant to Section 22652 shall be
3 administered independently of the member's account.

4 (b) Accumulated *Defined Benefit Supplement*
5 *contributions, accumulated retirement* contributions,
6 service credit, and final compensation attributable to a
7 separate account of a nonmember spouse under this part
8 shall not be combined in any way or for any purpose with
9 the accumulated *Defined Benefit Supplement*
10 *contributions, accumulated retirement* contributions,
11 service credit, and final compensation of any other
12 separate account of the nonmember spouse.

13 (c) Accumulated *Defined Benefit Supplement*
14 *contributions, accumulated retirement* contributions,
15 service credit, and final compensation attributable to the
16 separate account of a nonmember spouse shall not be
17 combined in any way or for any purpose with the
18 accumulated *Defined Benefit Supplement contributions,*
19 *accumulated retirement* contributions, service credit,
20 and final compensation of an account that exists under
21 this part because the nonmember spouse is employed or
22 has been employed to perform creditable service subject
23 to coverage under the Defined Benefit Program.

24 *SEC. 43. Section 22659 of the Education Code is*
25 *amended to read:*

26 22659. Upon being awarded a separate account or an
27 interest in the retirement allowance *or retirement*
28 *annuity* of a retired member under this part, a
29 nonmember spouse shall provide the system with proof
30 of his or her date of birth, social security number, and any
31 other information requested by the system, in the form
32 and manner requested by the system.

33 *SEC. 44. Section 22660 of the Education Code is*
34 *amended to read:*

35 22660. (a) The nonmember spouse who is awarded a
36 separate account under this part shall have the right to
37 designate, pursuant to Sections 23300 to 23304, inclusive,
38 a beneficiary or beneficiaries to receive the accumulated
39 retirement contributions *under the Defined Benefit*
40 *Program and to designate a payee to receive the*



1 *accumulated Defined Benefit Supplement contributions*
2 *under the Defined Benefit Supplement Program*
3 remaining in the separate account of the nonmember
4 spouse on his or her date of death, and any accrued
5 allowance *or accrued annuity under this part* attributable
6 to the separate account *of the nonmember spouse* which
7 is unpaid on the date of the death of the nonmember
8 spouse ~~under this part~~.

9 (b) This section shall not be construed to provide the
10 nonmember spouse with any right to elect to modify a
11 retirement allowance under Section 24300 *or to elect a*
12 *joint and survivor annuity under the Defined Benefit*
13 *Supplement Program*.

14 *SEC. 45. Section 22661 of the Education Code is*
15 *amended to read:*

16 22661. (a) The nonmember spouse who is awarded a
17 separate account under this part shall have the right to a
18 refund of the accumulated retirement contributions *and*
19 *a lump-sum payment of accumulated Defined Benefit*
20 *Supplement contributions* in the ~~account~~ *accounts* of the
21 nonmember spouse under this part.

22 (b) The nonmember spouse shall file an application on
23 a form provided by the system to obtain ~~the a~~ *a refund or*
24 *lump-sum payment*.

25 (c) The refund *and lump-sum payment* under this
26 part ~~is~~ *are* effective when the system deposits in the
27 United States mail an initial warrant drawn in favor of the
28 nonmember spouse and addressed to the latest address
29 for the nonmember spouse on file in the system. If the
30 nonmember spouse has elected on a form provided by the
31 system to transfer all or a specified portion of the
32 accumulated *retirement contributions or accumulated*
33 *Defined Benefit Supplement contributions* that are
34 eligible for direct trustee-to-trustee transfer to the trustee
35 of a qualified plan under Section 402 of the Internal
36 Revenue Code of 1986 (26 U.S.C.A. Sec. 402), deposit in
37 the United States mail of a notice that the requested
38 transfer has been made constitutes a return of the
39 nonmember spouse's accumulated *retirement*



1 contributions *or accumulated Defined Benefit*
2 *Supplement contributions.*

3 (d) The nonmember spouse is deemed to have
4 permanently waived all rights and benefits pertaining to
5 the service credit ~~under this part and represented by the,~~
6 accumulated retirement contributions, *and accumulated*
7 *Defined Benefit Supplement contributions under this*
8 *part* when the refund ~~becomes~~ *and lump-sum payment*
9 *become* effective.

10 (e) The nonmember spouse may not cancel a refund
11 *or lump-sum payment* under this part after ~~the refund is~~
12 *they are* effective.

13 (f) The nonmember spouse shall have no right to elect
14 to redeposit the refunded accumulated retirement
15 contributions under this part after the refund is effective
16 ~~and shall have no right,~~ to redeposit under Section 22662
17 or purchase additional service credit under Section 22663
18 after the refund becomes effective, *or to redeposit the*
19 *accumulated Defined Benefit Supplement contributions*
20 *after the lump-sum payment becomes effective.*

21 (g) If the total service credit in the separate account
22 of the nonmember spouse under this part, including
23 service credit purchased under Sections 22662 and 22663,
24 is less than two and one-half years, the board shall refund
25 the accumulated retirement contributions in the
26 account.

27 *SEC. 46. Section 22662 of the Education Code is*
28 *amended to read:*

29 22662. The nonmember spouse who is awarded a
30 separate account under this part may redeposit
31 accumulated retirement contributions previously
32 refunded to the member in accordance with the
33 determination of the court pursuant to Section 22652.

34 (a) The nonmember spouse may redeposit under this
35 part only those accumulated retirement contributions
36 that were previously refunded to the member and in
37 which the court has determined the nonmember spouse
38 has a community property interest.

39 (b) The nonmember spouse shall inform the system in
40 writing of his or her intent to redeposit within 180 days



1 after the judgment or court order addressing the
2 redeposit rights of the nonmember spouse is entered. The
3 nonmember spouse shall elect spouses' election to
4 redeposit shall be made on a form provided by the system
5 within 30 days after the system mails an election form and
6 the billing.

7 (c) If the nonmember spouse elects to redeposit under
8 this part, he or she shall repay the portion of the member's
9 refunded accumulated retirement contributions that
10 were awarded to the nonmember spouse and shall pay
11 regular interest from the date of the refund to the date
12 of payment.

13 (d) An election to redeposit shall be considered an
14 election to repay all accumulated retirement
15 contributions previously refunded under this part in
16 which the nonmember spouse has a community property
17 interest. All payments shall be received by the system
18 before the effective date of the nonmember spouse's
19 retirement of the nonmember spouse under this part. If
20 any payment due because of the election is not received
21 at the system's office in Sacramento within 120 days of its
22 due date, the election shall be canceled and any payments
23 made under the election shall be returned to the
24 nonmember spouse.

25 (e) The right of the nonmember spouse to redeposit
26 shall be subject to Section 23203.

27 (f) The member shall not have a right to redeposit the
28 share of the nonmember spouse in the previously
29 refunded accumulated retirement contributions under
30 this part whether or not the nonmember spouse elects to
31 redeposit. However, any accumulated retirement
32 contributions previously refunded under this part and
33 not explicitly awarded to the nonmember spouse under
34 this part by the judgment or court order shall be deemed
35 the exclusive property of the member.

36 SEC. 47. Section 22664 of the Education Code is
37 amended to read:

38 22664. The nonmember spouse who is awarded a
39 separate account shall have the right to a service



1 retirement allowance *and, if applicable, a retirement*
2 *annuity* under this part.

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

6 (1) The member had at least five years of credited
7 service during the period of marriage, at least one year of
8 which had been performed subsequent to the most
9 recent refund to the member of accumulated retirement
10 contributions. The credited service may include service
11 credited to the account of the member as of the date of
12 the dissolution or legal separation, previously refunded
13 service, out-of-state service, and permissive service credit
14 that the member is eligible to purchase at the time of the
15 dissolution or legal separation.

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

19 (3) The nonmember spouse has attained the age of 55
20 years or more.

21 (b) A service retirement allowance of a nonmember
22 spouse under this part shall become effective upon any
23 date designated by the nonmember spouse, provided:

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

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

29 (3) The effective date is no earlier than the first day of
30 the month in which the application is received at the
31 system's office in Sacramento and the effective date is
32 after the date the judgment or court order pursuant to
33 Section 22652 was entered.

34 (c) (1) Upon service retirement at normal
35 retirement age under this part, the nonmember spouse
36 shall receive a retirement allowance that shall consist of
37 an annual allowance payable in monthly installments
38 equal to 2 percent of final compensation for each year of
39 credited service.



1 (2) If the nonmember spouse's retirement is effective
 2 at less than normal retirement age and between early
 3 retirement age under this part and normal retirement
 4 age, the retirement allowance shall be reduced by
 5 one-half of 1 percent for each full month, or fraction of a
 6 month, that will elapse until the nonmember spouse
 7 would have reached normal retirement age.

8 (3) If the nonmember spouse's service retirement is
 9 effective at an age greater than normal retirement age
 10 and is effective on or after January 1, 1999, the percentage
 11 of final compensation for each year of credited service
 12 shall be determined pursuant to the following table:

13	Age at Retirement	Percentage
14	60 1/4	2.033
15	60 1/2	2.067
16	60 3/4	2.10
17	61	2.133
18	61 1/4	2.167
19	61 1/2	2.20
20	61 3/4	2.233
21	62	2.267
22	62 1/4	2.30
23	62 1/2	2.333
24	62 3/4	2.367
25	63 and over	2.40

26
 27
 28 (4) In computing the retirement allowance of the
 29 nonmember spouse, the age of the nonmember spouse on
 30 the last day of the month in which the retirement
 31 allowance begins to accrue shall be used.

32 (5) Final compensation, for purposes of calculating the
 33 service retirement allowance of the nonmember spouse
 34 under this subdivision, shall be calculated according to
 35 the definition of final compensation in Section 22134,
 36 22135, or 22136, whichever is applicable, and shall be
 37 based on the compensation earnable of the member up
 38 to the date the parties separated, as established in the
 39 judgment or court order pursuant to Section 22652. The



1 nonmember spouse shall not be entitled to use any other
2 calculation of final compensation.

3 (d) If the member is or was receiving a disability
4 allowance under this part with an effective date before or
5 on the date the parties separated as established in the
6 judgment or court order pursuant to Section 22652, or at
7 any time applies for and receives a disability allowance
8 with an effective date that is before or coincides with the
9 date the parties separated as established in the judgment
10 or court order pursuant to Section 22652, the nonmember
11 spouse shall not be eligible to retire until after the
12 disability allowance of the member terminates. If the
13 member who is or was receiving a disability allowance
14 returns to employment to perform creditable service
15 subject to coverage under the Defined Benefit Program
16 or has his or her allowance terminated under Section
17 24015, the nonmember spouse may not be paid a
18 retirement allowance until at least six months after
19 termination of the disability allowance and the return of
20 the member to employment to perform creditable
21 service subject to coverage under the Defined Benefit
22 Program, or the termination of the disability allowance
23 and the employment or self-employment of the member
24 in any capacity, notwithstanding Section 22132. If at the
25 end of the six-month period, the member has not had a
26 recurrence of the original disability or has not had his or
27 her earnings fall below the amounts described in Section
28 24015, the nonmember spouse may be paid a retirement
29 allowance if all other eligibility requirements are met.

30 (1) The retirement allowance of the nonmember
31 spouse under this subdivision shall be calculated as
32 follows: the disability allowance the member was
33 receiving, exclusive of the ~~benefits~~ *portion* for dependent
34 children, shall be divided between the share of the
35 member and the share of the nonmember spouse. The
36 share of the nonmember spouse shall be the amount
37 obtained by multiplying the disability allowance,
38 exclusive of the ~~benefits~~ *portion* for dependent children,
39 by the years of service credited to the separate account
40 of the nonmember spouse, including service projected to



1 the date of separation, and dividing by the projected
2 service of the member. The nonmember spouse's
3 retirement allowance shall be the lesser of the share of the
4 nonmember spouse under this subdivision or the
5 retirement allowance under subdivision (c).

6 (2) The share of the member shall be the total
7 disability allowance reduced by the share of the
8 nonmember spouse. The share of the member shall be
9 considered the disability allowance of the member for
10 purposes of Section 24213.

11 (e) The nonmember spouse who receives a
12 retirement allowance is not a retired member under this
13 part. However, the allowance of the nonmember spouse
14 shall be increased by application of the improvement
15 factor and shall be eligible for the application of
16 supplemental increases and other benefit maintenance
17 provisions under this part, including, but not limited to,
18 Sections 24411, 24412, and 24415 based on the same
19 criteria used for the application of these benefit
20 maintenance increases to the service retirement
21 allowances of members.

22 *SEC. 48. Section 22665 of the Education Code is*
23 *amended to read:*

24 22665. The system shall include the service credit
25 awarded to a nonmember spouse in the judgment or
26 court order to determine the eligibility of a member for
27 a retirement or disability allowance under this part. That
28 portion of awarded service credit based on previously
29 refunded *accumulated retirement* contributions or on
30 permissive service credit may not be used by the member
31 for eligibility requirements until the member has
32 redeposited or purchased his or her portion of the service
33 credit. The member's service retirement allowance shall
34 be calculated based on the service credit in the member's
35 account on the effective date of service retirement.

36 *SEC. 49. Section 22703 of the Education Code is*
37 *amended to read:*

38 22703. (a) ~~Service shall be computed by school years~~
39 ~~and not by calendar years, portions of years served being~~
40 ~~accumulated and counted as service. All of the creditable~~



1 ~~service performed during any one school year subject to~~
2 ~~coverage under the Defined Benefit Program shall not~~
3 ~~count for more than one year.~~

4 ~~(b) Service shall be credited to the Defined Benefit~~
5 ~~Program, except as provided in subdivision (b).~~

6 (b) A member's creditable service that exceeds 1.000
7 in a school year shall not be credited to the Defined
8 Benefit Program. Commencing July 1, 2002,
9 contributions by the employer and the member on
10 creditable compensation paid to the member for that
11 service, exclusive of contributions pursuant to Section
12 22951, shall be credited to the Defined Benefit
13 Supplement Program.

14 (c) In lieu of any other benefits provided by this part,
15 any member who performed service prior to July 1, 1956,
16 shall receive retirement benefits for that service at least
17 equal to the benefits ~~which he or she~~ that the member
18 would have received for that service under the provisions
19 of this part as they existed on June 30, 1956. This
20 ~~paragraph does~~ subdivision shall not apply to service
21 ~~which~~ that is credited in the San Francisco City and
22 County Employees Retirement System.

23 SEC. 50. Section 22706 of the Education Code is
24 amended to read:

25 22706. A member shall not receive credit for service
26 performed while receiving a retirement or disability
27 allowance ~~from~~ under the Defined Benefit Program or
28 while receiving a retirement or disability annuity under
29 the Defined Benefit Supplement Program.

30 SEC. 51. Section 22905 of the Education Code is
31 amended to read:

32 22905. (a) Contributions made by a member and
33 member contributions made by an employer pursuant to
34 Section 22903 and 22904 shall be credited by the board to
35 the individual account of the member.

36 (b) This section shall become inoperative on July 1,
37 2002, and, as of January 1, 2003, is repealed, unless a later
38 enacted statute, that becomes operative on or before
39 January 1, 2003, deletes or extends the dates on which it
40 becomes inoperative and is repealed.



1 SEC. 52. Section 22905 is added to the Education
2 Code, to read:

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

10 (b) Member and employer contributions on a
11 member's compensation under the following
12 circumstances shall be credited to the member's Defined
13 Benefit Supplement account:

14 (1) Compensation for creditable service that exceeds
15 one year in a school year.

16 (2) Compensation for extra-curricular school-related
17 activities performed in addition to the creditable service
18 required by the member's employer.

19 (3) Compensation that is consistent with subdivision
20 (b) of Section 22119.2.

21 (4) Compensation that is a one-time payment
22 pursuant to law, a collective bargaining agreement or
23 employment agreement including, but not limited to,
24 payments based on national board certification.

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

31 (d) Member and employer contributions under the
32 Defined Benefit Supplement Program shall be credited
33 to the accounts of members as of June 30 each year
34 following a determination by the system under the
35 provisions of this part that those contributions should be
36 credited to the Defined Benefit Supplement Program.
37 Contributions to a member's Defined Benefit
38 Supplement account shall be identified separately from
39 the member's contributions credited under the Defined
40 Benefit Program.



1 (e) *The provisions of this section shall become*
2 *operative on July 1, 2002.*

3 *SEC. 53. Section 22906 of the Education Code is*
4 *repealed.*

5 ~~22906. If at the time of retirement, disability, or death,~~
6 ~~there are contributions remaining to the credit of the~~
7 ~~member that were made with respect to time on the basis~~
8 ~~of which a benefit will not be payable under this part, the~~
9 ~~board shall refund the contributions as it may allocate to~~
10 ~~the time.~~

11 *SEC. 54. Section 22906 is added to the Education*
12 *Code, to read:*

13 22906. A member's accumulated retirement
14 contributions that were made with respect to service that
15 was erroneously credited under the Defined Benefit
16 Program shall be returned to the member if the
17 contributions for that service cannot be credited under
18 the Defined Benefit Supplement Program pursuant to
19 this part.

20 *SEC. 55. Section 22955.5 is added to the Education*
21 *Code, to read:*

22 22955.5. For purposes of Sections 22954 and 22955,
23 "creditable compensation" shall include only creditable
24 compensation for which member contributions are
25 credited under the Defined Benefit Program.

26 *SEC. 56. Section 23100 of the Education Code is*
27 *amended to read:*

28 23100. (a) Upon the termination of a member's
29 employment by any cause other than death, *disability*, or
30 retirement there shall be paid to the member, pursuant
31 to this part, ~~both~~ each of the following:

32 (1) The member's accumulated retirement
33 contributions made after June 30, 1935.

34 (2) The member's accumulated annuity deposit
35 contributions.

36 (3) The member's accumulated Defined Benefit
37 Supplement contributions.

38 (b) Accumulated contributions shall include credited
39 interest through the date of payment.



1 SEC. 57. Section 23300 of the Education Code is
2 repealed.

3 ~~23300. (a) A member of the Defined Benefit~~
4 ~~Program may at any time designate a beneficiary, or~~
5 ~~change the designation of a beneficiary, to receive~~
6 ~~benefits payable under this part, except that no~~
7 ~~beneficiary designation may be made in derogation of the~~
8 ~~community property share of any nonmember spouse~~
9 ~~under this part when any such benefit is derived, in whole~~
10 ~~or in part, from community property contributions or~~
11 ~~service credited during the period of marriage, unless the~~
12 ~~nonmember spouse has previously obtained an~~
13 ~~alternative order for distribution pursuant to Section 2610~~
14 ~~of the Family Code. A designation of beneficiary shall be~~
15 ~~in writing on a form prescribed by the system, executed~~
16 ~~by the member, witnessed by two witnesses, neither of~~
17 ~~whom may be beneficiaries. To be valid the instrument~~
18 ~~shall be received in the office of the system in Sacramento~~
19 ~~before the member's death.~~

20 ~~(b) Except as otherwise stated in this section, the~~
21 ~~designation of beneficiary, other than an option~~
22 ~~beneficiary, may be revoked by the member making the~~
23 ~~designation, and a different beneficiary designated in the~~
24 ~~same manner as provided in this section.~~

25 SEC. 58. Section 23300 is added to the Education
26 Code, to read:

27 23300. (a) A member of the Defined Benefit
28 Program may designate a beneficiary to receive benefits
29 payable under this part upon the member's death. A
30 beneficiary designation may not be made in derogation
31 of a nonmember spouse's community property interest
32 with respect to service or contributions credited under
33 this part unless the nonmember spouse has previously
34 obtained an alternative order pursuant to Section 2610 of
35 the Family Code.

36 (b) A member shall make separate designations for
37 benefits payable under the Defined Benefit Program and
38 the Defined Benefit Supplement Program. Each
39 designation shall be in writing on a form prescribed by
40 the system, executed by the member, and witnessed by



1 two witnesses who are not designated as beneficiary for
2 benefits payable under either the Defined Benefit
3 Program or the Defined Benefit Supplement Program. A
4 member may designate the same beneficiary for benefits
5 payable under the Defined Benefit Program and the
6 Defined Benefit Supplement Program, or may designate
7 a different beneficiary for each.

8 (c) A beneficiary designation shall not be valid unless
9 it is received in the office of the system in Sacramento
10 prior to the member's death.

11 (d) A member may change or revoke a beneficiary
12 designation at any time by making a new designation
13 pursuant to this section.

14 (e) This section shall not be applicable to the
15 designation of an option beneficiary or an annuity
16 beneficiary under this part.

17 SEC. 59. Section 23881 of the Education Code is
18 repealed.

19 ~~23881. (a) Upon receipt of proof of death of a retired~~
20 ~~member who retired under this part after June 30, 1972,~~
21 ~~and of the retired member's option beneficiary, if the~~
22 ~~total retirement allowance paid or payable is less than the~~
23 ~~amount of the member's accumulated retirement~~
24 ~~contributions at the time of retirement, the remaining~~
25 ~~balance of accumulated retirement contributions shall be~~
26 ~~paid to the beneficiary, if no option was elected, or to the~~
27 ~~estate of the option beneficiary, if an option was elected.~~

28 ~~(b) Payments provided under this section shall~~
29 ~~include credited interest on the unpaid balance~~
30 ~~calculated from the date the last allowance payment was~~
31 ~~made to the date the balance is paid.~~

32 SEC. 60. Section 23881 is added to the Education
33 Code, to read:

34 23881. (a) If upon receipt of proof of death of a
35 retired member who was receiving an unmodified
36 allowance and who retired under this part after June 30,
37 1972, there is a remaining balance of the member's
38 accumulated retirement contributions, the balance shall
39 be paid to the member's beneficiary.



1 (b) If upon receipt of proof of death of a retired
2 member's option beneficiary after the beneficiary begins
3 to receive an allowance, the remaining balance of a
4 member's accumulated retirement contributions, if any,
5 shall be paid to the beneficiary designated by the option
6 beneficiary to receive that payment.

7 (c) The remaining balance of a retired member's
8 accumulated retirement contributions shall be the
9 difference between the balance of the accumulated
10 retirement contributions on the effective date of the
11 member's retirement and the total retirement allowance
12 paid or payable to the retired member on the date of the
13 member's death. If the retired member predeceased the
14 option beneficiary, the remaining balance of the retired
15 member's accumulated retirement contributions shall be
16 the difference between the balance of the accumulated
17 retirement contributions on the effective date of the
18 member's retirement and the total retirement allowance
19 paid or payable to the retired member and the option
20 beneficiary on the date of the option beneficiary's death.

21 (d) Payments pursuant to this section shall include
22 interest on the remaining balance of accumulated
23 retirement contributions calculated from the date the last
24 allowance payment was made to the date the remaining
25 balance of accumulated retirement contributions is paid.

26 SEC. 61. Section 24202.5 of the Education Code is
27 amended to read:

28 24202.5. (a) A member who retires for service on or
29 after January 1, 1999, shall receive a retirement allowance
30 consisting of all of the following:

31 (1) An annual allowance payable in monthly
32 installments, upon retirement equal to the percentage of
33 the final compensation set forth opposite the member's
34 age at retirement in the following table multiplied by
35 each year of ~~credit~~ credited service:

37	Age at Retirement	Percentage
38	60	2.00
39	60 1/4	2.033
40	60 1/2	2.067



1 60 3/4 2.10
2 61 2.133
3 61 1/4 2.167
4 61 1/2 2.20
5 61 3/4 2.233
6 62 2.267
7 62 1/4 2.30
8 62 1/2 2.333
9 62 3/4 2.367
10 63 and over 2.40

11

12 ~~(2)~~ If

13 If the member's retirement is effective at less than
14 normal retirement age and between early retirement age
15 and normal retirement age, the member's allowance shall
16 be reduced by one-half of 1 percent for each full month,
17 or fraction of a month that will elapse until the member
18 will attain normal retirement age.

19 ~~(3)~~

20 (2) An annuity that shall be the actuarial equivalent of
21 the ~~accumulated~~ member's annuity deposit
22 contributions ~~standing to the credit of the member's~~
23 ~~account~~ and credited interest thereon at the time of
24 retirement.

25 (3) An annuity based on the balance in the member's
26 Defined Benefit Supplement account.

27 (b) In computing the amounts described in paragraph
28 (1) of subdivision (a), the age of the member on the last
29 day of the month in which the retirement allowance
30 begins to accrue or the later date as provided in Section
31 24204 shall be used.

32 SEC. 62. Section 24206 of the Education Code is
33 amended to read:

34 24206. The minimum unmodified allowance for
35 service retirement under the Defined Benefit Program,
36 exclusive of annuities payable from accumulated annuity
37 deposit contributions ~~payable for service retirement~~
38 ~~under this part~~ and exclusive of accumulated Defined
39 Benefit Supplement contributions, shall not be less than
40 ten dollars (\$10) per month multiplied by the member's



1 years of credited service. This guaranteed amount shall
2 be reduced by the amount of an unmodified allowance
3 payable from a local system based on service credited
4 under ~~this part~~ *the Defined Benefit Program*. If the
5 retirement is effective at less than age 60 years this
6 allowance shall be reduced by one-half of 1 percent for
7 each full month or fraction of a month that will elapse
8 until the member would have reached age 60 years.

9 *SEC. 63. Section 24300.5 is added to the Education*
10 *Code, to read:*

11 *24300.5. An option beneficiary who is receiving an*
12 *allowance pursuant to the option elected by the member*
13 *may designate a beneficiary to receive any remaining*
14 *balance of the retired member's accumulated retirement*
15 *contributions payable pursuant to Section 23881 upon the*
16 *death of the option beneficiary.*

17 *SEC. 64. Section 24305.3 is added to the Education*
18 *Code, to read:*

19 *24305.3. (a) A member who is receiving a joint and*
20 *survivor annuity under the Defined Benefit Supplement*
21 *Program may change the annuity or the annuity*
22 *beneficiary elected pursuant to Section 25011 or 25018*
23 *provided all of the following conditions are met:*

24 *(1) The annuity beneficiary is the member's spouse or*
25 *former spouse.*

26 *(2) A final decree of dissolution of marriage is granted,*
27 *or a judgment of nullity is entered, or an order of separate*
28 *maintenance is made by a court of competent jurisdiction*
29 *with respect to the member and the spouse or former*
30 *spouse on or after July 1, 2002.*

31 *(3) The change is consistent with the final decree of*
32 *dissolution, judgment of nullity, or order of separate*
33 *maintenance.*

34 *(b) A member may change the annuity pursuant to*
35 *subdivision (a) before or after the first annuity payment*
36 *is issued.*

37 *(c) The member shall notify the system in writing of*
38 *the change in the annuity. The notification shall not be*
39 *earlier than the effective date of the final decree of*
40 *dissolution, judgment of nullity, or order of separate*



1 maintenance and shall include a certified copy of the final
2 decree of dissolution, judgment of nullity, or order of
3 separate maintenance, and any property settlement
4 agreement.

5 (d) A change in the annuity or annuity beneficiary or
6 both shall become effective on the date the notification
7 of change is received by the system. The annuity amount
8 payable to the member upon the change elected by the
9 member shall be determined as of the effective date of
10 the change and shall be the actuarial equivalent of the
11 lump-sum that would otherwise be payable to the
12 member as of the date of the change. If the member elects
13 a joint and survivor annuity, the amount payable under
14 the annuity shall be modified consistent with the annuity
15 elected by the member.

16 SEC. 65. Section 24400 of the Education Code is
17 amended to read:

18 24400. The Legislature recognizes that inflation
19 erodes the purchasing power of benefits paid under the
20 plan ~~under~~ pursuant to this part. It is the intent of the
21 Legislature to understand the degree of erosion of these
22 benefits. The board shall report to the Governor and
23 Legislature no later than April 1 of each year on the
24 extent to which inflation has eroded the purchasing
25 power of benefits provided under the Defined Benefit
26 Program and Defined Benefit Supplement Program. The
27 board shall indicate the amount of supplementary
28 increases in retirement allowances and retirement
29 annuities required to preserve the purchasing power of
30 benefits provided by under the Defined Benefit Program
31 and Defined Benefit Supplement Program. The board
32 shall also determine and report on the increases.

33 SEC. 66. Section 24402 of the Education Code is
34 amended to read:

35 24402. (a) Service retirement allowances,
36 retirement annuities, disability allowances, disability
37 retirement allowances, disability annuities, family
38 allowances, and survivor benefit allowances payable
39 pursuant to this part shall be increased by application of
40 the benefit improvement factor.



1 (b) Allowances payable to beneficiaries on account of
2 options elected under Section 24300, 24301, or 24307 *and*
3 *annuities payable to annuity beneficiaries* shall be
4 increased by application of the improvement factor. This
5 factor shall be applicable on the same date when it would
6 have been applied to the allowance of the deceased
7 person.

8 (c) The benefit improvement factor shall not be
9 applied to an annuity that is the actuarial equivalent of
10 the accumulated annuity deposit contributions standing
11 to the credit of the member's account on the effective
12 date of a service or disability retirement.

13 *SEC. 67. Section 24411 of the Education Code is*
14 *amended to read:*

15 24411. (a) (1) Annual cost-of-living adjustments for
16 retired members, disabled members, and beneficiaries in
17 excess of the 2-percent adjustment authorized by Section
18 22140 may be included as a General Fund appropriation
19 in the annual Budget Act. In the annual budget submitted
20 to the Legislature, the Governor shall include a budget
21 item equal to 5 percent of the average annualized
22 statewide increase in payroll for certificated personnel
23 over the three previous school years among school
24 districts, county offices of education, and community
25 college districts.

26 (2) The amount submitted in the annual Budget Act
27 pursuant to this section shall be considered as part of the
28 overall budget allocations to the public schools and
29 community colleges.

30 (b) The annual appropriation shall be made to the
31 system on July 1, and shall be placed in a segregated
32 account called the Retirees' Purchasing Power
33 Protection Account. The proceeds of that account are
34 continuously appropriated and shall be distributed
35 annually in quarterly payments commencing on
36 September 1 to retired members, disabled members, and
37 beneficiaries *under the Defined Benefit Program and*
38 *annuity beneficiaries under the Defined Benefit*
39 *Supplement Program* as follows:



1 (1) The proceeds shall be allocated among those
2 retired members, disabled members, and beneficiaries
3 *under the Defined Benefit Program and annuity*
4 *beneficiaries under the Defined Benefit Supplement*
5 *Program* whose allowances *or annuities*, after applying
6 the 2-percent adjustment authorized by Section 22140,
7 have the lowest purchasing power percentage, based on
8 the amount that would be paid had the original allowance
9 *or annuity* been increased by the increases in the index
10 then being used by the Department of Finance to
11 measure changes in the cost of living, increasing those
12 allowances *and annuities* to a common minimum
13 purchasing power level. In any year in which the
14 purchasing power of the allowances of all retired
15 members, disabled members, and beneficiaries *under the*
16 *Defined Benefit Program and annuities under the*
17 *Defined Benefit Supplement Program* equals not less
18 than 75 percent and additional funds remain from the
19 allocation authorized by this section, those funds shall be
20 allocated by the board to general accounts to reduce the
21 unfunded actuarial liability of the fund.

22 (2) The board may deduct from the annual
23 appropriation an amount necessary for administrative
24 expenses to implement this section.

25 (c) The board shall inform each recipient of benefits
26 under subdivision (b) that the increases are not
27 cumulative, are not part of the base allowance *or annuity*,
28 and shall be available only as appropriated annually in the
29 Budget Act.

30 (d) The adjustments authorized by this section shall
31 not be included in the base allowance *or annuity* for
32 purposes of calculating the 2-percent adjustment
33 authorized by Section 22140.

34 (e) It is the ultimate intent and purpose of the
35 Legislature in amending this section by Chapters 323 and
36 780 of the Statutes of 1983, to achieve a common
37 minimum purchasing power level equal to 75 percent of
38 the purchasing power of the original allowance *or*
39 *annuity*. It is the present intent of the Legislature that
40 until adequate funds are available to fulfill the ultimate



1 intent, those persons whose allowances *or annuities* have
2 been most impacted by inflation shall be accorded first
3 priority in receiving, pursuant to this section,
4 supplemental cost-of-living adjustments from the
5 Retirees' Purchasing Power Protection Account.

6 (f) This section shall not be operative in any fiscal year
7 during which, as determined by the board, distributions
8 provided for by Section 24415 are being made.

9 *SEC. 68. Section 24412 of the Education Code is*
10 *amended to read:*

11 24412. (a) The annual revenues deposited to the
12 Teachers' Retirement Fund pursuant to Section 6217.5 of
13 the Public Resources Code are continuously appropriated
14 without regard to fiscal year for the purposes of this
15 section and shall be distributed annually in quarterly
16 supplemental payments commencing on September 1 of
17 each year to retired members, disabled members, and
18 beneficiaries *under the Defined Benefit Program and*
19 *annuity beneficiaries under the Defined Benefit*
20 *Supplement Program.* The amount available for
21 distribution in any year shall be the income for that year
22 from the sale or use of school lands and lieu lands, as
23 estimated by the State Lands Commission prior to the
24 beginning of the fiscal year, adjusted by the difference
25 between the estimated and actual income for the
26 preceding fiscal year. The board shall deduct from the
27 revenues an amount necessary for administrative
28 expenses to implement this section.

29 (b) The net revenues to be distributed shall be
30 allocated among those retired members, disabled
31 members, and beneficiaries whose allowances *under the*
32 *Defined Benefit Program and annuity beneficiaries*
33 *under the Defined Benefit Supplement Program whose*
34 *annuities,* after sequentially applying the annual
35 improvement factor as defined in Section 22140 and the
36 annual supplemental payment as defined in Section
37 24411, if any, are below 75 percent of original purchasing
38 power. The purchasing power calculation for each
39 individual allowance *and annuity* shall be based on the
40 change in the All Urban California Consumer Price Index



1 between June of the calendar year of retirement and June
2 of the fiscal year preceding the fiscal year of the
3 distribution. The allocation shall provide a pro rata share
4 of the amount needed to restore the allowance *or annuity*
5 payable, after sequential application of the current year
6 annual improvement factor and the supplemental
7 payment under Section 24411, to 75 percent of original
8 purchasing power.

9 (c) The allowance *or annuity* increase shall not be
10 applicable to annuities payable from the accumulated
11 annuity deposit contributions or the accumulated
12 tax-sheltered annuity contributions.

13 (d) In any year that the net revenues from school lands
14 and lieu lands is greater than that needed to adjust the
15 allowances of all retired members, disabled members,
16 and beneficiaries *under the Defined Benefit Program*
17 *and annuities payable under the Defined Benefit*
18 *Supplement Program* to 75 percent of original purchasing
19 power, the net revenues in excess of that needed for
20 distribution shall be used by the board to reduce the
21 unfunded actuarial obligation of the fund.

22 (e) The board shall inform each recipient of
23 supplemental payments under this section that the
24 increases are not cumulative and are not part of the base
25 allowance *or annuity*.

26 *SEC. 69. Section 24415 of the Education Code is*
27 *amended to read:*

28 24415. (a) The proceeds of the Supplemental Benefit
29 Maintenance Account shall be distributed annually in
30 quarterly supplemental payments commencing on
31 September 1, 1990, to retired members, disabled
32 members, *annuity beneficiaries*, and beneficiaries. The
33 amount available for distribution in any fiscal year shall
34 not exceed the amount necessary to restore purchasing
35 power up to 75 percent of the purchasing power of the
36 initial monthly allowance *or annuity* after the application
37 of all allowance *and annuity* increases authorized by this
38 part, including those specified in Section 24412.

39 (b) The net revenues to be distributed shall be
40 allocated among those retired members, disabled



1 members, *annuity beneficiaries*, and beneficiaries whose
2 allowances *or annuities*, after sequentially applying the
3 annual improvement factor as defined in Sections 22140
4 and 22141, and the annual supplemental payment as
5 defined in Section 24412, have the lowest purchasing
6 power percentage. The purchasing power calculation for
7 each individual shall be based on the change in the All
8 Urban California Consumer Price Index between June of
9 the calendar year of retirement and June of the fiscal year
10 preceding the fiscal year of distribution. In any year in
11 which the purchasing power of the allowances *and*
12 *annuities* of all retired members, disabled members,
13 *annuity beneficiaries*, and beneficiaries equals not less
14 than 75 percent and additional funds remain from the
15 allocation authorized by this section, those funds shall
16 remain in the Supplemental Benefit Maintenance
17 Account for allocation in future years.

18 (c) The allowance *or annuity* increase shall not be
19 applicable to annuities payable from the accumulated
20 annuity deposit contributions or the accumulated
21 tax-sheltered annuity contributions.

22 (d) The benefits provided by subdivision (b) are not
23 cumulative, not part of the base allowance *or annuity*, and
24 will be payable only to the extent that funds are available
25 from the Supplemental Benefit Maintenance Account.
26 The board shall inform each recipient of the contents of
27 this subdivision.

28 (e) The adjustments authorized by this section are
29 vested only up to the amount payable as a result of the
30 annual appropriation made pursuant to Section 22954 and
31 shall not be included in the base allowance *or annuity* for
32 purposes of calculating the annual improvement defined
33 by Sections 22140 and 22141.

34 *SEC. 70. Section 24417 of the Education Code is*
35 *amended to read:*

36 24417. (a) The proceeds of an auxiliary
37 Supplemental Benefit Maintenance Account shall be
38 distributed annually in quarterly supplemental
39 payments, commencing when funds in the Supplemental
40 Benefit Maintenance Account are insufficient to support



1 75 percent, to retired members, disabled members,
2 *annuity beneficiaries*, and beneficiaries. The amount
3 available for distribution in any fiscal year shall not
4 exceed the amount necessary to restore purchasing
5 power up to 75 percent of the purchasing power of the
6 initial monthly allowance *or annuity* after the application
7 of all allowance *and annuity* increases authorized by this
8 part, including those specified in Section 24412 and
9 Section 24415.

10 (b) The net revenues to be distributed shall be
11 allocated among those retired members, disabled
12 members, *annuity beneficiaries*, and beneficiaries whose
13 allowances *or annuities*, after sequentially applying the
14 annual improvement factor as defined in Sections 22140
15 and 22141, and the annual supplemental payment as
16 defined in Section 24412 and Section 24415, have the
17 lowest purchasing power percentage. The purchasing
18 power calculation for each individual shall be based on
19 the change in the All Urban California Consumer Price
20 Index between June of the calendar year of benefit
21 effective date and June of the fiscal year preceding the
22 fiscal year of distribution.

23 (c) The allowance *or annuity* increase shall not be
24 applicable to annuities payable from the accumulated
25 annuity deposit contributions or the accumulated
26 tax-sheltered annuity contributions.

27 (d) The benefits provided by subdivision (b) are not
28 cumulative, nor part of the base allowance *or annuity*,
29 and will be payable only to the extent that funds are
30 available from the Supplemental Benefit Maintenance
31 Account and the auxiliary Supplemental Benefit
32 Maintenance Account. The board shall inform each
33 recipient of the contents of this subdivision.

34 (e) The distributions authorized by this section are
35 vested only up to the amount payable as a result of the
36 annual appropriation made pursuant to Section 22954 and
37 shall not be included in the base allowance *or annuity* for
38 purposes of calculating the annual improvement defined
39 by Section 22140 and 22141.



1 SEC. 71. Section 24600 of the Education Code is
2 amended to read:

3 24600. (a) A retirement allowance under this part
4 begins to accrue on the effective date of the member's
5 retirement and ceases on the earlier of the day of the
6 member's death or the day on which the retirement
7 allowance terminated for a reason other than the
8 member's death.

9 (b) A retirement allowance payable to an option
10 beneficiary under this part begins to accrue on the day
11 following the day of the retired member's death and
12 ceases on the day of the option beneficiary's death.

13 (c) A disability allowance under this part begins to
14 accrue on the effective date of the member's disability
15 and ceases on the earlier of the day of the member's death
16 or the day on which the disability allowance terminated
17 for a reason other than the member's death.

18 (d) A family allowance under this part begins to
19 accrue on the day following the day of the member's
20 death and ceases on the day of the event that terminates
21 eligibility for the allowance.

22 (e) A survivor benefit allowance payable to a
23 surviving spouse under this part pursuant to Chapter 23
24 (commencing with Section 23850) begins to accrue on
25 the day the member would have attained 60 years of age
26 or on the day following the day of the member's death, as
27 elected by the surviving spouse, and ceases on the day of
28 the surviving spouse's death.

29 (f) A child's portion of an allowance under this part
30 begins to accrue on the effective date of that allowance
31 and ceases on the earlier of either the termination of the
32 child's eligibility or the termination of the allowance. An
33 allowance payable because of a full-time student shall
34 terminate on the first day of the month following the end
35 of the school quarter or semester that is in progress in the
36 month the full-time student attains 22 years of age. Any
37 adjustment to an allowance because of a full-time
38 student's periods of nonattendance shall be made as
39 follows: the allowance shall cease on the first day of the
40 month in which return to full-time attendance was



1 required and shall begin to accrue again on the first day
2 of the month in which full-time attendance resumes.

3 (g) Supplemental payments issued under this part
4 pursuant to Sections 24701, 24702, and 24703 to retired
5 members, disabled members, and beneficiaries shall
6 begin to accrue pursuant to Sections 24701, 24702, and
7 24703 and shall cease to accrue as of the termination dates
8 specified in subdivisions (a) to (f), inclusive.

9 (h) Notwithstanding any other provision of this part or
10 other law, distributions ~~from payable under~~ the plan with
11 respect to the Defined Benefit Program *and the Defined*
12 *Benefit Supplement Program* shall be made in
13 accordance with ~~Section 401(a)(9) applicable provisions~~
14 of the Internal Revenue Code of 1986, as amended,
15 ~~including the incidental death benefit requirements of~~
16 ~~Section 401(a)(9)(G) and the related regulations~~
17 ~~thereunder, and the.~~ The required beginning date of
18 benefit payments that represent the entire interest of the
19 member in the plan with respect to the Defined Benefit
20 Program *and the Defined Benefit Supplement Program*
21 shall be ~~as follows~~ *either:*

22 (1) In the case of a refund of contributions, as
23 described in Chapter 12 (commencing with Section
24 23100) of this part, *and distribution of the balance in a*
25 *member's Defined Benefit Supplement account, as*
26 *described in Chapter 38 (commencing with Section*
27 *25000) of this part,* not later than April 1 of the calendar
28 year following the later of (A) the calendar year in which
29 the member attains 70 1/2 years of age or (B) the calendar
30 year in which the member terminates employment
31 within the meaning of subdivision (i).

32 (2) In the case of a retirement allowance, as defined in
33 Section 22150, beginning not later than April 1 of the
34 calendar year following the later of (A) the calendar year
35 in which the member attains 70 1/2 years of age or (B) the
36 calendar year in which the member terminates
37 employment within the meaning of subdivision (i), to
38 continue over the life of the member or the lives of the
39 member and the member's option beneficiary, or over



1 the life expectancy of the member or the life expectancy
2 of the member and the member's option beneficiary.

3 (i) For purposes of subdivision (h), "terminates
4 employment" means the later of ~~the termination of~~
5 ~~employment subject to coverage by the Defined Benefit~~
6 ~~Program or the termination of employment in a position~~
7 ~~requiring or permitting membership in another public~~
8 ~~retirement system in this state the compensation from~~
9 ~~which may be included in final compensation under~~
10 ~~Section 22127.~~

11 (j) ~~This section shall become operative on January 1,~~
12 ~~2002:~~

13 (1) *The date the member ceases to perform creditable*
14 *service subject to coverage under this plan.*

15 (2) *The date the member ceases employment in a*
16 *position subject to coverage under another public*
17 *retirement system in this state if the compensation*
18 *earnable while a member of the other system may be*
19 *considered in the determination of final compensation*
20 *pursuant to Section 22134.*

21 *SEC. 72. Section 25000 of the Education Code is*
22 *amended and renumbered to read:*

23 ~~25000.~~

24 25900. (a) The State Teachers' Retirement System
25 shall develop a program to provide health care benefits
26 for members, beneficiaries, children, and dependent
27 parents.

28 (b) All costs incurred by the system pursuant to this
29 part shall be paid by allocations from the Teachers'
30 Retirement Fund as appropriated for that purpose.

31 (c) The health care benefits program developed by
32 the system pursuant to this part shall not be implemented
33 by the system unless specifically authorized by a statute
34 enacted by the Legislature.

35 *SEC. 73. Section 25100 of the Education Code is*
36 *amended and renumbered to read:*

37 ~~25100.~~

38 25901. Unless the context otherwise requires, the
39 definitions set forth in this chapter govern the
40 construction of this part.



1 SEC. 74. Section 25110 of the Education Code is
2 amended and renumbered to read:

3 ~~25110.~~

4 25910. “Beneficiary” or “beneficiaries” means any
5 person or entity receiving or entitled to receive an
6 allowance and payment pursuant to Part 13
7 (commencing with Section 22000) or 14 (commencing
8 with Section 26000) because of the disability or death of
9 a member.

10 SEC. 75. Section 25115 of the Education Code is
11 amended and renumbered to read:

12 ~~25115.~~

13 25915. (a) “Dependent child” or “dependent
14 children” means a member’s unmarried offspring or
15 stepchild who is not older than 22 years of age and who
16 is financially dependent upon the member on the date
17 the member becomes eligible for benefits pursuant to this
18 part.

19 (b) “Offspring” shall include the member’s child who
20 is born within the 10-month period commencing on the
21 date the member becomes eligible for benefits pursuant
22 to this part.

23 (c) “Offspring” shall include a child adopted by the
24 member.

25 (d) “Dependent child” shall not include the member’s
26 offspring or stepchild who is adopted by a person other
27 than the member’s spouse.

28 (e) “Financially dependent,” for purposes of this
29 section, means that at least one-half of the child’s support
30 was being provided by the member on the date the
31 member became eligible for benefits pursuant to this
32 part. The system may require that income tax records or
33 other data be submitted to substantiate the child’s
34 financial dependence. In the absence of substantiating
35 documentation, the system may determine that the child
36 was not dependent on the date the member became
37 eligible for benefits pursuant to this part.

38 SEC. 76. Section 25120 of the Education Code is
39 amended and renumbered to read:

40 ~~25120.~~



1 25920. “Dependent parent” or “dependent parents”
 2 means a natural parent or parents of a member, or a
 3 parent or parents who adopted the member prior to the
 4 earlier of the occurrence of the member’s marriage or his
 5 or her attaining 18 years of age, and who was receiving
 6 one-half or more of his or her support from the member
 7 at the time the member became eligible for benefits
 8 pursuant to this part.

9 *SEC. 77. Section 25125 of the Education Code is*
 10 *amended and renumbered to read:*

11 ~~25125.~~

12 25925. “Member” means a current or retired
 13 employee of an employer, as defined in Section 22131.

14 *SEC. 78. Chapter 38 (commencing with Section*
 15 *25000) is added to Part 13 of Division 1 of Title 1 of the*
 16 *Education Code, to read:*

17

18 *CHAPTER 38. DEFINED BENEFIT SUPPLEMENT PROGRAM*

19

20 *Article 1. General Provisions*

21

22 25000. *The Defined Benefit Supplement Program is*
 23 *hereby established to provide supplemental benefits for*
 24 *members of the Defined Benefit Program. The Teachers’*
 25 *Retirement Board shall administer the Defined Benefit*
 26 *Supplement Program in accordance with the provisions*
 27 *of this chapter.*

28

29 *Article 2. Program Accounts*

30

31 25001. (a) *The board shall establish a segregated*
 32 *account within the retirement fund to be known as the*
 33 *Gain and Loss Reserve, and the board shall have sole*
 34 *authority over the reserve. The Gain and Loss Reserve*
 35 *shall be maintained for the Defined Benefit Supplement*
 36 *Program and may be used to credit interest at the*
 37 *minimum interest rate for plan years in which the board*
 38 *determines that the obligation cannot be met from*
 39 *investment earnings. The Gain and Loss Reserve may also*
 40 *be used to provide additions to the Annuitant Reserve for*



1 *monthly annuities payable under the Defined Benefit*
2 *Supplement Program.*

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

7 *(c) The board may allocate excess earnings of the plan*
8 *with respect to assets attributable to the Defined Benefit*
9 *Supplement Program to the Gain and Loss Reserve. Upon*
10 *the recommendation of the actuary, the board shall*
11 *determine annually the amount, if any, that is to be*
12 *allocated to the Gain and Loss Reserve for that plan year.*
13 *In determining whether to allocate excess earnings to the*
14 *Gain and Loss Reserve, the board shall consider all of the*
15 *following:*

16 *(1) Whether or not the plan has excess earnings*
17 *attributable to the Defined Benefit Supplement*
18 *Program.*

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

21 *(3) The amount required for the plan's administrative*
22 *costs with respect to the Defined Benefit Supplement*
23 *Program.*

24 *(4) The amount required for crediting members'*
25 *accounts at the minimum interest rate.*

26 *25002. The board shall establish and maintain a*
27 *segregated account within the retirement fund to be*
28 *known as the Annuitant Reserve and the board shall have*
29 *sole authority over the reserve. The Annuitant Reserve*
30 *shall be used for the payment of annuities under the*
31 *Defined Benefit Supplement Program. The board shall*
32 *transfer the balance in a member's accumulated Defined*
33 *Benefit Supplement account to the reserve when a*
34 *benefit is to be paid as an annuity.*

35 *25003. The board may transfer amounts between the*
36 *Gain and Loss Reserve and the Annuitant Reserve upon*
37 *the recommendation of the actuary.*

38 *25004. Member accounts under the Defined Benefit*
39 *Supplement Program shall be nominal accounts. Member*
40 *contributions and employer contributions on behalf of*



1 *the member shall be credited to the member's Defined*
2 *Benefit Supplement account, together with interest*
3 *credited at the minimum interest rate and additional*
4 *earnings credit thereon. The balance in a member's*
5 *account shall determine the amount to which the*
6 *member is entitled under the Defined Benefit*
7 *Supplement Program upon termination of employment*
8 *subject to coverage by the plan. The member shall not*
9 *have a right or claim to any specific assets of the account,*
10 *program, plan, or retirement fund.*

11 25005. (a) *Prior to July 1 of the initial plan year, and*
12 *prior to the beginning of each plan year thereafter, the*
13 *board shall adopt a plan amendment with respect to the*
14 *Defined Benefit Supplement Program to declare the rate*
15 *at which interest shall be credited to Defined Benefit*
16 *Supplement accounts for the following plan year.*

17 (b) *The minimum interest rate declared annually by*
18 *the board shall be in accordance with applicable federal*
19 *laws and related regulations.*

20 (c) *Interest shall be added to Defined Benefit*
21 *Supplement accounts and shall be computed at the*
22 *minimum interest rate on the balance in a member's*
23 *account and shall be compounded daily.*

24 (d) *Credited interest shall not be applied to*
25 *accumulated Defined Benefit Supplement contributions*
26 *that have been transferred to the Annuitant Reserve.*

27 25006. (a) *The board may declare an additional*
28 *earnings credit to be applied to Defined Benefit*
29 *Supplement accounts for a plan year. Prior to declaring*
30 *an additional earnings credit, the board shall consider all*
31 *of the following:*

32 (1) *Whether the plan's investment earnings with*
33 *respect to the Defined Benefit Supplement Program for*
34 *the plan year exceed the amount required to meet the*
35 *liabilities identified in paragraphs (2), (3), and (4).*

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



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

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

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

16 (c) *The declaration of an additional earnings credit*
17 *shall be made as a plan amendment adopted by the board*
18 *with respect to the Defined Benefit Supplement*
19 *Program.*

20 25007. *When the board declares an additional*
21 *earnings credit for a plan year, the board also may declare*
22 *an additional annuity credit, for members and*
23 *beneficiaries who are receiving an annuity, based on the*
24 *balance transferred from the member's Defined Benefit*
25 *Supplement account to the Annuitant Reserve. The*
26 *additional annuity credit, if declared by the board, shall*
27 *be paid in a lump-sum. In addition to the considerations*
28 *specified in Section 24242, prior to declaring an additional*
29 *earnings credit, the board shall consider both of the*
30 *following:*

31 (a) *The amount required for the plan year to apply the*
32 *additional earnings credit to the Defined Benefit*
33 *Supplement accounts of members who are not receiving*
34 *an annuity under the Defined Benefit Supplement*
35 *Program for the plan year.*

36 (b) *Any other obligations incurred by the plan with*
37 *respect to the Defined Benefit Supplement Program.*

38 25008. (a) *A member's right to the balance in the*
39 *member's Defined Benefit Supplement account shall be*



1 vested at the time contributions are initially credited to
2 the member's account.

3 (b) A partial distribution of the balance in a member's
4 Defined Benefit Supplement account shall not be made,
5 except as provided in Section 25015 or 25022.

6

7

Article 3. Retirement Benefits

8

9 25009. (a) A member's retirement benefit under the
10 Defined Benefit Supplement Program shall be an amount
11 equal to the balance in the member's Defined Benefit
12 Supplement account on the date the retirement benefit
13 becomes payable.

14 (b) A retirement benefit shall be a lump-sum
15 payment, or an annuity payable in monthly installments,
16 or a combination of both a lump-sum payment and an
17 annuity, as elected by the member on the application for
18 a retirement benefit.

19 (c) Upon distribution of the entire retirement benefit
20 in a lump-sum payment, no other benefit shall be payable
21 to the member or the member's beneficiary under the
22 Defined Benefit Supplement Program.

23 25010. (a) A member who meets the following
24 eligibility requirements may receive a retirement benefit
25 under the Defined Benefit Supplement Program:

26 (1) The member has terminated all employment to
27 perform creditable service subject to coverage by the
28 plan. The member's employer, or employers if the
29 member has multiple employers, shall certify on a form
30 prescribed by the system that the member's employment
31 has been terminated.

32 (2) The member has retired for service under the
33 Defined Benefit Program pursuant to Chapter 27
34 (commencing with Section 24201).

35 (b) A member shall submit an application for a
36 retirement benefit on a form prescribed by the system.

37 25011. (a) A member may elect to receive the
38 retirement benefit as an annuity payable in monthly
39 installments, provided the balance in the member's
40 Defined Benefit Supplement account on the date the



1 retirement benefit becomes payable is at least equal to
2 three thousand five hundred dollars (\$3,500).

3 (b) If the member elects to receive the retirement
4 benefit as an annuity, the member shall elect one of the
5 following forms of payment:

6 (1) A single life annuity without a cash refund feature.
7 This form of payment is the actuarial equivalent of the
8 amount that would be payable to the member if the
9 member elected to receive the retirement benefit in a
10 lump-sum payment. Upon the death of the member, no
11 other benefit shall be payable to the member's
12 beneficiary under the Defined Benefit Supplement
13 Program.

14 (2) A single life annuity with a cash refund feature.
15 This form of payment is the actuarial equivalent of the
16 amount that would be payable to the member if the
17 member elected to receive the retirement benefit in a
18 lump-sum payment. Upon the death of the member, the
19 remaining balance, if any, of the amount transferred from
20 the member's Defined Benefit Supplement account to
21 the Annuitant Reserve shall be returned in a lump-sum
22 payment to the member's beneficiary.

23 (3) A 100-percent joint and survivor annuity. This
24 form of payment is the actuarial equivalent of the
25 lump-sum payment modified to be payable over the
26 combined lives of the member and the member's
27 beneficiary. Upon the death of the member, the same
28 monthly amount that was payable to the member shall be
29 paid monthly to the member's surviving beneficiary. If
30 the beneficiary predeceases the member, the annuity
31 shall be payable to the member without modification as
32 of the day following the date of the beneficiary's death
33 upon receipt by the system of proof of the beneficiary's
34 death.

35 (4) A 50-percent joint and survivor annuity. This form
36 of payment is the actuarial equivalent of the lump-sum
37 payment modified to be payable over the combined lives
38 of the member and the member's beneficiary. Upon the
39 death of the member, one-half of the monthly amount
40 that was payable to the member shall be paid monthly to



1 *the member's surviving beneficiary. If the beneficiary*
2 *predeceases the member, the annuity shall be payable to*
3 *the member without modification as of the day following*
4 *the date of the beneficiary's death upon receipt by the*
5 *system of proof of the beneficiary's death.*

6 (5) *A period certain annuity. This form of payment is*
7 *an annuity equal to the balance in the member's Defined*
8 *Benefit Supplement account on the date the retirement*
9 *benefit becomes payable. The annuity shall be payable*
10 *over a specified number of years, from a minimum of*
11 *three years to a maximum of 10 years, until the annuity*
12 *amount paid equals the amount that was in the member's*
13 *Defined Benefit Supplement account. However, the*
14 *annuity period shall not exceed the life expectancy of the*
15 *member, or the life expectancy of the member and the*
16 *member's annuity beneficiary. If the member elects a*
17 *single life annuity and the member's death occurs prior*
18 *to the end of the period certain, the remaining balance*
19 *of payments shall be paid to the member's beneficiary*
20 *pursuant to Section 23300. If the member elects a joint*
21 *and survivor annuity and the member's death occurs*
22 *prior to the end of the period certain, the remaining*
23 *balance of payments shall be paid to the member's*
24 *annuity beneficiary pursuant to Section 25025.*

25 25012. *An annuity payable under the Defined Benefit*
26 *Supplement Program shall be determined as a value*
27 *actuarially equivalent to the balance in the member's*
28 *Defined Benefit Supplement account on the date the*
29 *benefit becomes payable and after any lump-sum*
30 *payment. If a single life annuity is elected, the annuity*
31 *shall be calculated using the age of the member on the*
32 *date the benefit becomes payable. If a joint and survivor*
33 *annuity is elected, the annuity shall be calculated using*
34 *the age of the member and the age of the member's*
35 *beneficiary on the date the benefit becomes payable.*

36 25013. *Upon election by the member to receive a*
37 *benefit payable under the Defined Benefit Supplement*
38 *Program in the form of an annuity, the balance in the*
39 *member's Defined Benefit Supplement account shall be*
40 *transferred to the Annuitant Reserve.*



1 25014. (a) If a member reinstates from service
2 retirement under this part, payment of an annuity based
3 on the balance that was transferred from the member's
4 accumulated Defined Benefit Supplement account to the
5 Annuitant Reserve shall terminate. The member's
6 Defined Benefit Supplement account shall be credited
7 with the actuarial equivalent of the member's annuity as
8 of the date the annuity is terminated and the Annuitant
9 Reserve shall be reduced by the amount credited to the
10 member's account.

11 (b) The actuarial equivalent of the annuity on the date
12 the annuity is terminated shall be calculated using the
13 actuarial assumptions that were in effect on the date the
14 annuity became payable. In determining the actuarial
15 equivalent, the age of the member on the date the benefit
16 became payable shall be used if the member was
17 receiving a single life annuity. If the member was
18 receiving a joint and survivor annuity, the age of the
19 member and the age of the member's beneficiary on the
20 date the benefit became payable shall be used to
21 determine the actuarial equivalent.

22 (c) If the member subsequently retires again, an
23 annuity based on the remaining balance in the member's
24 Defined Benefit Supplement account at the time of the
25 subsequent retirement shall become payable pursuant to
26 Section 24202.5 and the balance shall be transferred to the
27 Annuitant Reserve.

28 25015. (a) If a member elects to receive a benefit
29 payable under the Defined Benefit Supplement Program
30 as a joint and survivor annuity, the member shall
31 designate an annuity beneficiary on the benefit
32 application. The annuity beneficiary designation shall not
33 be changed after the date the benefit becomes payable to
34 the member, except as provided in Chapter 12
35 (commencing with Section 22650).

36 (b) A member who elects to receive a joint and
37 survivor annuity may designate more than one annuity
38 beneficiary. If the member designates multiple annuity
39 beneficiaries, the member shall specify the percentage of
40 the annuity payable to each annuity beneficiary upon the



1 death of the member. The annuity amount payable to the
2 member during his or her lifetime shall be modified to be
3 payable over the combined lives of the member and the
4 annuity beneficiaries.

5 (c) If the member predeceases an annuity beneficiary,
6 the annuity beneficiary may designate a payee to receive
7 an amount that may be payable in a lump-sum pursuant
8 to subdivision (c) of Section 25023 upon the death of the
9 annuity beneficiary.

10

11

Article 5. Disability Benefits

12

13 25016. (a) A member's disability benefit under the
14 Defined Benefit Supplement Program shall be an amount
15 equal to the balance in the member's Defined Benefit
16 Supplement account on the date the member's disability
17 benefit becomes payable.

18 (b) A disability benefit shall be a lump-sum payment,
19 or an annuity payable in monthly installments, or a
20 combination of both a lump-sum payment and an
21 annuity, as elected by the member on the application for
22 a disability benefit.

23 (c) Upon distribution of a disability benefit in a
24 lump-sum payment, no other benefit shall be payable to
25 the member or the member's beneficiary under the
26 Defined Benefit Supplement Program.

27 25017. (a) A member who meets the following
28 eligibility requirements may receive a disability benefit
29 under the Defined Benefit Supplement Program:

30 (1) The member has terminated all creditable service
31 subject to coverage by the plan. The member's employer,
32 or employers if the member has multiple employers, shall
33 certify on a form prescribed by the system that the
34 member has terminated all creditable service.

35 (2) The member has been approved to receive a
36 disability allowance pursuant to Section 24006 or a
37 disability retirement allowance pursuant to Section 24106
38 under the Defined Benefit Program.

39 (b) The member, or the member's employer or
40 conservator on behalf of the member, shall submit an



1 application for a disability benefit on a form prescribed by
2 the system.

3 25018. (a) A member may elect to receive the
4 disability benefit as an annuity provided the balance in
5 the member's Defined Benefit Supplement account on
6 the date the disability benefit becomes payable equals at
7 least three thousand five hundred dollars (\$3,500).

8 (b) If the member elects to receive the disability
9 benefit as an annuity, the member shall elect one of the
10 following forms of payment:

11 (1) A single life annuity without a cash refund feature.
12 This form of payment is the actuarial equivalent of the
13 amount that would be payable to the member if the
14 member elected to receive the retirement benefit in a
15 lump-sum payment. Upon the death of the member, no
16 other benefit shall be payable to the member's
17 beneficiary under the Defined Benefit Supplement
18 Program.

19 (2) A single life annuity with a cash refund feature.
20 This form of payment is the actuarial equivalent of the
21 amount that would be payable to the member if the
22 member elected to receive the disability retirement
23 benefit in a lump-sum payment. Upon the death of the
24 member, the remaining balance, if any, of the amount
25 transferred from the member's Defined Benefit
26 Supplement account to the Annuitant Reserve shall be
27 returned in a lump-sum payment to the member's
28 beneficiary.

29 (3) A 100-percent joint and survivor annuity. This
30 form of payment is the actuarial equivalent of the
31 lump-sum payment modified to be payable over the
32 combined lives of the member and the member's
33 beneficiary. Upon the death of the member, the same
34 monthly amount that was payable to the member shall be
35 paid monthly to the member's surviving beneficiary. If
36 the beneficiary predeceases the member, the annuity
37 shall be payable to the member without modification as
38 of the day following the date of the beneficiary's death
39 upon receipt by the system of proof of the beneficiary's
40 death.



1 (4) A 50-percent joint and survivor annuity. This form
2 of payment is the actuarial equivalent of the lump-sum
3 payment modified to be payable over the combined lives
4 of the member and the member's beneficiary. Upon the
5 death of the member, one-half of the monthly amount
6 that was payable to the member shall be paid monthly to
7 the member's surviving beneficiary. If the beneficiary
8 predeceases the member, the annuity shall be payable to
9 the member without modification as of the day following
10 the date of the beneficiary's death upon receipt by the
11 system of proof of the beneficiary's death.

12 (5) A period certain annuity. This form of payment is
13 an annuity equal to the balance in the member's Defined
14 Benefit Supplement account on the date the disability
15 benefit becomes payable. The annuity shall be payable
16 over a specified number of years, from a minimum of
17 three years to a maximum of 10 years until the annuity
18 amount paid equals the amount that was in the member's
19 Defined Benefit Supplement account. However, the
20 annuity period shall not exceed the life expectancy of the
21 member, or the life expectancy of the member and the
22 member's annuity beneficiary. If the member elects a
23 single life annuity and the member's death occurs prior
24 to the end of the period certain, the remaining balance
25 of payments shall be paid to the member's beneficiary
26 pursuant to Section 23300. If the member elects a joint
27 and survivor annuity and the member's death occurs
28 prior to the end of the period certain, the remaining
29 balance of payments shall be paid to the member's
30 annuity beneficiary pursuant to Section 25025.

31 25019. (a) If a member's disability allowance or
32 disability retirement allowance under this part is
33 terminated, payment of a disability annuity based on the
34 balance transferred from the member's Defined Benefit
35 Supplement account to the Annuitant Reserve also shall
36 be terminated. The member's Defined Benefit
37 Supplement account shall be credited with the actuarial
38 equivalent of the member's annuity as of the date the
39 annuity is terminated and the Annuitant Reserve shall be



1 reduced by the amount credited to the member's
2 account.

3 (b) The actuarial equivalent of the annuity on the date
4 the annuity is terminated shall be calculated using the
5 actuarial assumptions that were in effect on the date
6 when the disability annuity became payable. In
7 determining the actuarial equivalent, the age of the
8 member on the date the disability annuity became
9 payable shall be used if the member was receiving a single
10 life annuity. If the member was receiving a joint and
11 survivor annuity, the age of the member and the age of
12 the member's beneficiary on the date the disability
13 annuity became payable shall be used to determine the
14 actuarial equivalent.

15 (c) If a disability annuity subsequently becomes
16 payable pursuant to Section 25024, the annuity shall be
17 based on the remaining balance in the member's Defined
18 Benefit Supplement account at the time the subsequent
19 disability annuity becomes payable. At that time, the
20 balance in the member's Defined Benefit Supplement
21 account shall be transferred to the Annuitant Reserve.

22
23 Article 6. Final Benefits
24

25 25020. (a) A final benefit under the Defined Benefit
26 Supplement Program shall become payable to the
27 member's beneficiary when the system receives proof of
28 the member's death.

29 (b) If the member's death occurs before an annuity
30 under the Defined Benefit Supplement Program
31 becomes payable, the final benefit shall be an amount
32 equal to the balance in the member's Defined Benefit
33 Supplement account on the date of the member's death.

34 (c) Upon distribution of a final benefit in a lump-sum
35 payment, no other benefit shall be payable under the
36 Defined Benefit Supplement Program to the member's
37 beneficiary.

38 25021. (a) A beneficiary may elect to receive the
39 final benefit payable under the Defined Benefit
40 Supplement Program as an annuity provided the balance

1 in the member's Defined Benefit Supplement account
2 equals at least three thousand five hundred dollars
3 (\$3,500).

4 (b) A beneficiary who elects to receive an annuity
5 shall elect one of the following forms of payment:

6 (1) A single life annuity without a cash refund feature.
7 This form of payment is the actuarial equivalent of the
8 amount that would be payable to the beneficiary if the
9 beneficiary elected to receive the final benefit in a
10 lump-sum payment. The annuity shall cease to be payable
11 upon the death of the beneficiary, and no other benefit
12 will be payable under the Defined Benefit Supplement
13 Program.

14 (2) A period certain annuity. This form of payment is
15 an annuity equal to the balance in the member's Defined
16 Benefit Supplement account on the date of the member's
17 death. The annuity shall be payable over a specified
18 number of years, from a minimum of three years to a
19 maximum of 10 years but not to exceed the life
20 expectancy of the beneficiary, until the annuity paid
21 equals the amount that was in the member's Defined
22 Benefit Supplement account. The beneficiary may
23 designate a payee to receive the remaining balance of
24 payments if the beneficiary's death occurs prior to the
25 end of the period certain.

26 25022. (a) If the death of a member occurs while the
27 member is receiving an annuity under the Defined
28 Benefit Supplement Program, the final benefit shall be
29 payable in accordance with the terms of the annuity
30 elected by the member.

31 (b) If the member was receiving a single life annuity
32 without a cash refund feature, a final benefit shall not be
33 payable.

34 (c) If the member was receiving a single life annuity
35 with a cash refund feature, the final benefit shall be
36 payable in a lump-sum to the member's beneficiary.

37 (d) If the member was receiving a joint and survivor
38 annuity, the annuity shall continue to be paid to the
39 surviving designated annuity beneficiary. If the



1 *designated annuity beneficiary predeceases the member,*
2 *a final benefit shall not be payable.*

3 *(e) If the member was receiving a period certain*
4 *annuity, the remaining balance of payments shall be paid*
5 *to the annuity beneficiary designated by the member.*

6 25023. *(a) Upon the death of an annuity beneficiary*
7 *who was receiving an annuity under a joint and survivor*
8 *annuity elected by the member no further payment shall*
9 *be made.*

10 *(b) If the annuity beneficiary was receiving an annuity*
11 *under a joint and survivor option, no further payment*
12 *shall be made.*

13 *(c) Upon the death of a beneficiary who was receiving*
14 *a single life annuity without a cash refund feature, no*
15 *further payment shall be made.*

16 *(d) Upon the death of a beneficiary who was receiving*
17 *a period certain annuity, the remaining balance of*
18 *payments shall be paid in a lump-sum to the payee*
19 *designated by the beneficiary pursuant to subdivision (c)*
20 *of Section 25015.*

21

22

Article 7. Termination Benefits

23

24 25024. *(a) Upon the termination of all employment*
25 *to perform creditable service subject to coverage under*
26 *the plan for a reason other than retirement, disability, or*
27 *death, a member shall be eligible for a termination*
28 *benefit under the Defined Benefit Supplement Program.*
29 *The member's employer, or employers if the member has*
30 *multiple employers, shall certify on a form prescribed by*
31 *the system that the member's employment has been*
32 *terminated.*

33 *(b) A member shall submit an application for a*
34 *termination benefit on a form prescribed by the system.*

35 *(c) The termination benefit shall be a lump-sum*
36 *payment that is equal to the balance in the member's*
37 *Defined Benefit Supplement account.*

38 *(d) Upon distribution of the termination benefit, no*
39 *further benefit shall be payable to the member or the*



1 member's beneficiary under the Defined Benefit
2 Supplement Program.

3 25025. A termination benefit under the Defined
4 Benefit Supplement Program shall be payable after one
5 calendar year has elapsed following the date the member
6 terminated employment as specified in Section 25024. If
7 the member performs creditable service within one year
8 of the prior termination of employment, the termination
9 benefit shall not be payable.

10 25026. The member may cancel an application for a
11 termination benefit at any time prior to distribution of
12 the benefit.

13 amended to read:

14 ~~22119.2. (a) "Creditable compensation" means~~
15 ~~salary and other remuneration payable in cash and paid~~
16 ~~by an employer to a member for creditable service.~~
17 ~~Creditable compensation shall include:~~

18 ~~(1) Money paid in accordance with a salary schedule~~
19 ~~for creditable service.~~

20 ~~(2) For members not paid according to a salary~~
21 ~~schedule, money paid for creditable service.~~

22 ~~(3) Money paid for the member's absence from~~
23 ~~performance of creditable service as approved by the~~
24 ~~employer if the member is taking a leave of absence~~
25 ~~during that time which has been granted by the~~
26 ~~employer, except as provided in paragraph (5) of~~
27 ~~subdivision (b).~~

28 ~~(4) Member contributions picked up by an employer~~
29 ~~pursuant to Section 22903 or 22904.~~

30 ~~(5) Amounts deducted by an employer from the~~
31 ~~member's salary, including deductions for participation~~
32 ~~in a deferred compensation plan; deductions for the~~
33 ~~purchase of annuity contracts, tax-deferred retirement~~
34 ~~plans, or other insurance programs; and deductions for~~
35 ~~participation in a plan that meets the requirements of~~
36 ~~Section 125, 401(k), or 403(b) of Title 26 of the United~~
37 ~~States Code.~~

38 ~~(6) Money paid by an employer in addition to salary~~
39 ~~paid under paragraph (1) or (2) if payable to all~~
40 ~~employees in a class in the same dollar amount, the same~~



1 ~~percentage of salary, or the same percentage of the~~
2 ~~amount being distributed.~~

3 ~~(7) Money paid by an employer to an employee for~~
4 ~~achieving certification from a national board that awards~~
5 ~~certification for professional teaching achievement~~
6 ~~based, in part, on an individual's years of training or years~~
7 ~~of experience, if the compensation is payable by the~~
8 ~~employer to all persons in the same class of employees~~
9 ~~who are awarded the same certification.~~

10 ~~(8) Any other payments the board determines to be~~
11 ~~“creditable compensation.”~~

12 ~~(b) “Creditable compensation” does not mean and~~
13 ~~shall not include:~~

14 ~~(1) Money paid for service that is not creditable~~
15 ~~service pursuant to Section 22119.5.~~

16 ~~(2) Money paid by an employer in addition to salary~~
17 ~~paid under paragraph (1) or (2) of subdivision (a) if not~~
18 ~~payable to all employees in a class in the same dollar~~
19 ~~amount, the same percentage of salary, or the same~~
20 ~~percentage of the amount being distributed, except as~~
21 ~~provided in paragraph (7) of subdivision (a).~~

22 ~~(3) Fringe benefits provided by an employer.~~

23 ~~(4) Job-related expenses paid or reimbursed by an~~
24 ~~employer.~~

25 ~~(5) Money paid for unused accumulated leave.~~

26 ~~(6) Severance pay or compensatory damages or~~
27 ~~money paid to a member in excess of salary as a~~
28 ~~compromise settlement.~~

29 ~~(7) Annuity contracts, tax-deferred retirement~~
30 ~~programs, or other insurance programs, including, but~~
31 ~~not limited to, plans that meet the requirements of~~
32 ~~Section 125, 401(k), or 403(b) of Title 26 of the United~~
33 ~~States Code that are purchased by an employer for the~~
34 ~~member and are not deducted from the member's salary.~~

35 ~~(8) Compensation that is not payable in cash.~~

36 ~~(9) Any payments determined by the board to have~~
37 ~~been made by an employer for the principal purpose of~~
38 ~~enhancing a member's benefits under the Defined~~
39 ~~Benefit Program. A presumption by the board that salary~~
40 ~~or other remuneration was paid for the principal purpose~~



1 of enhancing the member's benefits under the plan may
2 be rebutted by the member, or by the employer on behalf
3 of the member. Upon receipt of sufficient evidence to the
4 contrary, a presumption by the board that salary or other
5 remuneration was paid for the principal purpose of
6 enhancing the member's benefits under the plan may be
7 reversed.

8 (10) Any other payments the board determines not to
9 be "creditable compensation."

10 (e) Any employer or person who knowingly or
11 willfully reports compensation in a manner inconsistent
12 with subdivision (a) or (b) shall reimburse the plan for
13 any overpayment of benefits that occurs because of that
14 inconsistent reporting and may be subject to prosecution
15 for fraud, theft, or embezzlement in accordance with the
16 Penal Code. The system may establish procedures to
17 ensure that compensation reported by an employer is in
18 compliance with this section.

19 (d) The definition of "creditable compensation" in
20 this section is designed in accordance with sound funding
21 principles that support the integrity of the retirement
22 fund. These principles include, but are not limited to,
23 consistent treatment of compensation throughout the
24 career of the individual member, consistent treatment of
25 compensation for an entire class of employees, the
26 prevention of adverse selection, and the exclusion of
27 adjustments to, or increases in, compensation for the
28 principal purpose of enhancing benefits.

29 SEC. 2. Chapter 36.5 (commencing with Section
30 24960) is added to Part 13 of the Education Code, to read:

31

32 CHAPTER 36.5. ADDITIONAL COMPENSATION ALLOWANCE
33 PROGRAM

34

35 24960. The board shall develop and administer the
36 California State Teachers' Retirement System Additional
37 Compensation Allowance Program as a qualified money
38 purchase plan under Section 401(a) of Title 26 of the
39 Internal Revenue Code for members of the Defined
40 Benefit Program. The design and administration of the



1 ~~program shall conform to the applicable provisions of the~~
2 ~~Internal Revenue Code of 1986 and the Revenue and~~
3 ~~Taxation Code.~~

4 ~~24960.1. The program developed pursuant to this~~
5 ~~chapter shall supplement the benefits otherwise~~
6 ~~provided under this part.~~

7 ~~24960.2. Each active member of the Defined Benefit~~
8 ~~Program shall have created in his or her name an~~
9 ~~individual account in the fund, to which contributions~~
10 ~~made pursuant to this section, and investment earnings~~
11 ~~from those contributions, will be credited. On January 1,~~
12 ~~2003 and annually each January 1 thereafter, each~~
13 ~~member of the Defined Benefit Program shall be~~
14 ~~credited an amount equal to 16 percent of the member's~~
15 ~~compensation for creditable service during the prior~~
16 ~~school year that was not subject to coverage pursuant to~~
17 ~~Section 22703. A member may not make any additional~~
18 ~~contributions to his or her account.~~

19 ~~24960.3. The board shall determine how funds~~
20 ~~contributed to the program developed pursuant to this~~
21 ~~chapter, including earnings from investing those~~
22 ~~contributions, shall be administered and invested.~~

23 ~~24960.4. The board shall invest all account balances in~~
24 ~~a pool of investments determined by the board to be~~
25 ~~suitable for the program.~~

26 ~~24960.5. There is in the State Treasury a special trust~~
27 ~~fund to be known as the California State Teachers'~~
28 ~~Retirement System Additional Compensation Allowance~~
29 ~~Program Fund. Notwithstanding Section 13340 of the~~
30 ~~Government Code the fund is continuously appropriated~~
31 ~~to the board, without regard to fiscal year, to carry out the~~
32 ~~provisions of this chapter. As used in this chapter, "fund"~~
33 ~~means the California State Teachers' Retirement System~~
34 ~~Additional Compensation Allowance Program Fund.~~

