



2020 South Dakota Legislature

Senate Bill 9

Introduced by: The Committee on Retirement Laws at the request of the Department of Labor and Regulation

1 **An Act to repeal the Department of Labor and Regulation's retirement plan and to**
 2 **transfer plan members and funds to the South Dakota Retirement System.**

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

4 **Section 1.** That a NEW SECTION be added:

5 **3-12C-1650. Department of Labor and Regulation employees' retirement**
 6 **plan--Membership with system--Class D.**

7 As of July 1, 2020, each member of the Department of Labor and Regulation
 8 employees' retirement plan, including any retiree and any vested member, is a Class D
 9 member of the system. No additional member may be added to Class D. The
 10 administration of retirement benefits for Class D members shall continue with the system
 11 in accordance with this chapter and chapter 3-13C.

12 **Section 2.** That a NEW SECTION be added:

13 **3-12C-1651. Class D membership--Benefits received.**

14 Each Class D member shall receive the same benefit as provided pursuant to the
 15 Department of Labor and Regulation employees' retirement plan as in effect on June 30,
 16 2020, and in accordance with chapter 3-13C. Each Class D member's benefit shall be
 17 annually increased by the COLA as determined by § 3-12C-704. The benefits of any Class
 18 D member and the member's beneficiaries and any operational expenses related to Class
 19 D members shall be paid from the plan fund established by this chapter.

20 **Section 3.** That § 3-12C-101 be AMENDED:

21 **3-12C-101. Definitions.**

22 Terms as used in this chapter mean:

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

- 1 (2) "Actuarial experience analysis," a periodic report that reviews basic experience data
2 and furnishes actuarial analysis that substantiates the assumptions adopted for the
3 purpose of making an actuarial valuation of the system;
- 4 (3) "Actuarial valuation," a projection of the present value of all benefits and the current
5 funded status of the system, based upon stated assumptions as to rates of interest,
6 mortality, disability, salary progressions, withdrawal, and retirement as established
7 by a periodic actuarial experience analysis that takes into account census data of
8 all active members, vested terminated members, and retired members and their
9 beneficiaries under the system;
- 10 (4) "Actuarial value funded ratio," the actuarial value of assets divided by the actuarial
11 accrued liability;
- 12 (5) "Actuarial value of assets," equal to the fair value of assets;
- 13 (6) "Actuarially determined contribution rate," the fixed, statutory contribution rate, no
14 less than the normal cost rate with expenses assuming the minimum COLA, and no
15 greater than the normal cost rate with expenses assuming the maximum COLA;
- 16 (7) "Air rescue firefighters," employees of the Department of the Military who are
17 stationed at Joe Foss Field, Sioux Falls, and who are directly involved in firefighting
18 activities on a daily basis;
- 19 (8) "Approved actuary," any actuary who is a member of the American Academy of
20 Actuaries or an Associate or a Fellow of the Society of Actuaries who meets the
21 qualification standards of the American Academy of Actuaries to issue actuarial
22 opinions regarding the system or any firm retaining such an actuary on its staff and
23 who is appointed by the board to perform actuarial services;
- 24 (9) "Assumed rate of return," the actuarial assumption adopted by the board pursuant
25 to § 3-12C-227 as the annual assumed percentage return on trust fund assets,
26 compounded;
- 27 (10) "Beneficiary," the person designated by a member of the system to receive any
28 payments after the death of such member;
- 29 (11) "Benefits," the amounts paid to a member, spouse, child, or beneficiary as a result
30 of the provisions of this chapter;
- 31 (12) "Board," the Board of Trustees of the South Dakota Retirement System;
- 32 (13) "Calendar quarter," a period of three calendar months ending March thirty-first,
33 June thirtieth, September thirtieth, or December thirty-first of any year;
- 34 (14) "Campus security officers," employees of the Board of Regents whose positions are
35 subject to the minimal educational training standards established by the law

1 enforcement standards commission pursuant to chapter 23-3, who satisfactorily
2 complete the training required by chapter 23-3 within one year of employment, and
3 whose primary duty as sworn law enforcement officers is to preserve the safety of
4 the students, faculty, staff, visitors, and the property of the university. The
5 employer shall file with the system evidence of the appointment as a sworn law
6 enforcement officer at the time of employment and shall file evidence of satisfactory
7 completion of the training program pursuant to chapter 23-3 within one year of
8 employment;

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

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

12 (17) "Class A member," any member other than a Class B member or a Class C member
13 and is either a foundation member or a generational member;

14 (18) "Class B credited service," service credited as a Class B member of the system;

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

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

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

23 (22) "Class D credited service," service credited as a Class D member of the system;

24 (23) "Class D member," any member that was a member of the Department of Labor
25 and Regulation employees' retirement plan as of June 30, 2020;

26 (24) "Classified employee," an employee of a public school district who is not required
27 by law to be a certified school employee, an employee of any college or university
28 under the control of the Board of Regents who is not a faculty member or an
29 administrator and comes within the provisions of chapter 3-6D, an employee of a
30 public corporation, an employee of a chartered governmental unit, and any other
31 participating employee not elsewhere provided for in this chapter;

32 ~~(23)~~(25) "Comparable level position," a member's position of employment that is
33 generally equivalent to the member's prior position of employment in terms of
34 required education, required experience, required training, required work history,
35 geographic location, and compensation and benefits;

- 1 ~~(24)~~(26) "Conservation officers," employees of the Department of Game, Fish and
2 Parks and the Division of Wildlife or Division of Custer State Park who are employed
3 pursuant to § 41-2-11 and whose positions are subject to the requirements as to
4 education and training provided in chapter 23-3;
- 5 ~~(25)~~(27) "Consumer price index," the consumer price index for urban wage earners
6 and clerical workers calculated by the United States Bureau of Labor Statistics;
- 7 ~~(26)~~(28) "Contributory service," service to a participating unit during which
8 contributions were made to a South Dakota retirement system, which may not
9 include years of credited service as granted in § 3-12C-509 or 3-12C-511;
- 10 ~~(27)~~(29) "Correctional security staff," the warden, deputy warden, and any other
11 correctional staff holding a security position as verified by the Department of
12 Corrections and approved by the Bureau of Human Resources and the Bureau of
13 Finance and Management, and determined by the board as Class B members;
- 14 ~~(28)~~(30) "Court services officers," persons appointed pursuant to § 26-7A-8;
- 15 ~~(29)~~(31) "Covered employment," a member's employment as a permanent full-time
16 employee by a participating unit;
- 17 ~~(30)~~(32) "Deputy county sheriff," an employee of a county that is a participating unit,
18 appointed by the board of county commissioners pursuant to §§ 7-12-9 and 7-12-
19 10, who is a permanent full-time employee and whose position is subject to the
20 minimum educational and training standards established by the law enforcement
21 standards commission pursuant to chapter 23-3. The term does not include jailers
22 or clerks appointed pursuant to §§ 7-12-9 and 7-12-10 unless the participating unit
23 has requested that the jailer be considered as a deputy county sheriff and the board
24 has approved the request;
- 25 ~~(31)~~(33) "Effective date of retirement," the first day of the month in which retirement
26 benefits are payable;
- 27 ~~(32)~~(34) "Eligible retirement plan," the term eligible retirement plan includes those
28 plans described in section 402(c)(8)(B) of the Internal Revenue Code;
- 29 ~~(33)~~(35) "Eligible rollover distribution," any distribution to a member of accumulated
30 contributions pursuant to § 3-12C-602. The term does not include any portion of a
31 distribution that represents contributions made to the system on an after tax basis
32 nor distributions paid as a result of the member reaching the required beginning
33 date;
- 34 ~~(34)~~(36) "Employer," the State of South Dakota and any department, bureau, board,
35 or commission of the State of South Dakota, or any of its governmental or political

- 1 subdivisions or any public corporation of the State of South Dakota that elects to
2 become a participating unit;
- 3 ~~(35)~~(37) "Employer contributions," amounts contributed by the employer of a
4 contributing member, excluding member contributions made by an employer after
5 June 30, 1984, pursuant to § 3-12C-401;
- 6 ~~(36)~~(38) "Equivalent public service," any public service other than as a justice, a judge,
7 or a magistrate judge and comparable to Class B service as defined by this section,
8 if the service is in the employ of a public entity that is not a participating unit;
- 9 ~~(37)~~(39) "Fair value of assets," the total assets of the system at fair market value for
10 securities traded on exchanges; for securities not traded on exchanges, a value
11 based on similar securities; and for alternative investments, reported net asset
12 value;
- 13 ~~(38)~~(40) "Fair value funded ratio," the fair value of assets divided by the actuarial
14 accrued liability;
- 15 ~~(39)~~(41) "Fiduciary," any person who exercises any discretionary authority or control
16 over the management of the system or the management or disposition of its assets,
17 renders investment advice for a fee or other compensation, direct or indirect, or
18 has any authority or responsibility to do so, or has any discretionary authority or
19 responsibility in the administration of the system;
- 20 ~~(40)~~(42) "Foundation member," any member of the system whose contributory service
21 began before July 1, 2017;
- 22 ~~(41)~~(43) "Foundation retiree," any foundation member who has retired with a benefit
23 payable from the system;
- 24 ~~(42)~~(44) "Firefighter," any full-time firefighter who works at least twenty hours a week
25 and at least six months a year. The term does not include any volunteer firefighter;
- 26 ~~(43)~~(45) "Fund," public employees' retirement fund or funds established for the
27 purposes of administration of this chapter;
- 28 ~~(44)~~(46) "General employee," any full-time municipal employee who is not a firefighter
29 or a police officer;
- 30 ~~(45)~~(47) "Generational member," any member of the system whose contributory
31 service began after June 30, 2017;
- 32 ~~(46)~~(48) "Generational retiree," any generational member who has retired with a
33 benefit payable from the system;

- 1 ~~(47)~~(49) "Health care provider," a physician or other health care practitioner licensed,
2 registered, certified, or otherwise authorized by law to provide specified health
3 services;
- 4 ~~(48)~~(50) "Internal Revenue Code," or "code," the Internal Revenue Code as in effect
5 as of January 1, 2019;
- 6 ~~(49)~~(51) "Juvenile corrections agent," a designee of the secretary of corrections
7 charged with the care, custody, and control of juveniles committed to the
8 Department of Corrections until the age of twenty-one or a person who is charged
9 with the care, custody, and control of juveniles at a juvenile corrections facility
10 under the control of a participating unit;
- 11 ~~(50)~~(52) "Law enforcement officer," any agent of the state division of criminal
12 investigation, officer of the South Dakota Highway Patrol, police officer, county
13 sheriff, deputy county sheriff, or firefighter;
- 14 ~~(51)~~(53) "Member," any person who is contributing or has made contributions to the
15 system and is either a foundation member or generational member. A person's
16 membership ceases when the person withdraws his or her accumulated
17 contributions after termination of employment;
- 18 ~~(52)~~(54) "Member contributions," amounts contributed by members, including
19 member contributions made by an employer after June 30, 1984, pursuant to § 3-
20 12C-401;
- 21 ~~(53)~~(55) "Military service," a period of active duty with the United States Army, the
22 United States Navy, the United States Air Force, the United States Marine Corps, or
23 the United States Coast Guard, from which duty the member received an honorable
24 discharge or an honorable release;
- 25 ~~(54)~~(56) "Municipality," any incorporated municipal government under chapter 9-3 or
26 any chartered governmental unit under the provisions of Article IX of the
27 Constitution of the State of South Dakota;
- 28 ~~(55)~~(57) "Noncontributory service," for foundation members, service delineated in
29 subdivisions 3-12C-502(2), (5), (7), and (8), and for generational members, service
30 pursuant to § 3-12C-514;
- 31 ~~(56)~~(58) "Normal cost," the expected long-term cost of the system benefits and
32 expenses expressed as a percentage of payroll;
- 33 ~~(57)~~(59) "Normal retirement," the termination of employment and application for
34 benefits by a member with three or more years of contributory service or
35 noncontributory service on or after the member's normal retirement age;

- 1 ~~(58)~~(60) "Other public benefits," eighty percent of the primary insurance amount or
2 primary social security benefits that would be provided under federal social security;
- 3 ~~(59)~~(61) "Other public service," service for the government of the United States,
4 including military service; service for the government of any state or political
5 subdivision thereof; service for any agency or instrumentality of any of the
6 foregoing; or service as an employee of an association of government entities
7 described in this subdivision;
- 8 ~~(60)~~(62) "Park rangers," employees of the Department of Game, Fish and Parks within
9 the Division of Parks and Recreation and whose positions are subject to the
10 requirements as to education and training provided in chapter 23-3 and whose
11 primary duty is law enforcement in the state park system;
- 12 ~~(61)~~(63) "Parole agent," an employee of the Department of Corrections employed
13 pursuant to § 24-15-14 who is actually involved in direct supervision of parolees on
14 a daily basis;
- 15 ~~(62)~~(64) "Participating unit," the State of South Dakota and any department, bureau,
16 board, or commission of the State of South Dakota, and any of its political
17 subdivisions or any public corporation of the State of South Dakota that has
18 employees who are members of the retirement system created in this chapter;
- 19 ~~(63)~~(65) "Permanent full-time employee," any employee who has been placed in a
20 permanent classification who is customarily employed by a participating unit for
21 twenty hours or more a week and at least six months a year. The participating unit
22 shall decide if an employee is a permanent full-time employee and that decision is
23 conclusive;
- 24 ~~(64)~~(66) "Plan year," a period extending from July first of one calendar year through
25 June thirtieth of the following calendar year;
- 26 ~~(65)~~(67) "Police officer," any employee in the police department of any participating
27 municipality holding the rank of patrol officer, including probationary patrol officer,
28 or higher rank and whose position is subject to the minimum educational and
29 training standards established by the law enforcement officers standards
30 commission pursuant to chapter 23-3. The term does not include civilian employees
31 of a police department nor any person employed by a municipality whose services
32 as a police officer require less than twenty hours a week and six months a year. If
33 a municipality which is a participating unit operates a city jail, the participating unit
34 may request that any jailer appointed pursuant to § 9-29-25 be considered a police
35 officer, subject to the approval of the board;

- 1 ~~(66)~~(68) "Political subdivision" includes any municipality, school district, county,
2 chartered governmental unit, public corporation or entity, and special district
3 created for any governmental function;
- 4 ~~(67)~~(69) "Present value of all benefits," the present value of all benefits expected to
5 be paid to all retired, terminated, and active members and beneficiaries, based on
6 past and future credited service and future compensation increases;
- 7 ~~(68)~~(70) "Present value of benefits earned to date," the present value of the benefits
8 currently being paid to retired members and their beneficiaries and the present
9 value of benefits payable at retirement to active members, based on their earnings
10 and credited service to date of the actuarial valuation;
- 11 ~~(69)~~(71) "Projected compensation," a deceased or disabled member's final average
12 compensation multiplied by the COLA commencing each July first for each complete
13 twelve-month period elapsed between the date of the member's death or disability,
14 whichever occurred earlier, and the date the member would attain normal
15 retirement age;
- 16 ~~(70)~~(72) "Projected service," the credited service plus the service that the member
17 would have been credited with at normal retirement age had the member continued
18 in the system and received credit at the same rate the member was credited during
19 the year covered by the compensation that was used in the calculation of the
20 disability or family benefit;
- 21 ~~(71)~~(73) "Qualified military service," service in the uniformed services as defined in
22 § 414(u)(5) of the Internal Revenue Code;
- 23 ~~(72)~~(74) "Required beginning date," the later of April first of the calendar year
24 following the calendar year in which the member attains age seventy and one-half
25 or April first of the calendar year following the calendar year in which the member
26 retires;
- 27 ~~(73)~~(75) "Retiree," any foundation or generational member who retires with a lifetime
28 benefit payable from the system;
- 29 ~~(74)~~(76) "Retirement," the severance of a member from the employ of a participating
30 unit with a retirement benefit payable from the system;
- 31 ~~(75)~~(77) "Retirement benefit," the monthly amount payable upon the retirement of a
32 member;
- 33 ~~(76)~~(78) "Single premium," the lump-sum amount paid by a supplemental pension
34 participant pursuant to a supplemental pension contract in consideration for a
35 supplemental pension benefit;

- 1 ~~(77)~~(79) "Social investment," investment, divestment, or prohibition of investment of
2 the assets of the system for purposes other than maximum risk-adjusted
3 investment return, which other purposes include ideological purposes,
4 environmental purposes, political purposes, religious purposes, or purposes of local
5 or regional economic development;
- 6 ~~(78)~~(80) "State employees," employees of the departments, bureaus, commissions,
7 and boards of the State of South Dakota;
- 8 ~~(79)~~(81) "Supplemental pension benefit," any single-premium immediate pension
9 benefit payable pursuant to §§ 3-12C-1504 and 3-12C-1505;
- 10 ~~(80)~~(82) "Supplemental pension contract," any agreement between a participant and
11 the system upon which a supplemental pension is based, including the amount of
12 the single premium, the type of pension benefit, and the monthly supplemental
13 pension payment amount;
- 14 ~~(81)~~(83) "Supplemental pension contract record," the record for each supplemental
15 pension participant reflecting relevant participant data; a designation of any
16 beneficiary, if any; the amount of the participant's funds rolled into the fund; the
17 provisions of the participant's supplemental pension contract; and supplemental
18 pension payments made pursuant to the contract;
- 19 ~~(82)~~(84) "Supplemental pension participant," any member who is a retiree receiving a
20 benefit from the system, or, if the member is deceased, the member's surviving
21 spouse who is receiving a benefit from the system, and who chooses to purchase a
22 supplemental pension benefit pursuant to the provisions of this chapter;
- 23 ~~(83)~~(85) "Supplemental pension spouse," any person who was married to a
24 supplemental pension participant at the time the participant entered into the
25 supplemental pension contract;
- 26 ~~(84)~~(86) "System," the South Dakota Retirement System created in this chapter;
- 27 ~~(85)~~(87) "Tax-qualifying purchase unit," any participating unit that elects to allow the
28 unit's employees to purchase credited service on a tax-deferred basis by means of
29 employer contribution agreements as outlined in §§ 3-12C-507 and 3-12C-508;
- 30 ~~(86)~~(88) "Trustee," a member of the board of trustees;
- 31 ~~(87)~~(89) "Unfunded actuarial accrued liability," the actuarial accrued liability less the
32 actuarial value of assets.

33 **Section 4.** That § 3-12C-228 be AMENDED:

1 **3-12C-228. Funding of system--Review--Report--Corrective action.**

2 The board shall review the funding of the system and shall make a report to the
3 Governor and the Retirement Laws Committee if the funding of the system does not meet
4 both of the following conditions:

- 5 (1) The fair value funded ratio is greater than or equal to one hundred percent; and
6 (2) The contribution rate meets or exceeds the minimum actuarial requirement to
7 support benefits.

8 The report shall include recommendations for the circumstances and timing for any
9 corrective action, including benefit changes, to improve the conditions in subdivisions (1)
10 and (2). For Class D members, corrective action is limited to reducing or eliminating the
11 cost of living adjustment. Based on this report and the recommendations of the board,
12 the Legislature may adopt corrective action to improve the conditions in subdivisions (1)
13 and (2).

14 Eligibility for benefits, the amount of any benefit, and the rate of member contributions
15 established in this chapter are not the contractual rights of any member and are subject
16 to change by the Legislature for purposes of corrective action to improve the conditions
17 in subdivisions (1) and (2).

18 **Section 5.** That § 3-12C-302 be AMENDED:

19 **3-12C-302. Membership in system--Exclusions.**

20 Membership in the system shall exclude the following:

- 21 (1) All elective officials except justices and judges, unless the official is currently
22 contributing or has previously contributed to the system or the official has elected
23 and is otherwise qualified to become a member of the system;
24 (2) ~~All personnel in the Department of Labor and Regulation who were employed before~~
25 ~~July 1, 1980, and who elect to remain participants in the retirement system~~
26 ~~provided by chapter 61-2;~~
27 (3) ~~The governing body of any participating county, municipality, or other political~~
28 ~~subdivision; and~~
29 (4)(3) All personnel employed by the municipality of Sioux Falls before July 1, 2013.
30 However, any person employed before July 1, 2013, who separates from service
31 with the municipality of Sioux Falls and is subsequently rehired by the municipality
32 of Sioux Falls and begins working after June 30, 2013, as a permanent full-time
33 employee shall be a member of the system.

1 **Section 6.** That § 3-12C-1405 be AMENDED:

2 **3-12C-1405. Retired members--Reentrance to covered employment--**
3 **Benefits and membership.**

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

8 If the retired member's benefits have not been reduced, the member's monthly
9 retirement benefit shall be reduced by fifteen percent and the annual increase shall be
10 eliminated throughout the period that the member reenters covered employment. The
11 reduction and elimination shall cease if the member again terminates covered
12 employment. However, the reduction and elimination do not apply if the member retired
13 as a Class B member other than a justice, judge, or magistrate judge and subsequently
14 reenters covered employment as a Class A member.

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

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

28 The provisions of this section do not apply to a Class D member who reenters covered
29 employment.

30 **Section 7.** That § 3-12C-1614 be REPEALED.

31 **3-12C-1614. Department of Labor and Regulation employees--Membership**
32 **in system--Benefits and credited service.**

33 **Section 8.** That a NEW SECTION be added:

1 **3-13C-1. Definitions.**

2 Terms used in this chapter mean:

- 3 (1) "Accrued benefit," on any date, the amount of monthly retirement benefit under
4 the normal form accrued by an active participant as of any date and payable at
5 normal retirement date, or any later date;
- 6 (2) "Active participant," an eligible employee who is actively participating as a Class D
7 member of the South Dakota Retirement System;
- 8 (3) "Adjustment factor," the annual cost of living adjustment determined in § 3-12C-
9 704;
- 10 (4) "Alternate payee," any spouse, former spouse, child, or other dependent of a
11 participant who is recognized by a qualified domestic relations order as having a
12 right to receive all, or a portion of, the benefits payable as a Class D member of
13 the South Dakota Retirement System;
- 14 (5) "Annuity contract," an annuity contract for guaranteed benefits, for the investment
15 of contributions in separate accounts, and for the payment of benefits under the
16 plan provided in this chapter;
- 17 (6) "Average compensation," on any given date, the average of an employee's monthly
18 compensation for those five consecutive compensation dates, or all compensation
19 dates if less than five, that give the highest average out of all compensation dates.
20 The term includes compensation dates within the period beginning on the
21 participant's entry date and ending on the date of determination. In computing
22 average compensation, the plan must exclude compensation dates in which the
23 employee terminates employment with the employer and compensation dates in
24 which an employee performs no hours of service;
- 25 (7) "Beneficiary," any person named by a participant to receive any benefits when the
26 participant dies;
- 27 (8) "Compensation date," the July first immediately before an employee's entry date
28 and the same date of each following year in which the employee is an active
29 participant;
- 30 (9) "Contingent participant," a person named by the participant to receive a lifetime
31 benefit after the participant's death in accordance with a survivorship life annuity;
- 32 (10) "Dependent child," any natural born child, legally adopted child, stepchild, or foster
33 child of the participant, if the child is unmarried, is not in the Armed Forces of any
34 country, has not attained age nineteen or older, or age twenty-four for a child who
35 is attending school on a full-time basis, and, before the participant's death, was

1 dependent upon the participant for principal support and maintenance, and, if a
2 stepchild or foster child, resided in the participant's household. School vacation
3 periods during any calendar year, that interrupt but do not terminate what
4 otherwise would have been a continuous course of study in that calendar year,
5 must be considered a part of school attendance on a full-time basis. A dependent
6 child may also include any child born after the participant's death;

7 (11) "Designated beneficiary," the person who is designated by the participant, or the
8 participant's surviving spouse, as the beneficiary of the participant's interest as a
9 Class D member and who is the designated beneficiary under 26 U.S.C.
10 §§ 401(a)(9) and 26 C.F.R. § 1.401(a)(9)-4;

11 (12) "Direct rollover," a payment by the system to the eligible retirement plan specified
12 by the distributee;

13 (13) "Distributee," an employee or former employee. In addition, the employee's or
14 former employee's surviving spouse and the employee's or former employee's
15 spouse or former spouse who is the alternate payee under a qualified domestic
16 relations order, as defined in 26 U.S.C. § 414(p), are distributees with regard to
17 the interest of the spouse or former spouse. A distributee includes the employee's
18 or former employee's nonspouse designated beneficiary, in which case, the
19 distribution can only be transferred to a traditional individual retirement account
20 or Roth individual retirement account established on behalf of the nonspouse
21 designated beneficiary and that must be treated as an inherited individual
22 retirement account pursuant to the provisions of 26 U.S.C. § 402(c)(11);

23 (14) "Eligible employee," any employee of the employer whose employment
24 commenced prior to July 1, 1980, including an employee who was on probationary
25 status by this date, and excluding the following:

26 (a) An employee who is not employed on a full-time permanent status. Full-
27 time permanent status means an employee works an average of twenty
28 hours per week, or in the opinion of the employer, can be expected to work
29 an average of twenty hours per week over the next year;

30 (b) An employee who has elected to become a Class A member of the South
31 Dakota Retirement System on or after July 1, 1980, and before July 1,
32 1981; and

33 (c) An employee who retired before January 1, 1987;

- 1 (15) "Employee," a person who is employed by the employer or any other employer
2 required to be aggregated with the employer under 26 U.S.C. § 414(b), (c), (m),
3 or (o). The term includes any person receiving differential wage payments;
- 4 (16) "Employer," the South Dakota Department of Labor and Regulation, Job Service,
5 Reemployment Assistance formerly known as the Unemployment Insurance
6 Division, and Office of Administrative Services;
- 7 (17) "Entry date," the date an employee first enters the plan as an active participant;
- 8 (18) "Inactive participant," a former active participant who has an accrued benefit;
- 9 (19) "Internal Revenue Code," or "Code," as defined in § 3-12C-101;
- 10 (20) "Involuntary termination of employment," the date a participant ceases to be an
11 employee due to involuntary termination of employment which is against the
12 employee's will or without the employee's consent. This term excludes for cause
13 on the charges of misconduct and delinquency, and includes reduction in force,
14 abolishment of a position, or liquidation of an office or agency;
- 15 (21) "Late retirement date," the first day of any month after a participant's normal
16 retirement date and on which retirement benefits begin. If a participant continues
17 to work for the employer after the normal retirement date, the participant's late
18 retirement date shall be the earliest first day of the month on or after the date of
19 severance from employment;
- 20 (22) "Leased employee," any person other than an employee of the employer who,
21 pursuant to an agreement between the employer and any other person, has
22 performed services for the employer on a substantially full-time basis for a period
23 of at least one year, and the services are performed under primary direction or
24 control by the employer. Contributions or benefits provided by the leasing
25 organization to a leased employee, which are attributable to service performed for
26 the employer, shall be treated as provided by the employer. A leased employee is
27 considered an employee of the employer if:
- 28 (a) The employee previously worked for the employer, but the position was
29 moved to the leasing organization and not terminated; and
- 30 (b) Leased employees do not constitute more than twenty percent of the
31 employer's nonhighly compensated work force;
- 32 (23) "Mandatory distribution," a distribution to a participant that is made without the
33 participant's consent and is made to the participant before the participant attains
34 the older of age sixty-two or normal retirement age;

- 1 (24) "Monthly compensation," for any compensation date, an employee's monthly
2 compensation on that date. If an employee is not an employee on the
3 compensation date, the employee's compensation on the employee's latest entry
4 or reentry date, whichever applies, is treated as the employee's compensation on
5 the compensation date;
- 6 (25) "Monthly date," each yearly date and the same day of each following month during
7 the plan year beginning on the yearly date;
- 8 (26) "Normal form," a single life annuity with certain period, where the certain period is
9 ten years;
- 10 (27) "Participant," either an active participant or an inactive participant;
- 11 (28) "Plan," the plan as provided in this chapter;
- 12 (29) "Plan year," a consecutive twelve-month period beginning on a yearly date and
13 ending on the day before the next yearly date. If the yearly date changes, the
14 result is a short plan year;
- 15 (30) "Present value," the actuarial equivalent of another benefit, expressed as a single
16 sum amount;
- 17 (31) "Prior plan," the retirement plan of the employer before December 1, 1984;
- 18 (32) "Reentry date," the date a former active participant reenters the plan;
- 19 (33) "Required contribution account," the total of a participant's required contributions
20 and, on and after January 1, 1990, the participant's pick-up contributions, with
21 interest. Contributions previously paid to the participant and any interest that
22 would have been credited on those contributions, are excluded. Interest must be
23 credited in accordance with § 3-12C-108. Interest must be credited on each
24 required contribution from the end of the plan year for which it was made until the
25 monthly date on or before the date of determination. Interest must be credited
26 from December 1, 1984, on contributions made and interest credited;
- 27 (34) "Required contribution accrued benefit," the amount of monthly retirement benefit
28 under the normal form accrued by an active participant as of any date and payable
29 at the normal retirement date derived from the participant's required contributions;
- 30 (35) "Retirement date," the date a retirement benefit will begin and is a participant's
31 early, normal, or late retirement date;
- 32 (36) "Severance from employment," notwithstanding the provisions of § 3-13C-17, an
33 employee has ceased to be an employee. An employee does not have a severance
34 from employment if, in connection with a change of employment, the employee's

- 1 new employer maintains this plan with respect to the employee. Severance from
2 employment must have occurred in accordance with the applicable regulations;
3 (37) "Spouse," a person the participant is continuously married to at least throughout
4 the one-year period ending on the date of death;
5 (38) "South Dakota Retirement System," or "system," the system created in chapter 3-
6 12C and the administrator of the plan;
7 (39) "Vested accrued benefit," on any date, the participant's accrued benefit resulting
8 from employer contributions multiplied by the participant's vesting percentage on
9 that date, plus the participant's required contribution accrued benefit;
10 (40) "Yearly date," August 1, 1961, and each following August first through August 1,
11 1969, and each following July first;
12 (41) "Years of service," the total of an employee's credited service, expressed as whole
13 years and fractional parts of a year. A period of military duty is included as service
14 with the employer to the extent it has not already been credited.

15 **Section 9.** That a NEW SECTION be added:

16 **3-13C-2. Actuarial equivalent--Distribution expected--Determination of**
17 **amount.**

18 For purposes of this chapter, actuarial equivalent means equality in the value of
19 the aggregate amount expected to be received for benefits payable at different times or
20 under different forms of distributions. For purposes of determining the amount of a
21 distribution other than an annual benefit nondecreasing for the life of the participant or,
22 in the case of a preretirement survivor annuity, the life of the participant's spouse; or that
23 decreases during the life of the participant merely because of the death of the surviving
24 contingent participant, but only if the reduction is to a level not below fifty percent of the
25 annual benefit payable before the death of the surviving contingent participant, or because
26 of the cessation or reduction of Social Security supplements or qualified disability
27 payments, actuarial equivalent shall be determined on the basis of the interest on thirty-
28 year United States Treasury securities for the look-back month for the stability period and
29 the 1994 Group Annuity Reserve Mortality Table. The look-back month applicable to the
30 stability period is the second calendar month preceding the first day of the stability period.
31 The stability period is the successive period of one calendar month containing the annuity
32 starting date for the distribution, and for which the interest rate remains constant.

33 For purposes of determining benefits not described in the preceding paragraph,
34 actuarial equivalent for benefits shall be determined on the basis of seven and one-half

1 percent interest and the 1983 Group Annuity Mortality Table as set forth in Revenue Ruling
2 95-6, 1995-1 C.B. 80.

3 **Section 10.** That a NEW SECTION be added:

4 **3-13C-3. Compensation determined.**

5 For the purposes of this chapter, compensation means an employee's fixed rate of
6 pay from the employer. Compensation includes differential wage payments. Except as
7 provided in this section, compensation for a specified period is the compensation actually
8 paid or made available during that period. Compensation for a plan year also includes
9 compensation paid by the later of two and one-half months after an employee's severance
10 from employment with the employer maintaining the plan or the end of the plan year
11 including the date of the employee's severance from employment with the employer, if
12 the payment is regular compensation for services during the employee's regular working
13 hours, or compensation for services outside the employee's regular working hours,
14 commissions, bonuses, or other similar payments, and, absent a severance from
15 employment, the payments would have been paid to the employee while the employee
16 continued in employment with the employer.

17 Any payments not described in the preceding paragraph are not considered
18 compensation if paid after severance from employment, even if paid by the later of two
19 and one-half months after the date of severance from employment or the end of the plan
20 year including the date of severance from employment.

21 Back pay, within the meaning of 26 C.F.R. § 1.415(c)-2(g)(8), shall be treated as
22 compensation for the plan year to which the back pay relates to the extent the back pay
23 represents wages and compensation that otherwise would be included in this definition.

24 Compensation paid or made available during a specified period includes amounts
25 that would otherwise be included in compensation, but for an election under 26 U.S.C.
26 § 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). Compensation includes
27 employee contributions picked-up by a governmental entity and, pursuant to 26 U.S.C.
28 § 414(h)(2), treated as employer contributions.

29 The annual compensation of each participant taken into account in determining
30 contributions and benefits for any determination period, which is the period over which
31 compensation is determined, may not exceed the limits established in 26 U.S.C.
32 § 401(a)(17), as adjusted for cost-of-living increases in accordance with 26 U.S.C.
33 § 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any
34 determination period beginning with or within that calendar year.

1 **Section 11.** That a NEW SECTION be added:

2 **3-13C-4. Credited past service--Determination.**

3 For the purposes of this chapter, credited past service is the total of an employee's
4 service before August 1, 1961. This total is expressed in whole years and fractional parts
5 of a year including a complete month as a fractional part of a year. This service is credited
6 only to an employee who became an active participant before or on August 1, 1961 or
7 who, as of that date, had permanent status but was absent from active work and became
8 an active participant before August 1, 1962.

9 However, credited past service is modified as follows:

- 10 (1) Service during a period in which an employee is receiving or is entitled to receive
11 a Federal Civil Service Retirement Pension is excluded;
- 12 (2) Service during a period in which an employee has made contributions to the Federal
13 Civil Service Retirement System and the contributions had not been withdrawn
14 before August 1, 1961, or application for withdrawal of the contributions is not
15 made by the employee within thirty days after the employer receives certification
16 from the United States Civil Service Commission that the employee currently has
17 contributions in the Federal Civil Service Retirement System, is excluded; unless
18 contributions to fund the Past Service benefit otherwise available to the employee
19 are made available from funds other than funds granted by Title III of the Federal
20 Social Security Act;
- 21 (3) Service accrued for a plan year in which an employee was not an eligible employee
22 is excluded;
- 23 (4) A period of military duty shall be included as service with the employer to the
24 extent it has not already been credited. The service is considered to be service as
25 an eligible employee only if an employee was an eligible employee on the day
26 immediately preceding the period of military duty; and
- 27 (5) Other service included:
- 28 (a) Indefinite leave of absence granted under Presidential Executive Order
29 8990, dated December 23, 1941, including any services performed for the
30 United States Employment Service or the War Manpower Commission from
31 January 1, 1942, to November 15, 1946, inclusive, and including any leave
32 for Military Service granted by either the United States Employment Service
33 or the War Manpower Commission, with or without pay; and
- 34 (b) All other approved leaves.

1 **Section 12.** That a NEW SECTION be added:

2 **3-13C-5. Credited service--Determination.**

3 For purposes of this chapter, credited service is the sum of credited past service
4 before August 1, 1961 and the total of the employee's continuous service with the
5 employer on and after August 1, 1961, expressed in whole years and fractional parts of a
6 year including a complete month as a fractional part of a year.

7 However, credited service is modified as follows:

- 8 (1) Service while an employee was not an active participant or an active participant
9 under the prior plan is excluded;
- 10 (2) Service while an employee failed or refused to make a contribution required under
11 the plan or prior plan is excluded. This provision also applies to an employee's
12 service while contributions were not made because the employee failed or refused
13 to complete a written agreement to make the contributions;
- 14 (3) A period of military duty shall be included as service with the employer to the
15 extent it has not already been credited. The service is considered to be service as
16 an eligible employee only if an employee was an eligible employee on the day
17 immediately preceding the period of military duty; and
- 18 (4) Unused accumulated annual leave and unused accumulated sick leave, and special
19 military service credit, if any, shall be included as service with the employer to the
20 extent it has not already been credited.

21 **Section 13.** That a NEW SECTION be added:

22 **3-13C-6. Eligible retirement plan--Determination.**

23 For purposes of this chapter, an eligible retirement plan is an eligible plan under
24 26 U.S.C. § 457(b) maintained by a state, political subdivision of a state, or any agency
25 or instrumentality of a state or political subdivision of a state and that agrees to separately
26 account for amounts transferred into that plan from this plan, a traditional individual
27 retirement account, a Roth individual retirement account, an annuity plan described in 26
28 U.S.C. § 403(a), an annuity contract described in 26 U.S.C. § 403(b), or a qualified plan
29 described in 26 U.S.C. § 401(a), accepting the distributee's eligible rollover distribution.
30 The definition of eligible retirement plan also applies if a distribution is made to a surviving
31 spouse, or to a spouse or former spouse who is the alternate payee under a qualified
32 domestic relations order, as defined in 26 U.S.C. § 414(p).

33 **Section 14.** That a NEW SECTION be added:

1 **3-13C-7. Eligible rollover distribution.**

2 For purposes of this chapter, an eligible rollover distribution is any distribution of
3 all or any portion of the balance to the credit of the distributee, except an eligible rollover
4 distribution does not include:

5 (1) Any distribution of a series of substantially equal periodic payments, not less
6 frequently than annually, made for the life expectancy of the distributee or the
7 joint life expectancies of the distributee and the distributee's designated
8 beneficiary, or for a specified period of ten years or more;

9 (2) Any distribution to the extent the distribution is required under 26 U.S.C.
10 § 401(a)(9);

11 (3) The portion of any other distribution not includible in gross income determined
12 without regard to the exclusion for net unrealized appreciation with respect to
13 employer securities; and

14 (4) Any other distribution reasonably expected to total less than two hundred dollars
15 during a year.

16 A portion of a distribution does not fail to be an eligible rollover distribution because
17 the portion consists of after-tax employee contributions that are not includible in gross
18 income. The portion may be transferred only to a traditional individual retirement account
19 or annuity described in 26 U.S.C. § 408(a) or (b), a Roth individual retirement account or
20 annuity described in 26 U.S.C. § 408A, or a qualified defined contribution, defined benefit,
21 or annuity plan described in 26 U.S.C. § 401(a) or 403(a) or to an annuity described in
22 26 U.S.C. § 403(b), if the plan or contract agrees to separately account for amounts so
23 transferred including interest thereon, while separately accounting for the portion of the
24 distribution which is includible in gross income and the portion of the distribution which is
25 not so includible.

26 **Section 15.** That a NEW SECTION be added:

27 **3-13C-8. Normal retirement date--Determination.**

28 For purposes of this chapter, normal retirement date is the earliest first day of the
29 month on or after the earliest of the date the employee:

30 (1) Attains age sixty-five;

31 (2) Attains age sixty-two and has completed ten years of credited service;

32 (3) Attains age sixty and has completed twenty years of credited service; or

33 (4) Attains age fifty-five and has completed thirty years of credited service.

1 For purposes of determining the normal retirement date, credited service does not
2 include unused accumulated annual or sick leave. The normal retirement date shall be the
3 date the employee's retirement benefit begins if the employee has ceased to be an
4 employee on that date and the retirement benefit has not already begun. Unless otherwise
5 provided in this plan, a participant's retirement benefits shall begin on the participant's
6 normal retirement date if the participant has had a severance from employment on that
7 date.

8 **Section 16.** That a NEW SECTION be added:

9 **3-13C-9. Confidentiality of records--Exceptions.**

10 Any information contained in any record pertaining to a member governed by this
11 chapter is confidential and shall be used for the sole purpose of carrying into effect the
12 provisions of this chapter. Any record containing the information is not open to inspection
13 by any person or entity except the member, the board, the employees of the system, or
14 the member's employer. The information and records may be released to the member or
15 with the member's consent. The information and records may also be released pursuant
16 to a court order or subpoena.

17 **Section 17.** That a NEW SECTION be added:

18 **3-13C-10. Class D members vested--Contributions not required--**
19 **Participation ceases.**

20 All Class D members of the South Dakota Retirement System as of July 1, 2020,
21 are considered vested.

22 No contributions by Class D members are required on or after January 1, 1990.

23 A participant, whether active or inactive, shall cease to be a participant on the
24 earlier of the following:

25 (1) The date of the participant's death; or

26 (2) The date the participant receives a single sum distribution in lieu of all of the
27 benefits under the plan.

28 An inactive participant shall also cease to be a participant on the earliest date on
29 which the participant is not entitled to a deferred monthly income.

30 **Section 18.** That a NEW SECTION be added:

1 **3-13C-11. Beneficiaries--Records.**

2 Each participant may name a beneficiary to receive any death benefit due for
3 participation in the plan, other than any income payable to a contingent. The participant
4 may change any beneficiary from time to time. The participant's beneficiary designation
5 and any change of beneficiary shall be subject to the provisions of § 3-13C-13.

6 It is the responsibility of the participant to give written notice to the system of the
7 name of the beneficiary on a form furnished for this purpose. The system shall maintain
8 a record of each participant's beneficiary designation before the participant's retirement
9 date.

10 If there is no beneficiary named or surviving when a participant dies, the
11 participant's beneficiary shall be the participant's surviving spouse, or if there is no
12 surviving spouse, the executor or administrator of the participant's estate.

13 **Section 19.** That a NEW SECTION be added:

14 **3-13C-12. Direct rollovers--Election by distributee.**

15 Notwithstanding any provision of the plan to the contrary limiting a distributee's
16 election under this section, a distributee may elect at the time and in the manner
17 prescribed by the system, to have any portion of an eligible rollover distribution paid
18 directly to an eligible retirement plan specified by the distributee in a direct rollover.

19 In the event of a mandatory distribution of an eligible rollover distribution greater
20 than one thousand dollars in accordance with § 3-13C-14, if the participant does not elect
21 to have the distribution paid directly to an eligible retirement plan specified by the
22 participant in a direct rollover or to receive the distribution directly, the system shall pay
23 the distribution in a direct rollover to an individual retirement plan designated by the
24 system.

25 In the event of any other eligible rollover distribution to a distributee in accordance
26 with § 3-13C-13, if the distributee does not elect to have the distribution paid directly to
27 an eligible retirement plan specified by the distributee in a direct rollover or to receive the
28 distribution directly, the system shall pay the distribution to the distributee.

29 **Section 20.** That a NEW SECTION be added:

30 **3-13C-13. Required minimum distributions.**

31 Distributions under this plan shall be determined and made in accordance with 26
32 U.S.C. § 401(a)(9).

1 **Section 21.** That a NEW SECTION be added:

2 **3-13C-14. Vested accrued benefit--Distribution--Small amounts payment.**

3 If the present value of the participant's vested accrued benefit does not exceed
4 five thousand dollars, and the participant has not started retirement benefits with respect
5 to any portion of the vested accrued benefit, the present value of the participant's entire
6 vested accrued benefit shall be distributed as of the earliest of the participant's retirement
7 date or the date of severance from employment for any reason other than death. For
8 purposes of this section, if the present value of the participant's vested accrued benefit is
9 zero, the participant shall be deemed to have received a distribution of the present value.
10 This is a small amounts payment. The small amounts payment is in full settlement of all
11 benefits otherwise payable.

12 If a participant has a severance from employment for any reason other than death
13 or retirement and does not elect to have a small amounts payment paid directly to an
14 eligible retirement plan specified by the participant in a direct rollover or to receive the
15 distribution directly and the present value of the participant's vested accrued benefit is
16 greater than one thousand dollars, a mandatory distribution will be made in accordance
17 with § 3-13C-12. If the present value of the participant's vested accrued benefit is one
18 thousand dollars or less, the present value of the participant's entire vested accrued
19 benefit shall be paid directly to the participant.

20 If the present value of the preretirement spouse and dependent child death benefit
21 or the certain period death benefit as provided in § 3-13C-18 does not exceed five
22 thousand dollars on the date of the participant's death, the present value of the
23 preretirement spouse and dependent child death benefit or the certain period death benefit
24 shall be distributed as of the date the participant dies. If the single sum death benefit
25 payable to a beneficiary does not exceed five thousand dollars, on the date of the
26 participant's death, the death benefit shall be distributed in a single sum as of the date
27 the participant dies. This is a small amounts payment.

28 A small amounts payment is in full settlement of the death benefit otherwise
29 payable. No other small amounts payments may be made.

30 **Section 22.** That a NEW SECTION be added:

31 **3-13C-15. Accrued benefit determined.**

32 An active participant's monthly accrued benefit as of any date, subject to the
33 modifications below, will be equal to the product of (1) and (2) as follows:

1 (1) An amount equal to two percent of average compensation; and

2 (2) Credited service on such date.

3 An active participant's monthly accrued benefit may not be less than the amount
4 of the participant's monthly retirement benefit accrued as of December 11, 1984.

5 After all other modifications have been applied, an active participant's monthly
6 accrued benefit shall be reduced by the amount of deferred monthly retirement benefit
7 under the normal form beginning on the normal retirement date in lieu of which the
8 participant has received a single sum payment under the plan. The participant's accrued
9 benefit resulting from employer contributions is equal to the participant's total accrued
10 benefit reduced by the required contribution accrued benefit.

11 **Section 23.** That a NEW SECTION be added:

12 **3-13C-16. Amount of benefit at retirement.**

13 The amount of retirement benefits to be provided under the normal form for an
14 active participant on the participant's retirement date is:

15 (1) On the participant's normal retirement date, the amount is equal to the
16 participant's accrued benefit on that date;

17 (2) On the participant's early retirement date, the amount is equal to the participant's
18 accrued benefit on that date, reduced by one-sixth of one percent for each month
19 the participant's early retirement date precedes the participant's normal retirement
20 date; or

21 (3) On the participant's late retirement date, the amount is equal to the participant's
22 accrued benefit on the late retirement date.

23 In any event, an active participant's retirement benefit under the normal form on
24 the participant's retirement date may not be less than the greater of the participant's
25 required contribution accrued benefit on the participant's retirement date, reduced in the
26 same manner as the participant's accrued benefit is reduced at early retirement date if
27 the participant's retirement date is an early retirement date, or the monthly benefit under
28 the normal form that is the actuarial equivalent of the participant's required contribution
29 account on that date.

30 **Section 24.** That a NEW SECTION be added:

31 **3-13C-17. Benefit limitation.**

32 Annual benefits payable under the plan may not exceed the amount provided in 26
33 U.S.C. § 415 and are payable in accordance with § 3-12C-711.

1 **Section 25.** That a NEW SECTION be added:

2 **3-13C-18. Preretirement death benefits--Payment recipient--Conditions--**

3 **Determination of amount.**

4 If a participant dies before retirement benefits start, monthly payments shall be
5 made to the surviving spouse or, if there is no surviving spouse, to the dependent child's
6 principal support if the following provisions are met:

7 (1) The participant is survived by a spouse to whom the participant was continuously
8 married throughout the one-year period ending on the date of this death;

9 (2) The participant is survived by a dependent child on the date of death; and

10 (3) The participant had not ceased to be an employee, dependent child, or beneficiary.

11 The amount of payments to the surviving spouse with a dependent child are equal
12 to fifty-five percent of the amount of monthly retirement benefit expected to become
13 payable upon attaining age sixty, assuming the participant's employment continues, and
14 monthly compensation remains unchanged.

15 For each dependent child of the participant with a surviving spouse, the amount of
16 payments is equal to the least of: sixty percent of the participant's average compensation
17 on the date of death, divided by the number of dependent children; seventy-five dollars;
18 or two hundred twenty-five dollars, divided by the number of dependent children.

19 The payments to a dependent child are in addition to the payments made to the
20 surviving spouse.

21 For each dependent child of a participant who does not have a spouse on the date
22 of death, the amount of payments is equal to the least of: seventy-five percent of the
23 participant's average compensation on the date of death, divided by the number of
24 dependent children; ninety dollars; or two hundred seventy dollars, divided by the number
25 of dependent children.

26 In addition, a single-sum benefit equal to the participant's required contribution
27 account on the date of death shall be payable to the participant's beneficiary.

28 The death benefits shall begin on the first day of the month after the participant
29 dies and shall continue until the later of the date the surviving spouse dies, or the date
30 there no longer is a dependent child.

31 If the surviving spouse remarries before the attainment of age sixty, no further
32 monthly payments shall be made after the first day of the month immediately preceding
33 the date of the spouse's remarriage.

1 Benefits payable to the dependent children of a participant who did not have a
2 spouse on the date of death shall be assumed to continue until the date the youngest
3 dependent child attains age twenty-two.

4 If the participant is not survived by a spouse, dependent child, or beneficiary, the
5 death benefit shall be the preservation of retirement option death benefit. This death
6 benefit is the death benefit payable to the participant's beneficiary or contingent
7 participant if the participant's retirement date had occurred on the date of death. The
8 optional form of distribution elected in accordance with § 3-13C-23 before the participant's
9 death is the form in effect for determining the death benefit. Any death benefit payable
10 shall be subject to the provisions of § 3-13C-13.

11 The distribution of death benefits shall be subject to the provisions of § 3-13C-14.

12 **Section 26.** That a NEW SECTION be added:

13 **3-13C-19. Death benefit after retirement determination--Payment amount**
14 **determined.**

15 Any death benefit after a participant's retirement will be determined by the form
16 of retirement benefit in effect on that date. If the participant has a dependent child on the
17 date of death after retirement date, payments shall be made as follows:

18 (1) For each dependent child of the participant with a surviving spouse, the amount of
19 payments is equal to the least of:

20 (a) Sixty percent of the participant's average compensation on the date of
21 death, divided by the number of dependent children;

22 (b) Seventy-five dollars; or

23 (c) Two hundred twenty-five dollars, divided by the number of dependent
24 children.

25 The payments to a dependent child are in addition to the payments made to the
26 surviving spouse; and

27 (2) For each dependent child of a participant who does not have a spouse on the date
28 of death, the amount of payments is equal to the least of:

29 (a) Seventy-five percent of the participant's average compensation on the date
30 of death, divided by the number of dependent children;

31 (b) Ninety dollars; or

32 (c) Two hundred seventy dollars, divided by the number of dependent children.

33 **Section 27.** That a NEW SECTION be added:

1 **3-13C-20. Vested benefits--Distribution amount determined.**

2 Any distribution of vested benefits shall be a retirement benefit and subject to § 3-
3 13C-14. A participant who becomes an inactive participant before retirement or death is
4 entitled to one of the following vested benefits, whichever is applicable:

5 (1) A deferred monthly retirement benefit under the normal form to begin on the
6 participant's normal retirement date equal to the sum of (a) and (b):

7 (a) On and after June 30, 1999, the amount of monthly benefit which could be
8 provided on the participant's normal retirement date on the normal form by
9 the participant's required contribution account, based on the rates
10 described in the definition of actuarial equivalent; and

11 (b) The product of (i) and (ii):

12 (i) The excess of the participant's accrued benefit on the day before
13 becoming an inactive participant over the amount determined under
14 (a); and

15 (ii) The participant's vesting percentage on the date of severance from
16 employment; or

17 (2) A deferred monthly retirement benefit under the normal form to begin on the
18 participant's late retirement date determined as follows:

19 (a) For a participant who became an inactive participant on or before normal
20 retirement date, an amount equal to the amount under subdivision (1); and

21 (b) For a participant who became an inactive participant after normal
22 retirement date, an amount equal to the participant's accrued benefit on
23 the day before becoming an inactive participant.

24 The deferred retirement benefit for the participant on the participant's retirement
25 date may not be less than the monthly benefit equal to the actuarial equivalent of the
26 required contribution account on that date.

27 The amount of payment under any form other than the normal form shall be
28 determined in accordance with § 3-13C-21.

29 The participant may receive the participant's required contribution account in a
30 single sum payment at any time after severance from employment and before the
31 participant's retirement date, provided the participant has not again become an employee.
32 If the amount is not payable in accordance with § 3-13C-14, it will be distributed only if
33 the participant so elects. The participant's election shall be subject to the requirements in
34 § 3-13C-23. The payment shall be in lieu of the required contribution accrued benefit.

1 If the participant dies before retiring, death benefits shall be distributed in
2 accordance with § 3-13C-18.

3 **Section 28.** That a NEW SECTION be added:

4 **3-13C-21. Retirement benefits--Optional forms.**

5 The optional forms of retirement benefits are the following:

6 (1) A straight life annuity;

7 (2) A single life annuity with a certain period of ten, fifteen, or twenty years;

8 (3) A single life annuity with modified cash refund of the participant's required
9 contribution account;

10 (4) A survivorship life annuity equal to the participant's monthly retirement benefit,
11 reduced by two and one-half percent of the amount of the benefit not exceeding
12 three hundred dollars plus ten percent of the amount by which the benefit exceeds
13 three hundred dollars, with survivorship percentages of fifty or seventy-five
14 percent; and

15 (5) A Social Security adjustment option based on the normal form and adjusted in a
16 manner so when added to the primary insurance benefits under Title II of the
17 Federal Social Security Act in effect on the participant's retirement date will
18 provide, as nearly as practicable, a uniform series of payments before and after
19 attaining Social Security retirement age. This option is effective only for a
20 participant whose retirement date occurs before the participant attains Social
21 Security retirement age.

22 Social Security retirement age means, on any date, the age at which full Social
23 Security benefits become payable as determined by the Social Security table in effect on
24 that date.

25 The benefit payable under any optional form available under this section, other
26 than the normal form, shall be the actuarial equivalent of the benefit otherwise payable
27 to the participant under the normal form on the participant's retirement date. If the
28 participant's retirement date is before the participant's normal retirement date, the benefit
29 payable under any optional form other than a nondecreasing annuity payable for a period
30 of not less than the life of the participant or an annuity decreasing during the life of the
31 participant because of either the death of the survivor contingent participant but only if
32 the reduction is not below fifty percent of the benefit payable before the death of the
33 survivor contingent participant or the cessation or reduction of Social Security
34 supplements or qualified disability payments as defined in 26 U.S.C. § 401(a)(11), may

1 not be less than the actuarial equivalent of the benefit otherwise payable to the participant
2 under the normal form on the participant's normal retirement date.

3 The election of an optional form is subject to the provisions of §§ 3-13C-13 and 3-
4 13C-23.

5 Retirement benefits are nontransferable.

6 **Section 29.** That a NEW SECTION be added:

7 **3-13C-22. Death benefits--Optional forms.**

8 The optional forms of death benefit are any of the optional forms of retirement
9 benefit stated in § 3-13C-21 that are not survivorship life annuities. The election of an
10 optional form is subject to the provisions of §§ 3-13C-13 and 3-13C-23.

11 **Section 30.** That a NEW SECTION be added:

12 **3-13C-23. Election of benefits--Requirements.**

13 The participant, beneficiary, or spouse shall make any election in writing. The
14 system may require the person to complete and sign any necessary documents as to the
15 provisions made.

16 A participant may elect a beneficiary or contingent participant and may elect to
17 have retirement benefits distributed under the provisions of § 3-13C-21.

18 A participant may elect a beneficiary for any single sum death benefits and may
19 elect to have the death benefits distributed in accordance with §§ 3-13C-18 and 3-13C-
20 19. If the participant has not elected an optional form of distribution for the death benefit
21 payable to the beneficiary, the beneficiary may elect the form of distribution in like manner
22 as a participant.

23 The participant, beneficiary, or spouse may make an election at any time during
24 the election period. The participant, beneficiary, or spouse may revoke the election made
25 or make a new election at any time and any number of times during the election period
26 as follows:

27 (1) A participant may make an election as to retirement benefits at any time before
28 the retirement benefits start date; and

29 (2) A participant may make an election as to death benefits at any time before the
30 death of the participant. The spouse's election period begins on the date the
31 participant dies and ends on the date benefits begin. The beneficiary's election
32 period begins on the date the participant dies and ends on the date benefits begin.

- 1 **Section 31.** No later than July 15, 2020, the balance of the funds of the Department of Labor
2 and Regulation employees' retirement plan shall be transferred to the South Dakota
3 Retirement System trust fund. The amount transferred to the system under this section, which
4 under the Department of Labor and Regulation employees' retirement plan was credited to
5 the accounts of individual members, is considered member contributions.
- 6 **Section 32.** That §§ 61-2-15 to 61-2-15.6, inclusive, be REPEALED.