

Senator Daniel R. Liljenquist proposes the following substitute bill:

**NEW PUBLIC EMPLOYEES' TIER II
CONTRIBUTORY RETIREMENT ACT**

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel R. Liljenquist

House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act to provide for modified retirement benefits for new public employees.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for a "Tier I" system or plan for which an employee is eligible to participate if the employee initially enters regular full-time employment before July 1, 2011;
- ▶ creates a "Tier II" retirement system and plan for which an employee is eligible to participate, if the employee initially enters regular full-time employment on or after July 1, 2011 and which includes a:
 - New Public Employees' Tier II Hybrid Retirement System; and
 - New Public Employees' Tier II Defined Contribution Plan;
- ▶ provides that all new public employees including public safety, firefighters, judges, governors, and legislators may only participate in a Tier II retirement system or plan;



26 ▶ provides that new employees may choose between the Tier II hybrid system or the
27 Tier II DC plan except governors and legislators are only eligible for the Tier II DC
28 plan;

29 ▶ provides that the retirement benefits for Tier II hybrid system employees include:

- 30 • full retirement benefits after 35 years of service credit;
- 31 • 2.5% cost-of-living adjustments on the retirement allowance;
- 32 • a 1% multiplier for each year of service;
- 33 • a 401(k) employer contribution;
- 34 • a death benefit; and
- 35 • a disability benefit;

36 ▶ provides that the participating employer shall contribute for Tier II employees the
37 percentage of employee's compensation equal to the corresponding Tier I system
38 amortization rate plus 8%;

39 ▶ provides that the total Tier II contribution credited specifically on behalf of a Tier II
40 employee is 8% of the employee's salary;

41 ▶ closes for employees who initially enter employment beginning on or after July 1,
42 2011, the:

- 43 • Public Employees' Contributory Retirement System;
- 44 • Public Employees' Noncontributory Retirement System;
- 45 • Public Safety Contributory Retirement System;
- 46 • Public Safety Noncontributory Retirement Act;
- 47 • Firefighters' Retirement System;
- 48 • Judges' Contributory Retirement System;
- 49 • Judges' Noncontributory Retirement System; and
- 50 • Utah Governors' and Legislators' Retirement System;

51 ▶ provides for certain exclusions from membership in the Tier II DC plan; and

52 ▶ makes technical changes.

53 **Monies Appropriated in this Bill:**

54 None

55 **Other Special Clauses:**

56 This bill takes effect on July 1, 2010.

57 **Utah Code Sections Affected:**

58 **AMENDS:**

- 59 **49-11-102**, as last amended by Laws of Utah 2009, Chapter 101
- 60 **49-11-401**, as last amended by Laws of Utah 2005, Chapter 116
- 61 **49-11-403**, as last amended by Laws of Utah 2006, Chapter 260
- 62 **49-11-404**, as last amended by Laws of Utah 2008, Chapter 252
- 63 **49-11-801**, as last amended by Laws of Utah 2008, Chapter 335
- 64 **49-11-1001**, as enacted by Laws of Utah 2006, Chapter 305
- 65 **49-12-201**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 66 **49-13-201**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 67 **49-14-201**, as last amended by Laws of Utah 2008, Chapter 382
- 68 **49-14-202**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 69 **49-15-201**, as last amended by Laws of Utah 2008, Chapter 382
- 70 **49-15-202**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 71 **49-16-201**, as last amended by Laws of Utah 2004, Chapter 118
- 72 **49-16-202**, as last amended by Laws of Utah 2009, Chapter 101
- 73 **49-17-201**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 74 **49-18-201**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 75 **49-19-201**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 76 **49-21-201**, as last amended by Laws of Utah 2008, Chapter 252
- 77 **49-21-403**, as last amended by Laws of Utah 2008, Chapter 252
- 78 **53A-1a-512**, as last amended by Laws of Utah 2009, Chapter 165

79 **ENACTS:**

- 80 **49-22-101**, Utah Code Annotated 1953
- 81 **49-22-102**, Utah Code Annotated 1953
- 82 **49-22-103**, Utah Code Annotated 1953
- 83 **49-22-104**, Utah Code Annotated 1953
- 84 **49-22-201**, Utah Code Annotated 1953
- 85 **49-22-202**, Utah Code Annotated 1953
- 86 **49-22-203**, Utah Code Annotated 1953
- 87 **49-22-204**, Utah Code Annotated 1953

- 88 **49-22-301**, Utah Code Annotated 1953
- 89 **49-22-302**, Utah Code Annotated 1953
- 90 **49-22-303**, Utah Code Annotated 1953
- 91 **49-22-304**, Utah Code Annotated 1953
- 92 **49-22-305**, Utah Code Annotated 1953
- 93 **49-22-306**, Utah Code Annotated 1953
- 94 **49-22-307**, Utah Code Annotated 1953
- 95 **49-22-308**, Utah Code Annotated 1953
- 96 **49-22-309**, Utah Code Annotated 1953
- 97 **49-22-310**, Utah Code Annotated 1953
- 98 **49-22-401**, Utah Code Annotated 1953
- 99 **49-22-402**, Utah Code Annotated 1953
- 100 **49-22-501**, Utah Code Annotated 1953
- 101 **49-22-601**, Utah Code Annotated 1953
- 102 **49-22-701**, Utah Code Annotated 1953



104 *Be it enacted by the Legislature of the state of Utah:*

105 Section 1. Section **49-11-102** is amended to read:

106 **49-11-102. Definitions.**

107 As used in this title:

108 (1) (a) "Active member" means a member who is employed or who has been employed
109 by a participating employer within the previous 120 days.

110 (b) "Active member" does not include retirees.

111 (2) "Actuarial equivalent" means a benefit of equal value when computed upon the
112 basis of mortality tables as recommended by the actuary and adopted by the executive director,
113 including regular interest.

114 (3) "Actuarial interest rate" means the interest rate as recommended by the actuary and
115 adopted by the board upon which the funding of system costs and benefits are computed.

116 (4) (a) "Agency" means:

117 (i) a department, division, agency, office, authority, commission, board, institution, or
118 hospital of the state;

- 119 (ii) a county, municipality, school district, local district, or special service district;
- 120 (iii) a state college or university; or
- 121 (iv) any other participating employer.

122 (b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a
123 subdivision of another entity listed under Subsection (4)(a).

124 (5) "Allowance" or "retirement allowance" means the pension plus the annuity,
125 including any cost of living or other authorized adjustments to the pension and annuity.

126 (6) "Alternate payee" means a member's former spouse or family member eligible to
127 receive payments under a Domestic Relations Order in compliance with Section 49-11-612.

128 (7) "Amortization rate" means the board certified percent of salary required to amortize
129 the unfunded actuarial accrued liability in accordance with policies established by the board
130 upon the advice of the actuary.

131 [~~(7)~~] (8) "Annuity" means monthly payments derived from member contributions.

132 [~~(8)~~] (9) "Appointive officer" means an employee appointed to a position for a definite
133 and fixed term of office by official and duly recorded action of a participating employer whose
134 appointed position is designated in the participating employer's charter, creation document, or
135 similar document, and who earns during the first full month of the term of office \$500 or more,
136 indexed as of January 1, 1990, as provided in Section 49-12-407.

137 [~~(9)~~] (10) (a) "At-will employee" means a person who is employed by a participating
138 employer and:

139 (i) who is not entitled to merit or civil service protection and is generally considered
140 exempt from a participating employer's merit or career service personnel systems;

141 (ii) whose on-going employment status is entirely at the discretion of the person's
142 employer; or

143 (iii) who may be terminated without cause by a designated supervisor, manager, or
144 director.

145 (b) "At-will employee" does not include a career employee who has obtained a
146 reasonable expectation of continued employment based on inclusion in a participating
147 employer's merit system, civil service protection system, or career service personnel systems,
148 policies, or plans.

149 [~~(10)~~] (11) "Beneficiary" means any person entitled to receive a payment under this

150 title through a relationship with or designated by a member, participant, covered individual, or
151 alternate payee of a defined contribution plan.

152 [~~(11)~~] (12) "Board" means the Utah State Retirement Board established under Section
153 49-11-202.

154 [~~(12)~~] (13) "Board member" means a person serving on the Utah State Retirement
155 Board as established under Section 49-11-202.

156 (14) "Certified contribution rate" means the board certified percent of salary paid on
157 behalf of an active member to the office to maintain the system on a financially and actuarially
158 sound basis.

159 [~~(13)~~] (15) "Contributions" means the total amount paid by the participating employer
160 and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under
161 Chapter 19, Utah Governors' and Legislators' Retirement Act.

162 [~~(14)~~] (16) "Council member" means a person serving on the Membership Council
163 established under Section 49-11-202.

164 [~~(15)~~] (17) "Covered individual" means any individual covered under Chapter 20,
165 Public Employees' Benefit and Insurance Program Act.

166 [~~(16)~~] (18) "Current service" means covered service as defined in Chapters 12, 13, 14,
167 15, 16, 17, 18, and 19.

168 [~~(17)~~] (19) "Defined benefit" or "defined benefit plan" or "defined benefit system"
169 means a system or plan offered under this title to provide a specified allowance to a retiree or a
170 retiree's spouse after retirement that is based on a set formula involving one or more of the
171 following factors:

- 172 (a) years of service;
- 173 (b) final average monthly salary; or
- 174 (c) a retirement multiplier.

175 [~~(18)~~] (20) "Defined contribution" or "defined contribution plan" means any defined
176 contribution plan or deferred compensation plan authorized under the Internal Revenue Code
177 and administered by the board.

178 [~~(19)~~] (21) "Educational institution" means a political subdivision or instrumentality of
179 the state or a combination thereof primarily engaged in educational activities or the
180 administration or servicing of educational activities, including:

181 (a) the State Board of Education and its instrumentalities;
182 (b) any institution of higher education and its branches;
183 (c) any school district and its instrumentalities;
184 (d) any vocational and technical school; and
185 (e) any entity arising out of a consolidation agreement between entities described under
186 this Subsection [~~(19)~~] (21).

187 [~~(20)~~] (22) (a) "Employer" means any department, educational institution, or political
188 subdivision of the state eligible to participate in a government-sponsored retirement system
189 under federal law.

190 (b) "Employer" may also include an agency financed in whole or in part by public
191 funds.

192 [~~(21)~~] (23) "Exempt employee" means an employee working for a participating
193 employer:

194 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,
195 49-14-203, 49-15-203, or 49-16-203; and

196 (b) for whom a participating employer is not required to pay contributions or
197 nonelective contributions.

198 [~~(22)~~] (24) "Final average monthly salary" means the amount computed by dividing the
199 compensation received during the final average salary period under each system by the number
200 of months in the final average salary period.

201 [~~(23)~~] (25) "Fund" means any fund created under this title for the purpose of paying
202 benefits or costs of administering a system, plan, or program.

203 [~~(24)~~] (26) (a) "Inactive member" means a member who has not been employed by a
204 participating employer for a period of at least 120 days.

205 (b) "Inactive member" does not include retirees.

206 (27) (a) "Initially entering" means hired, appointed, or elected for the first time, in
207 current service as a member with any participating employer.

208 (b) "Initially entering" does not include a person who has any prior service credit on
209 file with the office.

210 [~~(25)~~] (28) (a) "Member" means a person, except a retiree, with contributions on
211 deposit with a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19,

212 Utah Governors' and Legislators' Retirement Act, or with a terminated system.

213 (b) "Member" also includes leased employees within the meaning of Section 414(n)(2)
214 of the Internal Revenue Code, if the employees have contributions on deposit with the office.
215 If leased employees constitute less than 20% of the participating employer's work force that is
216 not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code,
217 "member" does not include leased employees covered by a plan described in Section 414(n)(5)
218 of the federal Internal Revenue Code.

219 ~~[(26)]~~ (29) "Member contributions" means the sum of the contributions paid to a
220 system or the Utah Governors' and Legislators' Retirement Plan, including refund interest if
221 allowed by a system, and which are made by:

222 (a) the member; and

223 (b) the participating employer on the member's behalf under Section 414(h) of the
224 Internal Revenue Code.

225 ~~[(27)]~~ (30) "Nonelective contribution" means an amount contributed by a participating
226 employer into a participant's defined contribution account.

227 ~~[(28)]~~ (31) "Office" means the Utah State Retirement Office.

228 ~~[(29)]~~ (32) "Participant" means an individual with voluntary deferrals or nonelective
229 contributions on deposit with the defined contribution plans administered under this title.

230 ~~[(30)]~~ (33) "Participating employer" means a participating employer, as defined by
231 Chapters 12, 13, 14, 15, 16, 17, and 18, or an agency financed in whole or in part by public
232 funds which is participating in a system or plan as of January 1, 2002.

233 ~~[(31)]~~ (34) "Pension" means monthly payments derived from participating employer
234 contributions.

235 ~~[(32)]~~ (35) "Plan" means the Utah Governors' and Legislators' Retirement Plan created
236 by Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees'
237 Tier II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution
238 Plan, or the defined contribution plans created under Section 49-11-801.

239 ~~[(33)]~~ (36) (a) "Political subdivision" means any local government entity, including
240 cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is
241 legally separate and distinct from the state and only if its employees are not by virtue of their
242 relationship to the entity employees of the state.

243 (b) "Political subdivision" includes local districts, special service districts, or
244 authorities created by the Legislature or by local governments, including the office.

245 (c) "Political subdivision" does not include a project entity created under Title 11,
246 Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

247 [~~(34)~~] (37) "Program" means the Public Employees' Insurance Program created under
248 Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'
249 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term
250 Disability Act.

251 [~~(35)~~] (38) "Public funds" means those funds derived, either directly or indirectly, from
252 public taxes or public revenue, dues or contributions paid or donated by the membership of the
253 organization, used to finance an activity whose objective is to improve, on a nonprofit basis,
254 the governmental, educational, and social programs and systems of the state or its political
255 subdivisions.

256 [~~(36)~~] (39) "Qualified defined contribution plan" means a defined contribution plan
257 that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

258 [~~(37)~~] (40) "Refund interest" means the amount accrued on member contributions at a
259 rate adopted by the board.

260 [~~(38)~~] (41) "Retiree" means an individual who has qualified for an allowance under this
261 title.

262 [~~(39)~~] (42) "Retirement" means the status of an individual who has become eligible,
263 applies for, and is entitled to receive an allowance under this title.

264 [~~(40)~~] (43) "Retirement date" means the date selected by the member on which the
265 member's retirement becomes effective with the office.

266 [~~(41)~~] (44) "Service credit" means:

267 (a) the period during which an employee is employed and compensated by a
268 participating employer and meets the eligibility requirements for membership in a system or the
269 Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are
270 paid to the office; and

271 (b) periods of time otherwise purchasable under this title.

272 [~~(42)~~] (45) "System" means the individual retirement systems created by Chapter 12,
273 Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'

274 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,
275 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'
276 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges'
277 Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement
278 Act[-], and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter
279 22, Part 3, Tier II Hybrid Retirement System.

280 (46) "Tier I" means a system or plan under this title for which an employee is eligible
281 to participate if the employee initially enters regular full-time employment before July 1, 2011.

282 (47) (a) "Tier II" means a system or plan under this title provided in lieu of a Tier I
283 system or plan for which an employee is eligible to participate, if the employee initially enters
284 regular full-time employment on or after July 1, 2011.

285 (b) "Tier II" includes:

286 (i) Tier II hybrid system established under Title 49, Chapter 22, Part 3, Tier II Hybrid
287 Retirement System; and

288 (ii) Tier II Defined Contribution Plan (Tier II DC Plan) established under Title 49,
289 Chapter 22, Part 4, Tier II Defined Contribution Plan.

290 (48) "Unfunded actuarial accrued liability" or "UAAL":

291 (a) is determined by the system's actuary; and

292 (b) means the excess, if any, of the accrued liability of a retirement system over the
293 actuarial value of its assets.

294 ~~[(43)]~~ (49) "Voluntary deferrals" means an amount contributed by a participant into
295 that participant's defined contribution account.

296 Section 2. Section **49-11-401** is amended to read:

297 **49-11-401. Transfer of service credit -- Eligibility for service credit --**

298 **Computation of service credit -- Retirement from most recent system.**

299 (1) (a) The office shall make the transfer of service credit, together with related
300 member and participating employer contributions, from one system to another upon terms and
301 conditions established by the board.

302 (b) The terms and conditions may not result in a loss of accrued benefits.

303 (2) Transfer of employment from a position covered by one system to a position
304 covered by another system does not cause the employee to lose active member status.

305 (3) In the accrual of service credit, the following provisions apply:

306 (a) A person employed and compensated by a participating employer who meets the
307 eligibility requirements for membership in a system or the Utah Governors' and Legislators'
308 Retirement Plan shall receive service credit for the term of the employment provided that all
309 required contributions are paid to the office.

310 (b) An allowance or other benefit may not accrue under this title which is based upon
311 the same period of employment as has been the basis for any retirement benefits under some
312 other public retirement system.

313 (c) The board shall fix the minimum time per day, per month, and per year upon the
314 basis of which one year of service and proportionate parts of a year shall be credited toward
315 qualification for retirement. Service may be computed on a fiscal or calendar year basis and
316 portions of years served shall be accumulated and counted as service. In any event, all of the
317 service rendered in any one fiscal or calendar year may not count for more than one year.

318 (d) Service credit shall be accrued on a fiscal or calendar year basis as determined by
319 the participating employer.

320 (e) A member may not accrue more than one year of service credit per fiscal or
321 calendar year as determined by the office.

322 (f) Fractions of years of service credit shall be accumulated and counted in proportion
323 to the work performed.

324 (4) The office may estimate the amount of service credit, compensation, or age of any
325 member, participant, or alternate payee, if information is not contained in the records.

326 (5) A member shall retire from the system which most recently covered the member.

327 (6) (a) Under no circumstances may service credit earned by a member under Chapter
328 22, New Public Employees' Tier II Contributory Retirement Act, be transferable to any other
329 system or plan under this title.

330 (b) Under no circumstances may service credit earned by a member under one of the
331 following systems be transferable to the system created under Chapter 22, New Public
332 Employees' Tier II Contributory Retirement Act:

333 (i) Chapter 12, Public Employees' Contributory Retirement Act;

334 (ii) Chapter 13, Public Employees' Noncontributory Retirement Act;

335 (iii) Chapter 14, Public Safety Contributory Retirement Act;

- 336 (iv) Chapter 15, Public Safety Noncontributory Retirement Act;
- 337 (v) Chapter 16, Firefighters' Retirement Act;
- 338 (vi) Chapter 17, Judges' Contributory Retirement Act;
- 339 (vii) Chapter 18, Judges' Noncontributory Retirement Act; or
- 340 (viii) Chapter 19, Utah Governors' and Legislators' Retirement Act.

341 Section 3. Section **49-11-403** is amended to read:

342 **49-11-403. Purchase of public service credit not otherwise qualifying for benefit.**

343 (1) A member, a participating employer, or a member and a participating employer
344 jointly may purchase service credit equal to the period of the member's employment in the
345 following:

- 346 (a) United States federal employment;
- 347 (b) employment in a private school based in the United States, if the member received
348 an employer paid retirement benefit for the employment;
- 349 (c) public employment in another state or territory of the United States which qualifies
350 the member for membership in the public plan or system covering the employment, but only if
351 the member does not qualify for any retirement benefits based on the employment;
- 352 (d) forfeited service credit in this state if the member does not qualify for an allowance
353 based on the service credit;
- 354 (e) full-time public service while on an approved leave of absence;
- 355 (f) the period of time for which disability benefits were paid if:
 - 356 (i) the member was receiving:
 - 357 (A) long-term disability benefits;
 - 358 (B) short-term disability benefits; or
 - 359 (C) worker's compensation disability benefits; and
 - 360 (ii) the member's employer had not entered into a benefit protection contract under
361 Section 49-11-404 during the period the member was disabled due to sickness or accident; or
- 362 (g) employment covered by a Teachers Insurance and Annuity Association of America
363 retirement plan if the member forfeits any retirement benefit from that retirement plan for the
364 period of employment to be purchased under this Subsection (1)(g).

365 (2) A member shall have:

- 366 (a) at least four years of service credit before a purchase can be made under this

367 section; and

368 (b) forfeited service credit under any other retirement system or plan based on the
369 employment for which service credit is being purchased.

370 (3) (a) To purchase credit under this section, the member, a participating employer, or a
371 member and a participating employer jointly shall make payment to the system under which the
372 member is currently covered.

373 (b) The amount of the payment shall be determined by the office based on a formula
374 that is:

375 (i) recommended by the actuary; and

376 (ii) adopted by the board.

377 (4) The purchase may be made through payroll deductions or through a lump sum
378 deposit based upon the present value of future payments.

379 (5) Total payment must be completed prior to the member's effective date of retirement
380 or service credit will be prorated in accordance with the amount paid.

381 (6) (a) If any of the factors used to determine the cost of a service credit purchase
382 change at or before the member's retirement date, the cost of the purchase shall be recalculated
383 at the time of retirement.

384 (b) If the recalculated cost exceeds the amount paid for the purchase, the member, a
385 participating employer, or a member and a participating employer jointly may:

386 (i) pay the increased cost, plus interest, to receive the full amount of service credit; or

387 (ii) not pay the increased cost and have the purchased service credit prorated.

388 (7) If the recalculated cost under Subsection (6) is less than the amount paid for the
389 purchase, the office shall refund the excess payment to the member or participating employer
390 who paid for the purchase.

391 (8) (a) The board may adopt rules under which a member may make the necessary
392 payments to the office for purchases under this title as permitted by federal law.

393 (b) The office may reject any payments if the office determines the tax status of the
394 system, plans, or programs would be jeopardized by allowing the payment.

395 (9) Account balances created under Section 49-22-303 or 49-22-401 may not be used
396 to purchase service credit for a benefit under Sections 49-22-304 and 49-22-305.

397 Section 4. Section **49-11-404** is amended to read:

398 **49-11-404. Benefit protection contract authorized -- Annual report required.**

399 (1) (a) A participating employer may establish a salary protection program under which
400 its employees are paid during periods of disability.

401 (b) If a salary protection program is established, a participating employer may enter
402 into benefit protection contracts with the office.

403 (c) A salary protection program shall:

404 (i) pay benefits based on the disabled member's rate of compensation at the time of
405 disability;

406 (ii) be substantially equivalent to the long-term disability programs offered under
407 Chapter 21, Public Employees' Long-Term Disability Act; and

408 (iii) comply with requirements adopted by the board.

409 (2) A benefit protection contract shall allow:

410 (a) the disabled member to be considered an active member in a system and continue to
411 accrue service credit and salary credit based on the member's rate of pay in effect at the time
412 disability commences;

413 (b) the office to require participating employer contributions to be paid before granting
414 service credit and salary credit to the member;

415 (c) the disabled member to remain eligible during the contract period for any benefits
416 provided by the system that covers the member; and

417 (d) the benefit for the disabled member to be improved by the annual cost-of-living
418 increase factor applied to retired members of the system that covered the member on the date
419 the member is eligible to receive benefits under a benefit protection contract.

420 (3) (a) The office shall establish the manner and times when employer contributions
421 are paid.

422 (b) A failure to make the required payments is cause for the office to cancel a contract.

423 (c) Service credit and salary credit granted and accrued up to the time of cancellation
424 may not be forfeited.

425 (4) For an employee covered under Chapter 22, New Public Employees' Tier II
426 Contributory Retirement Act, a benefit protection contract shall allow:

427 (a) for the defined benefit portion for a member covered under Chapter 22, Part 3, Tier
428 II Hybrid Retirement System:

429 (i) the disabled member to be considered an active member in a system and continue to
430 accrue service credit and salary credit based on the member's rate of pay in effect at the time
431 disability commences;

432 (ii) the office to require participating employer contributions to be paid before granting
433 service credit and salary credit to the member;

434 (iii) the disabled member to remain eligible during the contract period for any benefits
435 provided by the system that covers the member; and

436 (iv) the benefit for the disabled member to be improved by the annual cost-of-living
437 increase factor applied to retired members of the system that covered the member on the date
438 the member is eligible to receive benefits under a benefit protection contract; and

439 (b) for the defined contribution portion for a member covered under Chapter 22, Part 3,
440 Tier II Hybrid Retirement System or for a participant covered under Chapter 22, Part 4, Tier II
441 Defined Contribution Plan, the office shall require participating employers to continue making
442 the nonelective contributions on behalf of the disabled member or participant in the amounts
443 specified in Subsection 49-22-303(1)(a) or 49-22-401(1).

444 [~~4~~] (5) A participating employer that has entered into a benefit protection contract
445 under this section shall submit an annual report to the office which identifies:

446 (a) the employees receiving long-term disability benefits under policies initiated by the
447 participating employer and approved under the benefit protection contract;

448 (b) the employees that have applied for long-term disability benefits and who are
449 waiting approval; and

450 (c) the insurance carriers that are actively providing long-term disability benefits.

451 [~~5~~] (6) If an employer fails to provide the annual report required under Subsection
452 [~~4~~] (5), the benefits that would have accrued under the benefit protection contract shall be
453 forfeited.

454 [~~6~~] (7) The board may adopt rules to implement and administer this section.

455 Section 5. Section **49-11-801** is amended to read:

456 **49-11-801. Defined contribution plans authorized -- Subject to federal and state**
457 **laws -- Rules to implement this provision -- Costs of administration -- Limitations on**
458 **eligibility -- Protection of tax status.**

459 (1) (a) The board shall establish and administer defined contribution plans established

460 under the Internal Revenue Code.

461 (b) Voluntary deferrals and nonelective contributions shall be permitted according to
462 the provisions of these plans as established by the board.

463 (c) ~~[The]~~ Except as provided in Subsections 49-22-303(2)(a) and 49-22-401(3)(a), the
464 defined contribution account balance is vested in the participant.

465 (2) (a) Voluntary deferrals and nonelective contributions shall be posted to the
466 participant's account.

467 (b) ~~[Participants]~~ Except as provided in Subsections 49-22-303(3) and 49-22-401(4),
468 participants may direct the investment of their account in the investment options established by
469 the board and in accordance with federal and state law.

470 (3) (a) The board may make rules and create plan documents to implement and
471 administer this section.

472 (b) The board may adopt rules under which a participant may put money into a defined
473 contribution plan as permitted by federal law.

474 (c) The office may reject any payments if the office determines the tax status of the
475 systems, plans, or programs would be jeopardized by allowing the payment.

476 (d) Costs of administration shall be paid as established by the board.

477 (4) Voluntary deferrals and nonelective contributions may be invested separately or in
478 conjunction with the Utah State Retirement Investment Fund.

479 (5) The board or office may take actions necessary to protect the tax qualified status of
480 the systems, plans, and programs under its control, including the movement of individuals from
481 defined contribution plans to defined benefit systems or the creation of excess benefit plans
482 authorized by federal law.

483 (6) The office may, at its sole discretion, correct errors made in the administration of
484 its defined contribution plans.

485 Section 6. Section **49-11-1001** is amended to read:

486 **49-11-1001. Partial lump-sum payment option.**

487 (1) ~~[At]~~ Except as provided in Subsection (5), at the time of application for retirement,
488 a member may elect to receive a lump-sum payment of a portion of the member's retirement
489 allowance equal to 12 or 24 months of the member's allowance to be paid upon retirement.

490 (2) The member's allowance shall be reduced to reflect the actuarial value of the

491 lump-sum received under Subsection (1).

492 (3) A member who has received a lump-sum payment under this section is not eligible
493 for another lump-sum payment under this section.

494 (4) The board may make rules to implement this section.

495 (5) A member or participant of a system or plan under Chapter 22, New Public
496 Employees' Tier II Contributory Retirement Act, is not eligible to make an election under this
497 section.

498 Section 7. Section **49-12-201** is amended to read:

499 **49-12-201. System membership -- Eligibility.**

500 (1) A regular full-time employee of a participating employer is eligible for service
501 credit in this system upon the later of:

502 (a) the date on which the participating employer began participating in this system; or

503 (b) the effective date of employment of the regular full-time employee with the
504 participating employer.

505 (2) Beginning July 1, 1986, a person entering employment with the state and its
506 educational institutions may not participate in this system.

507 (3) Notwithstanding the provisions of Subsection (1), a person initially entering
508 employment with a participating employer on or after July 1, 2011, may not participate in this
509 system.

510 Section 8. Section **49-13-201** is amended to read:

511 **49-13-201. System membership -- Eligibility.**

512 (1) Beginning July 1, 1986, the state and its educational institutions shall participate in
513 this system.

514 (a) A person entering regular full-time employment with the state or its educational
515 institutions after July 1, 1986, but before July 1, 2011, is eligible for service credit in this
516 system.

517 (b) A regular full-time employee of the state or its educational institutions prior to July
518 1, 1986, may either become eligible for service credit in this system or remain eligible for
519 service in the system established under Chapter 12, Public Employees' Contributory Retirement
520 Act, by following the procedures established by the board in accordance with this chapter.

521 (2) An employer, other than the state and its educational institutions, may participate in

522 this system except that once an employer elects to participate in this system, that election is
523 irrevocable and the election must be made before July 1, 2011.

524 (a) [~~A~~] Until June 30, 2011, a person initially entering regular full-time employment
525 with a participating employer which elects to participate in this system is eligible for service
526 credit in this system.

527 (b) A person in regular full-time employment with a participating employer prior to
528 the participating employer's election to participate in this system may either become eligible for
529 service credit in this system or remain eligible for service in the system established under
530 Chapter 12, Public Employees' Contributory Retirement Act, by following the procedures
531 established by the board in accordance with this chapter.

532 (3) Notwithstanding the provisions of Subsections (1) and (2), a person initially
533 entering employment with a participating employer on or after July 1, 2011, may not participate
534 in this system.

535 Section 9. Section **49-14-201** is amended to read:

536 **49-14-201. System membership -- Eligibility.**

537 (1) Except as provided in Section 49-15-201, a public safety service employee of a
538 participating employer participating in this system is eligible for service credit in this system at
539 the earliest of:

540 (a) July 1, 1969, if the public safety service employee was employed by the
541 participating employer on July 1, 1969, and the participating employer was participating in this
542 system on that date;

543 (b) the date the participating employer begins participating in this system if the public
544 safety service employee was employed by the participating employer on that date; or

545 (c) the date the public safety service employee is employed by the participating
546 employer and is eligible to perform public safety service, except that a public safety service
547 employee initially entering employment with a participating employer on or after July 1, 2011,
548 may not participate in this system.

549 (2) (a) (i) A participating employer that has public safety service and firefighter service
550 employees that require cross-training and duty shall enroll those dual purpose employees in the
551 system in which the greatest amount of time is actually worked.

552 (ii) The employees shall either be full-time public safety service or full-time firefighter

553 service employees of the participating employer.

554 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
555 participating employer shall receive written permission from the office.

556 (ii) The office may request documentation to verify the appropriateness of the transfer.

557 (3) The board may combine or segregate the actuarial experience of participating
558 employers in this system for the purpose of setting contribution rates.

559 (4) (a) (i) Each participating employer participating in this system shall annually
560 submit to the office a schedule indicating the positions to be covered under this system in
561 accordance with this chapter.

562 (ii) The office may require documentation to justify the inclusion of any position under
563 this system.

564 (b) If there is a dispute between the office and a participating employer or employee
565 over any position to be covered, the disputed position shall be submitted to the Peace Officer
566 Standards and Training Council established under Section 53-6-106 for determination.

567 (c) (i) The Peace Officer Standards and Training Council's authority to decide
568 eligibility for public safety service credit is limited to claims for coverage under this system for
569 time periods after July 1, 1989.

570 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
571 to service credit earned in another system prior to July 1, 1989.

572 (iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer
573 Standards and Training Council granting a position coverage under this system may only be
574 applied prospectively from the date of that decision.

575 (iv) A decision of the Peace Officer Standards and Training Council granting a position
576 coverage under this system may be applied retroactively only if:

577 (A) the participating employer covered other similarly situated positions under this
578 system during the time period in question; and

579 (B) the position otherwise meets all eligibility requirements for receiving service credit
580 in this system during the period for which service credit is to be granted.

581 (5) The Peace Officer Standards and Training Council may use a subcommittee to
582 provide a recommendation to the council in determining disputes between the office and a
583 participating employer or employee over a position to be covered under this system.

584 (6) The Peace Officer Standards and Training Council shall comply with Title 63G,
585 Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

586 (7) A public safety employee who is transferred or promoted to an administration
587 position not covered by this system shall continue to earn public safety service credit in this
588 system as long as the employee remains employed in the same department.

589 (8) Any employee who is reassigned to the Department of Technology Services or to
590 the Department of Human Resource Management, and who was a member of this system, shall
591 be entitled to remain a member of this system.

592 (9) (a) To determine that a position is covered under this system, the office and, if a
593 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the
594 position requires the employee to:

- 595 (i) place the employee's life or personal safety at risk; and
- 596 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

597 (b) If a position satisfies the requirements of Subsection (9)(a), the office and the Peace
598 Officer Standards and Training Council shall consider whether or not the position requires the
599 employee to:

- 600 (i) perform duties that consist primarily of actively preventing or detecting crime and
601 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
- 602 (ii) perform duties that consist primarily of providing community protection; and
- 603 (iii) respond to situations involving threats to public safety and make emergency
604 decisions affecting the lives and health of others.

605 (10) If a subcommittee is used to recommend the determination of disputes to the
606 Peace Officer Standards and Training Council, the subcommittee shall comply with the
607 requirements of Subsection (9) in making its recommendation.

608 (11) A final order of the Peace Officer Standards and Training Council regarding a
609 dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative
610 Procedures Act.

611 (12) Except as provided under Subsection (13), if a participating employer's public
612 safety service employees are not covered by this system or under Chapter 15, Public Safety
613 Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees
614 who may otherwise qualify for membership in this system shall, at the discretion of the

615 participating employer, remain in their current retirement system.

616 (13) (a) A public safety service employee employed by an airport police department,
617 which elects to cover its public safety service employees under the Public Safety
618 Noncontributory Retirement System under Subsection (12), may elect to remain in the public
619 safety service employee's current retirement system.

620 (b) The public safety service employee's election to remain in the current retirement
621 system under Subsection (13)(a):

622 (i) shall be made at the time the employer elects to move its public safety service
623 employees to a public safety retirement system;

624 (ii) documented by written notice to the participating employer; and

625 (iii) is irrevocable.

626 (14) Notwithstanding any other provision of this section, a person initially entering
627 employment with a participating employer on or after July 1, 2011, may not participate in this
628 system.

629 Section 10. Section **49-14-202** is amended to read:

630 **49-14-202. Participation of employers -- Requirements -- Supplemental programs**
631 **-- Full participation in system.**

632 (1) An employer that employs public safety service employees and is required by
633 Section 49-12-202 or 49-13-202 to be a participating employer in the Public Employees'
634 Contributory Retirement System or the Public Employees' Noncontributory Retirement System
635 shall cover all its public safety service employees under one of the following systems or plans:

636 (a) Chapter 12, Public Employees' Contributory Retirement Act;

637 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;

638 (c) Chapter 14, Public Safety Contributory Retirement Act; ~~[or]~~

639 (d) Chapter 15, Public Safety Noncontributory Retirement Act~~[-];~~ or

640 (e) Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

641 (2) An employer that covers its public safety service employees under Subsection
642 (1)(c) is a participating employer in this system.

643 (3) If a participating employer under Subsection (1) covers any of its public safety
644 service employees under the Public Safety Contributory Retirement System or the Public
645 Safety Noncontributory Retirement System, that participating employer shall cover all of its

646 public safety service employees under one of those systems, except for a public safety service
647 employee initially entering employment with a participating employer on or after July 1, 2011.

648 (4) A participating employer may not withdraw from this system.

649 (5) In addition to their participation in the system, participating employers may provide
650 or participate in any additional public or private retirement, supplemental or defined
651 contribution plan, either directly or indirectly, for their employees.

652 (6) An employer may not elect to participate in this system after July 1, 1989.

653 Section 11. Section **49-15-201** is amended to read:

654 **49-15-201. System membership -- Eligibility.**

655 (1) (a) A public safety service employee employed by the state after July 1, 1989, but
656 before July 1, 2011, is eligible for service credit in this system.

657 (b) A public safety service employee employed by the state prior to July 1, 1989, may
658 either elect to receive service credit in this system or continue to receive service credit under
659 the system established under Chapter 14, Public Safety Contributory Retirement Act, by
660 following the procedures established by the board under this chapter.

661 (2) (a) Public safety service employees of a participating employer other than the state
662 that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement
663 System shall be eligible only for service credit in that system.

664 (b) (i) A participating employer other than the state that elected on or before July 1,
665 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety
666 service employee to elect to participate in either this system or the Public Safety Contributory
667 Retirement System.

668 (ii) Except as expressly allowed by this title, the election of the public safety service
669 employee is final and may not be changed.

670 (c) A public safety service employee hired by a participating employer other than the
671 state after July 1, 1989, but before July 1, 2011, shall become a member in this system.

672 (d) A public safety service employee of a participating employer other than the state
673 who began participation in this system after July 1, 1989, but before July 1, 2011, is only
674 eligible for service credit in this system.

675 (e) A person initially entering employment with a participating employer on or after
676 July 1, 2011, may not participate in this system.

677 (3) (a) (i) A participating employer that has public safety service and firefighter service
678 employees that require cross-training and duty shall enroll those dual purpose employees in the
679 system in which the greatest amount of time is actually worked.

680 (ii) The employees shall either be full-time public safety service or full-time firefighter
681 service employees of the participating employer.

682 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
683 participating employer shall receive written permission from the office.

684 (ii) The office may request documentation to verify the appropriateness of the transfer.

685 (4) The board may combine or segregate the actuarial experience of participating
686 employers in this system for the purpose of setting contribution rates.

687 (5) (a) (i) Each participating employer participating in this system shall annually
688 submit to the office a schedule indicating the positions to be covered under this system in
689 accordance with this chapter.

690 (ii) The office may require documentation to justify the inclusion of any position under
691 this system.

692 (b) If there is a dispute between the office and a participating employer or employee
693 over any position to be covered, the disputed position shall be submitted to the Peace Officer
694 Standards and Training Council established under Section 53-6-106 for determination.

695 (c) (i) The Peace Officer Standards and Training Council's authority to decide
696 eligibility for public safety service credit is limited to claims for coverage under this system for
697 time periods after July 1, 1989.

698 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
699 to service credit earned in another system prior to July 1, 1989.

700 (iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer
701 Standards and Training Council granting a position coverage under this system may only be
702 applied prospectively from the date of that decision.

703 (iv) A decision of the Peace Officer Standards and Training Council granting a position
704 coverage under this system may be applied retroactively only if:

705 (A) the participating employer covered other similarly situated positions under this
706 system during the time period in question; and

707 (B) the position otherwise meets all eligibility requirements for receiving service credit

708 in this system during the period for which service credit is to be granted.

709 (6) The Peace Officer Standards and Training Council may use a subcommittee to
710 provide a recommendation to the council in determining disputes between the office and a
711 participating employer or employee over a position to be covered under this system.

712 (7) The Peace Officer Standards and Training Council shall comply with Title 63G,
713 Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

714 (8) A public safety service employee who is transferred or promoted to an
715 administration position not covered by this system shall continue to earn public safety service
716 credit in this system as long as the employee remains employed in the same department.

717 (9) Any employee who is reassigned to the Department of Technology Services or to
718 the Department of Human Resource Management, and who was a member in this system, shall
719 be entitled to remain a member in this system.

720 (10) (a) To determine that a position is covered under this system, the office and, if a
721 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the
722 position requires the employee to:

723 (i) place the employee's life or personal safety at risk; and

724 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

725 (b) If a position satisfies the requirements of Subsection (10)(a), the office and Peace
726 Officer Standards and Training Council shall consider whether the position requires the
727 employee to:

728 (i) perform duties that consist primarily of actively preventing or detecting crime and
729 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

730 (ii) perform duties that consist primarily of providing community protection; and

731 (iii) respond to situations involving threats to public safety and make emergency
732 decisions affecting the lives and health of others.

733 (11) If a subcommittee is used to recommend the determination of disputes to the
734 Peace Officer Standards and Training Council, the subcommittee shall comply with the
735 requirements of Subsection (10) in making its recommendation.

736 (12) A final order of the Peace Officer Standards and Training Council regarding a
737 dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative
738 Procedures Act.

739 (13) Except as provided under Subsection (14), if a participating employer's public
 740 safety service employees are not covered by this system under Chapter 14, Public Safety
 741 Contributory Retirement Act, as of January 1, 1998, those public safety service employees who
 742 may otherwise qualify for membership in this system shall, at the discretion of the participating
 743 employer, remain in their current retirement system.

744 (14) (a) A public safety service employee employed by an airport police department,
 745 which elects to cover its public safety service employees under the Public Safety
 746 Noncontributory Retirement System under Subsection (13), may elect to remain in the public
 747 safety service employee's current retirement system.

748 (b) The public safety service employee's election to remain in the current retirement
 749 system under Subsection (14)(a):

750 (i) shall be made at the time the employer elects to move its public safety service
 751 employees to a public safety retirement system;

752 (ii) documented by written notice to the participating employer; and

753 (iii) is irrevocable.

754 (15) Notwithstanding any other provision of this section, a person initially entering
 755 employment with a participating employer on or after July 1, 2011, may not participate in this
 756 system.

757 Section 12. Section **49-15-202** is amended to read:

758 **49-15-202. Participation of employers -- Requirements -- Admission -- Full**
 759 **participation in system -- Supplemental programs authorized.**

760 (1) An employer that employs public safety service employees and is required by
 761 Section 49-12-202 or 49-13-202 to be a participating employer in the Public Employees'
 762 Contributory Retirement System or the Public Employees' Noncontributory Retirement System
 763 shall cover all its public safety service employees under one of the following systems or plans:

764 (a) Chapter 12, Public Employees' Contributory Retirement Act;

765 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;

766 (c) Chapter 14, Public Safety Contributory Retirement Act; [~~or~~]

767 (d) Chapter 15, Public Safety Noncontributory Retirement Act[~~;~~]; or

768 (e) Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

769 (2) An employer that covers its public safety employees under Subsection (1)(d) is a

770 participating employer in this system.

771 (3) If a participating employer under Subsection (1) covers any of its public safety
772 service employees under the Public Safety Contributory Retirement System or the Public
773 Safety Noncontributory Retirement System, that participating employer shall cover all of its
774 public safety service employees under one of those systems, except for a public safety service
775 employee initially entering employment with a participating employer beginning on or after
776 July 1, 2011.

777 (4) (a) [~~Am~~] Until June 30, 2011, an employer that is not participating in this system
778 may by resolution of its governing body apply for coverage of its public safety service
779 employees by this system.

780 (b) Upon approval of the board, the employer shall become a participating employer in
781 this system subject to this title.

782 (5) If a participating employer purchases service credit on behalf of employees for
783 service rendered prior to the participating employer's admission to this system, the service
784 credit must be purchased in a nondiscriminatory manner on behalf of all current and former
785 employees who were eligible for service credit at the time service was rendered.

786 (6) A participating employer may not withdraw from this system.

787 (7) In addition to their participation in the system, participating employers may provide
788 or participate in any additional public or private retirement, supplemental or defined
789 contribution plan, either directly or indirectly, for their employees.

790 Section 13. Section **49-16-201** is amended to read:

791 **49-16-201. System membership -- Eligibility.**

792 (1) A firefighter service employee who performs firefighter service for an employer
793 participating in this system is eligible for service credit in this system upon the earliest of:

794 (a) July 1, 1971, if the firefighter service employee was employed by the participating
795 employer on July 1, 1971, and the participating employer was participating in this system on
796 that date;

797 (b) the date the participating employer begins participating in this system if the
798 firefighter service employee was employed by the participating employer on that date; or

799 (c) the date the firefighter service employee is hired to perform firefighter services for a
800 participating employer, if the firefighter initially enters employment before July 1, 2011.

801 (2) (a) (i) A participating employer that has public safety service and firefighter service
802 employees that require cross-training and duty shall enroll the dual purpose employees in the
803 system in which the greatest amount of time is actually worked.

804 (ii) The employees shall either be full-time public safety service or full-time firefighter
805 service employees of the participating employer.

806 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
807 participating employer shall receive written permission from the office.

808 (ii) The office may request documentation to verify the appropriateness of the transfer.

809 (3) (a) A person hired by a regularly constituted fire department on or after July 1,
810 1971, who does not perform firefighter service is not eligible for service credit in this system.

811 (b) The nonfirefighter service employee shall become a member of the system for
812 which the nonfirefighter service employee qualifies for service credit.

813 (c) The service credit exclusion under this Subsection (3) may not be interpreted to
814 prohibit the assignment of a disabled or partially disabled firefighter to a nonfirefighter service
815 position.

816 (d) If Subsection (3)(c) applies, the firefighter service employee remains eligible for
817 service credit in this system.

818 (4) An allowance or other benefit may not be granted under this system that is based
819 upon the same service for benefits received under some other system.

820 (5) Service as a volunteer firefighter is not eligible for service credit in this system.

821 (6) An employer that maintains a regularly constituted fire department is eligible to
822 participate in this system.

823 (7) Beginning July 1, 2011, a person initially entering employment with a participating
824 employer may not participate in this system.

825 Section 14. Section **49-16-202** is amended to read:

826 **49-16-202. Participation of employers -- Full participation in system --**

827 **Supplemental programs authorized.**

828 (1) An employer that employs firefighter service employees and is required by Section
829 49-12-202 or 49-13-202 to be a participating employer in the Public Employees' Contributory
830 Retirement System or the Public Employees' Noncontributory Retirement System shall cover
831 all of its firefighter service employees under one of the following systems or plans:

- 832 (a) Chapter 12, Public Employees' Contributory Retirement Act;
- 833 (b) Chapter 13, Public Employees' Noncontributory Retirement Act; [~~or~~]
- 834 (c) Chapter 16, Firefighters' Retirement Act[~~;~~]; or
- 835 (d) Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

836 (2) Any employer that covers its firefighter service employees under Subsection (1)(c)
837 is a participating employer in this system.

838 (3) If a participating employer under Subsection (1) covers any of its firefighter service
839 employees under the Firefighters' Retirement System, that participating employer shall cover
840 all of its firefighter service employees under that system, except for a firefighter service
841 employee initially entering employment with a participating employer on or after July 1, 2011.

842 (4) (a) [~~An~~] Until June 30, 2011, an employer that is not participating in this system
843 may, by resolution of its governing body submitted to the board, apply for coverage of its
844 firefighter service employees by this system.

845 (b) Upon approval of the board, the employer shall become a participating employer in
846 this system subject to this title.

847 (5) A participating employer may not withdraw from this system.

848 (6) In addition to their participation in the system, participating employers may provide
849 or participate in any additional public or private retirement, supplemental or defined
850 contribution plan, either directly or indirectly, for their firefighter service employees.

851 Section 15. Section **49-17-201** is amended to read:

852 **49-17-201. System membership -- Eligibility.**

853 (1) Except as provided in Subsection (2) and Section 49-18-201, judges are members
854 of and are eligible for service credit in this system.

855 (2) A judge initially entering employment with a participating employer on or after July
856 1, 2011, may not participate in this system.

857 Section 16. Section **49-18-201** is amended to read:

858 **49-18-201. System membership -- Eligibility.**

859 (1) Judges appointed after July 1, 1997, but before July 1, 2011, are members of and
860 are eligible for service credit in this system.

861 (2) (a) Any judge appointed prior to July 1, 1997, may either become a member of the
862 Judges' Noncontributory Retirement System or remain a member of the Judges' Contributory

863 Retirement System established under Chapter 17, Judges' Contributory Retirement Act, by
864 following the procedures established by the board ~~[pursuant to]~~ under this chapter.

865 (b) Judges may only elect to participate in this system under this Subsection (2) prior to
866 January 1, 1998.

867 (3) A judge initially entering employment on or after July 1, 2011, may not participate
868 in this system.

869 Section 17. Section **49-19-201** is amended to read:

870 **49-19-201. Plan participation -- Eligibility.**

871 (1) Governors and legislators who enter office before July 1, 2011, are eligible for
872 service credit in this plan during their term of service in their elected position.

873 (2) A governor or legislator initially entering office on or after July 1, 2011:

874 (a) may not participate in this system;

875 (b) is only eligible to participate in the Tier II Defined Contribution Plan established
876 under Title 49, Chapter 22, Part 4, Tier II Defined Contribution Plan; and

877 (c) is not eligible to participate in the Tier II hybrid retirement system established under
878 Title 49, Chapter 22, Part 3, Tier II Hybrid Retirement System.

879 Section 18. Section **49-21-201** is amended to read:

880 **49-21-201. Program membership -- Eligibility.**

881 (1) The state shall cover all of its eligible employees under this chapter.

882 (2) Public safety service employees, as defined in Sections 49-14-102 and 49-15-102,
883 shall be covered under this chapter or a substantially similar long-term disability program in
884 accordance with the provisions of Section 49-14-601 ~~[or]~~, 49-15-601~~[-]~~, or 49-22-601.

885 (3) Firefighter service employees, as defined in Section 49-16-102, initially entering
886 employment on or after July 1, 2011, and volunteer firefighters, as defined in Section
887 49-22-102, shall be covered under this chapter or a substantially similar long-term disability
888 program in accordance with the provisions of Section 49-22-601.

889 ~~[(3)]~~ (4) Except as provided under Subsection (5), all other employers may provide
890 coverage for their eligible employees under this chapter.

891 ~~[(4)]~~ (5) If an employer elects to cover any of its eligible employees under this chapter,
892 all of its eligible employees shall be covered.

893 ~~[(5)]~~ (6) Except as provided under Subsections (1) and (2), nothing in this chapter

894 requires any employer to cover its eligible employees under this chapter.

895 [~~(6)~~] (7) The following employees are not eligible for coverage under this chapter:

896 (a) firefighter service employees, as defined under Section 49-16-102, that initially
897 entered employment prior to July 1, 2011; and

898 (b) legislators.

899 Section 19. Section **49-21-403** is amended to read:

900 **49-21-403. Termination of disability benefits -- Calculation of retirement benefit.**

901 (1) An eligible employee covered by this chapter and eligible for service credit under a
902 system, or a participant in the Tier II Defined Contribution Plan, created in Chapter 22, Part 4,
903 Tier II Defined Contribution Plan, including an eligible employee who relinquishes rights to
904 retirement benefits under Section 49-11-619, who applies and is qualified for a monthly
905 disability benefit shall receive a monthly disability benefit until the earlier of:

906 (a) the date the eligible employee is no longer disabled;

907 (b) the date the eligible employee has accumulated:

908 (i) 20 years of service credit if the eligible employee is covered by Chapter 14, Public
909 Safety Contributory Retirement Act, or Chapter 15, Public Safety Noncontributory Retirement
910 Act;

911 (ii) 25 years of service credit if the eligible employee is covered by Chapter 17, Judges'
912 Contributory Retirement Act, or Chapter 18, Judges' Noncontributory Retirement Act; [~~or~~]

913 (iii) 30 years of service credit if the eligible employee is covered by Chapter 12, Public
914 Employees' Contributory Retirement Act, or Chapter 13, Public Employees' Noncontributory
915 Retirement Act; or

916 (iv) 35 years of service credit if the eligible employee is covered by the defined benefit
917 portion under Chapter 22, Part 3, Tier II Hybrid Retirement System or is covered by the defined
918 contribution plan under Chapter 22, Part 4, Tier II, Defined Combination Plan; or

919 (c) the date the eligible employee has received a monthly disability benefit for the
920 following applicable time periods:

921 (i) if the eligible employee is under age 60, the monthly disability benefit is payable
922 until age 65;

923 (ii) if the eligible employee is 60 or 61 years of age on the date of disability, the
924 monthly disability benefit is payable for five years;

925 (iii) if the eligible employee is 62 or 63 years of age on the date of disability, the
926 monthly disability benefit is payable for four years;

927 (iv) if the eligible employee is 64 or 65 years of age on the date of disability, the
928 monthly disability benefit is payable for three years;

929 (v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the
930 monthly disability benefit is payable for two years; and

931 (vi) if the eligible employee is 69 years of age or older on the date of disability, the
932 monthly disability benefit is payable for one year.

933 (2) (a) Upon termination of a monthly disability benefit, an eligible employee eligible
934 for service credit under a system may retire under the requirements of the system which
935 covered the eligible employee on the date of disability.

936 (b) The final average salary used in the calculation of the allowance shall be based on
937 the annual rate of pay on the date of disability, improved by the annual cost-of-living increase
938 factor applied to retirees of the system which covered the eligible employee on the date of
939 disability.

940 (3) An eligible employee who is eligible for service credit in a system, but has
941 relinquished rights to an allowance under Section 49-11-619, may receive the benefits the
942 eligible employee would have received by being eligible for service credit in the system
943 covering the eligible employee on the date of disability, except for the accrual of service credit,
944 in accordance with this title.

945 (4) An eligible employee receiving a monthly disability benefit who has service credit
946 from two or more systems may not combine service credits under Section 49-11-405 in
947 qualifying for retirement, unless the eligible employee would receive a greater allowance by
948 combining the service credits.

949 (5) A monthly disability benefit payable to an eligible employee who is not eligible for
950 service credit under a system shall terminate at the earliest of:

951 (a) the date the eligible employee would be eligible for an unreduced allowance;

952 (b) the date the eligible employee has received a monthly disability benefit for the
953 applicable time period as set forth in Subsection (1)(b); or

954 (c) the date the eligible employee receives a reduced allowance.

955 Section 20. Section **49-22-101** is enacted to read:

956 CHAPTER 22. NEW PUBLIC EMPLOYEES' TIER II CONTRIBUTORY
957 RETIREMENT ACT

958 Part 1. General Provisions

959 **49-22-101. Title.**

960 This chapter is known as the "New Public Employees' Tier II Contributory Retirement
961 Act."

962 Section 21. Section **49-22-102** is enacted to read:

963 **49-22-102. Definitions.**

964 As used in this chapter:

965 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total
966 amount of payments made by a participating employer to a member of this system for services
967 rendered to the participating employer, including:

968 (i) bonuses;

969 (ii) cost-of-living adjustments;

970 (iii) other payments currently includable in gross income and that are subject to Social
971 Security deductions, including any payments in excess of the maximum amount subject to
972 deduction under Social Security law;

973 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
974 or other benefits authorized by federal law; and

975 (v) member contributions.

976 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed
977 under Internal Revenue Code, Section 401(a)(17).

978 (c) "Compensation" does not include:

979 (i) the monetary value of remuneration paid in kind, including a residence or use of
980 equipment;

981 (ii) the cost of any employment benefits paid for by the participating employer;

982 (iii) compensation paid to a temporary employee or an employee otherwise ineligible
983 for service credit;

984 (iv) any payments upon termination, including accumulated vacation, sick leave
985 payments, severance payments, compensatory time payments, or any other special payments; or

986 (v) any allowances or payments to a member for costs or expenses paid by the

987 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
988 housing costs, insurance costs, equipment costs, and dependent care costs.

989 (d) The executive director may determine if a payment not listed under this Subsection
990 (1) falls within the definition of compensation.

991 (2) "Corresponding Tier I system" means the system or plan that would have covered
992 the member if the member had initially entered employment before July 1, 2011.

993 (3) "Final average salary" means the amount computed by averaging the highest five
994 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and
995 (d).

996 (a) Except as provided in Subsection (3)(b), the percentage increase in annual
997 compensation in any one of the years used may not exceed the previous year's compensation by
998 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
999 of the dollar during the previous year, as measured by a United States Bureau of Labor
1000 Statistics Consumer Price Index average as determined by the board.

1001 (b) In cases where the participating employer provides acceptable documentation to the
1002 office, the limitation in Subsection (3)(a) may be exceeded if:

- 1003 (i) the member has transferred from another agency; or
- 1004 (ii) the member has been promoted to a new position.

1005 (c) If the member retires more than six months from the date of termination of
1006 employment, the member is considered to have been in service at the member's last rate of pay
1007 from the date of the termination of employment to the effective date of retirement for purposes
1008 of computing the member's final average salary only.

1009 (d) If the member has less than five years of service credit in this system, final average
1010 salary means the average annual compensation paid to the member during the full period of
1011 service credit.

1012 (4) "Participating employer" means an employer which meets the participation
1013 requirements of:

- 1014 (a) Sections 49-12-201 and 49-12-202;
- 1015 (b) Sections 49-13-201 and 49-13-202;
- 1016 (c) Sections 49-14-201 and 49-14-202;
- 1017 (d) Sections 49-15-201 and 49-15-202;

1018 (e) Sections 49-16-201 and 49-16-202;

1019 (f) Section 49-17-201;

1020 (g) Section 49-18-201; or

1021 (h) Section 49-19-201.

1022 (5) (a) "Regular full-time employee" means an employee whose term of employment
1023 for a participating employer contemplates continued employment during a fiscal or calendar
1024 year and whose employment normally requires an average of 20 hours or more per week,
1025 except as modified by the board, and who receives benefits normally provided by the
1026 participating employer.

1027 (b) "Regular full-time employee" includes:

1028 (i) a teacher whose term of employment for a participating employer contemplates
1029 continued employment during a school year and who teaches half-time or more;

1030 (ii) a classified school employee whose employment normally requires an average of
1031 20 hours per week or more for a participating employer, regardless of benefits provided;

1032 (iii) an officer, elective or appointive, who earns during the first full month of the term
1033 of office \$500 or more, indexed as of January 1, 1990, as provided in Section 49-22-309;

1034 (iv) a faculty member or employee of an institution of higher education who is
1035 considered full-time by that institution of higher education; and

1036 (v) an individual who otherwise meets the definition of this Subsection (5) who
1037 performs services for a participating employer through a professional employer organization or
1038 similar arrangement.

1039 (6) "System" means the New Public Employees' Tier II Contributory Retirement
1040 System created under this chapter.

1041 (7) (a) "Volunteer firefighter" means any individual that is not regularly employed as a
1042 firefighter service employee, but who:

1043 (i) has been trained in firefighter techniques and skills;

1044 (ii) continues to receive regular firefighter training;

1045 (iii) is assigned to a position of hazardous duty; and

1046 (iv) is on the rolls of a legally organized volunteer fire department which provides
1047 ongoing training and serves a political subdivision of the state.

1048 (b) An individual that volunteers assistance but does not meet the requirements of

1049 Subsection (7)(a) is not a volunteer firefighter for purposes of this chapter.

1050 (8) "Years of service credit" means:

1051 (a) a period, consisting of 12 full months as determined by the board;

1052 (b) a period determined by the board, whether consecutive or not, during which a
1053 regular full-time employee performed services for a participating employer, including any time
1054 the regular full-time employee was absent on a paid leave of absence granted by a participating
1055 employer or was absent in the service of the United States government on military duty as
1056 provided by this chapter; or

1057 (c) the regular school year consisting of not less than eight months of full-time service
1058 for a regular full-time employee of an educational institution.

1059 Section 22. Section **49-22-103** is enacted to read:

1060 **49-22-103. Creation of system.**

1061 (1) There is created for members employed by a participating employer the "New
1062 Public Employees' Tier II Contributory Retirement System."

1063 (2) The New Public Employees' Tier II Contributory Retirement System includes:

1064 (a) the Tier II hybrid retirement system created in Part 3, Tier II Hybrid Retirement
1065 System; and

1066 (b) the Tier II defined contribution plan created in Part 4, Tier II Defined Contribution
1067 Plan.

1068 Section 23. Section **49-22-104** is enacted to read:

1069 **49-22-104. Creation of trust fund.**

1070 (1) There is created the "New Public Employees' Tier II Contributory Retirement Trust
1071 Fund" for the purpose of paying the benefits and costs of administering the defined benefit
1072 portion of this system.

1073 (2) The fund shall consist of all money paid into it, including interest, in accordance
1074 with this chapter, whether in the form of cash, securities, or other assets, and of all money
1075 received from any other source.

1076 (3) Custody, management, and investment of the fund shall be governed by Chapter 11,
1077 Utah State Retirement Systems Administration.

1078 Section 24. Section **49-22-201** is enacted to read:

1079 **Part 2. Membership Eligibility**

1080 **49-22-201. System membership -- Eligibility.**

1081 (1) Beginning July 1, 2011, a participating employer shall participate in this system.

1082 (2) (a) A person entering regular full-time employment with a participating employer
1083 on or after July 1, 2011, is eligible:

1084 (i) as a member for service credit and defined contributions under the Tier II hybrid
1085 retirement system established by Part 3, Tier II Hybrid Retirement System; or

1086 (ii) as a participant for defined contributions under the Tier II defined contributions
1087 plan established by Part 4, Tier II Defined Contribution Plan.

1088 (b) A person entering full-time employment with a participating employer on or after
1089 July 1, 2011, shall:

1090 (i) make an election to participate in the system created under this chapter within 30
1091 days from the date of employment:

1092 (A) as a member for service credit and defined contributions under the Tier II Hybrid
1093 Retirement System established by Part 3, Tier II Hybrid Retirement System; or

1094 (B) as a participant for defined contributions under the Tier II defined contributions
1095 plan established by Part 4, Tier II Defined Contribution Plan; and

1096 (ii) submit to the office notification of the member's election under Subsection (2)(b) in
1097 a manner approved by the office.

1098 (c) An election made by a person entering full-time employment with a participating
1099 employer under this Subsection (2) is irrevocable.

1100 (d) If no election is made under Subsection (2)(b), the person shall become a member
1101 eligible for service credit and defined contributions under the Tier II Hybrid Retirement System
1102 established by Part 3, Tier II Hybrid Retirement System.

1103 (3) Notwithstanding the provisions of this section, a governor or legislator initially
1104 entering office on or after July 1, 2011:

1105 (a) is only eligible to participate in the Tier II defined contribution plan established
1106 under Title 49, Chapter 22, Part 4, Tier II Defined Contribution Plan; and

1107 (b) is not eligible to participate in the Tier II hybrid retirement system established
1108 under Title 49, Chapter 22, Part 3, Tier II Hybrid Retirement System.

1109 Section 25. Section **49-22-202** is enacted to read:

1110 **49-22-202. Participation of employers -- Limitations -- Exclusions -- Admission**

1111 requirements.

1112 (1) Unless excluded under Subsection (2), an employer is a participating employer and
1113 may not withdraw from participation in this system.

1114 (2) An employer that is a charter school sponsored by the State Board of Education or a
1115 school district may be excluded from participation in this system if the charter school makes an
1116 election of nonparticipation in accordance with Section 53A-1a-512 unless the charter school
1117 makes a one-time, irrevocable retraction of the election of nonparticipation in accordance with
1118 Subsection 53A-1a-512(9).

1119 (3) (a) An employer may, by resolution of its governing body, apply for admission to
1120 this system.

1121 (b) Upon approval of the resolution by the board, the employer is a participating
1122 employer in this system and is subject to this title.

1123 (4) If a participating employer purchases service credit on behalf of regular full-time
1124 employees for service rendered prior to the participating employer's admission to this system,
1125 the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and
1126 former regular full-time employees who were eligible for service credit at the time service was
1127 rendered.

1128 Section 26. Section **49-22-203** is enacted to read:

1129 **49-22-203. Exclusions from membership in system.**

1130 (1) The following employees are not eligible for service credit in this system:

1131 (a) An employee whose employment status is temporary in nature due to the nature or
1132 the type of work to be performed, provided that:

1133 (i) if the term of employment exceeds six months and the employee otherwise qualifies
1134 for service credit in this system, the participating employer shall report and certify to the office
1135 that the employee is a regular full-time employee effective the beginning of the seventh month
1136 of employment; and

1137 (ii) if an employee, previously terminated prior to becoming eligible for service credit
1138 in this system, is reemployed within three months of termination by the same participating
1139 employer, the participating employer shall report and certify to the office that the member is a
1140 regular full-time employee when the total of the periods of employment equals six months and
1141 the employee otherwise qualifies for service credit in this system.

1142 (b) (i) A current or future employee of an institution of higher education who holds, or
1143 is entitled to hold, under Section 49-22-204, a retirement annuity contract with the Teachers'
1144 Insurance and Annuity Association of America or with any other public or private system,
1145 organization, or company during any period in which required contributions based on
1146 compensation have been paid on behalf of the employee by the employer.

1147 (ii) The employee, upon cessation of the participating employer contributions, shall
1148 immediately become eligible for service credit in this system.

1149 (c) An employee serving as an exchange employee from outside the state.

1150 (d) An employee of the Department of Workforce Services who is covered under
1151 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

1152 Section 27. Section **49-22-204** is enacted to read:

1153 **49-22-204. Higher education employees' eligibility requirements -- Election**
1154 **between different retirement plans -- Classification requirements -- Transfer between**
1155 **systems.**

1156 (1) (a) Regular full-time employees of institutions of higher education who are eligible
1157 to participate in either this system or in a retirement annuity contract with the Teachers'
1158 Insurance and Annuity Association of America or with any other public or private system,
1159 organization, or company, designated by the Board of Regents, shall, not later than January 1,
1160 1979, elect to participate exclusively in this system or in an annuity contract allowed under this
1161 Subsection (1)(a).

1162 (b) The election is final, and no right exists to make any further election.

1163 (2) (a) A regular full-time employee hired by an institution of higher education after
1164 January 1, 1979, may participate only in the retirement plan which attaches to the person's
1165 employment classification.

1166 (b) Each institution of higher education shall prepare or amend existing employment
1167 classifications, under the direction of the Board of Regents, so that each classification is
1168 assigned with either:

1169 (i) this system;

1170 (ii) the Teachers' Insurance and Annuity Association of America; or

1171 (iii) another public or private system, organization, or company designated by the
1172 Board of Regents.

1173 (3) A regular full-time employee hired by an institution of higher education on or after
1174 July 1, 2011, whose employment classification requires participation in this system may elect
1175 to continue participation in this system upon change to an employment classification which
1176 requires participation in:

1177 (a) an annuity plan with the Teachers' Insurance and Annuity Association of America;
1178 or

1179 (b) another public or private system, organization, or company designated by the Board
1180 of Regents.

1181 (4) A regular full-time employee hired by an institution of higher education on or after
1182 July 1, 2011, whose employment classification requires participation in this system shall
1183 participate in this system.

1184 Section 28. Section **49-22-301** is enacted to read:

1185 **Part 3. Tier II Hybrid Retirement System**

1186 **49-22-301. Contributions.**

1187 (1) Participating employers and members shall jointly pay the certified contribution
1188 rates to the office to maintain the defined benefit portion of this system on a financially and
1189 actuarially sound basis.

1190 (2) (a) A participating employer shall pay up to 8% of compensation toward the
1191 certified contribution rate to the office for the defined benefit portion of this system.

1192 (b) A member shall pay the amount, if any, of the certified contribution rate for the
1193 defined benefit portion of this system that exceeds 8% to the office.

1194 (c) In addition to the percent specified under Subsection (2)(a), the participating
1195 employer shall pay the corresponding Tier I system amortization rate of the employee's
1196 compensation to the office.

1197 (3) A participating employer may not elect to pay all or part of the required member
1198 contributions under Subsection (2)(b), in addition to the required participating employer
1199 contributions.

1200 (4) (a) All member contributions are credited by the office to the account of the
1201 individual member.

1202 (b) This amount, together with refund interest, is held in trust for the payment of
1203 benefits to the member or the member's beneficiaries.

1204 (c) All member contributions are vested and nonforfeitable.

1205 (5) (a) Each member is considered to consent to payroll deductions of member
1206 contributions.

1207 (b) The payment of compensation less these payroll deductions is considered full
1208 payment for services rendered by the member.

1209 (6) Benefits provided under the defined benefit portion of the Tier II Hybrid
1210 Retirement System created under this part may not be increased unless the actuarial funded
1211 ratios of all systems under this title reach 100%.

1212 Section 29. Section **49-22-302** is enacted to read:

1213 **49-22-302. Purchase of service credit.**

1214 Any member who works 20 or more hours per week for a participating employer
1215 participating in this system, but does not meet other eligibility requirements for service credit,
1216 may purchase such service credit in accordance with Section 49-11-403.

1217 Section 30. Section **49-22-303** is enacted to read:

1218 **49-22-303. Defined contribution benefit established -- Contribution by employer**
1219 **and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of**
1220 **plans.**

1221 (1) (a) Participating employers shall make a nonelective contribution on behalf of each
1222 of its regular full-time employees who are members of this system in an amount equal to 8%
1223 minus the contribution rate paid by the employer pursuant to Subsection 49-22-301(2)(a) of the
1224 member's compensation to a defined contribution plan qualified under Section 401(k) of the
1225 Internal Revenue Code which:

1226 (i) is sponsored by the board; and

1227 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

1228 (b) The member may make additional payments to the qualified 401(k) plan which
1229 receives the employer contribution described in this Subsection (1).

1230 (2) (a) The total amount contributed by the participating employer under Subsection
1231 (1)(a) vests to the member's benefit four years from the date of employment.

1232 (b) The total amount contributed by the member under Subsection (1)(b) vests to the
1233 member's benefit immediately and is nonforfeitable.

1234 (3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be

1235 invested in a default option selected by the board until the member is vested in accordance with
1236 Subsection (2)(a).

1237 (b) A member may direct the investment of contributions made by a participating
1238 employer under Subsection (1)(a) only after the contributions have vested in accordance with
1239 Subsection (2)(a).

1240 (c) A member may direct the investment of contributions made by the member under
1241 Subsection (1)(b).

1242 (4) No loans shall be available from contributions made by a participating employer
1243 under Subsection (1)(a).

1244 (5) No hardship distributions shall be available from contributions made by a
1245 participating employer under Subsection (1)(a).

1246 (6) (a) Except as provided in Subsection (6)(b), if a member terminates employment
1247 with a participating employer prior to the vesting period described in Subsection (2)(a), all
1248 contributions made by a participating employer on behalf of the member under Subsection
1249 (1)(a) are subject to forfeiture.

1250 (b) If a member who terminates employment with a participating employer prior to the
1251 vesting period described in Subsection (2)(a) subsequently enters employment with the same or
1252 another participating employer within five years of the termination date of the previous
1253 employment:

1254 (i) all contributions made by the previous participating employer on behalf of the
1255 member shall be reinstated upon the member's completion of the vesting period under
1256 Subsection (2)(a); and

1257 (ii) the length of time that the member worked with the previous employer shall be
1258 included in determining whether the member has completed the vesting period under
1259 Subsection (2)(a).

1260 (c) The board shall establish a forfeiture account and shall specify the uses of the
1261 forfeiture account, which may include an offset against employer contributions made under this
1262 section.

1263 (7) The board may request from any other qualified 401(k) plan under Subsection (1)
1264 or (2) any relevant information pertaining to the maintenance of its tax qualification under the
1265 Internal Revenue Code.

1266 (8) The board may take any action which in its judgment is necessary to maintain the
1267 tax-qualified status of its 401(k) defined contribution plan under federal law.

1268 Section 31. Section **49-22-304** is enacted to read:

1269 **49-22-304. Defined benefit eligibility for an allowance -- Date of retirement --**

1270 **Qualifications.**

1271 (1) A member is qualified to receive an allowance from this system when:

1272 (a) the member ceases actual work for a participating employer in this system before
1273 the member's retirement date and provides evidence of the termination;

1274 (b) the member has submitted to the office a notarized retirement application form that
1275 states the member's proposed retirement date; and

1276 (c) one of the following conditions is met as of the member's retirement date:

1277 (i) the member has accrued at least four years of service credit and has attained an age
1278 of 65 years;

1279 (ii) the member has accrued at least 10 years of service credit and has attained an age
1280 of 62 years;

1281 (iii) the member has accrued at least 20 years of service credit and has attained an age
1282 of 60 years; or

1283 (iv) the member has accrued at least 35 years of service credit.

1284 (2) (a) The member's retirement date:

1285 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1286 (ii) shall be on or after the date of termination; and

1287 (iii) may not be more than 90 days before or after the date the application is received by
1288 the office.

1289 (b) A member may not be employed by a participating employer in the system
1290 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1291 Section 32. Section **49-22-305** is enacted to read:

1292 **49-22-305. Defined benefit service retirement plans -- Calculation of retirement**
1293 **allowance -- Social Security limitations.**

1294 (1) (a) The retirees of this system may choose from the six retirement options described
1295 in this section.

1296 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One

1297 calculation.

1298 (2) The Option One benefit is an annual allowance calculated as follows:

1299 (a) If the retiree is at least 65 years of age or has accrued at least 35 years of service
1300 credit, the allowance is an amount equal to 1% of the retiree's final average salary multiplied by
1301 the number of years of service credit accrued on and after July 1, 2011.

1302 (b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full
1303 actuarial amount for each year of retirement from age 60 to age 65, unless the member has 35
1304 or more years of accrued credit in which event no reduction is made to the allowance.

1305 (c) (i) Years of service includes any fractions of years of service to which the retiree
1306 may be entitled.

1307 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
1308 service credit is within 1/10 of one year of the total years of service credit required for
1309 retirement, the retiree shall be considered to have the total years of service credit required for
1310 retirement.

1311 (d) An Option One allowance is only payable to the member during the member's
1312 lifetime.

1313 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
1314 by reducing an Option One benefit based on actuarial computations to provide the following:

1315 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
1316 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
1317 member contributions, the remaining balance of the retiree's member contributions shall be
1318 paid in accordance with Sections 49-11-609 and 49-11-610.

1319 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
1320 retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout
1321 the lifetime of the retiree's lawful spouse at the time of retirement.

1322 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
1323 retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance paid
1324 to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

1325 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
1326 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
1327 time of initial retirement under Option One shall be paid to the retiree for the remainder of the

1328 retiree's life, beginning on the last day of the month following the month in which the lawful
1329 spouse dies.

1330 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
1331 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
1332 of initial retirement under Option One shall be paid to the retiree for the remainder of the
1333 retiree's life, beginning on the last day of the month following the month in which the lawful
1334 spouse dies.

1335 (4) Periods of employment which are exempt from this system under Subsection
1336 49-22-203(1)(b), may be purchased by the member for the purpose of retirement only if all
1337 benefits from the Teachers' Insurance and Annuity Association of America or any other public
1338 or private system or organization based on this period of employment are forfeited.

1339 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement
1340 date, the retirement is canceled and the death shall be considered as that of a member before
1341 retirement.

1342 (b) Any payments made to the retiree shall be deducted from the amounts due to the
1343 beneficiary.

1344 (6) If a retiree retires under either Option Five or Six and subsequently divorces, the
1345 retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there
1346 is no court order filed in the matter.

1347 Section 33. Section **49-22-306** is enacted to read:

1348 **49-22-306. Allowance payable by lump-sum payment.**

1349 (1) If a retiree's allowance, as computed under this chapter, amounts to \$25 or less, the
1350 allowance may be settled by the office by making a lump-sum payment of an amount
1351 actuarially equivalent to the allowance.

1352 (2) A payment made under this section constitutes a full and complete settlement of the
1353 retiree's claim against this system.

1354 Section 34. Section **49-22-307** is enacted to read:

1355 **49-22-307. Lump-sum death benefit for retiree and spouse.**

1356 (1) (a) Upon retirement, a retiree may elect to have the office deduct an actuarially
1357 determined amount from the retiree's allowance to provide a lump-sum benefit payable to a
1358 beneficiary upon the death of the retiree.

1359 (b) Upon retirement, a retiree may also elect to have an actuarially determined amount
1360 deducted from the retiree's allowance to provide a lump-sum death benefit payable to a
1361 beneficiary upon the death of the retiree's lawful spouse at the time of retirement.

1362 (c) The board may make rules for the administration of this lump-sum death benefit.

1363 (2) (a) For a retiree who pays for a lump-sum death benefit under this section through a
1364 reduction of an allowance, benefits shall be paid in accordance with Sections 49-11-609 and
1365 49-11-610.

1366 (b) If the retiree chooses Option Three, Four, Five, or Six, and a lump-sum death
1367 benefit is payable after the death of the retiree, the allowance shall be restored to its original
1368 amount.

1369 (3) (a) A retiree may elect to cancel the lump-sum death benefit under this section.

1370 (b) The cancellation under this Subsection (3) is irrevocable.

1371 (c) Upon cancellation, the allowance shall be restored to its original amount and
1372 benefits under this section may not be paid.

1373 Section 35. Section **49-22-308** is enacted to read:

1374 **49-22-308. Death of married members -- Service retirement benefits to surviving**
1375 **spouse.**

1376 (1) As used in this section, "member's full allowance" means an Option Three
1377 allowance calculated under Section 49-22-305 without an actuarial reduction.

1378 (2) Upon the request of a deceased member's lawful spouse at the time of the member's
1379 death, the deceased member is considered to have retired under Option Three on the first day of
1380 the month following the month in which the member died if the following requirements are
1381 met:

1382 (a) the member has:

1383 (i) 15 or more years of service credit;

1384 (ii) attained age 62 with 10 or more years of service credit; or

1385 (iii) attained age 65 with four or more years of service credit; and

1386 (b) the member dies leaving a spouse to whom the member has been married at least
1387 six months immediately prior to the death date.

1388 (3) The spouse who requests a benefit under this section shall apply in writing to the
1389 office. The allowance shall begin on the first day of the month:

1390 (a) following the month in which the member died, if the application is received by the
1391 office within 90 days of the member's death; or

1392 (b) in which the application is received by the office.

1393 (4) The allowance payable to a surviving spouse under Subsection (2) is:

1394 (a) if the member has 25 or more years of service credit at the time of death, the
1395 surviving spouse shall receive the member's full allowance;

1396 (b) if the member has between 20-24 years of service credit and is not age 60 or older
1397 at the time of death, the surviving spouse shall receive 2/3 of the member's full allowance;

1398 (c) if the member has between 15-19 years of service credit and is not age 62 or older
1399 at the time of death, the surviving spouse shall receive 1/3 of the member's full allowance; or

1400 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
1401 older with 10 or more years of service credit, or age 65 or older with four or more years of
1402 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
1403 with actuarial reductions.

1404 (5) Except for a return of member contributions, benefits payable under this section are
1405 retirement benefits and shall be paid in addition to any other payments made under Section
1406 49-22-501 and shall constitute a full and final settlement of the claim of the spouse or any other
1407 beneficiary filing a claim for benefits under Section 49-22-501.

1408 Section 36. Section **49-22-309** is enacted to read:

1409 **49-22-309. Defined benefit annual cost-of-living adjustment.**

1410 (1) The office shall make an annual cost-of-living adjustment to:

1411 (a) an original allowance paid under Section 49-22-305, if the allowance has been paid
1412 for at least one year; and

1413 (b) an original payment made to an alternate payee under a domestic relations order, if
1414 the payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

1415 (2) (a) The original allowance shall be increased by the annual increase in the
1416 Consumer Price Index up to a maximum of 2.5%.

1417 (b) Annual increases in the Consumer Price Index in excess of 2.5% shall be
1418 accumulated and used in subsequent adjustments when the annual increase in the Consumer
1419 Price Index is less than 2.5%.

1420 (3) The Consumer Price Index used in calculating adjustments shall be a United States

1421 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

1422 (4) The cost-of-living adjustment made under this section may not decrease the
1423 allowance.

1424 Section 37. Section **49-22-310** is enacted to read:

1425 **49-22-310. Purchase of service credit -- Conditions -- Cost -- Nondiscrimination**
1426 **policy.**

1427 (1) (a) A member may purchase or a member and a participating employer may jointly
1428 purchase a maximum of five years of service credit which cannot otherwise be purchased under
1429 this title.

1430 (b) At a minimum, the years of service credit purchased shall be sufficient to allow the
1431 member to meet the retirement eligibility requirements of this system with no actuarial
1432 reduction.

1433 (c) The member's retirement date shall be immediately after the purchase of years of
1434 service credit.

1435 (d) The member shall pay at least 5% of the cost of the purchase.

1436 (e) To qualify for a purchase of service credit under this section, the member shall:

1437 (i) have at least five years of service credit; and

1438 (ii) otherwise meet federal eligibility requirements.

1439 (2) The purchase price for the years of service credit shall be calculated and paid for as
1440 provided in Section 49-11-403.

1441 (3) Prior to making any purchase of years of service credit under this section, a
1442 participating employer shall adopt a purchase policy that includes nondiscriminatory
1443 participation standards for all regular full-time employees.

1444 (4) Only members retiring from this system may purchase service credit under this
1445 section.

1446 Section 38. Section **49-22-401** is enacted to read:

1447 **Part 4. Tier II Defined Contribution Plan**

1448 **49-22-401. Contributions -- Rates.**

1449 (1) Up to the amount allowed by federal law, the participating employer shall
1450 contribute 8% of the participant's compensation to a defined contribution plan.

1451 (2) (a) The participating employer shall contribute the 8% nonelective contribution

1452 described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the
1453 Internal Revenue Code which:

1454 (i) is sponsored by the board; and

1455 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

1456 (b) The member may make additional payments to the qualified 401(k) plan which
1457 receives the employer contribution described in this Subsection (2).

1458 (c) In addition to the percent specified under Subsection (2)(a), the participating
1459 employer shall pay the corresponding Tier I system amortization rate of the employee's
1460 compensation to the office.

1461 (3) (a) The total amount contributed by the participating employer under Subsection
1462 (2)(a) vests to the member's benefit four years from the date of employment.

1463 (b) The total amount contributed by the member under Subsection (2)(b) vests to the
1464 member's benefit immediately and is nonforfeitable.

1465 (4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be
1466 invested in a default option selected by the board until the member is vested in accordance with
1467 Subsection (3)(a).

1468 (b) A member may direct the investment of contributions made by a participating
1469 employer under Subsection (2)(a) only after the contributions have vested in accordance with
1470 Subsection (3)(a).

1471 (c) A member may direct the investment of contributions made by the member under
1472 Subsection (3)(b).

1473 (5) No loans shall be available from contributions made by a participating employer
1474 under Subsection (2)(a).

1475 (6) No hardship distributions shall be available from contributions made by a
1476 participating employer under Subsection (2)(a).

1477 (7) (a) Except as provided in Subsection (7)(b), if a member terminates employment
1478 with a participating employer prior to the vesting period described in Subsection (3)(a), all
1479 contributions made by a participating employer on behalf of the member under Subsection
1480 (2)(a) are subject to forfeiture.

1481 (b) If a member who terminates employment with a participating employer prior to the
1482 vesting period described in Subsection (3)(a) subsequently enters employment with the same or

1483 another participating employer within five years of the termination date of the previous
1484 employment:

1485 (i) all contributions made by the previous participating employer on behalf of the
1486 member shall be reinstated upon the member's completion of the vesting period under
1487 Subsection (3)(a); and

1488 (ii) the length of time that the member worked with the previous employer shall be
1489 included in determining whether the member has completed the vesting period under
1490 Subsection (3)(a).

1491 (c) The board shall establish a forfeiture account and shall specify the uses of the
1492 forfeiture account, which may include an offset against employer contributions made under this
1493 section.

1494 (8) The board may request from any other qualified 401(k) plan under Subsection (2)
1495 any relevant information pertaining to the maintenance of its tax qualification under the
1496 Internal Revenue Code.

1497 (9) The board may take any action which in its judgment is necessary to maintain the
1498 tax-qualified status of its 401(k) defined contribution plan under federal law.

1499 Section 39. Section **49-22-402** is enacted to read:

1500 **49-22-402. Defined contribution distributions for disabled members.**

1501 For a person who is disabled and receives contributions under Subsection
1502 49-11-404(4)(b), the disabled member may begin receiving distributions from the defined
1503 contributions made by the participating employer on behalf of the disabled member when the
1504 person would have been eligible to retire if the person was covered by the defined benefit
1505 portion of the Tier II Hybrid Retirement System under Part 3, Tier II Hybrid Retirement
1506 System.

1507 Section 40. Section **49-22-501** is enacted to read:

1508 **Part 5. Death Benefit**

1509 **49-22-501. Death benefit by means of group insurance policy -- Eligibility for**
1510 **death benefit -- Benefit calculation -- Payment of claim.**

1511 (1) The office shall provide a death benefit through the purchase of a group insurance
1512 policy for members of this system.

1513 (2) The board shall make rules to administer the death benefit provided by this section

1514 and may, in accordance with federal law, establish:

1515 (a) benefit levels;

1516 (b) classes of members; and

1517 (c) a living benefit option.

1518 (3) (a) A volunteer firefighter is eligible for a death benefit under this section if the
1519 death results from external force, violence, or disease directly resulting from firefighter service.

1520 (b) The lowest monthly compensation of firefighters of a city of the first class in this
1521 state at the time of death shall be considered to be the final average monthly salary of a
1522 volunteer firefighter for purposes of computing these benefits.

1523 (c) Each volunteer fire department shall maintain a current roll of all volunteer
1524 firefighters which meet the requirements of Subsection 49-22-102(7) to determine the
1525 eligibility for this benefit.

1526 (4) This death benefit is payable when:

1527 (a) the member dies prior to the member's retirement date or dies under circumstances
1528 which Section 49-22-304 requires to be treated as the death of a member before retirement;

1529 (b) the office receives acceptable proof of death; and

1530 (c) benefits are not payable under Section 49-22-306.

1531 (5) The death benefit payable to the beneficiary under this section is a lump-sum
1532 payment consisting of:

1533 (a) the return of any member contributions under this chapter; plus

1534 (b) a percentage of the final average salary of the member to be determined by the
1535 board.

1536 (6) Any amount of a living benefit option paid to the member prior to death shall be
1537 deducted from the benefit payable to the beneficiary.

1538 (7) The cost of the death benefit shall be paid by the participating employer in addition
1539 to the contribution rate established under Section 49-22-301 or 49-22-401.

1540 (8) The portion of the death benefit provided under Subsection (5)(b), may not be paid
1541 to the beneficiary of an inactive member unless the death of the member occurs either:

1542 (a) within a period of 120 days after the last day of work for which the person received
1543 compensation; or

1544 (b) while the member is still physically or mentally incapacitated from performance of

1545 duties, if the incapacity has been continuous since the last day of work for which compensation
1546 was received.

1547 (9) The death benefit provided under Subsection (5)(b) shall be paid in accordance
1548 with Sections 49-11-609 and 49-11-610.

1549 (10) The death benefit paid to the beneficiary of an inactive member, except as
1550 otherwise provided under Subsection (8), is a lump-sum return of the member's member
1551 contributions.

1552 (11) Payment of the death benefit by the office constitutes a full settlement of any
1553 beneficiary's claim against the office and the office is not liable for any further or additional
1554 claims or assessments on behalf of the member.

1555 (12) Unless otherwise specified in a written document filed with the office, death
1556 benefits payable to beneficiaries shall be in accordance with the order of precedence
1557 established under Title 75, Chapter 2, Intestate Succession and Wills.

1558 (13) A death benefit under this section may not be paid on behalf of a retiree under this
1559 system.

1560 Section 41. Section **49-22-601** is enacted to read:

1561 **Part 6. Disability**

1562 **49-22-601. Long-term disability coverage.**

1563 (1) Each participating employer shall cover the following employees under Title 49,
1564 Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term
1565 disability program:

1566 (a) public safety employees as defined in Section 49-15-102 initially entering
1567 employment on or after July 1, 2011;

1568 (b) firefighter service employees as defined in Section 49-16-102 initially entering
1569 employment on or after July 1, 2011; and

1570 (c) volunteer firefighters

1571 (2) In accordance with Section 49-21-201, the state shall cover all of its eligible
1572 employees under Title 49, Chapter 21, Public Employees' Long-Term Disability Act.

1573 Section 42. Section **49-22-701** is enacted to read:

1574 **Part 7. Early Retirement Incentives**

1575 **49-22-701. Judges' mandatory retirement age.**

1576 A judge shall retire upon attaining the age of 75 years.

1577 Section 43. Section **53A-1a-512** is amended to read:

1578 **53A-1a-512. Employees of charter schools.**

1579 (1) A charter school shall select its own employees.

1580 (2) The school's governing body shall determine the level of compensation and all
1581 terms and conditions of employment, except as otherwise provided in Subsections (7) and (8)
1582 and under this part.

1583 (3) The following statutes governing public employees and officers do not apply to
1584 charter schools:

1585 (a) Chapter 8, Utah Orderly School Termination Procedures Act;

1586 (b) Chapter 10, Educator Evaluation; and

1587 (c) Title 52, Chapter 3, Prohibiting Employment of Relatives.

1588 (4) (a) To accommodate differentiated staffing and better meet student needs, a charter
1589 school, under rules adopted by the State Board of Education, shall employ teachers who:

1590 (i) are licensed; or

1591 (ii) on the basis of demonstrated competency, would qualify to teach under alternative
1592 certification or authorization programs.

1593 (b) The school's governing body shall disclose the qualifications of its teachers to the
1594 parents of its students.

1595 (5) State Board of Education rules governing the licensing or certification of
1596 administrative and supervisory personnel do not apply to charter schools.

1597 (6) (a) An employee of a school district may request a leave of absence in order to
1598 work in a charter school upon approval of the local school board.

1599 (b) While on leave, the employee may retain seniority accrued in the school district and
1600 may continue to be covered by the benefit program of the district if the charter school and the
1601 locally elected school board mutually agree.

1602 (7) Except as provided under Subsection (8), an employee of a charter school shall be a
1603 member of a retirement system or plan under Title 49, Utah State Retirement and Insurance
1604 Benefit Act.

1605 (8) (a) At the time of application for a charter school, whether the chartering entity is
1606 the State Charter School Board or a school district, a proposed charter school may make an

1607 election of nonparticipation as an employer for retirement programs under:

1608 (i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act [~~and under~~];

1609 (ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act[-]; and

1610 (iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

1611 (b) A charter school that was approved prior to July 1, 2004 may make an election of

1612 nonparticipation prior to December 31, 2004.

1613 (c) An election provided under this Subsection (8):

1614 (i) shall be made at the time specified under Subsection (8)(a) or (b);

1615 (ii) shall be documented by a resolution adopted by the governing body of the charter

1616 school;

1617 (iii) is in effect unless the charter school makes an irrevocable retraction of the election

1618 of nonparticipation in accordance with Subsection (9); and

1619 (iv) applies to the charter school as the employer and to all employees of the charter

1620 school.

1621 (d) The governing body of a charter school may offer employee benefit plans for its

1622 employees:

1623 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

1624 or

1625 (ii) under any other program.

1626 (9) (a) A charter school that made an election of nonparticipation as an employer for

1627 the following retirement programs [~~under Title 49, Chapter 12, Public Employees' Contributory~~

1628 ~~Retirement Act and under Title 49, Chapter 13, Public Employees' Noncontributory Retirement~~

1629 ~~Act,]~~ may subsequently make an irrevocable retraction of the election of nonparticipation[-]:

1630 (i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;

1631 (ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; or

1632 (iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

1633 (b) A retraction provided under this Subsection (9):

1634 (i) shall be documented by a resolution adopted by the governing body of the charter

1635 school;

1636 (ii) is a one-time election;

1637 (iii) is irrevocable; and

1638 (iv) applies to the charter school as the employer and to all employees of the charter
1639 school.

1640 (10) The governing body of a charter school shall ensure that, prior to the beginning of
1641 each school year, each of its employees signs a document acknowledging that the employee:

1642 (a) has received:

1643 (i) the disclosure required under Section 63A-4-204.5 if the charter school participates
1644 in the Risk Management Fund; or

1645 (ii) written disclosure similar to the disclosure required under Section 63A-4-204.5 if
1646 the charter school does not participate in the Risk Management Fund; and

1647 (b) understands the legal liability protection provided to the employee and what is not
1648 covered, as explained in the disclosure.

1649 Section 44. **Effective date.**

1650 This bill takes effect on July 1, 2010.

Fiscal Note**S.B. 63 1st Sub. (Green) - New Public Employees' Tier II Contributory Retirement Act**

2010 General Session

State of Utah

State Impact

This bill will result in a net savings of 3.72 percent for the non-contributory retirement plan, and a net increase of 3.97 percent for the contributory retirement system beginning in FY 2012. Additionally, the bill will result in a net reduction of 2.65 percent in the contribution rates for employees covered by the Public Safety Contributory system and 14.63 percent for employees covered by the Public Safety Noncontributory system.

Because the effective date for new hires joining the Tier II system is July 1, 2011 the proposed legislation will not have a fiscal impact on FY 2011. The state will avoid future cost increases beginning in FY 2012 and have to contribute less under the new Tier II system than they would otherwise have had to under the current benefit structure.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for business.

Enactment of this bill will affect local governments, whose retirement rates would see a net decrease by 3.72 percentage points for the non-contributory retirement system. The contributory rate will increase by 3.97 percentage points. Additionally, local governments will experience a net increase contribution rates for Firefighters Retirement System between 6.92 and 8.00 percentage points. Public Safety Contributory and Noncontributory systems would experience a net decrease of rates between 2.08 and 14.34 percentage points.

Individuals will be impacted by the proposed change in statute.