

AN ACT

ENTITLED, An Act to establish a new retirement benefit structure for certain public employees who are members of the South Dakota Retirement System.

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

Section 1. That chapter 3-12 be amended by adding a NEW SECTION to read:

For any generational member, the term, accumulated contributions, means the sum of:

- (1) All contributions made by the member;
- (2) Eighty-five percent of the contributions made by the member's employer if the member has three years or more of contributory service or noncontributory service, or fifty percent of the contributions made by the employer if the member has less than three years of contributory service or noncontributory service;
- (3) Member credited service purchases pursuant to §§ 3-12-83, 3-12-84, and 3-12-84.2; and
- (4) The effective rate of interest on the sum of subdivisions (1), (2), and (3).

Section 2. That chapter 3-12 be amended by adding a NEW SECTION to read:

For any generational member, the term, credited service, means the sum of the following:

- (1) Years of service, or fractions thereof, for which member contributions were made to the system;
- (2) Any period of authorized leave of absence or sick leave with pay for which deductions for member contributions are made, deposited, and credited to the fund;
- (3) Any period of authorized leave of absence or sick leave without pay or temporary layoff, during or for which a member obtained credit by payments to the fund made in lieu of salary deductions; and
- (4) Any period during which a member is on an authorized leave of absence to enter military service, if the member fulfills the provisions of § 3-12-86.

Section 3. That chapter 3-12 be amended by adding a NEW SECTION to read:

For any generational member, the term, final average compensation, means the highest average annual compensation earned by a member during any period of twenty consecutive calendar quarters during the member's last forty calendar quarters of membership in the system. If the compensation received in the last calendar quarter considered exceeds one hundred five percent of the amount in the highest previous calendar quarter, or if the average compensation received in the last four calendar quarters exceeds one hundred five percent of the amount earned in the highest calendar quarter prior to the last four calendar quarters considered, only the lesser amount shall be considered and the excess shall be excluded in the computation of final average compensation.

For purposes of determining final average compensation if periods of contributory service are separated by breaks, any service earned from covered employment may be aggregated to constitute a period of twenty consecutive calendar quarters.

For any member who has less than twenty but more than four calendar quarters of membership in the system, the member's final average compensation shall be based on the compensation received in all quarters of membership. For any member who has four calendar quarters of membership or less, the member's final average compensation shall be based on the member's annual compensation.

Section 4. That chapter 3-12 be amended by adding a NEW SECTION to read:

For any generational member, the term, improvement factor, means the annual increase in the amount of the benefit provided on July first, compounded annually. However, no annual increase may be provided unless the member has received benefit payments for at least the consecutive, twelve-month period before July first. The annual increase shall be established by the board for each fiscal year, based on the fair value funded ratio of the system and the increase in the consumer price index for the preceding third calendar quarter compared to the consumer price index for the third calendar quarter for the base year (the previous year in which the consumer price index was the

highest), as follows:

- (1) If the system's fair value funded ratio is less than eighty percent, the improvement factor shall be equal to the increase in the consumer price index, but no less than one percent and no greater than two and one-tenth percent;
- (2) If the system's fair value funded ratio is eighty percent or greater but less than ninety percent, the improvement factor shall be the increase in the consumer price index, but no less than one percent and no greater than two and four-tenths percent;
- (3) If the system's fair value funded ratio is ninety percent or greater but less than one hundred percent, the improvement factor shall be the increase in the consumer price index, but no less than one percent and no greater than two and eight-tenths percent; or
- (4) If the system's fair value funded ratio is one hundred percent or greater, the improvement factor shall be the increase in the consumer price index, but no less than one percent and no greater than three and one-tenth percent.

Section 5. That chapter 3-12 be amended by adding a NEW SECTION to read:

For any generational member, normal retirement age is sixty-seven for Class A credited service and for Class B credited service as a justice, judge, and magistrate judge and age fifty-seven for other Class B credited service. The Legislature may increase the normal retirement age for some or all then-contributing members if life expectancy at retirement continues to increase, as substantiated by a periodic actuarial experience analysis that takes into account census data of all active members, vested terminated members, and retired members as well as beneficiaries of the system.

Section 6. That chapter 3-12 be amended by adding a NEW SECTION to read:

Upon retirement, a generational member shall receive a normal retirement benefit, commencing at normal retirement age or thereafter, for Class A credited service, equal to one and eight-tenths percent of final average compensation for each year of Class A credited service.

Section 7. That chapter 3-12 be amended by adding a NEW SECTION to read:

Upon retirement, a generational member shall receive a normal retirement benefit, commencing at normal retirement age or thereafter, for Class B credited service other than as a justice, judge, or magistrate judge, equal to two percent of final average compensation for each year of Class B credited service other than as a justice, judge, or magistrate judge.

Section 8. That chapter 3-12 be amended by adding a NEW SECTION to read:

Upon retirement, a generational member shall receive a normal retirement benefit, commencing at normal retirement age or thereafter, equal to three and three hundred thirty-three thousandths percent of final average compensation for the first fifteen years of Class B credited service as a justice, judge, or magistrate judge and two percent of final average compensation for each year of Class B credited service as a justice, judge, or magistrate judge in excess of fifteen years.

Section 9. That chapter 3-12 be amended by adding a NEW SECTION to read:

Any generational member applying for a retirement benefit shall elect one of the following monthly benefit options:

- (1) A single life benefit that provides a monthly benefit to the member for as long as the member lives and ceases upon the death of the member;
- (2) A sixty percent joint and survivor benefit that provides a reduced lifetime monthly benefit to the member, and upon the member's death sixty percent of the reduced benefit continues to the surviving spouse until the death of the surviving spouse; or
- (3) A one hundred percent joint and survivor benefit that provides a reduced lifetime monthly benefit to the member, and upon the member's death one hundred percent of the reduced benefit continues to the surviving spouse until the death of the surviving spouse.

The benefits payable to the member and the surviving spouse pursuant to a joint and survivor benefit are based on the ages of the member and the spouse and are the actuarial equivalent of a

single life benefit. The monthly benefit of a member electing the joint and survivor benefit is reduced in order to provide for a continuing benefit for the surviving spouse after the member's death. The last payment of the member's benefit is for the month in which the member's death occurs, and any surviving spouse benefit is effective from the first day of the month following the member's death. The benefits payable pursuant to this section shall be paid in accordance with § 401(a)(9) of the Internal Revenue Code.

Section 10. That chapter 3-12 be amended by adding a NEW SECTION to read:

If more than one monthly retirement benefit payment has been made to the generational member, the benefit election made by a member is irrevocable and surviving spouse benefits, if elected, may only be paid to the person who is the spouse both at the time of the election and at the time of the member's death and only if the spouse survives the member. The benefit election may not be rescinded in the event of a subsequent divorce or the subsequent death of the spouse.

Section 11. That chapter 3-12 be amended by adding a NEW SECTION to read:

No retirement benefit may be paid unless the system has received a completed application for a retirement benefit, including the benefit option elected. The application shall be signed by both the generational member and the member's spouse, if applicable, and each signature shall be witnessed by a representative of the system or notarized.

Section 12. That chapter 3-12 be amended by adding a NEW SECTION to read:

Unless a generational member's required beginning date for retirement occurs first, the retirement benefit of a generational member is effective in accordance with whichever of the following is last:

- (1) The first day of the month following the date on which the member's contributory service terminated;
- (2) The first day of the month following an intervening complete calendar month after the date on which the member's written application for retirement benefits is received by the

system; or

- (3) The first day of the month specified in the member's application for retirement.

The last payment of the member's benefit is for the month in which the member's death occurs.

Section 13. That chapter 3-12 be amended by adding a NEW SECTION to read:

Any generational member who fails to make a timely application for retirement benefits may receive three months of benefits retroactive from the effective date of the member's retirement benefit. However, no member may receive any retroactive benefits for any period of time before the first day of the month following the date the member's contributory service terminated.

Section 14. That chapter 3-12 be amended by adding a NEW SECTION to read:

The disability benefit approved pursuant to § 3-12-206 is the greater of the following calculations:

- (1) Twenty-five percent of the generational member's final average compensation at the date of disability; or
- (2) The generational member's unreduced accrued retirement benefit at the date of disability.

The disability benefit shall be paid in monthly installments. The disability benefit of a generational member shall terminate upon attaining normal retirement age, or if the member commences a disability benefit within five years of normal retirement age, after receiving the disability benefit for five years, and thereafter the member shall receive a retirement benefit. In order to start the retirement benefit, the member shall submit a completed retirement application that includes the benefit option elected by the member. The single life benefit is equal to the amount the member received as a disability benefit.

Section 15. That chapter 3-12 be amended by adding a NEW SECTION to read:

Any vested generational member may elect to start the retirement benefit in the ten years preceding the member's normal retirement age. However, no retirement benefit may be paid unless

the member submits a completed retirement application to the system that includes the benefit option elected by the member. The normal retirement benefit shall be reduced by five percent for each full year and prorated for each additional full month between the date the early retirement benefit commences and the date the member attains normal retirement age.

Section 16. That chapter 3-12 be amended by adding a NEW SECTION to read:

Upon the death of a generational member retiree who elected either a sixty percent or one hundred percent joint and survivor benefit, the surviving spouse is eligible to receive a surviving spouse benefit. The amount of the surviving spouse benefit is based on the election made upon the retirement of the member and is payable on a monthly basis to the surviving spouse for the life of the spouse.

Section 17. That chapter 3-12 be amended by adding a NEW SECTION to read:

Upon the death of a generational member who was vested or died while performing usual duties for the employer and who has reached normal retirement age but has not yet begun a retirement benefit, a surviving spouse is eligible to receive a surviving spouse benefit. The surviving spouse benefit is equal to sixty percent of the actuarially reduced amount the member would have received if the member retired on the date of death and elected the sixty percent joint and survivor benefit. The annual benefit shall be divided into monthly payments and is payable for the life of the surviving spouse. The payments are effective the first day of the month following the member's death.

Section 18. That chapter 3-12 be amended by adding a NEW SECTION to read:

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

- (1) If a family benefit had been paid, sixty percent of the family benefit paid at the time the

family benefit ended, increased by the improvement factor from the date the last family benefit was paid; or

- (2) If a family benefit had not been paid, sixty percent of the amount calculated pursuant to subsection (a) or (b), whichever is greater, increased by the improvement factor from the date of the member's death:
 - (a) Twenty-five percent of the member's final average compensation at the time of the member's death; or
 - (b) The member's unreduced accrued retirement benefit at the time of the member's death.

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

Section 19. That chapter 3-12 be amended by adding a NEW SECTION to read:

A generational member's spouse who is eligible to receive a surviving spouse benefit at age sixty-seven may elect to start the benefit in the ten years preceding the spouse attaining the age of sixty-seven. The early surviving spouse benefit, payable for the life of the surviving spouse, is the surviving spouse benefit reduced by five percent for each full year and prorated for each additional full month between the date the early surviving spouse benefit commences and the date the surviving spouse attains the age of sixty-seven.

Section 20. That chapter 3-12 be amended by adding a NEW SECTION to read:

If a retired generational member reenters covered employment at some time after the three consecutive calendar months that start with the member's effective date of retirement, the member's retirement benefits and continued membership shall be administered pursuant to this section.

If the retired member's benefits have not been reduced, the member's monthly retirement benefit shall be reduced by fifteen percent and the annual increase shall be eliminated throughout the period

that the member reenters covered employment. The reduction and elimination shall cease if the member again terminates covered employment. However, the reduction and elimination do not apply if the member retired as a Class B member other than a justice, judge, or magistrate judge and subsequently reenters covered employment as a Class A member.

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

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

Section 21. That chapter 3-12 be amended by adding a NEW SECTION to read:

Each generational member shall have a variable retirement account, which consists of variable retirement contributions and the credited investment return. The investment return shall be credited annually as of June thirtieth for all generational members with a variable retirement account on that date. The credited investment return is the South Dakota Investment Council's reported money-weighted investment return of the system, net of fees, for the completed fiscal year. For any account distributed during the fiscal year, the estimated investment return shall be credited to the end of the month before the date on which the retirement benefit is paid or the disability benefit is paid

or the death occurred, as applicable. Any variable retirement contributions made during the fiscal year shall receive one-half year's credited investment return.

Section 22. That chapter 3-12 be amended by adding a NEW SECTION to read:

Each year the board shall establish the variable retirement contribution for the following fiscal year based on the results of the most current annual actuarial valuation. The variable retirement contribution for any year may be adjusted from zero to one and one-half percent of each contributing generational member's compensation and shall be allocated to each generational member's variable retirement account. The variable retirement contribution for the fiscal year beginning July 1, 2017, shall be one and one-half percent of each contributing member's compensation.

Section 23. That chapter 3-12 be amended by adding a NEW SECTION to read:

The variable retirement account is payable at the retirement, disability, or death of the generational member. The variable retirement account is payable to the generational member when the member commences a retirement benefit or a disability benefit or to the generational member's eligible child, eligible spouse, or beneficiary upon the death of the member. The variable retirement account is not payable to any member who withdraws his or her accumulated contributions from the system. For the purpose of paying a distribution, the variable retirement account is the amount in the member's variable retirement account or the total of the variable retirement contributions made on behalf of the member, whichever is greater.

The variable retirement account may be paid in a lump sum, rolled over to the South Dakota deferred compensation plan, rolled over to another eligible plan, or used to purchase a supplemental pension benefit. However, the purchase of a supplemental pension benefit is only available upon the member's retirement.

Section 24. That chapter 3-12 be amended by adding a NEW SECTION to read:

For any foundation member, the term, accumulated contributions, means the sum of:

- (1) All contributions made by the member, including member contributions made by an employer after June 30, 1984, pursuant to § 3-12-71;
- (2) For a member whose contributory service concluded after June 30, 2010, eighty-five percent of the employer contributions or noncontributory service if the member had three years or more of contributory service and fifty percent of the employer contributions if the member had less than three years of service; or for a member whose contributory service concluded before July 1, 2010, one hundred percent of the employer contributions or noncontributory service if the member had three years or more of contributory service and seventy-five percent of the employer contributions if the member had less than three years of service;
- (3) Member redeposits pursuant to § 3-12-80 and member credited service purchases pursuant to §§ 3-12-83, 3-12-84, and 3-12-84.2; and
- (4) The effective rate of interest earned on the sum of subdivisions (1), (2), and (3).

Section 25. That chapter 3-12 be amended by adding a NEW SECTION to read:

For any foundation member, the term, credited service, means:

- (1) Years of service, or fractions thereof, for which member contributions were made to the system;
- (2) Years of noncontributory service, or fractions thereof, credited before July 1, 1974, previously credited under the provisions of the retirement systems consolidated pursuant to § 3-12-46;
- (3) Any period of authorized leave of absence or sick leave with pay for which deductions for member contributions are made, deposited, and credited to the fund;
- (4) Any period of authorized leave of absence or sick leave without pay or temporary layoff, during or for which a member obtained credit by payments to the fund made in lieu of

salary deductions;

- (5) Any period during which a member is on an authorized leave of absence to enter military service, if the member fulfills the provisions of § 3-12-86;
- (6) Years of service, or fractions thereof, by faculty and administrators employed by the board of regents before April 1, 1964, credited pursuant to §§ 3-12-69.4 and 3-12-69.5;
- (7) Years of noncontributory service, or fractions thereof, earned before July 1, 1967, but not credited under the South Dakota public employee retirement system as it was consolidated pursuant to § 3-12-46 because the person earned the service prior to attaining the age of thirty. The service shall be credited only to those persons who are contributing members on July 1, 1987. No service may be credited pursuant to this subdivision to any member who has withdrawn the member's accumulated contributions after July 1, 1967; and
- (8) Years of noncontributory service, or fractions thereof, earned by a member from July 1, 1967, to June 30, 1974, inclusive, but not credited under the South Dakota public employee retirement system because of the age and service restrictions established under that system.

Section 26. That chapter 3-12 be amended by adding a NEW SECTION to read:

For any foundation member, the term, final average compensation, means the highest average annual compensation earned by a member during any period of twelve consecutive calendar quarters during the member's last forty calendar quarters of membership in the system including time during which the member was not a member but for which the member has received credit under the system. If the compensation received in the last calendar quarter considered exceeds a set percentage of the amount in the highest previous calendar quarter, or if the average compensation received in the last four calendar quarters exceeds a set percentage of the amount earned in the highest calendar quarter prior to the last four calendar quarters considered, only the lesser amount shall be considered

and the excess shall be excluded in the computation of final average compensation. Those respective set percentages are as follows:

- (1) Before July 1, 2004, one hundred twenty-five percent and one hundred fifteen percent;
- (2) Between July 1, 2004, and June 30, 2005, one hundred fifteen and one hundred ten percent; and
- (3) After June 30, 2005, one hundred five percent and one hundred five percent.

For purposes of determining final average compensation if periods of contributory service are separated by breaks, any service earned from covered employment may be aggregated to constitute a period of twelve consecutive calendar quarters. For any member who has less than twelve but more than four calendar quarters of membership in the system, the member's final average compensation shall be based on the compensation received in all quarters of membership. For any member who has four calendar quarters of membership or less, the member's final average compensation shall be based on the member's annual compensation.

Section 27. That chapter 3-12 be amended by adding a NEW SECTION to read:

For any foundation member, the term, improvement factor, means the annual increase in the amount of the benefit provided on July first, compounded annually. However, no annual increase may be provided unless the member has received benefit payments for at least the consecutive, twelve-month period before July first. The annual increase shall be established by the board for each fiscal year, based on the system's fair value funded ratio and the increase in the consumer price index for the preceding third calendar quarter compared to the consumer price index for the third calendar quarter for the base year (the past year in which the consumer price index was the highest), as follows:

- (1) If the system's fair value funded ratio is less than eighty percent, the improvement factor shall be two and one-tenth percent;

- (2) If the system's fair value funded ratio is eighty percent or greater but less than ninety percent, the improvement factor shall be the increase in the consumer price index, but no less than two and one-tenth percent and no greater than two and four-tenths percent;
- (3) If the system's fair value funded ratio is ninety percent or greater but less than one hundred percent, the improvement factor shall be the increase in the consumer price index, but no less than two and one-tenth percent and no greater than two and eight-tenths percent; or
- (4) If the system's fair value funded ratio is one hundred percent or greater, the improvement factor shall be three and one-tenth percent.

Section 28. That chapter 3-12 be amended by adding a NEW SECTION to read:

For any foundation member, normal retirement age is age sixty-five for Class A credited service and for Class B credited service as a justice, judge, and magistrate judge and age fifty-five for other Class B credited service.

Section 29. That chapter 3-12 be amended by adding a NEW SECTION to read:

For any foundation member, the term, reduction age, means the age at which the sum of the foundation member's age and credited service equals a number as follows:

- (1) For Class A credited service, an age not less than fifty-five and at which the sum of the foundation member's age and credited service equals eighty-five;
- (2) For Class B credited service as a justice, judge, or magistrate judge, an age not less than fifty-five and at which the sum of the foundation member's age and credited service equals eighty; and
- (3) For Class B credited service other than as a justice, judge, or magistrate judge, an age not less than forty-five and at which the sum of the foundation member's age and credited service equals seventy-five.

Section 30. That § 3-12-47.1 be amended to read:

3-12-47.1. Any increase in a retired member's benefit as a result of credited service related to years of noncontributory service, or fractions thereof, earned by a member from July 1, 1967, to June 30, 1974, inclusive, but not credited under the South Dakota public employee retirement system because of the age and service restrictions established under the system shall be prospective only from July 1, 1997.

Section 31. That § 3-12-47.2 be amended to read:

3-12-47.2. Any member who, pursuant to the provisions of § 3-12-83, has purchased a portion or all of the member's noncontributory service earned by a member from July 1, 1967, to June 30, 1974, inclusive, but not credited under the South Dakota public employee retirement system because of the age and service restrictions established under the system is entitled to a refund of such purchase cost.

Section 32. That § 3-12-62.8 be amended to read:

3-12-62.8. For purposes of determining the retirement benefits of foundation member conservation officers, for credited service earned before July 1, 1983, benefits shall be calculated pursuant to § 3-12-91 and for credited service earned after June 30, 1983, benefits shall be calculated pursuant to § 3-12-92. For purposes of credited service earned before July 1, 1983, a conservation officer has a normal retirement age of sixty-five. For purposes of credited service earned after June 30, 1983, a foundation member conservation officer has a normal retirement age of fifty-five.

Section 33. That § 3-12-77 be amended to read:

3-12-77. A member of the system who is not vested may leave the member's accumulated contributions in the system upon termination of employment for a period not to exceed ten years from the date of termination. However, no additional contributions may be made to the system by the member or a participating unit following the date of termination and no benefits in the retirement

system may accrue to a member of the system following the date of termination, except as provided in § 3-12-72.4. If the member withdraws the member's accumulated contributions, membership in the system terminates. At the end of the ten-year period, no further interest may be credited with respect to contributions and no further investment return may be credited with respect to any variable retirement account. If the member fails to withdraw the member's accumulated contributions within eleven years following the member's termination, the member shall forfeit all rights to the member's accumulated contributions, variable retirement account, and to any credited service in connection therewith, if the system has made reasonable efforts to notify the member of the member's withdrawal rights and the effect of this section.

Section 34. That § 3-12-80 be amended to read:

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

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

No generational member may redeposit accumulated contributions.

Section 35. That § 3-12-90 be amended to read:

3-12-90. Unless a foundation member's required beginning date for retirement occurs first, the early or normal retirement benefit of a foundation member is effective in accordance with whichever

of the following is last:

- (1) The first day of the month following the date on which the member's contributory service terminated;
- (2) The first day of the month following an intervening complete calendar month after the date on which the member's written application for retirement benefits is received by the system; or
- (3) The first day of the month specified in the member's application for retirement.

The last payment of the member's benefit is for the month in which the member's death occurs.

Any foundation member who fails to make a timely application for retirement benefits may receive three months of benefits retroactive from the effective date of the member's retirement benefit. However, no foundation member may receive any retroactive benefits for any period of time before the first day of the month following the date on which the member's contributory service terminated.

Section 36. That § 3-12-91 be amended to read:

3-12-91. Upon retirement, a foundation member shall receive a normal retirement benefit, commencing at normal retirement age or thereafter as provided in § 3-12-90, for Class A credited service, equal to the larger of one and seven-tenths percent of final average compensation for each year of Class A credited service before July 1, 2008, plus one and fifty-five hundredths percent of final average compensation for each year of Class A credited service after July 1, 2008, or two and four-tenths percent of final average compensation for each year of Class A credited service before July 1, 2008, plus two and twenty-five hundredths percent of final average compensation for each year of Class A credited service after July 1, 2008, less other public benefits. For purposes of this section, federal military retirement or federal national guard retirement benefits are not other public benefits. For the purposes of this section, any Class A member who did not participate in federal

social security during the period of credited service shall be presumed to be entitled to the maximum primary social security benefit permitted at the time of retirement. Class A credited service includes all credited service under this or any of the retirement systems consolidated pursuant to § 3-12-46.

Section 37. That § 3-12-91.1 be amended to read:

3-12-91.1. Each participating unit shall make an additional contribution in the amount of six and two-tenths percent of any foundation member's compensation in each calendar year that exceeds the maximum taxable amount for social security for the calendar year. The additional contributions shall be made only for Class A foundation members and may not be treated as employer contributions.

Section 38. That § 3-12-92 be amended to read:

3-12-92. Upon retirement, a foundation member shall receive a normal retirement benefit, commencing at normal retirement age or thereafter as provided in § 3-12-90, for Class B credited service other than as a justice, judge, or magistrate judge, equal to two and four-tenths percent of final average compensation for each year of Class B credited service other than as a justice, judge, or magistrate judge before July 1, 2008, plus two percent of final average compensation for each year of Class B credited service other than as a justice, judge, or magistrate judge after July 1, 2008.

Section 39. That § 3-12-92.4 be amended to read:

3-12-92.4. Upon retirement, a foundation member shall receive a normal retirement benefit, commencing at normal retirement age or thereafter as provided in § 3-12-90, for the first fifteen years of Class B credited service as a justice, judge, or magistrate judge equal to three and seven hundred thirty-three thousandths percent of final average compensation for each year of Class B credited service as a justice, judge, or magistrate judge before July 1, 2008, plus three and three hundred thirty-three thousandths percent of final average compensation for each year of Class B credited service as a justice, judge, or magistrate judge after July 1, 2008. A foundation member shall also receive for Class B credited service as a justice, judge, or magistrate judge in excess of fifteen

years, two and four-tenths percent of final average compensation for each year of Class B credited service as a justice, judge, or magistrate judge before July 1, 2008, plus two percent of final average compensation for each year of Class B credited service as a justice, judge, or magistrate judge after July 1, 2008.

Section 40. That § 3-12-94 be amended to read:

3-12-94. Upon the death of a foundation retiree or any foundation member who has reached normal retirement age, the surviving spouse is eligible to receive a benefit, payable in monthly installments, equal to sixty percent of the retirement benefit that the foundation member was receiving or was eligible to receive at the time of death.

Section 41. That § 3-12-95.4 be amended to read:

3-12-95.4. On the death of a contributing member after June 30, 2015, who has acquired at least three years of contributory service or noncontributory service, or who died while performing usual duties for an employer, and prior to the earlier of the member attaining normal retirement age or the member's retirement, a family benefit shall be paid on behalf of any child of such member. The total family benefit is the greater of:

- (1) Twenty-five percent of the member's final average compensation at the time of death; or
- (2) The member's unreduced accrued retirement benefit at the time of death.

The family benefit, which shall be paid in monthly installments, shall be equally apportioned among any children of the member and shall be paid on behalf of any child to the conservator or custodian of the child, as applicable. However, if the child is eighteen years of age the benefit is payable directly to the child. As a child becomes ineligible, the family benefit shall be reallocated among any remaining eligible children of the deceased member. The family benefit terminates if there are no eligible children of the deceased member.

Section 42. That § 3-12-95.5 be amended to read:

3-12-95.5. If no family benefit is being paid pursuant to § 3-12-95.4, a surviving spouse of a contributing foundation member who had acquired at least three years of contributory service or noncontributory service or died while performing usual duties for the employer and who died after June 30, 2015, shall, upon attaining the age of sixty-five, receive a surviving spouse benefit calculated as follows, whichever is applicable:

- (1) If a family benefit had been paid, sixty percent of the family benefit paid at the time the family benefit ended, increased by the improvement factor from the date the last family benefit was paid; or
- (2) If a family benefit had not been paid, sixty percent of the amount calculated pursuant to subsection (a) or (b), whichever is greater, increased by the improvement factor from the date of the member's death:
 - (a) Twenty-five percent of the member's final average compensation at the time of the member's death; or
 - (b) The member's unreduced accrued retirement benefit at the time of the member's death.

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

Section 43. That § 3-12-95.6 be amended to read:

3-12-95.6. A foundation member's spouse who would be eligible to receive a surviving spouse benefit at age sixty-five may elect to start the benefit prior to age sixty-five but no earlier than the date on which the surviving spouse attains the age of fifty-five. The early surviving spouse benefit, payable for the life of the surviving spouse, is the surviving spouse benefit reduced by five percent for each full year and prorated for each additional full month between the date the early surviving spouse benefit commences and the date the surviving spouse attains the age of sixty-five.

Section 44. That § 3-12-106 be amended to read:

3-12-106. Any vested foundation member can retire in the ten years preceding the member's normal retirement age and the retirement benefit shall be reduced by the lesser of the following:

- (1) One-fourth of one percent for each full month which remains between the date of commencement of payments and the date the member will reach the member's normal retirement age; or
- (2) One-fourth of one percent for each full month which remains between the date of commencement of payments and the date the member will reach the member's reduction age.

Section 45. That § 3-12-107 be amended to read:

3-12-107. Any foundation member who retires before being eligible for social security retirement benefits may elect to receive initial retirement benefit payments from the system in an amount greater than the standard benefit payments computed on the basis of the member's age and earnings at retirement. The greater amount, in conjunction with a later reduced amount, shall be the actuarial equivalent of the normal retirement benefit computed on the basis of age at retirement. The greater amount shall be paid until the foundation member reaches the age of sixty-two, at which time the payment from the system shall be the reduced amount so that, as far as possible, the foundation member's combined monthly retirement income from the system and social security shall approximately equal the greater amount paid prior to age sixty-two.

Section 46. That § 3-12-110 be amended to read:

3-12-110. After all benefits currently or potentially payable under any provision of this chapter have terminated, if the aggregate benefits paid to a member and the member's surviving spouse and minor children, including any distribution of the member's variable retirement account, are less than the member's accumulated contributions, the amount by which the accumulated contributions exceed

total payments made to date shall be paid in a lump sum as provided in this section.

Amounts payable under this section shall be paid as follows:

- (1) To the beneficiary or entity designated by the member, if any is designated;
- (2) If no beneficiary or entity is designated, then to the member's surviving spouse;
- (3) If no beneficiary or entity is designated and there is no surviving spouse, then to all surviving children, irrespective of age, on a share-alike basis; or
- (4) If no beneficiary or entity is designated, there is no surviving spouse, and there are no surviving children, then to the member's estate.

If no claim for payment due upon the death of a deceased member is made within three years from date of death, the payment shall revert to the system. However, a claim may be honored after the expiration of the three-year reversion period if, in the opinion of the administrator, payment of the claim is warranted by exceptional circumstances.

Section 47. That § 3-12-191 be amended to read:

3-12-191. A retiree receiving a benefit from the system may become a supplemental pension participant by direct rollover of funds held by the member in a variable retirement account or in either or both of the plans created in chapters 3-13 and 3-13A into the fund. Any rollover shall be in compliance with the provisions of § 401(a)(31) of the Internal Revenue Code and shall be recorded in the participant's supplemental pension contract record. All of a participant's funds rolled into the fund shall be expended in full as the single premium for a supplemental pension contract. No single premium may be less than ten thousand dollars. No participant may have more than one supplemental pension contract funded by either or both of the plans created in chapters 3-13 and 3-13A and no more than one supplemental pension contract funded by the participant's variable retirement account. A supplemental pension contract goes into effect when a participant signs the supplemental pension contract. The initial monthly supplemental pension benefit is payable the first

day of the first month after the contract goes into effect. Payment of any prior and current supplemental pension benefits shall be made within two months after the contract is in effect.

Section 48. That § 3-12-192 be amended to read:

3-12-192. A supplemental pension participant shall receive one of three types of supplemental pension benefits:

- (1) A supplemental pension benefit payable monthly for the lifetime of the participant;
- (2) A supplemental pension benefit payable monthly for the lifetime of the participant and, upon the death of the participant, a supplemental pension benefit payable monthly to the participant's supplemental pension spouse equal to sixty percent of the monthly benefit amount that the participant was receiving at the time of death; or
- (3) A supplemental pension benefit payable monthly for the lifetime of the participant and, upon the death of the participant, a supplemental pension benefit payable monthly to the participant's supplemental pension spouse equal to one hundred percent of the monthly benefit amount that the participant was receiving at the time of death.

A participant may contract for any of the three types of supplemental pension benefits provided in this section. The contract shall be signed by both the supplemental pension participant and the spouse of the participant, if applicable, and each signature shall be witnessed by a representative of the system or notarized.

Section 49. That § 3-12-207 be amended to read:

3-12-207. The disability benefit approved pursuant to § 3-12-206 is the greater of the following calculations:

- (1) Twenty-five percent of the foundation member's final average compensation at the date of disability; or
- (2) The foundation member's unreduced accrued retirement benefit at the date of disability.

The disability benefit shall be paid in monthly installments for the life of the foundation member unless the benefit terminates pursuant to § 3-12-210.

For purposes of determining the eligibility of a surviving spouse benefit, the disability benefit of a foundation member is considered a retirement benefit when the member attains normal retirement age.

Section 50. That § 3-12-215 be amended to read:

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

- (1) If there was a family benefit paid, sixty percent of the family benefit paid at the time the family benefit ended, increased by the improvement factor from the date the last family benefit was paid; or
- (2) If there was no family benefit paid, sixty percent of the deceased member's disability benefit paid at the time of the member's death, increased by the improvement factor from the date of the member's death.

Section 51. That chapter 3-12 be amended by adding a NEW SECTION to read:

For the purposes of this chapter, the term, actuarial equivalent, is a benefit of equal value, computed on the basis of the interest rate, mortality, and improvement factor assumptions adopted by the board for purposes of the actuarial valuation. If the board adopts a select and ultimate rate of interest, the interest rate is the ultimate rate. Mortality is based on a unisex rate that is fifty percent male and fifty percent female for employees and beneficiaries, based on the mortality rates for retired employees and beneficiaries, including, if the board adopts a generational mortality table, projection of mortality improvement to the year specified by the board based on the member's and beneficiary's

ages as of the date of the calculation and projected generationally after that year. Separate improvement factor assumptions shall be made for foundation and generational members. The system shall make the interest rate, mortality, and improvement factor assumptions public.

Section 52. That chapter 3-12 be amended by adding a NEW SECTION to read:

For the purposes of this chapter, the term, compensation, means gross wages paid to a member by the employer for personal services rendered during the period considered as credited service. Compensation includes amounts reported as wages, tips, and other compensation on the member's federal form W-2 wage and tax statement, except as otherwise excluded in this section; the amount of member contributions made by an employer after June 30, 1984, pursuant to § 3-12-71; any amount contributed to a member's individual retirement plan which meets the requirements of section 401, 403, 408, or 457 of the Internal Revenue Code; and any amount contributed to a plan described in section 125 of the Internal Revenue Code; and any amount contributed to the system pursuant to § 3-12-83.2 in accord with § 414(h)(2) of the Internal Revenue Code.

Compensation does not include travel, meals, lodging, moving, or any other expenses incidental to an employer's business which is reimbursed by the employer; lump sum payments for sick leave; lump sum payments for annual leave; payments for insurance coverage of any kind or any other employee benefit by an employer on behalf of an employee or an employee and dependents; any amount paid in a one-time lump sum payment or over a period of time and based on or attributable to retirement or an agreement to retire in the future; payments made upon dismissal or severance; worker's compensation payments; and payments contingent on a member terminating employment at a specified time in the future paid or payable in a lump sum or over a period of time.

Any compensation in excess of the limits established in § 401(a)(17) of the Internal Revenue Code shall be disregarded for purposes of contributions or for benefit calculations under the system. However, the limit does not apply to compensation earned by a member if the member was

employed by a participating unit before July 1, 1996.

Section 53. That chapter 3-12 be amended by adding a NEW SECTION to read:

For the purposes of this chapter, a contributing member is any member for whom the system receives an employer contribution report that includes the member's employee and employer contributions indicating that the member is an active member. A member's active membership is terminated and the member is no longer a contributing member when the system receives notice of termination from an employer, accompanied by the member's final employee and employer contributions.

Section 54. That chapter 3-12 be amended by adding a NEW SECTION to read:

For the purposes of this chapter, the phrase, effective rate of interest, means the interest at an annually compounded rate to be established by the board for each fiscal year. The rate shall be no greater than ninety percent of the average ninety-one day United States treasury bill rate for the immediately preceding calendar year and in no event may the rate be more than the rate established by the board pursuant to § 3-12-121 for investment return for purposes of the actuarial valuation. If a member withdraws contributions pursuant to § 3-12-76, 3-12-76.1, or 3-12-77, or if benefits are payable under § 3-12-110, the interest shall be as annually compounded on the preceding June thirtieth.

Section 55. That chapter 3-12 be amended by adding a NEW SECTION to read:

For the purposes of determining eligibility for, and the amount of, any benefit payable pursuant to this chapter, the first day of the month in which a person's birthday falls is considered a person's birthday.

Section 56. That § 3-12-47 be amended to read:

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

(1) "Actuarial accrued liability," the present value of all benefits less the present value of

- future normal cost contributions;
- (2) "Actuarial requirement," the normal cost and the interest on and amortization of the unfunded actuarial accrued liability accumulated to date over a thirty year period, all expressed in terms of a percentage of covered payroll;
 - (3) "Actuarial experience analysis," a periodic report which reviews basic experience data and furnishes actuarial analysis which substantiates the assumptions adopted for the purpose of making an actuarial valuation of the system;
 - (4) "Actuarial valuation," a projection of the present value of all benefits and the current funded status of the system, based upon stated assumptions as to rates of interest, mortality, disability, salary progressions, withdrawal, and retirement as established by a periodic actuarial experience analysis which takes into account census data of all active members, vested terminated members and retired members and their beneficiaries under the system;
 - (5) "Actuarial value of assets," the total assets of the system, taking market appreciation into account on a rational and systematic basis;
 - (6) "Air rescue firefighters," employees of the Department of the Military who are stationed at Joe Foss Field, Sioux Falls, and who are directly involved in firefighting activities on a daily basis;
 - (7) "Approved actuary," any actuary who is a member of the American Academy of Actuaries or an Associate or a Fellow of the Society of Actuaries who meets the qualification standards of the American Academy of Actuaries to issue actuarial opinions regarding the system or any firm retaining such an actuary on its staff and who is appointed by the board to perform actuarial services;
 - (8) "Assumed rate of return," the actuarial assumption adopted by the board pursuant to § 3-

- 12-121 as the annual assumed percentage return on trust fund assets, compounded;
- (9) "Beneficiary," the person designated by a member of the system to receive any payments after the death of such member;
 - (10) "Benefits," the amounts paid to a member, spouse, spouse and family, child, or beneficiary as a result of the provisions of this chapter;
 - (11) "Board," the Board of Trustees of the South Dakota Retirement System;
 - (12) "Calendar quarter," a period of three calendar months ending March thirty-first, June thirtieth, September thirtieth, or December thirty-first of any year;
 - (13) "Campus security officers," employees of the Board of Regents whose positions are subject to the minimal educational training standards established by the law enforcement standards commission pursuant to chapter 23-3 and who satisfactorily complete the training required by chapter 23-3 within one year of employment and whose primary duty as sworn law enforcement officers is to preserve the safety of the students, faculty, staff, visitors and the property of the University of South Dakota and South Dakota State University. The employer shall file with the system evidence of the appointment as a sworn law enforcement officer at the time of employment and shall file evidence of satisfactory completion of the training program pursuant to chapter 23-3 within one year of employment;
 - (14) "Child," depending on the circumstances, as follows:
 - (a) For purposes of benefits pursuant to this chapter, an unmarried dependent child of the member, who has not passed the child's nineteenth birthday and each unmarried dependent child, who is totally and permanently disabled, either physically or mentally, regardless of the child's age, if the disability occurred before age nineteen. It includes a stepchild or a foster child who depends on the member for

support and lives in the household of the member in a regular parent-child relationship. It also includes any child of the member conceived during the member's lifetime and born after the member's death; or

- (b) For purposes of beneficiary-type payments pursuant to this chapter, a person entitled to take as a child via intestate succession pursuant to the provisions of Title 29A;
- (15) "Class A credited service," service credited as a Class A member of the system;
- (16) "Class A member," any member other than a Class B member or a Class C member and is either a foundation member or a generational member;
- (17) "Class B credited service," service credited as a Class B member of the system;
- (18) "Class B member," a member who is a justice, judge, state law enforcement officer, magistrate judge, police officer, firefighter, county sheriff, deputy county sheriff, penitentiary correctional staff, parole agent, air rescue firefighter, campus security officer, court services officer, conservation officer, or park ranger and is either a foundation member or a generational member;
- (19) "Class C credited service," service credited as a Class C member of the system;
- (20) "Class C member," any member of the cement plant retirement plan including any retiree or any vested member;
- (21) "Classified employees," employees of public school districts who are not required by law to be certified as teachers, employees of the colleges and universities under the control of the board of regents who are not faculty or administrators and come within the provisions of chapter 3-6A, employees of public corporations, employees of chartered governmental units, and all other participating employees not elsewhere provided for in this chapter;
- (22) "Comparable level position," a member's position of employment that is generally

equivalent to the member's prior position of employment in terms of required education, required experience, required training, required work history, geographic location, and compensation and benefits;

- (23) "Conservation officers," employees of the Department of Game, Fish and Parks and the Division of Wildlife or Division of Custer State Park who are employed pursuant to § 41-2-11 and whose positions are subject to the requirements as to education and training provided in chapter 23-3;
- (24) "Consumer price index," the consumer price index for urban wage earners and clerical workers calculated by the United States Bureau of Labor Statistics;
- (25) "Contributory service," service to a participating unit during which contributions were made to a South Dakota Retirement System, which may not include years of credited service as granted in § 3-12-84 or 3-12-84.2;
- (26) "Court services officers," persons appointed pursuant to § 26-7A-8;
- (27) "Covered employment," a member's employment as a permanent full-time employee by a participating unit;
- (28) "Deputy county sheriff," an employee of a county that is a participating unit, appointed by the board of county commissioners pursuant to §§ 7-12-9 and 7-12-10, who is a permanent full-time employee and whose position is subject to the minimum educational and training standards established by the law enforcement standards commission pursuant to chapter 23-3. The term does not include jailers or clerks appointed pursuant to §§ 7-12-9 and 7-12-10 unless the participating unit has requested that the jailer be considered as a deputy county sheriff and the Board of Trustees has approved the request;
- (29) "Disability" or "disabled," any medically determinable physical or mental impairment that prevents a member from performing the member's usual duties for the member's

employer, even with accommodations, or performing the duties of a comparable level position for the member's employer. The term excludes any condition resulting from willful, self-inflicted injury;

- (30) "Effective date of retirement," the first day of the month in which retirement benefits are payable;
- (31) "Eligible retirement plan," the term eligible retirement plan includes those plans described in section 402(c)(8)(B) of the Internal Revenue Code;
- (32) "Eligible rollover distribution," any distribution to a member of accumulated contributions pursuant to §§ 3-12-76 and 3-12-76.1. The term does not include any portion of a distribution that represents contributions made to the system on an after tax basis nor distributions paid as a result of the member reaching the required beginning date;
- (33) "Employer," the State of South Dakota and any department, bureau, board, or commission of the State of South Dakota, or any of its governmental or political subdivisions or any public corporation of the State of South Dakota which elects to become a participating unit;
- (34) "Employer contributions," amounts contributed by the employer of a contributing member, excluding member contributions made by an employer after June 30, 1984, pursuant to § 3-12-71;
- (35) "Equivalent public service," any public service other than as a justice, a judge, or a magistrate judge and comparable to Class B service as defined by this section, if the service is in the employ of a public entity that is not a participating unit;
- (36) "Fair value of assets," the total assets of the system at fair market value for securities traded on exchanges; for securities not traded on exchanges, a value based on similar

- securities; and for alternative investments, reported net asset value;
- (37) "Fair value funded ratio," the fair value of assets divided by the actuarial accrued liability;
 - (38) "Fiduciary," any person who exercises any discretionary authority or control over the management of the system or the management or disposition of its assets, renders investment advice for a fee or other compensation, direct or indirect, or has any authority or responsibility to do so, or has any discretionary authority or responsibility in the administration of the system;
 - (39) "Foundation member," any member of the system whose contributory service began before July 1, 2017;
 - (40) "Foundation retiree," any foundation member who has retired with a benefit payable from the system;
 - (41) "Firefighter," any full-time firefighter who works at least twenty hours a week and at least six months a year. The term does not include any volunteer firefighter;
 - (42) "Full-time student," a person who is in full-time attendance as a student at an educational institution, as determined by the board in light of the standards and practices of the institution involved, except that no individual may be considered a full-time student, if the student is paid by the student's employer while attending an educational institution at the request of, or pursuant to a requirement of, the employer;
 - (43) "Fund," public employees' retirement fund or funds established for the purposes of administration of this chapter;
 - (44) "Funded ratio," the actuarial value of assets divided by the actuarial accrued liability;
 - (45) "General employees," full-time municipal employees who are not firefighters or police officers;
 - (46) "Generational member," any member of the system whose contributory service began

after June 30, 2017;

- (47) "Generational retiree," any generational member who has retired with a benefit payable from the system;
- (48) "Health care provider," a physician or other health care practitioner licensed, registered, certified, or otherwise authorized by law to provide specified health services;
- (49) "Highest annual compensation," a member's compensation used to calculate benefits under §§ 3-12-95, 3-12-99 and 3-12-105 before July 1, 2004, which was the highest annual compensation earned by the member during any one of the last three years of contributory service and which was not more than one hundred fifteen percent of the member's final compensation calculated as of the date of the member's death or disability;
- (50) "Internal Revenue Code," or "code," the Internal Revenue Code as in effect as of January 1, 2016;
- (51) "Law enforcement officer," an agent of the state division of criminal investigation, an officer of the South Dakota Highway Patrol, a police officer, county sheriff, deputy county sheriff, or a firefighter;
- (52) "Member," any person who is participating in and has made contributions to the system and is either a foundation member or generational member. A person's membership ceases when the person withdraws his or her accumulated contributions after termination of employment;
- (53) "Member contributions," amounts contributed by members, including member contributions made by an employer after June 30, 1984, pursuant to § 3-12-71;
- (54) "Military service," a period of active duty with the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, or the United States Coast Guard, from which duty the member received an honorable discharge or an

honorable release;

- (55) "Municipality," any incorporated municipal government under chapter 9-3 or any chartered governmental unit under the provisions of Article IX of the Constitution of the State of South Dakota;
- (56) "Noncontributory service," for foundation members, service delineated in subdivisions (2), (5), (7), and (8) of section 25 of this Act, and for generational members, service pursuant to § 3-12-86;
- (57) "Normal cost," the expected long-term cost of the system benefits and expenses expressed as a percentage of payroll;
- (58) "Normal retirement," the termination of employment and application for benefits by a member with three or more years of contributory service or noncontributory service on or after the member's normal retirement age;
- (59) "Other public benefits," eighty percent of the primary insurance amount or primary social security benefits that would be provided under federal social security;
- (60) "Other public service," service for the government of the United States, including military service; service for the government of any state or political subdivision thereof; service for any agency or instrumentality of any of the foregoing; or service as an employee of an association of government entities described in this subdivision;
- (61) "Park rangers," employees of the Department of Game, Fish and Parks within the Division of Parks and Recreation and whose positions are subject to the requirements as to education and training provided in chapter 23-3 and whose primary duty is law enforcement in the state park system;
- (62) "Parole agent," an employee of the Department of Corrections employed pursuant to § 24-15-14 who is actually involved in direct supervision of parolees on a daily basis;

- (63) "Participating unit," the State of South Dakota and any department, bureau, board, or commission of the State of South Dakota, and any of its political subdivisions or any public corporation of the State of South Dakota which has employees who are members of the retirement system created in this chapter;
- (64) "Penitentiary correctional staff," the warden, deputy warden, and any other correctional staff holding a security position as determined by the Department of Corrections and approved by the Bureau of Human Resources and the Bureau of Finance and Management. For purposes of administration of this chapter final determination of penitentiary correctional staff as Class B members shall be made by the board of trustees based on the recommendation of the Department of Corrections, Bureau of Human Resources, and the Bureau of Finance and Management;
- (65) "Permanent full-time employee," any employee who has been placed in a permanent classification who is customarily employed by a participating unit for twenty hours or more a week and at least six months a year. The participating unit shall decide if an employee is a permanent full-time employee and that decision is conclusive;
- (66) "Plan year," a period extending from July first of one calendar year through June thirtieth of the following calendar year;
- (67) "Police officer," any employee in the police department of any participating municipality holding the rank of patrol officer, including probationary patrol officer, or higher rank and whose position is subject to the minimum educational and training standards established by the law enforcement officers standards commission pursuant to chapter 23-3. The term does not include civilian employees of a police department nor any person employed by a municipality whose services as a police officer require less than twenty hours a week and six months a year. If a municipality which is a participating unit operates a city jail,

the participating unit may request that any jailer appointed pursuant to § 9-29-25 be considered a police officer, subject to the approval of the board;

- (68) "Political subdivision" includes any municipality, school district, county, chartered governmental unit, public corporation or entity, and special district created for any governmental function;
- (69) "Present value of all benefits," the present value of all benefits expected to be paid to all retired, terminated, and active members and beneficiaries, based on past and future credited service and future compensation increases.
- (70) "Present value of benefits earned to date," the present value of the benefits currently being paid to retired members and their beneficiaries and the present value of benefits payable at retirement to active members, based on their earnings and credited service to date of the actuarial valuation;
- (71) "Projected compensation," a deceased or disabled member's final average compensation multiplied by the improvement factor commencing each July first for each complete twelve-month period elapsed between the date of the member's death or disability, whichever occurred earlier, and the date the member would attain normal retirement age;
- (72) "Projected service," the credited service plus the service which the member would have been credited with at normal retirement age had the member continued in the system and received credit at the same rate the member was credited during the year covered by the compensation that was used in the calculation of the disability or family benefit;
- (73) "Qualified military service," service in the uniformed services as defined in § 414(u)(5) of the Internal Revenue Code;
- (74) "Required beginning date," the later of April first of the calendar year following the calendar year in which the member attains age seventy and one-half or April first of the

- calendar year following the calendar year in which the member retires;
- (75) "Retiree," any foundation or generational member who retires with a lifetime benefit payable from the system;
 - (76) "Retirement," the severance of a member from the employ of a participating unit with a retirement benefit payable from the system;
 - (77) "Retirement benefit," the monthly amount payable upon the retirement of a member;
 - (78) "Single premium," the lump-sum amount paid by a supplemental pension participant pursuant to a supplemental pension contract in consideration for a supplemental pension benefit;
 - (79) "Social investment," investment, divestment, or prohibition of investment of the assets of the system for purposes other than maximum risk-adjusted investment return, which other purposes include ideological purposes, environmental purposes, political purposes, religious purposes, or purposes of local or regional economic development;
 - (80) "Spouse," a person who was married to the member at the time of the death of the member and whose marriage was both before the member's retirement and more than twelve months before the death of the member;
 - (81) "State employees," employees of the departments, bureaus, commissions, and boards of the State of South Dakota;
 - (82) "Supplemental pension benefit," any single-premium immediate pension benefit payable pursuant to §§ 3-12-192 and 3-12-193;
 - (83) "Supplemental pension contract," any agreement between a participant and the system upon which a supplemental pension is based, including the amount of the single premium, the type of pension benefit, and the monthly supplemental pension payment amount;
 - (84) "Supplemental pension contract record," the record for each supplemental pension

participant reflecting relevant participant data; a designation of any beneficiary, if any; the amount of the participant's funds rolled into the fund; the provisions of the participant's supplemental pension contract; and supplemental pension payments made pursuant to the contract;

- (85) "Supplemental pension participant," any retiree receiving a benefit from the system who chooses to purchase a supplemental pension benefit pursuant to the provisions of this chapter;
- (86) "Supplemental pension spouse," any person who was married to a supplemental pension participant at the time the participant entered into the supplemental pension contract;
- (87) "System," the South Dakota Retirement System created in this chapter;
- (88) "Tax-qualifying purchase unit," any participating unit which elects to allow the unit's employees to purchase credited service on a tax-deferred basis by means of employer contribution agreements as outlined in §§ 3-12-83.1 and 3-12-83.2;
- (89) "Teacher," any person who has a valid teacher's certificate issued by the State of South Dakota, who is in the employ of a public school district, and shall also include the certified teachers employed by the Human Services Center, South Dakota Developmental Center--Redfield, State Penitentiary, Department of Education, State Training School, School for the Deaf, School for the Blind and the Visually Impaired, Children's Care Hospital and School, public nonprofit special education facilities, community support providers certified by the Department of Human Services and public financed multi-district education programs;
- (90) "Terminated," complete severance of employment from public service of any member by resignation or discharge, not including leave of absence, layoff, vacation leave, sick leave, or jury duty, and involving all termination proceedings routinely followed by the

member's participating unit, including payment to the member for unused vacation leave, payment to the member for unused sick leave, payment to the member for severance of an employment contract, severance of employer-provided health insurance coverage, severance of employer-provided life insurance coverage, or severance of any other such employer-provided perquisite of employment granted by the member's participating unit to an active employee;

- (91) "Trustee," a member of the board of trustees;
- (92) "Unfunded actuarial accrued liability," the actuarial accrued liability less the actuarial value of assets;
- (93) "Vested," the right to a retirement benefit from the system based on the provisions of this chapter after three years of contributory service or noncontributory service, even if the member leaves the employment of a participating unit, provided that the member does not withdraw accumulated contributions. A member who leaves the employment of a participating unit is not entitled to benefits under §§ 3-12-95, 3-12-98, 3-12-99, 3-12-104, and 3-12-105.

An Act to establish a new retirement benefit structure for certain public employees who are members of the South Dakota Retirement System.

=====

I certify that the attached Act originated in the

SENATE as Bill No. 13

Secretary of the Senate

=====

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 13
File No. _____
Chapter No. _____

=====

Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

=====

The attached Act is hereby approved this _____ day of _____ , A.D., 20____

Governor

=====

STATE OF SOUTH DAKOTA,
ss.

Office of the Secretary of State

Filed _____ , 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State