

Senator Daniel R. Liljenquist proposes the following substitute bill:

**AMENDMENTS TO PUBLIC EMPLOYEE'S BENEFIT AND
INSURANCE PROGRAM**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel R. Liljenquist

House Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending retirement and long-term disability provisions.

Highlighted Provisions:

This bill:

- ▶ clarifies in the Utah Workforce Services Code that only a person who is eligible to purchase service credit under the Utah Retirement Systems may purchase service credit in those systems;
- ▶ amends definitions;
- ▶ clarifies that an employee who elects to participate exclusively in the defined contribution plan may not purchase service credit for that period of employment;
- ▶ provides that only an active member may purchase service credit in the Utah Retirement Systems;
- ▶ clarifies that Social Security substitute payments are not limited for purposes of post-retirement employment retirement related contributions made on behalf of an employee;
- ▶ provides that reemployment restrictions for a person who begins reemployment



26 after July 1, 2010, do not apply to employment as an elected official if the elected position is
27 not full-time;

28 ▶ provides that a participating employer must provide information requested by the
29 Retirement Office electronically in a manner approved by the office;

30 ▶ provides that a participating employer shall treat any information provided to the
31 office as subject to certain confidentiality restrictions;

32 ▶ provides that a person who is dissatisfied by a ruling of the executive director or
33 deputy director regarding a medical claim may request a ruling by an external
34 reviewer in accordance with federal law;

35 ▶ requires the Retirement Office to fund the long-term disability benefits for new
36 volunteer firefighters using certain insurance premium tax revenues formerly
37 deposited in the Firefighters' Retirement Trust Fund;

38 ▶ provides that a member must cease employment with any participating employer to
39 be eligible to receive a retirement allowance;

40 ▶ modifies the timing of adjusted retirement benefit payments and standardizes
41 language for applying for benefits following the death of a retiree or a retiree's
42 spouse under certain retirement options;

43 ▶ clarifies that new governors and legislators who are only eligible for a Tier II
44 retirement system may be eligible for paid-up group health coverage policy for
45 members and their surviving spouses;

46 ▶ provides that Tier II new employees and employees who are exempt from the
47 retirement systems are eligible for long-term disability coverage;

48 ▶ provides that an employee is not eligible for long-term disability benefits if the
49 employee has a pending action before any federal administrative body in which the
50 employee has made a claim that the employee is able to work;

51 ▶ repeals a requirement that an eligible employee first apply at the earliest eligible age
52 for all unreduced retirement benefits to get long-term disability benefits;

53 ▶ provides for the time periods for which a new Tier II employee under a defined
54 contribution plan is eligible for long-term disability benefits consistent with other
55 Tier II new employees;

56 ▶ provides that an elected official, instead of only a governor and a legislator, initially

57 entering office on or after July 1, 2011, is only eligible to participate in the Tier II defined
58 contribution plan;

59 ▶ provides that an elected official and appointive official are eligible for Tier II
60 retirement benefits if they are defined as full-time employees;

61 ▶ provides that a person initially entering regular full-time employment after July 1,
62 2011, has one year instead of 30 days to make an irrevocable election between a
63 Tier II hybrid retirement system and a Tier II defined contribution retirement plan
64 and that the election must be submitted electronically;

65 ▶ allows the Legislature to decrease benefits in the defined benefit portion of the Tier
66 II Hybrid Retirement System for new public employees and new public safety and
67 firefighter employees for future years of service under certain conditions;

68 ▶ provides that vesting of the defined contribution balance occurs upon accruing four
69 years of service credit instead of four years from the date of employment under the
70 Tier II hybrid retirement systems;

71 ▶ defines eligibility to receive a retirement allowance for a benefit tied to a retirement
72 date for member in a defined contribution plan;

73 ▶ allows an offset for administrative costs for forfeited defined contribution accounts;
74 and

75 ▶ makes technical changes.

76 **Money Appropriated in this Bill:**

77 None

78 **Other Special Clauses:**

79 None

80 **Utah Code Sections Affected:**

81 AMENDS:

82 **35A-4-502**, as last amended by Laws of Utah 2010, Chapters 266 and 286

83 **49-11-102**, as last amended by Laws of Utah 2010, Chapters 264 and 266

84 **49-11-403**, as last amended by Laws of Utah 2010, Chapters 257, 266, and 321

85 **49-11-504**, as last amended by Laws of Utah 2010, Chapter 264

86 **49-11-505**, as enacted by Laws of Utah 2010, Chapter 264

87 **49-11-602**, as last amended by Laws of Utah 2004, Chapter 118

- 88 **49-11-613**, as last amended by Laws of Utah 2008, Chapters 252 and 382
- 89 **49-11-902**, as last amended by Laws of Utah 2008, Chapter 227
- 90 **49-12-401**, as last amended by Laws of Utah 2010, Chapter 321
- 91 **49-12-402**, as last amended by Laws of Utah 2007, Chapters 130 and 306
- 92 **49-12-405**, as last amended by Laws of Utah 2005, Chapter 116
- 93 **49-13-401**, as last amended by Laws of Utah 2010, Chapter 321
- 94 **49-13-402**, as last amended by Laws of Utah 2007, Chapter 130
- 95 **49-13-405**, as last amended by Laws of Utah 2005, Chapter 116
- 96 **49-14-401**, as last amended by Laws of Utah 2010, Chapter 321
- 97 **49-14-501**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 98 **49-14-502**, as last amended by Laws of Utah 2003, Chapter 240
- 99 **49-14-503**, as last amended by Laws of Utah 2003, Chapter 240
- 100 **49-15-401**, as last amended by Laws of Utah 2010, Chapter 321
- 101 **49-15-501**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 102 **49-15-502**, as last amended by Laws of Utah 2003, Chapter 240
- 103 **49-15-503**, as last amended by Laws of Utah 2003, Chapter 240
- 104 **49-16-301**, as last amended by Laws of Utah 2004, Chapter 262
- 105 **49-16-401**, as last amended by Laws of Utah 2010, Chapter 321
- 106 **49-16-501**, as last amended by Laws of Utah 2003, Chapter 240
- 107 **49-16-502**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 108 **49-16-503**, as last amended by Laws of Utah 2003, Chapter 240
- 109 **49-16-701**, as last amended by Laws of Utah 2005, Chapter 116
- 110 **49-17-401**, as last amended by Laws of Utah 2010, Chapter 321
- 111 **49-17-501**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 112 **49-18-401**, as last amended by Laws of Utah 2010, Chapter 321
- 113 **49-18-501**, as last amended by Laws of Utah 2003, Chapter 240
- 114 **49-19-501**, as last amended by Laws of Utah 2006, Chapter 260
- 115 **49-20-404**, as last amended by Laws of Utah 2008, Chapter 252
- 116 **49-21-102**, as last amended by Laws of Utah 2007, Chapter 130
- 117 **49-21-401**, as last amended by Laws of Utah 2010, Chapter 321
- 118 **49-21-402**, as last amended by Laws of Utah 2010, Chapter 321

- 119 **49-21-403**, as last amended by Laws of Utah 2010, Chapters 266 and 321
- 120 **49-22-102**, as enacted by Laws of Utah 2010, Chapter 266
- 121 **49-22-201**, as enacted by Laws of Utah 2010, Chapter 266
- 122 **49-22-301**, as enacted by Laws of Utah 2010, Chapter 266
- 123 **49-22-303**, as enacted by Laws of Utah 2010, Chapter 266
- 124 **49-22-304**, as enacted by Laws of Utah 2010, Chapter 266
- 125 **49-22-305**, as enacted by Laws of Utah 2010, Chapter 266
- 126 **49-22-401**, as enacted by Laws of Utah 2010, Chapter 266
- 127 **49-22-501**, as enacted by Laws of Utah 2010, Chapter 266
- 128 **49-22-502**, as enacted by Laws of Utah 2010, Chapter 266
- 129 **49-23-201**, as enacted by Laws of Utah 2010, Chapter 266
- 130 **49-23-301**, as enacted by Laws of Utah 2010, Chapter 266
- 131 **49-23-302**, as enacted by Laws of Utah 2010, Chapter 266
- 132 **49-23-303**, as enacted by Laws of Utah 2010, Chapter 266
- 133 **49-23-304**, as enacted by Laws of Utah 2010, Chapter 266
- 134 **49-23-401**, as enacted by Laws of Utah 2010, Chapter 266
- 135 **49-23-501**, as enacted by Laws of Utah 2010, Chapter 266
- 136 **49-23-502**, as enacted by Laws of Utah 2010, Chapter 266
- 137 **49-23-601**, as enacted by Laws of Utah 2010, Chapter 266
- 138 **67-5-8**, as last amended by Laws of Utah 2007, Chapter 166

139 ENACTS:

- 140 **49-11-407**, Utah Code Annotated 1953
- 141 **49-11-901.5**, Utah Code Annotated 1953
- 142 **49-22-310**, Utah Code Annotated 1953
- 143 **49-22-403**, Utah Code Annotated 1953
- 144 **49-23-309**, Utah Code Annotated 1953
- 145 **49-23-403**, Utah Code Annotated 1953

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

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

149 **35A-4-502. Administration of Employment Security Act.**

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

181 (b) the department's rules pertaining to this chapter;

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

183 (d) any other material the director of the division or the director's designee considers
184 relevant and suitable and shall furnish them to any person upon application.

185 (4) (a) The division may delegate to any person so appointed the power and authority it
186 considers reasonable and proper for the effective administration of this chapter and may bond
187 any person handling money or signing checks under this authority.

188 (b) The department may, when permissible under federal and state law, make
189 arrangements to voluntarily elect coverage under the United States Civil Service Retirement
190 System or a comparable private retirement plan with respect to past as well as future services of
191 individuals employed under this chapter who:

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

193 (ii) have been retained by the department without significant interruption in the
194 employees' services for the department.

195 (c) An employee of the department who no longer may participate in a federal or other
196 retirement system as a result of a change in status or appropriation under this chapter may
197 purchase credit with the employee's assets from the federal or other retirement system in which
198 the employee may no longer participate in a retirement system created under:

199 (i) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act for a
200 purchase made under this Subsection (4)(c) [~~made prior to July 1, 2011~~] by an employee
201 eligible for service credit under Title 49, Chapter 13, Public Employees' Noncontributory
202 Retirement Act; or

203 (ii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act,
204 [~~if the date of purchase under this Subsection (4)(c) is on or after July 1, 2011~~] for a purchase
205 made under this Subsection (4)(c) by an employee eligible for service credit under Title 49,
206 Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

207 (5) There is created an Employment Advisory Council composed of the members listed
208 in Subsections (5)(a) and (b).

209 (a) The executive director shall appoint:

210 (i) not less than five employer representatives chosen from individuals recommended
211 by employers, employer associations, or employer groups;

212 (ii) not less than five employee representatives chosen from individuals recommended
213 by employees, employee associations, or employee groups; and

214 (iii) five public representatives chosen at large.

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

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

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

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

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

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

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

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

235 (i) reducing and preventing unemployment;

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

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

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

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

242 (i) The council shall assure impartiality and freedom from political influence in the

243 solution of the problems listed in Subsection (5)(h).

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

246 (k) A member may not receive compensation or benefits for the member's service, but
247 may receive per diem and travel expenses in accordance with:

248 (i) Section 63A-3-106;

249 (ii) Section 63A-3-107; and

250 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
251 63A-3-107.

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

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

256 (a) administer oaths and affirmations;

257 (b) take depositions;

258 (c) certify to official acts; and

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

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

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

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

277 (8) (a) In the administration of this chapter, the division shall cooperate with the United
278 States Department of Labor to the fullest extent consistent with the provisions of this chapter
279 and shall take action, through the adoption of appropriate rules by the department and
280 administrative methods and standards, as necessary to secure to this state and its citizens all
281 advantages available under the provisions of:

282 (i) the Social Security Act that relate to unemployment compensation;

283 (ii) the Federal Unemployment Tax Act; and

284 (iii) the Federal-State Extended Unemployment Compensation Act of 1970.

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

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

293 **49-11-102. Definitions.**

294 As used in this title:

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

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

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

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

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

304 (i) a department, division, agency, office, authority, commission, board, institution, or

305 hospital of the state;

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

307 (iii) a state college or university; or

308 (iv) any other participating employer.

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

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

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

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

318 (8) "Annuity" means monthly payments derived from member contributions.

319 (9) "Appointive officer" means an employee appointed to a position for a definite and
320 fixed term of office by official and duly recorded action of a participating employer whose
321 appointed position is designated in the participating employer's charter, creation document, or
322 similar document, and:

323 (a) who earns during the first full month of the term of office \$500 or more, indexed as
324 of January 1, 1990, as provided in Section 49-12-407[?] for a Tier I appointive officer; and

325 (b) whose appointive position is full-time as certified by the participating employer for
326 a Tier II appointive officer.

327 (10) (a) "At-will employee" means a person who is employed by a participating
328 employer and:

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

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

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

335 (b) "At-will employee" does not include a career employee who has obtained a

336 reasonable expectation of continued employment based on inclusion in a participating
337 employer's merit system, civil service protection system, or career service personnel systems,
338 policies, or plans.

339 (11) "Beneficiary" means any person entitled to receive a payment under this title
340 through a relationship with or designated by a member, participant, covered individual, or
341 alternate payee of a defined contribution plan.

342 (12) "Board" means the Utah State Retirement Board established under Section
343 49-11-202.

344 (13) "Board member" means a person serving on the Utah State Retirement Board as
345 established under Section 49-11-202.

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

349 (15) "Contributions" means the total amount paid by the participating employer and the
350 member into a system or to the Utah Governors' and Legislators' Retirement Plan under
351 Chapter 19, Utah Governors' and Legislators' Retirement Act.

352 (16) "Council member" means a person serving on the Membership Council
353 established under Section 49-11-202.

354 (17) "Covered individual" means any individual covered under Chapter 20, Public
355 Employees' Benefit and Insurance Program Act.

356 (18) "Current service" means covered service as defined in Chapters 12, 13, 14, 15, 16,
357 17, 18, and 19.

358 (19) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a
359 system or plan offered under this title to provide a specified allowance to a retiree or a retiree's
360 spouse after retirement that is based on a set formula involving one or more of the following
361 factors:

- 362 (a) years of service;
- 363 (b) final average monthly salary; or
- 364 (c) a retirement multiplier.

365 (20) "Defined contribution" or "defined contribution plan" means any defined
366 contribution plan or deferred compensation plan authorized under the Internal Revenue Code

367 and administered by the board.

368 (21) "Educational institution" means a political subdivision or instrumentality of the
369 state or a combination thereof primarily engaged in educational activities or the administration
370 or servicing of educational activities, including:

- 371 (a) the State Board of Education and its instrumentalities;
- 372 (b) any institution of higher education and its branches;
- 373 (c) any school district and its instrumentalities;
- 374 (d) any vocational and technical school; and
- 375 (e) any entity arising out of a consolidation agreement between entities described under
376 this Subsection (21).

377 (22) "Elected official":

- 378 (a) means a person elected to a state office, county office, municipal office, school
379 board or school district office, local district office, or special service district office;
- 380 (b) includes a person who is appointed to serve an unexpired term of office described
381 under Subsection (22)(a); and
- 382 (c) does not include a judge or justice who is subject to a retention election under
383 Section 20A-12-201.

384 [~~22~~] (23) (a) "Employer" means any department, educational institution, or political
385 subdivision of the state eligible to participate in a government-sponsored retirement system
386 under federal law.

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

389 [~~23~~] (24) "Exempt employee" means an employee working for a participating
390 employer:

- 391 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,
392 49-14-203, 49-15-203, or 49-16-203; and
- 393 (b) for whom a participating employer is not required to pay contributions or
394 nonelective contributions.

395 [~~24~~] (25) "Final average monthly salary" means the amount computed by dividing the
396 compensation received during the final average salary period under each system by the number
397 of months in the final average salary period.

398 [~~(25)~~] (26) "Fund" means any fund created under this title for the purpose of paying
399 benefits or costs of administering a system, plan, or program.

400 [~~(26)~~] (27) (a) "Inactive member" means a member who has not been employed by a
401 participating employer for a period of at least 120 days.

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

403 [~~(27)~~] (28) (a) "Initially entering" means hired, appointed, or elected for the first time,
404 in current service as a member with any participating employer.

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

407 [~~(28)~~] (29) (a) "Member" means a person, except a retiree, with contributions on
408 deposit with a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19,
409 Utah Governors' and Legislators' Retirement Act, or with a terminated system.

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

416 [~~(29)~~] (30) "Member contributions" means the sum of the contributions paid to a
417 system or the Utah Governors' and Legislators' Retirement Plan, including refund interest if
418 allowed by a system, and which are made by:

419 (a) the member; and

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

422 [~~(30)~~] (31) "Nonelective contribution" means an amount contributed by a participating
423 employer into a participant's defined contribution account.

424 [~~(31)~~] (32) "Normal cost rate":

425 (a) means the percent of salary that is necessary for a retirement system that is fully
426 funded to maintain its fully funded status; and

427 (b) is determined by the actuary based on the assumed rate of return established by the
428 board.

429 ~~[(32)]~~ (33) "Office" means the Utah State Retirement Office.

430 ~~[(33)]~~ (34) "Participant" means an individual with voluntary deferrals or nonelective
431 contributions on deposit with the defined contribution plans administered under this title.

432 ~~[(34)]~~ (35) "Participating employer" means a participating employer, as defined by
433 Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'
434 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,
435 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'
436 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges'
437 Noncontributory Retirement Act, or an agency financed in whole or in part by public funds
438 which is participating in a system or plan as of January 1, 2002.

439 ~~[(35)]~~ (36) "Pension" means monthly payments derived from participating employer
440 contributions.

441 ~~[(36)]~~ (37) "Plan" means the Utah Governors' and Legislators' Retirement Plan created
442 by Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees'
443 Tier II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution
444 Plan, the New Public Safety and Firefighter Tier II Defined Contribution Plan created by
445 Chapter 23, Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created
446 under Section 49-11-801.

447 ~~[(37)]~~ (38) (a) "Political subdivision" means any local government entity, including
448 cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is
449 legally separate and distinct from the state and only if its employees are not by virtue of their
450 relationship to the entity employees of the state.

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

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

455 ~~[(38)]~~ (39) "Program" means the Public Employees' Insurance Program created under
456 Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'
457 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term
458 Disability Act.

459 ~~[(39)]~~ (40) "Public funds" means those funds derived, either directly or indirectly, from

460 public taxes or public revenue, dues or contributions paid or donated by the membership of the
461 organization, used to finance an activity whose objective is to improve, on a nonprofit basis,
462 the governmental, educational, and social programs and systems of the state or its political
463 subdivisions.

464 ~~[(40)]~~ (41) "Qualified defined contribution plan" means a defined contribution plan
465 that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

466 ~~[(41)]~~ (42) (a) "Reemployed," "reemploy," or "reemployment" means work or service
467 performed after retirement, in exchange for compensation.

468 (b) Reemployment includes work or service performed on a contract if the retiree is:

469 (i) listed as the contractor; or

470 (ii) an owner, partner, or principle of the contractor.

471 ~~[(42)]~~ (43) "Refund interest" means the amount accrued on member contributions at a
472 rate adopted by the board.

473 ~~[(43)]~~ (44) "Retiree" means an individual who has qualified for an allowance under this
474 title.

475 ~~[(44)]~~ (45) "Retirement" means the status of an individual who has become eligible,
476 applies for, and is entitled to receive an allowance under this title.

477 ~~[(45)]~~ (46) "Retirement date" means the date selected by the member on which the
478 member's retirement becomes effective with the office.

479 (47) "Retirement related contribution":

480 (a) means any employer payment to any type of retirement plan or program made on
481 behalf of an employee; and

482 (b) does not include Social Security payments or Social Security substitute payments
483 made on behalf of an employee.

484 ~~[(46)]~~ (48) "Service credit" means:

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

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

490 ~~[(47)]~~ (49) "System" means the individual retirement systems created by Chapter 12,

491 Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'
 492 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,
 493 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'
 494 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges'
 495 Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement
 496 Act, the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22, Part
 497 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid
 498 Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

499 ~~[(48)]~~ (50) "Tier I" means a system or plan under this title for which an employee is
 500 eligible to participate if the employee initially enters regular full-time employment before July
 501 1, 2011.

502 ~~[(49)]~~ (51) (a) "Tier II" means a system or plan under this title provided in lieu of a
 503 Tier I system or plan for which an employee is eligible to participate, if the employee initially
 504 enters regular full-time employment on or after July 1, 2011.

505 (b) "Tier II" includes:

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

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

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

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

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

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

512 ~~[(50)]~~ (52) "Unfunded actuarial accrued liability" or "UAAL":

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

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

516 ~~[(51)]~~ (53) "Voluntary deferrals" means an amount contributed by a participant into
 517 that participant's defined contribution account.

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

519 **49-11-403. Purchase of public service credit not otherwise qualifying for benefit.**

520 (1) A member, a participating employer, or a member and a participating employer
 521 jointly may purchase service credit equal to the period of the member's employment in the

522 following:

523 (a) United States federal employment;

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

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

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

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

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

533 (i) the member was receiving:

534 (A) long-term disability benefits;

535 (B) short-term disability benefits; or

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

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

539 (g) employment covered by a Teachers Insurance and Annuity Association of America
540 retirement plan if the member forfeits any retirement benefit from that retirement plan for the
541 period of employment to be purchased under this Subsection (1)(g); or

542 (h) employment in a charter school located within the state if the member forfeits any
543 retirement benefit under any other retirement system or plan for the period of employment to be
544 purchased under this Subsection (1)(h).

545 (2) A member shall:

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

548 (b) forfeit service credit and any defined contribution balance based on employer
549 contributions under any other retirement system or plan based on the period of employment for
550 which service credit is being purchased.

551 (3) (a) To purchase credit under this section, the member, a participating employer, or a
552 member and a participating employer jointly shall make payment to the system under which the

553 member is currently covered.

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

556 (i) recommended by the actuary; and

557 (ii) adopted by the board.

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

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

562 (6) (a) For a purchase made before July 1, 2010, if any of the factors used to determine
563 the cost of a service credit purchase change at or before the member's retirement date, the cost
564 of the purchase shall be recalculated at the time of retirement.

565 (b) For a purchase made before July 1, 2010, if the recalculated cost exceeds the
566 amount paid for the purchase, the member, a participating employer, or a member and a
567 participating employer jointly may:

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

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

570 (c) For a purchase made on or after July 1, 2010:

571 (i) the purchase shall be made in accordance with rules:

572 (A) adopted by the board based on recommendations by the board's actuary; and

573 (B) in effect at the time the purchase is completed; and

574 (ii) the cost of the service credit purchase shall not be recalculated at the time of
575 retirement.

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

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

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

583 [~~(9) Account balances created under Section 49-22-303, 49-22-401, 49-23-302, or~~

584 49-23-401 may not be used to purchase service credit for a benefit under Sections 49-22-304,
585 49-22-305, 49-23-303, and 49-23-304.]

586 (9) An employee who elects to participate exclusively in the defined contribution plan
587 under Chapter 22, Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II
588 Defined Contribution Plan, may not purchase service credit for that period of employment.

589 Section 4. Section 49-11-407 is enacted to read:

590 **49-11-407. Service credit purchases by active employees only.**

591 Notwithstanding any other provision of this title, only an active member may purchase
592 service credit under this title.

593 Section 5. Section 49-11-504 is amended to read:

594 **49-11-504. Reemployment of a retiree -- Restrictions.**

595 (1) As used in this section, "full-time" means:

596 (a) employment requiring 20 or more hours of work per week; or

597 (b) at least a half-time teaching contract.

598 (2) (a) Except for the provisions of Subsection (3), the provisions of this section do not
599 apply to a person who is subject to the provisions of Section 49-11-505.

600 (b) This section does not apply to [~~elected positions~~] employment as an elected official.

601 (3) A person who is not a retiree under this title is not subject to any postretirement
602 restrictions under this title.

603 (4) A retiree of an agency who is reemployed may not earn additional service credit, if
604 the retiree is reemployed by:

605 (a) a different agency; or

606 (b) the same agency after six months from the retirement date.

607 (5) A retiree of an agency who is reemployed on a full-time basis by the same agency
608 within six months of the date of retirement is subject to the following:

609 (a) the agency shall immediately notify the office;

610 (b) the office shall cancel the retiree's allowance and reinstate the retiree to active
611 member status;

612 (c) the allowance cancellation and reinstatement to active member status is effective on
613 the first day of the month following the date of reemployment;

614 (d) the reinstated retiree may not retire again with a recalculated benefit for a two-year

615 period from the date of cancellation of the original allowance, and if the retiree retires again
616 within the two-year period, the original allowance shall be resumed; and

617 (e) a reinstated retiree retiring after the two-year period shall be credited with the
618 service credit in the retiree's account at the time of the first retirement and from that time shall
619 be treated as a member of a system, including the accrual of additional service credit, but
620 subject to recalculation of the allowance under Subsection (9).

621 (6) A retiree of an agency who is reemployed by the same agency within six months of
622 retirement on a less than full-time basis by the same agency is subject to the following:

623 (a) the retiree may earn, without penalty, compensation from that position which is not
624 in excess of the exempt earnings permitted by Social Security;

625 (b) if a retiree receives compensation in a calendar year in excess of the Social Security
626 limitation, 25% of the allowance shall be suspended for the remainder of the six-month period;

627 (c) the effective date of a suspension and reinstatement of an allowance shall be set by
628 the office; and

629 (d) any suspension of a retiree's allowance under this Subsection (6) shall be applied
630 on a calendar year basis.

631 (7) For six months immediately following retirement, the retiree and participating
632 employer who are subject to Subsection (6) shall:

633 (a) maintain an accurate record of gross earnings in employment;

634 (b) report the gross earnings at least monthly to the office;

635 (c) immediately notify the office in writing of any postretirement earnings under
636 Subsection (6); and

637 (d) immediately notify the office in writing whether postretirement earnings equal or
638 exceed the exempt earnings under Subsection (6).

639 (8) (a) If a participating employer hires a retiree, on a full-time basis, who may not earn
640 additional service credit under Subsection (4), the participating employer may not [~~contribute~~]
641 make a retirement related contribution in an amount that exceeds the normal cost rate as
642 defined under Section 49-11-102 [~~to a plan for~~] on behalf of the retiree under [~~Subsection~~]
643 Subsections (8)(b) and (c).

644 (b) The contributions under Subsection (8)(a) are not required, but if paid, shall be paid
645 to a retiree-designated:

646 (i) qualified defined contribution plan administered by the board, if the participating
647 employer participates in a qualified defined contribution plan administered by the board; or

648 (ii) qualified defined contribution plan offered by the participating employer if the
649 participating employer does not participate in a qualified defined contribution plan
650 administered by the board.

651 (c) Notwithstanding the provisions of Subsection (8)(b), if an employer is not
652 participating in a qualified defined contribution plan administered by the board, the employer
653 may elect to pay the contributions under Subsection (8)(a) to a [~~nonqualified~~] deferred
654 compensation plan administered by the board.

655 (9) A retiree who has returned to work, accrued additional service credit, and again
656 retires shall have the retiree's allowance recalculated using:

657 (a) the formula in effect at the date of the retiree's original retirement for all service
658 credit accrued prior to that date; and

659 (b) the formula in effect at the date of the subsequent retirement for all service credit
660 accrued between the first and subsequent retirement dates.

661 (10) The board may make rules to implement this section.

662 Section 6. Section **49-11-505** is amended to read:

663 **49-11-505. Reemployment of a retiree -- Restrictions.**

664 (1) (a) For purposes of this section, "retiree":

665 [~~(a)~~] (i) means a person who:

666 [~~(i)~~] (A) retired from a participating employer; and

667 [~~(ii)~~] (B) begins reemployment on or after July 1, 2010 with a participating employer;

668 and

669 [~~(b)~~] (ii) does not include a retiree who is reemployed as an active senior judge
670 appointed to hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4,
671 Utah Constitution.

672 (b) (i) This section does not apply to employment as an elected official if the elected
673 official's position is not full-time as certified by the participating employer.

674 (ii) The provisions of this section apply to an elected official whose elected position is
675 full-time as certified by the participating employer.

676 (2) A retiree may not for the same period of reemployment:

- 677 (a) (i) earn additional service credit; or
678 (ii) receive any retirement related contribution from a participating employer; and
679 (b) receive a retirement allowance.
- 680 (3) The office shall cancel the retirement allowance of a retiree if the reemployment
681 with a participating employer begins within one year of the retiree's retirement date.
- 682 (4) If a retiree is not subject to Subsection (3), the retiree may elect to:
683 (a) earn additional service credit in accordance with this title and cancel the retiree's
684 retirement allowance; or
685 (b) continue to receive the retiree's retirement allowance and forfeit any retirement
686 related contribution from the participating employer who reemployed the retiree.
- 687 (5) If an employee makes an election under Subsection (4)(b) to continue to receive a
688 retirement allowance while reemployed, the participating employer shall contribute to the
689 office the amortization rate, as defined in Section 49-11-102, to be applied to the system that
690 would have covered the retiree.
- 691 (6) (a) A participating employer shall immediately notify the office:
692 (i) if the participating employer reemploys a retiree;
693 (ii) whether the reemployment is subject to Subsection (3) or (4) of this section; and
694 (iii) of any election by the retiree under Subsection (4).
- 695 (b) A participating employer shall certify to the office whether the position of an
696 elected official is or is not full-time.
- 697 [~~(b)~~] (c) A participating employer is liable to the office for a payment or failure to
698 make a payment in violation of this section.
- 699 [~~(c)~~] (d) If a participating employer fails to notify the office in accordance with this
700 section, the participating employer is immediately subject to a compliance audit by the office.
- 701 (7) (a) The office shall immediately cancel the retirement allowance of a retiree in
702 accordance with Subsection (7)(b) if the office receives notice or learns of:
703 (i) the reemployment of a retiree subject to Subsection (3); or
704 (ii) the election of a reemployed retiree under Subsection (4)(a).
- 705 (b) The office shall cancel the allowance of a retiree subject to Subsection (7)(a), and
706 reinstate the retiree to active member status on the first day of the month following the date of:
707 (i) reemployment if the retiree is subject to Subsection (3); or

- 708 (ii) an election by an employee under Subsection (4)(a).
709 (8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date
710 of reemployment:
711 (i) is not entitled to a recalculated retirement benefit; and
712 (ii) will resume the allowance that was being paid at the time of cancellation.
713 (b) Subject to Subsection (2), a retiree who is re-instated to active membership under
714 Subsection (7) and who retires two or more years after the date of re-instatement to active
715 membership shall:
716 (i) resume receiving the allowance that was being paid at the time of cancellation; and
717 (ii) receive an additional allowance based on the formula in effect at the date of the
718 subsequent retirement for all service credit accrued between the first and subsequent retirement
719 dates.
720 (9) A retiree subject to this section shall report to the office the status of the
721 reemployment under Subsection (3) or (4).
722 (10) The board may make rules to implement this section.
723 Section 7. Section **49-11-602** is amended to read:
724 **49-11-602. Participating employer to maintain records -- Time limit -- Penalties**
725 **for failure to comply.**
726 (1) A participating employer shall maintain records necessary to calculate benefits
727 under this title and other records necessary for proper administration of this title as required by
728 the office.
729 (2) A participating employer shall maintain the records required under Subsection (1)
730 until the earliest of:
731 (a) three years after the date of retirement of the employee from a system or plan;
732 (b) three years after the date of death of the employee; or
733 (c) 65 years from the date of employment with the participating employer.
734 (3) A participating employer shall be liable to the office for:
735 (a) any liabilities and expenses, including administrative expenses and the cost of
736 increased benefits to members, resulting from the participating employer's failure to maintain
737 records under this section; and
738 (b) a penalty equal to 1% of the participating employer's last month's contributions.

739 (4) The executive director may waive all or any part of the interest, penalties, expenses,
740 and fees if the executive director finds there were extenuating circumstances surrounding the
741 participating employer's failure to comply with this section.

742 (5) The executive director may estimate the length of service, compensation, or age of
743 any member, if that information is not contained in the records.

744 (6) (a) A participating employer shall enroll an employee, make reports, submit
745 contributions, and provide other requested information electronically in a manner approved by
746 the office.

747 (b) A participating employer shall treat any information provided electronically or
748 otherwise by the office as subject to the confidentiality provisions of this title.

749 Section 8. Section **49-11-613** is amended to read:

750 **49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board**
751 **reconsideration -- Judicial review.**

752 [~~(1) (a) All members, retirees, participants, alternative payees, or covered individuals~~
753 ~~of a system, plan, or program under this title shall acquaint themselves with their rights and~~
754 ~~obligations under this title.]~~

755 (1) (a) A member, retiree, participant, alternative payee, covered individual, employer,
756 participating employer, and covered employer shall inform themselves of their rights and
757 obligations under this title.

758 (b) ~~[Any]~~ Subject to the provisions in Subsection (8), any dispute regarding a benefit,
759 right, obligation, or employment right under this title is subject to the procedures provided
760 under this section.

761 (c) A person who disputes a benefit, right, obligation, or employment right under this
762 title shall request a ruling by the executive director who may delegate the decision to the
763 deputy director.

764 (d) A person who is dissatisfied by a ruling [~~of the executive director or deputy~~
765 ~~director]~~ under Subsection (1)(c) with respect to any benefit, right, obligation, or employment
766 right under this title shall request a review of that claim by a hearing officer.

767 (e) The executive director, on behalf of the board, may request that the hearing officer
768 review a dispute regarding any benefit, right, obligation, or employment right under this title by
769 filing a notice of board action and providing notice to all affected parties in accordance with

770 rules adopted by the board.

771 (2) The hearing officer shall:

772 (a) be hired by the executive director after consultation with the board;

773 (b) follow the procedures and requirements of Title 63G, Chapter 4, Administrative
774 Procedures Act, except as specifically modified under this title;

775 (c) hear and determine all facts relevant to a decision, including facts pertaining to
776 applications for benefits under any system, plan, or program under this title and all matters
777 pertaining to the administration of the office; and

778 (d) make conclusions of law in determining the person's rights under any system, plan,
779 or program under this title and matters pertaining to the administration of the office.

780 (3) The board shall review and approve or deny all decisions of the hearing officer in
781 accordance with rules adopted by the board.

782 (4) The moving party in any proceeding brought under this section shall bear the
783 burden of proof.

784 (5) A party may file an application for reconsideration by the board upon any of the
785 following grounds:

786 (a) that the board acted in excess of its powers;

787 (b) that the order or award was procured by fraud;

788 (c) that the evidence does not justify the determination of the hearing officer; or

789 (d) that the party has discovered new material evidence that could not, with reasonable
790 diligence, have been discovered or procured prior to the hearing.

791 (6) The board shall affirm, reverse, or modify the decision of the hearing officer, or
792 remand the application to the hearing officer for further consideration.

793 (7) A party aggrieved by the board's decision may obtain judicial review by complying
794 with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

795 (8) The program shall provide an appeals process for medical claims that complies
796 with federal law.

797 [~~(8)~~] (9) The board may make rules to implement this section.

798 Section 9. Section **49-11-901.5** is enacted to read:

799 **Part 9. Insurance Premium Tax Revenues Distribution**

800 **49-11-901.5. Premium tax revenues -- Distribution.**

801 (1) (a) In accordance with this section, there shall be paid to the office:

802 (i) 50% of the annual tax levied, assessed, and collected under Title 59, Chapter 9,
803 Taxation of Admitted Insurers, upon premiums for property insurance, as defined under
804 Section 31A-1-301, and as applied to fire and allied lines insurance collected by insurance
805 companies within the state; and

806 (ii) 10% of all money assessed and collected under Title 59, Chapter 9, Taxation of
807 Admitted Insurers, upon premiums for life insurance, as defined in Section 31A-1-301, within
808 the state.

809 (b) Payments to the fund shall be made annually until the service liability under this
810 part is liquidated, after which the tax revenue provided in this Subsection (1) ceases.

811 (2) The office shall distribute the premium tax revenue paid under Subsection (1) as
812 follows:

813 (a) an amount determined by the office to fully fund the long-term disability program
814 provided for firefighters under Section 49-23-601;

815 (b) an amount determined by the office to the Firefighters' Retirement Trust Fund
816 created under Section 49-16-104 equal to the amount when calculated as a percentage of the
817 certified contribution rate for members in Divisions A and B, as defined under Section
818 49-16-301, that is the percentage of the certified contribution rate paid to the Firefighters'
819 Retirement Trust Fund on July 1, 2004; and

820 (c) any remaining amount in accordance with Section 49-11-902.

821 Section 10. Section **49-11-902** is amended to read:

822 **49-11-902. Premium tax revenues -- Formula -- Deposits.**

823 (1) [~~(a)~~] If the premium tax revenue received by the office under Subsection
824 [~~49-16-301(6), when calculated as a percentage of the certified contribution rate for members~~
825 ~~in Division A and B, as defined under Section 49-16-301, exceeds the percentage of the~~
826 ~~certified contribution rate paid to the Firefighters' Retirement Trust Fund in accordance with~~
827 ~~Subsection 49-16-301(6) on July 1, 2004] 49-11-901.5(1) and first paid in accordance with
828 Subsections 49-11-901.5 (2)(a) and (b), include any remaining amount, the office shall deposit
829 the [difference] amount in the;~~

830 (a) Public Safety Contributory Trust Fund created under Section 49-14-104; and [the]

831 (b) Public Safety Noncontributory Retirement Trust Fund created under Section

832 49-15-104.

833 ~~[(b) If the premium tax revenue does not exceed the percentage of the certified~~
834 ~~contribution rate paid to the Firefighters' Retirement Trust Fund in accordance with Subsection~~
835 ~~49-16-301(6) on July 1, 2004 as calculated under Subsection (1)(a), the board may not make a~~
836 ~~deposit under Subsection (1)(a).]~~

837 (2) The money deposited under this section shall be used to fund an increase for
838 retirees in the public safety retirement systems from a 2.5% maximum annual cost-of-living
839 adjustment to a 4% maximum annual cost-of-living adjustment under Sections 49-14-403 and
840 49-15-403 in the public safety retirement systems.

841 (3) As required to implement this section, the office shall make the calculations and
842 deposits for the equitable apportionment of money between:

- 843 (a) Division A1 and B1; and
- 844 (b) the contributory and noncontributory trust funds.

845 Section 11. Section **49-12-401** is amended to read:

846 **49-12-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

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

848 (a) the member ceases actual work for ~~[a] every~~ participating employer ~~[in this system]~~
849 that employs the member before the member's retirement date and provides evidence of the
850 termination;

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

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

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

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

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

860 (iv) the member has accrued at least 30 years of service credit.

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

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

863 (ii) shall be on or after the date of termination; and
864 (iii) may not be more than 90 days before or after the date the application is received by
865 the office.

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

868 Section 12. Section **49-12-402** is amended to read:

869 **49-12-402. Service retirement plans -- Calculation of retirement allowance --**
870 **Social Security limitations.**

871 (1) (a) Except as provided under Section 49-12-701, retirees of this system may choose
872 from the six retirement options described in this section.

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

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

876 (a) If the retiree is at least 65 years of age or has accrued at least 30 years of service
877 credit, the allowance is:

878 (i) an amount equal to 1.25% of the retiree's final average monthly salary multiplied by
879 the number of years of service credit accrued prior to July 1, 1975; plus

880 (ii) an amount equal to 2% of the retiree's final average monthly salary multiplied by
881 the number of years of service credit accrued on and after July 1, 1975.

882 (b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for
883 each year of retirement from age 60 to age 65, unless the member has 30 or more years of
884 accrued credit in which event no reduction is made to the allowance.

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

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

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

893 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated

894 by reducing an Option One benefit based on actuarial computations to provide the following:

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

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

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

905 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
906 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
907 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
908 retiree's life, beginning on the ~~[last day of the month following the month in which the lawful~~
909 ~~spouse dies.]~~ first day of the month:

910 (i) following the month in which the spouse died, if the application is received by the
911 office within 90 days of the spouse's death; or

912 (ii) following the month in which the application is received by the office, if the
913 application is received by the office more than 90 days after the spouse's death.

914 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
915 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
916 of initial retirement under Option One shall be paid to the retiree for the remainder of the
917 retiree's life, beginning on the ~~[last day of the month following the month in which the lawful~~
918 ~~spouse dies.]~~ first day of the month:

919 (i) following the month in which the spouse died, if the application is received by the
920 office within 90 days of the spouse's death; or

921 (ii) following the month in which the application is received by the office, if the
922 application is received by the office more than 90 days after the spouse's death.

923 (4) (a) (i) The final average salary is limited in the computation of that part of an
924 allowance based on service rendered prior to July 1, 1967, during a period when the retiree

925 received employer contributions on a portion of compensation from an educational institution
926 toward the payment of the premium required on a retirement annuity contract with the
927 Teachers' Insurance and Annuity Association of America or with any other public or private
928 system, organization, or company to \$4,800.

929 (ii) This limitation is not applicable to retirees who elected to continue in this system
930 by July 1, 1967.

931 (b) Periods of employment which are exempt from this system under Subsection
932 49-12-203(1)(b), may be purchased by the member for the purpose of retirement only if all
933 benefits from the Teachers' Insurance and Annuity Association of America or any other public
934 or private system or organization based on this period of employment are forfeited.

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

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

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

943 Section 13. Section **49-12-405** is amended to read:

944 **49-12-405. Death of married member -- Service retirement benefits to surviving**
945 **spouse.**

946 (1) Upon the request of a deceased member's lawful spouse at the time of the member's
947 death, the deceased member is considered to have retired under Option Three on the first day of
948 the month following the month in which the member died if the following requirements are
949 met:

950 (a) the member has:

951 (i) 25 or more years of service credit;

952 (ii) attained age 60 with 20 or more years of service credit;

953 (iii) attained age 62 with 10 or more years of service credit; or

954 (iv) attained age 65 with four or more years of service credit; and

955 (b) the member dies leaving a spouse to whom the member has been married at least

956 six months immediately prior to the death date.

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

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

961 (b) following the month in which the application is received by the office, if the
962 application is received by the office more than 90 days after the spouse's death.

963 (3) The Option Three benefit calculation, when there are 25 or more years of service
964 credit, shall be calculated without a reduction in allowance under Section 49-12-402.

965 (4) Except for a return of member contributions, benefits payable under this section are
966 retirement benefits and shall be paid in addition to any payments made under Section
967 49-12-501 and constitute a full and final settlement of the claim of the spouse or any other
968 beneficiary filing claim for benefits under Section 49-12-501.

969 Section 14. Section **49-13-401** is amended to read:

970 **49-13-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

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

972 (a) the member ceases actual work for [~~a~~] every participating employer [~~in this system~~]
973 that employs the member before the member's retirement date and provides evidence of the
974 termination;

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

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

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

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

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

984 (iv) the member has accrued at least 30 years of service credit; or

985 (v) the member has accrued at least 25 years of service credit, in which case the
986 member shall be subject to the reduction under Subsection 49-13-402(2)(b).

987 (2) (a) The member's retirement date:
988 (i) shall be the 1st or the 16th day of the month, as selected by the member;
989 (ii) shall be on or after the date of termination; and
990 (iii) may not be more than 90 days before or after the date the application is received by
991 the office.

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

994 Section 15. Section **49-13-402** is amended to read:

995 **49-13-402. Service retirement plans -- Calculation of retirement allowance --**
996 **Social Security limitations.**

997 (1) (a) Except as provided under Section 49-13-701, retirees of this system may choose
998 from the six retirement options described in this section.

999 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One
1000 calculation.

1001 (2) The Option One benefit is an allowance calculated as follows:

1002 (a) If the retiree is at least 65 years of age or has accrued at least 30 years of service
1003 credit, the allowance is an amount equal to 2% of the retiree's final average monthly salary
1004 multiplied by the number of years of service credit accrued.

1005 (b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for
1006 each year of retirement from age 60 to age 65, plus a full actuarial reduction for each year of
1007 retirement prior to age 60, unless the member has 30 or more years of accrued credit, in which
1008 event no reduction is made to the allowance.

1009 (c) (i) Years of service include any fractions of years of service to which the retiree
1010 may be entitled.

1011 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
1012 service credit is within 1/10 of one year of the total years of service credit required for
1013 retirement, the retiree shall be considered to have the total years of service credit required for
1014 retirement.

1015 (d) An Option One allowance is only payable to the member during the member's
1016 lifetime.

1017 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated

1018 by reducing an Option One benefit based on actuarial computations to provide the following:

1019 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
1020 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
1021 member contributions, the remaining balance of the retiree's member contributions shall be
1022 paid in accordance with Sections 49-11-609 and 49-11-610.

1023 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
1024 retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout
1025 the lifetime of the retiree's lawful spouse at the time of retirement.

1026 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
1027 retiree, and upon the death of the retiree, an amount equal to [~~1/2~~] one-half of the retiree's
1028 allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of
1029 retirement.

1030 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
1031 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
1032 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
1033 retiree's life, beginning on the [~~last day of the month following the month in which the lawful~~
1034 ~~spouse dies.] first day of the month:~~

1035 (i) following the month in which the spouse died, if the application is received by the
1036 office within 90 days of the spouse's death; or

1037 (ii) following the month in which the application is received by the office, if the
1038 application is received by the office more than 90 days after the spouse's death.

1039 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
1040 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
1041 of initial retirement under Option One shall be paid to the retiree for the remainder of the
1042 retiree's life, beginning on the [~~last day of the month following the month in which the lawful~~
1043 ~~spouse dies.] first day of the month:~~

1044 (i) following the month in which the spouse died, if the application is received by the
1045 office within 90 days of the spouse's death; or

1046 (ii) following the month in which the application is received by the office, if the
1047 application is received by the office more than 90 days after the spouse's death.

1048 (4) (a) (i) The final average salary is limited in the computation of that part of an

1049 allowance based on service rendered prior to July 1, 1967, during a period when the retiree
1050 received employer contributions on a portion of compensation from an educational institution
1051 toward the payment of the premium required on a retirement annuity contract with the
1052 Teachers' Insurance and Annuity Association of America or with any other public or private
1053 system, organization, or company to \$4,800.

1054 (ii) This limitation is not applicable to retirees who elected to continue in the Public
1055 Employees' Contributory Retirement System by July 1, 1967.

1056 (b) Periods of employment which are exempt from this system as permitted under
1057 Subsection 49-13-203(1)(b) may be purchased by the member for the purpose of retirement
1058 only if all benefits from the Teachers' Insurance and Annuity Association of America or any
1059 other public or private system or organization based on this period of employment are forfeited.

1060 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement
1061 date, the retirement is canceled and the death shall be considered as that of a member before
1062 retirement.

1063 (b) Any payments made to the retiree shall be deducted from the amounts due to the
1064 beneficiary.

1065 (6) If a retiree retires under either Option Five or Six and subsequently divorces, the
1066 retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there
1067 is no court order filed in the matter.

1068 Section 16. Section **49-13-405** is amended to read:

1069 **49-13-405. Death of married members -- Service retirement benefits to surviving**
1070 **spouse.**

1071 (1) As used in this section, "member's full allowance" means an Option Three
1072 allowance calculated under Section 49-13-402 without an actuarial reduction.

1073 (2) Upon the request of a deceased member's lawful spouse at the time of the member's
1074 death, the deceased member is considered to have retired under Option Three on the first day of
1075 the month following the month in which the member died if the following requirements are
1076 met:

1077 (a) the member has:

1078 (i) 15 or more years of service credit;

1079 (ii) attained age 62 with 10 or more years of service credit; or

- 1080 (iii) attained age 65 with four or more years of service credit; and
- 1081 (b) the member dies leaving a spouse to whom the member has been married at least
- 1082 six months immediately prior to the death date.
- 1083 (3) The spouse who requests a benefit under this section shall apply in writing to the
- 1084 office. The allowance shall begin on the first day of the month:
- 1085 (a) following the month in which the member died, if the application is received by the
- 1086 office within 90 days of the member's death; or
- 1087 (b) following the month in which the application is received by the office, if the
- 1088 application is received by the office more than 90 days after the spouse's death.
- 1089 (4) The allowance payable to a surviving spouse under Subsection (2) is:
- 1090 (a) if the member has 25 or more years of service credit at the time of death, the
- 1091 surviving spouse shall receive the member's full allowance;
- 1092 (b) if the member has between 20-24 years of service credit and is not age 60 or older
- 1093 at the time of death, the surviving spouse shall receive [~~2/3~~] two-thirds of the member's full
- 1094 allowance;
- 1095 (c) if the member has between 15-19 years of service credit and is not age 62 or older
- 1096 at the time of death, the surviving spouse shall receive [~~1/3~~] one-third of the member's full
- 1097 allowance; or
- 1098 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
- 1099 older with 10 or more years of service credit, or age 65 or older with four or more years of
- 1100 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
- 1101 with actuarial reductions.
- 1102 (5) Except for a return of member contributions, benefits payable under this section are
- 1103 retirement benefits and shall be paid in addition to any other payments made under Section
- 1104 49-13-501 and shall constitute a full and final settlement of the claim of the spouse or any other
- 1105 beneficiary filing a claim for benefits under Section 49-13-501.
- 1106 Section 17. Section ~~49-14-401~~ is amended to read:
- 1107 **49-14-401. Eligibility for service retirement -- Date of retirement --**
- 1108 **Qualifications.**
- 1109 (1) A member is qualified to receive an allowance from this system when:
- 1110 (a) the member ceases actual work for [a] every participating employer [~~in this system~~]

1111 that employs the member before the member's retirement date and provides evidence of the
1112 termination;

1113 (b) the member has submitted to the office a notarized retirement application form that
1114 states the member's proposed retirement date; and

1115 (c) one of the following conditions is met as of the member's retirement date:

1116 (i) the member has accrued at least 20 years of service credit;

1117 (ii) the member has accrued at least 10 years of service credit and has attained an age
1118 of 60 years; or

1119 (iii) the member has accrued at least four years of service credit and has attained an age
1120 of 65 years.

1121 (2) (a) The member's retirement date:

1122 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1123 (ii) shall be on or after the date of termination; and

1124 (iii) may not be more than 90 days before or after the date the application is received by
1125 the office.

1126 (b) A member may not be employed by a participating employer in the system
1127 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1128 Section 18. Section **49-14-501** is amended to read:

1129 **49-14-501. Death of active member in Division A -- Payment of benefits.**

1130 (1) If an active member of this system enrolled in Division A under Section 49-14-301
1131 dies, benefits are payable as follows:

1132 (a) If the death is classified by the office as a line-of-duty death, the spouse at the time
1133 of death shall receive a lump sum of \$1,000 and an allowance equal to 30% of the deceased
1134 member's final average monthly salary.

1135 (b) If the death is not classified by the office as a line-of-duty death, benefits are
1136 payable as follows:

1137 (i) If the member has accrued less than 10 years of public safety service credit, the
1138 beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions,
1139 whichever is greater.

1140 (ii) If the member has accrued 10 or more years of public safety service credit at the
1141 time of death, the spouse at the time of death shall receive the sum of \$500, plus an allowance

1142 equal to 2% of the member's final average monthly salary for each year of service credit
1143 accrued by the member up to a maximum of 30% of the member's final average monthly salary.

1144 (2) Benefits are not payable to minor children of members covered under Division A.

1145 (3) If a benefit is not distributed under this section, and the member has designated a
1146 beneficiary, the member's member contributions shall be paid to the beneficiary.

1147 (4) (a) A spouse who requests a benefit under this section shall apply in writing to the
1148 office.

1149 (b) The allowance shall begin on the first day of the month:

1150 (i) following the month in which the member died, if the application is received by the
1151 office within 90 days of the member's death; or

1152 (ii) following the month in which the application is received by the office, if the
1153 application is received by the office more than 90 days after the member's death.

1154 Section 19. Section **49-14-502** is amended to read:

1155 **49-14-502. Death of active member in Division B -- Payment of benefits.**

1156 (1) If an active member of this system enrolled in Division B under Section 49-14-301
1157 dies, benefits are payable as follows:

1158 (a) If the death is classified by the office as a line-of-duty death, the spouse at the time
1159 of death shall receive a lump sum of \$1,500 and an allowance equal to 37.5% of the member's
1160 final average monthly salary.

1161 (b) If the death is not classified by the office as a line-of-duty death, benefits are
1162 payable as follows:

1163 (i) If the member has accrued two or more years of public safety service credit at the
1164 time of death, the death is considered a line-of-duty death and the benefit shall be paid as
1165 provided under Subsection (1)(a).

1166 (ii) If the member has accrued less than two years of public safety service credit at the
1167 time of death, the spouse at the time of death shall receive a refund of the member's member
1168 contributions, plus 50% of the member's most recent 12 months' compensation.

1169 (c) (i) If the member has accrued two or more years of public safety service credit at
1170 the time of death, each of the member's unmarried children to age 18 or dependent unmarried
1171 mentally or physically disabled children shall receive a monthly allowance of \$50.

1172 (ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or

1173 as otherwise provided under Sections 49-11-609 and 49-11-610.

1174 (2) In the event of the death of both parents, the spouse's benefit shall be prorated and
1175 paid to each of the member's unmarried children to age 18.

1176 (3) If a benefit is not distributed under the previous subsections, and the member has
1177 designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

1178 (4) The combined annual payments made to the beneficiaries of any member under this
1179 section may not exceed 75% of the member's final average monthly salary.

1180 (5) (a) A spouse who requests a benefit under this section shall apply in writing to the
1181 office.

1182 (b) The allowance shall begin on the first day of the month:

1183 (i) following the month in which the member died, if the application is received by the
1184 office within 90 days of the member's death; or

1185 (ii) following the month in which the application is received by the office, if the
1186 application is received by the office more than 90 days after the member's death.

1187 Section 20. Section **49-14-503** is amended to read:

1188 **49-14-503. Benefits payable upon death of inactive member.**

1189 (1) If an inactive member who has less than 20 years of public safety service credit
1190 dies, the spouse at the time of death, or, if there is no spouse at the time of death, the member's
1191 minor children shall receive a refund of the member's member contributions or \$500,
1192 whichever is greater.

1193 (2) (a) If an inactive member with 20 or more years of public safety service credit dies,
1194 the spouse at the time of death shall receive an allowance in an amount of 50% of the amount
1195 the member would have received had retirement occurred on the first of the month following
1196 the month in which the death occurred.

1197 (b) This allowance shall be based on years of service credit and final average monthly
1198 salary under Section 49-14-402, reduced actuarially from age 50 to the age of the member at
1199 the time of death if the member is under age 50 at the time of death.

1200 (3) (a) A spouse who requests a benefit under this section shall apply in writing to the
1201 office.

1202 (b) The allowance shall begin on the first day of the month:

1203 (i) following the month in which the member died, if the application is received by the

1204 office within 90 days of the member's death; or
1205 (ii) following the month in which the application is received by the office, if the
1206 application is received by the office more than 90 days after the member's death.

1207 Section 21. Section **49-15-401** is amended to read:

1208 **49-15-401. Eligibility for service retirement -- Date of retirement --**
1209 **Qualifications.**

1210 (1) A member is qualified to receive an allowance from this system when:

1211 (a) the member ceases actual work for [a] every participating employer [in this system]
1212 that employs the member before the member's retirement date and provides evidence of the
1213 termination;

1214 (b) the member has submitted to the office a notarized retirement application form that
1215 states the member's proposed retirement date; and

1216 (c) one of the following conditions is met as of the member's retirement date:

1217 (i) the member has accrued at least 20 years of service credit;

1218 (ii) the member has accrued at least 10 years of service credit and has attained an age
1219 of 60 years; or

1220 (iii) the member has accrued at least four years of service and has attained an age of 65
1221 years.

1222 (2) (a) The member's retirement date:

1223 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1224 (ii) shall be on or after the date of termination; and

1225 (iii) may not be more than 90 days before or after the date the application is received by
1226 the office.

1227 (b) A member may not be employed by a participating employer in the system
1228 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1229 Section 22. Section **49-15-501** is amended to read:

1230 **49-15-501. Death of active member in Division A -- Payment of benefits.**

1231 (1) If an active member of this system enrolled in Division A under Section 49-15-301
1232 dies, benefits are payable as follows:

1233 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as
1234 follows:

1235 (i) If the member has accrued less than 20 years of public safety service credit, the
1236 spouse at the time of death shall receive a lump sum of \$1,000 and an allowance equal to 30%
1237 of the member's final average monthly salary.

1238 (ii) If the member has accrued 20 or more years of public safety service credit, the
1239 member shall be considered to have retired with an allowance calculated under Section
1240 49-15-402 and the spouse at the time of death shall receive the death benefit payable to a
1241 spouse at the time of death under Section 49-15-504.

1242 (b) If the death is not classified as a line-of-duty death by the office, benefits are
1243 payable as follows:

1244 (i) If the member has accrued less than 10 years of public safety service credit, the
1245 beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions,
1246 whichever is greater.

1247 (ii) If the member has accrued 10 or more years, but less than 20 years of public safety
1248 service credit at the time of death, the spouse at the time of death shall receive the sum of \$500,
1249 plus an allowance equal to 2% of the member's final average monthly salary for each year of
1250 service credit accrued by the member up to a maximum of 30% of the member's final average
1251 monthly salary.

1252 (iii) If the member has accrued 20 or more years of public safety service credit, the
1253 benefit shall be calculated as provided in Subsection (1)(a)(ii).

1254 (2) Benefits are not payable to minor children under Division A.

1255 (3) If a benefit is not distributed under this section, and the member has designated a
1256 beneficiary, the member's member contribution shall be paid to the beneficiary.

1257 (4) (a) A spouse who requests a benefit under this section shall apply in writing to the
1258 office.

1259 (b) The allowance shall begin on the first day of the month:

1260 (i) following the month in which the member died, if the application is received by the
1261 office within 90 days of the member's death; or

1262 (ii) following the month in which the application is received by the office, if the
1263 application is received by the office more than 90 days after the member's death.

1264 Section 23. Section **49-15-502** is amended to read:

1265 **49-15-502. Death of active member in Division B -- Payment of benefits.**

1266 (1) If an active member of this system enrolled in Division B under Section 49-15-301
1267 dies, benefits are payable as follows:

1268 (a) If the death is classified by the office as a line-of-duty death, the spouse at the time
1269 of death shall receive a lump sum of \$1,500 and an allowance equal to 37.5% of the member's
1270 final average monthly salary.

1271 (b) If the death is not classified by the office as a line-of-duty death, and the member
1272 has accrued two or more years of public safety service credit at the time of death, the death is
1273 considered line-of-duty and the benefit shall be paid as provided under Subsection (1)(a).

1274 (c) If the death is not classified by the office as a line-of-duty death, and the member
1275 has accrued less than two years of public safety service credit at the time of death, the spouse at
1276 the time of death shall receive a refund of the member's member contributions, plus 50% of the
1277 member's most recent 12 months' compensation.

1278 (d) (i) If the member has accrued two or more years of public safety service credit at
1279 the time of death, each of the member's unmarried children to age 18 or dependent unmarried
1280 mentally or physically disabled children shall receive an allowance of \$50.

1281 (ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or
1282 as otherwise provided under Section 49-11-609 or 49-11-610.

1283 (2) In the event of the death of both parents, the spouse's benefit shall be prorated and
1284 paid to each of the member's unmarried children to age 18.

1285 (3) If a benefit is not distributed under the previous subsections, and the member has
1286 designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

1287 (4) The combined payments to beneficiaries of any member under this section may not
1288 exceed 75% of the member's final average monthly salary.

1289 (5) (a) A spouse who requests a benefit under this section shall apply in writing to the
1290 office.

1291 (b) The allowance shall begin on the first day of the month:

1292 (i) following the month in which the member died, if the application is received by the
1293 office within 90 days of the member's death; or

1294 (ii) following the month in which the application is received by the office, if the
1295 application is received by the office more than 90 days after the member's death.

1296 Section 24. Section **49-15-503** is amended to read:

1297 **49-15-503. Benefits payable upon death of inactive member.**

1298 (1) If an inactive member who has less than 20 years of public safety service credit
1299 dies, the spouse at the time of death, or, if there is no spouse at the time of death, the member's
1300 minor children shall receive a refund of the member's member contributions or \$500,
1301 whichever is greater.

1302 (2) (a) If an inactive member with 20 or more years of public safety service credit dies,
1303 the spouse at the time of death shall receive an allowance in an amount of 50% of the amount
1304 the member would have received had retirement occurred on the first of the month following
1305 the month in which the death occurred.

1306 (b) This allowance shall be based on years of service credit and final average monthly
1307 salary under Section 49-15-402, reduced actuarially from age 50 to the age of the member at
1308 the time of death if the member is under 50 years of age at the time of death.

1309 (3) (a) A spouse who requests a benefit under this section shall apply in writing to the
1310 office.

1311 (b) The allowance shall begin on the first day of the month:

1312 (i) following the month in which the member died, if the application is received by the
1313 office within 90 days of the member's death; or

1314 (ii) following the month in which the application is received by the office, if the
1315 application is received by the office more than 90 days after the member's death.

1316 Section 25. Section **49-16-301** is amended to read:

1317 **49-16-301. Contributions -- Two divisions -- Election by employer to pay**
1318 **employee contributions -- Accounting for and vesting of worker contributions --**
1319 **Deductions.**

1320 (1) In addition to the money paid to this system under [~~Subsection (6)~~] Section
1321 49-11-901.5, participating employers and firefighter service employees shall jointly pay the
1322 certified contribution rates to the office to maintain this system on a financially and actuarially
1323 sound basis.

1324 (2) For purposes of determining contribution rates, this system is divided into two
1325 divisions according to Social Security coverage as follows:

1326 (a) members of this system with on-the-job Social Security coverage are in Division A;
1327 and

1328 (b) members of this system without on-the-job Social Security coverage are in Division
1329 B.

1330 (3) (a) A participating employer may elect to pay all or part of the required member
1331 contributions, in addition to the required participating employer contributions.

1332 (b) Any amount contributed by a participating employer under this section shall vest to
1333 the member's benefit as though the member had made the contribution.

1334 (c) The required member contributions shall be reduced by the amount that is paid by
1335 the participating employer.

1336 (4) (a) All member contributions are credited by the office to the account of the
1337 individual member.

1338 (b) This amount is held in trust for the payment of benefits to the member or the
1339 member's beneficiaries.

1340 (c) All member contributions are vested and nonforfeitable.

1341 (5) (a) Each member is considered to consent to payroll deductions of member
1342 contributions.

1343 (b) The payment of compensation less these payroll deductions is considered to be full
1344 payment for services rendered by the member.

1345 [~~(6) (a) Except as provided in Section 49-11-902, in addition to contribution rates
1346 described under this section, there shall be paid to the Firefighters' Retirement Trust Fund
1347 created under Section 49-16-104:]~~

1348 [~~(i) 50% of the annual tax levied, assessed, and collected under Title 59, Chapter 9,
1349 Taxation of Admitted Insurers, upon premiums for property insurance, as defined under
1350 Section 31A-1-301, and as applied to fire and allied lines insurance collected by insurance
1351 companies within the state; and]~~

1352 [~~(ii) 10% of all money assessed and collected under Title 59, Chapter 9, Taxation of
1353 Admitted Insurers, upon premiums for life insurance, as defined in Section 31A-1-301, within
1354 the state.]~~

1355 [~~(b) Payments to the fund shall be made annually until the service liability is
1356 liquidated, after which the tax revenue provided in this Subsection (6) for the Firefighters'
1357 Retirement Trust Fund ceases.]~~

1358 Section 26. Section **49-16-401** is amended to read:

1359 **49-16-401. Eligibility for service retirement -- Date of retirement --**

1360 **Qualifications.**

1361 (1) A member is qualified to receive an allowance from this system when:

1362 (a) the member ceases actual work for [a] every participating employer [~~in this system~~]
1363 that employs the member before the member's retirement date and provides evidence of the
1364 termination;

1365 (b) the member has submitted to the office a notarized retirement application form that
1366 states the member's proposed retirement date; and

1367 (c) one of the following conditions is met as of the member's retirement date:

1368 (i) the member has accrued at least 20 years of service credit;

1369 (ii) the member has accrued at least 10 years of service credit and has attained an age
1370 of 60 years; or

1371 (iii) the member has accrued at least four years of service credit and has attained an age
1372 of 65 years.

1373 (2) (a) The member's retirement date:

1374 (i) shall be the 1st or the 16th day of the month, as selected by the firefighter service
1375 employee;

1376 (ii) shall be on or after the date of termination; and

1377 (iii) may not be more than 90 days before or after the date the application is received by
1378 the office.

1379 (b) A member may not be employed by a participating employer in the system
1380 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1381 Section 27. Section **49-16-501** is amended to read:

1382 **49-16-501. Death of active member in Division A -- Payment of benefits.**

1383 (1) If an active member of this system enrolled in Division A under Section 49-16-301
1384 dies, benefits are payable as follows:

1385 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as
1386 follows:

1387 (i) If the member has accrued less than 20 years of firefighter service credit, the spouse
1388 at the time of death shall receive a lump sum of \$1,500 and an allowance equal to 30% of the
1389 member's final average monthly salary.

1390 (ii) If the member has accrued 20 or more years of firefighter service credit, the
1391 member shall be considered to have retired with an allowance calculated under Section
1392 49-16-402 and the spouse at the time of death shall receive the death benefit payable to a
1393 spouse under Section 49-16-504.

1394 (b) If the death is not classified as a line-of-duty death by the office, benefits are
1395 payable as follows:

1396 (i) If the member has accrued less than 10 years of firefighter service credit, the
1397 beneficiary shall receive a sum of \$1,000 or a refund of the member's member contributions,
1398 whichever is greater.

1399 (ii) If the member has accrued 10 or more years of firefighter service credit the spouse
1400 at the time of death shall receive a sum of \$500, plus an allowance equal to 2% of the member's
1401 final average monthly salary for each year of service credit accrued by the member up to a
1402 maximum of 30% of the member's final average monthly salary.

1403 (2) (a) If the member dies without a current spouse, the spouse's allowance shall be
1404 equally divided and paid to each unmarried child until the child reaches age 21.

1405 (b) The payment shall be made to a duly appointed guardian or as provided under
1406 Sections 49-11-609 and 49-11-610.

1407 (3) If the benefit is not distributed under this section, and the member has designated a
1408 beneficiary, the member's member contributions shall be paid to the beneficiary.

1409 (4) (a) A spouse who requests a benefit under this section shall apply in writing to the
1410 office.

1411 (b) The allowance shall begin on the first day of the month:

1412 (i) following the month in which the member died, if the application is received by the
1413 office within 90 days of the member's death; or

1414 (ii) following the month in which the application is received by the office, if the
1415 application is received by the office more than 90 days after the member's death.

1416 Section 28. Section **49-16-502** is amended to read:

1417 **49-16-502. Death of active member in Division B -- Payment of benefits.**

1418 (1) If an active member of this system enrolled in Division B under Section 49-16-301
1419 dies, benefits are payable as follows:

1420 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as

1421 follows:

1422 (i) If the member has accrued less than 20 years of firefighter service credit, the spouse
1423 at the time of death shall receive a lump sum of \$1,500 and an allowance equal to 37.5% of the
1424 member's final average monthly salary.

1425 (ii) If the member has accrued 20 or more years of firefighter service credit, the
1426 member shall be considered to have retired with an allowance calculated under Subsection
1427 49-16-402 and the spouse at the time of death shall receive the death benefit payable to a
1428 spouse under Section 49-16-504.

1429 (b) If the death is not classified by the office as a line-of-duty death, the benefits are
1430 payable as follows:

1431 (i) If the member has accrued five or more years of firefighter service credit, the death
1432 is considered line-of-duty and the same benefits are payable as established under Subsection
1433 (1)(a).

1434 (ii) If the member has accrued less than five years of firefighter service credit, the
1435 spouse at the time of death shall receive a refund of the member's contributions, plus 50% of
1436 the member's most recent 12 months compensation.

1437 (c) If the member has accrued five or more years of firefighter service credit, the
1438 member's unmarried children until they reach age 21 or dependent unmarried mentally or
1439 physically disabled children, shall receive a monthly allowance of \$75.

1440 (2) (a) In the event of the death of the member and spouse, the spouse's benefits are
1441 equally divided and paid to each unmarried child until the child reaches age 21.

1442 (b) The payments shall be made to the surviving parent or duly appointed guardian or
1443 as provided under Sections 49-11-609 and 49-11-610.

1444 (3) If a benefit is not distributed under the previous subsections, and the member has
1445 designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

1446 (4) The combined monthly payments made to the beneficiaries of any member under
1447 this section may not exceed 75% of the member's final average monthly salary.

1448 (5) (a) A spouse who requests a benefit under this section shall apply in writing to the
1449 office.

1450 (b) The allowance shall begin on the first day of the month:

1451 (i) following the month in which the member died, if the application is received by the

1452 office within 90 days of the member's death; or

1453 (ii) following the month in which the application is received by the office, if the

1454 application is received by the office more than 90 days after the member's death.

1455 Section 29. Section **49-16-503** is amended to read:

1456 **49-16-503. Benefits payable upon death of inactive member.**

1457 (1) If an inactive member who has less than 20 years of firefighter service credit dies,
1458 the spouse at the time of death, or, if there is no spouse at the time of death, the member's
1459 minor children shall receive a refund of the member's member contributions or \$500,
1460 whichever is greater.

1461 (2) (a) If an inactive member with 20 or more years of firefighter service credit dies,
1462 the spouse at the time of death shall receive an allowance in the amount of 50% of the amount
1463 the member would have received had retirement occurred on the first of the month following
1464 the month in which the death occurred.

1465 (b) This allowance shall be based on years of service credit and final average monthly
1466 salary under Section 49-16-402, reduced actuarially from age 50 to the age of the member at
1467 the time of death if the member is under 50 years of age at the time of death.

1468 (3) (a) A spouse who requests a benefit under this section shall apply in writing to the
1469 office.

1470 (b) The allowance shall begin on the first day of the month:

1471 (i) following the month in which the member died, if the application is received by the
1472 office within 90 days of the member's death; or

1473 (ii) following the month in which the application is received by the office, if the

1474 application is received by the office more than 90 days after the member's death.

1475 Section 30. Section **49-16-701** is amended to read:

1476 **49-16-701. Volunteer firefighters eligible for line-of-duty death and disability**
1477 **benefits in Division A -- Computation of benefit.**

1478 (1) A volunteer firefighter is only eligible for line-of-duty death and line-of-duty
1479 disability benefits provided for firefighters enrolled in Division A, subject to [Section] Sections
1480 49-16-602 and 49-16-603.

1481 (2) The lowest monthly compensation of firefighters of a city of the first class in this
1482 state at the time of death or disability shall be considered to be the final average monthly salary

1483 of a volunteer firefighter for purposes of computing these benefits.

1484 (3) Each volunteer fire department shall maintain a current roll of all volunteer
1485 firefighters which meet the requirements of Subsection 49-16-102(10) to determine eligibility
1486 for this benefit.

1487 Section 31. Section **49-17-401** is amended to read:

1488 **49-17-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

1489 (1) A member is qualified to receive an allowance when:

1490 (a) the member ceases actual work for [a] every participating employer [~~in this system~~]
1491 that employs the member before the member's retirement date and provides evidence of the
1492 termination;

1493 (b) the member has submitted to the office a notarized retirement application form that
1494 states the member's proposed retirement date; and

1495 (c) one of the following conditions is met as of the member's retirement date:

1496 (i) the member has accrued at least six years of service credit and has attained an age of
1497 70 years;

1498 (ii) the member has accrued at least 10 years of service credit and has attained an age
1499 of 62 years;

1500 (iii) the member has accrued at least 20 years of service credit and has attained an age
1501 of 55 years; or

1502 (iv) the member has accrued at least 25 years of service credit.

1503 (2) (a) The member's retirement date:

1504 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1505 (ii) shall be on or after the date of termination; and

1506 (iii) may not be more than 90 days before or after the date the application is received by
1507 the office.

1508 (b) A member may not be employed by a participating employer in the system
1509 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1510 Section 32. Section **49-17-501** is amended to read:

1511 **49-17-501. Death benefit for members before retirement -- Computation.**

1512 (1) Upon the receipt of acceptable proof of death of a member before the member's
1513 retirement date, the member's spouse at the time of death shall have the choice of the following

1514 death benefits:

1515 (a) a refund of the member's member contributions, including refund interest, plus 65%
1516 of the member's most recent 12 months' compensation prior to death; or

1517 (b) an allowance equal to 65% of the allowance computed in accordance with Section
1518 49-17-402, but disregarding early retirement reductions.

1519 (2) If there is no spouse to whom the member is married at the time of death, member
1520 contributions, including refund interest, shall be refunded to a beneficiary, in accordance with
1521 Sections 49-11-609 and 49-11-610.

1522 (3) (a) A spouse who requests a benefit under this section shall apply in writing to the
1523 office.

1524 (b) The allowance shall begin on the first day of the month:

1525 (i) following the month in which the member died, if the application is received by the
1526 office within 90 days of the member's death; or

1527 (ii) following the month in which the application is received by the office, if the
1528 application is received by the office more than 90 days after the member's death.

1529 Section 33. Section **49-18-401** is amended to read:

1530 **49-18-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

1531 (1) A member is qualified to receive an allowance when:

1532 (a) the member ceases actual work for [a] every participating employer [~~in this system~~]
1533 that employs the member before the member's retirement date and provides evidence of the
1534 termination;

1535 (b) the member has submitted to the office a notarized retirement application form that
1536 states the member's proposed retirement date; and

1537 (c) one of the following conditions is met as of the member's retirement date:

1538 (i) the member has accrued at least six years of service credit and has attained an age of
1539 70 years;

1540 (ii) the member has accrued at least 10 years of service credit and has attained an age
1541 of 62 years;

1542 (iii) the member has accrued at least 20 years of service credit and has attained an age
1543 of 55 years; or

1544 (iv) the member has accrued at least 25 years of service credit.

1545 (2) (a) The member's retirement date:

1546 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1547 (ii) shall be on or after the date of termination; and

1548 (iii) may not be more than 90 days before or after the date the application is received by
1549 the office.

1550 (b) A member may not be employed by a participating employer in the system
1551 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1552 Section 34. Section **49-18-501** is amended to read:

1553 **49-18-501. Death benefit for members before retirement -- Computation.**

1554 (1) Upon the receipt of acceptable proof of death of a member before the member's
1555 retirement date, the member's spouse at the time of death shall have the choice of the following
1556 death benefits:

1557 (a) a refund of the member's member contributions, if any, plus 65% of the member's
1558 most recent 12 months' compensation prior to death; or

1559 (b) an allowance equal to 65% of the allowance computed in accordance with Section
1560 49-18-402, but disregarding early retirement reductions.

1561 (2) If there is no spouse to whom the member is married at the time of death, member
1562 contributions shall be refunded to a beneficiary, in accordance with Sections 49-11-609 and
1563 49-11-610.

1564 (3) (a) A spouse who requests a benefit under this section shall apply in writing to the
1565 office.

1566 (b) The allowance shall begin on the first day of the month:

1567 (i) following the month in which the member died, if the application is received by the
1568 office within 90 days of the member's death; or

1569 (ii) following the month in which the application is received by the office, if the
1570 application is received by the office more than 90 days after the member's death.

1571 Section 35. Section **49-19-501** is amended to read:

1572 **49-19-501. Death of member or retiree -- Surviving spouse benefit.**

1573 (1) Upon the death of a governor or legislator who has not yet retired and who has
1574 completed four or more years in the elected office, the member's spouse at the time of death
1575 shall receive an allowance equal to 50% of the allowance to which the governor or legislator

1576 would have been entitled upon reaching age 65, if the governor or legislator and surviving
1577 spouse had been married at least six months.

1578 (2) Upon the death of a governor or legislator receiving an allowance under this plan,
1579 the member's spouse at the time of death is entitled to an allowance equal to 50% of the
1580 allowance being paid to the member at the time of death.

1581 (3) (a) A spouse who requests a benefit under this section shall apply in writing to the
1582 office.

1583 (b) The allowance shall begin on the first day of the month:

1584 (i) following the month in which the member died, if the application is received by the
1585 office within 90 days of the member's death; or

1586 (ii) following the month in which the application is received by the office, if the
1587 application is received by the office more than 90 days after the member's death.

1588 Section 36. Section **49-20-404** is amended to read:

1589 **49-20-404. Governors' and legislative benefit.**

1590 (1) The state shall pay the percentage described in Subsection (3) of the cost of
1591 providing paid-up group health coverage policy for members and their surviving spouses
1592 covered under Chapter 19, Utah Governors' and Legislators' Retirement Act, or Chapter 22,
1593 New Public Employees' Tier II Contributory Retirement Act, who:

1594 (a) retire after January 1, 1998;

1595 (b) are at least 62 but less than 65 years of age;

1596 (c) elect to receive and apply for this benefit to the program; and

1597 (d) are active members at the time of retirement or have continued coverage with the
1598 program until the date of eligibility for the benefit under this Subsection (1).

1599 (2) The state shall pay the percentage described in Subsection (3) of the cost of
1600 providing Medicare supplemental coverage for members and their surviving spouses covered
1601 under Chapter 19, Utah Governors' and Legislators' Retirement Act who:

1602 (a) retire after January 1, 1998;

1603 (b) are at least 65 years of age; and

1604 (c) elect to receive and apply for this benefit to the program.

1605 (3) The following percentages apply to the benefit described in Subsections (1) and (2):

1606 (a) 100% if the member has accrued 10 or more years of service credit;

- 1607 (b) 80% if the member has accrued 8 or more years of service credit;
- 1608 (c) 60% if the member has accrued 6 or more years of service credit; and
- 1609 (d) 40% if the member has accrued 4 or more years of service credit.

1610 Section 37. Section **49-21-102** is amended to read:

1611 **49-21-102. Definitions.**

1612 As used in this chapter:

1613 (1) "Date of disability" means the date on which a period of continuous disability
1614 commences, and may not commence on or before the last day of actual work.

1615 (2) "Elimination period" means the three months at the beginning of each continuous
1616 period of total disability for which no benefit will be paid. The elimination period begins on
1617 the nearest first day of the month from the date of disability. The elimination period may
1618 include a one-time trial return to work period of less than 15 consecutive calendar days.

1619 (3) (a) "Eligible employee" means the following employee whose employer provides
1620 coverage under this chapter:

1621 (i) (A) any regular full-time employee as defined under Section 49-12-102 [or],
1622 49-13-102, or 49-22-102;

1623 (B) any public safety service employee as defined under Section 49-14-102 [or],
1624 49-15-102, or 49-23-102;

1625 (C) any firefighter service employee or volunteer firefighter as defined under Section
1626 49-23-102 who began firefighter service on or after July 1, 2011;

1627 (D) any judge as defined under Section 49-17-102 or 49-18-102[~~whose employer~~
1628 provides coverage under this chapter;]; or

1629 (E) the governor of the state; [and]

1630 (ii) an employee who is exempt from participating in a retirement system under
1631 Subsection 49-12-203(2), 49-13-203(2), 49-14-203(1), or 49-15-203(1); and

1632 [~~(i)~~] (iii) an employee who is covered by a retirement program offered by the Teachers'
1633 Insurance and Annuity Association of America[~~, if the employee's employer provides coverage~~
1634 under this chapter; and].

1635 (b) "Eligible employee" does not include:

1636 (i) any employee that is exempt from coverage under Section 49-21-201[-]; or

1637 (ii) a retiree.

1638 (4) "Maximum benefit period" means the maximum period of time the monthly
1639 disability income benefit will be paid under Section 49-21-403 for any continuous period of
1640 total disability.

1641 (5) "Monthly disability benefit" means the monthly payments and accrual of service
1642 credit under Section 49-21-401.

1643 (6) "Objective medical impairment" means an impairment resulting from an injury or
1644 illness which is diagnosed by a physician and which is based on accepted objective medical
1645 tests or findings rather than subjective complaints.

1646 (7) "Physician" means a licensed physician.

1647 (8) "Regular monthly salary" means the amount certified by the participating employer
1648 as the monthly salary of the eligible employee, unless there is a discrepancy between the
1649 certified amount and the amount actually paid, in which case the office shall determine the
1650 regular monthly salary.

1651 (9) "Regular occupation" means either the primary duties performed by the eligible
1652 employee for the 12 months preceding the date of disability, or a permanent assignment of duty
1653 to the eligible employee.

1654 (10) "Rehabilitative employment" means any occupation or employment for wage or
1655 profit, for which the eligible employee is reasonably qualified to perform based on education,
1656 training, or experience.

1657 (11) (a) "Total disability" or "totally disabled" means the complete inability, due to
1658 objective medical impairment, whether physical or mental, to engage in the eligible employee's
1659 regular occupation during the elimination period and the first 24 months of disability benefits.

1660 (b) "Total disability" means, after the elimination period and the first 24 months of
1661 disability benefits, the complete inability, based solely on physical objective medical
1662 impairment, to engage in any gainful occupation which is reasonable, considering the eligible
1663 employee's education, training, and experience.

1664 Section 38. Section **49-21-401** is amended to read:

1665 **49-21-401. Disability benefits -- Application -- Eligibility.**

1666 (1) An eligible employee shall apply for long-term disability benefits under this chapter
1667 by:

1668 (a) completing an application form prepared by the office;

1669 (b) signing a consent form allowing the office access to the eligible employee's medical
1670 records; and

1671 (c) providing any documentation or information reasonably requested by the office.

1672 (2) (a) If an eligible employee is unable to apply on the employee's own behalf, the
1673 application may be made by a person who is:

1674 (i) the attorney for an eligible employee; or

1675 (ii) appointed as a conservator or guardian of the eligible employee.

1676 (b) A person described in Subsection (2)(a), may not make an application for a
1677 deceased employee.

1678 (3) Upon request by the office, the participating employer of the eligible employee
1679 shall provide to the office documentation and information concerning the eligible employee.

1680 (4) The office shall review all relevant information and determine whether or not the
1681 eligible employee is totally disabled.

1682 (5) If the office determines that the eligible employee is totally disabled due to
1683 accidental bodily injury or physical illness which is not the result of the performance of an
1684 employment duty, the eligible employee shall receive a monthly disability benefit equal to
1685 two-thirds of the eligible employee's regular monthly salary, for each month the total disability
1686 continues beyond the elimination period, not to exceed the maximum benefit period.

1687 (6) If the office determines that the eligible employee is totally disabled due to
1688 psychiatric illness, the eligible employee shall receive:

1689 (a) a maximum of two years of monthly disability benefits equal to two-thirds of the
1690 eligible employee's regular monthly salary for each month the total disability continues beyond
1691 the elimination period;

1692 (b) a maximum of \$10,000 for psychiatric expenses, including rehabilitation expenses
1693 preauthorized by the office's consultants, paid during the period of monthly disability benefits;
1694 and

1695 (c) payment of monthly disability benefits according to contractual provisions for a
1696 period not to exceed five years if the eligible employee is institutionalized due to psychiatric
1697 illness.

1698 (7) If the office determines that the eligible employee is totally disabled due to a
1699 physical injury resulting from external force or violence as a result of the performance of an

1700 employment duty, the eligible employee shall receive a monthly disability benefit equal to
1701 100% of the eligible employee's regular monthly salary, for each month the total disability
1702 continues beyond the elimination period, not to exceed the maximum benefit period.

1703 (8) (a) Successive periods of disability are considered as a continuous period of
1704 disability if the period of disability:

1705 (i) results from the same or related causes;

1706 (ii) is separated by less than six months of continuous full-time work at the individual's
1707 usual place of employment; and

1708 (iii) commences while the individual is an eligible employee covered by this chapter.

1709 (b) The inability to work for a period of less than 15 consecutive calendar days is not
1710 considered as a period of disability.

1711 (c) If Subsection (8)(a) or (b) does not apply, successive periods of disability are
1712 considered as separate periods of disability.

1713 (9) The office may, at any time, have any eligible employee claiming disability
1714 examined by a physician chosen by the office to determine if the eligible employee is totally
1715 disabled.

1716 (10) A claim brought by an eligible employee for long-term disability benefits under
1717 the Public Employee's Long-Term Disability Program is barred if it is not commenced within
1718 one year from the eligible employee's date of disability, unless the office determines that under
1719 the surrounding facts and circumstances, the eligible employee's failure to comply with the
1720 time limitations was reasonable.

1721 (11) Medical or psychiatric conditions which existed prior to eligibility may not be a
1722 basis for disability benefits until the eligible employee has had one year of continuous
1723 eligibility in the Public Employees Long-Term Disability Program.

1724 (12) If there is a valid benefit protection contract, service credit shall accrue during the
1725 period of total disability, unless the disabled eligible employee is exempted from a system, or is
1726 otherwise ineligible for service credit.

1727 (13) Regardless of any medical evidence provided by the employee to support the
1728 application for disability, an employee is not eligible for long-term disability benefits during
1729 any period in which the employee:

1730 (a) makes a claim that the employee is able to work; or

1731 (b) has a pending action in a court or before any federal, state, or local administrative
1732 body in which the employee has made a claim that the employee is able to work.

1733 (14) Notwithstanding the provisions of Section 49-11-618, upon written request by an
1734 employer, information obtained under this part may, upon an order of a court or an
1735 administrative law judge, be released to an employer who is a party in an action under
1736 Subsection (13).

1737 Section 39. Section **49-21-402** is amended to read:

1738 **49-21-402. Reduction or reimbursement of benefit -- Circumstances --**

1739 **Application for other benefits required.**

1740 (1) A monthly disability benefit may not be paid for any period of total disability unless
1741 the eligible employee is under the ongoing care and treatment of a physician other than the
1742 eligible employee.

1743 (2) The monthly disability benefit shall be reduced or reimbursed by any amount
1744 received by, or payable to, the eligible employee from the following sources for the same
1745 period of time during which the eligible employee is entitled to receive a monthly disability
1746 benefit:

1747 (a) Social Security disability benefits, including all benefits received by the eligible
1748 employee, the eligible employee's spouse, and the eligible employee's children as determined
1749 by the Social Security Administration;

1750 (b) workers' compensation indemnity benefits;

1751 (c) any money received by judgment, legal action, or settlement from a third party
1752 liable to the employee for the disability;

1753 (d) unemployment compensation benefits;

1754 (e) automobile no-fault, medical payments, or similar insurance payments; and

1755 (f) any money received by a judgment, settlement, or other payment as a result of a
1756 claim against an employer.

1757 (3) The monthly disability benefit shall be reduced by any amount in excess of
1758 one-third of the eligible employee's regular monthly salary received by, or payable to, the
1759 eligible employee from the following sources for the same period of time during which the
1760 eligible employee is entitled to receive a monthly disability benefit:

1761 (a) any employer-sponsored retirement programs; and

1762 (b) any disability benefit resulting from the disability for which benefits are being
1763 received under this chapter.

1764 (4) After the date of disability, cost-of-living increases to any of the benefits listed in
1765 Subsection (2) or (3) may not be considered in calculating a reduction to the monthly disability
1766 benefit.

1767 (5) Any amounts payable to the eligible employee from one or more of the sources
1768 under Subsection (2) are considered as amounts received whether or not the amounts were
1769 actually received by the eligible employee.

1770 (6) (a) An eligible employee shall first apply for all disability benefits from
1771 governmental entities under Subsection (2) to which the eligible employee is or may be
1772 entitled, and provide to the office evidence of the applications.

1773 ~~[(b) The eligible employee shall also first apply at the earliest eligible age for all~~
1774 ~~unreduced retirement benefits to which the eligible employee is or may be entitled, and provide~~
1775 ~~to the office evidence of the application.]~~

1776 ~~[(c)]~~ (b) If the eligible employee fails to make application under this Subsection (6)~~[(a)~~
1777 ~~or (b)]~~, the monthly disability benefit shall be suspended.

1778 Section 40. Section **49-21-403** is amended to read:

1779 **49-21-403. Termination of disability benefits -- Calculation of retirement benefit.**

1780 (1) An eligible employee covered by this chapter and eligible for service credit under a
1781 system or plan, ~~[or a participant in the Tier II Defined Contribution Plan, created in Chapter 22,~~
1782 ~~Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II Defined Contribution~~
1783 ~~Plan,]~~ including an eligible employee who relinquishes rights to retirement benefits under
1784 Section 49-11-619, who applies and is qualified for a monthly disability benefit shall receive a
1785 monthly disability benefit until the earlier of:

1786 (a) the date of the eligible employee's death;

1787 (b) the date the eligible employee is no longer disabled;

1788 (c) the date the eligible employee has accumulated:

1789 (i) 20 years of service credit if the eligible employee is covered by Chapter 14, Public
1790 Safety Contributory Retirement Act, or Chapter 15, Public Safety Noncontributory Retirement
1791 Act;

1792 (ii) 25 years of service credit if the eligible employee is covered by Chapter 17, Judges'

1793 Contributory Retirement Act, or Chapter 18, Judges' Noncontributory Retirement Act;
1794 (iii) 30 years of service credit if the eligible employee is covered by Chapter 12, Public
1795 Employees' Contributory Retirement Act, or Chapter 13, Public Employees' Noncontributory
1796 Retirement Act;
1797 (iv) 35 years of service credit if the eligible employee is covered by the defined benefit
1798 portion under Chapter 22, Part 3, Tier II Hybrid Retirement System, or is covered by the
1799 defined contribution plan under Chapter 22, Part 4, Tier II Defined Contribution Plan; or
1800 (v) 25 years of service credit if the eligible employee is covered by the defined benefit
1801 portion under Chapter 23, Part 3, Tier II Hybrid Retirement System, or is covered by the
1802 defined contribution plan under Chapter 23, Part 4, Tier II Defined Contribution Plan; or
1803 (d) the date the eligible employee has received a monthly disability benefit for the
1804 following applicable time periods:
1805 (i) if the eligible employee is under age 60, the monthly disability benefit is payable
1806 until age 65;
1807 (ii) if the eligible employee is 60 or 61 years of age on the date of disability, the
1808 monthly disability benefit is payable for five years;
1809 (iii) if the eligible employee is 62 or 63 years of age on the date of disability, the
1810 monthly disability benefit is payable for four years;
1811 (iv) if the eligible employee is 64 or 65 years of age on the date of disability, the
1812 monthly disability benefit is payable for three years;
1813 (v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the
1814 monthly disability benefit is payable for two years; and
1815 (vi) if the eligible employee is 69 years of age or older on the date of disability, the
1816 monthly disability benefit is payable for one year.
1817 (2) (a) Upon termination of a monthly disability benefit, an eligible employee eligible
1818 for service credit under a system may retire under the requirements of the system which
1819 covered the eligible employee on the date of disability.
1820 (b) The final average salary used in the calculation of the allowance shall be based on
1821 the annual rate of pay on the date of disability, improved by the annual cost-of-living increase
1822 factor applied to retirees of the system which covered the eligible employee on the date of
1823 disability.

1824 (3) An eligible employee who is eligible for service credit in a system, but has
1825 relinquished rights to an allowance under Section 49-11-619, may receive the benefits the
1826 eligible employee would have received by being eligible for service credit in the system
1827 covering the eligible employee on the date of disability, except for the accrual of service credit,
1828 in accordance with this title.

1829 (4) An eligible employee receiving a monthly disability benefit who has service credit
1830 from two or more systems may not combine service credits under Section 49-11-405 in
1831 qualifying for retirement, unless the eligible employee would receive a greater allowance by
1832 combining the service credits.

1833 ~~[(5) A monthly disability benefit payable to an eligible employee who is not eligible for
1834 service credit under a system shall terminate at the earliest of:]~~

1835 ~~[(a) the date the eligible employee would be eligible for an unreduced allowance;]~~

1836 ~~[(b) the date the eligible employee has received a monthly disability benefit for the
1837 applicable time period as set forth in Subsection (1)(c); or]~~

1838 ~~[(c) the date the eligible employee receives a reduced allowance.]~~

1839 (5) An eligible employee covered by this chapter who is a participant in the Tier II
1840 Defined Contribution Plan, created in Chapter 22, Part 4, Tier II Defined Contribution Plan, or
1841 Chapter 23, Part 4, Tier II Defined Contribution Plan, who applies and is qualified for a
1842 monthly disability benefit, shall receive a monthly disability benefit until the earlier of:

1843 (a) the date of the eligible employee's death;

1844 (b) the date the eligible employee no longer has a disability;

1845 (c) (i) 35 years from the date the eligible employee began participation in the Tier II
1846 Defined Contribution Plan, created in Chapter 22, Part 4, Tier II Defined Contribution Plan; or

1847 (ii) 25 years from the date the eligible employee began participation in the Tier II
1848 Defined Contribution Plan created in Chapter 23, Part 4, Tier II Defined Contribution Plan; or

1849 (d) the date the eligible employee has received a monthly disability benefit for the
1850 following applicable time periods:

1851 (i) if the eligible employee is under age 60, the monthly disability benefit is payable
1852 until age 65;

1853 (ii) if the eligible employee is 60 or 61 years of age on the date of disability, the
1854 monthly disability benefit is payable for five years;

1855 (iii) if the eligible employee is 62 or 63 years of age on the date of disability, the
1856 monthly disability benefit is payable for four years;

1857 (iv) if the eligible employee is 64 or 65 years of age on the date of disability, the
1858 monthly disability benefit is payable for three years;

1859 (v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the
1860 monthly disability benefit is payable for two years; and

1861 (vi) if the eligible employee is 69 years of age or older on the date of disability, the
1862 monthly disability benefit is payable for one year.

1863 Section 41. Section **49-22-102** is amended to read:

1864 **49-22-102. Definitions.**

1865 As used in this chapter:

1866 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total
1867 amount of payments made by a participating employer to a member of this system for services
1868 rendered to the participating employer, including:

1869 (i) bonuses;

1870 (ii) cost-of-living adjustments;

1871 (iii) other payments currently includable in gross income and that are subject to Social
1872 Security deductions, including any payments in excess of the maximum amount subject to
1873 deduction under Social Security law;

1874 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
1875 or other benefits authorized by federal law; and

1876 (v) member contributions.

1877 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed
1878 under Internal Revenue Code, Section 401(a)(17).

1879 (c) "Compensation" does not include:

1880 (i) the monetary value of remuneration paid in kind, including a residence or use of
1881 equipment;

1882 (ii) the cost of any employment benefits paid for by the participating employer;

1883 (iii) compensation paid to a temporary employee or an employee otherwise ineligible
1884 for service credit;

1885 (iv) any payments upon termination, including accumulated vacation, sick leave

1886 payments, severance payments, compensatory time payments, or any other special payments; or

1887 (v) any allowances or payments to a member for costs or expenses paid by the
1888 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
1889 housing costs, insurance costs, equipment costs, and dependent care costs.

1890 (d) The executive director may determine if a payment not listed under this Subsection
1891 (1) falls within the definition of compensation.

1892 (2) "Corresponding Tier I system" means the system or plan that would have covered
1893 the member if the member had initially entered employment before July 1, 2011.

1894 (3) "Final average salary" means the amount computed by averaging the highest five
1895 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and
1896 (d).

1897 (a) Except as provided in Subsection (3)(b), the percentage increase in annual
1898 compensation in any one of the years used may not exceed the previous year's compensation by
1899 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
1900 of the dollar during the previous year, as measured by a United States Bureau of Labor
1901 Statistics Consumer Price Index average as determined by the board.

1902 (b) In cases where the participating employer provides acceptable documentation to the
1903 office, the limitation in Subsection (3)(a) may be exceeded if:

- 1904 (i) the member has transferred from another agency; or
- 1905 (ii) the member has been promoted to a new position.

1906 (c) If the member retires more than six months from the date of termination of
1907 employment, the member is considered to have been in service at the member's last rate of pay
1908 from the date of the termination of employment to the effective date of retirement for purposes
1909 of computing the member's final average salary only.

1910 (d) If the member has less than five years of service credit in this system, final average
1911 salary means the average annual compensation paid to the member during the full period of
1912 service credit.

1913 (4) "Participating employer" means an employer which meets the participation
1914 requirements of:

- 1915 (a) Sections 49-12-201 and 49-12-202;
- 1916 (b) Sections 49-13-201 and 49-13-202;

- 1917 (c) Section 49-19-201; or
- 1918 (d) Section 49-22-201 or 49-22-202.
- 1919 (5) (a) "Regular full-time employee" means an employee whose term of employment
- 1920 for a participating employer contemplates continued employment during a fiscal or calendar
- 1921 year and whose employment normally requires an average of 20 hours or more per week,
- 1922 except as modified by the board, and who receives benefits normally provided by the
- 1923 participating employer.
- 1924 (b) "Regular full-time employee" includes:
- 1925 (i) a teacher whose term of employment for a participating employer contemplates
- 1926 continued employment during a school year and who teaches half-time or more;
- 1927 (ii) a classified school employee whose employment normally requires an average of
- 1928 20 hours per week or more for a participating employer, regardless of benefits provided;
- 1929 ~~[(iii) an officer, elective or appointive, who earns during the first full month of the~~
- 1930 ~~term of office \$500 or more, indexed as of January 1, 1990, as provided in Section 49-22-309;]~~
- 1931 (iii) an appointive officer whose appointed position is full-time as certified by the
- 1932 participating employer;
- 1933 (iv) the governor, the lieutenant governor, the state auditor, the state treasurer, the
- 1934 attorney general, and a state legislator;
- 1935 (v) an elected official not included under Subsection (5)(b)(iv) whose elected position
- 1936 is full-time as certified by the participating employer;
- 1937 ~~[(iv)]~~ (vi) a faculty member or employee of an institution of higher education who is
- 1938 considered full-time by that institution of higher education; and
- 1939 ~~[(v)]~~ (vii) an individual who otherwise meets the definition of this Subsection (5) who
- 1940 performs services for a participating employer through a professional employer organization or
- 1941 similar arrangement.
- 1942 (c) "Regular full-time employee" does not include:
- 1943 (i) a firefighter service employee as defined in Section 49-23-102; or
- 1944 (ii) a public safety service employee as defined in Section 49-23-102.
- 1945 (6) "System" means the New Public Employees' Tier II Contributory Retirement
- 1946 System created under this chapter.
- 1947 (7) "Years of service credit" means:

- 1948 (a) a period, consisting of 12 full months as determined by the board;
- 1949 (b) a period determined by the board, whether consecutive or not, during which a
- 1950 regular full-time employee performed services for a participating employer, including any time
- 1951 the regular full-time employee was absent on a paid leave of absence granted by a participating
- 1952 employer or was absent in the service of the United States government on military duty as
- 1953 provided by this chapter; or
- 1954 (c) the regular school year consisting of not less than eight months of full-time service
- 1955 for a regular full-time employee of an educational institution.

1956 Section 42. Section **49-22-201** is amended to read:

1957 **49-22-201. System membership -- Eligibility.**

1958 (1) Beginning July 1, 2011, a participating employer shall participate in this system.

1959 (2) (a) A person initially entering regular full-time employment with a participating

1960 employer on or after July 1, 2011, is eligible:

1961 (i) as a member for service credit and defined contributions under the Tier II hybrid

1962 retirement system established by Part 3, Tier II Hybrid Retirement System; or

1963 (ii) as a participant for defined contributions under the Tier II defined contribution plan

1964 established by Part 4, Tier II Defined Contribution Plan.

1965 (b) A person initially entering regular full-time employment with a participating

1966 employer on or after July 1, 2011, shall:

1967 (i) make an election to participate in the system created under this chapter within 30

1968 days from the date of [~~employment~~] eligibility for accrual of benefits:

1969 (A) as a member for service credit and defined contributions under the Tier II hybrid

1970 retirement system established by Part 3, Tier II Hybrid Retirement System; or

1971 (B) as a participant for defined contributions under the Tier II defined contribution plan

1972 established by Part 4, Tier II Defined Contribution Plan; and

1973 (ii) electronically submit to the office notification of the member's election under

1974 Subsection (2)(b)(i) in a manner approved by the office.

1975 (c) An election made by a person initially entering regular full-time employment with a

1976 participating employer under this Subsection (2) is irrevocable beginning one year from the

1977 date of eligibility for accrual of benefits.

1978 (d) If no election is made under Subsection (2)(b)(i), the person shall become a

1979 member eligible for service credit and defined contributions under the Tier II hybrid retirement
1980 system established by Part 3, Tier II Hybrid Retirement System.

1981 (3) Notwithstanding the provisions of this section, [~~a governor or legislator~~] an elected
1982 official initially entering office on or after July 1, 2011:

1983 (a) is only eligible to participate in the Tier II defined contribution plan established
1984 under Chapter 22, Part 4, Tier II Defined Contribution Plan; and

1985 (b) is not eligible to participate in the Tier II hybrid retirement system established
1986 under Chapter 22, Part 3, Tier II Hybrid Retirement System.

1987 Section 43. Section **49-22-301** is amended to read:

1988 **49-22-301. Contributions.**

1989 (1) Participating employers and members shall [~~jointly~~] pay the certified contribution
1990 rates to the office to maintain the defined benefit portion of this system on a financially and
1991 actuarially sound basis.

1992 (2) (a) A participating employer shall pay up to 10% of compensation toward the
1993 certified contribution rate to the office for the defined benefit portion of this system.

1994 (b) A member shall [~~pay~~] only pay to the office the amount, if any, of the certified
1995 contribution rate for the defined benefit portion of this system that exceeds [~~10% to the office~~]
1996 the percent of compensation paid by the participating employer under Subsection (2)(a).

1997 (c) In addition to the percent specified under Subsection (2)(a), the participating
1998 employer shall pay the corresponding Tier I system amortization rate of the employee's
1999 compensation to the office to be applied to the employer's corresponding Tier I system liability.

2000 (3) A participating employer may not elect to pay all or part of the required member
2001 contributions under Subsection (2)(b), in addition to the required participating employer
2002 contributions.

2003 (4) (a) A member contribution is credited by the office to the account of the individual
2004 member.

2005 (b) This amount, together with refund interest, is held in trust for the payment of
2006 benefits to the member or the member's beneficiaries.

2007 (c) A member contribution is vested and nonforfeitable.

2008 (5) (a) Each member is considered to consent to payroll deductions of member
2009 contributions.

2010 (b) The payment of compensation less these payroll deductions is considered full
2011 payment for services rendered by the member.

2012 (6) Benefits provided under the defined benefit portion of the Tier II Hybrid
2013 Retirement System created under this part:

2014 (a) may not be increased unless the actuarial funded ratios of all systems under this title
2015 reach 100%[-]; and

2016 (b) may be decreased only in accordance with the provisions of Section 49-22-310.

2017 Section 44. Section **49-22-303** is amended to read:

2018 **49-22-303. Defined contribution benefit established -- Contribution by employer**
2019 **and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of**
2020 **plans.**

2021 (1) (a) A participating employer shall make a nonelective contribution on behalf of
2022 each regular full-time employee who is a member of this system in an amount equal to 10%
2023 minus the contribution rate paid by the employer pursuant to Subsection 49-22-301(2)(a) of the
2024 member's compensation to a defined contribution plan qualified under Section 401(k) of the
2025 Internal Revenue Code which:

2026 (i) is sponsored by the board; and

2027 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

2028 (b) The member may make [~~additional payments~~] voluntary deferrals to:

2029 (i) the qualified 401(k) plan which receives the employer contribution described in this
2030 Subsection (1); or

2031 (ii) at the member's option, another defined contribution plan established by the
2032 participating employer.

2033 (2) (a) The total amount contributed by the participating employer under Subsection
2034 (1)(a), including associated investment gains and losses, vests to the [~~member's benefit after~~
2035 ~~four years of employment from the date of employment~~] member upon accruing four years of
2036 service credit under this title.

2037 (b) The total amount contributed by the member under Subsection (1)(b) vests to the
2038 member's benefit immediately and is nonforfeitable.

2039 (3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be
2040 invested in a default option selected by the board until the member is vested in accordance with

2041 Subsection (2)(a).

2042 (b) A member may direct the investment of contributions made by a participating
2043 employer under Subsection (1)(a) only after the contributions have vested in accordance with
2044 Subsection (2)(a).

2045 (c) A member may direct the investment of contributions made by the member under
2046 Subsection (1)(b).

2047 (4) No loans shall be available from contributions made by a participating employer
2048 under Subsection (1)(a).

2049 (5) No hardship distributions shall be available from contributions made by a
2050 participating employer under Subsection (1)(a).

2051 (6) (a) Except as provided in Subsection (6)(b), if a member terminates employment
2052 with a participating employer prior to the vesting period described in Subsection (2)(a), all
2053 contributions, including associated investment gains and losses, made by a participating
2054 employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.

2055 (b) If a member who terminates employment with a participating employer prior to the
2056 vesting period described in Subsection (2)(a) subsequently enters employment with the same or
2057 another participating employer within 10 years of the termination date of the previous
2058 employment:

2059 (i) all contributions made by the previous participating employer on behalf of the
2060 member, including associated investment gains and losses, shall be reinstated upon [~~the~~
2061 ~~member's completion of the vesting period under Subsection (2)(a)] employment as a regular
2062 full-time employee; and~~

2063 (ii) the length of time that the member worked with the previous employer shall be
2064 included in determining whether the member has completed the vesting period under
2065 Subsection (2)(a).

2066 (c) The [~~board~~] office shall establish a forfeiture account and shall specify the uses of
2067 the forfeiture account, which may include an offset against administrative costs or employer
2068 contributions made under this section.

2069 (7) The [~~board~~] office may request from any other qualified 401(k) plan under
2070 Subsection (1) or (2) any relevant information pertaining to the maintenance of its tax
2071 qualification under the Internal Revenue Code.

2072 (8) The ~~board~~ office may take any action which in its judgment is necessary to
2073 maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

2074 Section 45. Section **49-22-304** is amended to read:

2075 **49-22-304. Defined benefit eligibility for an allowance -- Date of retirement --**
2076 **Qualifications.**

2077 (1) A member is qualified to receive an allowance from this system when:

2078 (a) before the member's retirement date, the member ceases actual work for ~~a~~ every
2079 participating employer ~~in this system~~ that employs the member and provides evidence of the
2080 termination;

2081 (b) the member has submitted to the office a notarized retirement application form that
2082 states the member's proposed retirement date; and

2083 (c) one of the following conditions is met as of the member's retirement date:

2084 (i) the member has accrued at least four years of service credit and has attained an age
2085 of 65 years;

2086 (ii) the member has accrued at least 10 years of service credit and has attained an age
2087 of 62 years;

2088 (iii) the member has accrued at least 20 years of service credit and has attained an age
2089 of 60 years; or

2090 (iv) the member has accrued at least 35 years of service credit.

2091 (2) (a) The member's retirement date:

2092 (i) shall be the 1st or the 16th day of the month, as selected by the member;

2093 (ii) shall be on or after the date of termination; and

2094 (iii) may not be more than 90 days before or after the date the application is received by
2095 the office.

2096 (b) A member may not be employed by a participating employer in the system
2097 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

2098 Section 46. Section **49-22-305** is amended to read:

2099 **49-22-305. Defined benefit service retirement plans -- Calculation of retirement**
2100 **allowance -- Social Security limitations.**

2101 (1) (a) The retirees of this system may choose from the six retirement options described
2102 in this section.

2103 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One
2104 calculation.

2105 (2) The Option One benefit is an annual allowance calculated as follows:

2106 (a) If the retiree is at least 65 years of age or has accrued at least 35 years of service
2107 credit, the allowance is an amount equal to 1.5% of the retiree's final average salary multiplied
2108 by the number of years of service credit accrued on and after July 1, 2011.

2109 (b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full
2110 actuarial amount for each year of retirement from age 60 to age 65, unless the member has 35
2111 or more years of accrued credit in which event no reduction is made to the allowance.

2112 (c) (i) Years of service includes any fractions of years of service to which the retiree
2113 may be entitled.

2114 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
2115 service credit is within [~~1/10~~] one-tenth of one year of the total years of service credit required
2116 for retirement, the retiree shall be considered to have the total years of service credit required
2117 for retirement.

2118 (d) An Option One allowance is only payable to the member during the member's
2119 lifetime.

2120 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
2121 by reducing an Option One benefit based on actuarial computations to provide the following:

2122 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
2123 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
2124 member contributions, the remaining balance of the retiree's member contributions shall be
2125 paid in accordance with Sections 49-11-609 and 49-11-610.

2126 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
2127 retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout
2128 the lifetime of the retiree's lawful spouse at the time of retirement.

2129 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
2130 retiree, and upon the death of the retiree, an amount equal to [~~1/2~~] one-half of the retiree's
2131 allowance is paid to and throughout the lifetime of the retiree's lawful spouse at the time of
2132 retirement.

2133 (d) Option Five is a modification of Option Three so that if the lawful spouse at the

2134 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
2135 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
2136 retiree's life, beginning on the ~~[last day of the month following the month in which the lawful~~
2137 ~~spouse dies.]~~ first day of the month:

2138 (i) following the month in which the spouse died, if the application is received by the
2139 office within 90 days of the spouse's death; or

2140 (ii) following the month in which the application is received by the office, if the
2141 application is received by the office more than 90 days after the spouse's death.

2142 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
2143 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
2144 of initial retirement under Option One shall be paid to the retiree for the remainder of the
2145 retiree's life, beginning on the ~~[last day of the month following the month in which the lawful~~
2146 ~~spouse dies.]~~ first day of the month:

2147 (i) following the month in which the spouse died, if the application is received by the
2148 office within 90 days of the spouse's death; or

2149 (ii) following the month in which the application is received by the office, if the
2150 application is received by the office more than 90 days after the spouse's death.

2151 ~~[(4) Periods of employment which are exempt from this system under Subsection~~
2152 ~~49-22-203(1)(b) may be purchased by the member for the purpose of retirement only if all~~
2153 ~~benefits from the Teachers' Insurance and Annuity Association of America or any other public~~
2154 ~~or private system or organization based on this period of employment are forfeited.]~~

2155 ~~[(5)]~~ (4) (a) If a retiree under Option One dies within 120 days after the retiree's
2156 retirement date, the retirement is canceled and the death shall be considered as that of a
2157 member before retirement.

2158 (b) Any payments made to the retiree shall be deducted from the amounts due to the
2159 beneficiary.

2160 ~~[(6)]~~ (5) If a retiree retires under either Option Five or Six and subsequently divorces,
2161 the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if
2162 there is no court order filed in the matter.

2163 Section 47. Section **49-22-310** is enacted to read:

2164 **49-22-310. Defined benefit adjustments -- Conditions -- Process -- Future years**

2165 **accrual.**

2166 (1) In accordance with this section, the Legislature may make adjustments to the
2167 benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System
2168 created under this part if the member's contribution required under Subsection 49-22-301(2)(b)
2169 to the certified contribution rate for the defined benefit portion of this system exceeds 2% of
2170 the member's salary and:

2171 (a) (i) the membership council created under Section 49-11-202 recommends an
2172 adjustment to the board in accordance with Subsection (2); and

2173 (ii) the board recommends specific adjustments to the Legislature in accordance with
2174 Subsection (2); or

2175 (b) an actuarial study that conforms with generally accepted actuarial principles and
2176 practices and with the Actuarial Standards of Practice issued by the Actuarial Standards Board
2177 and requested or commissioned by the board or the Legislature concludes:

2178 (i) there is a significant likelihood that contribution rates will continue to rise; and

2179 (ii) that participating employers are liable for system costs above the contribution rate
2180 established under Subsection 49-22-301(2)(a).

2181 (2) If the conditions under Subsection (1)(a) or (b) are met, the Legislature may adjust
2182 benefits for the defined benefit portion of the Tier II Hybrid Retirement System accrued or
2183 applied for future years of service including:

2184 (a) the final average salary calculation provided under Section 49-22-102;

2185 (b) the years of service required to be eligible to receive a retirement allowance under
2186 Section 49-22-304;

2187 (c) the years of service credit multiplier established under Subsection 49-22-305(2)(a);

2188 (d) the annual cost-of-living adjustment under Section 49-22-308; or

2189 (e) other provisions of the defined benefit portion of the Tier II Hybrid Retirement
2190 System.

2191 (3) (a) Notwithstanding the provisions of Subsections (1) and (2), the Legislature may
2192 make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid
2193 Retirement System created under this part if an actuarial study described under Subsection
2194 (1)(b) concludes, due to current and projected economic conditions, member participation
2195 levels, and system structure, that the system:

2196 (i) cannot reasonably be sustained under its current provisions;

2197 (ii) is critically underfunded; and

2198 (iii) has become unstable and is in risk of collapse.

2199 (b) Subject to federal law, the adjustments under Subsection (3)(a) may include:

2200 (i) conversion to a different type of retirement plan;

2201 (ii) equitable distribution of system assets to retirees and members; and

2202 (iii) a closure of the system.

2203 Section 48. Section **49-22-401** is amended to read:

2204 **49-22-401. Contributions -- Rates.**

2205 (1) Up to the amount allowed by federal law, the participating employer shall
2206 [~~contribute~~] make a nonelective contribution of 10% of the participant's compensation to a
2207 defined contribution plan.

2208 (2) (a) The participating employer shall contribute the 10% nonelective contribution
2209 described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the
2210 Internal Revenue Code which:

2211 (i) is sponsored by the board; and

2212 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

2213 (b) The member may make [~~additional payments~~] voluntary deferrals to:

2214 (i) the qualified 401(k) plan which receives the employer contribution described in this
2215 Subsection (2); or

2216 (ii) at the member's option, another defined contribution plan established by the
2217 participating employer.

2218 (c) In addition to the percent specified under Subsection (2)(a), the participating
2219 employer shall pay the corresponding Tier I system amortization rate of the employee's
2220 compensation to the office to be applied to the employer's corresponding Tier I system liability.

2221 (3) (a) The total amount contributed by the participating employer under Subsection
2222 (2)(a) vests to the [~~member's benefit after four years of employment from the date of~~
2223 ~~employment~~] member upon accruing four years employment as a regular full-time employee
2224 under this title.

2225 (b) The total amount contributed by the member under Subsection (2)(b) vests to the
2226 member's benefit immediately and is nonforfeitable.

2227 (4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be
2228 invested in a default option selected by the board until the member is vested in accordance with
2229 Subsection (3)(a).

2230 (b) A member may direct the investment of contributions including associated
2231 investment gains and losses made by a participating employer under Subsection (2)(a) only
2232 after the contributions have vested in accordance with Subsection (3)(a).

2233 (c) A member may direct the investment of contributions made by the member under
2234 Subsection (3)(b).

2235 (5) No loans shall be available from contributions made by a participating employer
2236 under Subsection (2)(a).

2237 (6) No hardship distributions shall be available from contributions made by a
2238 participating employer under Subsection (2)(a).

2239 (7) (a) Except as provided in Subsection (7)(b), if a member terminates employment
2240 with a participating employer prior to the vesting period described in Subsection (3)(a), all
2241 contributions made by a participating employer on behalf of the member including associated
2242 investment gains and losses under Subsection (2)(a) are subject to forfeiture.

2243 (b) If a member who terminates employment with a participating employer prior to the
2244 vesting period described in Subsection (3)(a) subsequently enters employment with the same or
2245 another participating employer within 10 years of the termination date of the previous
2246 employment:

2247 (i) all contributions made by the previous participating employer on behalf of the
2248 member including associated investment gains and losses shall be reinstated upon the member's
2249 [~~completion of the vesting period under Subsection (3)(a)~~] employment as a regular full-time
2250 employee; and

2251 (ii) the length of time that the member worked with the previous employer shall be
2252 included in determining whether the member has completed the vesting period under
2253 Subsection (3)(a).

2254 (c) The [~~board~~] office shall establish a forfeiture account and shall specify the uses of
2255 the forfeiture account, which may include an offset against administrative costs or employer
2256 contributions made under this section.

2257 (8) The [~~board~~] office may request from any other qualified 401(k) plan under

2258 Subsection (2) any relevant information pertaining to the maintenance of its tax qualification
2259 under the Internal Revenue Code.

2260 (9) The [board] office may take any action which in its judgment is necessary to
2261 maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

2262 Section 49. Section **49-22-403** is enacted to read:

2263 **49-22-403. Eligibility to receive a retirement allowance for a benefit tied to a**
2264 **retirement date for Defined Contribution members.**

2265 (1) As used in this section, "eligible to receive a retirement allowance" means the date
2266 selected by the member who is a participant under this part on which the member has ceased
2267 employment and would be qualified to receive an allowance under Section 49-22-304 if the
2268 member had been under the Tier II Hybrid Retirement System for the same period of
2269 employment.

2270 (2) The office and a participating employer shall make an accounting of years of
2271 service credit accrued for a member who is a participant under this part in order to calculate
2272 when a member would be eligible to receive a retirement allowance for purposes of
2273 establishing when a member may be eligible for a benefit tied to a retirement date that may be
2274 provided under Section 67-19-14.4, this title, another state statute, or by a participating
2275 employer.

2276 Section 50. Section **49-22-501** is amended to read:

2277 **49-22-501. Death benefit by means of group insurance policy -- Eligibility for**
2278 **death benefit -- Benefit calculation -- Payment of claim.**

2279 (1) The office shall provide a death benefit through the purchase of a group insurance
2280 policy for members of this system.

2281 (2) The board shall make rules to administer the death benefit provided by this section
2282 and may, in accordance with federal law, establish:

2283 (a) benefit levels;

2284 (b) classes of members; and

2285 (c) a living benefit option.

2286 (3) This death benefit is payable when:

2287 (a) the member dies prior to the member's retirement date or dies under circumstances
2288 which Subsection [~~49-22-305(5)~~] 49-22-305(4) requires to be treated as the death of a member

2289 before retirement;

2290 (b) the office receives acceptable proof of death; and

2291 (c) benefits are not payable under Section 49-22-307.

2292 (4) The death benefit payable to the beneficiary under this section is a lump-sum

2293 payment consisting of:

2294 (a) the return of any member contributions under this chapter; plus

2295 (b) a percentage of the final average salary of the member to be determined by the
2296 board.

2297 (5) Any amount of a living benefit option paid to the member prior to death shall be
2298 deducted from the benefit payable to the beneficiary.

2299 (6) The cost of the death benefit shall be paid by the participating employer in addition
2300 to the contribution rate established under Section 49-22-301 or 49-22-401.

2301 (7) The portion of the death benefit provided under Subsection (4)(b) may not be paid
2302 to the beneficiary of an inactive member unless the death of the member occurs either:

2303 (a) within a period of 120 days after the last day of work for which the person received
2304 compensation; or

2305 (b) while the member is still physically or mentally incapacitated from performance of
2306 duties, if the incapacity has been continuous since the last day of work for which compensation
2307 was received.

2308 (8) The death benefit provided under Subsection (4)(b) shall be paid in accordance
2309 with Sections 49-11-609 and 49-11-610.

2310 (9) The death benefit paid to the beneficiary of an inactive member, except as
2311 otherwise provided under Subsection (7), is a lump-sum return of the member's member
2312 contributions.

2313 (10) Payment of the death benefit by the office constitutes a full settlement of any
2314 beneficiary's claim against the office and the office is not liable for any further or additional
2315 claims or assessments on behalf of the member.

2316 (11) Unless otherwise specified in a written document filed with the office, death
2317 benefits payable to beneficiaries shall be in accordance with the order of precedence
2318 established under Title 75, Chapter 2, Intestate Succession and Wills.

2319 (12) A death benefit under this section may not be paid on behalf of a retiree under this

2320 system.

2321 Section 51. Section **49-22-502** is amended to read:

2322 **49-22-502. Death of married members -- Service retirement benefits to surviving**
2323 **spouse.**

2324 (1) As used in this section, "member's full allowance" means an Option Three
2325 allowance calculated under Section 49-22-305 without an actuarial reduction.

2326 (2) Upon the request of a deceased member's lawful spouse at the time of the member's
2327 death, the deceased member is considered to have retired under Option Three on the first day of
2328 the month following the month in which the member died if the following requirements are
2329 met:

2330 (a) the member has:

2331 (i) 15 or more years of service credit;

2332 (ii) attained age 62 with 10 or more years of service credit; or

2333 (iii) attained age 65 with four or more years of service credit; and

2334 (b) the member dies leaving a spouse to whom the member has been married at least
2335 six months immediately prior to the death date.

2336 (3) The spouse who requests a benefit under this section shall apply in writing to the
2337 office. The allowance shall begin on the first day of the month:

2338 (a) following the month in which the member died, if the application is received by the
2339 office within 90 days of the member's death; or

2340 (b) following the month in which the application is received by the office, if the
2341 application is received by the office more than 90 days after the spouse's death.

2342 (4) The allowance payable to a surviving spouse under Subsection (2) is as follows:

2343 (a) if the member has 25 or more years of service credit at the time of death, the
2344 surviving spouse shall receive the member's full allowance;

2345 (b) if the member has between 20-24 years of service credit and is not age 60 or older
2346 at the time of death, the surviving spouse shall receive 2/3 of the member's full allowance;

2347 (c) if the member has between 15-19 years of service credit and is not age 62 or older
2348 at the time of death, the surviving spouse shall receive 1/3 of the member's full allowance; or

2349 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
2350 older with 10 or more years of service credit, or age 65 or older with four or more years of

2351 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
2352 with actuarial reductions.

2353 (5) Except for a return of member contributions, benefits payable under this section are
2354 retirement benefits and shall be paid in addition to any other payments made under Section
2355 49-22-501 and shall constitute a full and final settlement of the claim of the spouse or any other
2356 beneficiary filing a claim for benefits under Section 49-22-501.

2357 Section 52. Section **49-23-201** is amended to read:

2358 **49-23-201. System membership -- Eligibility.**

2359 (1) Beginning July 1, 2011, a participating employer that employs public safety service
2360 employees or firefighter service employees shall participate in this system.

2361 (2) (a) A public safety service employee or a firefighter service employee initially
2362 entering employment with a participating employer on or after July 1, 2011, is eligible:

2363 (i) as a member for service credit and defined contributions under the Tier II hybrid
2364 retirement system established by Part 3, Tier II Hybrid Retirement System; or

2365 (ii) as a participant for defined contributions under the Tier II defined contributions
2366 plan established by Part 4, Tier II Defined Contribution Plan.

2367 (b) A public safety service employee or a firefighter service employee initially entering
2368 employment with a participating employer on or after July 1, 2011, shall:

2369 (i) make an election to participate in the system created under this chapter within 30
2370 days from the date of [~~employment~~] eligibility for accrual of benefits:

2371 (A) as a member for service credit and defined contributions under the Tier II hybrid
2372 retirement system established by Part 3, Tier II Hybrid Retirement System; or

2373 (B) as a participant for defined contributions under the Tier II defined contribution plan
2374 established by Part 4, Tier II Defined Contribution Plan; and

2375 (ii) electronically submit to the office notification of the member's election under
2376 Subsection (2)(b)(i) in a manner approved by the office.

2377 (c) An election made by a public safety service employee or firefighter service
2378 employee initially entering employment with a participating employer under this Subsection (2)
2379 is irrevocable beginning one year from the date of eligibility for accrual of benefits.

2380 (d) If no election is made under Subsection (2)(b)(i), the public safety service employee
2381 or firefighter service employee shall become a member eligible for service credit and defined

2382 contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid
2383 Retirement System.

2384 Section 53. Section **49-23-301** is amended to read:

2385 **49-23-301. Contributions.**

2386 (1) Participating employers and members shall [~~jointly~~] pay the certified contribution
2387 rates to the office to maintain the defined benefit portion of this system on a financially and
2388 actuarially sound basis in accordance with Subsection (2).

2389 (2) (a) A participating employer shall pay up to 12% of compensation toward the
2390 certified contribution rate to the office for the defined benefit portion of this system.

2391 (b) A member shall [~~pay~~] only pay to the office the amount, if any, of the certified
2392 contribution rate for the defined benefit portion of this system that exceeds [~~12% to the office~~]
2393 the percent of compensation paid by the participating employer under Subsection (2)(a).

2394 (c) In addition to the percent specified under Subsection (2)(a), the participating
2395 employer shall pay the corresponding Tier I system amortization rate of the employee's
2396 compensation to the office to be applied to the employer's corresponding Tier I system liability.

2397 (3) A participating employer may not elect to pay all or part of the required member
2398 contributions under Subsection (2)(b), in addition to the required participating employer
2399 contributions.

2400 (4) (a) A member contribution is credited by the office to the account of the individual
2401 member.

2402 (b) This amount, together with refund interest, is held in trust for the payment of
2403 benefits to the member or the member's beneficiaries.

2404 (c) A member contribution is vested and nonforfeitable.

2405 (5) (a) Each member is considered to consent to payroll deductions of member
2406 contributions.

2407 (b) The payment of compensation less these payroll deductions is considered full
2408 payment for services rendered by the member.

2409 (6) Benefits provided under the defined benefit portion of the Tier II hybrid retirement
2410 system created under this part:

2411 (a) may not be increased unless the actuarial funded ratios of all systems under this title
2412 reach 100%[-]; and

2413 (b) may be decreased only in accordance with the provisions of Section 49-23-309.

2414 Section 54. Section **49-23-302** is amended to read:

2415 **49-23-302. Defined contribution benefit established -- Contribution by employer**
2416 **and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of**
2417 **plans.**

2418 (1) (a) A participating employer shall make a nonelective contribution on behalf of
2419 each public safety service employee or firefighter service employee who is a member of this
2420 system in an amount equal to 12% minus the contribution rate paid by the employer pursuant to
2421 Subsection 49-23-301(2)(a) of the member's compensation to a defined contribution plan
2422 qualified under Section 401(k) of the Internal Revenue Code which:

2423 (i) is sponsored by the board; and

2424 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

2425 (b) The member may make [~~additional payments~~] voluntary deferrals to:

2426 (i) the qualified 401(k) plan which receives the employer contribution described in this
2427 Subsection (1); or

2428 (ii) at the member's option, another defined contribution plan established by the
2429 participating employer.

2430 (2) (a) The total amount contributed by the participating employer under Subsection
2431 (1)(a), including associated investment gains and losses, vests to the [~~member's benefit after~~
2432 ~~four years of employment from the date of employment~~] member upon accruing four years of
2433 service credit under this title.

2434 (b) The total amount contributed by the member under Subsection (1)(b) vests to the
2435 member's benefit immediately and is nonforfeitable.

2436 (3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be
2437 invested in a default option selected by the board until the member is vested in accordance with
2438 Subsection (2)(a).

2439 (b) A member may direct the investment of contributions made by a participating
2440 employer under Subsection (1)(a) only after the contributions have vested in accordance with
2441 Subsection (2)(a).

2442 (c) A member may direct the investment of contributions made by the member under
2443 Subsection (1)(b).

2444 (4) No loans shall be available from contributions made by a participating employer
2445 under Subsection (1)(a).

2446 (5) No hardship distributions shall be available from contributions made by a
2447 participating employer under Subsection (1)(a).

2448 (6) (a) Except as provided in Subsection (6)(b), if a member terminates employment
2449 with a participating employer prior to the vesting period described in Subsection (2)(a), all
2450 contributions, including associated investment gains and losses, made by a participating
2451 employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.

2452 (b) If a member who terminates employment with a participating employer prior to the
2453 vesting period described in Subsection (2)(a) subsequently enters employment with the same or
2454 another participating employer within 10 years of the termination date of the previous
2455 employment:

2456 (i) all contributions made by the previous participating employer on behalf of the
2457 member, including associated investment gains and losses, shall be reinstated upon the
2458 member's [~~completion of the vesting period under Subsection (2)(a)~~] employment as a regular
2459 full-time employee; and

2460 (ii) the length of time that the member worked with the previous employer shall be
2461 included in determining whether the member has completed the vesting period under
2462 Subsection (2)(a).

2463 (c) The [~~board~~] office shall establish a forfeiture account and shall specify the uses of
2464 the forfeiture account, which may include an offset against administrative costs or employer
2465 contributions made under this section.

2466 (7) The [~~board~~] office may request from any other qualified 401(k) plan under
2467 Subsection (1) or (2) any relevant information pertaining to the maintenance of its tax
2468 qualification under the Internal Revenue Code.

2469 (8) The [~~board~~] office may take any action which in its judgment is necessary to
2470 maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.
2471 Section 55. Section **49-23-303** is amended to read:

2472 **49-23-303. Defined benefit eligibility for an allowance -- Date of retirement --**
2473 **Qualifications.**

2474 (1) A member is qualified to receive an allowance from this system when:

2475 (a) before the member's retirement date, the member ceases actual work for [a] every
2476 participating employer [~~in this system~~] that employs the member and provides evidence of the
2477 termination;

2478 (b) the member has submitted to the office a notarized retirement application form that
2479 states the member's proposed retirement date; and

2480 (c) one of the following conditions is met as of the member's retirement date:

2481 (i) the member has accrued at least four years of service credit and has attained an age
2482 of 65 years;

2483 (ii) the member has accrued at least 10 years of service credit and has attained an age
2484 of 62 years;

2485 (iii) the member has accrued at least 20 years of service credit and has attained an age
2486 of 60 years; or

2487 (iv) the member has accrued at least 25 years of service credit.

2488 (2) (a) The member's retirement date:

2489 (i) shall be the 1st or the 16th day of the month, as selected by the member;

2490 (ii) shall be on or after the date of termination; and

2491 (iii) may not be more than 90 days before or after the date the application is received by
2492 the office.

2493 (b) A member may not be employed by a participating employer in the system
2494 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

2495 Section 56. Section **49-23-304** is amended to read:

2496 **49-23-304. Defined benefit service retirement plans -- Calculation of retirement**
2497 **allowance -- Social Security limitations.**

2498 (1) (a) The retirees of this system may choose from the six retirement options described
2499 in this section.

2500 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One
2501 calculation.

2502 (2) The Option One benefit is an annual allowance calculated as follows:

2503 (a) If the retiree is at least 65 years of age or has accrued at least 25 years of service
2504 credit, the allowance is an amount equal to 1.5% of the retiree's final average salary multiplied
2505 by the number of years of service credit accrued on and after July 1, 2011.

2506 (b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full
2507 actuarial amount for each year of retirement from age 60 to age 65, unless the member has 25
2508 or more years of accrued credit in which event no reduction is made to the allowance.

2509 (c) (i) Years of service includes any fractions of years of service to which the retiree
2510 may be entitled.

2511 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
2512 service credit is within 1/10 of one year of the total years of service credit required for
2513 retirement, the retiree shall be considered to have the total years of service credit required for
2514 retirement.

2515 (d) An Option One allowance is only payable to the member during the member's
2516 lifetime.

2517 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
2518 by reducing an Option One benefit based on actuarial computations to provide the following:

2519 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
2520 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
2521 member contributions, the remaining balance of the retiree's member contributions shall be
2522 paid in accordance with Sections 49-11-609 and 49-11-610.

2523 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
2524 retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout
2525 the lifetime of the retiree's lawful spouse at the time of retirement.

2526 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
2527 retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance is
2528 paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

2529 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
2530 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
2531 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
2532 retiree's life, beginning on the ~~[last day of the month following the month in which the lawful~~
2533 ~~spouse dies.]~~ first day of the month:

2534 (i) following the month in which the spouse died, if the application is received by the
2535 office within 90 days of the spouse's death; or

2536 (ii) following the month in which the application is received by the office, if the

2537 application is received by the office more than 90 days after the spouse's death.

2538 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
2539 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
2540 of initial retirement under Option One shall be paid to the retiree for the remainder of the
2541 retiree's life, beginning on the ~~[last day of the month following the month in which the lawful~~
2542 ~~spouse dies.]~~ first day of the month:

2543 (i) following the month in which the spouse died, if the application is received by the
2544 office within 90 days of the spouse's death; or

2545 (ii) following the month in which the application is received by the office, if the
2546 application is received by the office more than 90 days after the spouse's death.

2547 ~~[(4) Periods of employment which are exempt from this system may be purchased by~~
2548 ~~the member for the purpose of retirement only if all benefits from any other public or private~~
2549 ~~system or organization based on this period of employment are forfeited.]~~

2550 ~~[(5)]~~ (4) (a) If a retiree under Option One dies within 120 days after the retiree's
2551 retirement date, the retirement is canceled and the death shall be considered as that of a
2552 member before retirement.

2553 (b) Any payments made to the retiree shall be deducted from the amounts due to the
2554 beneficiary.

2555 ~~[(6)]~~ (5) If a retiree retires under either Option Five or Six and subsequently divorces,
2556 the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if
2557 there is no court order filed in the matter.

2558 Section 57. Section **49-23-309** is enacted to read:

2559 **49-23-309. Defined benefit adjustments -- Conditions -- Process -- Future years**
2560 **accrual.**

2561 (1) In accordance with this section, the Legislature may make adjustments to the
2562 benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System
2563 created under this part if the member's contribution required under Subsection 49-23-301(2)(b)
2564 to the certified contribution rate for the defined benefit portion of this system exceeds 2% of
2565 the member's salary and:

2566 (a) (i) the membership council created under Section 49-11-202 recommends an
2567 adjustment to the board in accordance with Subsection (2); and

2568 (ii) the board recommends specific adjustments to the Legislature in accordance with
2569 Subsection (2); or

2570 (b) an actuarial study that conforms with generally accepted actuarial principles and
2571 practices and with the Actuarial Standards of Practice issued by the Actuarial Standards Board
2572 and requested or commissioned by the board or the Legislature concludes:

2573 (i) there is a significant likelihood that contribution rates will continue to rise; and

2574 (ii) that participating employers are liable for system costs above the contribution rate
2575 established under Subsection 49-23-301(2)(a).

2576 (2) If the conditions under Subsection (1)(a) or (b) are met, the Legislature may adjust
2577 benefits for the defined benefit portion of the Tier II Hybrid Retirement System accrued or
2578 applied for future years of service including:

2579 (a) the final average salary calculation provided under Section 49-23-102;

2580 (b) the years of service required to be eligible to receive a retirement allowance under
2581 Section 49-23-303;

2582 (c) the years of service credit multiplier established under Subsection 49-23-304(2)(a);

2583 (d) the annual cost-of-living adjustment under Section 49-23-307; or

2584 (e) other provisions of the defined benefit portion of the Tier II Hybrid Retirement
2585 System.

2586 (3) (a) Notwithstanding the provisions of Subsections (1) and (2), the Legislature may
2587 make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid
2588 Retirement System created under this part if an actuarial study described under Subsection
2589 (1)(b) concludes, due to current and projected economic conditions, member participation
2590 levels, and system structure, that the system:

2591 (i) cannot reasonably be sustained under its current provisions;

2592 (ii) is critically underfunded; and

2593 (iii) has become unstable and is in risk of collapse.

2594 (b) Subject to federal law, the adjustments under Subsection (3)(a) may include:

2595 (i) conversion to a different type of retirement plan;

2596 (ii) equitable distribution of system assets to retirees and members; and

2597 (iii) a closure of the system.

2598 Section 58. Section **49-23-401** is amended to read:

2599 **49-23-401. Contributions -- Rates.**

2600 (1) Up to the amount allowed by federal law, the participating employer shall
2601 ~~[contribute]~~ make a nonelective contribution of 12% of the participant's compensation to a
2602 defined contribution plan.

2603 (2) (a) The participating employer shall contribute the 12% nonelective contribution
2604 described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the
2605 Internal Revenue Code which:

2606 (i) is sponsored by the board; and

2607 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

2608 (b) The member may make ~~[additional payments]~~ voluntary deferrals to:

2609 (i) the qualified 401(k) plan which receives the employer contribution described in this
2610 Subsection (2); or

2611 (ii) at the member's option, another defined contribution plan established by the
2612 participating employer.

2613 (c) In addition to the percent specified under Subsection (2)(a), the participating
2614 employer shall pay the corresponding Tier I system amortization rate of the employee's
2615 compensation to the office to be applied to the employer's corresponding Tier I system liability.

2616 (3) (a) The total amount contributed by the participating employer under Subsection
2617 (2)(a) vests to the ~~[member's benefit after four years of employment from the date of~~
2618 employment] member upon accruing four years of employment as a regular full-time employee
2619 under this chapter.

2620 (b) The total amount contributed by the member under Subsection (2)(b) vests to the
2621 member's benefit immediately and is nonforfeitable.

2622 (4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be
2623 invested in a default option selected by the board until the member is vested in accordance with
2624 Subsection (3)(a).

2625 (b) A member may direct the investment of contributions, including associated
2626 investment gains and losses, made by a participating employer under Subsection (2)(a) only
2627 after the contributions have vested in accordance with Subsection (3)(a).

2628 (c) A member may direct the investment of contributions made by the member under
2629 Subsection (3)(b).

2630 (5) No loans shall be available from contributions made by a participating employer
2631 under Subsection (2)(a).

2632 (6) No hardship distributions shall be available from contributions made by a
2633 participating employer under Subsection (2)(a).

2634 (7) (a) Except as provided in Subsection (7)(b), if a member terminates employment
2635 with a participating employer prior to the vesting period described in Subsection (3)(a), all
2636 contributions made by a participating employer on behalf of the member including associated
2637 investment gains and losses under Subsection (2)(a) are subject to forfeiture.

2638 (b) If a member who terminates employment with a participating employer prior to the
2639 vesting period described in Subsection (3)(a) subsequently enters employment with the same or
2640 another participating employer within 10 years of the termination date of the previous
2641 employment:

2642 (i) all contributions made by the previous participating employer on behalf of the
2643 member, including associated investment gains and losses, shall be reinstated upon the
2644 member's [~~completion of the vesting period under Subsection (3)(a)~~] employment as a regular
2645 full-time employee; and

2646 (ii) the length of time that the member worked with the previous employer shall be
2647 included in determining whether the member has completed the vesting period under
2648 Subsection (3)(a).

2649 (c) The [~~board~~] office shall establish a forfeiture account and shall specify the uses of
2650 the forfeiture account, which may include an offset against administrative costs of employer
2651 contributions made under this section.

2652 (8) The [~~board~~] office may request from any other qualified 401(k) plan under
2653 Subsection (2) any relevant information pertaining to the maintenance of its tax qualification
2654 under the Internal Revenue Code.

2655 (9) The [~~board~~] office may take any action which in its judgment is necessary to
2656 maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

2657 Section 59. Section **49-23-403** is enacted to read:

2658 **49-23-403. Eligibility to receive a retirement allowance for a benefit tied to a**
2659 **retirement date for Defined Contribution members.**

2660 (1) As used in this section, "eligible to receive a retirement allowance" means the date

2661 selected by the member who is a participant under this part on which the member has ceased
2662 employment and would be qualified to receive an allowance under Section 49-23-303 if the
2663 member had been under the Tier II Hybrid Retirement System for the same period of
2664 employment.

2665 (2) The office and a participating employer shall make an accounting of years of
2666 service credit accrued for a member who is a participant under this part in order to calculate
2667 when a member would be eligible to receive a retirement allowance for purposes of
2668 establishing when a member may be eligible for a benefit tied to a retirement date that may be
2669 provided under Section 67-19-14.4, this title, another state statute, or by a participating
2670 employer.

2671 Section 60. Section **49-23-501** is amended to read:

2672 **49-23-501. Death benefit by means of group insurance policy -- Eligibility for**
2673 **death benefit -- Benefit calculation -- Payment of claim.**

2674 (1) The office shall provide a death benefit through the purchase of a group insurance
2675 policy for members of this system.

2676 (2) The board shall make rules to administer the death benefit provided by this section
2677 and may, in accordance with federal law, establish:

2678 (a) benefit levels;

2679 (b) classes of members; and

2680 (c) a living benefit option.

2681 (3) This death benefit is payable when:

2682 (a) the member dies prior to the member's retirement date or dies under circumstances
2683 which Subsection [~~49-23-304(5)~~] 49-23-304(4) requires to be treated as the death of a member
2684 before retirement;

2685 (b) the office receives acceptable proof of death; and

2686 (c) benefits are not payable under Section 49-23-306.

2687 (4) The death benefit payable to the beneficiary under this section is a lump-sum
2688 payment consisting of:

2689 (a) the return of any member contributions under this chapter; plus

2690 (b) a percentage of the final average salary of the member to be determined by the
2691 board.

2692 (5) Any amount of a living benefit option paid to the member prior to death shall be
2693 deducted from the benefit payable to the beneficiary.

2694 (6) The cost of the death benefit shall be paid by the participating employer in addition
2695 to the contribution rate established under Section 49-23-301 or 49-23-401.

2696 (7) The portion of the death benefit provided under Subsection (4)(b) may not be paid
2697 to the beneficiary of an inactive member unless the death of the member occurs either:

2698 (a) within a period of 120 days after the last day of work for which the person received
2699 compensation; or

2700 (b) while the member is still physically or mentally incapacitated from performance of
2701 duties, if the incapacity has been continuous since the last day of work for which compensation
2702 was received.

2703 (8) The death benefit provided under Subsection (4)(b) shall be paid in accordance
2704 with Sections 49-11-609 and 49-11-610.

2705 (9) The death benefit paid to the beneficiary of an inactive member, except as
2706 otherwise provided under Subsection (7), is a lump-sum return of the member's member
2707 contributions.

2708 (10) Payment of the death benefit by the office constitutes a full settlement of any
2709 beneficiary's claim against the office and the office is not liable for any further or additional
2710 claims or assessments on behalf of the member.

2711 (11) Unless otherwise specified in a written document filed with the office, death
2712 benefits payable to beneficiaries shall be in accordance with the order of precedence
2713 established under Title 75, Chapter 2, Intestate Succession and Wills.

2714 (12) A death benefit under this section may not be paid on behalf of a retiree under this
2715 system.

2716 Section 61. Section **49-23-502** is amended to read:

2717 **49-23-502. Death of married members -- Service retirement benefits to surviving**
2718 **spouse.**

2719 (1) As used in this section, "member's full allowance" means an Option Three
2720 allowance calculated under Section 49-23-304 without an actuarial reduction.

2721 (2) Upon the request of a deceased member's lawful spouse at the time of the member's
2722 death, the deceased member is considered to have retired under Option Three on the first day of

2723 the month following the month in which the member died if the following requirements are
2724 met:

2725 (a) the member has:

2726 (i) 15 or more years of service credit;

2727 (ii) attained age 62 with 10 or more years of service credit; or

2728 (iii) attained age 65 with four or more years of service credit; and

2729 (b) the member dies leaving a spouse to whom the member has been married at least
2730 six months immediately prior to the death date.

2731 (3) The spouse who requests a benefit under this section shall apply in writing to the
2732 office. The allowance shall begin on the first day of the month:

2733 (a) following the month in which the member died, if the application is received by the
2734 office within 90 days of the member's death; or

2735 (b) following the month in which the application is received by the office, if the
2736 application is received by the office more than 90 days after the spouse's death.

2737 (4) The allowance payable to a surviving spouse under Subsection (2) is:

2738 (a) if the member has 25 or more years of service credit at the time of death, the
2739 surviving spouse shall receive the member's full allowance;

2740 (b) if the member has between 20-24 years of service credit and is not age 60 or older
2741 at the time of death, the surviving spouse shall receive [~~2/3~~] two-thirds of the member's full
2742 allowance;

2743 (c) if the member has between 15-19 years of service credit and is not age 62 or older
2744 at the time of death, the surviving spouse shall receive [~~1/3~~] one-third of the member's full
2745 allowance; or

2746 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
2747 older with 10 or more years of service credit, or age 65 or older with four or more years of
2748 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
2749 with actuarial reductions.

2750 (5) Except for a return of member contributions, benefits payable under this section are
2751 retirement benefits and shall be paid in addition to any other payments made under Section
2752 49-23-501 and shall constitute a full and final settlement of the claim of the spouse or any other
2753 beneficiary filing a claim for benefits under Section 49-23-501.

2754 Section 62. Section **49-23-601** is amended to read:

2755 **49-23-601. Long-term disability coverage.**

2756 ~~[Each] (1) A participating employer shall cover [the following employees] a public~~
2757 ~~safety employee who initially enters employment on or after July 1, 2011, under Title 49,~~
2758 ~~Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term~~
2759 ~~disability program[.].~~

2760 ~~[(1) public safety employees initially entering employment on or after July 1, 2011;]~~

2761 ~~[(2) firefighter service employees initially entering employment on or after July 1,~~
2762 ~~2011; and]~~

2763 ~~[(3) volunteer firefighters.]~~

2764 (2) (a) A participating employer shall cover a firefighter employee who initially enters
2765 employment on or after July 1, 2011 under Title 49, Chapter 21, Public Employees' Long-Term
2766 Disability Act.

2767 (b) In accordance with this section, a participating employer shall provided long term
2768 disability benefit coverage for a volunteer firefighter as provided under Section 49-16-701.

2769 (c) The office shall ensure that the cost of the long-term disability benefit coverage
2770 provided under Subsection (2)(a) and (b) is funded with revenue received under Section
2771 49-11-901.5.

2772 Section 63. Section **67-5-8** is amended to read:

2773 **67-5-8. Eligibility for career service status.**

2774 (1) (a) The attorney general has sole authority to determine who may be employed with
2775 the Office of the Attorney General.

2776 (b) An employee of the state or any of its departments or agencies has no claim or right
2777 to a position in the attorney general's office by virtue of that employment.

2778 (2) (a) An employee of the Office of the Attorney General shall be placed in a career
2779 service status if:

2780 (i) for an employee who is an attorney, the attorney is a member in good standing of
2781 the Utah State Bar Association; and

2782 (ii) except as provided in Subsection (3), the employee has been employed by the
2783 Office of the Attorney General as a probationary employee for a period of:

2784 (A) at least one year but no more than 18 months; or

2785 (B) in the case of investigators, at least 18 months, but no more than two years.

2786 (b) An employee now employed by the attorney general's office in career service may
2787 not be terminated under this chapter except for cause.

2788 (3) (a) The attorney general shall determine whether an employee should be granted
2789 career service status.

2790 (b) If, at the end of the probationary period established under Subsection (2), the
2791 attorney general determines that an employee should be granted career service status, the
2792 attorney general shall notify the employee in writing of that decision and place a copy of the
2793 notification in the employee's personnel file.

2794 (c) If the attorney general determines that career service status should not be granted,
2795 the attorney general may either terminate the employee or extend the probationary period for a
2796 period not to exceed one year.

2797 (d) The attorney general shall notify the employee in writing of that decision and place
2798 a copy of the notification in the employee's personnel file.

2799 (e) An employee terminated under this section has no appeal rights under this chapter.

2800 (4) (a) An attorney in career service status under this chapter shall retire upon attaining
2801 the age of 70 years.

2802 (b) Subject to the provisions of [~~Section~~] Sections 49-11-504 and 49-11-505, an
2803 attorney required to retire under this section may be employed by the attorney general, after
2804 retirement, as a special assistant attorney general.

2805 (c) An attorney employed in the capacity of a special assistant under Subsection (4)(b)
2806 is not in career service status and is subject to termination in accordance with Section 67-5-12.