

**Representative Brad L. Dee** 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

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**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 and new public safety and firefighter employees.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires that the Retirement Office report when the funded status of the trust fund reaches 100% funded and requires the Retirement and Independent Entities Committee to study employee compensation and benefits;
- ▶ 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;



- 26           • New Public Employees' Tier II Defined Contribution Plan;
- 27           • New Public Safety and Firefighter Tier II Hybrid Retirement System; and
- 28           • New Public Safety and Firefighter Tier II Defined Contribution Plan;
- 29           ▶ provides that all new public employees including public safety, firefighters,
- 30           governors, and legislators may only participate in a Tier II retirement system or
- 31           plan;
- 32           ▶ provides that new employees may choose between the Tier II hybrid system or the
- 33           Tier II Defined Contribution (DC) plan except governors and legislators are only
- 34           eligible for the Tier II DC plan;
- 35           ▶ provides that the retirement benefits for public employees Tier II hybrid system
- 36           employees include:
  - 37           • full retirement benefits after 35 years of service credit;
  - 38           • 2.5% cost-of-living adjustments on the retirement allowance;
  - 39           • a 1.5% multiplier for each year of service;
  - 40           • a 401(k) employer contribution;
  - 41           • a death benefit; and
  - 42           • a disability benefit;
- 43           ▶ provides that the participating employer shall contribute for public employees Tier
- 44           II employees the percentage of the employee's compensation equal to the
- 45           corresponding Tier I system amortization rate plus 10%;
- 46           ▶ provides that the total public employees' Tier II contribution credited specifically on
- 47           behalf of a Tier II employee is 10% of the employee's salary;
- 48           ▶ provides that the retirement benefits for the public safety and firefighter Tier II
- 49           hybrid system employees include:
  - 50           • full retirement benefits after 25 years of service credit;
  - 51           • 2.5% cost-of-living adjustments on the retirement allowance;
  - 52           • a 1.5% multiplier for each year of service;
  - 53           • a 401(k) employer contribution;
  - 54           • a death benefit;
  - 55           • a line of duty death benefit; and
  - 56           • a disability benefit;

57           ▶ provides that the participating employer shall contribute for public safety and  
58 firefighter Tier II employees the percentage of the employee's compensation equal  
59 to the corresponding Tier I system amortization rate plus 12%;

60           ▶ provides that the total Tier II contribution credited specifically on behalf of a public  
61 safety and firefighter Tier II employee is 12% of the employee's salary;

62           ▶ closes for employees who initially enter employment beginning on or after July 1,  
63 2011, the:

- 64           • Public Employees' Contributory Retirement System;
- 65           • Public Employees' Noncontributory Retirement System;
- 66           • Public Safety Contributory Retirement System;
- 67           • Public Safety Noncontributory Retirement System;
- 68           • Firefighters' Retirement System; and
- 69           • Utah Governors' and Legislators' Retirement System;

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

71           ▶ makes technical changes.

72 **Monies Appropriated in this Bill:**

73           None

74 **Other Special Clauses:**

75           This bill takes effect on July 1, 2010.

76 **Utah Code Sections Affected:**

77 AMENDS:

78           **35A-4-502**, as last amended by Laws of Utah 2008, Chapter 382

79           **49-11-102**, as last amended by Laws of Utah 2009, Chapter 101

80           **49-11-401**, as last amended by Laws of Utah 2005, Chapter 116

81           **49-11-403**, as last amended by Laws of Utah 2006, Chapter 260

82           **49-11-404**, as last amended by Laws of Utah 2008, Chapter 252

83           **49-11-612**, as last amended by Laws of Utah 2009, Chapter 101

84           **49-11-801**, as last amended by Laws of Utah 2008, Chapter 335

85           **49-11-1001**, as enacted by Laws of Utah 2006, Chapter 305

86           **49-12-201**, as renumbered and amended by Laws of Utah 2002, Chapter 250

87           **49-13-201**, as renumbered and amended by Laws of Utah 2002, Chapter 250

- 88           **49-14-201**, as last amended by Laws of Utah 2008, Chapter 382
- 89           **49-14-202**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 90           **49-15-201**, as last amended by Laws of Utah 2008, Chapter 382
- 91           **49-15-202**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 92           **49-16-201**, as last amended by Laws of Utah 2004, Chapter 118
- 93           **49-16-202**, as last amended by Laws of Utah 2009, Chapter 101
- 94           **49-19-201**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 95           **49-21-201**, as last amended by Laws of Utah 2008, Chapter 252
- 96           **49-21-403**, as last amended by Laws of Utah 2008, Chapter 252
- 97           **53-7-105**, as last amended by Laws of Utah 2002, Chapter 250
- 98           **53-13-108**, as last amended by Laws of Utah 2002, Chapter 250
- 99           **53A-1a-512**, as last amended by Laws of Utah 2009, Chapter 165
- 100          **67-22-1**, as last amended by Laws of Utah 2008, Chapter 86

101 ENACTS:

- 102          **49-11-307**, Utah Code Annotated 1953
- 103          **49-22-101**, Utah Code Annotated 1953
- 104          **49-22-102**, Utah Code Annotated 1953
- 105          **49-22-103**, Utah Code Annotated 1953
- 106          **49-22-104**, Utah Code Annotated 1953
- 107          **49-22-201**, Utah Code Annotated 1953
- 108          **49-22-202**, Utah Code Annotated 1953
- 109          **49-22-203**, Utah Code Annotated 1953
- 110          **49-22-204**, Utah Code Annotated 1953
- 111          **49-22-301**, Utah Code Annotated 1953
- 112          **49-22-302**, Utah Code Annotated 1953
- 113          **49-22-303**, Utah Code Annotated 1953
- 114          **49-22-304**, Utah Code Annotated 1953
- 115          **49-22-305**, Utah Code Annotated 1953
- 116          **49-22-306**, Utah Code Annotated 1953
- 117          **49-22-307**, Utah Code Annotated 1953
- 118          **49-22-308**, Utah Code Annotated 1953

- 119            **49-22-309**, Utah Code Annotated 1953
- 120            **49-22-401**, Utah Code Annotated 1953
- 121            **49-22-402**, Utah Code Annotated 1953
- 122            **49-22-501**, Utah Code Annotated 1953
- 123            **49-22-502**, Utah Code Annotated 1953
- 124            **49-22-601**, Utah Code Annotated 1953
- 125            **49-23-101**, Utah Code Annotated 1953
- 126            **49-23-102**, Utah Code Annotated 1953
- 127            **49-23-103**, Utah Code Annotated 1953
- 128            **49-23-104**, Utah Code Annotated 1953
- 129            **49-23-201**, Utah Code Annotated 1953
- 130            **49-23-202**, Utah Code Annotated 1953
- 131            **49-23-301**, Utah Code Annotated 1953
- 132            **49-23-302**, Utah Code Annotated 1953
- 133            **49-23-303**, Utah Code Annotated 1953
- 134            **49-23-304**, Utah Code Annotated 1953
- 135            **49-23-305**, Utah Code Annotated 1953
- 136            **49-23-306**, Utah Code Annotated 1953
- 137            **49-23-307**, Utah Code Annotated 1953
- 138            **49-23-308**, Utah Code Annotated 1953
- 139            **49-23-401**, Utah Code Annotated 1953
- 140            **49-23-402**, Utah Code Annotated 1953
- 141            **49-23-501**, Utah Code Annotated 1953
- 142            **49-23-502**, Utah Code Annotated 1953
- 143            **49-23-503**, Utah Code Annotated 1953
- 144            **49-23-601**, Utah Code Annotated 1953

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

147            Section 1. Section **35A-4-502** is amended to read:

148            **35A-4-502. Administration of Employment Security Act.**

149            (1) (a) The department shall administer this chapter through the division.

- 150 (b) The department may make, amend, or rescind any rules and special orders  
151 necessary for the administration of this chapter.
- 152 (c) The division may:
- 153 (i) employ persons;
- 154 (ii) make expenditures;
- 155 (iii) require reports;
- 156 (iv) make investigations;
- 157 (v) make audits of any or all funds provided for under this chapter when necessary; and
- 158 (vi) take any other action it considers necessary or suitable to that end.
- 159 (d) No later than the first day of October of each year, the department shall submit to  
160 the governor a report covering the administration and operation of this chapter during the  
161 preceding calendar year and shall make any recommendations for amendments to this chapter  
162 as the department considers proper.
- 163 (e) (i) The report required under Subsection (1)(d) shall include a balance sheet of the  
164 moneys in the fund in which there shall be provided, if possible, a reserve against liability in  
165 future years to pay benefits in excess of the then current contributions, which reserve shall be  
166 set up by the division in accordance with accepted actuarial principles on the basis of statistics  
167 of employment, business activity, and other relevant factors for the longest possible period.
- 168 (ii) Whenever the department believes that a change in contribution or benefit rates  
169 will become necessary to protect the solvency of the fund, it shall promptly inform the  
170 governor and the Legislature and make appropriate recommendations.
- 171 (2) (a) The department may make, amend, or rescind rules in accordance with Title  
172 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 173 (b) The director of the division or the director's designee may adopt, amend, or rescind  
174 special orders after appropriate notice and opportunity to be heard. Special orders become  
175 effective 10 days after notification or mailing to the last-known address of the individuals or  
176 concerns affected thereby.
- 177 (3) The director of the division or the director's designee shall cause to be printed for  
178 distribution to the public:
- 179 (a) the text of this chapter;
- 180 (b) the department's rules pertaining to this chapter;

181 (c) the department's annual reports to the governor required by Subsection (1)(e); and

182 (d) any other material the director of the division or the director's designee considers

183 relevant and suitable and shall furnish them to any person upon application.

184 (4) (a) The division may delegate to any person so appointed the power and authority it

185 considers reasonable and proper for the effective administration of this chapter and may bond

186 any person handling moneys or signing checks under this authority.

187 (b) The department may, when permissible under federal and state law, make

188 arrangements to voluntarily elect coverage under the United States Civil Service Retirement

189 System or a comparable private retirement plan with respect to past as well as future services of

190 individuals employed under this chapter who:

191 (i) were hired prior to October 1, 1980; and

192 (ii) have been retained by the department without significant interruption in the

193 employees' services for the department.

194 (c) An employee of the department who no longer may participate in a federal or other

195 retirement system as a result of a change in status or appropriation under this chapter may

196 purchase credit with the employee's assets from the federal or other retirement system in which

197 the employee may no longer participate in a retirement system created under:

198 (i) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act~~[, with the~~

199 ~~employee's assets from the federal or other retirement system in which the employee may no~~

200 ~~longer participate.]~~ for a purchase made under this Subsection (4)(c) made prior to July 1,

201 2011; or

202 (ii) Title 49, Chapter 22, Public Employees' Tier II Contributory Retirement Act, if the

203 date of purchase under this Subsection (4)(c) is on or after July 1, 2011.

204 (5) There is created an Employment Advisory Council composed of the members listed

205 in Subsections (5)(a) and (b).

206 (a) The executive director shall appoint:

207 (i) not less than five employer representatives chosen from individuals recommended

208 by employers, employer associations, or employer groups;

209 (ii) not less than five employee representatives chosen from individuals recommended

210 by employees, employee associations, or employee groups; and

211 (iii) five public representatives chosen at large.

212 (b) The executive director or the executive director's designee shall serve as a  
213 nonvoting member of the council.

214 (c) The employee representatives shall include both union and nonunion employees  
215 who fairly represent the percentage in the labor force of the state.

216 (d) Employers and employees shall consider nominating members of groups who  
217 historically may have been excluded from the council, such as women, minorities, and  
218 individuals with disabilities.

219 (e) (i) Except as required by Subsection (5)(e)(ii), as terms of current council members  
220 expire, the executive director shall appoint each new member or reappointed member to a  
221 four-year term.

222 (ii) Notwithstanding the requirements of Subsection (5)(e)(i), the executive director  
223 shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the  
224 terms of council members are staggered so that approximately half of the council is appointed  
225 every two years.

226 (f) When a vacancy occurs in the membership for any reason, the replacement shall be  
227 appointed for the unexpired term.

228 (g) The executive director shall terminate the term of any council member who ceases  
229 to be representative as designated by the council member's original appointment.

230 (h) The council shall advise the department and the Legislature in formulating policies  
231 and discussing problems related to the administration of this chapter including:

232 (i) reducing and preventing unemployment;

233 (ii) encouraging the adoption of practical methods of vocational training, retraining,  
234 and vocational guidance;

235 (iii) monitoring the implementation of the Wagner-Peyser Act;

236 (iv) promoting the creation and development of job opportunities and the  
237 reemployment of unemployed workers throughout the state in every possible way; and

238 (v) appraising the industrial potential of the state.

239 (i) The council shall assure impartiality and freedom from political influence in the  
240 solution of the problems listed in Subsection (5)(h).

241 (j) The executive director or the executive director's designee shall serve as chair of the  
242 council and call the necessary meetings.

243 (k) (i) A member shall receive no compensation or benefits for the member's services,  
244 but may receive per diem and expenses incurred in the performance of the member's official  
245 duties at the rates established by the Division of Finance under Sections 63A-3-106 and  
246 63A-3-107.

247 (ii) A member may decline to receive per diem and expenses for the member's service.

248 (l) The department shall provide staff support to the council.

249 (6) In the discharge of the duties imposed by this chapter, the division director or the  
250 director's designee as designated by department rule, may in connection with a disputed matter  
251 or the administration of this chapter:

252 (a) administer oaths and affirmations;

253 (b) take depositions;

254 (c) certify to official acts; and

255 (d) issue subpoenas to compel the attendance of witnesses and the production of books,  
256 papers, correspondence, memoranda, and other records necessary as evidence.

257 (7) (a) In case of contumacy by or refusal to obey a subpoena issued to any person, any  
258 court of this state within the jurisdiction of which the inquiry is carried on or within the  
259 jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or  
260 transacts business, upon application by the director of the division or the director's designee  
261 shall have jurisdiction to issue to that person an order requiring the person to appear before the  
262 director or the director's designee to produce evidence, if so ordered, or give testimony  
263 regarding the matter under investigation or in question. Any failure to obey that order of the  
264 court may be punished by the court as contempt.

265 (b) Any person who, without just cause, fails or refuses to attend and testify or to  
266 answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other  
267 records, if it is in that person's power to do so, in obedience to a subpoena of the director or the  
268 director's designee shall be punished as provided in Subsection 35A-1-301(1)(b). Each day the  
269 violation continues is a separate offense.

270 (c) In the event a witness asserts a privilege against self-incrimination, testimony and  
271 evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of  
272 Immunity.

273 (8) (a) In the administration of this chapter, the division shall cooperate with the United

274 States Department of Labor to the fullest extent consistent with the provisions of this chapter  
275 and shall take action, through the adoption of appropriate rules by the department and  
276 administrative methods and standards, as necessary to secure to this state and its citizens all  
277 advantages available under the provisions of:

- 278 (i) the Social Security Act that relate to unemployment compensation;
- 279 (ii) the Federal Unemployment Tax Act; and
- 280 (iii) the Federal-State Extended Unemployment Compensation Act of 1970.

281 (b) In the administration of Section 35A-4-402, which is enacted to conform with the  
282 requirements of the Federal-State Extended Unemployment Compensation Act of 1970, 26  
283 U.S.C. 3304, the division shall take any action necessary to ensure that the section is  
284 interpreted and applied to meet the requirements of the federal act, as interpreted by the United  
285 States Department of Labor and to secure to this state the full reimbursement of the federal  
286 share of extended and regular benefits paid under this chapter that are reimbursable under the  
287 federal act.

288 Section 2. Section **49-11-102** is amended to read:

289 **49-11-102. Definitions.**

290 As used in this title:

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

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

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

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

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

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

302 (ii) a county, municipality, school district, local district, or special service district;

303 (iii) a state college or university; or

304 (iv) any other participating employer.

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

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

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

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

314 [~~(7)~~] (8) "Annuity" means monthly payments derived from member contributions.

315 [~~(8)~~] (9) "Appointive officer" means an employee appointed to a position for a definite  
316 and fixed term of office by official and duly recorded action of a participating employer whose  
317 appointed position is designated in the participating employer's charter, creation document, or  
318 similar document, and who earns during the first full month of the term of office \$500 or more,  
319 indexed as of January 1, 1990, as provided in Section 49-12-407.

320 [~~(9)~~] (10) (a) "At-will employee" means a person who is employed by a participating  
321 employer and:

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

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

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

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

332 [~~(10)~~] (11) "Beneficiary" means any person entitled to receive a payment under this  
333 title through a relationship with or designated by a member, participant, covered individual, or  
334 alternate payee of a defined contribution plan.

335 [~~(11)~~] (12) "Board" means the Utah State Retirement Board established under Section

336 49-11-202.

337 [~~(12)~~] (13) "Board member" means a person serving on the Utah State Retirement  
338 Board as established under Section 49-11-202.

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

342 [~~(13)~~] (15) "Contributions" means the total amount paid by the participating employer  
343 and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under  
344 Chapter 19, Utah Governors' and Legislators' Retirement Act.

345 [~~(14)~~] (16) "Council member" means a person serving on the Membership Council  
346 established under Section 49-11-202.

347 [~~(15)~~] (17) "Covered individual" means any individual covered under Chapter 20,  
348 Public Employees' Benefit and Insurance Program Act.

349 [~~(16)~~] (18) "Current service" means covered service as defined in Chapters 12, 13, 14,  
350 15, 16, 17, 18, and 19.

351 [~~(17)~~] (19) "Defined benefit" or "defined benefit plan" or "defined benefit system"  
352 means a system or plan offered under this title to provide a specified allowance to a retiree or a  
353 retiree's spouse after retirement that is based on a set formula involving one or more of the  
354 following factors:

- 355 (a) years of service;
- 356 (b) final average monthly salary; or
- 357 (c) a retirement multiplier.

358 [~~(18)~~] (20) "Defined contribution" or "defined contribution plan" means any defined  
359 contribution plan or deferred compensation plan authorized under the Internal Revenue Code  
360 and administered by the board.

361 [~~(19)~~] (21) "Educational institution" means a political subdivision or instrumentality of  
362 the state or a combination thereof primarily engaged in educational activities or the  
363 administration or servicing of educational activities, including:

- 364 (a) the State Board of Education and its instrumentalities;
- 365 (b) any institution of higher education and its branches;
- 366 (c) any school district and its instrumentalities;

367 (d) any vocational and technical school; and

368 (e) any entity arising out of a consolidation agreement between entities described under  
369 this Subsection [~~(19)~~] (21).

370 [~~(20)~~] (22) (a) "Employer" means any department, educational institution, or political  
371 subdivision of the state eligible to participate in a government-sponsored retirement system  
372 under federal law.

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

375 [~~(21)~~] (23) "Exempt employee" means an employee working for a participating  
376 employer:

377 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,  
378 49-14-203, 49-15-203, or 49-16-203; and

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

381 [~~(22)~~] (24) "Final average monthly salary" means the amount computed by dividing the  
382 compensation received during the final average salary period under each system by the number  
383 of months in the final average salary period.

384 [~~(23)~~] (25) "Fund" means any fund created under this title for the purpose of paying  
385 benefits or costs of administering a system, plan, or program.

386 [~~(24)~~] (26) (a) "Inactive member" means a member who has not been employed by a  
387 participating employer for a period of at least 120 days.

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

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

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

393 [~~(25)~~] (28) (a) "Member" means a person, except a retiree, with contributions on  
394 deposit with a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19,  
395 Utah Governors' and Legislators' Retirement Act, or with a terminated system.

396 (b) "Member" also includes leased employees within the meaning of Section 414(n)(2)  
397 of the Internal Revenue Code, if the employees have contributions on deposit with the office.

398 If leased employees constitute less than 20% of the participating employer's work force that is  
399 not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code,  
400 "member" does not include leased employees covered by a plan described in Section 414(n)(5)  
401 of the federal Internal Revenue Code.

402 ~~[(26)]~~ (29) "Member contributions" means the sum of the contributions paid to a  
403 system or the Utah Governors' and Legislators' Retirement Plan, including refund interest if  
404 allowed by a system, and which are made by:

405 (a) the member; and

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

408 ~~[(27)]~~ (30) "Nonelective contribution" means an amount contributed by a participating  
409 employer into a participant's defined contribution account.

410 ~~[(28)]~~ (31) "Office" means the Utah State Retirement Office.

411 ~~[(29)]~~ (32) "Participant" means an individual with voluntary deferrals or nonelective  
412 contributions on deposit with the defined contribution plans administered under this title.

413 ~~[(30)]~~ (33) "Participating employer" means a participating employer, as defined by  
414 Chapters 12, 13, 14, 15, 16, 17, and 18, or an agency financed in whole or in part by public  
415 funds which is participating in a system or plan as of January 1, 2002.

416 ~~[(31)]~~ (34) "Pension" means monthly payments derived from participating employer  
417 contributions.

418 ~~[(32)]~~ (35) "Plan" means the Utah Governors' and Legislators' Retirement Plan created  
419 by Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees'  
420 Tier II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution  
421 Plan, the New Public Safety and Firefighter Tier II Defined Contribution Plan created by  
422 Chapter 23, Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created  
423 under Section 49-11-801.

424 ~~[(33)]~~ (36) (a) "Political subdivision" means any local government entity, including  
425 cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is  
426 legally separate and distinct from the state and only if its employees are not by virtue of their  
427 relationship to the entity employees of the state.

428 (b) "Political subdivision" includes local districts, special service districts, or

429 authorities created by the Legislature or by local governments, including the office.

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

432 [~~34~~] (37) "Program" means the Public Employees' Insurance Program created under  
433 Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'  
434 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term  
435 Disability Act.

436 [~~35~~] (38) "Public funds" means those funds derived, either directly or indirectly, from  
437 public taxes or public revenue, dues or contributions paid or donated by the membership of the  
438 organization, used to finance an activity whose objective is to improve, on a nonprofit basis,  
439 the governmental, educational, and social programs and systems of the state or its political  
440 subdivisions.

441 [~~36~~] (39) "Qualified defined contribution plan" means a defined contribution plan  
442 that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

443 [~~37~~] (40) "Refund interest" means the amount accrued on member contributions at a  
444 rate adopted by the board.

445 [~~38~~] (41) "Retiree" means an individual who has qualified for an allowance under this  
446 title.

447 [~~39~~] (42) "Retirement" means the status of an individual who has become eligible,  
448 applies for, and is entitled to receive an allowance under this title.

449 [~~40~~] (43) "Retirement date" means the date selected by the member on which the  
450 member's retirement becomes effective with the office.

451 [~~41~~] (44) "Service credit" means:

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

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

457 [~~42~~] (45) "System" means the individual retirement systems created by Chapter 12,  
458 Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'  
459 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,

460 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'  
461 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges'  
462 Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement  
463 Act[-], the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22,  
464 Part 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid  
465 Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

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

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

471 (b) "Tier II" includes:

472 (i) the Tier II hybrid system established under:

473 (A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or

474 (B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and

475 (ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:

476 (A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or

477 (B) Chapter 23, Part 4, Tier II Defined Contribution Plan.

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

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

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

482 ~~[(43)]~~ (49) "Voluntary deferrals" means an amount contributed by a participant into  
483 that participant's defined contribution account.

484 Section 3. Section **49-11-307** is enacted to read:

485 **49-11-307. Report on funded status -- Study of compensation.**

486 (1) (a) The office shall report the funded status of the Utah State Retirement  
487 Investment Fund to the Retirement and Independent Entities Committee created under Section  
488 63E-1-201.

489 (b) The report under Subsection (1)(a) shall be made at least annually or as requested  
490 by the committee.

491 (2) (a) If the Utah State Retirement Investment Fund reaches a funded status of 100%,  
492 the office shall make a report to that effect.

493 (b) The report shall be provided to the governor, the board, the president of the Senate,  
494 the speaker of the House of Representatives, and to each member and staff of the Retirement  
495 and Independent Entities Committee created under Section 63E-1-201.

496 (4) Upon receipt of the report under Subsection (2)(b), the committee shall conduct a  
497 study on participating employee compensation and benefits to determine the need for  
498 adjustments in retirement benefits, salary, and other benefits for the recruitment and retention  
499 of a qualified workforce.

500 (5) The committee shall report any findings and recommendations to the Legislative  
501 Management Committee.

502 Section 4. Section **49-11-401** is amended to read:

503 **49-11-401. Transfer of service credit -- Eligibility for service credit --**  
504 **Computation of service credit -- Retirement from most recent system.**

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

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

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

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

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

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

519 (c) The board shall fix the minimum time per day, per month, and per year upon the  
520 basis of which one year of service and proportionate parts of a year shall be credited toward  
521 qualification for retirement. Service may be computed on a fiscal or calendar year basis and

522 portions of years served shall be accumulated and counted as service. In any event, all of the  
523 service rendered in any one fiscal or calendar year may not count for more than one year.

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

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

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

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

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

533 (6) (a) Under no circumstances may service credit earned by a member under Chapter  
534 22, New Public Employees' Tier II Contributory Retirement Act, or Chapter 23, New Public  
535 Safety and Firefighter Tier II Contributory Retirement Act, be transferable to any other system  
536 or plan under this title.

537 (b) Under no circumstances may service credit earned by a member under one of the  
538 following systems be transferable to the system created under Chapter 22, New Public  
539 Employees' Tier II Contributory Retirement Act, or under Chapter 23, New Public Safety and  
540 Firefighter Tier II Contributory Retirement Act:

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

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

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

544 (iv) Chapter 15, Public Safety Noncontributory Retirement Act;

545 (v) Chapter 16, Firefighters' Retirement Act; or

546 (vi) Chapter 19, Utah Governors' and Legislators' Retirement Act.

547 Section 5. Section **49-11-403** is amended to read:

548 **49-11-403. Purchase of public service credit not otherwise qualifying for benefit.**

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

552 (a) United States federal employment;

553 (b) employment in a private school based in the United States, if the member received  
554 an employer paid retirement benefit for the employment;

555 (c) public employment in another state or territory of the United States which qualifies  
556 the member for membership in the public plan or system covering the employment, but only if  
557 the member does not qualify for any retirement benefits based on the employment;

558 (d) forfeited service credit in this state if the member does not qualify for an allowance  
559 based on the service credit;

560 (e) full-time public service while on an approved leave of absence;

561 (f) the period of time for which disability benefits were paid if:

562 (i) the member was receiving:

563 (A) long-term disability benefits;

564 (B) short-term disability benefits; or

565 (C) worker's compensation disability benefits; and

566 (ii) the member's employer had not entered into a benefit protection contract under  
567 Section 49-11-404 during the period the member was disabled due to sickness or accident; or

568 (g) employment covered by a Teachers Insurance and Annuity Association of America  
569 retirement plan if the member forfeits any retirement benefit from that retirement plan for the  
570 period of employment to be purchased under this Subsection (1)(g).

571 (2) A member shall have:

572 (a) at least four years of service credit before a purchase can be made under this  
573 section; and

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

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

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

581 (i) recommended by the actuary; and

582 (ii) adopted by the board.

583 (4) The purchase may be made through payroll deductions or through a lump sum

584 deposit based upon the present value of future payments.

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

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

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

592 (i) pay the increased cost, plus interest, to receive the full amount of service credit; or  
593 (ii) not pay the increased cost and have the purchased service credit prorated.

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

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

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

601 (9) Account balances created under Section 49-22-303, 49-22-401, 49-23-302, or  
602 49-23-401 may not be used to purchase service credit for a benefit under Sections 49-22-304,  
603 49-22-305, 49-23-303, and 49-23-304.

604 Section 6. Section ~~49-11-404~~ is amended to read:

605 **49-11-404. Benefit protection contract authorized -- Annual report required.**

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

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

610 (c) A salary protection program shall:

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

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

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

616 (2) A benefit protection contract shall allow:

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

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

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

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

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

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

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

632 (4) For an employee covered under Chapter 22, New Public Employees' Tier II  
633 Contributory Retirement Act, or Chapter 23, New Public Safety and Firefighter Tier II  
634 Contributory Retirement Act, a benefit protection contract shall allow:

635 (a) for the defined benefit portion for a member covered under Chapter 22, Part 3, Tier  
636 II Hybrid Retirement System, or Chapter 23, Part 3, Tier II Hybrid Retirement System:

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

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

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

644 (iv) the benefit for the disabled member to be improved by the annual cost-of-living  
645 increase factor applied to retired members of the system that covered the member on the date

646 the member is eligible to receive benefits under a benefit protection contract; and

647 (b) for the defined contribution portion for a member covered under Chapter 22, Part 3,  
648 Tier II Hybrid Retirement System or Chapter 23, Part 3, Tier II Hybrid Retirement System or  
649 for a participant covered under Chapter 22, Part 4, Tier II Defined Contribution Plan or Chapter  
650 23, Part 4, Tier II Defined Contribution Plan, the office to require participating employers to  
651 continue making the nonelective contributions on behalf of the disabled member or participant  
652 in the amounts specified in Subsection 49-22-303(1)(a), 49-22-401(1), 49-23-302(1)(a), or  
653 49-23-401(1).

654 [~~4~~] (5) A participating employer that has entered into a benefit protection contract  
655 under this section shall submit an annual report to the office which identifies:

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

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

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

661 [~~5~~] (6) If an employer fails to provide the annual report required under Subsection  
662 [~~4~~] (5), the benefits that would have accrued under the benefit protection contract shall be  
663 forfeited.

664 [~~6~~] (7) The board may adopt rules to implement and administer this section.

665 Section 7. Section **49-11-612** is amended to read:

666 **49-11-612. Domestic relations order benefits -- Nonassignability of benefits or**  
667 **payments -- Exemption from legal process.**

668 (1) As used in this section, "domestic relations order benefits" means:

669 (a) an allowance;

670 (b) a defined contribution account established under [~~Title 49;~~] :

671 (i) Chapter 11, Part 8, Defined Contribution Plans;

672 (ii) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

673 (iii) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement

674 Act;

675 (c) a continuing monthly death benefit established under:

676 (i) [~~Title 49;~~] Chapter 14, Part 5, Death Benefit;

- 677 (ii) [~~Title 49,~~] Chapter 15, Part 5, Death Benefit;
- 678 (iii) [~~Title 49,~~] Chapter 16, Part 5, Death Benefit;
- 679 (iv) [~~Title 49,~~] Chapter 17, Part 5, Death Benefit;
- 680 (v) [~~Title 49,~~] Chapter 18, Part 5, Death Benefit; or
- 681 (vi) [~~Title 49,~~] Chapter 19, Part 5, Death Benefit;
- 682 (d) a death benefit provided under a group insurance policy under:
- 683 (i) [~~Title 49,~~] Chapter 12, Part 5, Death Benefit; [~~or~~]
- 684 (ii) [~~Title 49,~~] Chapter 13, Part 5, Death Benefit; [~~or~~]
- 685 (iii) Chapter 22, Part 5, Death Benefit; or
- 686 (iv) Chapter 23, Part 5, Death Benefit; or
- 687 (e) a refund of member contributions upon termination.
- 688 (2) Except as provided in Subsections (3), (4), and (5), the right of any member, retiree,
- 689 participant, covered individual, or beneficiary to any retirement benefit, retirement payment, or
- 690 any other retirement right accrued or accruing under this title and the assets of the funds created
- 691 by this title are not subject to alienation or assignment by the member, retiree, participant, or
- 692 their beneficiaries and are not subject to attachment, execution, garnishment, or any other legal
- 693 or equitable process.
- 694 (3) The office may, upon the request of the retiree, deduct from the retiree's allowance
- 695 insurance premiums or other dues payable on behalf of the retiree, but only to those entities
- 696 that have received the deductions prior to February 1, 2002.
- 697 (4) (a) The office shall provide for the division of domestic relations order benefits
- 698 with former spouses and family members under an order of a court of competent jurisdiction
- 699 with respect to domestic relations matters on file with the office.
- 700 (b) The court order shall specify the manner in which the domestic relations order
- 701 benefits shall be partitioned, whether as a fixed amount or as a percentage of the benefit.
- 702 (c) Domestic relations order benefits split under a domestic relations order are subject
- 703 to the following:
- 704 (i) the amount to be paid or the period for which payments shall be made under the
- 705 original domestic relations order may not be altered if the alteration affects the actuarial
- 706 calculation of the allowance;
- 707 (ii) payments to an alternate payee shall begin at the time the member or beneficiary

708 begins receiving payments; and

709 (iii) the alternate payee shall receive payments in the same form as allowances received  
710 by the member or beneficiary.

711 (d) A court order under this section may not be issued more than 12 months after the  
712 death of the member.

713 (5) In accordance with federal law, the board may deduct the required amount from any  
714 benefit, payment, or other right accrued or accruing to any member or beneficiary of a system,  
715 plan, or program under this title to offset any amount that member or beneficiary owes to a  
716 system, plan, or program administered by the board.

717 (6) The board shall make rules to implement this section.

718 Section 8. Section **49-11-801** is amended to read:

719 **49-11-801. Defined contribution plans authorized -- Subject to federal and state**  
720 **laws -- Rules to implement this provision -- Costs of administration -- Limitations on**  
721 **eligibility -- Protection of tax status.**

722 (1) (a) The board shall establish and administer defined contribution plans established  
723 under the Internal Revenue Code.

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

726 (c) ~~[The]~~ Except as provided in Subsections 49-22-302(2)(a), 49-22-401(3)(a),  
727 49-23-302(2)(a), and 49-23-401(3)(a), the defined contribution account balance is vested in the  
728 participant.

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

731 (b) ~~[Participants]~~ Except as provided in Subsections 49-22-303(3), 49-22-401(4),  
732 49-23-302(3), and 49-23-401(4), participants may direct the investment of their account in the  
733 investment options established by the board and in accordance with federal and state law.

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

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

738 (c) The office may reject any payments if the office determines the tax status of the

739 systems, plans, or programs would be jeopardized by allowing the payment.

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

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

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

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

749 Section 9. Section **49-11-1001** is amended to read:

750 **49-11-1001. Partial lump-sum payment option.**

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

754 (2) The member's allowance shall be reduced to reflect the actuarial value of the  
755 lump-sum received under Subsection (1).

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

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

759 (5) A member or participant of a system or plan under Chapter 22, New Public  
760 Employees' Tier II Contributory Retirement Act, or Chapter 23, New Public Safety and  
761 Firefighter Tier II Contributory Retirement Act, is not eligible to make an election under this  
762 section.

763 Section 10. Section **49-12-201** is amended to read:

764 **49-12-201. System membership -- Eligibility.**

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

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

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

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

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

775 Section 11. Section **49-13-201** is amended to read:

776 **49-13-201. System membership -- Eligibility.**

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

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

782 (b) A regular full-time employee of the state or its educational institutions prior to July  
783 1, 1986, may either become eligible for service credit in this system or remain eligible for  
784 service in the system established under Chapter 12, Public Employees' Contributory Retirement  
785 Act, by following the procedures established by the board in accordance with this chapter.

786 (2) An employer, other than the state and its educational institutions, may participate in  
787 this system except that once an employer elects to participate in this system, that election is  
788 irrevocable and the election must be made before July 1, 2011.

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

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

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

800 Section 12. Section **49-14-201** is amended to read:

801 **49-14-201. System membership -- Eligibility.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

862 (b) If a position satisfies the requirements of Subsection (9)(a), the office and the Peace

863 Officer Standards and Training Council shall consider whether or not the position requires the  
864 employee to:

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

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

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

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

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

876 (12) Except as provided under Subsection (13), if a participating employer's public  
877 safety service employees are not covered by this system or under Chapter 15, Public Safety  
878 Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees  
879 who may otherwise qualify for membership in this system shall, at the discretion of the  
880 participating employer, remain in their current retirement system.

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

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

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

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

890 (iii) is irrevocable.

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

894 Section 13. Section **49-14-202** is amended to read:

895 **49-14-202. Participation of employers -- Requirements -- Supplemental programs**  
896 **-- Full participation in system.**

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

- 901 (a) Chapter 12, Public Employees' Contributory Retirement Act;
- 902 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;
- 903 (c) Chapter 14, Public Safety Contributory Retirement Act; [~~or~~]
- 904 (d) Chapter 15, Public Safety Noncontributory Retirement Act[~~-~~]; or
- 905 (e) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

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

908 (3) If a participating employer under Subsection (1) covers any of its public safety  
909 service employees under the Public Safety Contributory Retirement System or the Public  
910 Safety Noncontributory Retirement System, that participating employer shall cover all of its  
911 public safety service employees under one of those systems, except for a public safety service  
912 employee initially entering employment with a participating employer on or after July 1, 2011.

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

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

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

918 Section 14. Section **49-15-201** is amended to read:

919 **49-15-201. System membership -- Eligibility.**

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

922 (b) A public safety service employee employed by the state prior to July 1, 1989, may  
923 either elect to receive service credit in this system or continue to receive service credit under  
924 the system established under Chapter 14, Public Safety Contributory Retirement Act, by

925 following the procedures established by the board under this chapter.

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

929 (b) (i) A participating employer other than the state that elected on or before July 1,  
930 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety  
931 service employee to elect to participate in either this system or the Public Safety Contributory  
932 Retirement System.

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

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

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

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

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

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

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

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

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

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

955 (ii) The office may require documentation to justify the inclusion of any position under

956 this system.

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

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

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

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

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

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

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

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

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

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

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

985 (10) (a) To determine that a position is covered under this system, the office and, if a  
986 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the

987 position requires the employee to:

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

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

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

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

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

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

998 (11) If a subcommittee is used to recommend the determination of disputes to the  
999 Peace Officer Standards and Training Council, the subcommittee shall comply with the  
1000 requirements of Subsection (10) in making its recommendation.

1001 (12) A final order of the Peace Officer Standards and Training Council regarding a  
1002 dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative  
1003 Procedures Act.

1004 (13) Except as provided under Subsection (14), if a participating employer's public  
1005 safety service employees are not covered by this system under Chapter 14, Public Safety  
1006 Contributory Retirement Act, as of January 1, 1998, those public safety service employees who  
1007 may otherwise qualify for membership in this system shall, at the discretion of the participating  
1008 employer, remain in their current retirement system.

1009 (14) (a) A public safety service employee employed by an airport police department,  
1010 which elects to cover its public safety service employees under the Public Safety  
1011 Noncontributory Retirement System under Subsection (13), may elect to remain in the public  
1012 safety service employee's current retirement system.

1013 (b) The public safety service employee's election to remain in the current retirement  
1014 system under Subsection (14)(a):

1015 (i) shall be made at the time the employer elects to move its public safety service  
1016 employees to a public safety retirement system;

1017 (ii) documented by written notice to the participating employer; and

1018 (iii) is irrevocable.

1019 (15) Notwithstanding any other provision of this section, a person initially entering  
1020 employment with a participating employer on or after July 1, 2011, may not participate in this  
1021 system.

1022 Section 15. Section **49-15-202** is amended to read:

1023 **49-15-202. Participation of employers -- Requirements -- Admission -- Full**  
1024 **participation in system -- Supplemental programs authorized.**

1025 (1) An employer that employs public safety service employees and is required by  
1026 Section 49-12-202 or 49-13-202 to be a participating employer in the Public Employees'  
1027 Contributory Retirement System or the Public Employees' Noncontributory Retirement System  
1028 shall cover all its public safety service employees under one of the following systems or plans:

1029 (a) Chapter 12, Public Employees' Contributory Retirement Act;

1030 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;

1031 (c) Chapter 14, Public Safety Contributory Retirement Act; ~~[or]~~

1032 (d) Chapter 15, Public Safety Noncontributory Retirement Act~~[-];~~ or

1033 (e) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

1034 (2) An employer that covers its public safety employees under Subsection (1)(d) is a  
1035 participating employer in this system.

1036 (3) If a participating employer under Subsection (1) covers any of its public safety  
1037 service employees under the Public Safety Contributory Retirement System or the Public  
1038 Safety Noncontributory Retirement System, that participating employer shall cover all of its  
1039 public safety service employees under one of those systems, except for a public safety service  
1040 employee initially entering employment with a participating employer beginning on or after  
1041 July 1, 2011.

1042 (4) (a) ~~[An]~~ Until June 30, 2011, an employer that is not participating in this system  
1043 may by resolution of its governing body apply for coverage of its public safety service  
1044 employees by this system.

1045 (b) Upon approval of the board, the employer shall become a participating employer in  
1046 this system subject to this title.

1047 (5) If a participating employer purchases service credit on behalf of employees for  
1048 service rendered prior to the participating employer's admission to this system, the service

1049 credit must be purchased in a nondiscriminatory manner on behalf of all current and former  
1050 employees who were eligible for service credit at the time service was rendered.

1051 (6) A participating employer may not withdraw from this system.

1052 (7) In addition to their participation in the system, participating employers may provide  
1053 or participate in any additional public or private retirement, supplemental or defined  
1054 contribution plan, either directly or indirectly, for their employees.

1055 Section 16. Section **49-16-201** is amended to read:

1056 **49-16-201. System membership -- Eligibility.**

1057 (1) A firefighter service employee who performs firefighter service for an employer  
1058 participating in this system is eligible for service credit in this system upon the earliest of:

1059 (a) July 1, 1971, if the firefighter service employee was employed by the participating  
1060 employer on July 1, 1971, and the participating employer was participating in this system on  
1061 that date;

1062 (b) the date the participating employer begins participating in this system if the  
1063 firefighter service employee was employed by the participating employer on that date; or

1064 (c) the date the firefighter service employee is hired to perform firefighter services for a  
1065 participating employer, if the firefighter initially enters employment before July 1, 2011.

1066 (2) (a) (i) A participating employer that has public safety service and firefighter service  
1067 employees that require cross-training and duty shall enroll the dual purpose employees in the  
1068 system in which the greatest amount of time is actually worked.

1069 (ii) The employees shall either be full-time public safety service or full-time firefighter  
1070 service employees of the participating employer.

1071 (b) (i) Prior to transferring a dual purpose employee from one system to another, the  
1072 participating employer shall receive written permission from the office.

1073 (ii) The office may request documentation to verify the appropriateness of the transfer.

1074 (3) (a) A person hired by a regularly constituted fire department on or after July 1,  
1075 1971, who does not perform firefighter service is not eligible for service credit in this system.

1076 (b) The nonfirefighter service employee shall become a member of the system for  
1077 which the nonfirefighter service employee qualifies for service credit.

1078 (c) The service credit exclusion under this Subsection (3) may not be interpreted to  
1079 prohibit the assignment of a disabled or partially disabled firefighter to a nonfirefighter service

1080 position.

1081 (d) If Subsection (3)(c) applies, the firefighter service employee remains eligible for  
1082 service credit in this system.

1083 (4) An allowance or other benefit may not be granted under this system that is based  
1084 upon the same service for benefits received under some other system.

1085 (5) Service as a volunteer firefighter is not eligible for service credit in this system.

1086 (6) An employer that maintains a regularly constituted fire department is eligible to  
1087 participate in this system.

1088 (7) Beginning July 1, 2011, a person initially entering employment with a participating  
1089 employer may not participate in this system.

1090 Section 17. Section **49-16-202** is amended to read:

1091 **49-16-202. Participation of employers -- Full participation in system --**

1092 **Supplemental programs authorized.**

1093 (1) An employer that employs firefighter service employees and is required by Section  
1094 49-12-202 or 49-13-202 to be a participating employer in the Public Employees' Contributory  
1095 Retirement System or the Public Employees' Noncontributory Retirement System shall cover  
1096 all of its firefighter service employees under one of the following systems or plans:

1097 (a) Chapter 12, Public Employees' Contributory Retirement Act;

1098 (b) Chapter 13, Public Employees' Noncontributory Retirement Act; [~~or~~]

1099 (c) Chapter 16, Firefighters' Retirement Act[~~;~~]; or

1100 (d) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

1101 (2) Any employer that covers its firefighter service employees under Subsection (1)(c)  
1102 is a participating employer in this system.

1103 (3) If a participating employer under Subsection (1) covers any of its firefighter service  
1104 employees under the Firefighters' Retirement System, that participating employer shall cover  
1105 all of its firefighter service employees under that system, except for a firefighter service  
1106 employee initially entering employment with a participating employer on or after July 1, 2011.

1107 (4) (a) [~~Am~~] Until June 30, 2011, an employer that is not participating in this system  
1108 may, by resolution of its governing body submitted to the board, apply for coverage of its  
1109 firefighter service employees by this system.

1110 (b) Upon approval of the board, the employer shall become a participating employer in

1111 this system subject to this title.

1112 (5) A participating employer may not withdraw from this system.

1113 (6) In addition to their participation in the system, participating employers may provide

1114 or participate in any additional public or private retirement, supplemental or defined

1115 contribution plan, either directly or indirectly, for their firefighter service employees.

1116 Section 18. Section **49-19-201** is amended to read:

1117 **49-19-201. Plan participation -- Eligibility.**

1118 (1) Governors and legislators who enter office before July 1, 2011, are eligible for

1119 service credit in this plan during their term of service in their elected position.

1120 (2) A governor or legislator initially entering office on or after July 1, 2011:

1121 (a) may not participate in this system;

1122 (b) is only eligible to participate in the Tier II Defined Contribution Plan established

1123 under Chapter 22, Part 4, Tier II Defined Contribution Plan; and

1124 (c) is not eligible to participate in the Tier II hybrid retirement system established under

1125 Chapter 22, Part 3, Tier II Hybrid Retirement System.

1126 Section 19. Section **49-21-201** is amended to read:

1127 **49-21-201. Program membership -- Eligibility.**

1128 (1) The state shall cover all of its eligible employees under this chapter.

1129 (2) Public safety service employees, as defined in Sections 49-14-102 [~~and~~],

1130 49-15-102, and 49-23-102 shall be covered under this chapter or a substantially similar

1131 long-term disability program in accordance with the provisions of Section 49-14-601 [~~or~~],

1132 49-15-601[~~;~~], or 49-23-601.

1133 (3) Beginning on July 1, 2011, firefighter service employees, as defined in Section

1134 49-23-102, initially entering employment on or after July 1, 2011, and volunteer firefighters, as

1135 defined in Section 49-23-102, shall be covered under this chapter or a substantially similar

1136 long-term disability program in accordance with the provisions of Section 49-23-601.

1137 [~~(3)~~] (4) Except as provided under Subsection (5), all other employers may provide

1138 coverage for their eligible employees under this chapter.

1139 [~~(4)~~] (5) If an employer elects to cover any of its eligible employees under this chapter,

1140 all of its eligible employees shall be covered.

1141 [~~(5)~~] (6) Except as provided under Subsections (1) and (2), nothing in this chapter

1142 requires any employer to cover its eligible employees under this chapter.

1143 ~~[(6)]~~ (7) The following employees are not eligible for coverage under this chapter:

1144 (a) firefighter service employees, as defined under Section 49-16-102, that initially  
1145 entered employment prior to July 1, 2011; and

1146 (b) legislators.

1147 Section 20. Section **49-21-403** is amended to read:

1148 **49-21-403. Termination of disability benefits -- Calculation of retirement benefit.**

1149 (1) An eligible employee covered by this chapter and eligible for service credit under a  
1150 system, or a participant in the Tier II Defined Contribution Plan, created in Chapter 22, Part 4,  
1151 Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II Defined Contribution Plan,  
1152 including an eligible employee who relinquishes rights to retirement benefits under Section  
1153 49-11-619, who applies and is qualified for a monthly disability benefit shall receive a monthly  
1154 disability benefit until the earlier of:

1155 (a) the date the eligible employee is no longer disabled;

1156 (b) the date the eligible employee has accumulated:

1157 (i) 20 years of service credit if the eligible employee is covered by Chapter 14, Public  
1158 Safety Contributory Retirement Act, or Chapter 15, Public Safety Noncontributory Retirement  
1159 Act;

1160 (ii) 25 years of service credit if the eligible employee is covered by Chapter 17, Judges'  
1161 Contributory Retirement Act, or Chapter 18, Judges' Noncontributory Retirement Act; ~~[or]~~

1162 (iii) 30 years of service credit if the eligible employee is covered by Chapter 12, Public  
1163 Employees' Contributory Retirement Act, or Chapter 13, Public Employees' Noncontributory  
1164 Retirement Act; ~~[or]~~

1165 (iv) 35 years of service credit if the eligible employee is covered by the defined benefit  
1166 portion under Chapter 22, Part 3, Tier II Hybrid Retirement System, or is covered by the  
1167 defined contribution plan under Chapter 22, Part 4, Tier II Defined Contribution Plan; or

1168 (v) 25 years of service credit if the eligible employee is covered by the defined benefit  
1169 portion under Chapter 23, Part 3, Tier II Hybrid Retirement System, or is covered by the  
1170 defined contribution plan under Chapter 23, Part 4, Tier II Defined Contribution Plan; or

1171 (c) the date the eligible employee has received a monthly disability benefit for the  
1172 following applicable time periods:

1173 (i) if the eligible employee is under age 60, the monthly disability benefit is payable  
1174 until age 65;

1175 (ii) if the eligible employee is 60 or 61 years of age on the date of disability, the  
1176 monthly disability benefit is payable for five years;

1177 (iii) if the eligible employee is 62 or 63 years of age on the date of disability, the  
1178 monthly disability benefit is payable for four years;

1179 (iv) if the eligible employee is 64 or 65 years of age on the date of disability, the  
1180 monthly disability benefit is payable for three years;

1181 (v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the  
1182 monthly disability benefit is payable for two years; and

1183 (vi) if the eligible employee is 69 years of age or older on the date of disability, the  
1184 monthly disability benefit is payable for one year.

1185 (2) (a) Upon termination of a monthly disability benefit, an eligible employee eligible  
1186 for service credit under a system may retire under the requirements of the system which  
1187 covered the eligible employee on the date of disability.

1188 (b) The final average salary used in the calculation of the allowance shall be based on  
1189 the annual rate of pay on the date of disability, improved by the annual cost-of-living increase  
1190 factor applied to retirees of the system which covered the eligible employee on the date of  
1191 disability.

1192 (3) An eligible employee who is eligible for service credit in a system, but has  
1193 relinquished rights to an allowance under Section 49-11-619, may receive the benefits the  
1194 eligible employee would have received by being eligible for service credit in the system  
1195 covering the eligible employee on the date of disability, except for the accrual of service credit,  
1196 in accordance with this title.

1197 (4) An eligible employee receiving a monthly disability benefit who has service credit  
1198 from two or more systems may not combine service credits under Section 49-11-405 in  
1199 qualifying for retirement, unless the eligible employee would receive a greater allowance by  
1200 combining the service credits.

1201 (5) A monthly disability benefit payable to an eligible employee who is not eligible for  
1202 service credit under a system shall terminate at the earliest of:

1203 (a) the date the eligible employee would be eligible for an unreduced allowance;

1204 (b) the date the eligible employee has received a monthly disability benefit for the  
1205 applicable time period as set forth in Subsection (1)(b); or

1206 (c) the date the eligible employee receives a reduced allowance.

1207 Section 21. Section **49-22-101** is enacted to read:

1208 **CHAPTER 22. NEW PUBLIC EMPLOYEES' TIER II CONTRIBUTORY**  
1209 **RETIREMENT ACT**

1210 **Part 1. General Provisions**

1211 **49-22-101. Title.**

1212 This chapter is known as the "New Public Employees' Tier II Contributory Retirement  
1213 Act."

1214 Section 22. Section **49-22-102** is enacted to read:

1215 **49-22-102. Definitions.**

1216 As used in this chapter:

1217 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total  
1218 amount of payments made by a participating employer to a member of this system for services  
1219 rendered to the participating employer, including:

1220 (i) bonuses;

1221 (ii) cost-of-living adjustments;

1222 (iii) other payments currently includable in gross income and that are subject to Social  
1223 Security deductions, including any payments in excess of the maximum amount subject to  
1224 deduction under Social Security law;

1225 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral  
1226 or other benefits authorized by federal law; and

1227 (v) member contributions.

1228 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed  
1229 under Internal Revenue Code, Section 401(a)(17).

1230 (c) "Compensation" does not include:

1231 (i) the monetary value of remuneration paid in kind, including a residence or use of  
1232 equipment;

1233 (ii) the cost of any employment benefits paid for by the participating employer;

1234 (iii) compensation paid to a temporary employee or an employee otherwise ineligible

1235 for service credit;

1236 (iv) any payments upon termination, including accumulated vacation, sick leave  
1237 payments, severance payments, compensatory time payments, or any other special payments; or

1238 (v) any allowances or payments to a member for costs or expenses paid by the  
1239 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,  
1240 housing costs, insurance costs, equipment costs, and dependent care costs.

1241 (d) The executive director may determine if a payment not listed under this Subsection  
1242 (1) falls within the definition of compensation.

1243 (2) "Corresponding Tier I system" means the system or plan that would have covered  
1244 the member if the member had initially entered employment before July 1, 2011.

1245 (3) "Final average salary" means the amount computed by averaging the highest five  
1246 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and  
1247 (d).

1248 (a) Except as provided in Subsection (3)(b), the percentage increase in annual  
1249 compensation in any one of the years used may not exceed the previous year's compensation by  
1250 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
1251 of the dollar during the previous year, as measured by a United States Bureau of Labor  
1252 Statistics Consumer Price Index average as determined by the board.

1253 (b) In cases where the participating employer provides acceptable documentation to the  
1254 office, the limitation in Subsection (3)(a) may be exceeded if:

1255 (i) the member has transferred from another agency; or

1256 (ii) the member has been promoted to a new position.

1257 (c) If the member retires more than six months from the date of termination of  
1258 employment, the member is considered to have been in service at the member's last rate of pay  
1259 from the date of the termination of employment to the effective date of retirement for purposes  
1260 of computing the member's final average salary only.

1261 (d) If the member has less than five years of service credit in this system, final average  
1262 salary means the average annual compensation paid to the member during the full period of  
1263 service credit.

1264 (4) "Participating employer" means an employer which meets the participation  
1265 requirements of:

- 1266           (a) Sections 49-12-201 and 49-12-202;  
1267           (b) Sections 49-13-201 and 49-13-202;  
1268           (c) Section 49-19-201; or  
1269           (d) Section 49-22-201 or 49-22-202.  
1270           (5) (a) "Regular full-time employee" means an employee whose term of employment  
1271 for a participating employer contemplates continued employment during a fiscal or calendar  
1272 year and whose employment normally requires an average of 20 hours or more per week,  
1273 except as modified by the board, and who receives benefits normally provided by the  
1274 participating employer.  
1275           (b) "Regular full-time employee" includes:  
1276           (i) a teacher whose term of employment for a participating employer contemplates  
1277 continued employment during a school year and who teaches half-time or more;  
1278           (ii) a classified school employee whose employment normally requires an average of  
1279 20 hours per week or more for a participating employer, regardless of benefits provided;  
1280           (iii) an officer, elective or appointive, who earns during the first full month of the term  
1281 of office \$500 or more, indexed as of January 1, 1990, as provided in Section 49-22-309;  
1282           (iv) a faculty member or employee of an institution of higher education who is  
1283 considered full-time by that institution of higher education; and  
1284           (v) an individual who otherwise meets the definition of this Subsection (5) who  
1285 performs services for a participating employer through a professional employer organization or  
1286 similar arrangement.  
1287           (c) "Regular full-time employee" does not include:  
1288           (i) a firefighter service employee as defined in Section 49-23-102; or  
1289           (ii) a public safety service employee as defined in Section 49-23-102.  
1290           (6) "System" means the New Public Employees' Tier II Contributory Retirement  
1291 System created under this chapter.  
1292           (7) "Years of service credit" means:  
1293           (a) a period, consisting of 12 full months as determined by the board;  
1294           (b) a period determined by the board, whether consecutive or not, during which a  
1295 regular full-time employee performed services for a participating employer, including any time  
1296 the regular full-time employee was absent on a paid leave of absence granted by a participating

1297 employer or was absent in the service of the United States government on military duty as  
1298 provided by this chapter; or

1299 (c) the regular school year consisting of not less than eight months of full-time service  
1300 for a regular full-time employee of an educational institution.

1301 Section 23. Section **49-22-103** is enacted to read:

1302 **49-22-103. Creation of system.**

1303 (1) There is created for members employed by a participating employer the "New  
1304 Public Employees' Tier II Contributory Retirement System."

1305 (2) The New Public Employees' Tier II Contributory Retirement System includes:

1306 (a) the Tier II hybrid retirement system created in Part 3, Tier II Hybrid Retirement  
1307 System; and

1308 (b) the Tier II defined contribution plan created in Part 4, Tier II Defined Contribution  
1309 Plan.

1310 Section 24. Section **49-22-104** is enacted to read:

1311 **49-22-104. Creation of trust fund.**

1312 (1) There is created the "New Public Employees' Tier II Contributory Retirement Trust  
1313 Fund" for the purpose of paying the benefits and costs of administering the defined benefit  
1314 portion of this system.

1315 (2) The fund shall consist of all money paid into it, including interest, in accordance  
1316 with this chapter, whether in the form of cash, securities, or other assets, and of all money  
1317 received from any other source.

1318 (3) Custody, management, and investment of the fund shall be governed by Chapter 11,  
1319 Utah State Retirement Systems Administration.

1320 Section 25. Section **49-22-201** is enacted to read:

1321 **Part 2. Membership Eligibility**

1322 **49-22-201. System membership -- Eligibility.**

1323 (1) Beginning July 1, 2011, a participating employer shall participate in this system.

1324 (2) (a) A person entering regular full-time employment with a participating employer  
1325 on or after July 1, 2011, is eligible:

1326 (i) as a member for service credit and defined contributions under the Tier II hybrid  
1327 retirement system established by Part 3, Tier II Hybrid Retirement System; or

1328 (ii) as a participant for defined contributions under the Tier II defined contribution plan  
1329 established by Part 4, Tier II Defined Contribution Plan.

1330 (b) A person entering regular full-time employment with a participating employer on or  
1331 after July 1, 2011, shall:

1332 (i) make an election to participate in the system created under this chapter within 30  
1333 days from the date of employment:

1334 (A) as a member for service credit and defined contributions under the Tier II Hybrid  
1335 Retirement System established by Part 3, Tier II Hybrid Retirement System; or

1336 (B) as a participant for defined contributions under the Tier II defined contribution plan  
1337 established by Part 4, Tier II Defined Contribution Plan; and

1338 (ii) submit to the office notification of the member's election under Subsection (2)(b)(i)  
1339 in a manner approved by the office.

1340 (c) An election made by a person entering regular full-time employment with a  
1341 participating employer under this Subsection (2) is irrevocable.

1342 (d) If no election is made under Subsection (2)(b)(i), the person shall become a  
1343 member eligible for service credit and defined contributions under the Tier II Hybrid  
1344 Retirement System established by Part 3, Tier II Hybrid Retirement System.

1345 (3) Notwithstanding the provisions of this section, a governor or legislator initially  
1346 entering office on or after July 1, 2011:

1347 (a) is only eligible to participate in the Tier II defined contribution plan established  
1348 under Chapter 22, Part 4, Tier II Defined Contribution Plan; and

1349 (b) is not eligible to participate in the Tier II hybrid retirement system established  
1350 under Chapter 22, Part 3, Tier II Hybrid Retirement System.

1351 Section 26. Section **49-22-202** is enacted to read:

1352 **49-22-202. Participation of employers -- Limitations -- Exclusions -- Admission**  
1353 **requirements.**

1354 (1) Unless excluded under Subsection (2), an employer is a participating employer and  
1355 may not withdraw from participation in this system.

1356 (2) An employer that is a charter school sponsored by the State Board of Education or a  
1357 school district may be excluded from participation in this system if the charter school makes an  
1358 election of nonparticipation in accordance with Section 53A-1a-512 unless the charter school

1359 makes a one-time, irrevocable retraction of the election of nonparticipation in accordance with  
1360 Subsection 53A-1a-512(9).

1361 (3) (a) An employer may, by resolution of its governing body, apply for admission to  
1362 this system.

1363 (b) Upon approval of the resolution by the board, the employer is a participating  
1364 employer in this system and is subject to this title.

1365 (4) If a participating employer purchases service credit on behalf of regular full-time  
1366 employees for service rendered prior to the participating employer's admission to this system,  
1367 the service credit shall be purchased in a nondiscriminatory manner on behalf of all current and  
1368 former regular full-time employees who were eligible for service credit at the time service was  
1369 rendered.

1370 Section 27. Section **49-22-203** is enacted to read:

1371 **49-22-203. Exclusions from membership in system.**

1372 The following employees are not eligible for service credit in this system:

1373 (1) An employee whose employment status is temporary in nature due to the nature or  
1374 the type of work to be performed, provided that:

1375 (a) if the term of employment exceeds six months and the employee otherwise qualifies  
1376 for service credit in this system, the participating employer shall report and certify to the office  
1377 that the employee is a regular full-time employee effective the beginning of the seventh month  
1378 of employment; and

1379 (b) if an employee, previously terminated prior to becoming eligible for service credit  
1380 in this system, is reemployed within three months of termination by the same participating  
1381 employer, the participating employer shall report and certify to the office that the member is a  
1382 regular full-time employee when the total of the periods of employment equals six months and  
1383 the employee otherwise qualifies for service credit in this system.

1384 (2) (a) A current or future employee of an institution of higher education who holds, or  
1385 is entitled to hold, under Section 49-22-204, a retirement annuity contract with the Teachers'  
1386 Insurance and Annuity Association of America or with any other public or private system,  
1387 organization, or company during any period in which required contributions based on  
1388 compensation have been paid on behalf of the employee by the employer.

1389 (b) The employee, upon cessation of the participating employer contributions, shall

1390 immediately become eligible for service credit in this system.

1391 (3) An employee serving as an exchange employee from outside the state.

1392 (4) An employee of the Department of Workforce Services who is covered under  
1393 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

1394 Section 28. Section **49-22-204** is enacted to read:

1395 **49-22-204. Higher education employees' eligibility requirements -- Election**  
1396 **between different retirement plans -- Classification requirements -- Transfer between**  
1397 **systems.**

1398 (1) (a) Regular full-time employees of institutions of higher education who are eligible  
1399 to participate in either this system or in a retirement annuity contract with the Teachers'  
1400 Insurance and Annuity Association of America or with any other public or private system,  
1401 organization, or company, designated by the Board of Regents, shall, not later than January 1,  
1402 1979, elect to participate exclusively in this system or in an annuity contract allowed under this  
1403 Subsection (1)(a).

1404 (b) The election is final, and no right exists to make any further election.

1405 (2) (a) A regular full-time employee hired by an institution of higher education after  
1406 January 1, 1979, may participate only in the retirement plan which attaches to the person's  
1407 employment classification.

1408 (b) Each institution of higher education shall prepare or amend existing employment  
1409 classifications, under the direction of the Board of Regents, so that each classification is  
1410 assigned with either:

1411 (i) this system;

1412 (ii) the Teachers' Insurance and Annuity Association of America; or

1413 (iii) another public or private system, organization, or company designated by the  
1414 Board of Regents.

1415 (3) A regular full-time employee hired by an institution of higher education on or after  
1416 July 1, 2011, whose employment classification requires participation in this system may elect  
1417 to continue participation in this system upon change to an employment classification which  
1418 requires participation in:

1419 (a) an annuity plan with the Teachers' Insurance and Annuity Association of America;

1420 or

1421 (b) another public or private system, organization, or company designated by the Board  
1422 of Regents.

1423 (4) A regular full-time employee hired by an institution of higher education on or after  
1424 July 1, 2011, whose employment classification requires participation in this system shall  
1425 participate in this system.

1426 Section 29. Section **49-22-301** is enacted to read:

1427 **Part 3. Tier II Hybrid Retirement System**

1428 **49-22-301. Contributions.**

1429 (1) Participating employers and members shall jointly pay the certified contribution  
1430 rates to the office to maintain the defined benefit portion of this system on a financially and  
1431 actuarially sound basis.

1432 (2) (a) A participating employer shall pay up to 10% of compensation toward the  
1433 certified contribution rate to the office for the defined benefit portion of this system.

1434 (b) A member shall pay the amount, if any, of the certified contribution rate for the  
1435 defined benefit portion of this system that exceeds 10% to the office.

1436 (c) In addition to the percent specified under Subsection (2)(a), the participating  
1437 employer shall pay the corresponding Tier I system amortization rate of the employee's  
1438 compensation to the office to be applied to the employer's corresponding Tier I system liability.

1439 (3) A participating employer may not elect to pay all or part of the required member  
1440 contributions under Subsection (2)(b), in addition to the required participating employer  
1441 contributions.

1442 (4) (a) A member contribution is credited by the office to the account of the individual  
1443 member.

1444 (b) This amount, together with refund interest, is held in trust for the payment of  
1445 benefits to the member or the member's beneficiaries.

1446 (c) A member contribution is vested and nonforfeitable.

1447 (5) (a) Each member is considered to consent to payroll deductions of member  
1448 contributions.

1449 (b) The payment of compensation less these payroll deductions is considered full  
1450 payment for services rendered by the member.

1451 (6) Benefits provided under the defined benefit portion of the Tier II Hybrid

1452 Retirement System created under this part may not be increased unless the actuarial funded  
1453 ratios of all systems under this title reach 100%.

1454 Section 30. Section **49-22-302** is enacted to read:

1455 **49-22-302. Purchase of service credit.**

1456 A member who works 20 or more hours per week for a participating employer  
1457 participating in this system, but who does not meet other eligibility requirements for service  
1458 credit, may purchase the service credit in accordance with Section 49-11-403.

1459 Section 31. Section **49-22-303** is enacted to read:

1460 **49-22-303. Defined contribution benefit established -- Contribution by employer**  
1461 **and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of**  
1462 **plans.**

1463 (1) (a) A participating employer shall make a nonelective contribution on behalf of  
1464 each regular full-time employee who is a member of this system in an amount equal to 10%  
1465 minus the contribution rate paid by the employer pursuant to Subsection 49-22-301(2)(a) of the  
1466 member's compensation to a defined contribution plan qualified under Section 401(k) of the  
1467 Internal Revenue Code which:

1468 (i) is sponsored by the board; and

1469 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

1470 (b) The member may make additional payments to:

1471 (i) the qualified 401(k) plan which receives the employer contribution described in this

1472 Subsection (1); or

1473 (ii) at the member's option, another defined contribution plan established by the  
1474 participating employer.

1475 (2) (a) The total amount contributed by the participating employer under Subsection  
1476 (1)(a) vests to the member's benefit after four years of employment from the date of  
1477 employment.

1478 (b) The total amount contributed by the member under Subsection (1)(b) vests to the  
1479 member's benefit immediately and is nonforfeitable.

1480 (3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be  
1481 invested in a default option selected by the board until the member is vested in accordance with  
1482 Subsection (2)(a).

1483 (b) A member may direct the investment of contributions made by a participating  
1484 employer under Subsection (1)(a) only after the contributions have vested in accordance with  
1485 Subsection (2)(a).

1486 (c) A member may direct the investment of contributions made by the member under  
1487 Subsection (1)(b).

1488 (4) No loans shall be available from contributions made by a participating employer  
1489 under Subsection (1)(a).

1490 (5) No hardship distributions shall be available from contributions made by a  
1491 participating employer under Subsection (1)(a).

1492 (6) (a) Except as provided in Subsection (6)(b), if a member terminates employment  
1493 with a participating employer prior to the vesting period described in Subsection (2)(a), all  
1494 contributions made by a participating employer on behalf of the member under Subsection  
1495 (1)(a) are subject to forfeiture.

1496 (b) If a member who terminates employment with a participating employer prior to the  
1497 vesting period described in Subsection (2)(a) subsequently enters employment with the same or  
1498 another participating employer within 10 years of the termination date of the previous  
1499 employment:

1500 (i) all contributions made by the previous participating employer on behalf of the  
1501 member shall be reinstated upon the member's completion of the vesting period under  
1502 Subsection (2)(a); and

1503 (ii) the length of time that the member worked with the previous employer shall be  
1504 included in determining whether the member has completed the vesting period under  
1505 Subsection (2)(a).

1506 (c) The board shall establish a forfeiture account and shall specify the uses of the  
1507 forfeiture account, which may include an offset against employer contributions made under this  
1508 section.

1509 (7) The board may request from any other qualified 401(k) plan under Subsection (1)  
1510 or (2) any relevant information pertaining to the maintenance of its tax qualification under the  
1511 Internal Revenue Code.

1512 (8) The board may take any action which in its judgment is necessary to maintain the  
1513 tax-qualified status of its 401(k) defined contribution plan under federal law.

1514 Section 32. Section **49-22-304** is enacted to read:

1515 **49-22-304. Defined benefit eligibility for an allowance -- Date of retirement --**

1516 **Qualifications.**

1517 (1) A member is qualified to receive an allowance from this system when:

1518 (a) before the member's retirement date, the member ceases actual work for a  
1519 participating employer in this system and provides evidence of the termination;

1520 (b) the member has submitted to the office a notarized retirement application form that  
1521 states the member's proposed retirement date; and

1522 (c) one of the following conditions is met as of the member's retirement date:

1523 (i) the member has accrued at least four years of service credit and has attained an age  
1524 of 65 years;

1525 (ii) the member has accrued at least 10 years of service credit and has attained an age  
1526 of 62 years;

1527 (iii) the member has accrued at least 20 years of service credit and has attained an age  
1528 of 60 years; or

1529 (iv) the member has accrued at least 35 years of service credit.

1530 (2) (a) The member's retirement date:

1531 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1532 (ii) shall be on or after the date of termination; and

1533 (iii) may not be more than 90 days before or after the date the application is received by  
1534 the office.

1535 (b) A member may not be employed by a participating employer in the system  
1536 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1537 Section 33. Section **49-22-305** is enacted to read:

1538 **49-22-305. Defined benefit service retirement plans -- Calculation of retirement**  
1539 **allowance -- Social Security limitations.**

1540 (1) (a) The retirees of this system may choose from the six retirement options described  
1541 in this section.

1542 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One  
1543 calculation.

1544 (2) The Option One benefit is an annual allowance calculated as follows:

1545 (a) If the retiree is at least 65 years of age or has accrued at least 35 years of service  
1546 credit, the allowance is an amount equal to 1.5% of the retiree's final average salary multiplied  
1547 by the number of years of service credit accrued on and after July 1, 2011.

1548 (b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full  
1549 actuarial amount for each year of retirement from age 60 to age 65, unless the member has 35  
1550 or more years of accrued credit in which event no reduction is made to the allowance.

1551 (c) (i) Years of service includes any fractions of years of service to which the retiree  
1552 may be entitled.

1553 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,  
1554 service credit is within 1/10 of one year of the total years of service credit required for  
1555 retirement, the retiree shall be considered to have the total years of service credit required for  
1556 retirement.

1557 (d) An Option One allowance is only payable to the member during the member's  
1558 lifetime.

1559 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated  
1560 by reducing an Option One benefit based on actuarial computations to provide the following:

1561 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the  
1562 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's  
1563 member contributions, the remaining balance of the retiree's member contributions shall be  
1564 paid in accordance with Sections 49-11-609 and 49-11-610.

1565 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the  
1566 retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout  
1567 the lifetime of the retiree's lawful spouse at the time of retirement.

1568 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the  
1569 retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance is  
1570 paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

1571 (d) Option Five is a modification of Option Three so that if the lawful spouse at the  
1572 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the  
1573 time of initial retirement under Option One shall be paid to the retiree for the remainder of the  
1574 retiree's life, beginning on the last day of the month following the month in which the lawful  
1575 spouse dies.

1576 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time  
1577 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time  
1578 of initial retirement under Option One shall be paid to the retiree for the remainder of the  
1579 retiree's life, beginning on the last day of the month following the month in which the lawful  
1580 spouse dies.

1581 (4) Periods of employment which are exempt from this system under Subsection  
1582 49-22-203(1)(b) may be purchased by the member for the purpose of retirement only if all  
1583 benefits from the Teachers' Insurance and Annuity Association of America or any other public  
1584 or private system or organization based on this period of employment are forfeited.

1585 (5) (a) If a retiree under Option One dies within 120 days after the retiree's retirement  
1586 date, the retirement is canceled and the death shall be considered as that of a member before  
1587 retirement.

1588 (b) Any payments made to the retiree shall be deducted from the amounts due to the  
1589 beneficiary.

1590 (6) If a retiree retires under either Option Five or Six and subsequently divorces, the  
1591 retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there  
1592 is no court order filed in the matter.

1593 Section 34. Section **49-22-306** is enacted to read:

1594 **49-22-306. Allowance payable by lump-sum payment.**

1595 (1) If a retiree's allowance, as computed under this chapter, amounts to \$25 or less, the  
1596 allowance may be settled by the office by making a lump-sum payment of an amount  
1597 actuarially equivalent to the allowance.

1598 (2) A payment made under this section constitutes a full and complete settlement of the  
1599 retiree's claim against this system.

1600 Section 35. Section **49-22-307** is enacted to read:

1601 **49-22-307. Lump-sum death benefit for retiree and spouse.**

1602 (1) (a) Upon retirement, a retiree may elect to have the office deduct an actuarially  
1603 determined amount from the retiree's allowance to provide a lump-sum benefit payable to a  
1604 beneficiary upon the death of the retiree.

1605 (b) Upon retirement, a retiree may also elect to have an actuarially determined amount  
1606 deducted from the retiree's allowance to provide a lump-sum death benefit payable to a

1607 beneficiary upon the death of the retiree's lawful spouse at the time of retirement.

1608 (c) The board may make rules for the administration of this lump-sum death benefit.

1609 (2) (a) For a retiree who pays for a lump-sum death benefit under this section through a  
1610 reduction of an allowance, benefits shall be paid in accordance with Sections 49-11-609 and  
1611 49-11-610.

1612 (b) If the retiree chooses Option Three, Four, Five, or Six, and a lump-sum death  
1613 benefit is payable after the death of the retiree, the allowance shall be restored to its original  
1614 amount.

1615 (3) (a) A retiree may elect to cancel the lump-sum death benefit under this section.

1616 (b) The cancellation under this Subsection (3) is irrevocable.

1617 (c) Upon cancellation, the allowance shall be restored to its original amount and  
1618 benefits under this section may not be paid.

1619 Section 36. Section **49-22-308** is enacted to read:

1620 **49-22-308. Defined benefit annual cost-of-living adjustment.**

1621 (1) The office shall make an annual cost-of-living adjustment to:

1622 (a) an original allowance paid under Section 49-22-305, if the allowance has been paid  
1623 for at least one year; and

1624 (b) an original payment made to an alternate payee under a domestic relations order, if  
1625 the payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

1626 (2) (a) The original allowance shall be increased by the annual increase in the  
1627 Consumer Price Index up to a maximum of 2.5%.

1628 (b) Annual increases in the Consumer Price Index in excess of 2.5% shall be  
1629 accumulated and used in subsequent adjustments when the annual increase in the Consumer  
1630 Price Index is less than 2.5%.

1631 (3) The Consumer Price Index used in calculating adjustments shall be a United States  
1632 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

1633 (4) The cost-of-living adjustment made under this section may not decrease the  
1634 allowance.

1635 Section 37. Section **49-22-309** is enacted to read:

1636 **49-22-309. Purchase of service credit -- Conditions -- Cost -- Nondiscrimination**  
1637 **policy.**

1638 (1) (a) A member may purchase or a member and a participating employer may jointly  
1639 purchase a maximum of five years of service credit which cannot otherwise be purchased under  
1640 this title.

1641 (b) At a minimum, the years of service credit purchased shall be sufficient to allow the  
1642 member to meet the retirement eligibility requirements of this system with no actuarial  
1643 reduction.

1644 (c) The member's retirement date shall be immediately after the purchase of years of  
1645 service credit.

1646 (d) The member shall pay at least 5% of the cost of the purchase.

1647 (e) To qualify for a purchase of service credit under this section, the member shall:

1648 (i) have at least five years of service credit; and

1649 (ii) otherwise meet federal eligibility requirements.

1650 (2) The purchase price for the years of service credit shall be calculated and paid for as  
1651 provided in Section 49-11-403.

1652 (3) Prior to making any purchase of years of service credit under this section, a  
1653 participating employer shall adopt a purchase policy that includes nondiscriminatory  
1654 participation standards for all regular full-time employees.

1655 (4) Only members retiring from this system may purchase service credit under this  
1656 section.

1657 Section 38. Section **49-22-401** is enacted to read:

1658 **Part 4. Tier II Defined Contribution Plan**

1659 **49-22-401. Contributions -- Rates.**

1660 (1) Up to the amount allowed by federal law, the participating employer shall  
1661 contribute 10% of the participant's compensation to a defined contribution plan.

1662 (2) (a) The participating employer shall contribute the 10% nonelective contribution  
1663 described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the  
1664 Internal Revenue Code which:

1665 (i) is sponsored by the board; and

1666 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

1667 (b) The member may make additional payments to:

1668 (i) the qualified 401(k) plan which receives the employer contribution described in this

1669 Subsection (2); or

1670 (ii) at the member's option, another defined contribution plan established by the  
1671 participating employer.

1672 (c) In addition to the percent specified under Subsection (2)(a), the participating  
1673 employer shall pay the corresponding Tier I system amortization rate of the employee's  
1674 compensation to the office to be applied to the employer's corresponding Tier I system liability.

1675 (3) (a) The total amount contributed by the participating employer under Subsection  
1676 (2)(a) vests to the member's benefit after four years of employment from the date of  
1677 employment.

1678 (b) The total amount contributed by the member under Subsection (2)(b) vests to the  
1679 member's benefit immediately and is nonforfeitable.

1680 (4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be  
1681 invested in a default option selected by the board until the member is vested in accordance with  
1682 Subsection (3)(a).

1683 (b) A member may direct the investment of contributions made by a participating  
1684 employer under Subsection (2)(a) only after the contributions have vested in accordance with  
1685 Subsection (3)(a).

1686 (c) A member may direct the investment of contributions made by the member under  
1687 Subsection (3)(b).

1688 (5) No loans shall be available from contributions made by a participating employer  
1689 under Subsection (2)(a).

1690 (6) No hardship distributions shall be available from contributions made by a  
1691 participating employer under Subsection (2)(a).

1692 (7) (a) Except as provided in Subsection (7)(b), if a member terminates employment  
1693 with a participating employer prior to the vesting period described in Subsection (3)(a), all  
1694 contributions made by a participating employer on behalf of the member under Subsection  
1695 (2)(a) are subject to forfeiture.

1696 (b) If a member who terminates employment with a participating employer prior to the  
1697 vesting period described in Subsection (3)(a) subsequently enters employment with the same or  
1698 another participating employer within 10 years of the termination date of the previous  
1699 employment:

1700 (i) all contributions made by the previous participating employer on behalf of the  
1701 member shall be reinstated upon the member's completion of the vesting period under  
1702 Subsection (3)(a); and

1703 (ii) the length of time that the member worked with the previous employer shall be  
1704 included in determining whether the member has completed the vesting period under  
1705 Subsection (3)(a).

1706 (c) The board shall establish a forfeiture account and shall specify the uses of the  
1707 forfeiture account, which may include an offset against employer contributions made under this  
1708 section.

1709 (8) The board may request from any other qualified 401(k) plan under Subsection (2)  
1710 any relevant information pertaining to the maintenance of its tax qualification under the  
1711 Internal Revenue Code.

1712 (9) The board may take any action which in its judgment is necessary to maintain the  
1713 tax-qualified status of its 401(k) defined contribution plan under federal law.

1714 Section 39. Section **49-22-402** is enacted to read:

1715 **49-22-402. Defined contribution distributions for disabled members.**

1716 For a person who is disabled and receives contributions under Subsection  
1717 49-11-404(4)(b), the disabled member may begin receiving distributions from the defined  
1718 contributions made by the participating employer on behalf of the disabled member when the  
1719 person would have been eligible to retire if the person was covered by the defined benefit  
1720 portion of the Tier II Hybrid Retirement System under Part 3, Tier II Hybrid Retirement  
1721 System.

1722 Section 40. Section **49-22-501** is enacted to read:

1723 **Part 5. Death Benefit**

1724 **49-22-501. Death benefit by means of group insurance policy -- Eligibility for**  
1725 **death benefit -- Benefit calculation -- Payment of claim.**

1726 (1) The office shall provide a death benefit through the purchase of a group insurance  
1727 policy for members of this system.

1728 (2) The board shall make rules to administer the death benefit provided by this section  
1729 and may, in accordance with federal law, establish:

1730 (a) benefit levels;

- 1731 (b) classes of members; and  
1732 (c) a living benefit option.  
1733 (3) This death benefit is payable when:  
1734 (a) the member dies prior to the member's retirement date or dies under circumstances  
1735 which Subsection 49-22-305(5) requires to be treated as the death of a member before  
1736 retirement;  
1737 (b) the office receives acceptable proof of death; and  
1738 (c) benefits are not payable under Section 49-22-307.  
1739 (4) The death benefit payable to the beneficiary under this section is a lump-sum  
1740 payment consisting of:  
1741 (a) the return of any member contributions under this chapter; plus  
1742 (b) a percentage of the final average salary of the member to be determined by the  
1743 board.  
1744 (5) Any amount of a living benefit option paid to the member prior to death shall be  
1745 deducted from the benefit payable to the beneficiary.  
1746 (6) The cost of the death benefit shall be paid by the participating employer in addition  
1747 to the contribution rate established under Section 49-22-301 or 49-22-401.  
1748 (7) The portion of the death benefit provided under Subsection (4)(b) may not be paid  
1749 to the beneficiary of an inactive member unless the death of the member occurs either:  
1750 (a) within a period of 120 days after the last day of work for which the person received  
1751 compensation; or  
1752 (b) while the member is still physically or mentally incapacitated from performance of  
1753 duties, if the incapacity has been continuous since the last day of work for which compensation  
1754 was received.  
1755 (8) The death benefit provided under Subsection (4)(b) shall be paid in accordance  
1756 with Sections 49-11-609 and 49-11-610.  
1757 (9) The death benefit paid to the beneficiary of an inactive member, except as  
1758 otherwise provided under Subsection (7), is a lump-sum return of the member's member  
1759 contributions.  
1760 (10) Payment of the death benefit by the office constitutes a full settlement of any  
1761 beneficiary's claim against the office and the office is not liable for any further or additional

1762 claims or assessments on behalf of the member.

1763 (11) Unless otherwise specified in a written document filed with the office, death

1764 benefits payable to beneficiaries shall be in accordance with the order of precedence

1765 established under Title 75, Chapter 2, Intestate Succession and Wills.

1766 (12) A death benefit under this section may not be paid on behalf of a retiree under this  
1767 system.

1768 Section 41. Section **49-22-502** is enacted to read:

1769 **49-22-502. Death of married members -- Service retirement benefits to surviving**  
1770 **spouse.**

1771 (1) As used in this section, "member's full allowance" means an Option Three  
1772 allowance calculated under Section 49-22-305 without an actuarial reduction.

1773 (2) Upon the request of a deceased member's lawful spouse at the time of the member's  
1774 death, the deceased member is considered to have retired under Option Three on the first day of  
1775 the month following the month in which the member died if the following requirements are  
1776 met:

1777 (a) the member has:

1778 (i) 15 or more years of service credit;

1779 (ii) attained age 62 with 10 or more years of service credit; or

1780 (iii) attained age 65 with four or more years of service credit; and

1781 (b) the member dies leaving a spouse to whom the member has been married at least  
1782 six months immediately prior to the death date.

1783 (3) The spouse who requests a benefit under this section shall apply in writing to the  
1784 office. The allowance shall begin on the first day of the month:

1785 (a) following the month in which the member died, if the application is received by the  
1786 office within 90 days of the member's death; or

1787 (b) in which the application is received by the office.

1788 (4) The allowance payable to a surviving spouse under Subsection (2) is as follows:

1789 (a) if the member has 25 or more years of service credit at the time of death, the  
1790 surviving spouse shall receive the member's full allowance;

1791 (b) if the member has between 20-24 years of service credit and is not age 60 or older  
1792 at the time of death, the surviving spouse shall receive 2/3 of the member's full allowance;

1793 (c) if the member has between 15-19 years of service credit and is not age 62 or older  
1794 at the time of death, the surviving spouse shall receive 1/3 of the member's full allowance; or

1795 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or  
1796 older with 10 or more years of service credit, or age 65 or older with four or more years of  
1797 service credit at the time of death, the surviving spouse shall receive an Option Three benefit  
1798 with actuarial reductions.

1799 (5) Except for a return of member contributions, benefits payable under this section are  
1800 retirement benefits and shall be paid in addition to any other payments made under Section  
1801 49-22-501 and shall constitute a full and final settlement of the claim of the spouse or any other  
1802 beneficiary filing a claim for benefits under Section 49-22-501.

1803 Section 42. Section **49-22-601** is enacted to read:

1804 **Part 6. Disability**

1805 **49-22-601. Long-term disability coverage.**

1806 In accordance with Section 49-21-201, the state shall cover all of its eligible employees  
1807 under Chapter 21, Public Employees' Long-Term Disability Act.

1808 Section 43. Section **49-23-101** is enacted to read:

1809 **CHAPTER 23. NEW PUBLIC SAFETY AND FIREFIGHTER TIER II**  
1810 **CONTRIBUTORY RETIREMENT ACT**

1811 **Part 1. General Provisions**

1812 **49-23-101. Title.**

1813 This chapter is known as the "New Public Safety and Firefighter Tier II Contributory  
1814 Retirement Act."

1815 Section 44. Section **49-23-102** is enacted to read:

1816 **49-23-102. Definitions.**

1817 As used in this chapter:

1818 (1) (a) "Compensation" means the total amount of payments that are includable in  
1819 gross income received by a public safety service employee or a firefighter service employee as  
1820 base income for the regularly scheduled work period. The participating employer shall  
1821 establish the regularly scheduled work period. Base income shall be determined prior to the  
1822 deduction of any amounts the public safety service employee or firefighter service employee  
1823 authorizes to be deducted for salary deferral or other benefits authorized by federal law.

1824 (b) "Compensation" includes performance-based bonuses and cost-of-living  
1825 adjustments.

1826 (c) "Compensation" does not include:

1827 (i) overtime;

1828 (ii) sick pay incentives;

1829 (iii) retirement pay incentives;

1830 (iv) the monetary value of remuneration paid in kind, as in a residence, use of  
1831 equipment or uniform, travel, or similar payments;

1832 (v) a lump-sum payment or special payment covering accumulated leave; and

1833 (vi) all contributions made by a participating employer under this system or under any  
1834 other employee benefit system or plan maintained by a participating employer for the benefit of  
1835 a member or participant.

1836 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed  
1837 under Internal Revenue Code Section 401(a)(17).

1838 (2) "Corresponding Tier I system" means the system or plan that would have covered  
1839 the member if the member had initially entered employment before July 1, 2011.

1840 (3) "Final average salary" means the amount computed by averaging the highest five  
1841 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and  
1842 (d).

1843 (a) Except as provided in Subsection (3)(b), the percentage increase in annual  
1844 compensation in any one of the years used may not exceed the previous year's compensation by  
1845 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power  
1846 of the dollar during the previous year, as measured by a United States Bureau of Labor  
1847 Statistics Consumer Price Index average as determined by the board.

1848 (b) In cases where the participating employer provides acceptable documentation to the  
1849 office, the limitation in Subsection (3)(a) may be exceeded if:

1850 (i) the member has transferred from another agency; or

1851 (ii) the member has been promoted to a new position.

1852 (c) If the member retires more than six months from the date of termination of  
1853 employment, the member is considered to have been in service at the member's last rate of pay  
1854 from the date of the termination of employment to the effective date of retirement for purposes

1855 of computing the member's final average salary only.

1856 (d) If the member has less than five years of service credit in this system, final average  
1857 salary means the average annual compensation paid to the member during the full period of  
1858 service credit.

1859 (4) "Firefighter service" means employment normally requiring an average of 2,080  
1860 hours of regularly scheduled employment per year rendered by a member who is a firefighter  
1861 service employee trained in firefighter techniques and assigned to a position of hazardous duty  
1862 with a regularly constituted fire department, but does not include secretarial staff or other  
1863 similar employees.

1864 (5) "Firefighter service employee" means an employee of a participating employer who  
1865 provides firefighter service under this chapter. An employee of a regularly constituted fire  
1866 department who does not perform firefighter service is not a firefighter service employee.

1867 (6) "Participating employer" means an employer which meets the participation  
1868 requirements of:

1869 (a) Sections 49-14-201 and 49-14-202;

1870 (b) Sections 49-15-201 and 49-15-202;

1871 (c) Sections 49-16-201 and 49-16-202; or

1872 (d) Sections 49-23-201 and 49-23-202.

1873 (7) (a) "Public safety service" means employment normally requiring an average of  
1874 2,080 hours of regularly scheduled employment per year rendered by a member who is a:

1875 (i) law enforcement officer in accordance with Section 53-13-103;

1876 (ii) correctional officer in accordance with Section 53-13-104; and

1877 (iii) special function officer approved in accordance with Sections 49-15-201 and  
1878 53-13-105.

1879 (b) "Public safety service" also requires that in the course of employment the  
1880 employee's life or personal safety is at risk.

1881 (8) "Public safety service employee" means an employee of a participating employer  
1882 who performs public safety service under this chapter.

1883 (9) "System" means the New Public Safety and Firefighter Tier II Contributory  
1884 Retirement System created under this chapter.

1885 (10) (a) "Volunteer firefighter" means any individual that is not regularly employed as

1886 a firefighter service employee, but who:

1887 (i) has been trained in firefighter techniques and skills;

1888 (ii) continues to receive regular firefighter training; and

1889 (iii) is on the rolls of a legally organized volunteer fire department which provides

1890 ongoing training and serves a political subdivision of the state.

1891 (b) An individual that volunteers assistance but does not meet the requirements of

1892 Subsection (10)(a) is not a volunteer firefighter for purposes of this chapter.

1893 (11) "Years of service credit" means:

1894 (a) a period, consisting of 12 full months as determined by the board; or

1895 (b) a period determined by the board, whether consecutive or not, during which a

1896 regular full-time employee performed services for a participating employer, including any time

1897 the regular full-time employee was absent on a paid leave of absence granted by a participating

1898 employer or was absent in the service of the United States government on military duty as

1899 provided by this chapter.

1900 Section 45. Section **49-23-103** is enacted to read:

1901 **49-23-103. Creation of system.**

1902 (1) There is created for members employed by a participating employer the "New

1903 Public Safety and Firefighter Tier II Contributory Retirement System."

1904 (2) The New Public Safety and Firefighter Tier II Contributory Retirement System

1905 includes:

1906 (a) the Tier II hybrid retirement system created in Part 3, Tier II Hybrid Retirement

1907 System; and

1908 (b) the Tier II defined contribution plan created in Part 4, Tier II Defined Contribution

1909 Plan.

1910 Section 46. Section **49-23-104** is enacted to read:

1911 **49-23-104. Creation of trust fund.**

1912 (1) There is created the "New Public Safety and Firefighter Tier II Contributory

1913 Retirement Trust Fund" for the purpose of paying the benefits and costs of administering the

1914 defined benefit portion of this system.

1915 (2) The fund shall consist of all money paid into it, including interest, in accordance

1916 with this chapter, whether in the form of cash, securities, or other assets, and of all money

1917 received from any other source.

1918 (3) Custody, management, and investment of the fund shall be governed by Chapter 11,  
1919 Utah State Retirement Systems Administration.

1920 Section 47. Section **49-23-201** is enacted to read:

1921 **Part 2. Membership Eligibility**

1922 **49-23-201. System membership -- Eligibility.**

1923 (1) Beginning July 1, 2011, a participating employer that employs public safety service  
1924 employees or firefighter service employees shall participate in this system.

1925 (2) (a) A public safety service employee or a firefighter service employee entering  
1926 employment with a participating employer on or after July 1, 2011, is eligible:

1927 (i) as a member for service credit and defined contributions under the Tier II hybrid  
1928 retirement system established by Part 3, Tier II Hybrid Retirement System; or

1929 (ii) as a participant for defined contributions under the Tier II defined contributions  
1930 plan established by Part 4, Tier II Defined Contribution Plan.

1931 (b) A public safety service employee or a firefighter service employee entering  
1932 employment with a participating employer on or after July 1, 2011, shall:

1933 (i) make an election to participate in the system created under this chapter within 30  
1934 days from the date of employment:

1935 (A) as a member for service credit and defined contributions under the Tier II Hybrid  
1936 Retirement System established by Part 3, Tier II Hybrid Retirement System; or

1937 (B) as a participant for defined contributions under the Tier II defined contribution plan  
1938 established by Part 4, Tier II Defined Contribution Plan; and

1939 (ii) submit to the office notification of the member's election under Subsection (2)(b)(i)  
1940 in a manner approved by the office.

1941 (c) An election made by a public safety service employee or firefighter service  
1942 employee entering employment with a participating employer under this Subsection (2) is  
1943 irrevocable.

1944 (d) If no election is made under Subsection (2)(b)(i), the public safety service employee  
1945 or firefighter service employee shall become a member eligible for service credit and defined  
1946 contributions under the Tier II Hybrid Retirement System established by Part 3, Tier II Hybrid  
1947 Retirement System.

1948 Section 48. Section **49-23-202** is enacted to read:

1949 **49-23-202. Participation of employers -- Admission requirements.**

1950 (1) An employer is a participating employer and may not withdraw from participation  
1951 in this system.

1952 (2) (a) An employer may, by resolution of its governing body, apply for admission to  
1953 this system.

1954 (b) Upon approval of the resolution by the board, the employer is a participating  
1955 employer in this system and is subject to this title.

1956 (3) If a participating employer purchases service credit on behalf of public safety  
1957 service employees or firefighter service employees for service rendered prior to the  
1958 participating employer's admission to this system, the service credit shall be purchased in a  
1959 nondiscriminatory manner on behalf of all current and former public safety service employees  
1960 or firefighter service employees who were eligible for service credit at the time service was  
1961 rendered.

1962 Section 49. Section **49-23-301** is enacted to read:

1963 **Part 3. Tier II Hybrid Retirement System**

1964 **49-23-301. Contributions.**

1965 (1) Participating employers and members shall jointly pay the certified contribution  
1966 rates to the office to maintain the defined benefit portion of this system on a financially and  
1967 actuarially sound basis.

1968 (2) (a) A participating employer shall pay up to 12% of compensation toward the  
1969 certified contribution rate to the office for the defined benefit portion of this system.

1970 (b) A member shall pay the amount, if any, of the certified contribution rate for the  
1971 defined benefit portion of this system that exceeds 12% to the office.

1972 (c) In addition to the percent specified under Subsection (2)(a), the participating  
1973 employer shall pay the corresponding Tier I system amortization rate of the employee's  
1974 compensation to the office to be applied to the employer's corresponding Tier I system liability.

1975 (3) A participating employer may not elect to pay all or part of the required member  
1976 contributions under Subsection (2)(b), in addition to the required participating employer  
1977 contributions.

1978 (4) (a) A member contribution is credited by the office to the account of the individual

1979 member.

1980 (b) This amount, together with refund interest, is held in trust for the payment of  
1981 benefits to the member or the member's beneficiaries.

1982 (c) A member contribution is vested and nonforfeitable.

1983 (5) (a) Each member is considered to consent to payroll deductions of member  
1984 contributions.

1985 (b) The payment of compensation less these payroll deductions is considered full  
1986 payment for services rendered by the member.

1987 (6) Benefits provided under the defined benefit portion of the Tier II Hybrid  
1988 Retirement System created under this part may not be increased unless the actuarial funded  
1989 ratios of all systems under this title reach 100%.

1990 Section 50. Section **49-23-302** is enacted to read:

1991 **49-23-302. Defined contribution benefit established -- Contribution by employer**  
1992 **and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of**  
1993 **plans.**

1994 (1) (a) A participating employer shall make a nonelective contribution on behalf of  
1995 each public safety service employee or firefighter service employee who is a member of this  
1996 system in an amount equal to 12% minus the contribution rate paid by the employer pursuant to  
1997 Subsection 49-23-301(2)(a) of the member's compensation to a defined contribution plan  
1998 qualified under Section 401(k) of the Internal Revenue Code which:

1999 (i) is sponsored by the board; and

2000 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

2001 (b) The member may make additional payments to:

2002 (i) the qualified 401(k) plan which receives the employer contribution described in this  
2003 Subsection (1); or

2004 (ii) at the member's option, another defined contribution plan established by the  
2005 participating employer.

2006 (2) (a) The total amount contributed by the participating employer under Subsection  
2007 (1)(a) vests to the member's benefit after four years of employment from the date of  
2008 employment.

2009 (b) The total amount contributed by the member under Subsection (1)(b) vests to the

2010 member's benefit immediately and is nonforfeitable.

2011 (3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be  
2012 invested in a default option selected by the board until the member is vested in accordance with  
2013 Subsection (2)(a).

2014 (b) A member may direct the investment of contributions made by a participating  
2015 employer under Subsection (1)(a) only after the contributions have vested in accordance with  
2016 Subsection (2)(a).

2017 (c) A member may direct the investment of contributions made by the member under  
2018 Subsection (1)(b).

2019 (4) No loans shall be available from contributions made by a participating employer  
2020 under Subsection (1)(a).

2021 (5) No hardship distributions shall be available from contributions made by a  
2022 participating employer under Subsection (1)(a).

2023 (6) (a) Except as provided in Subsection (6)(b), if a member terminates employment  
2024 with a participating employer prior to the vesting period described in Subsection (2)(a), all  
2025 contributions made by a participating employer on behalf of the member under Subsection  
2026 (1)(a) are subject to forfeiture.

2027 (b) If a member who terminates employment with a participating employer prior to the  
2028 vesting period described in Subsection (2)(a) subsequently enters employment with the same or  
2029 another participating employer within 10 years of the termination date of the previous  
2030 employment:

2031 (i) all contributions made by the previous participating employer on behalf of the  
2032 member shall be reinstated upon the member's completion of the vesting period under  
2033 Subsection (2)(a); and

2034 (ii) the length of time that the member worked with the previous employer shall be  
2035 included in determining whether the member has completed the vesting period under  
2036 Subsection (2)(a).

2037 (c) The board shall establish a forfeiture account and shall specify the uses of the  
2038 forfeiture account, which may include an offset against employer contributions made under this  
2039 section.

2040 (7) The board may request from any other qualified 401(k) plan under Subsection (1)

2041 or (2) any relevant information pertaining to the maintenance of its tax qualification under the  
2042 Internal Revenue Code.

2043 (8) The board may take any action which in its judgment is necessary to maintain the  
2044 tax-qualified status of its 401(k) defined contribution plan under federal law.

2045 Section 51. Section **49-23-303** is enacted to read:

2046 **49-23-303. Defined benefit eligibility for an allowance -- Date of retirement --**  
2047 **Qualifications.**

2048 (1) A member is qualified to receive an allowance from this system when:

2049 (a) before the member's retirement date, the member ceases actual work for a  
2050 participating employer in this system and provides evidence of the termination;

2051 (b) the member has submitted to the office a notarized retirement application form that  
2052 states the member's proposed retirement date; and

2053 (c) one of the following conditions is met as of the member's retirement date:

2054 (i) the member has accrued at least four years of service credit and has attained an age  
2055 of 65 years;

2056 (ii) the member has accrued at least 10 years of service credit and has attained an age  
2057 of 62 years;

2058 (iii) the member has accrued at least 20 years of service credit and has attained an age  
2059 of 60 years; or

2060 (iv) the member has accrued at least 25 years of service credit.

2061 (2) (a) The member's retirement date:

2062 (i) shall be the 1st or the 16th day of the month, as selected by the member;

2063 (ii) shall be on or after the date of termination; and

2064 (iii) may not be more than 90 days before or after the date the application is received by  
2065 the office.

2066 (b) A member may not be employed by a participating employer in the system  
2067 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

2068 Section 52. Section **49-23-304** is enacted to read:

2069 **49-23-304. Defined benefit service retirement plans -- Calculation of retirement**  
2070 **allowance -- Social Security limitations.**

2071 (1) (a) The retirees of this system may choose from the six retirement options described

2072 in this section.

2073 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One  
2074 calculation.

2075 (2) The Option One benefit is an annual allowance calculated as follows:

2076 (a) If the retiree is at least 65 years of age or has accrued at least 25 years of service  
2077 credit, the allowance is an amount equal to 1.5% of the retiree's final average salary multiplied  
2078 by the number of years of service credit accrued on and after July 1, 2011.

2079 (b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full  
2080 actuarial amount for each year of retirement from age 60 to age 65, unless the member has 25  
2081 or more years of accrued credit in which event no reduction is made to the allowance.

2082 (c) (i) Years of service includes any fractions of years of service to which the retiree  
2083 may be entitled.

2084 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,  
2085 service credit is within 1/10 of one year of the total years of service credit required for  
2086 retirement, the retiree shall be considered to have the total years of service credit required for  
2087 retirement.

2088 (d) An Option One allowance is only payable to the member during the member's  
2089 lifetime.

2090 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated  
2091 by reducing an Option One benefit based on actuarial computations to provide the following:

2092 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the  
2093 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's  
2094 member contributions, the remaining balance of the retiree's member contributions shall be  
2095 paid in accordance with Sections 49-11-609 and 49-11-610.

2096 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the  
2097 retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout  
2098 the lifetime of the retiree's lawful spouse at the time of retirement.

2099 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the  
2100 retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance is  
2101 paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

2102 (d) Option Five is a modification of Option Three so that if the lawful spouse at the

2103 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the  
2104 time of initial retirement under Option One shall be paid to the retiree for the remainder of the  
2105 retiree's life, beginning on the last day of the month following the month in which the lawful  
2106 spouse dies.

2107 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time  
2108 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time  
2109 of initial retirement under Option One shall be paid to the retiree for the remainder of the  
2110 retiree's life, beginning on the last day of the month following the month in which the lawful  
2111 spouse dies.

2112 (4) Periods of employment which are exempt from this system may be purchased by  
2113 the member for the purpose of retirement only if all benefits from any other public or private  
2114 system or organization based on this period of employment are forfeited.

2115 (5) (a) If a retiree under Option One dies within 120 days after the retiree's retirement  
2116 date, the retirement is canceled and the death shall be considered as that of a member before  
2117 retirement.

2118 (b) Any payments made to the retiree shall be deducted from the amounts due to the  
2119 beneficiary.

2120 (6) If a retiree retires under either Option Five or Six and subsequently divorces, the  
2121 retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there  
2122 is no court order filed in the matter.

2123 Section 53. Section **49-23-305** is enacted to read:

2124 **49-23-305. Allowance payable by lump-sum payment.**

2125 (1) If a retiree's allowance, as computed under this chapter, amounts to \$25 or less, the  
2126 allowance may be settled by the office by making a lump-sum payment of an amount  
2127 actuarially equivalent to the allowance.

2128 (2) A payment made under this section constitutes a full and complete settlement of the  
2129 retiree's claim against this system.

2130 Section 54. Section **49-23-306** is enacted to read:

2131 **49-23-306. Lump-sum death benefit for retiree and spouse.**

2132 (1) (a) Upon retirement, a retiree may elect to have the office deduct an actuarially  
2133 determined amount from the retiree's allowance to provide a lump-sum benefit payable to a

2134 beneficiary upon the death of the retiree.

2135 (b) Upon retirement, a retiree may also elect to have an actuarially determined amount  
2136 deducted from the retiree's allowance to provide a lump-sum death benefit payable to a  
2137 beneficiary upon the death of the retiree's lawful spouse at the time of retirement.

2138 (c) The board may make rules for the administration of this lump-sum death benefit.

2139 (2) (a) For a retiree who pays for a lump-sum death benefit under this section through a  
2140 reduction of an allowance, benefits shall be paid in accordance with Sections 49-11-609 and  
2141 49-11-610.

2142 (b) If the retiree chooses Option Three, Four, Five, or Six, and a lump-sum death  
2143 benefit is payable after the death of the retiree, the allowance shall be restored to its original  
2144 amount.

2145 (3) (a) A retiree may elect to cancel the lump-sum death benefit under this section.

2146 (b) The cancellation under this Subsection (3) is irrevocable.

2147 (c) Upon cancellation, the allowance shall be restored to its original amount and  
2148 benefits under this section may not be paid.

2149 Section 55. Section **49-23-307** is enacted to read:

2150 **49-23-307. Defined benefit annual cost-of-living adjustment.**

2151 (1) The office shall make an annual cost-of-living adjustment to:

2152 (a) an original allowance paid under Section 49-23-305, if the allowance has been paid  
2153 for at least one year; and

2154 (b) an original payment made to an alternate payee under a domestic relations order, if  
2155 the payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

2156 (2) (a) The original allowance shall be increased by the annual increase in the  
2157 Consumer Price Index up to a maximum of 2.5%.

2158 (b) Annual increases in the Consumer Price Index in excess of 2.5% shall be  
2159 accumulated and used in subsequent adjustments when the annual increase in the Consumer  
2160 Price Index is less than 2.5%.

2161 (3) The Consumer Price Index used in calculating adjustments shall be a United States  
2162 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

2163 (4) The cost-of-living adjustment made under this section may not decrease the  
2164 allowance.

2165 Section 56. Section **49-23-308** is enacted to read:

2166 **49-23-308. Purchase of service credit -- Conditions -- Cost -- Nondiscrimination**  
2167 **policy.**

2168 (1) (a) A member may purchase or a member and a participating employer may jointly  
2169 purchase a maximum of five years of service credit which cannot otherwise be purchased under  
2170 this title.

2171 (b) At a minimum, the years of service credit purchased shall be sufficient to allow the  
2172 member to meet the retirement eligibility requirements of this system with no actuarial  
2173 reduction.

2174 (c) The member's retirement date shall be immediately after the purchase of years of  
2175 service credit.

2176 (d) The member shall pay at least 5% of the cost of the purchase.

2177 (e) To qualify for a purchase of service credit under this section, the member shall:

2178 (i) have at least five years of service credit; and

2179 (ii) otherwise meet federal eligibility requirements.

2180 (2) The purchase price for the years of service credit shall be calculated and paid for as  
2181 provided in Section 49-11-403.

2182 (3) Prior to making any purchase of years of service credit under this section, a  
2183 participating employer shall adopt a purchase policy that includes nondiscriminatory  
2184 participation standards for all regular full-time employees.

2185 (4) Only members retiring from this system may purchase service credit under this  
2186 section.

2187 Section 57. Section **49-23-401** is enacted to read:

2188 **Part 4. Tier II Defined Contribution Plan**

2189 **49-23-401. Contributions -- Rates.**

2190 (1) Up to the amount allowed by federal law, the participating employer shall  
2191 contribute 12% of the participant's compensation to a defined contribution plan.

2192 (2) (a) The participating employer shall contribute the 12% nonelective contribution  
2193 described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the  
2194 Internal Revenue Code which:

2195 (i) is sponsored by the board; and

2196 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.  
2197 (b) The member may make additional payments to:  
2198 (i) the qualified 401(k) plan which receives the employer contribution described in this  
2199 Subsection (2); or  
2200 (ii) at the member's option, another defined contribution plan established by the  
2201 participating employer.  
2202 (c) In addition to the percent specified under Subsection (2)(a), the participating  
2203 employer shall pay the corresponding Tier I system amortization rate of the employee's  
2204 compensation to the office to be applied to the employer's corresponding Tier I system liability.  
2205 (3) (a) The total amount contributed by the participating employer under Subsection  
2206 (2)(a) vests to the member's benefit after four years of employment from the date of  
2207 employment.  
2208 (b) The total amount contributed by the member under Subsection (2)(b) vests to the  
2209 member's benefit immediately and is nonforfeitable.  
2210 (4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be  
2211 invested in a default option selected by the board until the member is vested in accordance with  
2212 Subsection (3)(a).  
2213 (b) A member may direct the investment of contributions made by a participating  
2214 employer under Subsection (2)(a) only after the contributions have vested in accordance with  
2215 Subsection (3)(a).  
2216 (c) A member may direct the investment of contributions made by the member under  
2217 Subsection (3)(b).  
2218 (5) No loans shall be available from contributions made by a participating employer  
2219 under Subsection (2)(a).  
2220 (6) No hardship distributions shall be available from contributions made by a  
2221 participating employer under Subsection (2)(a).  
2222 (7) (a) Except as provided in Subsection (7)(b), if a member terminates employment  
2223 with a participating employer prior to the vesting period described in Subsection (3)(a), all  
2224 contributions made by a participating employer on behalf of the member under Subsection  
2225 (2)(a) are subject to forfeiture.  
2226 (b) If a member who terminates employment with a participating employer prior to the

2227 vesting period described in Subsection (3)(a) subsequently enters employment with the same or  
2228 another participating employer within 10 years of the termination date of the previous  
2229 employment:

2230 (i) all contributions made by the previous participating employer on behalf of the  
2231 member shall be reinstated upon the member's completion of the vesting period under  
2232 Subsection (3)(a); and

2233 (ii) the length of time that the member worked with the previous employer shall be  
2234 included in determining whether the member has completed the vesting period under  
2235 Subsection (3)(a).

2236 (c) The board shall establish a forfeiture account and shall specify the uses of the  
2237 forfeiture account, which may include an offset against employer contributions made under this  
2238 section.

2239 (8) The board may request from any other qualified 401(k) plan under Subsection (2)  
2240 any relevant information pertaining to the maintenance of its tax qualification under the  
2241 Internal Revenue Code.

2242 (9) The board may take any action which in its judgment is necessary to maintain the  
2243 tax-qualified status of its 401(k) defined contribution plan under federal law.

2244 Section 58. Section **49-23-402** is enacted to read:

2245 **49-23-402. Defined contribution distributions for disabled members.**

2246 For a person who is disabled and receives contributions under Subsection  
2247 49-11-404(4)(b), the disabled member may begin receiving distributions from the defined  
2248 contributions made by the participating employer on behalf of the disabled member when the  
2249 person would have been eligible to retire if the person was covered by the defined benefit  
2250 portion of the Tier II Hybrid Retirement System under Part 3, Tier II Hybrid Retirement  
2251 System.

2252 Section 59. Section **49-23-501** is enacted to read:

2253 **Part 5. Death Benefit**

2254 **49-23-501. Death benefit by means of group insurance policy -- Eligibility for**  
2255 **death benefit -- Benefit calculation -- Payment of claim.**

2256 (1) The office shall provide a death benefit through the purchase of a group insurance  
2257 policy for members of this system.

2258           (2) The board shall make rules to administer the death benefit provided by this section  
2259 and may, in accordance with federal law, establish:

2260           (a) benefit levels;

2261           (b) classes of members; and

2262           (c) a living benefit option.

2263           (3) This death benefit is payable when:

2264           (a) the member dies prior to the member's retirement date or dies under circumstances  
2265 which Subsection 49-23-304(5) requires to be treated as the death of a member before  
2266 retirement;

2267           (b) the office receives acceptable proof of death; and

2268           (c) benefits are not payable under Section 49-23-306.

2269           (4) The death benefit payable to the beneficiary under this section is a lump-sum  
2270 payment consisting of:

2271           (a) the return of any member contributions under this chapter; plus

2272           (b) a percentage of the final average salary of the member to be determined by the  
2273 board.

2274           (5) Any amount of a living benefit option paid to the member prior to death shall be  
2275 deducted from the benefit payable to the beneficiary.

2276           (6) The cost of the death benefit shall be paid by the participating employer in addition  
2277 to the contribution rate established under Section 49-23-301 or 49-23-401.

2278           (7) The portion of the death benefit provided under Subsection (4)(b) may not be paid  
2279 to the beneficiary of an inactive member unless the death of the member occurs either:

2280           (a) within a period of 120 days after the last day of work for which the person received  
2281 compensation; or

2282           (b) while the member is still physically or mentally incapacitated from performance of  
2283 duties, if the incapacity has been continuous since the last day of work for which compensation  
2284 was received.

2285           (8) The death benefit provided under Subsection (4)(b) shall be paid in accordance  
2286 with Sections 49-11-609 and 49-11-610.

2287           (9) The death benefit paid to the beneficiary of an inactive member, except as  
2288 otherwise provided under Subsection (7), is a lump-sum return of the member's member

2289 contributions.

2290 (10) Payment of the death benefit by the office constitutes a full settlement of any  
2291 beneficiary's claim against the office and the office is not liable for any further or additional  
2292 claims or assessments on behalf of the member.

2293 (11) Unless otherwise specified in a written document filed with the office, death  
2294 benefits payable to beneficiaries shall be in accordance with the order of precedence  
2295 established under Title 75, Chapter 2, Intestate Succession and Wills.

2296 (12) A death benefit under this section may not be paid on behalf of a retiree under this  
2297 system.

2298 Section 60. Section **49-23-502** is enacted to read:

2299 **49-23-502. Death of married members -- Service retirement benefits to surviving**  
2300 **spouse.**

2301 (1) As used in this section, "member's full allowance" means an Option Three  
2302 allowance calculated under Section 49-23-304 without an actuarial reduction.

2303 (2) Upon the request of a deceased member's lawful spouse at the time of the member's  
2304 death, the deceased member is considered to have retired under Option Three on the first day of  
2305 the month following the month in which the member died if the following requirements are  
2306 met:

2307 (a) the member has:

2308 (i) 15 or more years of service credit;

2309 (ii) attained age 62 with 10 or more years of service credit; or

2310 (iii) attained age 65 with four or more years of service credit; and

2311 (b) the member dies leaving a spouse to whom the member has been married at least  
2312 six months immediately prior to the death date.

2313 (3) The spouse who requests a benefit under this section shall apply in writing to the  
2314 office. The allowance shall begin on the first day of the month:

2315 (a) following the month in which the member died, if the application is received by the  
2316 office within 90 days of the member's death; or

2317 (b) in which the application is received by the office.

2318 (4) The allowance payable to a surviving spouse under Subsection (2) is:

2319 (a) if the member has 25 or more years of service credit at the time of death, the

2320 surviving spouse shall receive the member's full allowance;

2321 (b) if the member has between 20-24 years of service credit and is not age 60 or older  
2322 at the time of death, the surviving spouse shall receive 2/3 of the member's full allowance;

2323 (c) if the member has between 15-19 years of service credit and is not age 62 or older  
2324 at the time of death, the surviving spouse shall receive 1/3 of the member's full allowance; or

2325 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or  
2326 older with 10 or more years of service credit, or age 65 or older with four or more years of  
2327 service credit at the time of death, the surviving spouse shall receive an Option Three benefit  
2328 with actuarial reductions.

2329 (5) Except for a return of member contributions, benefits payable under this section are  
2330 retirement benefits and shall be paid in addition to any other payments made under Section  
2331 49-23-501 and shall constitute a full and final settlement of the claim of the spouse or any other  
2332 beneficiary filing a claim for benefits under Section 49-23-501.

2333 Section 61. Section **49-23-503** is enacted to read:

2334 **49-23-503. Death of active member in line-of-duty -- Payment of benefits.**

2335 If an active member of this system dies, benefits are payable as follows:

2336 (1) If the death is classified by the office as a line-of-duty death, benefits are payable as  
2337 follows:

2338 (a) If the member has accrued less than 20 years of public safety service or firefighter  
2339 service credit, the spouse at the time of death shall receive a lump sum of \$1,000 and an  
2340 allowance equal to 30% of the member's final average monthly salary.

2341 (b) If the member has accrued 20 or more years of public safety service or firefighter  
2342 service credit, the member shall be considered to have retired with an Option One allowance  
2343 calculated without an actuarial reduction under Section 49-23-304 and the spouse at the time of  
2344 death shall receive the allowance that would have been payable to the member.

2345 (2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this  
2346 section if the death results from external force, violence, or disease directly resulting from  
2347 firefighter service.

2348 (b) The lowest monthly compensation of firefighters of a city of the first class in this  
2349 state at the time of death shall be considered to be the final average monthly salary of a  
2350 volunteer firefighter for purposes of computing these benefits.

2351 (c) Each volunteer fire department shall maintain a current roll of all volunteer  
2352 firefighters which meet the requirements of Subsection 49-23-102(10) to determine the  
2353 eligibility for this benefit.

2354 (3) (a) If the death is classified as a line-of-duty death by the office, death benefits are  
2355 payable under this section and the spouse at the time of death is not eligible for benefits under  
2356 Section 49-23-502.

2357 (b) If the death is not classified as a line-of-duty death by the office, benefits are  
2358 payable in accordance with Section 49-23-502.

2359 Section 62. Section **49-23-601** is enacted to read:

2360 **Part 6. Disability Benefit**

2361 **49-23-601. Long-term disability coverage.**

2362 Each participating employer shall cover the following employees under Title 49,  
2363 Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term  
2364 disability program:

2365 (1) public safety employees initially entering employment on or after July 1, 2011;

2366 (2) firefighter service employees initially entering employment on or after July 1, 2011;

2367 and

2368 (3) volunteer firefighters

2369 Section 63. Section **53-7-105** is amended to read:

2370 **53-7-105. State fire marshal, deputies, and investigators -- Status of law**

2371 **enforcement officers -- Inclusion in Public Safety Retirement -- Training.**

2372 (1) The state fire marshal, his deputies, and investigators, for the purpose of enforcing  
2373 and investigating violations of fire related statutes and ordinances, have the status of law  
2374 enforcement officers.

2375 (2) Inclusion under Title 49, Chapter 14, Public Safety Contributory Retirement Act,  
2376 [~~or~~] Title 49, Chapter 15, Public Safety Noncontributory Retirement Act, or Title 49, Chapter  
2377 23, New Public Safety and Firefighter Tier II Contributory Retirement Act, is not authorized by  
2378 Subsection (1) except as provided in those chapters.

2379 (3) The commissioner, with the concurrence of the Peace Officer Standards and  
2380 Training Advisory Board may require peace officer standards and training for the state fire  
2381 marshal, his deputies, and investigators.

2382 Section 64. Section **53-13-108** is amended to read:

2383 **53-13-108. Retirement.**

2384 Eligibility for coverage under the Public Safety Contributory Retirement System or  
2385 Public Safety Noncontributory Retirement System for persons and political subdivisions  
2386 included in this chapter is governed by Title 49, Chapter 14, Public Safety Contributory  
2387 Retirement Act, [~~and~~] Chapter 15, Public Safety Noncontributory Retirement Act, and Chapter  
2388 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

2389 Section 65. Section **53A-1a-512** is amended to read:

2390 **53A-1a-512. Employees of charter schools.**

2391 (1) A charter school shall select its own employees.

2392 (2) The school's governing body shall determine the level of compensation and all  
2393 terms and conditions of employment, except as otherwise provided in Subsections (7) and (8)  
2394 and under this part.

2395 (3) The following statutes governing public employees and officers do not apply to  
2396 charter schools:

2397 (a) Chapter 8, Utah Orderly School Termination Procedures Act;

2398 (b) Chapter 10, Educator Evaluation; and

2399 (c) Title 52, Chapter 3, Prohibiting Employment of Relatives.

2400 (4) (a) To accommodate differentiated staffing and better meet student needs, a charter  
2401 school, under rules adopted by the State Board of Education, shall employ teachers who:

2402 (i) are licensed; or

2403 (ii) on the basis of demonstrated competency, would qualify to teach under alternative  
2404 certification or authorization programs.

2405 (b) The school's governing body shall disclose the qualifications of its teachers to the  
2406 parents of its students.

2407 (5) State Board of Education rules governing the licensing or certification of  
2408 administrative and supervisory personnel do not apply to charter schools.

2409 (6) (a) An employee of a school district may request a leave of absence in order to  
2410 work in a charter school upon approval of the local school board.

2411 (b) While on leave, the employee may retain seniority accrued in the school district and  
2412 may continue to be covered by the benefit program of the district if the charter school and the

2413 locally elected school board mutually agree.

2414 (7) Except as provided under Subsection (8), an employee of a charter school shall be a  
2415 member of a retirement system or plan under Title 49, Utah State Retirement and Insurance  
2416 Benefit Act.

2417 (8) (a) At the time of application for a charter school, whether the chartering entity is  
2418 the State Charter School Board or a school district, a proposed charter school may make an  
2419 election of nonparticipation as an employer for retirement programs under:

2420 (i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act [~~and under~~];

2421 (ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act[-]; and

2422 (iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

2423 (b) A charter school that was approved prior to July 1, 2004 may make an election of  
2424 nonparticipation prior to December 31, 2004.

2425 (c) An election provided under this Subsection (8):

2426 (i) shall be made at the time specified under Subsection (8)(a) or (b);

2427 (ii) shall be documented by a resolution adopted by the governing body of the charter  
2428 school;

2429 (iii) is in effect unless the charter school makes an irrevocable retraction of the election  
2430 of nonparticipation in accordance with Subsection (9); and

2431 (iv) applies to the charter school as the employer and to all employees of the charter  
2432 school.

2433 (d) The governing body of a charter school may offer employee benefit plans for its  
2434 employees:

2435 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

2436 or

2437 (ii) under any other program.

2438 (9) (a) A charter school that made an election of nonparticipation as an employer for  
2439 the following retirement programs [~~under Title 49, Chapter 12, Public Employees' Contributory~~  
2440 ~~Retirement Act and under Title 49, Chapter 13, Public Employees' Noncontributory Retirement~~  
2441 ~~Act;~~] may subsequently make an irrevocable retraction of the election of nonparticipation[-]:

2442 (i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;

2443 (ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; or

2444 (iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

2445 (b) A retraction provided under this Subsection (9):

2446 (i) shall be documented by a resolution adopted by the governing body of the charter  
2447 school;

2448 (ii) is a one-time election;

2449 (iii) is irrevocable; and

2450 (iv) applies to the charter school as the employer and to all employees of the charter  
2451 school.

2452 (10) The governing body of a charter school shall ensure that, prior to the beginning of  
2453 each school year, each of its employees signs a document acknowledging that the employee:

2454 (a) has received:

2455 (i) the disclosure required under Section 63A-4-204.5 if the charter school participates  
2456 in the Risk Management Fund; or

2457 (ii) written disclosure similar to the disclosure required under Section 63A-4-204.5 if  
2458 the charter school does not participate in the Risk Management Fund; and

2459 (b) understands the legal liability protection provided to the employee and what is not  
2460 covered, as explained in the disclosure.

2461 Section 66. Section **67-22-1** is amended to read:

2462 **67-22-1. Compensation -- Constitutional offices.**

2463 (1) The Legislature fixes salaries for the constitutional offices as follows:

2464 (a) governor: \$109,900;

2465 (b) lieutenant governor: 95% of the governor's salary;

2466 (c) attorney general: 95% of the governor's salary;

2467 (d) state auditor: 95% of the governor's salary beginning  
2468 June 28, 2008; and

2469 (e) state treasurer: 95% of the governor's salary.

2470 (2) The Legislature fixes benefits for the constitutional offices as follows:

2471 (a) Governor:

2472 (i) a vehicle for official and personal use;

2473 (ii) housing;

2474 (iii) household and security staff;

- 2475 (iv) household expenses;
- 2476 (v) retirement benefits as provided in Title 49;
- 2477 (vi) health insurance;
- 2478 (vii) dental insurance;
- 2479 (viii) basic life insurance;
- 2480 (ix) workers' compensation;
- 2481 (x) required employer contribution to Social Security;
- 2482 (xi) long-term disability income insurance; and
- 2483 (xii) the same additional state paid life insurance available to other noncareer service
- 2484 employees.

2485 (b) Lieutenant governor, attorney general, state auditor, and state treasurer:

- 2486 (i) a vehicle for official and personal use;
- 2487 (ii) the option of participating in a:
  - 2488 (A) state retirement system [established by] in accordance with Title 49[;];
  - 2489 (I) Chapter 12, Public Employees' Contributory Retirement Act[~~-or~~];
  - 2490 (II) Chapter 13, Public Employees' Noncontributory Retirement Act[;]; or
  - 2491 (III) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or [in a]
  - 2492 (B) deferred compensation plan administered by the State Retirement Office, in
  - 2493 accordance with the Internal Revenue Code and its accompanying rules and regulations;

- 2494 (iii) health insurance;
- 2495 (iv) dental insurance;
- 2496 (v) basic life insurance;
- 2497 (vi) workers' compensation;
- 2498 (vii) required employer contribution to Social Security;
- 2499 (viii) long-term disability income insurance; and
- 2500 (ix) the same additional state paid life insurance available to other noncareer service
- 2501 employees.

2502 (c) Each constitutional office shall pay the cost of the additional state-paid life  
2503 insurance for its constitutional officer from its existing budget.

2504 **Section 67. Effective date.**

2505 This bill takes effect on July 1, 2010.

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**Fiscal Note****S.B. 63 3rd Sub. (Ivory) - New Public Employees' Tier II Contributory Retirement Act**

2010 General Session

State of Utah

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**State Impact**

This bill will result in a net retirement rate changes impacting FY 2012. The rate changes for state agencies would be as follows:

Non-contributory: -1.72%

Contributory: +5.97%

Public Safety Noncontributory: -10.63%

Public Safety Contributory: +0.4%

Because the effective date for new hires joining the Tier II system is July 1, 2011 there will not be a fiscal impact in 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 have under the current benefit structure.

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**Individual, Business and/or Local Impact**

The bill will not affect private plans.

Net retirement rates for local government retirement plans will change as follows:

Non-contributory: -1.04%

Contributory: +5.04%

Firefighters Retirement System: +10.92 or +12.00%

Public Safety Noncontributory: -9.25 to -10.34%

Public Safety Contributory: -1.92 to +0.86%

Qualifying individuals will be affected by the bill.

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