

1 **UTAH RETIREMENT SYSTEMS AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Adam Robertson**

5 Senate Sponsor: Wayne A. Harper

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Utah State Retirement and Insurance Benefit Act by amending
10 retirement and insurance provisions.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ increases the number of members serving on the Membership Council;
- 14 ▶ amends the powers and duties of the Utah Retirement Systems' executive director;
- 15 ▶ modifies provisions allowing the calculation and payment of benefits pending
16 settlement of a dispute;
- 17 ▶ clarifies the availability of certain retirement allowance payment options;
- 18 ▶ amends how the service status of certain justice court judges is established;
- 19 ▶ specifies additional names for the Tier II retirement systems and plans; and
- 20 ▶ makes technical changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill provides a special effective date.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **49-11-102**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315

28 **49-11-202**, as last amended by Laws of Utah 2010, Chapters 286 and 321

29 **49-11-204**, as last amended by Laws of Utah 2008, Chapter 252

- 30 **49-11-607**, as last amended by Laws of Utah 2013, Chapter 316
- 31 **49-12-406**, as last amended by Laws of Utah 2015, Chapter 241
- 32 **49-13-402**, as last amended by Laws of Utah 2017, Chapter 141
- 33 **49-13-406**, as last amended by Laws of Utah 2015, Chapter 241
- 34 **49-22-103**, as enacted by Laws of Utah 2010, Chapter 266
- 35 **49-22-305**, as last amended by Laws of Utah 2017, Chapter 141
- 36 **49-22-310**, as enacted by Laws of Utah 2011, Chapter 439
- 37 **49-23-103**, as enacted by Laws of Utah 2010, Chapter 266
- 38 **49-23-304**, as last amended by Laws of Utah 2017, Chapter 141
- 39 **49-23-309**, as enacted by Laws of Utah 2011, Chapter 439

40 ENACTS:

41 **49-11-205**, Utah Code Annotated 1953



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

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

45 **49-11-102. Definitions.**

46 As used in this title:

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

48 (i) is employed by a participating employer and accruing service credit; or

49 (ii) within the previous 120 days:

50 (A) has been employed by a participating employer; and

51 (B) accrued service credit.

52 (b) "Active member" does not include a retiree.

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

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

- 58 (4) (a) "Agency" means:
- 59 (i) a department, division, agency, office, authority, commission, board, institution, or
60 hospital of the state;
- 61 (ii) a county, municipality, school district, local district, or special service district;
- 62 (iii) a state college or university; or
- 63 (iv) any other participating employer.
- 64 (b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a
65 subdivision of another entity listed under Subsection (4)(a).
- 66 (5) "Allowance" or "retirement allowance" means the pension plus the annuity,
67 including any cost of living or other authorized adjustments to the pension and annuity.
- 68 (6) "Alternate payee" means a member's former spouse or family member eligible to
69 receive payments under a Domestic Relations Order in compliance with Section [49-11-612](#).
- 70 (7) "Amortization rate" means the board certified percent of salary required to amortize
71 the unfunded actuarial accrued liability in accordance with policies established by the board
72 upon the advice of the actuary.
- 73 (8) "Annuity" means monthly payments derived from member contributions.
- 74 (9) "Appointive officer" means an employee appointed to a position for a definite and
75 fixed term of office by official and duly recorded action of a participating employer whose
76 appointed position is designated in the participating employer's charter, creation document, or
77 similar document, and:
- 78 (a) who earns \$500 or more per month, indexed as of January 1, 1990, as provided in
79 Section [49-12-407](#) for a Tier I appointive officer; and
- 80 (b) whose appointive position is full-time as certified by the participating employer for
81 a Tier II appointive officer.
- 82 (10) (a) "At-will employee" means a person who is employed by a participating
83 employer and:
- 84 (i) who is not entitled to merit or civil service protection and is generally considered
85 exempt from a participating employer's merit or career service personnel systems;

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

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

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

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

97 (12) "Board" means the Utah State Retirement Board established under Section
98 [49-11-202](#).

99 (13) "Board member" means a person serving on the Utah State Retirement Board as
100 established under Section [49-11-202](#).

101 (14) "Board of Regents" or "State Board of Regents" means the State Board of Regents
102 established in Section [53B-1-103](#).

103 (15) "Certified contribution rate" means the board certified percent of salary paid on
104 behalf of an active member to the office to maintain the system on a financially and actuarially
105 sound basis.

106 (16) "Contributions" means the total amount paid by the participating employer and the
107 member into a system or to the Utah Governors' and Legislators' Retirement Plan under
108 Chapter 19, Utah Governors' and Legislators' Retirement Act.

109 (17) "Council member" means a person serving on the Membership Council
110 established under Section [~~49-11-202~~] [49-11-205](#).

111 (18) "Covered individual" means any individual covered under Chapter 20, Public
112 Employees' Benefit and Insurance Program Act.

113 (19) "Current service" means covered service under:

- 114 (a) Chapter 12, Public Employees' Contributory Retirement Act;
- 115 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;
- 116 (c) Chapter 14, Public Safety Contributory Retirement Act;
- 117 (d) Chapter 15, Public Safety Noncontributory Retirement Act;
- 118 (e) Chapter 16, Firefighters' Retirement Act;
- 119 (f) Chapter 17, Judges' Contributory Retirement Act;
- 120 (g) Chapter 18, Judges' Noncontributory Retirement Act;
- 121 (h) Chapter 19, Utah Governors' and Legislators' Retirement Act;
- 122 (i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
- 123 (j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

124 (20) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a
125 system or plan offered under this title to provide a specified allowance to a retiree or a retiree's
126 spouse after retirement that is based on a set formula involving one or more of the following
127 factors:

- 128 (a) years of service;
- 129 (b) final average monthly salary; or
- 130 (c) a retirement multiplier.

131 (21) "Defined contribution" or "defined contribution plan" means any defined
132 contribution plan or deferred compensation plan authorized under the Internal Revenue Code
133 and administered by the board.

134 (22) "Educational institution" means a political subdivision or instrumentality of the
135 state or a combination thereof primarily engaged in educational activities or the administration
136 or servicing of educational activities, including:

- 137 (a) the State Board of Education and its instrumentalities;
- 138 (b) any institution of higher education and its branches;
- 139 (c) any school district and its instrumentalities;
- 140 (d) any vocational and technical school; and
- 141 (e) any entity arising out of a consolidation agreement between entities described under

142 this Subsection (22).

143 (23) "Elected official":

144 (a) means a person elected to a state office, county office, municipal office, school
145 board or school district office, local district office, or special service district office;

146 (b) includes a person who is appointed to serve an unexpired term of office described
147 under Subsection (23)(a); and

148 (c) does not include a judge or justice who is subject to a retention election under
149 Section [20A-12-201](#).

150 (24) (a) "Employer" means any department, educational institution, or political
151 subdivision of the state eligible to participate in a government-sponsored retirement system
152 under federal law.

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

155 (25) "Exempt employee" means an employee working for a participating employer:

156 (a) who is not eligible for service credit under Section [49-12-203](#), [49-13-203](#),
157 [49-14-203](#), [49-15-203](#), or [49-16-203](#); and

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

160 (26) "Final average monthly salary" means the amount computed by dividing the
161 compensation received during the final average salary period under each system by the number
162 of months in the final average salary period.

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

165 (28) (a) "Inactive member" means a member who has not been employed by a
166 participating employer for a period of at least 120 days.

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

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

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

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

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

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

176 and

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

178 (30) "Institution of higher education" means an institution described in Section

179 [53B-1-102](#).

180 (31) (a) "Member" means a person, except a retiree, with contributions on deposit with
181 a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah
182 Governors' and Legislators' Retirement Act, or with a terminated system.

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

189 (32) "Member contributions" means the sum of the contributions paid to a system or
190 the Utah Governors' and Legislators' Retirement Plan, including refund interest if allowed by a
191 system, and which are made by:

192 (a) the member; and

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

195 (33) "Nonelective contribution" means an amount contributed by a participating
196 employer into a participant's defined contribution account.

197 (34) "Normal cost rate":

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

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

202 (35) "Office" means the Utah State Retirement Office.

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

205 (37) "Participating employer" means a participating employer, as defined by Chapter
206 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'
207 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,
208 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'
209 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges'
210 Noncontributory Retirement Act, or an agency financed in whole or in part by public funds
211 which is participating in a system or plan as of January 1, 2002.

212 (38) "Part-time appointed board member" means a person:

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

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

217 (39) "Pension" means monthly payments derived from participating employer
218 contributions.

219 (40) "Plan" means the Utah Governors' and Legislators' Retirement Plan created by
220 Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees' Tier
221 II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan,
222 the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23,
223 Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under
224 Section [49-11-801](#).

225 (41) (a) "Political subdivision" means any local government entity, including cities,

226 towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally
227 separate and distinct from the state and only if its employees are not by virtue of their
228 relationship to the entity employees of the state.

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

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

233 (42) "Program" means the Public Employees' Insurance Program created under Chapter
234 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'
235 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term
236 Disability Act.

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

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

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

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

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

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

251 (49) "Retirement related contribution":

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

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

256 (50) "Service credit" means:

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

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

262 (51) "Surviving spouse" means:

263 (a) the lawful spouse who has been married to a member for at least six months
264 immediately before the death date of the member; or

265 (b) a former lawful spouse of a member with a valid domestic relations order benefits
266 on file with the office before the member's death date in accordance with Section [49-11-612](#).

267 (52) "System" means the individual retirement systems created by Chapter 12, Public
268 Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory
269 Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public
270 Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17,
271 Judges' Contributory Retirement Act, Chapter 18, Judges' Noncontributory Retirement Act, and
272 Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the
273 Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System,
274 and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part
275 3, Tier II Hybrid Retirement System.

276 (53) "Technical college" means the same as that term is defined in Section
277 [53B-1-101.5](#).

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

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

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

282 (55) (a) "Tier II" means a system or plan under this title provided in lieu of a Tier I
283 system or plan for an employee, governor, legislator, or full-time elected official who does not
284 have Tier I service credit in a system or plan under this title:

285 (i) if the employee initially enters regular full-time employment on or after July 1,
286 2011; or

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

289 (b) "Tier II" includes:

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

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

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

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

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

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

296 (56) "Unfunded actuarial accrued liability" or "UAAL":

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

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

300 (57) "Voluntary deferrals" means an amount contributed by a participant into that
301 participant's defined contribution account.

302 Section 2. Section **49-11-202** is amended to read:

303 **49-11-202. Establishment of Utah State Retirement Board -- Quorum -- Terms --**

304 **Officers -- Expenses and per diem.**

305 (1) There is established the Utah State Retirement Board composed of seven board
306 members determined as follows:

307 (a) Four board members, with experience in investments or banking, shall be appointed
308 by the governor from the general public.

309 (b) One board member shall be a school employee appointed by the governor from at

310 least three nominations submitted by the governing board of the school employees' association
311 that is representative of a majority of the school employees who are members of a system
312 administered by the board.

313 (c) One board member shall be a public employee appointed by the governor from at
314 least three nominations submitted by the governing board of the public employee association
315 that is representative of a majority of the public employees who are members of a system
316 administered by the board.

317 (d) One board member shall be the state treasurer.

318 (2) Four board members constitute a quorum for the transaction of business.

319 (3) (a) All appointments to the board shall be made on a nonpartisan basis, with the
320 consent of the Senate.

321 (b) Board members shall serve until their successors are appointed and take the
322 constitutional oath of office.

323 (c) When a vacancy occurs on the board for any reason, the replacement shall be
324 appointed for the unexpired term.

325 (4) (a) Except as required by Subsection (4)(b), all appointed board members shall
326 serve for four-year terms.

327 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
328 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
329 board members are staggered so that:

330 (i) approximately half of the board is appointed every two years; and

331 (ii) no more than two of the board members appointed under Subsection (1)(a) are
332 appointed every two years.

333 (c) A board member who is appointed as a school employee or as a public employee
334 who retires or who is no longer employed with a participating employer shall immediately
335 resign from the board.

336 (5) (a) Each year the board shall elect a president and vice president from its
337 membership.

338 (b) A board member may not receive compensation or benefits for the board member's
339 service, but may receive per diem and travel expenses in accordance with:

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

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

342 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
343 63A-3-107.

344 [~~(6) (a) There is established a Membership Council to perform the duties under~~
345 ~~Subsection (10).]~~

346 [~~(b) A member of the council may not receive compensation or benefits for the~~
347 ~~member's service, but may receive per diem and travel expenses in accordance with:]~~

348 [~~(i) Section 63A-3-106;]~~

349 [~~(ii) Section 63A-3-107; and]~~

350 [~~(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and~~
351 ~~63A-3-107.]~~

352 [~~(7) The Membership Council shall be composed of 13 council members selected as~~
353 ~~follows:]~~

354 [~~(a) Three council members shall be school employees selected by the governing board~~
355 ~~of an association representative of a majority of school employees who are members of a~~
356 ~~system administered by the board.]~~

357 [~~(b) One council member shall be a classified school employee selected by the~~
358 ~~governing board of the association representative of a majority of classified school employees~~
359 ~~who are members of a system administered by the board.]~~

360 [~~(c) Two council members shall be public employees selected by the governing board~~
361 ~~of the association representative of a majority of the public employees who are members of a~~
362 ~~system administered by the board.]~~

363 [~~(d) One council member shall be a municipal officer or employee selected by the~~
364 ~~governing board of the association representative of a majority of the municipalities who~~
365 ~~participate in a system administered by the board.]~~

366 ~~[(e) One council member shall be a county officer or employee selected by the~~
367 ~~governing board of the association representative of a majority of counties who participate in a~~
368 ~~system administered by the board.]~~

369 ~~[(f) One council member shall be a representative of members of the Judges'~~
370 ~~Noncontributory Retirement System selected by the Judicial Council.]~~

371 ~~[(g) One council member shall be a representative of members of the Public Safety~~
372 ~~Retirement Systems selected by the governing board of the association representative of the~~
373 ~~majority of peace officers who are members of the Public Safety Retirement Systems.]~~

374 ~~[(h) One council member shall be a representative of members of the Firefighters'~~
375 ~~Retirement System selected by the governing board of the association representative of the~~
376 ~~majority of paid professional firefighters who are members of the Firefighters' Retirement~~
377 ~~System.]~~

378 ~~[(i) One council member shall be a retiree selected by the governing board of the~~
379 ~~association representing the largest number of retirees, who are not public education retirees,~~
380 ~~from the Public Employees' Contributory and Public Employees' Noncontributory Retirement~~
381 ~~Systems.]~~

382 ~~[(j) One council member shall be a retiree selected by the governing board of the~~
383 ~~association representing the largest number of public education retirees.]~~

384 ~~[(8) (a) Each entity granted authority to select council members under Subsection (7)~~
385 ~~may also revoke the selection at any time.]~~

386 ~~[(b) Each term on the council shall be for a period of four years, subject to Subsection~~
387 ~~(8)(a).]~~

388 ~~[(c) Each term begins on July 1 and expires on June 30.]~~

389 ~~[(d) When a vacancy occurs on the council for any reason, the replacement shall be~~
390 ~~selected for the remainder of the unexpired term.]~~

391 ~~[(9) The council shall annually designate one council member as chair.]~~

392 ~~[(10) The council shall:]~~

393 ~~[(a) recommend to the board and to the Legislature benefits and policies for members~~

394 ~~of any system or plan administered by the board;]~~

395 ~~[(b) recommend procedures and practices to improve the administration of the systems~~
396 ~~and plans and the public employee relations responsibilities of the board and office;]~~

397 ~~[(c) examine the record of all decisions affecting retirement benefits made by a hearing~~
398 ~~officer under Section 49-11-613;]~~

399 ~~[(d) submit nominations to the board for the position of executive director if that~~
400 ~~position is vacant;]~~

401 ~~[(e) advise and counsel with the board and the director on policies affecting members~~
402 ~~of the various systems administered by the office; and]~~

403 ~~[(f) perform other duties assigned to it by the board.]~~

404 Section 3. Section 49-11-204 is amended to read:

405 **49-11-204. Powers and duties of executive director.**

406 The executive director shall:

407 (1) act as the executive officer of the board and the office;

408 (2) administer the various systems, plans, programs, and functions assigned to the
409 board or office;

410 (3) subject to board review, develop and implement internal policies and procedures
411 which administer and govern the day-to-day operations of the systems, plans, and programs;

412 (4) transmit orders of a hearing officer made under Section 49-11-613 to the board;

413 (5) provide information concerning the operation of the office to the board, the
414 governor, the Legislature, participating employers, and employer and employee associations,
415 unless otherwise restricted under Section 49-11-618;

416 (6) inform the Legislature of any recommendations from the board regarding any
417 necessary or desirable changes to this title;

418 (7) consult with the Legislature on all legislation under this title;

419 (8) (a) recommend to the board an annual administrative budget covering the
420 operations of the office and, upon approval, submit the budget along with the actuarial status of
421 the funds to the governor and the Legislature for review and comment; and

- 422 (b) direct and control the subsequent expenditures of the budget;
- 423 (9) employ, within the limitations of the budget, personnel to administer the systems,
424 plans, programs, and funds assigned to the office, including consultants, actuaries, attorneys,
425 medical examiners, investment counselors, and accountants to accomplish the purposes of this
426 title;
- 427 (10) establish independent financial records for each of the systems, plans, and
428 programs or combine all financial records using acceptable principles of accounting to identify
429 the assets and vested interests of each system, plan, or program;
- 430 (11) maintain individual records necessary to provide benefits under this title;
- 431 (12) keep in convenient form all records, accounts, and data necessary for the
432 administration and actuarial valuation of the systems, plans, and programs;
- 433 (13) adopt fees, charges, and upon the recommendation of the actuary, interest rates
434 and tables for the administration of the systems, plans, and programs;
- 435 (14) [~~consolidate into one~~] make payment of all monthly allowances and any defined
436 contribution distributions, and may consolidate payments at the sole discretion of the executive
437 director;
- 438 (15) ensure that [~~if~~] the integrity of the various funds is maintained through appropriate
439 accounting records;
- 440 [~~(15)~~] (16) at least every three years:
 - 441 (a) make an actuarial investigation into the mortality, service, and other experience of
442 the members, participants, beneficiaries, and covered individuals of the systems, plans, and
443 programs;
 - 444 (b) actuarially value the assets and liabilities of the administered funds and accounts;
445 and
 - 446 (c) determine the rate of interest being earned by the funds;
 - 447 [~~(16)~~] (17) report to the board findings under Subsection [~~(15)~~] (16), with
448 recommendations, including proposed changes in the rates of contribution or benefits that are
449 necessary to maintain the actuarial soundness of the systems, plans, or programs;

450 [~~(17)~~] (18) regulate participating employers by:
451 (a) educating them on their duties imposed by this title;
452 (b) specifying the time, place, and manner in which contributions shall be withheld and
453 paid; and
454 (c) requiring any reports necessary for the administration of this title; and
455 [~~(18)~~] (19) otherwise exercise the powers and perform the duties conferred on the
456 executive director by this title.

457 Section 4. Section **49-11-205** is enacted to read:

458 **49-11-205. Membership Council established -- Members -- Chair -- Duties --**
459 **Expenses and per diem.**

460 (1) There is established a Membership Council to perform the duties under Subsection
461 (5).

462 (2) The Membership Council shall be composed of 15 council members selected as
463 follows:

464 (a) three council members shall be school employees selected by the governing board
465 of an association representative of a majority of school employees who are members of a
466 system administered by the board;

467 (b) one council member shall be a classified school employee selected by the
468 governing board of the association representative of a majority of classified school employees
469 who are members of a system administered by the board;

470 (c) two council members shall be public employees selected by the governing board of
471 the association representative of a majority of the public employees who are members of a
472 system administered by the board;

473 (d) one council member shall be a municipal officer or employee selected by the
474 governing board of the association representative of a majority of the municipalities who
475 participate in a system administered by the board;

476 (e) one council member shall be a county officer or employee selected by the governing
477 board of the association representative of a majority of counties who participate in a system

478 administered by the board;

479 (f) one council member shall be a representative of members of the Judges'

480 Noncontributory Retirement System selected by the Judicial Council;

481 (g) one council member shall be a representative of members of the Public Safety

482 Retirement Systems selected by the governing board of the association representative of the

483 majority of peace officers who are members of the Public Safety Retirement Systems;

484 (h) one council member shall be a representative of members of the Firefighters'

485 Retirement System selected by the governing board of the association representative of the

486 majority of paid professional firefighters who are members of the Firefighters' Retirement

487 System;

488 (i) one council member shall be a retiree selected by the governing board of the

489 association representing the largest number of retirees, who are not public education retirees,

490 from the Public Employees' Contributory, Public Employees' Noncontributory, and New Public

491 Employees' Tier II Contributory Retirement Systems;

492 (j) one council member shall be a retiree selected by the governing board of the

493 association representing the largest number of public education retirees;

494 (k) one council member shall be a school business official selected by the governing

495 board of the association representative of a majority of the school business officials from

496 public education employers who participate in a system administered by the board; and

497 (l) one council member shall be a special district officer or employee selected by the

498 governing board of the association representing the largest number of special service districts

499 and local districts who participate in a system administered by the board.

500 (3) (a) Each entity granted authority to select council members under Subsection (2)

501 may also revoke the selection at any time.

502 (b) Each term on the council shall be for a period of four years, subject to Subsection

503 (3)(a).

504 (c) Each term begins on July 1 and expires on June 30.

505 (d) When a vacancy occurs on the council for any reason, the replacement shall be

506 selected for the remainder of the unexpired term.

507 (4) The council shall annually designate one council member as chair.

508 (5) The council shall:

509 (a) recommend to the board and to the Legislature benefits and policies for members of
510 any system or plan administered by the board;

511 (b) recommend procedures and practices to improve the administration of the systems
512 and plans and the public employee relations responsibilities of the board and office;

513 (c) examine the record of all decisions affecting retirement benefits made by a hearing
514 officer under Section [49-11-613](#);

515 (d) submit nominations to the board for the position of executive director if that
516 position is vacant;

517 (e) advise and counsel with the board and the director on policies affecting members of
518 the various systems administered by the office; and

519 (f) perform other duties assigned to it by the board.

520 (6) A member of the council may not receive compensation or benefits for the
521 member's service, but may receive per diem and travel expenses in accordance with:

522 (a) Section [63A-3-106](#);

523 (b) Section [63A-3-107](#); and

524 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
525 [63A-3-107](#).

526 Section 5. Section **49-11-607** is amended to read:

527 **49-11-607. Determination of benefits -- Errors in records or calculations --**

528 **Correction of errors by the office.**

529 (1) After the retirement date, which shall be set by a member in the member's
530 application for retirement, no alteration, addition, or cancellation of a benefit may be made
531 except as provided in Subsections (2), (3), and (4) or other law.

532 (2) (a) Errors in the records or in the calculations of the office which result in an
533 incorrect benefit to any member, retiree, participant, covered individual, alternate payee, or

534 beneficiary shall be corrected by the office if the correction results in a modification of the
535 benefit amount of \$5 or more.

536 (b) Future payments shall be made to any member, retiree, participant, covered
537 individual, alternate payee, or beneficiary to:

538 (i) pay the benefit to which the member or beneficiary was entitled; or

539 (ii) recover any overpayment.

540 (3) (a) Errors in the records or calculation of a participating employer which result in
541 an incorrect benefit to a member, retiree, participant, covered individual, alternate payee, or
542 beneficiary shall be corrected by the participating employer.

543 (b) If insufficient employer contributions have been received by the office, the
544 participating employer shall pay any delinquent employer contributions, plus interest under
545 Section 49-11-503, required by the office to maintain the system, plan, or program affected on
546 an actuarially sound basis.

547 (c) If excess contributions have been received by the office, the contributions shall be
548 refunded to the participating employer or member which paid the contributions.

549 (4) If a dispute exists between a participating employer and a member or the office and
550 a member at the time of the member's retirement which will affect the member's benefit
551 calculation, and notice of the dispute is given to the office prior to the calculation of a
552 member's benefit, the benefit may be paid based on the member's retirement date and the
553 records available and then recalculated upon settlement of the dispute.

554 Section 6. Section 49-12-406 is amended to read:

555 **49-12-406. Exceptions for part-time elective or appointive service -- Computation**
556 **of allowance -- Justice court judges.**

557 (1) Notwithstanding the provisions of Sections 49-11-401 and 49-12-102, and unless
558 otherwise provided in this section, a member's elective or appointive service rendered on a
559 basis not considered full-time by the office shall have a separate allowance computed on the
560 basis of compensation actually received by the member during the period of elective or
561 appointive service.

562 (2) (a) (i) A justice court judge who has service with only one participating employer
563 shall be considered part-time or full-time by the office as certified by the participating
564 employer.

565 (ii) If there is a dispute between the office and a participating employer or justice court
566 judge over whether service is full-time or part-time for any employment period, the disputed
567 service shall be submitted by the office to the Administrative Office of the Courts for
568 determination.

569 (b) If a justice court judge has a combination of part-time service and full-time position
570 service with one participating employer, the office shall compute separate allowances on the
571 basis of compensation actually received by the judge during the part-time and full-time periods
572 of service.

573 (3) (a) A justice court judge who has service with more than one participating
574 employer shall be considered full-time by the office for a period of service in which the judge
575 is certified as full-time by:

576 (i) a participating employer; or

577 (ii) the Administrative Office of the Courts beginning on or after January 1, 2009,
578 based on the judge's aggregate caseload of the multiple employers as determined by the judge's
579 caseloads of the individual courts of each employer in accordance with Subsection
580 [78A-7-206\(1\)\(b\)\(ii\)](#).

581 (b) If a justice court judge has full-time service under Subsection (3)(a), the office shall
582 compute an allowance on the basis of total compensation actually received from all
583 participating employers by the judge during the total period of full-time service.

584 (c) If a justice court judge has part-time service performed that is not within a period
585 considered full-time service under Subsection (3)(a), the office shall compute a separate
586 allowance on the basis of compensation actually received by the member during the period of
587 part-time service.

588 (4) All of the service rendered by a justice court judge in any one fiscal or calendar
589 year may not count for more than one year of service credit.

590 Section 7. Section ~~49-13-402~~ is amended to read:

591 **49-13-402. Service retirement plans -- Calculation of retirement allowance.**

592 (1) (a) Except as provided under Subsection (7) or Section ~~49-13-701~~, retirees of this
593 system may choose from the six retirement options described in this section.

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

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

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

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

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

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

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

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

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

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

621 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
622 retiree, and upon the death of the retiree, an amount equal to one-half of the retiree's allowance
623 paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

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

628 (i) spouse died, if notification and supporting documentation for the death are received
629 by the office within 90 days of the spouse's death; or

630 (ii) notification and supporting documentation for the death are received by the office,
631 if the notification and supporting documentation are received by the office more than 90 days
632 after the spouse's death.

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

637 (i) spouse died, if notification and supporting documentation for the death are received
638 by the office within 90 days of the spouse's death; or

639 (ii) notification and supporting documentation for the death are received by the office,
640 if the notification and supporting documentation are received by the office more than 90 days
641 after the spouse's death.

642 (4) (a) (i) The final average salary is limited in the computation of that part of an
643 allowance based on service rendered prior to July 1, 1967, during a period when the retiree
644 received employer contributions on a portion of compensation from an educational institution
645 toward the payment of the premium required on a retirement annuity contract with a public or

646 private system, organization, or company designated by the State Board of Regents to \$4,800.

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

649 (b) Periods of employment which are exempt from this system as permitted under
650 Subsection 49-13-203(1)(b) may be purchased by the member for the purpose of retirement
651 only if all benefits from a public or private system, organization, or company designated by the
652 State Board of Regents based on this period of employment are forfeited.

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

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

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

661 (b) A conversion to an Option One benefit under this Subsection (6) begins on the first
662 day of the month following the month in which the notification and supporting documentation
663 for the divorce are received by the office.

664 (7) A retiree may not choose payment of an allowance under a retirement option
665 described in this section that is not applicable to that retiree, including because the retiree did
666 not make member contributions or does not have a lawful spouse at the time of retirement.

667 Section 8. Section 49-13-406 is amended to read:

668 **49-13-406. Exceptions for part-time elective or appointive service -- Computation**
669 **of allowance -- Justice court judges.**

670 (1) Notwithstanding the provisions of Sections 49-11-401 and 49-13-102, and unless
671 otherwise provided in this section, a member's elective or appointive service rendered on a
672 basis not considered full-time by the office shall have a separate allowance computed on the
673 basis of compensation actually received by the member during the period of elective or

674 appointive service.

675 (2) (a) (i) A justice court judge who has service with only one participating employer
676 shall be considered part-time or full-time by the office as certified by the participating
677 employer.

678 (ii) If there is a dispute between the office and a participating employer or justice court
679 judge over whether service is full-time or part-time for any employment period, the disputed
680 service shall be submitted by the office to the Administrative Office of the Courts for
681 determination.

682 (b) If a justice court judge has a combination of part-time service and full-time position
683 service with one participating employer, the office shall compute separate allowances on the
684 basis of compensation actually received by the judge during the part-time and full-time periods
685 of service.

686 (3) (a) A justice court judge who has service with more than one participating
687 employer shall be considered full-time by the office for a period of service in which the judge
688 is certified as full-time by:

689 (i) a participating employer; or

690 (ii) the Administrative Office of the Courts beginning on or after January 1, 2009,
691 based on the judge's aggregate caseload of the multiple employers as determined by the judge's
692 caseloads of the individual courts of each employer in accordance with Subsection
693 [78A-7-206\(1\)\(b\)\(ii\)](#).

694 (b) If a justice court judge has full-time service under Subsection (3)(a), the office shall
695 compute an allowance on the basis of total compensation actually received from all
696 participating employers by the judge during the total period of full-time service.

697 (c) If a justice court judge has part-time service performed that is not within a period
698 considered full-time service under Subsection (3)(a), the office shall compute a separate
699 allowance on the basis of compensation actually received by the member during the period of
700 part-time service.

701 (4) All of the service rendered by a justice court judge in any one fiscal or calendar

702 year may not count for more than one year of service credit.

703 Section 9. Section **49-22-103** is amended to read:

704 **49-22-103. Creation of system.**

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

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

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

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

712 (3) The system may also be known and function as the Public Employees' Tier 2
713 Contributory Retirement System, the Tier 2 Hybrid Retirement System, and the Tier 2 Defined
714 Contribution Plan.

715 Section 10. Section **49-22-305** is amended to read:

716 **49-22-305. Defined benefit service retirement plans -- Calculation of retirement**
717 **allowance -- Social security limitations.**

718 (1) (a) [The] Except as provided under Subsection (6), the retirees of this system may
719 choose from the six retirement options described in this section.

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

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

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

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

729 (c) (i) Years of service includes any fractions of years of service to which the retiree

730 may be entitled.

731 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
732 service credit is within one-tenth of one year of the total years of service credit required for
733 retirement, the retiree shall be considered to have the total years of service credit required for
734 retirement.

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

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

739 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
740 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
741 member contributions, the remaining balance of the retiree's member contributions shall be
742 paid in accordance with Sections [49-11-609](#) and [49-11-610](#).

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

746 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
747 retiree, and upon the death of the retiree, an amount equal to one-half of the retiree's allowance
748 is paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

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

753 (i) spouse died, if notification and supporting documentation for the death are received
754 by the office within 90 days of the spouse's death; or

755 (ii) notification and supporting documentation for the death are received by the office,
756 if the notification and supporting documentation are received by the office more than 90 days
757 after the spouse's death.

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

762 (i) spouse died, if notification and supporting documentation for the death are received
763 by the office within 90 days of the spouse's death; or

764 (ii) notification and supporting documentation for the death are received by the office,
765 if the notification and supporting documentation are received by the office more than 90 days
766 after the spouse's death.

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

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

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

775 (b) A conversion to an Option One benefit under this Subsection (5) begins on the first
776 day of the month following the month in which the notification and supporting documentation
777 for the divorce are received by the office.

778 (6) A retiree may not choose payment of an allowance under a retirement option
779 described in this section that is not applicable to that retiree, including because the retiree did
780 not make member contributions or does not have a lawful spouse at the time of retirement.

781 Section 11. Section **49-22-310** is amended to read:

782 **49-22-310. Defined benefit adjustments -- Conditions -- Process -- Future years**
783 **accrual.**

784 (1) In accordance with this section, the Legislature may make adjustments to the
785 benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System

786 created under this part if the member's contribution required under Subsection 49-22-301(2)(b)
787 to the certified contribution rate for the defined benefit portion of this system exceeds 2% of
788 the member's salary and:

789 (a) (i) the membership council created under Section [~~49-11-202~~] 49-11-205
790 recommends an adjustment to the board in accordance with Subsection (2); and

791 (ii) the board recommends specific adjustments to the Legislature in accordance with
792 Subsection (2); or

793 (b) an actuarial study that conforms with generally accepted actuarial principles and
794 practices and with the Actuarial Standards of Practice issued by the Actuarial Standards Board
795 and requested or commissioned by the board or the Legislature concludes:

796 (i) there is a significant likelihood that contribution rates will continue to rise; and

797 (ii) that participating employers are liable for system costs above the contribution rate
798 established under Subsection 49-22-301(2)(a).

799 (2) If the conditions under Subsection (1)(a) or (b) are met, the Legislature may adjust
800 benefits for the defined benefit portion of the Tier II Hybrid Retirement System accrued or
801 applied for future years of service including:

802 (a) the final average salary calculation provided under Section 49-22-102;

803 (b) the years of service required to be eligible to receive a retirement allowance under
804 Section 49-22-304;

805 (c) the years of service credit multiplier established under Subsection 49-22-305(2)(a);

806 (d) the annual cost-of-living adjustment under Section 49-22-308; or

807 (e) other provisions of the defined benefit portion of the Tier II Hybrid Retirement
808 System.

809 (3) (a) Notwithstanding the provisions of Subsections (1) and (2), the Legislature may
810 make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid
811 Retirement System created under this part if an actuarial study described under Subsection
812 (1)(b) concludes, due to current and projected economic conditions, member participation
813 levels, and system structure, that the system:

- 814 (i) cannot reasonably be sustained under its current provisions;
- 815 (ii) is critically underfunded; and
- 816 (iii) has become unstable and is in risk of collapse.

817 (b) Subject to federal law, the adjustments under Subsection (3)(a) may include:

- 818 (i) conversion to a different type of retirement plan;
- 819 (ii) equitable distribution of system assets to retirees and members; and
- 820 (iii) a closure of the system.

821 Section 12. Section **49-23-103** is amended to read:

822 **49-23-103. Creation of system.**

823 (1) There is created for members employed by a participating employer the "New
824 Public Safety and Firefighter Tier II Contributory Retirement System."

825 (2) The New Public Safety and Firefighter Tier II Contributory Retirement System
826 includes:

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

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

831 (3) The system may also be known and function as the Public Safety and Firefighter
832 Tier 2 Contributory Retirement System, the Tier 2 Hybrid Retirement System, and the Tier 2
833 Defined Contribution Plan.

834 Section 13. Section **49-23-304** is amended to read:

835 **49-23-304. Defined benefit service retirement plans -- Calculation of retirement**
836 **allowance -- Social security limitations.**

837 (1) (a) [~~The~~] Except as provided under Subsection (6), the retirees of this system may
838 choose from the six retirement options described in this section.

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

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

842 (a) If the retiree is at least 65 years of age or has accrued at least 25 years of service
843 credit, the allowance is an amount equal to 1.5% of the retiree's final average salary multiplied
844 by the number of years of service credit accrued on and after July 1, 2011.

845 (b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full
846 actuarial amount for each year of retirement from age 60 to age 65, unless the member has 25
847 or more years of accrued credit in which event no reduction is made to the allowance.

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

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

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

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

858 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
859 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
860 member contributions, the remaining balance of the retiree's member contributions shall be
861 paid in accordance with Sections [49-11-609](#) and [49-11-610](#).

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

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

868 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
869 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the

870 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
871 retiree's life, beginning on the first day of the month following the month in which the:

872 (i) spouse died, if notification and supporting documentation for the death are received
873 by the office within 90 days of the spouse's death; or

874 (ii) notification and supporting documentation for the death are received by the office,
875 if the notification and supporting documentation are received by the office more than 90 days
876 after the spouse's death.

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

881 (i) spouse died, if notification and supporting documentation for the death are received
882 by the office within 90 days of the spouse's death; or

883 (ii) notification and supporting documentation for the death are received by the office,
884 if the notification and supporting documentation are received by the office more than 90 days
885 after the spouse's death.

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

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

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

894 (b) A conversion to an Option One benefit under this Subsection (5) begins on the first
895 day of the month following the month in which the notification and supporting documentation
896 for the divorce are received by the office.

897 (6) A retiree may not choose payment of an allowance under a retirement option

898 described in this section that is not applicable to that retiree, including because the retiree did
899 not make member contributions or does not have a lawful spouse at the time of retirement.

900 Section 14. Section **49-23-309** is amended to read:

901 **49-23-309. Defined benefit adjustments -- Conditions -- Process -- Future years**
902 **accrual.**

903 (1) In accordance with this section, the Legislature may make adjustments to the
904 benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System
905 created under this part if the member's contribution required under Subsection [49-23-301\(2\)\(b\)](#)
906 to the certified contribution rate for the defined benefit portion of this system exceeds 2% of
907 the member's salary and:

908 (a) (i) the membership council created under Section [~~49-11-202~~] [49-11-205](#)
909 recommends an adjustment to the board in accordance with Subsection (2); and

910 (ii) the board recommends specific adjustments to the Legislature in accordance with
911 Subsection (2); or

912 (b) an actuarial study that conforms with generally accepted actuarial principles and
913 practices and with the Actuarial Standards of Practice issued by the Actuarial Standards Board
914 and requested or commissioned by the board or the Legislature concludes:

915 (i) there is a significant likelihood that contribution rates will continue to rise; and

916 (ii) that participating employers are liable for system costs above the contribution rate
917 established under Subsection [49-23-301\(2\)\(a\)](#).

918 (2) If the conditions under Subsection (1)(a) or (b) are met, the Legislature may adjust
919 benefits for the defined benefit portion of the Tier II Hybrid Retirement System accrued or
920 applied for future years of service including:

921 (a) the final average salary calculation provided under Section [49-23-102](#);

922 (b) the years of service required to be eligible to receive a retirement allowance under
923 Section [49-23-303](#);

924 (c) the years of service credit multiplier established under Subsection [49-23-304\(2\)\(a\)](#);

925 (d) the annual cost-of-living adjustment under Section [49-23-307](#); or

926 (e) other provisions of the defined benefit portion of the Tier II Hybrid Retirement
927 System.

928 (3) (a) Notwithstanding the provisions of Subsections (1) and (2), the Legislature may
929 make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid
930 Retirement System created under this part if an actuarial study described under Subsection
931 (1)(b) concludes, due to current and projected economic conditions, member participation
932 levels, and system structure, that the system:

933 (i) cannot reasonably be sustained under its current provisions;

934 (ii) is critically underfunded; and

935 (iii) has become unstable and is in risk of collapse.

936 (b) Subject to federal law, the adjustments under Subsection (3)(a) may include:

937 (i) conversion to a different type of retirement plan;

938 (ii) equitable distribution of system assets to retirees and members; and

939 (iii) a closure of the system.

940 Section 15. **Effective date.**

941 This bill takes effect on July 1, 2019.