



30 application is received within 90 days of the death, or the following month if the application is  
31 received by the office more than 90 days after the date of death;

32       ▶ provides that for certain employer service credit purchases, an employee is not  
33 required to have at least four years of service credit or to forfeit service credit or any  
34 defined contribution balance;

35       ▶ provides that a minor child beneficiary may receive a refund of a deceased  
36 member's public safety member contributions;

37       ▶ clarifies that a judge with 25 or more years of service credit does not get penalized  
38 for retiring before age 65;

39       ▶ provides that an eligible employee in the Tier II public employees system includes  
40 an employee who is covered by a retirement program offered by another public or  
41 private system, organization, or company designated by the State Board of Regents;

42       ▶ provides that a person who is receiving long-term disability benefits may only  
43 accrue service credit until the earlier of date of death, the date the person retires, or  
44 the date the person has accumulated or would have accumulated service credit in a  
45 defined benefit system or plan under this title, sufficient to be eligible to retire with  
46 an unreduced benefit;

47       ▶ clarifies that a qualifying employee must be receiving paid leave benefits to be  
48 eligible to receive the state employee matching supplemental defined contribution  
49 benefit; and

50       ▶ makes technical changes.

51 **Money Appropriated in this Bill:**

52       None

53 **Other Special Clauses:**

54       This bill takes effect immediately.

55 **Utah Code Sections Affected:**

56 AMENDS:

57       [49-11-102](#), as last amended by Laws of Utah 2013, Chapters 215 and 316

- 58            **49-11-201**, as last amended by Laws of Utah 2004, Chapter 118
- 59            **49-11-403**, as last amended by Laws of Utah 2011, Chapters 366 and 439
- 60            **49-11-505**, as last amended by Laws of Utah 2013, Chapter 48
- 61            **49-11-603**, as last amended by Laws of Utah 2008, Chapter 252
- 62            **49-11-610**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 63            **49-12-201**, as last amended by Laws of Utah 2010, Chapter 266
- 64            **49-12-202**, as last amended by Laws of Utah 2009, Chapters 51 and 165
- 65            **49-12-203**, as last amended by Laws of Utah 2013, Chapters 310 and 316
- 66            **49-12-204**, as last amended by Laws of Utah 2013, Chapter 316
- 67            **49-12-401**, as last amended by Laws of Utah 2013, Chapter 215
- 68            **49-12-402**, as last amended by Laws of Utah 2011, Chapter 439
- 69            **49-13-102**, as last amended by Laws of Utah 2013, Chapters 109 and 127
- 70            **49-13-201**, as last amended by Laws of Utah 2010, Chapter 266
- 71            **49-13-202**, as last amended by Laws of Utah 2012, Chapter 298
- 72            **49-13-203**, as last amended by Laws of Utah 2013, Chapters 310 and 316
- 73            **49-13-204**, as last amended by Laws of Utah 2013, Chapter 316
- 74            **49-13-401**, as last amended by Laws of Utah 2013, Chapter 215
- 75            **49-13-402**, as last amended by Laws of Utah 2011, Chapter 439
- 76            **49-14-201**, as last amended by Laws of Utah 2010, Chapter 266
- 77            **49-14-401**, as last amended by Laws of Utah 2013, Chapter 215
- 78            **49-14-501**, as last amended by Laws of Utah 2011, Chapter 439
- 79            **49-14-504**, as last amended by Laws of Utah 2011, Chapter 366
- 80            **49-15-201**, as last amended by Laws of Utah 2010, Chapter 266
- 81            **49-15-202**, as last amended by Laws of Utah 2010, Chapter 266
- 82            **49-15-401**, as last amended by Laws of Utah 2013, Chapter 215
- 83            **49-15-501**, as last amended by Laws of Utah 2011, Chapter 439
- 84            **49-15-504**, as last amended by Laws of Utah 2011, Chapter 366
- 85            **49-16-201**, as last amended by Laws of Utah 2011, Chapter 366

86 49-16-401, as last amended by Laws of Utah 2013, Chapter 215  
 87 49-16-504, as last amended by Laws of Utah 2011, Chapter 366  
 88 49-17-401, as last amended by Laws of Utah 2011, Chapter 439  
 89 49-17-402, as last amended by Laws of Utah 2010, Chapter 264  
 90 49-17-502, as last amended by Laws of Utah 2009, Chapter 224  
 91 49-18-401, as last amended by Laws of Utah 2011, Chapter 439  
 92 49-18-402, as last amended by Laws of Utah 2010, Chapter 264  
 93 49-18-502, as last amended by Laws of Utah 2009, Chapter 224  
 94 49-19-201, as last amended by Laws of Utah 2010, Chapter 266  
 95 49-19-401, as last amended by Laws of Utah 2004, Chapter 118  
 96 49-21-102, as last amended by Laws of Utah 2013, Chapter 316  
 97 49-22-201, as last amended by Laws of Utah 2011, Chapter 439  
 98 49-22-203, as last amended by Laws of Utah 2013, Chapter 316  
 99 49-22-204, as enacted by Laws of Utah 2010, Chapter 266  
 100 49-22-304, as last amended by Laws of Utah 2013, Chapter 215  
 101 49-23-201, as last amended by Laws of Utah 2011, Chapter 439  
 102 49-23-303, as last amended by Laws of Utah 2013, Chapter 215  
 103 49-23-503, as last amended by Laws of Utah 2013, Chapter 40  
 104 67-19-43, as enacted by Laws of Utah 2013, Chapter 277

105 ENACTS:

106 49-21-408, Utah Code Annotated 1953

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

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

110 **49-11-102. Definitions.**

111 As used in this title:

112 (1) (a) "Active member" means a member who:

113 (i) is employed by a participating employer and accruing service credit; or [who]

114            (ii) within the previous 120 days:  
115            (A) has been employed by a participating employer [~~within the previous 120 days.~~];  
116 and  
117            (B) accrued service credit.  
118            (b) "Active member" does not include [~~retirees~~] a retiree.  
119            (2) "Actuarial equivalent" means a benefit of equal value when computed upon the  
120 basis of mortality tables as recommended by the actuary and adopted by the executive director,  
121 including regular interest.  
122            (3) "Actuarial interest rate" means the interest rate as recommended by the actuary and  
123 adopted by the board upon which the funding of system costs and benefits are computed.  
124            (4) (a) "Agency" means:  
125            (i) a department, division, agency, office, authority, commission, board, institution, or  
126 hospital of the state;  
127            (ii) a county, municipality, school district, local district, or special service district;  
128            (iii) a state college or university; or  
129            (iv) any other participating employer.  
130            (b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a  
131 subdivision of another entity listed under Subsection (4)(a).  
132            (5) "Allowance" or "retirement allowance" means the pension plus the annuity,  
133 including any cost of living or other authorized adjustments to the pension and annuity.  
134            (6) "Alternate payee" means a member's former spouse or family member eligible to  
135 receive payments under a Domestic Relations Order in compliance with Section [49-11-612](#).  
136            (7) "Amortization rate" means the board certified percent of salary required to amortize  
137 the unfunded actuarial accrued liability in accordance with policies established by the board  
138 upon the advice of the actuary.  
139            (8) "Annuity" means monthly payments derived from member contributions.  
140            (9) "Appointive officer" means an employee appointed to a position for a definite and  
141 fixed term of office by official and duly recorded action of a participating employer whose

142 appointed position is designated in the participating employer's charter, creation document, or  
143 similar document, and:

144 (a) who earns \$500 or more per month, indexed as of January 1, 1990, as provided in  
145 Section 49-12-407 for a Tier I appointive officer; and

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

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

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

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

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

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

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

163 (12) "Board" means the Utah State Retirement Board established under Section  
164 49-11-202.

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

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

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

173 (16) "Council member" means a person serving on the Membership Council  
174 established under Section [49-11-202](#).

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

177 (18) "Current service" means covered service under:

- 178 (a) Chapter 12, Public Employees' Contributory Retirement Act;
- 179 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;
- 180 (c) Chapter 14, Public Safety Contributory Retirement Act;
- 181 (d) Chapter 15, Public Safety Noncontributory Retirement Act;
- 182 (e) Chapter 16, Firefighters' Retirement Act;
- 183 (f) Chapter 17, Judges' Contributory Retirement Act;
- 184 (g) Chapter 18, Judges' Noncontributory Retirement Act;
- 185 (h) Chapter 19, Utah Governors' and Legislators' Retirement Act;
- 186 (i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
- 187 (j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

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

- 192 (a) years of service;
- 193 (b) final average monthly salary; or
- 194 (c) a retirement multiplier.

195 (20) "Defined contribution" or "defined contribution plan" means any defined  
196 contribution plan or deferred compensation plan authorized under the Internal Revenue Code  
197 and administered by the board.

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

- 201           (a) the State Board of Education and its instrumentalities;
- 202           (b) any institution of higher education and its branches;
- 203           (c) any school district and its instrumentalities;
- 204           (d) any vocational and technical school; and
- 205           (e) any entity arising out of a consolidation agreement between entities described under  
206 this Subsection (21).

207           (22) "Elected official":

- 208           (a) means a person elected to a state office, county office, municipal office, school  
209 board or school district office, local district office, or special service district office;
- 210           (b) includes a person who is appointed to serve an unexpired term of office described  
211 under Subsection (22)(a); and
- 212           (c) does not include a judge or justice who is subject to a retention election under  
213 Section [20A-12-201](#).

214           (23) (a) "Employer" means any department, educational institution, or political  
215 subdivision of the state eligible to participate in a government-sponsored retirement system  
216 under federal law.

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

219           (24) "Exempt employee" means an employee working for a participating employer:

220           (a) who is not eligible for service credit under Section [49-12-203](#), [49-13-203](#),  
221 [49-14-203](#), [49-15-203](#), or [49-16-203](#); and

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

224           (25) "Final average monthly salary" means the amount computed by dividing the  
225 compensation received during the final average salary period under each system by the number

226 of months in the final average salary period.

227 (26) "Fund" means any fund created under this title for the purpose of paying benefits  
228 or costs of administering a system, plan, or program.

229 (27) (a) "Inactive member" means a member who has not been employed by a  
230 participating employer for a period of at least 120 days.

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

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

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

236 (c) "Initially entering" includes an employee of a participating employer, except for an  
237 employee that is not eligible under a system or plan under this title, who:

238 (i) does not have any prior service credit on file with the office;

239 (ii) is covered by a retirement plan other than a retirement plan created under this title;

240 and

241 (iii) moves to a position with a participating employer that is covered by this title.

242 (29) "Institution of higher education" means an institution described in Section  
243 [53B-1-102](#).

244 (30) (a) "Member" means a person, except a retiree, with contributions on deposit with  
245 a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah  
246 Governors' and Legislators' Retirement Act, or with a terminated system.

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

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

253 (31) "Member contributions" means the sum of the contributions paid to a system or

254 the Utah Governors' and Legislators' Retirement Plan, including refund interest if allowed by a  
255 system, and which are made by:

256 (a) the member; and

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

259 (32) "Nonelective contribution" means an amount contributed by a participating  
260 employer into a participant's defined contribution account.

261 (33) "Normal cost rate":

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

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

266 (34) "Office" means the Utah State Retirement Office.

267 (35) "Participant" means an individual with voluntary deferrals or nonelective  
268 contributions on deposit with the defined contribution plans administered under this title.

269 (36) "Participating employer" means a participating employer, as defined by Chapter  
270 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'  
271 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,  
272 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'  
273 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges'  
274 Noncontributory Retirement Act, or an agency financed in whole or in part by public funds  
275 which is participating in a system or plan as of January 1, 2002.

276 (37) "Part-time appointed board member" means a person:

277 (a) who is appointed to serve as a member of a board, commission, council, committee,  
278 or panel of a participating employer; and

279 (b) whose service as a part-time appointed board member does not qualify as a regular  
280 full-time employee as defined under Section [49-12-102](#), [49-13-102](#), or [49-22-102](#).

281 (38) "Pension" means monthly payments derived from participating employer

282 contributions.

283 (39) "Plan" means the Utah Governors' and Legislators' Retirement Plan created by  
284 Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees' Tier  
285 II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan,  
286 the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23,  
287 Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under  
288 Section [49-11-801](#).

289 (40) (a) "Political subdivision" means any local government entity, including cities,  
290 towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally  
291 separate and distinct from the state and only if its employees are not by virtue of their  
292 relationship to the entity employees of the state.

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

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

297 (41) "Program" means the Public Employees' Insurance Program created under Chapter  
298 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'  
299 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term  
300 Disability Act.

301 (42) "Public funds" means those funds derived, either directly or indirectly, from public  
302 taxes or public revenue, dues or contributions paid or donated by the membership of the  
303 organization, used to finance an activity whose objective is to improve, on a nonprofit basis,  
304 the governmental, educational, and social programs and systems of the state or its political  
305 subdivisions.

306 (43) "Qualified defined contribution plan" means a defined contribution plan that  
307 meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

308 (44) (a) "Reemployed," "reemploy," or "reemployment" means work or service  
309 performed for a participating employer after retirement, in exchange for compensation.

310 (b) Reemployment includes work or service performed on a contract for a participating  
311 employer if the retiree is:

312 (i) listed as the contractor; or

313 (ii) an owner, partner, or [~~principle~~] principal of the contractor.

314 (45) "Refund interest" means the amount accrued on member contributions at a rate  
315 adopted by the board.

316 (46) "Retiree" means an individual who has qualified for an allowance under this title.

317 (47) "Retirement" means the status of an individual who has become eligible, applies  
318 for, and is entitled to receive an allowance under this title.

319 (48) "Retirement date" means the date selected by the member on which the member's  
320 retirement becomes effective with the office.

321 (49) "Retirement related contribution":

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

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

326 (50) "Service credit" means:

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

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

332 (51) "System" means the individual retirement systems created by Chapter 12, Public  
333 Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory  
334 Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public  
335 Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17,  
336 Judges' Contributory Retirement Act, Chapter 18, Judges' Noncontributory Retirement Act, and  
337 Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the

338 Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System,  
339 and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part  
340 3, Tier II Hybrid Retirement System.

341 (52) "Tier I" means a system or plan under this title for which:

342 (a) an employee is eligible to participate if the employee initially enters regular  
343 full-time employment before July 1, 2011[-]; or

344 (b) a governor or legislator who initially enters office before July 1, 2011.

345 (53) (a) "Tier II" means a system or plan under this title provided in lieu of a Tier I  
346 system or plan for [~~which an employee is eligible to participate;~~] an employee, governor,  
347 legislator, or full-time elected official who does not have Tier I service credit in a system or  
348 plan under this title:

349 (i) if the employee initially enters regular full-time employment on or after July 1,  
350 2011[-]; or

351 (ii) if the governor, legislator, or full-time elected official initially enters office on or  
352 after July 1, 2011.

353 (b) "Tier II" includes:

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

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

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

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

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

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

360 (54) "Unfunded actuarial accrued liability" or "UAAL":

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

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

364 (55) "Voluntary deferrals" means an amount contributed by a participant into that  
365 participant's defined contribution account.

366 Section 2. Section **49-11-201** is amended to read:

367 **49-11-201. Establishment of retirement office -- An independent state agency --**  
368 **Office exemption.**

369 (1) (a) There is established the Utah State Retirement Office, which may also be  
370 known and function as the Utah State Retirement Systems or the Utah Retirement Systems.

371 (b) The office shall administer the systems, plans, and programs and perform all other  
372 functions assigned to it under this title.

373 (2) (a) The office is an independent state agency.

374 (b) It is subject to legislative and executive department budgetary review and comment.

375 (3) The office may establish branch offices upon approval of the board.

376 (4) The board and office are exempt from those acts which are applicable to state and  
377 other governmental entities under this code.

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

379 **49-11-403. Purchase of public service credit not otherwise qualifying for benefit.**

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

383 (a) United States federal employment;

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

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

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

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

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

393 (i) the member was receiving:

394 (A) long-term disability benefits;  
395 (B) short-term disability benefits; or  
396 (C) worker's compensation disability benefits; and  
397 (ii) the member's employer had not entered into a benefit protection contract under  
398 Section 49-11-404 during the period the member had a disability due to sickness or accident;  
399 (g) employment covered by a [~~Teachers Insurance and Annuity Association of~~  
400 ~~America~~] retirement plan offered by a public or private system, organization, or company  
401 designated by the State Board of Regents, if the member forfeits any retirement benefit from  
402 that retirement plan for the period of employment to be purchased under this Subsection (1)(g);  
403 or  
404 (h) employment in a charter school located within the state if the member forfeits any  
405 retirement benefit under any other retirement system or plan for the period of employment to be  
406 purchased under this Subsection (1)(h).  
407 (2) A member shall:  
408 (a) have at least four years of service credit before a purchase can be made under this  
409 section; and  
410 (b) forfeit service credit and any defined contribution balance based on employer  
411 contributions under any other retirement system or plan based on the period of employment for  
412 which service credit is being purchased.  
413 (3) (a) To purchase credit under this section, the member, a participating employer, or a  
414 member and a participating employer jointly shall make payment to the system under which the  
415 member is currently covered.  
416 (b) The amount of the payment shall be determined by the office based on a formula  
417 that is:  
418 (i) recommended by the actuary; and  
419 (ii) adopted by the board.  
420 (4) The purchase may be made through payroll deductions or through a lump sum  
421 deposit based upon the present value of future payments.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

448 Section 4. Section **49-11-505** is amended to read:

449 **49-11-505. Reemployment of a retiree -- Restrictions.**

450 (1) (a) For purposes of this section, "retiree":  
451 (i) means a person who:  
452 (A) retired from a participating employer; and  
453 (B) begins reemployment on or after July 1, 2010, with a participating employer;  
454 (ii) does not include a person:  
455 (A) who was reemployed by a participating employer before July 1, 2010; and  
456 (B) whose participating employer that reemployed the person under Subsection  
457 (1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with  
458 Section 49-11-621 after July 1, 2010; and

459 (iii) does not include a person who is reemployed as an active senior judge appointed  
460 to hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah  
461 Constitution.

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

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

466 (2) A retiree may not for the same period of reemployment:  
467 (a) (i) earn additional service credit; or  
468 (ii) receive any retirement related contribution from a participating employer; and  
469 (b) receive a retirement allowance.

470 (3) (a) Except as provided under Subsection (3)(b), the office shall cancel the  
471 retirement allowance of a retiree if the reemployment with a participating employer begins  
472 within one year of the retiree's retirement date.

473 (b) The office may not cancel the retirement allowance of a retiree who is reemployed  
474 with a participating employer within one year of the retiree's retirement date if:

475 (i) the retiree is not reemployed by a participating employer for a period of at least 60  
476 days from the retiree's retirement date;  
477 (ii) upon reemployment after the break in service under Subsection (3)(b)(i), the retiree

478 does not receive any employer provided benefits, including:

479 (A) medical benefits;

480 (B) dental benefits;

481 (C) other insurance benefits except for workers' compensation as provided under Title  
482 34A, Chapter 2, Workers' Compensation Act, and withholdings required by federal or state law  
483 for Social Security, Medicare, and unemployment insurance; or

484 (D) paid time off, including sick, annual, or other type of leave; and

485 (iii) the retiree does not earn in any calendar year of reemployment an amount in excess  
486 of the lesser of:

487 (A) \$15,000; or

488 (B) one-half of the retiree's final average salary upon which the retiree's retirement  
489 allowance is based.

490 (c) Beginning January 1, 2013, the board shall adjust the [~~amount~~] amounts under  
491 Subsection (3)(b)(iii)[~~(A)~~] by the annual change in the Consumer Price Index during the  
492 previous calendar year as measured by a United States Bureau of Labor Statistics Consumer  
493 Price Index average as determined by the board.

494 (d) The office shall cancel the retirement allowance of a retiree for the remainder of the  
495 calendar year if the reemployment with a participating employer exceeds the limitations under  
496 Subsection (3)(b)(iii).

497 (e) If a retiree is reemployed under the provisions of (3)(b), the termination date of the  
498 reemployment, as confirmed in writing by the participating employer, is considered the retiree's  
499 retirement date for the purpose of calculating the separation requirement under Subsection  
500 (3)(a).

501 (4) If a reemployed retiree has completed the one-year separation from employment  
502 with a participating employer required under Subsection (3)(a), the retiree may elect to:

503 (a) earn additional service credit in accordance with this title and cancel the retiree's  
504 retirement allowance; or

505 (b) continue to receive the retiree's retirement allowance and forfeit any retirement

506 related contribution from the participating employer who reemployed the retiree.

507 (5) A participating employer who reemploys a retiree shall contribute to the office the  
508 amortization rate, as defined in Section 49-11-102, to be applied to the system that would have  
509 covered the retiree, if the reemployed retiree:

510 (a) has completed the one-year separation from employment with a participating  
511 employer required under Subsection (3)(a); and

512 (b) makes an election under Subsection (4)(b) to continue to receive a retirement  
513 allowance while reemployed.

514 (6) (a) A participating employer shall immediately notify the office:

515 (i) if the participating employer reemploys a retiree;

516 (ii) whether the reemployment is subject to Subsection (3)(b) or (4) of this section; and

517 (iii) of any election by the retiree under Subsection (4).

518 (b) A participating employer shall certify to the office whether the position of an  
519 elected official is or is not full time.

520 (c) A participating employer is liable to the office for a payment or failure to make a  
521 payment in violation of this section.

522 (d) If a participating employer fails to notify the office in accordance with this section,  
523 the participating employer is immediately subject to a compliance audit by the office.

524 (7) (a) The office shall immediately cancel the retirement allowance of a retiree in  
525 accordance with Subsection (7)(b) if the office receives notice or learns of:

526 (i) the reemployment of a retiree in violation of Subsection (3); or

527 (ii) the election of a reemployed retiree under Subsection (4)(a).

528 (b) If the retiree is eligible for retirement coverage in the reemployed position, the  
529 office shall cancel the allowance of a retiree subject to Subsection (7)(a), and reinstate the  
530 retiree to active member status on the first day of the month following the date of:

531 (i) reemployment if the retiree is subject to Subsection (3); or

532 (ii) an election by an employee under Subsection (4)(a).

533 (c) If the retiree is not otherwise eligible for retirement coverage in the reemployed

534 position:

535 (i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and

536 (ii) the participating employer shall pay the amortization rate to the office on behalf of  
537 the retiree.

538 (8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date  
539 of reemployment:

540 (i) is not entitled to a recalculated retirement benefit; and

541 (ii) will resume the allowance that was being paid at the time of cancellation.

542 (b) Subject to Subsection (2), a retiree who is reinstated to active membership under  
543 Subsection (7) and who retires two or more years after the date of reinstatement to active  
544 membership shall:

545 (i) resume receiving the allowance that was being paid at the time of cancellation; and

546 (ii) receive an additional allowance based on the formula in effect at the date of the  
547 subsequent retirement for all service credit accrued between the first and subsequent retirement  
548 dates.

549 (9) (a) A retiree subject to this section shall report to the office the status of the  
550 reemployment under Subsection (3) or (4).

551 (b) If the retiree fails to inform the office of an election under Subsection (4), the office  
552 shall withhold one month's benefit for each month the retiree fails to inform the office under  
553 Subsection (9)(a).

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

555 Section 5. Section **49-11-603** is amended to read:

556 **49-11-603. Participating employer to report and certify -- Time limit -- Penalties**  
557 **for failure to comply.**

558 (1) As soon as administratively possible, but in no event later than 60 days after the  
559 end of each pay period, a participating employer shall report and certify to the office:

560 (a) the eligibility for service credit accrual of:

561 (i) [~~all current members~~] each current employee;

562 (ii) each new [~~member~~] employee as [~~they begin~~] the new employee begins  
563 employment; and

564 (iii) any changes to eligibility for service credit accrual of each [~~member~~] employee;

565 (b) the compensation of each current [~~member~~] employee eligible for service credit;  
566 and

567 (c) other factors relating to the proper administration of this title as required by the  
568 executive director.

569 (2) Each participating employer shall submit the reports required under Subsection (1)  
570 in a format approved by the office.

571 (3) A participating employer shall be liable to the office for:

572 (a) any liabilities and expenses, including administrative expenses and the cost of  
573 increased benefits to [~~members~~] employees, resulting from the participating employer's failure  
574 to correctly report and certify records under this section;

575 (b) a penalty equal to \$250 or 50% of the total contributions for the [~~member~~]  
576 employees for the period of the reporting error, whichever is greater; and

577 (c) attorney fees.

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

581 (5) The executive director may estimate the length of service, compensation, or age of  
582 any [~~member~~] employee, if that information is not contained in the records.

583 Section 6. Section **49-11-610** is amended to read:

584 **49-11-610. Benefits payable in name of beneficiary -- Delivery.**

585 (1) (a) Any benefits payable to a beneficiary shall be made in the name of and  
586 delivered to the beneficiary or the lawfully appointed guardian or conservator of the  
587 beneficiary, or delivered as otherwise ordered by a court of competent jurisdiction under Title  
588 75, Utah Uniform Probate Code.

589 (b) If the benefit involves a payment not to exceed an amount authorized by the Utah

590 Uniform Probate Code to any one beneficiary, the office may, without the appointment of a  
591 guardian or conservator or the giving of a bond, pay the amount due to the beneficiary or to the  
592 persons assuming their support.

593 (c) The payment shall be in either a lump sum or in monthly amounts.

594 (d) The total of the payments made under this section shall fully discharge and release  
595 the office from any further claims.

596 ~~[(2) All continuing monthly benefits payable to beneficiaries upon the death of a  
597 member or participant shall be effective on the first day of the month following the date of  
598 death of the member or participant.]~~

599 (2) A beneficiary who qualifies for a monthly benefit under this section shall apply in  
600 writing to the office.

601 (3) The allowance shall begin on the first day of the month following the month in  
602 which the:

603 (a) member or participant died, if the application is received by the office within 90  
604 days of the date of death of the member or participant; or

605 (b) application is received by the office, if the application is received by the office  
606 more than 90 days after the date of death of the member or participant.

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

608 **49-12-201. System membership -- Eligibility.**

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

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

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

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

616 (3) Notwithstanding the provisions of Subsection (1), a person initially entering  
617 employment with a participating employer on or after July 1, 2011, who does not have service

618 credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may  
619 not participate in this system.

620 Section 8. Section **49-12-202** is amended to read:

621 **49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission**  
622 **requirements -- Exceptions -- Nondiscrimination requirements.**

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

625 (b) In addition to their participation in this system, participating employers may  
626 provide or participate in public or private retirement, supplemental or defined contribution  
627 plan, either directly or indirectly, for their employees.

628 (2) The following employers may be excluded from participation in this system:

629 (a) an employer not initially admitted or included as a participating employer in this  
630 system prior to January 1, 1982 if:

631 (i) the employer elects not to provide or participate in any type of private or public  
632 retirement, supplemental or defined contribution plan, either directly or indirectly, for its  
633 employees, except for Social Security; or

634 (ii) the employer offers another collectively bargained retirement benefit and has  
635 continued to do so on an uninterrupted basis since that date;

636 (b) an employer that is a charter school sponsored by the State Board of Education or a  
637 school district that makes an election of nonparticipation in accordance with Section  
638 [53A-1a-512](#) unless the charter school makes a one-time, irrevocable retraction of the election  
639 of nonparticipation in accordance with Subsection [53A-1a-512\(9\)](#); or

640 (c) an employer that is a hospital created as a special service district under Title 17D,  
641 Chapter 1, Special Service District Act, that makes an election of nonparticipation in  
642 accordance with Subsection (4).

643 (3) An employer who did not become a participating employer in this system prior to  
644 July 1, 1986, may not participate in this system.

645 (4) (a) Until June 30, 2009, a employer that is a hospital created as a special service

646 district under Title 17D, Chapter 1, Special Service District Act, may make an election of  
647 nonparticipation as an employer for retirement programs under this chapter.

648 (b) An election provided under Subsection (4)(a):

649 (i) is a one-time election made no later than the time specified under Subsection (4)(a);

650 (ii) shall be documented by a resolution adopted by the governing body of the special  
651 service district;

652 (iii) is irrevocable; and

653 (iv) applies to the special service district as the employer and to all employees of the  
654 special service district.

655 (c) The governing body of the special service district may offer employee benefit plans  
656 for its employees:

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

658 or

659 (ii) under any other program.

660 (5) (a) If a participating employer purchases service credit on behalf of regular  
661 full-time employees for service rendered prior to the participating employer's admission to this  
662 system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all  
663 current and former regular full-time employees who were eligible for service credit at the time  
664 service was rendered.

665 (b) For a purchase made under this Subsection (5), an employee is not required to:

666 (i) have at least four years of service credit before the purchase can be made; or

667 (ii) forfeit service credit or any defined contribution balance based on the employer  
668 contributions under any other retirement system or plan based on the period of employment for  
669 which service credit is being purchased.

670 Section 9. Section **49-12-203** is amended to read:

671 **49-12-203. Exclusions from membership in system.**

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

673 (a) subject to the requirements of Subsection (2), an employee whose employment

674 status is temporary in nature due to the nature or the type of work to be performed;

675 (b) except as provided under Subsection (3)(a), an employee of an institution of higher  
676 education who participates in a retirement system with [~~the Teachers' Insurance and Annuity~~  
677 ~~Association of America or with any other~~] a public or private retirement system, organization,  
678 or company designated by the State Board of Regents during any period in which required  
679 contributions based on compensation have been paid on behalf of the employee by the  
680 employer;

681 (c) an employee serving as an exchange employee from outside the state;

682 (d) an executive department head of the state, a member of the State Tax Commission,  
683 the Public Service Commission, and a member of a full-time or part-time board or commission  
684 who files a formal request for exemption;

685 (e) an employee of the Department of Workforce Services who is covered under  
686 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; or

687 (f) an employee who is employed on or after July 1, 2009 with an employer that has  
688 elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection  
689 [49-12-202\(2\)\(c\)](#).

690 (2) If an employee whose status is temporary in nature due to the nature of type of  
691 work to be performed:

692 (a) is employed for a term that exceeds six months and the employee otherwise  
693 qualifies for service credit in this system, the participating employer shall report and certify to  
694 the office that the employee is a regular full-time employee effective the beginning of the  
695 seventh month of employment; or

696 (b) was previously terminated prior to being eligible for service credit in this system  
697 and is reemployed within three months of termination by the same participating employer, the  
698 participating employer shall report and certify that the member is a regular full-time employee  
699 when the total of the periods of employment equals six months and the employee otherwise  
700 qualifies for service credits in this system.

701 (3) (a) Upon cessation of the participating employer contributions, an employee under

702 Subsection (1)(b) is eligible for service credit in this system.

703 (b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service  
704 credit earned by an employee under this chapter before July 1, 2009 is not affected under  
705 Subsection (1)(f).

706 (4) Upon filing a written request for exemption with the office, the following  
707 employees shall be exempt from coverage under this system:

708 (a) a full-time student or the spouse of a full-time student and individuals employed in  
709 a trainee relationship;

710 (b) an elected official;

711 (c) an executive department head of the state, a member of the State Tax Commission,  
712 a member of the Public Service Commission, and a member of a full-time or part-time board or  
713 commission;

714 (d) an employee of the Governor's Office of Management and Budget;

715 (e) an employee of the Governor's Office of Economic Development;

716 (f) an employee of the Commission on Criminal and Juvenile Justice;

717 (g) an employee of the Governor's Office;

718 (h) an employee of the State Auditor's Office;

719 (i) an employee of the State Treasurer's Office;

720 (j) any other member who is permitted to make an election under Section [49-11-406](#);

721 (k) a person appointed as a city manager or chief city administrator or another person  
722 employed by a municipality, county, or other political subdivision, who is an at-will employee;  
723 and

724 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,  
725 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through  
726 membership in a labor organization that provides retirement benefits to its members.

727 (5) (a) Each participating employer shall prepare a list designating those positions  
728 eligible for exemption under Subsection (4).

729 (b) An employee may not be exempted unless the employee is employed in a position

730 designated by the participating employer.

731 (6) (a) In accordance with this section, a municipality, county, or political subdivision  
732 may not exempt more than 50 positions or a number equal to 10% of the employees of the  
733 municipality, county, or political subdivision whichever is lesser.

734 (b) A municipality, county, or political subdivision may exempt at least one regular  
735 full-time employee.

736 (7) Each participating employer shall:

737 (a) file employee exemptions annually with the office; and

738 (b) update the employee exemptions in the event of any change.

739 (8) The office may make rules to implement this section.

740 Section 10. Section **49-12-204** is amended to read:

741 **49-12-204. Higher education employees' eligibility requirements -- Election**  
742 **between different retirement plans -- Classification requirements -- Transfer between**  
743 **systems -- One-time election window -- Rulemaking.**

744 (1) (a) A regular full-time employee of an institution of higher education who is  
745 eligible to participate in either this system or [~~with the Teachers' Insurance and Annuity~~  
746 ~~Association of America or with any other~~] a public or private retirement system, organization,  
747 or company, designated by the Board of Regents, shall, not later than January 1, 1979, elect to  
748 participate exclusively in this system or in an annuity contract allowed under this Subsection  
749 (1).

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

751 (2) (a) Except as provided under Subsection (2)(c), a regular full-time employee hired  
752 by an institution of higher education after January 1, 1979, may participate only in the  
753 retirement plan which attaches to the person's employment classification.

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

757 (i) this system; or

758            [~~(ii) the Teachers' Insurance and Annuity Association of America; or~~  
759            [~~(iii) another~~] (ii) a public or private system, organization, or company designated by  
760 the Board of Regents.

761            (c) Notwithstanding a person's employment classification assignment under Subsection  
762 (2)(b), a regular full-time employee who begins employment with an institution of higher  
763 education on or after May 11, 2010, has a one-time irrevocable election to continue  
764 participation in this system, if the employee has service credit in this system before the date of  
765 employment.

766            (3) Notwithstanding an employment classification assignment change made under  
767 Subsection (2)(b), a regular full-time employee hired by an institution of higher education after  
768 January 1, 1979, whose employment classification requires participation in this system may  
769 elect to continue participation in this system.

770            (4) A regular full-time employee hired by an institution of higher education after  
771 January 1, 1979, whose employment classification requires participation in this system shall  
772 participate in this system.

773            (5) (a) Notwithstanding any other provision of this section, a regular full-time  
774 employee of an institution of higher education shall have a one-time irrevocable election to  
775 participate in this system if the employee:

- 776            (i) was hired after January 1, 1979;
- 777            (ii) whose employment classification assignment under Subsection (2)(b) required  
778 participation in a retirement program other than this system; and
- 779            (iii) has service credit in a system under this title.

780            (b) The election under Subsection (5)(a) shall be made before June 30, 2010.

781            (c) All forms required by the office must be completed and received by the office no  
782 later than June 30, 2010, for the election to participate in this system to be effective.

783            (d) Beginning July 1, 2010, a regular full-time employee of an institution of higher  
784 education who elects to be covered by this system under Subsection (5)(a) may begin to accrue  
785 service credit in this system.

786 (6) A regular full-time employee of an institution of higher education who elects to be  
787 covered by this system under Subsection (2)(c) or (5)(a), may purchase periods of employment  
788 while covered under another retirement program sponsored by the institution of higher  
789 education by complying with the requirements of Section 49-11-403.

790 (7) The board shall make rules to implement this section.

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

792 **49-12-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

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

794 (a) except as provided under Subsection (3), the member ceases actual work for every  
795 participating employer that employs the member before the member's retirement date and  
796 provides evidence of the termination;

797 (b) the member has submitted to the office a [notarized] retirement application form  
798 that states the member's proposed retirement date; and

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

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

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

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

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

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

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

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

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

812 (b) Except as provided under Subsection (3), a member may not be employed by a  
813 participating employer in the system established by this chapter on the retirement date selected

814 under Subsection (2)(a)(i).

815 (3) (a) A member who is employed by a participating employer and who is also an  
816 elected official is not required to cease service as an elected official to be qualified to receive  
817 an allowance under Subsection (1), unless the member is retiring from service as an elected  
818 official.

819 (b) A member who is employed by a participating employer and who is also a part-time  
820 appointed board member is not required to cease service as a part-time appointed board  
821 member to be qualified to receive an allowance under Subsection (1).

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

823 **49-12-402. Service retirement plans -- Calculation of retirement allowance --**  
824 **Social Security limitations.**

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

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

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

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

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

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

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

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

841 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,

842 service credit is within 1/10 of one year of the total years of service credit required for  
843 retirement, the retiree shall be considered to have the total years of service credit required for  
844 retirement.

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

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

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

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

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

859 (d) Option Five is a modification of Option Three so that if the lawful spouse at the  
860 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the  
861 time of initial retirement under Option One shall be paid to the retiree for the remainder of the  
862 retiree's life, beginning on the first day of the month following the month in which the:

863 (i) [~~following the month in which the~~] spouse died, if the application is received by the  
864 office within 90 days of the spouse's death; or

865 (ii) [~~following the month in which the~~] application is received by the office, if the  
866 application is received by the office more than 90 days after the spouse's death.

867 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time  
868 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time  
869 of initial retirement under Option One shall be paid to the retiree for the remainder of the

870 retiree's life, beginning on the first day of the month following the month in which the:

871 (i) [~~following the month in which the~~] spouse died, if the application is received by the  
872 office within 90 days of the spouse's death; or

873 (ii) [~~following the month in which the~~] application is received by the office, if the  
874 application is received by the office more than 90 days after the spouse's death.

875 (4) (a) (i) The final average salary is limited in the computation of that part of an  
876 allowance based on service rendered prior to July 1, 1967, during a period when the retiree  
877 received employer contributions on a portion of compensation from an educational institution  
878 toward the payment of the premium required on a retirement annuity contract with [~~the~~  
879 ~~Teachers' Insurance and Annuity Association of America or with any other~~] a public or private  
880 system, organization, or company designated by the State Board of Regents to \$4,800.

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

883 (b) Periods of employment which are exempt from this system under Subsection  
884 [49-12-203\(1\)\(b\)](#), may be purchased by the member for the purpose of retirement only if all  
885 benefits from [~~the Teachers' Insurance and Annuity Association of America or any other public~~  
886 ~~or private system or organization~~] a public or private system, organization, or company  
887 designated by the State Board of Regents based on this period of employment are forfeited.

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

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

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

896 Section 13. Section **49-13-102** is amended to read:

897 **49-13-102. Definitions.**

898 As used in this chapter:

899 (1) "Benefits normally provided" has the same meaning as defined in Section  
900 49-12-102.

901 (2) (a) Except as provided in Subsection (2)(c), "compensation" means the total  
902 amount of payments made by a participating employer to a member of this system for services  
903 rendered to the participating employer, including:

904 (i) bonuses;

905 (ii) cost-of-living adjustments;

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

909 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral  
910 or other benefits authorized by federal law.

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

913 (c) "Compensation" does not include:

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

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

917 (iii) compensation paid to a temporary employee, an exempt employee, or an employee  
918 otherwise ineligible for service credit;

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

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

924 (d) The executive director may determine if a payment not listed under this Subsection  
925 (2) falls within the definition of compensation.

926 (3) "Final average salary" means the amount computed by averaging the highest three  
927 years of annual compensation preceding retirement subject to the following:

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

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

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

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

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

941 (4) "Participating employer" means an employer which meets the participation  
942 requirements of Sections [49-13-201](#) and [49-13-202](#).

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

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

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

951 (ii) a classified school employee:

952 (A) who is hired before July 1, 2013; and

953 (B) whose employment normally requires an average of 20 hours per week or more for

954 a participating employer, regardless of benefits provided;

955 (iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as

956 of January 1, 1990, as provided in Section [49-13-407](#);

957 (iv) a faculty member or employee of an institution of higher education who is

958 considered full time by that institution of higher education; and

959 (v) an individual who otherwise meets the definition of this Subsection [~~(4)~~] (5) who

960 performs services for a participating employer through a professional employer organization or

961 similar arrangement.

962 (c) "Regular full-time employee" does not include a classified school employee:

963 (i) (A) who is hired on or after July 1, 2013; and

964 (B) who does not receive benefits normally provided by the participating employer

965 even if the employment normally requires an average of 20 hours per week or more for a

966 participating employer; or

967 (ii) (A) who is hired before July 1, 2013;

968 (B) who did not qualify as a regular full-time employee before July 1, 2013;

969 (C) who does not receive benefits normally provided by the participating employer;

970 and

971 (D) whose employment hours are increased on or after July 1, 2013, to require an

972 average of 20 hours per week or more for a participating employer.

973 (6) "System" means the Public Employees' Noncontributory Retirement System.

974 (7) "Years of service credit" means:

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

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

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

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

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

980 provided by this chapter; or

981 (c) the regular school year consisting of not less than eight months of full-time service

982 for a regular full-time employee of an educational institution.

983 Section 14. Section **49-13-201** is amended to read:

984 **49-13-201. System membership -- Eligibility.**

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

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

990 (b) A person entering regular full-time employment with the state or its educational  
991 institutions after July 1, 2011, who has service credit accrued before July 1, 2011, in a Tier I  
992 system or plan administered by the board, is eligible for service credit in this system.

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

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

1000 (a) Until June 30, 2011, a person initially entering regular full-time employment with a  
1001 participating employer which elects to participate in this system is eligible for service credit in  
1002 this system.

1003 (b) A person in regular full-time employment with a participating employer prior to the  
1004 participating employer's election to participate in this system may either become eligible for  
1005 service credit in this system or remain eligible for service in the system established under  
1006 Chapter 12, Public Employees' Contributory Retirement Act, by following the procedures  
1007 established by the board in accordance with this chapter.

1008 (3) Notwithstanding the provisions of Subsections (1) and (2), a person initially  
1009 entering employment with a participating employer on or after July 1, 2011, who does not have

1010 service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board,  
1011 may not participate in this system.

1012 Section 15. Section **49-13-202** is amended to read:

1013 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**  
1014 **requirements -- Nondiscrimination requirements -- Service credit purchases.**

1015 (1) (a) Unless excluded under Subsection (2), an employer is a participating employer  
1016 and may not withdraw from participation in this system.

1017 (b) In addition to their participation in this system, participating employers may  
1018 provide or participate in any additional public or private retirement, supplemental or defined  
1019 contribution plan, either directly or indirectly, for their employees.

1020 (2) The following employers may be excluded from participation in this system:

1021 (a) an employer not initially admitted or included as a participating employer in this  
1022 system before January 1, 1982, if:

1023 (i) the employer elects not to provide or participate in any type of private or public  
1024 retirement, supplemental or defined contribution plan, either directly or indirectly, for its  
1025 employees, except for Social Security; or

1026 (ii) the employer offers another collectively bargained retirement benefit and has  
1027 continued to do so on an uninterrupted basis since that date;

1028 (b) an employer that is a charter school sponsored by the State Board of Education or a  
1029 school district that makes an election of nonparticipation in accordance with Section  
1030 [53A-1a-512](#) unless the charter school makes a one-time, irrevocable retraction of the election  
1031 of nonparticipation in accordance with Subsection [53A-1a-512\(9\)](#);

1032 (c) an employer that is a hospital created as a special service district under Title 17D,  
1033 Chapter 1, Special Service District Act, that makes an election of nonparticipation in  
1034 accordance with Subsection (5); or

1035 (d) an employer that is a risk management association initially created by interlocal  
1036 agreement before 1986 for the purpose of implementing a self-insurance joint protection  
1037 program for the benefit of member municipalities of the association.

1038 (3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to  
1039 provide or participate in any type of public or private retirement, supplemental or defined  
1040 contribution plan, either directly or indirectly, except for Social Security, the employer shall be  
1041 a participating employer in this system regardless of whether the employer has applied for  
1042 admission under Subsection (4).

1043 (4) (a) An employer may, by resolution of its governing body, apply for admission to  
1044 this system.

1045 (b) Upon approval of the resolution by the board, the employer is a participating  
1046 employer in this system and is subject to this title.

1047 (5) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service  
1048 district under Title 17D, Chapter 1, Special Service District Act, may make an election of  
1049 nonparticipation as an employer for retirement programs under this chapter.

1050 (ii) On or before July 1, 2010, an employer described in Subsection (2)(d) may make  
1051 an election of nonparticipation as an employer for retirement programs under this chapter.

1052 (b) An election provided under Subsection (5)(a):

1053 (i) is a one-time election made no later than the time specified under Subsection (5)(a);

1054 (ii) shall be documented by a resolution adopted by the governing body of the  
1055 employer;

1056 (iii) is irrevocable; and

1057 (iv) applies to the employer described in Subsection (5)(a) and to all employees of that  
1058 employer.

1059 (c) The employer making an election under Subsection (5)(a) may offer employee  
1060 benefit plans for its employees:

1061 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

1062 or

1063 (ii) under any other program.

1064 (6) (a) If a participating employer purchases service credit on behalf of regular  
1065 full-time employees for service rendered prior to the participating employer's admission to this

1066 system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all  
1067 current and former regular full-time employees who were eligible for service credit at the time  
1068 service was rendered.

1069 (b) For a purchase made under this Subsection (6), an employee is not required to:  
1070 (i) have at least four years of service credit before the purchase can be made; or  
1071 (ii) forfeit service credit or any defined contribution balance based on the employer  
1072 contributions under any other retirement system or plan based on the period of employment for  
1073 which service credit is being purchased.

1074 Section 16. Section **49-13-203** is amended to read:

1075 **49-13-203. Exclusions from membership in system.**

1076 (1) The following employees are not eligible for service credit in this system:

1077 (a) subject to the requirements of Subsection (2), an employee whose employment  
1078 status is temporary in nature due to the nature or the type of work to be performed;

1079 (b) except as provided under Subsection (3)(a), an employee of an institution of higher  
1080 education who participates in a retirement system with [~~the Teachers' Insurance and Annuity~~  
1081 ~~Association of America or with any other~~] a public or private retirement system, organization,  
1082 or company designated by the State Board of Regents during any period in which required  
1083 contributions based on compensation have been paid on behalf of the employee by the  
1084 employer;

1085 (c) an employee serving as an exchange employee from outside the state;

1086 (d) an executive department head of the state or a legislative director, senior executive  
1087 employed by the governor's office, a member of the State Tax Commission, a member of the  
1088 Public Service Commission, and a member of a full-time or part-time board or commission  
1089 who files a formal request for exemption;

1090 (e) an employee of the Department of Workforce Services who is covered under  
1091 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; or

1092 (f) an employee who is employed with an employer that has elected to be excluded  
1093 from participation in this system under Subsection **49-13-202(5)**, effective on or after the date

1094 of the employer's election under Subsection 49-13-202(5).

1095 (2) If an employee whose status is temporary in nature due to the nature of type of  
1096 work to be performed:

1097 (a) is employed for a term that exceeds six months and the employee otherwise  
1098 qualifies for service credit in this system, the participating employer shall report and certify to  
1099 the office that the employee is a regular full-time employee effective the beginning of the  
1100 seventh month of employment; or

1101 (b) was previously terminated prior to being eligible for service credit in this system  
1102 and is reemployed within three months of termination by the same participating employer, the  
1103 participating employer shall report and certify that the member is a regular full-time employee  
1104 when the total of the periods of employment equals six months and the employee otherwise  
1105 qualifies for service credits in this system.

1106 (3) (a) Upon cessation of the participating employer contributions, an employee under  
1107 Subsection (1)(b) is eligible for service credit in this system.

1108 (b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service  
1109 credit earned by an employee under this chapter before the date of the election under  
1110 Subsection 49-13-202(5) is not affected under Subsection (1)(f).

1111 (4) Upon filing a written request for exemption with the office, the following  
1112 employees shall be exempt from coverage under this system:

1113 (a) a full-time student or the spouse of a full-time student and individuals employed in  
1114 a trainee relationship;

1115 (b) an elected official;

1116 (c) an executive department head of the state, a member of the State Tax Commission,  
1117 a member of the Public Service Commission, and a member of a full-time or part-time board or  
1118 commission;

1119 (d) an employee of the Governor's Office of Management and Budget;

1120 (e) an employee of the Governor's Office of Economic Development;

1121 (f) an employee of the Commission on Criminal and Juvenile Justice;

- 1122 (g) an employee of the Governor's Office;
- 1123 (h) an employee of the State Auditor's Office;
- 1124 (i) an employee of the State Treasurer's Office;
- 1125 (j) any other member who is permitted to make an election under Section 49-11-406;
- 1126 (k) a person appointed as a city manager or chief city administrator or another person
- 1127 employed by a municipality, county, or other political subdivision, who is an at-will employee;
- 1128 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
- 1129 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through
- 1130 membership in a labor organization that provides retirement benefits to its members; and
- 1131 (m) an employee of the Utah Science Technology and Research Initiative created under
- 1132 Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.
- 1133 (5) (a) Each participating employer shall prepare a list designating those positions
- 1134 eligible for exemption under Subsection (4).
- 1135 (b) An employee may not be exempted unless the employee is employed in a position
- 1136 designated by the participating employer.
- 1137 (6) (a) In accordance with this section, a municipality, county, or political subdivision
- 1138 may not exempt more than 50 positions or a number equal to 10% of the employees of the
- 1139 municipality, county, or political subdivision, whichever is lesser.
- 1140 (b) A municipality, county, or political subdivision may exempt at least one regular
- 1141 full-time employee.
- 1142 (7) Each participating employer shall:
- 1143 (a) file employee exemptions annually with the office; and
- 1144 (b) update the employee exemptions in the event of any change.
- 1145 (8) The office may make rules to implement this section.
- 1146 Section 17. Section 49-13-204 is amended to read:
- 1147 **49-13-204. Higher education employees' eligibility requirements -- Election**
- 1148 **between different retirement plans -- Classification requirements -- Transfer between**
- 1149 **systems -- One-time election window -- Rulemaking.**

1150 (1) (a) A regular full-time employee of an institution of higher education who is  
1151 eligible to participate in either this system or in a retirement system with [~~the Teachers'~~  
1152 ~~Insurance and Annuity Association of America or with any other~~] a public or private retirement  
1153 system, organization, or company, designated by the Board of Regents, shall, not later than  
1154 January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed  
1155 under this Subsection (1)(a).

1156 (b) The election is final, and no right exists to make any further election.

1157 (2) (a) Except as provided under Subsection (2)(c), a regular full-time employee hired  
1158 by an institution of higher education after January 1, 1979, may participate only in the  
1159 retirement plan which attaches to the person's employment classification.

1160 (b) Each institution of higher education shall prepare or amend existing employment  
1161 classifications, under the direction of the Board of Regents, so that each classification is  
1162 assigned with either:

1163 (i) this system; or

1164 [~~(ii) the Teachers' Insurance and Annuity Association of America; or~~]

1165 [~~(iii) another~~] (ii) a public or private system, organization, or company designated by  
1166 the Board of Regents.

1167 (c) Notwithstanding a person's employment classification assignment under Subsection  
1168 (2)(b), a regular full-time employee who begins employment with an institution of higher  
1169 education on or after May 11, 2010, has a one-time irrevocable election to continue  
1170 participation in this system, if the employee has service credit in this system before the date of  
1171 employment.

1172 (3) Notwithstanding an employment classification assignment change made under  
1173 Subsection (2)(b), a regular full-time employee hired by an institution of higher education after  
1174 January 1, 1979, whose employment classification requires participation in this system may  
1175 elect to continue participation in this system.

1176 (4) A regular full-time employee hired by an institution of higher education after  
1177 January 1, 1979, whose employment classification requires participation in this system shall

1178 participate in this system.

1179 (5) (a) Notwithstanding any other provision of this section, a regular full-time  
1180 employee of an institution of higher education whose employment classification assignment  
1181 under Subsection (2)(b) required participation in a retirement program other than this system  
1182 shall have a one-time irrevocable election to participate in this system.

1183 (b) The election under Subsection (5)(a) shall be made before June 30, 2010.

1184 (c) All forms required by the office must be completed and received by the office no  
1185 later than June 30, 2010, for the election to participate in this system to be effective.

1186 (d) Beginning July 1, 2010, a regular full-time employee of an institution of higher  
1187 education who elects to be covered by this system under Subsection (5)(a) may begin to accrue  
1188 service credit in this system.

1189 (6) A regular full-time employee of an institution of higher education who elects to be  
1190 covered by this system under Subsection (2)(c) or (5)(a) may purchase periods of employment  
1191 while covered under another retirement program by complying with the requirements of  
1192 Section 49-11-403.

1193 (7) The board shall make rules to implement this section.

1194 Section 18. Section 49-13-401 is amended to read:

1195 **49-13-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

1196 (1) A member is qualified to receive an allowance from this system when:

1197 (a) except as provided under Subsection (3), the member ceases actual work for every  
1198 participating employer that employs the member before the member's retirement date and  
1199 provides evidence of the termination;

1200 (b) the member has submitted to the office a [notarized] retirement application form  
1201 that states the member's proposed retirement date; and

1202 (c) one of the following conditions is met as of the member's retirement date:

1203 (i) the member has accrued at least four years of service credit and has attained an age  
1204 of 65 years;

1205 (ii) the member has accrued at least 10 years of service credit and has attained an age

1206 of 62 years;

1207 (iii) the member has accrued at least 20 years of service credit and has attained an age  
1208 of 60 years;

1209 (iv) the member has accrued at least 30 years of service credit; or

1210 (v) the member has accrued at least 25 years of service credit, in which case the  
1211 member shall be subject to the reduction under Subsection 49-13-402(2)(b).

1212 (2) (a) The member's retirement date:

1213 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1214 (ii) shall be on or after the date of termination; and

1215 (iii) may not be more than 90 days before or after the date the application is received by  
1216 the office.

1217 (b) Except as provided under Subsection (3), a member may not be employed by a  
1218 participating employer in the system established by this chapter on the retirement date selected  
1219 under Subsection (2)(a)(i).

1220 (3) (a) A member who is employed by a participating employer and who is also an  
1221 elected official is not required to cease service as an elected official to be qualified to receive  
1222 an allowance under Subsection (1), unless the member is retiring from service as an elected  
1223 official.

1224 (b) A member who is employed by a participating employer and who is also a part-time  
1225 appointed board member is not required to cease service as a part-time appointed board  
1226 member to be qualified to receive an allowance under Subsection (1).

1227 Section 19. Section 49-13-402 is amended to read:

1228 **49-13-402. Service retirement plans -- Calculation of retirement allowance --**  
1229 **Social Security limitations.**

1230 (1) (a) Except as provided under Section 49-13-701, retirees of this system may choose  
1231 from the six retirement options described in this section.

1232 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One  
1233 calculation.

- 1234           (2) The Option One benefit is an allowance calculated as follows:
- 1235           (a) If the retiree is at least 65 years of age or has accrued at least 30 years of service  
1236 credit, the allowance is an amount equal to 2% of the retiree's final average monthly salary  
1237 multiplied by the number of years of service credit accrued.
- 1238           (b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for  
1239 each year of retirement from age 60 to age 65, plus a full actuarial reduction for each year of  
1240 retirement prior to age 60, unless the member has 30 or more years of accrued credit, in which  
1241 event no reduction is made to the allowance.
- 1242           (c) (i) Years of service include any fractions of years of service to which the retiree  
1243 may be entitled.
- 1244           (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,  
1245 service credit is within 1/10 of one year of the total years of service credit required for  
1246 retirement, the retiree shall be considered to have the total years of service credit required for  
1247 retirement.
- 1248           (d) An Option One allowance is only payable to the member during the member's  
1249 lifetime.
- 1250           (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated  
1251 by reducing an Option One benefit based on actuarial computations to provide the following:
- 1252           (a) Option Two is a reduced allowance paid to and throughout the lifetime of the  
1253 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's  
1254 member contributions, the remaining balance of the retiree's member contributions shall be  
1255 paid in accordance with Sections [49-11-609](#) and [49-11-610](#).
- 1256           (b) Option Three is a reduced allowance paid to and throughout the lifetime of the  
1257 retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout  
1258 the lifetime of the retiree's lawful spouse at the time of retirement.
- 1259           (c) Option Four is a reduced allowance paid to and throughout the lifetime of the  
1260 retiree, and upon the death of the retiree, an amount equal to one-half of the retiree's allowance  
1261 paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

1262 (d) Option Five is a modification of Option Three so that if the lawful spouse at the  
1263 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the  
1264 time of initial retirement under Option One shall be paid to the retiree for the remainder of the  
1265 retiree's life, beginning on the first day of the month following the month in which the:

1266 (i) [~~following the month in which the~~] spouse died, if the application is received by the  
1267 office within 90 days of the spouse's death; or

1268 (ii) [~~following the month in which the~~] application is received by the office, if the  
1269 application is received by the office more than 90 days after the spouse's death.

1270 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time  
1271 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time  
1272 of initial retirement under Option One shall be paid to the retiree for the remainder of the  
1273 retiree's life, beginning on the first day of the month following the month in which the:

1274 (i) [~~following the month in which the~~] spouse died, if the application is received by the  
1275 office within 90 days of the spouse's death; or

1276 (ii) [~~following the month in which the~~] application is received by the office, if the  
1277 application is received by the office more than 90 days after the spouse's death.

1278 (4) (a) (i) The final average salary is limited in the computation of that part of an  
1279 allowance based on service rendered prior to July 1, 1967, during a period when the retiree  
1280 received employer contributions on a portion of compensation from an educational institution  
1281 toward the payment of the premium required on a retirement annuity contract with [~~the~~  
1282 ~~Teachers' Insurance and Annuity Association of America or with any other~~] a public or private  
1283 system, organization, or company designated by the State Board of Regents to \$4,800.

1284 (ii) This limitation is not applicable to retirees who elected to continue in the Public  
1285 Employees' Contributory Retirement System by July 1, 1967.

1286 (b) Periods of employment which are exempt from this system as permitted under  
1287 Subsection [49-13-203\(1\)\(b\)](#) may be purchased by the member for the purpose of retirement  
1288 only if all benefits from [~~the Teachers' Insurance and Annuity Association of America or any~~  
1289 ~~other~~] a public or private system [~~or organization~~], organization, or company designated by the

1290 State Board of Regents based on this period of employment are forfeited.

1291 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement  
1292 date, the retirement is canceled and the death shall be considered as that of a member before  
1293 retirement.

1294 (b) Any payments made to the retiree shall be deducted from the amounts due to the  
1295 beneficiary.

1296 (6) If a retiree retires under either Option Five or Six and subsequently divorces, the  
1297 retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there  
1298 is no court order filed in the matter.

1299 Section 20. Section **49-14-201** is amended to read:

1300 **49-14-201. System membership -- Eligibility.**

1301 (1) Except as provided in Section **49-15-201**, a public safety service employee of a  
1302 participating employer participating in this system is eligible for service credit in this system at  
1303 the earliest of:

1304 (a) July 1, 1969, if the public safety service employee was employed by the  
1305 participating employer on July 1, 1969, and the participating employer was participating in this  
1306 system on that date;

1307 (b) the date the participating employer begins participating in this system if the public  
1308 safety service employee was employed by the participating employer on that date; or

1309 (c) the date the public safety service employee is employed by the participating  
1310 employer and is eligible to perform public safety service, except that a public safety service  
1311 employee initially entering employment with a participating employer on or after July 1, 2011,  
1312 who does not have service credit accrued before July 1, 2011, in a Tier I system or plan  
1313 administered by the board, may not participate in this system.

1314 (2) (a) (i) A participating employer that has public safety service and firefighter service  
1315 employees that require cross-training and duty shall enroll those dual purpose employees in the  
1316 system in which the greatest amount of time is actually worked.

1317 (ii) The employees shall either be full-time public safety service or full-time firefighter

1318 service employees of the participating employer.

1319 (b) (i) Prior to transferring a dual purpose employee from one system to another, the  
1320 participating employer shall receive written permission from the office.

1321 (ii) The office may request documentation to verify the appropriateness of the transfer.

1322 (3) The board may combine or segregate the actuarial experience of participating  
1323 employers in this system for the purpose of setting contribution rates.

1324 (4) (a) (i) Each participating employer participating in this system shall annually  
1325 submit to the office a schedule indicating the positions to be covered under this system in  
1326 accordance with this chapter.

1327 (ii) The office may require documentation to justify the inclusion of any position under  
1328 this system.

1329 (b) If there is a dispute between the office and a participating employer or employee  
1330 over any position to be covered, the disputed position shall be submitted to the Peace Officer  
1331 Standards and Training Council established under Section 53-6-106 for determination.

1332 (c) (i) The Peace Officer Standards and Training Council's authority to decide  
1333 eligibility for public safety service credit is limited to claims for coverage under this system for  
1334 time periods after July 1, 1989.

1335 (ii) A decision of the Peace Officer Standards and Training Council may not be applied  
1336 to service credit earned in another system prior to July 1, 1989.

1337 (iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer  
1338 Standards and Training Council granting a position coverage under this system may only be  
1339 applied prospectively from the date of that decision.

1340 (iv) A decision of the Peace Officer Standards and Training Council granting a position  
1341 coverage under this system may be applied retroactively only if:

1342 (A) the participating employer covered other similarly situated positions under this  
1343 system during the time period in question; and

1344 (B) the position otherwise meets all eligibility requirements for receiving service credit  
1345 in this system during the period for which service credit is to be granted.

1346 (5) The Peace Officer Standards and Training Council may use a subcommittee to  
1347 provide a recommendation to the council in determining disputes between the office and a  
1348 participating employer or employee over a position to be covered under this system.

1349 (6) The Peace Officer Standards and Training Council shall comply with Title 63G,  
1350 Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

1351 (7) A public safety employee who is transferred or promoted to an administration  
1352 position not covered by this system shall continue to earn public safety service credit in this  
1353 system as long as the employee remains employed in the same department.

1354 (8) Any employee who is reassigned to the Department of Technology Services or to  
1355 the Department of Human Resource Management, and who was a member of this system, shall  
1356 be entitled to remain a member of this system.

1357 (9) (a) To determine that a position is covered under this system, the office and, if a  
1358 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the  
1359 position requires the employee to:

1360 (i) place the employee's life or personal safety at risk; and

1361 (ii) complete training as provided in Section [53-13-103](#), [53-13-104](#), or [53-13-105](#).

1362 (b) If a position satisfies the requirements of Subsection (9)(a), the office and the Peace  
1363 Officer Standards and Training Council shall consider whether or not the position requires the  
1364 employee to:

1365 (i) perform duties that consist primarily of actively preventing or detecting crime and  
1366 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

1367 (ii) perform duties that consist primarily of providing community protection; and

1368 (iii) respond to situations involving threats to public safety and make emergency  
1369 decisions affecting the lives and health of others.

1370 (10) If a subcommittee is used to recommend the determination of disputes to the  
1371 Peace Officer Standards and Training Council, the subcommittee shall comply with the  
1372 requirements of Subsection (9) in making its recommendation.

1373 (11) A final order of the Peace Officer Standards and Training Council regarding a

1374 dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative  
1375 Procedures Act.

1376 (12) Except as provided under Subsection (13), if a participating employer's public  
1377 safety service employees are not covered by this system or under Chapter 15, Public Safety  
1378 Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees  
1379 who may otherwise qualify for membership in this system shall, at the discretion of the  
1380 participating employer, remain in their current retirement system.

1381 (13) (a) A public safety service employee employed by an airport police department,  
1382 which elects to cover its public safety service employees under the Public Safety  
1383 Noncontributory Retirement System under Subsection (12), may elect to remain in the public  
1384 safety service employee's current retirement system.

1385 (b) The public safety service employee's election to remain in the current retirement  
1386 system under Subsection (13)(a):

1387 (i) shall be made at the time the employer elects to move its public safety service  
1388 employees to a public safety retirement system;

1389 (ii) documented by written notice to the participating employer; and

1390 (iii) is irrevocable.

1391 (14) Notwithstanding any other provision of this section, a person initially entering  
1392 employment with a participating employer on or after July 1, 2011, who does not have service  
1393 credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may  
1394 not participate in this system.

1395 Section 21. Section **49-14-401** is amended to read:

1396 **49-14-401. Eligibility for service retirement -- Date of retirement --**

1397 **Qualifications.**

1398 (1) A member is qualified to receive an allowance from this system when:

1399 (a) except as provided under Subsection (3), the member ceases actual work for every  
1400 participating employer that employs the member before the member's retirement date and  
1401 provides evidence of the termination;

1402 (b) the member has submitted to the office a [notarized] retirement application form  
1403 that states the member's proposed retirement date; and

1404 (c) one of the following conditions is met as of the member's retirement date:

1405 (i) the member has accrued at least 20 years of service credit;

1406 (ii) the member has accrued at least 10 years of service credit and has attained an age  
1407 of 60 years; or

1408 (iii) the member has accrued at least four years of service credit and has attained an age  
1409 of 65 years.

1410 (2) (a) The member's retirement date:

1411 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1412 (ii) shall be on or after the date of termination; and

1413 (iii) may not be more than 90 days before or after the date the application is received by  
1414 the office.

1415 (b) Except as provided under Subsection (3), a member may not be employed by a  
1416 participating employer in the system established by this chapter on the retirement date selected  
1417 under Subsection (2)(a)(i).

1418 (3) (a) A member who is employed by a participating employer and who is also an  
1419 elected official is not required to cease service as an elected official to be qualified to receive  
1420 an allowance under Subsection (1), unless the member is retiring from service as an elected  
1421 official.

1422 (b) A member who is employed by a participating employer and who is also a part-time  
1423 appointed board member is not required to cease service as a part-time appointed board  
1424 member to be qualified to receive an allowance under Subsection (1).

1425 Section 22. Section **49-14-501** is amended to read:

1426 **49-14-501. Death of active member in Division A -- Payment of benefits.**

1427 (1) If an active member of this system enrolled in Division A under Section **49-14-301**  
1428 dies, benefits are payable as follows:

1429 (a) If the death is classified by the office as a line-of-duty death, the spouse at the time

1430 of death shall receive a lump sum of \$1,000 and an allowance equal to 30% of the deceased  
1431 member's final average monthly salary.

1432 (b) If the death is not classified by the office as a line-of-duty death, benefits are  
1433 payable as follows:

1434 (i) If the member has accrued less than 10 years of public safety service credit, the  
1435 beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions,  
1436 whichever is greater.

1437 (ii) If the member has accrued 10 or more years of public safety service credit at the  
1438 time of death, the spouse at the time of death shall receive the sum of \$500, plus an allowance  
1439 equal to 2% of the member's final average monthly salary for each year of service credit  
1440 accrued by the member up to a maximum of 30% of the member's final average monthly salary.

1441 (2) ~~[Benefits]~~ Except as provided under Subsection (1)(b)(i), benefits are not payable  
1442 to minor children of members covered under Division A.

1443 (3) If a benefit is not distributed under this section, and the member has designated a  
1444 beneficiary, the member's member contributions shall be paid to the beneficiary.

1445 (4) (a) A spouse who requests a benefit under this section shall apply in writing to the  
1446 office.

1447 (b) The allowance shall begin on the first day of the month following the month in  
1448 which the:

1449 (i) ~~[following the month in which the]~~ member died, if the application is received by  
1450 the office within 90 days of the member's death; or

1451 (ii) ~~[following the month in which the]~~ application is received by the office, if the  
1452 application is received by the office more than 90 days after the member's death.

1453 Section 23. Section **49-14-504** is amended to read:

1454 **49-14-504. Benefits payable upon death of retired member -- Enhanced benefit**  
1455 **election -- Rulemaking.**

1456 (1) If a retiree who retired under either Division A or Division B dies, the retiree's  
1457 spouse at the time of death of the retiree shall receive an allowance equal to 65% of the

1458 allowance that was being paid to the retiree at the time of death.

1459 (2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time  
1460 of retirement, a retiree may elect to increase the spousal death benefit to 75% of an allowance  
1461 computed in accordance with Section 49-14-402.

1462 (b) If an election is made under Subsection (2)(a), the member's allowance shall be  
1463 reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to  
1464 pay for the increased spousal death benefit above 65%.

1465 (3) (a) For a retiree whose retirement date is before July 1, 2009, the office shall  
1466 provide an optional spousal death benefit to bring the total spousal death benefit up to 75% of  
1467 an allowance computed in accordance with Section 49-14-402.

1468 (b) A retiree may elect to purchase the optional spousal death benefit until July 1,  
1469 2010.

1470 (c) If an election is made under Subsection (3)(b), the retiree's allowance shall be  
1471 reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to  
1472 pay for the increased spousal death benefit above 65%.

1473 (d) The board shall make rules to administer the death benefit under this Subsection  
1474 (3).

1475 (4) If the retiree retired solely under Division B and dies leaving unmarried children  
1476 under the age of 18 or dependent unmarried children with a mental or physical disability, the  
1477 children shall qualify for a benefit as prescribed for children under Subsection 49-14-502(1)(c)  
1478 [~~which is payable on the first day of the month following the month in which the retiree died~~].

1479 (5) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply  
1480 in writing to the office.

1481 (b) The allowance shall begin on the first day of the month following the month in  
1482 which the:

1483 (i) member or participant died, if the application is received by the office within 90  
1484 days of the date of death of the member or participant; or

1485 (ii) application is received by the office, if the application is received by the office

1486 more than 90 days after the date of death of the member or participant.

1487 Section 24. Section **49-15-201** is amended to read:

1488 **49-15-201. System membership -- Eligibility.**

1489 (1) (a) A public safety service employee employed by the state after July 1, 1989, but  
1490 before July 1, 2011, is eligible for service credit in this system.

1491 (b) A public safety service employee employed by the state prior to July 1, 1989, may  
1492 either elect to receive service credit in this system or continue to receive service credit under  
1493 the system established under Chapter 14, Public Safety Contributory Retirement Act, by  
1494 following the procedures established by the board under this chapter.

1495 (2) (a) Public safety service employees of a participating employer other than the state  
1496 that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement  
1497 System shall be eligible only for service credit in that system.

1498 (b) (i) A participating employer other than the state that elected on or before July 1,  
1499 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety  
1500 service employee to elect to participate in either this system or the Public Safety Contributory  
1501 Retirement System.

1502 (ii) Except as expressly allowed by this title, the election of the public safety service  
1503 employee is final and may not be changed.

1504 (c) A public safety service employee hired by a participating employer other than the  
1505 state after July 1, 1989, but before July 1, 2011, shall become a member in this system.

1506 (d) A public safety service employee of a participating employer other than the state  
1507 who began participation in this system after July 1, 1989, but before July 1, 2011, is only  
1508 eligible for service credit in this system.

1509 (e) A person initially entering employment with a participating employer on or after  
1510 July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system  
1511 or plan administered by the board, may not participate in this system.

1512 (3) (a) (i) A participating employer that has public safety service and firefighter service  
1513 employees that require cross-training and duty shall enroll those dual purpose employees in the

1514 system in which the greatest amount of time is actually worked.

1515 (ii) The employees shall either be full-time public safety service or full-time firefighter  
1516 service employees of the participating employer.

1517 (b) (i) Prior to transferring a dual purpose employee from one system to another, the  
1518 participating employer shall receive written permission from the office.

1519 (ii) The office may request documentation to verify the appropriateness of the transfer.

1520 (4) The board may combine or segregate the actuarial experience of participating  
1521 employers in this system for the purpose of setting contribution rates.

1522 (5) (a) (i) Each participating employer participating in this system shall annually  
1523 submit to the office a schedule indicating the positions to be covered under this system in  
1524 accordance with this chapter.

1525 (ii) The office may require documentation to justify the inclusion of any position under  
1526 this system.

1527 (b) If there is a dispute between the office and a participating employer or employee  
1528 over any position to be covered, the disputed position shall be submitted to the Peace Officer  
1529 Standards and Training Council established under Section 53-6-106 for determination.

1530 (c) (i) The Peace Officer Standards and Training Council's authority to decide  
1531 eligibility for public safety service credit is limited to claims for coverage under this system for  
1532 time periods after July 1, 1989.

1533 (ii) A decision of the Peace Officer Standards and Training Council may not be applied  
1534 to service credit earned in another system prior to July 1, 1989.

1535 (iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer  
1536 Standards and Training Council granting a position coverage under this system may only be  
1537 applied prospectively from the date of that decision.

1538 (iv) A decision of the Peace Officer Standards and Training Council granting a position  
1539 coverage under this system may be applied retroactively only if:

1540 (A) the participating employer covered other similarly situated positions under this  
1541 system during the time period in question; and

1542 (B) the position otherwise meets all eligibility requirements for receiving service credit  
1543 in this system during the period for which service credit is to be granted.

1544 (6) The Peace Officer Standards and Training Council may use a subcommittee to  
1545 provide a recommendation to the council in determining disputes between the office and a  
1546 participating employer or employee over a position to be covered under this system.

1547 (7) The Peace Officer Standards and Training Council shall comply with Title 63G,  
1548 Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

1549 (8) A public safety service employee who is transferred or promoted to an  
1550 administration position not covered by this system shall continue to earn public safety service  
1551 credit in this system as long as the employee remains employed in the same department.

1552 (9) Any employee who is reassigned to the Department of Technology Services or to  
1553 the Department of Human Resource Management, and who was a member in this system, shall  
1554 be entitled to remain a member in this system.

1555 (10) (a) To determine that a position is covered under this system, the office and, if a  
1556 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the  
1557 position requires the employee to:

- 1558 (i) place the employee's life or personal safety at risk; and
- 1559 (ii) complete training as provided in Section [53-13-103](#), [53-13-104](#), or [53-13-105](#).

1560 (b) If a position satisfies the requirements of Subsection (10)(a), the office and Peace  
1561 Officer Standards and Training Council shall consider whether the position requires the  
1562 employee to:

- 1563 (i) perform duties that consist primarily of actively preventing or detecting crime and  
1564 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;
- 1565 (ii) perform duties that consist primarily of providing community protection; and
- 1566 (iii) respond to situations involving threats to public safety and make emergency  
1567 decisions affecting the lives and health of others.

1568 (11) If a subcommittee is used to recommend the determination of disputes to the  
1569 Peace Officer Standards and Training Council, the subcommittee shall comply with the

1570 requirements of Subsection (10) in making its recommendation.

1571 (12) A final order of the Peace Officer Standards and Training Council regarding a  
1572 dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative  
1573 Procedures Act.

1574 (13) Except as provided under Subsection (14), if a participating employer's public  
1575 safety service employees are not covered by this system or under Chapter 14, Public Safety  
1576 Contributory Retirement Act, as of January 1, 1998, those public safety service employees who  
1577 may otherwise qualify for membership in this system shall, at the discretion of the participating  
1578 employer, remain in their current retirement system.

1579 (14) (a) A public safety service employee employed by an airport police department,  
1580 which elects to cover its public safety service employees under the Public Safety  
1581 Noncontributory Retirement System under Subsection (13), may elect to remain in the public  
1582 safety service employee's current retirement system.

1583 (b) The public safety service employee's election to remain in the current retirement  
1584 system under Subsection (14)(a):

1585 (i) shall be made at the time the employer elects to move its public safety service  
1586 employees to a public safety retirement system;

1587 (ii) documented by written notice to the participating employer; and

1588 (iii) is irrevocable.

1589 (15) Notwithstanding any other provision of this section, a person initially entering  
1590 employment with a participating employer on or after July 1, 2011, who does not have service  
1591 credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may  
1592 not participate in this system.

1593 Section 25. Section **49-15-202** is amended to read:

1594 **49-15-202. Participation of employers -- Requirements -- Admission -- Full**  
1595 **participation in system -- Supplemental programs authorized.**

1596 (1) An employer that employs public safety service employees and is required by  
1597 Section **49-12-202** or **49-13-202** to be a participating employer in the Public Employees'

1598 Contributory Retirement System or the Public Employees' Noncontributory Retirement System  
1599 shall cover all its public safety service employees under one of the following systems or plans:

- 1600 (a) Chapter 12, Public Employees' Contributory Retirement Act;
- 1601 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;
- 1602 (c) Chapter 14, Public Safety Contributory Retirement Act;
- 1603 (d) Chapter 15, Public Safety Noncontributory Retirement Act; or
- 1604 (e) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

1605 (2) An employer that covers its public safety employees under Subsection (1)(d) is a  
1606 participating employer in this system.

1607 (3) If a participating employer under Subsection (1) covers any of its public safety  
1608 service employees under the Public Safety Contributory Retirement System or the Public  
1609 Safety Noncontributory Retirement System, that participating employer shall cover all of its  
1610 public safety service employees under one of those systems, except for a public safety service  
1611 employee initially entering employment with a participating employer beginning on or after  
1612 July 1, 2011.

1613 (4) (a) Until June 30, 2011, an employer that is not participating in this system may by  
1614 resolution of its governing body apply for coverage of its public safety service employees by  
1615 this system.

1616 (b) Upon approval of the board, the employer shall become a participating employer in  
1617 this system subject to this title.

1618 (5) (a) If a participating employer purchases service credit on behalf of employees for  
1619 service rendered prior to the participating employer's admission to this system, the service  
1620 credit must be purchased in a nondiscriminatory manner on behalf of all current and former  
1621 employees who were eligible for service credit at the time service was rendered.

1622 (b) For a purchase made under this Subsection (5), an employee is not required to:  
1623 (i) have at least four years of service credit before the purchase can be made; or  
1624 (ii) forfeit service credit or any defined contribution balance based on the employer  
1625 contributions under any other retirement system or plan based on the period of employment for

1626 which service credit is being purchased.

1627 (6) A participating employer may not withdraw from this system.

1628 (7) In addition to their participation in the system, participating employers may provide  
1629 or participate in any additional public or private retirement, supplemental or defined  
1630 contribution plan, either directly or indirectly, for their employees.

1631 Section 26. Section **49-15-401** is amended to read:

1632 **49-15-401. Eligibility for service retirement -- Date of retirement --**

1633 **Qualifications.**

1634 (1) A member is qualified to receive an allowance from this system when:

1635 (a) except as provided under Subsection (3), the member ceases actual work for every  
1636 participating employer that employs the member before the member's retirement date and  
1637 provides evidence of the termination;

1638 (b) the member has submitted to the office a [notarized] retirement application form  
1639 that states the member's proposed retirement date; and

1640 (c) one of the following conditions is met as of the member's retirement date:

1641 (i) the member has accrued at least 20 years of service credit;

1642 (ii) the member has accrued at least 10 years of service credit and has attained an age  
1643 of 60 years; or

1644 (iii) the member has accrued at least four years of service and has attained an age of 65  
1645 years.

1646 (2) (a) The member's retirement date:

1647 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1648 (ii) shall be on or after the date of termination; and

1649 (iii) may not be more than 90 days before or after the date the application is received by  
1650 the office.

1651 (b) Except as provided under Subsection (3), a member may not be employed by a  
1652 participating employer in the system established by this chapter on the retirement date selected  
1653 under Subsection (2)(a)(i).

1654 (3) (a) A member who is employed by a participating employer and who is also an  
1655 elected official is not required to cease service as an elected official to be qualified to receive  
1656 an allowance under Subsection (1), unless the member is retiring from service as an elected  
1657 official.

1658 (b) A member who is employed by a participating employer and who is also a part-time  
1659 appointed board member is not required to cease service as a part-time appointed board  
1660 member to be qualified to receive an allowance under Subsection (1).

1661 Section 27. Section **49-15-501** is amended to read:

1662 **49-15-501. Death of active member in Division A -- Payment of benefits.**

1663 (1) If an active member of this system enrolled in Division A under Section **49-15-301**  
1664 dies, benefits are payable as follows:

1665 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as  
1666 follows:

1667 (i) If the member has accrued less than 20 years of public safety service credit, the  
1668 spouse at the time of death shall receive a lump sum of \$1,000 and an allowance equal to 30%  
1669 of the member's final average monthly salary.

1670 (ii) If the member has accrued 20 or more years of public safety service credit, the  
1671 member shall be considered to have retired with an allowance calculated under Section  
1672 **49-15-402** and the spouse at the time of death shall receive the death benefit payable to a  
1673 spouse at the time of death under Section **49-15-504**.

1674 (b) If the death is not classified as a line-of-duty death by the office, benefits are  
1675 payable as follows:

1676 (i) If the member has accrued less than 10 years of public safety service credit, the  
1677 beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions,  
1678 whichever is greater.

1679 (ii) If the member has accrued 10 or more years, but less than 20 years of public safety  
1680 service credit at the time of death, the spouse at the time of death shall receive the sum of \$500,  
1681 plus an allowance equal to 2% of the member's final average monthly salary for each year of

1682 service credit accrued by the member up to a maximum of 30% of the member's final average  
1683 monthly salary.

1684 (iii) If the member has accrued 20 or more years of public safety service credit, the  
1685 benefit shall be calculated as provided in Subsection (1)(a)(ii).

1686 (2) [~~Benefits~~] Except as provided under Subsection (1)(b)(i), benefits are not payable  
1687 to minor children under Division A.

1688 (3) If a benefit is not distributed under this section, and the member has designated a  
1689 beneficiary, the member's member contribution shall be paid to the beneficiary.

1690 (4) (a) A spouse who requests a benefit under this section shall apply in writing to the  
1691 office.

1692 (b) The allowance shall begin on the first day of the month following the month in  
1693 which the:

1694 (i) [~~following the month in which the~~] member died, if the application is received by  
1695 the office within 90 days of the member's death; or

1696 (ii) [~~following the month in which the~~] application is received by the office, if the  
1697 application is received by the office more than 90 days after the member's death.

1698 Section 28. Section **49-15-504** is amended to read:

1699 **49-15-504. Benefits payable upon death of retired member -- Enhanced benefit**  
1700 **election -- Rulemaking.**

1701 (1) If a retiree who retired under either Division A or Division B dies, the retiree's  
1702 spouse at the time of death of the retiree shall receive an allowance equal to 65% of the  
1703 allowance that was being paid to the retiree at the time of death.

1704 (2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time  
1705 of retirement, a retiree may elect to increase the spousal death benefit to 75% of an allowance  
1706 computed in accordance with Section [49-15-402](#).

1707 (b) If an election is made under Subsection (2)(a), the member's allowance shall be  
1708 reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to  
1709 pay for the increased spousal death benefit above 65%.

1710 (3) (a) For a retiree whose retirement date is before July 1, 2009, the office shall  
1711 provide an optional spousal death benefit to bring the total spousal death benefit up to 75% of  
1712 an allowance computed in accordance with Section 49-15-402.

1713 (b) A retiree may elect to purchase the optional spousal death benefit until July 1,  
1714 2010.

1715 (c) If an election is made under Subsection (3)(b), the retiree's allowance shall be  
1716 reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to  
1717 pay for the increased spousal death benefit above 65%.

1718 (d) The board shall make rules to administer the death benefit under this Subsection  
1719 (3).

1720 (4) If the retiree retired solely under Division B and dies leaving unmarried children  
1721 under the age of 18 or dependent unmarried children with a mental or physical disability, the  
1722 children shall qualify for a benefit as prescribed under Subsection 49-15-502(1)(d) [~~which is~~  
1723 ~~payable on the first day of the month following the month in which the retiree died~~].

1724 (5) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply  
1725 in writing to the office.

1726 (b) The allowance shall begin on the first day of the month following the month in  
1727 which the:

1728 (i) member or participant died, if the application is received by the office within 90  
1729 days of the date of death of the member or participant; or

1730 (ii) application is received by the office, if the application is received by the office  
1731 more than 90 days after the date of death of the member or participant.

1732 Section 29. Section 49-16-201 is amended to read:

1733 **49-16-201. System membership -- Eligibility.**

1734 (1) A firefighter service employee who performs firefighter service for an employer  
1735 participating in this system is eligible for service credit in this system upon the earliest of:

1736 (a) July 1, 1971, if the firefighter service employee was employed by the participating  
1737 employer on July 1, 1971, and the participating employer was participating in this system on

1738 that date;

1739 (b) the date the participating employer begins participating in this system if the  
1740 firefighter service employee was employed by the participating employer on that date; or

1741 (c) the date the firefighter service employee is hired to perform firefighter services for a  
1742 participating employer, if the firefighter:

1743 (i) initially enters employment before July 1, 2011~~[-];~~ or

1744 (ii) has service credit accrued before July 1, 2011, in a Tier I system or plan  
1745 administered by the board.

1746 (2) (a) (i) A participating employer that has public safety service and firefighter service  
1747 employees that require cross-training and duty shall enroll the dual purpose employees in the  
1748 system in which the greatest amount of time is actually worked.

1749 (ii) The employees shall either be full-time public safety service or full-time firefighter  
1750 service employees of the participating employer.

1751 (b) (i) Before transferring a dual purpose employee from one system to another, the  
1752 participating employer shall receive written permission from the office.

1753 (ii) The office may request documentation to verify the appropriateness of the transfer.

1754 (3) (a) A person hired by a regularly constituted fire department on or after July 1,  
1755 1971, who does not perform firefighter service is not eligible for service credit in this system.

1756 (b) The nonfirefighter service employee shall become a member of the system for  
1757 which the nonfirefighter service employee qualifies for service credit.

1758 (c) The service credit exclusion under this Subsection (3) may not be interpreted to  
1759 prohibit the assignment of a firefighter with a disability or partial disability to a nonfirefighter  
1760 service position.

1761 (d) If Subsection (3)(c) applies, the firefighter service employee remains eligible for  
1762 service credit in this system.

1763 (4) An allowance or other benefit may not be granted under this system that is based  
1764 upon the same service for benefits received under some other system.

1765 (5) Service as a volunteer firefighter is not eligible for service credit in this system.

1766 (6) An employer that maintains a regularly constituted fire department is eligible to  
1767 participate in this system.

1768 (7) Beginning July 1, 2011, a person who is initially entering employment with a  
1769 participating employer and who does not have service credit accrued before July 1, 2011, in a  
1770 Tier I system or plan administered by the board may not participate in this system.

1771 Section 30. Section **49-16-401** is amended to read:

1772 **49-16-401. Eligibility for service retirement -- Date of retirement --**

1773 **Qualifications.**

1774 (1) A member is qualified to receive an allowance from this system when:

1775 (a) except as provided under Subsection (3), the member ceases actual work for every  
1776 participating employer that employs the member before the member's retirement date and  
1777 provides evidence of the termination;

1778 (b) the member has submitted to the office a [~~notarized~~] retirement application form  
1779 that states the member's proposed retirement date; and

1780 (c) one of the following conditions is met as of the member's retirement date:

1781 (i) the member has accrued at least 20 years of service credit;

1782 (ii) the member has accrued at least 10 years of service credit and has attained an age  
1783 of 60 years; or

1784 (iii) the member has accrued at least four years of service credit and has attained an age  
1785 of 65 years.

1786 (2) (a) The member's retirement date:

1787 (i) shall be the 1st or the 16th day of the month, as selected by the firefighter service  
1788 employee;

1789 (ii) shall be on or after the date of termination; and

1790 (iii) may not be more than 90 days before or after the date the application is received by  
1791 the office.

1792 (b) Except as provided under Subsection (3), a member may not be employed by a  
1793 participating employer in the system established by this chapter on the retirement date selected

1794 under Subsection (2)(a)(i).

1795 (3) (a) A member who is employed by a participating employer and who is also an  
1796 elected official is not required to cease service as an elected official to be qualified to receive  
1797 an allowance under Subsection (1), unless the member is retiring from service as an elected  
1798 official.

1799 (b) A member who is employed by a participating employer and who is also a part-time  
1800 appointed board member is not required to cease service as a part-time appointed board  
1801 member to be qualified to receive an allowance under Subsection (1).

1802 Section 31. Section **49-16-504** is amended to read:

1803 **49-16-504. Benefits payable upon death of retired member.**

1804 (1) If a retiree who retired under either Division A or Division B dies, the retiree's  
1805 spouse at the time of death shall receive an allowance equal to 75% of the allowance that was  
1806 being paid to the retiree at the time of death.

1807 (2) If the retiree retired solely under Division B and dies leaving unmarried children  
1808 under the age of 21 or dependent unmarried children with a mental or physical disability, the  
1809 children shall qualify for a benefit as prescribed under Subsection **49-16-502(1)(c)** [~~which is~~  
1810 ~~payable on the first day of the month following the month in which the retiree died~~].

1811 (3) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply  
1812 in writing to the office.

1813 (b) The allowance shall begin on the first day of the month following the month in  
1814 which the:

1815 (i) member or participant died, if the application is received by the office within 90  
1816 days of the date of death of the member or participant; or

1817 (ii) application is received by the office, if the application is received by the office  
1818 more than 90 days after the date of death of the member or participant.

1819 Section 32. Section **49-17-401** is amended to read:

1820 **49-17-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

1821 (1) A member is qualified to receive an allowance when:

1822 (a) the member ceases actual work for every participating employer that employs the  
1823 member before the member's retirement date and provides evidence of the termination;

1824 (b) the member has submitted to the office a [notarized] retirement application form  
1825 that states the member's proposed retirement date; and

1826 (c) one of the following conditions is met as of the member's retirement date:

1827 (i) the member has accrued at least six years of service credit and has attained an age of  
1828 70 years;

1829 (ii) the member has accrued at least 10 years of service credit and has attained an age  
1830 of 62 years;

1831 (iii) the member has accrued at least 20 years of service credit and has attained an age  
1832 of 55 years; or

1833 (iv) the member has accrued at least 25 years of service credit.

1834 (2) (a) The member's retirement date:

1835 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1836 (ii) shall be on or after the date of termination; and

1837 (iii) may not be more than 90 days before or after the date the application is received by  
1838 the office.

1839 (b) A member may not be employed by a participating employer in the system  
1840 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1841 Section 33. Section **49-17-402** is amended to read:

1842 **49-17-402. Calculation of retirement allowance.**

1843 (1) A retiree under this system shall receive an allowance equal to:

1844 (a) 5% of the final average monthly salary multiplied by the number of years of service  
1845 credit, limited to 10 years; plus

1846 (b) 2.25% of the final average monthly salary multiplied by the number of years of  
1847 service credit in excess of 10 years and up to and including 20 years; plus

1848 (c) 1% of the final average monthly salary multiplied by the number of years of service  
1849 credit in excess of 20 years.

1850 (2) (a) Except as modified by cost-of-living adjustments and except as provided under  
1851 Subsection (2)(b), an allowance under this system may not exceed 75% of the member's final  
1852 average monthly salary.

1853 (b) The allowance limitation under Subsection (2)(a) does not apply to a member who  
1854 initially retires on or after July 1, 2010.

1855 (3) If the retiree has attained the age of 55 years and has 20 years or more but less than  
1856 25 years of service credit, the retiree shall receive an early retirement reduction to the  
1857 allowance based on an actuarial calculation assuming a normal retirement age of 65 years.

1858 Section 34. Section **49-17-502** is amended to read:

1859 **49-17-502. Benefits payable upon death of retired member.**

1860 (1) (a) The death benefit payable to a retiree's spouse at the time of death is an  
1861 allowance equal to 65% of the allowance which was being paid to the retiree at the time of  
1862 death.

1863 (b) The effective date of the accrual of this allowance is the first day of the month  
1864 following the month in which the retiree died.

1865 (2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time  
1866 of retirement, a retiree may elect to increase the spousal death benefit up to 75% of an  
1867 allowance computed in accordance with Section **49-17-402**.

1868 (b) If an election is made under Subsection (2)(a), the member's allowance shall be  
1869 reduced to reflect the actuarial equivalent necessary to pay for the increased spousal death  
1870 benefit above 65%.

1871 (3) (a) A spouse who qualifies for a monthly benefit under this section shall apply in  
1872 writing to the office.

1873 (b) The allowance shall begin on the first day of the month following the month in  
1874 which the:

1875 (i) member or participant died, if the application is received by the office within 90  
1876 days of the date of death of the member or participant; or

1877 (ii) application is received by the office, if the application is received by the office

1878 more than 90 days after the date of death of the member or participant.

1879 Section 35. Section **49-18-401** is amended to read:

1880 **49-18-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

1881 (1) A member is qualified to receive an allowance when:

1882 (a) the member ceases actual work for every participating employer that employs the  
1883 member before the member's retirement date and provides evidence of the termination;

1884 (b) the member has submitted to the office a [~~notarized~~] retirement application form  
1885 that states the member's proposed retirement date; and

1886 (c) one of the following conditions is met as of the member's retirement date:

1887 (i) the member has accrued at least six years of service credit and has attained an age of  
1888 70 years;

1889 (ii) the member has accrued at least 10 years of service credit and has attained an age  
1890 of 62 years;

1891 (iii) the member has accrued at least 20 years of service credit and has attained an age  
1892 of 55 years; or

1893 (iv) the member has accrued at least 25 years of service credit.

1894 (2) (a) The member's retirement date:

1895 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1896 (ii) shall be on or after the date of termination; and

1897 (iii) may not be more than 90 days before or after the date the application is received by  
1898 the office.

1899 (b) A member may not be employed by a participating employer in the system  
1900 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1901 Section 36. Section **49-18-402** is amended to read:

1902 **49-18-402. Calculation of retirement allowance.**

1903 (1) A retiree under this system shall receive an allowance equal to:

1904 (a) 5% of the final average monthly salary multiplied by the number of years of service  
1905 credit, limited to 10 years; plus

1906 (b) 2.25% of the final average monthly salary multiplied by the number of years of  
1907 service credit in excess of 10 years and up to and including 20 years; plus

1908 (c) 1% of the final average monthly salary multiplied by the number of years of service  
1909 credit in excess of 20 years.

1910 (2) (a) Except as modified by cost-of-living adjustments and except as provided under  
1911 Subsection (2)(b), an allowance under this system may not exceed 75% of the member's final  
1912 average monthly salary.

1913 (b) The allowance limitation under Subsection (2)(a) does not apply to a member who  
1914 initially retires on or after July 1, 2010.

1915 (3) If the retiree has attained the age of 55 years and has 20 years or more but less than  
1916 25 years of service credit, the retiree shall receive an early retirement reduction to the  
1917 allowance based on an actuarial calculation assuming a normal retirement age of 65 years.

1918 Section 37. Section **49-18-502** is amended to read:

1919 **49-18-502. Benefits payable upon death of retired member.**

1920 (1) [(a)] The death benefit payable to a retiree's spouse at the time of death is an  
1921 allowance equal to 65% of the allowance which was being paid to the retiree at the time of  
1922 death.

1923 [~~(b) The effective date of the accrual of this allowance is the first day of the month~~  
1924 ~~following the month in which the retiree died.~~]

1925 (2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time  
1926 of retirement, a retiree may elect to increase the spousal death benefit up to 75% of an  
1927 allowance computed in accordance with Section **49-18-402**.

1928 (b) If an election is made under Subsection (2)(a), the member's allowance shall be  
1929 reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to  
1930 pay for the increased spousal death benefit above 65%.

1931 (3) (a) A spouse who qualifies for a monthly benefit under this section shall apply in  
1932 writing to the office.

1933 (b) The allowance shall begin on the first day of the month following the month in

1934 which the:

1935 (i) member or participant died, if the application is received by the office within 90  
1936 days of the date of death of the member or participant; or

1937 (ii) application is received by the office, if the application is received by the office  
1938 more than 90 days after the date of death of the member or participant.

1939 Section 38. Section **49-19-201** is amended to read:

1940 **49-19-201. Plan participation -- Eligibility.**

1941 (1) [~~Governors and legislators who enter office before July 1, 2011, are~~] A governor or  
1942 legislator is eligible for service credit in this plan during their term of service in their elected  
1943 position[-] if the governor or legislator:

1944 (a) entered office before July 1, 2011; or

1945 (b) accrued service credit in a Tier I system or plan administered by the board before  
1946 July 1, 2011.

1947 (2) A governor or legislator initially entering office on or after July 1, 2011, who does  
1948 not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by  
1949 the board:

1950 (a) may not participate in this system;

1951 (b) is only eligible to participate in the Tier II Defined Contribution Plan established  
1952 under Chapter 22, Part 4, Tier II Defined Contribution Plan; and

1953 (c) is not eligible to participate in the Tier II hybrid retirement system established under  
1954 Chapter 22, Part 3, Tier II Hybrid Retirement System.

1955 Section 39. Section **49-19-401** is amended to read:

1956 **49-19-401. Eligibility for an allowance -- Governor -- Legislator.**

1957 (1) A governor is qualified to receive an allowance when:

1958 (a) the governor has submitted to the office a [~~notarized~~] retirement application form  
1959 that states the proposed retirement date; and

1960 (b) one of the following conditions is met as of the retirement date:

1961 (i) the governor has completed at least one full term in office and has attained an age of

1962 65 years; or  
1963 (ii) the governor has served as governor of the state for at least 10 years and has  
1964 attained an age of 62 years.  
1965 (2) A legislator is qualified to receive an allowance when:  
1966 (a) the legislator has submitted to the office a [notarized] retirement application form  
1967 that states the proposed retirement date; and  
1968 (b) one of the following conditions is met as of the retirement date:  
1969 (i) the legislator has completed at least four years in the Legislature and has attained an  
1970 age of 65 years; or  
1971 (ii) the legislator has completed at least 10 years in the Legislature and has attained an  
1972 age of 62 years.  
1973 (3) (a) The retirement date shall be the 1st or the 16th day of the month as selected by  
1974 the member.  
1975 (b) The retirement date may not be more than 90 days before or after the date the  
1976 application is received by the office.  
1977 (4) A member who withdraws member contributions shall forfeit all allowances based  
1978 on those contributions.  
1979 (5) If a retired legislator is elected to another term in the Legislature or continues to  
1980 serve in the Legislature, the legislative allowance ceases at the beginning of each session under  
1981 rules established by the board, but is restored at the same amount at the end of the session.  
1982 (6) A member receiving an allowance while serving as a legislator is eligible for  
1983 additional service credits and allowance adjustments at the end of each term of office if the  
1984 legislator continues as a contributing member during the member's service as a legislator.  
1985 Section 40. Section **49-21-102** is amended to read:  
1986 **49-21-102. Definitions.**  
1987 As used in this chapter:  
1988 (1) "Date of disability" means the date on which a period of continuous disability  
1989 commences, and may not commence on or before the last day of actual work.

1990 (2) (a) "Eligible employee" means the following employee whose employer provides  
1991 coverage under this chapter:

1992 (i) (A) any regular full-time employee as defined under Section 49-12-102, 49-13-102,  
1993 or 49-22-102;

1994 (B) any public safety service employee as defined under Section 49-14-102, 49-15-102,  
1995 or 49-23-102;

1996 (C) any firefighter service employee or volunteer firefighter as defined under Section  
1997 49-23-102 who began firefighter service on or after July 1, 2011;

1998 (D) any judge as defined under Section 49-17-102 or 49-18-102; or

1999 (E) the governor of the state;

2000 (ii) an employee who is exempt from participating in a retirement system under  
2001 Subsection 49-12-203(4), 49-13-203(4), 49-14-203(1), or 49-15-203(1); and

2002 (iii) an employee who is covered by a retirement program offered by ~~the Teachers'~~  
2003 ~~Insurance and Annuity Association of America~~ a public or private system, organization, or  
2004 company designated by the State Board of Regents.

2005 (b) "Eligible employee" does not include:

2006 (i) any employee that is exempt from coverage under Section 49-21-201; or

2007 (ii) a retiree.

2008 (3) "Elimination period" means the three months at the beginning of each continuous  
2009 period of total disability for which no benefit will be paid. The elimination period begins on  
2010 the nearest first day of the month from the date of disability. The elimination period may  
2011 include a one-time trial return to work period of less than 15 consecutive calendar days.

2012 (4) "Maximum benefit period" means the maximum period of time the monthly  
2013 disability income benefit will be paid under Section 49-21-403 for any continuous period of  
2014 total disability.

2015 (5) "Monthly disability benefit" means the monthly payments and accrual of service  
2016 credit under Section 49-21-401.

2017 (6) "Objective medical impairment" means an impairment resulting from an injury or

2018 illness which is diagnosed by a physician and which is based on accepted objective medical  
2019 tests or findings rather than subjective complaints.

2020 (7) "Physician" means a licensed physician.

2021 (8) "Regular monthly salary" means the amount certified by the participating employer  
2022 as the monthly salary of the eligible employee, unless there is a discrepancy between the  
2023 certified amount and the amount actually paid, in which case the office shall determine the  
2024 regular monthly salary.

2025 (9) "Regular occupation" means either the primary duties performed by the eligible  
2026 employee for the 12 months preceding the date of disability, or a permanent assignment of duty  
2027 to the eligible employee.

2028 (10) "Rehabilitative employment" means any occupation or employment for wage or  
2029 profit, for which the eligible employee is reasonably qualified to perform based on education,  
2030 training, or experience.

2031 (11) (a) "Total disability" means the complete inability, due to objective medical  
2032 impairment, whether physical or mental, to engage in the eligible employee's regular  
2033 occupation during the elimination period and the first 24 months of disability benefits.

2034 (b) (i) "Total disability" means, after the elimination period and the first 24 months of  
2035 disability benefits, the complete inability, as determined under Subsection (11)(b)(ii), to engage  
2036 in any gainful occupation which is reasonable, considering the eligible employee's education,  
2037 training, and experience.

2038 (ii) For purposes of Subsection (11)(b)(i), inability is determined:

2039 (A) based solely on physical objective medical impairment; and

2040 (B) regardless of the existence or absence of any mental impairment.

2041 Section 41. Section **49-21-408** is enacted to read:

2042 **49-21-408. Limitation of service credit accrual -- Disability benefits from a**  
2043 **long-term disability program other than under this chapter.**

2044 Beginning on July 1, 2014, an eligible employee who receives a monthly disability  
2045 benefit from a long-term disability program other than under this chapter and who is eligible

2046 for service credit under a system or plan shall accrue service credit in that system or plan until  
2047 the earlier of:

- 2048 (1) the date of the eligible employee's death;
- 2049 (2) the date the eligible employee retires from the system or plan; or
- 2050 (3) the date the eligible employee has accumulated or would have accumulated service  
2051 credit in a defined benefit system or plan under this title, sufficient to be eligible to retire with  
2052 an unreduced allowance, if the employee had not:

- 2053 (a) chosen a defined contribution plan under Title 49, Chapter 22, Part 4, Tier II  
2054 Defined Contribution Plan, or under Title 49, Chapter 23, Part 4, Tier II Defined Contribution  
2055 Plan;

- 2056 (b) been a volunteer firefighter; or
- 2057 (c) been exempted from a retirement system or plan under this title.

2058 Section 42. Section **49-22-201** is amended to read:

2059 **49-22-201. System membership -- Eligibility.**

2060 (1) Beginning July 1, 2011, a participating employer shall participate in this system.

2061 (2) (a) A person initially entering regular full-time employment with a participating  
2062 employer on or after July 1, 2011, who does not have service credit accrued before July 1,  
2063 2011, in a Tier I system or plan administered by the board, is eligible:

- 2064 (i) as a member for service credit and defined contributions under the Tier II hybrid  
2065 retirement system established by Part 3, Tier II Hybrid Retirement System; or

- 2066 (ii) as a participant for defined contributions under the Tier II defined contribution plan  
2067 established by Part 4, Tier II Defined Contribution Plan.

2068 (b) A person initially entering regular full-time employment with a participating  
2069 employer on or after July 1, 2011, shall:

- 2070 (i) make an election to participate in the system created under this chapter within 30  
2071 days from the date of eligibility for accrual of benefits:

- 2072 (A) as a member for service credit and defined contributions under the Tier II hybrid  
2073 retirement system established by Part 3, Tier II Hybrid Retirement System; or

2074 (B) as a participant for defined contributions under the Tier II defined contribution plan  
2075 established by Part 4, Tier II Defined Contribution Plan; and

2076 (ii) electronically submit to the office notification of the member's election under  
2077 Subsection (2)(b)(i) in a manner approved by the office.

2078 (c) An election made by a person initially entering regular full-time employment with a  
2079 participating employer under this Subsection (2) is irrevocable beginning one year from the  
2080 date of eligibility for accrual of benefits.

2081 (d) If no election is made under Subsection (2)(b)(i), the person shall become a  
2082 member eligible for service credit and defined contributions under the Tier II hybrid retirement  
2083 system established by Part 3, Tier II Hybrid Retirement System.

2084 (3) Notwithstanding the provisions of this section, an elected official initially entering  
2085 office on or after July 1, 2011:

2086 (a) is only eligible to participate in the Tier II defined contribution plan established  
2087 under Chapter 22, Part 4, Tier II Defined Contribution Plan; and

2088 (b) is not eligible to participate in the Tier II hybrid retirement system established  
2089 under Chapter 22, Part 3, Tier II Hybrid Retirement System.

2090 Section 43. Section **49-22-203** is amended to read:

2091 **49-22-203. Exclusions from membership in system.**

2092 (1) The following employees are not eligible for service credit in this system:

2093 (a) subject to the requirements of Subsection (2), an employee whose employment  
2094 status is temporary in nature due to the nature or the type of work to be performed;

2095 (b) except as provided under Subsection (3), an employee of an institution of higher  
2096 education who participates in a retirement system with [~~the Teachers' Insurance and Annuity~~  
2097 ~~Association of America or with any other~~] a public or private retirement system, organization,  
2098 or company designated by the State Board of Regents during any period in which required  
2099 contributions based on compensation have been paid on behalf of the employee by the  
2100 employer;

2101 (c) an employee serving as an exchange employee from outside the state; or

2102 (d) an employee of the Department of Workforce Services who is covered under  
2103 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

2104 (2) If an employee whose status is temporary in nature due to the nature of type of  
2105 work to be performed:

2106 (a) is employed for a term that exceeds six months and the employee otherwise  
2107 qualifies for service credit in this system, the participating employer shall report and certify to  
2108 the office that the employee is a regular full-time employee effective the beginning of the  
2109 seventh month of employment; or

2110 (b) was previously terminated prior to being eligible for service credit in this system  
2111 and is reemployed within three months of termination by the same participating employer, the  
2112 participating employer shall report and certify that the member is a regular full-time employee  
2113 when the total of the periods of employment equals six months and the employee otherwise  
2114 qualifies for service credits in this system.

2115 (3) Upon cessation of the participating employer contributions, an employee under  
2116 Subsection (1)(b) is eligible for service credit in this system.

2117 Section 44. Section **49-22-204** is amended to read:

2118 **49-22-204. Higher education employees' eligibility requirements -- Election**  
2119 **between different retirement plans -- Classification requirements -- Transfer between**  
2120 **systems.**

2121 (1) (a) Regular full-time employees of institutions of higher education who are eligible  
2122 to participate in either this system or in a retirement annuity contract with [~~the Teachers'~~  
2123 ~~Insurance and Annuity Association of America or with any other~~] a public or private system,  
2124 organization, or company, designated by the Board of Regents, shall, not later than January 1,  
2125 1979, elect to participate exclusively in this system or in an annuity contract allowed under this  
2126 Subsection (1)(a).

2127 (b) The election is final, and no right exists to make any further election.

2128 (2) (a) A regular full-time employee hired by an institution of higher education after  
2129 January 1, 1979, may participate only in the retirement plan which attaches to the person's

2130 employment classification.

2131 (b) Each institution of higher education shall prepare or amend existing employment  
2132 classifications, under the direction of the Board of Regents, so that each classification is  
2133 assigned with either:

- 2134 (i) this system; or
- 2135 [~~(ii) the Teachers' Insurance and Annuity Association of America; or~~]
- 2136 [~~(iii) another~~] (ii) a public or private system, organization, or company designated by  
2137 the Board of Regents.

2138 (3) A regular full-time employee hired by an institution of higher education on or after  
2139 July 1, 2011, whose employment classification requires participation in this system may elect  
2140 to continue participation in this system upon change to an employment classification which  
2141 requires participation in[~~:(a) an annuity plan with the Teachers' Insurance and Annuity~~  
2142 ~~Association of America; or (b) another~~] a public or private system, organization, or company  
2143 designated by the Board of Regents.

2144 (4) A regular full-time employee hired by an institution of higher education on or after  
2145 July 1, 2011, whose employment classification requires participation in this system shall  
2146 participate in this system.

2147 Section 45. Section **49-22-304** is amended to read:

2148 **49-22-304. Defined benefit eligibility for an allowance -- Date of retirement --**  
2149 **Qualifications.**

- 2150 (1) A member is qualified to receive an allowance from this system when:
- 2151 (a) except as provided under Subsection (3), the member ceases actual work for every  
2152 participating employer that employs the member before the member's retirement date and  
2153 provides evidence of the termination;
- 2154 (b) the member has submitted to the office a [~~notarized~~] retirement application form  
2155 that states the member's proposed retirement date; and
- 2156 (c) one of the following conditions is met as of the member's retirement date:
- 2157 (i) the member has accrued at least four years of service credit and has attained an age

2158 of 65 years;

2159 (ii) the member has accrued at least 10 years of service credit and has attained an age  
2160 of 62 years;

2161 (iii) the member has accrued at least 20 years of service credit and has attained an age  
2162 of 60 years; or

2163 (iv) the member has accrued at least 35 years of service credit.

2164 (2) (a) The member's retirement date:

2165 (i) shall be the 1st or the 16th day of the month, as selected by the member;

2166 (ii) shall be on or after the date of termination; and

2167 (iii) may not be more than 90 days before or after the date the application is received by  
2168 the office.

2169 (b) Except as provided under Subsection (3), a member may not be employed by a  
2170 participating employer in the system established by this chapter on the retirement date selected  
2171 under Subsection (2)(a)(i).

2172 (3) (a) A member who is employed by a participating employer and who is also an  
2173 elected official is not required to cease service as an elected official to be qualified to receive  
2174 an allowance under Subsection (1), unless the member is retiring from service as an elected  
2175 official.

2176 (b) A member who is employed by a participating employer and who is also a part-time  
2177 appointed board member is not required to cease service as a part-time appointed board  
2178 member to be qualified to receive an allowance under Subsection (1).

2179 Section 46. Section **49-23-201** is amended to read:

2180 **49-23-201. System membership -- Eligibility.**

2181 (1) Beginning July 1, 2011, a participating employer that employs public safety service  
2182 employees or firefighter service employees shall participate in this system.

2183 (2) (a) A public safety service employee or a firefighter service employee initially  
2184 entering employment with a participating employer on or after July 1, 2011, who does not have  
2185 service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board,

2186 is eligible:

2187 (i) as a member for service credit and defined contributions under the Tier II hybrid  
2188 retirement system established by Part 3, Tier II Hybrid Retirement System; or

2189 (ii) as a participant for defined contributions under the Tier II defined contributions  
2190 plan established by Part 4, Tier II Defined Contribution Plan.

2191 (b) A public safety service employee or a firefighter service employee initially entering  
2192 employment with a participating employer on or after July 1, 2011, shall:

2193 (i) make an election to participate in the system created under this chapter within 30  
2194 days from the date of eligibility for accrual of benefits:

2195 (A) as a member for service credit and defined contributions under the Tier II hybrid  
2196 retirement system established by Part 3, Tier II Hybrid Retirement System; or

2197 (B) as a participant for defined contributions under the Tier II defined contribution plan  
2198 established by Part 4, Tier II Defined Contribution Plan; and

2199 (ii) electronically submit to the office notification of the member's election under  
2200 Subsection (2)(b)(i) in a manner approved by the office.

2201 (c) An election made by a public safety service employee or firefighter service  
2202 employee initially entering employment with a participating employer under this Subsection (2)  
2203 is irrevocable beginning one year from the date of eligibility for accrual of benefits.

2204 (d) If no election is made under Subsection (2)(b)(i), the public safety service employee  
2205 or firefighter service employee shall become a member eligible for service credit and defined  
2206 contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid  
2207 Retirement System.

2208 Section 47. Section **49-23-303** is amended to read:

2209 **49-23-303. Defined benefit eligibility for an allowance -- Date of retirement --**  
2210 **Qualifications.**

2211 (1) A member is qualified to receive an allowance from this system when:

2212 (a) except as provided under Subsection (3), the member ceases actual work for every  
2213 participating employer that employs the member before the member's retirement date and

2214 provides evidence of the termination;

2215 (b) the member has submitted to the office a [notarized] retirement application form  
2216 that states the member's proposed retirement date; and

2217 (c) one of the following conditions is met as of the member's retirement date:

2218 (i) the member has accrued at least four years of service credit and has attained an age  
2219 of 65 years;

2220 (ii) the member has accrued at least 10 years of service credit and has attained an age  
2221 of 62 years;

2222 (iii) the member has accrued at least 20 years of service credit and has attained an age  
2223 of 60 years; or

2224 (iv) the member has accrued at least 25 years of service credit.

2225 (2) (a) The member's retirement date:

2226 (i) shall be the 1st or the 16th day of the month, as selected by the member;

2227 (ii) shall be on or after the date of termination; and

2228 (iii) may not be more than 90 days before or after the date the application is received by  
2229 the office.

2230 (b) Except as provided under Subsection (3), a member may not be employed by a  
2231 participating employer in the system established by this chapter on the retirement date selected  
2232 under Subsection (2)(a)(i).

2233 (3) (a) A member who is employed by a participating employer and who is also an  
2234 elected official is not required to cease service as an elected official to be qualified to receive  
2235 an allowance under Subsection (1), unless the member is retiring from service as an elected  
2236 official.

2237 (b) A member who is employed by a participating employer and who is also a part-time  
2238 appointed board member is not required to cease service as a part-time appointed board  
2239 member to be qualified to receive an allowance under Subsection (1).

2240 Section 48. Section **49-23-503** is amended to read:

2241 **49-23-503. Death of active member in line of duty -- Payment of benefits.**

2242 If an active member of this system dies, benefits are payable as follows:

2243 (1) If the death is classified by the office as a line-of-duty death, benefits are payable as  
2244 follows:

2245 (a) If the member has accrued less than 20 years of public safety service or firefighter  
2246 service credit, the spouse at the time of death shall receive a lump sum of \$1,000 and an  
2247 allowance equal to 30% of the member's final average monthly salary.

2248 (b) If the member has accrued 20 or more years of public safety service or firefighter  
2249 service credit, the member shall be considered to have retired with an Option One allowance  
2250 calculated without an actuarial reduction under Section 49-23-304 and the spouse at the time of  
2251 death shall receive the allowance that would have been payable to the member.

2252 (2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this  
2253 section if the death results from external force, violence, or disease directly resulting from  
2254 firefighter service.

2255 (b) The lowest monthly compensation of firefighters of a city of the first class in this  
2256 state at the time of death shall be considered to be the final average monthly salary of a  
2257 volunteer firefighter for purposes of computing these benefits.

2258 (c) Each volunteer fire department shall maintain a current roll of all volunteer  
2259 firefighters which meet the requirements of Subsection 49-23-102(12) to determine the  
2260 eligibility for this benefit.

2261 (3) (a) If the death is classified as a line-of-duty death by the office, death benefits are  
2262 payable under this section and the spouse at the time of death is not eligible for benefits under  
2263 Section 49-23-502.

2264 (b) If the death is not classified as a line-of-duty death by the office, benefits are  
2265 payable in accordance with Section 49-23-502.

2266 (4) (a) A spouse who qualifies for a monthly benefit under this section shall apply in  
2267 writing to the office.

2268 (b) The allowance shall begin on the first day of the month following the month in  
2269 which the:

2270 (i) member or participant died, if the application is received by the office within 90  
2271 days of the date of death of the member or participant; or

2272 (ii) application is received by the office, if the application is received by the office  
2273 more than 90 days after the date of death of the member or participant.

2274 Section 49. Section **67-19-43** is amended to read:

2275 **67-19-43. State employee matching supplemental defined contribution benefit.**

2276 (1) As used in this section, "qualifying employee" means an employee who is:

2277 (a) in a position that is [receiving]:

2278 (i) receiving retirement benefits under Title 49, Utah State Retirement and Insurance  
2279 Benefit Act; and

2280 (ii) accruing paid leave benefits that can be used in the current and future calendar  
2281 years; and

2282 (b) not an employee who is reemployed as defined in Section **49-11-102**.

2283 (2) Subject to the requirements of Subsection (3) and beginning on or after January 4,  
2284 2014, an employer shall make a biweekly matching contribution to every qualifying employee's  
2285 defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, subject  
2286 to federal requirements and limitations, which is sponsored by the Utah State Retirement  
2287 Board.

2288 (3) (a) In accordance with the requirements of this Subsection (3), each qualifying  
2289 employee shall be eligible to receive the same dollar amount for the contribution under  
2290 Subsection (2).

2291 (b) A qualifying employee:

2292 (i) shall receive the contribution amount determined under Subsection (3)(c) if the  
2293 qualifying employee makes a voluntary personal contribution to the defined contribution plan  
2294 account described in Subsection (2) in an amount equal to or greater than the employer's  
2295 contribution amount determined in Subsection (3)(c);

2296 (ii) shall receive a partial contribution amount that is equal to the qualifying employee's  
2297 personal contribution amount if the employee makes a voluntary personal contribution to the

2298 defined contribution plan account described in Subsection (2) in an amount less than the  
2299 employer's contribution amount determined in Subsection (3)(c); or

2300 (iii) may not receive a contribution under Subsection (2) if the qualifying employee  
2301 does not make a voluntary personal contribution to the defined contribution plan account  
2302 described in Subsection (2).

2303 (c) (i) Subject to the maximum limit under Subsection (3)(c)(iii), the Legislature shall  
2304 annually determine the contribution amount that an employer shall provide to each qualifying  
2305 employee under Subsection (2).

2306 (ii) The department shall make recommendations annually to the Legislature on the  
2307 contribution amount required under Subsection (2), in consultation with the Governor's Office  
2308 of Management and Budget and the Division of Finance.

2309 (iii) The biweekly matching contribution amount required under Subsection (2) may  
2310 not exceed \$26 for each qualifying employee.

2311 (4) A qualifying employee is eligible to receive the biweekly contribution under this  
2312 section for any pay period in which the employee is in a paid status or other status protected by  
2313 federal or state law.

2314 (5) The employer and employee contributions made under this section vest  
2315 immediately upon deposit and can be withdrawn by the employee at any time, subject to  
2316 Internal Revenue Code regulations on the withdrawals.

2317 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
2318 executive director shall make rules establishing procedures to implement the provisions of this  
2319 section.

2320 **Section 50. Effective date.**

2321 If approved by two-thirds of all the members elected to each house, this bill takes effect  
2322 upon approval by the governor, or the day following the constitutional time limit of Utah  
2323 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
2324 the date of veto override.