

RETIREMENT OFFICE AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Raymond W. Short

AN ACT RELATING TO PENSIONS; PERMITTING EMPLOYER PARTICIPATION IN REDEPOSITS OF CONTRIBUTIONS; ESTABLISHING THE INTEREST RATE PAYABLE ON REFUNDS, WITHDRAWALS, AND DELINQUENT CONTRIBUTIONS; AMENDING THE DEFINITION OF REGULAR FULL-TIME EMPLOYEE FOR CREDIT ACCRUAL PURPOSES; CORRECTING PUBLIC SAFETY DEATH BENEFIT TERMINOLOGY; ENSURING INSURANCE PREMIUM FUNDING FOR THE FIREFIGHTERS' RETIREMENT SYSTEM; DEFINING LEGISLATIVE AND GOVERNOR ELIGIBILITY REQUIREMENTS FOR RECEIPT OF A PENSION; AMENDING CERTAIN BENEFIT PROVISIONS; ALLOWING THE BOARD TO MANAGE CAFETERIA OR OTHER PROGRAMS; AMENDING THE DEFINITION OF DISABILITY; CLARIFYING DISABILITY PROGRAM ENROLLMENT CONDITIONS; DETERMINING ELIGIBILITY TO RECEIVE A DISABILITY BENEFIT UNDER CERTAIN CONDITIONS; MAKING TECHNICAL CORRECTIONS; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

- 49-1-503**, as last amended by Chapter 157, Laws of Utah 1992
- 49-1-504**, as enacted by Chapter 1, Laws of Utah 1987
- 49-2-103**, as last amended by Chapter 31, Laws of Utah 1997
- 49-2-401**, as last amended by Chapter 231, Laws of Utah 1996
- 49-3-103**, as last amended by Chapter 31, Laws of Utah 1997
- 49-3-401**, as last amended by Chapters 231, Laws of Utah 1996
- 49-4-401**, as last amended by Chapter 231, Laws of Utah 1996
- 49-4-703**, as last amended by Chapter 90, Laws of Utah 1994
- 49-4a-401**, as last amended by Chapter 231, Laws of Utah 1996
- 49-4a-703**, as last amended by Chapter 90, Laws of Utah 1994

- 49-5-301**, as last amended by Chapter 101, Laws of Utah 1993
- 49-5-401**, as last amended by Chapter 231, Laws of Utah 1996
- 49-6-401**, as last amended by Chapter 231, Laws of Utah 1996
- 49-6a-401**, as enacted by Chapter 356, Laws of Utah 1997
- 49-7-401**, as last amended by Chapter 197, Laws of Utah 1995
- 49-8-102**, as enacted by Chapter 1, Laws of Utah 1987
- 49-8-103**, as enacted by Chapter 1, Laws of Utah 1987
- 49-8-403**, as last amended by Chapter 267, Laws of Utah 1998
- 49-9-103**, as last amended by Chapter 79, Laws of Utah 1996
- 49-9-401**, as last amended by Chapter 267, Laws of Utah 1998
- 49-9-403**, as last amended by Chapter 197, Laws of Utah 1995

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

Section 1. Section **49-1-503** is amended to read:

49-1-503. Redeposits of refunds -- Time period.

(1) A member of any system who withdraws accumulated contributions upon a previous termination of employment and who returns to covered employment in a status prerequisite for membership may redeposit or the member's employer may redeposit the accumulated contributions withdrawn, together with interest charged from the date of refund through the month of payment, at rates compounded annually under Section 49-1-504. If a redeposit is made, service credit shall be restored and credited to the same retirement system from which the refund was taken providing that the total redeposit is made prior to retirement.

(2) A member may redeposit a previous refund and interest charges in one lump sum or may redeposit the refund amount and interest charges in monthly installments by payroll deduction in a time period determined by the executive director.

Section 2. Section **49-1-504** is amended to read:

49-1-504. Rate of interest on redeposits, withdrawals, and delinquent contributions.

The rate of interest charged on redeposits of refunds, withdrawals, or delinquent contributions is [~~equal to~~] the greater of:

(1) the average rate of the effective yield for the previous five years, rounded off to the nearest whole or quarter percent rate, which has been earned by the Utah State Retirement Investment Fund at the end of each preceding calendar year, as determined by the executive director and approved by the board[-]; or

(2) the actuarial interest rate as of the preceding June 30.

Section 3. Section **49-2-103** is amended to read:

49-2-103. Definitions.

As used in this chapter:

(1) "Appointive officer" means an employee appointed to a position for a definite and fixed term of office by official and duly recorded action of the governing body of an employing unit who earns \$500 or more per month over a 12-month period adjusted annually by the Bureau of Labor Statistics Consumer Price Index.

(2) (a) "Compensation," "salary," or "wages" means the total amount of payments made by an employer to an employee for services rendered to the employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

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

(iv) amounts that the employee authorizes to be deducted or reduced for salary deferral or other benefit programs authorized by federal law.

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

(c) "Compensation," "salary," or "wages" does not include:

(i) the monetary value of remuneration paid in kind, such as a residence or use of equipment;

(ii) all contributions made by an employer under any plan for the benefit of a participant;

(iii) salary paid to an employee working under the minimum number of hours required for membership;

- (iv) salary paid to a temporary or exempt employee;
- (v) any payments upon termination, including accumulated vacation, sick leave payments, or any other special payments; or
- (vi) uniform, travel, or similar allowances.

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

- (a) the State Board of Education and its instrumentalities;
- (b) any institution of higher learning and its branches;
- (c) any school district and its instrumentalities;
- (d) any vocational and technical school; and
- (e) any entity arising out of a consolidation agreement between entities under this definition.

(4) (a) "Employee" or "regular employee" means any regular full-time employee whose term of employment for an employer contemplates continued employment during a calendar or school year and who performs covered service for one or more employers.

(b) "Employee" or "regular employee" means an officer, elective or appointive, who receives as compensation from an employer \$500 or more per month over a 12-month period adjusted annually by the Bureau of Labor Statistics Consumer Price Index.

(5) "Employer" or "employing unit" means any department, educational institution, political subdivision, or organization or agency financed in whole or in part by public funds for which any employee or member performs services subject to this chapter.

(6) "Final average salary" means the amount computed by averaging the highest five years of annual compensation preceding retirement subject to Subsections (6)(a), (b), (c), and (d).

(a) Except as provided in Subsection (6)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's salary by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by the Consumer Price Index prepared by the United States Bureau of Labor Statistics.

(b) In cases where the employing unit provides acceptable documentation to the board, the limitation in Subsection (6)(a) may be exceeded if:

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

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

(d) If participating service is less than five years, final average salary means the average annual compensation paid to the member during the full period of participating service.

(7) "Normal retirement age" means the age of 65 years.

(8) "Organization or agency financed in whole or in part by public funds" means an agency, association, or organization that receives public funds. The term does not include political subdivisions, departments, or educational institutions.

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

(10) (a) "Regular full-time employee," in qualifying for membership ~~[in the]~~ and accrual of service credit under this system, means an employee whose employment normally requires an average of 20 hours or more per week, except as modified by the board, and who receives benefits normally provided by the employing unit.

(b) "Regular full-time employee" includes a teacher who teaches half-time or more, or a classified school employee who works an average of 20 hours per week or more, regardless of benefits provided.

(11) "Years of service" or "service years" means:

- (a) the number of periods, each to consist of 12 full months as determined by the board;
- (b) a period determined by the board, whether consecutive or not, during which an employee

performed services for an employer or employers, including any time the employee rendered service in the armed forces of the United States before membership in the system or was absent on a paid leave of absence granted by an employer or absent in the service of the United States government on military duty as provided by this chapter; or

(c) for a teacher, school administrator, or other contract employee of an educational institution, not less than eight months of full-time service constitutes a service year.

Section 4. Section **49-2-401** is amended to read:

49-2-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) (a) Any member who qualifies for service retirement may retire by ~~[applying in writing]~~ submitting to the retirement office ~~[stating]~~ an application form notarized by a notary public. The application shall state the proposed effective date of retirement, which may not be more than 90 days before or after the date of application.

(b) The effective date shall be the 1st or 16th day of the month, as selected by the member, but must be after the last day of actual work.

(c) The member shall actually terminate employment and provide evidence of termination.

(2) The member is qualified to retire upon termination of services on or before the effective date of retirement if one of the following requirements on that date is met:

(a) the member has been credited with at least four years of service and has attained an age of 65 years or more;

(b) the member has been credited with at least ten years of service and has attained an age of 62 years or more;

(c) the member has been credited with at least 20 years of service and has attained an age of 60 years or more; or

(d) the member has been credited with at least 30 years of service.

Section 5. Section **49-3-103** is amended to read:

49-3-103. Definitions.

As used in this chapter:

(1) "Appointive officer" means an employee appointed to a position for a definite and fixed

term of office by official and duly recorded action of the governing body of an employing unit and who earns \$500 or more per month over a 12-month period adjusted by the Bureau of Labor Statistics Consumer Price Index.

(2) (a) "Compensation," "salary," or "wages" means the total amount of payments made by an employer to an employee for services rendered to the employer, including:

- (i) bonuses;
- (ii) cost-of-living adjustments;
- (iii) other payments currently includable in gross income and that are subject to Social Security deductions, including any payments in excess of the maximum amount subject to deduction under Social Security law; and
- (iv) amounts that the employee authorizes to be deducted or reduced for salary deferral or other benefit programs authorized by federal law.

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

(c) "Compensation," "salary," or "wages" does not include:

- (i) the monetary value of remuneration paid in kind, such as a residence or use of equipment;
- (ii) all contributions made by an employer under any plan for the benefit of a participant;
- (iii) salary paid to an employee working under the minimum number of hours required for membership;
- (iv) salary paid to a temporary or exempt employee;
- (v) any payments upon termination, including accumulated lump-sum vacation, sick leave payments, or any other special payments; or
- (vi) uniform, travel, or similar allowances.

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

- (a) the State Board of Education and its instrumentalities;
- (b) any institution of higher learning and its branches;

- (c) any school district and its instrumentalities;
 - (d) any vocational and technical school; and
 - (e) any entity arising out of a consolidation agreement between entities under this definition.
- (4) "Effective date" of the noncontributory system means 12:01 a.m., July 1, 1986.

(5) (a) "Employee" or "regular employee" means any regular full-time employee whose term of employment for an employer contemplates continued employment during a calendar or school year and who performs covered service for one or more employers.

(b) "Employee" or "regular employee" means an officer, elective or appointive, who receives as compensation from an employer \$500 or more per month over a 12-month period adjusted by the Bureau of Labor Statistics Consumer Price Index.

(6) "Employer" or "employing unit" means any department, educational institution, political subdivision, or eligible organization, or agency financed in whole or in part by public funds for which any employee or member performs services subject to this chapter.

(7) "Final average salary" means the amount computed by averaging the highest three years of annual compensation preceding retirement subject to Subsections (7)(a), (b), and (c).

(a) Except as provided in Subsection (7)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's salary by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by the Consumer Price Index prepared by the United States Bureau of Labor Statistics.

(b) In cases where the employing unit provides acceptable documentation to the board, the limitation in Subsection (a) may be exceeded if:

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

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

(8) "Normal retirement age" means the age of 65 years.

(9) "Organization or agency financed in whole or in part by public funds" means an agency, association, or organization that receives public funds. The term does not include political subdivisions, departments, or educational institutions.

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

(11) (a) "Regular full-time employee," in qualifying for membership ~~[in the]~~ and accrual of service credit under this system, means an employee whose employment normally requires an average of 20 hours or more per week, except as modified by the board, and who receives benefits normally provided by the employing unit.

(b) "Regular full-time employee" includes a teacher who teaches half-time or more or a classified school employee who works an average of 20 hours per week or more, regardless of benefits provided.

(12) "Years of service" or "service years" means:

(a) the number of periods, each to consist of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which an employee performed services for an employer or employers, including any time the employee rendered service in the armed forces of the United States before membership in the system or was absent on a paid leave of absence granted by an employer or absent in the service of the United States government on military duty as provided by this chapter; or

(c) for a teacher, school administrator, or other contract employee of an educational institution, not less than eight months of full-time service constitutes a service year.

Section 6. Section **49-3-401** is amended to read:

49-3-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) (a) Any member who qualifies for service retirement may retire by ~~[applying in writing]~~ submitting to the retirement office ~~[stating]~~ an application form notarized by a notary public. The

application shall state the proposed effective date of retirement, which may not be more than 90 days before or after the date of application.

(b) The effective date shall be the 1st or 16th day of the month, as selected by the member, but must be after the last day of actual work.

(c) The member shall actually terminate employment and provide evidence of termination.

(2) The member is qualified to retire upon termination of services on or before the effective date of retirement if one of the following requirements on that date is met:

(a) the member has been credited with at least four years of service and has attained an age of 65 years or more;

(b) the member has been credited with at least ten years of service and has attained an age of 62 years or more;

(c) the member has been credited with at least 20 years of service and has attained an age of 60 years or more;

(d) the member has been credited with at least 30 years of service; or

(e) the member is credited with at least 25 years of service, in which case the member shall be subject to the reduction set out under Subsection 49-3-402(2)(b).

Section 7. Section **49-4-401** is amended to read:

49-4-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) (a) Any member who qualifies for service retirement may retire by [~~applying in writing~~] submitting to the retirement office [~~stating~~] an application form notarized by a notary public. The application shall state the proposed effective date of retirement, which may not be more than 90 days before or after the date of application.

(b) The effective date shall be the 1st or 16th day of the month, as selected by the member, but must be after the last day of actual work.

(c) The member shall actually terminate employment and provide evidence of termination.

(2) The member is qualified to retire upon termination of services on or before the effective date of retirement if one of the following requirements on that date is met:

(a) the member has been credited with at least 20 years of service;

(b) the member has been credited with at least ten years of service and has attained an age of 60 years or more; or

(c) the member has been credited with at least four years of service and has attained an age of 65 years or more.

Section 8. Section **49-4-703** is amended to read:

49-4-703. Death of active or inactive member having no spouse or minor children as beneficiary -- Benefits payable to widow on death of inactive member.

(1) The death benefit payable on behalf of an active or an inactive member who dies and has no spouse or minor children as a beneficiary is 100% of the deceased member's contributions or \$500, whichever amount is larger.

(2) (a) The death benefit payable on behalf of an inactive member who dies and is survived by a spouse to whom that member was married at the time of death is a monthly pension if that member had 20 or more years of public safety service at the time of ~~[retirement from public safety employment]~~ death.

(b) The pension payable to the spouse is 50% of the amount the member would have received had retirement occurred on the first of the month in which death occurred, the benefit being based upon years of service and final average salary under Section 49-4-402, reduced actuarially from age 50 to the age at death if the member is under age 50 at the time of death.

(3) The death benefit payable upon the death of an inactive member who has less than 20 years of public safety service and who leaves a spouse or minor children as the beneficiary is a 100% refund of the deceased member's contributions or \$500, whichever is larger.

Section 9. Section **49-4a-401** is amended to read:

49-4a-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) (a) Any member who qualifies for service retirement may retire by ~~[applying in writing]~~ submitting to the retirement office ~~[stating]~~ an application form notarized by a notary public. The application shall state the proposed effective date of retirement, which may not be more than 90 days before or after the date of application.

(b) The effective date shall be the 1st or 16th day of the month, as selected by the member,

but must be after the last day of actual work.

(c) The member shall actually terminate employment and provide evidence of termination.

(2) The member is qualified to retire upon termination of services on or before the effective date of retirement if one of the following requirements on that date is met:

(a) the member has been credited with at least 20 years of service;

(b) the member has been credited with at least ten years of service and has attained an age of 60 years or more; or

(c) the member has been credited with at least four years of service and has attained an age of 65 years or more.

Section 10. Section **49-4a-703** is amended to read:

49-4a-703. Death of active or inactive member having no spouse or minor children as beneficiary -- Benefits payable to widow on death of inactive member.

(1) The death benefit payable on behalf of an active or an inactive member who dies and has no spouse or minor children as a beneficiary is 100% of the deceased member's contributions or \$500, whichever amount is greater.

(2) (a) The death benefit payable on behalf of an inactive member who dies and is survived by a spouse to whom that member was married at the time of death is a monthly pension if that member had 20 or more years of public safety service at the time of [~~retirement from public safety employment~~] death.

(b) The pension payable to the spouse is 50% of the amount the member would have received had retirement occurred on the first of the month in which death occurred, the benefit being based upon years of service and final average salary under Section 49-4a-402, reduced actuarially from age 50 to the age at death if the member is under age 50 at the time of death.

(3) The death benefit payable upon the death of an inactive member who has less than 20 years of public safety service and who leaves a spouse or minor children as the beneficiary is a 100% refund of the deceased member's contributions or \$500, whichever is greater.

Section 11. Section **49-5-301** is amended to read:

49-5-301. Contributions of members.

(1) The system shall be maintained on a financially and actuarially sound basis by means of contributions made by the state, the employing units, and the active members of the system. For purposes of determining contribution rates and benefits, the system is divided into two divisions according to social security coverage. Firefighters with on-the-job social security coverage are Division A, and firefighters without on-the-job social security coverage are Division B.

(2) Any city, town, special district, or county may elect to pay all or part of its members' required contributions, in addition to the required employer contributions. Any amount contributed by a city, town, or county under this subsection shall vest to the member's credit as though the member had made the contribution. The member's required contribution shall be reduced by the amount that is paid by the employer.

(3) All contributions are credited to the account of the individual and held in trust for the payment of benefits to the member or the member's beneficiaries. All member contributions are 100% vested and nonforfeitable.

(4) Each member is [~~deemed~~] considered to consent to monthly deductions. The payment of compensation less retirement payroll deductions is considered to be full payment of the salary of the employee.

(5) The board shall report to the governor, the Legislature, and each employing unit under Division A or B the contribution rates and any adjustments necessary to maintain the system on a financially and actuarially sound basis, and the employer and employee shall pay the certified contribution rates.

(6) In addition, there shall be paid to the Firefighters' Retirement Trust Fund:

(a) 50% of the annual tax for each year that is levied, assessed, and collected under Title 59, Chapter 9, Taxation of Admitted Insurers, upon property insurance premiums, as defined by Subsection 31A-1-301(67), and as applied to fire and allied lines insurance collected by insurance companies within the state; and

(b) 10% of all money assessed and collected under Title 59, Chapter 9, Taxation of Admitted Insurers, upon life insurance premiums within the state. Payments to the fund shall be made annually until the [~~prior~~] service liability is liquidated, after which the tax revenue provided in this subsection

for the Firefighters' Retirement Trust Fund ceases.

Section 12. Section **49-5-401** is amended to read:

49-5-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) (a) Any member who qualifies for service retirement may retire by ~~[applying in writing]~~ submitting to the retirement office ~~[stating]~~ an application form notarized by a notary public. The application shall state the proposed effective date of retirement, which may not be more than 90 days before or after the date of application.

(b) The effective date shall be the 1st or 16th day of the month, as selected by the member, but must follow the last day of actual work.

(c) The member shall actually terminate employment and provide evidence of termination.

(2) The member is qualified to retire upon termination of service on or before the effective date of retirement if one of the following requirements on that date is met:

(a) the member is credited with at least 20 years of service;

(b) the member is credited with at least ten years of service and is 60 years of age or more;

or

(c) the member is credited with at least four years of service and is 65 years of age or more.

Section 13. Section **49-6-401** is amended to read:

49-6-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) (a) Any judge who qualifies for service retirement may retire by ~~[applying in writing]~~ submitting to the retirement office ~~[stating]~~ an application form notarized by a notary public. The application shall state the proposed effective date of retirement, which may not be more than 90 days before or after the date of application.

(b) The effective date shall be the 1st or 16th day of the month, as selected by the member, but must be after the last day of actual work.

(c) The member shall actually terminate employment and provide evidence of termination.

(2) The member is qualified to retire upon termination of services on or before the effective date of retirement if one of the following requirements on that date is met:

(a) the member has been credited with at least six years of service and has attained an age

of 70 years or more;

(b) the member has been credited with at least ten years of service and has attained an age of 62 years or more;

(c) the member has been credited with at least 20 years of service and has attained an age of 55 years or more; or

(d) the member has been credited with at least 25 years of service.

Section 14. Section **49-6a-401** is amended to read:

49-6a-401. Eligibility for service retirement -- Date of retirement -- Qualifications.

(1) (a) Any judge who qualifies for service retirement may retire by ~~[applying in writing]~~ submitting to the retirement office ~~[stating]~~ an application form notarized by a notary public. The application shall state the proposed effective date of retirement, which may not be more than 90 days before or after the date of application.

(b) The effective date shall be the 1st or 16th day of the month, as selected by the member, but must be after the last day of actual work.

(c) The member shall actually terminate employment and provide evidence of termination.

(2) The member is qualified to retire upon termination of services on or before the effective date of retirement if one of the following requirements on that date is met:

(a) the member has been credited with at least six years of service and has attained an age of 70 years or more;

(b) the member has been credited with at least ten years of service and has attained an age of 62 years or more;

(c) the member has been credited with at least 20 years of service and has attained an age of 55 years or more; or

(d) the member has been credited with at least 25 years of service.

Section 15. Section **49-7-401** is amended to read:

49-7-401. Eligibility for retirement benefit -- Governor -- Legislator.

(1) Upon reaching age 65, each former governor of Utah is eligible, upon application, to receive a lifetime monthly pension of \$500 per ~~[month if the governor has served one]~~ term~~[-or~~

~~\$1,000 per month if the governor has served two or more terms].~~ Payments under this lifetime pension cease during any period that a former governor holds an office of profit or trust with the government of United States, this state, or a political subdivision of the state paying more than the retirant is entitled to receive per month under this section.

(2) Upon reaching age 65, and upon application, a legislative pension shall be paid to a member who has four or more years of service as a legislator in the Utah Legislature. The pension is \$10 per month for each year of service as a member of the Legislature. If the retired member is elected to another term in the Legislature or continues to serve in the Legislature after reaching age 65, the legislative allowance ceases at the beginning of each session under rules established by the board, but is restored at the same amount at the end of the session. Members receiving an allowance while serving as legislators are eligible for additional service credits and allowance adjustments at the end of each two-year term of office if they continue as contributing members during their service as legislators.

(3) A member ~~[of a system administered by the board]~~ who is eligible for a pension under this section, may apply for an allowance at age 62, if the member has ten or more years of service credit, and receive a reduced allowance ~~[as provided under the system which covers the member].~~

(4) The allowance provided for former governors, legislators, and their beneficiaries shall include any normal retirement benefits accrued in any system administered by the board by reason of their contributions and service as a governor or legislator in the system. A withdrawal of contributions by a governor, legislator, or legislative employee shall forfeit all pensions and allowances provided under this chapter.

Section 16. Section **49-8-102** is amended to read:

49-8-102. Purpose.

The purpose of this chapter is to provide a mechanism whereby the state, its educational institutions, and political subdivisions may provide their employees with group health, dental, medical, disability, ~~[and] life insurance, cafeteria, and other programs~~ in the most efficient and economical manner.

Section 17. Section **49-8-103** is amended to read:

49-8-103. Definitions.

As used in this chapter, "employee group benefit plans" means any group health, dental, medical, disability, [or] life insurance, cafeteria, or other program for employees administered by the board and approved by the Legislature.

Section 18. Section **49-8-403** is amended to read:

49-8-403. Assistance to members in purchase of life, health, and medical insurance after retirement -- Employment of personnel to administer section -- Governor's and legislative benefit.

(1) (a) The board may assist active and retired members and beneficiaries and inactive members of the various retirement systems administered under its direction, to purchase life, health, dental, and medical insurance on a group basis which can be continued after retirement under rules adopted by the board.

(b) The executive director may employ any personnel, including consultants, to administer this section.

(2) (a) The board shall annually report and the state shall pay the percentage described in Subsection (2)(c) of the cost of providing a paid-up group health insurance policy for members and their surviving spouses covered under Title 49, Chapter 7, Governor's and Legislative Service Pension Act who:

- (i) retire after January 1, 1998;
- (ii) are at least 62 but less than 65 years of age;
- (iii) elect to receive and apply for this benefit to the group insurance division; and
- (iv) are active members at the time of retirement or have retired and continued insurance coverage with the group insurance division until the date of eligibility for the benefit under this Subsection (2).

(b) The board shall annually report and the state shall pay the percentage described in Subsection (2)(c) of the cost of providing Medicare supplemental insurance for members and their surviving spouses covered under Title 49, Chapter 7, Governor's and Legislative Service Pension Act who:

- (i) retire after January 1, 1998;
 - (ii) are at least 65 years of age; and
 - (iii) elect to receive and apply for this benefit to the group insurance division.
- (c) The following percentages apply to the benefit described in Subsections (2)(a) and (b):
- (i) 100% if the member has 10 or more years of service;
 - (ii) 80% if the member has 8 or more years of service;
 - (iii) 60% if the member has 6 or more years of service; and
 - (iv) 40% if the member has 4 or more years of service.

Section 19. Section **49-9-103** is amended to read:

49-9-103. Definitions.

- (1) "Date of disability" means the date on which a period of continuous disability commences, and may not commence on or before the last day of actual work.
- (2) "Educational institution" means a political subdivision or an instrumentality of a political subdivision, an instrumentality of the state, or any combination of these entities, which is primarily engaged in educational activities or the administration or servicing of educational activities. The term includes, but is not limited to, the State Board of Education and any instrumentality of the State Board of Education, institutions of higher education and their branches, school districts, and vocational and technical schools.
- (3) "Elimination period" means the three months at the beginning of each continuous period of total disability for which no benefit will be paid and commences with the date of disability.
- (4) "Employee" means any regular full-time employee of an employer who participates in any system administered by the board, except those employees exempt from coverage under Section 49-9-102.
- (5) "Maximum benefit period" means the maximum period of time the monthly disability income benefit will be paid for any continuous period of total disability.
- (6) "Medically determinable impairment" means an impairment that results from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by

medical evidence consisting of signs, symptoms, and laboratory findings, not only by the individual's statement of symptoms.

[~~(6)~~] (7) "Physician" means a legally qualified physician.

[~~(7)~~] (8) "Rehabilitative employment" means any board-approved occupation or employment for wage or profit, for which the employee is reasonably qualified by education, training, or experience, in which the employee engages while unable to perform his occupation as a result of injury or illness.

[~~(8)~~] (9) "Total disability" means the complete inability, due to [~~injury or illness~~] medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, to engage in the employee's regular occupation during the elimination period and the first 24 months of disability benefits. Thereafter, "total disability" means the complete inability, based solely on medically determinable physical impairment, to engage in any gainful occupation which is reasonable, considering the employee's education, training, and experience. "Total disability" exists only if during any period of "total disability" the employee is under the regular care of a physician other than the employee.

Section 20. Section **49-9-401** is amended to read:

49-9-401. Disability benefits -- Proof required -- Eligibility.

(1) Upon receipt of proof by the board from the employer that an employee has become totally disabled as a result of:

(a) accidental bodily injury which is the sole cause of disability and is sustained while this chapter is in force;

(b) disease or illness causing total disability commencing while this chapter is in force; or

(c) physical injury resulting from external force or violence as a result of the performance of duty, the fund will pay to the employee a monthly disability benefit for each month the total disability continues beyond the elimination period, not to exceed the maximum benefit period.

(2) Successive periods of disability which: (a) result from the same or related causes, (b) are separated by less than six months of continuous full-time work at the individual's usual place of

employment, and (c) commence while the individual is an employee covered by this chapter, shall be considered as a single period of disability. The inability to work for a period less than 15 consecutive days may not be considered as a period of disability. Otherwise, successive periods of disability shall be considered as separate periods of disability.

(3) The board may, at any time, have any employee claiming disability examined by a physician chosen by the board to determine if the employee is disabled, and if so, the extent of the disability.

(4) (a) Except as provided in Subsection (4)(b), any claim brought by an employee for long-term disability benefits under the Public Employee's Disability Program is barred if it is not commenced within one year from the employee's date of disability.

(b) If an employee fails to commence a claim for long-term disability benefits within the time limitations prescribed by Subsection (4)(a), the board may permit an employee to commence a claim for long-term disability benefits if the employee demonstrates that under the surrounding facts and circumstances the employee's failure to comply with the time limitations was reasonable.

(5) Benefits for disability based primarily on psychopathy shall be determined in accordance with Section 49-9-406.

(6) Medical or psychological conditions which existed prior to enrollment shall not be a basis for disability benefits until the employee has had one year of continuous enrollment in the Public Employees Long-Term Disability Program.

Section 21. Section **49-9-403** is amended to read:

49-9-403. Termination of disability benefits -- Calculation of retirement benefit.

(1) Any member, including an employee who relinquishes rights to retirement benefits pursuant to Section 49-1-405, who applies and is qualified for disability benefits shall receive a disability allowance until the earlier of:

(a) the date the member or employee who relinquishes rights to retirement benefits has accumulated:

(i) 20 years of service credit if the member is covered by Chapters 4 or 4a, Public Safety Retirement and Noncontributory Retirement Acts;

(ii) 25 years if the member is covered by Chapter 6, Judges' Retirement Act; or
(iii) 30 years if the member is covered by Chapters 2 or 3, Public Employees' Retirement and Noncontributory Retirement Acts; or

(b) the member has received disability benefits for the following applicable time periods:

(i) if the member is under age 60, the disability allowance is payable until age 65;

(ii) if the member is 60-61, the disability allowance is payable for five years;

(iii) if the member is 62-63, the disability allowance is payable for four years;

(iv) if the member is 64-65, the disability allowance is payable for three years;

(v) if the member is 66-68, the disability allowance is payable for two years; and

(vi) if the member is age 69 or older, the disability benefit is payable for one year.

(2) Upon termination of disability benefits, the disabled employee shall retire under the retirement system which covered the employee at the time of disability. The final average salary used in the calculation of the retirement benefit shall be based on the annual rate of pay at the time of disability, improved by the annual cost-of-living increase factor applied to retired participants in the system which covered the employee at the time of disability. Retirement credit shall accrue during the period of disability unless the disabled employee is exempted from the system.

(3) An employee who is in a position covered by a system administered by the board, but has relinquished rights to retirement benefits pursuant to Section 49-1-405, may receive the benefit the employee would have received by full participation in the system covering the employee on the date of disability, except for the accrual of service credit, in accordance with this title.

(4) An employee receiving disability benefits who has years of service credit from two or more systems or plans administered by the board may not combine these credits under Section 49-1-406 in determining eligibility for retirement, unless the employee would receive a greater retirement benefit by combining such credits.

Section 22. **Effective date.**

If approved by two-thirds of all the members elected to each house, this act takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto

override.