

Representative Ron Bigelow proposes the following substitute bill:

RETIREMENT LAW RECODIFICATION

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Ron Bigelow

This act recodifies the Retirement Code. This act has an immediate effective date. This act provides a coordination clause.

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

AMENDS:

- 31A-22-703**, as last amended by Chapter 116, Laws of Utah 2001
- 35A-4-502**, as last amended by Chapter 116, Laws of Utah 1998
- 51-7-4**, as last amended by Chapter 222, Laws of Utah 2000
- 53-6-107**, as last amended by Chapter 79, Laws of Utah 1996
- 53-7-105**, as last amended by Chapter 282, Laws of Utah 1998
- 53-13-108**, as renumbered and amended by Chapter 282, Laws of Utah 1998
- 53A-17a-125**, as last amended by Chapter 335, Laws of Utah 2001
- 63-95-102**, as last amended by Chapters 210 and 222, Laws of Utah 2000
- 63-95-202**, as enacted by Chapter 210, Laws of Utah 2000
- 63E-1-102 (Effective 07/01/02)**, as enacted by Chapter 201, Laws of Utah 2001
- 63E-1-202 (Effective 07/01/02)**, as enacted by Chapter 201, Laws of Utah 2001
- 67-8-3**, as last amended by Chapter 299, Laws of Utah 1995
- 67-20-7**, as last amended by Chapter 240, Laws of Utah 1996
- 67-22-1**, as last amended by Chapters 116 and 264, Laws of Utah 2001
- 67-22-2**, as last amended by Chapters 116 and 264, Laws of Utah 2001
- 78-7-35**, as renumbered and amended by Chapter 46, Laws of Utah 2001

ENACTS:

- 49-11-603**, Utah Code Annotated 1953



- 26 **49-11-604**, Utah Code Annotated 1953
- 27 **49-11-605**, Utah Code Annotated 1953
- 28 **49-11-606**, Utah Code Annotated 1953
- 29 **49-11-620**, Utah Code Annotated 1953
- 30 **49-11-802**, Utah Code Annotated 1953
- 31 **49-12-302**, Utah Code Annotated 1953
- 32 **49-13-302**, Utah Code Annotated 1953
- 33 **49-14-505**, Utah Code Annotated 1953
- 34 **49-15-505**, Utah Code Annotated 1953
- 35 **49-16-203**, Utah Code Annotated 1953
- 36 **49-16-505**, Utah Code Annotated 1953
- 37 **49-16-506**, Utah Code Annotated 1953
- 38 **49-17-403**, Utah Code Annotated 1953
- 39 **49-19-102**, Utah Code Annotated 1953
- 40 **49-19-402**, Utah Code Annotated 1953
- 41 **49-19-403**, Utah Code Annotated 1953
- 42 **49-19-404**, Utah Code Annotated 1953
- 43 **49-20-403**, Utah Code Annotated 1953

44 RENUMBERS AND AMENDS:

- 45 **49-11-101**, (Renumbered from 49-1-101, as last amended by Chapter 231, Laws of Utah
- 46 1996)
- 47 **49-11-102**, (Renumbered from 49-1-103, as last amended by Chapter 73, Laws of Utah
- 48 2001)
- 49 **49-11-103**, (Renumbered from 49-1-102, as last amended by Chapter 231, Laws of Utah
- 50 1996)
- 51 **49-11-201**, (Renumbered from 49-1-201, as last amended by Chapter 210, Laws of Utah
- 52 2000)
- 53 **49-11-202**, (Renumbered from 49-1-202, as last amended by Chapter 243, Laws of Utah
- 54 1996)
- 55 **49-11-203**, (Renumbered from 49-1-203, as last amended by Chapter 31, Laws of Utah
- 56 1997)

- 57 **49-11-204**, (Renumbered from 49-1-204, as last amended by Chapter 231, Laws of Utah
- 58 1996)
- 59 **49-11-301**, (Renumbered from 49-1-301, as last amended by Chapter 283, Laws of Utah
- 60 2000)
- 61 **49-11-302**, (Renumbered from 49-1-302, as last amended by Chapter 79, Laws of Utah
- 62 1996)
- 63 **49-11-303**, (Renumbered from 49-1-303, as enacted by Chapter 1, Laws of Utah 1987)
- 64 **49-11-304**, (Renumbered from 49-1-304, as last amended by Chapter 231, Laws of Utah
- 65 1996)
- 66 **49-11-305**, (Renumbered from 49-1-305, as enacted by Chapter 1, Laws of Utah 1987)
- 67 **49-11-401**, (Renumbered from 49-1-401, as last amended by Chapter 31, Laws of Utah
- 68 1997)
- 69 **49-11-402**, (Renumbered from 49-1-402, as last amended by Chapter 197, Laws of Utah
- 70 1995)
- 71 **49-11-403**, (Renumbered from 49-1-407, as last amended by Chapter 141, Laws of Utah
- 72 2001)
- 73 **49-11-404**, (Renumbered from 49-1-404, as last amended by Chapter 231, Laws of Utah
- 74 1996)
- 75 **49-11-405**, (Renumbered from 49-1-406, as last amended by Chapter 31, Laws of Utah
- 76 1997)
- 77 **49-11-501**, (Renumbered from 49-1-502, as last amended by Chapter 141, Laws of Utah
- 78 2001)
- 79 **49-11-502**, (Renumbered from 49-1-503, as last amended by Chapter 292, Laws of Utah
- 80 1999)
- 81 **49-11-503**, (Renumbered from 49-1-504, as last amended by Chapter 292, Laws of Utah
- 82 1999)
- 83 **49-11-504**, (Renumbered from 49-1-505, as last amended by Chapter 141, Laws of Utah
- 84 2001)
- 85 **49-11-601**, (Renumbered from 49-1-601, as last amended by Chapter 141, Laws of Utah
- 86 2001)
- 87 **49-11-602**, (Renumbered from 49-1-602, as last amended by Chapter 157, Laws of Utah

- 88 1992)
- 89 **49-11-607**, (Renumbered from 49-1-603, as last amended by Chapter 81, Laws of Utah
- 90 1989)
- 91 **49-11-608**, (Renumbered from 49-1-604, as last amended by Chapter 81, Laws of Utah
- 92 1989)
- 93 **49-11-609**, (Renumbered from 49-1-606, as last amended by Chapter 141, Laws of Utah
- 94 2001)
- 95 **49-11-610**, (Renumbered from 49-1-607, as last amended by Chapter 31, Laws of Utah
- 96 1997)
- 97 **49-11-611**, (Renumbered from 49-1-608, as last amended by Chapters 2 and 7, Laws of
- 98 Utah 1989, Second Special Session)
- 99 **49-11-612**, (Renumbered from 49-1-609, as last amended by Chapter 141, Laws of Utah
- 100 2001)
- 101 **49-11-613**, (Renumbered from 49-1-610, as last amended by Chapter 141, Laws of Utah
- 102 2001)
- 103 **49-11-614**, (Renumbered from 49-1-613, as enacted by Chapter 273, Laws of Utah 1990)
- 104 **49-11-615**, (Renumbered from 49-1-614, as enacted by Chapter 273, Laws of Utah 1990)
- 105 **49-11-616**, (Renumbered from 49-1-615, as enacted by Chapter 229, Laws of Utah 1991)
- 106 **49-11-617**, (Renumbered from 49-1-616, as enacted by Chapter 226, Laws of Utah 1993)
- 107 **49-11-618**, (Renumbered from 49-1-403, as enacted by Chapter 1, Laws of Utah 1987)
- 108 **49-11-619**, (Renumbered from 49-1-405, as enacted by Chapter 285, Laws of Utah 1990)
- 109 **49-11-701**, (Renumbered from 49-1-701, as last amended by Chapter 90, Laws of Utah
- 110 1994)
- 111 **49-11-801**, (Renumbered from 49-1-611, as last amended by Chapter 267, Laws of Utah
- 112 1998)
- 113 **49-12-101**, (Renumbered from 49-2-101, as enacted by Chapter 1, Laws of Utah 1987)
- 114 **49-12-102**, (Renumbered from 49-2-103, as last amended by Chapter 141, Laws of Utah
- 115 2001)
- 116 **49-12-103**, (Renumbered from 49-2-201, as enacted by Chapter 1, Laws of Utah 1987)
- 117 **49-12-104**, (Renumbered from 49-2-202, as enacted by Chapter 1, Laws of Utah 1987)
- 118 **49-12-201**, (Renumbered from 49-2-203, as enacted by Chapter 1, Laws of Utah 1987)

119 **49-12-202**, (Renumbered from 49-2-204, as last amended by Chapter 220, Laws of Utah
120 2000)
121 **49-12-203**, (Renumbered from 49-2-205, as last amended by Chapter 31, Laws of Utah
122 1997)
123 **49-12-204**, (Renumbered from 49-2-206, as enacted by Chapter 1, Laws of Utah 1987)
124 **49-12-301**, (Renumbered from 49-2-301, as last amended by Chapter 157, Laws of Utah
125 1992)
126 **49-12-401**, (Renumbered from 49-2-401, as last amended by Chapter 292, Laws of Utah
127 1999)
128 **49-12-402**, (Renumbered from 49-2-402, as last amended by Chapter 10, Laws of Utah
129 1997)
130 **49-12-403**, (Renumbered from 49-2-404, as enacted by Chapter 1, Laws of Utah 1987)
131 **49-12-404**, (Renumbered from 49-2-405, as last amended by Chapter 197, Laws of Utah
132 1995)
133 **49-12-405**, (Renumbered from 49-2-406, as last amended by Chapter 267, Laws of Utah
134 1998)
135 **49-12-406**, (Renumbered from 49-2-409, as enacted by Chapter 1, Laws of Utah 1987)
136 **49-12-407**, (Renumbered from 49-2-601, as last amended by Chapter 157, Laws of Utah
137 1992)
138 **49-12-408**, (Renumbered from 49-2-602, as last amended by Chapter 353, Laws of Utah
139 2000)
140 **49-12-501**, (Renumbered from 49-2-701, as last amended by Chapter 90, Laws of Utah
141 1994)
142 **49-12-601**, (Renumbered from 49-2-503, as enacted by Chapter 1, Laws of Utah 1987)
143 **49-12-701**, (Renumbered from 49-2-802, as last amended by Chapter 226, Laws of Utah
144 1993)
145 **49-13-101**, (Renumbered from 49-3-101, as enacted by Chapter 1, Laws of Utah 1987)
146 **49-13-102**, (Renumbered from 49-3-103, as last amended by Chapter 141, Laws of Utah
147 2001)
148 **49-13-103**, (Renumbered from 49-3-201, as enacted by Chapter 1, Laws of Utah 1987)
149 **49-13-104**, (Renumbered from 49-3-202, as enacted by Chapter 1, Laws of Utah 1987)

- 150 **49-13-201**, (Renumbered from 49-3-203, as enacted by Chapter 1, Laws of Utah 1987)
- 151 **49-13-202**, (Renumbered from 49-3-204, as last amended by Chapter 220, Laws of Utah
- 152 2000)
- 153 **49-13-203**, (Renumbered from 49-3-206, as last amended by Chapter 141, Laws of Utah
- 154 2001)
- 155 **49-13-204**, (Renumbered from 49-3-207, as enacted by Chapter 1, Laws of Utah 1987)
- 156 **49-13-205**, (Renumbered from 49-3-205, as last amended by Chapter 46, Laws of Utah
- 157 1995)
- 158 **49-13-301**, (Renumbered from 49-3-301, as last amended by Chapter 157, Laws of Utah
- 159 1992)
- 160 **49-13-303**, (Renumbered from 49-3-302, as last amended by Chapter 157, Laws of Utah
- 161 1992)
- 162 **49-13-401**, (Renumbered from 49-3-401, as last amended by Chapter 292, Laws of Utah
- 163 1999)
- 164 **49-13-402**, (Renumbered from 49-3-402, as last amended by Chapter 231, Laws of Utah
- 165 1996)
- 166 **49-13-403**, (Renumbered from 49-3-404, as enacted by Chapter 1, Laws of Utah 1987)
- 167 **49-13-404**, (Renumbered from 49-3-405, as last amended by Chapter 197, Laws of Utah
- 168 1995)
- 169 **49-13-405**, (Renumbered from 49-3-406, as last amended by Chapter 267, Laws of Utah
- 170 1998)
- 171 **49-13-406**, (Renumbered from 49-3-409, as enacted by Chapter 1, Laws of Utah 1987)
- 172 **49-13-407**, (Renumbered from 49-3-601, as enacted by Chapter 1, Laws of Utah 1987)
- 173 **49-13-408**, (Renumbered from 49-3-410, as last amended by Chapter 141, Laws of Utah
- 174 2001)
- 175 **49-13-501**, (Renumbered from 49-3-701, as last amended by Chapters 12 and 90, Laws of
- 176 Utah 1994)
- 177 **49-13-701**, (Renumbered from 49-3-802, as last amended by Chapter 226, Laws of Utah
- 178 1993)
- 179 **49-14-101**, (Renumbered from 49-4-101, as enacted by Chapter 1, Laws of Utah 1987)
- 180 **49-14-102**, (Renumbered from 49-4-103, as last amended by Chapter 92, Laws of Utah

181 1999)
182 **49-14-103**, (Renumbered from 49-4-201, as enacted by Chapter 1, Laws of Utah 1987)
183 **49-14-104**, (Renumbered from 49-4-202, as enacted by Chapter 1, Laws of Utah 1987)
184 **49-14-201**, (Renumbered from 49-4-203, as last amended by Chapter 92, Laws of Utah
185 1999)
186 **49-14-202**, (Renumbered from 49-4-204, as enacted by Chapter 1, Laws of Utah 1987)
187 **49-14-203**, (Renumbered from 49-4-205, as last amended by Chapter 110, Laws of Utah
188 2001)
189 **49-14-301**, (Renumbered from 49-4-301, as last amended by Chapter 169, Laws of Utah
190 1996)
191 **49-14-401**, (Renumbered from 49-4-401, as last amended by Chapter 292, Laws of Utah
192 1999)
193 **49-14-402**, (Renumbered from 49-4-402, as enacted by Chapter 1, Laws of Utah 1987)
194 **49-14-403**, (Renumbered from 49-4-601, as last amended by Chapter 31, Laws of Utah
195 1997)
196 **49-14-501**, (Renumbered from 49-4-701, as last amended by Chapter 285, Laws of Utah
197 1990)
198 **49-14-502**, (Renumbered from 49-4-702, as enacted by Chapter 1, Laws of Utah 1987)
199 **49-14-503**, (Renumbered from 49-4-703, as last amended by Chapter 292, Laws of Utah
200 1999)
201 **49-14-504**, (Renumbered from 49-4-704, as last amended by Chapter 141, Laws of Utah
202 2001)
203 **49-15-101**, (Renumbered from 49-4a-101, as enacted by Chapter 260, Laws of Utah 1989)
204 **49-15-102**, (Renumbered from 49-4a-103, as last amended by Chapter 92, Laws of Utah
205 1999)
206 **49-15-103**, (Renumbered from 49-4a-201, as enacted by Chapter 260, Laws of Utah 1989)
207 **49-15-104**, (Renumbered from 49-4a-202, as enacted by Chapter 260, Laws of Utah 1989)
208 **49-15-201**, (Renumbered from 49-4a-203, as last amended by Chapter 92, Laws of Utah
209 1999)
210 **49-15-202**, (Renumbered from 49-4a-204, as enacted by Chapter 260, Laws of Utah 1989)
211 **49-15-203**, (Renumbered from 49-4a-206, as last amended by Chapter 305, Laws of Utah

212 1999)
213 **49-15-204**, (Renumbered from 49-4a-205, as last amended by Chapter 268, Laws of Utah
214 1998)
215 **49-15-301**, (Renumbered from 49-4a-301, as last amended by Chapter 157, Laws of Utah
216 1992)
217 **49-15-401**, (Renumbered from 49-4a-401, as last amended by Chapter 292, Laws of Utah
218 1999)
219 **49-15-402**, (Renumbered from 49-4a-402, as last amended by Chapter 273, Laws of Utah
220 1990)
221 **49-15-403**, (Renumbered from 49-4a-601, as enacted by Chapter 260, Laws of Utah 1989)
222 **49-15-501**, (Renumbered from 49-4a-701, as last amended by Chapter 366, Laws of Utah
223 1998)
224 **49-15-502**, (Renumbered from 49-4a-702, as enacted by Chapter 260, Laws of Utah 1989)
225 **49-15-503**, (Renumbered from 49-4a-703, as last amended by Chapter 292, Laws of Utah
226 1999)
227 **49-15-504**, (Renumbered from 49-4a-704, as last amended by Chapter 141, Laws of Utah
228 2001)
229 **49-16-101**, (Renumbered from 49-5-101, as enacted by Chapter 1, Laws of Utah 1987)
230 **49-16-102**, (Renumbered from 49-5-103, as last amended by Chapter 73, Laws of Utah
231 2001)
232 **49-16-103**, (Renumbered from 49-5-201, as enacted by Chapter 1, Laws of Utah 1987)
233 **49-16-104**, (Renumbered from 49-5-202, as enacted by Chapter 1, Laws of Utah 1987)
234 **49-16-201**, (Renumbered from 49-5-203, as last amended by Chapter 283, Laws of Utah
235 2000)
236 **49-16-202**, (Renumbered from 49-5-204, as enacted by Chapter 1, Laws of Utah 1987)
237 **49-16-301**, (Renumbered from 49-5-301, as last amended by Chapters 131 and 292, Laws
238 of Utah 1999)
239 **49-16-401**, (Renumbered from 49-5-401, as last amended by Chapter 292, Laws of Utah
240 1999)
241 **49-16-402**, (Renumbered from 49-5-402, as last amended by Chapter 51, Laws of Utah
242 1990)

243 **49-16-403**, (Renumbered from 49-5-601, as last amended by Chapter 31, Laws of Utah
244 1997)
245 **49-16-501**, (Renumbered from 49-5-701, as last amended by Chapter 293, Laws of Utah
246 1999)
247 **49-16-502**, (Renumbered from 49-5-702, as last amended by Chapter 267, Laws of Utah
248 1998)
249 **49-16-503**, (Renumbered from 49-5-703, as last amended by Chapter 90, Laws of Utah
250 1994)
251 **49-16-504**, (Renumbered from 49-5-704, as last amended by Chapter 141, Laws of Utah
252 2001)
253 **49-16-601**, (Renumbered from 49-5-501, as last amended by Chapter 283, Laws of Utah
254 2000)
255 **49-16-602**, (Renumbered from 49-5-502, as last amended by Chapter 141, Laws of Utah
256 2001)
257 **49-16-603**, (Renumbered from 49-5-503, as enacted by Chapter 1, Laws of Utah 1987)
258 **49-16-701**, (Renumbered from 49-5-802, as enacted by Chapter 1, Laws of Utah 1987)
259 **49-17-101**, (Renumbered from 49-6-101, as enacted by Chapter 1, Laws of Utah 1987)
260 **49-17-102**, (Renumbered from 49-6-103, as last amended by Chapter 31, Laws of Utah
261 1997)
262 **49-17-103**, (Renumbered from 49-6-201, as last amended by Chapter 198, Laws of Utah
263 1996)
264 **49-17-104**, (Renumbered from 49-6-202, as enacted by Chapter 1, Laws of Utah 1987)
265 **49-17-201**, (Renumbered from 49-6-203, as last amended by Chapter 198, Laws of Utah
266 1996)
267 **49-17-301**, (Renumbered from 49-6-301, as last amended by Chapter 198, Laws of Utah
268 1996)
269 **49-17-401**, (Renumbered from 49-6-401, as last amended by Chapter 292, Laws of Utah
270 1999)
271 **49-17-402**, (Renumbered from 49-6-402, as last amended by Chapter 75, Laws of Utah
272 1990)
273 **49-17-404**, (Renumbered from 49-6-404, as last amended by Chapter 7, Laws of Utah

274 1991, Second Special Session)
275 **49-17-405**, (Renumbered from 49-6-601, as enacted by Chapter 1, Laws of Utah 1987)
276 **49-17-501**, (Renumbered from 49-6-701, as last amended by Chapter 285, Laws of Utah
277 1990)
278 **49-17-502**, (Renumbered from 49-6-702, as enacted by Chapters 1 and 168, Laws of Utah
279 1987)
280 **49-17-701**, (Renumbered from 49-6-801, as enacted by Chapter 84, Laws of Utah 1996)
281 **49-18-101**, (Renumbered from 49-6a-101, as enacted by Chapter 356, Laws of Utah 1997)
282 **49-18-102**, (Renumbered from 49-6a-103, as enacted by Chapter 356, Laws of Utah 1997)
283 **49-18-103**, (Renumbered from 49-6a-201, as enacted by Chapter 356, Laws of Utah 1997)
284 **49-18-104**, (Renumbered from 49-6a-202, as enacted by Chapter 356, Laws of Utah 1997)
285 **49-18-201**, (Renumbered from 49-6a-203, as enacted by Chapter 356, Laws of Utah 1997)
286 **49-18-301**, (Renumbered from 49-6a-301, as enacted by Chapter 356, Laws of Utah 1997)
287 **49-18-401**, (Renumbered from 49-6a-401, as last amended by Chapter 292, Laws of Utah
288 1999)
289 **49-18-402**, (Renumbered from 49-6a-402, as enacted by Chapter 356, Laws of Utah 1997)
290 **49-18-403**, (Renumbered from 49-6a-501, as enacted by Chapter 356, Laws of Utah 1997)
291 **49-18-501**, (Renumbered from 49-6a-601, as enacted by Chapter 356, Laws of Utah 1997)
292 **49-18-502**, (Renumbered from 49-6a-602, as enacted by Chapter 356, Laws of Utah 1997)
293 **49-18-701**, (Renumbered from 49-6a-701, as enacted by Chapter 267, Laws of Utah 1998)
294 **49-19-101**, (Renumbered from 49-7-101, as enacted by Chapter 1, Laws of Utah 1987)
295 **49-19-103**, (Renumbered from 49-7-201, as enacted by Chapter 1, Laws of Utah 1987)
296 **49-19-104**, (Renumbered from 49-7-202, as enacted by Chapter 1, Laws of Utah 1987)
297 **49-19-201**, (Renumbered from 49-7-203, as last amended by Chapter 197, Laws of Utah
298 1995)
299 **49-19-301**, (Renumbered from 49-7-301, as enacted by Chapter 1, Laws of Utah 1987)
300 **49-19-401**, (Renumbered from 49-7-401, as last amended by Chapter 292, Laws of Utah
301 1999)
302 **49-19-501**, (Renumbered from 49-7-403, as last amended by Chapter 197, Laws of Utah
303 1995)
304 **49-20-101**, (Renumbered from 49-8-101, as enacted by Chapter 1, Laws of Utah 1987)

305 **49-20-102**, (Renumbered from 49-8-103, as last amended by Chapter 292, Laws of Utah
306 1999)
307 **49-20-103**, (Renumbered from 49-8-201, as enacted by Chapter 1, Laws of Utah 1987)
308 **49-20-104**, (Renumbered from 49-8-202, as enacted by Chapter 1, Laws of Utah 1987)
309 **49-20-105**, (Renumbered from 49-8-102, as last amended by Chapter 292, Laws of Utah
310 1999)
311 **49-20-201**, (Renumbered from 49-8-203, as last amended by Chapter 360, Laws of Utah
312 1998)
313 **49-20-202**, (Renumbered from 49-8-204, as last amended by Chapter 360, Laws of Utah
314 1998)
315 **49-20-301**, (Renumbered from 49-8-301, as enacted by Chapter 1, Laws of Utah 1987)
316 **49-20-401**, (Renumbered from 49-8-401, as last amended by Chapter 360, Laws of Utah
317 1998)
318 **49-20-402**, (Renumbered from 49-8-402, as enacted by Chapter 1, Laws of Utah 1987)
319 **49-20-404**, (Renumbered from 49-8-403, as last amended by Chapter 292, Laws of Utah
320 1999)
321 **49-20-405**, (Renumbered from 49-8-404, as last amended by Chapter 283, Laws of Utah
322 2000)
323 **49-20-406**, (Renumbered from 49-8-405, as last amended by Chapter 154, Laws of Utah
324 2000)
325 **49-21-101**, (Renumbered from 49-9-101, as enacted by Chapter 1, Laws of Utah 1987)
326 **49-21-102**, (Renumbered from 49-9-103, as last amended by Chapter 283, Laws of Utah
327 2000)
328 **49-21-103**, (Renumbered from 49-9-201, as last amended by Chapter 169, Laws of Utah
329 1988)
330 **49-21-104**, (Renumbered from 49-9-202, as enacted by Chapter 1, Laws of Utah 1987)
331 **49-21-105**, (Renumbered from 49-9-102, as last amended by Chapter 111, Laws of Utah
332 1987)
333 **49-21-201**, (Renumbered from 49-9-203, as last amended by Chapter 157, Laws of Utah
334 1992)
335 **49-21-301**, (Renumbered from 49-9-301, as last amended by Chapter 90, Laws of Utah

- 336 1994)
- 337 **49-21-401**, (Renumbered from 49-9-401, as last amended by Chapter 292, Laws of Utah
- 338 1999)
- 339 **49-21-402**, (Renumbered from 49-9-402, as last amended by Chapter 231, Laws of Utah
- 340 1996)
- 341 **49-21-403**, (Renumbered from 49-9-403, as last amended by Chapter 292, Laws of Utah
- 342 1999)
- 343 **49-21-404**, (Renumbered from 49-9-404, as enacted by Chapter 1, Laws of Utah 1987)
- 344 **49-21-405**, (Renumbered from 49-9-405, as last amended by Chapter 81, Laws of Utah
- 345 1989)
- 346 **49-21-406**, (Renumbered from 49-9-407, as enacted by Chapter 1, Laws of Utah 1987)
- 347 **49-21-407**, (Renumbered from 49-9-409, as last amended by Chapter 231, Laws of Utah
- 348 1996)
- 349 REPEALS:
- 350 **49-1-501**, as enacted by Chapter 1, Laws of Utah 1987
- 351 **49-1-605**, as enacted by Chapter 1, Laws of Utah 1987
- 352 **49-1-612**, as enacted by Chapter 273, Laws of Utah 1990
- 353 **49-1-617**, as last amended by Chapter 332, Laws of Utah 2001
- 354 **49-2-102**, as enacted by Chapter 1, Laws of Utah 1987
- 355 **49-2-403**, as last amended by Chapter 90, Laws of Utah 1994
- 356 **49-2-501**, as enacted by Chapter 1, Laws of Utah 1987
- 357 **49-2-702**, as enacted by Chapter 1, Laws of Utah 1987
- 358 **49-3-102**, as enacted by Chapter 1, Laws of Utah 1987
- 359 **49-3-403**, as last amended by Chapter 90, Laws of Utah 1994
- 360 **49-3-501**, as enacted by Chapter 1, Laws of Utah 1987
- 361 **49-3-702**, as enacted by Chapter 1, Laws of Utah 1987
- 362 **49-4-102**, as enacted by Chapter 1, Laws of Utah 1987
- 363 **49-4-403**, as enacted by Chapter 1, Laws of Utah 1987
- 364 **49-4a-102**, as enacted by Chapter 260, Laws of Utah 1989
- 365 **49-4a-403**, as enacted by Chapter 260, Laws of Utah 1989
- 366 **49-5-102**, as enacted by Chapter 1, Laws of Utah 1987

367 **49-5-403**, as enacted by Chapter 1, Laws of Utah 1987
368 **49-5-602**, as last amended by Chapter 285, Laws of Utah 1990
369 **49-6-102**, as enacted by Chapter 1, Laws of Utah 1987
370 **49-6-602**, as last amended by Chapter 75, Laws of Utah 1990
371 **49-6a-102**, as enacted by Chapter 356, Laws of Utah 1997
372 **49-7-102**, as enacted by Chapter 1, Laws of Utah 1987
373 **49-7-402**, as enacted by Chapter 1, Laws of Utah 1987
374 **49-7-404**, as last amended by Chapter 88, Laws of Utah 2000
375 **49-9-302**, as enacted by Chapter 132, Laws of Utah 1987
376 **49-9-406**, as last amended by Chapter 267, Laws of Utah 1998
377 **49-9-408**, as last amended by Chapter 111, Laws of Utah 1987
378 **49-10-303**, as enacted by Chapter 151, Laws of Utah 1995

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

380 Section 1. Section **31A-22-703** is amended to read:

381 **31A-22-703. Conversion rights on termination of group accident and health**
382 **insurance coverage.**

383 (1) Except as provided in Subsections (2) through (5), all policies of accident and health
384 insurance offered on a group basis under this title or Title 49, Chapter [8] 20, [~~Group~~] Public
385 Employees' Insurance Program Act, shall provide that a person whose insurance under the group
386 policy has been terminated for any reason, and who has been continuously insured under the group
387 policy or its predecessor for at least six months immediately prior to termination, is entitled to
388 choose a converted individual policy of accident and health insurance from the insurer which
389 conforms to Section 31A-22-708 or an extension of benefits under the group policy as provided
390 in Section 31A-22-714.

391 (2) Subsection (1) does not apply if the policy:

392 (a) provides catastrophic, aggregate stop loss, or specific stop loss benefits;

393 (b) provides benefits for specific diseases or for accidental injuries only, or for dental
394 service; or

395 (c) is an income replacement policy.

396 (3) An employee or group member does not have conversion rights under Subsection (1)
397 if:

398 (a) termination of the group coverage occurred because of failure of the group member to
399 pay any required individual contribution;

400 (b) the individual group member acquires other group coverage covering all preexisting
401 conditions including maternity, if the coverage existed under the replaced group coverage; or

402 (c) the person has:

403 (i) performed an act or practice that constitutes fraud; or

404 (ii) made an intentional misrepresentation of material fact under the terms of the coverage.

405 (4) Notwithstanding Subsections (1), (2), and (3), an employee or group member does not
406 have conversion rights under Subsection (1) if the individual or group member qualifies to
407 continue coverage under his existing group policy in accordance with the terms of his policy.

408 (5) (a) Notwithstanding Subsection 31A-22-613(1), an insurer may reduce benefits under
409 a converted policy covering any person to the extent the benefits provided or available to that
410 person under one or more of the sources listed under Subsection (5)(b), together with the benefits
411 provided by the converted policy, would result in coverage that would result in payment of more
412 than 100% of the amount of the claim.

413 (b) The benefits sources referred to under Subsection (5)(a) include:

414 (i) benefits under another insurance policy; and

415 (ii) benefits under any arrangement of coverage for individuals in a group, whether on an
416 insured or an uninsured basis.

417 (6) (a) The conversion policy shall provide maternity benefits equal to the lesser of the
418 maternity benefits of the group policy or the conversion policy until termination of pregnancy that
419 exists on the date of conversion if:

420 (i) one of the following is pregnant on the date of the conversion:

421 (A) the insured;

422 (B) a spouse of the insured; or

423 (C) a dependent of the insured; and

424 (ii) the accident and health policy had maternity benefits.

425 (b) The requirements of this Subsection (6) do not apply to a pregnancy that occurs after
426 the date of conversion.

427 Section 2. Section **35A-4-502** is amended to read:

428 **35A-4-502. Administration of Employment Security Act.**

429 (1) (a) The department shall administer this chapter through the division.

430 (b) The department may make, amend, or rescind any rules and special orders necessary
431 for the administration of this chapter.

432 (c) The division may:

433 (i) employ persons;

434 (ii) make expenditures;

435 (iii) require reports;

436 (iv) make investigations;

437 (v) make audits of any or all funds provided for under this chapter when necessary; and

438 (vi) take any other action it considers necessary or suitable to that end.

439 (d) No later than the first day of October of each year, the department shall submit to the
440 governor a report covering the administration and operation of this chapter during the preceding
441 calendar year and shall make any recommendations for amendments to this chapter as the
442 department considers proper.

443 (e) (i) The report required under Subsection (1)(d) shall include a balance sheet of the
444 moneys in the fund in which there shall be provided, if possible, a reserve against liability in future
445 years to pay benefits in excess of the then current contributions, which reserve shall be set up by
446 the division in accordance with accepted actuarial principles on the basis of statistics of
447 employment, business activity, and other relevant factors for the longest possible period.

448 (ii) Whenever the department believes that a change in contribution or benefit rates will
449 become necessary to protect the solvency of the fund, it shall promptly inform the governor and
450 the Legislature and make appropriate recommendations.

451 (2) (a) The department may make, amend, or rescind rules in accordance with Title 63,
452 Chapter 46a, Utah Administrative Rulemaking Act.

453 (b) The director of the division or the director's designee may adopt, amend, or rescind
454 special orders after appropriate notice and opportunity to be heard. Special orders become
455 effective ten days after notification or mailing to the last-known address of the individuals or
456 concerns affected thereby.

457 (3) The director of the division or the director's designee shall cause to be printed for
458 distribution to the public:

459 (a) the text of this chapter;

460 (b) the department's rules pertaining to this chapter;
461 (c) the department's annual reports to the governor required by Subsection (1)(e); and
462 (d) any other material the director of the division or the director's designee considers
463 relevant and suitable and shall furnish them to any person upon application.

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

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

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

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

474 (c) An employee of the department who no longer may participate in a federal or other
475 retirement system as a result of a change in status or appropriation under this chapter may purchase
476 credit in a retirement system created under Title 49, Chapter [3] 13, Public Employees'
477 Noncontributory Retirement Act, with the employee's assets from the federal or other retirement
478 system in which the employee may no longer participate.

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

481 (a) The executive director shall appoint:

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

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

486 (iii) five public representatives chosen at large.

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

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

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

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

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

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

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

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

507 (i) reducing and preventing unemployment;

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

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

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

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

514 (i) The council shall assure impartiality and freedom from political influence in the solution
515 of the problems listed in Subsection (5)(h).

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

518 (k) (i) A member shall receive no compensation or benefits for the member's services, but
519 may receive per diem and expenses incurred in the performance of the member's official duties
520 at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

521 (ii) A member may decline to receive per diem and expenses for the member's service.

522 (1) The department shall provide staff support to the council.

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

526 (a) administer oaths and affirmations;

527 (b) take depositions;

528 (c) certify to official acts; and

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

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

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

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

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

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

553 (ii) the Federal Unemployment Tax Act; and
 554 (iii) the Federal-State Extended Unemployment Compensation Act of 1970.
 555 (b) In the administration of Section 35A-4-402, which is enacted to conform with the
 556 requirements of the Federal-State Extended Unemployment Compensation Act of 1970, 26 U.S.C.
 557 3304, the division shall take any action necessary to ensure that the section is interpreted and
 558 applied to meet the requirements of the federal act, as interpreted by the United States Department
 559 of Labor and to secure to this state the full reimbursement of the federal share of extended and
 560 regular benefits paid under this chapter that are reimbursable under the federal act.

561 Section 3. Section **49-11-101**, which is renumbered from Section 49-1-101 is renumbered
 562 and amended to read:

563 **TITLE 49. UTAH STATE RETIREMENT AND INSURANCE BENEFIT ACT**
 564 **CHAPTER 11. UTAH STATE RETIREMENT SYSTEMS ADMINISTRATION**

565 **Part 1. General Provisions**

566 ~~[49-1-101].~~ **49-11-101. Title.**

567 (1) This title is known as the "Utah State Retirement and Insurance Benefit Act."

568 (2) This chapter is known as the "Utah State Retirement Systems Administration."

569 Section 4. Section **49-11-102**, which is renumbered from Section 49-1-103 is renumbered
 570 and amended to read:

571 ~~[49-1-103].~~ **49-11-102. Definitions.**

572 As used in this title:

573 ~~[(1) "Accumulated contributions" means the sum of the contributions made by or on behalf~~
 574 ~~of a member and standing to the credit of the member's individual account, including regular~~
 575 ~~interest where allowed by law.]~~

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

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

579 (2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis
 580 of mortality tables ~~[adopted by the board]~~ as recommended by the actuary and adopted by the
 581 executive director, including regular interest.

582 (3) "Actuarial interest rate" means the interest rate as recommended by the actuary and
 583 adopted by the board ~~[upon the recommendation of the actuary and]~~ upon which the funding of

584 [~~retirement~~] system costs and benefits are computed.

585 [~~(4) "Administrator" means the executive director of the board.~~]

586 [~~(5)~~ (4) "Agency" means:

587 (a) a department, division, agency, office, authority, commission, board, institution, or
588 hospital of the state;

589 (b) a county, municipality, school district, or special district;

590 (c) a state college or university; or

591 (d) any other [~~individual employing unit that participates in a system administered by the~~
592 ~~board~~] participating employer.

593 [~~(6)~~ (5) "Allowance" means the pension plus the annuity, including any cost of living or
594 other authorized adjustments to the pension and annuity.

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

597 (7) "Annuity" means [~~annual~~] monthly payments [~~for life~~] derived from member
598 contributions [~~made by the employee~~].

599 (8) "Appointive officer" means an employee appointed to a position for a definite and
600 fixed term of office by official and duly recorded action of a participating employer, and who earns
601 during the first full month of the term of office \$500 or more, indexed as of January 1, 1989, as
602 provided in Section 49-12-407.

603 [~~(8)~~ (9) "Beneficiary" means any person entitled to receive a [~~retirement allowance or~~
604 ~~other benefit provided by~~] payment under this title through a relationship with or designated by a
605 member, participant, covered individual, or alternate payee of a defined contribution plan.

606 [~~(9)~~ (10) "Board" [~~or "retirement board"~~] means the Utah State Retirement Board
607 established under [~~this title~~] Section 49-11-202.

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

610 [~~(10)~~ (12) "Contributions" means the [~~contributions~~] total amount paid by the
611 participating employer and the member [~~, if any,~~] into a [~~retirement fund~~] system or to the Utah
612 Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governor's and Legislators'
613 Retirement Act.

614 (13) "Council member" means a person serving on the Membership Council established

615 under Section 49-11-202.

616 (14) "Covered Individual" means any individual covered under Chapter 20, Public
617 Employees Benefit and Insurance Program Act.

618 ~~[(11)]~~ (15) "Current service" means covered service [rendered after the effective date of
619 each system] as defined in Chapters 12, 13, 14, 15, 16, 17, 18, and 19.

620 ~~[(12) "Department" means any department, office, board, commission, instrumentality, or~~
621 ~~other agency of the state.]~~

622 ~~[(13) "Dependent beneficiary" means a spouse, child, or children under 21 years of age,~~
623 ~~a child or children with a physical or mental disability, regardless of age, or a parent, or person,~~
624 ~~regardless of age or relationship, who is or are financially dependent upon the member. The~~
625 ~~dependency of a person other than a spouse or child shall be proved by written verified documents~~
626 ~~acceptable to the board or by a copy of the member's state income tax return for the last reportable~~
627 ~~year listing the person as a dependent. All documents are subject to review and approval of the~~
628 ~~administrator.]~~

629 (16) "Defined contribution" or "defined contribution plan" means any defined contribution
630 plan authorized under the Internal Revenue Code and administered by the board.

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

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

635 (b) any institution of higher education and its branches;

636 (c) any school district and its instrumentalities;

637 (d) any vocational and technical school; and

638 (e) any entity arising out of a consolidation agreement between entities described under
639 this Subsection (16).

640 ~~[(14)]~~ (18) (a) "Employer" [or "employing unit"] means any department, educational
641 institution, or political subdivision[, organization, or agency financed in whole or in part by public
642 funds for which any employee or member performs services subject to this title] of the state
643 eligible to participate in a government-sponsored retirement system under federal law.

644 (b) "Employer" may also include an agency financed in whole or in part by public funds
645 as allowed under Chapter 12 or 13.

646 (19) "Final average monthly salary" means the amount computed by dividing the
647 compensation received during the final average salary period under each system by the number of
648 months in the final average salary period.

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

651 ~~[(15)]~~ (21) (a) "Inactive member" means a member who has ~~[received no compensation for~~
652 ~~a period longer than four months]~~ not been employed by a participating employer for a period of
653 at least 120 days.

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

655 ~~[(16) (a) "Member" means any person included in the membership of any retirement~~
656 ~~system administered by the board. (b) A]~~

657 (22) (a) "Member" means a person [is considered to be a member if he has], except a
658 retiree, with contributions on deposit with [the retirement] a system, the Utah Governors' and
659 Legislators' Retirement Plan under Chapter 19, or with [the] a terminated system.

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

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

669 (a) the member; and

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

672 (24) "Nonelective contribution" means an amount contributed by a participating employer
673 into a participant's defined contribution account.

674 ~~[(17)]~~ (25) "Office" ~~[or "retirement office"]~~ means the Utah State Retirement Office.

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

677 ~~[(18)]~~ (27) "Participating employer" ~~[or "participating employing unit" means any~~
678 ~~employer or employing unit participating in the system whose employees are members of the~~
679 ~~system]~~ means a participating employer, as defined by Chapters 12, 13, 14, 15, 16, 17, and 18, or
680 an agency financed in whole or in part by public funds which is participating in a system or plan
681 as of January 1, 2002.

682 ~~[(19)]~~ "Payroll" means a register, warrant, or any other document upon which all persons
683 receiving salary payments are listed.]

684 ~~[(20)]~~ (28) "Pension" means ~~[annual]~~ monthly payments ~~[for life]~~ derived from
685 participating employer contributions [made by employers].

686 (29) "Plan" means the Utah Governors' and Legislators' Retirement Plan created by
687 Chapter 19 or the defined contribution plans created under Section 49-11-801.

688 ~~[(21)]~~ (30) (a) "Political subdivision" means any ~~[political subdivision of the state]~~ local
689 government entity, including cities, towns, counties, and school districts, but only if the
690 subdivision is a juristic entity that is legally separate and distinct from the state and only if its
691 employees are not by virtue of their relationship to the entity~~;~~ or employees of the state ~~[or one~~
692 ~~of its departments]~~. ~~[(a) The term]~~

693 (b) "Political subdivision" includes special districts or authorities created by the
694 Legislature or by local governments, including ~~[mosquito abatement districts, sewer or water~~
695 ~~districts, water associations and companies, libraries, and any entity arising out of a consolidation~~
696 ~~agreement between political subdivisions. (b) The term includes]~~ the ~~[retirement]~~ office.

697 (c) ~~[The term]~~ "Political subdivision" does not include a project entity created under Title
698 11, Chapter 13, Interlocal Cooperation Act.

699 ~~[(22)]~~ "Prior service" means service rendered prior to the effective date of each system.]

700 ~~[(23)]~~ "Refund" means a return of contributions to a terminating member.]

701 (31) "Program" means the Public Employees' Insurance Program created under Chapter
702 20, Public Employees' Insurance Program Act, or the Public Employees' Long-Term Disability
703 program created under Chapter 21, Public Employees' Long-Term Disability Act.

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

708 subdivisions.

709 ~~[(24) "Regular]~~ (33) "Refund interest" means ~~[interest compounded annually at a rate]~~ the
710 amount accrued on member contributions at a rate adopted by the board ~~[in accordance with this~~
711 title].

712 ~~[(25)]~~ (34) "Retiree" means ~~[a retired member]~~ an individual who ~~[is receiving~~
713 retirement benefits] has qualified for an allowance under this title.

714 ~~[(26)]~~ (35) "Retirement" means ~~[withdrawal from active service with a retirement~~
715 allowance granted under this title] the status of an individual who has become eligible, applies for,
716 and is entitled to receive an allowance under this title.

717 (36) "Retirement date" means the date selected by the member on which the member's
718 retirement becomes effective with the office.

719 ~~[(27)]~~ (37) "Service credit" ~~[or "covered service"]~~ means ~~[service used in the computation~~
720 of benefits.];

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

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

726 (38) "System" means the individual retirement systems created by Chapters 12, 13, 14,
727 15, 16, 17, and 18.

728 (39) "Voluntary deferrals" means an amount contributed by a participant into that
729 participant's defined contribution account.

730 Section 5. Section **49-11-103**, which is renumbered from Section 49-1-102 is renumbered
731 and amended to read:

732 **~~[49-1-102].~~ 49-11-103. Purpose -- Liberal construction.**

733 (1) The purpose of this ~~[chapter]~~ title is to establish ~~[a central administrative office and~~
734 a board to administer the various];

735 (a) retirement systems ~~[established by the Legislature.]~~ and the Utah Governors' and
736 Legislators' Retirement Plan for members which provide:

737 (i) a uniform system of membership;

738 (ii) retirement requirements;

739 (iii) benefits for members;
 740 (iv) funding on an actuarially sound basis;
 741 (v) contributions; and
 742 (vi) economy and efficiency in public service; and
 743 (b) a central administrative office and a board to administer the various systems, plans, and
 744 programs established by the Legislature or the board.

745 (2) This title shall be liberally construed to provide maximum benefits and protections
 746 consistent with sound fiduciary and actuarial principals.

747 Section 6. Section **49-11-201**, which is renumbered from Section 49-1-201 is renumbered
 748 and amended to read:

749 **Part 2. Retirement Office and Board**

750 ~~[49-1-201].~~ **49-11-201. Establishment of retirement office -- An independent state**
 751 **agency -- Office exemption.**

752 (1) (a) There is established the Utah State Retirement Office.

753 (b) The office shall administer the ~~[state retirement]~~ systems, plans, and programs and
 754 perform all other functions assigned to it ~~[by law]~~ under this title.

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

756 (b) It is subject to legislative and executive department budgetary ~~[examination]~~ review
 757 and comment.

758 (3) The office ~~[shall be housed in Salt Lake City, but branches of the office may be~~
 759 ~~established in other areas of the state]~~ may establish branch offices upon approval of the board.

760 (4) ~~[(a)]~~ The board ~~[is]~~ and office are exempt from those acts which are applicable to state
 761 and other governmental entities under this code.

762 ~~[(b) Notwithstanding Subsection (4)(a), the board shall:]~~

763 ~~[(i) adopt, where not in conflict with its trust and fiduciary responsibilities or other law;~~
 764 ~~rules governing the operation of the retirement office that are substantially similar to those~~
 765 ~~governing other public agencies; and]~~

766 ~~[(ii) report the rules and any amendments to the rules adopted under Subsection (4)(b)(i)~~
 767 ~~to the Legislative Quasi-Governmental Entities Committee on an annual basis or as otherwise~~
 768 ~~requested by the Legislative Quasi-Governmental Entities Committee.]~~

769 Section 7. Section **49-11-202**, which is renumbered from Section 49-1-202 is renumbered

770 and amended to read:

771 ~~[49-1-202].~~ 49-11-202. Establishment of Utah State Retirement Board -- Quorum
772 -- Terms -- Officers -- Expenses and per diem -- Membership council established.

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

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

777 (b) One board member shall be a school employee appointed by the governor from at least
778 three nominations submitted by the governing board of [a] the school employees' association that
779 is representative of a majority of the school employees who are members of [~~the school employees'~~
780 ~~retirement~~] a system administered by the board.

781 (c) One board member shall be a public employee appointed by the governor from at least
782 three nominations submitted by the governing board of [a] the public employee association that
783 is representative of a majority of the public employees who are members of [~~the public employees'~~
784 ~~retirement~~] a system administered by the board.

785 (d) One board member shall be the state treasurer[~~, who shall serve as an ex officio~~
786 ~~member with full voting privileges].~~

787 (2) Four board members constitute a quorum for the [~~purpose of doing all~~] transaction of
788 business.

789 (3) (a) All appointments to the board shall be made on a nonpartisan basis, with the advice
790 and consent of the Senate.

791 (b) [~~Members~~] Board members shall serve until their successors are appointed and take
792 the constitutional oath of office.

793 (c) When a vacancy occurs [~~in the membership~~] on the board for any reason, the
794 replacement shall be appointed for the unexpired term.

795 [~~(d) Members appointed to the board between sessions of the Legislature shall serve with~~
796 ~~full authority until acted upon by the Senate in session.]~~

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

799 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time
800 of appointment or reappointment, adjust the length of terms to ensure that the terms of board

801 members are staggered so that approximately half of the board is appointed every two years.

802 (c) ~~[Public employees or educators]~~ A board member who is appointed as a school
803 employee or as a public employee who [retire] retires or [otherwise terminate their employment]
804 who is no longer employed with a [covered unit] participating employer shall immediately resign
805 from the board.

806 (5) (a) Each year the board shall elect a president and ~~[vice-president]~~ vice president from
807 its membership. ~~[Each member shall be reimbursed for expenses incurred in service to the board.]~~

808 (b) Each board member shall receive a per diem plus ~~[travel]~~ expenses for attending
809 regularly constituted meetings and conferences as provided by [law for attending board meetings]
810 board action.

811 (6) (a) ~~[The board shall establish]~~ There is established a Membership Council to ~~[advise~~
812 ~~and counsel with the board and the director on policies affecting members of the various systems~~
813 ~~administered by the retirement office]~~ perform the duties under Subsection (10).

814 (b) The board may pay the travel expenses of council members who attend council
815 meetings.

816 (7) ~~[Beginning July 1, 1991, the]~~ The Membership Council shall be composed of 13
817 council members selected as follows:

818 (a) Three council members shall be school employees selected by the governing board of
819 an association representative of a majority of school employees who are members of ~~[the Public~~
820 ~~Employees' Retirement System or the Public Employees' Noncontributory Retirement System]~~ a
821 system administered by the board.

822 (b) One council member shall be a classified school employee selected by the governing
823 board of ~~[an]~~ the association representative of a majority of classified school employees who are
824 members of ~~[the Public Employees' Retirement System or the Public Employees' Noncontributory~~
825 ~~Retirement System]~~ a system administered by the board.

826 (c) Two council members shall be public employees selected by the governing board of
827 ~~[an]~~ the association representative of a majority of the public employees who are members of ~~[the~~
828 ~~Public Employees' Retirement System or the Public Employees' Noncontributory Retirement~~
829 ~~System]~~ a system administered by the board.

830 (d) One council member shall be a ~~[city or town]~~ municipal officer or employee selected
831 by the governing board of ~~[an]~~ the association representative of a majority of the ~~[cities and towns]~~

832 ~~municipalities~~ who ~~[are members of the Public Employees' Retirement System or the Public~~
833 ~~Employees' Noncontributory Retirement System]~~ participate in a system administered by the board.

834 (e) One council member shall be a county officer or employee selected by the governing
835 board of ~~[an]~~ the association representative of a majority of counties who ~~[are members of the~~
836 ~~Public Employees' Retirement System or the Public Employees' Noncontributory Retirement~~
837 ~~System]~~ participate in a system administered by the board.

838 (f) One council member shall be a representative of members of the Judges'
839 Noncontributory Retirement System selected by the Judicial Council.

840 (g) One council member shall be a representative of members of the Public Safety
841 Retirement ~~[System]~~ Systems selected by the governing board of ~~[an]~~ the association
842 representative of the majority of peace officers who are members of the Public Safety Retirement
843 ~~[System]~~ Systems.

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

847 (i) One council member shall be a ~~[retired member]~~ retiree selected by the Utah
848 Association of Retired Public Employees.

849 (j) One council member shall be a ~~[retired member]~~ retiree selected by the Utah Retired
850 School Employees' Association.

851 (8) (a) ~~[Members shall be appointed as provided for in Subsection (7)]~~ Each entity granted
852 authority to select council members under Subsection (7) may also revoke the selection at any
853 time.

854 (b) ~~[Except as required by Subsection (c), as terms of current council members expire, the~~
855 ~~board shall appoint each new member or reappointed member to a four-year term]~~ Each term on
856 the council shall be for a period of four years, subject to Subsection (8)(a).

857 ~~[(c) Notwithstanding the requirements of Subsection (b), the board shall, at the time of~~
858 ~~appointment or reappointment, adjust the length of terms to ensure that the terms of council~~
859 ~~members are staggered so that approximately half of the council is appointed every two years.]~~

860 ~~[(d)]~~ (c) Each term begins on July 1 and expires on June 30 ~~[in the year of expiration].~~

861 ~~[(e)]~~ (d) When a vacancy occurs ~~[in]~~ on the ~~[membership]~~ council for any reason, the
862 replacement shall be ~~[appointed]~~ selected for the remainder of the unexpired term.

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

864 (10) The council shall:

865 (a) recommend to the board and to the Legislature benefits and policies for members of
866 any system or plan administered by the board [~~to the board and to the Legislature~~];

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

869 (c) examine the record of all decisions affecting retirement benefits made by a hearing
870 officer under Section 49-11-613;

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

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

875 [~~(e) act upon all~~] (f) perform other duties assigned to it by the board.

876 Section 8. Section **49-11-203**, which is renumbered from Section 49-1-203 is renumbered
877 and amended to read:

878 [~~49-1-203~~]. **49-11-203. Powers and duties of board.**

879 (1) The board shall:

880 (a) appoint an executive director to administer the [~~retirement~~] office;

881 (b) receive and act upon reports covering the operations of the systems, plans, programs,
882 and funds administered by the [~~retirement~~] office;

883 (c) ensure that the systems, plans, programs, and funds are administered according to law;

884 (d) [~~sit as a board of appeal on any appeal filed by a member of a system, plan, or program~~
885 ~~or by a covered employer~~] review any final order of a hearing officer and approve or modify the
886 order at the board's discretion in accordance with Section 49-11-613;

887 (e) examine and approve an annual operating budget for the [~~retirement~~] office;

888 (f) serve as investment trustees of the [~~retirement fund~~] Utah State Retirement Investment
889 Fund as provided under this title;

890 (g) maintain, in conjunction with participating employers and members, the systems, plans,
891 and programs on an actuarially sound [~~or approved~~] basis[~~, subject to the responsibility of the~~
892 ~~Legislature to adjust benefits and contribution rates when recommended by the board~~];

893 (h) report annually to the governor, the Legislature, and each participating employer the

894 contribution rates, premium rates, and any adjustments necessary to maintain the systems, plans,
895 and programs on a financially and actuarially sound basis;

896 ~~[(h)]~~ (i) receive and act upon recommendations of the executive director;

897 ~~[(i)]~~ (j) recommend to the governor and Legislature, through the executive director, any
898 necessary or desirable changes ~~[in the statutes governing the systems, plans, and programs~~
899 ~~administered by the retirement office]~~ to this title;

900 ~~[(j)]~~ (k) develop broad policy for the long-term operation of the various ~~[retirement]~~
901 systems, plans, and programs ~~[and is granted]~~ under broad discretion and power to perform ~~[its]~~
902 the board's policymaking functions, including the specific authority to interpret and define any
903 provision or term under this title when the board or office provides written documentation which
904 demonstrates that the interpretation or definition promotes uniformity in the administration of the
905 systems or maintains the actuarial soundness of the systems, plans, or programs;

906 (l) adopt interest rates, premium rates, and annual contribution rates after reviewing
907 actuarial recommendations;

908 ~~[(k)]~~ (m) establish the compensation of the executive director and adopt compensation
909 plans and policies based on market surveys for ~~[fiduciary and administrative]~~ positions in the
910 office;

911 ~~[(l)] regulate the duties of employing units and other public authorities which are imposed~~
912 ~~upon them by this title and specify the time, place, and manner in which contributions shall be~~
913 ~~withheld and paid, and obtain any reports necessary for the administration of this title;]~~

914 ~~[(m)] adopt rules consistent with this title for the management of the systems, plans, and~~
915 ~~programs in order to carry out the purposes of this title, and perform all other acts necessary for~~
916 ~~the administration of the retirement systems, plans, and programs;]~~

917 ~~[(n)] comply with the procedures and requirements of Title 63, Chapter 46b, Administrative~~
918 ~~Procedures Act, in its adjudicative proceedings;]~~

919 ~~[(o)] otherwise exercise the powers and perform the duties conferred on it by this title; and]~~

920 (n) take action consistent with this title for the administration of the systems, plans, and
921 programs in order to carry out the purposes of this title;

922 ~~[(p)]~~ (o) provide for audits of the ~~[retirement system]~~ systems, plans, programs, and funds;

923 (p) take actions not in conflict with the board's trust and fiduciary responsibilities or other
924 law, with respect to the governance of the office which are substantially similar to those governing

925 other public agencies; and

926 (q) otherwise exercise the powers and perform the duties conferred on the board by this
927 title.

928 (2) The board may:

929 (a) subpoena witnesses and compel their attendance to testify before it, for which purpose
930 each board member [~~and the secretary of the board~~] may administer oaths and affirmations to
931 witnesses and others transacting business of the [~~retirement system~~] office;

932 (b) establish [~~membership~~] councils to [~~advise~~] recommend to the board and the executive
933 director [~~on~~] policies affecting members of any [~~system~~] systems, plans, and programs
934 administered by the board [~~and may~~];

935 (c) pay the travel expenses of council members who attend council meetings; and
936 [~~(e)~~] (d) sue and be sued in its own name.

937 Section 9. Section **49-11-204**, which is renumbered from Section 49-1-204 is renumbered
938 and amended to read:

939 ~~[49-1-204].~~ **49-11-204. Powers and duties of executive director.**

940 The executive director shall:

941 (1) act as the executive officer of the board and the [~~retirement~~] office;

942 (2) administer the various [~~acts,~~] systems, plans, programs, and functions assigned to the
943 board or office;

944 (3) ~~subject to board review, develop and [promulgate, with the approval of the board,~~
945 ~~administrative rules which are within the authority granted by this title, in the administration of~~
946 ~~the various retirement systems, plans, and programs]~~ implement internal policies and procedures
947 which administer and govern the day-to-day operations of the systems, plans, and programs;

948 (4) transmit orders of a hearing officer made under Section 49-11-613 to the board [~~any~~
949 ~~appeals received from members of any retirement system, plan, or program under this title, or any~~
950 ~~covered employer, arising out of a ruling of the director, and to arrange a hearing before the board~~
951 ~~for any affected party];~~

952 (5) [~~keep the board, the governor, the Legislature, and its agencies, and other affected~~
953 ~~officers, associations, and groups informed on the operations of the retirement office]~~ provide
954 information concerning the operation of the office to the board, the governor, the Legislature,
955 participating employers, and employer and employee associations, unless otherwise restricted

956 under Section 49-11-618;

957 (6) ~~[recommend to the board]~~ inform the Legislature of any recommendations from the
958 board regarding any necessary or desirable changes [in the retirement statutes] to this title;

959 (7) ~~[serve as a consultant]~~ consult with the Legislature on all [retirement] legislation under
960 this title;

961 (8) (a) recommend to the board an annual administrative budget covering the operations
962 of the [retirement] office and, upon approval, submit the budget along with the actuarial status of
963 the [fund] funds to the governor and the Legislature for [examination] review and comment; ~~[after~~
964 ~~which the director shall]~~ and

965 (b) direct and control the subsequent expenditures of the budget;

966 (9) employ, within the limitations of the budget, [staff] personnel ~~[and consultants]~~ to
967 administer the [retirement] systems, plans, programs, and funds assigned to the [retirement] office,
968 including consultants, actuaries, attorneys, medical examiners, investment counselors, and
969 accountants~~[, and clerical and other assistants]~~ to accomplish the [purpose] purposes of ~~[the~~
970 ~~retirement office]~~ this title;

971 ~~[(10) develop, with approval of the board, common administrative procedures and rules~~
972 ~~for each of the retirement systems, plans, and programs administered by the retirement office;]~~

973 ~~[(11)]~~ (10) establish~~[, with approval of the board,]~~ independent financial records for each
974 of the [retirement] systems, plans, and programs or combine all financial records using acceptable
975 principles of [fund] accounting to identify the assets and vested interests of each [retirement]
976 system, plan, or program;

977 ~~[(12) credit contributions of employers and other accounts with interest at the rate adopted~~
978 ~~in accordance with Subsection (13);]~~

979 ~~[(13) from time to time, upon the recommendation of the consulting actuary, adopt interest~~
980 ~~rates, mortality tables, and other tables necessary for the administration of the systems, plans, and~~
981 ~~programs;]~~

982 ~~[(14) keep in convenient form all records and accounts necessary for the administration~~
983 ~~of the systems, plans, and programs and data for investigation of its experience and its actuarial~~
984 ~~valuation;]~~

985 (11) maintain individual records necessary to provide benefits under this title;

986 (12) keep in convenient form all records, accounts, and data necessary for the

987 administration and actuarial valuation of the systems, plans, and programs;

988 (13) adopt fees, charges, and upon the recommendation of the actuary, interest rates and
989 tables for the administration of the systems, plans, and programs;

990 ~~[(15)]~~ (14) consolidate into one [warrant] payment all monthly [payments of annuities,
991 pensions, and subsistence payments made to each retired member as long as] allowances and any
992 defined contribution distributions if the integrity of the various funds is maintained through
993 appropriate accounting records [which shall be established];

994 ~~[(16) comply with the procedures and requirements of Title 63, Chapter 46b,
995 Administrative Procedures Act, in any adjudicative proceedings conducted by the director; and
996 ~~(17) from time to time, but]~~~~

997 (15) at least biennially[, and in cooperation with the Office of Legislative Research and
998 General Counsel;];

999 (a) make an actuarial investigation into the mortality, service, and other experience of the
1000 members [and], participants, beneficiaries, and covered individuals of the systems, plans, and
1001 programs[;];

1002 (b) actuarially value the assets and liabilities of the administered funds and accounts[;];
1003 and

1004 (c) determine the rate of interest being earned by the funds[, and, based upon all these
1005 determinations and factors, including items requested by the Office of Legislative Research and
1006 General Counsel, shall confer with that office and];

1007 (16) report to the board findings [of the investigation] under Subsection (15), with
1008 recommendations, [to the Legislature along with any] including proposed changes in the rates of
1009 contribution or benefits that are necessary to [the security] maintain the actuarial soundness of the
1010 [system, plan, or program. Costs of the investigation, as well as all actuarial consulting and other
1011 services, shall be paid from the interest earnings of the fund.] systems, plans, or programs;

1012 (17) regulate participating employers by:

1013 (a) educating them on their duties imposed by this title;

1014 (b) specifying the time, place, and manner in which contributions shall be withheld and
1015 paid; and

1016 (c) requiring any reports necessary for the administration of this title; and

1017 (18) otherwise exercise the powers and perform the duties conferred on the executive

1018 director by this title.

1019 Section 10. Section **49-11-301**, which is renumbered from Section 49-1-301 is renumbered
1020 and amended to read:

1021 **Part 3. Investment Fund**

1022 ~~[49-1-301].~~ **49-11-301. Creation -- Board to act as trustees of the fund --**
1023 **Commingling and pooling of funds -- Interest earnings.**

1024 (1) There is created ~~[for the purpose of enlarging the investment base and simplifying~~
1025 ~~investment procedures and functions]~~ a common trust fund known as the "Utah State Retirement
1026 Investment Fund[-]" for the purpose of enlarging the investment base and simplifying investment
1027 procedures and functions.

1028 (2) (a) The board shall act as trustees of the ~~[fund,]~~ Utah State Retirement Investment Fund
1029 and, through ~~[its]~~ the executive ~~[officer]~~ director, may commingle and pool the funds and
1030 investments of any ~~[retirement]~~ system, plan, or program into the Utah State Retirement
1031 Investment Fund, ~~[as long as]~~ if the principal amounts of the participating funds do not lose their
1032 individual identity and are maintained as separate trust funds on the books of the ~~[retirement]~~
1033 office.

1034 (b) (i) In combining the investments of any fund, each of the participating funds shall be
1035 credited initially with its share of the total assets transferred to the Utah State Retirement
1036 Investment Fund~~[-, the calculation being made on the basis of the fair market value of the various~~
1037 ~~investments at the time the investments are credited to the Utah State Retirement Investment~~
1038 ~~Fund].~~

1039 (ii) The value of the transferred assets shall be calculated in accordance with generally
1040 accepted accounting principles.

1041 (c) Subsequent transfers of additional capital from participating funds shall be credited
1042 similarly to its respective trust account.

1043 (d) ~~[Funds may be withdrawn or transferred out of the Utah State Retirement Investment~~
1044 ~~Fund and credited back to a participating fund, but at no time may the]~~ The income or principal
1045 or equity credit belonging to one participating fund may not be transferred to another, except for
1046 the purpose of:

1047 (i) actuarially recommended transfers in order to adjust employer contribution rates for an
1048 employer that participates in both contributory and noncontributory systems[-]; or

1049 (ii) transfers which reflect the value of service credit accrued in different systems during
1050 a member's career.

1051 (3) The assets of the [~~participating~~] funds are for the exclusive benefit of the members,
1052 participants, and covered individuals and may not be diverted or appropriated for any purpose
1053 other than that permitted by this [~~chapter or the chapters covering the individual participating~~
1054 ~~funds~~] title.

1055 (4) (a) Interest and other earnings shall be credited to each participating fund on a pro rata
1056 equity position basis [~~monthly, or otherwise as directed by the board~~].

1057 (b) (i) A portion of the interest and other earnings of the common trust fund may be
1058 credited to a reserve account within the Utah State Retirement Investment Fund to meet adverse
1059 experiences arising from investments or other contingencies.

1060 (ii) Each participating fund shall retain its proportionate equity in the reserve account.

1061 Section 11. Section ~~49-11-302~~, which is renumbered from Section 49-1-302 is renumbered
1062 and amended to read:

1063 [~~49-1-302~~]. **49-11-302. Board duties with respect to fund.**

1064 (1) The board [~~shall~~]:

1065 (a) shall review and establish the asset allocation of [~~all funds assigned to the board or~~
1066 ~~retirement office~~] the Utah State Retirement Investment Fund for investment, and [~~through its~~
1067 ~~with the~~ executive [~~officer~~] director, shall determine the method of investing the funds [~~to ensure~~
1068 ~~the greatest return commensurate with sound financing adequately safeguarded. The board,];~~

1069 (b) through [~~its~~] the executive [~~officer, may~~] director:

1070 (i) shall invest [~~and reinvest~~] the money in the [~~retirement fund or funds and~~] Utah State
1071 Retirement Investment Fund; and

1072 (ii) may provide for the holding, purchasing, selling, assigning, transferring, and disposing
1073 of any of the securities and investments in which any of the money of the [~~fund~~] Utah
1074 State Retirement Investment Fund is invested. [~~The board shall appoint a custodian for the funds~~
1075 ~~and securities under its control.~~

1076 (2) Fees for all services shall be paid from the interest earnings of the [~~investment fund~~]
1077 Utah State Retirement Investment Fund.

1078 [~~(2)~~] (3) [~~The board may hold title~~] Title to real estate or any other fund investment may
1079 be:

1080 (a) held in the name of the Utah State Retirement Investment Fund; or [~~may by rule~~
1081 ~~determine under what name or names it holds title to real estate or any other fund investment.~~]

1082 (b) held in another name or names as determined by the board.

1083 Section 12. Section **49-11-303**, which is renumbered from Section 49-1-303 is renumbered
1084 and amended to read:

1085 [~~49-1-303~~]. **49-11-303. Fund investment standard -- Prudent investor rule.**

1086 The [~~fund~~] Utah State Retirement Investment Fund shall be invested in accordance with
1087 the prudent [~~man~~] investor rule [~~established~~] under Section 75-7-302.

1088 Section 13. Section **49-11-304**, which is renumbered from Section 49-1-304 is renumbered
1089 and amended to read:

1090 [~~49-1-304~~]. **49-11-304. Administrative costs -- Payable from fund.**

1091 General administrative costs of operating the [~~retirement~~] office shall be assessed to the
1092 [~~retirement~~] systems, plans, programs, and funds [~~administered upon the basis of cost and service~~
1093 ~~performed. Special costs, such as actuarial studies and service, investment counsel, legal fees, and~~
1094 ~~medical examiner charges, which are or can be directly attributable to a system, plan, program, or~~
1095 ~~fund shall be paid directly from the respective fund involved. Since the administrative funds are~~
1096 ~~derived from the systems, plans, and programs administered by the retirement office, rather than~~
1097 ~~an administrative appropriation from the General Fund, any balance in the administrative fund at~~
1098 ~~the end of a fiscal or biennial period shall remain in the fund, but shall be taken into consideration~~
1099 ~~in preparing a subsequent budget] on a pro rata basis and shall be paid from earnings of the Utah
1100 State Retirement Investment Fund.~~

1101 Section 14. Section **49-11-305**, which is renumbered from Section 49-1-305 is renumbered
1102 and amended to read:

1103 [~~49-1-305~~]. **49-11-305. Self-insurance option -- Purchase of liability insurance.**

1104 (1) The [~~retirement~~] office may self insure and may purchase commercial insurance[~~, self~~
1105 ~~insure, or purchase excess commercial insurance in excess of] in any amount.~~

1106 (2) The office may also purchase excess commercial insurance above the limits provided
1107 by the Governmental Immunity Act against any:

1108 (a) risk created or recognized by the Governmental Immunity Act; or [~~any~~]

1109 (b) other action for which the board, office, or any of its employees, may be held liable.

1110 Section 15. Section **49-11-401**, which is renumbered from Section 49-1-401 is renumbered

1111 and amended to read:

1112 **Part 4. Service Credits**

1113 ~~[49-1-401].~~ **49-11-401. Transfer of service credit -- Eligibility for service credit --**
1114 **Computation of service credit.**

1115 (1) (a) The ~~[board]~~ office shall make the transfer of service ~~[credits]~~ credit, together with
1116 related member and participating employer contributions, from one ~~[retirement]~~ system to another
1117 upon terms and conditions established by the board.

1118 (b) The terms and conditions may not result in a loss of accrued benefits.

1119 (2) Transfer of employment from a position covered by one ~~[public retirement]~~ system to
1120 a position covered by another system does not ~~[either: (a)]~~ cause the employee to lose active
1121 ~~[membership]~~ member status ~~[in the system; or].~~

1122 ~~[(b) constitute a termination of employment prerequisite to qualifying for a refund of~~
1123 ~~contributions.]~~

1124 ~~[(2)]~~ (3) In the ~~[establishment]~~ accrual of service ~~[credits]~~ credit, the following provisions
1125 apply:

1126 ~~[(a) Any member of a retirement system who performs covered services shall receive~~
1127 ~~service credit for the service.]~~

1128 ~~[(b) Any member who is not in an active service status because of sickness, injury, leave~~
1129 ~~of absence, including service in the armed forces of the United States, or because the member is~~
1130 ~~in the process of transfer from one employing unit to another shall, upon returning to active status,~~
1131 ~~have the same rights and be subject to the same requirements as other employees under this title.]~~

1132 ~~[(c) (i) For the purpose of computing the amount of a member's retirement allowance, no~~
1133 ~~service credit may be given to any member for the period during which the member is on leave of~~
1134 ~~absence without compensation, except as otherwise provided in this title or Subsection (2)(c)(ii).]~~

1135 ~~[(ii) A member with full-time public service while on an approved leave of absence may~~
1136 ~~purchase, or the employer may purchase on their behalf, credit equal to the public service by~~
1137 ~~making contributions fixed by the administrator.]~~

1138 ~~[(d) No service credit may be given to a member for the period during which the member~~
1139 ~~was in any inactive status unless the service is purchased according to the provisions of this title.]~~

1140 ~~[(e) Credit for service shall be granted in proportion to the work performed under rules~~
1141 ~~adopted by the board. (f) In no case may a retirement]~~

1142 (a) A person employed and compensated by a participating employer who meets the
1143 eligibility requirements for membership in a system or the Utah Governors' and Legislators'
1144 Retirement Plan shall receive service credit for the term of the employment provided that all
1145 required contributions are paid to the office.

1146 (b) An allowance or other benefit [be granted] may not accrue under this title which is
1147 based upon the same [service] period of employment as has been the basis for any retirement
1148 benefits under some other [state] public retirement system.

1149 ~~[(g) Members shall be credited with any fractions of years of service to which they are~~
1150 ~~entitled.]~~

1151 ~~[(h)]~~ (c) The board shall fix the minimum time per day, per month, and per year upon the
1152 basis of which one year of service and proportionate parts of a year shall be credited toward
1153 qualification for retirement. Service may be computed on a fiscal or calendar year basis and
1154 portions of years served shall be accumulated and counted as service. In any event, all of the
1155 service rendered in any one fiscal or calendar year may not count for more than one year.

1156 ~~[(i) Any employee who is transferred to the Division of Information of Technology Service~~
1157 ~~from the Department of Public Safety, and who was a member in the Public Safety Retirement~~
1158 ~~System or Public Safety Noncontributory Retirement System, shall be entitled to remain a member~~
1159 ~~in the system he participated in prior to being transferred regardless of whether the employee's~~
1160 ~~current position is covered by the respective public safety system. This exception does not apply~~
1161 ~~to any person hired on or after January 1, 1992.]~~

1162 (d) Service credit shall be accrued on a fiscal or calendar year basis as determined by the
1163 participating employer.

1164 (e) A member may not accrue more than one year of service credit per fiscal or calendar
1165 year as determined by the office.

1166 (f) Fractions of years of service credit shall be accumulated and counted in proportion to
1167 the work performed.

1168 (4) The office may estimate the amount of service credit, compensation, or age of any
1169 member, participant, or alternate payee, if information is not contained in the records.

1170 ~~[(3) (a) The board may adopt rules under which a member may make the necessary~~
1171 ~~contributions to the system for purchases or redeposits under this title through a~~
1172 ~~direct transfer, direct rollover or rollover from a qualified plan under Section 401, Internal~~

1173 Revenue Code, or an eligible individual retirement account.]

1174 ~~[(b) The board may reject any contributions if the board determines the tax status of the~~
1175 ~~system would be jeopardized by allowing the contribution.]~~

1176 ~~[(c) For purposes of this section, a direct rollover shall be determined under the provisions~~
1177 ~~of Section 401(a)(31), Internal Revenue Code.]~~

1178 Section 16. Section **49-11-402**, which is renumbered from Section 49-1-402 is renumbered
1179 and amended to read:

1180 ~~[49-1-402].~~ **49-11-402. Purchase of military service credit.**

1181 ~~[(1)(a) Members with full-time military service not qualifying for service credit under this~~
1182 ~~title may purchase credit for that military service or the employer may make the purchase on behalf~~
1183 ~~of the member by making contributions to the system in an amount recommended by the~~
1184 ~~consulting actuary.]~~

1185 ~~[(b) Contributions shall be based on age and salary and the purchase shall be made through~~
1186 ~~payroll deductions or through a lump sum deposit based upon the present value of future~~
1187 ~~payments.]~~

1188 ~~[(c) Military service credit acquired in this manner is limited to a maximum of four years.]~~

1189 ~~[(d) Total payment must be completed prior to retirement or service will be prorated in~~
1190 ~~accordance with the amount paid. (2) Any employee of a covered unit, who has status as a]~~

1191 (1) A member [of a retirement system authorized by this title and] who is absent from
1192 employment with a participating employer by reason of an official call to full-time United States
1193 military service [in the armed forces of the United States,] may receive service credit for that
1194 military service as follows:

1195 (a) the member [and], the participating employer, or the member and participating
1196 employer jointly shall make the [appropriate contributions] required payments, as determined by
1197 the office, to the [retirement] system in which the member participated at the time of the official
1198 call, according to the law governing that particular system;

1199 (b) prior to a member's retirement date, the [contributions] required payments shall be
1200 made;

1201 (i) during the period of [the official call, or a contribution adjustment shall be made
1202 subsequent to the official call, but at least five years prior to the member's retirement date;]
1203 full-time United States military service;

1204 (ii) after the military service, but within a period not to exceed three times the period of
1205 military service up to a maximum of five years; or

1206 (iii) as otherwise allowed by federal law;

1207 (c) required payments shall be based on the member's compensation at the time of the
1208 official military call;

1209 (d) if a required payment is not made within the time allowed under Subsection (1)(b), the
1210 member or participating employer may purchase the service credit as allowed in Subsection (2);

1211 and

1212 [(c)] (e) the member [must] shall return to [covered service] employment with the
1213 participating employer upon receiving an honorable discharge from military service and there may
1214 not be intervening employment outside of [covered service ; and] the employment with the
1215 participating employer.

1216 [(d) contributions shall be based on the member's compensation at the time of the official
1217 military call.]

1218 (2) (a) A member, a participating employer, or a member and a participating employer
1219 jointly, may purchase service credit for full-time United States military service, resulting from an
1220 official call to duty, if the member has four or more years of service credit and the military service
1221 does not otherwise qualify for service credit under this title.

1222 (b) Payment to the office for a military service credit purchase shall be made to the system
1223 under which the member is currently covered in an amount determined by the office based on a
1224 formula recommended by the actuary and adopted by the board.

1225 (c) The purchase shall be made through payroll deductions or through a lump sum deposit
1226 based upon the present value of future payments.

1227 (d) If total payment is not completed prior to retirement, service credit shall be prorated
1228 in accordance with the amount paid.

1229 (3) For purposes of Subsection (2), full-time United States military service does not
1230 include any regularly scheduled or annual military service that is required by a reserve unit,
1231 National Guard unit, or any other United States military unit.

1232 (4) (a) If any of the factors used to determine the cost of a service credit purchase change
1233 at or before the member's retirement date, the cost of the purchase shall be recalculated.

1234 (b) If the recalculated cost exceeds the amount paid for the purchase, the member may:

1235 (i) pay the increased cost, plus interest, to receive the full amount of service credit; or

1236 (ii) not pay the increased cost and have the purchased service credit prorated.

1237 (5) If the recalculated cost under Subsection (4) is less than the amount paid for the

1238 purchase, the office shall refund the excess payment to the member or participating employer who

1239 paid for the purchase.

1240 (6) (a) The board may adopt rules under which a member may make the necessary

1241 payments to the office for purchases under this title as permitted by federal law.

1242 (b) The office may reject any payments if the office determines the tax status of the system,

1243 plans, or programs would be jeopardized by allowing the payment.

1244 Section 17. Section **49-11-403**, which is renumbered from Section 49-1-407 is renumbered

1245 and amended to read:

1246 **[49-1-407]. 49-11-403. Purchase of public service credit not otherwise qualifying**

1247 **for benefit.**

1248 (1) A member, a participating employer, or a member and a participating employer jointly

1249 may purchase service credit equal to the period of the member's [service] employment in the

1250 following:

1251 (a) United States federal employment;

1252 (b) [private school] employment in a private school based in the United States;

1253 (c) public employment in [this or] another state [that does not qualify for service credit

1254 under a system administered by the board] which qualifies the member for membership in the

1255 public plan or system covering the employment, but only if the member does not qualify for any

1256 retirement benefits based on the employment;

1257 [(d) employment in a university or a public school system if the member is on a leave of

1258 absence for reasons relating to employment;]

1259 [(e)] (d) forfeited [public] service credit in this state if the member does not qualify for [a

1260 retirement benefit for that service; or] an allowance based on the service credit;

1261 (e) full-time public service while on an approved leave of absence; or

1262 (f) the period of time for which disability benefits were paid if:

1263 (i) the member was receiving:

1264 (A) long-term disability benefits;

1265 (B) short-term disability benefits; or

- 1266 (C) worker's compensation disability benefits; and
- 1267 (ii) the member's employer had not entered into a benefit protection contract [~~pursuant to~~]
- 1268 under Section [49-1-404] 49-11-404 during the period the member was disabled due to sickness
- 1269 or accident.
- 1270 [~~(2) To purchase credit, the member shall pay an amount fixed by the administrator that~~
- 1271 ~~is established on an actuarial equivalent basis.]~~
- 1272 [~~(3) The purchase may be made through payroll deductions or through a lump-sum~~
- 1273 ~~deposit.]~~
- 1274 [~~(4) The employer may make the purchase on behalf of the member.]~~
- 1275 [~~(5) Total payment must be completed prior to retirement or service will be prorated in~~
- 1276 ~~accordance with the amount paid.]~~
- 1277 (2) A member shall have:
- 1278 (a) at least four years of service credit before a purchase can be made under this section;
- 1279 and
- 1280 (b) forfeited service credit under any other retirement system or plan based on the public
- 1281 employment for which service credit is being purchased.
- 1282 (3) To purchase credit under this section, the member, a participating employer, or a
- 1283 member and a participating employer jointly shall make payment to the system in an amount
- 1284 determined by the office based on a formula recommended by the actuary and adopted by the
- 1285 board.
- 1286 (4) The purchase may be made through payroll deductions or through a lump sum deposit
- 1287 based upon the present value of future payments.
- 1288 (5) Total payment must be completed prior to the member's effective date of retirement
- 1289 or service credit will be prorated in accordance with the amount paid.
- 1290 (6) (a) If any of the factors used to determine the cost of a service credit purchase change
- 1291 at or before the member's retirement date, the cost of the purchase shall be recalculated.
- 1292 (b) If the recalculated cost exceeds the amount paid for the purchase, the member, a
- 1293 participating employer, or a member and a participating employer jointly may:
- 1294 (i) pay the increased cost, plus interest, to receive the full amount of service credit; or
- 1295 (ii) not pay the increased cost and have the purchased service credit prorated.
- 1296 (7) If the recalculated cost under Subsection (6) is less than the amount paid for the

1297 purchase, the office shall refund the excess payment to the member or participating employer who
1298 paid for the purchase.

1299 (8) (a) The board may adopt rules under which a member may make the necessary
1300 payments to the office for purchases under this title as permitted by federal law.

1301 (b) The office may reject any payments if the office determines the tax status of the system,
1302 plans, or programs would be jeopardized by allowing the payment.

1303 Section 18. Section **49-11-404**, which is renumbered from Section 49-1-404 is renumbered
1304 and amended to read:

1305 **[49-1-404]. 49-11-404. Benefit protection contract authorized.**

1306 ~~[(1) Any department or political subdivision covered by any system administered by the~~
1307 ~~retirement office that has established a paid salary protection program under which its officers or~~
1308 ~~employees, during periods of disability arising out of sickness or accident, are paid by it or by an~~
1309 ~~insurance underwriter at the disabled member's rate of compensation in effect at the time disability~~
1310 ~~occurred and the program is substantially equivalent to the program offered under Title 49, Chapter~~
1311 ~~9, may with the approval of the board, enter into a "benefit protection contract" with the retirement~~
1312 ~~office.]~~

1313 (1) (a) A participating employer may establish a salary protection program under which
1314 its employees are paid during periods of disability.

1315 (b) If a salary protection program is established, a participating employer may enter into
1316 benefit protection contracts with the office.

1317 (c) A salary protection program shall:

1318 (i) pay benefits based on the disabled member's rate of compensation at the time of
1319 disability;

1320 (ii) be substantially equivalent to the long-term disability programs offered under Chapter
1321 21, Public Employees' Long-Term Disability Act; and

1322 (iii) comply with requirements adopted by the board.

1323 (2) ~~[The] A~~ benefit protection contract shall ~~[provide a means whereby]~~ allow:

1324 (a) the disabled member ~~[is]~~ to be considered ~~[to be]~~ an active ~~[participating]~~ member ~~[of~~
1325 ~~this retirement]~~ in a system and ~~[as such continues]~~ continue to accrue ~~[full-time]~~ service credit
1326 and salary ~~[credits during the time employer contributions;]~~ credit based ~~[upon]~~ on the member's
1327 ~~[full]~~ rate of pay in effect at the time disability ~~[began, are paid to the retirement office]~~

1328 commences:

1329 (b) the office to require participating employer contributions to be paid before granting
1330 service credit and salary credit to the member;

1331 ~~[(b)]~~ (c) the disabled member [or beneficiary remains] to remain eligible during the
1332 contract period for any ~~[retirement system]~~ benefits provided by the ~~[retirement]~~ system that covers
1333 the member; and

1334 ~~[(c)]~~ (d) the benefit for the disabled member [is] to be improved by the annual
1335 cost-of-living increase factor applied to retired members of the system that covered the [employee
1336 at the time of disability] member on the date the member is eligible to receive benefits under a
1337 benefit protection contract.

1338 (3) (a) The ~~[board]~~ office shall establish the manner and times when employer
1339 contributions are ~~[to be]~~ paid.

1340 (b) A failure to make the required payments is cause for the ~~[board]~~ office to cancel ~~[the~~
1341 ~~contracts as to any individual covered by the]~~ a contract.

1342 (c) Service credit and salary ~~[credits]~~ credit granted and accrued up to the time of
1343 cancellation~~[-however,]~~ may not be forfeited.

1344 (4) The board may adopt rules to implement and administer this section.

1345 Section 19. Section **49-11-405**, which is renumbered from Section 49-1-406 is renumbered
1346 and amended to read:

1347 ~~[49-1-406].~~ **49-11-405. Service credit from different systems or plans -- Eligibility**
1348 **and calculation of service credit.**

1349 (1) ~~[Any]~~ (a) A member who has [years of] service credit from two or more systems or
1350 [plans administered by the board which is not concurrent service] one or more systems and the
1351 Utah Governors' and Legislators' Retirement Plan may combine ~~[these credits]~~ service credit for
1352 purposes of determining eligibility for retirement.

1353 (b) The provisions of Subsection (1)(a) do not apply to concurrent service.

1354 (2) To be eligible for the calculation under Subsection (3), the member's ~~[years of]~~ service
1355 ~~[credits]~~ credit earned under the ~~[two or more]~~ different ~~[retirement]~~ systems or the Utah
1356 Governors' and Legislators' Retirement Plan shall at least equal the minimum ~~[number of years]~~
1357 amount of service credit required to retire ~~[under the system from which the member is seeking~~
1358 to retire] from the system which most recently covered the member.

1359 (3) If ~~[the]~~ a member meets the requirements of Subsection (2), the ~~[board]~~ office shall
1360 calculate the member's ~~[retirement]~~ allowance using all ~~[credits]~~ service credit earned from any
1361 ~~[retirement]~~ system or the Utah Governors' and Legislators' Retirement Plan, with no actuarial
1362 reduction applied to the allowance, except the ~~[years-of]~~ service credit used to calculate the benefit
1363 shall be increased or decreased to reflect the value of the assets transferred ~~[to effectuate the~~
1364 ~~calculation of the allowance]~~.

1365 (4) The ~~[retirement board]~~ office shall ~~[adopt rules to]~~ establish the standards used for
1366 calculating any increase or decrease in the ~~[years-of]~~ service credit.

1367 (5) This section does not apply to a retiree who is subject to Section 49-11-504.

1368 Section 20. Section **49-11-501**, which is renumbered from Section 49-1-502 is renumbered
1369 and amended to read:

1370 **Part 5. General Member Provisions**

1371 ~~[49-1-502].~~ **49-11-501. Refunds of member contributions -- Transfers of**
1372 **contributions to defined contribution plan.**

1373 (1) If a member shall for any cause, except retirement, permanent or temporary disability,
1374 or death, ~~[cease to be employed in covered services for an employer then]~~ terminate employment
1375 with a participating employer the member may~~[:]~~ leave the member contributions in the fund or
1376 may receive a refund of the member contributions as provided under this section.

1377 ~~[(a) By signing a written request, affirming therein that the member has neither applied for,~~
1378 ~~nor contemplates further employment with a covered unit, and directing the request to the~~
1379 ~~retirement office, receive a refund of all accumulated contributions, less a withdrawal fee the~~
1380 ~~amount of which the board shall establish by rule for the purpose of reimbursing its administrative~~
1381 ~~fund for the cost entailed by the withdrawal. Notwithstanding the written request, if a member~~
1382 ~~who has requested a refund accepts employment with another covered unit within the 60-day~~
1383 ~~period, the member shall inform the retirement office immediately. In the event of this election,~~
1384 ~~a terminating employee, upon later reemployment by an employer under this title, unless the~~
1385 ~~employee redeposits the refund as permitted by this section, shall be treated as a new employee and~~
1386 ~~the employee's service history and benefit rights shall then be based upon current services from the~~
1387 ~~date of reemployment in covered services.]~~

1388 ~~[(b) Leave the member's account in the fund intact. In the event of this election, a~~
1389 ~~terminating employee shall retain status as a member of the system, except for the lack of~~

1390 contributions paid into the fund by the member or on the member's behalf. In the event of
1391 reemployment by an employer for services covered by this title, the employee's service history and
1392 benefit rights shall be based upon the service credit accredited to the employee at the time of the
1393 employee's most recent termination of employment, as well as upon the current service credit that
1394 is acquired as the result of reemployment.]

1395 ~~[(2) Upon the attainment of retirement age, an inactive member has the same rights to~~
1396 ~~retirement benefits, if so eligible, as any active employee member.]~~

1397 ~~[(3) Refunds of vested contributions may not be made prior to 60 days from the last day~~
1398 ~~the contributions were made, and only upon the termination of the member.]~~

1399 ~~[(4) No refund may be made to an active member of any retirement system administered~~
1400 ~~by the board. Contributions made in error will be returned to the employing unit.]~~

1401 (2) A member who applies for a refund of member contributions shall apply in writing on
1402 forms provided by the office.

1403 (3) A refund of member contributions may not be made to a member within 60 days from
1404 the last date of the pay period for which contributions are made by or on behalf of the member.

1405 (4) If the member is reemployed by a participating employer within the time period under
1406 Subsection (3), the member is not eligible for a refund.

1407 (5) A member who receives a refund of member contributions forfeits the service credit
1408 based on those contributions.

1409 ~~[(5) Members]~~ (6) A member who [are] is exempted from a [retirement] system
1410 [administered by the board] but who [remain] remains employed by a [covered unit] participating
1411 employer may request a plan-to-plan transfer of [vested, untaxed employee contributions to a
1412 salary deferral plan administered by the board, as permitted by federal law] member contributions
1413 to a qualified defined contribution plan administered by the board.

1414 ~~[(6) An employee, who is no longer a member of a retirement system administered by the~~
1415 ~~board because the employee's employing unit withdrew from the retirement systems under this~~
1416 ~~title, may request a plan transfer of vested employee contributions to a plan offered by the~~
1417 ~~employer that is qualified to receive the transfer under federal law.]~~

1418 (7) A member who remains employed with an employer which has withdrawn from a
1419 system may request a plan-to-plan transfer of member contributions to a qualified defined
1420 contribution plan administered by the board or a qualified plan offered by the member's employer.

1421 (8) Refund interest shall be paid on refunds of member contributions under this section.

1422 Section 21. Section **49-11-502**, which is renumbered from Section 49-1-503 is renumbered
1423 and amended to read:

1424 ~~[49-1-503].~~ **49-11-502. Redeposits of refunds -- Time period.**

1425 (1) ~~[A]~~ (a) ~~If a member [of any system who withdraws accumulated contributions upon~~
1426 ~~a previous termination of employment and who returns to covered employment in a status~~
1427 ~~prerequisite for membership may redeposit or the member's employer may redeposit the~~
1428 ~~accumulated] receives a refund of member contributions and is subsequently reemployed in a~~
1429 ~~position covered by a system or the Utah Governors' and Legislators' Retirement Plan, the~~
1430 ~~participating employer or the member may redeposit an amount equal to the member contributions~~
1431 ~~[withdrawn, together with] refunded and interest charged under Section 49-11-503.~~

1432 (b) The interest shall be compounded annually from the date of refund through the month
1433 of payment[; at rates compounded annually under Section 49-1-504].

1434 (c) If a redeposit is made, service credit shall be restored [and credited to the same
1435 retirement system from which the refund was taken providing that the total redeposit is made prior
1436 to retirement] to the member's account and credited to the same system or the Utah Governors' and
1437 Legislator's Retirement Plan from which the refund was taken.

1438 (2) (a) A member may redeposit ~~[a previous]~~ an amount equal to a prior refund of member
1439 contributions and interest charges in one lump sum or [may redeposit the refund amount and
1440 interest charges] in monthly installments by payroll deduction in a time period determined by the
1441 [executive director] office.

1442 (b) If the total redeposit is not made prior to the member's retirement date, the amount of
1443 redeposit paid to the office shall be refunded to the member without interest and the member is not
1444 entitled to service credit based on the amount of the refund.

1445 (c) The interest rate charged during the installment period shall be a fixed rate calculated
1446 at the time of the first installment payment in accordance with Section 49-11-503.

1447 (3) A member who redeposits a refund of member contributions under this section shall
1448 receive the amount of service credit forfeited in taking the refund.

1449 (4) (a) For purposes of this section, the Public Employees' Contributory Retirement
1450 System created under Chapter 12, and the Public Employees' Noncontributory Retirement System
1451 created under Chapter 13, are considered one system.

1452 (b) For purposes of this section, the Public Safety Contributory Retirement System created
1453 under Chapter 14, and the Public Safety Noncontributory Retirement System created under Chapter
1454 15, are considered one system.

1455 (c) For purposes of this section, the Judges' Contributory Retirement System created under
1456 Chapter 17, and the Judges' Noncontributory Retirement System created under, Chapter 18, are
1457 considered one system.

1458 (5) (a) The board may make rules to allow a member to make the necessary payments to
1459 the office for redeposits under this title as permitted by federal law.

1460 (b) The office may reject any payments if the office determines the tax status of the
1461 systems, plans, or programs may be jeopardized by allowing the payment.

1462 Section 22. Section **49-11-503**, which is renumbered from Section 49-1-504 is renumbered
1463 and amended to read:

1464 **[49-1-504]. 49-11-503. Rate of interest on redeposits, purchases, and delinquent**
1465 **payments.**

1466 The rate of interest charged on redeposits of refunds, [~~withdrawals~~] purchases, or
1467 delinquent [~~contributions~~] payments is the greater of:

1468 (1) [~~the average rate of the effective yield for the previous five years, rounded off to the~~
1469 ~~nearest whole or quarter percent rate, which has been earned by the Utah State Retirement~~
1470 ~~Investment Fund at the end of each preceding calendar year, as determined by the executive~~
1471 ~~director and] the interest rate as determined under a formula approved by the board; or~~

1472 (2) the actuarial interest rate as of the preceding June 30.

1473 Section 23. Section **49-11-504**, which is renumbered from Section 49-1-505 is renumbered
1474 and amended to read:

1475 **[49-1-505]. 49-11-504. Reemployment of a retiree -- Restrictions.**

1476 [~~The following laws govern the reemployment of a member of any system administered~~
1477 ~~by the board who has retired from any agency and who returns to work at that agency after~~
1478 ~~retirement. A member of any system administered by the board who has retired from any agency~~
1479 ~~and who returns to work for a private employer or at a different agency from which the member~~
1480 ~~retired is not subject to any reemployment restrictions under this section, except as provided in~~
1481 ~~Subsection (4).]~~

1482 [(1) (a) (i) ~~If a member of any system administered by the board retires from any agency~~

1483 and is reemployed within a six month period by the agency from which the member retired,
1484 including exempt positions, but excluding part-time or full-time elected officials, the employer
1485 shall immediately notify the administrator.]

1486 [(ii) If the member has full-time employment and is not subject to Subsection (1)(b), the
1487 administrator shall cancel the member's retirement allowance and reinstate the member to active
1488 member status.]

1489 [(iii) This cancellation of retirement and reinstatement to active status is effective on the
1490 first day of the month following the date of reemployment.]

1491 [(iv) If a member's retirement allowance is cancelled and the member is reinstated to active
1492 member status pursuant to this subsection, the member may not retire again with a recalculated
1493 benefit for a two-year period from the date of cancellation of the original retirement. If the
1494 member retires again within the two-year period, the original retirement benefit shall be resumed.]

1495 [(v) A reinstated member shall be credited with the service credits standing to the
1496 member's account at the time of the first retirement and from that time shall be treated as a member
1497 of the system in all respects, including the accrual of additional service credits but subject to
1498 recalculation of the retirement allowance under Subsection (4).]

1499 [(b) (i) If the member is reemployed on a part-time basis or is not an elected official and
1500 is otherwise subject to Section 49-4-205, 49-4a-206, or 49-5-204, that member or employee may
1501 earn, without penalty, compensation from that position or employment which is not in excess of
1502 the exempt earnings permitted by Social Security.]

1503 [(ii) If a member or an employee receives compensation in a calendar year in excess of the
1504 limitation, 25% of the retirement allowance shall be suspended.]

1505 [(iii) The effective date of a suspension and reinstatement of an allowance shall be set by
1506 the administrator.]

1507 [(iv) Any suspension of a member's retirement allowance pursuant to Subsection (1)(b)(ii)
1508 shall be calculated on a calendar year basis.]

1509 [(2) The member and employer shall maintain an accurate record of gross earnings in
1510 employment after retirement, shall report the gross earnings on a monthly basis to the retirement
1511 office, and shall immediately notify the administrator in writing of any postretirement earnings
1512 under Subsection (1)(a) and whether postretirement earnings equal or exceed the exempt earnings
1513 under Subsection (1)(b).]

1514 ~~[(3) If a member is reinstated to active service and subsequently retires after the two-year~~
1515 ~~period as provided in Subsection (1)(a)(iv), the member's retirement allowance shall be calculated~~
1516 ~~using:]~~

1517 ~~[(a) the formula in effect at the date of the member's original retirement for all service prior~~
1518 ~~to that date; and]~~

1519 ~~[(b) the formula in effect at the date of the subsequent retirement for all service rendered~~
1520 ~~between the first and the subsequent retirement dates.]~~

1521 ~~[(4) (a) A member who has retired from any agency and who returns to work at that~~
1522 ~~agency or a different agency from which the member retired may not accrue any additional service~~
1523 ~~credit, except that a member who cancels the retirement allowance under Subsection (1) may earn~~
1524 ~~additional service credit.]~~

1525 ~~[(b) If a member may not accrue additional service credit under Subsection (4)(a), then the~~
1526 ~~member's employer shall contribute the same percentage of the member's salary that would have~~
1527 ~~been contributed if the member were a member of the retirement system to a:]~~

1528 ~~[(i) defined contribution plan administered by the board if the employer participates in the~~
1529 ~~defined contribution plan administered by the board; or]~~

1530 ~~[(ii) defined contribution plan offered by the employer if the employer does not participate~~
1531 ~~in the defined contribution plan administered by the board.]~~

1532 ~~[(5) For the purposes of this section:]~~

1533 ~~[(a) "full-time" employment means employment of 20 or more hours per week; and]~~

1534 ~~[(b) "part-time" employment means employment of less than 20 hours per week.]~~

1535 (1) A person who retires from a nonparticipating employer is not subject to any
1536 postretirement restrictions under this title.

1537 (2) A retiree of an agency who returns to work at a different agency is not subject to any
1538 postretirement restrictions under this section and may not earn additional service credit.

1539 (3) For the purposes of Subsections (4) and (5), "full-time" employment means
1540 employment requiring compensation for 20 hours per week or more or at least a half-time teaching
1541 contract.

1542 (4) A retiree of an agency who is reemployed on a full-time basis by the same agency
1543 within six months of the date of retirement is subject to the following:

1544 (a) the agency shall immediately notify the office;

1545 (b) the office shall cancel the retiree's allowance and reinstate the retiree to active member
1546 status;

1547 (c) the allowance calculations and reinstatement to active member status is effective on
1548 the first day of the month following the date of reemployment;

1549 (d) the reinstated retiree may not retire again with a recalculated benefit for a two-year
1550 period from the date of cancellation of the original allowance, and if the retiree retires again within
1551 the two-year period, the original allowance shall be resumed; and

1552 (e) a reinstated retiree shall be credited with the service credit in the retiree's account at
1553 the time of the first retirement and from that time shall be treated as a member of a system,
1554 including the accrual of additional service credit, but subject to recalculation of the allowance
1555 under Subsection (9).

1556 (5) A retiree of an agency who is reemployed by the same agency within six months of
1557 retirement on a less than full-time basis by the same agency is subject to the following:

1558 (a) the retiree may earn, without penalty, compensation from that position which is not in
1559 excess of the exempt earnings permitted by Social Security;

1560 (b) if a retiree receives compensation in a calendar year in excess of the Social Security
1561 limitation, 25% of the allowance shall be suspended for the remainder of the six-month period;

1562 (c) the effective date of a suspension and reinstatement of an allowance shall be set by the
1563 office; and

1564 (d) any suspension of a retiree's allowance under this Subsection (5) shall be applied on
1565 a calendar year basis.

1566 (6) For six months immediately following retirement, the retiree and participating
1567 employer shall:

1568 (a) maintain an accurate record of gross earnings in employment;

1569 (b) report the gross earnings at least monthly to the office;

1570 (c) immediately notify the office in writing of any postretirement earnings under
1571 Subsection (4); and

1572 (d) immediately notify the office in writing whether postretirement earnings equal or
1573 exceed the exempt earnings under Subsection (5).

1574 (7) A retiree of an agency who is reemployed by the same agency after six months from
1575 the retirement date is not subject to any postretirement penalties under this title and may not earn

1576 additional service credit.

1577 (8) If a participating employer hires a retiree that may not earn additional service credit
1578 under this section, the participating employer shall contribute the same percentage of a retiree's
1579 salary that the participating employer would have been required to contribute if the retiree were
1580 an active member, up to the amount allowed by federal law, to a retiree designated:

1581 (a) defined contribution plan administered by the board, if the participating employer
1582 participates in the defined contribution plan administered by the board; or

1583 (b) defined contribution plan offered by the participating employer if the participating
1584 employer does not participate in a defined contribution plan administered by the board.

1585 (9) Notwithstanding any other provision of this section, a retiree who has returned to work,
1586 accrued additional service credit, and again retires shall have the retiree's allowance recalculated
1587 using:

1588 (a) the formula in effect at the date of the retiree's original retirement for all service credit
1589 accrued prior to that date; and

1590 (b) the formula in effect at the date of the subsequent retirement for all service credit
1591 accrued between the first and subsequent retirement dates.

1592 (10) This section does not apply to elected positions.

1593 ~~[(6)]~~ (11) The board may make rules to implement this section.

1594 Section 24. Section **49-11-601**, which is renumbered from Section 49-1-601 is renumbered
1595 and amended to read:

1596 **Part 6. Procedures and Records**

1597 ~~[49-1-601].~~ **49-11-601. Payment of employer contributions -- Penalties for failure**
1598 **to comply -- Adjustments to be made.**

1599 (1) The employer contributions, fees, ~~[and]~~ premium taxes, contribution adjustments, and
1600 other required payments shall be paid to the ~~[fund]~~ office by the participating employer ~~[in~~
1601 ~~accordance with rules adopted by the board]~~ as determined by the executive director.

1602 (2) ~~[Any employing unit]~~ A participating employer that fails to withhold the amount of any
1603 ~~[employee] member contributions [is required to pay the contribution, together with any employer~~
1604 ~~contribution, fee, or premium tax, to the fund, if necessary, out of its own funds],~~ as soon as
1605 administratively possible, shall also pay the member contributions to the office out of its own
1606 funds.

1607 (3) ~~[(a)]~~ If ~~[an employing unit]~~ a participating employer does not make the ~~[payments]~~
1608 contributions required by this title ~~[as the payments become due, there is added as part of the~~
1609 ~~amounts due, except for corrections in the amounts of contributions, fees, and premium taxes~~
1610 ~~arising out of error in computation, interest established under this title:]~~ within 60 days of the end
1611 of the pay period, the participating employer is liable to the office as provided in Section
1612 49-11-604 for:

- 1613 (a) delinquent contributions;
1614 (b) refund interest on the delinquent contributions; and
1615 (c) a 12% per annum penalty on delinquent contributions.

1616 ~~[(b)]~~ (4) The ~~[board]~~ executive director may waive all or any part of the interest, penalties,
1617 expenses, and fees if the ~~[board]~~ executive director finds there were extenuating circumstances
1618 surrounding ~~[any delinquencies]~~ the participating employer's failure to comply with this section.

1619 ~~[(4) If more or less than the correct amount of contributions, fees, and premium taxes~~
1620 ~~required by this title is deducted with respect to any payment of compensation, the employer shall~~
1621 ~~make the necessary adjustment with or without interest as required by the board.]~~

1622 (5) Contributions made in error will be refunded to the participating employer or member
1623 that made the contributions.

1624 Section 25. Section **49-11-602**, which is renumbered from Section 49-1-602 is renumbered
1625 and amended to read:

1626 ~~[49-1-602].~~ **49-11-602. Participating employer to maintain records -- Time limit --**
1627 **Penalties for failure to comply.**

1628 (1) ~~[Each employing unit]~~ A participating employer shall maintain records ~~[and file reports~~
1629 ~~relating to compensation, employees, service, and other factors relating to the proper~~
1630 ~~administration of this title under rules adopted by the board]~~ necessary to calculate benefits under
1631 this title and other records necessary for proper administration of this title as required by the office.

1632 ~~[(2) A penalty of 1% of the covered unit's last monthly employer contribution to the~~
1633 ~~system may be assessed by the board for each week a required payroll report of members' earnings~~
1634 ~~and employer contributions is delinquent beyond a 60-day grace period beginning with the month~~
1635 ~~after the month in which the report is due.]~~

1636 (2) A participating employer shall maintain the records required under Subsection (1) until
1637 three years after the latest of:

- 1638 (a) the date of retirement of the employee from a system or plan; or
- 1639 (b) the date of death of the employee.
- 1640 (3) A participating employer shall be liable to the office for:
- 1641 (a) any liabilities and expenses, including administrative expenses and the cost of
- 1642 increased benefits to members, resulting from the participating employer's failure to maintain
- 1643 records under this section; and
- 1644 (b) 12% per annum penalty of those liabilities and expenses.
- 1645 (4) The executive director may waive all or any part of the interest, penalties, expenses,
- 1646 and fees if the executive director finds there were extenuating circumstances surrounding the
- 1647 participating employer's failure to comply with this section.
- 1648 (5) The executive director may estimate the length of service, compensation, or age of any
- 1649 member, if that information is not contained in the records.

1650 Section 26. Section **49-11-603** is enacted to read:

1651 **49-11-603. Participating employer to report and certify -- Time limit -- Penalties for**
1652 **failure to comply.**

1653 (1) As soon as administratively possible, but in no event later than 60 days after the end
1654 of each pay period, a participating employer shall report and certify to the office:

1655 (a) the eligibility for service credit accrual of:

1656 (i) all current members;

1657 (ii) each new member as they begin employment; and

1658 (iii) any changes to eligibility for service credit accrual of each member.

1659 (b) the compensation of each current member eligible for service credit; and

1660 (c) other factors relating to the proper administration of this title as required by the
1661 executive director.

1662 (2) Each participating employer shall submit the reports required under Subsection (1) in
1663 a form approved by the office.

1664 (3) A participating employer shall be liable to the office for:

1665 (a) any liabilities and expenses, including administrative expenses and the cost of
1666 increased benefits to members, resulting from the participating employer's failure to correctly
1667 report and certify records under this section;

1668 (b) 12% per annum penalty of those liabilities and expenses; and

1669 (c) attorneys' fees.

1670 (4) The executive director may waive all or any part of the interest, penalties, expenses,
1671 and fees if the executive director finds there were extenuating circumstances surrounding the
1672 participating employer's failure to comply with this section.

1673 (5) The executive director may estimate the length of service, compensation, or age of any
1674 member, if that information is not contained in the records.

1675 Section 27. Section **49-11-604** is enacted to read:

1676 **49-11-604. Office audits of participating employers -- Penalties for failure to comply.**

1677 (1) (a) The office may perform on-site compliance audits of participating employers to
1678 determine compliance with reporting, contribution, and certification requirements under this title.

1679 (b) The office may request records to be provided by the participating employer at the time
1680 of the audit.

1681 (c) Audits shall be conducted at the sole discretion of the office after reasonable notice to
1682 the participating employer of at least five working days.

1683 (d) The participating employer shall extract and provide records as requested by the office
1684 in an appropriate, organized, and usable format.

1685 (e) Failure of a participating employer to allow access, provide records, or comply in any
1686 way with an office audit shall result in the participating employer being liable to the office for:

1687 (i) any liabilities and expenses, including administrative expenses and travel expenses,
1688 resulting from the participating employer's failure to comply with the audit; and

1689 (ii) a 1% penalty of the participating employer's last month's contributions.

1690 (2) If the audit reveals a participating employer's failure to make contributions as required
1691 under Section 49-11-601, a failure to maintain records as required under Section 49-11-602, or a
1692 failure to correctly report or certify eligibility as required under Section 49-11-603, the
1693 participating employer shall reimburse the office for the cost of the audit.

1694 (3) If the audit reveals that an incorrect benefit has been paid by the office to a member,
1695 participant, alternate payee, or beneficiary due to a participating employer's failure to comply with
1696 the requirements of Section 49-11-601, 49-11-602, or 49-11-603, in addition to the liabilities
1697 contained in Subsection (2), the participating employer shall be liable to the office for the
1698 following:

1699 (a) the actuarial cost of correcting the incorrect benefit; and

1700 (b) administrative expenses.

1701 (4) The executive director may waive all or any part of the interest, penalties, expenses,
1702 and fees if the executive director finds there were extenuating circumstances surrounding the
1703 participating employer's failure to comply with this section.

1704 Section 28. Section **49-11-605** is enacted to read:

1705 **49-11-605. Notification and correction of violations.**

1706 If a participating employer discovers that it has violated Section 49-11-601, 49-11-602, or
1707 49-11-603 prior to the office becoming aware of the violation, notifies the office of the violation
1708 in writing, and corrects the violation within a period agreed to by the office, the penalties under
1709 those sections shall be waived.

1710 Section 29. Section **49-11-606** is enacted to read:

1711 **49-11-606. Full participation.**

1712 Except as provided in Sections 49-12-203, 49-12-204, 49-13-203, 49-13-204, 49-14-203,
1713 and 49-15-203, participating employers shall cover all employees eligible for service credit under
1714 this title.

1715 Section 30. Section **49-11-607**, which is renumbered from Section 49-1-603 is renumbered
1716 and amended to read:

1717 ~~[49-1-603].~~ **49-11-607. Determination of benefits -- Errors in records or**
1718 **calculations -- Correction of errors by the office.**

1719 (1) After the ~~[date of]~~ retirement date, which shall be set by a member in the member's
1720 application for retirement, no alteration, addition, or cancellation of a benefit may be made except
1721 as provided in Subsections (2), (3), and (4) or other law.

1722 (2) (a) Errors in the records or in the calculations of the ~~[retirement]~~ office which result
1723 in an incorrect benefit to any member, retiree, participant, covered individual, alternate payee, or
1724 beneficiary [receiving more or less than the member or beneficiary is entitled to receive] shall be
1725 corrected by the ~~[administrator]~~ office.

1726 (b) Future payments shall be made to any member, retiree, participant, covered individual,
1727 alternate payee, or beneficiary~~[-insofar as practicable, on an actuarially equivalent basis so as]~~ to:

1728 ~~[(a)]~~ (i) pay the benefit to which the member or beneficiary was entitled; or

1729 ~~[(b)]~~ (ii) recover any overpayment.

1730 ~~[(3) When it is documented that an incorrect calculation by an employing unit has resulted~~

1731 in a decreased benefit to a retirant, and the incorrect calculation is due to a bona fide error in
1732 employer records, the error may be corrected by the administrator, if the employing unit makes the
1733 calculation adjustment required by the administrator to keep the retirement system affected
1734 actuarially sound.]

1735 (3) (a) Errors in the records or calculation of a participating employer which result in an
1736 incorrect benefit to a member, retiree, participant, covered individual, alternate payee, or
1737 beneficiary shall be corrected by the participating employer.

1738 (b) If insufficient employer contributions have been received by the office, the
1739 participating employer shall pay any delinquent employer contributions, plus interest under Section
1740 49-11-503, required by the office to maintain the system, plan, or program affected on an
1741 actuarially sound basis.

1742 (c) If excess contributions have been received by the office, the contributions shall be
1743 refunded to the participating employer or member which paid the contributions.

1744 (4) If a [salary] dispute exists between [an employing unit] a participating employer and
1745 [an employee] a member at the time of the [employee's] member's retirement which will affect the
1746 [employee's retirement] member's benefit calculation, and notice of the dispute is given to the
1747 [retirement] office prior to the calculation of a member's benefit, the benefit may be paid based on
1748 the member's [stated] retirement date and [on] the records available [at that time] and then
1749 recalculated upon settlement of the dispute [according to Subsection (2)].

1750 Section 31. Section **49-11-608**, which is renumbered from Section 49-1-604 is renumbered
1751 and amended to read:

1752 **[49-1-604]. 49-11-608. False statements or records -- Unlawfully cashing benefit**
1753 **checks.**

1754 (1) [Any] A person who knowingly makes any false statement, or who falsifies or permits
1755 to be falsified any record necessary for carrying out the intent of this title is in violation of Section
1756 76-6-504.

1757 (2) [Any] A person cashing a benefit check to which that person is not entitled is in
1758 violation of Section 76-6-501.

1759 Section 32. Section **49-11-609**, which is renumbered from Section 49-1-606 is renumbered
1760 and amended to read:

1761 **[49-1-606]. 49-11-609. Beneficiary designations -- Revocation of beneficiary**

1762 **designation -- Procedure -- Beneficiary not designated -- Payment to survivors in order**
1763 **established under the Uniform Probate Code -- Restrictions on payment -- Payment of**
1764 **deceased's expenses.**

1765 (1) As used in this section, "member" includes a member, retiree, participant, covered
1766 individual, a spouse of a retiree participating in the insurance benefits created by Sections
1767 49-12-404 and 49-13-404, or an alternate payee under a domestic relations order dividing a defined
1768 contribution account.

1769 [~~(1)~~] (2) The most recent beneficiary [~~designation in a member's file at the retirement~~
1770 ~~office]~~ designations contained in office records, including electronic records, at the time of the
1771 member's death [~~is~~] are binding in the payment of any benefits due under this title.

1772 [~~(2) A~~] (3) (a) Except where an optional continuing benefit is chosen, or the law makes
1773 a specific benefit designation to a dependent spouse, a member may revoke a beneficiary
1774 designation [~~of beneficiary~~] at any time and may execute and file a different beneficiary
1775 designation [~~by executing and filing with the retirement office a written beneficiary designation~~
1776 ~~on forms provided by the retirement office, except where an optional continuing plan is chosen,~~
1777 ~~or the law makes a specific benefit designation to a dependent spouse, in which case the~~
1778 ~~beneficiary designation may not be revoked.] with the office.~~

1779 (b) A change of beneficiary designation shall be completed on forms provided by the
1780 office.

1781 (4) (a) All benefits payable by the office may be paid or applied to the benefit of the
1782 surviving next of kin of the deceased in the order of precedence established under Title 75, Chapter
1783 2, Intestate Succession and Wills, if:

1784 [~~(3) If~~] (i) no beneficiary is designated [~~, all benefits payable from the retirement system~~
1785 ~~may be paid or applied to the benefit of the surviving next of kin of the deceased in the order of~~
1786 ~~precedence established under Title 75, Chapter 2, Intestate Succession and Wills.];~~

1787 (ii) the location of the beneficiary cannot be ascertained by the office within 12 months
1788 of the date beneficiaries are provided with the forms; or

1789 (iii) the beneficiary has not completed the forms necessary to pay the benefits within six
1790 months of the date beneficiaries are provided the forms.

1791 [~~(4) No~~] (b) (i) A payment may not be made to [~~persons~~] a person included in any of
1792 [~~these~~] the groups referred to in Subsection (3)(a) if at the date of payment there [~~are~~] is a living

1793 [~~persons~~] person in any of the groups preceding it.

1794 (ii) Payment to [~~the persons~~] a person in any group based upon receipt from [~~those~~
1795 ~~persons~~] the person of an affidavit in a form satisfactory to the [~~administrator~~] office that:

1796 [~~(a)~~] (A) there are no living individuals in the group preceding it;

1797 [~~(b) that~~] (B) the probate of the estate of the deceased has not been commenced; and

1798 [~~(c) that~~] (C) more than three months have elapsed since the date of death of the
1799 decedent[;].

1800 (5) Benefits paid under this section shall be [~~in~~]:

1801 (a) a full satisfaction and discharge of all claims for benefits under this title; and

1802 (b) payable by reason of the death of the decedent.

1803 [~~(5) If the location of the nominated beneficiary cannot be ascertained or if the nominated~~
1804 ~~beneficiary is the estate of the deceased person, the administrator may pay the costs of the~~
1805 ~~deceased's last illness, convalescent care, and funeral expenses directly to the undertaking~~
1806 ~~establishment, hospital, doctor, or convalescent home which provided the service. The~~
1807 ~~administrator shall require verified statements of the charges before making partial or full payment.~~
1808 ~~The payment shall discharge the obligation of the system and of the fund up to the amount paid.]~~

1809 Section 33. Section **49-11-610**, which is renumbered from Section 49-1-607 is renumbered
1810 and amended to read:

1811 [~~49-1-607~~]. **49-11-610. Benefits payable in name of beneficiary -- Delivery.**

1812 (1) (a) Any benefits payable to a beneficiary [~~or dependent beneficiary~~] shall be made in
1813 the name of [~~the beneficiary or beneficiaries~~] and delivered to the beneficiary or the lawfully
1814 appointed guardian or conservator of the beneficiary, or delivered as otherwise ordered by a court
1815 of competent jurisdiction [~~pursuant to~~] under Title 75, Utah Uniform Probate Code. [~~In those~~
1816 ~~cases where~~]

1817 (b) If the benefit involves a payment not to exceed an amount authorized by the Utah
1818 Uniform Probate Code to any one beneficiary, the [~~administrator~~] office may, without the
1819 appointment of a guardian or conservator or the giving of a bond, pay the amount due to the
1820 [~~beneficiaries themselves~~] beneficiary or to the [~~person,~~] persons[; ~~or institutions~~] assuming their
1821 support.

1822 (c) The payment shall be in either a lump sum or in monthly amounts[; ~~and the~~].

1823 (d) The total of the payments [~~so~~] made under this section shall [~~be a full~~] fully discharge

1824 and release [to] the [system] office from any further claims.

1825 (2) All continuing monthly benefits payable to beneficiaries upon the death of [an active]
1826 a member or participant shall be [paid] effective on the first day of the month following the date
1827 of death of the member or participant.

1828 Section 34. Section **49-11-611**, which is renumbered from Section 49-1-608 is renumbered
1829 and amended to read:

1830 **~~[49-1-608]. 49-11-611. Benefits and money in the fund exempt from taxation --~~**
1831 **Exceptions.**

1832 ~~[The]~~ (1) Except as provided under Subsection (2), the benefits accrued or paid to any
1833 beneficiary of any system or plan administered by the ~~[retirement office]~~ board and the
1834 ~~[accumulated]~~ contributions, money, ~~[and]~~ securities, and other assets in the ~~[fund]~~ funds created
1835 by this title are exempt from any state, county, or municipal tax~~[-except that the retirement].~~

1836 (2) An allowance, a refund of member contributions, or other benefits that are subject to
1837 ~~[the]~~ federal income tax, which ~~[are]~~ is received by a member, retiree, alternate payee, participant,
1838 or beneficiary of any system or plan administered by the board and which ~~[have]~~ has not been
1839 taxed is subject to Title 59, Chapter 10, Individual Income Tax Act.

1840 Section 35. Section **49-11-612**, which is renumbered from Section 49-1-609 is renumbered
1841 and amended to read:

1842 **~~[49-1-609]. 49-11-612. Nonassignability of benefits or payments -- Exemption from~~**
1843 **legal process.**

1844 (1) Except as provided in ~~[Subsection]~~ Subsections (2), (3), and (4), the right of any
1845 member, retiree, participant, or beneficiary to any benefit, payment, or any other right accrued or
1846 accruing ~~[to any person]~~ under this title and the assets of the ~~[fund]~~ funds created by this title are
1847 not subject to alienation or assignment by the member, retiree, participant, or ~~[beneficiary]~~ their
1848 beneficiaries and are not subject to attachment, execution, garnishment, or any other legal or
1849 equitable process.

1850 ~~[(2) This section may not be construed to prohibit the administrator from deducting~~
1851 ~~medical or other insurance premiums from a retirant's allowance as requested by the retirant~~
1852 ~~providing that any request is within limitations and rules prescribed by the board.]~~

1853 (2) The office may, upon the request of the retiree, deduct from the retiree's allowance
1854 insurance premiums or other dues payable on behalf of the retiree, but only to those entities that

1855 have received the deductions prior to February 1, 2002.

1856 (3) (a) [~~Notwithstanding Subsection (1), the retirement board~~] The office shall provide for
1857 the division of [a member's service retirement] an allowance, defined contribution account,
1858 continuing monthly death benefit, or refund of member contributions upon termination to former
1859 spouses and family members [pursuant to] under an order of a court of competent jurisdiction with
1860 respect to domestic relations matters on file with the [retirement] office.

1861 (b) The court order shall specify the manner in which the [~~retirement~~] allowance, defined
1862 contribution account, continuing monthly death benefit, or refund of member contributions shall
1863 be partitioned, whether as a fixed amount or as a percentage of the benefit.

1864 [~~(c) The board may also provide for the division of a member's defined contribution~~
1865 ~~account.]~~

1866 [~~(d) Once benefit payments under a domestic relations order begin, the period for which~~
1867 ~~the payment shall be made may not be altered.]~~

1868 [~~(e) Benefit payments to an alternate payee shall begin at the time the member or~~
1869 ~~beneficiary begins receiving benefit payments.]~~

1870 [~~(f) The alternate payee shall receive benefits in the same form as benefits are received by~~
1871 ~~the member.]~~

1872 [~~(g) The board shall make rules to implement this section.]~~

1873 (c) Allowances, continuing monthly death benefits, and refunds of member contributions
1874 split under a domestic relations order are subject to the following:

1875 (i) the period for which payments shall be made under the original domestic relations order
1876 may not be altered;

1877 (ii) payments to an alternate payee shall begin at the time the member or beneficiary begins
1878 receiving payments; and

1879 (iii) the alternate payee shall receive payments in the same form as payments received by
1880 the member or beneficiary.

1881 (4) In accordance with federal law, the board may deduct the required amount from any
1882 benefit, payment, or other right accrued or accruing to any member of a system, plan, or program
1883 under this title to offset any amount that member owes to a system, plan, or program administered
1884 by the board.

1885 (5) The board shall make rules to implement this section.

1886 Section 36. Section **49-11-613**, which is renumbered from Section 49-1-610 is renumbered
1887 and amended to read:

1888 ~~[49-1-610].~~ **49-11-613. Appeals procedure -- Right of appeal to hearing officer --**
1889 **Board reconsideration -- Judicial review.**

1890 (1) (a) All members, retirees, participants, alternative payees, or covered individuals of a
1891 system, plan, or program under this title shall acquaint themselves with their rights and obligations
1892 ~~[as members]~~ under this title.

1893 (b) A ~~[member shall]~~ person who claims a benefit, legal right, or employment right under
1894 this title shall request a ruling by the ~~[administrator on any benefit claim or legal right under this~~
1895 title] executive director.

1896 (c) ~~[Any]~~ A person who is dissatisfied by a ruling of the ~~[administrator]~~ executive director
1897 with respect to any benefit claim or legal right under any system, plan, or program under this title
1898 shall request a review of that claim by a hearing officer.

1899 ~~[(d)]~~ (2) The hearing officer shall:

1900 ~~[(i)]~~ (a) be hired by the executive director after consultation ~~[and review]~~ with the
1901 ~~[membership council]~~ board; ~~[and]~~

1902 ~~[(ii)]~~ (b) follow the procedures and requirements of Title 63, Chapter 46b, Administrative
1903 Procedures Act ~~[-(2)(a)(i) The hearing officer shall],~~ except as specifically modified under this
1904 title;

1905 (c) hear and determine all facts pertaining to applications for benefits under any
1906 ~~[retirement]~~ system, plan, or program under this title and all matters pertaining to the
1907 administration of the ~~[system:]~~ office; and

1908 ~~[(ii)]~~ The membership council may examine the record of the hearing, provide a
1909 recommendation to the board, and recommend any necessary changes in retirement policy or
1910 procedure to the Legislature.]

1911 ~~[(b)(i)]~~ If the executive officer of the board cannot determine from the records or other
1912 information available the length of service, compensation, or age of any member, the executive
1913 officer may estimate, for the purpose of any determination required to be made, any of these
1914 factors.]

1915 (d) make conclusions of law in determining the person's rights under any system, plan, or
1916 program under this title and matters pertaining to the administration of the office.

1917 [(it)] (3) The board shall review and approve or deny all decisions of the hearing officer
1918 in accordance with rules adopted by the board.

1919 [(3)] (4) The moving party in any proceeding brought under this section shall bear the
1920 burden of proof.

1921 [(4) Any applicant] (5) A party may file an application for reconsideration [~~according to~~
1922 ~~the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act,~~] by the
1923 board upon any of the following grounds:

1924 (a) that the board acted in excess of its powers;

1925 (b) that the order or award was procured by fraud;

1926 (c) that the evidence does not justify the determination of the [~~board~~] hearing officer; or

1927 (d) that the [~~applicant~~] party has discovered new material evidence that could not, with
1928 reasonable diligence, have been discovered or procured [~~at~~] prior to the hearing.

1929 (6) The board shall affirm, reverse, or modify the decision of the hearing officer, or
1930 remand the application to the hearing officer for further consideration.

1931 [(5)] (7) A [~~member~~] party aggrieved by the board's decision may obtain judicial review
1932 by complying with the procedures and requirements of Title 63, Chapter 46b, Administrative
1933 Procedures Act.

1934 (8) The board may make rules to implement this section.

1935 Section 37. Section **49-11-614**, which is renumbered from Section 49-1-613 is renumbered
1936 and amended to read:

1937 ~~[49-1-613].~~ **49-11-614. Vesting on termination of system or plan.**

1938 If any [~~retirement plan established under this title~~] system or the Utah Governors' and
1939 Legislators' Retirement Plan is terminated, the accrued benefits of each member in the terminated
1940 system or plan shall immediately become [~~100%~~] vested and nonforfeitable.

1941 Section 38. Section **49-11-615**, which is renumbered from Section 49-1-614 is renumbered
1942 and amended to read:

1943 ~~[49-1-614].~~ **49-11-615. Election to grandfather -- Applicability of provisions.**

1944 (1) Notwithstanding any other provision of this title, the [~~retirement plan or program~~]
1945 allowance payable to any person who becomes a member of any system, administered by the board
1946 on or after January 1, 1990, may not exceed the limitation imposed by Section 415 of the Internal
1947 Revenue Code of 1986, as amended, which is incorporated by reference.

1948 (2) This constitutes an election of the grandfather provision under Section 415(b)(10)(C)
1949 of the Internal Revenue Code.

1950 Section 39. Section **49-11-616**, which is renumbered from Section 49-1-615 is renumbered
1951 and amended to read:

1952 ~~[49-1-615].~~ **49-11-616. Benefits information.**

1953 (1) The [retirement board] office shall provide [the following] written general
1954 information[, by means of a form to be adopted by the board,] to each [employing unit]
1955 participating [in a plan, program, or system administered by the board:] employer concerning
1956 benefits available under this title.

1957 ~~[(a) all retirement benefits available to participants in a retirement system administered by~~
1958 ~~the board, including the right to participate in deferred compensation programs and rights upon~~
1959 ~~termination;]~~

1960 ~~[(b) all group health and dental insurance benefits available to participants, including~~
1961 ~~conversion and coverage rights upon termination;]~~

1962 ~~[(c) all group life insurance benefits and other death benefits, including conversion and~~
1963 ~~coverage rights upon termination;]~~

1964 ~~[(d) all long-term disability programs available to participants;]~~

1965 ~~[(e) any other benefits that the board may make available to eligible employers and their~~
1966 ~~employees; and]~~

1967 ~~[(f) the address and telephone number of the division of the retirement office responsible~~
1968 ~~for each of these plans, programs, and systems.]~~

1969 (2) (a) [The] A participating [employing unit] employer shall provide the information
1970 under Subsection (1) to each eligible employee immediately upon:

1971 (i) termination of service[;];

1972 (ii) leave of absence[; or];

1973 (iii) commencement of long-term disability benefits; or

1974 (iv) retirement.

1975 (b) (i) Each participating employer shall maintain the records necessary to demonstrate that
1976 each employee has received the information outlined in Subsection (1).

1977 (ii) The records shall be made available to the office upon request.

1978 ~~[(3) Each eligible employee shall sign the form provided under Subsection (1), a]~~

1979 (3) (a) The office shall provide each participating employer with a form to be signed by
1980 each employee which verifies that the employee has been given the information required by this
1981 section.

1982 (b) A copy of [which] the signed form shall be immediately forwarded to the [retirement]
1983 office [immediately] by the participating employer or the employee.

1984 (4) The dissemination of information to the employer by the [~~board pursuant to~~] office
1985 under this section constitutes presentment by the policyholder [pursuant to] under Title 31A,
1986 Chapter 22, Contracts in Specific Lines, and other law.

1987 Section 40. Section **49-11-617**, which is renumbered from Section 49-1-616 is renumbered
1988 and amended to read:

1989 ~~[49-1-616].~~ **49-11-617. Original documents.**

1990 ~~[(1) The retirement office may treat any document received by facsimile as an original if~~
1991 ~~it pertains to member accounts and is forwarded by a member or employer.]~~

1992 ~~[(2) All records at the retirement office, filmed from facsimile or other sources, or~~
1993 ~~produced from optical imaging or other technology, have the same legal effect as the original~~
1994 ~~record.]~~

1995 At the reasonable discretion of the office, any document relating to this title may be treated
1996 as an original, whether created by photocopy, facsimile, e-mail, electronic transmission, imaging,
1997 or other technology.

1998 Section 41. Section **49-11-618**, which is renumbered from Section 49-1-403 is renumbered
1999 and amended to read:

2000 ~~[49-1-403].~~ **49-11-618. Members and beneficiaries subject to chapter -- Furnishing**
2001 **of information -- Confidentiality of information.**

2002 (1) (a) Every member, retiree, participant, covered individual, alternate payee, and
2003 beneficiary is subject to this chapter [and to all], rules [adopted] made by the board [under this
2004 chapter] or office, board actions, resolutions, policies, and procedures adopted under this title.

2005 (b) Each member, retiree, participant, covered individual, alternate payee, and beneficiary
2006 shall furnish to the [retirement] office any information required [by the executive director affecting
2007 the member's status as a member or beneficiary] to carry out the purposes of this title.

2008 (2) (a) All data [filed with the retirement] in the possession of the office is confidential,
2009 and [no information contained in any record pertaining to individual data] may not be divulged by

2010 ~~[any official or employee of]~~ the office except as permitted by board action. ~~[The information]~~

2011 (b) All data in the possession of the office or divulged pursuant to board action shall be
2012 used for the sole purpose of carrying into effect the provisions of this [chapter. The record may
2013 not be open to inspection to any person except the board, the employees of the retirement office,
2014 and the employing unit] title.

2015 Section 42. Section **49-11-619**, which is renumbered from Section 49-1-405 is renumbered
2016 and amended to read:

2017 ~~[49-1-405].~~ **49-11-619. Permanent relinquishment of benefit -- Procedure.**

2018 ~~[Any retired member or beneficiary receiving a continuing benefit who for any reason~~
2019 ~~desires to permanently relinquish that retirement benefit may do so at any time after the effective~~
2020 ~~date of retirement. The relinquishment of the benefit is irrevocable 30 days after the witnessed~~
2021 ~~signing of the waiver agreement by the member and the beneficiary.]~~

2022 (1) (a) Except for defined contribution plans authorized by this title, a retiree or beneficiary
2023 may permanently relinquish a benefit under this title by signing an irrevocable written
2024 relinquishment.

2025 (b) If the retiree has designated a beneficiary which is still living, the written
2026 relinquishment must be signed by both the retiree and the beneficiary.

2027 (2) The value of the benefit permanently relinquished under Subsection (1) shall remain
2028 in the fund from which the benefit was relinquished and shall be used in the calculation of future
2029 contribution rates.

2030 (3) A designated beneficiary may disclaim beneficiary status and the benefit shall then be
2031 payable first to any alternate designated beneficiary, then dispersed under Title 75, Chapter 2,
2032 Intestate Succession and Wills, as applicable.

2033 (4) The office is not required to recognize or accept any written relinquishment that
2034 jeopardizes the tax qualified status of the systems, plans, or programs or otherwise violates federal
2035 law.

2036 Section 43. Section **49-11-620** is enacted to read:

2037 **49-11-620. Closing the retirement account -- Status of retirants and beneficiaries.**

2038 (1) The monthly benefit payable for the month a retiree, beneficiary, or alternate payee dies
2039 shall be a full monthly benefit and shall be payable to the estate of the deceased.

2040 (2) If more than one year has elapsed since the death of a retiree whose designated

2041 beneficiary is deceased and whose account payable to the beneficiary amounts to \$100 or less, the
2042 account shall be closed and further payment may not be made.

2043 Section 44. Section **49-11-701**, which is renumbered from Section 49-1-701 is renumbered
2044 and amended to read:

2045 **Part 7. Allowance Increase**

2046 ~~[49-1-701].~~ **49-11-701. Allowance increase to offset tax liability -- Administration.**

2047 (1) This section applies to members of any system administered by the board under this
2048 title, whose retirement allowance remained exempt from the tax imposed under Title 59, Chapter
2049 10, Individual Income Tax Act, pursuant to Section 2, Chapter 195, Laws of Utah 1988, but whose
2050 allowance has subsequently become subject to that tax.

2051 (2) Any member who meets the conditions established under Subsection (1) shall receive
2052 the following:

2053 (a) the administrator shall calculate the member's retirement allowance pursuant to the
2054 formula governing the system from which the member retired;

2055 (b) the administrator shall then increase the allowance calculated under Subsection (2)(a)
2056 by 3%; and

2057 (c) the adjusted retirement allowance under Subsection (2) (b) is the new basis upon which
2058 any future adjustments to benefits are made.

2059 (3) (a) For all members who retire or are receiving retirement allowances in calendar year
2060 1989, the administrator shall apply the 3% adjustment under Subsection (2) to all retirement
2061 allowances received in 1989, so that the period for which the allowance becomes subject to the tax
2062 under Title 59, Chapter 10, Individual Income Tax Act, and the period for which the 3%
2063 adjustment is given are the same.

2064 (b) For all members who retire after December 31, 1989, and who meet the requirements
2065 of Subsection (1), the administrator shall apply the 3% adjustment under Subsection (2) beginning
2066 on the effective date of retirement.

2067 (4) Any penalty or interest for underpayment of taxes under Title 59, Chapter 1, General
2068 Taxation Policies, or 10, Individual Income Tax Act, shall be waived for members whose
2069 noncompliance is attributable to Section ~~[49-1-608]~~ 49-11-611 and this section. This only applies
2070 to tax year 1989.

2071 (5) The administrator shall comply with Title 59, Chapter 10, Part 4, Withholding of Tax,

2072 with respect to withholding of taxes.

2073 (6) (a) The retirement board shall annually certify the contribution rate necessary for each
2074 system to comply with this section and may adopt rules to administer this section.

2075 (b) This contribution rate shall be reported separately from the total contribution rate
2076 necessary to fund the systems on an actuarially sound basis and may not be used in comparative
2077 studies of public employee benefits.

2078 Section 45. Section **49-11-801**, which is renumbered from Section 49-1-611 is renumbered
2079 and amended to read:

2080 **Part 8. Defined Contribution Plans**

2081 ~~[49-1-611].~~ **49-11-801. Defined contribution plans authorized -- Subject to federal**
2082 **and state laws -- Rules to implement this provision -- Costs of administration -- Limitations**
2083 **on eligibility -- Protection of tax status.**

2084 (1) (a) The board may establish and administer ~~[additional benefit]~~ defined contribution
2085 plans established under [Sections 401(k) and 457 of] the Internal Revenue Code. ~~[Employee and~~
2086 ~~employer]~~

2087 (b) Voluntary deferrals and nonelective contributions shall be permitted according to the
2088 provisions of these plans as established by the board. ~~[The amount of these accumulated~~
2089 ~~contributions, together with dividend or interest credits, are vested in the member, and are~~
2090 ~~nonforfeitable.]~~

2091 (c) The defined contribution account balance is vested in the participant.

2092 ~~[(2) Earnings credited to accounts established as a result of this action shall be at a rate~~
2093 ~~fixed by the board. (3) Contributions]~~

2094 (2) (a) Voluntary deferrals and nonelective contributions shall be ~~[invested as provided by~~
2095 ~~contract in accordance with federal and state law]~~ posted to the participant's account.

2096 (b) Participants may direct the investment of their account in the investment options
2097 established by the board and in accordance with federal and state law.

2098 ~~[(4) The]~~ (3) (a) The board may [establish] make rules and create plan documents to
2099 implement and administer this section.

2100 (b) The board may adopt rules under which a participant may put money into a defined
2101 contribution plan as permitted by federal law.

2102 (c) The office may reject any payments if the office determines the tax status of the

2103 systems, plans, or programs would be jeopardized by allowing the payment.

2104 (d) Costs of administration [may] shall be paid [from the interest earnings of the funds
2105 accrued as a result of deposits or as an assessment against each account, to be decided] as
2106 established by the board. [~~All funds and deposits]~~

2107 (4) Voluntary deferrals and nonelective contributions may be invested [~~as a separate~~
2108 account or accounts in] separately or in conjunction with the Utah State Retirement Investment
2109 Fund.

2110 [~~(5) This supplemental program shall be limited to members who contract to participate~~
2111 ~~in the program a minimum of one year.]~~

2112 [~~(6)~~ (5) The board or office may take [~~the~~] actions necessary to protect the tax qualified
2113 status of the [~~plans,~~] plans, and programs under its control, including the movement of
2114 [~~members]~~ individuals from defined contribution plans to defined benefit [~~plans]~~ systems or the
2115 creation of excess benefit plans authorized by federal law[, ~~and shall report its actions to the~~
2116 ~~Legislature at the subsequent legislative session].~~

2117 (6) The office may, at its sole discretion, correct errors made in the administration of its
2118 defined contribution plans.

2119 Section 46. Section **49-11-802** is enacted to read:

2120 **49-11-802. Permanent relinquishment of defined contribution benefit -- Procedure.**

2121 A participant or designated beneficiary under a defined contribution plan may permanently
2122 relinquish the benefit by signing an irrevocable written relinquishment.

2123 Section 47. Section **49-12-101**, which is renumbered from Section 49-2-101 is renumbered
2124 and amended to read:

2125 **CHAPTER 12. PUBLIC EMPLOYEES' CONTRIBUTORY RETIREMENT ACT**

2126 **Part 1. General Provisions**

2127 [~~49-2-101].~~ **49-12-101. Title.**

2128 This chapter is known as the "Public Employees' Contributory Retirement Act."

2129 Section 48. Section **49-12-102**, which is renumbered from Section 49-2-103 is renumbered
2130 and amended to read:

2131 [~~49-2-103].~~ **49-12-102. Definitions.**

2132 As used in this chapter:

2133 [~~(1) "Appointive officer" means an employee appointed to a position for a definite and~~

2134 ~~fixed term of office by official and duly recorded action of the governing body of an employing~~
2135 ~~unit who earns \$500 or more per month over a 12-month period adjusted annually by the Bureau~~
2136 ~~of Labor Statistics Consumer Price Index.]~~

2137 ~~[(2) (a) "Compensation," "salary," or "wages" means the total amount of payments made~~
2138 ~~by an employer to an employee for services rendered to the employer, including:]~~

2139 ~~[(i) bonuses;]~~

2140 ~~[(ii) cost-of-living adjustments;]~~

2141 ~~[(iii) other payments currently includable in gross income and that are subject to Social~~
2142 ~~Security deductions, including any payments in excess of the maximum amount subject to~~
2143 ~~deduction under Social Security law; and]~~

2144 ~~[(iv) amounts that the employee authorizes to be deducted or reduced for salary deferral~~
2145 ~~or other benefit programs authorized by federal law.]~~

2146 ~~[(b) "Compensation" for purposes of this chapter may not exceed the amount allowed~~
2147 ~~under Internal Revenue Code Section 401(a)(17).]~~

2148 ~~[(c) "Compensation," "salary," or "wages" does not include:]~~

2149 ~~[(i) the monetary value of remuneration paid in kind, such as a residence or use of~~
2150 ~~equipment;]~~

2151 ~~[(ii) all contributions made by an employer under any plan for the benefit of a participant;]~~

2152 ~~[(iii) salary paid to an employee working under the minimum number of hours required~~
2153 ~~for membership;]~~

2154 ~~[(iv) salary paid to a temporary or exempt employee;]~~

2155 ~~[(v) any payments upon termination, including accumulated vacation, sick leave payments,~~
2156 ~~or any other special payments; or]~~

2157 ~~[(vi) uniform, travel, or similar allowances.]~~

2158 ~~[(3) "Educational institution" means a political subdivision or instrumentality of the state~~
2159 ~~or a combination thereof primarily engaged in educational activities or the administration or~~
2160 ~~servicing of educational activities, including:]~~

2161 ~~[(a) the State Board of Education and its instrumentalities;]~~

2162 ~~[(b) any institution of higher learning and its branches;]~~

2163 ~~[(c) any school district and its instrumentalities;]~~

2164 ~~[(d) any vocational and technical school; and]~~

2165 ~~[(e) any entity arising out of a consolidation agreement between entities under this~~
2166 ~~definition.]~~

2167 ~~[(4) (a) "Employee" or "regular employee" means any regular full-time employee whose~~
2168 ~~term of employment for an employer contemplates continued employment during a calendar or~~
2169 ~~school year and who performs covered service for one or more employers.]~~

2170 ~~[(b) "Employee" or "regular employee" means an officer, elective or appointive, who~~
2171 ~~receives as compensation from an employer \$500 or more per month over a 12-month period~~
2172 ~~adjusted annually by the Bureau of Labor Statistics Consumer Price Index.]~~

2173 ~~[(5) "Employer" or "employing unit" means any department, educational institution,~~
2174 ~~political subdivision, or organization or agency financed in whole or in part by public funds for~~
2175 ~~which any employee or member performs services subject to this chapter.]~~

2176 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total amount
2177 of payments made by a participating employer to a member of this system for services rendered
2178 to the participating employer, including:

2179 (i) bonuses;

2180 (ii) cost-of-living adjustments;

2181 (iii) other payments currently includable in gross income and that are subject to Social
2182 Security deductions, including any payments in excess of the maximum amount subject to
2183 deduction under Social Security law;

2184 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral or
2185 other benefits authorized by federal law; and

2186 (v) member contributions.

2187 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed under
2188 Internal Revenue Code, Section 401(a)(17).

2189 (c) "Compensation" does not include:

2190 (i) the monetary value of remuneration paid in kind, including a residence or use of
2191 equipment;

2192 (ii) the cost of any employment benefits paid for by the participating employer;

2193 (iii) compensation paid to a temporary employee, an exempt employee, or an employee
2194 otherwise ineligible for service credit;

2195 (iv) any payments upon termination, including accumulated vacation, sick leave payments,

2196 severance payments, compensatory time payments, or any other special payments; or
2197 (v) any costs incurred by the member and reimbursed by the participating employer,
2198 including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance
2199 costs, and dependent care costs.

2200 (d) The executive director may determine if a payment not listed under this Subsection (1)
2201 falls within the definition of compensation.

2202 ~~[(6)]~~ (2) "Final average salary" means the amount computed by averaging the highest five
2203 years of annual compensation preceding retirement subject to Subsections ~~[(6)]~~ (2)(a), (b), (c), and
2204 (d).

2205 (a) Except as provided in Subsection ~~[(6)]~~ (2)(b), the percentage increase in annual
2206 compensation in any one of the years used may not exceed the previous year's ~~[salary]~~
2207 compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the
2208 purchasing power of the dollar during the previous year, as measured by ~~[the Consumer Price~~
2209 ~~Index prepared by the]~~ a United States Bureau of Labor Statistics Consumer Price Index average
2210 as determined by the board.

2211 (b) In cases where the ~~[employing unit]~~ participating employer provides acceptable
2212 documentation to the ~~[board]~~ office, the limitation in Subsection ~~[(6)]~~ (2)(a) may be exceeded if:
2213 (i) the member has transferred from another ~~[employing unit]~~ agency; or
2214 (ii) the member has been promoted to a new position.

2215 (c) If the member retires more than six months from the date of termination of employment
2216 ~~[and for purposes of computing the member's final average salary only]~~, the member is considered
2217 to have been in service at the member's last ~~[salary]~~ rate of pay from the date of the termination
2218 of employment to the effective date of retirement ~~[becomes effective if the member so requests]~~
2219 for purposes of computing the member's final average salary only.

2220 (d) If ~~[participating service is]~~ the member has less than five years of service credit in this
2221 system, final average salary means the average annual compensation paid to the member during
2222 the full period of ~~[participating]~~ service credit.

2223 ~~[(7) "Normal retirement age" means the age of 65 years:]~~

2224 ~~[(8) "Organization or agency financed in whole or in part by public funds" means an~~
2225 ~~agency, association, or organization that receives public funds. The term does not include political~~
2226 ~~subdivisions, departments, or educational institutions:]~~

2227 ~~[(9) "Public funds" means those funds derived, either directly or indirectly, from public~~
2228 ~~taxes or public revenue, dues or contributions paid or donated by the membership of the~~
2229 ~~organization, used to finance an activity whose objective is to improve, on a nonprofit basis, the~~
2230 ~~governmental, educational, and social programs and systems of the state or its political~~
2231 ~~subdivisions.]~~

2232 ~~[(10) (a) "Regular full-time employee," in qualifying for membership and accrual of~~
2233 ~~service credit under this system, means an employee whose employment normally requires an~~
2234 ~~average of 20 hours or more per week, except as modified by the board, and who receives benefits~~
2235 ~~normally provided by the employing unit.]~~

2236 ~~[(b) "Regular full-time employee" includes:]~~

2237 ~~[(i) a teacher who teaches half-time or more, or a classified school employee who works~~
2238 ~~an average of 20 hours per week or more, regardless of benefits provided; and]~~

2239 ~~[(ii) an individual who otherwise meets the definition of this Subsection (10) who~~
2240 ~~performs services for a participating employer through an employee leasing or similar~~
2241 ~~arrangement.]~~

2242 ~~[(11) "Years of service" or "service years" means:]~~

2243 ~~[(a) the number of periods, each to consist of 12 full months as determined by the board;]~~

2244 ~~[(b) a period determined by the board, whether consecutive or not, during which an~~
2245 ~~employee performed services for an employer or employers, including any time the employee~~
2246 ~~rendered service in the armed forces of the United States before membership in the system or was~~
2247 ~~absent on a paid leave of absence granted by an employer or absent in the service of the United~~
2248 ~~States government on military duty as provided by this chapter; or]~~

2249 ~~[(c) for a teacher, school administrator, or other contract employee of an educational~~
2250 ~~institution, not less than eight months of full-time service constitutes a service year.]~~

2251 ~~(3) "Participating employer" means an employer which meets the participation~~
2252 ~~requirements of Section 49-12-201.~~

2253 ~~(4) (a) "Regular full-time employee" means an employee whose term of employment for~~
2254 ~~a participating employer contemplates continued employment during a fiscal or calendar year and~~
2255 ~~whose employment normally requires an average of 20 hours or more per week, except as modified~~
2256 ~~by the board, and who receives benefits normally provided by the participating employer.~~

2257 ~~(b) "Regular full-time employee" includes:~~

2258 (i) a teacher whose term of employment for a participating employer contemplates
2259 continued employment during a school year and who teaches half-time or more or a classified
2260 school employee who works an average of 20 hours per week or more for a participating employer,
2261 regardless of benefits provided;

2262 (ii) an officer, elective or appointive, who earns during the first full month of the term of
2263 office \$500 or more, indexed as of January 1, 1989, as provided in Section 49-12-407;

2264 (iii) a faculty member or employee of an institution of higher education who is considered
2265 full-time by that institution of higher education; and

2266 (iv) an individual who otherwise meets the definition of this Subsection (4) who performs
2267 services for a participating employer through an employee leasing or similar arrangement.

2268 (5) "System" means the Public Employees' Contributory Retirement System created under
2269 this chapter.

2270 (6) "Years of service credit" means:

2271 (a) a period, consisting of 12 full months as determined by the board;

2272 (b) a period determined by the board, whether consecutive or not, during which a regular
2273 full-time employee performed services for a participating employer, including any time the regular
2274 full-time employee was absent on a paid leave of absence granted by a participating employer or
2275 was absent in the service of the United States government on military duty as provided by this
2276 chapter; or

2277 (c) the regular school year consisting of not less than eight months of full-time service for
2278 a regular full-time employee of an educational institution.

2279 Section 49. Section **49-12-103**, which is renumbered from Section 49-2-201 is renumbered
2280 and amended to read:

2281 **[49-2-201]. 49-12-103. Creation of system.**

2282 There is created for [~~the employees of the state, its educational institutions, and political~~
2283 ~~subdivisions]~~ members employed by a participating employer the "Public Employees' Contributory
2284 Retirement System."

2285 Section 50. Section **49-12-104**, which is renumbered from Section 49-2-202 is renumbered
2286 and amended to read:

2287 **[49-2-202]. 49-12-104. Creation of trust fund.**

2288 (1) There is created the "Public Employees' Contributory Retirement Trust Fund" for the

2289 purpose of paying the benefits and costs of administering this system.

2290 (2) The fund shall consist of all money paid into it, including interest, in accordance with
2291 this chapter, whether in the form of cash, securities, or other assets, and of all money received from
2292 any other source.

2293 (3) Custody, management, and investment of the fund shall be governed by [~~Title 49,~~
2294 Chapter [†] 11, Utah State Retirement Systems Administration.

2295 Section 51. Section **49-12-201**, which is renumbered from Section 49-2-203 is renumbered
2296 and amended to read:

2297 **Part 2. Membership Eligibility**

2298 ~~[49-2-203].~~ **49-12-201. System membership -- Eligibility.**

2299 [~~All employees, as defined under Section 49-2-103, who perform covered services for any~~
2300 ~~employing unit, except as excluded by Section 49-2-205, are members of the retirement system~~
2301 ~~as follows:]~~

2302 [~~(1) Every employee who is employed to perform covered services for a department or~~
2303 ~~educational institution prior to July 1, 1986, shall become a member of the system effective on the~~
2304 ~~date of employment.]~~

2305 [~~(2) Each employee engaged in performing covered services for a political subdivision on~~
2306 ~~the date the political subdivision becomes a participant in the system under Section 49-2-204 shall~~
2307 ~~become a member of the system as of the date of coverage. Each new employee of the covered~~
2308 ~~unit shall thereafter become a member of the system effective on the date of employment.]~~

2309 (1) A regular full-time employee of a participating employer is eligible for service credit
2310 in this system upon the later of:

2311 (a) the date on which the participating employer began participating in this system; or

2312 (b) the effective date of employment of the regular full-time employee with the
2313 participating employer.

2314 (2) Beginning July 1, 1986, a person entering employment with the state and its
2315 educational institutions may not participate in this system.

2316 Section 52. Section **49-12-202**, which is renumbered from Section 49-2-204 is renumbered
2317 and amended to read:

2318 ~~[49-2-204].~~ **49-12-202. Participation of employers -- Limitations -- Exclusions --**
2319 **Admission requirements -- Exceptions -- Nondiscrimination requirements.**

2320 (1) ~~(a) [All political subdivisions of the state, unless] Unless~~ excluded under Subsection
2321 (2), ~~[are] an employer is a participating [employers in the system] employer~~ and may not withdraw
2322 from participation in ~~[the] this~~ system. ~~[All departments and educational institutions are also~~
2323 ~~participating employers in the system and may not withdraw from participation in the system. As~~
2324 ~~participating employers, political subdivisions, departments, and educational institutions shall meet~~
2325 ~~all requirements for full participation in the system.]~~

2326 (b) In addition to their participation in this system, participating employers may provide
2327 or participate in public or private retirement, supplemental or defined contribution plan, either
2328 directly or indirectly, for their employees.

2329 (2) ~~[(a) Any political subdivision] An employer~~ not initially admitted or included as a
2330 participating employer in ~~[the] this~~ system prior to January 1, 1982, may be excluded from
2331 participation in ~~[the] this~~ system if:

2332 [(i)] (a) the ~~[political subdivision] employer~~ elects not to provide or participate in any type
2333 of private or public retirement, supplemental or ~~[deferred income program] defined contribution~~
2334 plan, either directly or indirectly, for its employees, except for social security; or

2335 [(ii)] (b) the ~~[political subdivision participated in] employer~~ offers another collectively
2336 bargained retirement ~~[program] benefit~~ and has continued to do so on an uninterrupted basis since
2337 that date.

2338 ~~[(b) Any excluded political subdivision may by resolution of its governing body apply for~~
2339 ~~and receive admission to the system. Once admitted, the political subdivision may not withdraw~~
2340 ~~from participation and shall meet all requirements for full participation in the system. If an~~
2341 ~~excluded political subdivision elects at any time to provide or participate in any type of public or~~
2342 ~~private retirement, supplemental or deferred income program, either directly or indirectly, except~~
2343 ~~for social security, the political subdivision shall be required to be a participating employer in the~~
2344 ~~system. As a participating employer, the political subdivision may not withdraw from participation~~
2345 ~~and shall meet all requirements for full participation in the system.]~~

2346 [(3) (a) Any organization or agency supported in whole or in part by state public funds,
2347 which prior to application is not covered by this chapter, may by resolution of its governing body
2348 apply for admission to the system. The board may refuse admission to any organization or agency
2349 applying for admission upon a finding that it is not in the best interest of the participating
2350 employers and employees.]

2351 ~~[(b) Upon approval of the board, the organization or agency shall become a participant in~~
2352 ~~the system if the board and the organization or agency agree upon:]~~

2353 ~~[(i) the terms by which its employees shall become members of the system, such as the~~
2354 ~~effective date of coverage;]~~

2355 ~~[(ii) the amount of prior service credit with which they may be credited, if any;]~~

2356 ~~[(iii) the amount of any contributions in addition to regular contributions that will be~~
2357 ~~required to provide any prior service credits or retroactive current service credits from either the~~
2358 ~~employing unit or its employees; and]~~

2359 ~~[(iv) the manner in which retroactive current or prior service credits may be established;~~
2360 ~~if any.]~~

2361 ~~[(c) Once admitted to the system, an organization or agency may not withdraw from~~
2362 ~~participation, except as provided in Subsection (4), and shall meet all requirements for full~~
2363 ~~participation in the system.]~~

2364 ~~[(d) An organization or agency supported in whole or in part by public funds may not~~
2365 ~~apply for or receive admission to the system after the effective date of this Subsection (3)(d).]~~

2366 ~~[(4) (a) An organization or agency admitted to the system pursuant to Subsection (3) which~~
2367 ~~no longer receives public funds may withdraw from the system if:]~~

2368 ~~[(i) the organization or agency's governing body, by resolution, petitions the board for~~
2369 ~~withdrawal from the system; and]~~

2370 ~~[(ii) the board approves the withdrawal.]~~

2371 ~~[(b) Once approval to withdraw is granted, the organization or agency and its employees~~
2372 ~~shall be governed by Sections 49-1-502 and 49-1-503.]~~

2373 ~~[(5) Except as provided in Sections 49-2-205 and 49-2-206, no participating employer may~~
2374 ~~maintain full participation in the system by covering only part of its employees. The full~~
2375 ~~participation requirement is satisfied if a participating employer covers those of its employees~~
2376 ~~eligible for coverage under:]~~

2377 ~~[(a) Title 49, Chapter 4, Public Safety Retirement Act; or]~~

2378 ~~[(b) Title 49, Chapter 5, Firefighters' Retirement Act and its remaining employees under~~
2379 ~~either Title 49, Chapter 2, Public Employees' Retirement Act or Title 49, Chapter 3, Public~~
2380 ~~Employees' Noncontributory Retirement Act, whichever is applicable.]~~

2381 ~~[(6) In addition to their participation in the system, participating employers may provide~~

2382 or participate in any additional public or private retirement, supplemental or deferred income
2383 program, either directly or indirectly, for their employees.]

2384 [~~(7) (a) Credit unions or private hospitals which are participating units in any system~~
2385 ~~administered by the board may withdraw from participation upon applying to the board. This~~
2386 ~~application shall be made between July 1, 2000, and December 31, 2000. The withdrawal is~~
2387 ~~effective the day after the last day the withdrawing unit pays retirement contributions on its~~
2388 ~~employees' salaries.]~~

2389 [~~(b) Once the withdrawal of the credit union or private hospital is complete, the employees~~
2390 ~~of the withdrawing unit may apply to withdraw their vested contributions. Refunds shall then be~~
2391 ~~paid in accordance with Subsection 49-1-502(3).]~~

2392 [~~(c) Under no circumstance may a withdrawing unit receive the employer contributions~~
2393 ~~which have been made to the system.]~~

2394 (3) An employer who did not become a participating employer in this system prior to July
2395 1, 1986, may not participate in this system.

2396 (4) If a participating employer purchases service credit on behalf of regular full-time
2397 employees for service rendered prior to the participating employer's admission to this system, the
2398 service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former
2399 regular full-time employees who were eligible for service credit at the time service was rendered.

2400 Section 53. Section **49-12-203**, which is renumbered from Section 49-2-205 is renumbered
2401 and amended to read:

2402 ~~[49-2-205].~~ **49-12-203. Exclusions from membership in system.**

2403 (1) The following employees are [excluded from membership in the retirement] **not**
2404 eligible for service credit in this system:

2405 ~~[(1) (a) [Every] An~~ employee whose employment status is temporary in nature due to the
2406 nature or the type of work to be performed[-], provided that:

2407 (i) if the term of employment exceeds six months[-, then for that employee a regular
2408 full-time status shall be assumed, and the employee shall be enrolled in the system] and the
2409 employee otherwise qualifies for service credit in this system, the participating employer shall
2410 report and certify to the office that the employee is a regular full-time employee effective the
2411 beginning of the seventh month of employment[-]; or

2412 (ii) if [the same] an employee, previously terminated prior to [enrollment as a member, is

2413 ~~again employed]~~ being eligible for service credit in this system is reemployed within three months
2414 of termination by the same participating employer, ~~[the employee shall be immediately enrolled~~
2415 ~~as a member if the work constitutes full-time as defined in this chapter]~~ the participating employer
2416 shall report and certify that the member is a regular full-time employee when the total of the
2417 periods of employment equals six months and the employee otherwise qualifies for service credit
2418 in this system.

2419 ~~[(2)]~~ (b) ~~[Full-time students or]~~ A full-time student, the spouse of a full-time student ~~[and~~
2420 persons], or a person employed in a trainee relationship ~~[may be excluded from coverage by rules~~
2421 adopted by the board] who files a formal request for exemption.

2422 ~~[(3)]~~ (c) (i) ~~[Every]~~ A current or future employee of a two-year or four-year college or
2423 university who holds, or is entitled to hold, ~~[pursuant to]~~ under Section ~~[49-2-206]~~ 49-12-204, a
2424 retirement annuity contract with the Teachers' Insurance and Annuity Association of America or
2425 with any other public or private system, organization, or company during any period in which ~~[that~~
2426 employee has received] required contributions ~~[toward the premiums required]~~ based on
2427 compensation ~~[from the employing unit]~~ have been paid on behalf of the employee by the
2428 employer.

2429 (ii) The employee, upon cessation of the participating employer contributions, shall
2430 immediately become ~~[a contributing member]~~ eligible for service credit in this system.

2431 ~~[(4)]~~ (d) ~~[Every]~~ An employee serving as an exchange employee from outside the state.

2432 ~~[(5)]~~ (e) ~~[Elected officials]~~ An elected official who ~~[file]~~ files a formal request for
2433 exemption.

2434 ~~[(6) Executive]~~ (f) An executive department ~~[heads]~~ head of the state, ~~[members]~~ a
2435 member of the State Tax Commission, the Public Service Commission, and ~~[other members]~~ a
2436 member of a full-time or part-time ~~[boards]~~ board or ~~[commissions]~~ commission who ~~[file]~~ files
2437 a formal request ~~[to be excluded from coverage]~~ for exemption.

2438 ~~[(7) (a) Employees of the Department of Employment Security who are covered under~~
2439 ~~another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; or (b)~~
2440 ~~employees]~~

2441 (g) An employee of the Department of Workforce Services ~~[who were covered under~~
2442 Subsection (a) and] who ~~[are]~~ is covered under another retirement system allowed under Title 35A,
2443 Chapter 4, Employment Security Act.

2444 ~~[(8)]~~ (h) (i) ~~[Persons]~~ A person appointed as a city ~~[managers]~~ manager or chief city
 2445 ~~[administrators or other persons]~~ administrator or another person employed by a ~~[city, town]~~
 2446 municipality, county, or other political subdivision who ~~[are]~~ is not entitled to merit or civil service
 2447 protection. ~~[Persons]~~

2448 (ii) A person eligible for exclusion under ~~[this]~~ Subsection ~~(1)(h)(i)~~ shall file a formal
 2449 request for ~~[exclusion from coverage]~~ exemption and be employed in a position designated as
 2450 exempt under an employee exemption plan developed by the ~~[city, town]~~ municipality, county, or
 2451 political subdivision. ~~[Employee exemption plans shall be subject to the following limitations:(a)~~
 2452 ~~The total number of positions a city, town]~~

2453 (2) (a) A municipality, county, or political subdivision may not exempt ~~[may not exceed~~
 2454 ~~the lesser of]~~ more than 30 positions or a number equal to 10% of the employees of the ~~[city, town]~~
 2455 municipality, county, or political subdivision~~[-However, every city, town]~~ whichever is lesser.

2456 (b) A municipality, county, or political subdivision ~~[is entitled to a minimum exemption~~
 2457 ~~of one eligible]~~ may exempt at least one regular full-time employee.

2458 ~~[(b) Employee exemption plans shall be filed]~~

2459 (3) Each participating employer shall:

2460 (a) file employee exemptions annually with the ~~[retirement]~~ office~~[-];~~ and ~~[the city, town,~~
 2461 ~~county, or political subdivision shall]~~

2462 (b) update the ~~[exemption plan]~~ employee exemptions in the event of any change.

2463 ~~[(c) The retirement]~~

2464 (4) The office may ~~[promulgate]~~ make rules to implement this ~~[subsection]~~ section.

2465 Section 54. Section **49-12-204**, which is renumbered from Section 49-2-206 is renumbered
 2466 and amended to read:

2467 ~~[49-2-206].~~ **49-12-204. Higher education employees' eligibility requirements --**
 2468 **Election between different retirement plans -- Classification requirements -- Transfer**
 2469 **between systems -- Supplemental plans authorized.**

2470 (1) (a) ~~[The faculty members and]~~ Regular full-time employees of institutions of higher
 2471 education who are eligible to participate in either this system or in a retirement annuity contract
 2472 with the ~~[Teacher's]~~ Teachers' Insurance and Annuity Association of America or with any other
 2473 public or private system, organization, or company, designated by the Board of Regents, shall, not
 2474 later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract

2475 allowed under this Subsection (1).

2476 (b) The election is final, and no right exists to make any further election.

2477 (2) (a) A ~~[faculty member or]~~ regular full-time employee hired by an institution of higher
2478 education after January 1, 1979, may participate only in the retirement plan which attaches to the
2479 person's employment classification~~[-and each].~~

2480 (b) Each institution of higher education ~~[is directed to]~~ shall prepare or amend existing
2481 employment classifications, under the direction of the Board of Regents, so that each classification
2482 is assigned with either:

2483 (i) this system ~~[or with];~~

2484 (ii) the ~~[Teacher's]~~ Teachers' Insurance and Annuity Association of America; ~~[with any~~
2485 ~~other]~~

2486 (iii) another public or private system, organization, or company designated by the Board
2487 of Regents.

2488 (3) A ~~[faculty member or]~~ regular full-time employee hired by an institution of higher
2489 education after January 1, 1979, whose employment classification requires participation in ~~[the~~
2490 ~~state retirement]~~ this system may[;] elect to continue participation in this system upon change to
2491 an employment classification which requires participation in:

2492 (a) an annuity plan with the ~~[Teacher's]~~ Teachers' Insurance and Annuity Association of
2493 America; ~~[with some other]~~

2494 (b) another public or private system, organization, or company designated by the Board
2495 of Regents~~[- finally elect to continue participation in the state retirement system].~~

2496 (4) A ~~[faculty member or]~~ regular full-time employee hired by an institution of higher
2497 education after January 1, 1979, whose employment classification requires participation in ~~[such~~
2498 ~~an annuity plan, upon change to an employment classification which requires participation in this~~
2499 ~~system;]~~ this system shall participate in this system.

2500 ~~[(5) Nothing contained in this section prohibits a faculty member or employee of an~~
2501 ~~institution of higher education from participating in a supplemental annuity plan, and the Board~~
2502 ~~of Regents shall promulgate rules governing permissible participation, but in no event may the~~
2503 ~~contribution by an institution for the purchase of an old age annuity or other approved investment~~
2504 ~~exceed 14.2% of the employee's or member's salary.]~~

2505 ~~[(6) The State Board of Education may assist its faculties and employees to purchase any~~

2506 old age annuity plan or other approved investment by promulgating rules governing permissible
2507 participation in a supplemental old age annuity plan or other approved investment, but such
2508 assistance is limited to contracting with the employee to receive a reduced salary, and investing
2509 the employee contribution towards the purchase of the annuity or other approved investment.]

2510 Section 55. Section **49-12-301**, which is renumbered from Section 49-2-301 is renumbered
2511 and amended to read:

2512 Part 3. Contributions

2513 ~~[49-2-301].~~ **49-12-301. Contributions -- Two levels -- Election by a participating**
2514 **employer to pay employee contributions -- Accounting for and vesting of member**
2515 **contributions -- Deductions.**

2516 (1) ~~[The system shall be maintained on a financially and actuarially sound basis by means~~
2517 ~~of contributions made jointly by the participating employer and by the active members of the~~
2518 ~~system.]~~ Participating employers and members shall jointly pay the certified contribution rates to
2519 the office to maintain this system on a financially and actuarially sound basis.

2520 (2) For purposes of determining contribution rates, ~~[the]~~ this system is divided into two
2521 levels according to participating employers~~[. The levels are]~~ as follows:

2522 (a) Level A includes the state ~~[of Utah, the Utah State Retirement Office]~~, its independent
2523 agencies, independent entities, public corporations, and other instrumentalities, all participating
2524 educational institutions, and all other participating employers whose activities are associated with
2525 participating educational institutions.

2526 (b) Level B includes all other participating employers in ~~[the]~~ this system.

2527 ~~[(2) Any]~~ (3) (a) A participating employer may elect to pay all or part of ~~[its members']~~
2528 the required member contributions, in addition to the required participating employer
2529 contributions.

2530 (b) Any amount contributed by ~~[an]~~ a participating employer under this ~~[subsection]~~
2531 section shall vest to the member's benefit as though the member had made the contribution.

2532 (c) The ~~[member's]~~ required ~~[contribution]~~ member contributions shall be reduced by the
2533 amount that is paid by the participating employer.

2534 ~~[(3)]~~ (4) (a) All member contributions are credited by the ~~[retirement]~~ office to the account
2535 of the individual member.

2536 (b) This amount, together with ~~[regular]~~ refund interest, is held in trust for the payment

2537 of benefits to the member or the member's beneficiaries.

2538 (c) All member contributions are ~~[100%]~~ vested and nonforfeitable.

2539 ~~[(4)]~~ (5) (a) Each member is ~~[deemed]~~ considered to consent to ~~[monthly]~~ payroll
2540 deductions of member contributions.

2541 (b) The payment of compensation less ~~[retirement]~~ these payroll deductions is considered
2542 full payment ~~[of the employee's salary]~~ for services rendered by the member.

2543 ~~[(5) The board shall report at least biennially to the governor, the Legislature, and each~~
2544 ~~employing unit under Division A or B the contribution rates and any adjustments necessary to~~
2545 ~~maintain the system on a financially and actuarially sound basis, and the employer and employee~~
2546 ~~shall pay the certified contribution rates.]~~

2547 Section 56. Section **49-12-302** is enacted to read:

2548 **49-12-302. Purchase of service credit.**

2549 Any member who works 20 or more hours per week for a participating employer
2550 participating in this system, but does not meet other eligibility requirements for service credit, may
2551 purchase the service credit in accordance with Section 49-11-403.

2552 Section 57. Section **49-12-401**, which is renumbered from Section 49-2-401 is renumbered
2553 and amended to read:

2554 **Part 4. Defined Benefit**

2555 ~~[49-2-401].~~ **49-12-401. Eligibility for an allowance -- Date of retirement --**
2556 **Qualifications.**

2557 ~~[(1) (a) Any member who qualifies for service retirement may retire by submitting to the~~
2558 ~~retirement office an application form notarized by a notary public. The application shall state the~~
2559 ~~proposed effective date of retirement, which may not be more than 90 days before or after the date~~
2560 ~~of application.]~~

2561 ~~[(b) The effective date shall be the 1st or 16th day of the month, as selected by the~~
2562 ~~member, but must be after the last day of actual work.]~~

2563 ~~[(c) The member shall actually terminate employment and provide evidence of~~
2564 ~~termination.]~~

2565 ~~[(2) The member is qualified to retire upon termination of services on or before the~~
2566 ~~effective date of retirement if one of the following requirements on that date is met:]~~

2567 (1) A member is qualified to receive an allowance from this system when:

2568 (a) the member ceases actual work for a participating employer in this system before the
2569 member's retirement date and provides evidence of the termination;

2570 (b) the member has submitted to the office a notarized retirement application form that
2571 states the member's proposed retirement date; and

2572 (c) one of the following conditions is met as of the member's retirement date:

2573 ~~[(a)]~~ (i) the member has ~~[been credited with]~~ accrued at least four years of service credit
2574 and has attained an age of 65 years ~~[or more];~~

2575 ~~[(b)]~~ (ii) the member has ~~[been credited with]~~ accrued at least ten years of service credit
2576 and has attained an age of 62 years ~~[or more];~~

2577 ~~[(c)]~~ (iii) the member has ~~[been credited with]~~ accrued at least 20 years of service credit
2578 and has attained an age of 60 years ~~[or more];~~ or

2579 ~~[(d)]~~ (iv) the member has ~~[been credited with]~~ accrued at least 30 years of service credit.

2580 (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as
2581 selected by the member, but the retirement date must be on or after the date of termination.

2582 (b) The retirement date may not be more than 90 days before or after the date the
2583 application is received by the office.

2584 Section 58. Section **49-12-402**, which is renumbered from Section 49-2-402 is renumbered
2585 and amended to read:

2586 ~~[49-2-402].~~ **49-12-402. Service retirement plans -- Calculation of retirement**
2587 **allowance -- Social Security limitations.**

2588 (1) (a) ~~[There are six service retirement plans available to members of the system. Plan~~
2589 ~~One is as follows, with Plans Two, Three, Four, Five, and Six established under Section 49-2-403.]~~
2590 ~~Except as provided under Section 49-12-701, retirees of this system may choose from the six~~
2591 ~~retirement options described in this section.~~

2592 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One
2593 calculation.

2594 (2) ~~[Except for members of this system who meet the requirements of Section 49-2-802,~~
2595 ~~upon the service retirement of a member under Section 49-2-401, the member shall receive a~~
2596 ~~retirement allowance consisting of an annuity, a pension based on prior service and a pension~~
2597 ~~based on current service, the total of which is determined]~~ The Option One benefit is an annual
2598 allowance calculated as follows:

2599 (a) If the ~~[member has attained the age of]~~ retiree is at least 65 years of age or has accrued
2600 at least 30 years of service credit, the [retirement] allowance is:

2601 ~~[(i) (A) an amount equal to 1.10% of the member's final average monthly salary, multiplied~~
2602 ~~by the number of years of service credited for service rendered prior to July 1, 1967; plus]~~

2603 ~~[(B)]~~ (i) an amount equal to 1.25% of the [member's] retiree's final average monthly salary
2604 multiplied by the number of years of service ~~[credited for service rendered on and after July 1,~~
2605 ~~1967, through June 30, 1975]~~ credit accrued prior to July 1, 1975; plus

2606 ~~[(C)]~~ (ii) an amount equal to 2% of the [member's] retiree's final average monthly salary
2607 multiplied by the number of years of service ~~[credited for service rendered]~~ credit accrued on and
2608 after July 1, 1975.

2609 ~~[(ii) In no case may that part of a retiring member's allowance, based upon prior service,~~
2610 ~~as provided in Subsection (2)(a)(i)(A) be less than 1.15% of that member's final average monthly~~
2611 ~~salary if the final average monthly salary is \$500 or less, multiplied by the number of prior service~~
2612 ~~years standing to the member's credit at retirement.]~~

2613 (b) If the [member] retiree is less than 65 years ~~[old]~~ of age, the [retirement] allowance
2614 shall be reduced 3% for each year of retirement from age 60 to age 65, unless the member has 30
2615 or more years of accrued credit in which event no reduction is made to the allowance.

2616 ~~[(3)]~~ (c) (i) Years of service includes any fractions of years of service to which the
2617 [member] retiree may be entitled. ~~[Service amounting to 9/10 of one year constitutes a year of~~
2618 ~~service credit in the computation of a retirement benefit.]~~

2619 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service
2620 credit is within 1/10 of one year of the total years of service credit required for retirement, the
2621 retiree shall be considered to have the total years of service credit required for retirement.

2622 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
2623 by reducing an Option One benefit based on actuarial computations to provide the following:

2624 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree,
2625 and, if the retiree receives less in annuity payments than the amount of the retiree's member
2626 contributions, the remaining balance of the retiree's member contributions shall be paid in
2627 accordance with Sections 49-11-609 and 49-11-610.

2628 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree,
2629 and, upon the death of the retiree, the same reduced allowance paid to and throughout the lifetime

2630 of the retiree's lawful spouse at the time of retirement.

2631 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree,
2632 and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance paid to and
2633 throughout the lifetime of the retiree's lawful spouse at the time of retirement.

2634 (d) Option Five is a modification of Option Three so that if the lawful spouse at the time
2635 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
2636 of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's
2637 life, beginning on the last day of the month following the month in which the lawful spouse dies.

2638 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time of
2639 retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of
2640 initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life,
2641 beginning on the last day of the month following the month in which the lawful spouse dies.

2642 (4) (a) (i) The final average salary is limited in the computation of that part of [~~a member's~~
2643 ~~prior service retirement~~] an allowance based on service rendered prior to July 1, 1967, during a
2644 period when the [~~member~~] retiree received employer contributions on a portion of compensation
2645 from an educational institution toward the payment of the premium required on a retirement
2646 annuity contract with the Teachers' Insurance and Annuity Association of America or with any
2647 other public or private system, organization, or company to \$4,800.

2648 (ii) This limitation is not applicable to [~~members~~] retirees who elected to continue in the
2649 [~~state retirement~~] this system by July 1, 1967.

2650 (b) Periods of [~~service~~] employment which are exempt from this system under Subsection
2651 [~~49-2-205(3), not to exceed four years~~] 49-12-203(1)(c), may be purchased by the member for the
2652 purpose of retirement[-] only if all benefits from the Teachers' Insurance and Annuity Association
2653 of America or any other public or private system or organization based on this period of
2654 employment are forfeited.

2655 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement date,
2656 the retirement is canceled and the death shall be considered as that of a member before retirement.

2657 (b) Any payments made to the retiree shall be deducted from the amounts due to the
2658 beneficiary.

2659 (6) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree
2660 may elect to convert the benefit to a Option One benefit at the time of divorce, if there is no court

2661 order filed in the matter.

2662 Section 59. Section **49-12-403**, which is renumbered from Section 49-2-404 is renumbered
2663 and amended to read:

2664 ~~[49-2-404].~~ **49-12-403. Allowance payable by lump sum payment.**

2665 (1) If a ~~[retiring member's monthly]~~ retiree's allowance, as computed under ~~[Section~~
2666 ~~49-2-402]~~ this chapter, amounts to \$25 or less, the ~~[benefit claim]~~ allowance may be settled by the
2667 ~~[administrator]~~ office by making a lump-sum payment of an amount actuarially equivalent to the
2668 ~~[monthly]~~ allowance. ~~[Payment thus]~~

2669 (2) A payment made under this section constitutes a full and complete settlement of the
2670 ~~[retiring member's]~~ retiree's claim against ~~[the]~~ this system.

2671 Section 60. Section **49-12-404**, which is renumbered from Section 49-2-405 is renumbered
2672 and amended to read:

2673 ~~[49-2-405].~~ **49-12-404. Lump-sum death benefit for retiree and spouse.**

2674 (1) (a) ~~[A member, upon service]~~ Upon retirement, a retiree may elect to have the
2675 ~~[administrator set aside in reserve from the member's retirement allowance a sufficient sum of~~
2676 ~~money, based upon age, sex, interest rate in effect, and the mortality rates for the member's group,]~~
2677 office deduct an actuarially determined amount from the retiree's allowance to provide a lump-sum
2678 benefit payable to a beneficiary upon the death of the ~~[member after retirement, under an~~
2679 ~~agreement that will provide a reduced retirement allowance payable to the retirant throughout the~~
2680 ~~retirant's lifetime, plus the lump-sum amount at death]~~ retiree.

2681 (b) A retiree may also elect to have an actuarially determined amount deducted from the
2682 retiree's allowance to provide a lump-sum death benefit payable to a beneficiary upon the death
2683 of the retiree's lawful spouse at the time of retirement.

2684 ~~[(b) This]~~ (c) The board may make rules for the administration of this lump-sum death
2685 [benefit may be purchased in accordance with rules adopted by the board] benefit.

2686 ~~[(c) The spouse of a retiring member may also be covered with a death benefit upon the~~
2687 ~~request of the member.]~~

2688 ~~[(2) The lump-sum death benefit provided by this section may be chosen as a modification~~
2689 ~~of or deduction from the retirement allowance provided under Sections 49-2-402 and 49-2-403,~~
2690 ~~and is payable to the designated beneficiary chosen at the time of the member's retirement, to a~~
2691 ~~beneficiary subsequently designated, or to the retirant's estate under applicable conditions~~

2692 established under Section ~~49-1-606 or 49-1-607.~~]

2693 ~~[(3) If a retirant cancels retirement as permitted by this title, the lump-sum death benefit~~
2694 ~~under this section shall also be canceled, with the appropriate reserve, as determined by the~~
2695 ~~administrator, credited back to the member's contribution account.]~~

2696 ~~[(4) Payment of the lump-sum death benefit consists only of a refund of the retirant's~~
2697 ~~reserve or the amount determined by the board and set aside as provided in this section if death~~
2698 ~~occurs within three years from the date of retirement and is due to a health condition existing and~~
2699 ~~being treated at the time of retirement.]~~

2700 ~~[(5) The board may establish rules and adopt suitable mortality rates to protect the fund~~
2701 ~~against adverse selection of benefits by a retiring member under this section.]~~

2702 (2) (a) For retirees who pay for a lump-sum death benefit under this section through a
2703 reduction of an allowance, benefits shall be paid in accordance with Sections 49-11-609 and
2704 49-11-610.

2705 (b) If the retiree chooses Option Three, Four, Five, or Six, and a lump-sum death benefit
2706 is payable after the death of the retiree or the lawful spouse, the allowance shall be restored to its
2707 original amount.

2708 Section 61. Section **49-12-405**, which is renumbered from Section 49-2-406 is renumbered
2709 and amended to read:

2710 ~~[49-2-406].~~ **49-12-405. Death of married member -- Service retirement benefits to**
2711 **surviving spouse.**

2712 (1) ~~[(a) A member who has]~~ Upon the request of the member's lawful spouse at the time
2713 of death, a member is considered to be eligible to retire under Option Three on the first day of the
2714 month following the month in which the member died if the following requirements are met:

2715 (a) the member has:

2716 (i) 25 or more years of [credited] service[;] credit;

2717 (ii) attained age 60 with 20 or more years of [credited] service[;] credit;

2718 (iii) attained age 62 with ten or more years of [credited] service[;] credit; or

2719 (iv) attained age 65 with four or more years of [credited] service[; respectively, and who]
2720 credit; and

2721 (b) the member dies leaving a spouse to whom the member has been married at least six
2722 months prior to the death date[; may, upon the request of the spouse, be considered to have retired

2723 on the first day of the month following the month in which death occurred under Plan Number
2724 Three].

2725 ~~[(b)] (2)~~ The spouse who requests a benefit ~~[pursuant to Subsection (1)(a)]~~ under this
2726 section shall apply in writing to the ~~[retirement]~~ office stating the proposed effective date to begin
2727 receiving ~~[a monthly retirement]~~ an allowance, which may not be more than 90 days ~~[before or]~~
2728 after the date of application~~[-, and which shall be effective on the 1st or 16th day of the month, as~~
2729 ~~selected by the spouse].~~

2730 ~~[(2)] (3)~~ The ~~[benefit]~~ Option Three benefit calculation, when there are 25 or more years
2731 of service credit, shall be calculated without ~~[an actuarial]~~ a reduction in allowance under Section
2732 49-12-402.

2733 ~~[(3) Benefits]~~ (4) Except for a return of member contributions, benefits payable under this
2734 section are ~~[service]~~ retirement benefits and shall be paid in addition to any payments made under
2735 Section ~~[49-2-701, except for a return of accumulated contributions,]~~ 49-12-501 and constitute a
2736 full and final settlement of the claim of the spouse or any other beneficiary filing claim for benefits
2737 under Section ~~[49-2-701]~~ 49-12-501.

2738 Section 62. Section **49-12-406**, which is renumbered from Section 49-2-409 is renumbered
2739 and amended to read:

2740 ~~[49-2-409].~~ **49-12-406. Part-time elective or appointive service -- Computation of**
2741 **allowance.**

2742 ~~[Elective]~~ Notwithstanding any other provision of this title, elective or appointive service
2743 rendered on a basis not considered full time by the ~~[board,]~~ office, unless otherwise provided by
2744 this chapter, shall have a ~~[retirement]~~ separate allowance computed on the basis of compensation
2745 actually received by the ~~[official]~~ member during the period of elective or appointive service.

2746 Section 63. Section **49-12-407**, which is renumbered from Section 49-2-601 is renumbered
2747 and amended to read:

2748 ~~[49-2-601].~~ **49-12-407. Annual cost-of-living adjustment.**

2749 (1) ~~[There shall be computed and paid by the retirement]~~ The office~~[-, upon the approval~~
2750 ~~of the board,]~~ shall make an annual cost-of-living [allowance] adjustment to: [all retired members
2751 of this system after the members have been retired one year. The adjustment shall be equal to the
2752 decrease in the purchasing power of the dollar during the preceding year, as measured by the
2753 Consumer Price Index, prepared by the United States Bureau of Labor Statistics, limited to a

2754 ~~maximum of 4% of the retirant's or beneficiary's original retirement allowance. Decreases in the~~
2755 ~~purchasing power of the dollar in excess of 4% annually shall be accumulated and used in~~
2756 ~~subsequent allowances when the cost-of-living adjustment is less than 4% annually.]~~

2757 ~~[(2) If the cost-of-living shows a decline of 4% or more during any period of time~~
2758 ~~extending longer than one year a reduction not to exceed the rate of 2% per year shall be made~~
2759 ~~based upon the original retirement allowance. Payments made under this section shall be a part~~
2760 ~~of the retired member's allowance. These payments and subsequent adjustments as prescribed for~~
2761 ~~the retirant shall also apply to the beneficiary who is paid an allowance under optional retirement~~
2762 ~~plans. Cost-of-living benefits granted prior to July 1, 1975, are not subject to adjustment.]~~

2763 (a) an original allowance paid under Section 49-12-402 or 49-12-404, if the allowance has
2764 been paid for at least one year; and

2765 (b) an original payment made to an alternate payee under a domestic relations order, if the
2766 payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

2767 (2) (a) The original allowance shall be increased by the annual increase in the Consumer
2768 Price Index up to a maximum of 4%.

2769 (b) Annual increases in the Consumer Price Index in excess of 4% shall be accumulated
2770 and used in subsequent adjustments when the annual increase in the Consumer Price Index is less
2771 than 4%.

2772 (3) The Consumer Price Index used in calculating adjustments shall be a United States
2773 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

2774 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

2775 Section 64. Section **49-12-408**, which is renumbered from Section 49-2-602 is renumbered
2776 and amended to read:

2777 **[49-2-602]. 49-12-408. Minimum monthly allowance.**

2778 (1) [No member who retired] A retiree under this system may not receive less than \$9 per
2779 month for each year of service credit at the time of retirement.

2780 (2) The increased allowance provided by this section may not exceed the allowance
2781 payable under [Plan I] Option One under Section 49-12-402, by more than 75%.

2782 (3) The cost of providing this benefit shall be assumed within the contribution rate
2783 established under Section [49-2-301] 49-12-301.

2784 Section 65. Section **49-12-501**, which is renumbered from Section 49-2-701 is renumbered

2785 and amended to read:

2786 **Part 5. Death Benefit**

2787 ~~[49-2-701].~~ **49-12-501. Death benefit by means of group insurance policy --**

2788 **Eligibility for death benefit -- Benefit calculation -- Payment of claim -- Exclusion.**

2789 (1) The ~~[board]~~ office shall provide a death benefit through the purchase of a group
2790 insurance policy for members of this system.

2791 (2) The board shall make rules to ~~[implement and]~~ administer the death benefit provided
2792 by this section and may, in accordance with federal law, establish:

2793 (a) benefit levels ~~[or]~~;

2794 (b) classes of ~~[employees]~~ members; and

2795 ~~[(b)]~~ (c) a living benefit option.

2796 ~~[(2) Upon receipt of acceptable proof of death of a member of the system, either prior to~~
2797 ~~the effective date of the member's retirement, except as provided in Section 49-2-406, or after the~~
2798 ~~date of retirement but under circumstances that Section 49-2-403 requires to be treated as the death~~
2799 ~~of member before retirement, the following death benefits, except those benefits already provided~~
2800 ~~to the member under a living benefit option, shall be paid to the beneficiary:]~~

2801 ~~[(a) the return of any accumulated contributions under this chapter; plus]~~

2802 ~~[(b) a percentage of the final average salary of the deceased member to be determined by~~
2803 ~~the board. This percentage shall be the highest percentage of final average salary obtainable by~~
2804 ~~the board through the purchase of a group insurance policy using the money contributed by the~~
2805 ~~employer under Subsection (3):]~~

2806 (3) This death benefit is payable when:

2807 (a) the member dies prior to the member's retirement date or dies under circumstances
2808 which Section 49-12-402 requires to be treated as the death of a member before retirement;

2809 (b) the office receives acceptable proof of death; and

2810 (c) benefits are not payable under Section 49-12-404.

2811 (4) The death benefit payable to the beneficiary under this section is a lump-sum payment
2812 consisting of:

2813 (a) the return of any member contributions under this chapter; plus

2814 (b) a percentage of the final average salary of the member to be determined by the board.

2815 (5) Any amount of a living benefit option paid to the member prior to death shall be

2816 deducted from the benefit payable to the beneficiary.

2817 [~~(3)~~] (6) The cost of the death benefit shall be paid by the participating employer as a
2818 portion of the contribution rate established under Section 49-12-301.

2819 [~~(4)~~] (7) The portion of the death benefit provided under Subsection [~~(2)~~] (4)(b) [~~, based~~
2820 ~~upon the member's past compensation,~~] may not be paid to the beneficiary of an inactive member
2821 unless:

2822 (a) that member has [~~credit for~~] ten or more years of accrued service credit prior to July
2823 1, 1987; or

2824 (b) the death of the member occurs either:

2825 (i) within a period of 120 days after the last day of [~~service~~] work for which the person
2826 received compensation; or

2827 (ii) while the [~~person~~] member is still physically or mentally incapacitated from
2828 performance of duties, if the incapacity has been continuous since the last day of [~~service~~] work
2829 for which compensation [~~is~~] was received[~~, or~~].

2830 [~~(iii) while that person is on military leave and has elected to remain in active contributing~~
2831 ~~membership status as provided in Section 49-1-402.]~~

2832 (8) The death benefit [~~may not be paid to any person except a beneficiary~~] provided under
2833 Subsection (4)(b) shall be paid in accordance with Sections 49-11-609 and 49-11-610.

2834 [~~(5)~~] (9) The death benefit [~~for~~] paid to the beneficiary of an inactive member, except as
2835 otherwise provided under Subsection [~~(4)~~] (7), is a lump-sum return of the [~~deceased~~] member's
2836 [~~accumulated~~] member contributions.

2837 [~~(6)~~] (10) Payment of the death benefit by the [~~retirement~~] office constitutes a full
2838 settlement of any beneficiary's claim against the [~~system~~] office, and the [~~system~~] office is not
2839 liable for any further or additional claims or assessments on behalf of the [~~deceased~~] member.

2840 [~~(7)~~] (11) Unless otherwise specified in a written document filed [~~in~~] with the [~~retirement~~]
2841 office, death benefits payable to beneficiaries shall be in accordance with the order of precedence
2842 established under Title 75, Chapter 2, [~~Uniform Probate Code~~] Intestate Succession and Wills.

2843 [~~(8) In the implementation of this section and for administrative purposes only, the State~~
2844 ~~Tax Commission shall provide pertinent information to the retirement administrator, upon request,~~
2845 ~~concerning dependents claimed by a deceased member on the income tax return covering the year~~
2846 ~~prior to the member's death.]~~

2847 ~~[(9)]~~ (12) A death benefit under this section may not be paid to a ~~[member who has retired]~~
2848 beneficiary of a retiree under this system.

2849 Section 66. Section **49-12-601**, which is renumbered from Section 49-2-503 is renumbered
2850 and amended to read:

2851 **Part 6. Disability**

2852 ~~[49-2-503].~~ **49-12-601. Disability retirement -- Medical examinations --**
2853 **Reemployment of disabled retirant -- Cancellation of benefit -- Service credit -- Disabled**
2854 **retirant engaging in gainful employment -- Reduction of allowance -- Refusal to submit to**
2855 **medical examination.**

2856 (1) Only members of this system who became eligible for a disability retirement allowance
2857 before January 1, 1983, are covered under this section.

2858 ~~[(1)]~~ (2) (a) The board may, upon the recommendation of the administrator, require any
2859 retirant who has been retired for disability and who has not attained the age of 60 years, to undergo
2860 a medical examination by a physician or surgeon, appointed by the board, at the place of residence
2861 of the retirant or other place mutually agreed upon.

2862 (b) Upon the basis of the examination, the board shall determine whether the disabled
2863 retirant is still incapacitated, physically or mentally, for service under this chapter.

2864 (c) If the board determines that the retirant is not incapacitated, the retirement allowance
2865 shall be cancelled and the retirant shall be reinstated immediately to a position of the same class
2866 as that held by the retirant when retired for disability.

2867 (d) If any employing unit is unable to reinstate the retirant, the board shall continue the
2868 disability retirement allowance of the retirant until ~~[such time as]~~ employment is available.

2869 ~~[(2)]~~ (3) (a) If a disabled retirant under this system reenters covered service and is eligible
2870 for membership in the retirement system, the retirement allowance shall be cancelled and the
2871 retirant shall immediately become a member of the retirement system.

2872 (b) (i) The member's individual account shall be credited with an amount which is the
2873 actuarial equivalent, at the time of reentry, based on a disabled life, of that portion of the member's
2874 retirement allowance which was derived from the member's accumulated contributions~~[, but that]~~.

2875 (ii) The amount credited may not exceed the amount of accumulated contributions
2876 standing at the time of retirement.

2877 (c) Each member shall receive credit for the service ~~[standing to]~~ in the member's account

2878 at the time of retirement.

2879 ~~[(3)]~~ (4) If the retirement allowance of any disabled retirant is cancelled for any cause other
2880 than reentry into service, the retirant shall be paid the accumulated contributions less the amounts
2881 prescribed by Subsection ~~[(5)]~~ (6).

2882 ~~[(4)]~~ (5) (a) If any member retired for disability engages in a gainful occupation prior to
2883 attaining age 60, the administrator shall reduce the amount of the retirement ~~[benefit]~~ allowance
2884 to an amount which, when added to the compensation earned monthly by the retirant in that
2885 occupation, may not exceed the amount of the final average monthly salary on the basis of which
2886 the current service retirement ~~[benefit]~~ allowance was determined.

2887 (b) If the earning capacity of the retirant is further altered, the administrator may further
2888 alter the retirement ~~[benefit]~~ allowance as provided in this Subsection (5).

2889 (c) In no event, however, may the retirement benefit be reduced below that portion of the
2890 retirant's allowance derived from the retirant's own accumulated contributions.

2891 (d) When the retirant reaches age 60, the retirement allowance shall be made equal to the
2892 amount upon which the retirant was originally retired and may not again be modified for any cause.

2893 ~~[(5)]~~ (6) (a) If any member who retired for disability under age 60, refuses to submit to a
2894 medical examination, the retirement allowance may be discontinued until the retirant withdraws
2895 that refusal~~[-and if]~~.

2896 (b) If the refusal continues for one year the disability status may be cancelled and
2897 membership terminated.

2898 (c) (i) The retirant's accumulated contribution account shall be the actuarial equivalent on
2899 the date of the retirant's change of status, based on a disabled life, of that portion of the disability
2900 retirement allowance which was derived from the retirant's accumulated contributions~~[-but that]~~.

2901 (ii) The amount credited may not exceed the amount of the retirant's accumulated
2902 contributions at the time of disability retirement.

2903 Section 67. Section **49-12-701**, which is renumbered from Section 49-2-802 is renumbered
2904 and amended to read:

2905 **Part 7. Early Retirement Incentive**

2906 ~~[49-2-802]~~. **49-12-701. Early retirement incentive -- Eligibility -- Calculation of**
2907 **benefit -- Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**
2908 **reemployment.**

2909 (1) Any member of this system may retire and receive the ~~[benefit]~~ allowance allowed
2910 under Subsection (2) if the member meets the following requirements as of the ~~[effective date of]~~
2911 member's retirement date:

2912 (a) the member is eligible for retirement under Section ~~[49-2-401]~~ 49-12-401, or
2913 ~~[otherwise]~~ has 25 years of service credit;

2914 (b) the member elects to forfeit any stipend for retirement offered by the ~~[employing unit]~~
2915 participating employer; and

2916 (c) the member elects to retire from this system by applying for retirement by the date
2917 established under Subsection (3)(a) or (3)(b).

2918 (2) (a) A member who retires ~~[pursuant to]~~ under Subsection (1) shall receive 2% of that
2919 member's final average salary for all years of service credit.

2920 (b) An actuarial reduction may not be applied to the ~~[benefit]~~ allowance granted under this
2921 section.

2922 (3) In order to receive the ~~[benefit]~~ allowance allowed by this section, a member shall
2923 submit an application to the ~~[retirement]~~ office as follows:

2924 (a) (i) For state and school employees under Level A, the application shall be filed by May
2925 31, 1987. The ~~[effective date of]~~ member's retirement date shall then be set by the ~~[employee]~~
2926 member on the ~~[first]~~ 1st or ~~[sixteenth]~~ 16th day of July, August, or September, 1987.

2927 (ii) If a Level A ~~[employee]~~ member elects to retire, the ~~[administrator]~~ executive director
2928 or participating employer may request the ~~[employee]~~ member to delay the ~~[effective date of]~~
2929 retirement date until a later date, but no later than June 30, 1988.

2930 (iii) If the ~~[employee]~~ member agrees to delay the ~~[effective]~~ retirement date, the
2931 ~~[effective]~~ retirement date shall be delayed, but ~~[no]~~ service credit may not be accrued after the
2932 member's original ~~[effective date of]~~ retirement date elected by the ~~[employee]~~ member, and ~~[no]~~
2933 [salary] compensation earned after ~~[that effective]~~ the member's original retirement date may not
2934 be used in the calculation of the final average salary for determining the retirement ~~[benefit]~~
2935 allowance.

2936 (b) (i) For political ~~[subdivisions]~~ subdivision employees under Level B, the application
2937 shall be filed by September 30, 1987.

2938 (ii) The ~~[effective date of]~~ retirement date shall then be set by the ~~[employee]~~ member on
2939 the ~~[first]~~ 1st or ~~[sixteenth]~~ 16th day of July, August, September, October, November, or

2940 December, 1987.

2941 (4) (a) The cost of providing the [~~benefit~~] allowance under this section shall be funded in
2942 fiscal year 1987-88 by a supplemental appropriation in the 1988 General Session based on the
2943 retirement contribution rate increase established by the consulting actuary and approved by the
2944 board.

2945 (b) The cost of providing the [~~benefit~~] allowance under this section shall be funded
2946 beginning July 1, 1988, by means of an increase in the retirement contribution rate established by
2947 the consulting actuary and approved by the board.

2948 (c) The rate increase under Subsections (4)(a) and (b) shall be funded:

2949 (i) for state employees, by an appropriation from the account established by the Division
2950 of Finance under Subsection (4)(d), which is funded by savings derived from this early retirement
2951 incentive and a work force reduction;

2952 (ii) for school employees, by direct contributions from the employing unit, which may not
2953 be funded through an increase in the retirement contribution amount established in Title 53A,
2954 Chapter 17a, Minimum School Program Act; and

2955 (iii) for political subdivisions under Level B, by direct contributions by the [~~employing~~
2956 unit] participating employer.

2957 (d) (i) Each year, any excess savings derived from this early retirement incentive which
2958 are above the costs of funding the increase and the costs of paying insurance, sick leave,
2959 compensatory leave, and vacation leave under Subsections (4)(c)(i) and (c)(ii) shall be reported
2960 to the Legislature and shall be appropriated as provided by law.

2961 (ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an account
2962 into which all savings derived from this early retirement incentive shall be deposited as the savings
2963 are realized.

2964 (iii) In the case of Subsection (4)(c)(ii), the State Office of Education shall certify the
2965 amount of savings derived from this early retirement incentive.

2966 (iv) The State Office of Education and the [~~employing unit~~] participating employer may
2967 not spend the savings until appropriated by the Legislature as provided by law.

2968 (5) A member who retires under this section is subject to Section [~~49-1-505~~] 49-11-504.

2969 (6) The [~~retirement~~] board may adopt rules to [~~implement and~~] administer this section.

2970 (7) The Legislative Auditor General shall perform an audit to ensure compliance with this

2971 section.

2972 Section 68. Section **49-13-101**, which is renumbered from Section 49-3-101 is renumbered
2973 and amended to read:

2974 **CHAPTER 13. PUBLIC EMPLOYEES' NONCONTRIBUTORY RETIREMENT ACT**

2975 **Part 1. General Provisions**

2976 ~~[49-3-101].~~ **49-13-101. Title.**

2977 This chapter is known as the "Public Employees' Noncontributory Retirement Act."

2978 Section 69. Section **49-13-102**, which is renumbered from Section 49-3-103 is renumbered
2979 and amended to read:

2980 ~~[49-3-103].~~ **49-13-102. Definitions.**

2981 As used in this chapter:

2982 ~~[(1) "Appointive officer" means an employee appointed to a position for a definite and
2983 fixed term of office by official and duly recorded action of the governing body of an employing
2984 unit and who earns \$500 or more per month over a 12-month period adjusted by the Bureau of
2985 Labor Statistics Consumer Price Index.]~~

2986 ~~[(2) (a) "Compensation," "salary," or "wages" means the total amount of payments made
2987 by an employer to an employee for services rendered to the employer, including:]~~

2988 ~~[(i) bonuses;]~~

2989 ~~[(ii) cost-of-living adjustments;]~~

2990 ~~[(iii) other payments currently includable in gross income and that are subject to Social
2991 Security deductions, including any payments in excess of the maximum amount subject to
2992 deduction under Social Security law; and]~~

2993 ~~[(iv) amounts that the employee authorizes to be deducted or reduced for salary deferral
2994 or other benefit programs authorized by federal law.]~~

2995 ~~[(b) "Compensation" for purposes of this chapter may not exceed the amount allowed
2996 under Internal Revenue Code Section 401(a)(17).]~~

2997 ~~[(c) "Compensation," "salary," or "wages" does not include:]~~

2998 ~~[(i) the monetary value of remuneration paid in kind, such as a residence or use of
2999 equipment;]~~

3000 ~~[(ii) all contributions made by an employer under any plan for the benefit of a participant;]~~

3001 ~~[(iii) salary paid to an employee working under the minimum number of hours required~~

3002 for membership;]

3003 [~~(iv) salary paid to a temporary or exempt employee;~~]

3004 [~~(v) any payments upon termination, including accumulated lump-sum vacation, sick leave~~
3005 ~~payments, or any other special payments; or]~~

3006 [~~(vi) uniform, travel, or similar allowances.]~~

3007 [~~(3) "Educational institution" means a political subdivision or instrumentality of the state~~
3008 ~~or a combination thereof primarily engaged in educational activities or the administration or~~
3009 ~~servicing of educational activities, including:]~~

3010 [~~(a) the State Board of Education and its instrumentalities;~~]

3011 [~~(b) any institution of higher learning and its branches;~~]

3012 [~~(c) any school district and its instrumentalities;~~]

3013 [~~(d) any vocational and technical school; and]~~

3014 [~~(e) any entity arising out of a consolidation agreement between entities under this~~
3015 ~~definition.]~~

3016 [~~(4) "Effective date" of the noncontributory system means 12:01 a.m., July 1, 1986.]~~

3017 [~~(5) (a) "Employee" or "regular employee" means any regular full-time employee whose~~
3018 ~~term of employment for an employer contemplates continued employment during a calendar or~~
3019 ~~school year and who performs covered service for one or more employers.]~~

3020 [~~(b) "Employee" or "regular employee" means an officer, elective or appointive, who~~
3021 ~~receives as compensation from an employer \$500 or more per month over a 12-month period~~
3022 ~~adjusted by the Bureau of Labor Statistics Consumer Price Index.]~~

3023 [~~(6) "Employer" or "employing unit" means any department, educational institution,~~
3024 ~~political subdivision, or eligible organization, or agency financed in whole or in part by public~~
3025 ~~funds for which any employee or member performs services subject to this chapter.]~~

3026 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total amount
3027 of payments made by a participating employer to a member of this system for services rendered
3028 to the participating employer, including:

3029 (i) bonuses;

3030 (ii) cost-of-living adjustments;

3031 (iii) other payments currently includable in gross income and that are subject to Social
3032 Security deductions, including any payments in excess of the maximum amount subject to

3033 deduction under Social Security law; and

3034 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral or
3035 other benefits authorized by federal law.

3036 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed under
3037 Internal Revenue Code, Section 401(a)(17).

3038 (c) "Compensation" does not include:

3039 (i) the monetary value of remuneration paid in kind, including a residence or use of
3040 equipment;

3041 (ii) the cost of any employment benefits paid for by the participating employer;

3042 (iii) compensation paid to a temporary employee, an exempt employee, or an employee
3043 otherwise ineligible for service credit;

3044 (iv) any payments upon termination, including accumulated vacation, sick leave payments,
3045 severance payments, compensatory time payments, or any other special payments; or

3046 (v) any costs incurred by the member and reimbursed by the participating employer,
3047 including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance
3048 costs, and dependent care costs.

3049 (d) The executive director may determine if a payment not listed under this Subsection (1)
3050 falls within the definition of compensation.

3051 ~~[(7)]~~ (2) "Final average salary" means the amount computed by averaging the highest three
3052 years of annual compensation preceding retirement subject to ~~[Subsections (7)(a), (b), and (c).]~~ the
3053 following:

3054 (a) Except as provided in Subsection ~~[(7)]~~ (2)(b), the percentage increase in annual
3055 compensation in any one of the years used may not exceed the previous year's ~~[salary]~~
3056 compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the
3057 purchasing power of the dollar during the previous year, as measured by ~~[the Consumer Price~~
3058 ~~Index prepared by the]~~ a United States Bureau of Labor Statistics Consumer Price Index average
3059 as determined by the board.

3060 (b) In cases where the ~~[employing unit]~~ participating employer provides acceptable
3061 documentation to the ~~[board]~~ office, the limitation in Subsection (2)(a) may be exceeded if:

3062 (i) the member has transferred from another ~~[employing unit]~~ agency; or

3063 (ii) the member has been promoted to a new position.

3064 (c) If the member retires more than six months from the date of termination of employment
3065 and for purposes of computing the member's final average salary only, the member is considered
3066 to have been in service at his last [salary] rate of pay from the date of the termination of
3067 employment to the effective date of retirement [~~becomes effective if the member so requests~~].

3068 [~~(8) "Normal retirement age" means the age of 65 years.~~]

3069 [~~(9) "Organization or agency financed in whole or in part by public funds" means an
3070 agency, association, or organization that receives public funds. The term does not include political
3071 subdivisions, departments, or educational institutions.~~]

3072 [~~(10) "Public funds" means those funds derived, either directly or indirectly, from public
3073 taxes or public revenue, dues, or contributions paid or donated by the membership of the
3074 organization used to finance an activity whose objective is to improve, on a nonprofit basis, the
3075 governmental, educational, and social programs and systems of the state or its political
3076 subdivisions.~~]

3077 [~~(11) (a) "Regular full-time employee," in qualifying for membership and accrual of
3078 service credit under this system, means an employee whose employment normally requires an
3079 average of 20 hours or more per week, except as modified by the board, and who receives benefits
3080 normally provided by the employing unit.~~]

3081 [~~(b) "Regular full-time employee" includes:~~]

3082 [~~(i) a teacher who teaches half-time or more or a classified school employee who works
3083 an average of 20 hours per week or more, regardless of benefits provided; and]~~

3084 [~~(ii) an individual who otherwise meets the definition of this Subsection (11) who
3085 performs services for a participating employer through an employee leasing or similar
3086 arrangement.~~]

3087 [~~(12) "Years of service" or "service years" means:~~]

3088 [~~(a) the number of periods, each to consist of 12 full months as determined by the board;]~~

3089 [~~(b) a period determined by the board, whether consecutive or not, during which an
3090 employee performed services for an employer or employers, including any time the employee
3091 rendered service in the armed forces of the United States before membership in the system or was
3092 absent on a paid leave of absence granted by an employer or absent in the service of the United
3093 States government on military duty as provided by this chapter; or]~~

3094 [~~(c) for a teacher, school administrator, or other contract employee of an educational~~

3095 ~~institution, not less than eight months of full-time service constitutes a service year.]~~

3096 (3) "Participating employer" means an employer which meets the participation
3097 requirements of Section 49-13-201.

3098 (4) (a) "Regular full-time employee" means an employee whose term of employment for
3099 a participating employer contemplates continued employment during a fiscal or calendar year and
3100 whose employment normally requires an average of 20 hours or more per week, except as modified
3101 by the board, and who receives benefits normally provided by the participating employer.

3102 (b) "Regular full-time employee" includes:

3103 (i) a teacher whose term of employment for a participating employer contemplates
3104 continued employment during a school year and who teaches half-time or more or a classified
3105 school employee who works an average of 20 hours per week or more for a participating employer,
3106 regardless of benefits provided;

3107 (ii) an officer, elective or appointive, who earns during the first full month of the term of
3108 office \$500 or more, indexed as of January 1, 1989, as provided in Section 49-13-407;

3109 (iii) a faculty member or employee of an institution of higher education who is considered
3110 full-time by that institution of higher education; and

3111 (iv) an individual who otherwise meets the definition of this Subsection (4) who performs
3112 services for a participating employer through an employee leasing or similar arrangement.

3113 (5) "System" means the Public Employees' Noncontributory Retirement System.

3114 (6) "Years of service credit" means:

3115 (a) a period, consisting of 12 full months as determined by the board;

3116 (b) a period determined by the board, whether consecutive or not, during which a regular
3117 full-time employee performed services for a participating employer, including any time the regular
3118 full-time employee was absent on a paid leave of absence granted by a participating employer or
3119 was absent in the service of the United States government on military duty as provided by this
3120 chapter; or

3121 (c) the regular school year consisting of not less than eight months of full-time service for
3122 a regular full-time employee of an educational institution.

3123 Section 70. Section **49-13-103**, which is renumbered from Section 49-3-201 is renumbered
3124 and amended to read:

3125 **[49-3-201]. 49-13-103. Creation of system.**

3126 There is created for ~~[the employees of the state, its educational institutions, and its political~~
3127 ~~subdivisions]~~ members employed by a participating employer the "Public Employees'
3128 Noncontributory Retirement System."

3129 Section 71. Section **49-13-104**, which is renumbered from Section 49-3-202 is renumbered
3130 and amended to read:

3131 ~~[49-3-202].~~ **49-13-104. Creation of trust fund.**

3132 (1) There is created the "Public Employees' Noncontributory Retirement Trust Fund" for
3133 the purpose of paying the benefits and costs of administering this system.

3134 (2) The fund shall consist of all money paid into it, including interest, in accordance with
3135 this chapter, whether in the form of cash, securities, or other assets, and of all money received from
3136 any other source.

3137 (3) Custody, management, and investment of the fund shall be governed by ~~[Title 49,]~~
3138 Chapter ~~[+]~~ 11, Utah State Retirement Systems Administration.

3139 Section 72. Section **49-13-201**, which is renumbered from Section 49-3-203 is renumbered
3140 and amended to read:

3141 **Part 2. Membership Eligibility**

3142 ~~[49-3-203].~~ **49-13-201. System membership -- Eligibility.**

3143 (1) Beginning July 1, 1986, the state and its educational institutions shall participate in this
3144 system.

3145 ~~[(1) Any]~~ (a) A person entering regular full-time employment with the state or its
3146 educational institutions after [the effective date of this chapter shall automatically become a
3147 member of the noncontributory retirement] July 1, 1986, is eligible for service credit in this system.

3148 ~~[(2) Any person in]~~ (b) A regular full-time [employment with] employee of the state or
3149 its educational institutions prior to [the effective date of this system] July 1, 1986, may either
3150 become [a member of this noncontributory] eligible for service credit in this system or remain [a
3151 member of the Public Employees' Retirement System] eligible for service in the system established
3152 under [Title 49,] Chapter [2,] 12, Public Employees' Contributory Retirement Act, by following
3153 the procedures established by the board [pursuant to] in accordance with this chapter.

3154 ~~[(3) Membership in the noncontributory system is optional for political subdivisions.]~~

3155 (2) An employer, other than the state and its educational institutions, may participate in
3156 this system except that once [a political subdivision] an employer elects to participate in [the

3157 ~~noncontributory]~~ this system, that election is ~~[final and binding upon the political subdivision]~~
3158 irrevocable. ~~[Persons]~~

3159 (a) A person entering regular full-time employment with [political subdivisions] a
3160 participating employer which [elect] elects to participate in [the noncontributory] this system [after
3161 the effective date of this chapter shall automatically become members of the noncontributory
3162 retirement] is eligible for service credit in this system. ~~[Any]~~

3163 (b) A person in regular full-time employment with [the political subdivision] a
3164 participating employer prior to [that] the participating employer's election to participate in this
3165 system may either become [a member of the noncontributory retirement] eligible for service credit
3166 in this system or remain [a member of the Public Employees' Retirement System] eligible for
3167 service in the system established under [Title 49,] Chapter [2,] 12, Public Employees' Contributory
3168 Retirement Act, by following the procedures established by the board [pursuant to] in accordance
3169 with this chapter.

3170 Section 73. Section **49-13-202**, which is renumbered from Section 49-3-204 is renumbered
3171 and amended to read:

3172 ~~[49-3-204].~~ **49-13-202. Participation of employers -- Limitations -- Exclusions --**
3173 **Admission requirements -- Nondiscrimination requirements.**

3174 (1) ~~(a) [All political subdivisions of the state, unless] Unless~~ excluded under Subsection
3175 (2), ~~[are] an employer is a participating [employers in the system] employer~~ and may not withdraw
3176 from participation in ~~[the] this~~ system. ~~[All departments and educational institutions are also~~
3177 ~~participating employers in the system and may not withdraw from participation in the system. As~~
3178 ~~participating employers, political subdivisions, departments, and educational institutions shall meet~~
3179 ~~all requirements for full participation in the system.]~~

3180 (b) In addition to their participation in this system, participating employers may provide
3181 or participate in any additional public or private retirement, supplemental or defined contribution
3182 plan, either directly or indirectly, for their employees.

3183 (2) ~~[Any political subdivision] An employer~~ not initially admitted or included as a
3184 participating employer in ~~[the] this~~ system prior to January 1, 1982, may be excluded from
3185 participation in ~~[the] this~~ system if the ~~[political subdivision] employer~~ elects not to provide or
3186 participate in any type of private or public retirement, supplemental or ~~[deferred income program]~~
3187 defined contribution plan, either directly or indirectly, for its employees, except for Social Security.

3188 [~~Any excluded political subdivision~~]

3189 (3) If an employer elects at any time to provide or participate in any type of public or
3190 private retirement, supplemental or defined contribution plan, either directly or indirectly, except
3191 for social security, the employer shall be a participating employer in this system.

3192 (4) (a) Any employer may by resolution of its governing body apply for [~~and receive~~]
3193 admission to [~~the~~] this system. [~~Once admitted, the political subdivision may not withdraw from~~
3194 ~~participation and shall meet all requirements for full participation in the system. If an excluded~~
3195 ~~political subdivision elects at any time to provide or participate in any type of public or private~~
3196 ~~retirement, supplemental or deferred income program, either directly or indirectly, except for social~~
3197 ~~security, the political subdivision shall be required to be a participating employer in the system.~~
3198 ~~As a participating employer, the political subdivision may not withdraw from participation and~~
3199 ~~shall meet all requirements for full participation in the system.]~~

3200 [~~(3) (a) Any organization or agency supported in whole or in part by state public funds,~~
3201 ~~which prior to application is not covered by this chapter, may by resolution of its governing body~~
3202 ~~apply for admission to the system. The board may refuse admission to any organization or agency~~
3203 ~~applying for admission upon a finding that it is not in the best interest of the participating~~
3204 ~~employers and employees.]~~

3205 (b) Upon approval of the board, the [~~organization or agency shall become a participant in~~
3206 ~~the system if the board and the organization or agency agree upon:] employer is a participating
3207 employer in this system and is subject to this title.~~

3208 [~~(i) the terms by which its employees shall become members of the system, such as the~~
3209 ~~effective date of coverage;]~~

3210 [~~(ii) the amount of prior service credit with which they may be credited, if any;]~~

3211 [~~(iii) the amount of any contributions in addition to regular contributions that will be~~
3212 ~~required to provide any prior service credits or retroactive current service credits from either the~~
3213 ~~employing unit or its employees; and]~~

3214 [~~(iv) the manner in which retroactive current or prior service credits may be established,~~
3215 ~~if any.]~~

3216 [~~(c) Once admitted to the system, an organization or agency may not withdraw from~~
3217 ~~participation, except as provided in Subsection (4), and shall meet all requirements for full~~
3218 ~~participation in the system.]~~

3219 ~~[(d) An organization or agency supported in whole or in part by public funds may not~~
3220 ~~apply for or receive admission to the system after July 1, 1991.]~~

3221 ~~[(4) (a) An organization or agency admitted to the system pursuant to Subsection (3) which~~
3222 ~~no longer receives public funds may withdraw from the system if:]~~

3223 ~~[(i) the organization or agency's governing body by resolution petitions the board for~~
3224 ~~withdrawal from the system; and]~~

3225 ~~[(ii) the board approves the withdrawal.]~~

3226 ~~[(b) Once approval to withdraw is granted, the organization or agency and its employees~~
3227 ~~shall be governed by Sections 49-1-502 and 49-1-503.]~~

3228 ~~[(5) Except as provided in Sections 49-3-206 and 49-3-207, no participating employer may~~
3229 ~~maintain full participation in the system by covering only part of its employees. The full~~
3230 ~~participation requirement is satisfied if a participating employer covers those of its employees~~
3231 ~~eligible for coverage under:]~~

3232 ~~[(a) Title 49, Chapter 4, Public Safety Retirement Act; or]~~

3233 ~~[(b) Title 49, Chapter 5, Firefighters' Retirement Act and its remaining employees under~~
3234 ~~either Title 49, Chapter 2, Public Employees' Retirement Act or Title 49, Chapter 3, Public~~
3235 ~~Employees' Noncontributory Retirement Act, whichever is applicable.]~~

3236 ~~[(6) In addition to their participation in the system, participating employers may provide~~
3237 ~~or participate in any additional public or private retirement, supplemental or deferred income~~
3238 ~~program, either directly or indirectly, for their employees.]~~

3239 ~~[(7) (a) Credit unions or private hospitals which are participating units in any system~~
3240 ~~administered by the board may withdraw from participation upon applying to the board. This~~
3241 ~~application shall be made between July 1, 2000, and December 31, 2000. The withdrawal is~~
3242 ~~effective the day after the last day the withdrawing unit pays retirement contributions on its~~
3243 ~~employees' salaries.]~~

3244 ~~[(b) Once the withdrawal of the credit union or private hospital is complete, the employees~~
3245 ~~of the withdrawing unit may apply to withdraw their vested contributions. Refunds shall then be~~
3246 ~~paid in accordance with Subsection 49-1-502(3).]~~

3247 ~~[(c) Under no circumstance may a withdrawing unit receive the employer contributions~~
3248 ~~which have been made to the system.]~~

3249 (5) If a participating employer purchases service credit on behalf of regular full-time

3250 employees for service rendered prior to the participating employer's admission to this system, the
3251 service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former
3252 regular full-time employees who were eligible for service credit at the time service was rendered.

3253 Section 74. Section **49-13-203**, which is renumbered from Section 49-3-206 is renumbered
3254 and amended to read:

3255 ~~[49-3-206].~~ **49-13-203. Exclusions from membership in system.**

3256 (1) The following employees are ~~[excluded from membership in the retirement]~~ not
3257 eligible for service credit in this system:

3258 ~~[(+)]~~ (a) ~~[Every]~~ An employee whose employment status is temporary in nature due to the
3259 nature or the type of work to be performed~~[-]~~, provided that:

3260 (i) if the term of employment exceeds six months~~[-, then for that employee a regular~~
3261 ~~full-time status shall be assumed, and the employee shall be enrolled in the system]~~ and the
3262 employee otherwise qualifies for service credit in this system, the participating employer shall
3263 report and certify to the office that the employee is a regular full-time employee effective the
3264 beginning of the seventh month of employment[-]; and

3265 (ii) if ~~[the same]~~ an employee, previously terminated prior to ~~[enrollment as a member, is~~
3266 ~~again employed]~~ becoming eligible for service credit in this system, is reemployed within three
3267 months of termination by the same participating employer, the ~~[employee shall be immediately~~
3268 ~~enrolled as a member if the work constitutes full-time as defined in this chapter]~~ participating
3269 employer shall report and certify to the office and the member is a regular full-time employee when
3270 the total of the periods of employment equals six months and the employee otherwise qualifies for
3271 service credit in this system.

3272 ~~[(2)]~~ (b) ~~[Full-time students]~~ A full-time student or the spouse of a full-time student and
3273 ~~[persons]~~ another person employed in a trainee relationship ~~[may be excluded from coverage by~~
3274 ~~rules adopted by the board]~~ who file a formal request for exemption.

3275 ~~[(3)]~~ (c) (i) ~~[Every]~~ A current or future employee of a two-year or four-year college or
3276 university who holds, or is entitled to hold, ~~[pursuant to]~~ under Section ~~[49-2-206]~~ 49-13-204, a
3277 retirement annuity contract with the Teachers' Insurance and Annuity Association of America or
3278 with any other public or private system, organization, or company during any period in which ~~[that~~
3279 ~~employee has received]~~ required contributions ~~[toward the premiums required]~~ based on
3280 compensation ~~[from the employing unit]~~ have been paid on behalf of the employee by the

3281 employer.

3282 (ii) The employee, upon cessation of the participating employer contributions, shall
3283 immediately become ~~[a contributing member]~~ eligible for service credit in this system.

3284 ~~[(4) Every]~~ (d) An employee serving as an exchange employee from outside the state.

3285 ~~[(5) Elected officials]~~ (e) An elected official who ~~[file]~~ files a formal request for
3286 exemption.

3287 ~~[(6) Executive]~~ (f) An executive department ~~[heads]~~ head of the state or a legislative
3288 ~~[directors]~~ director, senior ~~[executives]~~ executive employed by the governor's office, ~~[members]~~
3289 a member of the State Tax Commission, a member of the Public Service Commission, the State
3290 Olympic Officer, and ~~[other members]~~ a member of a full-time or part-time ~~[boards or~~
3291 ~~commissions]~~ board or commission who ~~[file]~~ files a formal request ~~[to be excluded from~~
3292 ~~coverage]~~ for exemption.

3293 ~~[(7) (a) Employees of the Department of Employment Security who are covered under~~
3294 ~~another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; or (b)~~
3295 ~~employees]~~

3296 (g) An employee of the Department of Workforce Services ~~[who were covered under~~
3297 ~~Subsection (7)(a) and]~~ who ~~[are]~~ is covered under another retirement system allowed under Title
3298 35A, Chapter 4, Employment Security Act.

3299 ~~[(8) (h) (i) [Persons]~~ A person appointed as a city ~~[managers]~~ manager or chief city
3300 ~~[administrators]~~ administrator or ~~[other persons]~~ another person employed by a ~~[city, town],~~
3301 municipality, county, or other political subdivision, who ~~[are]~~ is not entitled to merit or civil
3302 service protection. ~~[Persons]~~

3303 (ii) A person eligible for exclusion under ~~[this]~~ Subsection ~~(1)(h)(i)~~ shall file a formal
3304 request for ~~[exclusion from coverage]~~ exemption and be employed in a position designated as
3305 exempt under an employee exemption plan developed by the ~~[city, town]~~ municipality, county, or
3306 political subdivision. ~~[Employee exemption plans shall be subject to the following limitations: (a)~~
3307 ~~The total number of positions a city, town]~~

3308 (2) (a) A municipality, county, or political subdivision may not exempt ~~[may not exceed~~
3309 ~~the lesser of]~~ more than 30 positions or a number equal to 10% of the employees of the ~~[city, town]~~
3310 municipality, county, or political subdivision, whichever is lesser. ~~[However, every city, town]~~

3311 (b) A municipality, county, or political subdivision ~~[is entitled to a minimum exemption~~

3312 ~~of one eligible]~~ may exempt at least one regular full-time employee.

3313 ~~[(b) Employee exemption plans shall be filed]~~

3314 (3) Each participating employer shall:

3315 (a) file employee exemptions annually with the ~~[retirement]~~ office~~[-];~~ and ~~[the city, town,~~
3316 ~~county, or political subdivision shall]~~

3317 (b) update the [exemption plan] employee exemptions in the event of any change.

3318 ~~[(c) The retirement]~~

3319 (4) The office may [promulgate] make rules to implement this section.

3320 Section 75. Section **49-13-204**, which is renumbered from Section 49-3-207 is renumbered
3321 and amended to read:

3322 ~~[49-3-207].~~ **49-13-204. Higher education employees' eligibility requirements --**

3323 **Election between different retirement plans -- Classification requirements -- Transfer**

3324 **between systems -- Supplemental plans authorized.**

3325 (1) ~~(a) [The faculty members and]~~ Regular full-time employees of institutions of higher
3326 education who are eligible to participate in either this system or in a retirement annuity contract
3327 with the ~~[Teacher's]~~ Teachers' Insurance and Annuity Association of America or with any other
3328 public or private system, organization, or company, designated by the Board of Regents, shall, not
3329 later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract
3330 allowed under this Subsection (1)(a).

3331 (b) The election is final, and no right exists to make any further election.

3332 (2) (a) A ~~[faculty member or]~~ regular full-time employee hired by an institution of higher
3333 education after January 1, 1979, may participate only in the retirement plan which attaches to the
3334 person's employment classification~~[-, and each].~~

3335 (b) Each institution of higher education ~~[is directed to]~~ shall prepare or amend existing
3336 employment classifications, under the direction of the Board of Regents, so that each classification
3337 is assigned with either:

3338 (i) this system ~~[or with the Teacher's];~~

3339 (ii) the Teachers' Insurance and Annuity Association of America; or ~~[with any other]~~

3340 (iii) another public or private system, organization, or company designated by the Board
3341 of Regents.

3342 (3) A ~~[faculty member or]~~ regular full-time employee hired by an institution of higher

3343 education after January 1, 1979, whose employment classification requires participation in [~~the~~
3344 ~~state retirement~~] this system may[;] elect to continue participation in this system upon change to
3345 an employment classification which requires participation in:

3346 (a) an annuity plan with the [~~Teacher's~~] Teachers' Insurance and Annuity Association of
3347 America; or [~~with some other~~]

3348 (b) another public or private system, organization, or company designated by the Board
3349 of Regents[; ~~finally elect to continue participation in the state retirement system~~].

3350 (4) A [~~faculty member or~~] regular full-time employee hired by an institution of higher
3351 education after January 1, 1979, whose employment classification requires participation in [~~such~~
3352 ~~an annuity plan, upon change to an employment classification which requires participation in this~~
3353 ~~system;~~] this system shall participate in this system.

3354 [~~(5) Nothing contained in this section prohibits a faculty member or employee of an~~
3355 ~~institution of higher education from participating in a supplemental annuity plan, and the Board~~
3356 ~~of Regents shall promulgate rules governing permissible participation, but in no event may the~~
3357 ~~contribution by an institution for the purchase of an old age annuity or other approved investment~~
3358 ~~exceed 14.2% of the employee's or member's salary.~~]

3359 [~~(6) The State Board of Education may assist its faculties and employees to purchase any~~
3360 ~~old age annuity plan or other approved investment by promulgating rules governing permissible~~
3361 ~~participation in a supplemental old age annuity plan or other approved investment, but such~~
3362 ~~assistance is limited to contracting with the employee to receive a reduced salary, and investing~~
3363 ~~the employee contribution towards the purchase of the annuity or other approved investment.~~]

3364 Section 76. Section **49-13-205**, which is renumbered from Section 49-3-205 is renumbered
3365 and amended to read:

3366 [~~49-3-205~~]. **49-13-205. Conversion to system -- Time schedule -- Conversion**
3367 **windows.**

3368 [~~The following laws govern conversion to the Public Employees' Noncontributory~~
3369 ~~Retirement System:~~]

3370 (1) [~~For persons governed by Subsection 49-3-203(2);~~] An employee governed under
3371 Section 49-13-201 shall make the election to participate in [~~the noncontributory~~] this system [~~shall~~
3372 ~~be made~~] within six months of [~~the effective date of this chapter~~] July 1, 1986.

3373 (2) (a) (i) [~~For political subdivisions governed by Subsection 49-3-203(3);~~] An employer

3374 governed under Sections 49-13-201 and 49-13-202 shall make the election to participate [as a local
3375 government unit shall be made] in this system within six months of [~~the effective date of this~~
3376 ~~chapter] July 1, 1986.~~

3377 (ii) The [~~political subdivision] employer~~ shall indicate whether or not it elects to
3378 participate by enacting a resolution or ordinance to that effect.

3379 (iii) Prior to the enactment of the resolution or ordinance, a hearing shall be held by the
3380 [~~political subdivision] employer~~, at which all employees of the political subdivision shall be given
3381 an opportunity to be heard on the question of participating in this [~~noncontributory retirement~~
3382 system.

3383 (iv) Notice of the hearing shall be mailed to all employees within 30 days of the hearing
3384 and shall contain the time, place, and purpose of the hearing.

3385 (b) A [~~person in] regular full-time [employment with a political subdivision prior to its~~
3386 ~~election to participate] employee~~ has six months from the date the [~~political subdivision] employer~~
3387 elects to participate in this system in which to [~~elect to] make the election to participate in this~~
3388 system and become [~~a member of the noncontributory] eligible for service credit in this~~ system.

3389 (3) Subsections (1) and (2) shall be used to provide a second time period of conversion to
3390 this system beginning July 1, 1990.

3391 (4) Subsections (1) and (2) shall be used to provide a third time period of conversion to
3392 this system beginning July 1, 1995.

3393 Section 77. Section **49-13-301**, which is renumbered from Section 49-3-301 is renumbered
3394 and amended to read:

3395 **Part 3. Contributions**

3396 [~~49-3-301].~~ **49-13-301. Contributions -- Two levels -- Report.**

3397 (1) [~~The system shall be maintained on a financially and actuarially sound basis by means~~
3398 ~~of contributions by the participating employer] Participating employers shall pay the certified
3399 contribution rates to the office to maintain this system on a financially and actuarially sound basis.~~

3400 (2) For purposes of determining contribution rates, [~~the] this~~ system is divided into two
3401 levels according to participating employers[~~-. The levels are] as follows:~~

3402 (a) Level A includes the state [~~of Utah, the Utah State Retirement Office,], its independent
3403 agencies, independent entities, public corporations, and other instrumentalities, all participating
3404 educational institutions, and all other participating employers whose activities are associated with~~

3405 participating educational institutions.

3406 (b) Level B includes all other participating employers in ~~[the]~~ this system.

3407 ~~[(2) The board shall report at least biennially to the governor, the Legislature, and each~~

3408 ~~employing unit under Division A or B the contribution rates and any adjustments necessary to~~

3409 ~~maintain the system on a financially and actuarially sound basis, and the employer shall pay the~~

3410 ~~certified contribution rates.]~~

3411 Section 78. Section **49-13-302** is enacted to read:

3412 **49-13-302. Purchase of service credit.**

3413 Any member who works 20 or more hours per week for a participating employer

3414 participating in this system, but does not meet other eligibility requirements for service credit, may

3415 purchase such service credit in accordance with Section 49-11-403.

3416 Section 79. Section **49-13-303**, which is renumbered from Section 49-3-302 is renumbered

3417 and amended to read:

3418 **[49-3-302]. 49-13-303. Supplemental benefit established -- Defined contribution**

3419 **plan options -- Contribution by employer and employee -- Immediate vesting of**

3420 **contributions -- Plans to be separate -- Tax-qualified status of plans.**

3421 ~~[(1) There is established a supplemental deferred compensation benefit for members of~~

3422 ~~this system.]~~

3423 ~~[(a) (i) For members of]~~

3424 (1) (a) Participating employers in Level A under Section [49-3-301] 49-13-301, which are

3425 participating educational institutions or participating employers whose activities are associated

3426 with participating educational institutions, ~~[the employer]~~ shall ~~[contribute]~~ make a nonelective

3427 contribution on behalf of each of its regular full-time employees who are members of this system

3428 an amount equal to at least 1.5% of the [employee's salary to a deferred compensation] member's

3429 compensation to a defined contribution plan qualified under Section 401(k) of the Internal

3430 Revenue Code which is selected by the regular full-time employee and which is sponsored by the

3431 board, by that Level A employer, or by a group of similar Level A employers, and which has been

3432 grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

3433 ~~[(ii) For all] (b) All other [members of] Level A participating employers under Section~~

3434 ~~[49-3-301, the employer] 49-13-301 shall [contribute]~~ make a nonelective contribution on behalf

3435 of each of its regular full-time employees who are members of this system an amount equal to at

3436 least 1.5% of the [employee's salary] member's compensation to the [~~deferred compensation~~
3437 defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which is
3438 sponsored by the board.

3439 ~~[(iii)]~~ (c) The [employee] member or participating employer may [~~also~~] make [~~elective~~
3440 ~~contributions~~] additional payments to either the qualified 401(k) plan which receives the 1.5%
3441 employer contribution described in this Subsection [(i)] (1), or to any other [~~deferred~~
3442 ~~compensation~~] defined contribution plan qualified under Section 401(k) of the Internal Revenue
3443 Code which is selected by the [employee] member and sponsored by the board, that Level A
3444 employer, or a group of similar Level A employers, and which has been grandfathered under
3445 Section 1116 of the Federal Tax Reform Act of 1986[~~, but only up to an amount permitted by~~
3446 ~~federal law~~].

3447 ~~[(b) (i) For members of]~~

3448 (2) (a) Participating employers in Level B under Section [49-3-301, the participating
3449 employer] 49-13-301 may [~~contribute~~] make nonelective contributions on behalf of each of its
3450 regular full-time employees [any amount to the deferred compensation plan qualified under Section
3451 401(k) of the Internal Revenue Code which is] who are members of this system to the 401(k)
3452 defined contribution plan sponsored by the board or to a qualified plan sponsored by the
3453 participating employer which has been grandfathered under Section 1116 of the Federal Tax
3454 Reform Act of 1986.

3455 ~~[(ii)]~~ (b) The [employee] member may also [~~contribute~~] make voluntary deferrals to the
3456 same [~~qualified~~] 401(k) plan which the [employee] member selected to receive the employer
3457 contribution described in Subsection [~~(i), but only up to an amount permitted by federal law~~]
3458 (2)(a).

3459 (3) Each qualified defined contribution 401(k) plan is separate and distinct from any other
3460 qualified defined contribution 401(k) plan for all purposes, including purposes of fiduciary liability
3461 and plan administration.

3462 ~~[(c) The employee]~~ (4) A member may not make [~~elective contributions~~] voluntary
3463 deferrals to any other qualified 401(k) plan sponsored by a state or local government.

3464 ~~[(2)]~~ (5) The total amount contributed by the participating employer and the member under
3465 Subsection (1)[~~(a)~~] or [~~(b)~~] (2) vests to the [employee's] member's benefit immediately and is
3466 nonforfeitable.

3467 ~~[(3) Each qualified deferred compensation 401(k) plan is separate and distinct from any~~
3468 ~~other qualified deferred compensation 401(k) plan for all purposes including, but not limited to,~~
3469 ~~purposes of fiduciary liability and plan administration.]~~

3470 ~~(6) The board may request from any other qualified 401(k) plan under Subsection~~
3471 ~~(1)[(a)(iii)] or (2) any relevant information pertaining to the maintenance of its tax qualification~~
3472 ~~under the Internal Revenue Code [and may request indemnification from such other plan to the~~
3473 ~~extent it performs testing functions for that plan].~~

3474 ~~[(4) Prior to January 1 of each calendar year, each employee of an employing unit specified~~
3475 ~~in Subsection (1)(a)(i) shall notify the employing unit which qualified deferred compensation~~
3476 ~~401(k) plan the employee has selected to receive the employer and employee contributions~~
3477 ~~described in Subsections (1)(a) and (b) for that calendar year. This election may be changed only~~
3478 ~~in accordance with procedures established by the employing unit. Notwithstanding this section,~~
3479 ~~the]~~

3480 ~~(7) The board may take any action which in its judgment is necessary to maintain the~~
3481 ~~tax-qualified status of its 401(k) [deferred compensation] defined contribution plan [pursuant to]~~
3482 ~~under federal law. [The board shall submit findings of fact and its conclusions prior to taking any~~
3483 ~~such action.]~~

3484 Section 80. Section **49-13-401**, which is renumbered from Section 49-3-401 is renumbered
3485 and amended to read:

3486 **Part 4. Defined Benefit**

3487 ~~[49-3-401].~~ **49-13-401. Eligibility for an allowance -- Date of retirement --**
3488 **Qualifications.**

3489 ~~[(1) (a) Any member who qualifies for service retirement may retire by submitting to the~~
3490 ~~retirement office an application form notarized by a notary public. The application shall state the~~
3491 ~~proposed effective date of retirement, which may not be more than 90 days before or after the date~~
3492 ~~of application.]~~

3493 ~~[(b) The effective date shall be the 1st or 16th day of the month, as selected by the~~
3494 ~~member, but must be after the last day of actual work.]~~

3495 ~~[(c) The member shall actually terminate employment and provide evidence of~~
3496 ~~termination.]~~

3497 ~~[(2) The member is qualified to retire upon termination of services on or before the~~

3498 ~~effective date of retirement if one of the following requirements on that date is met:]~~

3499 (1) A member is qualified to receive an allowance from this system when:

3500 (a) the member ceases actual work for a participating employer in this system before the
3501 member's retirement date and provides evidence of the termination;

3502 (b) the member has submitted to the office a notarized retirement application form that
3503 states the member's proposed retirement date; and

3504 (c) one of the following conditions is met as of the member's retirement date:

3505 ~~[(a)]~~ (i) the member has ~~[been credited with]~~ accrued at least four years of service credit
3506 and has attained an age of 65 years ~~[or more]~~;

3507 ~~[(b)]~~ (ii) the member has ~~[been credited with]~~ accrued at least ten years of service credit
3508 and has attained an age of 62 years ~~[or more]~~;

3509 ~~[(c)]~~ (iii) the member has ~~[been credited with]~~ accrued at least 20 years of service credit
3510 and has attained an age of 60 years ~~[or more]~~;

3511 ~~[(d)]~~ (iv) the member has ~~[been credited with]~~ accrued at least 30 years of service credit;

3512 or

3513 ~~[(e)]~~ (v) the member ~~[is credited with]~~ has accrued at least 25 years of service credit, in
3514 which case the member shall be subject to the reduction ~~[set out]~~ under Subsection ~~[49-3-402]~~
3515 49-13-402(2)(b).

3516 (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as
3517 selected by the member, but the retirement date must be on or after the date of termination.

3518 (b) The retirement date may not be more than 90 days before or after the date the
3519 application is received by the office.

3520 Section 81. Section ~~49-13-402~~, which is renumbered from Section 49-3-402 is renumbered
3521 and amended to read:

3522 ~~[49-3-402].~~ **49-13-402. Service retirement plans -- Calculation of retirement**
3523 **allowance -- Social Security limitations.**

3524 (1) ~~(a) [There are six service retirement plans available to members of the system. Plan~~
3525 ~~One is as follows, with Plans Two, Three, Four, Five, and Six established under Section 49-3-403]~~
3526 Except as provided under Section 49-13-701, retirees of this system may choose from the six
3527 retirement options described in this section.

3528 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One

3529 calculation.

3530 (2) ~~[Except for members of this system who meet the requirements of Section 49-3-802,~~
3531 ~~upon the service retirement of a member under Section 49-3-401, the member shall receive a~~
3532 ~~retirement allowance consisting of a pension based on service determined]~~ The Option One benefit
3533 is an allowance calculated as follows:

3534 (a) If the ~~[member has attained the age of]~~ retiree is at least 65 years of age or has accrued
3535 at least 30 years of service credit, the ~~[retirement]~~ allowance is an amount equal to 2% of the
3536 retiree's final average monthly salary multiplied by the number of years of service [credited to the
3537 member] credit accrued.

3538 (b) If the ~~[member] retiree~~ is less than 65 years ~~[old,] of age~~, the ~~[retirement]~~ allowance
3539 shall be reduced 3% for each year of retirement from age 60 to age 65, plus a full actuarial
3540 reduction for each year of retirement prior to age 60, unless the member has 30 or more years of
3541 accrued credit, in which event no reduction is made to the allowance.

3542 ~~[(3)]~~ (c) (i) Years of service include any fractions of years of service to which the
3543 ~~[member] retiree~~ may be entitled. ~~[Service amounting to 9/10 of one year constitutes a year of~~
3544 ~~service credit in the computation of a retirement benefit.]~~

3545 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service
3546 credit is within 1/10 of one year of the total years of service credit required for retirement, the
3547 retiree shall be considered to have the total years of service credit required for retirement.

3548 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
3549 by reducing an Option One benefit based on actuarial computations to provide the following:

3550 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree,
3551 and, if the retiree receives less in annuity payments than the amount of the retiree's member
3552 contributions, the remaining balance of the retiree's member contributions shall be paid in
3553 accordance with Sections 49-11-609 and 49-11-610.

3554 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree,
3555 and, upon the death of the retiree, the same reduced allowance paid to and throughout the lifetime
3556 of the retiree's lawful spouse at the time of retirement.

3557 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree,
3558 and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance paid to and
3559 throughout the lifetime of the retiree's lawful spouse at the time of retirement.

3560 (d) Option Five is a modification of Option Three so that if the lawful spouse at the time
3561 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
3562 of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's
3563 life, beginning on the last day of the month following the month in which the lawful spouse dies.

3564 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time of
3565 retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of
3566 initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life,
3567 beginning on the last day of the month following the month in which the lawful spouse dies.

3568 (4) (a) (i) The final average salary is limited in the computation of that part of [~~a member's~~
3569 ~~prior service retirement~~] an allowance based on service rendered prior to July 1, 1967, during a
3570 period when the [member] retiree received employer contributions on a portion of compensation
3571 from an educational institution toward the payment of the premium required on a retirement
3572 annuity contract with the Teachers' Insurance and Annuity Association of America or with any
3573 other public or private system, organization, or company to \$4,800.

3574 (ii) This limitation is not applicable to [~~members~~] retirees who elected to continue in the
3575 [~~state retirement system~~] Public Employees' Contributory Retirement System by July 1, 1967.

3576 (b) Periods of [~~service~~] employment which are exempt from this system as permitted under
3577 Subsection [~~49-3-206(3), not to exceed four years;~~] 49-13-203(1)(c) may be purchased by the
3578 member for the purpose of retirement only if all benefits from the Teachers' Insurance and
3579 Annuity Association of America or any other public or private system or organization based on this
3580 period of employment are forfeited.

3581 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement date,
3582 the retirement is canceled and the death shall be considered as that of a member before retirement.

3583 (b) Any payments made to the retiree shall be deducted from the amounts due to the
3584 beneficiary.

3585 (6) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree
3586 may elect to convert the benefit to an Option One benefit at the time of divorce, if there is no court
3587 order filed in the matter.

3588 Section 82. Section **49-13-403**, which is renumbered from Section 49-3-404 is renumbered
3589 and amended to read:

3590 [~~49-3-404~~]. **49-13-403. Allowance payable by lump-sum payment.**

3591 (1) If a ~~[retiring member's monthly]~~ retiree's allowance, as computed under ~~[Section~~
3592 ~~49-3-402]~~ this section, amounts to \$25 or less, the ~~[benefit claim]~~ allowance may be settled by the
3593 ~~[administrator]~~ office by making a lump-sum payment of an amount actuarially equivalent to the
3594 ~~[monthly]~~ allowance. ~~[Payment thus]~~

3595 (2) A payment made under this section constitutes a full and complete settlement of the
3596 ~~[retiring member's]~~ retiree's claim against ~~[the]~~ this system.

3597 Section 83. Section ~~49-13-404~~, which is renumbered from Section 49-3-405 is renumbered
3598 and amended to read:

3599 ~~[49-3-405].~~ **49-13-404. Lump-sum death benefit for retiree and spouse.**

3600 (1) (a) ~~[A member, upon]~~ Upon retirement, a retiree may elect to have the ~~[administrator~~
3601 ~~set aside in reserve from the member's retirement]~~ office deduct an actuarially determined amount
3602 from the retiree's allowance ~~[a sufficient sum of money, based upon age, sex, interest rate in effect,~~
3603 ~~and the mortality rates for the member's group;]~~ to provide a lump-sum benefit payable to a
3604 beneficiary upon the death of the ~~[member after retirement, under an agreement that will provide~~
3605 ~~a reduced retirement allowance payable to the retirant throughout the retirant's lifetime, plus the~~
3606 ~~lump-sum amount at death]~~ retiree.

3607 (b) A retiree may also elect to have an actuarially determined amount deducted from the
3608 retiree's allowance to provide a lump-sum death benefit payable to a beneficiary upon the death
3609 of the retiree's lawful spouse at the time of retirement.

3610 ~~[(b)]~~ (c) The board shall make rules for the administration of this lump-sum death benefit
3611 ~~[may be purchased in accordance with rules adopted by the board].~~

3612 ~~[(c) The spouse of a retiring member may also be covered with a death benefit upon the~~
3613 ~~request of the member.]~~

3614 ~~[(2) The lump-sum death benefit provided by this section may be chosen as a modification~~
3615 ~~of or deduction from the retirement allowance provided under Section 49-3-402 or 49-3-403, and~~
3616 ~~is payable to the designated beneficiary chosen at the time of the member's retirement, to a~~
3617 ~~beneficiary subsequently designated, or to the retirant's estate under applicable conditions~~
3618 ~~established under Section 49-1-606 or 49-1-607.]~~

3619 ~~[(3) If a retirant cancels retirement as permitted by this title, the lump-sum death benefit~~
3620 ~~under this section shall also be canceled, with the appropriate reserve, as determined by the~~
3621 ~~administrator, credited back to the member's contribution account.]~~

3622 ~~[(4) Payment of the lump-sum death benefit consists only of a refund of the retirant's~~
3623 ~~reserve or the amount determined by the board and set aside as provided in this section if death~~
3624 ~~occurs within three years from the date of retirement and is due to a health condition existing and~~
3625 ~~being treated at the time of retirement.]~~

3626 ~~[(5) The board may establish rules and adopt suitable mortality rates to protect the fund~~
3627 ~~against adverse selection of benefits by a retiring member under this section.]~~

3628 (2) (a) For retirees who pay for a lump-sum death benefit under this section through a
3629 reduction of an allowance, benefits shall be paid in accordance with Sections 49-11-609 and
3630 49-11-610.

3631 (b) If the retiree chooses Option Three, Four, Five, or Six, and a lump-sum death benefit
3632 is payable after the death of the retiree or the lawful spouse, the allowance shall be restored to its
3633 original amount.

3634 Section 84. Section **49-13-405**, which is renumbered from Section 49-3-406 is renumbered
3635 and amended to read:

3636 ~~[49-3-406].~~ **49-13-405. Death of married members -- Service retirement benefits**
3637 **to surviving spouse.**

3638 (1) As used in this section, "member's full allowance" means ~~[the benefit calculated using~~
3639 ~~the formula]~~ an Option Three allowance calculated under Subsection [49-3-402] 49-13-402(2)(a)
3640 without an actuarial reduction.

3641 (2) ~~[(a) Beginning January 1, 1997, a]~~ Upon the request of the member's lawful spouse at
3642 the time of death, a member is considered to be eligible to retire under Option Three on the first
3643 day of the month following the month in which the member died if the following requirements are
3644 met:

3645 (a) the member [who] has:

3646 (i) 15 or more years of [credited] service[; age 60 with 20 or more years of credited
3647 service;] credit;

3648 (ii) attained age 62 with ten or more years of [credited] service[;] credit; or

3649 (iii) attained age 65 with four or more years of [credited] service[; respectively, and who]
3650 credit; and

3651 (b) the member dies leaving a spouse to whom the member has been married at least six
3652 months prior to the death date[; may, upon the request of the spouse, be considered to have retired

3653 on the first day of the month following the month in which death occurred and retired under Plan
3654 Three].

3655 ~~[(b)]~~ (3) The spouse who requests a benefit ~~[pursuant to Subsection (2)(a)]~~ under this
3656 section shall apply in writing to the ~~[retirement]~~ office stating the proposed effective date to begin
3657 receiving ~~[a monthly retirement]~~ an allowance, which may not be more than 90 days ~~[before or]~~
3658 after the date of application~~[-, and which shall be effective on the 1st or 16th day of the month, as~~
3659 ~~selected by the spouse].~~

3660 ~~[(3)]~~ (4) The ~~[retirement benefit]~~ allowance payable to a surviving spouse under
3661 Subsection (2) is:

3662 (a) if the member has 25 or more years of ~~[credited]~~ service credit at the time of death, the
3663 surviving spouse shall receive the member's full allowance;

3664 (b) if the member has between 20-24 years of ~~[credited]~~ service credit and is not age 60
3665 or older at the time of death, the surviving spouse shall receive two-thirds of the member's full
3666 allowance;

3667 (c) if the member has between 15-19 years of ~~[credited]~~ service credit and is not age 62
3668 or older at the time of death, the surviving spouse shall receive one-third of the member's full
3669 allowance; or

3670 (d) if the member is age 60 or older with 20 or more years of ~~[credited]~~ service credit, age
3671 62 or older with 10 or more years of ~~[credited]~~ service credit, or age 65 or older with four or more
3672 years of ~~[credited]~~ service credit at the time of death, the surviving spouse shall receive ~~[the benefit~~
3673 ~~calculated using the formula and the actuarial reduction under Subsections 49-3-402(2)(a) and~~
3674 ~~(2)(b)]~~ an Option Three benefit with actuarial reductions.

3675 ~~[(4) Benefits]~~ (5) Except for a return of member contributions, benefits payable under this
3676 section are ~~[service]~~ retirement benefits and shall be paid in addition to any other payments made
3677 under Section ~~[49-3-701, except for a return of accumulated contributions,]~~ 49-13-501 and shall
3678 constitute a full and final settlement of the claim of the spouse or any other beneficiary filing a
3679 claim for benefits under Section ~~[49-3-701]~~ 49-13-501.

3680 Section 85. Section **49-13-406**, which is renumbered from Section 49-3-409 is renumbered
3681 and amended to read:

3682 ~~[49-3-409].~~ **49-13-406. Part-time elective or appointive service -- Computation of**
3683 **allowance.**

3684 [Elective] Notwithstanding any other provisions of this title, elective or appointive service
3685 rendered on a basis not considered full time by the ~~[board,]~~ office, unless otherwise provided by
3686 this chapter, shall have a ~~[retirement]~~ separate allowance computed on the basis of compensation
3687 actually received by the ~~[official]~~ member during the period of elective or appointive service.

3688 Section 86. Section ~~49-13-407~~, which is renumbered from Section 49-3-601 is renumbered
3689 and amended to read:

3690 ~~[49-3-601].~~ **49-13-407. Annual cost-of-living adjustment.**

3691 (1) ~~[There shall be computed and paid by the retirement]~~ The office~~[, upon the approval~~
3692 ~~of the board,]~~ shall make an annual cost-of-living ~~[allowance]~~ adjustment to: ~~[all retired members~~
3693 ~~of this system after the members have been retired one year. The adjustment shall be equal to the~~
3694 ~~decrease in the purchasing power of the dollar during the preceding year, as measured by the~~
3695 ~~Consumer Price Index, prepared by the United States Bureau of Labor Statistics, limited to a~~
3696 ~~maximum of 4% of the retirants' or beneficiaries' original retirement allowance. Decreases in the~~
3697 ~~purchasing power of the dollar in excess of 4% annually shall be accumulated and used in~~
3698 ~~subsequent allowances when the cost-of-living adjustment is less than 4% annually.]~~

3699 ~~[(2) If the cost-of-living shows a decline of 4% or more during any period of time~~
3700 ~~extending longer than one year, a reduction not to exceed the rate of 2% per year shall be made~~
3701 ~~based upon the original retirement allowance. Payments made under this section shall be a part~~
3702 ~~of the retired member's allowance. The payments and subsequent adjustments as prescribed for~~
3703 ~~the retirant shall likewise apply to the beneficiary who is paid an allowance under optional~~
3704 ~~retirement plans.]~~

3705 (a) an original allowance paid under Section 49-13-402 or 49-13-405, if the allowance has
3706 been paid for at least one year; and

3707 (b) an original payment made to an alternate payee under a domestic relations order, if the
3708 payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

3709 (2) (a) The original allowance shall be increased by the annual increase in the Consumer
3710 Price Index up to a maximum of 4%.

3711 (b) Annual increases in the Consumer Price Index in excess of 4% shall be accumulated
3712 and used in subsequent adjustments when the annual increase in the Consumer Price Index is less
3713 than 4%.

3714 (3) The Consumer Price Index used in calculating adjustments may be a United States

3715 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

3716 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

3717 Section 87. Section **49-13-408**, which is renumbered from Section 49-3-410 is renumbered
3718 and amended to read:

3719 ~~[49-3-410].~~ **49-13-408. Purchase of service credit -- Conditions -- Cost --**

3720 **Nondiscrimination policy.**

3721 ~~[(1) Any member of this system may receive retirement service credit in accordance with~~
3722 ~~Subsection (2).]~~

3723 ~~[(2)]~~ (1) (a) A member may purchase or a member and ~~[an employing unit]~~ a participating
3724 employer may jointly purchase a ~~[combined]~~ maximum ~~[total]~~ of five years of ~~[retirement]~~ service
3725 credit which ~~[is not]~~ cannot otherwise ~~[purchasable]~~ be purchased under this chapter.

3726 ~~[(b) The number of years of retirement service credit purchased may exceed the number~~
3727 ~~of years or age required by the member to retire with no actuarial reduction.]~~

3728 ~~[(c) The purchase of retirement]~~

3729 (b) At a minimum, the years of service credit [must] purchased shall be sufficient to allow
3730 the member to meet the retirement eligibility requirements of this system with no actuarial
3731 reduction.

3732 ~~[(d)]~~ (c) The ~~[member must retire effective]~~ member's retirement date shall be immediately
3733 after the purchase of [retirement] years of service credit [is made].

3734 ~~[(e)]~~ (d) The member shall pay at least 5% of the cost of the purchase.

3735 ~~[(3)]~~ (2) The purchase price for the ~~[retirement]~~ years of service credit shall be calculated
3736 and paid for as provided in Section ~~[49-1-407]~~ 49-11-403.

3737 ~~[(4) (a) The employing unit may elect to purchase retirement service credit for a member~~
3738 ~~under Subsection (2) while the member is on an unpaid leave of absence.]~~

3739 ~~[(b) If the member is on an unpaid leave of absence, the employing unit may make~~
3740 ~~installment payments towards the purchase in amounts fixed by the administrator.]~~

3741 ~~[(c) The member shall retire when the purchase obligations are fulfilled.]~~

3742 ~~[(5) A member who retires after the employer purchases retirement service credit under~~
3743 ~~this section shall be subject to the provisions of Section 49-1-505.]~~

3744 ~~[(6)]~~ (3) Prior to making any purchase of years of service credit under this section, ~~[an~~
3745 ~~employing unit]~~ a participating employer shall adopt a purchase policy that includes

3746 nondiscriminatory participation standards for all regular full-time employees.

3747 Section 88. Section **49-13-501**, which is renumbered from Section 49-3-701 is renumbered
3748 and amended to read:

3749 **Part 5. Death Benefit**

3750 ~~[49-3-701].~~ **49-13-501. Death benefit by means of group insurance policy --**

3751 **Eligibility for death benefit -- Benefit calculation -- Payment of claim.**

3752 (1) The ~~[board]~~ office shall provide a death benefit through the purchase of a group
3753 insurance policy for members of this system.

3754 (2) The board shall make rules to ~~[implement and]~~ administer the death benefit provided
3755 by this section and may, in accordance with federal law, establish:

3756 (a) benefit levels ~~[or]~~;

3757 (b) classes of ~~[employees]~~ members; and

3758 ~~[(b)]~~ (c) a living benefit option.

3759 ~~[(2) Upon receipt of acceptable proof of death of a member of the system, either prior to
3760 the effective date of the member's retirement, except as provided in Section 49-3-406, or after the
3761 date of retirement but under circumstances that Section 49-3-403 requires to be treated as the death
3762 of the member before retirement, the following death benefits, except those benefits already
3763 provided to the member under a living benefit option, shall be paid to the beneficiary:]~~

3764 ~~[(a) the return of any accumulated contributions under this chapter; plus]~~

3765 ~~[(b) a percentage of the final average salary of the deceased member to be determined by
3766 the board. This percentage shall be the highest percentage of final average salary obtainable by
3767 the board through the purchase of a group insurance policy using the money contributed by the
3768 employer under Subsection (3).]~~

3769 (3) This death benefit is payable when:

3770 (a) the member dies prior to the member's retirement date or dies under circumstances
3771 which Section 49-13-402 requires to be treated as the death of a member before retirement;

3772 (b) the office receives acceptable proof of death; and

3773 (c) benefits are not payable under Section 49-13-404.

3774 (4) The death benefit payable to the beneficiary under this section is a lump-sum payment
3775 consisting of:

3776 (a) the return of any member contributions under this chapter; plus

3777 (b) a percentage of the final average salary of the member to be determined by the board.

3778 (5) Any amount of a living benefit option paid to the member prior to death shall be
3779 deducted from the benefit payable to the beneficiary.

3780 ~~[(3)]~~ (6) The cost of the death benefit shall be paid by the participating employer as a
3781 portion of the contribution rate established under Section 49-13-301.

3782 ~~[(4)]~~ (7) The portion of the death benefit provided under Subsection [(2)] (4)(b), [based
3783 upon the member's past compensation,] may not be paid to the beneficiary of an inactive member
3784 unless:

3785 (a) that member has ~~[credit for]~~ ten or more years of service credit prior to July 1, 1987;
3786 or

3787 (b) the death of the member occurs either:

3788 (i) within a period of 120 days after the last day of ~~[service]~~ work for which the person
3789 received compensation; or

3790 (ii) while the ~~[person]~~ member is still physically or mentally incapacitated from
3791 performance of duties, if the incapacity has been continuous since the last day of ~~[service]~~ work
3792 for which compensation ~~[is]~~ was received~~[-or]~~.

3793 ~~[(iii) that person is on military leave and has elected to remain in active contributing~~
3794 ~~membership status as provided in Section 49-1-402.]~~

3795 ~~[(5)]~~ (8) The death benefit [may not be paid to any person except a beneficiary] provided
3796 under Subsection (4)(b) shall be paid in accordance with Sections 49-11-609 and 49-11-610.

3797 ~~[(6)]~~ (9) The death benefit [for] paid to the beneficiary of an inactive member, except as
3798 otherwise provided under Subsection [(4)] (7), is a lump-sum return of the [deceased] member's
3799 [accumulated] member contributions.

3800 ~~[(7)]~~ (10) Payment of the death benefit by the [retirement] office constitutes a full
3801 settlement of any beneficiary's claim against the [system,] office and the [system] office is not
3802 liable for any further or additional claims or assessments on behalf of the [deceased] member.

3803 ~~[(8)]~~ (11) Unless otherwise specified in a written document filed [in the retirement] with
3804 the office, death benefits payable to beneficiaries shall be in accordance with the order of
3805 precedence established under Title 75, Chapter 2, [Uniform Probate Code] Intestate Succession
3806 and Wills.

3807 ~~[(9) In the implementation of this section and for administrative purposes only, the State~~

3808 Tax Commission shall provide pertinent information to the retirement administrator, upon request,
3809 concerning dependents claimed by a deceased member on the income tax return covering the year
3810 prior to the member's death.]

3811 [~~(10)~~] (12) A death benefit under this section may not be paid ~~[to]~~ on behalf of a ~~[member~~
3812 ~~who has retired]~~ retiree under this system.

3813 Section 89. Section **49-13-701**, which is renumbered from Section 49-3-802 is renumbered
3814 and amended to read:

3815 **Part 6. Reserved**

3816 **Part 7. Early Retirement Incentive**

3817 ~~[49-3-802].~~ **49-13-701. Early retirement incentive -- Eligibility -- Calculation of**
3818 **benefit -- Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**
3819 **reemployment.**

3820 (1) Any member of this system may retire and receive the ~~[benefit]~~ allowance allowed
3821 under Subsection (2) if the member meets the following requirements as of the ~~[effective date of]~~
3822 member's retirement:

3823 (a) the member is eligible for retirement under Section ~~[49-3-401]~~ 49-13-401, or
3824 ~~[otherwise]~~ has 25 years of service credit;

3825 (b) the member elects to forfeit any stipend for retirement offered by the ~~[employing unit]~~
3826 participating employer; and

3827 (c) the member elects to retire from this system by applying for retirement by the date
3828 established under Subsection (3)(a) or (3) (b).

3829 (2) (a) A member who retires ~~[pursuant to]~~ under Subsection (1) shall receive 2% of that
3830 member's final average salary for all years of service credit.

3831 (b) No actuarial reduction may be applied to the ~~[benefit]~~ allowance granted under this
3832 section.

3833 (3) In order to receive the ~~[benefit]~~ allowance allowed by this section, a member shall
3834 submit an application to the ~~[retirement]~~ office as follows:

3835 (a) (i) For state and school employees under Level A, the application shall be filed by May
3836 31, 1987. The ~~[effective date of]~~ member's retirement date shall then be set by the ~~[employee]~~
3837 member on the 1st or 16th day of July, August, or September, 1987.

3838 (ii) If a Level A ~~[employee]~~ member elects to retire, the ~~[administrator]~~ executive director

3839 or participating employer may request the [~~employee~~] member to delay the [~~effective date of~~
3840 retirement date until a later date, but no later than June 30, 1988.

3841 (iii) If the [~~employee~~] member agrees to delay the [~~effective~~] retirement date, the
3842 [~~effective~~] retirement date shall be delayed, but [~~no~~] service credit may not be accrued after the
3843 member's original [~~effective date of~~] retirement date elected by the [~~employee~~] member, and [~~no~~
3844 salary] compensation earned after [~~that effective~~] the member's original retirement date may not
3845 be used in the calculation of the final average salary for determining the retirement [~~benefit~~]
3846 allowance.

3847 (b) (i) For political [~~subdivisions~~] subdivision employees under Level B, the application
3848 shall be filed by September 30, 1987.

3849 (ii) The [~~effective date of~~] member's retirement date shall then be set by the [~~employee~~]
3850 member on the 1st or 16th day of July, August, September, October, November, or December,
3851 1987.

3852 (4) (a) The cost of providing the [~~benefit~~] allowance under this section shall be funded in
3853 fiscal year 1987-88 by a supplemental appropriation in the 1988 General Session based on the
3854 retirement contribution rate increase established by the consulting actuary and approved by the
3855 board.

3856 (b) The cost of providing the [~~benefit~~] allowance under this section shall be funded
3857 beginning July 1, 1988, by means of an increase in the retirement contribution rate established by
3858 the consulting actuary and approved by the board.

3859 (c) The rate increase under Subsections (4)(a) and (b) shall be funded:

3860 (i) for state employees, by an appropriation from the account established by the Division
3861 of Finance under Subsection (4)(d), which is funded by savings derived from this early retirement
3862 incentive and a work force reduction;

3863 (ii) for school employees, by direct contributions from the employing unit, which may not
3864 be funded through an increase in the retirement contribution amount established in Title 53A,
3865 Chapter 17a, Minimum School Program Act; and

3866 (iii) for political subdivisions under Level B, by direct contributions by the [~~employing~~
3867 unit] participating employer.

3868 (d) (i) Each year, any excess savings derived from this early retirement incentive which
3869 are above the costs of funding the increase and the costs of paying insurance, sick leave,

3870 compensatory leave, and vacation leave under Subsections (4)(c)(i) and (c)(ii) shall be reported
3871 to the Legislature and shall be appropriated as provided by law.

3872 (ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an account
3873 into which all savings derived from this early retirement incentive shall be deposited as the savings
3874 are realized.

3875 (iii) In the case of Subsection (4)(c)(ii), the State Office of Education shall certify the
3876 amount of savings derived from this early retirement incentive.

3877 (iv) The State Office of Education and the ~~[employing unit]~~ participating employer may
3878 not spend the savings until appropriated by the Legislature as provided by law.

3879 (5) A member who retires under this section is subject to Section ~~[49-1-505]~~ 49-11-504.

3880 (6) The ~~[retirement]~~ board may ~~[adopt]~~ make rules to ~~[implement and]~~ administer this
3881 section.

3882 (7) The Legislative Auditor General shall perform an audit to ensure compliance with this
3883 section.

3884 Section 90. Section **49-14-101**, which is renumbered from Section 49-4-101 is renumbered
3885 and amended to read:

3886 **CHAPTER 14. PUBLIC SAFETY CONTRIBUTORY RETIREMENT ACT**

3887 **Part 1. General Provisions**

3888 ~~[49-4-101].~~ **49-14-101. Title.**

3889 This chapter is known as the "Public Safety Contributory Retirement Act."

3890 Section 91. Section **49-14-102**, which is renumbered from Section 49-4-103 is renumbered
3891 and amended to read:

3892 ~~[49-4-103].~~ **49-14-102. Definitions.**

3893 As used in this chapter:

3894 (1) ~~[(a)]~~ "Compensation[;]" ~~["salary," or "wages" means the total amount of payments~~
3895 ~~which are currently includable in gross income made by an employer to an employee covered~~
3896 ~~under the retirement system for services rendered to the employer as base income]~~ means the total
3897 amount of payments that are includable in gross income which are received by a public safety
3898 service employee as base income for the regularly scheduled work period. The participating
3899 employer shall establish the regularly scheduled work period. Base income shall be determined
3900 prior to ~~[any salary deductions or reductions for any]~~ the deduction of member contributions or any

3901 amounts the public safety service employee authorizes to be deducted for salary deferral or [pretax
3902 benefit programs] other benefits authorized by federal law.

3903 (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

3904 (c) "Compensation" does not include:

3905 (i) overtime;

3906 (ii) sick pay incentives;

3907 (iii) retirement pay incentives;

3908 (iv) the monetary value of remuneration paid in kind, [~~such as~~] including a residence, use
3909 of equipment or uniform [~~or~~], travel [allowances], or similar payments;

3910 (v) a lump-sum payment or special payments covering accumulated leave; and

3911 (vi) all contributions made by [~~an~~] a participating employer under this [~~plan~~] system or
3912 under any other employee benefit system or plan maintained by [~~an~~] a participating employer for
3913 the benefit of a member or participant.

3914 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under
3915 Internal Revenue Code Section 401(a)(17).

3916 (2) "Final average salary" means the amount computed by averaging the highest three years
3917 of annual compensation preceding retirement, subject to Subsections (2)(a) and (b).

3918 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
3919 compensation in any one of the years used may not exceed the previous year's [~~salary~~]
3920 compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the
3921 purchasing power of the dollar during the previous year, as measured by [~~the Consumer Price~~
3922 ~~Index prepared by the~~] a United States Bureau of Labor Statistics Consumer Price Index average
3923 as determined by the board.

3924 (b) In cases where the [~~employing unit~~] participating employer provides acceptable
3925 documentation to the [~~board~~] office, the limitation in Subsection (2)(a) may be exceeded if:

3926 (i) the [~~member~~] public safety service employee has transferred from another [~~employing~~
3927 unit] agency; or

3928 (ii) the [~~member~~] public safety service employee has been promoted to a new position.

3929 [~~(3) "Full-time service" means 2,080 hours a year.~~]

3930 [~~(4)~~] (3) "Line-of-duty death" means a death resulting from external force, violence, or
3931 disease occasioned by an act of duty as a [~~peace officer or other~~] public safety [~~member~~] service

3932 employee.

3933 ~~[(5) (a) "Participating service" means public safety service rendered during which a person~~
3934 ~~was a member of this system as well as any of the terminated systems during which the person was~~
3935 ~~paid compensation upon which member contributions were taken.]~~

3936 ~~[(b) Participating service also means public safety service rendered for an employer~~
3937 ~~covered by the retirement system and standing to the credit of a member as of June 30, 1969, who~~
3938 ~~transferred to coverage under the public safety retirement system on July 1, 1969.]~~

3939 (4) "Participating employer" means an employer which meets the participation
3940 requirements of Section 49-14-201.

3941 ~~[(6)]~~ (5) (a) "Public safety service" means [full-time paid service] at least 2,080 hours of
3942 regularly scheduled compensated employment per year rendered by a member who is a:

3943 (i) law enforcement ~~[officers]~~ officer in accordance with Section 53-13-103;

3944 (ii) correctional ~~[officers]~~ officer in accordance with Section 53-13-104; and

3945 (iii) special function ~~[officers]~~ officer approved in accordance with ~~[Section 49-4-203]~~

3946 Sections 49-14-201 and [Section] 53-13-105.

3947 ~~[(b) Subsection (6)(a) does not]~~

3948 (b) "Public safety service" also requires that in the course of employment the employee's
3949 life or personal safety is at risk.

3950 (c) Except for the minimum hour requirement, Subsections (5)(a) and (b) do not apply to
3951 any person who [became a member of the] was eligible for service credit in this system prior to
3952 January 1, 1984.

3953 (6) "Public safety service employee" means an employee of a participating employer who
3954 performs public safety service under this chapter.

3955 (7) "System" means the Public Safety Contributory Retirement System created under this
3956 chapter.

3957 ~~[(7)]~~ (8) "Years of service credit" [or "service years"] means the number of periods, each
3958 to consist of 12 full months as determined by the board, whether consecutive or not, during which
3959 [an] a public safety service employee [performed services for an] was employed by a participating
3960 employer [or employers], including time the public safety service employee was absent in the
3961 service of the United States government on military duty.

3962 Section 92. Section **49-14-103**, which is renumbered from Section 49-4-201 is renumbered

3963 and amended to read:

3964 ~~[49-4-201].~~ **49-14-103. Creation of system.**

3965 There is created for ~~[public safety personnel of the state and its political subdivisions]~~
3966 members performing public safety service and who are employed by a participating employer the
3967 "Public Safety Contributory Retirement System."

3968 Section 93. Section **49-14-104**, which is renumbered from Section 49-4-202 is renumbered
3969 and amended to read:

3970 ~~[49-4-202].~~ **49-14-104. Creation of trust fund.**

3971 (1) There is created the "Public Safety Contributory Retirement Trust Fund" for the
3972 purpose of paying the benefits and the costs of administering this system.

3973 (2) The fund shall consist of a number of individual trust accounts created as needed to
3974 receive the money and assets transferred into them from the respective terminated systems, all
3975 money paid into them, including interest, in accordance with this chapter, whether in the form of
3976 cash, securities, or other assets, and of all money received from any other source.

3977 (3) Custody, management, and investment of the fund shall be governed by ~~[Title 49,]~~
3978 Chapter ~~[+]~~ 11, Utah State Retirement Systems Administration.

3979 Section 94. Section **49-14-201**, which is renumbered from Section 49-4-203 is renumbered
3980 and amended to read:

3981 **Part 2. Membership Eligibility**

3982 ~~[49-4-203].~~ **49-14-201. System membership -- Eligibility.**

3983 ~~[All employees who perform covered public safety services for any employing unit, except~~
3984 ~~those withdrawing from coverage as provided by this chapter, shall become members of the~~
3985 ~~retirement system as follows:]~~

3986 ~~[(1) Any employee who is employed to perform public safety services for an employer~~
3987 ~~covered by this chapter on or after July 1, 1969, shall become a member of the system effective~~
3988 ~~on the date of employment.]~~

3989 ~~[(2) (a) Any employee engaged in performing public safety services for a department or~~
3990 ~~political subdivision on the date it becomes a participant in the system under this chapter shall~~
3991 ~~become a member of the system as of the date of coverage. Each new public safety employee of~~
3992 ~~the covered unit shall thereafter become a member of the system effective on the date of~~
3993 ~~employment. (b) In cities, counties, or other employing units of government]~~

3994 (1) Except as provided in Section 49-15-201, a public safety service employee of a
3995 participating employer participating in this system is eligible for service credit in this system at the
3996 earliest of:

3997 (a) July 1, 1969, if the public safety service employee was employed by the participating
3998 employer on July 1, 1969, and the participating employer was participating in this system on that
3999 date;

4000 (b) the date the participating employer begins participating in this system if the public
4001 safety service employee was employed by the participating employer on that date; or

4002 (c) the date the public safety service employee is employed by the participating employer
4003 and is eligible to perform public safety service.

4004 (2) (a) (i) A participating employer that ~~[have]~~ has public safety service and ~~[fire fighter~~
4005 ~~personnel where]~~ firefighter service employees that require cross-training and duty ~~[is required,~~
4006 ~~the employing unit may]~~ shall enroll those dual purpose ~~[personnel]~~ employees in the ~~[retirement]~~
4007 system in which the greatest amount of ~~[duty]~~ time is ~~[contemplated and]~~ actually worked.

4008 (ii) The ~~[personnel]~~ employees shall either be full-time public safety service or ~~[fire~~
4009 ~~fighter]~~ full-time firefighter service employees of the ~~[employing unit]~~ participating employer.

4010 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
4011 participating employer shall receive written permission from the office.

4012 (ii) The office may request documentation to verify the appropriateness of the transfer.

4013 ~~[(3) (a) The board may by rule establish other peace officer groups for purposes of:]~~

4014 ~~[(i) recommending eligibility for coverage under this system; and]~~

4015 ~~[(ii) recommending contribution rates.]~~

4016 (3) The board may combine or segregate the actuarial experience of participating
4017 employers in this system for the purpose of setting contribution rates.

4018 ~~[(b)-(i)]~~ (4) (a) (i) Each ~~[employing unit covered by]~~ participating employer participating
4019 in this system shall annually submit to the ~~[retirement]~~ office a schedule indicating the positions
4020 to be covered under this system in accordance with ~~[Section 49-4-103]~~ this chapter.

4021 (ii) The ~~[retirement]~~ office may require documentation to justify the inclusion of any
4022 position under this system.

4023 ~~[(ii)]~~ (b) If there is a dispute between the ~~[retirement]~~ office and ~~[an employing unit]~~ a
4024 participating employer or employee over any position to be covered, the disputed position shall be

4025 submitted to the Peace Officer Standards and Training Council established under Section 53-6-106
4026 for determination.

4027 ~~[(iii)(A)]~~ (c) (i) The Peace Officer Standards and Training Council's authority to decide
4028 eligibility ~~[questions]~~ for ~~[peace officers]~~ public safety service credit is limited to claims for
4029 coverage under ~~[the Public Safety Retirement System]~~ this system for time periods ~~[subsequent~~
4030 ~~to]~~ after July 1, 1989.

4031 ~~[(B)]~~ (ii) A decision of the Peace Officer Standards and Training Council may not be
4032 applied to service credit earned in another system prior to July 1, 1989.

4033 ~~[(C)]~~ (iii) Except as provided under Subsection ~~[(3)(b)(iii)(D)]~~ (4)(c)(iv), a decision of the
4034 Peace Officer Standards and Training Council granting ~~[an individual or]~~ a position coverage
4035 under ~~[the Public Safety Retirement System]~~ this system may only be applied prospectively from
4036 the date of that decision.

4037 ~~[(D)]~~ (iv) A decision of the Peace Officer Standards and Training Council granting ~~[an~~
4038 ~~individual or]~~ a position coverage under ~~[the Public Safety Retirement System]~~ this system may
4039 be applied retroactively only if:

4040 ~~[(F)]~~ (A) the ~~[employing unit]~~ participating employer covered other similarly situated
4041 ~~[employees]~~ positions under ~~[the Public Safety Retirement System]~~ this system during the time
4042 period in question; and

4043 ~~[(H)]~~ (B) the ~~[employee]~~ position otherwise meets all eligibility requirements for
4044 ~~[membership in the Public Safety Retirement System]~~ receiving service credit in this system during
4045 the period for which service credit is to be granted.

4046 ~~[(e)(i)]~~ (5) The Peace Officer Standards and Training Council may use a subcommittee
4047 to provide a recommendation to the council in determining disputes between the ~~[retirement]~~ office
4048 and ~~[an employing unit]~~ a participating employer or employee over a position to be covered under
4049 this system.

4050 ~~[(ii)]~~ (6) The Peace Officer Standards and Training Council shall comply with Title 63,
4051 Chapter 46b, Administrative Procedures Act, in ~~[conducting adjudicative proceedings]~~ resolving
4052 coverage disputes in this system.

4053 ~~[(4) Employees who have performed public safety service and who then transfer or are]~~

4054 (7) A public safety employee who is transferred or promoted to an administration
4055 ~~[positions]~~ position not covered by this system shall continue to earn public safety service credit

4056 ~~[under this chapter]~~ in this system as long as ~~[they remain]~~ the employee remains employed in the
4057 same department.

4058 ~~[(5) Unless the Legislature fails to provide funding in the appropriations act for the~~
4059 ~~inclusion of special function officers in the contributory system, special function officers shall be~~
4060 ~~eligible for membership in the contributory system if approved by the Peace Officer Standards and~~
4061 ~~Training Council.]~~

4062 (8) Any employee who is transferred to the Division of Information Technology Services
4063 from the Department of Public Safety prior to January 1, 1992, and who was a member of this
4064 system, shall be entitled to remain a member of this system regardless of whether or not the
4065 employee's current position is covered by this system.

4066 ~~[(6)]~~ (9) (a) [The] To determine that a position is covered under this system, the office and,
4067 if a coverage dispute arises, the Peace Officer Standards and Training Council~~[, in determining~~
4068 ~~disputes between the retirement office and an employing unit or employee over a position to be~~
4069 ~~covered under this system, shall determine that to be eligible for membership in this system]~~ shall
4070 find that the position requires the employee to:

4071 (i) ~~[is required as a duty of employment to serve in a position that may]~~ place the
4072 ~~[employee at risk to]~~ employee's life ~~[and]~~ or personal safety at risk; and

4073 (ii) ~~[is required to]~~ complete training as provided in Section 53-13-103, 53-13-104, or
4074 53-13-105.

4075 (b) If ~~[an employee]~~ a position satisfies the requirements of Subsection ~~[(6)]~~ (9)(a), the
4076 office and the Peace Officer Standards and Training Council shall consider~~[, in determining~~
4077 ~~eligibility for membership in the system,]~~ whether or not the [employee] position requires the
4078 employee to:

4079 (i) ~~[performs]~~ perform duties that consist primarily of actively preventing or detecting
4080 crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

4081 (ii) ~~[performs]~~ perform duties that consist primarily of providing community protection;
4082 and

4083 (iii) ~~[is required to]~~ respond to situations involving threats to public safety and make
4084 emergency decisions affecting the lives and health of others.

4085 ~~[(7)]~~ (10) If a subcommittee is used to recommend the determination of disputes to the
4086 Peace Officer Standards and Training Council, the subcommittee shall comply with the

4087 requirements of Subsection ~~[(6)]~~ (9) in making its recommendation.

4088 ~~[(8)]~~ (11) A final order of the Peace Officer Standards and Training Council regarding a
4089 dispute is a final agency action for purposes of Title 63, Chapter 46b, Administrative Procedures
4090 Act.

4091 ~~[(9)]~~ (12) If a ~~[local law enforcement agency's law enforcement officers are not included~~
4092 ~~in the Public Safety Retirement System under Title 49, Chapter 4, Public Safety Retirement Act,~~
4093 ~~or Title 49,]~~ participating employer's public safety service employees are not covered by this
4094 system or under Chapter [4a] 15, Public Safety Noncontributory Retirement Act, as of January 1,
4095 1998, those ~~[officers]~~ public safety service employees who may otherwise qualify for membership
4096 in ~~[the]~~ this system shall, at the discretion of the ~~[respective municipality]~~ participating employer,
4097 remain in their current retirement system.

4098 Section 95. Section **49-14-202**, which is renumbered from Section 49-4-204 is renumbered
4099 and amended to read:

4100 ~~[49-4-204].~~ **49-14-202. Participation of employers -- Requirements -- Supplemental**
4101 **programs -- Full participation in system.**

4102 (1) ~~[Any political subdivision, department, or educational institution which]~~ An employer
4103 that employs public safety service employees [to perform public safety services] and is required
4104 by Section [49-2-204] 49-12-202 or [49-3-204] 49-13-202 to be a participating [employee]
4105 employer in the Public Employees' Contributory Retirement System or the Public Employees'
4106 Noncontributory Retirement System shall cover all its public safety service employees under
4107 ~~[either (a) the Public Employees' Retirement System; or (b) the Public Safety Retirement System.~~
4108 As a participating employer, the political subdivision shall meet all requirements for full
4109 participation in the system.] one of the following systems:

4110 (a) Chapter 12, Public Employees' Contributory Retirement Act;

4111 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;

4112 (c) Chapter 14, Public Safety Contributory Retirement Act; or

4113 (d) Chapter 15, Public Safety Noncontributory Retirement Act.

4114 ~~[(2) Any organization or agency supported in whole or in part by Utah public funds which~~
4115 is not or may not prior to application have been covered by this act may by resolution of its
4116 governing body apply for coverage of its public safety officers and employees by the system. Upon
4117 approval of the board, the organization or agency shall become a participant in the system provided

4118 ~~that the board and the political subdivision, or the organization or agency shall agree upon (a) the~~
4119 ~~terms pursuant to which its public safety employees shall become members of the system, such as~~
4120 ~~the effective date of coverage, (b) the amount of prior service credit with which they may be~~
4121 ~~credited, if any, (c) the amount of any contributions in addition to regular contributions that will~~
4122 ~~be required to provide any prior service credits or retroactive current service credits from either~~
4123 ~~the employing unit or its employees, and (d) the manner in which retroactive current or prior~~
4124 ~~service credits may be established, if any. Once admitted to the system, an organization or agency~~
4125 ~~may not withdraw from participation, except as provided in Subsection (3), and shall meet all~~
4126 ~~requirements for full participation in the system.]~~

4127 ~~[(3) An organization or agency admitted to the system pursuant to Subsection (2), which~~
4128 ~~no longer receives public funds, may withdraw from the system if:]~~

4129 ~~[(a) the organization or agency's governing body by resolution petitions the board for~~
4130 ~~withdrawal from the system; and]~~

4131 ~~[(b) the board approves the withdrawal. Once approval to withdraw is granted, the~~
4132 ~~organization or agency and its employees shall be governed by Sections 49-1-502 and 49-1-503.]~~

4133 ~~[(4) No participating employer may maintain full participation in the system by covering~~
4134 ~~only part of its public safety employees.]~~

4135 (2) An employer that covers its public safety service employees under Subsection (1)(c)
4136 is a participating employer in this system.

4137 (3) If a participating employer under Subsection (1) covers any of its public safety service
4138 employees under the Public Safety Contributory Retirement System or the Public Safety
4139 Noncontributory Retirement System, that participating employer shall cover all of its public safety
4140 service employees under one of those systems.

4141 (4) A participating employer may not withdraw from this system.

4142 (5) In addition to their participation in the system, participating employers may provide
4143 or participate in any additional public or private retirement, supplemental or defined contribution
4144 plan, either directly or indirectly, for their employees.

4145 (6) An employer may not elect to participate in this system after July 1, 1989.

4146 Section 96. Section **49-14-203**, which is renumbered from Section 49-4-205 is renumbered
4147 and amended to read:

4148 **[~~49-4-205~~. 49-14-203. Exemption of certain employees from coverage.**

4149 (1) ~~[(a)]~~ A public safety service employee serving as the Commissioner of Public Safety,
 4150 or as the elected or appointed sheriff or chief of police of a public safety organization, is excluded
 4151 from coverage under this system if that public safety service employee files a formal written
 4152 request seeking ~~[exclusion from coverage]~~ exemption.

4153 ~~[(b)]~~ (2) Except as provided in Subsection ~~[(1)(c)]~~ (3), the public safety service employee
 4154 may not continue employment ~~[in the same covered employer unit]~~ with the same participating
 4155 employer and receive ~~[payment from the retirement office]~~ an allowance from the office based on
 4156 public safety service at the same time.

4157 ~~[(c)]~~ (3) An elected sheriff who is eligible to retire under Section ~~[49-4-401]~~ 49-14-401
 4158 may:

4159 ~~[(i)]~~ (a) retire from ~~[the]~~ this system and receive ~~[a retirement payment]~~ an allowance;

4160 ~~[(ii)]~~ (b) continue in the elected ~~[office]~~ position; and

4161 ~~[(iii)]~~ (c) file for the ~~[exclusion]~~ exemption under Subsection (1)~~[(a)]~~.

4162 ~~[(2) Any member of the system or any newly hired employee who is eligible for coverage~~
 4163 ~~and who is drawing a military pension may, by application to the retirement administrator, be~~
 4164 ~~exempted from participating in the system.]~~

4165 Section 97. Section **49-14-301**, which is renumbered from Section 49-4-301 is renumbered
 4166 and amended to read:

4167 **Part 3. Contributions**

4168 ~~[49-4-301].~~ **49-14-301. Contributions -- Two divisions -- Election by employer to**
 4169 **pay employee contributions -- Accounting for and vesting of member contributions --**
 4170 **Deductions.**

4171 (1) ~~[The system shall be maintained on a financially and actuarially sound basis by means~~
 4172 ~~of joint contributions by the employing units and the active members of the system.]~~ Participating
 4173 employers and members shall jointly pay the certified contribution rates to the office to maintain
 4174 this system on a financially and actuarially sound basis.

4175 (2) For purposes of determining contribution rates, ~~[the]~~ this system is divided into two
 4176 divisions according to Social Security coverage~~[-Public safety employees]~~ as follows:

4177 (a) members of this system with on-the-job Social Security coverage are in Division A
 4178 ~~[and public safety employees]; and~~

4179 (b) members of this system without on-the-job Social Security coverage are in Division

4180 B.

4181 [~~(2) Any employing unit~~]

4182 (3) (a) A participating employer may elect to pay all or part of [~~its members'~~] the required
4183 member contributions, in addition to the required participating employer contributions.

4184 (b) Any amount contributed by [~~an~~] a participating employer under this [~~subsection~~]
4185 section shall vest to the member's benefit as though the member had made the contribution.

4186 (c) The [~~member's~~] required [~~contribution~~] member contributions shall be reduced by the
4187 amount that is paid by the participating employer.

4188 [~~(3)~~] (4) (a) All member contributions are credited by the [~~retirement~~] office to the account
4189 of the individual member. [~~The~~]

4190 (b) This amount, plus [~~regular~~] refund interest, is held in trust for the payment of benefits
4191 to the member or the member's beneficiaries.

4192 (c) All member contributions are [~~100%~~] vested and nonforfeitable. [~~If a member seeks~~
4193 ~~a refund of contributions upon termination of services, interest at a rate determined by the board~~
4194 ~~shall be added to the member's vested contributions.]~~

4195 [~~(4)~~] (5) (a) Each member is [~~deemed~~] considered to consent to [~~monthly~~] payroll
4196 deductions of member contributions.

4197 (b) The payment of compensation less [~~retirement~~] these payroll deductions is considered
4198 full payment [~~of the employee's salary~~] for services rendered by the member.

4199 [~~(5)~~] ~~The board shall report to the governor, the Legislature, and each employing unit under~~
4200 ~~Division A or B the contribution rates and any adjustments necessary to maintain the system on~~
4201 ~~a financially and actuarially sound basis, and the employer and employee shall pay the certified~~
4202 ~~contribution rates.]~~

4203 Section 98. Section **49-14-401**, which is renumbered from Section 49-4-401 is renumbered
4204 and amended to read:

4205 **Part 4. Defined Benefit**

4206 [~~49-4-401~~]. **49-14-401. Eligibility for service retirement -- Date of retirement --**
4207 **Qualifications.**

4208 [~~(1) (a)~~] ~~Any member who qualifies for service retirement may retire by submitting to the~~
4209 ~~retirement office an application form notarized by a notary public. The application shall state the~~
4210 ~~proposed effective date of retirement, which may not be more than 90 days before or after the date~~

4211 of application.]

4212 ~~[(b) The effective date shall be the 1st or 16th day of the month, as selected by the~~
4213 ~~member, but must be after the last day of actual work.]~~

4214 ~~[(c) The member shall actually terminate employment and provide evidence of~~
4215 ~~termination.]~~

4216 ~~[(2) The member is qualified to retire upon termination of services on or before the~~
4217 ~~effective date of retirement if one of the following requirements on that date is met:]~~

4218 (1) A member is qualified to receive an allowance from this system when:

4219 (a) the member ceases actual work for a participating employer in this system before the
4220 member's retirement date and provides evidence of the termination;

4221 (b) the member has submitted to the office a notarized retirement application form that
4222 states the member's proposed retirement date; and

4223 (c) one of the following conditions is met as of the member's retirement date:

4224 ~~[(a)]~~ (i) the member has ~~[been credited with]~~ accrued at least 20 years of service credit;

4225 ~~[(b)]~~ (ii) the member has ~~[been credited with]~~ accrued at least ten years of service credit
4226 and has attained an age of 60 years ~~[or more]~~; or

4227 ~~[(c)]~~ (iii) the member has ~~[been credited with]~~ accrued at least four years of service credit
4228 and has attained an age of 65 years ~~[or more]~~.

4229 (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as
4230 selected by the member, but the retirement date must be on or after the date of termination.

4231 (b) The retirement date may not be more than 90 days after the date the application is
4232 received by the office.

4233 Section 99. Section **49-14-402**, which is renumbered from Section 49-4-402 is renumbered
4234 and amended to read:

4235 ~~[49-4-402].~~ **49-14-402. Calculation of retirement allowance.**

4236 ~~[Upon the service retirement of a member under Section 49-4-401, the members shall~~
4237 ~~receive a retirement allowance determined as follows:]~~

4238 ~~[(1) If the member has 20 or more years of public safety service credit, the retirement~~
4239 ~~allowance is a monthly amount equal to:]~~

4240 ~~[(a) 2-1/2% of final average monthly salary multiplied by the number of years of public~~
4241 ~~safety service credited, limited to 20 years, plus]~~

4242 ~~[(b) 2% of final average monthly salary multiplied by the number of years of public safety~~
4243 ~~service credited in excess of 20 years, up to a maximum of 70%.]~~

4244 ~~[(2) If the member has attained age 60 years but less than age 65 years, and has ten years~~
4245 ~~but less than 20 years of public safety service credit, the retirement allowance is computed the~~
4246 ~~same as under Subsection (1).]~~

4247 ~~[(3) If the member has attained age 65 or older and has four or more years of public safety~~
4248 ~~service credit the retirement allowance shall be a monthly amount equal to 2-1/2% of final average~~
4249 ~~monthly salary multiplied by the number of years of public safety service credited, limited to 20~~
4250 ~~years, plus 2% of final average monthly salary multiplied by the number of years of public safety~~
4251 ~~service credit in excess of 20 years.]~~

4252 ~~[(4) Years of service include any fractions of years of service to which the member may~~
4253 ~~be entitled. Notwithstanding the formula for computing the service retirement allowance for~~
4254 ~~members participating in the program, the board shall, in as far as practical, adjust the percentage~~
4255 ~~factor used in the service retirement allowance formula, in its application to the years of service~~
4256 ~~of a retiring member to a percentage amount not less than 1-1/2% nor more than 2-1/2% per year~~
4257 ~~of service, limited to the first 20 years. The foregoing adjustment when made shall maintain the~~
4258 ~~retirement trust account on an actuarially sound basis if the employer contributions, member~~
4259 ~~contributions, and earnings of the fund are insufficient to fund the benefits provided for members~~
4260 ~~participating in the program.]~~

4261 (1) A retiree under this system shall receive an allowance equal to:

4262 (a) 2.5% of final average monthly salary multiplied by the number of years of service
4263 credit, limited to 20 years; plus

4264 (b) 2% of final average monthly salary, multiplied by the number of years of service credit
4265 in excess of 20 years.

4266 (2) Except as modified by cost-of-living adjustments, an allowance under this system may
4267 not exceed 70% of a retiree's final average monthly salary.

4268 Section 100. Section **49-14-403**, which is renumbered from Section 49-4-601 is
4269 renumbered and amended to read:

4270 ~~[49-4-601].~~ **49-14-403. Annual cost-of-living adjustment.**

4271 (1) The [retirement] office shall [compute and pay, upon approval by the board,] make an
4272 annual cost-of-living adjustment to: ~~[all retired members after the members have been retired one~~

4273 year. ~~The adjustment shall be equal to the decrease in the purchasing power of the dollar during~~
4274 ~~the preceding year, as measured by the Consumer Price Index, U.S. City Average, prepared by the~~
4275 ~~United States Bureau of Labor Statistics, and shall be limited to a maximum of 2.5% of the~~
4276 ~~retirant's or beneficiary's retirement allowance at the time of retirement. Decreases in the~~
4277 ~~purchasing power of the dollar exceeding 2.5% annually shall be accumulated and used in~~
4278 ~~subsequent allowances when the cost-of-living adjustment is less than 2.5%.]~~

4279 [~~(2) The cost-of-living adjustment shall be reduced if the index shows a decline of 4% or~~
4280 ~~more during any period of more than one year. These reductions may not exceed 2% per year~~
4281 ~~based upon the original retirement allowance. Payments made under this section shall be a part~~
4282 ~~of the retired member's allowance. Payments and adjustments for the retirant shall also apply to~~
4283 ~~the beneficiary.]~~

4284 (a) an original allowance paid under Section 49-14-402 and Part 5, Death Benefit, of this
4285 chapter if the allowance has been paid for at least one year; and

4286 (b) an original payment made to an alternate payee under a domestic relations order, if the
4287 payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

4288 (2) (a) The original allowance shall be increased by the annual increase in the Consumer
4289 Price Index up to a maximum of 2.5%.

4290 (b) Annual increases in the Consumer Price Index in excess of 2.5% shall be accumulated
4291 and used in subsequent adjustments when the annual increase in the Consumer Price Index is less
4292 than 2.5%.

4293 (3) The Consumer Price Index used in calculating adjustments shall be a United States
4294 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

4295 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

4296 Section 101. Section **49-14-501**, which is renumbered from Section 49-4-701 is
4297 renumbered and amended to read:

4298 **Part 5. Death Benefit**

4299 **[49-4-701]. 49-14-501. Death of active member in Division A -- Payment of**
4300 **benefits.**

4301 (1) If an active member of [the] this system enrolled in Division A under Section
4302 [49-4-301] 49-14-301 dies, [the following] benefits are payable [according to the conditions
4303 stipulated] as follows:

4304 ~~[(1)]~~ (a) If the death is classified by the office as a line-of-duty death, the ~~[dependent]~~
4305 spouse at the time of death shall receive a lump sum of \$1,000 and ~~[a monthly]~~ an allowance equal
4306 to 30% of the deceased member's final average monthly salary.

4307 ~~[(2)]~~ (b) If the death is not classified by the office as a line-of-duty death, ~~[the following]~~
4308 benefits are payable as follows:

4309 ~~[(a)]~~ (i) If the member has accrued less than ten years of public safety service credit ~~[at the~~
4310 ~~time of death]~~, the beneficiary shall receive the sum of \$1,000 or a refund of the member's member
4311 contributions, whichever ~~[amount]~~ is greater.

4312 ~~[(b)]~~ (ii) If the member has accrued ten or more years of public safety service credit at the
4313 time of death, the ~~[dependent]~~ spouse at the time of death shall receive the sum of \$500, plus ~~[a~~
4314 ~~monthly]~~ an allowance equal to 2% of the ~~[deceased]~~ member's final average monthly salary~~;~~ for
4315 each year of service credit ~~[standing to the member's account, with a]~~ accrued by the member up
4316 to a maximum of 30% ~~[allowed]~~ of the member's final average monthly salary.

4317 ~~[(3) No benefits]~~ (2) Benefits are not payable to minor children of members covered under
4318 Division A.

4319 ~~[(4)]~~ (3) If ~~[the]~~ a benefit is not distributed under this section, and ~~[there is]~~ the member
4320 has designated a beneficiary, the ~~[vested contribution]~~ member's member contributions shall be
4321 paid to the beneficiary.

4322 Section 102. Section **49-14-502**, which is renumbered from Section 49-4-702 is
4323 renumbered and amended to read:

4324 ~~[49-4-702].~~ **49-14-502. Death of active member in Division B -- Payment of benefits.**

4325 (1) If an active member of ~~[the]~~ this system enrolled in Division B under Section
4326 ~~[49-4-301]~~ 49-14-301 dies, ~~[the following]~~ benefits are payable ~~[according to the conditions~~
4327 ~~stipulated]~~ as follows:

4328 ~~[(1)]~~ (a) If the member has accrued less than 20 years of public safety service credit and
4329 if the death is classified by the office as a line-of-duty death, the ~~[dependent]~~ spouse at the time
4330 of death shall receive a lump sum of \$1,500 and ~~[a monthly]~~ an allowance equal to ~~[37-1/2%]~~
4331 37.5% of the ~~[deceased]~~ member's final average monthly salary.

4332 ~~[(2)]~~ (b) If the death is not classified by the office as a line-of-duty death, ~~[and]~~ benefits
4333 are payable as follows:

4334 (i) If the [deceased] member has accrued two or more years of public safety service credit

4335 at the time of death, the death is considered a line-of-duty death and the benefit [~~payable is the~~
4336 ~~same~~] shall be paid as provided under Subsection (1)(a).

4337 [~~(3)~~] (ii) If [~~the death is not classified as line-of-duty death and the deceased~~] the member
4338 has accrued less than two years of public safety service credit at the time of death, the [~~benefit~~
4339 ~~payable is~~] spouse at the time of death shall receive a refund of the [~~deceased~~] member's member
4340 contributions, plus 50% of the member's most recent 12 months' [~~regular salary~~] compensation.

4341 [~~(4)~~] (c) (i) If the [~~deceased~~] member has accrued two or more years of public safety
4342 service credit at the time of death, [~~the benefit payable to~~] each of the member's unmarried children
4343 to age 18 [~~is~~] or dependent unmarried mentally or physically disabled children shall receive a
4344 monthly allowance of \$50.

4345 (ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or as
4346 otherwise provided under [~~Title 49, Chapter 1~~] Sections 49-11-609 and 49-11-610.

4347 [~~(5)~~] (2) In the event of the death of both parents, the spouse's benefit shall be prorated and
4348 paid to each of the member's unmarried children to age 18.

4349 [~~(6)~~] (3) If [~~the~~] a benefit is not distributed under [~~this section~~] the previous subsections,
4350 and [~~there is~~] the member has designated a beneficiary, the [~~vested contribution~~] member's
4351 member contributions shall be paid to the beneficiary.

4352 [~~(7)~~] (4) The [~~total monthly~~] combined annual payments [~~to be~~] made [~~on behalf of any~~
4353 ~~one deceased member's account~~] to the beneficiaries of any member under this section may not
4354 exceed 75% of the member's final average monthly salary.

4355 Section 103. Section **49-14-503**, which is renumbered from Section 49-4-703 is
4356 renumbered and amended to read:

4357 [~~49-4-703~~]. **49-14-503. Benefits payable upon death of inactive member.**

4358 [(1) ~~The death benefit payable on behalf of an active or an inactive member who dies and~~
4359 ~~has no spouse or minor children as a beneficiary is 100% of the deceased member's contributions~~
4360 ~~or \$500, whichever amount is larger.~~]

4361 [(2) (a) ~~The death benefit payable on behalf of an inactive member who dies and is~~
4362 ~~survived by a spouse to whom that member was married at the time of death is a monthly pension~~
4363 ~~if that member had 20 or more years of public safety service at the time of death.~~]

4364 [(b) ~~The pension payable to the spouse is~~]

4365 (1) If an inactive member who has less than 20 years of public safety service credit dies,

4366 the designated beneficiary shall receive a refund of the member's member contributions or \$500,
4367 whichever is greater.

4368 (2) (a) If an inactive member with 20 or more years of public safety service credit dies, the
4369 spouse at the time of death shall receive an allowance in an amount of 50% of the amount the
4370 member would have received had retirement occurred on the first of the month in which the death
4371 occurred[; the benefit being].

4372 (b) This allowance shall be based [upon] on years of service credit and final average
4373 monthly salary under Section [49-4-402] 49-14-402, reduced actuarially from age 50 to the age [at]
4374 of the member at the time of death if the member is under age 50 at the time of death.

4375 ~~[(3) The death benefit payable upon the death of an inactive member who has less than 20~~
4376 ~~years of public safety service and who leaves a spouse or minor children as the beneficiary is a~~
4377 ~~100% refund of the deceased member's contributions or \$500, whichever is larger.]~~

4378 Section 104. Section **49-14-504**, which is renumbered from Section 49-4-704 is
4379 renumbered and amended to read:

4380 ~~[49-4-704].~~ **49-14-504. Benefits payable upon death of retired member.**

4381 (1) If ~~[the member]~~ a retiree who retired under either Division A or Division B~~[; the death~~
4382 ~~benefit payable to the dependent spouse after the death of the retired member of this system is a~~
4383 ~~monthly amount]~~ dies, the retiree's spouse at the time of death shall receive an allowance equal
4384 to 65% of the allowance that was being paid to the [retired member] retiree at the time of death.

4385 (2) ~~[(a)]~~ If the ~~[member]~~ retiree retired solely under Division B ~~[or]~~ and dies leaving
4386 ~~[dependent]~~ unmarried children under the age of 18 or dependent unmarried mentally or physically
4387 disabled children, the children shall qualify for a benefit as prescribed for children under [Section
4388 49-4-702, with the total being paid as limited by that section. (b) The effective date of accrual of
4389 this pension is] Subsection 49-14-502(1)(c) which is payable on the first day of the month
4390 following the month in which the ~~[retirant]~~ retiree died.

4391 ~~[(c) Payment of the full pension for this latter month shall be made to the dependent~~
4392 ~~beneficiary in lieu of the deceased member.]~~

4393 Section 105. Section **49-14-505** is enacted to read:

4394 **49-14-505. Benefits for surviving spouse under Division A or Division B.**

4395 The spouse at the time of death, if eligible, shall receive a benefit computed under either
4396 Division A or Division B, whichever provides the larger benefit, but may not receive a benefit

4397 under both divisions if it would result in a duplicate benefit.

4398 Section 106. Section **49-15-101**, which is renumbered from Section 49-4a-101 is
4399 renumbered and amended to read:

4400 **CHAPTER 15. PUBLIC SAFETY NONCONTRIBUTORY RETIREMENT ACT**

4401 **Part 1. General Provisions**

4402 ~~[49-4a-101].~~ **49-15-101. Title.**

4403 This chapter is known as the "Public Safety Noncontributory Retirement Act."

4404 Section 107. Section **49-15-102**, which is renumbered from Section 49-4a-103 is
4405 renumbered and amended to read:

4406 ~~[49-4a-103].~~ **49-15-102. Definitions.**

4407 As used in this chapter:

4408 (1) (a) "Compensation[;]" [~~"salary," or "wages"~~] means the total amount of payments
4409 [~~which~~] that are [~~currently~~] includable in gross income [~~made by an employer to an employee for~~
4410 ~~services rendered to the employer as base income for the position covered under the retirement~~
4411 ~~system~~] received by a public safety service employee as base income for the regularly scheduled
4412 work period. The participating employer shall establish the regularly scheduled work period. Base
4413 income shall be determined prior to [~~any salary deductions or reductions for any~~] the deduction of
4414 any amounts the public safety service employee authorizes to be deducted for salary deferral or
4415 [~~pretax benefit programs~~] other benefits authorized by federal law.

4416 (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

4417 (c) "Compensation" does not include:

4418 (i) overtime;

4419 (ii) sick pay incentives;

4420 (iii) retirement pay incentives;

4421 (iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment
4422 or uniform [~~or~~], travel [~~allowances~~], or similar payments;

4423 (v) a lump-sum payment or special payment covering accumulated leave; and

4424 (vi) all contributions made by [~~an~~] a participating employer under this [~~plan~~] system or
4425 under any other employee benefit system or plan maintained by [~~an~~] a participating employer for
4426 the benefit of a member or participant.

4427 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under

4428 Internal Revenue Code Section 401(a)(17).

4429 (2) "Final average salary" means the amount computed by averaging the highest three years
4430 of annual compensation preceding retirement subject to Subsections (2)(a) and (b).

4431 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
4432 compensation in any one of the years used may not exceed the previous year's [~~salary~~
4433 compensation] by more than 10% plus a cost-of-living adjustment equal to the decrease in the
4434 purchasing power of the dollar during the previous year, as measured by [~~the Consumer Price~~
4435 Index prepared by the] a United States Bureau of Labor Statistics Consumer Price Index average
4436 as determined by the board.

4437 (b) In cases where the [~~employing unit~~] participating employer provides acceptable
4438 documentation to the [~~board~~] office, the limitation in Subsection [~~(2)~~] (3)(a) may be exceeded if:

4439 (i) the [~~member~~] public safety service employee has transferred from another [~~employing~~
4440 unit] agency; or

4441 (ii) the [~~member~~] public safety service employee has been promoted to a new position.

4442 [~~(3)~~] "Full-time service" means 2,080 hours a year.]

4443 [~~(4)~~] (3) "Line-of-duty death" means a death resulting from external force, violence, or
4444 disease occasioned by an act of duty as a [~~peace officer or other~~] public safety [~~member~~] service
4445 employee.

4446 (4) "Participating employer" means an employer which meets the participation
4447 requirements of Section 49-15-201.

4448 (5) (a) "Public safety service" means [~~full-time paid service~~] at least 2,080 hours of
4449 regularly scheduled compensated employment per year rendered by a member who is a:

4450 [~~(a)~~] (i) law enforcement [~~officers~~] officer in accordance with Section 53-13-103;

4451 [~~(b)~~] (ii) correctional [~~officers~~] officer in accordance with Section 53-13-104; and

4452 [~~(c)~~] (iii) special function [~~officers~~] officer approved in accordance with Section 49-4a-203
4453 and Section 53-13-105.

4454 (b) "Public safety service" also requires that in the course of employment the employee's
4455 life or personal safety is at risk.

4456 (6) "Public safety service employee" means an employee of a participating employer who
4457 performs public safety service under this chapter.

4458 (7) "System" means the Public Safety Noncontributory Retirement System created under

4459 this chapter.

4460 [~~(6)~~] (8) "Years of service credit" [~~or "service years"~~] means the number of periods, each
4461 to consist of 12 full months as determined by the board, whether consecutive or not, during which
4462 [~~an~~] a public safety service employee [~~performed services for an~~] was employed by a participating
4463 employer [~~or employers~~], including time the public safety service employee was absent in the
4464 service of the United States government on military duty.

4465 Section 108. Section **49-15-103**, which is renumbered from Section 49-4a-201 is
4466 renumbered and amended to read:

4467 [~~49-4a-201~~]. **49-15-103. Creation of system.**

4468 There is created for [~~public safety personnel of the state and its political subdivisions~~]
4469 members performing public safety service and who are employed by a participating employer the
4470 "Public Safety Noncontributory Retirement System."

4471 Section 109. Section **49-15-104**, which is renumbered from Section 49-4a-202 is
4472 renumbered and amended to read:

4473 [~~49-4a-202~~]. **49-15-104. Creation of trust fund.**

4474 (1) There is created the "Public Safety Noncontributory Retirement Trust Fund" for the
4475 purpose of paying the benefits and the costs of administering this system.

4476 (2) The fund shall consist of a number of individual trust accounts created as needed to
4477 receive the money and assets transferred into them from the respective terminated systems, all
4478 money paid into them, including interest, in accordance with this chapter, whether in the form of
4479 cash, securities, or other assets, and of all money received from any other source.

4480 (3) Custody, management, and investment of the fund shall be governed by [~~Title 49,~~]
4481 Chapter [~~+~~] 11, Utah State Retirement Systems Administration.

4482 Section 110. Section **49-15-201**, which is renumbered from Section 49-4a-203 is
4483 renumbered and amended to read:

4484 **Part 2. Membership Eligibility**

4485 [~~49-4a-203~~]. **49-15-201. System membership -- Eligibility.**

4486 [~~(1) Any person entering full-time employment in a state public safety position after the~~
4487 ~~effective date of this chapter shall automatically become a member of the noncontributory~~
4488 ~~retirement system.]~~

4489 (1) (a) A public safety service employee employed by the state after July 1, 1989, is

4490 eligible for service credit in this system.

4491 ~~[(2) Any person in full-time employment in a state public safety position prior to the~~
4492 ~~effective date of this system may either become a member of this noncontributory system or~~
4493 ~~remain a member of the Public Safety Retirement System]~~

4494 (b) A public safety service employee employed by the state prior to July 1, 1989, may
4495 either elect to receive service credit in this system or continue to receive service credit under the
4496 system established under [Title 49,] Chapter [4] 14, Public Safety Contributory Retirement Act,
4497 by following the procedures established by the board [pursuant to] under this chapter.

4498 ~~[(3)(a) Membership in the noncontributory system is optional for political subdivisions;~~
4499 ~~except that once a political subdivision elects to participate in the noncontributory system that~~
4500 ~~election is final and binding upon the political subdivision.]~~

4501 ~~[(b) Persons entering public safety employment with political subdivisions that elect to~~
4502 ~~participate in the noncontributory system after the effective date of this chapter shall automatically~~
4503 ~~become members of the noncontributory retirement system.]~~

4504 ~~[(c) Any person in full-time employment with the political subdivision prior to that~~
4505 ~~election to participate in this system may either become a member of the noncontributory~~
4506 ~~retirement system or remain a member of the Public Safety Retirement System established under~~
4507 ~~Title 49, Chapter 4, by following the procedures established by the board pursuant to this chapter.]~~

4508 (2) (a) Public safety service employees of a participating employer other than the state that
4509 elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement System
4510 shall be eligible only for service credit in that system.

4511 (b) (i) A participating employer other than the state that elected on or before July 1, 1989,
4512 to participate in this system shall, have allowed, prior to July 1, 1989, a public safety service
4513 employee to elect to participate in either this system or the Public Safety Contributory Retirement
4514 System.

4515 (ii) Except as expressly allowed by this title, the election of the public safety service
4516 employee is final and may not be changed.

4517 (c) A public safety service employee hired by a participating employer other than the state
4518 after July 1, 1989, shall become a member in this system.

4519 (d) A public safety service employee of a participating employer other than the state who
4520 began participation in this system after July 1, 1989, is only eligible for service credit in this

4521 system.

4522 ~~[(4) In cities, counties, or other employing units of government]~~

4523 ~~(3) (a) (i) A participating employer that [have] has public safety service and [fire fighter~~

4524 ~~personnel where] firefighter service employees that require cross-training and duty [is required;~~

4525 ~~the employing unit may] shall enroll those dual purpose [personnel] employees in the [retirement]~~

4526 ~~system in which the greatest amount of [duty] time is [contemplated and] actually worked [in~~

4527 ~~accordance with Subsection (3)].~~

4528 ~~(ii) The [personnel] employees shall either be full-time public safety service or [fire~~

4529 ~~fighter] full-time firefighter service employees of the [employing unit. New public safety~~

4530 ~~employing units after July 1, 1989, are covered under this chapter] participating employer.~~

4531 ~~(b) (i) Prior to transferring a dual purpose employee from one system to another, the~~

4532 ~~participating employer shall receive written permission from the office.~~

4533 ~~(ii) The office may request documentation to verify the appropriateness of the transfer.~~

4534 ~~[(5) (a) The board may by rule establish other peace officer groups for purposes of:]~~

4535 ~~[(i) recommending eligibility for coverage under this system; and]~~

4536 ~~[(ii) recommending contribution rates.]~~

4537 ~~(4) The board may combine or segregate the actuarial experience of participating~~

4538 ~~employers in this system for the purpose of setting contribution rates.~~

4539 ~~[(b)-(i)] (5) (a) (i) Each [employing unit covered by] participating employer participating~~

4540 ~~in this system shall annually submit to the [retirement] office a schedule indicating the positions~~

4541 ~~to be covered under this system in accordance with [Section 49-4a-103] this chapter.~~

4542 ~~(ii) The [retirement] office may require documentation to justify the inclusion of any~~

4543 ~~position under this system.~~

4544 ~~[(ii)] (b) If there is a dispute between the [retirement] office and [an employing unit] a~~

4545 ~~participating employer or employee over any position to be covered, the disputed position shall be~~

4546 ~~submitted to the Peace Officer Standards and Training Council established under Section 53-6-106~~

4547 ~~for determination.~~

4548 ~~[(iii)-(A)] (c) (i) The Peace Officer Standards and Training Council's authority to decide~~

4549 ~~eligibility [questions for peace officers] for public safety service credit is limited to claims for~~

4550 ~~coverage under [the Public Safety Retirement System] this system for time periods [subsequent~~

4551 ~~to] after July 1, 1989.~~

4552 ~~[(B)]~~ (ii) A decision of the Peace Officer Standards and Training Council may not be
4553 applied to service credit earned in another system prior to July 1, 1989.

4554 ~~[(C)]~~ (iii) Except as provided under Subsection ~~[(5)(b)(iii)(D)]~~ (5)(c)(iv), a decision of the
4555 Peace Officer Standards and Training Council granting ~~[an individual or]~~ a position coverage
4556 under ~~[the Public Safety Retirement System]~~ this system may only be applied prospectively from
4557 the date of that decision.

4558 ~~[(D)]~~ (iv) A decision of the Peace Officer Standards and Training Council granting ~~[an~~
4559 ~~individual or]~~ a position coverage under ~~[the Public Safety Retirement System]~~ this system may
4560 be applied retroactively only if:

4561 ~~[(F)]~~ (A) the ~~[employing unit]~~ participating employer covered other similarly situated
4562 ~~[employees under the Public Safety Retirement System]~~ positions under this system during the
4563 time period in question; and

4564 ~~[(H)]~~ (B) the ~~[employee]~~ position otherwise meets all eligibility requirements for
4565 ~~[membership in the Public Safety Retirement System]~~ receiving service credit in this system during
4566 the period for which service credit is to be granted.

4567 ~~[(e)-(i)]~~ (6) The Peace Officer Standards and Training Council may use a subcommittee
4568 to provide a recommendation to the council in determining disputes between the ~~[retirement]~~ office
4569 and ~~[an employing unit]~~ a participating employer or employee over a position to be covered under
4570 this system.

4571 ~~[(i)]~~ (7) The Peace Officer Standards and Training Council shall comply with Title 63,
4572 Chapter 46b, Administrative Procedures Act, in ~~[conducting adjudicative proceedings]~~ resolving
4573 coverage disputes in this system.

4574 ~~[(6) Employees who have performed public safety service and who then transfer or are]~~

4575 (8) A public safety service employee who is transferred or promoted to an administration
4576 [positions] position not covered by this system shall continue to earn public safety service credit
4577 ~~[under this chapter]~~ in this system as long as ~~[they remain]~~ the employee remains employed in the
4578 same department.

4579 ~~[(7) Unless the Legislature fails to provide funding in the appropriations act for the~~
4580 ~~inclusion of special function officers in the noncontributory system, special function officers shall~~
4581 ~~be eligible for membership in the noncontributory system if approved by the Peace Officers~~
4582 ~~Standards and Training Council.]~~

4583 (9) Any employee who is transferred to the Division of Information Technology Services
4584 from the Department of Public Safety prior to January 1, 1992, and who was a member in this
4585 system, shall be entitled to remain a member in this system regardless of whether or not the
4586 employee's current position is covered by this system.

4587 ~~[(8)]~~ (10) (a) ~~[The]~~ To determine that a position is covered under this system, the office
4588 and, if a coverage dispute arises, the Peace Officer Standards and Training Council,~~in~~
4589 ~~determining disputes between the retirement office and an employing unit or employee over a~~
4590 ~~position to be covered under this system, shall determine that to be eligible for membership in this~~
4591 ~~system]~~ shall find that the position requires the employee to:

4592 (i) ~~[is required as a duty of employment to serve in a position that may]~~ place the
4593 ~~[employee at risk to]~~ employee's life [and] or personal safety at risk; and

4594 (ii) ~~[is required to]~~ complete training as provided in Section 53-13-103, 53-13-104, or
4595 53-13-105.

4596 (b) If ~~[an employee]~~ a position satisfies the requirements of Subsection ~~[(8)]~~ (10)(a), the
4597 office and Peace Officer Standards and Training Council shall consider~~[-in determining eligibility~~
4598 ~~for membership in the system;]~~ whether the position requires the employee to:

4599 (i) ~~[performs]~~ perform duties that consist primarily of actively preventing or detecting
4600 crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

4601 (ii) ~~[performs]~~ perform duties that consist primarily of providing community protection;
4602 and

4603 (iii) ~~[is required to]~~ respond to situations involving threats to public safety and make
4604 emergency decisions affecting the lives and health of others.

4605 ~~[(9)]~~ (11) If a subcommittee is used to recommend the determination of disputes to the
4606 Peace Officer Standards and Training Council, the subcommittee shall comply with the
4607 requirements of Subsection ~~[(8)]~~ (10) in making its recommendation.

4608 ~~[(10)]~~ (12) A final order of the Peace Officer Standards and Training Council regarding
4609 a dispute is a final agency action for purposes of Title 63, Chapter 46b, Administrative Procedures
4610 Act.

4611 (13) If a participating employer's public safety service employees are not covered by this
4612 system under Chapter 14, Public Safety Contributory Retirement Act, as of January 1, 1998, those
4613 public safety service employees who may otherwise qualify for membership in this system shall,

4614 at the discretion of the participating employer, remain in their current retirement system.

4615 Section 111. Section **49-15-202**, which is renumbered from Section 49-4a-204 is
4616 renumbered and amended to read:

4617 ~~[49-4a-204].~~ **49-15-202. Participation of employers -- Requirements --**
4618 **Admission -- Full participation in system -- Supplemental programs authorized.**

4619 (1) ~~[Any political subdivision, department, or educational institution which]~~ An employer
4620 that employs public safety service employees ~~[to perform public safety services]~~ and is required
4621 by Section ~~[49-2-204]~~ 49-12-202 or ~~[49-3-204]~~ 49-13-202 to be a participating ~~[employee]~~
4622 employer in the Public Employees' Contributory Retirement System or the Public Employees'
4623 Noncontributory Retirement System shall cover all its public safety service employees under
4624 ~~[either]~~ one of the following systems:

4625 (a) ~~[the]~~ Chapter 12, Public Employees' Contributory Retirement ~~[System]~~ Act; ~~[or]~~
4626 ~~[the Public Safety Retirement System. As a participating employer, the political~~
4627 ~~subdivision shall meet all requirements for full participation in the system.]~~

4628 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;

4629 (c) Chapter 14, Public Safety Contributory Retirement Act; or

4630 (d) Chapter 15, Public Safety Noncontributory Retirement Act.

4631 ~~[(2)(a) Any organization or agency supported in whole or in part by Utah public funds~~
4632 ~~which is not or may not prior to application have been covered by this act]~~

4633 (2) An employer that covers its public safety employees under Subsection (1)(d) is a
4634 participating employer in this system.

4635 (3) If a participating employer under Subsection (1) covers any of its public safety service
4636 employees under the Public Safety Contributory Retirement System or the Public Safety
4637 Noncontributory Retirement System, that participating employer shall cover all of its public safety
4638 service employees under one of those systems.

4639 (4) (a) An employer that is not participating in this system may by resolution of its
4640 governing body apply for coverage of its public safety ~~[officers and]~~ service employees by ~~[the]~~
4641 this system. ~~[Upon approval of the board, the organization or agency shall become a participant~~
4642 in the system provided that the board and the political subdivision, or the organization or agency
4643 shall agree upon:]

4644 ~~[(i) the terms pursuant to which its public safety employees shall become members of the~~

4645 system, such as the effective date of coverage;]

4646 [(ii) the amount of prior service credit with which they may be credited, if any;]

4647 [(iii) the amount of any contributions in addition to regular contributions that will be
4648 required to provide any prior service credits or retroactive current service credits from either the
4649 employing unit or its employees; and]

4650 [(iv) the manner in which retroactive current or prior service credits may be established;
4651 if any.]

4652 [(b) Once admitted to the system, an organization or agency may not withdraw from
4653 participation, except as provided in Subsection (3), and shall meet all requirements for full
4654 participation in the system.]

4655 [(3) An organization or agency admitted to the system pursuant to Subsection (2), which
4656 no longer receives public funds, may withdraw from the system if:]

4657 [(a) the organization or agency's governing body by resolution petitions the board for
4658 withdrawal from the system; and]

4659 [(b) the board approves the withdrawal.]

4660 [(4) Once approval to withdraw is granted, the organization or agency and its employees
4661 shall be governed by Sections 49-1-502 and 49-1-503.]

4662 [(5) No participating employer may maintain full participation in the system by covering
4663 only part of its public safety employees.]

4664 (b) Upon approval of the board, the employer shall become a participating employer in this
4665 system subject to this title.

4666 (5) If a participating employer purchases service credit on behalf of employees for service
4667 rendered prior to the participating employer's admission to this system, the service credit must be
4668 purchased in a nondiscriminatory manner on behalf of all current and former employees who were
4669 eligible for service credit at the time service was rendered.

4670 (6) A participating employer may not withdraw from this system.

4671 (7) In addition to their participation in the system, participating employers may provide
4672 or participate in any additional public or private retirement, supplemental or defined contribution
4673 plan, either directly or indirectly, for their employees.

4674 Section 112. Section **49-15-203**, which is renumbered from Section 49-4a-206 is
4675 renumbered and amended to read:

4676 ~~[49-4a-206].~~ **49-15-203. Exemption of certain employees from coverage.**

4677 (1) ~~[(a)]~~ A public safety service employee serving as the Commissioner of Public Safety,
4678 or as the elected or appointed sheriff or chief of police of a public safety organization, is excluded
4679 from coverage under this system if that public safety service employee files a formal written
4680 request seeking ~~[exclusion from coverage]~~ exemption.

4681 ~~[(b)]~~ (2) Except as provided in Subsection ~~[(1)(c)]~~ (3), the public safety service employee
4682 may not continue employment ~~[in]~~ with the same ~~[covered]~~ participating employer ~~[unit]~~ and
4683 receive ~~[payment from the retirement office]~~ an allowance from the office based on public safety
4684 service at the same time.

4685 ~~[(c)]~~ (3) An elected sheriff who is eligible to retire under Section ~~[49-4a-401]~~ 49-15-401
4686 may:

4687 ~~[(i)]~~ (a) retire from ~~[the]~~ this system and receive ~~[a retirement payment]~~ an allowance;

4688 ~~[(ii)]~~ (b) continue in the elected ~~[office]~~ position; and

4689 ~~[(iii)]~~ (c) file for the ~~[exclusion]~~ exemption under Subsection (1)~~[(a)]~~.

4690 ~~[(2) Any member of the system or any newly hired employee who is eligible for coverage~~
4691 ~~and who is drawing a military pension may, by application to the retirement administrator, be~~
4692 ~~exempted from participating in the system.]~~

4693 Section 113. Section **49-15-204**, which is renumbered from Section 49-4a-205 is
4694 renumbered and amended to read:

4695 ~~[49-4a-205].~~ **49-15-204. Conversion to system -- Time schedule.**

4696 The following laws govern conversion to the Public Safety Noncontributory Retirement
4697 System:

4698 (1) For ~~[persons]~~ an employee governed by Subsection ~~[49-4a-203(2)]~~ 49-15-201(1)(a),
4699 the election to participate in ~~[the noncontributory]~~ this system shall be made within six months of
4700 ~~[the effective date of this chapter]~~ July 1, 1989.

4701 (2) (a) (i) For ~~[political subdivisions]~~ an employer governed by Subsection ~~[49-4a-203(3)]~~
4702 49-15-201(2)(a), the election to participate ~~[as a local government unit]~~ in this system shall be
4703 made within six months of ~~[the effective date of this chapter]~~ July 1, 1989.

4704 (ii) The ~~[political subdivision]~~ employer shall indicate whether or not it elects to
4705 participate by enacting a resolution or ordinance to that effect.

4706 (iii) Prior to the enactment of the resolution or ordinance, a hearing shall be held by the

4707 ~~[political subdivision]~~ employer, at which all public safety service employees of the ~~[political~~
4708 ~~subdivision]~~ employer shall be given an opportunity to be heard on the question of participating
4709 in this ~~[noncontributory retirement]~~ system.

4710 (iv) Notice of the hearing shall be mailed to all public safety service employees within 30
4711 days of the hearing and shall contain the time, place, and purpose of the hearing.

4712 (b) A ~~[person in full-time employment with a political subdivision]~~ public safety service
4713 employee of an employer, prior to its election to participate, has six months from the date the
4714 ~~[political subdivision]~~ employer elects to participate in which to elect to become ~~[a member of the~~
4715 ~~noncontributory]~~ eligible for service credit in this system.

4716 (3) (a) Subsections (1) and (2) shall be used to provide a time period of conversion to the
4717 Public Safety Noncontributory Retirement System beginning July 1, 1998, and ending December
4718 31, 1998.

4719 (b) A person converting to the system during this time period ~~[shall be]~~ is subject to all the
4720 rights, limitations, terms, and conditions of ~~[Title 49;]~~ Chapter ~~[4a]~~ 15, Public Safety
4721 Noncontributory Retirement Act.

4722 Section 114. Section **49-15-301**, which is renumbered from Section 49-4a-301 is
4723 renumbered and amended to read:

4724 **Part 3. Contributions**

4725 ~~[49-4a-301].~~ **49-15-301. Contributions -- Two divisions -- Report.**

4726 ~~[(1) The system shall be maintained on a financially and actuarially sound basis by means~~
4727 ~~of contributions by the participating employer.]~~

4728 (1) Participating employers shall pay the certified contribution rates to the office to
4729 maintain this system on a financially and actuarially sound basis.

4730 (2) For purposes of determining contribution rates, ~~[the]~~ this system is divided into two
4731 divisions according to Social Security coverage.

4732 (a) ~~[Public safety employees]~~ Members of this system with on-the-job Social Security
4733 coverage are Division A. ~~[These are the state, Bountiful, and Division A other peace officer~~
4734 ~~units.]~~

4735 (b) ~~[Public safety employees]~~ Members of this system without on-the-job Social Security
4736 coverage are in Division B. ~~[These are Logan, Ogden, Provo, Salt Lake City, and Division B~~
4737 ~~other peace officer units.]~~

4738 ~~[(2) The board shall report to the governor, the Legislature, and each employing unit under~~
4739 ~~Division A or B the contribution rates and any adjustments necessary to maintain the system on~~
4740 ~~a financially and actuarially sound basis, and the employer shall pay the certified contribution~~
4741 ~~rates.]~~

4742 Section 115. Section **49-15-401**, which is renumbered from Section 49-4a-401 is
4743 renumbered and amended to read:

4744 **Part 4. Defined Benefit**

4745 ~~[49-4a-401].~~ **49-15-401. Eligibility for service retirement -- Date of retirement**

4746 **-- Qualifications.**

4747 ~~[(1) (a) Any member who qualifies for service retirement may retire by submitting to the~~
4748 ~~retirement office an application form notarized by a notary public. The application shall state the~~
4749 ~~proposed effective date of retirement, which may not be more than 90 days before or after the date~~
4750 ~~of application.]~~

4751 ~~[(b) The effective date shall be the 1st or 16th day of the month, as selected by the~~
4752 ~~member, but must be after the last day of actual work.]~~

4753 ~~[(c) The member shall actually terminate employment and provide evidence of~~
4754 ~~termination.]~~

4755 ~~[(2) The member is qualified to retire upon termination of services on or before the~~
4756 ~~effective date of retirement if one of the following requirements on that date is met:]~~

4757 (1) A member is qualified to receive an allowance from this system when:

4758 (a) the member ceases actual work for a participating employer in this system before the
4759 member's retirement date and provides evidence of the termination;

4760 (b) the member has submitted to the office a notarized retirement application form that
4761 states the member's proposed retirement date; and

4762 (c) one of the following conditions is met as of the member's retirement date:

4763 ~~[(a)]~~ (i) the member has ~~[been credited with]~~ accrued at least 20 years of service credit;

4764 ~~[(b)]~~ (ii) the member has ~~[been credited with]~~ accrued at least ten years of service credit
4765 and has attained an age of 60 years ~~[or more]~~; or

4766 ~~[(c)]~~ (iii) the member has ~~[been credited with]~~ accrued at least four years of service and
4767 has attained an age of 65 years ~~[or more]~~.

4768 (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as

4769 selected by the member, but the retirement date must be on or after the date of termination.

4770 (b) The retirement date may not be more than 90 days before or after the date the
4771 application is received by the office.

4772 Section 116. Section ~~49-15-402~~, which is renumbered from Section 49-4a-402 is
4773 renumbered and amended to read:

4774 ~~[49-4a-402].~~ **49-15-402. Calculation of retirement benefit.**

4775 ~~[Upon the service retirement of a member under Section 49-4a-401, the member shall~~
4776 ~~receive a retirement allowance determined as follows:]~~

4777 ~~[(1) If the member has 20 or more years of public safety service credit, the retirement~~
4778 ~~allowance is a monthly amount equal to:]~~

4779 ~~[(a) 2-1/2% of final average monthly salary multiplied by the number of years of public~~
4780 ~~safety service credited, limited to 20 years, plus]~~

4781 ~~[(b) 2% of final average monthly salary multiplied by the number of years of public safety~~
4782 ~~service credited in excess of 20 years, up to a maximum of 70%.]~~

4783 ~~[(2) If the member has attained age 60 years but less than age 65 years, and has ten years~~
4784 ~~but less than 20 years of public safety service credit, the retirement allowance is computed the~~
4785 ~~same as under Subsection (1):]~~

4786 ~~[(3) If the member has attained age 65 or older and has four or more years of public safety~~
4787 ~~service credit the retirement allowance shall be a monthly amount equal to 2-1/2% of final average~~
4788 ~~monthly salary multiplied by the number of years of public safety service credited, limited to 20~~
4789 ~~years, plus 2% of final average monthly salary multiplied by the number of years of public safety~~
4790 ~~service credit in excess of 20 years:]~~

4791 ~~[(4) Years of service include any fractions of years of service to which the member may~~
4792 ~~be entitled:]~~

4793 (1) A retiree under this system shall receive an allowance equal to:

4794 (a) 2.5% of final average monthly salary multiplied by the number of years of service
4795 credit, limited to 20 years; plus

4796 (b) 2% of final average monthly salary, multiplied by the number of years of service credit
4797 in excess of 20 years.

4798 (2) Except as modified by cost-of-living adjustments, an allowance under this system may
4799 not exceed 70% of a retiree's final average monthly salary.

4800 Section 117. Section **49-15-403**, which is renumbered from Section 49-4a-601 is
4801 renumbered and amended to read:

4802 ~~[49-4a-601].~~ **49-15-403. Annual cost-of-living adjustment.**

4803 ~~[(1) The retirement office shall compute and pay, upon approval by the board, an annual~~
4804 ~~cost-of-living adjustment to all retired members after the members have been retired one year. The~~
4805 ~~adjustment shall be equal to the decrease in the purchasing power of the dollar during the~~
4806 ~~preceding year, as measured by the Consumer Price Index, U.S. City Average, prepared by the~~
4807 ~~United States Bureau of Labor Statistics, and shall be limited to a maximum of 2.5% of the~~
4808 ~~retirant's or beneficiary's retirement allowance at the time of retirement. Decreases in the~~
4809 ~~purchasing power of the dollar exceeding 2.5% annually shall be accumulated and used in~~
4810 ~~subsequent allowances when the cost-of-living adjustment is less than 2.5%.]~~

4811 ~~[(2) The cost-of-living adjustment shall be reduced if the index shows a decline of 4% or~~
4812 ~~more during any period of more than one year. These reductions may not exceed 2% per year~~
4813 ~~based upon the original retirement allowance. Payments made under this section shall be a part~~
4814 ~~of the retired member's allowance. Payments and adjustments for the retirant shall also apply to~~
4815 ~~the beneficiary;]~~

4816 (1) The office shall make an annual cost-of-living adjustment to:

4817 (a) an original allowance paid under Section 49-15-402 and Part 5, Death Benefit, of this
4818 chapter if the allowance has been paid for at least one year; and

4819 (b) an original payment made to an alternate payee under a domestic relations order if the
4820 payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

4821 (2) (a) The original allowance shall be increased by the annual increase in the Consumer
4822 Price Index up to a maximum of 2.5%.

4823 (b) Annual increases in the Consumer Price Index in excess of 2.5% shall be accumulated
4824 and used in subsequent adjustments when the annual increase in the Consumer Price Index is less
4825 than 2.5%.

4826 (3) The Consumer Price Index used in calculating adjustments shall be a United States
4827 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

4828 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

4829 Section 118. Section **49-15-501**, which is renumbered from Section 49-4a-701 is
4830 renumbered and amended to read:

Part 5. Death Benefit

4831
4832 ~~[49-4a-701].~~ 49-15-501. Death of active member in Division A -- Payment of
4833 benefits.

4834 (1) If an active member of ~~[the]~~ this system enrolled in Division A under Section
4835 ~~[49-4a-301]~~ 49-15-301 dies, ~~[the following]~~ benefits are payable ~~[according to the conditions~~
4836 ~~stipulated]~~ as follows:

4837 ~~[(1)](a)~~ ~~[Except as provided in Subsection (1)(b), if]~~ If the death is classified by the office
4838 as a line-of-duty death, ~~[the dependent]~~ benefits are payable as follows:

4839 (i) If the member has accrued less than 20 years of public safety service credit, the spouse
4840 at the time of death shall receive a lump sum of \$1,000 and ~~[a monthly]~~ an allowance equal to 30%
4841 of the ~~[deceased]~~ member's final average monthly salary.

4842 ~~[(b)]~~ (ii) If the member has accrued 20 or more years of public safety service credit, the
4843 member shall be considered to have retired with ~~[a monthly]~~ an allowance calculated under
4844 ~~[Subsection 49-4a-402(1)]~~ Section 49-15-402 and the ~~[dependent]~~ spouse at the time of death shall
4845 receive the death benefit payable to a ~~[dependent]~~ spouse at the time of death under ~~[Subsection~~
4846 ~~49-4a-704(1)]~~ Section 49-15-504.

4847 ~~[(2)]~~ (b) If the death is not classified as a line-of-duty death by the office, ~~[the following]~~
4848 benefits are payable as follows:

4849 ~~[(a)]~~ (i) If the member has accrued less than ten years of public safety service credit ~~[at the~~
4850 ~~time of death]~~, the beneficiary shall receive the sum of \$1,000 or a refund of the member's member
4851 contributions, whichever ~~[amount]~~ is greater.

4852 ~~[(b)]~~ (ii) If the member has accrued ten or more years, but less than 20 years of public
4853 safety service credit at the time of death, the ~~[dependent]~~ spouse at the time of death shall receive
4854 the sum of \$500, plus ~~[a monthly]~~ an allowance equal to 2% of the ~~[deceased]~~ member's final
4855 average monthly salary~~[-]~~ for each year of service credit ~~[standing to the member's account, with]~~
4856 accrued by the member up to a maximum of 30% [allowed] of the member's final average monthly
4857 salary.

4858 ~~[(c)]~~ (iii) If the member has accrued 20 or more years of public safety service credit, the
4859 benefit shall be calculated as provided in Subsection (1)~~[(b)]~~(a)(ii).

4860 ~~[(3) No benefits]~~ (2) Benefits are not payable to minor children under Division A.

4861 ~~[(4)]~~ (3) If ~~[the]~~ a benefit is not distributed under this section, and ~~[there is]~~ the member

4862 has designated a beneficiary, the ~~[vested]~~ member's member contribution shall be paid to the
4863 beneficiary.

4864 Section 119. Section **49-15-502**, which is renumbered from Section 49-4a-702 is
4865 renumbered and amended to read:

4866 ~~[49-4a-702]~~. **49-15-502. Death of active member in Division B -- Payment of**
4867 **benefits.**

4868 (1) If an active member of ~~[the]~~ this system enrolled in Division B under Section
4869 ~~[49-4a-301]~~ 49-15-301 dies, ~~[the following]~~ benefits are payable ~~[according to the conditions~~
4870 ~~stipulated]~~ as follows:

4871 ~~[(1)]~~ (a) If the member has accrued less than 20 years of public safety service credit and
4872 if the death is classified by the office as a line-of-duty death, the ~~[dependent]~~ spouse at the time
4873 of death shall receive a lump sum of \$1,500 and ~~[a monthly]~~ an allowance equal to ~~[37-1/2%]~~
4874 37.5% of the ~~[deceased]~~ member's final average monthly salary.

4875 ~~[(2)]~~ (b) If the death is not classified by the office as a line-of-duty death, and the
4876 ~~[deceased]~~ member has accrued two or more years of public safety service credit at the time of
4877 death, the death is considered line-of-duty and the benefit ~~[payable is the same]~~ shall be paid as
4878 provided under Subsection (1)(a).

4879 ~~[(3)]~~ (c) If the death is not classified by the office as a line-of-duty death, and the
4880 ~~[deceased]~~ member has accrued less than two years of public safety service credit at the time of
4881 death, the ~~[benefit payable is]~~ spouse at the time of death shall receive a refund of the ~~[deceased]~~
4882 member's member contributions, plus 50% of the member's most recent 12 months' ~~[regular salary]~~
4883 compensation.

4884 ~~[(4)]~~ (d) (i) If the ~~[deceased]~~ member has accrued two or more years of public safety
4885 service credit at the time of death, ~~[the benefit payable to]~~ each of the member's unmarried children
4886 to age 18 ~~[is a monthly]~~ or dependent unmarried mentally or physically disabled children shall
4887 receive an allowance of \$50.

4888 (ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or as
4889 otherwise provided under ~~[Title 49, Chapter 1]~~ Section 49-11-609 or 49-11-610.

4890 ~~[(5)]~~ (2) In the event of the death of both parents, the spouse's benefit shall be prorated and
4891 paid to each of the member's unmarried children to age 18.

4892 ~~[(6)]~~ (3) If ~~[the]~~ a benefit is not distributed under ~~[this section, and there is]~~ the previous

4893 subsections, and the member has designated a beneficiary, the ~~[vested contribution]~~ member's
4894 member contributions shall be paid to the beneficiary.

4895 ~~[(7)] (4) The ~~[total monthly]~~ combined payments ~~[to be made on behalf of any one~~
4896 ~~deceased member's account]~~ to beneficiaries of any member under this section may not exceed
4897 75% of the member's final average monthly salary.~~

4898 Section 120. Section **49-15-503**, which is renumbered from Section 49-4a-703 is
4899 renumbered and amended to read:

4900 ~~[49-4a-703].~~ **49-15-503. Benefits payable upon death of inactive member.**

4901 ~~[(1) The death benefit payable on behalf of an active or an inactive member who dies and~~
4902 ~~has no spouse or minor children as a beneficiary is 100% of the deceased member's contributions~~
4903 ~~or \$500, whichever amount is greater.]~~

4904 ~~[(2) (a) The death benefit payable on behalf of an inactive member who dies and is~~
4905 ~~survived by a spouse to whom that member was married at the time of death is a monthly pension~~
4906 ~~if that member had 20 or more years of public safety service at the time of death.]~~

4907 ~~[(b) The pension payable to the spouse is]~~

4908 (1) If an inactive member who has less than 20 years of public safety service credit dies,
4909 the designated beneficiary shall receive a refund of the member's member contributions or \$500,
4910 whichever is greater.

4911 (2) (a) If an inactive member with 20 or more years of public safety service credit dies, the
4912 spouse at the time of death shall receive an allowance in an amount of 50% of the amount the
4913 member would have received had retirement occurred on the first of the month in which the death
4914 occurred~~[, the benefit being].~~

4915 (b) This allowance shall be based ~~[upon]~~ on years of service credit and final average

4916 monthly salary under Section ~~[49-4a-402]~~ 49-15-402, reduced actuarially from age 50 to the age
4917 of the member at the time of death ~~[if the member is under age 50 at the time of death].~~

4918 ~~[(3) The death benefit payable upon the death of an inactive member who has less than 20~~
4919 ~~years of public safety service and who leaves a spouse or minor children as the beneficiary is a~~
4920 ~~100% refund of the deceased member's contributions or \$500, whichever is greater.]~~

4921 Section 121. Section **49-15-504**, which is renumbered from Section 49-4a-704 is
4922 renumbered and amended to read:

4923 ~~[49-4a-704].~~ **49-15-504. Benefits payable upon death of retired member.**

4924 (1) If ~~[the member]~~ a retiree who retired under either Division A or Division B~~;~~ ~~the death~~
4925 ~~benefit payable to the dependent spouse after the death of the retired member of this system is a~~
4926 ~~monthly amount]~~ dies, the retiree's spouse at the time of death shall receive an allowance equal to
4927 65% of the allowance that was being paid to the ~~[retired member]~~ retiree at the time of death.

4928 (2) ~~[(a)]~~ If the ~~[member]~~ retiree retired solely under Division B ~~[or]~~ and dies leaving
4929 ~~[dependent]~~ unmarried children under the age of 18 or dependent unmarried mentally or physically
4930 disabled children, the children shall qualify for a benefit as prescribed ~~[for children]~~ under ~~[Section~~
4931 ~~49-4a-702, with the total being paid as limited by that section. (b) The effective date of accrual of~~
4932 ~~this pension is]~~ Subsection 49-15-502(1)(c) which is payable on the first day of the month
4933 following the month in which the ~~[retirant]~~ retiree died.

4934 ~~[(c) Payment of the full pension for this latter month shall be made to the dependent~~
4935 ~~beneficiary in lieu of the deceased member.]~~

4936 Section 122. Section **49-15-505** is enacted to read:

4937 **49-15-505. Benefits for surviving spouse under Division A or Division B.**

4938 The spouse at the time of death, if eligible, shall receive a benefit computed under either
4939 Division A or Division B, whichever provides the larger benefit, but may not receive a benefit
4940 under both divisions if it would result in a duplicate benefit.

4941 Section 123. Section **49-16-101**, which is renumbered from Section 49-5-101 is
4942 renumbered and amended to read:

4943 **CHAPTER 16. FIREFIGHTERS' RETIREMENT ACT**

4944 **Part 1. General Provisions**

4945 ~~[49-5-101].~~ **49-16-101. Title.**

4946 This chapter is known as the "Firefighters' Retirement Act."

4947 Section 124. Section **49-16-102**, which is renumbered from Section 49-5-103 is
4948 renumbered and amended to read:

4949 ~~[49-5-103].~~ **49-16-102. Definitions.**

4950 As used in this chapter:

4951 (1) (a) "Compensation~~;~~" ~~["salary," or "wages"]~~ means the total amount of payments that
4952 are ~~[currently]~~ includable ~~[in-]~~ as gross income ~~[made by an employer to an employee for services~~
4953 ~~rendered to the employer as base income]~~ which are received by a firefighter service employee
4954 as base income for the regularly scheduled work period. The participating employer shall establish

4955 the regularly scheduled work period. Base income shall be determined prior to [~~any salary~~
4956 ~~deductions or reductions~~] the deduction of member contributions or any amounts the firefighter
4957 service employee authorizes to be deducted for [~~any~~] salary deferral or [~~pretax benefit programs~~
4958] other benefits authorized by federal law[~~; for the position covered under the retirement system~~].

4959 (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

4960 (c) "Compensation" does not include:

4961 (i) overtime;

4962 (ii) sick pay incentives;

4963 (iii) retirement pay incentives;

4964 (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, [~~or~~] travel

4965 [~~allowances~~], or similar payments;

4966 (v) a lump-sum payment or special payments covering accumulated leave; and

4967 (vi) all contributions made by [~~an~~] a participating employer under this [~~plan~~] system or
4968 under any other employee benefit system or plan maintained by [~~an~~] a participating employer for
4969 the benefit of a member or participant.

4970 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under
4971 Internal Revenue Code Section 401(a)(17).

4972 (2) (a) "Disability" means a physical or mental condition that, in the judgment of the
4973 [~~board~~] office, is total and presumably permanent, prevents a member from fulfilling the
4974 responsibilities of the member's [~~assignment~~] position, and prevents the member from performing
4975 satisfactorily in some other [~~assignment~~] position of the same general class.

4976 (b) The determination of disability is based upon medical and other evidence satisfactory
4977 to the [~~board~~] office.

4978 [~~(3) "Employer" or "employing unit" means any regularly constituted fire department of~~
4979 ~~a political subdivision for which any employee or member performs services subject to this~~
4980 ~~chapter.~~]

4981 [~~(4)~~] (3) "Final average salary" means the amount computed by averaging the highest three
4982 years of annual compensation preceding retirement[~~; but not including overtime or lump-sum or~~
4983 ~~special salary adjustments received instead of uniform or other allowances or expenses or other~~
4984 ~~payments made covering accumulated leave~~] subject to Subsections (3)(a) and (b).

4985 (a) Except as provided in Subsection [~~(4)~~] (3)(b), the percentage increase in annual

4986 compensation in any one of the years used may not exceed the previous year's [salary]
4987 compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the
4988 purchasing power of the dollar during the previous year, as measured by [~~the Consumer Price~~
4989 ~~Index prepared by the~~] a United States Bureau of Labor Statistics Consumer Price Index average
4990 as determined by the board.

4991 (b) In cases where the [~~employing unit~~] participating employer provides acceptable
4992 documentation to the [~~board~~] office the limitation in Subsection [~~(4)~~] (3)(a) may be exceeded if:

4993 (i) the member has transferred from another [~~employing unit~~] agency; or

4994 (ii) the member has been promoted to a new position.

4995 [~~(5)~~] (4) "Firefighter service" means [~~full-time paid service rendered as an individual or~~
4996 ~~as a member of a group of firefighters regularly assigned to~~] at least 2,080 hours of regularly
4997 scheduled compensated employment per year rendered by a member who is a firefighter service
4998 employee trained in firefighter techniques and assigned to a position of hazardous duty with a
4999 regularly constituted fire department, but does not include secretarial staff or other similar
5000 employees.

5001 (5) "Firefighter service employee" means an employee of a participating employer who
5002 provides firefighter service under this chapter. An employee of a regularly constituted fire
5003 department who does not perform firefighter service is not a firefighter service employee.

5004 [~~(6)~~] "Full-time service" means 2,080 hours per year.]

5005 [~~(7)~~] "Inactive member" means a member who has received no compensation for a period
5006 of longer than four months.]

5007 [~~(8)~~] (6) "Line-of-duty death or disability" means a death or any physical or mental
5008 disability resulting from external force, violence, or disease [~~occasioned by an act of duty as a~~
5009 ~~firefighter and includes for a paid firefighter, after five years of credited service, any death or~~
5010 ~~disability resulting from heart disease, lung disease, or respiratory tract, but if a firefighter ceases~~
5011 ~~to be a contributing member because of personal illness or service-connected disability, neither of~~
5012 ~~which is related to~~] directly resulting from firefighter service.

5013 (a) A paid firefighter who has five years of firefighter service credit is eligible for a
5014 line-of-duty death or disability resulting from heart [or] disease, lung disease [nor the], or
5015 respiratory tract condition.

5016 (b) A paid firefighter who receives a service connected disability benefit for [a period of]

5017 ~~more than~~ six months [~~or more and then again becomes a contributing member, the provision~~
5018 ~~relating to death or disability resulting from]~~ due to violence or illness other than heart disease,
5019 lung disease, or respiratory [~~disease does not apply until the member again becomes a contributing~~
5020 ~~member for a period of not less than two years or]~~ tract condition, and then returns to paid
5021 firefighter service, may not be eligible for a line-of-duty death or disability benefit due to heart
5022 disease, lung disease, or respiratory tract condition for two years after the firefighter returned to
5023 work unless clear and [~~precise]~~ convincing evidence is presented that the heart disease, lung
5024 disease, or respiratory [~~disease]~~ tract condition was[~~, in fact, occasioned in the line-of-duty]~~
5025 directly a result of firefighter service.

5026 [~~(9) (a) "Member" means any person included in the membership of the retirement~~
5027 ~~system.]~~

5028 [~~(b) A person is a member if the person has contributions on deposit with the retirement~~
5029 ~~system.]~~

5030 [~~(c) A person hired on or after July 1, 1971, in a fire department, who is assigned directly~~
5031 ~~to a clerical position, and because of lack of training in fire fighting techniques, is not subject to~~
5032 ~~reassignment into positions of hazardous duty, is not eligible for membership in this system.]~~

5033 [~~(i) The person in a clerical position shall become a contributing member of the~~
5034 ~~appropriate retirement system.]~~

5035 [~~(ii) The required employer contributions shall be paid by the fire department.]~~

5036 [~~(iii) This membership exclusion may not be interpreted to prohibit the assignment of a~~
5037 ~~disabled or partially disabled firefighter to that position.]~~

5038 [~~(iv) If Subsection (9)(c)(iii) applies, the firefighter retains status as a contributing member~~
5039 ~~of this system and continues to accrue service credits while so employed.]~~

5040 (7) "Participating employer" means an employer which meets the participation
5041 requirements of Section 49-16-201.

5042 [~~(10)]~~ (8) "Regularly constituted fire department" means a fire department that employs
5043 a [full-time] fire chief [and promulgates rules] who performs firefighter service for at least 2,080
5044 hours of regularly scheduled paid employment per year.

5045 [~~(11) (a) "Service" or "covered service" means firefighter service rendered an employer~~
5046 ~~for compensation included in computations relating to membership status or benefit rights under~~
5047 ~~this chapter.]~~

5048 ~~[(b) A retirement allowance or other benefit may not be granted under this system that is~~
5049 ~~based upon the same service for retirement benefits under some other retirement system~~
5050 ~~administered by the board.]~~

5051 (9) "System" means the Firefighters' Retirement System created under this chapter.

5052 ~~[(12)]~~ (10) (a) "Volunteer firefighter" means any individual that is not regularly employed
5053 as a firefighter service employee, but who is on the rolls of a regularly constituted fire department.

5054 (b) An individual that volunteers assistance but is not a regularly enrolled firefighter is not
5055 a volunteer firefighter.

5056 ~~[(c) Service as a volunteer firefighter is not creditable towards qualifying for a service~~
5057 ~~retirement allowance.]~~

5058 ~~[(13)]~~ (11) "Years of service credit" [or "service years"] means the number of periods
5059 [~~consisting~~], each to consist of 12 full months as determined by the board, whether consecutive
5060 or not, during which [an] a firefighter service employee [~~performed services for an] was employed~~
5061 by a participating employer or received full-time pay while on sick leave, including any time the
5062 firefighter service employee was absent in the service of the United States on military duty.

5063 Section 125. Section **49-16-103**, which is renumbered from Section 49-5-201 is
5064 renumbered and amended to read:

5065 **[49-5-201]. 49-16-103. Creation of system.**

5066 There is created for [~~firefighters in this state]~~ members performing firefighter service and
5067 who are employed by a participating employer the "Firefighters' Retirement System."

5068 Section 126. Section **49-16-104**, which is renumbered from Section 49-5-202 is
5069 renumbered and amended to read:

5070 **[49-5-202]. 49-16-104. Creation of trust fund.**

5071 (1) There is created the "Firefighters' Retirement Trust Fund" for the purpose of paying
5072 the benefits and costs of administering this system.

5073 (2) The fund shall consist of all money and assets transferred to it from any terminated
5074 system, all money paid into it, including interest, in accordance with this chapter, whether in the
5075 form of cash, securities, or other assets, and of all money received from any other source.

5076 (3) The custody, management, and investment of the fund shall be governed by [Title 49,]
5077 Chapter [~~7~~] 11, Utah State Retirement Systems Administration.

5078 Section 127. Section **49-16-201**, which is renumbered from Section 49-5-203 is

5079 renumbered and amended to read:

5080 **Part 2. Membership Eligibility**

5081 **[49-5-203]. 49-16-201. System membership -- Eligibility.**

5082 ~~[(1) Any employee who performs covered services for any political subdivision after the~~
5083 ~~effective date of this system shall become a member of this retirement system.]~~

5084 ~~[(2) (a) Any new employee engaged to perform covered services for an agency or political~~
5085 ~~subdivision after the effective date of this chapter shall undergo a physical examination to~~
5086 ~~determine the employee's fitness for employment, and file a membership form with the retirement~~
5087 ~~office. The employer shall notify the administrator of the employee's employment within 30 days~~
5088 ~~of employment.]~~

5089 ~~[(b) In political subdivisions with]~~

5090 (1) A firefighter service employee who performs firefighter service for an employer
5091 participating in this system is eligible for service credit in this system upon the earliest of:

5092 (a) July 1, 1971, if the firefighter service employee was employed by the participating
5093 employer on July 1, 1971, and the participating employer was participating in this system on that
5094 date;

5095 (b) the date the participating employer begins participating in this system if the firefighter
5096 service employee was employed by the participating employer on that date; or

5097 (c) the date the firefighter service employee is hired to perform firefighter services for a
5098 participating employer.

5099 (2) (a) (i) A participating employer that has public safety service and firefighter [personnel
5100 where] service employees that require cross-training and duty [is required, the employing unit may]
5101 shall enroll the dual purpose [personnel] employees in the [retirement] system in which the greatest
5102 amount of [duty] time is [contemplated and] actually worked.

5103 (ii) The [personnel] employees shall either be full-time public safety service or full-time
5104 firefighter service employees of the [employing unit] participating employer.

5105 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
5106 participating employer shall receive written permission from the office.

5107 (ii) The office may request documentation to verify the appropriateness of the transfer.

5108 (3) (a) A person hired by a regularly constituted fire department on or after July 1, 1971,
5109 who does not perform firefighter service is not eligible for service credit in this system.

5110 (b) The nonfirefighter service employee shall become a member of the system for which
5111 the nonfirefighter service employee qualifies for service credit.

5112 (c) The service credit exclusion under this Subsection (3) may not be interpreted to
5113 prohibit the assignment of a disabled or partially disabled firefighter to a nonfirefighter service
5114 position.

5115 (d) If Subsection (3)(c) applies, the firefighter service employee remains eligible for
5116 service credit in this system.

5117 (4) An allowance or other benefit may not be granted under this system that is based upon
5118 the same service for benefits received under some other system.

5119 (5) Service as a volunteer firefighter is not eligible for service credit in this system.

5120 Section 128. Section **49-16-202**, which is renumbered from Section 49-5-204 is
5121 renumbered and amended to read:

5122 **[49-5-204]. 49-16-202. Participation of employers -- Full participation in system**
5123 **-- Supplemental programs authorized.**

5124 ~~[(1) All political subdivisions are participating employers in the system and may not~~
5125 ~~withdraw from participation in the system. As participating employers, political subdivisions shall~~
5126 ~~meet all requirements for full participation in the system.]~~

5127 ~~[(2) No participating employer may maintain participation in the system by covering only~~
5128 ~~part of its eligible employees, but the chief of any fire department may elect not to participate in~~
5129 ~~the system, but cannot continue employment in the same covered employer unit and receive~~
5130 ~~payment from the retirement office at the same time.]~~

5131 (1) An employer that employs firefighter service employees and is required by Section
5132 49-12-202 or 49-13-202 to be a participating employer in the Public Employees' Contributory
5133 Retirement System or the Public Employees' Noncontributory Retirement System shall cover all
5134 of its firefighter service employees under one of the following systems:

5135 (a) Chapter 12, Public Employees' Contributory Retirement Act;

5136 (b) Chapter 13, Public Employees' Noncontributory Retirement Act; or

5137 (c) Chapter 16, Firefighters' Retirement Act.

5138 (2) Any employer that covers its firefighter service employees under Subsection (1)(c) is
5139 a participating employer in this system.

5140 (3) If a participating employer under Subsection (1) covers any of its firefighter service

5141 employees under the Firefighters' Retirement System, that participating employer shall cover all
5142 of its firefighter service employees under that system.

5143 (4) A participating employer may not withdraw from this system.

5144 ~~[(3)]~~ (5) In addition to their participation in the system, participating employers may
5145 provide or participate in any additional public or private retirement, supplemental or [deferred
5146 income program] defined contribution plan, either directly or indirectly, for their firefighter service
5147 employees.

5148 Section 129. Section **49-16-203** is enacted to read:

5149 **49-16-203. Exemption of certain employees from coverage -- Exception.**

5150 (1) A firefighter service employee serving as the chief of any fire department or district
5151 is excluded from coverage under this system if that firefighter service employee files a formal
5152 written request seeking exemption.

5153 (2) A firefighter service employee serving as the chief of any fire department or district
5154 may not continue employment with the same participating employer and receive an allowance from
5155 the office based on firefighter service at the same time.

5156 Section 130. Section **49-16-301**, which is renumbered from Section 49-5-301 is
5157 renumbered and amended to read:

5158 **Part 3. Contributions**

5159 ~~[49-5-301].~~ **49-16-301. Contributions -- Two divisions -- Election by employer to**
5160 **pay employee contributions -- Accounting for and vesting of worker contributions --**
5161 **Deductions.**

5162 (1) [The system shall be maintained on a financially and actuarially sound basis by means
5163 of contributions made by the state, the employing units, and the active members of the system] In
5164 addition to the monies paid to this system under Subsection (6), participating employers and
5165 firefighter service employees shall jointly pay the certified contribution rates to the office to
5166 maintain this system on a financially and actuarially sound basis.

5167 (2) For purposes of determining contribution rates [and benefits, the], this system is
5168 divided into two divisions according to Social Security coverage[-Firefighters] as follows:

5169 (a) members of this system with on-the-job Social Security coverage are in Division A[-
5170 and firefighters]; and

5171 (b) members of this system without on-the-job Social Security coverage are in Division

5172 B.

5173 ~~[(2) Any city, town, special district, or county]~~

5174 (3) (a) A participating employer may elect to pay all or part of [its members'] the required
5175 member contributions, in addition to the required participating employer contributions.

5176 (b) Any amount contributed by [a city, town, or county] a participating employer under this
5177 [subsection] section shall vest to the member's [credit] benefit as though the member had made the
5178 contribution.

5179 (c) The [member's] required [contribution] member contributions shall be reduced by the
5180 amount that is paid by the participating employer.

5181 ~~[(3)]~~ (4) (a) All member contributions are credited by the office to the account of the
5182 individual [and] member.

5183 (b) This amount is held in trust for the payment of benefits to the member or the member's
5184 beneficiaries.

5185 (c) All member contributions are [100%] vested and nonforfeitable.

5186 ~~[(4)]~~ (5) (a) Each member is considered to consent to [monthly] payroll deductions of
5187 member contributions.

5188 (b) The payment of compensation less [retirement] these payroll deductions is considered
5189 to be full payment [of the salary of the employee] for services rendered by the member.

5190 ~~[(5) The board shall report to the governor, the Legislature, and each employing unit under~~
5191 ~~Division A or B the contribution rates and any adjustments necessary to maintain the system on~~
5192 ~~a financially and actuarially sound basis, and the employer and employee shall pay the certified~~
5193 ~~contribution rates.]~~

5194 (6) (a) In addition to contribution rates described under this section, there shall be paid to
5195 the Firefighters' Retirement Trust Fund created under Section 49-16-104:

5196 ~~[(a)]~~ (i) 50% of the annual tax [for each year that is] levied, assessed, and collected under
5197 Title 59, Chapter 9, Taxation of Admitted Insurers, upon property insurance premiums, as defined
5198 [by] under Section 31A-1-301, and as applied to fire and allied lines insurance collected by
5199 insurance companies within the state; and

5200 ~~[(b)]~~ (ii) 10% of all money assessed and collected under Title 59, Chapter 9, Taxation of
5201 Admitted Insurers, upon life insurance premiums as defined in Section 31A-1-301 within the state.

5202 (b) Payments to the fund shall be made annually until the service liability is liquidated,

5203 after which the tax revenue provided in this subsection for the Firefighters' Retirement Trust Fund
5204 ceases.

5205 Section 131. Section **49-16-401**, which is renumbered from Section 49-5-401 is
5206 renumbered and amended to read:

5207 **Part 4. Defined Benefit**

5208 ~~[49-5-401].~~ **49-16-401. Eligibility for service retirement -- Date of retirement --**
5209 **Qualifications.**

5210 ~~[(1) (a) Any member who qualifies for service retirement may retire by submitting to the~~
5211 ~~retirement office an application form notarized by a notary public. The application shall state the~~
5212 ~~proposed effective date of retirement, which may not be more than 90 days before or after the date~~
5213 ~~of application.]~~

5214 ~~[(b) The effective date shall be the 1st or 16th day of the month, as selected by the~~
5215 ~~member, but must follow the last day of actual work.]~~

5216 ~~[(c) The member shall actually terminate employment and provide evidence of~~
5217 ~~termination.]~~

5218 ~~[(2) The member is qualified to retire upon termination of service on or before the~~
5219 ~~effective date of retirement if one of the following requirements on that date is met:]~~

5220 (1) A member is qualified to receive an allowance from this system when:

5221 (a) the member ceases actual work for a participating employer in this system before the
5222 member's retirement date and provides evidence of the termination;

5223 (b) the member has submitted to the office a notarized retirement application form that
5224 states the member's proposed retirement date; and

5225 (c) one of the following conditions is met as of the member's retirement date:

5226 ~~[(a)]~~ (i) the member ~~[is credited with]~~ has accrued at least 20 years of service credit;

5227 ~~[(b)]~~ (ii) the member ~~[is credited with]~~ has accrued at least ten years of service credit and
5228 ~~[is]~~ has attained an age of 60 years ~~[of age or more]~~; or

5229 ~~[(c)]~~ (iii) the member ~~[is credited with]~~ has accrued at least four years of service credit and
5230 ~~[is]~~ has attained an age of 65 years ~~[of age or more]~~.

5231 (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as
5232 selected by the firefighter service employee, but the retirement date must be on or after the date
5233 of termination.

5234 (b) The retirement date may not be more than 90 days after the date the application is
5235 received by the office.

5236 Section 132. Section **49-16-402**, which is renumbered from Section 49-5-402 is
5237 renumbered and amended to read:

5238 ~~[49-5-402].~~ **49-16-402. Calculation of retirement allowance.**

5239 [Upon retirement as provided in Section 49-5-401, the member shall receive a retirement
5240 allowance as follows:]

5241 [~~(1) If the member is a participant in Division A or B and has 20 or more years of service~~
5242 ~~credit, the monthly retirement allowance is equal to:]~~

5243 [~~(a) 2-1/2% of the member's final average monthly salary multiplied by the number of~~
5244 ~~years of service credited the member, limited to 20 years; plus]~~

5245 [~~(b) 2% of the member's final average monthly salary multiplied by the number of service~~
5246 ~~credit years credited the member in excess of 20 years.]~~

5247 [~~(2) If the member is a participant in Division A or B and is 60 but less than 65 years of~~
5248 ~~age and has ten but less than 20 years of service credit, the monthly retirement allowance is an~~
5249 ~~amount equal to 2-1/2% of the member's final average monthly salary multiplied by the number~~
5250 ~~of years of service credit.]~~

5251 [~~(3) If the member is a participant in Division A or B and is 65 years of age or older and~~
5252 ~~has four years of service credit or more, the monthly retirement allowance is an amount equal to:]~~

5253 [~~(a) 2-1/2% of the member's final average monthly salary multiplied by the number of~~
5254 ~~years of service credit, limited to 20 years; plus]~~

5255 [~~(b) 2% of the final average monthly salary multiplied by the number of years of service~~
5256 ~~credit in excess of 20 years.]~~

5257 [~~(4) The monthly service retirement allowance as calculated under this section may not~~
5258 ~~exceed 70% of the member's final average monthly salary.]~~

5259 [~~(5) Years of service include any fractions of years of service to which the member may~~
5260 ~~be entitled. Notwithstanding the formula for computing the service retirement allowance under~~
5261 ~~this section for members participating in the program, the board shall, in as far as practical, adjust~~
5262 ~~the percentage factor used in the service retirement allowance formula, in its application to the~~
5263 ~~years of service of a retiring member, to a percentage amount not less than 1-1/2%, nor more than~~
5264 ~~2-1/2% per year of service, limited to the first 25 years. This adjustment when made shall maintain~~

5265 ~~the retirement trust account on an actuarially sound basis if the employer contributions, member~~
5266 ~~contributions, insurance fees, and earnings of the fund are insufficient to fund the benefits provided~~
5267 ~~for members participating in the program.]~~

5268 (1) A retiree under this system shall receive an allowance equal to:

5269 (a) 2.5% of final average monthly salary multiplied by the number of years of service
5270 credit, limited to 20 years; plus

5271 (b) 2% of final average monthly salary, multiplied by the number of years of service credit
5272 in excess of 20 years.

5273 (2) The minimum annual allowance payable under this section is \$500.

5274 (3) Except as modified by cost-of-living adjustments, an allowance under this system may
5275 not exceed 70% of a firefighter service employee's final average monthly salary.

5276 Section 133. Section **49-16-403**, which is renumbered from Section 49-5-601 is
5277 renumbered and amended to read:

5278 **[49-5-601]. 49-16-403. Annual cost-of-living adjustment.**

5279 (1) ~~[(a)]~~ The ~~[retirement]~~ office shall ~~[compute and pay, upon approval by the board,]~~
5280 make an annual cost-of-living adjustment to ~~[all retired members after those members have been~~
5281 ~~retired for one year.]:~~

5282 ~~[(b) The adjustment is equal to the decrease in the purchasing power of the dollar during~~
5283 ~~the preceding year, as measured by the Consumer Price Index, United States City Average,~~
5284 ~~prepared by the United States Bureau of Labor Statistics, and is limited to a maximum of 4% of~~
5285 ~~the retirant's or beneficiary's original retirement allowance.]~~

5286 ~~[(c) Decreases in the purchasing power of the dollar exceeding 4% annually are~~
5287 ~~accumulated and used in subsequent allowances when the cost-of-living adjustment is less than~~
5288 ~~4% annually.]~~

5289 ~~[(2) (a) The cost-of-living adjustment shall be reduced if the index shows a decline of 4%~~
5290 ~~or more during any period of more than one year.]~~

5291 ~~[(b) These reductions may not exceed 2% per year based upon the original retirement~~
5292 ~~allowance.]~~

5293 ~~[(c) Payments made under this section are a part of the retired member's allowance.]~~

5294 ~~[(d) Payments and adjustments for the retirant also apply to the beneficiary.]~~

5295 ~~[(e) The net cost of increasing the cost-of-living adjustment from 2-1/2% to 4% annually~~

5296 under this section, after recognizing the decrease in the contribution rates for actuarial expense,
 5297 is 1.74% for Division A firefighters and 1.9% for Division B firefighters. The net cost shall be
 5298 added to the employee contribution rate in Division A and Division B.]

5299 (a) an original allowance paid under Section 49-16-402, Part 5, Death Benefit, and Part
 5300 6, Disability Benefit, of this chapter if the allowance has been paid for at least one year; and

5301 (b) an original payment made to an alternate payee under a domestic relations order, if the
 5302 payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

5303 (2) (a) The original allowance shall be increased by the annual increase in the Consumer
 5304 Price Index up to a maximum of 4%.

5305 (b) Annual increases in the Consumer Price Index in excess of 4% shall be accumulated
 5306 and used in subsequent adjustments when the annual increase in the Consumer Price Index is less
 5307 than 4%.

5308 (3) The Consumer Price Index used in calculating adjustments shall be a United States
 5309 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

5310 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

5311 Section 134. Section **49-16-501**, which is renumbered from Section 49-5-701 is
 5312 renumbered and amended to read:

5313 **Part 5. Death Benefit**

5314 ~~[49-5-701].~~ **49-16-501. Death of active member in Division A -- Payment of**
 5315 **benefits.**

5316 (1) If an active member of [the] this system enrolled in Division A under Section
 5317 49-16-301 dies, [the following] benefits are payable as follows:

5318 ~~[(1) (a) Except as provided in Subsection (1)(b), if]~~

5319 (a) If the death is classified by the office as a line-of-duty[, the dependent spouse receives]
 5320 death, benefits are payable as follows:

5321 (i) If the member has accrued less than 20 years of firefighter service credit, the spouse at
 5322 the time of death shall receive a lump sum of \$1,500 and [a monthly] an allowance equal to 30%
 5323 of the [deceased] member's final average monthly salary.

5324 ~~[(b)]~~ (ii) If the member has accrued 20 or more years of firefighter service credit, the
 5325 member shall be considered to have retired with [a monthly] an allowance calculated under
 5326 [Subsection 49-5-402(1)] Section 49-16-402 and the [dependent] spouse at the time of death shall

5327 receive the death benefit payable to a ~~[dependent]~~ spouse under Section ~~[49-5-704]~~ 49-16-504.

5328 ~~[(2)]~~ (b) If the death is not classified as a line-of-duty~~[-the benefit is]~~ death by the office,
5329 benefits are payable as follows:

5330 ~~[(a)]~~ (i) If the member has accrued less than ten years of firefighter service credit, ~~[at the~~
5331 ~~time of death,]~~ the ~~[member's]~~ beneficiary ~~[receives]~~ shall receive a sum of \$1,000 or a refund of
5332 the member's member contributions, whichever is greater.

5333 ~~[(b)]~~ (ii) If the member has accrued ten or more years of firefighter service credit the
5334 ~~[dependent]~~ spouse ~~[receives]~~ at the time of death shall receive a sum of \$500, plus [a monthly]
5335 an allowance equal to 2% of the member's final average monthly salary [of the deceased member]
5336 for each year of service credit [with a] accrued by the member up to a maximum of 30% [allowed]
5337 of the member's final average monthly salary.

5338 ~~[(3) In the event of the death of the member and there is no spouse,]~~

5339 (2) (a) If the member dies without a current spouse, the spouse's benefit shall be equally
5340 divided and paid to each unmarried child until the child reaches age 21.

5341 (b) The payment shall be made to a duly appointed guardian or as provided under Sections
5342 49-11-609 and 49-11-610.

5343 ~~[(4)]~~ (3) If the benefit is not distributed under this section, ~~[and there is]~~ and the member
5344 has designated a beneficiary, the [vested contribution] member's member contributions shall be
5345 paid to the beneficiary.

5346 Section 135. Section **49-16-502**, which is renumbered from Section 49-5-702 is
5347 renumbered and amended to read:

5348 **[49-5-702]. 49-16-502. Death of active member in Division B -- Payment of benefits.**

5349 (1) If an active member of [the] this system enrolled in Division B under Section
5350 49-16-301 dies, [the following] benefits are payable as follows:

5351 ~~[(1)]~~ (a) If the death is classified by the office as a line-of-duty~~[-the dependent spouse~~
5352 ~~receives]~~ death, benefits are payable as follows:

5353 (i) If the member has accrued less than 20 years of firefighter service credit, the spouse at
5354 the time of death shall receive a lump sum of \$1,500 and [a monthly] an allowance equal to
5355 [37-1/2%] 37.5% of the [deceased] member's final average monthly salary[-, subject to Section
5356 49-5-503].

5357 ~~[(2)]~~ (ii) If ~~[death is classified as line-of-duty, and]~~ the member has accrued 20 or more

5358 years of firefighter service credit, the member shall be considered to have retired with an allowance
5359 calculated under Subsection 49-16-402 and the [~~dependent~~] spouse at the time of death shall
5360 receive the death benefit payable to a [~~retired member~~] spouse under Section [~~49-5-704~~]
5361 49-16-504.

5362 [~~(3)~~] (b) If the death is not classified by the office as a line-of-duty [~~and the deceased~~]
5363 death, the benefits are payable as follows:

5364 (i) If the member has accrued five or more years of firefighter service credit, the death is
5365 considered line-of-duty and the same benefits are payable as established under Subsection (1) [~~or~~
5366 ~~(2)~~] (a).

5367 [~~(4)~~] (ii) If [~~death is not classified as line-of-duty and the deceased~~] the member has
5368 accrued less than five years of firefighter service credit, the [~~benefit is~~] spouse at the time of death
5369 shall receive a refund of the [~~deceased~~] member's contributions, plus 50% of the member's most
5370 recent 12 months [~~regular salary~~] compensation.

5371 [~~(5)~~] (c) If the [~~deceased~~] member has accrued five or more years of firefighter service
5372 credit, the member's unmarried children[;] until they reach age 21[;] or dependent unmarried
5373 mentally or physically disabled children, shall receive a monthly allowance of \$75.

5374 (2) (a) In the event of the death of the member and spouse, the spouse's benefits are equally
5375 divided and paid to each unmarried child until the child reaches age 21.

5376 (b) The payments shall be made to the surviving parent or duly appointed guardian or
5377 [~~pursuant to Section 49-1-607~~] as provided under Sections 49-11-609 and 49-11-610.

5378 [~~(6)~~] (3) If [~~the~~] a benefit is not distributed under [~~this section, and there is~~] the previous
5379 subsections, and the member has designated a beneficiary, the [~~vested contribution~~] member's
5380 member contributions shall be paid to the beneficiary.

5381 [~~(7)~~] (4) The [~~total monthly~~] combined monthly payments made [~~on behalf of any one~~
5382 ~~deceased member's account~~] to the beneficiaries of any member under this section may not exceed
5383 75% of the member's final average monthly salary.

5384 Section 136. Section **49-16-503**, which is renumbered from Section 49-5-703 is
5385 renumbered and amended to read:

5386 [~~49-5-703~~]. **49-16-503. Benefits payable upon death of inactive member.**

5387 [~~(1)~~] ~~The death settlement payable on behalf of an active or inactive member who dies~~
5388 ~~without spouse or minor children is 100% of the employee's contributions or \$500, whichever is~~

5389 larger.]

5390 ~~[(2) The death benefit payable monthly on behalf of an inactive member who dies and is~~
5391 ~~survived by a spouse to whom the member was married at the time of death is]~~

5392 (1) If an inactive member who has less than 20 years of firefighter service credit dies, the
5393 designated beneficiary shall receive a refund of the member's member contributions or \$500,
5394 whichever is greater.

5395 (2) (a) If an inactive member with 20 or more years of firefighter service credit dies, the
5396 spouse at the time of death shall receive an allowance in the amount of 50% of the amount the
5397 member would have received had [the member retired] retirement occurred on the first [day] of
5398 the month following the month in which the death occurred[, the computation being based upon].

5399 (b) This allowance shall be based on years of service credit and final average monthly
5400 salary under Section 49-16-402, reduced actuarially from age 50 to the age of the member at the
5401 time of death[, if the member was not 50 years of age when death occurred].

5402 ~~[(3) No monthly pension may be paid under this section unless the member had 20 years~~
5403 ~~of service credit at the time of death.]~~

5404 Section 137. Section **49-16-504**, which is renumbered from Section 49-5-704 is
5405 renumbered and amended to read:

5406 ~~[49-5-704].~~ **49-16-504. Benefits payable upon death of retired member.**

5407 ~~[(1) (a) The death benefit payable to a dependent spouse after death of the retirant is a~~
5408 ~~monthly amount equal to 75% of the allowance being paid to the retirant at the time of death.]~~

5409 ~~[(b) The effective date of accrual of this pension is]~~

5410 (1) If a retiree who retired under either Division A or Division B dies, the retiree's spouse
5411 at the time of death shall receive an allowance equal to 75% of the allowance that was being paid
5412 to the retiree at the time of death.

5413 (2) If the retiree retired solely under Division B and dies leaving unmarried children under
5414 the age of 18 or dependent unmarried mentally or physically disabled children, the children shall
5415 qualify for a benefit as prescribed under Subsection 49-16-502(1)(c) which is payable on the first
5416 day of the month following the month in which the [retirant] retiree died.

5417 ~~[(c) Payment of the full pension for this latter month shall be made to the dependent~~
5418 ~~beneficiary instead of the deceased member.]~~

5419 ~~[(2) If the member retires under Division B and dies leaving dependent children, they~~

5420 qualify for benefits prescribed for children under Section ~~49-5-701 or 49-5-702.~~]

5421 Section 138. Section **49-16-505** is enacted to read:

5422 **49-16-505. Benefits for surviving spouse under Division A or Division B.**

5423 The spouse at the time of death, if eligible, shall receive a benefit computed under either

5424 Division A or Division B, whichever provides the larger benefit, but may not receive a benefit

5425 under both divisions if it would result in a duplicate benefit.

5426 Section 139. Section **49-16-506** is enacted to read:

5427 **49-16-506. Minimum allowance for spouse.**

5428 The minimum allowance payable to the spouse who qualifies for an allowance under

5429 Section 49-16-501, 49-16-502, 49-16-503 or 49-16-504, shall be \$350 per month.

5430 Section 140. Section **49-16-601**, which is renumbered from Section 49-5-501 is

5431 renumbered and amended to read:

5432 **Part 6. Disability Benefit**

5433 ~~[49-5-501].~~ **49-16-601. Disability benefit -- Line-of-duty disability -- Benefits --**

5434 **Monthly allowance.**

5435 ~~[Any] (1) An active member of this system who [becomes disabled] is unable to perform~~

5436 ~~firefighter service due to a physical or mental condition may apply to the [retirement] office for~~

5437 ~~a disability retirement benefit subject to the following provisions:~~

5438 ~~[(1)] (a) If the [disability] condition is classified by the office as a line-of-duty disability,~~

5439 ~~the member shall [retire on disability and] be granted a disability [allowance] retirement benefit~~

5440 ~~subject to Section [49-5-502] 49-16-602.~~

5441 ~~[(b) If the member is a participant in Division A or B, the monthly disability allowance is~~

5442 ~~an amount equal to 50% of the member's final average monthly salary.]~~

5443 ~~(b) If the condition is classified by the office as a nonline-of-duty disability and if the~~

5444 ~~member has less than five years of service credit in this system, disability benefits are not payable.~~

5445 ~~[(2) (a)] (c) If the [disability] condition is classified by the office as [ordinary disability~~

5446 ~~and not incurred in the line-of-duty] a nonline-of-duty disability and if the member has five or~~

5447 ~~more years of service credit in this system, the member shall [retire on disability and] be granted~~

5448 ~~a disability [allowance] retirement benefit subject to Section [49-5-502] 49-16-602.~~

5449 ~~[(b) If the member is a participant in Division A or B, the monthly]~~

5450 ~~(2) The monthly disability [allowance] retirement benefit is [an amount equal to] 50% of~~

5451 the member's final average monthly salary.

5452 Section 141. Section **49-16-602**, which is renumbered from Section 49-5-502 is
5453 renumbered and amended to read:

5454 **[49-5-502]. 49-16-602. Disability retirement -- Disability allowance eligibility --**
5455 **Conversion to service retirement -- Examinations -- Reemployment.**

5456 [The following rules apply to all members applying for disability retirement under this
5457 part:]

5458 (1) ~~Any~~ A member of this system who applies and is qualified for disability retirement
5459 shall receive a disability ~~[allowance]~~ retirement benefit until the earlier of:

5460 (a) the date the member of this system is no longer disabled;

5461 (b) the date the member of this system has accumulated 20 years of service credit,
5462 including years earned while disabled; or

5463 (c) the date the member of this system has received disability retirement benefits for the
5464 following time periods:

5465 (i) if the member is under age 60 or the date of disability, the disability ~~[allowance]~~
5466 retirement benefit is payable until age 65;

5467 (ii) if the member is 60~~[=]~~ or 61 years of age on the date of disability, the disability
5468 ~~[allowance]~~ retirement benefit is payable for five years;

5469 (iii) if the member is 62~~[=]~~ or 63 years of age on the date of disability, the disability
5470 ~~[allowance]~~ retirement benefit is payable for four years;

5471 (iv) if the member is 64~~[=]~~ or 65 years of age on the date of disability, the disability
5472 ~~[allowance]~~ retirement benefit is payable for three years;

5473 (v) if the member is 66~~[=]~~, 67, or 68 years of age on the date of disability, the disability
5474 ~~[allowance]~~ retirement benefit is payable for two years; and

5475 (vi) if the member is ~~[age]~~ 69 ~~[or older]~~ years of age or older on the date of disability, the
5476 disability retirement benefit is payable for one year.

5477 (2) (a) (i) The ~~[member]~~ disability retiree shall receive service credit in this system during
5478 the period of disability. ~~[However, if the member]~~

5479 (ii) If the disability retiree is employed by a participating employer during the period of
5480 disability, the ~~[member]~~ disability retiree may not receive service credit for that employment.

5481 (b) The disability retirement shall be converted to a service retirement at the time the

5482 disability retirement benefits terminate.

5483 (3) The [~~board~~] office shall approve or disapprove applications for disability retirement
5484 benefits based upon [~~both~~]:

5485 (a) the evaluation and recommendations of one or more treating physicians along with
5486 medical records relating to the [~~disability which may, at the board's option, be reviewed by an~~
5487 ~~independent medical examiner selected by the board, to the effect that the member is mentally or~~
5488 ~~physically totally disabled; and~~] condition;

5489 (b) the evaluation and recommendations of one or more independent physicians selected
5490 by the office; and

5491 [~~(b)~~] (c) receipt of [~~proof~~] documentation by the [~~board~~] office from the participating
5492 employer that the member [~~has become totally disabled~~] is mentally or physically unable to
5493 perform firefighter service.

5494 [~~(4)~~] Any disability retirant who regains health and is regularly employed shall have the
5495 disability allowance reduced or suspended as the retirant's earnings justify.

5496 [~~(5)~~] (4) (a) [~~Members receiving~~] A disability retiree who receives benefits under this
5497 section shall, upon request of the [~~administrator~~] executive director, submit to a medical
5498 examination by one or more physicians as directed by the [~~board~~] office.

5499 [~~(b)~~] ~~If the member resides outside the state and is requested to submit to an examination,~~
5500 ~~the member shall be examined under the same rules in the area in which the member resides.]~~

5501 [~~(c)~~] (b) If, after an examination, the examiners report that the [~~retirant~~] disability retiree
5502 is physically able and capable of resuming firefighter service employment, the [~~retirant~~] disability
5503 retiree shall be reinstated by the participating employer for which the disability retiree last worked
5504 at the [~~retirant's~~] disability retiree's former classification and rank, and the disability [~~benefits~~
5505 retirement benefit shall terminate.

5506 [~~(d)~~] (c) A disability retiree may not be required to submit to an
5507 examination under this Subsection (4) more than once every year.

5508 [~~(e)~~] (d) A [~~retirant~~] disability retiree who returns to firefighter service employment with
5509 a participating employer in this system shall immediately [~~commence~~] begin accruing service
5510 credit that shall be added to that service credit that has been previously accrued [~~by virtue of~~
5511 ~~previous service~~], including service [~~credited~~] credit while disabled.

5512 [~~(6)~~] ~~Retired members are~~] (5) A disability retiree is not subject to medical examinations

5513 after reaching age 55.

5514 ~~[(7)]~~ (6) Refusal or neglect of a member to submit to an examination as requested by the
5515 office either before or after a decision regarding disability benefits has been made is sufficient
5516 cause for denial, suspension, or discontinuance of benefits and if the refusal or neglect continues
5517 for one year, the member's or disability retiree's rights to ~~[all]~~ disability retirement benefits may
5518 be revoked by the ~~[board]~~ office.

5519 ~~[(8) Retirants]~~ (7) (a) A disability retiree who ~~[receive]~~ receives benefits under this part
5520 shall file a sworn statement with the ~~[retirement]~~ office on or before January 15 of each year for
5521 the first five years a ~~[retirant]~~ disability retiree receives benefits.

5522 (b) The sworn statement shall indicate whether or not the ~~[retirant]~~ disability retiree
5523 engaged in any ~~[gainful]~~ employment during the preceding year and, if so, the amount of earnings
5524 received during the calendar year.

5525 ~~[(a) If the retirant has been gainfully employed, the retirant's benefit payments shall be~~
5526 ~~reduced in the year following employment so that the total payments, when added to the~~
5527 ~~compensation received for employment, do not exceed]~~

5528 (c) If the total amount received in one year by a disability retiree for disability retirement
5529 benefits and gross earnings from other employment exceeds 125% of the disability retiree's final
5530 average salary, the office shall offset the disability retirement benefit paid the following year by
5531 the amount in excess of 125% of the [retirant's] disability retiree's final average salary.

5532 ~~[(b)]~~ (d) (i) If ~~[any retirant]~~ a disability retiree refuses or neglects to file a sworn statement
5533 as required under this Subsection (7), the ~~[administrator]~~ executive director may suspend payment
5534 of any and all benefits pending receipt of the statement.

5535 (ii) Upon filing the statement, the ~~[retirant's]~~ disability retiree's payments shall be resumed.

5536 ~~[(9)]~~ (8) The disability ~~[allowance]~~ retirement benefit shall be improved by the annual
5537 cost-of-living increase factor applied to ~~[retired members]~~ retirees of the system that covered the
5538 firefighter service employee at the time of disability.

5539 ~~[(10)]~~ (9) A line of duty disability allowance paid on or after January 1, 2002, under
5540 ~~[Subsection 49-5-501(1)]~~ Section 49-16-601 is exempt from taxation to the extent permitted under
5541 federal law.

5542 (10) (a) An active member of this system with five or more years of firefighter service
5543 credit shall be eligible for a line-of-duty death or disability benefit resulting from heart disease,

5544 lung disease, or respiratory tract disease.

5545 (b) An active member of this system who receives a line-of-duty disability benefit for more
5546 than six months due to violence or illness other than heart disease, lung disease, or respiratory tract
5547 disease, and then returns to paid firefighter service, is not eligible for a line-of-duty death or
5548 disability benefit due to those diseases for two years after the member returned to paid firefighter
5549 service unless clear and convincing evidence is presented that the heart, lung, or respiratory tract
5550 disease was directly a result of firefighter service.

5551 Section 142. Section **49-16-603**, which is renumbered from Section 49-5-503 is
5552 renumbered and amended to read:

5553 **[49-5-503]. 49-16-603. Suspension of benefit upon settlement of workers'**
5554 **compensation claim.**

5555 (1) Settlement of a claim for workers' compensation for injury or disability shall suspend
5556 ~~[payments]~~ disability retirement benefits granted under this part, except for the initial three months,
5557 to a member granted ~~[disability]~~ the benefits until workers' compensation payments terminate.

5558 (2) If there is a lump-sum settlement of the workers' compensation claim, the
5559 ~~[administrator] office~~ shall suspend the ~~[allowance]~~ disability retirement benefit until the total of
5560 suspended ~~[payments]~~ benefits is equal to 75% of the settlement received from workers'
5561 compensation. ~~[If death is in the line of duty, the surviving spouse is eligible for a firefighter's~~
5562 ~~pension on the first day of the month following the date of death. Settlement with workers'~~
5563 ~~compensation has no effect on the spouse's retirement allowance, nor do other benefits paid at the~~
5564 ~~member's death have any effect on the spouse's allowance.]~~

5565 Section 143. Section **49-16-701**, which is renumbered from Section 49-5-802 is
5566 renumbered and amended to read:

5567 **Part 7. Volunteer Firefighters**

5568 **[49-5-802]. 49-16-701. Volunteer firefighters eligible for line-of-duty death and**
5569 **disability benefits in Division A -- Computation of benefit.**

5570 ~~[Volunteer firefighters are considered members of the system but are]~~

5571 (1) A volunteer firefighter is only eligible for line-of-duty death and line-of-duty
5572 disability benefits provided for firefighters enrolled in Division A, subject to Section [49-5-503]
5573 49-16-603.

5574 (2) The lowest monthly ~~[salary]~~ compensation of firefighters of a city of the first class in

5575 this state at the time of death or disability shall be [~~the basis for computing~~] considered to be the
5576 final average monthly salary [~~payable to~~] of a volunteer firefighter [~~, the surviving spouse, and~~
5577 ~~children~~] for purposes of computing these benefits.

5578 Section 144. Section **49-17-101**, which is renumbered from Section 49-6-101 is
5579 renumbered and amended to read:

5580 **CHAPTER 17. JUDGES' CONTRIBUTORY RETIREMENT ACT**

5581 **Part 1. General Provisions**

5582 **[49-6-101]. 49-17-101. Title.**

5583 This chapter is known as the "Judges' Contributory Retirement Act."

5584 Section 145. Section **49-17-102**, which is renumbered from Section 49-6-103 is
5585 renumbered and amended to read:

5586 **[49-6-103]. 49-17-102. Definitions.**

5587 As used in this chapter:

5588 (1) (a) "Compensation[;]" [~~"salary," or "wages"~~] means the total amount of payments
5589 which are currently includable in gross income made by [~~an~~] a participating employer to [~~an~~
5590 ~~employee~~] a member of this system for services rendered to the participating employer.

5591 (b) "Compensation" includes:

5592 (i) performance-based bonuses;

5593 (ii) cost-of-living adjustments;

5594 (iii) payments subject to Social Security deductions;

5595 (iv) any payments in excess of the maximum amount subject to deduction under Social
5596 Security law; [~~and~~]

5597 (v) amounts which the [~~employee~~] member authorizes to be deducted or reduced for salary
5598 deferral or other [~~authorized benefit programs.~~] benefits authorized by federal law; and

5599 (vi) member contributions.

5600 (c) "Compensation" for purposes of this chapter may not exceed the amount allowed under
5601 Internal Revenue Code Section 401(a)(17).

5602 (d) "Compensation," [~~"salary," or "wages"~~] does not include:

5603 (i) the monetary value of remuneration paid in kind, such as a residence or use of
5604 equipment;

5605 (ii) all contributions made by [~~an~~] a participating employer under any system or plan for

5606 the benefit of a member or participant;

5607 ~~[(iii) salary paid to an employee working under the minimum number of hours required~~
5608 ~~for membership;]~~

5609 ~~[(iv)]~~ (iii) salary paid to a temporary or exempt employee;

5610 ~~[(v)]~~ (iv) payments upon termination or any other special payments including early
5611 retirement inducements; or

5612 ~~[(vi)]~~ (v) uniform, travel, or similar ~~[allowances]~~ payments.

5613 (2) "Final average salary" means the amount computed by averaging the highest two years
5614 of annual compensation preceding retirement, subject to Subsections (2)(a) and (b).

5615 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
5616 compensation in any one of the years used may not exceed the previous year's ~~[salary]~~
5617 compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the
5618 purchasing power of the dollar during the previous year, as measured by ~~[the Consumer Price~~
5619 ~~Index prepared by the]~~ a United States Bureau of Labor Statistics Consumer Price Index average
5620 as determined by the board.

5621 (b) In cases where the ~~[employing unit]~~ participating employer provides acceptable
5622 documentation to the board, the limitation in Subsection (2)(a) may be exceeded if:

5623 (i) the member has transferred from another ~~[employing unit]~~ participating employer; or

5624 (ii) the member has been promoted to a new position.

5625 ~~[(3) "Normal retirement age" means the age of 65 years.]~~

5626 (3) "Judge" means a judge or justice of the courts of record as enumerated in Section
5627 78-1-1.

5628 (4) "Participating employer" means the state.

5629 (5) "System" means the Judges' Contributory Retirement System created under this
5630 chapter.

5631 ~~[(4)]~~ (6) "Years of service credit" ~~[or "service years"]~~ means the number of periods, each
5632 to consist of 12 full months as determined by the board, whether consecutive or not, during which
5633 a ~~[member]~~ judge was employed ~~[to perform services for the]~~ by a participating employer.

5634 Section 146. Section **49-17-103**, which is renumbered from Section 49-6-201 is
5635 renumbered and amended to read:

5636 ~~[49-6-201].~~ **49-17-103. Creation of system.**

5637 There is created for ~~[justices and]~~ judges ~~[of the courts of record,]~~ the "Judges' Contributory
5638 Retirement System."

5639 Section 147. Section **49-17-104**, which is renumbered from Section 49-6-202 is
5640 renumbered and amended to read:

5641 **[49-6-202]. 49-17-104. Creation of trust fund.**

5642 (1) There is created the "Judges' Contributory Retirement Trust Fund" for the purpose of
5643 paying the benefits and costs of administering this system.

5644 (2) The fund shall consist of all money, including interest, and assets transferred to it under
5645 any terminated system, the money paid into it under this system, whether in the form of cash,
5646 securities, or other assets, and of all money received from any other source.

5647 (3) Custody, management, and investment of the fund shall be governed by ~~[Title 49,]~~
5648 Chapter ~~[†]~~ 11, Utah State Retirement Systems Administration.

5649 Section 148. Section **49-17-201**, which is renumbered from Section 49-6-203 is
5650 renumbered and amended to read:

5651 **Part 2. Membership Eligibility**

5652 **[49-6-203]. 49-17-201. System membership -- Eligibility.**

5653 ~~[Justices and judges of the courts of record shall become members of this system.]~~ Except
5654 as provided in Section 49-18-201, judges are members of and are eligible for service credit in this
5655 system.

5656 Section 149. Section **49-17-301**, which is renumbered from Section 49-6-301 is
5657 renumbered and amended to read:

5658 **Part 3. Contributions**

5659 **[49-6-301]. 49-17-301. Contributions by members and participating employers --**
5660 **Retirement fees -- Deductions.**

5661 (1) ~~[The system shall be maintained]~~ In addition to the monies paid to this system under
5662 Subsection (3), participating employers and members shall jointly pay the certified contribution
5663 rates to the office to maintain this system on a financially and actuarially sound basis ~~[by means~~
5664 ~~of contributions made jointly by the employer and by the active members of the system].~~

5665 (2) The participating employer may make contributions on behalf of ~~[justices and judges~~
5666 ~~of the courts of record]~~ members of this system in addition to the contribution required of the
5667 ~~[state]~~ participating employer, except ~~[for]~~ that 2% of [covered salary, which] compensation shall

5668 be paid by the member. [~~All contributions paid on behalf of the member vest to the member's~~
5669 ~~credit. These contributions shall begin upon agreement between an employer and the board.~~
5670 ~~Payment of members' contributions under this section by the employer does not include the~~
5671 ~~cost-of-living contribution provided under Section 49-6-601.]~~

5672 [~~(3) Fees and contributions shall be remitted monthly to the retirement office.]~~

5673 (3) Fees collected under Subsection 78-7-35(1)(i) shall be paid monthly to the office to
5674 maintain this system and the system established under Chapter 18, Judges' Noncontributory
5675 Retirement Act.

5676 (4) (a) All member contributions are credited by the [retirement] office to the account of
5677 the individual member.

5678 (b) This amount, [~~together with regular~~] plus refund interest, is held in trust for the
5679 payment of benefits to the member or the member's beneficiaries.

5680 (c) All member contributions are [~~100%~~] vested and nonforfeitable.

5681 (5) (a) Each member is [~~deemed~~] considered to consent to [~~monthly~~] payroll deductions
5682 of the member contributions.

5683 (b) The payment of compensation less [~~retirement~~] these payroll deductions is considered
5684 [a] full payment [~~of member's salary~~] for services rendered by the member.

5685 [~~(6) The board shall report to the governor, the Legislature, and the employing unit the~~
5686 ~~contribution rates and any adjustments necessary to maintain the system on a financially and~~
5687 ~~actuarially sound basis, and the employer and employee shall pay the certified contribution rates.]~~

5688 Section 150. Section ~~49-17-401~~, which is renumbered from Section 49-6-401 is
5689 renumbered and amended to read:

5690 **Part 4. Defined Benefit**

5691 [~~49-6-401~~]. **49-17-401. Eligibility for an allowance -- Date of retirement --**

5692 **Qualifications.**

5693 [(1) (a) ~~Any judge who qualifies for service retirement may retire by submitting to the~~
5694 ~~retirement office an application form notarized by a notary public. The application shall state the~~
5695 ~~proposed effective date of retirement, which may not be more than 90 days before or after the date~~
5696 ~~of application.]~~

5697 [(b) ~~The effective date shall be the 1st or 16th day of the month, as selected by the~~
5698 ~~member, but must be after the last day of actual work.]~~

5699 ~~[(c) The member shall actually terminate employment and provide evidence of~~
5700 ~~termination.]~~

5701 ~~[(2) The member is qualified to retire upon termination of services on or before the~~
5702 ~~effective date of retirement if one of the following requirements on that date is met:]~~

5703 (1) A member is qualified to receive an allowance when:

5704 (a) the member ceases actual work for a participating employer in this system before the
5705 member's retirement date and provides evidence of the termination;

5706 (b) the member has submitted to the office a notarized retirement application form that
5707 states the member's proposed retirement date; and

5708 (c) one of the following conditions is met as of the member's retirement date:

5709 ~~[(a)]~~ (i) the member has ~~[been credited with]~~ accrued at least six years of service credit and
5710 has attained an age of 70 years ~~[or more];~~

5711 ~~[(b)]~~ (ii) the member has ~~[been credited with]~~ accrued at least ten years of service credit
5712 and has attained an age of 62 years ~~[or more];~~

5713 ~~[(c)]~~ (iii) the member has ~~[been credited with]~~ accrued at least 20 years of service credit
5714 and has attained an age of 55 years ~~[or more];~~ or

5715 ~~[(d)]~~ (iv) the member has ~~[been credited with]~~ accrued at least 25 years of service credit.

5716 (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as
5717 selected by the member, but the retirement date must be on or after the date of termination.

5718 (b) The retirement date may not be more than 90 days after the date the application is
5719 received by the office.

5720 Section 151. Section ~~49-17-402~~, which is renumbered from Section 49-6-402 is
5721 renumbered and amended to read:

5722 ~~[49-6-402].~~ **49-17-402. Calculation of retirement allowance.**

5723 ~~[Upon the service retirement of a justice or judge under Section 49-6-401, the justice or~~
5724 ~~judge shall receive a retirement allowance determined as follows:]~~

5725 ~~[(1) If the justice or judge has attained the age of 62 years and has ten or more years of~~
5726 ~~judicial service credit, the retirement allowance is a monthly amount equal to:]~~

5727 (1) A retiree under this system shall receive an allowance equal to:

5728 (a) 5% of the final average monthly salary multiplied by the number of years of ~~[judicial]~~
5729 service ~~[credited, limited]~~ credit, limited to ten years[-]; plus

5730 (b) 2.25% of the final average monthly salary multiplied by the number of years of
5731 [~~judicial~~] service [~~credited~~] credit in excess of ten years [~~but less than~~] and up to and including 20
5732 years; plus

5733 (c) 1% of the final average monthly salary multiplied by the number of years of [~~judicial~~]
5734 service [~~credited~~] credit in excess of 20 years. [~~Total monthly retirement allowance to which a~~
5735 ~~justice or judge is entitled may not exceed 75% of the final average monthly salary.~~]

5736 [~~(2) If the justice or judge has attained age 70 years and has six years or more of judicial~~
5737 ~~service credit, the retirement allowance is the same as computed under Subsection (1).~~]

5738 [~~(3) If the justice or judge has 25 years or more of judicial service credit, the retirement~~
5739 ~~allowance is the same as computed under Subsection (1).~~]

5740 (2) Except as modified by cost-of-living adjustments, an allowance under this system may
5741 not exceed 75% of the member's final average monthly salary.

5742 [~~(4)~~] (3) If the [~~justice or judge~~] retiree has attained the age of 55 years and has 20 years
5743 or more of [~~judicial~~] service credit, the [~~retirement allowance is the same as computed under~~
5744 Subsection (1) reduced to an amount payable monthly for life which would be the same actuarial
5745 equivalent based on the justice's or judge's age at retirement as would be the value of the retirement
5746 pay based on life expectancy if the justice or judge were 65 years of age] retiree shall receive an
5747 early retirement reduction to the allowance based on an actuarial calculation assuming a normal
5748 retirement age of 65 years.

5749 [~~(5) All members and their beneficiaries, as of July 1, 1983, shall receive an increase in~~
5750 ~~monthly benefits in the amount of \$120 for each member or \$60 for each beneficiary. The cost of~~
5751 ~~implementing this subsection shall be shared equally between the employer and employee.~~]

5752 [~~(6) Years of service include any fractions of years of service to which the members may~~
5753 ~~be entitled. Notwithstanding the formula for computing the service retirement allowance for~~
5754 ~~members participating in the program, the board shall, in as far as practical, adjust the percentage~~
5755 ~~factor used in the service retirement allowance formula, in its application to the years of service~~
5756 ~~of a retiring member to a percentage amount which maintains the retirement trust account on an~~
5757 ~~actuarially sound basis if the employer contributions, members' contributions, retirement court~~
5758 ~~fees, and earnings of the fund are insufficient to fund the benefits provided for members~~
5759 ~~participating in the program.~~]

5760 Section 152. Section **49-17-403** is enacted to read:

5761 **49-17-403. Minimum allowance.**

5762 Beginning July 1, 1990, all retirees or beneficiaries under this chapter who receive an
5763 allowance less than \$1,000 per month shall have the allowance increased 10%, but the increased
5764 allowance may not equal more than \$1,000.

5765 Section 153. Section **49-17-404**, which is renumbered from Section 49-6-404 is
5766 renumbered and amended to read:

5767 **[49-6-404]. 49-17-404. Temporary retirement window for 20 years of service.**

5768 (1) If a member qualified to retire under [~~Subsection 49-6-401(2)~~] Section 49-17-401 or
5769 a member of this system of any age [~~credited~~] with at least 20 years of service credit or a member
5770 [~~who is credited~~] of this system with at least six years of service credit and has attained an age of
5771 65 years or older retires on or after July 1, 1992, and on or before December 31, 1992, the
5772 retirement allowance shall be the same as calculated in [~~Subsection 49-6-402(1)~~] Section
5773 49-17-402, except that the final average monthly salary shall be calculated upon the member's final
5774 year of service.

5775 (2) (a) Nominations for appointments resulting from this section shall be presented to the
5776 governor not later than October 15, 1992.

5777 (b) To qualify, the member shall give notice of intent to retire under this section to the
5778 Administrative Office of the Courts no later than February 28, 1992.

5779 (c) Notice of intent to retire under this section may not be revoked.

5780 (d) The Administrative Office of the Courts shall provide the member's application to
5781 retire to the [~~retirement~~] office as required by Section [~~49-6-401~~] 49-17-401.

5782 Section 154. Section **49-17-405**, which is renumbered from Section 49-6-601 is
5783 renumbered and amended to read:

5784 **[49-6-601]. 49-17-405. Annual cost-of-living adjustment.**

5785 [~~(1) Beginning in 1975, in a month selected by the board, there shall be computed and paid~~
5786 ~~from the Judges' Retirement Fund an annual cost-of-living allowance adjustment to all retired~~
5787 ~~members after one year of retirement equal to the decrease in the purchasing power of the dollar~~
5788 ~~during the preceding year measured by the Consumers Price Index. The cost-of-living adjustment~~
5789 ~~shall be limited each year to a maximum of 4% of the retired member's or beneficiary's monthly~~
5790 ~~retirement allowance. Decreases in the purchasing power of the dollar in excess of 4% annually~~
5791 ~~shall be accumulated over two or more years and used in whole or in part in making subsequent~~

5792 ~~annual adjustments when the cost-of-living adjustment is less than 4%.]~~

5793 ~~[(2) The cost-of-living adjustment is based upon the retirant's or beneficiary's allowance~~
5794 ~~as of July 1, 1973, and is subject to reduction if the cost of living shows a decline of 4% for more~~
5795 ~~than one year and applies to any cost-of-living increases made after January 1, 1975. These~~
5796 ~~reductions may not exceed the rate of 2% per year based upon the established retirement allowance~~
5797 ~~base. Payments made under this section are a part of the retired member's allowance. The~~
5798 ~~payments and subsequent adjustments as prescribed for the retirant shall likewise apply to any~~
5799 ~~beneficiary who is paid an allowance. Cost-of-living benefits granted prior to January 1, 1975, are~~
5800 ~~not subject to adjustment.]~~

5801 ~~[(3) Funds for the benefits provided by this section shall be obtained from contributions~~
5802 ~~paid on covered salaries.]~~

5803 (1) The office shall make an annual cost-of-living adjustment to:

5804 (a) an allowance paid under Section 49-17-402 and Part 5, Death Benefit, of this chapter
5805 if the benefit has been paid for at least one year; and

5806 (b) a payment made to an alternate payee under a domestic relations order, if the payment
5807 is to be paid as a percentage of the allowance rather than a specific dollar amount.

5808 (2) (a) The allowance shall be increased by the annual increase in the Consumer Price
5809 Index up to a maximum of 4%.

5810 (b) Annual increases in the Consumer Price Index in excess of 4% shall be accumulated
5811 and used in subsequent adjustments when the annual increase in the Consumer Price Index is less
5812 than 4%.

5813 (3) The Consumer Price Index used in calculating adjustments shall be a United States
5814 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

5815 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

5816 Section 155. Section **49-17-501**, which is renumbered from Section 49-6-701 is
5817 renumbered and amended to read:

5818 **Part 5. Death Benefit**

5819 ~~[49-6-701].~~ **49-17-501. Death benefit for members before retirement --**

5820 **Computation.**

5821 (1) Upon the receipt of acceptable proof of death of a member [or an inactive member]
5822 before the [effective date of] member's retirement date, the [dependent] member's spouse at the

5823 time of death shall have the choice of the following death benefits:

5824 ~~[(1)]~~ (a) a refund of ~~[accumulated]~~ the member's member contributions, including refund
5825 interest, plus 65% of the [judge's final average salary on a yearly rate] member's most recent 12
5826 months' compensation prior to death; or

5827 ~~[(2) a monthly]~~ (b) an allowance equal to 65% of the [monthly] allowance computed [on
5828 the basis of the service retirement allowance formula, based upon the years of service and final
5829 average salary] in accordance with Section 49-17-402, but disregarding early retirement reductions.
5830 ~~[The pension may not exceed an amount which would have been paid if the deceased judge served~~
5831 ~~to age 70 and had the retirement allowance then computed on the basis of final average salary~~
5832 ~~under Section 49-6-402.]~~

5833 ~~[(3)]~~ (2) ~~[Where]~~ If there is no [dependent] spouse[, accumulated] to whom the member
5834 is married at the time of death, member contributions, including refund interest, shall be refunded
5835 to a [designated] beneficiary, in accordance with [Section 49-1-607] Sections 49-11-609 and
5836 49-11-610.

5837 Section 156. Section **49-17-502**, which is renumbered from Section 49-6-702 is
5838 renumbered and amended to read:

5839 ~~[49-6-702].~~ **49-17-502. Benefits payable upon death of retired member.**

5840 (1) (a) The death benefit payable to a ~~[dependent] retiree's spouse [after the death of a~~
5841 ~~retired member of this system is a monthly amount]~~ at the time of death is an allowance equal to
5842 65% of the allowance which was being paid to the [retired member] retiree at the time of death.

5843 (b) The effective date of the accrual of this ~~[pension] allowance~~ is the first day of the
5844 month following the month in which the [retirant] retiree died. [Payment of the full pension for
5845 this latter month shall be made to the dependent beneficiary in lieu of the deceased member.]

5846 (2) ~~[A member]~~ (a) At the time of retirement, a retiree may elect to increase the [surviving
5847 spouse's monthly allowance] spousal death benefit up to 75% of [a monthly] an allowance
5848 computed [on the basis of the service retirement allowance formula under] in accordance with
5849 Section [49-6-402] 49-17-402.

5850 (b) The ~~[amount payable to the member upon retirement would be reduced to an amount~~
5851 ~~payable monthly for life, which would]~~ member's allowance shall be reduced to reflect the
5852 actuarial equivalent necessary to [fund] pay for the increased [percentage for the surviving spouse]
5853 spousal death benefit above 65%.

5854 Section 157. Section **49-17-701**, which is renumbered from Section 49-6-801 is
5855 renumbered and amended to read:

5856 **Part 6. Reserved**

5857 **Part 7. Early Retirement Incentive**

5858 **~~[49-6-801].~~ 49-17-701. Judges' mandatory retirement age.**

5859 (1) Except as provided in Subsection (2), a [~~justice or~~] judge [~~who qualifies as a member~~
5860 ~~of this system under Section 49-6-203~~] shall retire upon attaining the age of 75 years.

5861 (2) A [~~justice or~~] judge serving on July 1, 1996, who is 75 years of age or older on July
5862 1, 1996, or who attains 75 years of age prior to the [~~justice or~~] judge's next retention election may
5863 not be a candidate in that retention election and shall retire on or before December 31 of the year
5864 in which the [~~justice or~~] judge would have been subject to a retention election.

5865 Section 158. Section **49-18-101**, which is renumbered from Section 49-6a-101 is
5866 renumbered and amended to read:

5867 **CHAPTER 18. JUDGES' NONCONTRIBUTORY RETIREMENT ACT**

5868 **Part 1. General Provisions**

5869 **~~[49-6a-101].~~ 49-18-101. Title.**

5870 This chapter is known as the "Judges' Noncontributory Retirement Act."

5871 Section 159. Section **49-18-102**, which is renumbered from Section 49-6a-103 is
5872 renumbered and amended to read:

5873 **~~[49-6a-103].~~ 49-18-102. Definitions.**

5874 As used in this chapter:

5875 (1) (a) "Compensation[;]" [~~"salary," or "wages"~~] means the total amount of payments
5876 which are currently includable in gross income made by [~~an~~] a participating employer to [~~an~~
5877 ~~employee~~] a member of this system for services rendered to the participating employer.

5878 (b) "Compensation" includes:

5879 (i) performance-based bonuses;

5880 (ii) cost-of-living adjustments;

5881 (iii) payments subject to Social Security deductions;

5882 (iv) any payments in excess of the maximum amount subject to deduction under Social
5883 Security law; and

5884 (v) amounts which the [~~employee~~] member authorizes to be deducted or reduced for salary

5885 deferral or other ~~[authorized benefit programs]~~ benefits authorized by federal law.

5886 (c) "Compensation" for purposes of this chapter may not exceed the amount allowed under
5887 Internal Revenue Code Section 401(a)(17).

5888 (d) "Compensation[;]" ~~["salary," or "wages"]~~ does not include:

5889 (i) the monetary value of remuneration paid in kind, such as a residence or use of
5890 equipment;

5891 (ii) all contributions made by ~~[an]~~ a participating employer under ~~[any]~~ a system or plan
5892 for the benefit of a member or participant;

5893 ~~[(iii) salary paid to an employee working under the minimum number of hours required~~
5894 ~~for membership;]~~

5895 ~~[(iv)]~~ (iii) salary paid to a temporary or exempt employee;

5896 ~~[(v)]~~ (iv) payments upon termination or any other special payments including early
5897 retirement inducements; or

5898 ~~[(vi)]~~ (v) uniform, travel, or similar ~~[allowances]~~ payments.

5899 ~~[(2)]~~ (2) "Final average salary" means the amount computed by averaging the highest two
5900 years of annual compensation preceding retirement, subject to Subsections (2)(a) and (b).

5901 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
5902 compensation in any one of the years used may not exceed the previous year's ~~[salary]~~
5903 compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the
5904 purchasing power of the dollar during the previous year, as measured by ~~[the Consumer Price~~
5905 ~~Index prepared by the]~~ a United States Bureau of Labor Statistics Consumer Price Index average
5906 as determined by the board.

5907 (b) In cases where the ~~[employing unit]~~ participating employer provides acceptable
5908 documentation to the board, the limitation in Subsection (2)(a) may be exceeded if:

5909 (i) the member has transferred from another ~~[employing unit]~~ agency; or

5910 (ii) the member has been promoted to a new position.

5911 ~~[(3) "Normal retirement age" means the age of 65 years.]~~

5912 (3) "Judge" means a judge or justice of the courts of record as enumerated in Section
5913 78-1-1.

5914 (4) "Participating employer" means the state.

5915 (5) "System" means the Judges' Noncontributory Retirement System created under this

5916 chapter.

5917 [~~(4)~~] (6) "Years of service credit" [~~or "service years" mean~~] means the number of periods,
5918 each to consist of 12 full months or as determined by the board, whether consecutive or not, during
5919 which a [~~member~~] judge was employed [~~to perform services for the~~] by a participating employer.

5920 Section 160. Section **49-18-103**, which is renumbered from Section 49-6a-201 is
5921 renumbered and amended to read:

5922 [~~49-6a-201~~]. **49-18-103. Creation of system.**

5923 There is created for [~~justices and~~] judges [~~of courts of record,~~] the "Judges' Noncontributory
5924 Retirement System."

5925 Section 161. Section **49-18-104**, which is renumbered from Section 49-6a-202 is
5926 renumbered and amended to read:

5927 [~~49-6a-202~~]. **49-18-104. Creation of trust fund.**

5928 (1) There is created the "Judges' Noncontributory Retirement Trust Fund" for the purpose
5929 of paying the benefits and costs of administering this system.

5930 (2) The fund shall consist of all money, including interest, and assets transferred to it under
5931 any terminated system, the money paid into it under this system, whether in the form of cash,
5932 securities, or other assets, and of all money received from any other source.

5933 (3) Custody, management, and investment of the fund shall be governed by [~~Title 49,~~
5934 Chapter [~~+~~] 11, Utah State Retirement Systems Administration.

5935 Section 162. Section **49-18-201**, which is renumbered from Section 49-6a-203 is
5936 renumbered and amended to read:

5937 **Part 2. Membership Eligibility**

5938 [~~49-6a-203~~]. **49-18-201. System membership -- Eligibility.**

5939 (1) [~~Justices and judges of courts of record~~] Judges appointed after July 1, 1997, [~~shall~~
5940 ~~automatically become~~] are members of [~~this system~~] and are eligible for service credit in this
5941 system.

5942 (2) (a) Any [~~justice or~~] judge appointed prior to July 1, 1997, may either become a member
5943 of [~~this noncontributory system~~] the Judges' Noncontributory Retirement System or remain a
5944 member of the Judges' Contributory Retirement System established under [~~Title 49,~~] Chapter [~~6~~]
5945 17, Judges' Contributory Retirement Act, by following the procedures established by the board
5946 pursuant to this chapter.

5947 ~~[(3) Justices and judges]~~ (b) Judges may only elect to participate in ~~[the noncontributory]~~
5948 this system under Subsection (2) prior to January 1, 1998.

5949 Section 163. Section **49-18-301**, which is renumbered from Section 49-6a-301 is
5950 renumbered and amended to read:

5951 **Part 3. Contributions**

5952 ~~[49-6a-301].~~ **49-18-301. Contributions by employees and employers --**
5953 **Retirement fees.**

5954 (1) ~~[The system shall be maintained]~~ In addition to the monies paid to this system under
5955 Subsection (2), participating employers shall pay the certified contribution rates to the office to
5956 maintain this system on a financially and actuarially sound basis ~~[by means of contributions and~~
5957 ~~fees made entirely by the employer].~~

5958 ~~[(2) Fees and contributions shall be remitted monthly to the retirement office.]~~

5959 ~~[(3) The board shall report to the governor, the Legislature, and the employing unit the~~
5960 ~~contribution rates and any adjustments necessary to maintain the system on a financially and~~
5961 ~~actuarially sound basis, and the employer shall pay the certified contribution rates.]~~

5962 (2) Fees collected under Subsection 78-7-35(1)(i) shall be paid monthly to the office to
5963 maintain this system and the system established under Chapter 17, Judges' Contributory Retirement
5964 Act.

5965 Section 164. Section **49-18-401**, which is renumbered from Section 49-6a-401 is
5966 renumbered and amended to read:

5967 **Part 4. Defined Benefit**

5968 ~~[49-6a-401].~~ **49-18-401. Eligibility for an allowance -- Date of retirement --**
5969 **Qualifications.**

5970 ~~[(1) (a) Any judge who qualifies for service retirement may retire by submitting to the~~
5971 ~~retirement office an application form notarized by a notary public. The application shall state the~~
5972 ~~proposed effective date of retirement, which may not be more than 90 days before or after the date~~
5973 ~~of application.]~~

5974 ~~[(b) The effective date shall be the 1st or 16th day of the month, as selected by the~~
5975 ~~member, but must be after the last day of actual work.]~~

5976 ~~[(c) The member shall actually terminate employment and provide evidence of~~
5977 ~~termination.]~~

5978 ~~[(2) The member is qualified to retire upon termination of services on or before the~~
5979 ~~effective date of retirement if one of the following requirements on that date is met:]~~

5980 (1) A member is qualified to receive an allowance when:

5981 (a) the member ceases actual work for a participating employer in this system before the
5982 member's retirement date and provides evidence of the termination;

5983 (b) the member has submitted to the office a notarized retirement application form that
5984 states the member's proposed retirement date; and

5985 (c) one of the following conditions is met as of the member's retirement date:

5986 ~~[(a)]~~ (i) the member has ~~[been credited with]~~ accrued at least six years of service credit and
5987 has attained an age of 70 years ~~[or more];~~

5988 ~~[(b)]~~ (ii) the member has ~~[been credited with]~~ accrued at least ten years of service credit
5989 and has attained an age of 62 years ~~[or more];~~

5990 ~~[(c)]~~ (iii) the member has ~~[been credited with]~~ accrued at least 20 years of service credit
5991 and has attained an age of 55 years ~~[or more];~~ or

5992 ~~[(d)]~~ (iv) the member has ~~[been credited with]~~ accrued at least 25 years of service credit.

5993 (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as
5994 selected by the member, but the retirement date must be on or after the date of termination.

5995 (b) The retirement date may not be more than 90 days after the date the application is
5996 received by the office.

5997 Section 165. Section **49-18-402**, which is renumbered from Section 49-6a-402 is
5998 renumbered and amended to read:

5999 **~~[49-6a-402].~~ 49-18-402. Calculation of retirement allowance.**

6000 ~~[Upon the service retirement of a justice or judge under Section 49-6a-401, the justice or~~
6001 ~~judge shall receive a retirement allowance determined as follows:]~~

6002 ~~[(1) If the justice or judge has attained the age of 62 years and has ten or more years of~~
6003 ~~judicial service credit, the retirement allowance is a monthly amount equal to:]~~

6004 (1) A retiree under this system shall receive an allowance equal to:

6005 (a) 5% of the final average monthly salary multiplied by the number of years of ~~[judicial]~~
6006 service ~~[credited, limited]~~ credit, limited to ten years~~[-];~~ plus

6007 (b) 2.25% of the final average monthly salary multiplied by the number of years of
6008 ~~[judicial]~~ service ~~[credited]~~ credit in excess of ten years ~~[but less than]~~ and up to and including 20

6009 years[;]; plus

6010 (c) 1% of the final average monthly salary multiplied by the number of years of [judicial]
6011 service [credited] credit in excess of 20 years. [~~Total monthly retirement allowance to which a~~
6012 ~~justice or judge is entitled may not exceed 75% of the final average monthly salary.~~]

6013 [~~(2) If the justice or judge has attained the age of 70 years and has six years or more of~~
6014 ~~judicial service credit, the retirement allowance is the same as computed under Subsection (1).]~~

6015 [~~(3) If the justice or judge has 25 years or more of judicial service credit, the retirement~~
6016 ~~allowance is the same as computed under Subsection (1).]~~

6017 (2) Except as modified by cost-of-living adjustments, an allowance under this system may
6018 not exceed 75% of the member's final average monthly salary.

6019 [~~(4)~~] (3) If the [justice or judge] retiree has attained the age of 55 years and has 20 years
6020 or more of [judicial] service credit, the [retirement allowance is the same as computed under
6021 Subsection (1) reduced to an amount payable monthly for life which would be the same actuarial
6022 equivalent based on the justice's or judge's age at retirement as would be the value of the retirement
6023 pay based on life expectancy if the justice or judge were 65 years of age] retiree shall receive an
6024 early retirement reduction to the allowance based on an actuarial calculation assuming a normal
6025 retirement age of 65 years.

6026 [~~(5) All members and their beneficiaries, as of July 1, 1983, shall receive an increase in~~
6027 ~~monthly benefits in the amount of \$120 for each member or \$60 for each beneficiary. The cost of~~
6028 ~~implementing this subsection shall be shared equally between the employer and employee.]~~

6029 [~~(6) Years of service include any fractions of years of service to which the members may~~
6030 ~~be entitled. Notwithstanding the formula for computing the service retirement allowance for~~
6031 ~~members participating in the program, the board shall, in as far as practical, adjust the percentage~~
6032 ~~factor used in the service retirement allowance formula, in its application to the years of service~~
6033 ~~of a retiring member to a percentage amount which maintains the retirement trust account on an~~
6034 ~~actuarially sound basis if the employer contributions, retirement court fees, and earnings of the~~
6035 ~~fund are insufficient to fund the benefits provided for members participating in the program.]~~

6036 Section 166. Section **49-18-403**, which is renumbered from Section 49-6a-501 is
6037 renumbered and amended to read:

6038 ~~[49-6a-501].~~ **49-18-403. Annual cost-of-living adjustment.**

6039 [(1) There shall be computed and paid from the Judges' Noncontributory Retirement Fund

6040 ~~an annual cost-of-living allowance adjustment to all retired members after one year of retirement~~
6041 ~~equal to the decrease in the purchasing power of the dollar during the preceding year measured by~~
6042 ~~the Consumers Price Index. The cost-of-living adjustment shall be limited each year to a~~
6043 ~~maximum of 4% of the retired member's or beneficiary's monthly retirement allowance. Decreases~~
6044 ~~in the purchasing power of the dollar in excess of 4% annually shall be accumulated over two or~~
6045 ~~more years and used in whole or in part in making subsequent annual adjustments when the~~
6046 ~~cost-of-living adjustment is less than 4%.]~~

6047 ~~[(2) The cost-of-living adjustment is based upon the retirant's or beneficiary's allowance,~~
6048 ~~is subject to reduction if the cost-of-living shows a decline of 4% for more than one year, and~~
6049 ~~applies to any cost-of-living increase. These reductions may not exceed the rate of 2% per year~~
6050 ~~based upon the established retirement allowance base. Payments made under this section are a part~~
6051 ~~of the retired member's allowance. The payments and subsequent adjustments as prescribed for~~
6052 ~~the retirant shall likewise apply to any beneficiary who is paid an allowance.]~~

6053 ~~[(3) Funds for the benefits provided by this section shall be obtained from contributions~~
6054 ~~and fees paid on covered salaries.]~~

6055 (1) The office shall make an annual cost-of-living adjustment to:

6056 (a) an allowance paid under Section 49-18-402 and Part 5, Death Benefit, of this chapter
6057 if the benefit has been paid for at least one year; and

6058 (b) a payment made to an alternate payee under a domestic relations order, if the payment
6059 is to be paid as a percentage of the allowance rather than a specific dollar amount.

6060 (2) (a) The allowance shall be increased by the annual increase in the Consumer Price
6061 Index up to a maximum of 4%.

6062 (b) Annual increases in the Consumer Price Index in excess of 4% shall be accumulated
6063 and used in subsequent adjustments when the increase in the Consumer Price Index is less than
6064 4%.

6065 (3) The Consumer Price Index used in calculating adjustments shall be a United States
6066 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

6067 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

6068 Section 167. Section **49-18-501**, which is renumbered from Section 49-6a-601 is
6069 renumbered and amended to read:

6070 **Part 5. Death Benefit**

6071 ~~[49-6a-601].~~ **49-18-501. Death benefit for members before retirement --**
6072 **Computation.**

6073 ~~[(1)]~~ Upon the receipt of acceptable proof of death of a member ~~[or an inactive member]~~
6074 before the ~~[effective date of]~~ member's retirement date, the ~~[dependent]~~ member's spouse at the
6075 time of death shall have the choice of the following death benefits:

6076 ~~[(a)]~~ (1) a refund of ~~[accumulated]~~ the member's member contributions, if any, including
6077 refund interest, plus 65% of the ~~[judge's final average salary on a yearly rate]~~ member's most recent
6078 12 months' compensation prior to death; or

6079 ~~[(b) a monthly]~~ (2) an allowance equal to 65% of the ~~[monthly]~~ allowance computed ~~[on~~
6080 ~~the basis of the service retirement allowance formula, based upon the years of service and final~~
6081 ~~average salary]~~ in accordance with Section 49-18-402, but disregarding early retirement reductions.

6082 ~~[(2) The pension may not exceed an amount which would have been paid if the deceased~~
6083 ~~judge served to age 70 and had the retirement allowance then computed on the basis of final~~
6084 ~~average salary under Section 49-6a-402.]~~

6085 Section 168. Section **49-18-502**, which is renumbered from Section 49-6a-602 is
6086 renumbered and amended to read:

6087 ~~[49-6a-602].~~ **49-18-502. Benefits payable upon death of retired member.**

6088 (1) (a) The death benefit payable to a ~~[dependent]~~ retiree's spouse ~~[after the death of a~~
6089 ~~retired member of this system is a monthly amount]~~ at the time of death is an allowance equal to
6090 65% of the allowance which was being paid to the ~~[retired member]~~ retiree at the time of death.

6091 (b) The effective date of the accrual of this ~~[pension]~~ allowance is the first day of the
6092 month following the month in which the ~~[retirant]~~ retiree died. ~~[Payment of the full pension for~~
6093 ~~this latter month shall be made to the dependent beneficiary in lieu of the deceased member.]~~

6094 (2) ~~[A member]~~ (a) At the time of retirement, a retiree may elect to increase the ~~[surviving~~
6095 ~~spouse's monthly allowance]~~ spousal death benefit up to 75% of ~~[a monthly]~~ an allowance
6096 computed ~~[on the basis of the service retirement allowance formula under]~~ in accordance with
6097 Section ~~[49-6a-402]~~ 49-18-402.

6098 (b) The ~~[amount payable to the member upon retirement would]~~ member's allowance shall
6099 be reduced to an amount payable monthly for life~~[, which would]~~ to reflect the actuarial equivalent
6100 necessary to ~~[fund]~~ pay for the increased ~~[percentage for the surviving spouse]~~ spousal death
6101 benefit above 65%.

6102 Section 169. Section **49-18-701**, which is renumbered from Section 49-6a-701 is
6103 renumbered and amended to read:

6104 **Part 6. Reserved**

6105 **Part 7. Early Retirement Incentive**

6106 ~~[49-6a-701].~~ **49-18-701. Judges' mandatory retirement age.**

6107 (1) Except as provided in Subsection (2), a ~~[justice or]~~ judge ~~[who qualifies as a member~~
6108 ~~of this system under Section 49-6a-203]~~ shall retire upon attaining the age of 75 years.

6109 (2) A ~~[justice or]~~ judge serving on July 1, 1996, who is 75 years of age or older on July
6110 1, 1996, or who attains 75 years of age prior to the ~~[justice or]~~ judge's next retention election may
6111 not be a candidate in that retention election and shall retire on or before December 31 of the year
6112 in which the ~~[justice or]~~ judge would have been subject to a retention election.

6113 Section 170. Section **49-19-101**, which is renumbered from Section 49-7-101 is
6114 renumbered and amended to read:

6115 **CHAPTER 19. UTAH GOVERNORS' AND**

6116 **LEGISLATORS' RETIREMENT ACT**

6117 **Part 1. General Provisions**

6118 ~~[49-7-101].~~ **49-19-101. Title.**

6119 This chapter is known as the "~~[Governor's and Legislative Service Pension]~~ Utah
6120 Governors' and Legislators' Retirement Act."

6121 Section 171. Section **49-19-102** is enacted to read:

6122 **49-19-102. Definitions.**

6123 As used in this chapter:

6124 (1) "Governor" includes former governors.

6125 (2) "Legislator" includes former legislators.

6126 (3) "Plan" means the Utah Governors' and Legislators' Retirement Plan created under this
6127 chapter.

6128 Section 172. Section **49-19-103**, which is renumbered from Section 49-7-201 is
6129 renumbered and amended to read:

6130 ~~[49-7-201].~~ **49-19-103. Creation of plan.**

6131 There is created for Utah governors[;] and legislators[; ~~and legislative employees~~
6132 ~~enumerated under this chapter]~~ the "~~[Governor's and Legislative Service Pension]~~ Utah Governors'

6133 and Legislators' Retirement Plan."

6134 Section 173. Section **49-19-104**, which is renumbered from Section 49-7-202 is
6135 renumbered and amended to read:

6136 **[49-7-202]. 49-19-104. Creation of trust fund.**

6137 (1) There is created the "[~~Governor's and Legislative Service Pension~~] Utah Governors'
6138 and Legislators' Retirement Trust Fund" for the purpose of paying the benefits and costs of
6139 administering this [~~pension~~] plan.

6140 (2) The fund shall consist of all money paid into it, including interest, in accordance with
6141 this chapter, whether in the form of cash, securities, or other assets, and of all money received from
6142 any other source.

6143 (3) Custody, management, and investment of the fund shall be governed by [~~Title 49,~~
6144 Chapter [~~+~~] 11, Utah State Retirement Systems Administration.

6145 Section 174. Section **49-19-201**, which is renumbered from Section 49-7-203 is
6146 renumbered and amended to read:

6147 **Part 2. Membership Eligibility**

6148 **[49-7-203]. 49-19-201. Plan participation -- Eligibility.**

6149 [~~The following persons are eligible for benefits from this pension plan:~~]

6150 [~~(1) former governors of the state who reach age 65, who serve at least one term, and who~~
6151 ~~apply for the pension benefit to the retirement office; and]~~

6152 [~~(2) legislators with four or more years of service in the Utah Legislature.]~~

6153 Governors and legislators are eligible for service credit in this plan during their term of
6154 service in their elected position.

6155 Section 175. Section **49-19-301**, which is renumbered from Section 49-7-301 is
6156 renumbered and amended to read:

6157 **Part 3. Contribution**

6158 **[49-7-301]. 49-19-301. Contribution rate -- Annual legislative appropriation.**

6159 (1) [~~The pension plan shall be maintained]~~ The Legislature, by means of annual
6160 appropriations, shall maintain this plan on a financially and actuarially sound basis [~~by means of~~
6161 ~~annual appropriations by the Legislature].~~

6162 [~~(2) The board shall certify to the director of the Division of Finance the amount necessary~~
6163 ~~to fund the cost of the pension provided under this chapter, plus any liability which may have~~

6164 accrued. The director of the Division of Finance shall then pay the trust fund the certified and
6165 appropriated amount.]

6166 (2) The Legislature shall cause the appropriate amount to be paid to the office.

6167 Section 176. Section **49-19-401**, which is renumbered from Section 49-7-401 is
6168 renumbered and amended to read:

6169 **Part 4. Defined Benefit**

6170 ~~[49-7-401].~~ **49-19-401. Eligibility for an allowance -- Governor -- Legislator.**

6171 ~~[(1) Upon reaching age 65, each former governor of Utah is eligible, upon application, to~~
6172 ~~receive a lifetime monthly pension of \$500 per term. Payments under this lifetime pension cease~~
6173 ~~during any period that a former governor holds an office of profit or trust with the government of~~
6174 ~~United States, this state, or a political subdivision of the state paying more than the retiree is~~
6175 ~~entitled to receive per month under this section.]~~

6176 ~~[(2) Upon reaching age 65, and upon application, a legislative pension shall be paid to a~~
6177 ~~member who has four or more years of service as a legislator in the Utah Legislature. The pension~~
6178 ~~is \$10 per month for each year of service as a member of the Legislature. If the retired member~~
6179 ~~is elected to another term in the Legislature or continues to serve in the Legislature after reaching~~
6180 ~~age 65, the legislative allowance ceases at the beginning of each session under rules established~~
6181 ~~by the board, but is restored at the same amount at the end of the session. Members receiving an~~
6182 ~~allowance while serving as legislators are eligible for additional service credits and allowance~~
6183 ~~adjustments at the end of each two-year term of office if they continue as contributing members~~
6184 ~~during their service as legislators.]~~

6185 ~~[(3) A member who is eligible for a pension under this section, may apply for an allowance~~
6186 ~~at age 62, if the member has ten or more years of service credit, and receive a reduced allowance.]~~

6187 ~~[(4) The allowance provided for former governors, legislators, and their beneficiaries shall~~
6188 ~~include any normal retirement benefits accrued in any system administered by the board by reason~~
6189 ~~of their contributions and service as a governor or legislator in the system.]~~

6190 (1) A governor is qualified to receive an allowance when:

6191 (a) the governor has submitted to the office a notarized retirement application form that
6192 states the proposed retirement date; and

6193 (b) one of the following conditions is met as of the retirement date:

6194 (i) the governor has completed at least one full term in office and has attained an age of

6195 65 years; or

6196 (ii) the governor has served as governor of the state for at least ten years and has attained
6197 an age of 62 years.

6198 (2) A legislator is qualified to receive an allowance when:

6199 (a) the legislator has submitted to the office a notarized retirement application form that
6200 states the proposed retirement date; and

6201 (b) one of the following conditions is met as of the retirement date:

6202 (i) the legislator has completed at least four years in the Legislature and has attained an age
6203 of 65 years; or

6204 (ii) the legislator has completed at least ten years in the Legislature and has attained an age
6205 of 62 years.

6206 (3) (a) The retirement date shall be the 1st or the 16th day of the month as selected by the
6207 member.

6208 (b) The retirement date may not be more than 90 days after the date the application is
6209 received by the office.

6210 (4) A member who retires and continues to serve in office may not receive an additional
6211 increase to the allowance from that service.

6212 (5) A [~~withdrawal of~~] member who withdraws member contributions [by a governor,
6213 legislator, or legislative employee] shall forfeit all [~~pensions and~~] allowances [~~provided under this~~
6214 chapter] based on those contributions.

6215 Section 177. Section **49-19-402** is enacted to read:

6216 **49-19-402. Calculation of allowance -- Reduction for early retirement.**

6217 (1) (a) The base retirement amount for a governor under this plan is \$500 per term,
6218 adjusted as provided in Section 49-19-404 since 1973.

6219 (b) A governor's allowance shall be calculated by multiplying the base retirement amount
6220 at the end of the governor's service by the number of terms the governor served, including fractions
6221 of terms.

6222 (2) (a) The base retirement amount for a legislator under this plan is \$10 per year of service
6223 in the Legislature, adjusted as provided in Section 49-19-404, since 1967.

6224 (b) A legislator's allowance shall be calculated by multiplying the base retirement amount
6225 at the end of the legislator's service by the number of years the legislator served, including fractions

6226 of years.

6227 (3) If a governor or legislator retires prior to age 65, the allowance shall be reduced by 3%
6228 for each year of retirement between age 62 and age 65.

6229 Section 178. Section **49-19-403** is enacted to read:

6230 **49-19-403. Retirement option.**

6231 A governor or legislator may elect to forfeit the allowance provided by this chapter and in
6232 lieu thereof participate, on the same basis as other state elected and appointed officers under Title
6233 67, Chapter 22, State Officer Compensation, in a defined contribution plan administered by the
6234 office, in accordance with Section 49-11-801 and in accordance with federal law.

6235 Section 179. Section **49-19-404** is enacted to read:

6236 **49-19-404. Annual cost-of-living adjustment.**

6237 (1) The office shall make an annual cost-of-living adjustment to:

6238 (a) an original allowance paid under Section 49-19-402 and Part 5, Death Benefit, of this
6239 chapter if the benefit has been paid for at least one year;

6240 (b) an original payment made to an alternate payee under a domestic relations order, if the
6241 payment is to be paid as a percentage of the allowance rather than a specific dollar amount; and

6242 (c) the base retirement amount for governors and legislators under Section 49-19-402.

6243 (2) (a) The original allowance shall be increased by the annual increase in the Consumer
6244 Price Index up to a maximum of 4%.

6245 (b) Annual increases in the Consumer Price Index in excess of 4% shall be accumulated
6246 and used in subsequent adjustments when the increase in the Consumer Price Index is less than
6247 4%.

6248 (3) The Consumer Price Index used in calculating adjustments shall be a United States
6249 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

6250 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

6251 Section 180. Section **49-19-501**, which is renumbered from Section 49-7-403 is
6252 renumbered and amended to read:

Part 5. Death Benefit

6254 ~~[49-7-403].~~ **49-19-501. Death of member or retiree -- Surviving spouse benefit.**

6255 (1) Upon the death of a ~~[member or retiree having]~~ governor or legislator who has not yet
6256 retired and who has completed four or more years ~~[of service as a governor or legislator, there is~~

6257 ~~paid to the surviving spouse a monthly pension]~~ in the elected office, the member's spouse at the
6258 time of death shall receive an allowance equal to 50% of the [retirement] allowance [paid, or] to
6259 which the [retiree or member] governor or legislator would have been entitled upon reaching age
6260 65, if the [deceased member or retiree] governor or legislator and surviving spouse had been
6261 married at least six months.

6262 (2) Upon the death of a governor or legislator receiving an allowance under this plan, the
6263 member's spouse is entitled to an allowance equal to 50% of the allowance being paid to the
6264 member at the time of death.

6265 Section 181. Section **49-20-101**, which is renumbered from Section 49-8-101 is
6266 renumbered and amended to read:

6267 **CHAPTER 20. PUBLIC EMPLOYEES' BENEFIT AND INSURANCE**
6268 **PROGRAM ACT**

6269 **Part 1. General Provisions**

6270 ~~[49-8-101].~~ **49-20-101. Title.**

6271 This chapter is known as the "~~[Group]~~ Public Employees' Benefit and Insurance Program
6272 Act."

6273 Section 182. Section **49-20-102**, which is renumbered from Section 49-8-103 is
6274 renumbered and amended to read:

6275 ~~[49-8-103].~~ **49-20-102. Definitions.**

6276 As used in this chapter[;]:

6277 (1) "Covered employer" means an employer that offers employee benefit plans under this
6278 chapter to its employees and their dependents.

6279 (2) "Covered individual" means an employee and the employee's dependents eligible for
6280 coverage under this chapter.

6281 (3) "Employee [group] Benefit Plans" means any group health, dental, medical, disability,
6282 life insurance, medicare supplement, conversion coverage, cafeteria, flex plans, or other program
6283 for [employees] covered individuals administered by the [board and approved by the Legislature]
6284 Public Employees' Benefit and Insurance Program.

6285 (4) "Employer" means the state, its political subdivisions, and educational institutions.

6286 (5) "Program" means the Public Employees' Benefit and Insurance Program.

6287 Section 183. Section **49-20-103**, which is renumbered from Section 49-8-201 is

6288 renumbered and amended to read:

6289 ~~[49-8-201].~~ **49-20-103. Creation of insurance program.**

6290 There is created for the employees of the state, its educational institutions, and political
6291 subdivisions the "~~[Group Insurance]~~ Public Employees' Benefit and Insurance Program[-]" within
6292 the office.

6293 Section 184. Section **49-20-104**, which is renumbered from Section 49-8-202 is
6294 renumbered and amended to read:

6295 ~~[49-8-202].~~ **49-20-104. Creation of fund.**

6296 (1) There is created the "~~[Group Insurance]~~ Public Employees' Trust Fund" for the purpose
6297 of paying the benefits and the costs of administering this program.

6298 (2) The fund shall consist of all money and interest paid into it in accordance with this
6299 chapter, whether in the form of cash, securities, or other assets, and of all money received from any
6300 other source.

6301 (3) Custody, management, and investment of the fund shall be governed by ~~[Title 49,]~~
6302 Chapter ~~[+]~~ 11, Utah State Retirement Systems Administration.

6303 Section 185. Section **49-20-105**, which is renumbered from Section 49-8-102 is
6304 renumbered and amended to read:

6305 ~~[49-8-102].~~ **49-20-105. Purpose.**

6306 The purpose of this chapter is to provide a mechanism ~~[whereby the state, its educational~~
6307 ~~institutions, and political subdivisions may provide their employees]~~ for covered employers to
6308 provide covered individuals with group health, dental, medical, disability, life insurance, medicare
6309 supplement, conversion coverage, cafeteria, flex plan, and other programs requested by the state,
6310 its political subdivisions, or educational institutions in the most efficient and economical manner.

6311 Section 186. Section **49-20-201**, which is renumbered from Section 49-8-203 is
6312 renumbered and amended to read:

6313 **Part 2. Membership Eligibility**

6314 ~~[49-8-203].~~ **49-20-201. Program participation -- Eligibility -- Optional for certain**
6315 **groups.**

6316 (1) (a) ~~[All employers of the state, its educational institutions, and political subdivisions~~
6317 ~~are]~~ The state shall participate in the program on behalf of its employees.

6318 (b) Other employers, including political subdivisions and educational institutions, are

6319 eligible, but are not required, to participate in ~~[this] the program~~[-, but this section does not require
 6320 political subdivisions, school districts, or institutions of higher education, including technical
 6321 colleges, to participate in the program] on behalf of their employees.

6322 (2) (a) The Department of Health may participate in ~~[this] the~~ program for the purpose of
 6323 providing ~~[program] health and dental~~ benefits to children enrolled in the Utah Children's Health
 6324 Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act, if the
 6325 provisions in Subsection 26-40-110(4) occur.

6326 (b) If the Department of Health participates in the program under the provisions of this
 6327 Subsection (2), all insurance risk associated with the Children's Health Insurance Program shall
 6328 be the responsibility of the Department of Health and not the ~~[group insurance division or the~~
 6329 ~~retirement] program or the~~ office.

6330 (3) A covered individual covered under a medical employee benefit plan shall be eligible
 6331 for coverage after termination of employment under rules adopted by the board.

6332 (4) Only retirees, members, participants, and their current spouses are eligible for Medicare
 6333 supplement coverage under this chapter upon becoming eligible for Medicare Part A and Part B
 6334 coverage.

6335 Section 187. Section **49-20-202**, which is renumbered from Section 49-8-204 is
 6336 renumbered and amended to read:

6337 ~~[49-8-204].~~ **49-20-202. Establishment of separate risk pools.**

6338 (1) The ~~[group insurance division] program~~ shall establish~~[-(1)]~~ separate risk pools for:

6339 (a) state employees~~[-, political subdivisions, and, if applicable, children enrolled in]; and~~

6340 (b) the Utah Children's Health Insurance Program~~[-, created in Title 26, Chapter 40, for~~
 6341 ~~purposes of providing the benefits permitted by this chapter; and (2) rules and procedures~~
 6342 ~~governing the admission of political subdivisions to the program].~~

6343 (2) The program shall create risk pools for other covered employers separate from those
 6344 created in Subsection (1) as determined by the program.

6345 Section 188. Section **49-20-301**, which is renumbered from Section 49-8-301 is
 6346 renumbered and amended to read:

6347 **Part 3. Premiums**

6348 ~~[49-8-301].~~ **49-20-301. Premiums paid by employer and employee.**

6349 The ~~[self-funded]~~ program shall be maintained on a financially and actuarially sound basis

6350 by means of ~~[contributions by the employer and the employee]~~ payments from covered employers
6351 and covered individuals.

6352 Section 189. Section **49-20-401**, which is renumbered from Section 49-8-401 is
6353 renumbered and amended to read:

6354 **Part 4. Insurance Program**

6355 ~~[49-8-401].~~ **49-20-401. Program -- Powers and duties.**

6356 (1) The ~~[group insurance division of the retirement office]~~ program shall:

6357 (a) act as a self-insurer of employee ~~[group]~~ benefit plans and administer those plans;

6358 (b) enter into contracts with private insurers or carriers to underwrite employee ~~[group]~~
6359 benefit plans ~~[and to reinsure any appropriate self-insured plans]~~ as considered appropriate by the
6360 program;

6361 (c) indemnify employee benefit plans or purchase commercial reinsurance as considered
6362 appropriate by the program;

6363 ~~[(e)] (d) [publish and disseminate]~~ provide descriptions of all employee benefit plans under
6364 this chapter in cooperation with ~~[the Department of Human Resource Management and political~~
6365 ~~subdivisions]~~ covered employers;

6366 ~~[(d)] (e) [administer the]~~ process ~~[of]~~ claims ~~[administration of]~~ for all employee benefit
6367 plans under this chapter or enter into contracts, after competitive bids are taken, with other benefit
6368 administrators to provide for the administration of the claims process;

6369 ~~[(e)] (f)~~ obtain an annual actuarial ~~[evaluation]~~ review of all ~~[self-insured]~~ health and
6370 dental benefit plans and ~~[prepare an annual report for the governor and the Legislature describing~~
6371 ~~the employee benefit plans being administered by the retirement office detailing historical and~~
6372 ~~projected program costs and the status of reserve funds]~~ a periodic review of all other employee
6373 benefit plans;

6374 ~~[(f)] (g)~~ consult with the ~~[Department of Human Resource Management and the executive~~
6375 ~~bodies of other political subdivisions]~~ covered employers to evaluate employee benefit plans and
6376 develop recommendations for ~~[new or improved]~~ benefit ~~[plans]~~ changes;

6377 ~~[(g)] (h)~~ annually submit ~~[annually]~~ a budget and audited financial statements to the
6378 governor and Legislature which includes total projected benefit costs and administrative costs;

6379 ~~[(h)] (i)~~ maintain reserves sufficient to liquidate the unrevealed claims liability and other
6380 liabilities of the ~~[self-funded]~~ employee ~~[group]~~ benefit plans as estimated by the ~~[board's]~~

6381 program's consulting actuary;

6382 [~~(i)~~] (j) submit its recommended benefit adjustments for state employees [~~upon approval~~
6383 ~~of the board~~] to the director of the state Department of Human Resource Management[~~-. The~~
6384 ~~Department of Human Resource Management shall include the benefit adjustments in the total~~
6385 ~~compensation plan recommended to the governor required by Subsection 67-19-12(6)(a)];~~

6386 [~~(j)~~] adjust benefits, upon approval of the board, and upon appropriate notice to the state,
6387 its educational institutions, and political subdivisions;]

6388 [~~(k)~~] for the purposes of stimulating competition, establishing better geographical
6389 distribution of medical care services, and providing alternative health and dental plan coverage for
6390 both active and retired employees;]

6391 (k) determine benefits and rates, upon approval of the board, for multiemployer risk pools,
6392 retiree coverage, and conversion coverage;

6393 (l) determine benefits and rates, upon approval of the board and the Legislature, for state
6394 employees;

6395 (m) administer benefits and rates, upon ratification of the board, for single employer risk
6396 pools;

6397 (n) request proposals for [alternative health and dental coverage] provider networks or
6398 benefit plans administered by third party carriers at least once every three years[~~, proposals~~] for
6399 the purposes of:

6400 (i) stimulating competition for the benefit of covered individuals;

6401 (ii) establishing better geographical distribution of medical care services; and

6402 (iii) providing coverage for both active and retired covered individuals;

6403 (o) offer proposals which meet the criteria specified in [the request shall be offered] a
6404 request for proposals and accepted by the program to active and retired state [employees and may
6405 be offered] covered individuals and which may be offered to active and retired [employees of
6406 political subdivisions] covered individuals of other covered employers at the option of the
6407 [political subdivision; and] covered employer;

6408 [~~(h)~~] (p) perform the same functions established in Subsections (1)(a), (b), [~~(d)~~] (e), and
6409 [~~(g)~~] (h) for the Department of Health if the [~~group insurance division~~] program provides program
6410 benefits to children enrolled in the Utah Children's Health Insurance Program created in Title 26,
6411 Chapter 40[-], Utah Children's Health Insurance Act;

6412 (q) establish rules and procedures governing the admission of political subdivisions or
6413 educational institutions and their employees to the program; and

6414 (r) contract directly with medical providers to provide services for covered individuals.

6415 (2) (a) Funds budgeted and expended shall accrue from [premiums] rates paid by the
6416 [various] covered employers and covered individuals.

6417 (b) Administrative costs [may not exceed that percentage of premium income which is
6418 recommended] shall be approved by the board and [approved by] reported to the governor and the
6419 Legislature.

6420 (3) The Department of Human Resource Management shall include the benefit adjustments
6421 described in Subsection (1)(j) in the total compensation plan recommended to the governor
6422 required under Subsection 67-19-12(6)(a).

6423 Section 190. Section **49-20-402**, which is renumbered from Section 49-8-402 is
6424 renumbered and amended to read:

6425 **[49-8-402]. 49-20-402. Reserves to be held -- Refunds.**

6426 [In no case may the average total]

6427 (1) The reserves in a risk pool in a given fiscal year [fall below the level of two months'
6428 premiums] shall be maintained at the level recommended by the program's consulting actuary and
6429 approved or ratified by the board. If the reserves drop below that level, covered employers in the
6430 risk pool are required to cure any deficiency in the reserve.

6431 (2) If substantial excess reserves are accrued above those required by this chapter, and the
6432 board determines that a refund is appropriate, [refunds] a refund shall be made to [an employer and
6433 employee] covered employers which shall then make a refund to covered individuals on the basis
6434 of the contribution of each to the plan. [The board may make a full refund to any employer, other
6435 than the state, and the employer is responsible for refunding employee contributions in accordance
6436 with this section.]

6437 Section 191. Section **49-20-403** is enacted to read:

6438 **49-20-403. Assistance to members in purchase of life, health, dental, and medical**
6439 **insurance after retirement -- Employment of personnel to administer section.**

6440 (1) The program may assist active and retired covered individuals and inactive covered
6441 individuals of the covered employers to purchase life, health, dental, and medical coverage on a
6442 group basis which can be continued after retirement under rules adopted by the board.

6443 (2) The executive director may employ any personnel, including consultants, to administer
6444 this section.

6445 Section 192. Section **49-20-404**, which is renumbered from Section 49-8-403 is
6446 renumbered and amended to read:

6447 ~~[49-8-403].~~ **49-20-404. Governors' and legislative benefit.**

6448 ~~[(1) (a) The board may assist active and retired members and beneficiaries and inactive~~
6449 ~~members of the various retirement systems administered under its direction, to purchase life,~~
6450 ~~health, dental, and medical insurance on a group basis which can be continued after retirement~~
6451 ~~under rules adopted by the board.]~~

6452 ~~[(b) The executive director may employ any personnel, including consultants, to administer~~
6453 ~~this section.]~~

6454 ~~[(2)(a) (1) The [board shall annually report and the] state shall pay the percentage~~
6455 ~~described in Subsection [(2)(c)] (3) of the cost of providing [a] paid-up group health [insurance]~~
6456 ~~coverage policy for members and their surviving spouses covered under [Title 49,] Chapter [7,~~
6457 ~~Governor's and Legislative Service Pension] 19, Utah Governors' and Legislators' Retirement Act~~
6458 ~~who:~~

6459 ~~[(i) (a) retire after January 1, 1998;~~

6460 ~~[(ii) (b) are at least 62 but less than 65 years of age;~~

6461 ~~[(iii) (c) elect to receive and apply for this benefit to the [group insurance division]~~
6462 ~~program; and~~

6463 ~~[(iv) (d) are active members at the time of retirement or have retired and continued~~
6464 ~~[insurance] coverage with the [group insurance division] program until the date of eligibility for~~
6465 ~~the benefit under this Subsection [(2) (1).~~

6466 ~~[(b) (2) The [board shall annually report and the] state shall pay the percentage described~~
6467 ~~in Subsection [(2)(c)] (3) of the cost of providing Medicare supplemental [insurance] coverage~~
6468 ~~for members and their surviving spouses covered under [Title 49,] Chapter [7, Governor's and~~
6469 ~~Legislative Service Pension] 19, Utah Governors' and Legislators' Retirement Act who:~~

6470 ~~[(i) (a) retire after January 1, 1998;~~

6471 ~~[(ii) (b) are at least 65 years of age; and~~

6472 ~~[(iii) (c) elect to receive and apply for this benefit to the [group insurance division]~~
6473 ~~program.~~

6474 ~~[(e)]~~ (3) The following percentages apply to the benefit described in Subsections ~~[(2)(a)]~~
6475 ~~(1)~~ and ~~[(b)]~~ (2):

6476 ~~[(i)]~~ (a) 100% if the member has accrued 10 or more years of service credit;

6477 ~~[(ii)]~~ (b) 80% if the member has accrued 8 or more years of service credit;

6478 ~~[(iii)]~~ (c) 60% if the member has accrued 6 or more years of service credit; and

6479 ~~[(iv)]~~ (d) 40% if the member has accrued 4 or more years of service credit.

6480 Section 193. Section **49-20-405**, which is renumbered from Section 49-8-404 is
6481 renumbered and amended to read:

6482 ~~[49-8-404].~~ **49-20-405. Audit required -- Report to governor and Legislature.**

6483 The Insurance Department shall biennially audit ~~[all funds]~~ the Public Employees' Trust
6484 Fund and programs authorized under this chapter and report its findings to the governor and the
6485 Legislature, but the commissioner may accept the annual audited statement of the programs under
6486 this chapter in lieu of the biennial audit requirement.

6487 Section 194. Section **49-20-406**, which is renumbered from Section 49-8-405 is
6488 renumbered and amended to read:

6489 ~~[49-8-405].~~ **49-20-406. Insurance benefits for employees' beneficiaries.**

6490 (1) As used in this section:

6491 (a) "Children" includes stepchildren and legally adopted children.

6492 (b) "Line-of-duty death" means a death resulting from external force or violence
6493 occasioned by an act of duty as an employee.

6494 (2) The beneficiary of ~~[an employee]~~ a covered individual who is employed by the state
6495 and who dies in the line of duty shall receive:

6496 (a) the proceeds of a group term life insurance policy in the amount of \$50,000 to be
6497 purchased by the ~~[division]~~ program and paid for by the ~~[employing unit]~~ state; and

6498 (b) ~~[a]~~ group health ~~[insurance policy]~~ coverage paid for by the ~~[employing unit]~~ state that
6499 covers the ~~[employee's]~~ covered individual's:

6500 (i) surviving spouse until remarriage or becoming eligible for Medicare, whichever comes
6501 first; and

6502 (ii) unmarried children up to the age of 26.

6503 (3) Any ~~[political subdivision]~~ covered employer may provide the benefit under Subsection
6504 (2).

6505 Section 195. Section **49-21-101**, which is renumbered from Section 49-9-101 is
 6506 renumbered and amended to read:

6507 **CHAPTER 21. PUBLIC EMPLOYEES' LONG-TERM DISABILITY ACT**

6508 **Part 1. General Provisions**

6509 ~~[49-9-101].~~ **49-21-101. Title.**

6510 This chapter is known as the "[Utah] Public Employees' Long-Term Disability Act."

6511 Section 196. Section **49-21-102**, which is renumbered from Section 49-9-103 is
 6512 renumbered and amended to read:

6513 ~~[49-9-103].~~ **49-21-102. Definitions.**

6514 As used in this chapter:

6515 (1) "Date of disability" means the date on which a period of continuous disability
 6516 commences, and may not commence on or before the last day of actual work.

6517 ~~[(2) "Educational institution" means a political subdivision or an instrumentality of a
 6518 political subdivision, an instrumentality of the state, or any combination of these entities, which
 6519 is primarily engaged in educational activities or the administration or servicing of educational
 6520 activities. The term includes the State Board of Education and any instrumentality of the State
 6521 Board of Education, institutions of higher education and their branches, school districts, and
 6522 vocational and technical schools:]~~

6523 ~~[(3)]~~ (2) "Elimination period" means the three months at the beginning of each continuous
 6524 period of total disability for which no benefit will be paid and commences with the date of
 6525 disability.

6526 ~~[(4) "Employee"]~~

6527 (3) (a) "Eligible employee" means:

6528 (i) any regular full-time employee ~~[of an employer who participates in any system
 6529 administered by the board, except those employees exempt from coverage under Section
 6530 49-9-102:]~~ as defined under Section 49-12-102 or 49-13-102, public safety service employee as
 6531 defined under Section 49-14-102 or 49-15-102, or judge as defined under Section 49-17-102 or
 6532 49-18-102, whose employer provides coverage under this chapter, or the governor of the state; and

6533 (ii) an employee who is covered by a retirement program offered by the Teachers'
 6534 Insurance and Annuity Association of America, if the employee's employer provides coverage
 6535 under this chapter; and

6536 (b) "Eligible employee" does not include any employee that is exempt from coverage under
6537 Section 49-21-201.

6538 [(5)] (4) "Maximum benefit period" means the maximum period of time the monthly
6539 disability income benefit will be paid under Section 49-21-403 for any continuous period of total
6540 disability.

6541 [~~(6)~~] "~~Medically determinable impairment~~" means an impairment that results from
6542 anatomical, physiological, or psychological abnormalities which can be shown by medically
6543 acceptable clinical and laboratory diagnostic techniques. ~~A physical or mental impairment must~~
6544 ~~be established by medical evidence consisting of signs, symptoms, and laboratory findings, not~~
6545 ~~only by the individual's statement of symptoms.]~~

6546 (5) "Monthly disability benefit" means the monthly payments and accrual of service credit
6547 under Section 49-21-401 and health insurance reimbursements paid under Section 49-21-408, or
6548 any combination of them.

6549 (6) "Objective medical impairment" means an impairment resulting from an injury or
6550 illness which is diagnosed by a physician and which is based on accepted objective medical tests
6551 or findings rather than subjective complaints.

6552 (7) "Physician" means a [~~legally qualified~~] licensed physician.

6553 (8) "Regular monthly salary" means the amount certified by the participating employer as
6554 the monthly salary of the eligible employee, unless there is a discrepancy between the certified
6555 amount and the amount actually paid, in which case the office shall determine the regular monthly
6556 salary.

6557 (9) "Regular occupation" means either the primary duties performed by the eligible
6558 employee for the twelve months preceding the date of disability, or a permanent assignment of
6559 duty to the eligible employee.

6560 [(8)] (10) "Rehabilitative employment" means any [~~board-approved~~] occupation or
6561 employment for wage or profit, for which the eligible employee is reasonably qualified [~~by~~] to
6562 perform based on education, training, or experience[~~, in which the employee engages~~] while unable
6563 to perform [~~his~~] the employee's regular occupation [~~as a result of injury or illness~~].

6564 [(9)] (11) (a) "Total disability" or "totally disabled" means the complete inability, due to
6565 [~~medically determinable physical or mental~~] objective medical impairment, whether physical or
6566 mental, to engage in the eligible employee's regular occupation during the elimination period and

6567 the first 24 months of disability benefits. [~~Thereafter, "total]~~

6568 (b) "Total disability" means, after the elimination period and the first 24 months of
6569 disability benefits, the complete inability, based solely on [~~medically determinable physical]~~
6570 physical objective medical impairment, to engage in any gainful occupation which is reasonable,
6571 considering the eligible employee's education, training, and experience. [~~"Total disability" exists~~
6572 ~~only if during any period of "total disability" the employee is under the regular care of a physician~~
6573 ~~other than the employee.~~]

6574 Section 197. Section **49-21-103**, which is renumbered from Section 49-9-201 is
6575 renumbered and amended to read:

6576 [~~49-9-201~~]. **49-21-103. Creation of program.**

6577 There is created for eligible employees [~~of employers participating in any system~~
6578 ~~administered by the board, unless otherwise exempted under this chapter,~~] the "Public Employees'
6579 Long-Term Disability Program."

6580 Section 198. Section **49-21-104**, which is renumbered from Section 49-9-202 is
6581 renumbered and amended to read:

6582 [~~49-9-202~~]. **49-21-104. Creation of trust fund.**

6583 (1) There is created the "Public Employees' Long-Term Disability Trust Fund" for the
6584 purpose of paying the benefits and costs of administering this program.

6585 (2) The fund shall consist of all money and interest paid into it in accordance with this
6586 chapter, whether in the form of cash, securities, or other assets, and of all money received from any
6587 other source.

6588 (3) Custody, management, and investment of the fund shall be governed by [~~Title 49,~~
6589 Chapter [~~+~~] 11, Utah State Retirement Systems Administration].

6590 Section 199. Section **49-21-105**, which is renumbered from Section 49-9-102 is
6591 renumbered and amended to read:

6592 [~~49-9-102~~]. **49-21-105. Purpose.**

6593 (1) The purpose of this chapter is to provide long-term disability benefits for eligible
6594 employees [~~of employers participating in any system administered by the board except employees~~
6595 ~~covered under the Firefighters' Retirement Act, or employees covered under the Public Safety~~
6596 ~~Retirement Act who are covered under a long-term disability program offered by a political~~
6597 ~~subdivision which is substantially equivalent to the program offered by the state under this~~

6598 chapter].

6599 (2) The program shall be administered by the ~~[executive officer of the board through the~~
6600 ~~retirement]~~ office, under ~~[the]~~ policies and rules ~~[promulgated]~~ adopted by the board.

6601 Section 200. Section **49-21-201**, which is renumbered from Section 49-9-203 is
6602 renumbered and amended to read:

6603 **Part 2. Membership Eligibility**

6604 ~~[49-9-203].~~ **49-21-201. Program membership -- Eligibility.**

6605 ~~[(1) AH]~~ (1) The state shall cover all of its eligible employees under this chapter.

6606 (2) Except as provided under Subsections (5), (6), and (7), all other employers
6607 ~~[participating in any system administered by the board may cover their]~~ may provide coverage for
6608 their eligible employees under this chapter~~[-except employees covered under the Firefighters'~~
6609 ~~Retirement Act].~~

6610 ~~[(2)]~~ (3) If an employer elects to cover any of ~~[his]~~ its eligible employees under this
6611 chapter, all of ~~[those]~~ its eligible employees shall be covered~~[-except employees covered under~~
6612 ~~the Firefighters' Retirement Act].~~

6613 ~~[(3)]~~ (4) Nothing in this chapter requires any ~~[political subdivision or educational~~
6614 ~~institution to be covered by]~~ employer other than the state to cover its eligible employees under
6615 this chapter.

6616 (5) Firefighter service employees, as defined under Section 49-16-102, are not eligible for
6617 coverage under this chapter.

6618 (6) Public safety service employees, as defined in Sections 49-14-102 and 49-15-102, who
6619 are covered under a long-term disability program offered by an employer which is substantially
6620 similar to this program are not eligible for coverage under this chapter.

6621 (7) Legislators are not eligible for coverage under this chapter.

6622 Section 201. Section **49-21-301**, which is renumbered from Section 49-9-301 is
6623 renumbered and amended to read:

6624 **Part 3. Contributions**

6625 ~~[49-9-301].~~ **49-21-301. Contributions to fund program -- Adjustment of premium**
6626 **rate.**

6627 (1) During each legislative session, the board shall certify to the Legislature the employer
6628 paid premium rate expressed as a percentage of salary which is required to fund the Public

6629 Employees' Long-Term Disability Trust Fund.

6630 (2) Upon the board's recommendation, the Legislature shall adjust the premium rate to
6631 maintain adequate funding for the [~~disability trust fund~~] Public Employees' Long-Term Disability
6632 Trust Fund.

6633 Section 202. Section **49-21-401**, which is renumbered from Section 49-9-401 is
6634 renumbered and amended to read:

6635 **Part 4. Disability Benefits**

6636 ~~[49-9-401].~~ **49-21-401. Disability Benefits -- Application -- Eligibility.**

6637 ~~[(1) Upon receipt of proof by the board from the employer that an employee has become~~
6638 ~~totally disabled as a result of:]~~

6639 ~~[(a) accidental bodily injury which is the sole cause of disability and is sustained while this~~
6640 ~~chapter is in force;]~~

6641 ~~[(b) disease or illness causing total disability commencing while this chapter is in force;~~
6642 ~~or]~~

6643 ~~[(c) physical injury resulting from external force or violence as a result of the performance~~
6644 ~~of duty, the fund will pay to the employee a monthly disability benefit for each month the total~~
6645 ~~disability continues beyond the elimination period, not to exceed the maximum benefit period.]~~

6646 (1) An eligible employee shall apply for long-term disability benefits under this chapter
6647 by:

6648 (a) completing an application form prepared by the office;

6649 (b) signing a consent form allowing the office access to the eligible employee's medical
6650 records; and

6651 (c) providing any documentation or information reasonably requested by the office.

6652 (2) Upon request by the office, the participating employer of the eligible employee shall
6653 provide to the office documentation and information concerning the eligible employee.

6654 (3) The office shall review all relevant information and determine whether or not the
6655 eligible employee is totally disabled.

6656 (4) If the office determines that the eligible employee is totally disabled due to accidental
6657 bodily injury or physical illness which is not the result of the performance of an employment duty,
6658 the eligible employee shall receive a monthly disability benefit equal to 2/3 of the eligible
6659 employee's regular monthly salary, for each month the total disability continues beyond the

6660 elimination period, not to exceed the maximum benefit period.

6661 (5) If the office determines that the eligible employee is totally disabled due to psychiatric
6662 illness, the eligible employee shall receive:

6663 (a) a maximum of two years of monthly disability benefits equal to 2/3 of the eligible
6664 employee's regular monthly salary for each month the total disability continues beyond the
6665 elimination period;

6666 (b) a maximum of \$10,000 for psychiatric expenses, including rehabilitation expenses
6667 approved by the office's consultants, paid during the period of monthly disability benefits; and

6668 (c) payment of monthly disability benefits according to contractual provisions for a period
6669 not to exceed five years if the eligible employee is institutionalized due to psychiatric illness.

6670 (6) If the office determines that the eligible employee is totally disabled due to a physical
6671 injury resulting from external force or violence as a result of the performance of an employment
6672 duty, the eligible employee shall receive a monthly disability benefit equal to 100% of the eligible
6673 employee's regular monthly salary, for each month the total disability continues beyond the
6674 elimination period, not to exceed the maximum benefit period.

6675 ~~[(2)]~~ (7) (a) Successive periods of disability [which: (a) result] are considered as a
6676 continuous period of disability if the period of disability:

6677 (i) results from the same or related causes[; (b) are];

6678 (ii) is separated by less than six months of continuous full-time work at the individual's
6679 usual place of employment[;]; and [(c) commence]

6680 (iii) commences while the individual is an eligible employee covered by this chapter[; shall
6681 be considered as a single period of disability].

6682 (b) The inability to work for a period of less than 15 consecutive days [may not be] is not
6683 considered as a period of disability. [Otherwise, successive]

6684 (c) If Subsection (7)(a) or (b) does not apply, successive periods of disability [shall be] are
6685 considered as separate periods of disability.

6686 ~~[(3)]~~ (8) The [board] office may, at any time, have any eligible employee claiming
6687 disability examined by a physician chosen by the [board] office to determine if the eligible
6688 employee is totally disabled[; and if so, the extent of the disability].

6689 ~~[(4) (a) Except as provided in Subsection (4)(b), any]~~

6690 (9) A claim brought by an eligible employee for long-term disability benefits under the

6691 Public Employee's Long-Term Disability Program is barred if it is not commenced within one year
6692 from the eligible employee's date of disability [~~-(b) If an employee fails to commence a claim for~~
6693 ~~long-term disability benefits within the time limitations prescribed by Subsection (4)(a), the board~~
6694 ~~may permit an employee to commence a claim for long-term disability benefits if the employee~~
6695 ~~demonstrates that], unless the office determines that under the surrounding facts and~~
6696 circumstances, the eligible employee's failure to comply with the time limitations was reasonable.

6697 [~~(5) Benefits for disability based primarily on psychopathy shall be determined in~~
6698 ~~accordance with Section 49-9-406.]~~

6699 [~~(6)~~ (10) Medical or [~~psychological~~] psychiatric conditions which existed prior to
6700 enrollment [~~shall~~] may not be a basis for disability benefits until the eligible employee has had one
6701 year of continuous enrollment in the Public Employees Long-Term Disability Program.

6702 (11) If there is a valid benefit protection contract, service credit shall accrue during the
6703 period of total disability, unless the disabled eligible employee is exempted from a system, or is
6704 otherwise ineligible for service credit.

6705 Section 203. Section **49-21-402**, which is renumbered from Section 49-9-402 is
6706 renumbered and amended to read:

6707 **[~~49-9-402~~]. 49-21-402. Reduction of benefit -- Circumstances -- Application for**
6708 **other benefits required.**

6709 [~~(1)(a) The monthly income disability benefit is two-thirds of the regular monthly salary~~
6710 ~~paid as of the last day of actual service for the disabilities defined in Subsections 49-9-401(1)(a)~~
6711 ~~and (b) and 100% of the regular monthly salary paid as of the last day of actual service for the~~
6712 ~~disabilities defined in Subsection 49-9-401(1)(c).]~~

6713 [~~(b) Payments may~~]

6714 (1) A monthly disability benefit may not be [~~made by the fund~~] paid for any period of total
6715 disability unless the eligible employee is under the [~~regular~~] ongoing care and treatment of a
6716 physician other than the eligible employee.

6717 (2) The monthly disability [~~income~~] benefit shall be reduced by any amount received by,
6718 or [~~due~~] payable to, the eligible employee from the following sources for the same period of time
6719 during which the eligible employee is entitled to receive [~~the~~] a monthly disability benefit:

6720 (a) Social Security disability benefits, including all benefits received by the eligible
6721 employee, the eligible employee's spouse, and the eligible employee's dependent children[~~, except~~

6722 that if Social Security benefits are increased to compensate for a change in the Consumer Price
6723 Index, the monthly disability income benefit may not be further reduced, but shall only be offset
6724 by benefits determined at the level in effect at the time of the commencement of benefits];

6725 (b) workers' compensation indemnity benefits;

6726 [~~(c)~~ armed services retirement or disability programs];

6727 [~~(d)~~ civil service retirement or disability programs];

6728 [~~(e)~~ disability benefits under any group insurance plan providing disability income benefits
6729 for which contributions or payroll deductions are made by the employer];

6730 [~~(f)~~ any employer-paid public or private retirement or disability program for which the
6731 employee is eligible];

6732 [~~(g)~~ (c) any monies received by judgment, legal action, or settlement from a third party
6733 liable to the employee for the disability; ~~[and]~~

6734 [~~(h)~~ (d) unemployment compensation benefits[-];

6735 (e) automobile no-fault, medical payments, or similar insurance payments; and

6736 (f) any other disability benefits resulting from the disability for which benefits are being
6737 received under this chapter.

6738 (3) The monthly disability benefit shall be reduced by any amount in excess of 1/3 of the
6739 eligible employee's regular monthly salary received by, or payable to, the eligible employee from
6740 the following sources for the same period of time during which the eligible employee is entitled
6741 to receive a monthly disability benefit:

6742 (a) any employer-sponsored retirement programs; and

6743 (b) any disability benefit resulting from the disability for which benefits are being received
6744 under this chapter.

6745 (4) Cost-of-living increases to any of the benefits listed in Subsection (2) may not be
6746 considered in calculating a reduction to the monthly disability benefit.

6747 [~~(3)~~ (5) Any amounts [received by, or] payable to[-] the eligible employee from one or
6748 more of the sources under Subsection (2) [shall be] are considered as amounts received [by the
6749 employee] whether or not the amounts were actually received by the eligible employee.

6750 [~~(4)~~ (6) (a) [In order to be eligible for benefits under this chapter the] An eligible
6751 employee shall first apply for all disability benefits from governmental entities under Subsection
6752 (2) to which the eligible employee is or may be entitled, and provide to the office evidence of the

6753 applications.

6754 (b) The eligible employee shall also first apply at the earliest eligible age for all unreduced
6755 retirement benefits to which the eligible employee is or may be entitled, and provide to the office
6756 evidence of the application.

6757 [~~(c) If the employee fails to apply, the board may apply on behalf of the employee.~~]

6758 (c) If the eligible employee fails to make application under Subsection (6)(a) or (b), the
6759 monthly disability benefit shall be suspended.

6760 [~~(d) The board may treat as income any amount the employee is entitled to receive but does~~
6761 ~~not receive because application for benefits is not made by the employee and may reduce the~~
6762 ~~monthly disability accordingly.]~~

6763 Section 204. Section **49-21-403**, which is renumbered from Section 49-9-403 is
6764 renumbered and amended to read:

6765 [~~49-9-403~~]. **49-21-403. Termination of disability benefits -- Calculation of**
6766 **retirement benefit.**

6767 (1) [~~Any member~~] An eligible employee covered by this chapter and eligible for service
6768 credit under a system, including an eligible employee who relinquishes rights to retirement benefits
6769 [pursuant to] under Section [49-1-405] 49-11-619, who applies and is qualified for a monthly
6770 disability [benefits] benefit shall receive a monthly disability [allowance] benefit until the earlier
6771 of:

6772 (a) the date the [~~member or~~] eligible employee [~~who relinquishes rights to retirement~~
6773 ~~benefits]~~ has accumulated:

6774 (i) 20 years of service credit if the [~~member~~] eligible employee is covered by [~~Chapters~~
6775 ~~4 or 4a,~~] Chapter 14, Public Safety Contributory Retirement [and] Act, or Chapter 15, Public
6776 Safety Noncontributory Retirement [Acts] Act;

6777 (ii) 25 years of service credit if the [~~member~~] eligible employee is covered by Chapter [6]
6778 17, Judges' Contributory Retirement Act, or Chapter 18, Judges' Noncontributory Retirement Act;
6779 or

6780 (iii) 30 years of service credit if the [~~member~~] eligible employee is covered by [~~Chapters~~
6781 ~~2 or 3]~~ Chapter 12, Public Employees' Contributory Retirement [and] Act, or Chapter 13, Public
6782 Employees' Noncontributory Retirement [Acts] Act; or

6783 (b) the [~~member~~] date the eligible employee has received a monthly disability [benefits]

6784 benefit for the following applicable time periods:

6785 (i) if the [~~member~~] eligible employee is under age 60, the monthly disability [~~allowance~~]
6786 benefit is payable until age 65;

6787 (ii) if the [~~member~~] eligible employee is 60[=] or 61 years of age on the date of disability,
6788 the monthly disability [~~allowance~~] benefit is payable for five years;

6789 (iii) if the [~~member~~] eligible employee is 62[=] or 63 years of age on the date of disability,
6790 the monthly disability [~~allowance~~] benefit is payable for four years;

6791 (iv) if the [~~member~~] eligible employee is 64[=] or 65 years of age on the date of disability,
6792 the monthly disability [~~allowance~~] benefit is payable for three years;

6793 (v) if the [~~member~~] eligible employee is 66[=], 67, or 68 years of age on the date of
6794 disability, the monthly disability [~~allowance~~] benefit is payable for two years; and

6795 (vi) if the [~~member~~] eligible employee is [~~age~~] 69 years of age or older on the date of
6796 disability, the monthly disability benefit is payable for one year.

6797 (2) (a) Upon termination of a monthly disability [~~benefits, the disabled~~] benefit, an eligible
6798 employee [~~shall~~] eligible for service credit under a system may retire under the [~~retirement~~] system
6799 which covered the eligible employee [~~at the time~~] on the date of disability.

6800 (b) The final average salary used in the calculation of the [~~retirement benefit~~] allowance
6801 shall be based on the annual rate of pay [~~at the time~~] on the date of disability, improved by the
6802 annual cost-of-living increase factor applied to [~~retired participants in~~] retirees of the system which
6803 covered the eligible employee [~~at the time~~] on the date of disability. [~~Retirement credit shall accrue~~
6804 ~~during the period of disability unless the disabled employee is exempted from the system.~~]

6805 (3) An eligible employee who is [~~in a position covered by a system administered by the~~
6806 ~~board~~] eligible for service credit in a system, but has relinquished rights to [~~retirement benefits~~
6807 ~~pursuant to~~] an allowance under Section [49-1-405] 49-11-619, may receive the [~~benefit~~] benefits
6808 the eligible employee would have received by [~~full participation~~] being eligible for service credit
6809 in the system covering the eligible employee on the date of disability, except for the accrual of
6810 service credit, in accordance with this title.

6811 (4) An eligible employee receiving a monthly disability [~~benefits~~] benefit who has [~~years~~
6812 ~~of~~] service credit from two or more systems [~~or plans administered by the board~~] may not combine
6813 [~~these~~] service credits under Section [~~49-1-406~~] 49-11-405 in [~~determining eligibility~~] qualifying
6814 for retirement, unless the eligible employee would receive a greater [~~retirement benefit~~] allowance

6815 by combining ~~[such]~~ the service credits.

6816 (5) A monthly disability benefit payable to an eligible employee who is not eligible for
6817 service credit under a system shall terminate at the earliest of:

6818 (a) the date the eligible employee is eligible for an unreduced retirement benefit; or

6819 (b) the date the eligible employee has received a monthly disability benefit for the
6820 applicable time period as set forth in Subsection (1)(b).

6821 Section 205. Section **49-21-404**, which is renumbered from Section 49-9-404 is
6822 renumbered and amended to read:

6823 ~~[49-9-404].~~ **49-21-404. Annual adjustment to disability benefit.**

6824 (1) (a) An eligible employee receiving a monthly disability [benefits] benefit shall receive
6825 an annual adjustment on the [employee's anniversary] date following the end of the elimination
6826 period to reflect [changes] annual changes in the [Consumer Price Index as computed by the]
6827 United States Bureau of Labor Statistics Consumer Price Index average as determined by the
6828 board. [The]

6829 (b) This adjustment [shall be approved by the board and] may not exceed adjustments
6830 made to [retirants] retirees under the system which covered the eligible employee [at the time] on
6831 the date of disability.

6832 (2) If an employee is not eligible for service credit under a system, the annual adjustment
6833 shall be equal to the adjustment calculated under Section 49-13-407.

6834 Section 206. Section **49-21-405**, which is renumbered from Section 49-9-405 is
6835 renumbered and amended to read:

6836 ~~[49-9-405].~~ **49-21-405. Disability benefit -- Exclusions.**

6837 ~~[The disability trust fund does not cover any loss resulting from]~~ A monthly disability
6838 benefit is not payable for the following:

6839 (1) self-inflicted injury;

6840 ~~[(2) war or any act of war, or suffering while in military or naval services of any country~~
6841 ~~at war;]~~

6842 ~~[(3)]~~ (2) alcoholism;

6843 ~~[(4) drug addiction; or]~~

6844 (3) substance abuse;

6845 ~~[(5)]~~ (4) disability arising from or caused by acts of aggression committed by the eligible

6846 employee[-]; or

6847 (5) the eligible employee committing or attempting to commit a felony or other illegal act.

6848 Section 207. Section **49-21-406**, which is renumbered from Section 49-9-407 is

6849 renumbered and amended to read:

6850 ~~[49-9-407].~~ **49-21-406. Rehabilitative employment -- Interview by disability**

6851 **specialist -- Maintaining eligibility -- Additional treatment and care.**

6852 (1) (a) If an eligible employee, following a period of total disability for which the monthly
6853 disability benefit is payable, engages in approved rehabilitative employment, the monthly disability
6854 benefit otherwise payable shall be reduced by an amount equal to 50% of the [~~wages or profits~~]
6855 income to which the eligible employee is entitled for the employment during the month.

6856 (b) This benefit [~~will be~~] is payable for up to [~~24 months~~] two years or to the end of the
6857 maximum benefit period, whichever occurs first.

6858 (2) (a) Each [~~disabled~~] eligible employee receiving a monthly disability benefit shall be
6859 interviewed [~~by a disability specialist employed~~] by the [~~board~~] office. [~~The disability specialist~~
6860 ~~shall prepare a written rehabilitation plan for the employee. If it appears that the employee cannot~~
6861 ~~return to his regular occupation, other vocational alternatives shall be sought whenever feasible.~~
6862 ~~These alternatives include, but are not limited to, training courses needed to qualify for a new~~
6863 ~~occupation, aids to mobility and job performance, and job placement assistance.]~~

6864 [~~(3) Each disabled employee, in order to maintain eligibility for benefits, shall engage~~
6865 ~~actively in a rehabilitation program if it is determined by a physician, or by a majority of a panel~~
6866 ~~of licensed physicians, that a rehabilitation program would reasonably ensure that the employee~~
6867 ~~would become capable of holding regular employment in any occupation. Failure on the part of~~
6868 ~~the employee to participate reasonably in a board-approved rehabilitation program shall result in~~
6869 ~~forfeiture of the monthly benefit.]~~

6870 (b) The office may refer the eligible employee to a disability specialist for a review of the
6871 eligible employee's condition and a written rehabilitation plan.

6872 (3) If an eligible employee receiving a monthly disability benefit fails to participate in an
6873 office-approved rehabilitation program within the limitations set forth by a physician, the monthly
6874 disability benefit may be suspended or terminated.

6875 (4) The [~~board~~] office may, as a condition of [~~making any payment under this chapter~~]
6876 paying a monthly disability benefit, require that the eligible employee receive [~~additional~~] medical

6877 care and treatment [~~including, but not limited to, therapy, psychoanalysis, and regular medication,~~
6878 if that treatment is reasonable or usual according to current medical practices.

6879 Section 208. Section **49-21-407**, which is renumbered from Section 49-9-409 is
6880 renumbered and amended to read:

6881 ~~[49-9-409].~~ **49-21-407. Health insurance reimbursements for persons with a**
6882 **disability -- Limitations.**

6883 [~~(1) The fund created under Section 49-9-202 shall pay the costs of health insurance~~
6884 ~~coverage for each member receiving a disability benefit under this chapter beginning on the 25th~~
6885 ~~month following the date of disability.]~~

6886 [~~(2) Payments made from the fund for health insurance coverage may not exceed the~~
6887 ~~amount the member and the employer would have paid by participating in the Preferred Care~~
6888 ~~Program offered by the group insurance division to the member's employer pursuant to Title 49,~~
6889 ~~Chapter 8, Group Insurance Program Act, at the time of disability.]~~

6890 Beginning on the 25th month following the date of disability, the Public Employees'
6891 Long-Term Disability Trust Fund shall pay the cost of the health insurance coverage in effect at
6892 the time of disability up to the amount the state would have paid by participating in the Preferred
6893 Care Program offered by the Group Insurance Division under Chapter 20, Public Employees'
6894 Insurance Program Act.

6895 Section 209. Section **51-7-4** is amended to read:

6896 **51-7-4. Transfer of functions, powers, and duties relating to public funds to state**
6897 **treasurer -- Exceptions -- Deposit of income from investment of state money.**

6898 (1) Unless otherwise required by the Utah Constitution or applicable federal law, the
6899 functions, powers, and duties vested by law in each and every state officer, board, commission,
6900 institution, department, division, agency, and other similar instrumentalities relating to the deposit,
6901 investment, or reinvestment of public funds, and the purchase, sale, or exchange of any
6902 investments or securities of or for any funds or accounts under the control and management of
6903 these instrumentalities, are transferred to and shall be exercised by the state treasurer, except:

6904 (a) funds assigned to the Utah State Retirement Board for investment under Section
6905 [~~49-1-302]~~ 49-11-302;

6906 (b) funds of member institutions of the state system of higher education:

6907 (i) acquired by gift, devise, or bequest, or by federal or private contract or grant;

6908 (ii) derived from student fees or from income from operations of auxiliary enterprises,
6909 which fees and income are pledged or otherwise dedicated to the payment of interest and principal
6910 of bonds issued by such institutions; and

6911 (iii) any other funds which are not included in the institution's work program as approved
6912 by the State Board of Regents;

6913 (c) funds of the Utah Technology Finance Corporation;

6914 (d) inmate funds as provided in Section 64-13-23 or in Title 64, Chapter 9b, Work
6915 Programs for Prisoners;

6916 (e) trust funds established by judicial order;

6917 (f) funds of the Workers' Compensation Fund; and

6918 (g) funds of the Utah Housing Finance Agency.

6919 (2) All public funds held or administered by the state or any of its boards, commissions,
6920 institutions, departments, divisions, agencies, or similar instrumentalities and not transferred to the
6921 state treasurer as provided by this section shall be:

6922 (a) deposited and invested by the custodian in accordance with this chapter, unless
6923 otherwise required by statute or by applicable federal law; and

6924 (b) reported to the state treasurer in a form prescribed by the state treasurer.

6925 (3) Unless otherwise provided by the constitution or laws of this state or by contractual
6926 obligation, the income derived from the investment of state money by the state treasurer shall be
6927 deposited in and become part of the General Fund.

6928 Section 210. Section **53-6-107** is amended to read:

6929 **53-6-107. General duties of council.**

6930 (1) The council shall:

6931 (a) advise the director regarding:

6932 (i) the approval, certification, or revocation of certification of any certified academy
6933 established in the state;

6934 (ii) the refusal, suspension, or revocation of certification of a peace officer;

6935 (iii) minimum courses of study, attendance requirements, and the equipment and facilities
6936 to be required at a certified academy;

6937 (iv) minimum qualifications for instructors at a certified academy;

6938 (v) the minimum basic training requirements that peace officers shall complete before

6939 receiving certification;

6940 (vi) the minimum basic training requirements that dispatchers shall complete before

6941 receiving certification; and

6942 (vii) categories or classifications of advanced in-service training programs and minimum

6943 courses of study and attendance requirements for the categories or classifications;

6944 (b) recommend that studies, surveys, or reports, or all of them be made by the director

6945 concerning the implementation of the objectives and purposes of this chapter;

6946 (c) make recommendations and reports to the commissioner and governor from time to

6947 time; and

6948 (d) perform other acts as necessary to carry out the duties of the council in this chapter.

6949 (2) The council may approve special function officers for membership in the Public Safety

6950 Retirement System in accordance with Sections [~~49-4-203~~] 49-14-201 and [~~49-4a-203~~] 49-15-201.

6951 Section 211. Section **53-7-105** is amended to read:

6952 **53-7-105. State fire marshal, deputies, and investigators -- Status of law enforcement**

6953 **officers -- Inclusion in Public Safety Retirement -- Training.**

6954 (1) The state fire marshal, his deputies, and investigators, for the purpose of enforcing and

6955 investigating violations of fire related statutes and ordinances, have the status of law enforcement

6956 officers.

6957 (2) Inclusion under Title 49, Chapter [~~4~~] 14, Public Safety Contributory Retirement Act,

6958 or Title 49, Chapter [~~4a~~] 15, Public Safety Noncontributory Retirement Act, is not authorized by

6959 Subsection (1) except as provided in those chapters.

6960 (3) The commissioner, with the concurrence of the Peace Officer Standards and Training

6961 Advisory Board may require peace officer standards and training for the state fire marshal, his

6962 deputies, and investigators.

6963 Section 212. Section **53-13-108** is amended to read:

6964 **53-13-108. Retirement.**

6965 Eligibility for coverage under the Public Safety Contributory Retirement System or Public

6966 Safety Noncontributory Retirement System for persons and political subdivisions included in this

6967 chapter is governed by Title 49, Chapter [~~4~~] 14, Public Safety Contributory Retirement Act, and

6968 Chapter [~~4a~~] 15, Public Safety Noncontributory Retirement Act.

6969 Section 213. Section **53A-17a-125** is amended to read:

6970 **53A-17a-125. Appropriation for retirement and Social Security.**

6971 (1) There is appropriated to the State Board of Education for the fiscal year beginning July
6972 1, 2001, \$214,685,479 for retirement and Social Security costs.

6973 (2) The employee's retirement contribution shall be 1% for employees who are under the
6974 state's contributory retirement program.

6975 (3) The employer's contribution under the state's contributory retirement program is
6976 determined under Section [~~49-2-301~~] 49-12-301, subject to the 1% contribution under Subsection
6977 (2).

6978 (4) The employer-employee contribution rate for employees who are under the state's
6979 noncontributory retirement program is determined under Section [~~49-3-301~~] 49-13-301.

6980 Section 214. Section **63-95-102** is amended to read:

6981 **63-95-102. Definitions.**

6982 For purposes of this chapter:

6983 (1) "Asset" means property of all kind, real and personal, tangible and intangible, and
6984 includes:

6985 (a) cash, except reasonable compensation or salary for services rendered;

6986 (b) stock or other investments;

6987 (c) goodwill;

6988 (d) real property;

6989 (e) an ownership interest;

6990 (f) a license;

6991 (g) a cause of action; and

6992 (h) any similar property.

6993 (2) "Authorizing statutes" means the statutes creating an entity as a quasi-governmental
6994 entity.

6995 (3) "Business interest" means:

6996 (a) holding the position of trustee, director, officer, or other similar position with a
6997 business entity; or

6998 (b) the ownership, either legally or equitably, of at least 10% of the outstanding shares of
6999 a corporation or 10% interest in any other business entity, being held by:

7000 (i) an individual;

- 7001 (ii) the individual's spouse;
- 7002 (iii) a minor child of the individual; or
- 7003 (iv) any combination of Subsections (3)(b)(i) through (iii).
- 7004 (4) "Committee" means the Legislative Quasi-Governmental Entities Committee created
- 7005 in Section 63-95-201.
- 7006 (5) "Government requestor" means:
- 7007 (a) the governor;
- 7008 (b) an executive branch officer other than the governor;
- 7009 (c) an executive branch agency;
- 7010 (d) a legislator, including a legislative sponsor of legislation creating a quasi-governmental
- 7011 entity; or
- 7012 (e) a legislative committee.
- 7013 (6) "Interested party" means a person that held or holds the position of trustee, director,
- 7014 officer, or other similar position with a quasi-governmental entity within:
- 7015 (a) five years prior to the date of an action described in Subsection (8); or
- 7016 (b) during the privatization of a quasi-governmental entity.
- 7017 (7) "Lobbyist" is a person that provided or provides services as a lobbyist, as defined in
- 7018 Section 36-11-102, within:
- 7019 (a) five years prior to the date of an action described in Subsection (8); or
- 7020 (b) during the privatization of a quasi-governmental entity.
- 7021 (8) (a) "Privatized" means an action described in Subsection (8)(b) taken under
- 7022 circumstances in which the operations of the quasi-governmental entity are continued by a
- 7023 successor entity that:
- 7024 (i) is privately owned;
- 7025 (ii) is unaffiliated to the state; and
- 7026 (iii) receives any asset of the quasi-governmental entity.
- 7027 (b) An action referred to in Subsection (8)(a) includes:
- 7028 (i) the repeal of the authorizing statute of a quasi-governmental entity and the revision to
- 7029 state laws to terminate the relationship between the state and the quasi-governmental entity;
- 7030 (ii) the dissolution of the quasi-governmental entity;
- 7031 (iii) the merger or consolidation of the quasi-governmental entity with another entity; or

- 7032 (iv) the sale of all or substantially all of the assets of the quasi-governmental entity.
- 7033 (9) (a) "Quasi-governmental entity" means an entity that:
- 7034 (i) is created by the state or is given by the state the right to exist and conduct its affairs
- 7035 as a quasi-governmental entity:
- 7036 (A) to serve a public purpose; and
- 7037 (B) to meet a need that cannot be met through a private business; and
- 7038 (ii) is designated by the state as:
- 7039 (A) an independent state agency;
- 7040 (B) an independent public corporation;
- 7041 (C) a quasi-public corporation; or
- 7042 (D) a term similar to that described in Subsections (9)(a)(ii)(A) through (C).
- 7043 (b) "Quasi-governmental entity" includes the:
- 7044 (i) Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;
- 7045 (ii) Utah Technology Finance Corporation created in Title 9, Chapter 13, Utah Technology
- 7046 and Small Business Finance Act;
- 7047 (iii) Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3, Heber Valley
- 7048 Historic Railroad Authority;
- 7049 (iv) Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah Science
- 7050 Center Authority;
- 7051 (v) Utah Housing [~~Finance Agency~~] Corporation created in Title 9, Chapter 4, Part 9, Utah
- 7052 Housing [~~Finance Agency~~] Corporation Act;
- 7053 (vi) Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah State Fair
- 7054 Corporation Act;
- 7055 (vii) Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'
- 7056 Compensation Fund;
- 7057 (viii) Utah State Retirement Office created in Title 49, Chapter [~~1, Part 2, Retirement~~
- 7058 ~~Office and Board~~] 11, Utah State Retirement Systems Administration;
- 7059 (ix) School and Institutional Trust Lands Administration created in Title 53C, Chapter 1,
- 7060 Part 2, School and Institutional Trust Lands Administration; and
- 7061 (x) Utah Communications Agency Network created in Title 63C, Chapter 7, Utah
- 7062 Communications Agency Network Act.

7063 (c) Notwithstanding Subsection (9)(a), "quasi-governmental entity" does not include:

7064 (i) the Public Service Commission of Utah created in Section 54-1-1;

7065 (ii) an institution within the state system of higher education;

7066 (iii) a city, county, or town;

7067 (iv) a local school district;

7068 (v) a special district created under the authority of Title 17A, Special Districts; or

7069 (vi) a local district created under the authority of Title 17B, Limited Purpose Local

7070 Government Entities.

7071 Section 215. Section **63-95-202** is amended to read:

7072 **63-95-202. Duties of the committee.**

7073 (1) The committee shall:

7074 (a) study the scope of this chapter and determine what entities should be treated under this
7075 chapter as quasi-governmental entities;

7076 (b) study the provisions of the Utah Code that govern each quasi-governmental entity
7077 including whether or not there should be consistency in these provisions;

7078 (c) study what provisions of the Utah Code, if any, from which each quasi-governmental
7079 entity should be exempted;

7080 (d) study whether or not the state should receive services from or provide services to each
7081 quasi-governmental entity;

7082 (e) request and hear reports from each quasi-governmental entity;

7083 (f) review the annual audit of each quasi-governmental entity that is performed in
7084 accordance with the statutes governing the quasi-governmental entity;

7085 (g) comply with Part 3, Creation of Quasi-Governmental Entity, in reviewing a proposal
7086 to create a new quasi-governmental entity;

7087 (h) if the committee recommends a change in the organizational status of a
7088 quasi-governmental entity as provided in Subsection (2) and subject to Part 4, Privatization of
7089 Quasi-Governmental Entities, recommend the appropriate method of changing the organizational
7090 status of the quasi-governmental entity;

7091 (i) study the following concerning an entity created by local agreement under Title 11,
7092 Chapter 13, Interlocal Cooperation Act, if the state is a party to the agreement creating the entity:

7093 (i) whether or not the entity should be subject to this chapter;

7094 (ii) whether or not the state should receive services from or provide services to the entity;

7095 (iii) reporting and audit requirements for the entity; and

7096 (iv) the need, if any, to modify statutes related to the entity; and

7097 (j) report annually to the Legislative Management Committee by no later than the

7098 Legislative Management Committee's November meeting.

7099 (2) The committee may:

7100 (a) establish a form for any report required under Subsection (1);

7101 (b) make recommendations to the Legislature concerning the organizational status of a

7102 quasi-governmental entity;

7103 (c) advise the Legislature concerning issues involving quasi-governmental entities; and

7104 (d) study issues related to the implementation of Title 49, Utah State Retirement and

7105 Insurance Benefit Act.

7106 Section 216. Section **63E-1-102 (Effective 07/01/02)** is amended to read:

7107 **63E-1-102 (Effective 07/01/02). Definitions.**

7108 As used in this title:

7109 (1) "Authorizing statute" means the statute creating an entity as an independent entity.

7110 (2) "Committee" means the Legislative Independent Entities Committee created in Section
7111 63E-1-201.

7112 (3) "Independent corporation" means a corporation incorporated in accordance with
7113 Chapter 2, Independent Corporations Act.

7114 (4) (a) "Independent entity" means an entity having a public purpose relating to the state
7115 or its citizens that is individually created by the state or is given by the state the right to exist and
7116 conduct its affairs as an:

7117 (i) independent state agency; or

7118 (ii) independent corporation.

7119 (b) "Independent entity" includes the:

7120 (i) Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

7121 (ii) Utah Technology Finance Corporation created in Title 9, Chapter 13, Utah Technology
7122 and Small Business Finance Act;

7123 (iii) Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3, Heber Valley
7124 Historic Railroad Authority;

7125 (iv) Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah Science
7126 Center Authority;

7127 (v) Utah Housing [~~Finance Agency~~] Corporation created in Title 9, Chapter 4, Part 9, Utah
7128 Housing [~~Finance Agency~~] Corporation Act;

7129 (vi) Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah State Fair
7130 Corporation Act;

7131 (vii) Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'
7132 Compensation Fund;

7133 (viii) Utah State Retirement Office created in Title 49, Chapter [~~1, Part 2, Retirement~~
7134 ~~Office and Board~~] 11, Utah State Retirement Systems Administration;

7135 (ix) School and Institutional Trust Lands Administration created in Title 53C, Chapter 1,
7136 Part 2, School and Institutional Trust Lands Administration; and

7137 (x) Utah Communications Agency Network created in Title 63C, Chapter 7, Utah
7138 Communications Agency Network Act.

7139 (c) Notwithstanding this Subsection (4), "independent entity" does not include:

7140 (i) the Public Service Commission of Utah created in Section 54-1-1;

7141 (ii) an institution within the state system of higher education;

7142 (iii) a city, county, or town;

7143 (iv) a local school district;

7144 (v) a special district created under the authority of Title 17A, Special Districts; or

7145 (vi) a local district created under the authority of Title 17B, Limited Purpose Local
7146 Government Entities.

7147 (5) "Independent state agency" means an entity that is created by the state, but is
7148 independent of the governor's direct supervisory control.

7149 (6) "Monies held in trust" means monies maintained for the benefit of:

7150 (a) one or more private individuals, including public employees;

7151 (b) one or more public or private entities; or

7152 (c) the owners of a quasi-public corporation.

7153 (7) "Public corporation" means an artificial person, public in ownership, individually
7154 created by the state as a body politic and corporate for the administration of a public purpose
7155 relating to the state or its citizens.

7156 (8) "Quasi-public corporation" means an artificial person, private in ownership,
7157 individually created as a corporation by the state which has accepted from the state the grant of a
7158 franchise or contract involving the performance of a public purpose relating to the state or its
7159 citizens.

7160 Section 217. Section **63E-1-202 (Effective 07/01/02)** is amended to read:

7161 **63E-1-202 (Effective 07/01/02). Duties of the committee.**

7162 (1) The committee shall:

7163 (a) study the scope of this title and determine what entities should be treated under this title
7164 as independent entities;

7165 (b) study the provisions of the Utah Code that govern each independent entity, including
7166 whether or not there should be consistency in these provisions;

7167 (c) study what provisions of the Utah Code, if any, from which each independent entity
7168 should be exempted;

7169 (d) study whether or not the state should receive services from or provide services to each
7170 independent entity;

7171 (e) request and hear reports from each independent entity;

7172 (f) review the annual audit of each independent entity that is performed in accordance with
7173 the statutes governing the independent entity;

7174 (g) comply with Part 3, Creation of Independent Entities, in reviewing a proposal to create
7175 a new independent entity;

7176 (h) if the committee recommends a change in the organizational status of an independent
7177 entity as provided in Subsection (2) and subject to Part 4, Privatization of Independent Entities,
7178 recommend the appropriate method of changing the organizational status of the independent entity;

7179 (i) study the following concerning an entity created by local agreement under Title 11,
7180 Chapter 13, Interlocal Cooperation Act, if the state is a party to the agreement creating the entity:

7181 (i) whether or not the entity should be subject to this chapter;

7182 (ii) whether or not the state should receive services from or provide services to the entity;

7183 (iii) reporting and audit requirements for the entity; and

7184 (iv) the need, if any, to modify statutes related to the entity;

7185 (j) make a recommendation on the organizational status of each independent entity prior
7186 to the 2002 General Session; and

7187 (k) report annually to the Legislative Management Committee by no later than the
7188 Legislative Management Committee's November meeting.

7189 (2) The committee may:

7190 (a) establish a form for any report required under Subsection (1);

7191 (b) make recommendations to the Legislature concerning the organizational status of an
7192 independent entity;

7193 (c) advise the Legislature concerning issues involving independent entities; and

7194 (d) study issues related to the implementation of Title 49, Utah State Retirement and
7195 Insurance Benefit Act.

7196 Section 218. Section **67-8-3** is amended to read:

7197 **67-8-3. Compensation plan for appointive officers -- Exceptions -- Legislative**
7198 **approval -- Career status attorneys.**

7199 (1) (a) The director of the Department of Human Resource Management, based upon
7200 recommendations of the Executive and Judicial Compensation Commission shall, before October
7201 31 of each year, recommend to the governor a compensation plan for appointed officers of the state
7202 except those officers whose compensation is set under Section [~~49-1-203~~] 49-11-203, 53A-1-301,
7203 53B-1-105, or 53C-1-301.

7204 (b) The plan shall include salaries and wages, paid leave, group insurance plans, retirement
7205 programs, and any other benefits that may be offered to state officers.

7206 (2) The governor shall include in each annual budget proposal to the Legislature specific
7207 recommendations on compensation for those appointed state officers in Subsection (1).

7208 (3) (a) After consultation with the attorney general, the director of the Department of
7209 Human Resource Management shall place career status attorneys on a state salary schedule at a
7210 range comparable with salaries paid attorneys in private and other public employment.

7211 (b) The attorney general and the director shall take into consideration the experience of
7212 the attorney, length of service with the Office of the Attorney General, quality of performance, and
7213 responsibility involved in legal assignments.

7214 (c) The attorney general and the director shall periodically adjust the salary levels for
7215 attorneys in a career status to reasonably compensate them for full-time employment and the
7216 restrictions placed on the private practice of law.

7217 Section 219. Section **67-20-7** is amended to read:

7218 **67-20-7. Workers' compensation benefits for volunteer firefighters.**

7219 (1) In addition to the purposes set out in Subsections 67-20-3(2) and (3), a volunteer
7220 firefighter, as defined in Section [~~49-5-103~~] 49-16-102, is considered an agency employee for the
7221 purpose of receiving workers' compensation benefits under Title [~~35A~~] 34A, Chapter [~~3~~] 2,
7222 Workers' Compensation and Chapter [~~3a~~] 3, Utah Occupational Disease Act.

7223 (2) These benefits are the exclusive remedy for all injuries and occupational diseases
7224 resulting from his services as a volunteer firefighter. Compensation shall be computed as indicated
7225 in Section [~~49-5-802~~] 49-16-701.

7226 Section 220. Section **67-22-1** is amended to read:

7227 **67-22-1. Compensation -- Constitutional offices.**

7228 (1) The Legislature fixes salaries for the constitutional offices as follows:

7229	(a) Governor	\$100,600
7230	(b) Lieutenant Governor	\$78,200
7231	(c) Attorney General	\$84,600
7232	(d) State Auditor	\$80,700
7233	(e) State Treasurer	\$78,200

7234 (2) The Legislature fixes benefits for the constitutional offices as follows:

7235 (a) Governor:

7236 (i) a vehicle for official and personal use;

7237 (ii) housing;

7238 (iii) household and security staff;

7239 (iv) household expenses;

7240 (v) retirement benefits as provided in Title 49;

7241 (vi) health insurance;

7242 (vii) dental insurance;

7243 (viii) basic life insurance;

7244 (ix) workers' compensation;

7245 (x) required employer contribution to Social Security;

7246 (xi) long-term disability income insurance; and

7247 (xii) the same additional state paid life insurance available to other noncareer service
7248 employees.

- 7249 (b) Lieutenant governor, attorney general, state auditor, and state treasurer:
- 7250 (i) a vehicle for official and personal use;
- 7251 (ii) the option of participating in a state retirement system established by Title 49, Chapter
- 7252 [2] 12, Public Employees' Contributory Retirement Act, or Chapter [3] 13, Public Employees'
- 7253 Noncontributory Retirement Act, or in a deferred compensation plan administered by the State
- 7254 Retirement Office, in accordance with the Internal Revenue Code and its accompanying rules and
- 7255 regulations;
- 7256 (iii) health insurance;
- 7257 (iv) dental insurance;
- 7258 (v) basic life insurance;
- 7259 (vi) workers' compensation;
- 7260 (vii) required employer contribution to Social Security;
- 7261 (viii) long-term disability income insurance; and
- 7262 (ix) the same additional state paid life insurance available to other noncareer service
- 7263 employees.

7264 (c) Each constitutional office shall pay the cost of the additional state-paid life insurance

7265 for its constitutional officer from its existing budget.

7266 Section 221. Section **67-22-2** is amended to read:

7267 **67-22-2. Compensation -- Other state officers.**

7268 (1) The governor shall establish salaries for the following state officers within the

7269 following salary ranges fixed by the Legislature:

7270	State Officer	Salary Range
7271	Commissioner of Agriculture and Food	\$64,600 - \$87,500
7272	Commissioner of Insurance	\$64,600 - \$87,500
7273	Commissioner of the Labor Commission	\$64,600 - \$87,500
7274	Director, Alcoholic Beverage Control	
7275	Commission	\$64,600 - \$87,500
7276	Commissioner, Department of	
7277	Financial Institutions	\$64,600 - \$87,500
7278	Members, Board of Pardons and Parole	\$64,600 - \$87,500
7279	Executive Director, Department	

7280	of Commerce	\$64,600 - \$87,500
7281	Executive Director, Commission on	
7282	Criminal and Juvenile Justice	\$64,600 - \$87,500
7283	Adjutant General	\$64,600 - \$87,500
7284	Chair, Tax Commission	\$69,900 - \$94,300
7285	Commissioners, Tax Commission	\$69,900 - \$94,300
7286	Executive Director, Department of	
7287	Community and Economic	
7288	Development	\$69,900 - \$94,300
7289	Executive Director, Tax Commission	\$69,900 - \$94,300
7290	Chair, Public Service Commission	\$69,900 - \$94,300
7291	Commissioner, Public Service Commission	\$69,900 - \$94,300
7292	Executive Director, Department	
7293	of Corrections	\$76,000 - \$102,600
7294	Commissioner, Department of Public Safety	\$76,000 - \$102,600
7295	Executive Director, Department of	
7296	Natural Resources	\$76,000 - \$102,600
7297	Director, Office of Planning	
7298	and Budget	\$76,000 - \$102,600
7299	Executive Director, Department of	
7300	Administrative Services	\$76,000 - \$102,600
7301	Executive Director, Department of	
7302	Human Resource Management	\$76,000 - \$102,600
7303	Executive Director, Department of	
7304	Environmental Quality	\$76,000 - \$102,600
7305	State Olympic Officer	\$82,800 - \$111,800
7306	Executive Director, Department of	
7307	Workforce Services	\$82,800 - \$111,800
7308	Executive Director, Department of	
7309	Health	\$82,800 - \$111,800
7310	Executive Director, Department	

7311 of Human Services \$82,800 - \$111,800
7312 Executive Director, Department
7313 of Transportation \$82,800 - \$111,800
7314 Chief Information Officer \$82,800 - \$111,800

7315 (2) (a) The Legislature fixes benefits for the state offices outlined in Subsection (1) as
7316 follows:

7317 (i) the option of participating in a state retirement system established by Title 49, Utah
7318 State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by
7319 the State Retirement Office in accordance with the Internal Revenue Code and its accompanying
7320 rules and regulations;

7321 (ii) health insurance;

7322 (iii) dental insurance;

7323 (iv) basic life insurance;

7324 (v) unemployment compensation;

7325 (vi) workers' compensation;

7326 (vii) required employer contribution to Social Security;

7327 (viii) long-term disability income insurance;

7328 (ix) the same additional state-paid life insurance available to other noncareer service
7329 employees;

7330 (x) the same severance pay available to other noncareer service employees;

7331 (xi) the same sick leave, converted sick leave, educational allowances, and holidays
7332 granted to Schedule B state employees, and the same annual leave granted to Schedule B state
7333 employees with more than ten years of state service;

7334 (xii) the option to convert accumulated sick leave to cash or insurance benefits as provided
7335 by law or rule upon resignation or retirement according to the same criteria and procedures applied
7336 to Schedule B state employees;

7337 (xiii) the option to purchase additional life insurance at group insurance rates according
7338 to the same criteria and procedures applied to Schedule B state employees; and

7339 (xiv) professional memberships if being a member of the professional organization is a
7340 requirement of the position.

7341 (b) Each department shall pay the cost of additional state-paid life insurance for its

7342 executive director from its existing budget.

7343 (3) The Legislature fixes the following additional benefits:

7344 (a) for the executive director of the State Tax Commission a vehicle for official and
7345 personal use;

7346 (b) for the executive director of the Department of Transportation a vehicle for official and
7347 personal use;

7348 (c) for the executive director of the Department of Natural Resources a vehicle for
7349 commute and official use;

7350 (d) for the Commissioner of Public Safety:

7351 (i) an accidental death insurance policy if POST certified; and

7352 (ii) a public safety vehicle for official and personal use;

7353 (e) for the executive director of the Department of Corrections:

7354 (i) an accidental death insurance policy if POST certified; and

7355 (ii) a public safety vehicle for official and personal use;

7356 (f) for the Adjutant General a vehicle for official and personal use; and

7357 (g) for each member of the Board of Pardons and Parole a vehicle for commute and official
7358 use.

7359 (4) (a) The governor has the discretion to establish a specific salary for each office listed
7360 in Subsection (1), and, within that discretion, may provide salary increases within the range fixed
7361 by the Legislature.

7362 (b) The governor shall apply the same overtime regulations applicable to other FLSA
7363 exempt positions.

7364 (c) The governor may develop standards and criteria for reviewing the performance of the
7365 state officers listed in Subsection (1).

7366 (5) Salaries for other Schedule A employees, as defined in Section 67-19-15, which are
7367 not provided for in this chapter, or in Title 67, Chapter 8, Utah Executive and Judicial Salary Act,
7368 shall be established as provided in Section 67-19-15.

7369 Section 222. Section **78-7-35** is amended to read:

7370 **78-7-35. Civil fees of the courts of record -- Courts complex design.**

7371 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court
7372 of record not governed by another subsection is \$120.

7373 (b) The fee for filing a complaint or petition is:

7374 (i) \$37 if the claim for damages or amount in interpleader exclusive of court costs, interest,
7375 and attorney fees is \$2,000 or less;

7376 (ii) \$80 if the claim for damages or amount in interpleader exclusive of court costs,
7377 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

7378 (iii) \$120 if the claim for damages or amount in interpleader is \$10,000 or more; and

7379 (iv) \$80 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4,
7380 Separate Maintenance.

7381 (c) The fee for filing a small claims affidavit is:

7382 (i) \$37 if the claim for damages or amount in interpleader exclusive of court costs, interest,
7383 and attorney fees is \$2,000 or less; and

7384 (ii) \$60 if the claim for damages or amount in interpleader exclusive of court costs,
7385 interest, and attorney fees is greater than \$2,000.

7386 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
7387 complaint, or other claim for relief against an existing or joined party other than the original
7388 complaint or petition is:

7389 (i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000
7390 or less;

7391 (ii) \$60 if the claim for relief exclusive of court costs, interest, and attorney fees is greater
7392 than \$2,000 and less than \$10,000;

7393 (iii) \$90 if the original petition is filed under Subsection (1)(a), the claim for relief is
7394 \$10,000 or more, or the party seeks relief other than monetary damages; and

7395 (iv) \$60 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
7396 Chapter 4, Separate Maintenance.

7397 (e) The fee for filing a small claims counter affidavit is:

7398 (i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000
7399 or less; and

7400 (ii) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is greater
7401 than \$2,000.

7402 (f) The fee for depositing funds under Section 57-1-29 when not associated with an action
7403 already before the court is determined under Subsection (1)(b) based on the amount deposited.

7404 (g) The fee for filing a petition is:

7405 (i) \$70 for trial de novo of an adjudication of the justice court or of the small claims
7406 department; and

7407 (ii) \$40 for an appeal of a municipal administrative determination in accordance with
7408 Section 10-3-703.7.

7409 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
7410 petition for writ of certiorari is \$190.

7411 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a petition
7412 for expungement is \$50.

7413 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).

7414 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
7415 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
7416 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter [6] 17, Judges'
7417 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

7418 (ii) Two dollars of the fees established by Subsections (1)(a) through (i) shall be allocated
7419 by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account,
7420 as provided in Section 63-63a-8.

7421 (iii) One dollar of the fees established under Subsections (1)(a) through (e), (1)(g), and
7422 (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in Section
7423 78-31b-9.

7424 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
7425 United States is \$25.

7426 (l) The fee for filing probate or child custody documents from another state is \$25.

7427 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah
7428 State Tax Commission is \$30.

7429 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
7430 or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing
7431 officer of this state or of its political subdivisions other than the Utah State Tax Commission, is
7432 \$40.

7433 (n) The fee for filing a judgment by confession without action under Section 78-22-3 is
7434 \$25.

- 7435 (o) The fee for filing an award of arbitration for confirmation, modification, or vacation
7436 under Title 78, Chapter 31a, Utah Arbitration Act, that is not part of an action before the court is
7437 \$25.
- 7438 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$30.
- 7439 (q) The fee for filing any accounting required by law is:
- 7440 (i) \$10 for an estate valued at \$50,000 or less;
- 7441 (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;
- 7442 (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;
- 7443 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and
- 7444 (v) \$150 for an estate valued at more than \$168,000.
- 7445 (r) The fee for filing a demand for a civil jury is \$50.
- 7446 (s) The fee for filing a notice of deposition in this state concerning an action pending in
7447 another state under Utah Rule of Civil Procedure 26 is \$25.
- 7448 (t) The fee for filing documents that require judicial approval but are not part of an action
7449 before the court is \$25.
- 7450 (u) The fee for a petition to open a sealed record is \$25.
- 7451 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$20 in addition
7452 to any fee for a complaint or petition.
- 7453 (w) The fee for a petition for authorization for a minor to marry required by Section 30-1-9
7454 is \$5.
- 7455 (x) The fee for a certificate issued under Section 26-2-25 is \$2.
- 7456 (y) The fee for a certified copy of a document is \$2 per document plus 50 cents per page.
- 7457 (z) The fee for an exemplified copy of a document is \$4 per document plus 50 cents per
7458 page.
- 7459 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of documents
7460 and forms and for the search and retrieval of records under Title 63, Chapter 2, Government
7461 Records Access and Management Act. Fees under this subsection shall be credited to the court
7462 as a reimbursement of expenditures.
- 7463 (bb) There is no fee for services or the filing of documents not listed in this section or
7464 otherwise provided by law.
- 7465 (cc) Except as provided in this section, all fees collected under this section are paid to the

7466 General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts
7467 the pleading for filing or performs the requested service.

7468 (dd) The filing fees under this section may not be charged to the state, its agencies, or
7469 political subdivisions filing or defending any action. In judgments awarded in favor of the state,
7470 its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order
7471 the filing fees and collection costs to be paid by the judgment debtor. The sums collected under
7472 this subsection shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or
7473 other penalty and costs permitted by law.

7474 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts shall
7475 transfer all revenues representing the difference between the fees in effect after May 2, 1994, and
7476 the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities
7477 Construction and Management Capital Projects Fund.

7478 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
7479 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital
7480 Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the
7481 development of a courts complex in Salt Lake City.

7482 (B) If the Legislature approves funding for construction of a courts complex in Salt Lake
7483 City in the 1995 Annual General Session, the Division of Facilities Construction and Management
7484 shall use the revenue deposited in the Capital Projects Fund under Subsection (2)(a)(ii) to construct
7485 a courts complex in Salt Lake City.

7486 (C) After the courts complex is completed and all bills connected with its construction
7487 have been paid, the Division of Facilities Construction and Management shall use any monies
7488 remaining in the Capital Projects Fund under Subsection (2)(a)(ii) to fund the Vernal District Court
7489 building.

7490 (iii) The Division of Facilities Construction and Management may enter into agreements
7491 and make expenditures related to this project before the receipt of revenues provided for under this
7492 Subsection (2)(a)(iii).

7493 (iv) The Division of Facilities Construction and Management shall:

7494 (A) make those expenditures from unexpended and unencumbered building funds already
7495 appropriated to the Capital Projects Fund; and

7496 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under

7497 this Subsection (2).

7498 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
7499 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
7500 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
7501 account.

7502 (c) The Division of Finance shall deposit all revenues received from the court
7503 administrator into the restricted account created by this section.

7504 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall transfer
7505 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a
7506 court of record to the Division of Facilities Construction and Management Capital Projects Fund.
7507 The division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine
7508 or bail forfeiture paid.

7509 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer \$7
7510 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court
7511 of record or an administrative traffic proceeding in accordance with Section 10-3-703.5 to the
7512 Division of Finance for deposit in the restricted account created by this section. The division of
7513 money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine or bail forfeiture
7514 paid.

7515 (3) (a) There is created within the General Fund a restricted account known as the State
7516 Courts Complex Account.

7517 (b) The Legislature may appropriate monies from the restricted account to the
7518 administrator of the courts for the following purposes only:

7519 (i) to repay costs associated with the construction of the court complex that were funded
7520 from sources other than revenues provided for under this Subsection (3)(b)(i); and

7521 (ii) to cover operations and maintenance costs on the court complex.

7522 Section 223. **Repealer.**

7523 This act repeals:

7524 Section **49-1-501, Termination of membership.**

7525 Section **49-1-605, Extra monthly payments authorized -- Adjustment of benefits and**
7526 **allowances -- Incorporation into normal allowance.**

7527 Section **49-1-612, Required distributions.**

- 7528 Section 49-1-617, Payment of additional retirement benefit -- Rules for
7529 implementation.
- 7530 Section 49-2-102, Purpose.
- 7531 Section 49-2-403, Service retirement plans -- Additional options -- Death of member
7532 within 90 days after retirement -- Divorce of member.
- 7533 Section 49-2-501, Disability coverage.
- 7534 Section 49-2-702, Closing the retirement account -- Status of retirants and
7535 beneficiaries.
- 7536 Section 49-3-102, Purpose.
- 7537 Section 49-3-403, Service retirement plans -- Additional options -- Death of member
7538 within 90 days after retirement.
- 7539 Section 49-3-501, Disability coverage.
- 7540 Section 49-3-702, Closing the retirement account -- Status of retirants and
7541 beneficiaries.
- 7542 Section 49-4-102, Purpose.
- 7543 Section 49-4-403, Service credit under both Division A and B -- Computation of
7544 benefit -- Benefits for surviving spouse.
- 7545 Section 49-4a-102, Purpose.
- 7546 Section 49-4a-403, Service credit under both Division A and B -- Computation of
7547 benefit -- Benefits for surviving spouse.
- 7548 Section 49-5-102, Purpose.
- 7549 Section 49-5-403, Service credit under both Division A and B -- Computation of
7550 benefit.
- 7551 Section 49-5-602, Minimum monthly allowance -- Funded by member contributions.
- 7552 Section 49-6-102, Purpose.
- 7553 Section 49-6-602, Minimum retirement allowance.
- 7554 Section 49-6a-102, Purpose.
- 7555 Section 49-7-102, Purpose.
- 7556 Section 49-7-402, Cost-of-living adjustment.
- 7557 Section 49-7-404, Retirement option.
- 7558 Section 49-9-302, Rates established on basis of agency experience -- Limitations --

7559 **Annual report to governor and Legislature.**

7560 Section 49-9-406, Psychopathy benefit.

7561 Section 49-9-408, Administration of disabilities -- Members of Public Safety

7562 **Retirement System Members of Judges' Retirement System.**

7563 Section 49-10-303, Preservation of Hill Air Force Base Expendable Trust Fund.

7564 Section 224. Effective date.

7565 If approved by two-thirds of all the members elected to each house, this act takes effect

7566 upon approval by the governor, or the day following the constitutional time limit of Utah

7567 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the

7568 date of veto override, except that the amendments to the following sections take effect on July 1,

7569 2002:

7570 (1) Section 63E-1-102(Effective 07/01/02); and

7571 (2) Section 63E-1-202(Effective 07/01/02).

7571a **h Section 225. Coordination clause.**

7571b **IF THIS BILL AND H.B. 105, HEALTH INSURANCE MANDATES - PILOT PROGRAM, BOTH**

7571c **PASS, IT IS THE INTENT OF THE LEGISLATURE THAT THE OFFICE OF LEGISLATIVE RESEARCH**

7571d **AND GENERAL COUNSEL SHALL MAKE THE FOLLOWING CHANGES IN PREPARING THE**

7571e **DATABASE FOR PUBLICATION:**

7571f **1. SUBSECTION 31A-22-605.5(3) SHALL READ:**

7571g **"(3) ANY COVERAGE OFFERED ON A GROUP BASIS UNDER TITLE 49, CHAPTER 20, PUBLIC**

7571h **EMPLOYEES BENEFIT AND INSURANCE PROGRAM ACT MUST COMPLY, FOR A PERIOD OF ONE**

7571i **YEAR, WITH THE PROVISIONS OF ALL INSURANCE MANDATES WHICH ARE IMPOSED:";**

7571j **2. SUBSECTION 31A-22-605.5(4) SHALL READ:**

7571k **"(4) DURING THE ONE-YEAR PILOT PROGRAM IN WHICH THE MANDATORY OBLIGATION IS**

7571l **IMPOSED UNDER SUBSECTION (3), THE PROGRAM REGULATED UNDER TITLE 49, CHAPTER 20,**

7571m **PUBLIC EMPLOYEES BENEFIT AND INSURANCE PROGRAM ACT SHALL:";**

7571n **3. SUBSECTION 31A-22-605.5(5)(a) SHALL READ:**

7571o **"(5) (a) IF THE PROGRAM REGULATED UNDER TITLE 49, CHAPTER 20, PUBLIC EMPLOYEES**

7571p **BENEFIT AND INSURANCE PROGRAM ACT CURRENTLY OFFERS BENEFITS WHOSE FEATURES**

7571q **ARE THE SAME AS OR GREATER THAN ANY PROPOSED INSURANCE MANDATE, THE PROGRAM**

7571r **SHALL, PRIOR TO THE PROPOSED INSURANCE MANDATE BEING CONSIDERED, PROVIDE THE**

7571s **LEGISLATURE AN ANALYSIS OF ANY ADDITIONAL COSTS THE PROGRAM HAS INCURRED AS A**

7571t **CONSEQUENCE OF OFFERING THE BENEFITS."; AND**

7571u **4. SECTION 49-8-406 IN H.B. 105 SHALL BE RENUMBERED TO 49-20-406 AND SHALL READ:**

7571v **"COVERAGE OFFERED ON A GROUP BASIS UNDER THIS CHAPTER SHALL COMPLY WITH**

7571w **THE PROVISIONS OF SECTION 31A-22-605.5." h**