

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

400B0296

HOUSE BILL NO. 1010

Introduced by: The Committee on Retirement Laws at the request of the South Dakota Retirement System

1 FOR AN ACT ENTITLED, An Act to recodify, to make certain form and style changes, to
2 clarify, and to repeal certain provisions related to the South Dakota Retirement System.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Pursuant to § 2-16-9, the Code Counsel shall transfer the following sections to
5 a NEW CHAPTER 3-12C: §§ 3-12-46, 3-12-47.1, 3-12-47.2, 3-12-47.4, 3-12-47.5, 3-12-47.6,
6 3-12-47.7, 3-12-47.8, 3-12-47.9, 3-12-47.11, 3-12-47.12, 3-12-47.13, 3-12-48, 3-12-49, 3-12-
7 51, 3-12-52, 3-12-53, 3-12-54, 3-12-55, 3-12-57.1, 3-12-58, 3-12-58.1, 3-12-60, 3-12-61,
8 3-12-62, 3-12-62.1, 3-12-62.2, 3-12-62.3, 3-12-62.4, 3-12-62.5, 3-12-62.6, 3-12-62.8,
9 3-12-62.9, 3-12-62.10, 3-12-62.11, 3-12-62.12, 3-12-62.13, 3-12-63, 3-12-64, 3-12-65, 3-12-66,
10 3-12-67, 3-12-67.1, 3-12-69.1, 3-12-69.2, 3-12-69.3, 3-12-69.4, 3-12-69.5, 3-12-70, 3-12-71,
11 3-12-72, 3-12-72.1, 3-12-72.3, 3-12-72.4, 3-12-73, 3-12-74, 3-12-75, 3-12-76, 3-12-76.2, 3-
12 12-76.3, 3-12-77, 3-12-77.3, 3-12-78, 3-12-81.1, 3-12-82, 3-12-83, 3-12-83.1, 3-12-83.2,
13 3-12-84, 3-12-84.2, 3-12-84.3, 3-12-85, 3-12-86, 3-12-86.2, 3-12-87, 3-12-88, 3-12-89,
14 3-12-89.1, 3-12-89.3, 3-12-89.4, 3-12-89.6, 3-12-89.7, 3-12-89.8, 3-12-89.9, 3-12-89.10,
15 3-12-90, 3-12-91, 3-12-91.1, 3-12-92, 3-12-92.1, 3-12-92.2, 3-12-92.3, 3-12-92.4, 3-12-92.6,



1 3-12-94, 3-12-94.1, 3-12-95, 3-12-95.1, 3-12-95.2, 3-12-95.3, 3-12-95.4, 3-12-95.6, 3-12-96,
 2 3-12-97, 3-12-98, 3-12-99, 3-12-99.1, 3-12-100, 3-12-101, 3-12-103, 3-12-103.1, 3-12-104,
 3 3-12-104.1, 3-12-104.2, 3-12-105, 3-12-106, 3-12-107, 3-12-109, 3-12-110, 3-12-111,
 4 3-12-111.1, 3-12-112, 3-12-114, 3-12-115, 3-12-115.1, 3-12-116, 3-12-117, 3-12-118,
 5 3-12-119, 3-12-120.4, 3-12-121, 3-12-122, 3-12-122.1, 3-12-123, 3-12-124, 3-12-125,
 6 3-12-126, 3-12-127, 3-12-128, 3-12-129, 3-12-130, 3-12-130.1, 3-12-131, 3-12-132, 3-12-133,
 7 3-12-134, 3-12-135, 3-12-136, 3-12-141, 3-12-142, 3-12-143, 3-12-153, 3-12-154, 3-12-155,
 8 3-12-156, 3-12-157, 3-12-158, 3-12-159, 3-12-160, 3-12-161, 3-12-162, 3-12-163, 3-12-164,
 9 3-12-189, 3-12-190, 3-12-191, 3-12-192, 3-12-193, 3-12-194, 3-12-195, 3-12-196, 3-12-197,
 10 3-12-198, 3-12-199, 3-12-202, 3-12-203, 3-12-204, 3-12-205, 3-12-206, 3-12-207, 3-12-207.1,
 11 3-12-217, 3-12-218, 3-12-219, 3-12-220, 3-12-221, 3-12-222, 3-12-223, 3-12-224, 3-12-500,
 12 3-12-501, 3-12-502, 3-12-502.1, 3-12-504, 3-12-505, 3-12-506, 3-12-507, 3-12-508, 3-12-509,
 13 3-12-510, 3-12-511, 3-12-512, 3-12-513, 3-12-514, 3-12-515, 3-12-517, 3-12-519, 3-12-520,
 14 and 3-12-521.

15 Section 2. That § 3-12-47 be amended to read:

16 3-12-47. Terms as used in this chapter mean:

17 (1) "Actuarial accrued liability," the present value of all benefits less the present value
 18 of future normal cost contributions;

19 (2) ~~Repealed by SL 2018, ch 33, § 1.~~

20 ~~(3)~~ "Actuarial experience analysis," a periodic report ~~which~~ that reviews basic experience
 21 data and furnishes actuarial analysis ~~which~~ that substantiates the assumptions adopted
 22 for the purpose of making an actuarial valuation of the system;

23 ~~(4)~~(3) "Actuarial valuation," a projection of the present value of all benefits and the current
 24 funded status of the system, based upon stated assumptions as to rates of interest,

1 mortality, disability, salary progressions, withdrawal, and retirement as established
2 by a periodic actuarial experience analysis ~~which~~ that takes into account census data
3 of all active members, vested terminated members, and retired members and their
4 beneficiaries under the system;

5 (4) "Actuarial value funded ratio," the actuarial value of assets divided by the actuarial
6 accrued liability;

7 (5) "Actuarial value of assets," equal to the fair value of assets;

8 ~~(5A)~~(6) "Actuarially determined contribution rate," the fixed, statutory contribution
9 rate, no less than the normal cost rate with expenses assuming the minimum
10 COLA, and no greater than the normal cost rate with expenses assuming the
11 maximum COLA;

12 ~~(6)~~(7) "Air rescue firefighters," employees of the Department of the Military who are
13 stationed at Joe Foss Field, Sioux Falls, and who are directly involved in firefighting
14 activities on a daily basis;

15 ~~(7)~~(8) "Approved actuary," any actuary who is a member of the American Academy of
16 Actuaries or an Associate or a Fellow of the Society of Actuaries who meets the
17 qualification standards of the American Academy of Actuaries to issue actuarial
18 opinions regarding the system or any firm retaining such an actuary on its staff and
19 who is appointed by the board to perform actuarial services;

20 ~~(8)~~(9) "Assumed rate of return," the actuarial assumption adopted by the board pursuant to
21 § 3-12-121 as the annual assumed percentage return on trust fund assets,
22 compounded;

23 ~~(9)~~(10) "Beneficiary," the person designated by a member of the system to receive any
24 payments after the death of such member;

1 conceived during the member's lifetime and born after the member's death; or
 2 ~~(b) For purposes of beneficiary-type payments pursuant to this chapter, a person~~
 3 ~~entitled to take as a child via intestate succession pursuant to the provisions~~
 4 ~~of Title 29A;~~

5 (15) "Certified school employee," any employee of a participating unit who is required to
 6 have a certificate as defined in subdivision 13-42-1(3);

7 (16) "Class A credited service," service credited as a Class A member of the system;

8 ~~(16)~~(17) "Class A member," any member other than a Class B member or a Class C
 9 member and is either a foundation member or a generational member;

10 ~~(17)~~(18) "Class B credited service," service credited as a Class B member of the
 11 system;

12 ~~(18)~~(19) "Class B member," a member who is a justice, judge, state law enforcement
 13 officer, magistrate judge, police officer, firefighter, county sheriff, deputy
 14 county sheriff, correctional security staff, parole agent, air rescue firefighter,
 15 campus security officer, court services officer, juvenile corrections agent,
 16 conservation officer, or park ranger and is either a foundation member or a
 17 generational member;

18 ~~(19)~~(20) "Class C credited service," service credited as a Class C member of the
 19 system;

20 ~~(20)~~(21) "Class C member," any member of the cement plant retirement plan including
 21 any retiree or any vested member;

22 ~~(21)~~(22) "Classified ~~employees~~ employee," ~~employees~~ an employee of a public school
 23 ~~districts who are~~ district who is not required by law to be a certified as
 24 ~~teachers, employees of the colleges and universities~~ school employee, an

1 employee of any college or university under the control of the ~~board of regents~~
 2 ~~who are~~ Board of Regents who is not a faculty member or administrators and
 3 ~~come~~ an administrator and comes within the provisions of chapter 3-6D,
 4 ~~employees of public corporations, employees of an employee of a public~~
 5 ~~corporation, an employee of a chartered governmental units unit, and all any~~
 6 other participating ~~employees~~ employee not elsewhere provided for in this
 7 chapter;

8 ~~(22)~~(23) "Comparable level position," a member's position of employment that is
 9 generally equivalent to the member's prior position of employment in terms
 10 of required education, required experience, required training, required work
 11 history, geographic location, and compensation and benefits;

12 ~~(23)~~(24) "Conservation officers," employees of the Department of Game, Fish and
 13 Parks and the Division of Wildlife or Division of Custer State Park who are
 14 employed pursuant to § 41-2-11 and whose positions are subject to the
 15 requirements as to education and training provided in chapter 23-3;

16 ~~(24)~~(25) "Consumer price index," the consumer price index for urban wage earners and
 17 clerical workers calculated by the United States Bureau of Labor Statistics;

18 ~~(25)~~(26) "Contributory service," service to a participating unit during which
 19 contributions were made to a South Dakota ~~Retirement System~~ retirement
 20 system, which may not include years of credited service as granted in § 3-12-
 21 84 or 3-12-84.2;

22 ~~(25A)~~(27) "Correctional security staff," the warden, deputy warden, and any other
 23 correctional staff holding a security position as verified by the Department of
 24 Corrections and approved by the Bureau of Human Resources and the Bureau

1 of Finance and Management, and determined by the board as Class B
2 members;

3 ~~(26)~~(28) "Court services officers," persons appointed pursuant to § 26-7A-8;

4 ~~(27)~~(29) "Covered employment," a member's employment as a permanent full-time
5 employee by a participating unit;

6 ~~(28)~~(30) "Deputy county sheriff," an employee of a county that is a participating unit,
7 appointed by the board of county commissioners pursuant to §§ 7-12-9 and 7-
8 12-10, who is a permanent full-time employee and whose position is subject
9 to the minimum educational and training standards established by the law
10 enforcement standards commission pursuant to chapter 23-3. The term does
11 not include jailers or clerks appointed pursuant to §§ 7-12-9 and 7-12-10
12 unless the participating unit has requested that the jailer be considered as a
13 deputy county sheriff and the ~~Board of Trustees~~ board has approved the
14 request;

15 ~~(29)~~ "Disability" or "disabled," any medically determinable physical or mental impairment
16 that prevents a member from performing the member's usual duties for the member's
17 employer, even with accommodations, or performing the duties of a comparable level
18 position for the member's employer. The term excludes any condition resulting from
19 willful, self-inflicted injury;

20 ~~(30)~~(31) "Effective date of retirement," the first day of the month in which retirement
21 benefits are payable;

22 ~~(31)~~(32) "Eligible retirement plan," the term eligible retirement plan includes those
23 plans described in section 402(c)(8)(B) of the Internal Revenue Code;

24 ~~(32)~~(33) "Eligible rollover distribution," any distribution to a member of accumulated

1 contributions pursuant to § 3-12-76. The term does not include any portion of
2 a distribution that represents contributions made to the system on an after tax
3 basis nor distributions paid as a result of the member reaching the required
4 beginning date;

5 ~~(33)~~(34) "Employer," the State of South Dakota and any department, bureau, board, or
6 commission of the State of South Dakota, or any of its governmental or
7 political subdivisions or any public corporation of the State of South Dakota
8 ~~which~~ that elects to become a participating unit;

9 ~~(34)~~(35) "Employer contributions," amounts contributed by the employer of a
10 contributing member, excluding member contributions made by an employer
11 after June 30, 1984, pursuant to § 3-12-71;

12 ~~(35)~~(36) "Equivalent public service," any public service other than as a justice, a judge,
13 or a magistrate judge and comparable to Class B service as defined by this
14 section, if the service is in the employ of a public entity that is not a
15 participating unit;

16 ~~(36)~~(37) "Fair value of assets," the total assets of the system at fair market value for
17 securities traded on exchanges; for securities not traded on exchanges, a value
18 based on similar securities; and for alternative investments, reported net asset
19 value;

20 ~~(37)~~(38) "Fair value funded ratio," the fair value of assets divided by the actuarial
21 accrued liability;

22 ~~(38)~~(39) "Fiduciary," any person who exercises any discretionary authority or control
23 over the management of the system or the management or disposition of its
24 assets, renders investment advice for a fee or other compensation, direct or

1 indirect, or has any authority or responsibility to do so, or has any
2 discretionary authority or responsibility in the administration of the system;

3 ~~(39)~~(40) "Foundation member," any member of the system whose contributory service
4 began before July 1, 2017;

5 ~~(40)~~(41) "Foundation retiree," any foundation member who has retired with a benefit
6 payable from the system;

7 ~~(41)~~(42) "Firefighter," any full-time firefighter who works at least twenty hours a week
8 and at least six months a year. The term does not include any volunteer
9 firefighter;

10 ~~(42)~~ "Full-time student," a person who is in full-time attendance as a student at an
11 educational institution, as determined by the board in light of the standards and
12 practices of the institution involved, except that no individual may be considered a
13 full-time student, if the student is paid by the student's employer while attending an
14 educational institution at the request of, or pursuant to a requirement of, the
15 employer;

16 (43) "Fund," public employees' retirement fund or funds established for the purposes of
17 administration of this chapter;

18 (44) "Funded ratio," the actuarial value of assets divided by the actuarial accrued liability;

19 ~~(45)~~ "General ~~employees~~ employee," any full-time municipal employees who are not
20 firefighters or police officers employee who is not a firefighter or a police officer;

21 ~~(46)~~(45) "Generational member," any member of the system whose contributory service
22 began after June 30, 2017;

23 ~~(47)~~(46) "Generational retiree," any generational member who has retired with a benefit
24 payable from the system;

1 United States Navy, the United States Air Force, the United States Marine
2 Corps, or the United States Coast Guard, from which duty the member
3 received an honorable discharge or an honorable release;

4 ~~(55)~~(54) "Municipality," any incorporated municipal government under chapter 9-3 or
5 any chartered governmental unit under the provisions of Article IX of the
6 Constitution of the State of South Dakota;

7 ~~(56)~~(55) "Noncontributory service," for foundation members, service delineated in
8 subdivisions 3-12-89.3 (2), (5), (7), and (8), and for generational members,
9 service pursuant to § 3-12-86;

10 ~~(57)~~(56) "Normal cost," the expected long-term cost of the system benefits and
11 expenses expressed as a percentage of payroll;

12 ~~(58)~~(57) "Normal retirement," the termination of employment and application for
13 benefits by a member with three or more years of contributory service or
14 noncontributory service on or after the member's normal retirement age;

15 ~~(59)~~(58) "Other public benefits," eighty percent of the primary insurance amount or
16 primary social security benefits that would be provided under federal social
17 security;

18 ~~(60)~~(59) "Other public service," service for the government of the United States,
19 including military service; service for the government of any state or political
20 subdivision thereof; service for any agency or instrumentality of any of the
21 foregoing; or service as an employee of an association of government entities
22 described in this subdivision;

23 ~~(61)~~(60) "Park rangers," employees of the Department of Game, Fish and Parks within
24 the Division of Parks and Recreation and whose positions are subject to the

1 requirements as to education and training provided in chapter 23-3 and whose
2 primary duty is law enforcement in the state park system;

3 ~~(62)~~(61) "Parole agent," an employee of the Department of Corrections employed
4 pursuant to § 24-15-14 who is actually involved in direct supervision of
5 parolees on a daily basis;

6 ~~(63)~~(62) "Participating unit," the State of South Dakota and any department, bureau,
7 board, or commission of the State of South Dakota, and any of its political
8 subdivisions or any public corporation of the State of South Dakota ~~which~~ that
9 has employees who are members of the retirement system created in this
10 chapter;

11 ~~(64)~~ Repealed by SL 2018, ch 32, § 4.

12 ~~(65)~~(63) "Permanent full-time employee," any employee who has been placed in a
13 permanent classification who is customarily employed by a participating unit
14 for twenty hours or more a week and at least six months a year. The
15 participating unit shall decide if an employee is a permanent full-time
16 employee and that decision is conclusive;

17 ~~(66)~~(64) "Plan year," a period extending from July first of one calendar year through
18 June thirtieth of the following calendar year;

19 ~~(67)~~(65) "Police officer," any employee in the police department of any participating
20 municipality holding the rank of patrol officer, including probationary patrol
21 officer, or higher rank and whose position is subject to the minimum
22 educational and training standards established by the law enforcement officers
23 standards commission pursuant to chapter 23-3. The term does not include
24 civilian employees of a police department nor any person employed by a

1 municipality whose services as a police officer require less than twenty hours
2 a week and six months a year. If a municipality which is a participating unit
3 operates a city jail, the participating unit may request that any jailer appointed
4 pursuant to § 9-29-25 be considered a police officer, subject to the approval
5 of the board;

6 ~~(68)~~(66) "Political subdivision" includes any municipality, school district, county,
7 chartered governmental unit, public corporation or entity, and special district
8 created for any governmental function;

9 ~~(69)~~(67) "Present value of all benefits," the present value of all benefits expected to be
10 paid to all retired, terminated, and active members and beneficiaries, based on
11 past and future credited service and future compensation increases;

12 ~~(70)~~(68) "Present value of benefits earned to date," the present value of the benefits
13 currently being paid to retired members and their beneficiaries and the present
14 value of benefits payable at retirement to active members, based on their
15 earnings and credited service to date of the actuarial valuation;

16 ~~(71)~~(69) "Projected compensation," a deceased or disabled member's final average
17 compensation multiplied by the COLA commencing each July first for each
18 complete twelve-month period elapsed between the date of the member's death
19 or disability, whichever occurred earlier, and the date the member would attain
20 normal retirement age;

21 ~~(72)~~(70) "Projected service," the credited service plus the service ~~which~~ that the
22 member would have been credited with at normal retirement age had the
23 member continued in the system and received credit at the same rate the
24 member was credited during the year covered by the compensation that was

1 used in the calculation of the disability or family benefit;

2 ~~(73)~~(71) "Qualified military service," service in the uniformed services as defined in
3 § 414(u)(5) of the Internal Revenue Code;

4 ~~(74)~~(72) "Required beginning date," the later of April first of the calendar year
5 following the calendar year in which the member attains age seventy and one-
6 half or April first of the calendar year following the calendar year in which the
7 member retires;

8 ~~(75)~~(73) "Retiree," any foundation or generational member who retires with a lifetime
9 benefit payable from the system;

10 ~~(76)~~(74) "Retirement," the severance of a member from the employ of a participating
11 unit with a retirement benefit payable from the system;

12 ~~(77)~~(75) "Retirement benefit," the monthly amount payable upon the retirement of a
13 member;

14 ~~(78)~~(76) "Single premium," the lump-sum amount paid by a supplemental pension
15 participant pursuant to a supplemental pension contract in consideration for
16 a supplemental pension benefit;

17 ~~(79)~~(77) "Social investment," investment, divestment, or prohibition of investment of
18 the assets of the system for purposes other than maximum risk-adjusted
19 investment return, which other purposes include ideological purposes,
20 environmental purposes, political purposes, religious purposes, or purposes of
21 local or regional economic development;

22 ~~(80)~~ "Spouse," a person who was married to the member at the time of the death of the
23 member and whose marriage was both before the member's retirement and more than
24 twelve months before the death of the member;

- 1 ~~(81)~~(78) "State employees," employees of the departments, bureaus, commissions, and
2 boards of the State of South Dakota;
- 3 ~~(82)~~(79) "Supplemental pension benefit," any single-premium immediate pension
4 benefit payable pursuant to §§ 3-12-192 and 3-12-193;
- 5 ~~(83)~~(80) "Supplemental pension contract," any agreement between a participant and the
6 system upon which a supplemental pension is based, including the amount of
7 the single premium, the type of pension benefit, and the monthly supplemental
8 pension payment amount;
- 9 ~~(84)~~(81) "Supplemental pension contract record," the record for each supplemental
10 pension participant reflecting relevant participant data; a designation of any
11 beneficiary, if any; the amount of the participant's funds rolled into the fund;
12 the provisions of the participant's supplemental pension contract; and
13 supplemental pension payments made pursuant to the contract;
- 14 ~~(85)~~(82) "Supplemental pension participant," any member who is a retiree receiving a
15 benefit from the system, or, if the member is deceased, the member's surviving
16 spouse who is receiving a benefit from the system, and who chooses to
17 purchase a supplemental pension benefit pursuant to the provisions of this
18 chapter;
- 19 ~~(86)~~(83) "Supplemental pension spouse," any person who was married to a
20 supplemental pension participant at the time the participant entered into the
21 supplemental pension contract;
- 22 ~~(87)~~(84) "System," the South Dakota Retirement System created in this chapter;
- 23 ~~(88)~~(85) "Tax-qualifying purchase unit," any participating unit ~~which~~ that elects to
24 allow the unit's employees to purchase credited service on a tax-deferred basis

1 by means of employer contribution agreements as outlined in §§ 3-12-83.1 and
2 3-12-83.2;

3 ~~(89) "Teacher," any person who has a valid teacher's certificate issued by the State of~~
4 ~~South Dakota, who is in the employ of a public school district, and shall also include~~
5 ~~the certified teachers employed by the Human Services Center, South Dakota~~
6 ~~Developmental Center--Redfield, State Penitentiary, Department of Education, State~~
7 ~~Training School, School for the Deaf, School for the Blind and the Visually Impaired,~~
8 ~~Children's Care Hospital and School, public nonprofit special education facilities,~~
9 ~~community support providers certified by the Department of Human Services and~~
10 ~~public financed multi-district education programs;~~

11 ~~(90) "Terminated," complete severance of employment from public service of any~~
12 ~~member by resignation or discharge, not including leave of absence, layoff, vacation~~
13 ~~leave, sick leave, or jury duty, and involving all termination proceedings routinely~~
14 ~~followed by the member's participating unit, including payment to the member for~~
15 ~~unused vacation leave, payment to the member for unused sick leave, payment to the~~
16 ~~member for severance of an employment contract, severance of employer-provided~~
17 ~~health insurance coverage, severance of employer-provided life insurance coverage,~~
18 ~~or severance of any other such employer-provided perquisite of employment granted~~
19 ~~by the member's participating unit to an active employee;~~

20 ~~(91)~~(86) "Trustee," a member of the board of trustees;

21 ~~(92)~~(87) "Unfunded actuarial accrued liability," the actuarial accrued liability less the
22 actuarial value of assets;

23 ~~(93) "Vested," the right to a retirement benefit from the system based on the provisions~~
24 ~~of this chapter after three years of contributory service or noncontributory service,~~

1 ~~even if the member leaves the employment of a participating unit, provided that the~~
2 ~~member does not withdraw accumulated contributions. A member who leaves the~~
3 ~~employment of a participating unit is not entitled to benefits under §§ 3-12-95, 3-12-~~
4 ~~98, 3-12-99, 3-12-104, and 3-12-105.~~

5 Section 3. That the code be amended by adding a NEW SECTION to read:

6 For purposes of administering benefits pursuant to this chapter, the term, child, means an
7 unmarried dependent child of the member, who has not passed the child's nineteenth birthday
8 and each unmarried dependent child, who is totally and permanently disabled, either physically
9 or mentally, regardless of the child's age, if the disability occurred before age nineteen. It
10 includes a stepchild or a foster child who depends on the member for support and lives in the
11 household of the member in a regular parent-child relationship. It also includes any child of the
12 member conceived during the member's lifetime and born after the member's death.

13 For purposes of making beneficiary-type payments pursuant to this chapter, the term, child,
14 means a person entitled to take as a child via intestate succession pursuant to the provisions of
15 title 29A.

16 Section 4. That § 3-12-47.10 be amended to read:

17 3-12-47.10. The term, COLA or cost of living adjustment, means the annual increase in the
18 amount of the benefit provided on July first, compounded annually. However, no annual
19 increase may be provided unless the member has received benefit payments for at least the
20 consecutive, twelve-month period before July first. ~~The COLA payable is the baseline COLA~~
21 ~~or the restricted COLA, as applicable. The baseline COLA is equal to the increase in the~~
22 ~~consumer price index, but no less than one-half percent and no greater than three and one-half~~
23 ~~percent. The restricted COLA is equal to the increase in the consumer price index, but no less~~
24 ~~than one-half percent and no greater than the restricted COLA maximum as determined in~~

1 ~~subdivision (2) of this section. The board shall establish the COLA payable for each fiscal year,~~
2 ~~based on the fair value funded ratio and actuarially determined contribution rate of the system~~
3 ~~as of the prior July first and the increase in the consumer price index for the preceding third~~
4 ~~calendar quarter compared to the consumer price index for the third calendar quarter for the base~~
5 ~~year (the previous year in which the consumer price index was the highest), by utilizing one of~~
6 ~~the following subdivisions, as applicable:~~

7 ~~— (1) — If the system meets the criteria in subdivisions 3-12-122(1) and (2) based on the~~
8 ~~baseline COLA assumption adopted by the board, the COLA payable is the baseline~~
9 ~~COLA; or~~

10 ~~— (2) — If the system does not meet the criteria in subdivisions 3-12-122(1) and (2) based on~~
11 ~~the baseline COLA assumption adopted by the board, the system shall calculate a~~
12 ~~restricted COLA maximum in accordance with the board's funding policy that is~~
13 ~~equal to the actuarially determined annual COLA rate that results in the criteria in~~
14 ~~subdivisions 3-12-122(1) and (2) being satisfied, if achievable. The COLA payable~~
15 ~~is the restricted COLA. If the criteria in subdivisions 3-12-122(1) and (2) cannot be~~
16 ~~satisfied with a COLA equal to or exceeding one-half percent, the COLA payable is~~
17 ~~one-half percent.~~

18 Section 5. That the code be amended by adding a NEW SECTION to read:

19 The term, disability or disabled, means any medically determinable physical or mental
20 impairment that prevents a member from performing the member's usual duties for the member's
21 employer, even with accommodations, or performing the duties of a comparable level position
22 for the member's employer. The term excludes any condition resulting from a willful,
23 self-inflicted injury.

24 Section 6. That the code be amended by adding a NEW SECTION to read:

1 The term, spouse, means a person who was married to the member at the time of the death
2 of the member and whose marriage was both before the member's retirement and more than
3 twelve months before the death of the member.

4 Section 7. That the code be amended by adding a NEW SECTION to read:

5 The term, terminated, means complete severance of employment from public service of any
6 member by resignation or discharge, not including leave of absence, layoff, vacation leave, sick
7 leave, or jury duty, and involving all termination proceedings routinely followed by the
8 member's participating unit, including payment to the member for unused vacation leave,
9 payment to the member for unused sick leave, payment to the member for severance of an
10 employment contract, severance of employer-provided health insurance coverage, severance of
11 employer-provided life insurance coverage, or severance of any other such employer-provided
12 perquisite of employment granted by the member's participating unit to an active employee.

13 Section 8. That the code be amended by adding a NEW SECTION to read:

14 The term, vested, means the right to a retirement benefit from the system based on the
15 provisions of this chapter after three years of contributory service or noncontributory service,
16 even if the member leaves the employment of a participating unit, if the member does not
17 withdraw accumulated contributions.

18 Section 9. That § 3-12-50 be amended to read:

19 3-12-50. Each trustee within ten days after ~~his appointment or election~~ being appointed or
20 elected shall take and file in the Office of the Secretary of State the oath required by § 3-1-5.

21 Section 10. That § 3-12-59 be amended to read:

22 3-12-59. The ~~Board of Trustees~~ board shall keep complete records of ~~their~~ its proceedings
23 which shall be open to public inspection. The board shall prepare a ~~biennial written~~ an annual
24 report setting forth its financial information for the previous fiscal period including the amount

1 of the accumulated cash and securities of the system, and the ~~last actuarial balance sheet results~~
2 of the most recent actuarial valuation. A copy of ~~such~~ the report shall be furnished to the fiscal
3 officer of any participating unit, the auditor general, and the director of the Legislative Research
4 Council available on the system's website.

5 Section 11. That § 3-12-118.1 be repealed.

6 ~~3-12-118.1. The board may develop an alternative benefit enhancement methodology based~~
7 ~~on investment performance that mitigates risk within the South Dakota Retirement System. The~~
8 ~~funding and operational provisions related to the alternative benefit enhancement methodology~~
9 ~~shall be submitted for legislative approval prior to implementation.~~

10 Section 12. That § 3-12-56 be amended to read:

11 3-12-56. Applications for membership ~~for new or additional benefits, credited service, or~~
12 ~~benefit payments which may be granted by the board~~ or any benefit shall be made to the
13 executive director on forms approved by the ~~board~~ system.

14 Section 13. That § 3-12-72.2 be amended to read:

15 3-12-72.2. If the system is terminated, or if contributions to the system are discontinued, the
16 rights of all members to benefits ~~which~~ that have accrued as of the date of termination or
17 discontinuation of contributions shall vest. A member's recourse against the fund shall be
18 limited by the extent to which ~~his~~ the member's benefits are funded.

19 Section 14. That § 3-12-120 be amended to read:

20 3-12-120. To determine and verify the adequacy of the member and employer contributions
21 to the system, an actuarial valuation of the system shall be made annually by an approved
22 actuary.

23 The actuarial valuation shall include:

24 (1) A demonstration of the relationship of the current member and employer

1 contributions, expressed as a percentage of payroll, to the minimum actuarial
2 requirement to support benefits; and

3 (2) The current year's actuarial value funded ratio and fair value funded ratio as well as
4 the ratios from the prior actuarial valuations ~~performed after July 1, 1974.~~

5 Section 15. That § 3-12-68 be amended to read:

6 3-12-68. ~~In the event~~ If a participating unit and a nonparticipating South Dakota political
7 subdivision or public corporation ~~enter into an agreement~~ agree to provide certain public
8 services on a joint basis, they may agree to consider persons employed pursuant to ~~such the~~
9 agreement as if they were solely employees of the participating unit for the exclusive purposes
10 of the system created in this chapter. The total compensation paid a person because of ~~such the~~
11 employment shall be considered compensation paid ~~him~~ by the participating unit and services
12 rendered by ~~such the~~ person because of ~~such the~~ employment shall be considered service
13 rendered by ~~him~~ the employee to the participating unit.

14 Section 16. That § 3-12-86.1 be amended to read:

15 3-12-86.1. If a member on leave of absence performing initial qualified military service dies,
16 the member shall be considered to have returned from the leave of absence on the day before
17 the member's death and become a contributing member for purposes of survivor benefits
18 ~~pursuant to § 3-12-95.5~~, if the member has at least one year of credited service ~~prior to~~ before
19 the member's death, including the initial period of qualified military service. If the member was
20 contributing for additional survivor protection benefits pursuant to § 3-12-104 immediately
21 before the leave of absence, the member shall be considered to have resumed the contributions
22 on the day before the member's death.

23 If a member on leave of absence performing initial qualified military service becomes
24 disabled pursuant to the disability criteria set out in this chapter ~~3-12~~, the member shall be

1 considered to have returned from the leave of absence on the day before the member's discharge
2 date and become a contributing member for purposes of eligibility for disability benefits
3 pursuant to § 3-12-201, if the member has at least three years of credited service including the
4 period of initial qualified military service. The provisions of § 3-12-201 notwithstanding, the
5 member need not have been deemed to be a contributing member on the date of the member's
6 disabling event.

7 Section 17. That § 3-12-80 be repealed.

8 ~~3-12-80. If a person whose accumulated contributions have been refunded since July 1,
9 1974, reenters the system as a foundation member, the foundation member may elect to
10 redeposit the accumulated contributions, with compound interest at the assumed rate of return
11 between the date of withdrawal and the date of redeposit. The redeposit shall be made within
12 two years after reentry into the system and the credited service forfeited when contributions
13 were refunded shall then be reinstated; any employer contributions forfeited at the time of
14 refund shall be reinstated; and the foundation member, except as provided in § 3-12-131, shall
15 be regarded as having never refunded.~~

16 ~~Any withdrawals of additional contributions made pursuant to § 3-12-104 shall be
17 considered accumulated contributions for purposes of redeposit to reinstate the credited service
18 forfeited when contributions were refunded.~~

19 ~~No generational member may redeposit accumulated contributions.~~

20 Section 18. That § 3-12-84.1 be amended to read:

21 3-12-84.1. A contributing member may acquire credited service by utilizing a trustee to
22 trustee transfer of funds, excluding any after tax employee contributions, from a member's
23 individual retirement plan that meets the requirements of sections 403(b) or 457 of the Internal
24 Revenue Code to pay the cost of purchase pursuant to § 3-12-83, 3-12-84, or 3-12-84.2 ~~or the~~

1 amount of a redeposit pursuant to ~~§ 3-12-80~~.

2 Section 19. That § 3-12-89.2 be amended to read:

3 3-12-89.2. For any foundation member, the term, accumulated contributions, means the sum
4 of:

5 (1) All contributions made by the member, including member contributions made by an
6 employer after June 30, 1984, pursuant to § 3-12-71;

7 (2) For a member whose contributory service concluded after June 30, 2010, eighty-five
8 percent of the employer contributions or noncontributory service if the member had
9 three years or more of contributory service and fifty percent of the employer
10 contributions if the member had less than three years of service; or for a member
11 whose contributory service concluded before July 1, 2010, one hundred percent of
12 the employer contributions or noncontributory service if the member had three years
13 or more of contributory service and seventy-five percent of the employer
14 contributions if the member had less than three years of service;

15 (3) Member redeposits ~~pursuant to § 3-12-80~~ and member credited service purchases
16 pursuant to §§ 3-12-83, 3-12-84, and 3-12-84.2; and

17 (4) The effective rate of interest earned on the sum of subdivisions (1), (2), and (3).

18 Section 20. That § 3-12-77.1 be amended to read:

19 3-12-77.1. If any payment from the system remains uncollected ~~for a period of three years~~
20 ~~following the date upon which a warrant for the payment was issued~~, the payment shall revert
21 to the system and all rights to ~~such~~ the payment shall terminate, if the system has made
22 reasonable efforts to notify the person entitled to the payment of ~~his~~ the person's right to the
23 payment and the effect of this section.

24 Section 21. That § 3-12-77.4 be amended to read:

1 3-12-77.4. No member or former member of the system who has withdrawn contributions
2 from the system ~~prior to~~ before July 1, 1998, may receive any additional refund ~~under the~~
3 ~~provisions of §§ 3-12-47 to 3-12-152~~ pursuant to this chapter.

4 Section 22. That the code be amended by adding a NEW SECTION to read:

5 A member who leaves the employment of a participating unit is not entitled to disability
6 benefits and the member's surviving spouse and minor children are not entitled to any benefits
7 pursuant to this chapter.

8 Section 23. That the code be amended by adding a NEW SECTION to read:

9 The COLA payable is the baseline COLA or the restricted COLA, as applicable. The
10 baseline COLA is equal to the increase in the consumer price index, but no less than one-half
11 percent and no greater than three and one-half percent. The restricted COLA is equal to the
12 increase in the consumer price index, but no less than one-half percent and no greater than the
13 restricted COLA maximum as determined in subdivision (2) of this section. The board shall
14 establish the COLA payable for each fiscal year, based on the fair value funded ratio and
15 actuarially determined contribution rate of the system as of the prior July first and the increase
16 in the consumer price index for the preceding third calendar quarter compared to the consumer
17 price index for the third calendar quarter for the base year (the previous year in which the
18 consumer price index was the highest), by utilizing one of the following subdivisions, as
19 applicable:

20 (1) If the system meets the criteria in subdivisions 3-12-122(1) and (2) based on the
21 baseline COLA assumption adopted by the board, the COLA payable is the baseline
22 COLA; or

23 (2) If the system does not meet the criteria in subdivisions 3-12-122(1) and (2) based on
24 the baseline COLA assumption adopted by the board, the system shall calculate a

1 restricted COLA maximum in accordance with the board's funding policy that is
2 equal to the actuarially determined annual COLA rate that results in the criteria in
3 subdivisions 3-12-122(1) and (2) being satisfied, if achievable. The COLA payable
4 is the restricted COLA. If the criteria in subdivisions 3-12-122(1) and (2) cannot be
5 satisfied with a COLA equal to or exceeding one-half percent, the COLA payable is
6 one-half percent.

7 Section 24. That § 3-12-108 be amended to read:

8 3-12-108. The ~~Board of Trustees~~ board may provide under its rules for a modified monthly
9 benefit to a member or beneficiary in lieu of the monthly benefit payable under any provision
10 of this chapter if the benefit is not greater than the actuarial equivalent of the benefit due the
11 member or beneficiary under this chapter. ~~Any such request must be made in writing on the~~
12 ~~form prescribed by and filed with the board before the date of the first payment of the~~
13 ~~unmodified benefit. An election of a modified form of payment is effective only after the date~~
14 ~~of acceptance by the board and may not be modified or revoked after that date without the~~
15 ~~consent of the board.~~

16 Section 25. That the code be amended by adding a NEW SECTION to read:

17 To calculate benefits pursuant to §§ 3-12-95, 3-12-99, and 3-12-105 before July 1, 2004, the
18 system shall use the member's highest annual compensation earned by the member during any
19 one of the last three years of contributory service, so long as it is not more than one hundred
20 fifteen percent of the member's final compensation calculated as of the date of the member's
21 death or disability.

22 Section 26. That § 3-12-95.5 be amended to read:

23 3-12-95.5. If no family benefit is being paid pursuant to § 3-12-95.4, a surviving spouse of
24 a contributing foundation member who had acquired at least three years of contributory service

1 or noncontributory service or died while performing usual duties for the employer and who died
2 after June 30, 2015, ~~shall~~ is, upon attaining the age of sixty-five, eligible to receive a surviving
3 spouse benefit calculated as follows, whichever is applicable:

4 (1) If a family benefit had been paid, sixty percent of the family benefit paid at the time
5 the family benefit ended, increased by the COLA from the date the last family benefit
6 was paid; or

7 (2) If a family benefit had not been paid, sixty percent of the amount calculated pursuant
8 to subsection (a) or (b), whichever is greater, increased by the COLA from the date
9 of the member's death:

10 (a) Twenty-five percent of the member's final average compensation at the time
11 of the member's death; or

12 (b) The member's unreduced accrued retirement benefit at the time of the
13 member's death.

14 The surviving spouse benefit shall be paid in monthly installments for the life of the
15 surviving spouse.

16 Section 27. That the code be amended by adding a NEW SECTION to read:

17 The provisions of §§ 3-12-201 to 3-12-216, inclusive, apply to any member whose
18 application for disability benefits is received by the system after June 30, 2015.

19 Section 28. That § 3-12-201 be amended to read:

20 3-12-201. A contributing member who becomes disabled and who has acquired at least three
21 years of contributory service or noncontributory service since the member's most recent entry
22 into active status and before becoming disabled, or was disabled by accidental means while
23 performing usual duties for an employer, is eligible for disability benefits if the disability is
24 expected to be of long, continued, and indefinite duration of at least one year and the member

1 is disabled on the date the member's contributory service ends. For purposes of this section, a
2 transfer within a participating unit, or a change in employment from one participating unit to
3 another participating unit if there is no break in contributory service, does not constitute a new
4 entry into active status. ~~The provisions of this section apply to any member whose application~~
5 ~~for disability benefits is received by the system after June 30, 2015.~~

6 Section 29. That § 3-12-208 be amended to read:

7 3-12-208. No member may receive credited service for the period during which the member
8 receives disability benefits ~~pursuant to § 3-12-207.~~

9 Section 30. That § 3-12-209 be amended to read:

10 3-12-209. If a member receiving disability benefits ~~pursuant to § 3-12-207~~ becomes
11 employed by a participating unit, the member and employer shall make active contributions
12 pursuant to § 3-12-71 during the period of the employment. The contributions required of the
13 member pursuant to § 3-12-71 shall be deposited by the member's employer with the system for
14 the benefit of the member to be transferred to an account within the deferred compensation
15 program established pursuant to chapter 3-13. The contributions shall be governed by § 457 of
16 the Internal Revenue Code. Notwithstanding the provisions of § 3-12-71, the contributions
17 required of the member's employer pursuant to § 3-12-71 shall be deposited into the member
18 trust fund created by this chapter ~~3-12~~, but without any association with or credit to the member.

19 Section 31. That § 3-12-210 be amended to read:

20 3-12-210. A member's disability benefits ~~pursuant to § 3-12-207~~ terminate if the member
21 is no longer disabled, as certified by a health care provider. Upon receipt of certification the
22 executive director shall determine whether the member meets the qualifications for disability
23 benefits. In making this determination the executive director shall follow the same procedure
24 used in making the initial determination of disability provided in § 3-12-205. A member's

1 disability benefits shall be suspended and subject to termination if the member refuses to
2 undergo an examination or assessment requested by the disability advisory committee or the
3 executive director. If the executive director finds that the member no longer meets the
4 qualifications for disability benefits, the executive director shall notify the member of this
5 finding by certified mail and the payment of disability benefits shall terminate thirty days after
6 receipt of the notice. The finding by the executive director is subject to appeal and review as a
7 contested case.

8 Section 32. That § 3-12-211 be amended to read:

9 3-12-211. If a member's disability benefits pursuant to ~~§ 3-12-207~~ have terminated and the
10 member returns to covered employment, the member and employer shall make contributions
11 pursuant to § 3-12-71.

12 Section 33. That § 3-12-212 be amended to read:

13 3-12-212. Upon retirement, a member who received disability benefits pursuant to ~~§ 3-12-~~
14 ~~207~~ and whose benefits were terminated and who returned to covered employment shall receive
15 a retirement benefit based on the member's credited service before receiving disability benefits
16 and after receiving disability benefits. The final average compensation used in the calculation
17 of the retirement benefit is the greater of:

- 18 (1) The member's final average compensation at the date of retirement; or
- 19 (2) The member's final average compensation at the date of disability, increased by the
20 COLA from the date of the termination of disability benefits to the date of retirement.

21 Section 34. That § 3-12-213 be amended to read:

22 3-12-213. Upon retirement, a member who received disability benefits pursuant to ~~§ 3-12-~~
23 ~~207~~ and whose benefits were terminated and who did not return to covered employment shall
24 receive a retirement benefit based on the member's credited service before receiving disability

1 benefits. The final average compensation used in the calculation of the retirement benefit shall
2 be the final average compensation at the date of disability, increased by the COLA from the date
3 of the termination of disability benefits to the date of retirement.

4 Section 35. That § 3-12-214 be amended to read:

5 3-12-214. Upon the death of a member receiving disability benefits ~~pursuant to § 3-12-207,~~
6 who dies prior to normal retirement age, a family benefit shall be paid on behalf of any eligible
7 child of the member. The monthly amount of the family benefit is the amount of the monthly
8 disability benefits the member received before death. The monthly family benefit shall be
9 equally apportioned among any eligible children of the member and shall be paid on behalf of
10 any child to the conservator or custodian of the child, as applicable. However, if the child is
11 eighteen years of age the benefit is payable directly to the child. As a child becomes ineligible,
12 the family benefit shall be reallocated among any remaining eligible children of the deceased
13 member. The family benefit terminates if there are no eligible children of the deceased member.

14 Section 36. That § 3-12-215 be amended to read:

15 3-12-215. If no family benefit is being paid ~~pursuant to § 3-12-214,~~ a surviving spouse of
16 a foundation or generational member who received disability benefits ~~pursuant to § 3-12-207~~
17 shall, upon attaining the age of sixty-five or sixty-seven, respectively, receive a monthly benefit,
18 payable for the life of the surviving spouse, equal to one of the following calculations,
19 whichever is applicable:

- 20 (1) If there was a family benefit paid, sixty percent of the family benefit paid at the time
21 the family benefit ended, increased by the COLA from the date the last family benefit
22 was paid; or
- 23 (2) If there was no family benefit paid, sixty percent of the deceased member's disability
24 benefit paid at the time of the member's death, increased by the COLA from the date

1 of the member's death.

2 Section 37. That § 3-12-216 be amended to read:

3 3-12-216. If a member dies after normal retirement age while receiving disability benefits
4 ~~pursuant to § 3-12-207~~, and no other benefits are being paid on behalf of the member, the
5 member's surviving spouse shall receive a surviving spouse benefit, payable in monthly
6 installments, equal to sixty percent of the monthly disability benefit that the member received
7 ~~prior to~~ before death.

8 Section 38. That § 3-12-516 be amended to read:

9 3-12-516. If no family benefit is being paid pursuant to § 3-12-95.4, a surviving spouse of
10 a contributing generational member who had acquired at least three years of contributory service
11 or noncontributory service or died while performing usual duties for the employer ~~or died while~~
12 ~~receiving a disability benefit, shall~~ is, upon attaining the age sixty-seven, eligible to receive a
13 surviving spouse benefit as follows:

14 (1) If a family benefit had been paid, sixty percent of the family benefit paid at the time
15 the family benefit ended, increased by the COLA from the date the last family benefit
16 was paid; or

17 (2) If a family benefit had not been paid, sixty percent of the amount calculated pursuant
18 to subsection (a) or (b), whichever is greater, increased by the COLA from the date
19 of the member's death:

20 (a) Twenty-five percent of the member's final average compensation at the time
21 of the member's death; or

22 (b) The member's unreduced accrued retirement benefit at the time of the
23 member's death.

24 The surviving spouse benefit shall be paid in monthly installments for the life of the

1 surviving spouse.

2 Section 39. That § 3-12-93 be amended to read:

3 3-12-93. Any justice of the Supreme Court or judge of the circuit court of this state who is
4 automatically retired pursuant to the provisions of § 16-1-4.1 or 16-6-31, or who, having
5 reached age seventy, retired ~~prior to~~ before January 7, 1975, and who has not fully qualified for
6 retirement benefits as provided by this chapter shall nevertheless receive retirement benefits in
7 the proportion that his or her total time served bears to fifteen years, or if ~~he~~ the justice or judge
8 has served in excess of fifteen years then receive full benefits.

9 Section 40. That § 3-12-113 be amended to read:

10 3-12-113. ~~In the event of the death of a member who is receiving benefits under this chapter,~~
11 ~~or on whose account a benefit is payable or children are no longer qualified, the benefit payable~~
12 ~~to or on account of that person shall be terminated on the last day of the month in which an~~
13 ~~event occurs which effects a termination. Monthly benefits paid to a member cease on the last~~
14 day of the month in which the member died. Monthly benefits paid to a surviving spouse cease
15 on the last day of the month in which the surviving spouse died. Monthly benefits paid to a child
16 cease on the last day of the month in which the child died or the last day of the month in which
17 the child became ineligible, whichever occurs first.

18 Section 41. That § 3-12-200 be amended to read:

19 3-12-200. ~~If, after March 31, 2010,~~ a retired member reenters covered employment at some
20 time after the three consecutive calendar months that start with the member's effective date of
21 retirement, the member's retirement benefits and continued membership shall be administered
22 pursuant to this section.

23 If the retired member's benefits have not been reduced pursuant to § 3-12-106, the member's
24 monthly retirement benefit shall be reduced by fifteen percent and the annual increase shall be

1 eliminated throughout the period that the member reenters covered employment ~~in accord with~~
2 ~~§ 3-12-88~~. The reduction and elimination shall cease if the member again terminates covered
3 employment. However, the reduction and elimination do not apply if the member retired as a
4 Class B member other than a justice, judge, or magistrate judge and subsequently reenters
5 covered employment as a Class A member.

6 If the retired member's benefits have been reduced ~~pursuant to § 3-12-106~~, the member's
7 benefits shall be suspended during the period that the member reenters covered employment and
8 the annual increase shall be eliminated during the period that the member reenters covered
9 employment ~~pursuant to § 3-12-111.1~~. The suspension and elimination shall cease if the
10 member again terminates covered employment.

11 Whether the member's retirement benefits are unreduced or reduced, contributions required
12 of the member ~~pursuant to § 3-12-71~~ shall be deposited by the member's participating unit with
13 the system for the benefit of the member to be transferred to an account within the deferred
14 compensation program established pursuant to chapter 3-13. The contributions shall be
15 governed by § 457 of the Internal Revenue Code. However, the contributions required of the
16 member's employer unit ~~pursuant to § 3-12-71~~ shall be deposited into the fund created by this
17 chapter, but with no association or credit to the member. The member may not earn any
18 additional benefits associated with the period that the member reenters covered employment.

19 Section 42. That § 3-12-518 be repealed.

20 ~~— 3-12-518. If a retired generational member reenters covered employment at some time after~~
21 ~~the three consecutive calendar months that start with the member's effective date of retirement,~~
22 ~~the member's retirement benefits and continued membership shall be administered pursuant to~~
23 ~~this section.~~

24 ~~— If the retired member's benefits have not been reduced, the member's monthly retirement~~

1 ~~benefit shall be reduced by fifteen percent and the annual increase shall be eliminated~~
2 ~~throughout the period that the member reenters covered employment. The reduction and~~
3 ~~elimination shall cease if the member again terminates covered employment. However, the~~
4 ~~reduction and elimination do not apply if the member retired as a Class B member other than~~
5 ~~a justice, judge, or magistrate judge and subsequently reenters covered employment as a Class~~
6 ~~A member.~~

7 ~~— If the retired member's benefits have been reduced, the member's benefits shall be suspended~~
8 ~~during the period that the member reenters covered employment and the annual increase shall~~
9 ~~be eliminated during the period that the member reenters covered employment. The suspension~~
10 ~~and elimination shall cease if the member again terminates covered employment.~~

11 ~~— Whether the member's retirement benefits are unreduced or reduced, contributions required~~
12 ~~of the member pursuant to § 3-12-71 shall be deposited by the member's participating unit with~~
13 ~~the system for the benefit of the member to be transferred to an account within the deferred~~
14 ~~compensation plan established pursuant to chapter 3-13. The contributions shall be governed~~
15 ~~by § 457 of the Internal Revenue Code. However, the contributions required of the member's~~
16 ~~employer unit pursuant to § 3-12-71 shall be deposited into the fund created by this chapter, but~~
17 ~~with no association or credit to the member. The member may not earn any additional benefits~~
18 ~~associated with the period that the member reenters covered employment.~~

19 Section 43. That § 3-12-69 be amended to read:

20 3-12-69. Employees of an eligible political subdivision or public corporation not
21 participating in the systems consolidated into the system created by this chapter, may become
22 a participating unit in the system if the unit commits to deposit an amount equal to the present
23 value of the benefits earned to date, based on the employee's prior service to the unit to be
24 covered by the system. The expense of the actuarial determination of this amount shall be borne

1 by the applicant. All eligible employees of an applicant shall participate in the system upon
2 admission. If the unit is unable to deposit this amount in a single sum, the unit shall have the
3 option to pay the amount by periodic level installments over a period up to twenty years, the
4 value of which, when discounted for compound interest at the assumed rate of return, is equal
5 to the amount due at the date of participation.

6 Section 44. The provisions of Articles 20:16 and 62:01 of the Administrative Rules of South
7 Dakota promulgated pursuant to chapter 3-12 in effect as of January 1, 2019, shall continue with
8 full force and effect until those rules are amended by the board.

9 Section 45. Pursuant to § 2-16-9, the Code Counsel shall transfer sections 2 to 43, inclusive,
10 of this Act, to a NEW CHAPTER 3-12C. Pursuant to § 2-16-9, the Code Commission and Code
11 Counsel are requested to correct and integrate all cross-references from chapter 3-12 that have
12 been transferred to a NEW CHAPTER 3-12C pursuant to this Act.