

FIRST REGULAR SESSION

# SENATE BILL NO. 406

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Read 1st time January 30, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1648S.03I

## AN ACT

To repeal sections 104.010, 104.352, 104.354, 104.1003, 104.1021, and 104.1087, RSMo, and to enact in lieu thereof six new sections relating to the administration of state employee retirement benefits.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 104.010, 104.352, 104.354, 104.1003, 104.1021, and  
2 104.1087, RSMo, are repealed and six new sections enacted in lieu thereof, to be  
3 known as sections 104.010, 104.352, 104.354, 104.1003, 104.1021, and 104.1087,  
4 to read as follows:

104.010. 1. The following words and phrases as used in sections 104.010  
2 to 104.800, unless a different meaning is plainly required by the context, shall  
3 mean:

4 (1) "Accumulated contributions", the sum of all deductions for retirement  
5 benefit purposes from a member's compensation which shall be credited to the  
6 member's individual account and interest allowed thereon;

7 (2) "Active armed warfare", any declared war, or the Korean or  
8 Vietnamese Conflict;

9 (3) "Actuarial equivalent", a benefit which, when computed upon the basis  
10 of actuarial tables and interest, is equal in value to a certain amount or other  
11 benefit;

12 (4) "Actuarial tables", the actuarial tables approved and in use by a board  
13 at any given time;

14 (5) "Actuary", the actuary who is a member of the American Academy of  
15 Actuaries or who is an enrolled actuary under the Employee Retirement Income  
16 Security Act of 1974 and who is employed by a board at any given time;

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 (6) "Annuity", annual payments, made in equal monthly installments, to  
18 a retired member from funds provided for in, or authorized by, this chapter;

19 (7) "Average compensation", the average compensation of a member for  
20 the thirty-six consecutive months of service prior to retirement when the  
21 member's compensation was greatest; or if the member is on workers'  
22 compensation leave of absence or a medical leave of absence due to an employee  
23 illness, the amount of compensation the member would have received may be  
24 used, as reported and verified by the employing department; or if the member had  
25 less than thirty-six months of service, the average annual compensation paid to  
26 the member during the period up to thirty-six months for which the member  
27 received creditable service when the member's compensation was the greatest; or  
28 if the member is on military leave, the amount of compensation the member  
29 would have received may be used as reported and verified by the employing  
30 department or, if such amount is not determinable, the amount of the employee's  
31 average rate of compensation during the twelve-month period immediately  
32 preceding such period of leave, or if shorter, the period of employment  
33 immediately preceding such period of leave. **The board of each system may**  
34 **promulgate rules for purposes of calculating average compensation and**  
35 **other retirement provisions to accommodate for any state payroll**  
36 **system in which compensation is received on a monthly, semimonthly,**  
37 **biweekly, or other basis;**

38 (8) "Beneficiary", any person entitled to or nominated by a member or  
39 retiree who may be legally entitled to receive benefits pursuant to this chapter;

40 (9) "Biennial assembly", the completion of no less than two years of  
41 creditable service or creditable prior service by a member of the general assembly;

42 (10) "Board of trustees", "board", or "trustees", a board of trustees as  
43 established for the applicable system pursuant to this chapter;

44 (11) "Chapter", sections 104.010 to 104.800;

45 (12) "Compensation":

46 (a) All salary and wages payable out of any state, federal, trust, or other  
47 funds to an employee for personal services performed for a department; but  
48 including only amounts for which contributions have been made in accordance  
49 with section 104.436, or section 104.070, whichever is applicable, and excluding  
50 any nonrecurring single sum payments or amounts paid after the member's  
51 termination of employment unless such amounts paid after such termination are  
52 a final installment of salary or wages at the same rate as in effect immediately

53 prior to termination of employment in accordance with a state payroll system  
54 adopted on or after January 1, 2000, or any other one-time payments made as a  
55 result of such payroll system;

56 (b) All salary and wages which would have been payable out of any state,  
57 federal, trust or other funds to an employee on workers' compensation leave of  
58 absence during the period the employee is receiving a weekly workers'  
59 compensation benefit, as reported and verified by the employing department;

60 (c) Effective December 31, 1995, compensation in excess of the limitations  
61 set forth in Internal Revenue Code Section 401(a)(17) shall be disregarded. The  
62 limitation on compensation for eligible employees shall not be less than the  
63 amount which was allowed to be taken into account under the system as in effect  
64 on July 1, 1993. For this purpose, an "eligible employee" is an individual who  
65 was a member of the system before the first plan year beginning after December  
66 31, 1995;

67 (13) "Consumer price index", the Consumer Price Index for All Urban  
68 Consumers for the United States, or its successor index, as approved by a board,  
69 as such index is defined and officially reported by the United States Department  
70 of Labor, or its successor agency;

71 (14) "Creditable prior service", the service of an employee which was  
72 either rendered prior to the establishment of a system, or prior to the date the  
73 employee last became a member of a system, and which is recognized in  
74 determining the member's eligibility and for the amount of the member's benefits  
75 under a system;

76 (15) "Creditable service", the sum of membership service and creditable  
77 prior service, to the extent such service is standing to a member's credit as  
78 provided in this chapter; except that in no case shall more than one day of  
79 creditable service or creditable prior service be credited any member for any one  
80 calendar day of eligible service credit as provided by law;

81 (16) "Deferred normal annuity", the annuity payable to any former  
82 employee who terminated employment as an employee or otherwise withdrew  
83 from service with a vested right to a normal annuity, payable at a future date;

84 (17) "Department", any department or agency of the executive, legislative  
85 or judicial branch of the state of Missouri receiving state appropriations,  
86 including allocated funds from the federal government but not including any body  
87 corporate or politic unless its employees are eligible for retirement coverage from  
88 a system pursuant to this chapter as otherwise provided by law;

89 (18) "Disability benefits", benefits paid to any employee while totally  
90 disabled as provided in this chapter;

91 (19) "Early retirement age", a member's attainment of fifty-five years of  
92 age and the completion of ten or more years of creditable service, except for  
93 uniformed members of the water patrol;

94 (20) "Employee":

95 (a) Any elective or appointive officer or person employed by the state who  
96 is employed, promoted or transferred by a department into a new or existing  
97 position and earns a salary or wage in a position normally requiring the  
98 performance by the person of duties during not less than one thousand **forty**  
99 hours per year, including each member of the general assembly but not including  
100 any patient or inmate of any state, charitable, penal or correctional  
101 institution. [Beginning September 1, 2001, the term "year" as used in this  
102 subdivision shall mean the twelve-month period beginning on the first day of  
103 employment.] However, persons who are members of the public school retirement  
104 system and who are employed by a state agency other than an institution of  
105 higher learning shall be deemed employees for purposes of participating in all  
106 insurance programs administered by a board established pursuant to section  
107 104.450. This definition shall not exclude any employee as defined in this  
108 subdivision who is covered only under the federal Old Age and Survivors'  
109 Insurance Act, as amended. As used in this chapter, the term "employee" shall  
110 include:

111 a. Persons who are currently receiving annuities or other retirement  
112 benefits from some other retirement or benefit fund, so long as they are not  
113 simultaneously accumulating creditable service in another retirement or benefit  
114 system which will be used to determine eligibility for or the amount of a future  
115 retirement benefit;

116 b. Persons who have elected to become or who have been made members  
117 of a system pursuant to section 104.342;

118 (b) Any person who **is not a retiree and** has performed services in the  
119 employ of the general assembly or either house thereof, or any employee of any  
120 member of the general assembly while acting in the person's official capacity as  
121 a member, and whose position does not normally require the person to perform  
122 duties during at least one thousand **forty** hours per year, with a month of service  
123 being any monthly pay period in which the employee was paid for full-time  
124 employment for that monthly period; **except that persons described in this**

125 **paragraph shall not include any such persons who are employed on or**  
126 **after August 28, 2007, and who have not previously been employed in**  
127 **such positions;**

128 (c) "Employee" does not include special consultants employed pursuant to  
129 section 104.610;

130 (d) [As used in this chapter, the hours governing the definition of  
131 employee shall be applied only from August 13, 1988, forward;

132 (e)] The system shall consider a person who is employed in multiple  
133 positions simultaneously within a single agency to be working in a single position  
134 for purposes of determining whether the person is an employee as defined in this  
135 subdivision;

136 (21) "Employer", a department of the state;

137 (22) "Executive director", the executive director employed by a board  
138 established pursuant to the provisions of this chapter;

139 (23) "Fiscal year", the period beginning July first in any year and ending  
140 June thirtieth the following year;

141 (24) "Full biennial assembly", the period of time beginning on the first day  
142 the general assembly convenes for a first regular session until the last day of the  
143 following year;

144 (25) "Fund", the benefit fund of a system established pursuant to this  
145 chapter;

146 (26) "Interest", interest at such rate as shall be determined and prescribed  
147 from time to time by a board;

148 (27) "Member", as used in sections 104.010 to 104.272 or 104.601 to  
149 104.800 shall mean [a member of the highways and transportation employees'  
150 and highway patrol retirement system without regard to whether or not the  
151 member has been retired] **an employee, retiree, or former employee**  
152 **entitled to a deferred annuity covered by the Missouri department of**  
153 **transportation and highway patrol employees' retirement**  
154 **system.** "Member", as used in this section and sections 104.312 to 104.800, shall  
155 mean [a member of] **an employee, retiree, or former employee entitled to**  
156 **deferred annuity covered by** the Missouri state employees' retirement system  
157 [without regard to whether or not the member has been retired];

158 (28) "Membership service", the service after becoming a member that is  
159 recognized in determining a member's eligibility for and the amount of a  
160 member's benefits under a system;

161 (29) "Military service", all active service performed in the United States  
162 Army, Air Force, Navy, Marine Corps, Coast Guard, and members of the United  
163 States Public Health Service or any women's auxiliary thereof; and service in the  
164 Army national guard and Air national guard when engaged in active duty for  
165 training, inactive duty training or full-time national guard duty, and service by  
166 any other category of persons designated by the President in time of war or  
167 emergency;

168 (30) "Normal annuity", the annuity provided to a member upon retirement  
169 at or after the member's normal retirement age;

170 (31) "Normal retirement age", an employee's attainment of sixty-five years  
171 of age and the completion of four years of creditable service or the attainment of  
172 age sixty-five years of age and the completion of five years of creditable service  
173 by a member who has terminated employment and is entitled to a deferred  
174 normal annuity or the member's attainment of age sixty and the completion of  
175 fifteen years of creditable service, except that normal retirement age for  
176 uniformed members of the highway patrol shall be fifty-five years of age and the  
177 completion of four years of creditable service and uniformed employees of the  
178 water patrol shall be fifty-five years of age and the completion of four years of  
179 creditable service or the attainment of age fifty-five and the completion of five  
180 years of creditable service by a member of the water patrol who has terminated  
181 employment and is entitled to a deferred normal annuity and members of the  
182 general assembly shall be fifty-five years of age and the completion of three full  
183 biennial assemblies. Notwithstanding any other provision of law to the contrary,  
184 a member of the highways and transportation employees' and highway patrol  
185 retirement system or a member of the Missouri state employees' retirement  
186 system shall be entitled to retire with a normal annuity and shall be entitled to  
187 elect any of the survivor benefit options and shall also be entitled to any other  
188 provisions of this chapter that relate to retirement with a normal annuity if the  
189 sum of the member's age and creditable service equals eighty years or more and  
190 if the member is at least forty-eight years of age;

191 (32) "Payroll deduction", deductions made from an employee's  
192 compensation;

193 (33) "Prior service credit", the service of an employee rendered prior to the  
194 date the employee became a member which service is recognized in determining  
195 the member's eligibility for benefits from a system but not in determining the  
196 amount of the member's benefit;

- 197 (34) "Reduced annuity", an actuarial equivalent of a normal annuity;
- 198 (35) "Retiree", a member who is not an employee and who is receiving an  
199 annuity from a system pursuant to this chapter;
- 200 (36) "System" or "retirement system", the [highways and transportation  
201 employees' and highway patrol retirement system] **Missouri department of**  
202 **transportation and highway patrol employees' retirement system**, as  
203 created by sections 104.010 to 104.270, or sections 104.601 to 104.800, or the  
204 Missouri state employees' retirement system as created by sections 104.320 to  
205 104.800;
- 206 (37) "Uniformed members of the highway patrol", the superintendent,  
207 lieutenant colonel, majors, captains, director of radio, lieutenants, sergeants,  
208 corporals, and patrolmen of the Missouri state highway patrol who normally  
209 appear in uniform;
- 210 (38) "Uniformed members of the water patrol", employees of the Missouri  
211 state water patrol of the department of public safety who are classified as water  
212 patrol officers who have taken the oath of office prescribed by the provisions of  
213 chapter 306, RSMo, and who have those peace officer powers given by the  
214 provisions of chapter 306, RSMo;
- 215 (39) "Vesting service", the sum of a member's prior service credit and  
216 creditable service which is recognized in determining the member's eligibility for  
217 benefits under the system.
- 218 2. Benefits paid pursuant to the provisions of this chapter shall not exceed  
219 the limitations of Internal Revenue Code Section 415, the provisions of which are  
220 hereby incorporated by reference. **Notwithstanding any other law to the**  
221 **contrary, the board of trustees may establish a benefit plan under**  
222 **Section 415(m) of the Internal Revenue Code of 1986, as amended. Such**  
223 **plan shall be created solely for the purposes described in Section**  
224 **415(m)(3)(A) of the Internal Revenue Code of 1986, as amended. The**  
225 **board of trustees may promulgate regulations necessary to implement**  
226 **the provisions of this subsection and to create and administer such**  
227 **benefit plan.**
- 104.352. 1. [Any employee or former employee described in paragraph (b)  
2 of subdivision (18) of section 104.010 is entitled to credit for all prior service and  
3 membership service as if he had been a member of the system on the date of its  
4 inception. Any such employee shall be considered a member of the system from  
5 the date of his or her employment and shall receive credit for each month of

6 service for which he is employed with service being computed as if part-time  
7 employment with the general assembly were full-time employment for the period  
8 the member was so employed.

9       2.] Each employee described in paragraph (b) of subdivision [(18)] **(20)** of  
10 section 104.010 shall be entitled to the same insurance benefits provided under  
11 sections 103.003 to 103.175, RSMo to employees described in paragraph (a) of  
12 subdivision [(18)] **(20)** of section 104.010 to cover the medical expenses of such  
13 employees and their spouses and children. Such insurance benefits shall be made  
14 available to employees described in paragraph (b) of subdivision [(18)] **(20)** of  
15 section 104.010 upon their initial employment as such employees in the same  
16 manner provided for employees described in paragraph (a) of subdivision [(18)]  
17 **(20)** of section 104.010, and shall be continued during any period of time, not to  
18 exceed one year, in which such employees are not paid for full-time employment,  
19 so long as such employees pay the same amount for such insurance benefits as  
20 is required of employees described in paragraph (a) of subdivision [(18)] **(20)** of  
21 section 104.010 who continue receiving such insurance benefits during a leave of  
22 absence without pay from their employment with the state. Any employee  
23 described in paragraph (b) of subdivision [(18)] **(20)** of section 104.010 who is  
24 reemployed by the general assembly or either house thereof, or by any member  
25 of the general assembly while acting in his official capacity as a member, by the  
26 thirteenth legislative day of the session of the general assembly immediately  
27 following the session of the general assembly in which such employee was last so  
28 employed, without having elected to discontinue the insurance benefits described  
29 in this subsection, shall be entitled to continue such insurance benefits without  
30 having to prove insurability for himself or any of his covered dependents for  
31 whom he has paid for such coverage continuously since last employed as an  
32 employee described in paragraph (b) of subdivision [(18)] **(20)** of section  
33 104.010. Any employee described in paragraph (b) of subdivision [(18)] **(20)** of  
34 section 104.010 who is not reemployed by the general assembly or either house  
35 thereof, or by any member of the general assembly while acting in his official  
36 capacity as a member, by the thirteenth legislative day of the session of the  
37 general assembly immediately following the session of the general assembly in  
38 which such employee was last so employed, shall be deemed terminated as an  
39 employee as of such thirteenth legislative day, and the insurance benefits  
40 provided for such employee under this subsection and sections 103.003 to 103.175,  
41 RSMo, shall be terminated as provided for employees described in paragraph (a)



42 of subdivision [(18)] (20) of section 104.010 whose employment is  
43 terminated. During each month of service in which an employee described in  
44 paragraph (b) of subdivision [(18)] (20) of section 104.010 is employed, the state  
45 shall make any contribution required by sections 103.003 to 103.175, RSMo, for  
46 such employee.

47 [3.] 2. Any employee described in paragraph (b) of subdivision [(18)] (20)  
48 of section 104.010 who is actively employed on or after September 28, 1992, shall  
49 be deemed vested for purposes of determining eligibility for benefits under  
50 sections 104.320 to 104.620 after being so employed for at least sixty months.

104.354. In each fiscal year in which retirement benefits are to be paid to  
2 retired employees described in paragraph (b) of subdivision [(18)] (20) of section  
3 104.010 because of the provisions of section 104.352, funding for such benefits  
4 shall be provided as set forth in section 104.436. All benefits paid because of the  
5 provisions of section 104.352 shall be paid by the retirement system along with  
6 all other retirement benefits due such retired employees under the retirement  
7 system.

104.1003. 1. Unless a different meaning is plainly required by the  
2 context, the following words and phrases as used in sections 104.1003 to 104.1093  
3 shall mean:

- 4 (1) "Act", the "Year 2000 Plan" created by sections 104.1003 to 104.1093;  
5 (2) "Actuary", an actuary who is experienced in retirement plan financing  
6 and who is either a member of the American Academy of Actuaries or an enrolled  
7 actuary under the Employee Retirement Income Security Act of 1974;  
8 (3) "Annuity", annual benefit amounts, paid in equal monthly  
9 installments, from funds provided for in, or authorized by, sections 104.1003 to  
10 104.1093;  
11 (4) "Annuity starting date" means the first day of the first month with  
12 respect to which an amount is paid as an annuity pursuant to sections 104.1003  
13 to 104.1093;  
14 (5) "Beneficiary", any person or entity entitled to receive an annuity or  
15 other benefit pursuant to sections 104.1003 to 104.1093 based upon the  
16 employment record of another person;  
17 (6) "Board of trustees", "board", or "trustees", a governing body or bodies  
18 established for the year 2000 plan pursuant to sections 104.1003 to 104.1093;  
19 (7) "Closed plan", a benefit plan created pursuant to this chapter and  
20 administered by a system prior to July 1, 2000. No person first employed on or

21 after July 1, 2000, shall become a member of the closed plan, but the closed plan  
22 shall continue to function for the benefit of persons covered by and remaining in  
23 the closed plan and their beneficiaries;

24 (8) "Consumer price index", the Consumer Price Index for All Urban  
25 Consumers for the United States, or its successor index, as approved by the  
26 board, as such index is defined and officially reported by the United States  
27 Department of Labor, or its successor agency;

28 (9) "Credited service", the total credited service to a member's credit as  
29 provided in sections 104.1003 to 104.1093; **except that in no case shall more**  
30 **than one day of credited service be credited to any member or vested**  
31 **former member for any one calendar day of eligible credit as provided**  
32 **by law;**

33 (10) "Department", any department or agency of the executive, legislative,  
34 or judicial branch of the state of Missouri receiving state appropriations,  
35 including allocated funds from the federal government but not including any body  
36 corporate or politic unless its employees are eligible for retirement coverage from  
37 a system pursuant to this chapter as otherwise provided by law;

38 (11) "Early retirement eligibility", a member's attainment of fifty-seven  
39 years of age and the completion of at least five years of credited service;

40 (12) "Effective date", July 1, 2000;

41 (13) "Employee" shall be any person who is employed by a department and  
42 is paid a salary or wage by a department in a position normally requiring the  
43 performance of duties of not less than one thousand **forty** hours per year,  
44 provided:

45 (a) The term "employee" shall not include any patient or inmate of any  
46 state, charitable, penal or correctional institution, or any person who is employed  
47 by a department in a position that is covered by a state-sponsored defined benefit  
48 retirement plan not created by this chapter;

49 (b) The term "employee" shall be modified as provided by other provisions  
50 of sections 104.1003 to 104.1093;

51 (c) The system shall consider a person who is employed in multiple  
52 positions simultaneously within a single agency to be working in a single position  
53 for purposes of determining whether the person is an employee as defined in this  
54 subdivision;

55 (d) Beginning September 1, 2001, the term "year" as used in this  
56 subdivision shall mean the twelve-month period beginning on the first day of

57 employment;

58           **(e) The term "employee" shall include any person as defined**  
59 **under paragraph (b) of subdivision (20) of subsection 1 of section**  
60 **104.010 who is first employed on or after July 1, 2000, but prior to**  
61 **August 28, 2007;**

62           (14) "Employer", a department;

63           (15) "Executive director", the executive director employed by a board  
64 established pursuant to the provisions of sections 104.1003 to 104.1093;

65           (16) "Final average pay", the average pay of a member for the thirty-six  
66 full consecutive months of service before termination of employment when the  
67 member's pay was greatest; or if the member was on workers' compensation leave  
68 of absence or a medical leave of absence due to an employee illness, the amount  
69 of pay the member would have received but for such leave of absence as reported  
70 and verified by the employing department; or if the member was employed for  
71 less than thirty-six months, the average monthly pay of a member during the  
72 period for which the member was employed. **The board of each system may**  
73 **promulgate rules for purposes of calculating final average pay and**  
74 **other retirement provisions to accommodate for any state payroll**  
75 **system in which pay is received on a monthly, semimonthly, biweekly,**  
76 **or other basis;**

77           (17) "Fund", a fund of the year 2000 plan established pursuant to sections  
78 104.1003 to 104.1093;

79           (18) "Investment return", or "interest", rates as shall be determined and  
80 prescribed from time to time by a board;

81           (19) "Member", a person who is included in the membership of the system,  
82 as set forth in section 104.1009;

83           (20) "Normal retirement eligibility", a member's attainment of at least  
84 sixty-two years of age and the completion of at least five or more years of credited  
85 service or, the attainment of at least forty-eight years of age with a total of years  
86 of age and years of credited service which is at least eighty or, in the case of a  
87 member of the highway patrol who shall be subject to the mandatory retirement  
88 provisions of section 104.080, the mandatory retirement age and completion of  
89 five years of credited service or, the attainment of at least forty-eight years of age  
90 with a total of years of age and years of credited service which is at least eighty;

91           (21) "Pay" shall include:

92           (a) All salary and wages payable to an employee for personal services

93 performed for a department; but excluding:

94 a. Any amounts paid after an employee's employment is terminated,  
95 unless the payment is made as a final installment of salary or wages at the same  
96 rate as in effect immediately prior to termination of employment in accordance  
97 with a state payroll system adopted on or after January 1, 2000;

98 b. Any amounts paid upon termination of employment for unused annual  
99 leave or unused sick leave;

100 c. Pay in excess of the limitations set forth in Section 401(a)(17) of the  
101 Internal Revenue Code of 1986 as amended and other applicable federal laws or  
102 regulations; [and]

103 d. Any nonrecurring single sum payments; **and**

104 e. **Any amounts for which contributions have not been made in**  
105 **accordance with section 104.1066;**

106 (b) All salary and wages which would have been payable to an employee  
107 on workers' compensation leave of absence during the period the employee is  
108 receiving a weekly workers' compensation benefit, as reported and verified by the  
109 employing department;

110 (c) All salary and wages which would have been payable to an employee  
111 on a medical leave due to employee illness, as reported and verified by the  
112 employing department;

113 (d) For purposes of members of the general assembly, pay shall be the  
114 annual salary provided to each senator and representative pursuant to section  
115 21.140, RSMo, plus any salary adjustment pursuant to section 21.140, RSMo;

116 (22) "Retiree", a person receiving an annuity from the year 2000 plan  
117 based upon the person's employment record;

118 (23) "State", the state of Missouri;

119 (24) "System" or "retirement system", the Missouri state employees'  
120 retirement system or the [transportation department and highway patrol  
121 retirement system] **Missouri department of transportation and highway**  
122 **patrol employees' retirement system**, as the case may be;

123 (25) "Vested former member", a person entitled to receive a deferred  
124 annuity pursuant to section 104.1036;

125 (26) "Year 2000 plan", the benefit plan created by sections 104.1003 to  
126 104.1093.

127 **2. Benefits paid under the provisions of this chapter shall not**  
128 **exceed the limitations of Internal Revenue Code Section 415, the**

129 **provisions of which are hereby incorporated by**  
130 **reference. Notwithstanding any other law to the contrary, the board of**  
131 **trustees may establish a benefit plan under Section 415(m) of the**  
132 **Internal Revenue Code of 1986, as amended. Such plan shall be created**  
133 **solely for the purposes described in Section 415(m)(3)(A) of the Internal**  
134 **Revenue Code of 1986, as amended. The board of trustees may**  
135 **promulgate regulations necessary to implement the provisions of this**  
136 **subsection and to create and administer such benefit plan.**

104.1021. 1. The appropriate board shall determine how much credited  
2 service shall be given each member consistent with this section.

3 2. If a member terminates employment and is eligible to receive an  
4 annuity pursuant to the year 2000 plan, or becomes a vested former member at  
5 the time of termination, the member's or former member's unused sick leave as  
6 reported through the financial and human resources system maintained by the  
7 office of administration, or if a department's employees are not paid salaries or  
8 wages through such system, as reported directly by the department, for which the  
9 member has not been paid will be converted to credited service at the time of  
10 application for retirement benefits. The member shall receive one-twelfth of a  
11 year of credited service for each one hundred and sixty-eight hours of such  
12 unused sick leave. The employing department shall not certify unused sick leave  
13 unless such unused sick leave could have been used by the member for sickness  
14 or injury. The rate of accrual of sick leave for purposes of computing years of  
15 service pursuant to this section shall be no greater than ten hours per  
16 month. Such credited service shall not be used in determining the member's  
17 eligibility for retirement or final average pay. Such credited service shall be  
18 added to the credited service in the last position of employment held as a member  
19 of the system.

20 3. If a member is employed in a covered position and simultaneously  
21 employed in one or more other covered or noncovered positions, credited service  
22 shall be determined as if all such employment were in one position, and covered  
23 pay shall be the total of pay for all such positions.

24 4. In calculating any annuity, "credited service" means a period expressed  
25 as whole years and any fraction of a year measured in twelfths that begins on the  
26 date an employee commences employment in a covered position and ends on the  
27 date such employee's membership terminates pursuant to section 104.1018 plus  
28 any additional period for which the employee is credited with service pursuant

29 to this section.

30           5. A member shall be credited for all military service after membership  
31 commences as required by state and federal law.

32           6. Any member who had active military service in the United States  
33 Army, Air Force, Navy, Marine Corps, Army or Air National Guard, Coast Guard,  
34 or any reserve component thereof prior to last becoming a member, or who is  
35 otherwise ineligible to receive credited service pursuant to subsection 1 or 5 of  
36 this section, and who became a member after the person's discharge from military  
37 service under honorable conditions may elect, prior to retirement, to purchase  
38 credited service for all such military service, but not to exceed four years,  
39 provided the person is not receiving and is not eligible to receive retirement  
40 credits or benefits from any other public or private retirement plan, other than  
41 a United States military service retirement system, for the military service to be  
42 purchased along with the submission of appropriate documentation verifying the  
43 member's dates of active service. The purchase shall be effected by the member  
44 paying to the system an amount equal to the state's contributions that would  
45 have been made to the system on the member's behalf had the member been a  
46 member for the period for which the member is electing to purchase credit and  
47 had the member's pay during such period of membership been the same as the  
48 annual pay rate as of the date the member was initially employed as a member,  
49 with the calculations based on the contribution rate in effect on the date of such  
50 member's employment with simple interest calculated from the date of  
51 employment to the date of election pursuant to this subsection. The payment  
52 shall be made over a period of not longer than two years, measured from the date  
53 of election, and with simple interest on the unpaid balance. If a member who  
54 purchased credited service pursuant to this subsection dies prior to retirement,  
55 the surviving spouse may, upon written request, receive a refund of the amount  
56 contributed for such purchase of such credited service, provided the surviving  
57 spouse is not entitled to survivorship benefits payable pursuant to the provisions  
58 of section 104.1030.

59           7. Any member of the Missouri state employees' retirement system shall  
60 receive credited service for the creditable prior service that such employee would  
61 have been entitled to under the closed plan pursuant to section 104.339,  
62 subsections 2, and 6 to 9 of section 104.340, subsection 12 of section 104.342,  
63 section 104.344, subsection 4 of section 104.345, subsection 4 of section 104.372,  
64 section 178.640, RSMo, and section 211.393, RSMo, provided such service has not

65 been credited under the closed plan.

66           8. Any member who has service in both systems and dies or terminates  
67 employment shall have the member's service in the other system transferred to  
68 the last system that covered such member and any annuity payable to such  
69 member shall be paid by that system. Any such member may elect to transfer  
70 service between systems prior to termination of employment, provided, any  
71 annuity payable to such member shall be paid by the last system that covered  
72 such member prior to the receipt of such annuity.

73           9. In no event shall any person or member receive credited service  
74 pursuant to the year 2000 plan if that same service is credited for retirement  
75 benefits under any defined benefit retirement system not created pursuant to this  
76 chapter.

77           10. Any additional credited service as described in subsections 5 to 7 of  
78 this section shall be added to the credited service in the first position of  
79 employment held as a member of the system. Any additional creditable service  
80 received pursuant to section 105.691, RSMo, shall be added to the credited service  
81 in the position of employment held at the time the member completes the  
82 purchase or transfer pursuant to such section.

83           11. A member may not purchase any credited service described in this  
84 section unless the member has met the five-year minimum service requirement  
85 as provided in subdivisions (11) and (20) of **subsection 1 of** section 104.1003, the  
86 **[two] three** full biennial assemblies minimum service requirement as provided  
87 in section 104.1084, or the four-year minimum service requirement as provided  
88 in section 104.1084.

89           12. Absences taken by an employee without compensation for sickness and  
90 injury of the employee of less than twelve months or for leave taken by such  
91 employee without compensation pursuant to the provisions of the Family and  
92 Medical Leave Act of 1993 shall be counted as years of credited service.

104.1087. 1. If a member has credited service with more than one  
2 selected plan at time of separation of covered employment from all selected plans,  
3 then the annuity payable from each selected plan shall be based upon the annuity  
4 program, pay record and service record with that selected plan; provided,  
5 however, that the total of credited service with all selected plans shall be used for  
6 the sole purpose of determining whether or not the member has met the credited  
7 service requirement contained in subdivisions (11) and (20) of **subsection 1 of**  
8 section 104.1003 and subsections 1 and 4 of section 104.1084 for each selected

9 plan.

10 2. The selected plans cited in this section are:

11 (1) Year 2000 plan - basic provisions;

12 (2) Year 2000 plan - general assembly provisions;

13 (3) Year 2000 plan - statewide elected official provisions.

✓

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