

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE SUBSTITUTE FOR

# SENATE BILL NO. 714

95TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR CROWELL.

Offered April 7, 2010.

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Taken up for Perfection April 12, 2010. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

3598S.04P

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## AN ACT

To repeal sections 56.809, 70.605, 104.190, 104.480, 169.020, 169.270, 169.280, 169.301, 169.324, and 169.328, RSMo, and to enact in lieu thereof nineteen new sections relating to retirement.

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

Section A. Sections 56.809, 70.605, 104.190, 104.480, 169.020, 169.270, 169.280, 169.301, 169.324, and 169.328, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 29.212, 56.809, 70.605, 104.190, 104.480, 104.1091, 104.1500, 104.1502, 104.1504, 104.1506, 169.020, 169.270, 169.280, 169.301, 169.324, 169.328, 476.521, 476.527, and 476.529, to read as follows:

**29.212. Any retirement system established by the state of Missouri or any political subdivision or instrumentality of the state for the purpose of providing retirement plan benefits for elected or appointed public officials or employees of the state of Missouri or any political subdivision of the state may be audited by the state auditor every three years, or more frequently as otherwise required by law.**

56.809. 1. The general administration and the responsibility for the proper operation of the fund are vested in a board of trustees of five persons. Trustees shall be elected by a secret ballot vote of the prosecuting attorneys and circuit attorneys of this state. Trustees shall be chosen for terms

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

5 of four years from the first day of January next following their election except  
6 that the members of the first board shall be appointed by the governor by and  
7 with the consent of the senate after notification in writing, respectively, by the  
8 prosecuting attorneys and circuit attorneys of eighty percent of the counties in  
9 the state, including a city not within a county, that the prosecuting attorney or  
10 circuit attorney has elected to come under the provisions of sections 56.800 to  
11 56.840. It shall be the responsibility of the initial board to establish procedures  
12 for the conduct of future elections of trustees and such procedures shall be  
13 approved by a majority vote by secret ballot of the prosecuting attorneys and  
14 circuit attorneys in this state. The board shall have all powers and duties that  
15 are necessary and proper to enable it, its officers, employees and agents to fully  
16 and effectively carry out all the purposes of sections 56.800 to 56.840.

17         2. The board of trustees shall elect one of their number as chairman and  
18 one of their number as vice chairman and may employ an administrator who shall  
19 serve as executive secretary to the board. The Missouri office of prosecution  
20 services, sections 56.750 to 56.775, may, in the discretion of the board of trustees,  
21 act as administrative employees to carry out all of the purposes of sections 56.800  
22 to 56.840. In addition, the board of trustees may appoint such other employees  
23 as may be required. The board shall hold regular meetings at least once each  
24 quarter. Other meetings may be called as necessary by the chairman or by any  
25 three members of the board. Notice of such meetings shall be given in accordance  
26 with chapter 610, RSMo.

27         3. The board of trustees shall appoint an actuary or firm of actuaries as  
28 technical advisor to the board of trustees.

29         4. The board of trustees shall retain investment advisors to be investment  
30 advisors to the board.

31         5. The board of trustees may retain legal counsel to advise the board and  
32 represent the system in legal proceedings.

33         6. The board shall arrange for annual audits of the records and accounts  
34 of the system by a certified public accountant or by a firm of certified public  
35 accountants. The state auditor [shall examine such audits at least] **may audit**  
36 **the system** once every three years and report to the board of trustees and to the  
37 governor.

38         7. The board of trustees shall serve without compensation for their  
39 services as such; except that each trustee shall be paid from the system's funds  
40 for any necessary expenses incurred in the performance of duties authorized by

41 the board.

42 8. The board of trustees shall be authorized to appropriate funds from the  
43 system for administrative costs in the operation of the system.

44 9. The board of trustees shall, from time to time, after receiving the advice  
45 of its actuary, adopt such mortality and other tables of experience, and a rate or  
46 rates of regular interest, as shall be necessary for the actuarial requirements of  
47 the system, and shall require its executive secretary to keep in convenient form  
48 such data as shall be necessary for actuarial investigations of the experience of  
49 the system, and such data as shall be necessary for the annual actuarial  
50 valuations of the system.

51 10. The board of trustees shall, after reasonable notice to all interested  
52 parties, hear and decide questions arising from the administration of sections  
53 56.800 to ~~[56.835]~~ **56.840**; except that within thirty days after a decision or order,  
54 any member, retirant, beneficiary or political subdivision adversely affected by  
55 that determination or order may make an appeal under the provisions of chapter  
56 536, RSMo.

57 11. The board of trustees shall arrange for adequate surety bonds covering  
58 the executive secretary and any other custodian of funds or investments of the  
59 board. When approved by the board, such bonds shall be deposited in the office  
60 of the Missouri secretary of state.

61 12. Subject to the limitations of sections 56.800 to ~~[56.835]~~ **56.840**, the  
62 board of trustees shall formulate and adopt rules and regulations for the  
63 government of its own proceedings and for the administration of the retirement  
64 system.

65 13. The board of trustees shall be the trustees of the funds of the  
66 system. Subject to the provisions of any applicable federal or state laws, the  
67 board of trustees shall have full power to invest and reinvest the moneys of the  
68 system, and to hold, purchase, sell, assign, transfer or dispose of any of the  
69 securities and investments in which such moneys shall have been invested, as  
70 well as the proceeds of such investments and such moneys.

71 14. Notwithstanding any other provision of the law to the contrary, the  
72 board of trustees may delegate to its duly appointed investment advisors  
73 authority to act in place of the board of trustees in the investment and  
74 reinvestment of all or part of the moneys of the system, and may also delegate to  
75 such advisors the authority to act in place of the board of trustees in the holding,  
76 purchasing, selling, assigning, transferring or disposing of any or all of the

77 securities and investments in which such moneys shall have been invested, as  
78 well as the proceeds of such investments and such moneys. Such investment  
79 counselor shall be registered as an investment advisor with the United States  
80 Securities and Exchange Commission. In exercising or delegating its investment  
81 powers and authority, members of the board of trustees shall exercise ordinary  
82 business care and prudence under the facts and circumstances prevailing at the  
83 time of the action or decision. In so doing, the board of trustees shall consider  
84 the long-term and short-term needs of the system in carrying out its purposes, the  
85 system's present and anticipated financial requirements, the expected total return  
86 on the system's investment, the general economic conditions, income, growth,  
87 long-term net appreciation, and probable safety of funds. No member of the board  
88 of trustees shall be liable for any action taken or omitted with respect to the  
89 exercise of or delegation of these powers and authority if such member shall have  
90 discharged the duties of his or her position in good faith and with that degree of  
91 diligence, care and skill which prudent men and women would ordinarily exercise  
92 under similar circumstances in a like position.

93         15. The board shall keep a record of its proceedings which shall be open  
94 to public inspection. It shall annually prepare a report showing the financial  
95 condition of the system. The report shall contain, but not be limited to, an  
96 auditor's opinion, financial statements prepared in accordance with generally  
97 accepted accounting principles, an actuary's certification along with actuarial  
98 assumptions and financial solvency tests.

70.605. 1. For the purpose of providing for the retirement or pensioning  
2 of the officers and employees and the widows and children of deceased officers  
3 and employees of any political subdivision of the state, there is hereby created  
4 and established a retirement system which shall be a body corporate, which shall  
5 be under the management of a board of trustees herein described, and shall be  
6 known as the "Missouri Local Government Employees' Retirement System". Such  
7 system may sue and be sued, transact business, invest funds, and hold cash,  
8 securities, and other property. All suits or proceedings directly or indirectly  
9 against the system shall be brought in Cole County. The system shall begin  
10 operations on the first day of the calendar month next following sixty days after  
11 the date the board of trustees has received certification from ten political  
12 subdivisions that they have elected to become employers.

13         2. The general administration and the responsibility for the proper  
14 operation of the system is vested in a board of trustees of seven persons: three

15 persons to be elected as trustees by the members of the system; three persons to  
16 be elected trustees by the governing bodies of employers; and one person, to be  
17 appointed by the governor, who is not a member, retirant, or beneficiary of the  
18 system and who is not a member of the governing body of any political  
19 subdivision.

20 3. Trustees shall be chosen for terms of four years from the first day of  
21 January next following their election or appointment, except that of the first  
22 board shall all be appointed by the governor by and with the consent of the  
23 senate, as follows:

24 (1) Three persons who are officers or officials of political subdivisions, one  
25 for a term of three years, one for a term of two years, and one for a term of one  
26 year; and

27 (2) Three persons who are employees of political subdivisions and who  
28 would, if the subdivision by which they are employed becomes an employer, be  
29 eligible as members, one for a term of three years, one for a term of two years,  
30 and one for a term of one year; and

31 (3) That person appointed by the governor under the provisions of  
32 subsection 2 of this section. All the members of the first board shall take office  
33 as soon as appointed by the governor, but their terms shall be computed from the  
34 first day of January next following their appointment, and only one member may  
35 be from any political subdivision or be a policeman or fireman.

36 4. Successor trustees elected or appointed as member trustees shall be  
37 members of the retirement system; provided, that not more than one member  
38 trustee shall be employed by any one employer, and not more than one member  
39 trustee shall be a policeman, and not more than one member trustee shall be a  
40 fireman.

41 5. Successor trustees elected as employer trustees shall be elected or  
42 appointed officials of employers and shall not be members of the retirement  
43 system; provided, that not more than one employer trustee shall be from any one  
44 employer.

45 6. An annual meeting of the retirement system shall be called by the  
46 board in the last calendar quarter of each year in Jefferson City, or at such place  
47 as the board shall determine, for the purpose of electing trustees and to transact  
48 such other business as may be required for the proper operation of the  
49 system. Notice of such meeting shall be sent by registered mail to the clerk or  
50 secretary of each employer not less than thirty days prior to the date of such

51 meeting. The governing body of each employer shall certify to the board the name  
52 of one delegate who shall be an officer of the employer, and the members of the  
53 employer shall certify to the board a member of the employer to represent such  
54 employer at such meeting. The delegate certified as member delegate shall be  
55 elected by secret ballot by the members of such employer, and the clerk or  
56 secretary of each employer shall be charged with the duty of conducting such  
57 election in a manner which will permit each member to vote in such  
58 election. Under such rules and regulations as the board shall adopt, approved by  
59 the delegates, the member delegates shall elect a member trustee for each such  
60 position on the board to be filled, and the officer delegates shall elect an employer  
61 trustee for each such position on the board to be filled.

62 7. In the event any member trustee ceases to be a member of the  
63 retirement system, or any employer trustee ceases to be an appointed or elected  
64 official of an employer, or becomes a member of the retirement system, or if the  
65 trustee appointed by the governor becomes a member of the retirement system or  
66 an elected or appointed official of a political subdivision, or if any trustee fails to  
67 attend three consecutive meetings of the board, unless in each case excused for  
68 cause by the remaining trustees attending such meeting or meetings, he or she  
69 shall be considered as having resigned from the board and the board shall, by  
70 resolution, declare his or her office of trustee vacated. If a vacancy occurs in the  
71 office of trustee, the vacancy shall be filled for the unexpired term in the same  
72 manner as the office was previously filled; provided, however, that the remaining  
73 trustees may fill employer and member trustee vacancies on the board until the  
74 next annual meeting.

75 8. Each trustee shall be commissioned by the governor, and before  
76 entering upon the duties of his office, shall take and subscribe to an oath or  
77 affirmation to support the Constitution of the United States, and of the state of  
78 Missouri, and to demean himself faithfully in his or her office. Such oath as  
79 subscribed to shall be filed in the office of the secretary of state of this state.

80 9. Each trustee shall be entitled to one vote in the board of trustees. Four  
81 votes shall be necessary for a decision by the trustees at any meeting of the board  
82 of trustees. Four trustees, of whom at least two shall be member trustees and at  
83 least two shall be employer trustees, shall constitute a quorum at any meeting  
84 of the board. Unless otherwise expressly provided herein, a meeting need not be  
85 called or held to make any decision on a matter before the board. Each member  
86 must be sent by the executive secretary a copy of the matter to be decided with

87 full information from the files of the board. The concurring decisions of four  
88 trustees may decide the issue by signing a document declaring their decision and  
89 sending the written instrument to the executive secretary, provided that no other  
90 trustee shall send a dissenting decision to the executive secretary within fifteen  
91 days after the document and information was mailed to him or her. If any trustee  
92 is not in agreement with the four trustees, the matter is to be passed on at a  
93 regular board meeting or a special meeting called for that purpose. The board  
94 shall hold regular meetings at least once each quarter, the dates of these  
95 meetings to be designated in the rules and regulations adopted by the  
96 board. Other meetings as deemed necessary may be called by the chairman or by  
97 any four trustees acting jointly.

98           10. The board of trustees shall elect one of their number as chairman, and  
99 one of their number as vice chairman, and shall employ an executive secretary,  
100 not one of their number, who shall be the executive officer of the board. Other  
101 employees of the board shall be chosen only upon the recommendation of the  
102 executive secretary.

103           11. The board shall appoint an actuary or a firm of actuaries as technical  
104 advisor to the board on matters regarding the operation of the system on an  
105 actuarial basis. The actuary or actuaries shall perform such duties as are  
106 required of him or her under sections 70.600 to 70.755, and as are from time to  
107 time required by the board.

108           12. The board may appoint an attorney-at-law or firm of attorneys-at-law  
109 to be the legal advisor of the board and to represent the board in all legal  
110 proceedings.

111           13. The board may appoint an investment counselor to be the investment  
112 advisor of the board.

113           14. The board shall from time to time, after receiving the advice of its  
114 actuary, adopt such mortality and other tables of experience, and a rate or rates  
115 of regular interest, as shall be necessary for the actuarial requirements of the  
116 system, and shall require its executive secretary to keep in convenient form such  
117 data as shall be necessary for actuarial investigations of the experience of the  
118 system, and such data as shall be necessary for the annual actuarial valuations  
119 of the system.

120           15. The board shall keep a record of its proceedings, which shall be open  
121 to public inspection. It shall prepare annually and render to each employer a  
122 report showing the financial condition of the system as of the preceding June

123 thirtieth. The report shall contain, but shall not be limited to, a financial balance  
124 sheet; a statement of income and disbursements; a detailed statement of  
125 investments acquired and disposed of during the year, together with a detailed  
126 statement of the annual rates of investment income from all assets and from each  
127 type of investment; an actuarial balance sheet prepared by means of the last  
128 valuation of the system, and such other data as the board shall deem necessary  
129 or desirable for a proper understanding of the condition of the system.

130         16. The board of trustees shall, after reasonable notice to all interested  
131 parties, conduct administrative hearings to hear and decide questions arising  
132 from the administration of sections 70.600 to 70.755; except, that such hearings  
133 may be conducted by a hearing officer who shall be appointed by the board. The  
134 hearing officer shall preside at the hearing and hear all evidence and rule on the  
135 admissibility of evidence. The hearing officer shall make recommended findings  
136 of fact and may make recommended conclusions of law to the board. All final  
137 orders or determinations or other final actions by the board shall be approved in  
138 writing by at least four members of the board. Any board member approving in  
139 writing any final order, determination or other final action, who did not attend  
140 the hearing, shall do so only after certifying that he or she reviewed all exhibits  
141 and read the entire transcript of the hearing. Within thirty days after a decision  
142 or order or final action of the board, any member, retirant, beneficiary or political  
143 subdivision adversely affected by that determination or order or final action may  
144 take an appeal under the provisions of chapter 536, RSMo. Jurisdiction over any  
145 dispute regarding the interpretation of sections 70.600 to 70.755 and the  
146 determinations required thereunder shall lie in the circuit court of Cole County.

147         17. The board shall arrange for adequate surety bonds covering the  
148 executive secretary and any other custodian of the funds or investments of the  
149 board. When approved by the board, said bonds shall be deposited in the office  
150 of the secretary of state.

151         18. The board shall arrange for annual audits of the records and accounts  
152 of the system by a certified public accountant or by a firm of certified public  
153 accountants. The state auditor [shall examine such audits at least] **may audit**  
154 **the system** once every three years and report to the board and the governor.

155         19. The headquarters of the retirement system shall be in Jefferson City.

156         20. The board of trustees shall serve as trustees without compensation for  
157 their services as such; except that each trustee shall be paid for any necessary  
158 expenses incurred in attending meetings of the board or in the performance of



159 other duties authorized by the board.

160           21. Subject to the limitations of sections 70.600 to 70.755, the board shall  
161 formulate and adopt rules and regulations for the government of its own  
162 proceedings and for the administration of the retirement system.

104.190. 1. The board shall keep a complete record of all its proceedings,  
2 which shall be open at all reasonable hours to the inspection of any member. A  
3 statement covering the operations of the system for the year, including income  
4 and disbursements, and the financial condition of the system at the end of the  
5 year, showing the actuarial valuation and appraisal of its assets and liabilities,  
6 as of July first, shall each year be delivered to the governor of Missouri and be  
7 made readily available to the members.

8           2. A system of member employment records necessary for the calculation  
9 of retirement benefits shall be kept separate and apart from the customary  
10 employee employment records.

11           3. The principal office of the system shall be located in Jefferson  
12 City. The system shall have a seal bearing the inscription "Transportation  
13 Department Employees' and Highway Patrol Retirement System", which shall be  
14 in the custody of its executive director. The courts of this state shall take judicial  
15 notice of the seal; and all copies of records, books, and written instruments which  
16 are kept in the office of the system and are certified by the executive director  
17 under said seal shall be proved or admitted in any court or proceeding as  
18 provided by section 109.130, RSMo.

19           4. The board shall arrange for annual audits of the records and accounts  
20 of the system by a certified public accountant or by a firm of certified public  
21 accountants. The state auditor [shall examine such audits at least] **may audit**  
22 **the system** once every three years and report to the board and the governor.

104.480. 1. The board shall keep a complete record of all its proceedings,  
2 which shall be open at all reasonable hours to the inspection of any member.

3           2. A statement covering the operations of the system for the year,  
4 including income and disbursements, and of the financial condition of the system  
5 at the end of the year, showing the actuarial valuation and appraisal of its assets  
6 and liabilities, as of July first, shall each year be delivered to the governor of  
7 Missouri and be made readily available to the members.

8           3. The principal office of the system shall be in Jefferson City. The  
9 system shall have a seal bearing the inscription "Missouri State Employees'  
10 Retirement System", which shall be in the custody of its director. The courts of

11 this state shall take judicial notice of the seal; and all copies of records, books,  
12 and written instruments which are kept in the office of the system and are  
13 certified by the director under the seal shall be proved or admitted in any court  
14 or proceeding as provided by section 109.130, RSMo.

15 4. The board shall arrange for annual audits of the records and accounts  
16 of the system by a certified public accountant or by a firm of certified public  
17 accountants. The state auditor [shall examine such audits at least] **may audit**  
18 **the system** once every three years and report to the board and the governor.

**104.1091. 1. Notwithstanding any provision of the year 2000 plan**  
2 **to the contrary, each person who first becomes an employee on or after**  
3 **January 1, 2011, shall be a member of the year 2000 plan subject to the**  
4 **provisions of this section.**

5 2. A member's normal retirement eligibility shall be as follows:

6 (1) The member's attainment of at least age sixty-seven and the  
7 completion of at least ten years of credited service; or the member's  
8 attainment of at least age fifty-five with the sum of the member's age  
9 and credited service equaling at least ninety; or, in the case of a  
10 member who is serving as a uniformed member of the highway patrol  
11 and subject to the mandatory retirement provisions of section 104.081,  
12 such member's attainment of at least age sixty or, the attainment of at  
13 least age fifty-five with ten years of credited service;

14 (2) For members of the general assembly, the member's  
15 attainment of at least age sixty-two and the completion of at least three  
16 full biennial assemblies; or the member's attainment of at least age  
17 fifty-five with the sum of the member's age and credited service  
18 equaling at least ninety;

19 (3) For statewide elected officials, the official's attainment of at  
20 least age sixty-two and the completion of at least four years of credited  
21 service; or the official's attainment of at least age fifty-five with the  
22 sum of the official's age and credited service equaling at least ninety.

23 3. A vested former member's normal retirement eligibility shall  
24 be based on the attainment of at least age sixty-seven and the  
25 completion of at least ten years of credited service.

26 4. A temporary annuity paid pursuant to subsection 4 of section  
27 104.1024 shall be payable if the member has attained at least age fifty-  
28 five with the sum of the member's age and credited service equaling at  
29 least ninety; or in the case of a member who is serving as a uniformed

30 member of the highway patrol and subject to the mandatory retirement  
31 provisions of section 104.081, the temporary annuity shall be payable  
32 if the member has attained at least age sixty, or at least age fifty-five  
33 with ten years of credited service.

34 5. A member, other than a member who is serving as a uniformed  
35 member of the highway patrol and subject to the mandatory retirement  
36 provisions of section 104.081, shall be eligible for an early retirement  
37 annuity upon the attainment of at least age sixty-two and the  
38 completion of at least ten years of credited service. A vested former  
39 member shall not be eligible for early retirement.

40 6. The provisions of subsection 6 of section 104.1021 and section  
41 104.344 as applied pursuant to subsection 7 of section 104.1021 and  
42 section 104.1090 shall not apply to members covered by this section.

43 7. The minimum credited service requirements of five years  
44 contained in sections 104.1018, 104.1030, 104.1036, and 104.1051 shall be  
45 ten years for members covered by this section. The normal and early  
46 retirement eligibility requirements in this section shall apply for  
47 purposes of administering section 104.1087.

48 8. A member shall be required to contribute four percent of the  
49 member's pay to the retirement system, which shall stand to the  
50 member's credit in his or her individual account with the system,  
51 together with investment credits thereon, for purposes of funding  
52 retirement benefits payable under the year 2000 plan, subject to the  
53 following provisions:

54 (1) The state of Missouri employer, pursuant to the provisions of  
55 26 U.S.C. section 414(h)(2), shall pick up and pay the contributions that  
56 would otherwise be payable by the member under this section. The  
57 contributions so picked up shall be treated as employer contributions  
58 for purposes of determining the member's pay that is includable in the  
59 member's gross income for federal income tax purposes;

60 (2) Member contributions picked up by the employer shall be  
61 paid from the same source of funds used for the payment of pay to a  
62 member. A deduction shall be made from each member's pay equal to  
63 the amount of the member's contributions picked up by the  
64 employer. This deduction, however, shall not reduce the member's pay  
65 for purposes of computing benefits under the retirement system  
66 pursuant to this chapter;

67           (3) Member contributions so picked up shall be credited to a  
68 separate account within the member's individual account so that the  
69 amounts contributed pursuant to this section may be distinguished  
70 from the amounts contributed on an after-tax basis;

71           (4) The contributions, although designated as employee  
72 contributions, shall be paid by the employer in lieu of the contributions  
73 by the member. The member shall not have the option of choosing to  
74 receive the contributed amounts directly instead of having them paid  
75 by the employer to the retirement system;

76           (5) Interest shall be credited annually on June 30 based on the  
77 value in the account as of July 1 of the immediately preceding year at  
78 a rate of four percent. Interest credits shall cease upon termination of  
79 employment if the member is not a vested former member. Otherwise,  
80 interest credits shall cease upon retirement;

81           (6) A vested former member or a former member who is not  
82 vested may request a refund of his or her contributions and interest  
83 credited thereon. If such member is married at the time of such  
84 request, such request shall not be processed without consent from the  
85 spouse. Such member is not eligible to request a refund if such  
86 member's retirement benefit is subject to a division of benefit order  
87 pursuant to section 104.1051. Such refund shall be paid by the system  
88 after ninety days from the date of termination of employment or the  
89 request, whichever is later, and shall include all contributions made to  
90 any retirement plan administered by the system and interest credited  
91 thereon. A vested former member may not request a refund after such  
92 member becomes eligible for normal retirement. A vested former  
93 member or a former member who is not vested who receives a refund  
94 shall forfeit all the member's credited service and future rights to  
95 receive benefits from the system and shall not be eligible to receive any  
96 long term disability benefits; provided that any member or vested  
97 former member receiving long term disability benefits shall not be  
98 eligible for a refund. If such member subsequently becomes an  
99 employee and works continuously for at least one year, the credited  
100 service previously forfeited shall be restored if the member returns to  
101 the system the amount previously refunded plus interest at a rate  
102 established by the board;

103           (7) The beneficiary of any member who made contributions shall

104 receive a refund upon the member's death equal to the amount, if any,  
105 of such contributions less any retirement benefits received by the  
106 member unless an annuity is payable to a survivor or beneficiary as a  
107 result of the member's death. In that event, the beneficiary of the  
108 survivor or beneficiary who received the annuity shall receive a refund  
109 upon the survivor's or beneficiary's death equal to the amount, if any,  
110 of the member's contributions less any annuity amounts received by the  
111 member and the survivor or beneficiary.

112 9. The employee contribution rate, the benefits provided under  
113 the year 2000 plan, and any other provision of the year 2000 plan with  
114 regard to members covered under this section may be altered,  
115 amended, increased, decreased, or repealed, but only with respect to  
116 services rendered by the member after the effective date of such  
117 alteration, amendment, increase, decrease, or repeal, or, with respect  
118 to interest credits, for periods of time after the effective date of such  
119 alteration, amendment, increase, decrease, or repeal.

120 10. For purposes of members covered by this section, the options  
121 under section 104.1027 shall be as follows:

122 Option 1. A retiree's life annuity shall be reduced to a certain  
123 percent of the annuity otherwise payable. Such percent shall be eighty-  
124 eight and one half percent adjusted as follows: if the retiree's age on  
125 the annuity starting date is younger than sixty-seven years, an increase  
126 of three-tenths of one percent for each year the retiree's age is younger  
127 than age sixty-seven years; and if the beneficiary's age is younger than  
128 the retiree's age on the annuity starting date, a decrease of three-tenths  
129 of one percent for each year of age difference; and if the retiree's age  
130 is younger than the beneficiary's age on the annuity starting date, an  
131 increase of three-tenths of one percent for each year of age difference;  
132 provided, after all adjustments the option 1 percent cannot exceed  
133 ninety-four and one quarter percent. Upon the retiree's death, fifty  
134 percent of the retiree's reduced annuity shall be paid to such  
135 beneficiary who was the retiree's spouse on the annuity starting date  
136 or as otherwise provided by subsection 5 of this section.

137 Option 2. A retiree's life annuity shall be reduced to a certain  
138 percent of the annuity otherwise payable. Such percent shall be eighty-  
139 one percent adjusted as follows: if the retiree's age on the annuity  
140 starting date is younger than sixty-seven years, an increase of four-

141 tenths of one percent for each year the retiree's age is younger than  
142 sixty-seven years; and if the beneficiary's age is younger than the  
143 retiree's age on the annuity starting date, a decrease of five-tenths of  
144 one percent for each year of age difference; and if the retiree's age is  
145 younger than the beneficiary's age on the annuity starting date, an  
146 increase of five-tenths of one percent for each year of age difference;  
147 provided, after all adjustments the option 2 percent cannot exceed  
148 eighty-seven and three quarter percent. Upon the retiree's death one  
149 hundred percent of the retiree's reduced annuity shall be paid to such  
150 beneficiary who was the retiree's spouse on the annuity starting date  
151 or as otherwise provided by subsection 5 of this section.

152       **Option 3.** A retiree's life annuity shall be reduced to ninety-three  
153 percent of the annuity otherwise payable. If the retiree dies before  
154 having received one hundred twenty monthly payments, the reduced  
155 annuity shall be continued for the remainder of the one hundred  
156 twenty-month period to the retiree's designated beneficiary provided  
157 that if there is no beneficiary surviving the retiree, the present value  
158 of the remaining annuity payments shall be paid as provided under  
159 subsection 3 of section 104.620. If the beneficiary survives the retiree  
160 but dies before receiving the remainder of such one hundred twenty  
161 monthly payments, the present value of the remaining annuity  
162 payments shall be paid as provided under subsection 3 of section  
163 104.620.

164       **Option 4.** A retiree's life annuity shall be reduced to eighty-six  
165 percent of the annuity otherwise payable. If the retiree dies before  
166 having received one hundred eighty monthly payments, the reduced  
167 annuity shall be continued for the remainder of the one hundred  
168 eighty-month period to the retiree's designated beneficiary provided  
169 that if there is no beneficiary surviving the retiree, the present value  
170 of the remaining annuity payments shall be paid as provided under  
171 subsection 3 of section 104.620. If the beneficiary survives the retiree  
172 but dies before receiving the remainder of such one hundred eighty  
173 monthly payments, the present value of the remaining annuity  
174 payments shall be paid as provided under subsection 3 of section  
175 104.620.

176       **11.** The provisions of subsection 6 of section 104.1024 shall not  
177 apply to members covered by this section.

104.1500. 1. For the purpose of managing the investment of  
2 assets of the retirement systems established by this chapter and any  
3 systems authorized by section 104.1502, there is hereby created and  
4 established an investment board, the "board", which shall be a body  
5 corporate and an instrumentality of the state, which shall be under the  
6 management and control of a board of trustees herein described, which  
7 shall be known as the "Missouri State Retirement Investment  
8 Board". The board shall be vested with the powers and duties specified  
9 in sections 104.1500 to 104.1506 and such other powers as may be  
10 necessary or proper to enable it, its officers, employees, and agents to  
11 carry out fully and effectively all the purposes of sections 104.1500 to  
12 104.1506.

13 2. The board shall consist of the executive directors of the  
14 Missouri state employees' retirement system and the Missouri  
15 department of transportation and highway patrol employees'  
16 retirement system, and the commissioner of administration, all three  
17 of whom shall be voting ex officio members of the board, and four  
18 members appointed by the governor who shall not be state employees.  
19 By no later than October 1, 2010, the two executive directors shall  
20 recommend eight persons to the governor and by no later than  
21 November 1, 2010, the governor shall appoint four of those persons to  
22 be members of the board. The first member appointed by the governor  
23 shall serve initially for a one year term, the second member shall serve  
24 initially for a two year term, the third member shall serve initially for  
25 a three year term, and the fourth member shall serve initially for a four  
26 year term. Subsequently, all such members shall serve four year  
27 terms. Any vacancies occurring in the office of any such member  
28 appointed by the governor shall be filled by the governor who shall  
29 appoint a new member from a list of two persons recommended to the  
30 governor by all board members. All persons recommended to the  
31 governor as provided in this subsection shall have at least five years of  
32 experience in banking or finance or the investment business in general,  
33 including public investments, securities, or economics, which may  
34 include teaching and research at the collegiate and university level  
35 related to these subjects. The governor shall have the right to reject  
36 any or all persons recommended by the executive directors or by the  
37 board members. In the event the governor rejects any or all persons

38 recommended by the executive directors or by the board members, the  
39 executive directors or the board members shall submit a list of two  
40 persons, not previously recommended, for each position on the board  
41 that remains vacant. This process shall continue until no position  
42 remains vacant. All appointments made by the governor shall be  
43 subject to the advice and consent of the senate.

44 3. The board shall elect by secret ballot one member as chairman  
45 and one member as vice chairman during the first board meeting of  
46 each year. The chairman shall preside over meetings of the board and  
47 perform such other duties as may be required by action of the  
48 board. The vice chairman shall perform the duties of the chairman in  
49 the absence of the chairman or upon the chairman's inability or refusal  
50 to act. The board shall employ a chief executive officer who shall also  
51 serve as the chief investment officer. Other employees of the board  
52 shall be chosen only upon the recommendation of the chief executive  
53 officer.

54 4. The general administration of, and responsibility for, the  
55 proper operation of the board, including staffing, are hereby vested in  
56 the board. The Missouri state employees' retirement system and the  
57 Missouri department of transportation and highway patrol employees'  
58 retirement system may cause the transfer of any of their employees to  
59 the board to provide initial staffing of the board, provided that neither  
60 the executive director of Missouri state employees' retirement system  
61 nor the executive director of the Missouri department of transportation  
62 and highway patrol employees' retirement system shall be transferred  
63 to the board. The Missouri state employees' retirement system and the  
64 Missouri department of transportation and highway patrol employees'  
65 retirement system shall, on an equitable basis, contribute initial capital  
66 as necessary to cover all reasonable costs associated with the  
67 establishment and implementation of the board.

68 5. No person who serves on the board or has served as a member  
69 of the board may become an employee of the board or work for or have  
70 a business relationship with any service provider of the board until two  
71 years have expired after the date of his or her resignation or  
72 termination as a member of the board. No current or former member  
73 of the general assembly or statewide elected official may become an  
74 employee of the board or work for or have a business relationship with



75 any service provider of the board until five years have expired after  
76 the date of his or her resignation or termination as a member of the  
77 general assembly or statewide elected official.

78 6. Employees of the board shall receive such salaries and other  
79 compensation, benefits, and reimbursements for necessary travel and  
80 expenses as shall be determined by the board. All employees of the  
81 board shall be both state employees and members of the Missouri state  
82 employees' retirement system.

83 7. Any summons or other writ issued by the courts of the state  
84 shall be served upon the board's chief executive officer or designee for  
85 such purposes.

86 8. The board shall meet within the state of Missouri, at the time  
87 and date set at a previously scheduled meeting or by the request of any  
88 four members of the board. Notice of such meeting shall be delivered  
89 to all other members of the board in person or by mail not less than ten  
90 days prior to the date fixed for the meeting.

91 9. Four members of the board shall constitute a quorum for the  
92 transaction of business, and any official action of the board shall be  
93 based on the majority vote of the members present. Unless otherwise  
94 expressly provided in this section, a decision on a matter before the  
95 board may be made by written consent without a meeting; provided the  
96 chief executive officer delivers a written resolution to all the board  
97 members with a thorough explanation of the matter to be decided with  
98 full information regarding the matter from the records of the board,  
99 and a quorum of members sign and return the written resolution to the  
100 chief executive officer within seven days after the document and  
101 information were sent to the members. If any member is not in  
102 agreement and objects to the resolution in writing to the chief  
103 executive officer, the matter shall be decided at a regular board  
104 meeting or a special meeting called for that purpose.

105 10. The members of the board shall serve without compensation  
106 but shall be reimbursed for their necessary expenses incurred in the  
107 performance of their duties for the board.

108 11. Duties performed for the board by any member of the board  
109 who is a state employee shall be considered duties in connection with  
110 the regular employment of the individual by another agency or  
111 instrumentality of the state, and he or she shall suffer no loss in

112 regular compensation by reason of the performance of such duties.

113           12. In the event any member of the board, other than an ex  
114 officio member, fails to attend three consecutive meetings of the board,  
115 unless excused for cause at the third meeting and each consecutive  
116 meeting thereafter, by the members attending such meetings, the  
117 member shall be considered to have resigned from the board and the  
118 board shall declare such member's office vacated. The vacancy shall be  
119 filled in the same manner as described in subsection 2 of this section.

120           13. The board shall keep a complete record of its proceedings,  
121 which shall be open at all reasonable hours to the inspection of the  
122 public pursuant to chapter 610.

123           14. Subject to the limitations of law, the board shall formulate  
124 and adopt rules and regulations for the governance of its own  
125 proceedings and for the administration of the board, including board  
126 rules as may be necessary to administer the board in accordance with  
127 applicable Internal Revenue Code provisions and regulations. The  
128 board is authorized to promulgate rules to properly administer the  
129 board and govern its own proceedings and to hold hearings as required  
130 by law. The term "agency" and the term "state agency", as defined by  
131 section 536.010, shall not include the board with regard to the  
132 promulgation of rules or hearings required by law, provided the board  
133 has established written procedures to assure that constitutionally  
134 required due process safeguards exist and apply to the promulgation  
135 of a rule or regulation that would otherwise constitute a "rule", as  
136 defined in section 536.010, and to a proceeding that would otherwise  
137 constitute a "contested case" as defined in section 536.010. The board  
138 may delegate a hearing officer to hear all matters wherein a hearing is  
139 required by law.

140           15. The accounts and records of any retirement system or plan  
141 whose assets are managed by the board shall be open to inspection by  
142 the board and its agents for the purpose of obtaining information  
143 necessary in the performance of the duties of the board under sections  
144 104.1500 to 104.1506.

145           16. The board shall have the power to subpoena witnesses or  
146 obtain the production of records when necessary for the performance  
147 of its duties.

148           17. Subject to the provisions of the constitution and sections

149 104.1500 to 104.1506, the board shall have exclusive jurisdiction and  
150 control over the funds and property managed by the board.

151 18. No member of the board, employee of the board, or their  
152 immediate family members shall receive any personal monetary gain  
153 or profit from any funds managed by or transaction made by the board.

154 19. Any member of the board or employee of the board accepting  
155 any gratuity or compensation for the purpose of influencing his or her  
156 action with respect to the investment of the funds managed by the  
157 board shall thereby forfeit his or her office and may be subject to  
158 criminal penalties. The board shall establish a code of conduct policy  
159 for the board and for officers and employees and, at a minimum, the  
160 policy shall address conflicts of interest, prohibit the acceptance of  
161 items of value by the board or employees of the board from any current  
162 or prospective service provider in connection with any purchasing,  
163 hiring or firing decision made by the board or employees of the board,  
164 and require notice be provided to all external service providers that a  
165 violation of this policy may lead to termination of employment or  
166 prohibition from hiring.

167 20. Board financial statements shall be issued in accordance with  
168 generally accepted accounting principles covering the operations of the  
169 board for the fiscal year ending June thirtieth which shall each year be  
170 delivered to the governor of Missouri and the board of each retirement  
171 system or plan for which assets are managed by the board.

172 21. The board shall have a seal bearing the inscription "Missouri  
173 State Retirement Investment Board", which shall be in the custody of  
174 its chief executive officer. The courts of this state shall take judicial  
175 notice of the seal; and all copies of records, books, and written  
176 instruments which are kept in the office of the board and are certified  
177 by the chief executive officer under the seal shall be proved or  
178 admitted in any court or proceeding as provided by section 109.130.

179 22. The board shall arrange for annual audits in accordance with  
180 generally accepted auditing standards of the records and accounts of  
181 the board to be conducted by an independent auditor retained by the  
182 board. The state auditor may audit the board once every three years  
183 and report to the board and the governor.

184 23. The board may select and employ service providers including  
185 but not limited to legal counsel, auditors, and actuaries as it deems

186 appropriate to properly carry out the purposes of the board.

187           24. The board may sue and be sued in its official name, but the  
188 officers and employees of the board shall not be personally liable for  
189 acts of the board. The board may indemnify, protect, defend, and hold  
190 harmless the members of the board, and the officers and employees of  
191 the board, against all claims and suits for negligent or wrongful acts  
192 alleged to have been committed in the scope of their service or  
193 employment or under the direction of the members of the board or the  
194 chief executive officer, provided that the members of the board, and the  
195 officers and employees of the board, shall not be indemnified for willful  
196 misconduct. The board is authorized to insure against loss or liability  
197 of the members of the board, and the officers and employees of the  
198 board, that may result from claims and suits for negligent or wrongful  
199 acts alleged to have been committed in the scope of their service or  
200 employment or under the direction of the members of the board or the  
201 chief executive officer. This insurance shall be carried through a  
202 company that is licensed to write such coverage in this state. The  
203 service of all legal process and of all notices which may be required to  
204 be in writing, whether in legal proceedings or otherwise, shall be made  
205 on the chief executive officer or in his or her absence, on the chief  
206 executive officer's designee at his or her office. Nothing in this  
207 subsection shall be construed to waive sovereign immunity to the  
208 extent provided by law.

209           25. In the event the Internal Revenue Service determines that  
210 any retirement system or plan is not a qualified plan within the  
211 meaning of Section 401(a) of the Internal Revenue Code, and if such  
212 retirement system or plan is not amended so as to qualify under such  
213 section within the period of time permitted by law for retroactive  
214 amendment of such plan, then the board may segregate the assets of  
215 such plan and withdraw the assets from the trust and hold such assets  
216 in a separate trust under all of the terms of sections 104.1500 to  
217 104.1506.

          104.1502. Notwithstanding any law to the contrary, effective  
2 January 1, 2011 the board shall provide investment oversight and  
3 management of all investment assets of all retirement plans  
4 administered by the Missouri state employees' retirement system and  
5 the Missouri department of transportation and highway patrol

6 employees' retirement system subject to the transition provisions  
7 provided in sections 104.1500 to 104.1506. Any public employee  
8 retirement system or plan in the state, other than the Missouri local  
9 government employees retirement system, the public school retirement  
10 system of Missouri, or public education employee retirement system of  
11 Missouri may apply to the board to provide investment oversight and  
12 management of all investment assets of the retirement system or plan  
13 upon the approval of such retirement system or plan and of the board  
14 and subject to a mutually approved written agreement. The assets  
15 managed by the board may include any defined benefit plan, defined  
16 contribution plan, deferred compensation plan, or public employee  
17 medical plan of the state or political subdivision, unless otherwise  
18 prohibited by this section.

104.1504. 1. All assets managed by the board for each respective  
2 retirement system or plan shall be held by the board as trustee in a  
3 trust for each such retirement system or plan for the exclusive benefit  
4 of the participants of such retirement system or plan. Such assets shall  
5 not be subject to execution, garnishment, attachment, writ of  
6 sequestration, or any other claim or process whatsoever, and shall be  
7 unassignable.

8 2. All moneys received by the board from or for the account of  
9 a retirement system or plan shall be deposited in one or more banks or  
10 trust companies for the credit of the trust maintained for such  
11 retirement system or plan. No such money shall be deposited in or be  
12 retained by any bank or trust company which does not have on deposit  
13 with and for the board at the time the kind and value of collateral  
14 required by sections 30.240 and 30.270 for depositaries of the state  
15 treasurer. The chief executive officer shall be responsible for all funds,  
16 securities, and property belonging to each retirement system or plan,  
17 and shall obtain such corporate surety bond for the faithful handling  
18 of the same as the board shall require.

19 3. The board shall have the power, in the name and on behalf of  
20 the board, to purchase, acquire, hold, invest, lend, lease, sell, assign,  
21 transfer, and dispose of all property, rights, and securities, and enter  
22 into written contracts, all as may be necessary or proper to carry out  
23 the purposes of sections 104.1500 to 104.1506.

24 4. The board shall invest the funds of each retirement system

25 held by the board as trustee, as permitted by sections 105.687 to  
26 105.689. The board may delegate to employees of the board, or to an  
27 agent, functions that a prudent trustee acting in a like capacity and  
28 familiar with those matters could properly delegate.

29         5. The board may deliberate about, or make tentative or final  
30 decisions on, investments or other financial matters in executive  
31 session if disclosure of the deliberations or decisions would jeopardize  
32 the ability to implement a decision or to achieve investment objectives.  
33 A record of the board that discloses proprietary investment information  
34 or deliberations about, or a tentative or final decision on, investments  
35 or other financial matters is not a public record under chapter 610 to  
36 the extent and so long as its disclosure would jeopardize the ability to  
37 implement a decision, to achieve investment objectives, or cause the  
38 board to be in violation of an agreement not to disclose proprietary  
39 information.

40         6. The board may invest the assets of any retirement system or  
41 plan in a collective trust fund established or maintained by the  
42 board. Any trust assets so transferred and any subsequent transfers  
43 and contributions of the retirement systems or plans together with  
44 proceeds and reinvestments thereof may be invested as a single pool  
45 with appropriate accounting to identify the proportionate interests of  
46 the retirement systems and plans in particular assets, asset sub-pools,  
47 or asset classes. The assets held in such a collective trust fund shall be  
48 held in one or more separate retirement benefit trusts for the exclusive  
49 purpose of satisfying the obligations of each respective retirement  
50 system or plan to pay retirement and other benefits pursuant to  
51 applicable laws or plan documents and paying administrative expenses  
52 associated with satisfying such obligations. At no time shall any part  
53 of a retirement benefit trust held by the board be used for or diverted  
54 to any purpose other than for the exclusive purpose of satisfying the  
55 respective obligations of the retirement systems or plans and paying  
56 administrative expenses associated with satisfying such  
57 obligations. The board shall establish trust management agreements or  
58 trust instruments that set forth the terms and conditions for holding,  
59 managing, and distributing assets contributed by the respective  
60 retirement systems or plans.

61         7. Participating retirement systems or plans shall transfer to the

62 board of trustees all appropriate securities and cash. All assets  
63 transferred to the board shall be held in a trust and valued at their  
64 current market value as determined by the board, including accrued  
65 interest. The board shall establish and maintain account units to  
66 determine the share of each retirement system or plan in the trust, and  
67 in each investment account, if applicable.

68 8. The board shall maintain appropriate accounting records for  
69 each participating retirement system or plan. The records shall reflect  
70 the number of units in the combined investment funds owned by each  
71 retirement system or plan. No certificates or other evidence of  
72 ownership shall be required. As of each valuation date, or as often as  
73 the board determines, each retirement system or plan shall be informed  
74 of the number of units owned and the current value of the  
75 units. Annually, the board shall provide each participating retirement  
76 system or plan with financial statements prepared in accordance with  
77 generally accepted accounting principles reflecting their participation  
78 in the board.

79 9. The estimated administrative and investment expenses  
80 incurred by the board shall be apportioned among the retirement  
81 systems and plans and debited to each of the respective retirement  
82 systems or funds on a quarterly basis. A reconciliation of the actual  
83 expenses compared to the estimated costs shall occur at the end of each  
84 fiscal year with any surplus or deficit being credited or debited to each  
85 of the respective retirement systems or funds. The board shall present  
86 a statement of expenses to each retirement system or plan at the end  
87 of each quarter during each fiscal year.

88 10. Each retirement system or plan shall during the transition as  
89 described in section 104.1506 and from time to time thereafter, transfer  
90 to the board for investment those portions of the assets of the  
91 retirement system or plan which in the judgment of those retirement  
92 systems or plans are not required for immediate use. Upon acceptance  
93 and transfer of such assets to the board, the retirement system or plan  
94 shall be without liability for the management of such assets by the  
95 board. When trust assets are transferred back or paid to the retirement  
96 system or plan by the board, the board shall have no further liability  
97 for the management of such assets.

98 11. The board shall not be responsible for the calculation or

99 collection of any contribution under or required by the retirement  
100 systems or plans, but shall be responsible only for property received by  
101 it pursuant to sections 104.1500 to 104.1506.

102 12. The board shall, from time to time, on written directions of  
103 the executive director, chief executive officer, or designee of a  
104 retirement system or plan, make payments out of the trust of such  
105 retirement system or plan to such persons in such amounts and for  
106 such purposes as may be specified in the directions of such executive  
107 director, chief executive officer, or designee. The board shall not be  
108 responsible for whether such payments are authorized or proper under  
109 the governing document or other authority of such retirement system  
110 or plan, but may rely on the instructions of the executive director, chief  
111 executive officer, or designee of each respective retirement system or  
112 plan.

113 13. The board shall not be liable for the proper application of  
114 any part of any trust if distributions or transfers are made in  
115 accordance with the written directions of the executive director, chief  
116 executive officer, or designee of the retirement system or plan, nor  
117 shall the board be responsible for the adequacy of the trust fund of a  
118 retirement system or plan to satisfy any and all payments and  
119 liabilities under the plan. The board shall not be liable for any  
120 payment made pursuant to the direction of the executive director,  
121 chief executive officer, or designee of the retirement system or  
122 plan. Any written direction of the executive director, chief executive  
123 officer, or designee of the retirement system or plan shall constitute a  
124 certification that the distribution or payment so directed is one which  
125 the executive director, chief executive officer, or designee of the  
126 retirement system or plan or its designated representative is  
127 authorized to direct. The board shall be under no liability for making  
128 any distribution or transfer pursuant to the direction of the executive  
129 director, chief executive officer, or designee of a retirement system or  
130 plan (including amounts withheld pursuant to the previous section) and  
131 shall be under no duty to make or inquire regarding whether any  
132 distribution or transfer directed by the executive director, chief  
133 executive officer, or designee of a retirement system or plan is made  
134 pursuant to the plan provisions.

104.1506. There shall be a transition period between January 1,



2 **2011 and August 1, 2011 during which time assets of the Missouri state**  
3 **employees' retirement system and the Missouri department of**  
4 **transportation and highway patrol employees' retirement system shall**  
5 **be transferred to the board as provided in sections 104.1500 to**  
6 **104.1506. The responsibility to manage assets shall remain with the**  
7 **retirement systems or plans until such time as those assets are**  
8 **transferred to the board.**

169.020. 1. For the purpose of providing retirement allowances and other  
2 benefits for public school teachers, there is hereby created and established a  
3 retirement system which shall be a body corporate, shall be under the  
4 management of a board of trustees herein described, and shall be known as "The  
5 Public School Retirement System of Missouri". Such system shall, by and in such  
6 name, sue and be sued, transact all of its business, invest all of its funds, and  
7 hold all of its cash, securities, and other property. The system so created shall  
8 include all school districts in this state, except those in cities that had  
9 populations of four hundred thousand or more according to the latest United  
10 States decennial census, and such others as are or hereafter may be included in  
11 a similar system or in similar systems established by law and made operative;  
12 provided, that teachers in school districts of more than four hundred thousand  
13 inhabitants who are or may become members of a local retirement system may  
14 become members of this system with the same legal benefits as accrue to present  
15 members of such state system on the terms and under the conditions provided for  
16 in section 169.021. The system hereby established shall begin operations on the  
17 first day of July next following the date upon which sections 169.010 to 169.130  
18 shall take effect.

19 2. The general administration and the responsibility for the proper  
20 operation of the retirement system and for making effective the provisions of  
21 sections 169.010 to 169.141 are hereby vested in a board of trustees of seven  
22 persons as follows: four persons to be elected as trustees by the members and  
23 retired members of the public school retirement system created by sections  
24 169.010 to 169.141 and the public education employee retirement system created  
25 by sections 169.600 to 169.715; and three members appointed by the governor  
26 with the advice and consent of the senate. The first member appointed by the  
27 governor shall replace the commissioner of education for a term beginning August  
28 28, 1998. The other two members shall be appointed by the governor at the time  
29 each member's, who was appointed by the state board of education, term expires.

30           3. Trustees appointed and elected shall be chosen for terms of four years  
31 from the first day of July next following their appointment or election, except that  
32 one of the elected trustees shall be a member of the public education employee  
33 retirement system and shall be initially elected for a term of three years from  
34 July 1, 1991. The initial term of one other elected trustee shall commence on  
35 July 1, 1992.

36           4. Trustees appointed by the governor shall be residents of school districts  
37 included in the retirement system, but not employees of such districts or a state  
38 employee or a state elected official. At least one trustee so appointed shall be a  
39 retired member of the public school retirement system or the public education  
40 employee retirement system. Three elected trustees shall be members of the  
41 public school retirement system and one elected trustee shall be a member of the  
42 public education employee retirement system.

43           5. The elections of the trustees shall be arranged for, managed and  
44 conducted by the board of trustees of the retirement system.

45           6. If a vacancy occurs in the office of trustee, the vacancy shall be filled  
46 for the unexpired term in the same manner as the office was previously filled.

47           7. Trustees of the retirement system shall serve without compensation but  
48 they shall be reimbursed for expenses necessarily incurred through service on the  
49 board of trustees.

50           8. Each trustee shall be commissioned by the governor, and before  
51 entering upon the duties of the trustee's office, shall take and subscribe to an  
52 oath or affirmation to support the Constitution of the United States, and of the  
53 state of Missouri and to demean himself or herself faithfully in the trustee's  
54 office. Such oath as subscribed to shall be filed in the office of secretary of state  
55 of this state.

56           9. Each trustee shall be entitled to one vote in the board of trustees. Four  
57 votes shall be necessary for a decision by the trustees at any meeting of the board  
58 of trustees. Unless otherwise expressly provided herein, a meeting need not be  
59 called or held to make any decision on a matter before the board. Each member  
60 must be sent by the executive director a copy of the matter to be decided with full  
61 information from the files of the board of trustees. The unanimous decision of  
62 four trustees may decide the issue by signing a document declaring their decision  
63 and sending such written instrument to the executive director of the board,  
64 provided that no other member of the board of trustees shall send a dissenting  
65 decision to the executive director of the board within fifteen days after such

66 document and information was mailed to the trustee. If any member is not in  
67 agreement with four members the matter is to be passed on at a regular board  
68 meeting or a special meeting called for the purpose.

69 10. The board of trustees shall elect one of their number as chairman, and  
70 shall employ a full-time executive director, not one of their number, who shall be  
71 the executive officer of the board. Other employees of the board shall be chosen  
72 only upon the recommendation of the executive director.

73 11. The board of trustees shall employ an actuary who shall be its  
74 technical advisor on matters regarding the operation of the retirement system,  
75 and shall perform such duties as are essential in connection therewith, including  
76 the recommendation for adoption by the board of mortality and other necessary  
77 tables, and the recommendation of the level rate of contributions required for  
78 operation of the system.

79 12. As soon as practicable after the establishment of the retirement  
80 system, and annually thereafter, the actuary shall make a valuation of the  
81 system's assets and liabilities on the basis of such tables as have been adopted.

82 13. At least once in the three-year period following the establishment of  
83 the retirement system, and in each five-year period thereafter, the board of  
84 trustees shall cause to be made an actuarial investigation into the mortality,  
85 service, and compensation experience of the members and beneficiaries of the  
86 system, and shall make any changes in the mortality, service, and other tables  
87 then in use which the results of the investigation show to be necessary.

88 14. Subject to the limitations of sections 169.010 to 169.141 and 169.600  
89 to 169.715, the board of trustees shall formulate and adopt rules and regulations  
90 for the government of its own proceedings and for the administration of the  
91 retirement system.

92 15. The board of trustees shall determine and decide all questions of  
93 doubt as to what constitutes employment within the meaning of sections 169.010  
94 to 169.141 and 169.600 to 169.715, the amount of benefits to be paid to members,  
95 retired members, beneficiaries and survivors and the amount of contributions to  
96 be paid by employer and employee. The executive director shall notify by  
97 certified mail both employer and member, retired member, beneficiary or survivor  
98 interested in such determination. Any member, retired member, beneficiary or  
99 survivor, district or employer adversely affected by such determination, at any  
100 time within thirty days after being notified of such determination, may appeal to  
101 the circuit court of Cole County. Such appeal shall be tried and determined anew

102 in the circuit court and such court shall hear and consider any and all competent  
103 testimony relative to the issues in the case, which may be offered by either party  
104 thereto. The circuit court shall determine the rights of the parties under sections  
105 169.010 to 169.141 and 169.600 to 169.715 using the same standard provided in  
106 section 536.150, RSMo, and the judgment or order of such circuit court shall be  
107 binding upon the parties and the board shall carry out such judgment or order  
108 unless an appeal is taken from such decision of the circuit court. Appeals may  
109 be had from the circuit court by the employer, member, retired member,  
110 beneficiary, survivor or the board, in the manner provided by the civil code.

111           16. The board of trustees shall keep a record of all its proceedings, which  
112 shall be open to public inspection. It shall prepare annually a comprehensive  
113 annual financial report, the financial section of which shall be prepared in  
114 accordance with applicable accounting standards and shall include the  
115 independent auditor's opinion letter. The report shall also include information  
116 on the actuarial status and the investments of the system. The reports shall be  
117 preserved by the executive director and made available for public inspection.

118           17. The board of trustees shall provide for the maintenance of an  
119 individual account with each member, setting forth such data as may be  
120 necessary for a ready determination of the member's earnings, contributions, and  
121 interest accumulations. It shall also collect and keep in convenient form such  
122 data as shall be necessary for the preparation of the required mortality and  
123 service tables and for the compilation of such other information as shall be  
124 required for the valuation of the system's assets and liabilities. All individually  
125 identifiable information pertaining to members, retirees, beneficiaries and  
126 survivors shall be confidential.

127           18. The board of trustees shall meet regularly at least twice each year,  
128 with the dates of such meetings to be designated in the rules and regulations  
129 adopted by the board. Such other meetings as are deemed necessary may be  
130 called by the chairman of the board or by any four members acting jointly.

131           19. The headquarters of the retirement system shall be in Jefferson City,  
132 where suitable office space, utilities and other services and equipment necessary  
133 for the operation of the system shall be provided by the board of trustees and all  
134 costs shall be paid from funds of the system. All suits or proceedings directly or  
135 indirectly against the board of trustees, the board's members or employees or the  
136 retirement system established by sections 169.010 to 169.141 or 169.600 to  
137 169.715 shall be brought in Cole County.

138           20. The board may appoint an attorney or firm of attorneys to be the legal  
139 advisor to the board and to represent the board in legal proceedings, however, if  
140 the board does not make such an appointment, the attorney general shall be the  
141 legal advisor of the board of trustees, and shall represent the board in all legal  
142 proceedings.

143           21. The board of trustees shall arrange for adequate surety bonds covering  
144 the executive director. When approved by the board, such bonds shall be  
145 deposited in the office of the secretary of state of this state.

146           22. The board shall arrange for annual audits of the records and accounts  
147 of the system by a firm of certified public accountants[.]. The state auditor [shall  
148 review the audit of the records and accounts of] **may audit** the system at least  
149 once every three years and shall report the results to the board of trustees and  
150 the governor.

151           23. The board by its rules may establish an interest charge to be paid by  
152 the employer on any payments of contributions which are delinquent. The rate  
153 charged shall not exceed the actuarially assumed rate of return on invested funds  
154 of the pertinent system.

          169.270. Unless a different meaning is clearly required by the context, the  
2 following words and phrases as used in sections 169.270 to 169.400 shall have the  
3 following meanings:

4           (1) "Accumulated contributions", the sum of all amounts deducted from  
5 the compensation of a member or paid on behalf of the member by the employer  
6 and credited to the member's individual account together with interest thereon  
7 in the employees' contribution fund. The board of trustees shall determine the  
8 rate of interest allowed thereon as provided for in section 169.295;

9           (2) "Actuarial equivalent", a benefit of equal value when computed upon  
10 the basis of formulas and/or tables which have been approved by the board of  
11 trustees. **The formulas and tables in effect at any time shall be set forth**  
12 **in a written document which shall be maintained at the offices of the**  
13 **retirement system and treated for all purposes as part of the documents**  
14 **governing the retirement system established by section 169.280. The**  
15 **formulas and tables may be changed from time to time if recommended**  
16 **by the retirement system's actuary and approved by the board of**  
17 **trustees;**

18           (3) "Average final compensation", the highest average annual  
19 compensation received for any four consecutive years of service. In determining

20 whether years of service are "consecutive", only periods for which creditable  
21 service is earned shall be considered, and all other periods shall be disregarded;

22 (4) "Beneficiary", any person designated by a member for a retirement  
23 allowance or other benefit as provided by sections 169.270 to 169.400;

24 (5) "Board of education", the board of directors or corresponding board, by  
25 whatever name, having charge of the public schools of the school district in which  
26 the retirement system is established;

27 (6) "Board of trustees", the board provided for in section 169.291 to  
28 administer the retirement system;

29 (7) "Break in service", an occurrence when a regular employee ceases to  
30 be a regular employee for any reason other than retirement (including  
31 termination of employment, resignation, or furlough but not including vacation,  
32 sick leave, excused absence or leave of absence granted by an employer) and such  
33 person does not again become a regular employee until after sixty consecutive  
34 calendar days have elapsed, or after fifteen consecutive school or work days have  
35 elapsed, whichever occurs later. A break in service also occurs when a regular  
36 employee retires under the retirement system established by section 169.280 and  
37 does not again become a regular employee until after fifteen consecutive school  
38 or work days have elapsed. A "school or work day" is a day on which the  
39 employee's employer requires (or if the position no longer exists, would require,  
40 based on past practice) employees having the former employee's last job  
41 description to report to their place of employment for any reason;

42 (8) "Charter school", any charter school established pursuant to sections  
43 160.400 to 160.420, RSMo, and located, at the time it is established, within the  
44 school district;

45 (9) "Compensation", the regular compensation as shown on the salary and  
46 wage schedules of the employer, including any amounts paid by the employer on  
47 a member's behalf pursuant to subdivision (5) of subsection 1 of section 169.350,  
48 but such term is not to include extra pay, overtime pay, consideration for entering  
49 into early retirement, or any other payments not included on salary and wage  
50 schedules. For any year beginning after December 31, 1988, the annual  
51 compensation of each member taken into account under the retirement system  
52 shall not exceed the limitation set forth in Section 401(a)(17) of the Internal  
53 Revenue Code of 1986, as amended;

54 (10) "Creditable service", the amount of time that a regular employee is  
55 a member of the retirement system and makes contributions thereto in

56 accordance with the provisions of sections 169.270 to 169.400;

57 (11) "Employee", any person who is classified by the school district, a  
58 charter school, the library district or the retirement system established by section  
59 169.280 as an employee of such employer and is reported contemporaneously for  
60 federal and state tax purposes as an employee of such employer. A person is not  
61 considered to be an employee for purposes of such retirement system with respect  
62 to any service for which the person was not reported contemporaneously for  
63 federal and state tax purposes as an employee of such employer, regardless of  
64 whether the person is or may later be determined to be or to have been a common  
65 law employee of such employer, including but not limited to a person classified  
66 by the employer as independent contractors and persons employed by other  
67 entities which contract to provide staff and services to the employer. In no event  
68 shall a person reported for federal tax purposes as an employee of a private,  
69 for-profit entity be deemed to be an employee eligible to participate in the  
70 retirement system established by section 169.280 with respect to such  
71 employment;

72 (12) "Employer", the school district, any charter school, the library  
73 district, or the retirement system established by section 169.280, or any  
74 combination thereof, as required by the context to identify the employer of any  
75 member, or, for purposes only of subsection 2 of section 169.324, of any retiree;

76 (13) "Employer's board", the board of education, the governing board of  
77 any charter school, the board of trustees of the library district, the board of  
78 trustees, or any combination thereof, as required by the context to identify the  
79 governing body of an employer;

80 (14) "Library district", any urban public library district created from or  
81 within a school district under the provisions of section 182.703, RSMo;

82 (15) "Medical board", the board of physicians provided for in section  
83 169.291;

84 (16) "Member", any person who is a regular employee after the retirement  
85 system has been established hereunder ("active member"), and any person who  
86 (i) was an active member, (ii) has vested retirement benefits hereunder, and (iii)  
87 is not receiving a retirement allowance hereunder ("inactive member");

88 (17) "Minimum normal retirement age", the earlier of the date the member  
89 attains the age of sixty or the date the member has a total of at least seventy-five  
90 credits, with each year of creditable service and each year of age equal to one  
91 credit, with both years of creditable service and years of age prorated for

92 fractional years;

93 (18) "Prior service", service prior to the date the system becomes operative  
94 which is creditable in accordance with the provisions of section 169.311. Prior  
95 service in excess of thirty-eight years shall be considered thirty-eight years;

96 (19) "Regular employee", any employee who is assigned to an established  
97 position which requires service of not less than twenty-five hours per week, and  
98 not less than nine calendar months a year. Any regular employee who is  
99 subsequently assigned without break in service to a position demanding less  
100 service than is required of a regular employee shall continue the employee's  
101 status as a regular employee. Except as stated in the preceding sentence, a  
102 temporary, part-time, or furloughed employee is not a regular employee;

103 (20) "Retirant", a former member receiving a retirement allowance  
104 hereunder;

105 (21) "Retirement allowance", annuity payments to a retirant or to such  
106 beneficiary as is entitled to same;

107 (22) "School district", any school district in which a retirement system  
108 shall be established under section 169.280.

169.280. 1. In each school district of this state (i) that now has or may  
2 hereafter have a population of not more than seven hundred thousand and (ii) not  
3 less than seventy percent of whose population resides in a city other than a city  
4 not within a county which now has or may hereafter have a population of four  
5 hundred thousand or more, according to the latest United States decennial  
6 census, there is hereby created and established a retirement system for the  
7 purpose of providing retirement allowances and related benefits for employees of  
8 the employer. Each such system shall be under the management of a board of  
9 trustees herein described, and shall be known as "The Public School Retirement  
10 System of (name of school district)", and by such name all of its business shall be  
11 transacted, all of its funds invested, and all of its cash and securities and other  
12 property held. When a school district first satisfies the foregoing population  
13 conditions, the board of education shall adopt a resolution certifying the same and  
14 take all actions necessary to cause the retirement system to begin operation on  
15 the thirtieth day of September following such certification.

16 2. In the event that (i) the population of a school district having a  
17 retirement system created hereunder should increase to a number greater than  
18 seven hundred thousand, or (ii) the population of the city in which not less than  
19 seventy percent of the population of the school district resides should decrease to



20 a number less than four hundred thousand, or (iii) less than seventy percent of  
21 the population of the school district should reside in a city having a population  
22 of at least four hundred thousand, or (iv) the corporate organization of the school  
23 district shall lapse in accordance with subsections 1 and 4 of section 162.081,  
24 RSMo, the retirement system of such school district shall continue to be governed  
25 by and subject to sections 169.270 to 169.400 and all other statutes, rules, and  
26 regulations applicable to retirement systems in school districts having a  
27 population of not more than seven hundred thousand and not less than seventy  
28 percent of whose population resides in a city, other than a city not within a  
29 county, of four hundred thousand or more, as if the population of such school  
30 district and city continued to be within such numerical limits.

31 **3. The plan of retirement benefits administered by the**  
32 **retirement system established hereby is intended to be a qualified plan**  
33 **under the provisions of applicable federal law. The board of trustees**  
34 **shall interpret the statutes governing the retirement system and shall**  
35 **administer the retirement system in all respects consistent with such**  
36 **intent. The assets of the retirement system shall be held in trust for**  
37 **the exclusive benefit of members and their beneficiaries and for**  
38 **defraying reasonable administrative expenses of the retirement system.**  
39 **No part of such assets shall, at any time prior to the satisfaction of all**  
40 **liabilities with respect to members and their beneficiaries, be used for**  
41 **or diverted to any purposes other than for such exclusive benefit or for**  
42 **any purpose inconsistent with the requirements of sections 169.270 to**  
43 **169.400.**

169.301. 1. Any active member who has completed five or more years of  
2 actual (not purchased) creditable service shall be entitled to a vested retirement  
3 benefit equal to the annual service retirement allowance provided in sections  
4 169.270 to 169.400 payable after attaining the minimum normal retirement age  
5 and calculated in accordance with the law in effect on the last date such person  
6 was a regular employee; provided, that such member does not withdraw such  
7 person's accumulated contributions pursuant to section 169.328 prior to attaining  
8 the minimum normal retirement age.

9 2. Any member who elected on October 13, 1961, or within thirty days  
10 thereafter, to continue to contribute and to receive benefits under sections  
11 169.270 to 169.400 may continue to be a member of the retirement system under  
12 the terms and conditions of the plan in effect immediately prior to October 13,

13 1961, or may, upon written request to the board of trustees, transfer to the  
14 present plan, provided that the member pays into the system any additional  
15 contributions with interest the member would have credited to the member's  
16 account if such person had been a member of the current plan since its inception  
17 or, if the person's contributions and interest are in excess of what the person  
18 would have paid, such person will receive a refund of such excess. The board of  
19 trustees shall adopt appropriate rules and regulations governing the operation  
20 of the plan in effect immediately prior to October 13, 1961.

21 3. Should a retirant again become an active member, such person's  
22 retirement allowance payments shall cease during such membership and shall be  
23 recalculated upon subsequent retirement to include any creditable service earned  
24 during the person's latest period of active membership in accordance with  
25 subsection 2 of section 169.324.

26 **4. In the event of the complete termination of the retirement**  
27 **system established by section 169.280 or the complete discontinuance**  
28 **of contributions to such retirement system, the rights of all members**  
29 **to benefits accrued to the date of such termination or discontinuance,**  
30 **to the extent then funded, shall be fully vested and nonforfeitable.**

169.324. 1. The annual service retirement allowance payable pursuant  
2 to section 169.320 in equal monthly installments for life shall be the retirant's  
3 number of years of creditable service multiplied by one and three-fourths percent  
4 of the person's average final compensation, subject to a maximum of sixty percent  
5 of the person's average final compensation. For any member who retires as an  
6 active member on or after June 30, 1999, the annual service retirement allowance  
7 payable pursuant to section 169.320 in equal monthly installments for life shall  
8 be the retirant's number of years of creditable service multiplied by two percent  
9 of the person's average final compensation, subject to a maximum of sixty percent  
10 of the person's average final compensation. Any member whose number of years  
11 of creditable service is greater than thirty-four and one-quarter on August 28,  
12 1993, shall receive an annual service retirement allowance payable pursuant to  
13 section 169.320 in equal monthly installments for life equal to the retirant's  
14 number of years of creditable service as of August 28, 1993, multiplied by one and  
15 three-fourths percent of the person's average final compensation but shall not  
16 receive a greater annual service retirement allowance based on additional years  
17 of creditable service after August 28, 1993. Provided, however, that, effective  
18 January 1, 1996, any retiree who retired on, before or after January 1, 1996, with

19 at least twenty years of creditable service shall receive at least three hundred  
20 dollars each month as a retirement allowance, or the actuarial equivalent thereof  
21 if the retiree elected any of the options available under section  
22 169.326. Provided, further, any retiree who retired with at least ten years of  
23 creditable service shall receive at least one hundred fifty dollars each month as  
24 a retirement allowance, plus fifteen dollars for each additional full year of  
25 creditable service greater than ten years but less than twenty years (or the  
26 actuarial equivalent thereof if the retiree elected any of the options available  
27 under section 169.326). Any beneficiary of a deceased retiree who retired with  
28 at least ten years of creditable service and elected one of the options available  
29 under section 169.326 shall also be entitled to the actuarial equivalent of the  
30 minimum benefit provided by this subsection, determined from the option chosen.

31       2. Except as otherwise provided in sections 169.331, 169.580 and 169.585,  
32 payment of a retirant's retirement allowance will be suspended for any month for  
33 which such person receives remuneration from the person's employer or from any  
34 other employer in the retirement system established by section 169.280 for the  
35 performance of services except any such person other than a person receiving a  
36 disability retirement allowance under section 169.322 may serve as a nonregular  
37 substitute, part-time or temporary employee for not more than six hundred hours  
38 in any school year without becoming a member and without having the person's  
39 retirement allowance discontinued, **provided that through such substitute,**  
40 **part-time, or temporary employment, the person may earn no more than**  
41 **fifty percent of the annual salary or wages the person was last paid by**  
42 **the employer before the person retired and commenced receiving a**  
43 **retirement allowance, adjusted for inflation. If a person exceeds such**  
44 **hours limit or such compensation limit, payment of the person's**  
45 **retirement allowance shall be suspended for the month in which such**  
46 **limit was exceeded and each subsequent month in the school year for**  
47 **which the person receives remuneration from any employer in the**  
48 **retirement system.** If a retirant is reemployed by any employer in any  
49 capacity, whether pursuant to this section, or section 169.331, 169.580, or  
50 169.585, or as a regular employee, the amount of such person's retirement  
51 allowance attributable to service prior to the person's first retirement date shall  
52 not be changed by the reemployment. If the person again becomes an active  
53 member and earns additional creditable service, upon the person's second  
54 retirement the person's retirement allowance shall be the sum of:

55 (1) The retirement allowance the person was receiving at the time the  
56 person's retirement allowance was suspended, pursuant to the payment option  
57 elected as of the first retirement date, plus the amount of any increase in such  
58 retirement allowance the person would have received pursuant to subsection 3 of  
59 this section had payments not been suspended during the person's reemployment;  
60 and

61 (2) An additional retirement allowance computed using the benefit  
62 formula in effect on the person's second retirement date, the person's creditable  
63 service following reemployment, and the person's average **final** annual  
64 compensation as of the second retirement date. The sum calculated pursuant to  
65 this subsection shall not exceed the greater of sixty percent of the person's  
66 average final compensation as of the second retirement date or the amount  
67 determined pursuant to subdivision (1) of this subsection. Compensation earned  
68 prior to the person's first retirement date shall be considered in determining the  
69 person's average final compensation as of the second retirement date if such  
70 compensation would otherwise be included in determining the person's average  
71 final compensation.

72 3. The board of trustees shall determine annually whether the investment  
73 return on funds of the system can provide for an increase in benefits for retirants  
74 eligible for such increase. A retirant shall and will be eligible for an increase  
75 awarded pursuant to this section as of the second January following the date the  
76 retirant commenced receiving retirement benefits. Any such increase shall also  
77 apply to any monthly joint and survivor retirement allowance payable to such  
78 retirant's beneficiaries, regardless of age. The board shall make such  
79 determination as follows:

80 (1) After determination by the actuary of the investment return for the  
81 preceding year as of December thirty-first (the "valuation year"), the actuary shall  
82 recommend to the board of trustees what portion of the investment return is  
83 available to provide such benefits increase, if any, and shall recommend the  
84 amount of such benefits increase, if any, to be implemented as of the first day of  
85 the thirteenth month following the end of the valuation year, and the first  
86 payable on or about the first day of the fourteenth month following the end of the  
87 valuation year. The actuary shall make such recommendations so as not to affect  
88 the financial soundness of the retirement system, recognizing the following  
89 safeguards:

90 (a) The retirement system's funded ratio as of January first of the year

91 preceding the year of a proposed increase shall be at least one hundred percent  
92 after adjusting for the effect of the proposed increase. The funded ratio is the  
93 ratio of assets to the pension benefit obligation;

94 (b) The actuarially required contribution rate, after adjusting for the  
95 effect of the proposed increase, may not exceed the statutory contribution rate;

96 (c) The actuary shall certify to the board of trustees that the proposed  
97 increase will not impair the actuarial soundness of the retirement system;

98 (d) A benefit increase, under this section, once awarded, cannot be  
99 reduced in succeeding years;

100 (2) The board of trustees shall review the actuary's recommendation and  
101 report and shall, in their discretion, determine if any increase is prudent and, if  
102 so, shall determine the amount of increase to be awarded.

103 4. This section does not guarantee an annual increase to any retirant.

104 5. If an inactive member becomes an active member after June 30, 2001,  
105 and after a break in service, unless the person earns at least four additional  
106 years of creditable service without another break in service, upon retirement the  
107 person's retirement allowance shall be calculated separately for each separate  
108 period of service ending in a break in service. The retirement allowance shall be  
109 the sum of the separate retirement allowances computed for each such period of  
110 service using the benefit formula in effect, the person's average final  
111 compensation as of the last day of such period of service and the creditable  
112 service the person earned during such period of service; provided, however, if the  
113 person earns at least four additional years of creditable service without another  
114 break in service, all of the person's creditable service prior to and including such  
115 service shall be aggregated and, upon retirement, the retirement allowance shall  
116 be computed using the benefit formula in effect and the person's average final  
117 compensation as of the last day of such period of four or more years and all of the  
118 creditable service the person earned prior to and during such period.

119 6. Notwithstanding anything contained in this section to the contrary, the  
120 amount of the annual service retirement allowance payable to any retirant  
121 pursuant to the provisions of sections 169.270 to 169.400, including any  
122 adjustments made pursuant to subsection 3 of this section, shall at all times  
123 comply with the provisions and limitations of Section 415 of the Internal Revenue  
124 Code of 1986, as amended, and the regulations thereunder, the terms of which are  
125 specifically incorporated herein by reference.

126 7. All retirement systems established by the laws of the state of Missouri

127 shall develop a procurement action plan for utilization of minority and women  
128 money managers, brokers and investment counselors. Such retirement systems  
129 shall report their progress annually to the joint committee on public employee  
130 retirement and the governor's minority advocacy commission.

169.328. 1. Should a member cease to be a regular employee, except by  
2 retirement, the member, if living, shall be paid on demand, made by written  
3 notice to the board of trustees, the amount of the person's accumulated  
4 contributions (with interest as determined by the board of trustees as provided  
5 in sections 169.270 to 169.400) standing to the credit of the person's individual  
6 account in the employees' contribution fund. The accumulated contributions with  
7 interest shall not be paid to a member so long as the person remains a regular  
8 employee or before the member incurs a break in service. If the member dies  
9 before retirement such accumulated contributions (with interest) shall be paid to  
10 the member's estate or designated beneficiary unless the provisions of subsection  
11 3 of section 169.326 apply.

12 2. If a former unvested member's accumulated contributions have not been  
13 withdrawn four years after the person has ceased to be a member (other than by  
14 reason of death or retirement), the board of trustees shall pay the same to such  
15 former member within a reasonable time after the expiration of such four-year  
16 period.

17 3. If, on account of undeliverability, improper mailing or forwarding  
18 address, or other similar problem, the board of trustees is unable to refund the  
19 accumulated contributions of a former unvested member or to commence payment  
20 of retirement benefits within four years after the end of the calendar year in  
21 which such former member ceased to be a regular employee, the board may  
22 transfer the accumulated contributions to the general reserve fund. If, thereafter,  
23 written application is made to the board of trustees for such refund or benefits,  
24 the board shall cause the same to be paid from the general reserve fund, but no  
25 interest shall be accrued after the end of the fourth year following the end of the  
26 calendar year in which such former member ceased to be a regular employee.

27 4. In its discretion the board of trustees may approve extensions of any  
28 time periods in this section on account of a former member's military or naval  
29 service, academic study or illness.

30 **5. Any member or beneficiary who is entitled to receive a**  
31 **distribution that is an eligible rollover distribution, as defined in**  
32 **Section 402(c)(4) of the Internal Revenue Code, may elect to have that**

33 distribution transferred directly to another eligible retirement plan, as  
34 defined in Section 402(c)(8) of the Internal Revenue Code, designated  
35 by the member or beneficiary in accordance with procedures  
36 established by the board of trustees. An eligible rollover distribution  
37 shall include a distribution to a nonspouse beneficiary that is treated  
38 as an eligible rollover distribution under Section 402(c)(11) of the  
39 Internal Revenue Code. All such transfers shall be made in compliance  
40 with the requirements of Section 401(a)(31) of the Internal Revenue  
41 Code and regulations thereunder.

476.521. 1. Notwithstanding any provision of chapter 476 to the  
2 contrary, each person who first becomes a judge on or after January 1,  
3 2011, and continues to be a judge may receive benefits as provided in  
4 sections 476.445 to 476.688 subject to the provisions of this section.

5 2. Any person who is at least sixty-seven years of age, has served  
6 in this state an aggregate of at least twelve years, continuously or  
7 otherwise, as a judge, and ceases to hold office by reason of the  
8 expiration of the judge's term, voluntary resignation, or retirement  
9 pursuant to the provisions of subsection 2 of section 24 of article V of  
10 the Constitution of Missouri may receive benefits as provided in  
11 sections 476.515 to 476.565. The twelve-year requirement of this  
12 subsection may be fulfilled by service as judge in any of the courts  
13 covered, or by service in any combination as judge of such courts,  
14 totaling an aggregate of twelve years. Any judge who is at least sixty-  
15 seven years of age and who has served less than twelve years and is  
16 otherwise qualified under sections 476.515 to 476.565 may retire after  
17 reaching age sixty-seven, or thereafter, at a reduced retirement  
18 compensation in a sum equal to the proportion of the retirement  
19 compensation provided in section 476.530 that his or her period of  
20 judicial service bears to twelve years.

21 3. Any person who is at least sixty-two years of age or older, has  
22 served in this state an aggregate of at least twenty years, continuously  
23 or otherwise, as a judge, and ceases to hold office by reason of the  
24 expiration of the judge's term, voluntary resignation, or retirement  
25 pursuant to the provisions of subsection 2 of section 24 of article V of  
26 the Constitution of Missouri may receive benefits as provided in  
27 sections 476.515 to 476.565. The twenty-year requirement of this  
28 subsection may be fulfilled by service as a judge in any of the courts

29 covered, or by service in any combination as judge of such courts,  
30 totaling an aggregate of twenty years. Any judge who is at least sixty-  
31 two years of age and who has served less than twenty years and is  
32 otherwise qualified under sections 476.515 to 476.565 may retire after  
33 reaching age sixty-two, at a reduced retirement compensation in a sum  
34 equal to the proportion of the retirement compensation provided in  
35 section 476.530 that his or her period of judicial service bears to twenty  
36 years.

37 4. All judges under this section required by the provisions of  
38 section 26 of article V of the Constitution of Missouri to retire at the  
39 age of seventy years shall retire upon reaching that age.

40 5. The provisions of sections 104.344, 476.524, and 476.690 shall  
41 not apply to judges covered by this section.

42 6. A judge shall be required to contribute four percent of the  
43 judge's compensation to the retirement system, which shall stand to the  
44 judge's credit in his or her individual account with the system, together  
45 with investment credits thereon, for purposes of funding retirement  
46 benefits payable as provided in sections 476.515 to 476.565, subject to  
47 the following provisions:

48 (1) The state of Missouri employer, pursuant to the provisions of  
49 26 U.S.C. section 414(h)(2), shall pick up and pay the contributions that  
50 would otherwise be payable by the judge under this section. The  
51 contributions so picked up shall be treated as employer contributions  
52 for purposes of determining the judge's compensation that is includable  
53 in the judge's gross income for federal income tax purposes;

54 (2) Judge contributions picked up by the employer shall be paid  
55 from the same source of funds used for the payment of compensation  
56 to a judge. A deduction shall be made from each judge's compensation  
57 equal to the amount of the judge's contributions picked up by the  
58 employer. This deduction, however, shall not reduce the judge's  
59 compensation for purposes of computing benefits under the retirement  
60 system pursuant to this chapter;

61 (3) Judge contributions so picked up shall be credited to a  
62 separate account within the judge's individual account so that the  
63 amounts contributed pursuant to this section may be distinguished  
64 from the amounts contributed on an after tax basis;

65 (4) The contributions, although designated as employee



66 contributions, are being paid by the employer in lieu of the  
67 contributions by the judge. The judge shall not have the option of  
68 choosing to receive the contributed amounts directly instead of having  
69 them paid by the employer to the retirement system;

70 (5) Interest shall be credited annually on June 30 based on the  
71 value in the account as of July 1 of the immediately preceding year at  
72 a rate of four percent. Interest credits shall cease upon retirement of  
73 the judge;

74 (6) A judge whose employment is terminated may request a  
75 refund of his or her contributions and interest credited thereon. If  
76 such judge is married at the time of such request, such request shall  
77 not be processed without consent from the spouse. A judge is not  
78 eligible to request a refund if the judge's retirement benefit is subject  
79 to a division of benefit order pursuant to section 104.312. Such refund  
80 shall be paid by the system after ninety days from the date of  
81 termination of employment or the request, whichever is later and shall  
82 include all contributions made to any retirement plan administered by  
83 the system and interest credited thereon. A judge may not request a  
84 refund after such judge becomes eligible for retirement benefits under  
85 sections 476.515 to 476.565. A judge who receives a refund shall forfeit  
86 all the judge's service and future rights to receive benefits from the  
87 system and shall not be eligible to receive any long term disability  
88 benefits; provided that any judge or former judge receiving long term  
89 disability benefits shall not be eligible for a refund. If such judge  
90 subsequently becomes a judge and works continuously for at least one  
91 year, the service previously forfeited shall be restored if the judge  
92 returns to the system the amount previously refunded plus interest at  
93 a rate established by the board;

94 (7) The beneficiary of any judge who made contributions shall  
95 receive a refund upon the judge's death equal to the amount, if any, of  
96 such contributions less any retirement benefits received by the judge  
97 unless an annuity is payable to a survivor or beneficiary as a result of  
98 the judge's death. In that event, the beneficiary of the survivor or  
99 beneficiary who received the annuity shall receive a refund upon the  
100 survivor's or beneficiary's death equal to the amount, if any, of the  
101 judge's contributions less any annuity amounts received by the judge  
102 and the survivor or beneficiary.

103           7. The employee contribution rate, the benefits provided under  
104 sections 476.515 to 476.565, and any other provision of sections 476.515  
105 to 476.565 with regard to judges covered under this section may be  
106 altered, amended, increased, decreased, or repealed, but only with  
107 respect to services rendered by the judge after the effective date of  
108 such alteration, amendment, increase, decrease, or repeal, or, with  
109 respect to interest credits, for periods of time after the effective date  
110 of such alteration, amendment, increase, decrease, or repeal.

          476.527. Any judge who is receiving retirement compensation  
2 under section 476.530 who becomes employed on or after January 1,  
3 2011, as an employee eligible to participate in the year 2000 plan under  
4 chapter 104, shall not receive such retirement compensation for any  
5 calendar month in which the retired judge is so employed. Any judge  
6 who is receiving retirement compensation under section 476.530 who  
7 subsequently serves as a judge as defined pursuant to subdivision (4)  
8 of subsection 1 of section 476.515 shall not receive such retirement  
9 compensation for any calendar month in which the retired judge is  
10 serving as a judge; except that upon retirement such judge's annuity  
11 shall be recalculated to include any additional service or salary  
12 accrued based on the judge's subsequent service. A judge who is  
13 receiving compensation under section 476.530 may continue to receive  
14 such retirement compensation while serving as a senior judge or senior  
15 commissioner and shall receive additional credit and salary for such  
16 service pursuant to section 476.682.

          476.529. 1. In lieu of the retirement compensation provided in  
2 section 476.530, a judge employed for the first time on or after January  
3 1, 2011, may elect in the judge's application for retirement whether or  
4 not to have such judge's annuity reduced, and designate a beneficiary,  
5 as provided by the options set forth in this subsection prior to the  
6 judge's annuity starting date:

          Option 1. A judge's annuity shall be reduced to a certain percent  
8 of the annuity otherwise payable. Such percent shall be eighty-eight  
9 and one half percent adjusted as follows: if the judge's age on the  
10 annuity starting date is younger than sixty-seven years, an increase of  
11 three-tenths of one percent for each year the judge's age is younger  
12 than age sixty-seven years; and if the beneficiary's age is younger than  
13 the judge's age on the annuity starting date, a decrease of three-tenths

14 of one percent for each year of age difference; and if the judge's age is  
15 younger than the beneficiary's age on the annuity starting date, an  
16 increase of three-tenths of one percent for each year of age difference;  
17 provided, after all adjustments the option 1 percent cannot exceed  
18 ninety-four and one quarter percent. Upon the judge's death, fifty  
19 percent of the judge's reduced annuity shall be paid to such beneficiary  
20 who was the judge's spouse on the annuity starting date or as otherwise  
21 provided by subsection 5 of this section.

22       **Option 2.** A judge's life annuity shall be reduced to a certain  
23 percent of the annuity otherwise payable. Such percent shall be eighty-  
24 one percent adjusted as follows: if the judge's age on the annuity  
25 starting date is younger than sixty-seven years, an increase of four-  
26 tenths of one percent for each year the judge's age is younger than  
27 sixty-seven years; and if the beneficiary's age is younger than the  
28 judge's age on the annuity starting date, a decrease of five-tenths of one  
29 percent for each year of age difference; and if the judge's age is  
30 younger than the beneficiary's age on the annuity starting date, an  
31 increase of five-tenths of one percent for each year of age difference;  
32 provided, after all adjustments the option 2 percent cannot exceed  
33 eighty-seven and three quarter percent. Upon the judge's death one  
34 hundred percent of the judge's reduced annuity shall be paid to such  
35 beneficiary who was the judge's spouse on the annuity starting date or  
36 as otherwise provided by subsection 5 of this section.

37       **Option 3.** A judge's life annuity shall be reduced to ninety-three  
38 percent of the annuity otherwise payable. If the judge dies before  
39 having received one hundred twenty monthly payments, the reduced  
40 annuity shall be continued for the remainder of the one hundred  
41 twenty-month period to the judge's designated beneficiary provided  
42 that if there is no beneficiary surviving the judge, the present value of  
43 the remaining annuity payments shall be paid as provided under  
44 subsection 4 of section 104.1054 as if the judge was a deceased member  
45 under that section. If the beneficiary survives the judge but dies before  
46 receiving the remainder of such one hundred twenty monthly  
47 payments, the present value of the remaining annuity payments shall  
48 be paid as provided under subsection 4 of section 104.1054 for a  
49 deceased beneficiary under that section.

50       **Option 4.** A judge's life annuity shall be reduced to eighty-six

51 percent of the annuity otherwise payable. If the judge dies before  
52 having received one hundred eighty monthly payments, the reduced  
53 annuity shall be continued for the remainder of the one hundred  
54 eighty-month period to the judge's designated beneficiary provided that  
55 if there is no beneficiary surviving the judge, the present value of the  
56 remaining annuity payments shall be paid as provided under  
57 subsection 4 of section 104.1054 as if the judge was a deceased member  
58 under that section. If the beneficiary survives the judge but dies before  
59 receiving the remainder of such one hundred twenty monthly  
60 payments, the present value of the remaining annuity payments shall  
61 be paid as provided under subsection 4 of section 104.1054 for a  
62 deceased beneficiary under that section.

63         2. If a judge is married as of the annuity starting date, the  
64 judge's annuity shall be paid under the provisions of either option 1 or  
65 option 2 as set forth in subsection 1 of this section, at the judge's  
66 choice, with the spouse as the judge's designated beneficiary unless the  
67 spouse consents in writing to the judge electing another available form  
68 of payment.

69         3. If a judge has elected at the annuity starting date option 1 or  
70 2 pursuant to this section and if the judge's spouse or eligible former  
71 spouse dies after the annuity starting date but before the judge dies,  
72 then the judge may cancel the judge's election and return to the  
73 unreduced annuity form of payment and annuity amount, effective the  
74 first of the month following the date of such spouse's or eligible former  
75 spouse's death. If a judge dies prior to notifying the system of the  
76 spouse's death, the benefit will not revert to an unreduced annuity and  
77 no retroactive payments shall be made.

78         4. If a judge designates a spouse as a beneficiary pursuant to this  
79 section and subsequently that marriage ends as a result of a dissolution  
80 of marriage, such dissolution shall not affect the option election  
81 pursuant to this section and the former spouse shall continue to be  
82 eligible to receive survivor benefits upon the death of the judge.

83         5. A judge may make an election under option 1 or 2 after the  
84 annuity starting date as described in this section if the judge makes  
85 such election within one year from the date of marriage pursuant to  
86 any of the following circumstances:

87             (1) The judge elected to receive a life annuity and was not

88 eligible to elect option 1 or 2 on the annuity starting date; or

89 (2) The judge's annuity reverted to a normal or early retirement  
90 annuity pursuant to subsection 3 of this section, and the judge  
91 remarried.

92 6. A judge may change a judge's election made under this section  
93 at any time prior to the system mailing or electronically transferring  
94 the first annuity payment to such member.

✓  
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