

1 **RETIREMENT OFFICE AMENDMENTS**

2 1999 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Raymond W. Short**

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

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

18 AMENDS:

19 **49-1-503**, as last amended by Chapter 157, Laws of Utah 1992

20 **49-1-504**, as enacted by Chapter 1, Laws of Utah 1987

21 **49-2-103**, as last amended by Chapter 31, Laws of Utah 1997

22 **49-2-401**, as last amended by Chapter 231, Laws of Utah 1996

23 **49-3-103**, as last amended by Chapter 31, Laws of Utah 1997

24 **49-3-401**, as last amended by Chapters 231, Laws of Utah 1996

25 **49-4-401**, as last amended by Chapter 231, Laws of Utah 1996

26 **49-4-703**, as last amended by Chapter 90, Laws of Utah 1994

27 **49-4a-401**, as last amended by Chapter 231, Laws of Utah 1996

28 **49-4a-703**, as last amended by Chapter 90, Laws of Utah 1994
29 **49-5-301**, as last amended by Chapter 101, Laws of Utah 1993
30 **49-5-401**, as last amended by Chapter 231, Laws of Utah 1996
31 **49-6-401**, as last amended by Chapter 231, Laws of Utah 1996
32 **49-6a-401**, as enacted by Chapter 356, Laws of Utah 1997
33 **49-7-401**, as last amended by Chapter 197, Laws of Utah 1995
34 **49-8-102**, as enacted by Chapter 1, Laws of Utah 1987
35 **49-8-103**, as enacted by Chapter 1, Laws of Utah 1987
36 **49-9-103**, as last amended by Chapter 79, Laws of Utah 1996
37 **49-9-401**, as last amended by Chapter 267, Laws of Utah 1998
38 **49-9-403**, as last amended by Chapter 197, Laws of Utah 1995

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

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

41 **49-1-503. Redeposits of refunds -- Time period.**

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

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

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

53 **49-1-504. Rate of interest on redeposits, withdrawals, and delinquent contributions.**

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

56 (1) the average rate of the effective yield for the previous five years, rounded off to the
57 nearest whole or quarter percent rate, which has been earned by the Utah State Retirement
58 Investment Fund at the end of each preceding calendar year, as determined by the executive

59 director and approved by the board[-]; or

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

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

62 **49-2-103. Definitions.**

63 As used in this chapter:

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

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

70 (i) bonuses;

71 (ii) cost-of-living adjustments;

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

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

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

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

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

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

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

85 (iv) salary paid to a temporary or exempt employee;

86 (v) any payments upon termination, including accumulated vacation, sick leave payments,
87 or any other special payments; or

88 (vi) uniform, travel, or similar allowances.

89 (3) "Educational institution" means a political subdivision or instrumentality of the state

90 or a combination thereof primarily engaged in educational activities or the administration or
91 servicing of educational activities, including:

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

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

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

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

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

109 (a) Except as provided in Subsection (6)(b), the percentage increase in annual
110 compensation in any one of the years used may not exceed the previous year's salary by more than
111 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar
112 during the previous year, as measured by the Consumer Price Index prepared by the United States
113 Bureau of Labor Statistics.

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

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

118 (c) If the member retires more than six months from the date of termination of employment
119 and for purposes of computing the member's final average salary only, the member is considered
120 to have been in service at the member's last salary rate from the date of the termination of

121 employment to the date retirement becomes effective if the member so requests.

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

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

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

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

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

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

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

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

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

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

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

150 **49-2-401. Eligibility for service retirement -- Date of retirement -- Qualifications.**

151 (1) (a) Any member who qualifies for service retirement may retire by [applying in

152 writing] submitting to the retirement office [stating] an application form notarized by a notary
153 public. The application shall state the proposed effective date of retirement, which may not be
154 more than 90 days before or after the date of application.

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

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

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

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

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

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

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

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

168 **49-3-103. Definitions.**

169 As used in this chapter:

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

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

176 (i) bonuses;

177 (ii) cost-of-living adjustments;

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

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

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

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

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

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

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

191 (iv) salary paid to a temporary or exempt employee;

192 (v) any payments upon termination, including accumulated lump-sum vacation, sick leave
193 payments, or any other special payments; or

194 (vi) uniform, travel, or similar allowances.

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

198 (a) the State Board of Education and its instrumentalities;

199 (b) any institution of higher learning and its branches;

200 (c) any school district and its instrumentalities;

201 (d) any vocational and technical school; and

202 (e) any entity arising out of a consolidation agreement between entities under this
203 definition.

204 (4) "Effective date" of the noncontributory system means 12:01 a.m., July 1, 1986.

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

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

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

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

216 (a) Except as provided in Subsection (7)(b), the percentage increase in annual
217 compensation in any one of the years used may not exceed the previous year's salary by more than
218 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar
219 during the previous year, as measured by the Consumer Price Index prepared by the United States
220 Bureau of Labor Statistics.

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

223 (i) the member has transferred from another employing unit; or

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

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

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

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

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

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

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

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

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

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

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

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

255 **49-3-401. Eligibility for service retirement -- Date of retirement -- Qualifications.**

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

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

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

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

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

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

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

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

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

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

275 **49-4-401. Eligibility for service retirement -- Date of retirement -- Qualifications.**

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

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

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

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

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

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

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

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

291 **49-4-703. Death of active or inactive member having no spouse or minor children**
292 **as beneficiary -- Benefits payable to widow on death of inactive member.**

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

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

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

304 (3) The death benefit payable upon the death of an inactive member who has less than 20
305 years of public safety service and who leaves a spouse or minor children as the beneficiary is a
306 100% refund of the deceased member's contributions or \$500, whichever is larger.

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

308 **49-4a-401. Eligibility for service retirement -- Date of retirement -- Qualifications.**

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

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

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

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

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

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

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

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

324 **49-4a-703. Death of active or inactive member having no spouse or minor children**
325 **as beneficiary -- Benefits payable to widow on death of inactive member.**

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

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

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

337 (3) The death benefit payable upon the death of an inactive member who has less than 20

338 years of public safety service and who leaves a spouse or minor children as the beneficiary is a
339 100% refund of the deceased member's contributions or \$500, whichever is greater.

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

341 **49-5-301. Contributions of members.**

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

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

352 (3) All contributions are credited to the account of the individual and held in trust for the
353 payment of benefits to the member or the member's beneficiaries. All member contributions are
354 100% vested and nonforfeitable.

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

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

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

363 (a) 50% of the annual tax for each year that is levied, assessed, and collected under Title
364 59, Chapter 9, Taxation of Admitted Insurers, upon property insurance premiums, as defined by
365 Subsection 31A-1-301 (67), and as applied to fire and allied lines insurance collected by insurance
366 companies within the state; and

367 (b) 10% of all money assessed and collected under Title 59, Chapter 9, Taxation of
368 Admitted Insurers, upon life insurance premiums within the state. Payments to the fund shall be

369 made annually until the [prior] service liability is liquidated, after which the tax revenue provided
370 in this subsection for the Firefighters' Retirement Trust Fund ceases.

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

372 **49-5-401. Eligibility for service retirement -- Date of retirement -- Qualifications.**

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

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

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

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

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

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

384 or

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

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

387 **49-6-401. Eligibility for service retirement -- Date of retirement -- Qualifications.**

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

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

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

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

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

399 (b) the member has been credited with at least ten years of service and has attained an age

400 of 62 years or more;

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

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

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

405 **49-6a-401. Eligibility for service retirement -- Date of retirement -- Qualifications.**

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

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

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

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

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

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

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

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

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

423 **49-7-401. Eligibility for retirement benefit -- Governor -- Legislator.**

424 (1) Upon reaching age 65, each former governor of Utah is eligible, upon application, to
425 receive a lifetime monthly pension of \$500 per month if the governor has served one term, or
426 \$1,000 per month if the governor has served two or more terms. Payments under this lifetime
427 pension cease during any period that a former governor holds an office of profit or trust with the
428 government of United States, this state, or a political subdivision of the state paying more than the
429 retirant is entitled to receive per month under this section.

430 (2) Upon reaching age 65, and upon application, a legislative pension shall be paid to a

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

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

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

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

448 **49-8-102. Purpose.**

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

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

454 **49-8-103. Definitions.**

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

458 Section 18. Section **49-9-103** is amended to read:

459 **49-9-103. Definitions.**

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

462 (2) "Educational institution" means a political subdivision or an instrumentality of a
463 political subdivision, an instrumentality of the state, or any combination of these entities, which
464 is primarily engaged in educational activities or the administration or servicing of educational
465 activities. The term includes, but is not limited to, the State Board of Education and any
466 instrumentality of the State Board of Education, institutions of higher education and their branches,
467 school districts, and vocational and technical schools.

468 (3) "Elimination period" means the three months at the beginning of each continuous
469 period of total disability for which no benefit will be paid and commences with the date of
470 disability.

471 (4) "Employee" means any regular full-time employee of an employer who participates in
472 any system administered by the board, except those employees exempt from coverage under
473 Section 49-9-102.

474 (5) "Maximum benefit period" means the maximum period of time the monthly disability
475 income benefit will be paid for any continuous period of total disability.

476 (6) "Medically determinable impairment" means an impairment that results from
477 anatomical, physiological, or psychological abnormalities which can be shown by medically
478 acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must
479 be established by medical evidence consisting of signs, symptoms, and laboratory findings, not
480 only by the individual's statement of symptoms.

481 [(6)] (7) "Physician" means a legally qualified physician.

482 [(7)] (8) "Rehabilitative employment" means any board-approved occupation or
483 employment for wage or profit, for which the employee is reasonably qualified by education,
484 training, or experience, in which the employee engages while unable to perform his occupation as
485 a result of injury or illness.

486 [(8)] (9) "Total disability" means the complete inability, due to [~~injury or illness~~] medically
487 determinable physical or mental impairment which can be expected to result in death or which has
488 lasted or can be expected to last for a continuous period of not less than 12 months, to engage in
489 the employee's regular occupation during the elimination period and the first 24 months of
490 disability benefits. Thereafter, "total disability" means the complete inability, based solely on
491 medically determinable physical impairment, to engage in any gainful occupation which is
492 reasonable, considering the employee's education, training, and experience. "Total disability"

493 exists only if during any period of "total disability" the employee is under the regular care of a
494 physician other than the employee.

495 Section 19. Section **49-9-401** is amended to read:

496 **49-9-401. Disability benefits -- Proof required -- Eligibility.**

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

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

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

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

505 (2) Successive periods of disability which: (a) result from the same or related causes, (b)
506 are separated by less than six months of continuous full-time work at the individual's usual place
507 of employment, and (c) commence while the individual is an employee covered by this chapter,
508 shall be considered as a single period of disability. The inability to work for a period less than 15
509 consecutive days may not be considered as a period of disability. Otherwise, successive periods
510 of disability shall be considered as separate periods of disability.

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

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

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

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

523 (6) Medial or psychological conditions which existed prior to enrollment shall not be a

524 basis for disability benefits until the employee has had one year of continuous enrollment in the
525 Public Employees Long-Term Disability Program.

526 Section 20. Section **49-9-403** is amended to read:

527 **49-9-403. Termination of disability benefits -- Calculation of retirement benefit.**

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

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

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

535 (ii) 25 years if the member is covered by Chapter 6, Judges' Retirement Act; or

536 (iii) 30 years if the member is covered by Chapters 2 or 3, Public Employees' Retirement
537 and Noncontributory Retirement Acts; or

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

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

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

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

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

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

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

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

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

555 (4) An employee receiving disability benefits who has years of service credit from two or
556 more systems or plans administered by the board may not combine these credits under Section
557 49-1-406 in determining eligibility for retirement, unless the employee would receive a greater
558 retirement benefit by combining such credits.

559 Section 21. **Effective date.**

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

Legislative Review Note

as of 1-7-99 12:26 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel