

State of Arizona  
Senate  
Forty-fifth Legislature  
First Regular Session  
2001

CHAPTER 280

**SENATE BILL 1100**

AN ACT

AMENDING SECTIONS 15-1451, 38-727, 38-729, 38-804, 38-815, 38-851 AND 38-902, ARIZONA REVISED STATUTES; REPEALING TITLE 38, CHAPTER 5, ARTICLE 8, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING A NEW ARTICLE 8; REPEALING LAWS 1999, CHAPTER 329, SECTION 8; RELATING TO SUPPLEMENTAL DEFINED CONTRIBUTION PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-1451, Arizona Revised Statutes, is amended to  
3 read:

4 15-1451. Optional retirement plans

5 A. ~~Notwithstanding section 38-729, subsection I,~~ and Pursuant to  
6 section 15-1444, subsection B, paragraph 5, a community college district  
7 board may establish an optional retirement program under which contracts  
8 providing retirement and death benefits may be purchased for employees of the  
9 institutions under its jurisdiction as designated by the community college  
10 district board.

11 B. An optional retirement program established pursuant to this section  
12 shall:

13 1. Be designed to be a qualified governmental plan under section  
14 401(a) of the internal revenue code.

15 2. Comply with all requirements of the internal revenue code  
16 applicable to governmental plans.

17 3. Be a qualified plan under section 401(a) of the internal revenue  
18 code.

19 4. Apply for and maintain a current letter of determination issued by  
20 the United States internal revenue service.

21 5. Be a qualified pick-up plan as defined by section 414(h)(2) of the  
22 internal revenue code as confirmed by a private letter ruling issued by the  
23 United States internal revenue service.

24 6. Provide benefits through annuity contracts that are fixed or  
25 variable in nature or that are a combination of fixed and variable.

26 C. Eligible employees may elect to participate in an optional  
27 retirement plan established by the community college district board. The  
28 eligible employee shall make the election in writing and file the election  
29 with the Arizona state retirement system and the disbursing officer of the  
30 employing institution. The eligible employee shall make the election within  
31 thirty days of the employee's effective date of employment or, if the  
32 employee is a member of the Arizona state retirement system on the date the  
33 optional retirement program becomes effective, within ninety days of the  
34 effective date of the optional retirement program. If an employee who is a  
35 member of the Arizona state retirement system elects to participate in an  
36 optional retirement program within thirty days of the employee's effective  
37 date of employment or within ninety days of the effective date of the  
38 optional retirement program, the Arizona state retirement system shall  
39 transfer the employee's contributions to the Arizona state retirement system  
40 and interest as determined by the board of the Arizona state retirement  
41 system to the optional retirement program within the later of ninety days  
42 after the election or ninety days after receipt by the optional retirement  
43 program of a favorable letter of determination issued by the United States  
44 internal revenue service. If an eligible employee fails to make an election  
45 as provided in this subsection, the employee is deemed to have elected to

1 participate in the Arizona state retirement system. The election to  
2 participate in an optional retirement program is irrevocable and constitutes  
3 a waiver of all benefits provided by the Arizona state retirement  
4 system. All eligible employees who elect to participate in an optional  
5 retirement program shall remain participants in the optional  
6 retirement program during the continuance of employment with the community  
7 college district.

8 D. The community college district board shall make contributions from  
9 public monies appropriated or any other monies available for this purpose on  
10 behalf of each participant in the optional retirement program in an amount  
11 equal to the employer contribution prescribed in title 38, chapter 5, article  
12 2.

13 E. Subject to subsection G of this section, each community college  
14 district board that establishes an optional retirement program shall  
15 establish program provisions including:

16 1. Categories of employees that are eligible to elect to participate  
17 in the optional retirement program.

18 2. The employee contribution rate. This rate may be greater than the  
19 employee contribution rate prescribed in title 38, chapter 5, article 2.

20 3. A vesting period for employer contributions, if any. All employee  
21 contributions that are picked up by the employer are fully vested at all  
22 times.

23 4. Restrictions on benefits, except that the optional retirement  
24 program shall not allow a participant to withdraw employer contributions  
25 except as retirement income payable for life or to provide for loans on  
26 retirement income.

27 F. A community college district board may elect to provide health or  
28 long-term disability coverage to optional retirement program participants  
29 under separate benefit plans. The community college district board may  
30 allocate a portion of its employer contribution that would otherwise be made  
31 to the optional retirement program under subsection D of this section to the  
32 separate benefit plans to provide health or long-term disability coverage.

33 G. Community college district boards that establish an optional  
34 retirement program under this section may enter into intergovernmental  
35 agreements appointing a single administrator or designating a single  
36 community college district board to administer the optional retirement  
37 program. A community college district board may satisfy the requirements of  
38 this section by entering into an intergovernmental agreement with another  
39 community college district board to participate in that community college  
40 district's optional retirement program. The administration shall include,  
41 without limitation, the design and implementation of the plan document  
42 establishing the optional retirement program, compliance with the  
43 qualification requirements prescribed in subsection B of this section and  
44 such other duties that are not inconsistent with this section as may be

1 delegated to the administrator pursuant to the intergovernmental agreements  
2 entered into among the community college district boards.

3 H. Although designated as employee contributions, all employee  
4 contributions made to an optional retirement program shall be picked up and  
5 paid by the community college district in lieu of contributions by the  
6 employee. The contributions picked up by a community college district may  
7 be made through a reduction in the employees' salary or an offset against  
8 future salary increases, or a combination of both. The employees  
9 participating in the optional retirement program do not have the option of  
10 choosing to receive the contributed amounts directly instead of the community  
11 college district paying the amounts to the optional retirement program. It  
12 is intended that all employee contributions that are picked up by the  
13 community college district as provided in this subsection shall be treated  
14 as employer contributions under section 414(h) of the internal revenue code  
15 and shall be excluded from the employees' gross income for federal and state  
16 income tax purposes and are includable in the gross income of the employees  
17 or their beneficiaries only in the taxable year in which they are  
18 distributed.

19 I. A community college district board shall not be liable to any  
20 employee, retiree or other person for any reason relating to the community  
21 college district board's provision of or failure to provide for an optional  
22 retirement program or health or long-term disability coverage.

23 Sec. 2. Section 38-727, Arizona Revised Statutes, is amended to read:  
24 38-727. Eligibility; options

25 The following provisions apply to all employees hired on or after the  
26 effective date:

27 1. All employees and officers of this state and all officers and  
28 employees of political subdivisions establishing a retirement plan  
29 administered by the board pursuant to this article who as a result of state  
30 service or service for the political subdivision are included in agreements  
31 providing for their coverage under the federal old age and survivors  
32 insurance system are subject to this article, except that membership is not  
33 mandatory:

34 (a) On the part of any employee who is eligible and who elects to  
35 participate in the optional retirement programs established by the Arizona  
36 board of regents pursuant to the authority conferred by section 15-1628 or  
37 by a community college district board pursuant to authority conferred by  
38 section 15-1451.

39 (b) For a state elected official who is subject to term limits, who  
40 is eligible for participation in ASRS because the state elected official  
41 elected not to participate in the elected officials' retirement plan as  
42 provided in section 38-804, subsection A and who elects not to participate  
43 in ASRS as provided in paragraph 7 of this section.

44 ~~(c) For an employee of the legislature who elects as provided~~  
45 ~~in paragraph 8 of this section to participate in a tax deferred annuity and~~

1 ~~deferred compensation program established pursuant to article 5 of this~~  
2 ~~chapter in lieu of participation in ASRS.~~

3 ~~(d) For exempt state officers or employees as defined in section~~  
4 ~~38-951 who elect to participate in the defined contribution retirement plan~~  
5 ~~option pursuant to article 8 of this chapter.~~

6 2. All employees and officers of political subdivisions whose  
7 compensation is provided wholly or in part from state monies and who are  
8 declared to be state employees and officers by the legislature for retirement  
9 purposes are subject, on legislative enactment, to this article and are  
10 members of ASRS.

11 3. Any member whose service terminates other than by death or  
12 withdrawal from membership is deemed to be a member of ASRS until the  
13 member's death benefit is paid.

14 4. Employees and officers shall not become members of ASRS and, if  
15 they are members immediately before becoming employed as provided by this  
16 section, shall have their membership status suspended while they are employed  
17 by state departments paying the salaries of their officers and employees  
18 wholly or in part from monies received from sources other than appropriations  
19 from the state general fund for the period or periods payment of the employer  
20 contributions is not made by or on behalf of the departments.

21 5. Notwithstanding other provisions of this section, a temporary  
22 employee of the legislature whose projected term of employment is for not  
23 more than six months is ineligible for membership in ASRS. If the employment  
24 continues beyond six successive months, the employee may elect to either:

25 (a) Receive credit for service for the first six months of employment  
26 and establish membership in ASRS as of the beginning of the current term of  
27 employment if, within forty-five days after the first six months of  
28 employment, both the employer and the employee contribute to ASRS the amount  
29 that would have been required to be contributed to ASRS during the first six  
30 months of employment as if the employee had been a member of ASRS during  
31 those six months.

32 (b) Establish membership in ASRS as of the day following the  
33 completion of six months of employment.

34 6. A person who is employed in postgraduate training in an approved  
35 medical residency training program of an employer is ineligible for  
36 membership in ASRS.

37 7. A state elected official who is subject to term limits and who is  
38 eligible for participation in ASRS because the state elected official elected  
39 not to participate in the elected officials' retirement plan as provided in  
40 section 38-804, subsection A may elect not to participate in ASRS. The  
41 election not to participate is specific for that term of office. The state  
42 elected official who is subject to term limits shall make the election in  
43 writing and file the election with ASRS within thirty days after the elected  
44 official's retirement plan mails the notice to the state elected official of  
45 the state elected official's eligibility to participate in ASRS. The

1 election is effective on the first day of the state elected official's  
2 eligibility. If a state elected official who is subject to term limits fails  
3 to make an election as provided in this paragraph, the state elected official  
4 is deemed to have elected to participate in ASRS. The election not to  
5 participate in ASRS is irrevocable and constitutes a waiver of all benefits  
6 provided by ASRS for the state elected official's entire term, except for any  
7 benefits accrued by the state elected official in ASRS for periods of  
8 participation prior to being elected to an office subject to term limits or  
9 any benefits expressly provided by law.

10 ~~8. In lieu of participation in ASRS or the defined contribution~~  
11 ~~retirement plan option pursuant to article 8 of this chapter, an employee of~~  
12 ~~the legislature may elect pursuant to this paragraph to participate in a tax~~  
13 ~~deferred annuity and deferred compensation program established pursuant to~~  
14 ~~article 5 of this chapter. An employee of the legislature shall make the~~  
15 ~~election in writing and file the written election with ASRS. If an employee~~  
16 ~~of the legislature elects to participate in a tax deferred annuity and~~  
17 ~~deferred compensation program pursuant to this paragraph, the election is~~  
18 ~~irrevocable and constitutes a waiver of all benefits provided by ASRS, except~~  
19 ~~for any benefits accrued by the employee before election pursuant to this~~  
20 ~~paragraph. If an employee of the legislature elects to participate in a tax~~  
21 ~~deferred annuity and deferred compensation program pursuant to this~~  
22 ~~paragraph, the employee's employer shall pay an amount equal to five per cent~~  
23 ~~of the employee's base salary directly to the program in lieu of employer~~  
24 ~~contributions to ASRS.~~

25 Sec. 3. Section 38-729, Arizona Revised Statutes, is amended to read:

26 38-729. Political subdivision plans

27 A. The governing body of any political subdivision may adopt, by  
28 appropriate legislation, a supplemental retirement plan for employees and  
29 officers of the political subdivision who are included within agreements  
30 entered into between the governing body and the state agency providing for  
31 the extension of federal old age and survivors insurance benefits to the  
32 officers and employees. The supplemental retirement plan shall provide the  
33 same retirement benefits and require the same obligations for entitlement as  
34 are provided for other members under this article, except that:

35 1. The supplemental retirement plan shall specify the date of  
36 commencement of the supplemental retirement plan as the first day of the  
37 month following board approval of the supplemental plan of the political  
38 subdivision as provided in this section.

39 2. Employer and employee obligations shall be paid to ASRS in  
40 accordance with that date.

41 B. The governing body of the political subdivision shall submit the  
42 supplemental retirement plan to the board in the form of an agreement. The  
43 agreement shall state the terms of the supplemental retirement plan as  
44 provided in this section. The board shall either approve or disapprove the

1 supplemental retirement plan submitted by the governing body of the political  
2 subdivision.

3 C. On approval, the board shall administer the supplemental plan of  
4 the political subdivision.

5 D. The employer's share of contributions and payments in excess of  
6 those required of the employer under section 38-737 shall be paid from monies  
7 of the political subdivision.

8 E. On establishment of the supplemental retirement plan the governing  
9 body of the political subdivision shall deduct member contributions in the  
10 same amounts and in the same manner as provided in this article for state  
11 employees and shall pay those contributions, together with the employer  
12 contributions for the political subdivision, to ASRS for deposit in the ASRS  
13 depository. The governing body of the political subdivision shall reimburse  
14 ASRS in a similar manner for its pro rata share of administrative costs  
15 attributable to coverage of employees of the political subdivision.

16 F. In addition to the employer contributions required under section  
17 38-737, on establishment of the supplemental retirement plan the governing  
18 body of the political subdivision shall pay to ASRS the amounts, as  
19 determined by the board, required to fund additional costs of benefits  
20 attributable to service for the political subdivision before the effective  
21 date of the supplemental retirement plan. The board may authorize payments  
22 to be made at such times as the board requires and in amounts that are less  
23 than the amount required for fully funding the additional costs.

24 G. If the supplemental retirement plan is authorized by a political  
25 subdivision, then on or after the effective date of the supplemental  
26 retirement plan the governing body of the political subdivision and the board  
27 may sign an agreement to waive the provisions of subsection F of this section  
28 and to authorize benefits under the supplemental retirement plan only for  
29 service with the political subdivision after the effective date of the  
30 supplemental retirement plan. In lieu of waiving benefits for all service  
31 before the effective date of the supplemental retirement plan, the governing  
32 body of the political subdivision may elect to waive benefits for a portion  
33 of that service. Amendments to the agreement may increase but shall not  
34 reduce the service for which a member is entitled to benefits. The governing  
35 body of the political subdivision shall certify for each member the years of  
36 service before the effective date of the supplemental retirement plan for  
37 which the member is entitled to benefits. In addition to the employer  
38 contributions required in section 38-737, the governing body of the political  
39 subdivision shall pay to ASRS the amount, as determined by the board,  
40 required to fund the cost of the benefits attributable to service before the  
41 effective date of the supplemental retirement plan for which members are  
42 entitled to benefits.

43 H. The new political subdivision shall designate the classification  
44 of employees that is eligible for membership in ASRS and shall make  
45 contributions each year as provided in this section.

1 ~~I. Before the effective date of membership and as a condition of an~~  
2 ~~employer's membership in ASRS, the employer shall formally terminate any~~  
3 ~~existing retirement program administered by the board on behalf of the~~  
4 ~~designated eligible employee group included in ASRS and shall formally agree~~  
5 ~~that no retirement program, exclusive of ASRS and the federal social security~~  
6 ~~system, may thereafter be established on behalf of that group.~~

7 ~~I.~~ 1. The board shall transfer all assets under any existing  
8 retirement program administered by the board, to the extent attributable to  
9 the employer's designated employee group, from that program to ASRS no later  
10 than sixty days after the effective date of the supplemental retirement  
11 plan. The transferred assets shall be considered in determining any  
12 additional payments prescribed in subsections F and G of this section.

13 ~~K.~~ J. The liability of the political subdivision providing a  
14 supplemental retirement plan within ASRS arises in consideration of the  
15 officer's or employee's retention in or entrance into service for the  
16 political subdivision.

17 Sec. 4. Section 38-804, Arizona Revised Statutes, is amended to read:

18 38-804. Membership; termination; reinstatement of credited  
19 service

20 A. All elected officials are members of the plan, except that a state  
21 elected official who is subject to term limits may elect not to participate  
22 in the plan. The state elected official who is subject to term limits shall  
23 make the election in writing and file the election with the fund manager  
24 within thirty days after the state elected official assumes office. The  
25 election is effective on the first day of the state elected official's  
26 eligibility for that term of office. The election not to participate is  
27 specific for that term of office. If a state elected official who is subject  
28 to term limits fails to make an election as provided in this subsection, the  
29 state elected official is deemed to have elected to participate in the  
30 plan. The election not to participate in the plan is irrevocable and  
31 constitutes a waiver of all benefits provided by the plan for the state  
32 elected official's entire term, except for any benefits accrued by the state  
33 elected official in the plan for periods of participation prior to being  
34 elected to an office subject to term limits or any benefits expressly  
35 provided by law. The state elected official who elects not to participate  
36 in the plan shall participate in the Arizona state retirement system unless  
37 the state elected official makes an irrevocable election not to participate  
38 in the Arizona state retirement system as provided in section 38-727. ~~If the~~  
39 ~~state elected official elects not to participate in the plan, the Arizona~~  
40 ~~state retirement system or the defined contribution retirement plan option~~  
41 ~~pursuant to article 8 of this chapter, the state elected official may~~  
42 ~~participate in a tax deferred annuity and deferred compensation program~~  
43 ~~established pursuant to article 5 of this chapter. If the state elected~~  
44 ~~official chooses to participate in such a program, the state elected~~  
45 ~~official's employer shall pay an amount equal to five per cent of the state~~

1 ~~elected official's base salary directly to the program in lieu of employer~~  
2 ~~contributions to a public retirement system.~~

3 B. If a member ceases to hold office for any reason other than death  
4 or retirement, within twenty days after filing a completed application with  
5 the fund manager, the member is entitled to receive the following amounts,  
6 less any benefit payments the member has received and any amount the member  
7 may owe to the plan:

8 1. If the member has less than five years of credited service with the  
9 plan, the member may withdraw the member's accumulated contributions from the  
10 plan.

11 2. If the member has five or more years of credited service with the  
12 plan, the member may withdraw the member's accumulated contributions plus an  
13 amount equal to the amount determined as follows:

14 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all  
15 member contributions deducted from the member's salary pursuant to section  
16 38-810, subsection A.

17 (b) 6.0 to 6.9 years of credited service, forty per cent of all member  
18 contributions deducted from the member's salary pursuant to section 38-810,  
19 subsection A.

20 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all  
21 member contributions deducted from the member's salary pursuant to section  
22 38-810, subsection A.

23 (d) 8.0 to 8.9 years of credited service, seventy per cent of all  
24 member contributions deducted from the member's salary pursuant to section  
25 38-810, subsection A.

26 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all  
27 member contributions deducted from the member's salary pursuant to section  
28 38-810, subsection A.

29 (f) 10.0 or more years of credited service, one hundred per cent of  
30 all member contributions deducted from the member's salary pursuant to  
31 section 38-810, subsection A.

32 C. If a member has more than ten years of credited service with the  
33 plan, leaves the monies prescribed in subsection B of this section on account  
34 with the plan for more than thirty days after termination of employment and  
35 after that time period requests a refund of those monies, the member is  
36 entitled to receive the amount prescribed in subsection B of this section  
37 plus interest at a rate determined by the fund manager for each year computed  
38 from and after the member's termination of employment.

39 D. If the amount prescribed in subsection B or C of this section  
40 includes monies that are an eligible rollover distribution and the member  
41 elects to have the distribution paid directly to an eligible retirement plan  
42 or individual retirement account or annuity and specifies the eligible  
43 retirement plan or individual retirement account or annuity to which the  
44 distribution is to be paid, the distribution shall be made in the form of a  
45 direct trustee-to-trustee transfer to the specified eligible retirement

1 plan. The distribution shall be made in the form and at the time prescribed  
2 by the fund manager. A member who receives the amount prescribed in  
3 subsection B or C of this section from the plan or who elects a transfer  
4 pursuant to this subsection forfeits the member's credited service, and all  
5 rights to benefits under the plan and membership in the plan terminate.

6 E. If an elected official who has terminated the member's membership  
7 in the plan pursuant to subsection B of this section is subsequently elected  
8 or otherwise becomes eligible for membership in the plan pursuant to  
9 subsection A of this section, credited service only accrues from the date of  
10 the member's most recent eligibility as an elected official.

11 F. Notwithstanding subsection E of this section, if an elected  
12 official files a written election form with the fund manager within ninety  
13 days after the day of the member's reemployment as an elected official and  
14 repays the amount previously withdrawn pursuant to subsection B or C of this  
15 section within one year after the date of the member's reemployment as an  
16 elected official, with interest on that amount at the rate of nine per cent  
17 for each year, compounded each year from the date of withdrawal to the date  
18 of repayment, credited service shall be restored. Credited service shall not  
19 be restored until complete repayment is made to the fund.

20 G. If a retired member subsequently becomes an elected official,  
21 contributions shall not be made by the retired member or the retired member's  
22 employer and credited service shall not accrue while the retired member is  
23 holding office, except that if a retired member subsequently becomes an  
24 elected official of the same office from which the member retired, the member  
25 shall not receive a pension, contributions shall not be made by the member  
26 or the member's employer and credited service shall not accrue while the  
27 member is holding office. If the elected official ceases to hold the same  
28 office, the elected official is entitled to receive the same pension the  
29 elected official was receiving when the elected official's pension was  
30 discontinued pursuant to this subsection. Nothing in this subsection  
31 prohibits a retired judge called by the supreme court to active duties of a  
32 judge pursuant to section 38-813 from receiving retirement benefits.

33 Sec. 5. Section 38-815, Arizona Revised Statutes, is amended to read:

34 38-815. Joinder agreement

35 A. Elected officials of an incorporated city or town may participate  
36 in the plan if the governing body of the city or town enters into a joinder  
37 agreement with the fund manager on behalf of its elected officials and the  
38 employer unconditionally accepts the provisions of the plan and binds its  
39 elected officials thereto. All elected officials shall be designated for  
40 membership unless written consent to the contrary is obtained from the fund  
41 manager. A member shall be qualified for participation in order to obtain  
42 written consent to the contrary from the fund manager.

43 B. The effective date of participation shall be specifically  
44 stipulated in the joinder agreement.

1 C. Any city or town which is considering participation in the plan  
2 shall request a preliminary actuarial survey to determine the estimated cost  
3 of participation, the benefits to be derived and such other information as  
4 may be deemed appropriate. The cost of such survey shall be paid by the city  
5 or town requesting it.

6 ~~D. As a condition of a city's or town's participation in the plan, the~~  
7 ~~employer, before the effective date of the participation, shall formally~~  
8 ~~terminate any existing retirement program on behalf of the elected officials~~  
9 ~~included in the plan and shall formally agree that no retirement program,~~  
10 ~~exclusive of the plan and the federal social security system, shall~~  
11 ~~thereafter be established on behalf of the elected officials.~~

12 E. D. All assets under any existing public employee defined benefit  
13 retirement program, to the extent attributable to the city's or town's  
14 elected officials, shall be transferred from the program to this fund no  
15 later than sixty days after the city's or town's effective date of  
16 participation. That portion of the transferred assets which is attributable  
17 to the elected official's contributions, including interest credits thereon,  
18 shall be properly allocated to each affected elected official of the city or  
19 town and credited to the elected official's accumulated contributions, in  
20 accordance with a schedule furnished by the city or town to the fund manager.

21 Sec. 6. Section 38-851, Arizona Revised Statutes, is amended to read:

22 38-851. Participation of new employers

23 A. This state, any municipality, county, or other political  
24 subdivision of the state, any Indian tribe or any public or quasi-public  
25 organization created wholly or partly by, or deriving its powers from, the  
26 legislature, may request to become a participating employer in the system on  
27 behalf of a designated eligible employee group. Such a request shall be made  
28 by the state departmental director or after a proper resolution has been  
29 adopted by the governing body of the political subdivision, Indian tribe or  
30 public organization, and after such resolution has been approved by any other  
31 party or officer required by law to approve the resolution. A certified copy  
32 of such resolution shall be filed with the fund manager. This state or the  
33 political subdivision, Indian tribe or public organization shall be  
34 considered as a participating employer upon proper execution of a joinder  
35 agreement in which the employer unconditionally accepts the provisions of the  
36 system and binds the employer's designated eligible employees to those  
37 provisions. All members of an eligible group shall be designated for  
38 membership, unless written consent to the contrary is obtained from the fund  
39 manager. A member shall be qualified for participation in order to obtain  
40 written consent to the contrary from the fund manager.

41 B. The effective date of participation in the system by this state or  
42 a political subdivision, Indian tribe or public organization shall be the  
43 July 1, next succeeding the approval of its participation, unless the fund  
44 manager consents to another date, as shall be specifically stipulated in the  
45 joinder agreement.

1 C. The new employer shall designate the departments, groups or other  
2 classifications of public safety employees which shall be eligible to  
3 participate in the system, and shall agree to make contributions each year  
4 which shall be sufficient to meet both the normal cost on a level cost method  
5 attributable to inclusion of its employees and the prescribed interest on the  
6 past service cost for its employees.

7 D. This state or any political subdivision, Indian tribe or public  
8 organization which is contemplating participation in the system shall request  
9 a preliminary actuarial survey to determine the estimated cost of  
10 participation, the benefits to be derived, and such other information as may  
11 be deemed appropriate. The cost of such a survey shall be paid by this state  
12 or the political subdivision, Indian tribe or public organization requesting  
13 it.

14 ~~E. As a condition of an employer's participation in the system, the~~  
15 ~~employer shall, prior to the effective date of such participation, formally~~  
16 ~~terminate any existent retirement program, except a military retirement~~  
17 ~~program, on behalf of the designated eligible employee group included in the~~  
18 ~~system and shall formally agree that no retirement program, exclusive of a~~  
19 ~~military retirement program, the system and the federal social security~~  
20 ~~system, shall thereafter be established on behalf of such group.~~

21 ~~F.~~ E. As a condition to participation in the system an Indian tribe  
22 employer, by resolution of the governing body, shall:

23 1. Agree that all disputes involving interpretation of state statutes  
24 involving the system, and any amendments to such statutes, will be resolved  
25 through the court system of this state.

26 2. Agree to be bound by state statutes and laws which regulate and  
27 interpret the provisions of the system, including eligibility to membership  
28 in the system, service credits and the rights of any claimant to benefits and  
29 the amount of such benefits.

30 3. Agree to meet any requirement which the fund manager may prescribe  
31 to ensure timely payment of member and employer contributions and any other  
32 amounts due from the employer to the system.

33 4. Include in the joinder agreement any other provision deemed  
34 necessary by the fund manager for the administration or enforcement of the  
35 agreement.

36 ~~F.~~ F. Assets under any existing public employee defined benefit  
37 retirement program, except a military retirement program, necessary to equal  
38 the actuarial present value of projected benefits attributable to the  
39 employer's designated employee group, calculated using the actuarial methods  
40 and assumptions adopted by the existing public employee retirement program,  
41 shall be transferred from such program to this fund no later than sixty days  
42 after the employer's effective date. That portion of the transferred assets  
43 which is attributable to employee contributions, including interest credits  
44 thereon, shall be properly allocated to each affected employee of the

1 employer and credited to the employee's initial accumulated contributions,  
2 in accordance with a schedule furnished by the employer to the fund manager.

3 Sec. 7. Section 38-902, Arizona Revised Statutes, is amended to read:

4 38-902. Joinder agreement

5 A. County detention officers and nonuniformed employees of a sheriff's  
6 department whose primary duties require direct contact with inmates may  
7 participate in this plan if the board of supervisors of the county enters  
8 into a joinder agreement with the fund manager to bring such employees into  
9 this plan. The joinder agreement shall be in accordance with the provisions  
10 of this plan. All such employees shall be designated for membership in the  
11 joinder agreement unless written consent to the contrary is obtained from the  
12 fund manager.

13 B. City or town detention officers may participate in this plan if the  
14 governing body of the city or town enters into a joinder agreement with the  
15 fund manager to bring its detention officers into this plan. The joinder  
16 agreement shall be in accordance with the provisions of the plan. The  
17 governing body of the city or town shall designate all detention officers for  
18 membership in the plan unless written consent to the contrary is obtained  
19 from the fund manager.

20 C. The new employer shall designate the groups of employees who are  
21 eligible to participate in the plan and shall agree to make contributions  
22 each year that are sufficient to meet both the normal cost of a level cost  
23 method attributable to inclusion of its employees and the prescribed interest  
24 on the past service cost for its employees.

25 ~~D. As a condition of an employer's participation in this plan, the~~  
26 ~~employer, before the effective date of the participation, shall formally~~  
27 ~~terminate any existing retirement program on behalf of the designated~~  
28 ~~eligible employee group.~~

29 ~~E. D.~~ Before the execution of any joinder agreement each county  
30 contemplating participation in the plan shall have an actuarial valuation  
31 made, which is payable by the county, to determine the estimated cost of  
32 participation in accordance with section 38-894.

33 ~~F. E.~~ Assets under any existing public employee defined benefit  
34 retirement program, except a military retirement program, that are necessary  
35 to equal the actuarial present value of projected benefits attributable to  
36 the employer's designated employee group, calculated using the actuarial  
37 methods and assumptions adopted by the existing public employee retirement  
38 program, shall be transferred from the program to this fund no later than  
39 sixty days after the employer's effective date. That portion of the  
40 transferred assets that is attributable to employee contributions, including  
41 interest credits, shall be properly allocated to each affected employee of  
42 the employer and credited to the employee's initial accumulated contributions  
43 in accordance with a schedule furnished by the employer to the fund manager.

1           Sec. 8. Repeal

2           A. Title 38, chapter 5, article 8, Arizona Revised Statutes, is  
3 repealed.

4           B. Laws 1999, chapter 329, section 8 is repealed.

5           Sec. 9. Title 38, chapter 5, Arizona Revised Statutes, is amended by  
6 adding a new article 8, to read:

7                   ARTICLE 8. SUPPLEMENTAL DEFINED CONTRIBUTION PLANS

8           38-951. Definitions

9           IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

10          1. "BOARD" MEANS THE ARIZONA STATE RETIREMENT SYSTEM BOARD ESTABLISHED  
11 BY SECTION 38-713.

12          2. "ELIGIBLE GROUP" MEANS ANY OF THE FOLLOWING:

13           (a) THE ARIZONA STATE RETIREMENT SYSTEM ESTABLISHED BY ARTICLE 2 OF  
14 THIS CHAPTER.

15           (b) THE ELECTED OFFICIALS' RETIREMENT PLAN ESTABLISHED BY ARTICLE 3  
16 OF THIS CHAPTER.

17           (c) THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ESTABLISHED BY  
18 ARTICLE 4 OF THIS CHAPTER.

19           (d) THE CORRECTIONS OFFICER RETIREMENT PLAN ESTABLISHED BY ARTICLE 6  
20 OF THIS CHAPTER.

21           (e) AN OPTIONAL RETIREMENT PROGRAM ESTABLISHED PURSUANT TO SECTION  
22 15-1451 OR 15-1628.

23          3. "EMPLOYER" MEANS AN AGENCY OR DEPARTMENT OF THIS STATE OR AN AGENCY  
24 OR DEPARTMENT OF A POLITICAL SUBDIVISION OF THIS STATE THAT HAS EMPLOYEES IN  
25 AN ELIGIBLE GROUP.

26          4. "FUND MANAGER" MEANS THE FUND MANAGER ESTABLISHED BY SECTION  
27 38-848.

28          5. "PLAN" MEANS A SUPPLEMENTAL DEFINED CONTRIBUTION PLAN AUTHORIZED  
29 BY THIS ARTICLE.

30          38-952. Supplemental defined contribution plan; establishment;  
31 administration

32          A. THE BOARD, EMPLOYER OR FUND MANAGER OF AN ELIGIBLE GROUP MAY  
33 ESTABLISH, ADMINISTER, MANAGE AND OPERATE A SUPPLEMENTAL DEFINED CONTRIBUTION  
34 PLAN. THE FUND MANAGER MAY ESTABLISH A SINGLE SUPPLEMENTAL DEFINED  
35 CONTRIBUTION PLAN FOR ALL CONTRIBUTING MEMBERS OF THE RETIREMENT SYSTEM AND  
36 PLANS IT ADMINISTERS.

37          B. IF A BOARD, EMPLOYER OR FUND MANAGER ESTABLISHES A SUPPLEMENTAL  
38 DEFINED CONTRIBUTION PLAN:

39           1. THE BOARD MAY DELEGATE AUTHORITY TO IMPLEMENT THE PLAN TO ITS  
40 DIRECTOR APPOINTED PURSUANT TO SECTION 38-715.

41           2. THE EMPLOYER MAY DELEGATE AUTHORITY TO IMPLEMENT THE PLAN TO ITS  
42 INTERNAL BENEFITS ADMINISTRATOR OR DESIGNEE.

43           3. THE FUND MANAGER MAY DELEGATE AUTHORITY TO IMPLEMENT THE PLAN TO  
44 THE ADMINISTRATOR EMPLOYED PURSUANT TO SECTION 38-848, SUBSECTION K,  
45 PARAGRAPH 6.

1           4. THE BOARD OR FUND MANAGER MAY:

2           (a) EMPLOY SERVICES IT DEEMS NECESSARY, INCLUDING LEGAL SERVICES, FOR  
3 THE OPERATION AND ADMINISTRATION OF THE PLAN.

4           (b) ADMINISTER THE PLAN THROUGH CONTRACTS WITH MULTIPLE VENDORS.

5           (c) PERFORM ALL ACTS, WHETHER OR NOT EXPRESSLY AUTHORIZED, THAT IT  
6 DEEMS NECESSARY AND PROPER FOR THE OPERATION AND PROTECTION OF THE PLAN.

7           (d) FOR THE PURPOSES OF THIS ARTICLE, ENTER INTO INTERGOVERNMENTAL  
8 AGREEMENTS PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3.

9           C. A SUPPLEMENTAL DEFINED CONTRIBUTION PLAN SHALL BE DESIGNED TO BE  
10 A QUALIFIED GOVERNMENTAL PLAN UNDER SECTION 401(a) OF THE INTERNAL REVENUE  
11 CODE. THE LEGISLATURE INTENDS THAT A SUPPLEMENTAL DEFINED CONTRIBUTION PLAN  
12 IS A QUALIFIED PLAN UNDER SECTION 401 OF THE INTERNAL REVENUE CODE, AS  
13 AMENDED, OR SUCCESSOR PROVISIONS OF LAW, AND THAT A PLAN IS EXEMPT FROM  
14 TAXATION UNDER SECTION 501 OF THE INTERNAL REVENUE CODE. THE BOARD, EMPLOYER  
15 OR FUND MANAGER MAY ADOPT ANY ADDITIONAL PROVISIONS TO A PLAN THAT ARE  
16 NECESSARY TO FULFILL THIS INTENT.

17           D. ALTHOUGH DESIGNATED AS EMPLOYEE CONTRIBUTIONS, ALL EMPLOYEE  
18 CONTRIBUTIONS MADE TO A PLAN SHALL BE PICKED UP AND PAID BY THE EMPLOYER IN  
19 LIEU OF CONTRIBUTIONS BY THE EMPLOYEE. THE CONTRIBUTIONS PICKED UP BY AN  
20 EMPLOYER MAY BE MADE THROUGH A REDUCTION IN THE EMPLOYEE'S SALARY OR AN  
21 OFFSET AGAINST FUTURE SALARY INCREASES, OR A COMBINATION OF BOTH. AN  
22 EMPLOYEE PARTICIPATING IN A PLAN DOES NOT HAVE THE OPTION OF CHOOSING TO  
23 RECEIVE THE CONTRIBUTED AMOUNTS DIRECTLY INSTEAD OF THE EMPLOYER PAYING THE  
24 AMOUNTS TO THE PLAN. IT IS INTENDED THAT ALL EMPLOYEE CONTRIBUTIONS THAT ARE  
25 PICKED UP BY THE EMPLOYER AS PROVIDED IN THIS SUBSECTION SHALL BE TREATED AS  
26 EMPLOYER CONTRIBUTIONS UNDER SECTION 414(h) OF THE INTERNAL REVENUE CODE,  
27 SHALL BE EXCLUDED FROM EMPLOYEES' GROSS INCOME FOR FEDERAL AND STATE INCOME  
28 TAX PURPOSES AND ARE INCLUDABLE IN THE GROSS INCOME OF THE EMPLOYEES OR THEIR  
29 BENEFICIARIES ONLY IN THE TAXABLE YEAR IN WHICH THEY ARE DISTRIBUTED. THE  
30 SPECIFIED EFFECTIVE DATE OF THE PICK UP PURSUANT TO THIS SUBSECTION SHALL NOT  
31 BE BEFORE THE DATE THE PLAN RECEIVES NOTIFICATION FROM THE INTERNAL REVENUE  
32 SERVICE THAT PURSUANT TO SECTION 414(h) OF THE INTERNAL REVENUE CODE THE  
33 EMPLOYEE CONTRIBUTIONS PICKED UP SHALL NOT BE INCLUDED IN GROSS INCOME FOR  
34 INCOME TAX PURPOSES UNTIL THE TIME THAT THE PICKED UP CONTRIBUTIONS ARE  
35 DISTRIBUTED BY PENSION PAYMENTS. UNTIL NOTIFICATION IS RECEIVED, ANY  
36 CONTRIBUTIONS MADE UNDER SECTION 38-953, SUBSECTION D ARE MADE WITH AFTER-TAX  
37 CONTRIBUTIONS.

38           38-953. Supplemental option

39           A. A SUPPLEMENTAL DEFINED CONTRIBUTION PLAN IS IN ADDITION TO AND DOES  
40 NOT REPLACE AN EMPLOYEE'S EXISTING STATE DEFINED BENEFIT RETIREMENT PLAN.

41           B. EXCEPT AS PROVIDED IN SUBSECTION C, ANY CONTRIBUTING MEMBER OF AN  
42 ELIGIBLE GROUP THAT ESTABLISHES A SUPPLEMENTAL DEFINED CONTRIBUTION PLAN AS  
43 AUTHORIZED BY THIS ARTICLE MAY PARTICIPATE IN THE SUPPLEMENTAL DEFINED  
44 CONTRIBUTION PLAN. PARTICIPATION IN THE PLAN AUTHORIZES THE MEMBER'S  
45 EMPLOYER TO MAKE REDUCTIONS OR DEDUCTIONS IN THE MEMBER'S SALARY. THE

1 EMPLOYER SHALL INITIATE SALARY REDUCTIONS OR DEDUCTIONS FOR THE PLAN AS  
2 DIRECTED BY EACH EMPLOYEE PARTICIPATING IN THE PLAN AND SHALL SUBMIT ANY  
3 REPORTS REQUIRED BY THE PLAN. ANY SALARY DEFERRED UNDER THE PLAN SHALL BE  
4 INCLUDED AS REGULAR COMPENSATION OR SALARY FOR THE PURPOSE OF COMPUTING THE  
5 RETIREMENT AND PENSION BENEFITS EARNED BY ANY EMPLOYEE PARTICIPATING IN THE  
6 PLAN.

7 C. IF THE ARIZONA STATE RETIREMENT SYSTEM ESTABLISHES A SUPPLEMENTAL  
8 DEFINED CONTRIBUTION PLAN AND AN EMPLOYER MEMBER OF THE ARIZONA STATE  
9 RETIREMENT SYSTEM ELECTS TO PARTICIPATE IN THE SUPPLEMENTAL DEFINED  
10 CONTRIBUTION PLAN, ANY EMPLOYEE MEMBER OF THE EMPLOYER MAY PARTICIPATE IN THE  
11 SUPPLEMENTAL DEFINED CONTRIBUTION PLAN.

12 D. IF AN EMPLOYEE ELECTS TO PARTICIPATE IN A PLAN PURSUANT TO THIS  
13 SUBSECTION, THE EMPLOYEE SHALL CONTRIBUTE AN AMOUNT EQUAL TO AT LEAST ONE PER  
14 CENT OF THE EMPLOYEE'S GROSS SALARY. AN ELECTION TO PARTICIPATE IN A PLAN  
15 IS IRREVOCABLE AND SHALL BE FOR A PERIOD OF AT LEAST ONE YEAR. AN EMPLOYEE  
16 MAY ANNUALLY INCREASE OR DECREASE THE EMPLOYEE CONTRIBUTIONS IN INCREMENTS  
17 OF ONE PER CENT UP TO THE MAXIMUM ALLOWED BY LAW. AN EMPLOYEE IS NOT  
18 REQUIRED TO CONTRIBUTE UNDER THIS SUBSECTION IN ORDER TO QUALIFY FOR AN  
19 EMPLOYER MATCH UNDER SUBSECTION E. THE EMPLOYER MATCH MAY ACCRUE FROM ANY  
20 PROGRAM ESTABLISHED BY THE EMPLOYER.

21 E. AN EMPLOYER MAY ELECT TO MATCH THE CONTRIBUTIONS MADE BY THE  
22 EMPLOYEE PURSUANT TO SUBSECTION D OR ANY OTHER PROGRAM ESTABLISHED BY THE  
23 EMPLOYER UNDER THE INTERNAL REVENUE CODE, INCLUDING ANY PLAN ESTABLISHED  
24 UNDER INTERNAL REVENUE CODE SECTION 401(a), 403(b) OR 457, AT A RATE  
25 DETERMINED BY THE EMPLOYER. THE RATE OF THE EMPLOYER MATCH SHALL BE  
26 DETERMINED AT THE BEGINNING OF THAT EMPLOYER'S BUDGET CYCLE AND SHALL  
27 TERMINATE AT THE END OF THAT BUDGET CYCLE.

28 38-954. Vesting

29 A. EMPLOYEE CONTRIBUTIONS AND EARNINGS ON EMPLOYEE CONTRIBUTIONS ARE  
30 IMMEDIATELY VESTED.

31 B. EMPLOYER MATCHING CONTRIBUTIONS, IF ANY, AND THE EARNINGS ON  
32 EMPLOYER MATCHING CONTRIBUTIONS ARE VESTED AND THE EMPLOYEE IS ENTITLED TO  
33 RECEIVE EMPLOYER MATCHING CONTRIBUTIONS AND EARNINGS ON THOSE CONTRIBUTIONS  
34 AS FOLLOWS:

35 1. IF THE EMPLOYEE HAS LESS THAN ONE YEAR OF CREDITED SERVICE IN AN  
36 ELIGIBLE GROUP, ZERO PER CENT.

37 2. IF THE EMPLOYEE HAS AT LEAST ONE YEAR BUT LESS THAN TWO YEARS OF  
38 CREDITED SERVICE IN AN ELIGIBLE GROUP, TWENTY PER CENT.

39 3. IF THE EMPLOYEE HAS AT LEAST TWO YEARS BUT LESS THAN THREE YEARS  
40 OF CREDITED SERVICE IN AN ELIGIBLE GROUP, FORTY PER CENT.

41 4. IF THE EMPLOYEE HAS AT LEAST THREE YEARS BUT LESS THAN FOUR YEARS  
42 OF CREDITED SERVICE IN AN ELIGIBLE GROUP, SIXTY PER CENT.

43 5. IF THE EMPLOYEE HAS AT LEAST FOUR YEARS BUT LESS THAN FIVE YEARS  
44 OF CREDITED SERVICE IN AN ELIGIBLE GROUP, EIGHTY PER CENT.

1           6. IF THE EMPLOYEE HAS AT LEAST FIVE YEARS OF CREDITED SERVICE IN AN  
2 ELIGIBLE GROUP, ONE HUNDRED PER CENT.

3           C. ALL NONVESTED EMPLOYER CONTRIBUTIONS AND EARNINGS ON THOSE  
4 CONTRIBUTIONS MAY BE USED TO PAY FOR THE ADMINISTRATIVE COSTS OF THE PLAN.

5           Sec. 10. Termination of the tax deferred annuity and deferred  
6                                   compensation pilot program

7           This act terminates the pilot program option for legislative employees  
8 and state elected officials to elect to participate in a tax deferred annuity  
9 and deferred compensation program pursuant to title 38, chapter 5, article  
10 5, Arizona Revised Statutes, in lieu of participation in the Arizona state  
11 retirement system pursuant to title 38, chapter 5, article 2, Arizona Revised  
12 Statutes. All legislative employees and state elected officials who elected  
13 on or before the effective date of this act to participate in a deferred tax  
14 annuity and deferred compensation program in lieu of participation in the  
15 Arizona state retirement system shall continue to participate in that option  
16 pursuant to the irrevocable election made by the employee or state elected  
17 official and the employer shall continue to pay an amount equal to five per  
18 cent of the employee's or state elected official's base salary directly to  
19 the program in lieu of employer contributions to a public retirement system.

20           Sec. 11. Termination of the defined contribution retirement  
21                                   plan option pilot program

22           This act terminates the pilot program option for certain exempt state  
23 officers or employees and state elected officials who are subject to term  
24 limits to elect to participate in a defined contribution retirement plan  
25 option in lieu of participation in their respective state defined benefit  
26 retirement plans. All exempt state officers or employees and state elected  
27 officials who are subject to term limits and who elected on or before the  
28 effective date of this act to participate in the defined contribution  
29 retirement plan option established by Laws 1999, chapter 329, section 6 shall  
30 continue to participate in that option pursuant to the irrevocable election  
31 made by the exempt state officer or employee or state elected official who  
32 is subject to term limits and the employer shall continue to contribute to  
33 each participating state elected official's or exempt state officer's or  
34 employee's account an amount equal to two and sixty-six hundredths per cent  
35 of the state elected official's or exempt state officer's or employee's gross  
36 salary.

APPROVED BY THE GOVERNOR MAY 1, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2001.

Passed the House April 11, 2001

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate March 12, 2001

by the following vote: 18 Ayes,

10 Nays, 2 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

S.B. 1100

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 26, 2001,

by the following vote: 23 Ayes,

6 Nays, 1 Not Voting

[Signature]  
President of the Senate  
[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

27 day of April, 2001,

at 9:00 o'clock A M.

[Signature]  
Secretary to the Governor

APPROVED THIS first day of

May, 2001,

at 10:32 o'clock A M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 1 day of May, 2001,

at 4:45 o'clock P M.

[Signature]  
Secretary of State

S.B. 1100