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SB-1352 State teachers' retirement. (2015-2016)

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Senate Bill No. 1352

CHAPTER 218

An act to amend Sections 22106.1, 22115.2, 22120, 22134, 22134.5, 22508, 22508.5, 22509, 22515, 22664, 22703, 22717, 22850, 22851, 22852, 22853, 22853.5, 22854, 24005, 24105, 24201.5, 24204, 24209, 24209.3, 24211, 24212, 24213, 24322, 24410, 24606, 25001, 25006, 26202, 26604, 26808, 26810, 28000, 28001, and 28002 of, to amend, repeal, and add Sections 22905 and 26603 of, to add Section 22168.5 to, to repeal Sections 22109.5 and 22136 of, and to repeal and amend Section 22101.5 of, the Education Code, relating to state teachers' retirement.

[Approved by Governor August 26, 2016. Filed with Secretary of State August 26, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1352, Committee on Public Employment and Retirement. State teachers' retirement.

Existing law, the Teachers' Retirement Law, establishes the State Teachers' Retirement System (STRS) and creates the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program, based on final compensation, credited service, and age at retirement, subject to certain variations. STRS is administrated by the Teachers' Retirement Board. The Defined Benefit Program is funded by employer and employee contributions, as well as investment returns and state appropriations, which are deposited or credited to the Teachers' Retirement Fund.

(1) Existing law authorizes a disabled member to apply for a disability allowance or a disability retirement if he or she has 5 or more years of service and specified requirements are met. STRS provides retired and disabled members certain supplemental benefits, including those that maintain purchasing power up to a specified percent. Existing law prescribes base dates for purposes of applying postretirement benefit increases based on whether final compensation is used to calculate a service retirement upon termination of a disability allowance or if the disability allowance is continued, as specified. Existing law defines base allowance for these purposes.

This bill would provide that definition of base allowance does not apply to provisions relating to base dates, as described above. The bill would, instead, revise the base date provisions to prescribe a method for their determination when applied to supplemental benefits and a disability allowance effective date is used.

(2) Existing law defines a break in service for the purpose of defining a member's final compensation and defines final compensation with respect to a member whose salary while an active member was reduced because of a reduction in school funds, as specified. Existing law provides that, for these purposes, periods in which a member's salary was reduced may be aggregated, as specified.

This bill would repeal these provisions and revise definitions of final compensation to address breaks in service, including with reference to periods during which a member's salary was reduced because of a reduction in school funds. The bill would define school term for these purposes. The bill would define final compensation for purposes of calculating a benefit that does not

include service credit, which would include disability and family allowances. The bill, among other things, would also revise and clarify provisions relating to determining final compensation in connection with concurrent retirement when a member has concurrent membership in another retirement system. The bill would make various conforming changes in connection with these changes.

(3) Existing law authorizes members who become employed in specified capacities in positions that are covered by other retirement systems, or who perform service that may be excluded from coverage in certain respects, to elect coverage under the Defined Benefit Program. These provisions prescribe requirements for making this election effective, generally providing that they be made on a form prescribed by the system within 60 days of hire.

This bill would revise these requirements to require that the election forms be received by STRS, as specified, within 30 days of signature.

(4) Federal law, the Uniformed Services Employment and Reemployment Rights Act of 1994, requires pension plans to treat members who return from military service as if they did not have a break in service for purposes of certain provisions, which requirements are reflected in various provisions of the Teachers' Retirement Law. Existing law establishes the Defined Benefit Supplement Program for the purpose of providing supplemental benefits to members whose earnings are in excess of specified amounts. Existing law establishes the Cash Balance Benefit Program, administered by the Teachers' Retirement Board, as a separate benefit program within the State Teachers' Retirement Plan in order to provide a retirement plan for persons employed to perform creditable service for less than 50% of full-time service.

This bill would make clarifying, conforming, and technical changes to reflect the requirements of federal law and specifically to account for its application to the Defined Benefit Supplement Program.

(5) Existing law requires that specified member contributions and employer contributions be credited to a member's individual account in the Defined Benefit Program or the Defined Benefit Supplement Program pursuant to the applicable provisions in the Teachers' Retirement Law. Existing law requires the system to make a determination regarding the timing of the crediting of contributions relating to compensation for creditable service in excess of one year. Existing law prescribes how these provisions become operative based on a computation to be made by the Superintendent of Public Instruction for the 2001–02 fiscal year.

This bill would repeal and reenact these provisions, as of July 1, 2018, eliminating obsolete language regarding their operation and establishing when contributions are credited without regard to a determination by the system.

(6) Existing law requires that disability allowances and disability retirement allowances become effective on a date designated by the member, subject to certain requirements, including that the date is later than the last day of creditable service for which compensation is payable.

This bill would revise the reference to creditable service to instead refer to the last day the member earned creditable compensation, as defined.

(7) Existing law prescribes different methods of calculating a STRS service retirement, which depend on whether a member had previously received a disability allowance, disability retirement, or service retirement subsequent to which he or she reinstated in the system. Existing law identifies different methods of calculating service credit in this context, which may be applied to certain benefit enhancements such as that related to longevity. Existing law generally permits unused sick leave to be used for the purpose of calculating service credit, subject to a specified calculation.

This bill would provide, for purposes of the service retirements described above, that a certain amount of credited service that results from application of unused sick leave is to be applied to specified benefit enhancements. The bill would prohibit a member who elects a lump-sum retirement benefit from being eligible for specified disability benefits. The bill would prescribe a method for calculating service credit from unused sick leave for specified members.

(8) Existing law requires amounts of benefits that cannot be paid because a member or beneficiary cannot be located be returned to the retirement fund. Existing law prohibits interest from accruing on returned warrants in payment of benefits and contributions that are drawn and canceled by the Controller.

This bill would prohibit the accruing of interest on payments rejected pursuant to electronic fund transfers.

(9) Existing law permits a participant in the Cash Balance Benefit Program, who is employed while receiving an annuity under the program, to terminate the annuity and again make contributions to the program, subject to certain conditions, including that the participant has reached normal retirement age and has been receiving an annuity for at least a year.

This bill would revise the conditions pursuant to which an annuity may be terminated to eliminate the requirements that the participant has reached normal retirement age and has been receiving an annuity for at least a year, and prescribe administrative provisions.

(10) Existing law requires that employee contributions and employer contributions for the Cash Balance Benefit Program be credited to their respective accounts as of the first working day following the date all contributions to fully satisfy the contribution report, as specified, are received by the system.

This bill, on and after July 1, 2018, would require that employee contributions and employer contributions be credited to their respective accounts as of the day contributions are required to be transmitted to the plan. The bill would also make a conforming change.

(11) This bill would also make other technical, clarifying, and conforming changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 22101.5 of the Education Code, as added by Section 3 of Chapter 74 of the Statutes of 2000, is repealed.

SEC. 2. Section 22101.5 of the Education Code, as added by Section 1 of Chapter 1021 of the Statutes of 2000, is amended to read:

22101.5. "Accumulated Defined Benefit Supplement account balance" means the amount of credits equal to the sum of member contributions, the member contributions picked up by an employer, employer contributions, interest credited pursuant to Section 25005 and additional earnings credited pursuant to Section 25006.

SEC. 3. Section 22106.1 of the Education Code is amended to read:

22106.1. For the purposes of determining supplemental benefits pursuant to Sections 24412 and 24415, except as provided under Section 24410, "base allowance" means a monthly allowance under the Defined Benefit Program prior to all allowance increases by this part and after modification for an option, if applicable.

SEC. 4. Section 22109.5 of the Education Code is repealed.

SEC. 5. Section 22115.2 of the Education Code is amended to read:

22115.2. "Concurrent membership" means membership in the Defined Benefit Program by an individual who is credited with service that is not used as a basis for benefits under any other public retirement system and is also a member of the California Public Employees' Retirement System, the Legislators' Retirement System, the University of California Retirement System, county retirement systems established under Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code, or the San Francisco Employees' Retirement System. A member with concurrent membership shall have the right to the following:

(a) Have final compensation determined pursuant to subdivision (d) of Section 22134 or subdivision (d) of Section 22134.5.

(b) Redeposit accumulated retirement contributions pursuant to Section 23201.

(c) Apply for retirement pursuant to paragraph (2) of subdivision (a) of Section 24201.

SEC. 6. Section 22120 of the Education Code is amended to read:

22120. "Credited interest" means interest that is credited to active members' and inactive members' accumulated retirement contributions and accumulated annuity deposit contributions at a rate set annually by the board as a plan amendment with respect to the Defined Benefit Program.

SEC. 7. Section 22134 of the Education Code is amended to read:

22134. (a) "Final compensation" means the highest average annual compensation earnable, as defined by Section 22115, by a member during any period of 36 consecutive months of service while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944.

(b) For purposes of this section, periods of service separated by breaks in service or by periods in which a member's salary was reduced because of a reduction in school funds as certified by the employer may be aggregated, if the periods of service are consecutive except for the breaks or periods of salary reduction.

(c) The following shall be considered periods of service for the purpose of determining final compensation:

(1) The full pay period if the member earns creditable compensation within that pay period, but not beyond the benefit effective date except as provided in paragraph (3).

(2) The months of the school year preceding the school term if the member earns creditable compensation during the first pay period of that school term.

(3) The months of the school year following the school term if the member earns creditable compensation during the last pay period of that school term.

(4) Any period that is excluded from the school term if a member earns creditable compensation during the pay periods immediately preceding and immediately following the excluded period.

(d) The determination of final compensation of a member who is eligible for concurrent retirement as defined in Section 22115.5 shall take into consideration the compensation a person could earn for services rendered on a full-time basis while a member of a retirement system with which the member has concurrent membership, as defined in Section 22115.2, provided that both of the following exist:

(1) Service under any other system was not performed during the same pay period with service under the Defined Benefit Program.

(2) Retirement for service under the Defined Benefit Program is concurrent with the member's retirement for service under any other system pursuant to Section 22115.5.

(e) The creditable compensation for the first school year in which a member earned creditable compensation shall be used when additional months of creditable compensation are required for the purpose of determining final compensation.

(f) If a member has received service credit for part-time service performed prior to July 1, 1956, the member's final compensation shall be adjusted for that service in excess of one year by the ratio that part-time service bears to full-time service.

(g) For purposes of calculating a benefit that does not include service credit, final compensation shall be the highest average annual creditable compensation earned by a member during any period of 36 consecutive months of service, excluding compensation for which contributions are credited to the Defined Benefit Supplement Program. Final compensation determined pursuant to this subdivision shall not exceed the amount determined pursuant to subdivision (a).

(h) The amendment of former Section 22127 made by Chapter 782 of the Statutes of 1982 does not constitute a change in, but is declaratory of, the existing law.

SEC. 8. Section 22134.5 of the Education Code is amended to read:

22134.5. (a) Notwithstanding Section 22134, "final compensation" means the highest average annual compensation earnable, as defined in Section 22115, by a member during any period of 12 consecutive months of service while an active member of the Defined Benefit Program or time during which he or she was not a member but for which the member has received credit under the Defined Benefit Program, except time that was so credited for service performed outside this state prior to July 1, 1944.

(b) For purposes of this section, periods of service separated by breaks in service may be aggregated, if the periods of service are consecutive except for the breaks.

(c) The following shall be considered periods of service for the purpose of determining final compensation:

(1) The full pay period if the member earns creditable compensation within that pay period, but not beyond the benefit effective date except as provided in paragraph (3).

(2) The months of the school year preceding the school term if the member earns creditable compensation during the first pay period of that school term.

(3) The months of the school year following the school term if the member earns creditable compensation during the last pay period of that school term.

(4) Any period that is excluded from the school term if a member earns creditable compensation during the pay periods immediately preceding and immediately following the excluded period.

(d) The determination of final compensation of a member who is eligible for concurrent retirement as defined in Section 22115.5 shall take into consideration the compensation a person could earn for services rendered on a full-time basis while a member of a

retirement system with which the member has concurrent membership, as defined in Section 22115.2, provided that both of the following exist:

(1) Service under any other system was not performed during the same pay period with service under the Defined Benefit Program.

(2) Retirement for service under the Defined Benefit Program is concurrent with the member's retirement for service under any other system pursuant to Section 22115.5.

(e) If a member has received service credit for part-time service performed prior to July 1, 1956, the member's final compensation shall be adjusted for that service in excess of one year by the ratio that part-time service bears to full-time service.

(f) For purposes of calculating a benefit that does not include service credit, final compensation shall be the highest average annual creditable compensation earned by a member during any period of 12 consecutive months of service, excluding compensation for which contributions are credited to the Defined Benefit Supplement Program. Final compensation determined pursuant to this subdivision shall not exceed the amount determined pursuant to subdivision (a).

(g) This section shall apply to the following:

(1) A member who has 25 or more years of credited service, excluding service credited pursuant to the following:

(A) Section 22714.

(B) Section 22715.

(C) Section 22717, except as provided in subdivision (c) of Section 22121.

(D) Section 22826.

(2) A nonmember spouse, if the member had 25 or more years of credited service, as calculated in paragraph (1), on the date the parties separated, as established in the judgment or court order pursuant to Section 22652.

(3) This section shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

SEC. 9. Section 22136 of the Education Code is repealed.

SEC. 10. Section 22168.5 is added to the Education Code, to read:

22168.5. "School term" means a minimum period of 35 weeks beginning the first day and ending the last day creditable service is required to be performed by a member employed on a full-time basis, excluding any period that has been excluded pursuant to a publicly available written contractual agreement. The school term shall also be the same for a member who is not employed on a full-time basis who is performing the same duties as a member employed on a full-time basis.

SEC. 11. Section 22508 of the Education Code is amended to read:

22508. (a) A member who becomes employed by the same or a different school district or community college district, or a county superintendent, or who becomes employed by the state in a position described in subdivision (b), to perform service that requires membership in a different public retirement system, and who is not excluded from membership in that public retirement system, may elect to have that service subject to coverage by the Defined Benefit Program of this plan and excluded from coverage by the other public retirement system. If that election is made, the service performed for the employer after the date of hire shall be considered creditable service for purposes of this part.

(b) Subdivision (a) shall apply to a member who becomes employed by the state only if the member is also one of the following:

(1) Represented by a state bargaining unit that represents educational consultants, professional educators, or librarians employed by the state.

(2) Excluded from the definition of "state employee" in subdivision (c) of Section 3513 of the Government Code, but performing, supervising, or managing work similar to work performed by employees described in paragraph (1).

(3) In a position not covered by civil service and in the executive branch of government, but performing, supervising, or managing work similar to work performed by employees described in paragraph (1).

(c) (1) A member of the Public Employees' Retirement System described in paragraph (2) who is subsequently employed to perform creditable service requiring coverage by the Defined Benefit Program of this plan may elect to have that subsequent service subject to coverage by the Public Employees' Retirement System and excluded from coverage by the Defined Benefit

Program pursuant to Section 20309 of the Government Code. If the election is made, creditable service performed for the employer after the date of hire shall be subject to coverage by the Public Employees' Retirement System.

(2) This subdivision shall apply to a member of the Public Employees' Retirement System who either (A) is employed by a school district, community college district, a county superintendent, or the State Department of Education or (B) has at least five years of credited service under the system.

(d) An election made by a member pursuant to this section shall be irrevocable.

SEC. 12. Section 22508.5 of the Education Code is amended to read:

22508.5. (a) Any person who is a member of the Defined Benefit Program of the State Teachers' Retirement Plan employed by a community college district who subsequently is employed by the Board of Governors of the California Community Colleges to perform duties that are subject to membership in a different public retirement system may elect to have that service subject to coverage by the Defined Benefit Program of this plan and excluded from coverage by the other public retirement system. Only a person who has achieved plan vesting is eligible to elect to continue as a member of the program.

(b) A member of the Public Employees' Retirement System who is employed by the Board of Governors of the California Community Colleges who subsequently is employed by a community college district to perform creditable service subject to coverage under the Defined Benefit Program, may elect to have that service subject to coverage by the Public Employees' Retirement System and excluded from coverage under the Defined Benefit Program pursuant to Section 20309 of the Government Code.

(c) This section shall apply to changes in employment effective on or after January 1, 1998.

SEC. 13. Section 22509 of the Education Code is amended to read:

22509. (a) Within 10 working days of the date of hire of an employee who has the right to make an election pursuant to Section 22508 or 22508.5, the employer shall inform the employee of the right to make an election and shall make available to the employee written information provided by each retirement system concerning the benefits provided under that retirement system to assist the employee in making an election.

(b) Any election made pursuant to subdivision (a) of Section 22508 or subdivision (a) of Section 22508.5 shall be made in writing on a form prescribed by the system within 60 days from the date of hire in the position requiring membership in the other public retirement system and shall be received at the system's headquarters office within 30 days after the date of the member's signature. A copy of the election shall be filed with the other public retirement system.

(c) Any election made pursuant to subdivision (c) of Section 22508 or subdivision (b) of Section 22508.5 shall be filed with the office of the Public Employees' Retirement System and a copy of the election shall be filed with the office of this system.

(d) Any election made pursuant to Section 22508 or Section 22508.5 shall become effective as of the first day of employment in the position that qualified the employee to make an election.

SEC. 14. Section 22515 of the Education Code is amended to read:

22515. (a) Persons excluded from membership pursuant to Sections 22601.5, 22602, and 22604 may elect membership in the Defined Benefit Program at any time while employed to perform creditable service subject to coverage under that program.

(b) The election shall be in writing on a form prescribed by this system and shall be received at the system's headquarters office within 30 days after the date of the member's signature and prior to submission of contributions. Membership in the Defined Benefit Program shall become effective as of the first day of the pay period following the election. The election is irrevocable and shall remain in effect until the member terminates employment and receives a refund of accumulated retirement contributions.

(c) The amendments to this section enacted during the 1995–96 Regular Session shall be deemed to have become operative on July 1, 1996.

SEC. 15. Section 22664 of the Education Code is amended to read:

22664. The nonmember spouse who is awarded a separate account shall have the right to a service retirement allowance and, if applicable, a retirement benefit under this part.

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

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

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

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

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

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

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

(3) The effective date is no earlier than the first day of the month that the application is received at the system's headquarters office and the effective date is after the date the judgment or court order pursuant to Section 22652 was entered.

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

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

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

Age at Retirement	Percentage
60¼	2.033
60½	2.067
60¾	2.10
61	2.133
61¼	2.167
61½	2.20
61¾	2.233
62	2.267
62¼	2.30
62½	2.333
62¾	2.367
63 and over	2.40

(4) In computing the retirement allowance of the nonmember spouse, the age of the nonmember spouse on the last day of the month that the retirement allowance begins to accrue shall be used.

(5) Final compensation, for purposes of calculating the service retirement allowance of the nonmember spouse under this subdivision, shall be calculated according to the definition of final compensation in Section 22134, 22134.5, or 22135, whichever is applicable, and shall be based on the member's compensation earnable up to the date the parties separated, as established in the judgment or court order pursuant to Section 22652. The nonmember spouse shall not be entitled to use any other calculation of final compensation.

(d) Upon service retirement under this part, the nonmember spouse shall receive a retirement benefit based on an amount equal to the balance of credits in the nonmember spouse's Defined Benefit Supplement account on the date the retirement benefit

becomes payable.

(1) A retirement benefit shall be a lump-sum payment, or an annuity payable in monthly installments, or a combination of both a lump-sum payment and an annuity, as elected by the nonmember spouse on the application for a retirement benefit. A retirement benefit paid as an annuity under this chapter shall be subject to Sections 22660, 25011, and 25011.1.

(2) Upon distribution of the entire retirement benefit in a lump-sum payment, no other benefit shall be payable to the nonmember spouse or the nonmember spouse's beneficiary under the Defined Benefit Supplement Program.

(e) If the member is or was receiving a disability allowance under this part with an effective date before or on the date the parties separated as established in the judgment or court order pursuant to Section 22652, or at any time applies for and receives a disability allowance with an effective date that is before or coincides with the date the parties separated as established in the judgment or court order pursuant to Section 22652, the nonmember spouse shall not be eligible to retire until after the disability allowance of the member terminates. If the member who is or was receiving a disability allowance returns to employment to perform creditable service subject to coverage under the Defined Benefit Program or has his or her allowance terminated under Section 24015, the nonmember spouse may not be paid a retirement allowance until at least six months after termination of the disability allowance and the return of the member to employment to perform creditable service subject to coverage under the Defined Benefit Program, or the termination of the disability allowance and the employment or self-employment of the member in any capacity, notwithstanding Section 22132. If at the end of the six-month period, the member has not had a recurrence of the original disability or has not had his or her earnings fall below the amounts described in Section 24015, the nonmember spouse may be paid a retirement allowance if all other eligibility requirements are met.

(1) The retirement allowance of the nonmember spouse under this subdivision shall be calculated as follows: the disability allowance the member was receiving, exclusive of the portion for dependent children, shall be divided between the share of the member and the share of the nonmember spouse. The share of the nonmember spouse shall be the amount obtained by multiplying the disability allowance, exclusive of the portion for dependent children, by the years of service credited to the separate account of the nonmember spouse, including service projected to the date of separation, and dividing by the projected service of the member. The nonmember spouse's retirement allowance shall be the lesser of the share of the nonmember spouse under this subdivision or the retirement allowance under subdivision (c).

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

(f) The nonmember spouse who receives a retirement allowance is not a retired member under this part. However, the allowance of the nonmember spouse shall be increased by application of the improvement factor and shall be eligible for the application of supplemental increases and other benefit maintenance provisions under this part, including, but not limited to, Sections 24412 and 24415 based on the same criteria used for the application of these benefit maintenance increases to the service retirement allowances of members.

(g) Paragraphs (1) to (3), inclusive, of subdivision (c) shall not apply to a nonmember spouse of a member subject to the California Public Employees' Pension Reform Act of 2013. For a person who is a nonmember spouse of a member subject to the California Public Employees' Pension Reform Act of 2013 and is awarded a separate account, the retirement allowance shall equal the percentage of final compensation for each year of credited service that is equal to the percentage specified in Section 24202.6 based on the age of the nonmember spouse on the effective date of the allowance.

SEC. 16. Section 22703 of the Education Code is amended to read:

22703. (a) Service shall be credited to the Defined Benefit Program, except as provided in subdivision (b).

(b) A member's creditable service that exceeds 1.000 in a school year shall not be credited to the Defined Benefit Program. Commencing July 1, 2002, contributions by the employer and the member that are deposited in the Teachers' Retirement Fund for creditable compensation paid to the member for service that exceeds 1.000 in a school year, exclusive of contributions pursuant to Sections 22901.7, 22950.5, and 22951, shall be credited to the Defined Benefit Supplement Program.

(c) In lieu of any other benefits provided by this part, any member who performed service prior to July 1, 1956, shall receive retirement benefits for that service at least equal to the benefits that the member would have received for that service under the provisions of this part as they existed on June 30, 1956. This subdivision shall not apply to service that is credited in the San Francisco Employees' Retirement System.

(d) The amendments to this section made during the second year of the 1999–2000 Regular Session shall become operative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise the amendments to this section made during the second year of the 1999–2000 Regular Session shall become operative on July 1, 2003.

SEC. 17. Section 22717 of the Education Code is amended to read:

22717. (a) A member shall be granted credit at service retirement for each day of accumulated and unused sick leave days for which full salary is allowed to which the member was entitled on the member's final day of employment with the employer or employers subject to coverage by the Defined Benefit Program during the last school year in which he or she earned creditable compensation pursuant to Section 22119.2 or 22119.3. The system shall accept certification from each employer with which the member has accumulated sick leave days for that period, provided this leave has not been transferred to another employer.

(b) The amount of service credit to be granted shall be determined by dividing the number of days of accumulated and unused sick leave days by the number of days of service the employer requires the member's class of employees to perform in a school year during the member's final year of creditable service subject to coverage by the Defined Benefit Program, which shall not be less than the minimum standard specified in Section 22138.5. The number of days shall not include school and legal holidays. In no event shall the divisor be less than 175. For members employed less than full time, the standards identified in Section 22138.5 shall be considered as the minimum full-time equivalent. For those standards identified in Section 22138.5 that are applicable to teachers or instructors and that are expressed only in terms of hours or instructional hours, the number of hours or instructional hours shall be divided by six to determine the number of days.

(c) For members who are last employed with the state in a position in which there are no contracted base service days, the amount of service credit to be granted shall be 0.004 years of service for each day of unused sick leave certified to the board by the employer. The certification shall report only those days of unused sick leave that were accrued by the member during the normal course of his or her employment subject to coverage by the Defined Benefit Program.

(d) When the member has made application for service retirement under this part, the employer shall certify to the board, within 30 days following the effective date of the member's service retirement or the date the application for retirement is received by the system's headquarters office, whichever is later, the number of days of accumulated and unused sick leave days that the member was entitled to on the final day of employment. The board may assess a penalty on delinquent reports.

(e) This section shall be applicable to any person who retires on or after January 1, 1999.

SEC. 18. Section 22850 of the Education Code is amended to read:

22850. (a) The Legislature hereby declares its intent to provide benefits under this part to reemployed members who have been absent from a position of employment subject to coverage under the Defined Benefit Program to perform service in the uniformed services of the United States in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code).

(b) The system shall comply with Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, as that chapter may be amended from time to time.

(c) "Service in the uniformed services," for purposes of determining plan vesting, eligibility for membership, and accrual of benefits, means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, a period for which a member is absent from a position of employment for the purpose of an examination to determine the fitness of the member to perform any duty, and the period of time following the actual service in the uniformed service through the last day a member is eligible to report back to work or to apply for reemployment as specified under Section 1002.259 of Title 20 of the Code of Federal Regulations.

(d) "Uniformed services" means the Armed Forces of the United States of America, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the United States Public Health Service, and any other category of persons designated by the President in time of war or emergency.

(e) Except as provided in Section 22851, no benefit shall accrue during the period of service in the uniformed services if the member does not return to employment, with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services, as prescribed in Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code.

SEC. 19. Section 22851 of the Education Code is amended to read:

22851. The right to pension benefits under this part of a member who dies or who returns to employment with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services, and is subject to Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code shall be determined under this section.

(a) (1) A reemployed or deceased member shall be treated as not having incurred a break in service by reason of that member's eligible period or periods of service in the uniformed services.

(2) (A) Each eligible period of service served by a member in the uniformed services shall, upon return to employment, with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services, or upon death, be deemed to constitute service with the employer or employers toward plan vesting and eligibility for membership in the Defined Benefit Program. Service that is deemed to the member pursuant to this subparagraph shall not be used for benefit calculations.

(B) In cases of death during qualified military service or if a member fails to remit the member contributions that would have been required in respect of the eligible period of service in the uniformed services, service shall be used exclusively for plan vesting and eligibility for membership purposes. Service that is deemed to the member pursuant to this subparagraph shall not be used for benefit calculations.

(3) (A) Each eligible period of service served by a member in the uniformed services shall, upon his or her payment of the member contributions required under this part, be deemed to constitute service for the purposes of accruing benefits in the Defined Benefit Program and the Defined Benefit Supplement Program.

(B) A member who returns to employment, with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services shall not be entitled to any benefits under this part in respect of service in the uniformed services to which the member would not otherwise have been entitled had the member remained continuously employed and not undertaken such service in the uniformed services.

(b) For purposes of accruing benefits in the Defined Benefit Program and Defined Benefit Supplement Program, a member who returns to employment with the same employer which had employed the member immediately prior to the eligible period of service in the uniformed services shall be entitled to service credit, compensation earnable, contributions, interest, and additional earnings credits under this part for the eligible period of service in the uniformed services upon his or her payment of the member contributions required under Section 22901 and Section 22901.7, if applicable, that otherwise would have been due for such period of service had the member remained continuously employed and not undertaken such service in the uniformed services. No such payment of member contributions may exceed the amount the member would have been required to contribute under this part had the member not served in the uniformed services and had remained continuously employed by the employer throughout the eligible period of service in the uniformed services. If a member fails to remit the member contributions that would have been required under Section 22901 and Section 22901.7 if applicable, in respect of the eligible period of service in the uniformed services no benefits shall be provided under this part for the period to which the omitted contributions relate.

(c) Any payment of member contributions to the Defined Benefit Program or the Defined Benefit Supplement Program in this section shall be made by the member during the period beginning with the date of return to employment and may continue for three times the period of the member's eligible service in the uniformed services, not to exceed five years. Any payment of member contributions to the Defined Benefit Program in this section by a member who returned to employment prior to January 1, 1997, and qualifies for benefits in accordance with the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Secs. 4301 to 4335, incl.) shall be made by the member during the period beginning with the date of notification of eligibility by the employer to the system and may continue for three times the period of the member's eligible service in the uniformed services, not to exceed five years. Any subsequent request to purchase service credit for this service shall be subject to the provisions of Chapter 14 (commencing with Section 22800). If all contributions due under this part are not paid to the plan with respect to the Defined Benefit Program within the specified repayment period and in accordance with subdivision (b), the member shall be entitled to the benefits attributable to the contributions received or may request a return of his or her payments. Credited interest on member contributions made for the eligible period of service in the uniformed services shall not be credited under this part until after the contributions due are paid and then only prospectively to the member's account in accordance with Section 22216. For the Defined Benefit Supplement Program, contributions, interest, and additional earnings credits the member would have earned had the member remained continuously employed during the period of eligible service in the uniformed services shall be credited retroactively after all contributions due are paid.

SEC. 20. Section 22852 of the Education Code is amended to read:

22852. (a) An employer reemploying a member of the Defined Benefit Program with service subject to the requirements of Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code shall be liable to the plan for the employer contributions under this part, provided that employer was the last employer employing the member immediately prior to the period served by the member in the uniformed services.

(b) For purposes of determining the amount of that liability under this part and any obligation to the plan with respect to the Defined Benefit Program, interest shall not be included in the liability to the plan.

(c) Subject to subdivision (e), the employer shall pay the employer contributions for the eligible period of service in the uniformed services that would have been required under Sections 22950, 22950.5, and 22951 had the member remained continuously employed during that period of eligible service in the uniformed services.

(d) In addition to any amount required pursuant to subdivision (c), the employer shall pay the full cost of any interest and additional earnings credits credited to the member's Defined Benefit Supplement account pursuant to subdivision (b) of Section 22851.

(e) The employer shall not be liable for employer contributions under this part for the eligible period of service in the uniformed services to the extent that the member fails to remit the member contributions for that period.

(f) The employer shall provide information regarding the reemployment of a member who is subject to Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code on a form prescribed by the system within 30 days of the date of reemployment.

(g) Employers shall remit to the plan with respect to the Defined Benefit Program and the Defined Benefit Supplement Program, the employer contributions required under subdivisions (c) and (d) within 60 working days of the date the system notifies the employer of the amount of contributions due with respect to the member who elects to remit the member contributions for the eligible period of service in the uniformed services.

(h) If the employee does not comply with subdivision (b) of Section 22851 within the time period specified, the employer contributions that were remitted for that period shall be adjusted pursuant to Section 23008.

SEC. 21. Section 22853 of the Education Code is amended to read:

22853. For purposes of this chapter, creditable compensation during the period of service in the uniformed services shall be computed as follows:

(a) The creditable compensation the member would have received for the eligible period of service had the member remained continuously employed.

(b) In the event the creditable compensation is not reasonably certain, creditable compensation shall be based on the member's average creditable compensation during the 12-month period immediately preceding the eligible period of service in the uniformed services or, if shorter, the period of employment immediately preceding that period of service.

SEC. 22. Section 22853.5 of the Education Code is amended to read:

22853.5. For purposes of this chapter, compensation earnable during the period of service in the uniformed services shall be computed as follows:

(a) The compensation earnable that would have been applicable for the eligible period of service had the member remained continuously employed.

(b) In the event the compensation earnable that would have been applicable is not reasonably certain, compensation earnable shall be based on the member's compensation earnable earned during the 12-month period immediately preceding the eligible period of service in the uniformed services or, if shorter, the period of employment immediately preceding that period of service prorated over the period of service in the uniformed services.

SEC. 23. Section 22854 of the Education Code is amended to read:

22854. A reemployed member who has been absent from a position of employment subject to coverage under the Defined Benefit Program to perform service in the uniformed services, pursuant to Section 22850, for a period in excess of five years shall not be entitled to benefits or credit for plan vesting or eligibility for membership purposes under this chapter for an amount exceeding five years, except where the service in the uniformed services has exceeded five years for the following reasons:

(a) The member is required to serve beyond five years to complete an initial period of obligated service.

(b) The member was unable to obtain orders releasing the member from a period of service in the uniformed services before the expiration of the five-year period and that inability was through no fault of the member.

(c) The member served in the uniformed services as required pursuant to Section 270 of Title 10 of the United States Code, Section 502(a) or 503 of Title 32 of the United States Code, or to fulfill additional training requirements determined and certified in writing by the Secretary of Defense, to be necessary for professional development, or for completion of skill training or retraining.

(d) The member is ordered to do any of the following:

- (1) Ordered to or retained on active duty under Section 672(a), 672(g), 673, 673(b), 673(c), or 688 of Title 10 of the United States Code or under Section 331, 332, 359, 360, 367, or 712 of Title 14 of the United States Code.
- (2) Ordered to or retained on active duty, other than for training, under any provision of law during a war or during a national emergency declared by the President or the Congress.
- (3) Ordered to active duty, other than for training, in support, as determined by the secretary concerned, of an operational mission for which personnel have been ordered to active duty under Section 673(b) of Title 10 of the United States Code.
- (4) Ordered to active duty in support, as determined by the secretary concerned, of a critical mission or requirement of the uniformed services.
- (5) Called into federal service as a member of the National Guard under Chapter 15 (commencing with Section 331) of Title 10 of the United States Code or under Section 3500 or 8500 of Title 10 of the United States Code.

SEC. 24. Section 22905 of the Education Code is amended to read:

22905. (a) Member contributions pursuant to Sections 22901, 22901.3, and 22901.7, employer contributions pursuant to Section 22903 or 22904, and member contributions made by an employer pursuant to Section 22909 shall be credited to the member's individual account under the Defined Benefit Program or the Defined Benefit Supplement Program, whichever is applicable pursuant to the provisions of this part.

(b) Except as provided in subdivision (g), member and employer contributions, exclusive of contributions pursuant to Sections 22901.7, 22950.5, and 22951, on a member's compensation under the following circumstances shall be credited to the member's Defined Benefit Supplement account:

- (1) Compensation for creditable service that exceeds one year in a school year.
- (2) Compensation that is determined by the system to have been paid to enhance a member's benefits pursuant to subdivision (b) of Section 22119.2 or to not reflect sound principles that support the integrity of the retirement fund pursuant to subdivision (f) of Section 22119.2.
- (3) Compensation that is paid for a limited number of times as specified by law, a collective bargaining agreement, or an employment agreement.

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

(d) Member and employer contributions pursuant to paragraph (1) of subdivision (b) under the Defined Benefit Supplement Program shall be credited to the accounts of members as of July 1 each year following a determination by the system under the provisions of this part that those contributions should be credited to the Defined Benefit Supplement Program. Any other contributions under the Defined Benefit Supplement Program pursuant to paragraph (2) or (3) of subdivision (b), shall be credited to the individual account of the member upon receipt by the system. Contributions to a member's Defined Benefit Supplement account shall be identified separately from the member's contributions credited under the Defined Benefit Program.

(e) Any contributions on compensation that is creditable to the Defined Benefit Supplement account shall be limited to the contributions made pursuant to Sections 22901, 22901.3, 22950, and 22951. Any excess member contributions, as determined by the system, shall be returned to the member through the employer and any excess employer contributions shall be returned to the employer.

(f) The provisions of this section shall become operative on July 1, 2002, if the revenue limit cost-of-living adjustment computed by the Superintendent of Public Instruction for the 2001–02 fiscal year is equal to or greater than 3.5 percent. Otherwise this section shall become operative on July 1, 2003.

(g) Paragraphs (2) and (3) of subdivision (b) shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

(h) This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed.

SEC. 25. Section 22905 is added to the Education Code, to read:

22905. (a) Member contributions pursuant to Sections 22901, 22901.3, and 22901.7, employer contributions pursuant to Section 22903 or 22904, and member contributions made by an employer pursuant to Section 22909 shall be credited to the member's individual account under the Defined Benefit Program or the Defined Benefit Supplement Program, whichever is applicable pursuant to the provisions of this part.

(b) Except as provided in subdivision (e), member and employer contributions, exclusive of contributions pursuant to Sections 22901.7, 22950.5, and 22951, on a member's compensation under the following circumstances shall be credited to the member's Defined Benefit Supplement account:

(1) Compensation for creditable service that exceeds one year in a school year shall be credited effective on the July 1 immediately following the period for which the compensation is earned.

(2) Compensation that is determined by the system to have been paid to enhance a member's benefits pursuant to subdivision (b) of Section 22119.2 or to not reflect sound principles that support the integrity of the retirement fund pursuant to subdivision (f) of Section 22119.2 shall be credited effective as of the earliest day contributions are due in the office pursuant to Section 23002.

(3) Compensation that is paid for a limited number of times as specified by law, a collective bargaining agreement, or an employment agreement shall be credited effective as of the earliest day contributions are due in the office pursuant to Section 23002.

(c) A member shall not make voluntary pretax or posttax contributions under the Defined Benefit Supplement Program nor may a member redeposit amounts previously distributed based on the balance in the member's Defined Benefit Supplement account.

(d) Any contributions on compensation that is creditable to the Defined Benefit Supplement account shall be limited to the contributions made pursuant to Sections 22901, 22901.3, 22950, and 22951. Any excess member contributions, as determined by the system, shall be returned to the member through the employer and any excess employer contributions shall be returned to the employer.

(e) Paragraphs (2) and (3) of subdivision (b) shall not apply to a member subject to the California Public Employees' Pension Reform Act of 2013.

(f) This section shall become operative on July 1, 2018.

SEC. 26. Section 24005 of the Education Code is amended to read:

24005. (a) A disability allowance under this part shall become effective upon any date designated by the member, provided all of the following conditions are met:

(1) An application for disability allowance is filed on a properly executed form prescribed by the system.

(2) The effective date is later than the last day the member earned creditable compensation pursuant to Section 22119.2 or 22119.3.

(3) The effective date is no earlier than either the first day of the month in which the application is received by the system's headquarters office or the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(b) If the member is employed to perform creditable service subject to coverage under the Defined Benefit Program at the time the disability allowance is approved under this part, the member shall notify the system in writing, within 90 days, of the last day on which the member will perform service. If the member does not respond within 90 days, or if the last day on which service will be performed is more than 90 days after the date the system notifies the member of approval of the disability allowance, the member's application for a disability allowance shall be rejected and a disability allowance shall not be payable to the member.

SEC. 27. Section 24105 of the Education Code is amended to read:

24105. (a) A disability retirement allowance under this part shall become effective upon any date designated by the member, provided that all of the following conditions are met:

(1) An application for disability retirement is filed on a properly executed form prescribed by the system.

(2) The effective date is later than the last day the member earned creditable compensation pursuant to Section 22119.2 or 22119.3.

(3) The effective date is no earlier than either the first day of the month in which the application is received at the system's headquarters office or the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(4) The application for disability retirement contains an election of either an unmodified allowance or an allowance modified under an option as provided in Section 24332.

(b) If the member is employed to perform creditable service subject to coverage under the Defined Benefit Program at the time the disability retirement is approved, the member shall notify the system in writing, within 90 days, of the last day on which the member will perform service. If the member does not respond within 90 days, or if the last day on which service will be performed is more than 90 days after the date the system notifies the member of the approval of disability retirement, the member's application for disability retirement shall be rejected and a disability retirement allowance shall not be payable to the member.

SEC. 28. Section 24201.5 of the Education Code is amended to read:

24201.5. (a) A member who is eligible and applies for a disability allowance or retirement pursuant to Section 24001 or 24101 may apply to receive a service retirement allowance pending the determination of his or her application for disability, subject to all of the following:

(1) The member is eligible to retire for service under Section 24201 or 24203.

(2) The member submits the application on a form provided by the system, subject to all of the following:

(A) The application is executed no earlier than the date the application for disability benefits is executed and no earlier than six months before the effective date of the retirement allowance.

(B) The effective date is no earlier than the first day of the month in which the application for disability benefits is received at the system's headquarters office, unless the application for disability benefits is denied or canceled and the member has indicated an earlier service retirement date on the application to use if denied or canceled. If the application for disability benefits is denied or canceled, the service retirement date of a member who submits an application for retirement pursuant to this section on or after January 1, 2014, shall be no earlier than January 1, 2014.

(C) The effective date is later than the last day the member earned creditable compensation pursuant to Section 22119.2 or 22119.3.

(D) The effective date is no earlier than one year following the date on which a retirement allowance was terminated pursuant to Section 24208, unless the application for disability benefits is denied or canceled and the member has indicated an earlier service retirement date on the application to use if denied or canceled. If the application for disability benefits is denied or canceled, the service retirement date is no earlier than one day after the date on which a retirement allowance was terminated pursuant to Section 24208, provided that the retirement allowance is terminated on or after January 1, 2014.

(E) The effective date is no earlier than one year following the date on which a retirement allowance was terminated pursuant to subdivision (a) of Section 24117.

(3) The effective date of the service retirement allowance can be no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(4) A member who applies for service retirement under this section is not eligible to receive a lump-sum payment and an actuarially reduced monthly allowance pursuant to Section 24221.

(5) A member who applies for service retirement under this section is not eligible to receive an allowance calculated pursuant to Section 24205.

(6) A member who applies for service retirement under this section and elects to receive his or her retirement benefit pursuant to Section 25009 as a lump-sum payment is not eligible to elect a disability benefit pursuant to Section 25016 or 25018.1.

(7) (A) Except as described in subparagraph (B), a member who applies for service retirement under this section shall not receive service credit for each day of accumulated and unused leave of absence for illness or injury or for education pursuant to Section 22717 or 22717.5.

(B) If the application for disability is denied or canceled, the member's service retirement allowance shall be adjusted to the effective date of the service retirement to include service credited pursuant to Section 22717 or 22717.5.

(8) If the application for disability is denied or canceled, a member who applies for a service retirement allowance under this section is subject to all of the following:

(A) Unless otherwise provided in this part, a member who, on his or her application for service retirement, elects an option pursuant to Section 24300.1 or 24307 may not change or revoke that option.

(B) If the member receives a modified service retirement allowance based on the election of an option pursuant to Section 24300.1 or 24307, that modified service retirement allowance shall continue in effect and unchanged.

(C) If the member did not elect an option pursuant to Section 24300.1 or 24307 and receives an unmodified service retirement allowance, that unmodified service retirement allowance shall continue in effect and unchanged.

(b) A member who applies for service retirement under this section may change or cancel his or her service retirement application pursuant to Section 24204, or may terminate his or her service retirement allowance pursuant to Section 24208.

(c) A member may not cancel his or her application for disability prior to a determination of that application unless he or she submits a written request to the system's headquarters office. If a member elects to cancel his or her service retirement application or elects to terminate his or her service retirement allowance as described in subdivision (b), that election shall not cancel the application for disability.

(d) (1) Subparagraph (C) of paragraph (1) of subdivision (a) of Section 24001 and paragraph (3) of subdivision (a) of Section 24101 shall not apply to a member who cancels an application for service retirement pursuant to Section 24204 or who terminates a service retirement allowance pursuant to Section 24208, if all of the following apply:

(A) The member earned at least one year of credited service subsequent to the most recent terminated service retirement allowance.

(B) The member's application for disability under this section is pending determination by the board.

(2) If the member's application for disability under this section is denied or canceled, subparagraph (C) of paragraph (1) of subdivision (a) of Section 24001 and paragraph (3) of subdivision (a) of Section 24101 shall apply if the member submits a new application for disability.

(e) (1) If the board approves the application for disability, and notwithstanding subdivision (f) of Section 24204, the board shall cancel the member's application for service retirement and shall authorize payment of a disability allowance or disability retirement.

(2) If the board approves the application for disability and the member has received service retirement allowance payments under this part, the effective date for the disability allowance or disability retirement shall be the same as the effective date of the service retirement allowance.

(f) If a member who applies for service retirement under this section dies prior to a determination by the board on the application for disability, the member shall be considered retired for service at the time of death, and any subsequent benefits shall be paid accordingly.

(g) If a member who applies for service retirement under this section dies after the board has approved the member's application for disability, the member shall be considered a disabled member, or retired for disability, at the time of death, and any subsequent benefits shall be paid accordingly, even if the member died prior to receiving notification of the approval of his or her application for disability.

(h) If the member changes or cancels his or her service retirement application or terminates his or her service retirement allowance as described in subdivision (b), the system shall make appropriate adjustments to the applicable service retirement allowance, disability allowance, or disability retirement allowance, retroactive to the effective date of the disability allowance or disability retirement allowance. Subdivision (a) of Section 24617 shall not apply.

(i) The system may recover a service retirement allowance overpayment made to a member by deducting that overpayment from any subsequent disability benefit payable to the member.

(j) Nothing in this section shall be construed to allow a member or beneficiary to receive more than one type of retirement or disability allowance for the same period of time.

SEC. 29. Section 24204 of the Education Code is amended to read:

24204. (a) A service retirement allowance under this part shall become effective upon any date designated by the member, provided all of the following conditions are met:

(1) An application for service retirement allowance is filed on a form provided by the system, which is executed no earlier than six months before the effective date of retirement allowance.

(2) The effective date is later than the last day the member earned creditable compensation pursuant to Section 22119.2 or 22119.3.

(3) The effective date is no earlier than one day after the date on which the retirement allowance was terminated under Section 24208.

(4) The effective date is no earlier than one year following the date on which the retirement allowance was terminated under subdivision (a) of Section 24117.

(5) The effective date is no earlier than the date upon and continuously after which the member is determined to the satisfaction of the board to have been mentally incompetent.

(6) The effective date is no earlier than the date upon which the member completes payment of a service credit purchase pursuant to Section 22801, 22820, or 22826, or payment of a redeposit of contributions pursuant to Section 23200, except as provided in Section 22801 or 22829.

(b) A member who files an application for service retirement may change or cancel his or her retirement application, as long as the form provided by the system is received in the system's headquarters office no later than 30 days from the date the member's initial benefit payment for the member's most recent retirement under the Defined Benefit Program is paid by the system. If a member cancels his or her retirement application, the member shall return the total gross distribution amount of all payments for the canceled retirement benefit to the system's headquarters office no later than 45 days from the date of the member's initial benefit payment and shall be liable for any adverse tax consequences that may result from these actions.

(c) The retirement date of a member who files an application for retirement pursuant to Section 24201 on or after January 1, 2012, shall be no earlier than January 1, 2012.

(d) Nothing in this section shall be construed to allow a member to receive more than one type of retirement or disability allowance for the same period of time by virtue of his or her own membership.

SEC. 30. Section 24209 of the Education Code is amended to read:

24209. (a) Upon retirement for service following reinstatement, the member shall receive a service retirement allowance equal to the sum of both of the following:

(1) An amount equal to the monthly allowance the member was eligible to receive immediately preceding the most recent reinstatement, exclusive of any amounts payable pursuant to Section 22714 or 22715, increased by the improvement factor that would have been applied to the allowance if the member had not reinstated.

(2) An amount calculated pursuant to Section 24202, 24202.5, 24202.6, 24203, 24203.5, or 24206 based on credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, subsequent to the most recent reinstatement, the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation.

(b) If the total amount of credited service accrued, other than that accrued pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826, except as provided in subdivision (c) of Section 22121, is equal to or greater than 30 years, the amounts identified in paragraphs (1), for members who initially retired on or after January 1, 1999, and (2) of subdivision (a) shall be calculated pursuant to Section 24203.5.

(c) If the total amount of credited service accrued, other than that accrued pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826, except as provided in subdivision (c) of Section 22121, is equal to or greater than 30 years, upon retirement for service following reinstatement, a member who retired pursuant to Section 24213, and received the terminated disability allowance for the prior retirement, shall receive a service retirement allowance equal to the sum of the following:

(1) An amount based on the credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, prior to the effective date of the disability allowance, the member's age at the prior retirement increased by the factor provided in Section 24203.5, and projected final compensation.

(2) An amount calculated pursuant to Section 24202, 24202.5, 24202.6, 24203.5, or 24206 based on credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, subsequent to the reinstatement, the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(d) For purposes of this section, final compensation shall not be based on a determination of compensation earnable as described in subdivision (f) of Section 22115.

SEC. 31. Section 24209.3 of the Education Code is amended to read:

24209.3. (a) Notwithstanding subdivision (a) of Section 24209, and exclusive of any amounts payable during the prior retirement for service pursuant to Section 22714, or 22715:

(1) A member who retired, other than pursuant to Section 24210, 24211, 24212, or 24213, and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, prior to the most recent reinstatement, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation.

(B) An amount calculated pursuant to this chapter based on credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, subsequent to the most recent reinstatement, using the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation.

(2) A member who retired pursuant to Section 24210 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, prior to the effective date of the disability retirement, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and indexed final compensation to the effective date of the initial service retirement.

(B) An amount calculated pursuant to this chapter based on the credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, after termination of the disability retirement, excluding credited service accrued or granted subsequent to the most recent reinstatement, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation.

(C) An amount calculated pursuant to this chapter based on credited service accrued, including any service granted pursuant to Section 22717 or 22717.5, subsequent to the most recent reinstatement, using the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation.

(3) A member who retired pursuant to Section 24211 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) The greater of (i) the disability allowance the member was eligible to receive immediately prior to termination of that allowance, excluding the children's portion, or (ii) an amount calculated pursuant to this chapter based on credited service accrued prior to the effective date of the disability allowance, excluding credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation earnable, or a combination of both.

(B) An amount equal to either of the following:

(i) For a member who was receiving a benefit pursuant to subdivision (a) of Section 24211, an amount calculated pursuant to this chapter based on credited service accrued at the time of the retirement pursuant to Section 24211, excluding credited service accrued or granted prior to the effective date of the disability allowance or pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(ii) For a member who was receiving a benefit pursuant to subdivision (b) of Section 24211, an amount calculated pursuant to this chapter based on projected service at the time of the retirement pursuant to Section 24211, excluding credited service accrued or granted prior to the effective date of the disability allowance or pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter

19 (commencing with Section 23200), the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(C) An amount based on any credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), at the time of the retirement pursuant to Section 24211, using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(D) An amount calculated pursuant to this chapter based on credited service accrued subsequent to the most recent reinstatement, including credited service accrued or granted pursuant to Section 22714, 22715, 22717, or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), using the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(4) A member who retired pursuant to Section 24212 or 24213 and who reinstates and performs creditable service, as defined in Section 22119.5, after the most recent reinstatement, in an amount equal to two or more years of credited service, shall, upon retirement for service on or after the effective date of this section, receive a service retirement allowance equal to the sum of the following:

(A) An amount calculated pursuant to this chapter based on the member's projected service at the time of the retirement pursuant to Section 24212 or 24213, including credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), using the member's age at the subsequent service retirement, from which age shall be deducted the total time during which the member was retired for service, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(B) An amount calculated pursuant to this chapter based on credited service accrued subsequent to the most recent reinstatement, including credited service accrued or granted pursuant to Section 22714, 22715, 22717, or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), using the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(b) If the total amount of credited service, other than projected service, or service that accrued or was granted pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826, except as provided in subdivision (c) of Section 22121, is equal to or greater than the number of years required to be eligible for an increased allowance pursuant to this chapter or Section 22134.5, the amounts identified in this section shall be calculated pursuant to the section authorizing the increased benefit.

(c) For members receiving an allowance pursuant to Section 24410.5 or 24410.6, the amount payable pursuant to this section shall not be less than the amount payable to the member as of the effective date of reinstatement.

(d) The amount payable pursuant to this section shall not be less than the amount that would be payable to the member pursuant to Section 24209.

(e) For purposes of determining an allowance increase pursuant to Sections 24415 and 24417, the calendar year of retirement shall be the year of the subsequent retirement if the final compensation used to calculate the allowance pursuant to this section is higher than the final compensation used to calculate the allowance for the prior retirement.

(f) The allowance paid pursuant to this section to a member receiving a lump-sum payment pursuant to Section 24221 shall be actuarially reduced to reflect that lump-sum payment.

(g) For purposes of this section, final compensation shall not be based on a determination of compensation earnable as described in subdivision (f) of Section 22115.

SEC. 32. Section 24211 of the Education Code is amended to read:

24211. When a member who has been granted a disability allowance under this part after June 30, 1972, returns to employment subject to coverage under the Defined Benefit Program and performs:

(a) Less than three years of creditable service after termination of the most recent disability allowance, the member shall receive a retirement allowance which is the sum of the allowance calculated on credited service accrued after the termination date of the

disability allowance, excluding credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), the age of the member on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable or projected final compensation, or a combination of both, plus the greater of either of the following:

- (1) A service retirement allowance calculated on credited service accrued as of the effective date of the disability allowance, excluding credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), the member's age on the last day of the month in which the retirement allowance begins to accrue, and projected final compensation to the termination date of the disability allowance.
- (2) The disability allowance the member was eligible to receive immediately prior to termination of the most recent disability allowance, excluding children's portions.

(b) Three or more years of creditable service after termination of the most recent disability allowance, the member shall receive a retirement allowance that is the greater of the following:

- (1) A service retirement allowance calculated on all actual and projected service, excluding credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.
- (2) The disability allowance the member was eligible to receive immediately prior to termination of the most recent disability allowance, excluding children's portions.

(c) The allowance shall be increased by an amount based on any credited service accrued or granted pursuant to Section 22714, 22715, 22717, or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(d) If the total amount of credited service, other than projected service or credited service that accrued or was granted pursuant to Sections 22714, 22715, 22717, 22717.5, and 22826, except as provided in subdivision (c) of Section 22121, is equal to or greater than 30 years, the amounts identified in subdivisions (a) to (c), inclusive, shall be calculated pursuant to Sections 24203.5 and 24203.6.

(e) For purposes of this section, final compensation shall not be based on a determination of compensation earnable as described in subdivision (f) of Section 22115.

(f) Upon retirement, the member may elect to modify the service retirement allowance payable in accordance with any option provided under this part.

SEC. 33. Section 24212 of the Education Code is amended to read:

24212. (a) If a disability allowance granted under this part after June 30, 1972, is terminated for reasons other than those specified in Section 24213 and the member does not return to employment subject to coverage under the Defined Benefit Program, the member's service retirement allowance, when payable, shall be based on projected service, excluding credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820), or Chapter 19 (commencing with Section 23200), projected final compensation, and the member's age on the last day of the month in which the retirement allowance begins to accrue. The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the disability allowance the member was eligible to receive immediately prior to the earlier of the termination of that allowance or at normal retirement age, excluding children's portions.

(b) The allowance shall be increased by an amount based on any credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), the member's age on the last day of the month in which the retirement allowance begins to accrue, and final compensation using compensation earnable, or projected final compensation, or a combination of both.

(c) If the total amount of credited service, other than projected service or credited service that accrued or was granted pursuant to Sections 22717, 22717.5, and 22826, except as provided in subdivision (c) of Section 22121, is equal to or greater than 30 years, the amounts identified in subdivisions (a) and (b) shall be calculated pursuant to Sections 24203.5 and 24203.6.

(d) Upon retirement, the member may elect to modify the service retirement allowance payable in accordance with any option provided under this part.

SEC. 34. Section 24213 of the Education Code is amended to read:

24213. (a) When a member who has been granted a disability allowance under this part after June 30, 1972, attains normal retirement age, or at a later date when there is no dependent child, the disability allowance shall be terminated and the member shall be eligible for service retirement. The retirement allowance shall be calculated on the projected final compensation and projected service to normal retirement age, excluding credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), and the member's age on the last day of the month in which the retirement allowance begins to accrue. The allowance payable under this section, excluding annuities payable from accumulated annuity deposit contributions, shall not be greater than the disability allowance the member was eligible to receive immediately prior to normal retirement age, excluding children's portions.

(b) The allowance shall be increased by an amount based on any credited service accrued or granted pursuant to Section 22717 or 22717.5 or Chapter 14 (commencing with Section 22800) or Chapter 14.2 (commencing with Section 22820) or Chapter 19 (commencing with Section 23200), the member's age on the last day of the month in which the retirement allowance begins to accrue, and projected final compensation to normal retirement age.

(c) If the total amount of credited service accrued, other than projected service or credited service that accrued or was granted pursuant to Sections 22717, 22717.5, and 22826, except as provided in subdivision (c) of Section 22121, is equal to or greater than 30 years, the amounts identified in subdivisions (a) and (b) shall be calculated pursuant to Sections 24203.5 and 24203.6.

(d) Upon retirement, the member may elect to modify the service retirement allowance payable in accordance with any option provided under this part.

SEC. 35. Section 24322 of the Education Code is amended to read:

24322. (a) An option elected under Section 24300, 24300.1, or 24307 may be canceled by a retired member if the option beneficiary is the retired member's spouse or former spouse and a final decree of dissolution of marriage or a judgment of nullity has been entered or an order of separate maintenance has been made on or after January 1, 1978, by a court of competent jurisdiction. A retired member may cancel the option before or after issuance of the first retirement allowance payment.

(b) The retired member shall notify the board, in writing on a properly executed form provided by the system, of cancellation of the option. Notification shall not be earlier than the effective date of the decree, judgment, or order and shall include a certified copy of the final decree of dissolution, or judgment of nullity, or an order of separate maintenance, and any property settlement agreement.

(c) Upon notification to the board, the retired member may elect: (1) to receive the unmodified retirement allowance from the date of receipt of the notification; or (2) a new joint and survivor option under Section 24300.1 and may designate one or multiple new option beneficiaries. Modification of the retirement allowance because of the newly elected option or newly designated beneficiary or beneficiaries shall be based on the ages of the retired member and the new option beneficiary or beneficiaries as of the effective date of the new option. The election of a new joint and survivor option or the designation of a new option beneficiary or beneficiaries shall be consistent with the final decree of dissolution, judgment of nullity, order of separate maintenance, or property settlement agreement, and shall not result in any additional liability to the Teachers' Retirement Fund. The effective date of the change shall be the date notification is received by the board.

SEC. 36. Section 24410 of the Education Code is amended to read:

24410. (a) If projected final compensation is used to calculate the service retirement allowance following the termination of the disability allowance or if the disability allowance is continued as the lesser of the two allowance calculations under Section 24212 or 24213, then the original disability allowance effective date shall be retained as the base date for purposes of determining postretirement benefit increases.

(b) If the disability allowance effective date is used pursuant to subdivision (a), then for purposes of determining supplemental benefits pursuant to Sections 24412 and 24415, the base allowance shall be determined as follows:

(1) If the disability allowance is continued pursuant to Section 24212 or 24213, the base allowance shall be equal to the disability allowance prior to all allowance increases made pursuant to this part.

(2) If the disability allowance is not continued pursuant to Section 24212 or 24213, the base allowance shall be based on the factors used to calculate the service retirement allowance, except that projected final compensation shall be replaced with the

final compensation upon which the disability allowance was based.

(3) The base allowance determined pursuant to this subdivision shall be modified for an option, if applicable.

(c) This section shall be applicable for determining the base date for applicable postretirement increases made on or after January 1, 1982.

(d) This section shall only apply to service retirements effective the day after the termination date of the disability allowance.

SEC. 37. Section 24606 of the Education Code is amended to read:

24606. (a) If any payment of contributions or accumulated contributions or benefits under this plan remains unclaimed and, after a good faith effort, the legal claimant cannot be found, the board shall redeposit the proceeds in the retirement fund, and shall hold the proceeds for the legal claimant without further accumulation of interest. The redeposit does not operate to establish the membership of the claimant in this plan.

(b) Subdivision (a) applies to warrants drawn and canceled by the Controller and payments rejected via electronic funds transfer. Upon notice of cancellation or rejection, the proceeds revert to and become a part of the retirement fund, and shall be applied to meet the liabilities of the retirement fund.

(c) The board may at any time after reversion of proceeds, as provided above to the retirement fund, and upon receipt of proper information satisfactory to it, return from the retirement fund an amount equal to those proceeds to the credit of the legal claimant.

SEC. 38. Section 25001 of the Education Code is amended to read:

25001. (a) The board shall establish a segregated account within the retirement fund to be known as the Gain and Loss Reserve, and the board shall have sole authority over the reserve. The Gain and Loss Reserve shall be maintained for the Defined Benefit Supplement Program and may be used to credit interest at the minimum interest rate for plan years in which the board determines that the obligation cannot be met from investment earnings. The Gain and Loss Reserve may also be used to provide additions to the Annuitant Reserve for monthly annuities payable under the Defined Benefit Supplement Program.

(b) The board shall establish a goal for the balance of the Gain and Loss Reserve and periodically shall review the sufficiency of the reserve based on the recommendations of the actuary.

(c) The board may allocate excess earnings of the plan with respect to assets attributable to the Defined Benefit Supplement Program to the Gain and Loss Reserve. In addition, the board may allocate any liability gains and losses attributable to the Defined Benefit Supplement Program to the Gain and Loss Reserve. Upon the recommendation of the actuary, the board shall determine annually the amount, if any, that is to be allocated to the Gain and Loss Reserve for that plan year. That determination shall be made upon recommendation of the actuary based on the actuarial valuation undertaken following the plan year pursuant to Section 22311.5, but no later than June 30 following the end of the plan year. In determining whether to allocate excess earnings to the Gain and Loss Reserve, the board shall consider all of the following:

- (1) Whether or not the plan has excess earnings attributable to the Defined Benefit Supplement Program.
- (2) The sufficiency of the Gain and Loss Reserve in light of the goal established pursuant to subdivision (b).
- (3) The amount required for the plan's administrative costs with respect to the Defined Benefit Supplement Program.
- (4) The amount required for crediting members' accounts at the minimum interest rate.

(d) In determining whether to allocate liability gains and losses to the Gain and Loss Reserve, the board shall consider the matters described in paragraphs (2), (3), and (4) of subdivision (c).

SEC. 39. Section 25006 of the Education Code is amended to read:

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

- (1) Whether the plan's investment earnings with respect to the Defined Benefit Supplement Program for the plan year exceed the amount required to meet the liabilities identified in paragraphs (2), (3), and (4).
- (2) The amount required for the plan year to credit interest on members' nominal accounts at the minimum interest rate.
- (3) The amount of the plan's administrative expenses with respect to the Defined Benefit Supplement Program for the plan year.

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

(b) For any plan year that the board declares an additional earnings credit, the board shall specify the amount to be added to members' accounts as a percentage increase. The additional earnings credit shall be applied to the balance of credits in each member's nominal account as of the last day of the plan year and shall be applied as of the date specified by the board. The additional earnings credit shall not be added to the balance of credits transferred from a member's Defined Benefit Supplement account to the Annuitant Reserve.

(c) The declaration of an additional earnings credit shall be made as a plan amendment adopted by the board with respect to the Defined Benefit Supplement Program upon recommendation of the actuary based on the actuarial valuation undertaken following the plan year pursuant to Section 22311.5, but no later than June 30 following the end of the plan year.

SEC. 40. Section 26202 of the Education Code is amended to read:

26202. (a) The board shall establish a Gain and Loss Reserve within the Teachers' Retirement Fund for the Cash Balance Benefit Program. The board has sole authority to administer the Gain and Loss Reserve to be drawn upon to the extent necessary to credit interest to employee accounts and employer accounts at the minimum interest rate during years in which the investment earnings of the plan with respect to the Cash Balance Benefit Program are not sufficient for that purpose, and, where necessary, to provide additions to the Annuitant Reserve for monthly annuity payments.

(b) The board shall establish and periodically review goals regarding the sufficiency of the Gain and Loss Reserve based on the recommendation of the actuary.

(c) In the event that the total amount of investment earnings of the plan with respect to the Cash Balance Benefit Program for any plan year exceeds the sum of the total amount required to credit all employee and employer accounts at the minimum interest rate for the plan year plus the administrative costs of the plan with respect to the Cash Balance Benefit Program for the plan year, the board shall determine the amount, if any, that is to be credited to the Gain and Loss Reserve for the plan year. That determination shall be made upon recommendation of the actuary based on the actuarial valuation undertaken following the plan year pursuant to Section 26211 but no later than June 30 following the end of the plan year. In determining whether an amount is to be credited to the Gain and Loss Reserve, the board shall consider the sufficiency of the reserve in light of the goal established for the sufficiency and the recommendations of the actuary.

SEC. 41. Section 26603 of the Education Code is amended to read:

26603. (a) All employee contributions shall be credited to employee accounts and all employer contributions shall be credited to employer accounts as of the first working day following the date all contributions to fully satisfy the contribution report as submitted by the employer are received by the system.

(b) This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed.

SEC. 42. Section 26603 is added to the Education Code, to read:

26603. (a) All employee contributions shall be credited to employee accounts and all employer contributions shall be credited to employer accounts effective as of the day contributions are required to be transmitted to the plan pursuant to subdivision (a) of Section 26303.

(b) This section shall become operative on July 1, 2018.

SEC. 43. Section 26604 of the Education Code is amended to read:

26604. (a) Beginning June 1, 1996, prior to the Cash Balance Plan becoming effective, and prior to the beginning of each plan year thereafter, the board, by plan amendment with respect to the Cash Balance Benefit Program, shall declare the minimum interest rate for crediting employee accounts and employer accounts with respect to the Cash Balance Benefit Program during the following plan year.

(b) All interest shall be computed at the minimum interest rate on the balance of the employee account and the employer account and shall be compounded daily.

(c) Interest shall not be credited to employee accounts and employer accounts that have been transferred to the Annuitant Reserve for payment of an annuity.

SEC. 44. Section 26808 of the Education Code is amended to read:

26808. (a) The annuity elected under this chapter shall be determined as a value actuarially equivalent to the sum of the employee account and the employer account as of the retirement date. The annuity shall be calculated using the age of the participant and, if the participant elected a joint and survivor option, the age of the beneficiary on the retirement date.

(b) In the case of a participant who previously received an annuity that was terminated pursuant to Section 26810, the portion of the annuity derived from the amounts credited to the employee account and employer account as of the date of reemployment shall be calculated using the actuarial assumptions in effect on the previous retirement date using the age of the participant and, if the participant elected a joint and survivor option, the age of the beneficiary on the current retirement date.

SEC. 45. Section 26810 of the Education Code is amended to read:

26810. (a) A participant who is employed to perform creditable service subject to coverage by the Cash Balance Benefit Program while receiving an annuity under the program may terminate the annuity upon written request to the system and make contributions to the program based on salary paid by the employer for the employment, subject to the following conditions:

(1) The request for termination of the annuity is filed on a form prescribed by the system, and the form is executed no earlier than six months before the effective date of the termination.

(2) Termination of the participant's annuity shall become effective on the first day of the month designated by the participant.

(b) Upon termination of the annuity, the employee and employer account of the participant shall be credited with respective balances that reflect the actuarial equivalent of the participant's retirement benefit as of the date the participant terminates the annuity and the Annuitant Reserve shall be reduced by the amount of the credits.

(c) The portion of the annuity derived from the amounts credited to the employee account and employer account, as of the date the participant terminates the annuity, shall be calculated using the actuarial assumptions in effect on the initial retirement date using the age of the participant and, if the participant elected a joint and survivor option, the age of the beneficiary on the current retirement date.

(d) Upon election of a subsequent annuity, the credits in the participant's employee account and employer account shall be transferred to the Annuitant Reserve.

SEC. 46. Section 28000 of the Education Code is amended to read:

28000. (a) The Legislature hereby finds and declares its intent to preserve and protect the rights of reemployed participants who have been absent from a position of employment covered by the Cash Balance Benefit Program to serve in the uniformed services of the United States in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code).

(b) The plan shall comply with Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, as that chapter may be amended from time to time.

(c) The term "service in the uniformed services," for purposes of determining plan vesting, eligibility for membership, and accrual of benefits, means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, a period for which a participant is absent from a position of employment for the purpose of an examination to determine the fitness of the participant to perform any such duty, and the period of time following the actual service in the uniformed service through the last day a member is eligible to report back to work or to apply for reemployment as specified under Section 1002.259 of Title 20 of the Code of Federal Regulations.

(d) The term "uniformed services" means the Armed Forces of the United States of America, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the United States Public Health Service, and any other category of persons designated by the President in time of war or emergency.

(e) No entitlement of the right to contribute toward credits under the Cash Balance Benefit Program pursuant to this chapter by the participant as a result of service in the uniformed services shall accrue if the participant does not return to employment with the same employer or employers which employed the participant immediately prior to the eligible period of service in the uniformed services as prescribed in Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code.

SEC. 47. Section 28001 of the Education Code is amended to read:

28001. (a) The participant who returns to employment with the same employer which had employed the participant immediately prior to the eligible period of service in the uniformed services, in accordance with the requirements of Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, shall be treated as not having incurred a break in the performance of creditable service by reason of that participant's period or periods of service in the uniformed services. The length of each period of service in the uniformed services shall not exceed five years unless otherwise permitted pursuant to Section 28004. Each period of service in the uniformed services by the participant shall, upon that participant's return to employment with the same employer or employers which had employed the participant immediately prior to the eligible period of service in the uniformed services, constitute employment toward the performance of creditable service provided that participant elects to remit the employee contributions that would have been made during the period of service in the uniformed services. The remittance of employee contributions shall be calculated pursuant to Sections 26501 and 28003. In no event shall that remittance exceed the amount the participant would have been required to contribute during that period of performance of creditable service had the participant remained continuously employed by the last employer and not served in the uniformed services throughout that period.

(b) Notwithstanding Section 26506, remittance of employee contributions in accordance with subdivision (a) shall be made by the employer pursuant to Section 26502 upon the employer's receipt of written consent of the participant specifying a schedule of repayments. That remittance shall commence during the period beginning with the date of return to employment and may continue for three times the period of the participant's eligible period of service in the uniformed services, not to exceed five years. The plan's receipt of the remittance payments to the plan with respect to the Cash Balance Benefit Program shall be credited pursuant to Chapter 7 of this part. Contributions, interest, and additional earnings credits the participant would have earned had the participant remained continuously employed during the period of eligible service in the uniformed services shall be credited to employee and employer accounts retroactively upon receipt of the employee contributions. Upon receipt of the remittance payments to the plan, the payments shall be subject to the same terms and conditions under the program as if the payments had been employee contributions made by the participant had the participant not served for a period in the uniformed services. In no event shall the current year contributions and contributions made for purposes of purchasing service exceed the maximum exclusion allowance as set forth in the Internal Revenue Code.

SEC. 48. Section 28002 of the Education Code is amended to read:

28002. (a) Except as provided in subdivision (b), an employer reemploying a participant with service subject to the requirements of Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code, shall be liable to remit the employer contributions provided that employer employed the participant immediately prior to the eligible period of service in the uniformed services. The contribution rate by the employer shall be to the same extent as that for contributions to the Cash Balance Benefit Program for other employees during the same period. In addition to contributions due pursuant to this subdivision, the employer shall remit an amount that is the equivalent of the full cost of any interest and additional earnings credits credited pursuant to Section 28001. The employer shall provide information regarding the reemployment of a participant who is subject to Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code on a form prescribed by the system within 30 days of the date of reemployment. Following receipt of that notice, the system shall calculate in accordance with Section 28003 the total amount of employer contributions due for the participant for the full period of service in the uniformed services. Within 60 working days of notification by the plan of amount due, the employer shall remit to the plan all employer contributions.

(b) The employer shall not be liable for employer contributions for the period of service in the uniformed services if the participant elects not to remit the employee contributions for that period through the employer as required under Section 28001. In the event the participant does not remit all of the employee contributions within the prescribed repayment period, the total amount of the employer contributions that were remitted for that period shall be adjusted pursuant to Section 26302.