

**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 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

**49-11-604**, Utah Code Annotated 1953

**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 (l) 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, insured, 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           ~~[(11)]~~ (14) "Current service" means covered service ~~[rendered after the effective date of~~

617 ~~each system]~~ as defined in Chapters 12, 13, 14, 15, 16, 17, 18, and 19.

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

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

627 (15) "Defined contribution" or "defined contribution plan" means any defined contribution  
628 plan authorized under the Internal Revenue Code and administered by the board.

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

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

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

634 (c) any school district and its instrumentalities;

635 (d) any vocational and technical school; and

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

638 ~~[(14)]~~ (17) (a) "Employer" [or "employing unit"] means any department, educational  
639 institution, or political subdivision[, organization, or agency financed in whole or in part by public  
640 funds for which any employee or member performs services subject to this title] of the state  
641 eligible to participate in a government-sponsored retirement system under federal law.

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

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

647 (19) "Fund" means any fund created under this title for the purpose of paying benefits or

648 costs of administering a system, plan, or program.

649 ~~[(15)]~~ (20) (a) "Inactive member" means a member who has ~~[received no compensation for~~  
650 ~~a period longer than four months]~~ not been employed by a participating employer for a period of  
651 at least 120 days.

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

653 (21) "Insured" means any individual covered under the group health, group life, or  
654 long-term disability programs.

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) "[Retirant] 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  
761 private, state, 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) [~~act upon all~~] perform other duties assigned to it by the board.

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

876 **[49-1-203]. 49-11-203. Powers and duties of board.**

877 (1) The board shall:

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

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

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

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

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

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

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

891 (h) report annually to the governor, the Legislature, and each participating employer the  
892 contribution rates, premium rates, and any adjustments necessary to maintain the systems, plans,  
893 and programs on a financially and actuarially sound basis;

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

895 [~~i~~] (j) recommend to the governor and Legislature, through the executive director, any

896 necessary or desirable changes [~~in the statutes governing the systems, plans, and programs~~  
897 ~~administered by the retirement office~~] to this title;

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

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

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

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

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

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

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

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

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

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

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

926 (2) The board may:

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

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

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

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

937 **~~[49-1-204].~~ 49-11-204. Powers and duties of executive director.**

938 The executive director shall:

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

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

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

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

950 (5) [~~keep the board, the governor, the Legislature, and its agencies, and other affected~~  
951 ~~officers, associations, and groups informed on the operations of the retirement office] provide  
952 information concerning the operation of the office to the board, the governor, the Legislature,  
953 participating employers, and employer and employee associations, unless otherwise restricted  
954 under Section 49-11-618;~~

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

957 (7) [~~serve as a consultant~~] consult with the Legislature on all [retirement] legislation under

958 this title;

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

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

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

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

971 [~~(11)~~] (10) establish[~~, with approval of the board;~~] independent financial records for each  
972 of the [retirement] systems, plans, and programs or combine all financial records using acceptable  
973 principles of [fund] accounting to identify the assets and vested interests of each [retirement]  
974 system, plan, or program;

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

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

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

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

984 (12) keep in convenient form all records, accounts, and data necessary for the  
985 administration and actuarial valuation of the systems, plans, and programs;

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

988 [~~(15)~~] (14) consolidate into one [warrant] payment all monthly [~~payments of annuities,~~



989 ~~pensions, and subsistence payments made to each retired member as long as~~ allowances and any  
 990 defined contribution distributions if the integrity of the various funds is maintained through  
 991 appropriate accounting records [~~which shall be established~~];

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

995 (15) at least biennially [~~and in cooperation with the Office of Legislative Research and~~  
 996 ~~General Counsel~~];

997 (a) make an actuarial investigation into the mortality, service, and other experience of the  
 998 members [~~and~~], participants, beneficiaries, and insureds of the systems, plans, and programs[;];

999 (b) actuarially value the assets and liabilities of the administered funds and accounts[;];  
 1000 and

1001 (c) determine the rate of interest being earned by the funds[; ~~and, based upon all these~~  
 1002 ~~determinations and factors, including items requested by the Office of Legislative Research and~~  
 1003 ~~General Counsel, shall confer with that office and~~];

1004 (16) report to the board findings [~~of the investigation~~] under Subsection (15), with  
 1005 recommendations, [to the Legislature along with any] including proposed changes in the rates of  
 1006 contribution or benefits that are necessary to [the security] maintain the actuarial soundness of the  
 1007 [~~system, plan, or program. Costs of the investigation, as well as all actuarial consulting and other~~  
 1008 ~~services, shall be paid from the interest earnings of the fund.] systems, plans, or programs;~~

1009 (17) regulate participating employers by:

1010 (a) educating them on their duties imposed by this title;

1011 (b) specifying the time, place, and manner in which contributions shall be withheld and  
 1012 paid; and

1013 (c) requiring any reports necessary for the administration of this title; and

1014 (18) otherwise exercise the powers and perform the duties conferred on the executive  
 1015 director by this title.

1016 Section 10. Section **49-11-301**, which is renumbered from Section 49-1-301 is renumbered  
 1017 and amended to read:

1018 **Part 3. Investment Fund**

1019 ~~[49-1-301].~~ **49-11-301. Creation -- Board to act as trustees of the fund --**

1020 **Commingling and pooling of funds -- Interest earnings.**

1021 (1) There is created ~~[for the purpose of enlarging the investment base and simplifying~~  
1022 ~~investment procedures and functions]~~ a common trust fund known as the "Utah State Retirement  
1023 Investment Fund[-]" for the purpose of enlarging the investment base and simplifying investment  
1024 procedures and functions.

1025 (2) (a) The board shall act as trustees of the ~~[fund;]~~ Utah State Retirement Investment Fund  
1026 and, through ~~[its]~~ the executive ~~[officer]~~ director, may commingle and pool the funds and  
1027 investments of any ~~[retirement]~~ system, plan, or program into the Utah State Retirement  
1028 Investment Fund, ~~[as long as]~~ if the principal amounts of the participating funds do not lose their  
1029 individual identity and are maintained as separate trust funds on the books of the ~~[retirement]~~  
1030 office.

1031 (b) (i) In combining the investments of any fund, each of the participating funds shall be  
1032 credited initially with its share of the total assets transferred to the Utah State Retirement  
1033 Investment Fund~~[-, the calculation being made on the basis of the fair market value of the various~~  
1034 ~~investments at the time the investments are credited to the Utah State Retirement Investment~~  
1035 ~~Fund].~~

1036 (ii) The value of the transferred assets shall be calculated in accordance with generally  
1037 accepted accounting principles.

1038 (c) Subsequent transfers of additional capital from participating funds shall be credited  
1039 similarly to its respective trust account.

1040 (d) ~~[Funds may be withdrawn or transferred out of the Utah State Retirement Investment~~  
1041 ~~Fund and credited back to a participating fund, but at no time may the]~~ The income or principal  
1042 or equity credit belonging to one participating fund may not be transferred to another, except for  
1043 the purpose of:

1044 (i) actuarially recommended transfers in order to adjust employer contribution rates for an  
1045 employer that participates in both contributory and noncontributory systems~~[-]; or~~

1046 (ii) transfers which reflect the value of service credit accrued in different systems during  
1047 a member's career.

1048 (3) The assets of the ~~[participating]~~ funds are for the exclusive benefit of the members,  
1049 participants, and insureds and may not be diverted or appropriated for any purpose other than that  
1050 permitted by this ~~[chapter or the chapters covering the individual participating funds]~~ title.

1051 (4) (a) Interest and other earnings shall be credited to each participating fund on a pro rata  
 1052 equity position basis [~~monthly, or otherwise as directed by the board~~].

1053 (b) (i) A portion of the interest and other earnings of the common trust fund may be  
 1054 credited to a reserve account within the Utah State Retirement Investment Fund to meet adverse  
 1055 experiences arising from investments or other contingencies.

1056 (ii) Each participating fund shall retain its proportionate equity in the reserve account.

1057 Section 11. Section ~~49-11-302~~, which is renumbered from Section 49-1-302 is renumbered  
 1058 and amended to read:

1059 ~~[49-1-302]~~. **49-11-302. Board duties with respect to fund.**

1060 (1) The board [~~shall~~]:

1061 (a) ~~shall~~ review and establish the asset allocation of [~~all funds assigned to the board or~~  
 1062 ~~retirement office~~] the Utah State Retirement Investment Fund for investment, and [~~through its~~  
 1063 ~~with the~~ executive [~~officer~~] director, shall determine the method of investing the funds [~~to ensure~~  
 1064 ~~the greatest return commensurate with sound financing adequately safeguarded. The board,];~~

1065 (b) through [~~its~~] the executive [~~officer, may~~] director:

1066 (i) shall invest [~~and reinvest~~] the money in the [~~retirement fund or funds and~~] Utah State  
 1067 Retirement Investment Fund; and

1068 (ii) may provide for the holding, purchasing, selling, assigning, transferring, and disposing  
 1069 of any of the securities and investments in which any of the money of the [~~fund~~] Utah  
 1070 State Retirement Investment Fund is invested. [~~The board shall appoint a custodian for the funds~~  
 1071 ~~and securities under its control.~~

1072 (2) Fees for all services shall be paid from the interest earnings of the [~~investment fund~~]  
 1073 Utah State Retirement Investment Fund.

1074 [~~(2)~~] (3) [~~The board may hold title~~] Title to real estate or any other fund investment may  
 1075 be:

1076 (a) held in the name of the Utah State Retirement Investment Fund; or [~~may by rule~~  
 1077 ~~determine under what name or names it holds title to real estate or any other fund investment.~~

1078 (b) held in another name or names as determined by the board.

1079 Section 12. Section ~~49-11-303~~, which is renumbered from Section 49-1-303 is renumbered  
 1080 and amended to read:

1081 ~~[49-1-303]~~. **49-11-303. Fund investment standard -- Prudent investor rule.**

1082 The ~~[fund]~~ Utah State Retirement Investment Fund shall be invested in accordance with  
1083 the prudent ~~[man]~~ investor rule ~~[established]~~ under Section 75-7-302.

1084 Section 13. Section ~~49-11-304~~, which is renumbered from Section 49-1-304 is renumbered  
1085 and amended to read:

1086 ~~[49-1-304]~~. **49-11-304. Administrative costs -- Payable from fund.**

1087 General administrative costs of operating the ~~[retirement]~~ office shall be assessed to the  
1088 ~~[retirement]~~ systems, plans, programs, and funds ~~[administered upon the basis of cost and service~~  
1089 ~~performed. Special costs, such as actuarial studies and service, investment counsel, legal fees, and~~  
1090 ~~medical examiner charges, which are or can be directly attributable to a system, plan, program, or~~  
1091 ~~fund shall be paid directly from the respective fund involved. Since the administrative funds are~~  
1092 ~~derived from the systems, plans, and programs administered by the retirement office, rather than~~  
1093 ~~an administrative appropriation from the General Fund, any balance in the administrative fund at~~  
1094 ~~the end of a fiscal or biennial period shall remain in the fund, but shall be taken into consideration~~  
1095 ~~in preparing a subsequent budget] on a pro rata basis and shall be paid from earnings of the Utah~~  
1096 State Retirement Investment Fund.

1097 Section 14. Section ~~49-11-305~~, which is renumbered from Section 49-1-305 is renumbered  
1098 and amended to read:

1099 ~~[49-1-305]~~. **49-11-305. Self-insurance option -- Purchase of liability insurance.**

1100 (1) The ~~[retirement]~~ office may self insure and may purchase commercial insurance~~[, self~~  
1101 ~~insure, or purchase excess commercial insurance in excess of] in any amount.~~

1102 (2) The office may also purchase excess commercial insurance above the limits provided  
1103 by the Governmental Immunity Act against any:

1104 (a) risk created or recognized by the Governmental Immunity Act; or ~~[any]~~

1105 (b) other action for which the board, office, or any of its employees, may be held liable.

1106 Section 15. Section ~~49-11-401~~, which is renumbered from Section 49-1-401 is renumbered  
1107 and amended to read:

1108 **Part 4. Service Credits**

1109 ~~[49-1-401]~~. **49-11-401. Transfer of service credit -- Eligibility for service credit --**  
1110 **Computation of service credit.**

1111 (1) (a) The ~~[board]~~ office shall make the transfer of service ~~[credits]~~ credit, together with  
1112 related member and participating employer contributions, from one ~~[retirement]~~ system to another

1113 upon terms and conditions established by the board.

1114 (b) The terms and conditions may not result in a loss of accrued benefits.

1115 (2) Transfer of employment from a position covered by one [~~public retirement~~] system to  
1116 a position covered by another system does not [~~either: (a)~~] cause the employee to lose active  
1117 [~~membership~~] member status [~~in the system; or~~].

1118 [~~(b) constitute a termination of employment prerequisite to qualifying for a refund of~~  
1119 ~~contributions.~~]

1120 [~~(2)~~] (3) In the [~~establishment~~] accrual of service [~~credits~~] credit, the following provisions  
1121 apply:

1122 [~~(a) Any member of a retirement system who performs covered services shall receive~~  
1123 ~~service credit for the service.~~]

1124 [~~(b) Any member who is not in an active service status because of sickness, injury, leave~~  
1125 ~~of absence, including service in the armed forces of the United States, or because the member is~~  
1126 ~~in the process of transfer from one employing unit to another shall, upon returning to active status,~~  
1127 ~~have the same rights and be subject to the same requirements as other employees under this title.~~]

1128 [~~(c) (i) For the purpose of computing the amount of a member's retirement allowance, no~~  
1129 ~~service credit may be given to any member for the period during which the member is on leave of~~  
1130 ~~absence without compensation, except as otherwise provided in this title or Subsection (2)(c)(ii).~~]

1131 [~~(ii) A member with full-time public service while on an approved leave of absence may~~  
1132 ~~purchase, or the employer may purchase on their behalf, credit equal to the public service by~~  
1133 ~~making contributions fixed by the administrator.~~]

1134 [~~(d) No service credit may be given to a member for the period during which the member~~  
1135 ~~was in any inactive status unless the service is purchased according to the provisions of this title.~~]

1136 [~~(e) Credit for service shall be granted in proportion to the work performed under rules~~  
1137 ~~adopted by the board. (f) In no case may a retirement~~]

1138 (a) A person employed and compensated by a participating employer who meets the  
1139 eligibility requirements for membership in a system or the Utah Governors' and Legislators'  
1140 Retirement Plan shall receive service credit for the term of the employment provided that all  
1141 required contributions are paid to the office.

1142 (b) An allowance or other benefit [be granted] may not accrue under this title which is  
1143 based upon the same [~~service~~] period of employment as has been the basis for any retirement

1144 benefits under some other [state] public retirement system.

1145 ~~[(g) Members shall be credited with any fractions of years of service to which they are~~  
1146 ~~entitled.]~~

1147 ~~[(h) (c) The board shall fix the minimum time per day, per month, and per year upon the~~  
1148 ~~basis of which one year of service and proportionate parts of a year shall be credited toward~~  
1149 ~~qualification for retirement. Service may be computed on a fiscal or calendar year basis and~~  
1150 ~~portions of years served shall be accumulated and counted as service. In any event, all of the~~  
1151 ~~service rendered in any one fiscal or calendar year may not count for more than one year.~~

1152 ~~[(i) Any employee who is transferred to the Division of Information of Technology Service~~  
1153 ~~from the Department of Public Safety, and who was a member in the Public Safety Retirement~~  
1154 ~~System or Public Safety Noncontributory Retirement System, shall be entitled to remain a member~~  
1155 ~~in the system he participated in prior to being transferred regardless of whether the employee's~~  
1156 ~~current position is covered by the respective public safety system. This exception does not apply~~  
1157 ~~to any person hired on or after January 1, 1992.]~~

1158 (d) Service credit shall be accrued on a fiscal or calendar year basis as determined by the  
1159 participating employer.

1160 (e) A member may not accrue more than one year of service credit per fiscal or calendar  
1161 year as determined by the office.

1162 (f) Fractions of years of service credit shall be accumulated and counted in proportion to  
1163 the work performed.

1164 (4) The office may estimate the amount of service credit, compensation, or age of any  
1165 member, participant, or alternate payee, if information is not contained in the records.

1166 ~~[(3) (a) The board may adopt rules under which a member may make the necessary~~  
1167 ~~contributions to the system for purchases or redeposits under this title through a~~  
1168 ~~direct transfer, direct rollover or rollover from a qualified plan under Section 401, Internal~~  
1169 ~~Revenue Code, or an eligible individual retirement account.]~~

1170 ~~[(b) The board may reject any contributions if the board determines the tax status of the~~  
1171 ~~system would be jeopardized by allowing the contribution.]~~

1172 ~~[(c) For purposes of this section, a direct rollover shall be determined under the provisions~~  
1173 ~~of Section 401(a)(31), Internal Revenue Code.]~~

1174 Section 16. Section **49-11-402**, which is renumbered from Section 49-1-402 is renumbered

1175 and amended to read:

1176 ~~[49-1-402].~~ **49-11-402. Purchase of military service credit.**

1177 ~~[(1) (a) Members with full-time military service not qualifying for service credit under this~~  
1178 ~~title may purchase credit for that military service or the employer may make the purchase on behalf~~  
1179 ~~of the member by making contributions to the system in an amount recommended by the~~  
1180 ~~consulting actuary.]~~

1181 ~~[(b) Contributions shall be based on age and salary and the purchase shall be made through~~  
1182 ~~payroll deductions or through a lump sum deposit based upon the present value of future~~  
1183 ~~payments.]~~

1184 ~~[(c) Military service credit acquired in this manner is limited to a maximum of four years.]~~

1185 ~~[(d) Total payment must be completed prior to retirement or service will be prorated in~~  
1186 ~~accordance with the amount paid. (2) Any employee of a covered unit, who has status as a]~~

1187 (1) A member [of a retirement system authorized by this title and] who is absent from  
1188 employment with a participating employer by reason of an official call to full-time United States  
1189 military service [in the armed forces of the United States;] may receive service credit for that  
1190 military service as follows:

1191 (a) the member [and], the participating employer, or the member and participating  
1192 employer jointly shall make the [appropriate contributions] required payments, as determined by  
1193 the office, to the [retirement] system in which the member participated at the time of the official  
1194 call, according to the law governing that particular system;

1195 (b) prior to a member's retirement date, the [contributions] required payments shall be  
1196 made;

1197 (i) during the period of [the official call, or a contribution adjustment shall be made  
1198 subsequent to the official call, but at least five years prior to the member's retirement date;]  
1199 full-time United States military service;

1200 (ii) after the military service, but within a period not to exceed three times the period of  
1201 military service up to a maximum of five years; or

1202 (iii) as otherwise allowed by federal law;

1203 (c) required payments shall be based on the member's compensation at the time of the  
1204 official military call;

1205 (d) if a required payment is not made within the time allowed under Subsection (1)(b), the

1206 member or participating employer may purchase the service credit as allowed in Subsection (2);  
1207 and

1208 ~~[(c)]~~ (e) the member [must] shall return to [covered service] employment with the  
1209 participating employer upon receiving an honorable discharge from military service and there may  
1210 not be intervening employment outside of [covered service ; and] the employment with the  
1211 participating employer.

1212 ~~[(d) contributions shall be based on the member's compensation at the time of the official~~  
1213 ~~military call.]~~

1214 (2) (a) A member, a participating employer, or a member and a participating employer  
1215 jointly, may purchase service credit for full-time United States military service, resulting from an  
1216 official call to duty, if the member has four or more years of service credit and the military service  
1217 does not otherwise qualify for service credit under this title.

1218 (b) Payment to the office for a military service credit purchase shall be made to the system  
1219 under which the member is currently covered in an amount determined by the office based on a  
1220 formula recommended by the actuary and adopted by the board.

1221 (c) The purchase shall be made through payroll deductions or through a lump sum deposit  
1222 based upon the present value of future payments.

1223 (d) If total payment is not completed prior to retirement, service credit shall be prorated  
1224 in accordance with the amount paid.

1225 (3) For purposes of this section, full-time United States military service does not include  
1226 any regularly scheduled or annual military service that is required by a reserve unit, National Guard  
1227 unit, or any other United States military unit.

1228 (4) (a) If any of the factors used to determine the cost of a service credit purchase change  
1229 at or before the member's retirement date, the cost of the purchase shall be recalculated.

1230 (b) If the recalculated cost exceeds the amount paid for the purchase, the member may:  
1231 (i) pay the increased cost, plus interest, to receive the full amount of service credit; or  
1232 (ii) not pay the increased cost and have the purchased service credit prorated.

1233 (5) If the recalculated cost under Subsection (4) is less than the amount paid for the  
1234 purchase, the office shall refund the excess payment to the member or participating employer who  
1235 paid for the purchase.

1236 (6) (a) The board may adopt rules under which a member may make the necessary



1237 payments to the office for purchases under this title as permitted by federal law.

1238 (b) The office may reject any payments if the office determines the tax status of the system,  
1239 plans, or programs would be jeopardized by allowing the payment.

1240 Section 17. Section **49-11-403**, which is renumbered from Section 49-1-407 is renumbered  
1241 and amended to read:

1242 ~~[49-1-407].~~ **49-11-403. Purchase of public service credit not otherwise qualifying**  
1243 **for benefit.**

1244 (1) A member, a participating employer, or a member and a participating employer jointly  
1245 may purchase service credit equal to the period of the member's [service] employment in the  
1246 following:

1247 (a) United States federal employment;

1248 (b) ~~[private school]~~ employment in a private school based in the United States;

1249 (c) public employment in this or another state that does not qualify for service credit under  
1250 a system administered by the board which qualifies the member for membership in the public plan  
1251 or system covering the employment, but only if the member does not qualify for any retirement  
1252 benefits based on the employment;

1253 ~~[(d) employment in a university or a public school system if the member is on a leave of~~  
1254 ~~absence for reasons relating to employment;]~~

1255 ~~[(e)]~~ (d) forfeited ~~[public]~~ service credit in this state if the member does not qualify for [a  
1256 retirement benefit for that service; or] an allowance based on the service credit;

1257 (e) full-time public service while on an approved leave of absence; or

1258 (f) the period of time for which disability benefits were paid if:

1259 (i) the member was receiving:

1260 (A) long-term disability benefits;

1261 (B) short-term disability benefits; or

1262 (C) worker's compensation disability benefits; and

1263 (ii) the member's employer had not entered into a benefit protection contract ~~[pursuant to]~~  
1264 under Section [49-1-404] 49-11-404 during the period the member was disabled due to sickness  
1265 or accident.

1266 ~~[(2) To purchase credit, the member shall pay an amount fixed by the administrator that~~  
1267 ~~is established on an actuarial equivalent basis.]~~

1268 ~~[(3) The purchase may be made through payroll deductions or through a lump-sum~~  
1269 ~~deposit.]~~

1270 ~~[(4) The employer may make the purchase on behalf of the member.]~~

1271 ~~[(5) Total payment must be completed prior to retirement or service will be prorated in~~  
1272 ~~accordance with the amount paid.]~~

1273 (2) A member shall have:

1274 (a) at least four years of service credit before a purchase can be made under this section;  
1275 and

1276 (b) forfeited service credit under any other retirement system or plan based on the public  
1277 employment for which service credit is being purchased.

1278 (3) To purchase credit under this section, the member or participating employer shall make  
1279 payment to the system in an amount determined by the office based on a formula recommended  
1280 by the actuary and adopted by the board.

1281 (4) The purchase may be made through payroll deductions or through a lump sum deposit  
1282 based upon the present value of future payments.

1283 (5) Total payment must be completed prior to the member's effective date of retirement  
1284 or service credit will be prorated in accordance with the amount paid.

1285 (6) (a) If any of the factors used to determine the cost of a service credit purchase change  
1286 at or before the member's retirement date, the cost of the purchase shall be recalculated.

1287 (b) If the recalculated cost exceeds the amount paid for the purchase, the member may:

1288 (i) pay the increased cost, plus interest, to receive the full amount of service credit; or

1289 (ii) not pay the increased cost and have the purchased service credit prorated.

1290 (7) If the recalculated cost under Subsection (6) is less than the amount paid for the  
1291 purchase, the office shall refund the excess payment to the member or participating employer who  
1292 paid for the purchase.

1293 (8) (a) The board may adopt rules under which a member may make the necessary  
1294 payments to the office for purchases under this title as permitted by federal law.

1295 (b) The office may reject any payments if the office determines the tax status of the system,  
1296 plans, or programs would be jeopardized by allowing the payment.

1297 Section 18. Section **49-11-404**, which is renumbered from Section 49-1-404 is renumbered  
1298 and amended to read:

1299 ~~[49-1-404].~~ **49-11-404. Benefit protection contract authorized.**

1300 ~~[(1) Any department or political subdivision covered by any system administered by the~~  
1301 ~~retirement office that has established a paid salary protection program under which its officers or~~  
1302 ~~employees, during periods of disability arising out of sickness or accident, are paid by it or by an~~  
1303 ~~insurance underwriter at the disabled member's rate of compensation in effect at the time disability~~  
1304 ~~occurred and the program is substantially equivalent to the program offered under Title 49, Chapter~~  
1305 ~~9, may with the approval of the board, enter into a "benefit protection contract" with the retirement~~  
1306 ~~office.]~~

1307 (1) (a) A participating employer may establish a salary protection program under which  
1308 its employees are paid during periods of disability.

1309 (b) If a salary protection program is established, a participating employer may enter into  
1310 benefit protection contracts with the office.

1311 (c) A salary protection program shall:

1312 (i) pay benefits based on the disabled member's rate of compensation at the time of  
1313 disability;

1314 (ii) be substantially equivalent to the long-term disability programs offered under Chapter  
1315 21, Public Employees' Long-Term Disability Act; and

1316 (iii) comply with requirements adopted by the board.

1317 (2) ~~[The]~~ A benefit protection contract shall ~~[provide a means whereby]~~ allow:

1318 (a) the disabled member ~~[is]~~ to be considered ~~[to be]~~ an active ~~[participating]~~ member ~~[of~~  
1319 ~~this retirement]~~ in a system and ~~[as such continues]~~ continue to accrue ~~[full-time]~~ service credit  
1320 and salary ~~[credits during the time employer contributions,]~~ credit based ~~[upon]~~ on the member's  
1321 ~~[full]~~ rate of pay in effect at the time disability ~~[began, are paid to the retirement office]~~  
1322 commences;

1323 (b) the office to require participating employer contributions to be paid before granting  
1324 service credit and salary credit to the member;

1325 ~~[(b)]~~ (c) the disabled member ~~[or beneficiary remains]~~ to remain eligible during the  
1326 contract period for any ~~[retirement system]~~ benefits provided by the ~~[retirement]~~ system that covers  
1327 the member; and

1328 ~~[(c)]~~ (d) the benefit for the disabled member ~~[is]~~ to be improved by the annual  
1329 cost-of-living increase factor applied to retired members of the system that covered the ~~[employee]~~

1330 ~~at the time of disability]~~ member on the date the member is eligible to receive benefits under a  
1331 benefit protection contract.

1332 (3) (a) The [~~board]~~ office shall establish the manner and times when employer  
1333 contributions are [~~to be~~] paid.

1334 (b) A failure to make the required payments is cause for the [~~board]~~ office to cancel [~~the~~  
1335 ~~contracts as to any individual covered by the]~~ a contract.

1336 (c) Service credit and salary [~~credits]~~ credit granted and accrued up to the time of  
1337 cancellation[~~, however,~~] may not be forfeited.

1338 (4) The board may adopt rules to implement and administer this section.

1339 Section 19. Section **49-11-405**, which is renumbered from Section 49-1-406 is renumbered  
1340 and amended to read:

1341 ~~[49-1-406].~~ **49-11-405. Service credit from different systems or plans -- Eligibility**  
1342 **and calculation of service credit.**

1343 (1) [~~Any]~~ (a) A member who has [~~years of~~] service credit from two or more systems or  
1344 [~~plans administered by the board which is not concurrent service]~~ one or more systems and the  
1345 Utah Governors' and Legislators' Retirement Plan may combine [~~these credits]~~ service credit for  
1346 purposes of determining eligibility for retirement.

1347 (b) The provisions of Subsection (1)(a) do not apply to concurrent service.

1348 (2) To be eligible for the calculation under Subsection (3), the member's [~~years of~~] service  
1349 [~~credits]~~ credit earned under the [~~two or more~~] different [~~retirement]~~ systems or the Utah  
1350 Governors' and Legislators' Retirement Plan shall at least equal the minimum [~~number of years]~~  
1351 amount of service credit required to retire [~~under the system from which the member is seeking~~  
1352 ~~to retire]~~ from the system which most recently covered the member.

1353 (3) If [~~the]~~ a member meets the requirements of Subsection (2), the [~~board]~~ office shall  
1354 calculate the member's [~~retirement]~~ allowance using all [~~credits]~~ service credit earned from any  
1355 [~~retirement]~~ system or the Utah Governors' and Legislators' Retirement Plan, with no actuarial  
1356 reduction applied to the allowance, except the [~~years of~~] service credit used to calculate the benefit  
1357 shall be increased or decreased to reflect the value of the assets transferred [~~to effectuate the~~  
1358 ~~calculation of the allowance]~~.

1359 (4) The [~~retirement board]~~ office shall [~~adopt rules to~~] establish the standards used for  
1360 calculating any increase or decrease in the [~~years of~~] service credit.

1361 (5) This section does not apply to a retiree who is subject to Section 49-11-504.

1362 Section 20. Section **49-11-501**, which is renumbered from Section 49-1-502 is renumbered  
1363 and amended to read:

1364 **Part 5. General Member Provisions**

1365 ~~[49-1-502].~~ **49-11-501. Refunds of member contributions -- Transfers of**  
1366 **contributions to defined contribution plan.**

1367 (1) If a member shall for any cause, except retirement, permanent or temporary disability,  
1368 or death, [~~cease to be employed in covered services for an employer then~~] terminate employment  
1369 with a participating employer the member may[?] leave the member contributions in the fund or  
1370 may receive a refund of the member contributions as provided under this section.

1371 [~~(a) By signing a written request, affirming therein that the member has neither applied for,~~  
1372 ~~nor contemplates further employment with a covered unit, and directing the request to the~~  
1373 ~~retirement office, receive a refund of all accumulated contributions, less a withdrawal fee the~~  
1374 ~~amount of which the board shall establish by rule for the purpose of reimbursing its administrative~~  
1375 ~~fund for the cost entailed by the withdrawal. Notwithstanding the written request, if a member~~  
1376 ~~who has requested a refund accepts employment with another covered unit within the 60-day~~  
1377 ~~period, the member shall inform the retirement office immediately. In the event of this election,~~  
1378 ~~a terminating employee, upon later reemployment by an employer under this title, unless the~~  
1379 ~~employee redeposits the refund as permitted by this section, shall be treated as a new employee and~~  
1380 ~~the employee's service history and benefit rights shall then be based upon current services from the~~  
1381 ~~date of reemployment in covered services.]~~

1382 [~~(b) Leave the member's account in the fund intact. In the event of this election, a~~  
1383 ~~terminating employee shall retain status as a member of the system, except for the lack of~~  
1384 ~~contributions paid into the fund by the member or on the member's behalf. In the event of~~  
1385 ~~reemployment by an employer for services covered by this title, the employee's service history and~~  
1386 ~~benefit rights shall be based upon the service credit accredited to the employee at the time of the~~  
1387 ~~employee's most recent termination of employment, as well as upon the current service credit that~~  
1388 ~~is acquired as the result of reemployment.]~~

1389 [~~(2) Upon the attainment of retirement age, an inactive member has the same rights to~~  
1390 ~~retirement benefits, if so eligible, as any active employee member.]~~

1391 [~~(3) Refunds of vested contributions may not be made prior to 60 days from the last day~~

1392 ~~the contributions were made, and only upon the termination of the member.]~~

1393 ~~[(4) No refund may be made to an active member of any retirement system administered~~  
1394 ~~by the board. Contributions made in error will be returned to the employing unit.]~~

1395 (2) A member who applies for a refund of member contributions shall apply in writing on  
1396 forms provided by the office.

1397 (3) A refund of member contributions may not be made to a member within 60 days from  
1398 the last date of the pay period for which contributions are made by or on behalf of the member.

1399 (4) If the member is reemployed by a participating employer within the time period under  
1400 Subsection (3), the member is not eligible for a refund.

1401 (5) A member who receives a refund of member contributions forfeits the service credit  
1402 based on those contributions.

1403 ~~[(5) Members]~~ (6) A member who ~~[are]~~ is exempted from a ~~[retirement]~~ system  
1404 ~~[administered by the board]~~ but who ~~[remain]~~ remains employed by a ~~[covered unit]~~ participating  
1405 employer may request a plan-to-plan transfer of ~~[vested, untaxed employee contributions to a~~  
1406 ~~salary deferral plan administered by the board, as permitted by federal law]~~ member contributions  
1407 to a qualified defined contribution plan administered by the board.

1408 ~~[(6) An employee, who is no longer a member of a retirement system administered by the~~  
1409 ~~board because the employee's employing unit withdrew from the retirement systems under this~~  
1410 ~~title, may request a plan transfer of vested employee contributions to a plan offered by the~~  
1411 ~~employer that is qualified to receive the transfer under federal law.]~~

1412 (7) A member who remains employed with an employer which has withdrawn from a  
1413 system may request a plan-to-plan transfer of member contributions to a qualified defined  
1414 contribution plan administered by the board or a qualified plan offered by the member's employer.

1415 (8) Refund interest shall be paid on refunds of member contributions under this section.

1416 Section 21. Section **49-11-502**, which is renumbered from Section 49-1-503 is renumbered  
1417 and amended to read:

1418 ~~[49-1-503].~~ **49-11-502. Redeposits of refunds -- Time period.**

1419 (1) ~~[A]~~ (a) ~~If a member [of any system who withdraws accumulated contributions upon~~  
1420 ~~a previous termination of employment and who returns to covered employment in a status~~  
1421 ~~prerequisite for membership may redeposit or the member's employer may redeposit the~~  
1422 ~~accumulated]~~ receives a refund of member contributions and is subsequently reemployed in a

1423 position covered by a system or the Utah Governors' and Legislators' Retirement Plan, the  
1424 participating employer or the member may redeposit an amount equal to the member contributions  
1425 [withdrawn, together with] refunded and interest charged under Section 49-11-503.

1426 (b) The interest shall be compounded annually from the date of refund through the month  
1427 of payment[~~at rates compounded annually under Section 49-1-504~~].

1428 (c) If a redeposit is made, service credit shall be restored [and credited to the same  
1429 retirement system from which the refund was taken providing that the total redeposit is made prior  
1430 to retirement] to the member's account and credited to the same system or the Utah Governors' and  
1431 Legislator's Retirement Plan from which the refund was taken.

1432 (2) (a) A member may redeposit [a previous] an amount equal to a prior refund of member  
1433 contributions and interest charges in one lump sum or [may redeposit the refund amount and  
1434 interest charges] in monthly installments by payroll deduction in a time period determined by the  
1435 [executive director] office.

1436 (b) If the total redeposit is not made prior to the member's retirement date, the amount of  
1437 redeposit paid to the office shall be refunded to the member without interest and the member is not  
1438 entitled to service credit based on the amount of the refund.

1439 (c) The interest rate charged during the installment period shall be a fixed rate calculated  
1440 at the time of the first installment payment in accordance with Section 49-11-503.

1441 (3) A member who redeposits a refund of member contributions under this section shall  
1442 receive the amount of service credit forfeited in taking the refund.

1443 (4) (a) For purposes of this section, the Public Employees' Contributory Retirement  
1444 System created under Chapter 12, and the Public Employees' Noncontributory Retirement System  
1445 created under Chapter 13, are considered one system.

1446 (b) For purposes of this section, the Public Safety Contributory Retirement System created  
1447 under Chapter 14, and the Public Safety Noncontributory Retirement System created under Chapter  
1448 15, are considered one system.

1449 (c) For purposes of this section, the Judges' Contributory Retirement System created under  
1450 Chapter 17, and the Judges' Noncontributory Retirement System created under, Chapter 18, are  
1451 considered one system.

1452 (5) (a) The board may make rules to allow a member to make the necessary payments to  
1453 the office for redeposits under this title as permitted by federal law.

1454 (b) The office may reject any payments if the office determines the tax status of the  
1455 systems, plans, or programs may be jeopardized by allowing the payment.

1456 Section 22. Section **49-11-503**, which is renumbered from Section 49-1-504 is renumbered  
1457 and amended to read:

1458 ~~[49-1-504].~~ **49-11-503. Rate of interest on redeposits, purchases, and delinquent**  
1459 **payments.**

1460 The rate of interest charged on redeposits of refunds, ~~[withdrawals]~~ purchases, or  
1461 delinquent ~~[contributions]~~ payments is the greater of:

1462 (1) ~~[the average rate of the effective yield for the previous five years, rounded off to the~~  
1463 ~~nearest whole or quarter percent rate, which has been earned by the Utah State Retirement~~  
1464 ~~Investment Fund at the end of each preceding calendar year, as determined by the executive~~  
1465 ~~director and]~~ the interest rate as determined under a formula approved by the board; or

1466 (2) the actuarial interest rate as of the preceding June 30.

1467 Section 23. Section **49-11-504**, which is renumbered from Section 49-1-505 is renumbered  
1468 and amended to read:

1469 ~~[49-1-505].~~ **49-11-504. Reemployment of a retiree -- Restrictions.**

1470 ~~[The following laws govern the reemployment of a member of any system administered~~  
1471 ~~by the board who has retired from any agency and who returns to work at that agency after~~  
1472 ~~retirement. A member of any system administered by the board who has retired from any agency~~  
1473 ~~and who returns to work for a private employer or at a different agency from which the member~~  
1474 ~~retired is not subject to any reemployment restrictions under this section, except as provided in~~  
1475 ~~Subsection (4).]~~

1476 ~~[(1) (a) (i) If a member of any system administered by the board retires from any agency~~  
1477 ~~and is reemployed within a six month period by the agency from which the member retired,~~  
1478 ~~including exempt positions, but excluding part-time or full-time elected officials, the employer~~  
1479 ~~shall immediately notify the administrator.]~~

1480 ~~[(ii) If the member has full-time employment and is not subject to Subsection (1)(b), the~~  
1481 ~~administrator shall cancel the member's retirement allowance and reinstate the member to active~~  
1482 ~~member status.]~~

1483 ~~[(iii) This cancellation of retirement and reinstatement to active status is effective on the~~  
1484 ~~first day of the month following the date of reemployment.]~~



1485 ~~[(iv) If a member's retirement allowance is cancelled and the member is reinstated to active~~  
1486 ~~member status pursuant to this subsection, the member may not retire again with a recalculated~~  
1487 ~~benefit for a two-year period from the date of cancellation of the original retirement. If the~~  
1488 ~~member retires again within the two-year period, the original retirement benefit shall be resumed.]~~

1489 ~~[(v) A reinstated member shall be credited with the service credits standing to the~~  
1490 ~~member's account at the time of the first retirement and from that time shall be treated as a member~~  
1491 ~~of the system in all respects, including the accrual of additional service credits but subject to~~  
1492 ~~recalculation of the retirement allowance under Subsection (4).]~~

1493 ~~[(b) (i) If the member is reemployed on a part-time basis or is not an elected official and~~  
1494 ~~is otherwise subject to Section 49-4-205, 49-4a-206, or 49-5-204, that member or employee may~~  
1495 ~~earn, without penalty, compensation from that position or employment which is not in excess of~~  
1496 ~~the exempt earnings permitted by Social Security.]~~

1497 ~~[(ii) If a member or an employee receives compensation in a calendar year in excess of the~~  
1498 ~~limitation, 25% of the retirement allowance shall be suspended.]~~

1499 ~~[(iii) The effective date of a suspension and reinstatement of an allowance shall be set by~~  
1500 ~~the administrator.]~~

1501 ~~[(iv) Any suspension of a member's retirement allowance pursuant to Subsection (1)(b)(ii)~~  
1502 ~~shall be calculated on a calendar year basis.]~~

1503 ~~[(2) The member and employer shall maintain an accurate record of gross earnings in~~  
1504 ~~employment after retirement, shall report the gross earnings on a monthly basis to the retirement~~  
1505 ~~office, and shall immediately notify the administrator in writing of any postretirement earnings~~  
1506 ~~under Subsection (1)(a) and whether postretirement earnings equal or exceed the exempt earnings~~  
1507 ~~under Subsection (1)(b).]~~

1508 ~~[(3) If a member is reinstated to active service and subsequently retires after the two-year~~  
1509 ~~period as provided in Subsection (1)(a)(iv), the member's retirement allowance shall be calculated~~  
1510 ~~using:]~~

1511 ~~[(a) the formula in effect at the date of the member's original retirement for all service prior~~  
1512 ~~to that date; and]~~

1513 ~~[(b) the formula in effect at the date of the subsequent retirement for all service rendered~~  
1514 ~~between the first and the subsequent retirement dates.]~~

1515 ~~[(4) (a) A member who has retired from any agency and who returns to work at that~~

1516 ~~agency or a different agency from which the member retired may not accrue any additional service~~  
1517 ~~credit, except that a member who cancels the retirement allowance under Subsection (1) may earn~~  
1518 ~~additional service credit.]~~

1519 ~~[(b) If a member may not accrue additional service credit under Subsection (4)(a), then the~~  
1520 ~~member's employer shall contribute the same percentage of the member's salary that would have~~  
1521 ~~been contributed if the member were a member of the retirement system to a:]~~

1522 ~~[(i) defined contribution plan administered by the board if the employer participates in the~~  
1523 ~~defined contribution plan administered by the board; or]~~

1524 ~~[(ii) defined contribution plan offered by the employer if the employer does not participate~~  
1525 ~~in the defined contribution plan administered by the board.]~~

1526 ~~[(5) For the purposes of this section:]~~

1527 ~~[(a) "full-time" employment means employment of 20 or more hours per week; and]~~

1528 ~~[(b) "part-time" employment means employment of less than 20 hours per week.]~~

1529 ~~(1) A person who retires from a nonparticipating employer is not subject to any~~  
1530 ~~postretirement restrictions under this title.~~

1531 ~~(2) A retiree of an agency who returns to work at a different agency is not subject to any~~  
1532 ~~postretirement restrictions under this section and may not earn additional service credit.~~

1533 ~~(3) For the purposes of Subsections (4) and (5), "full-time" employment means~~  
1534 ~~employment requiring compensation for 20 hours per week or more or at least a half-time teaching~~  
1535 ~~contract.~~

1536 ~~(4) A retiree of an agency who is reemployed on a full-time basis by the same agency~~  
1537 ~~within six months of the date of retirement is subject to the following:~~

1538 ~~(a) the agency shall immediately notify the office;~~

1539 ~~(b) the office shall cancel the retiree's allowance and reinstate the retiree to active member~~  
1540 ~~status;~~

1541 ~~(c) the allowance calculations and reinstatement to active member status is effective on~~  
1542 ~~the first day of the month following the date of reemployment;~~

1543 ~~(d) the reinstated retiree may not retire again with a recalculated benefit for a two-year~~  
1544 ~~period from the date of cancellation of the original allowance, and if the retiree retires again within~~  
1545 ~~the two-year period, the original allowance shall be resumed; and~~

1546 ~~(e) a reinstated retiree shall be credited with the service credit in the retiree's account at~~

1547 the time of the first retirement and from that time shall be treated as a member of a system,  
1548 including the accrual of additional service credit, but subject to recalculation of the allowance  
1549 under Subsection (9).

1550 (5) A retiree of an agency who is reemployed within six months of retirement on a less  
1551 than full-time basis by the same agency is subject to the following:

1552 (a) the retiree may earn, without penalty, compensation from that position which is not in  
1553 excess of the exempt earnings permitted by Social Security;

1554 (b) if a retiree receives compensation in a calendar year in excess of the Social Security  
1555 limitation, 25% of the allowance shall be suspended for the remainder of the six-month period;

1556 (c) the effective date of a suspension and reinstatement of an allowance shall be set by the  
1557 office; and

1558 (d) any suspension of a retiree's allowance under this Subsection (5) shall be applied on  
1559 a calendar year basis.

1560 (6) For six months immediately following retirement, the retiree and participating  
1561 employer shall:

1562 (a) maintain an accurate record of gross earnings in employment;

1563 (b) report the gross earnings at least monthly to the office;

1564 (c) immediately notify the office in writing of any postretirement earnings under  
1565 Subsection (4); and

1566 (d) immediately notify the office in writing whether postretirement earnings equal or  
1567 exceed the exempt earnings under Subsection (5).

1568 (7) A retiree of an agency who is reemployed by the same agency after six months from  
1569 the retirement date is not subject to any postretirement penalties under this title and may not earn  
1570 additional service credit.

1571 (8) If a participating employer hires a retiree that may not earn additional service credit  
1572 under this section, the participating employer shall contribute the same percentage of a retiree's  
1573 salary that the participating employer would have been required to contribute if the retiree were  
1574 an active member, up to the amount allowed by federal law, to a retiree designated:

1575 (a) defined contribution plan administered by the board, if the participating employer  
1576 participates in the defined contribution plan administered by the board; or

1577 (b) defined contribution plan offered by the participating employer if the participating

1578 employer does not participate in a defined contribution plan administered by the board.

1579 (9) Notwithstanding any other provision of this section, a retiree who has returned to work,  
1580 accrued additional service credit, and again retires shall have the retiree's allowance recalculated  
1581 using:

1582 (a) the formula in effect at the date of the retiree's original retirement for all service credit  
1583 accrued prior to that date; and

1584 (b) the formula in effect at the date of the subsequent retirement for all service credit  
1585 accrued between the first and subsequent retirement dates.

1586 (10) This section does not apply to elected positions.

1587 ~~[(6)]~~ (11) The board may make rules to implement this section.

1588 Section 24. Section **49-11-601**, which is renumbered from Section 49-1-601 is renumbered  
1589 and amended to read:

#### 1590 **Part 6. Procedures and Records**

1591 ~~[49-1-601].~~ **49-11-601. Payment of employer contributions -- Penalties for failure**  
1592 **to comply -- Adjustments to be made.**

1593 (1) The employer contributions, fees, ~~[and]~~ premium taxes, contribution adjustments, and  
1594 other required payments shall be paid to the ~~[fund]~~ office by the participating employer ~~[in~~  
1595 ~~accordance with rules adopted by the board]~~ as determined by the executive director.

1596 (2) ~~[Any employing unit]~~ A participating employer that fails to withhold the amount of any  
1597 ~~[employee]~~ member contributions ~~[is required to pay the contribution, together with any employer~~  
1598 ~~contribution, fee, or premium tax, to the fund, if necessary, out of its own funds],~~ as soon as  
1599 administratively possible, shall also pay the member contributions to the office out of its own  
1600 funds.

1601 (3) ~~[(a)]~~ If ~~[an employing unit]~~ a participating employer does not make the ~~[payments]~~  
1602 contributions required by this title ~~[as the payments become due, there is added as part of the~~  
1603 ~~amounts due, except for corrections in the amounts of contributions, fees, and premium taxes~~  
1604 ~~arising out of error in computation, interest established under this title.]~~ within 60 days of the end  
1605 of the pay period, the participating employer is liable to the office as provided in Section  
1606 49-11-604 for:

1607 (a) delinquent contributions;

1608 (b) refund interest on the delinquent contributions; and

1609 (c) a 12% per annum penalty on delinquent contributions.

1610 ~~[(b)]~~ (4) The ~~[board]~~ executive director may waive all or any part of the interest, penalties,  
1611 expenses, and fees if the ~~[board]~~ executive director finds there were extenuating circumstances  
1612 surrounding ~~[any delinquencies]~~ the participating employer's failure to comply with this section.

1613 ~~[(4) If more or less than the correct amount of contributions, fees, and premium taxes~~  
1614 ~~required by this title is deducted with respect to any payment of compensation, the employer shall~~  
1615 ~~make the necessary adjustment with or without interest as required by the board.]~~

1616 (5) Contributions made in error will be refunded to the participating employer or member  
1617 that made the contributions.

1618 Section 25. Section **49-11-602**, which is renumbered from Section 49-1-602 is renumbered  
1619 and amended to read:

1620 ~~[49-1-602].~~ **49-11-602. Participating employer to maintain records -- Time limit --**

1621 **Penalties for failure to comply.**

1622 (1) ~~[Each employing unit]~~ A participating employer shall maintain records ~~[and file reports~~  
1623 ~~relating to compensation, employees, service, and other factors relating to the proper~~  
1624 ~~administration of this title under rules adopted by the board]~~ necessary to calculate benefits under  
1625 this title and other records necessary for proper administration of this title as required by the office.

1626 ~~[(2) A penalty of 1% of the covered unit's last monthly employer contribution to the~~  
1627 ~~system may be assessed by the board for each week a required payroll report of members' earnings~~  
1628 ~~and employer contributions is delinquent beyond a 60-day grace period beginning with the month~~  
1629 ~~after the month in which the report is due.]~~

1630 (2) A participating employer shall maintain the records required under Subsection (1) until  
1631 three years after the latest of:

1632 (a) the date of retirement of the employee from a system or plan; or

1633 (b) the date of death of the employee.

1634 (3) A participating employer shall be liable to the office for:

1635 (a) any liabilities and expenses, including administrative expenses and the cost of  
1636 increased benefits to members, resulting from the participating employer's failure to maintain  
1637 records under this section; and

1638 (b) 12% per annum penalty of those liabilities and expenses.

1639 (4) The executive director may waive all or any part of the interest, penalties, expenses,

1640 and fees if the executive director finds there were extenuating circumstances surrounding the  
1641 participating employer's failure to comply with this section.

1642 (5) The executive director may estimate the length of service, compensation, or age of any  
1643 member, if that information is not contained in the records.

1644 Section 26. Section **49-11-603** is enacted to read:

1645 **49-11-603. Participating employer to report and certify -- Time limit -- Penalties for**  
1646 **failure to comply.**

1647 (1) As soon as administratively possible, but in no event later than 60 days after the end  
1648 of each pay period, a participating employer shall report and certify to the office:

1649 (a) the eligibility for service credit accrual of:

1650 (i) all current members;

1651 (ii) each new member as they begin employment; and

1652 (iii) any changes to eligibility for service credit accrual of each member.

1653 (b) the compensation of each current member eligible for service credit; and

1654 (c) other factors relating to the proper administration of this title as required by the  
1655 executive director.

1656 (2) Each participating employer shall submit the reports required under Subsection (1) in  
1657 a form approved by the office.

1658 (3) A participating employer shall be liable to the office for:

1659 (a) any liabilities and expenses, including administrative expenses and the cost of  
1660 increased benefits to members, resulting from the participating employer's failure to correctly  
1661 report and certify records under this section;

1662 (b) 12% per annum penalty of those liabilities and expenses; and

1663 (c) attorneys' fees.

1664 (4) The executive director may waive all or any part of the interest, penalties, expenses,  
1665 and fees if the executive director finds there were extenuating circumstances surrounding the  
1666 participating employer's failure to comply with this section.

1667 (5) The executive director may estimate the length of service, compensation, or age of any  
1668 member, if that information is not contained in the records.

1669 Section 27. Section **49-11-604** is enacted to read:

1670 **49-11-604. Office audits of participating employers -- Penalties for failure to comply.**

1671 (1) (a) The office may perform on-site compliance audits of participating employers to  
1672 determine compliance with reporting, contribution, and certification requirements under this title.

1673 (b) The office may request records to be provided by the participating employer at the time  
1674 of the audit.

1675 (c) Audits shall be conducted at the sole discretion of the office after reasonable notice to  
1676 the participating employer of at least five working days.

1677 (d) The participating employer shall extract and provide records as requested by the office  
1678 in an appropriate, organized, and usable format.

1679 (e) Failure of a participating employer to allow access, provide records, or comply in any  
1680 way with an office audit shall result in the participating employer being liable to the office for:

1681 (i) any liabilities and expenses, including administrative expenses and travel expenses,  
1682 resulting from the participating employer's failure to comply with the audit; and

1683 (ii) a 1% penalty of the participating employer's last month's contributions.

1684 (2) If the audit reveals a participating employer's failure to make contributions as required  
1685 under Section 49-11-601, a failure to maintain records as required under Section 49-11-602, or a  
1686 failure to correctly report or certify eligibility as required under Section 49-11-603, the  
1687 participating employer shall reimburse the office for the cost of the audit.

1688 (3) If the audit reveals that an incorrect benefit has been paid by the office to a member,  
1689 participant, alternate payee, or beneficiary due to a participating employer's failure to comply with  
1690 the requirements of Section 49-11-601, 49-11-602, or 49-11-603, in addition to the liabilities  
1691 contained in Subsection (2), the participating employer shall be liable to the office for the  
1692 following:

1693 (a) the actuarial cost of correcting the incorrect benefit; and

1694 (b) administrative expenses.

1695 (4) The executive director may waive all or any part of the interest, penalties, expenses,  
1696 and fees if the executive director finds there were extenuating circumstances surrounding the  
1697 participating employer's failure to comply with this section.

1698 Section 28. Section **49-11-605** is enacted to read:

1699 **49-11-605. Notification and correction of violations.**

1700 If a participating employer discovers that it has violated Section 49-11-601, 49-11-602, or  
1701 49-11-603 prior to the office becoming aware of the violation, notifies the office of the violation

1702 in writing, and corrects the violation within a period agreed to by the office, the penalties under  
1703 those sections shall be waived.

1704 Section 29. Section **49-11-606** is enacted to read:

1705 **49-11-606. Full participation.**

1706 Except as provided in Sections 49-12-203, 49-12-204, 49-13-203, 49-13-204, 49-14-203,  
1707 and 49-15-203, participating employers shall cover all employees eligible for service credit under  
1708 this title.

1709 Section 30. Section **49-11-607**, which is renumbered from Section 49-1-603 is renumbered  
1710 and amended to read:

1711 **[49-1-603]. 49-11-607. Determination of benefits -- Errors in records or**  
1712 **calculations -- Correction of errors by the office.**

1713 (1) After the ~~[date of]~~ retirement date, which shall be set by a member in the member's  
1714 application for retirement, no alteration, addition, or cancellation of a benefit may be made except  
1715 as provided in Subsections (2), (3), and (4) or other law.

1716 (2) (a) Errors in the records or in the calculations of the ~~[retirement]~~ office which result  
1717 in an incorrect benefit to any member, retiree, participant, insured, alternate payee, or beneficiary  
1718 ~~[receiving more or less than the member or beneficiary is entitled to receive]~~ shall be corrected by  
1719 the ~~[administrator]~~ office.

1720 (b) Future payments shall be made to any member, retiree, participant, insured, alternate  
1721 payee, or beneficiary~~[, insofar as practicable, on an actuarially equivalent basis so as]~~ to:

1722 ~~[(a)]~~ (i) pay the benefit to which the member or beneficiary was entitled; or

1723 ~~[(b)]~~ (ii) recover any overpayment.

1724 ~~[(3) When it is documented that an incorrect calculation by an employing unit has resulted~~  
1725 ~~in a decreased benefit to a retirant, and the incorrect calculation is due to a bona fide error in~~  
1726 ~~employer records, the error may be corrected by the administrator, if the employing unit makes the~~  
1727 ~~calculation adjustment required by the administrator to keep the retirement system affected~~  
1728 ~~actuarially sound.]~~

1729 (3) (a) Errors in the records or calculation of a participating employer which result in an  
1730 incorrect benefit to a member, retiree, participant, insured, alternate payee, or beneficiary shall be  
1731 corrected by the participating employer.

1732 (b) If insufficient employer contributions have been received by the office, the



1733 participating employer shall pay any delinquent employer contributions, plus interest under Section  
1734 49-11-503, required by the office to maintain the system, plan, or program affected on an  
1735 actuarially sound basis.

1736 (c) If excess contributions have been received by the office, the contributions shall be  
1737 refunded to the participating employer or member which paid the contributions.

1738 (4) If a [salary] dispute exists between [an employing unit] a participating employer and  
1739 [an employee] a member at the time of the [employee's] member's retirement which will affect the  
1740 [employee's retirement] member's benefit calculation, and notice of the dispute is given to the  
1741 [retirement] office prior to the calculation of a member's benefit, the benefit may be paid based on  
1742 the member's [stated] retirement date and [on] the records available [at that time] and then  
1743 recalculated upon settlement of the dispute [according to Subsection (2)].

1744 Section 31. Section **49-11-608**, which is renumbered from Section 49-1-604 is renumbered  
1745 and amended to read:

1746 **[49-1-604]. 49-11-608. False statements or records -- Unlawfully cashing benefit**  
1747 **checks.**

1748 (1) [Any] A person who knowingly makes any false statement, or who falsifies or permits  
1749 to be falsified any record necessary for carrying out the intent of this title is in violation of Section  
1750 76-6-504.

1751 (2) [Any] A person cashing a benefit check to which that person is not entitled is in  
1752 violation of Section 76-6-501.

1753 Section 32. Section **49-11-609**, which is renumbered from Section 49-1-606 is renumbered  
1754 and amended to read:

1755 **[49-1-606]. 49-11-609. Beneficiary designations -- Revocation of beneficiary**  
1756 **designation -- Procedure -- Beneficiary not designated -- Payment to survivors in order**  
1757 **established under the Uniform Probate Code -- Restrictions on payment -- Payment of**  
1758 **deceased's expenses.**

1759 (1) As used in this section, "member" includes a member, retiree, participant, insured, a  
1760 spouse of a retiree participating in the insurance benefits created by Sections 49-12-404 and  
1761 49-13-404, or an alternate payee under a domestic relations order dividing a defined contribution  
1762 account.

1763 [(+)] (2) The most recent beneficiary [~~designation in a member's file at the retirement~~

1764 office] designations contained in office records, including electronic records, at the time of the  
1765 member's death [is] are binding in the payment of any benefits due under this title.

1766 ~~[(2) A]~~ (3) (a) Except where an optional continuing benefit is chosen, or the law makes  
1767 a specific benefit designation to a dependent spouse, a member may revoke a beneficiary  
1768 designation [of beneficiary] at any time and may execute and file a different beneficiary  
1769 designation [by executing and filing with the retirement office a written beneficiary designation  
1770 on forms provided by the retirement office, except where an optional continuing plan is chosen,  
1771 or the law makes a specific benefit designation to a dependent spouse, in which case the  
1772 beneficiary designation may not be revoked:] with the office.

1773 (b) A change of beneficiary designation shall be completed on forms provided by the  
1774 office.

1775 (4) (a) All benefits payable by the office may be paid or applied to the benefit of the  
1776 surviving next of kin of the deceased in the order of precedence established under Title 75, Chapter  
1777 2, Intestate Succession and Wills, if:

1778 ~~[(3) If]~~ (i) no beneficiary is designated[, all benefits payable from the retirement system  
1779 may be paid or applied to the benefit of the surviving next of kin of the deceased in the order of  
1780 precedence established under Title 75, Chapter 2, Intestate Succession and Wills.];

1781 (ii) the location of the beneficiary cannot be ascertained by the office within 12 months  
1782 of the date beneficiaries are provided with the forms; or

1783 (iii) the beneficiary has not completed the forms necessary to pay the benefits within six  
1784 months of the date beneficiaries are provided the forms.

1785 ~~[(4) No]~~ (b) (i) A payment may not be made to [persons] a person included in any of  
1786 [these] the groups referred to in Subsection (3)(a) if at the date of payment there [are] is a living  
1787 [persons] person in any of the groups preceding it.

1788 (ii) Payment to [the persons] a person in any group based upon receipt from [those  
1789 persons] the person of an affidavit in a form satisfactory to the [administrator] office that:

1790 ~~[(a)]~~ (A) there are no living individuals in the group preceding it;

1791 ~~[(b) that]~~ (B) the probate of the estate of the deceased has not been commenced; and

1792 ~~[(c) that]~~ (C) more than three months have elapsed since the date of death of the  
1793 decedent[.];

1794 (5) Benefits paid under this section shall be [in]:

1795 (a) a full satisfaction and discharge of all claims for benefits under this title; and

1796 (b) payable by reason of the death of the decedent.

1797 [~~(5) If the location of the nominated beneficiary cannot be ascertained or if the nominated~~  
1798 ~~beneficiary is the estate of the deceased person, the administrator may pay the costs of the~~  
1799 ~~deceased's last illness, convalescent care, and funeral expenses directly to the undertaking~~  
1800 ~~establishment, hospital, doctor, or convalescent home which provided the service. The~~  
1801 ~~administrator shall require verified statements of the charges before making partial or full payment.~~  
1802 ~~The payment shall discharge the obligation of the system and of the fund up to the amount paid.]~~

1803 Section 33. Section **49-11-610**, which is renumbered from Section 49-1-607 is renumbered  
1804 and amended to read:

1805 ~~[49-1-607].~~ **49-11-610. Benefits payable in name of beneficiary -- Delivery.**

1806 (1) (a) Any benefits payable to a beneficiary [~~or dependent beneficiary~~] shall be made in  
1807 the name of [~~the beneficiary or beneficiaries~~] and delivered to the beneficiary or the lawfully  
1808 appointed guardian or conservator of the beneficiary, or delivered as otherwise ordered by a court  
1809 of competent jurisdiction [~~pursuant to~~] under Title 75, Utah Uniform Probate Code. [~~In those~~  
1810 ~~cases where~~]

1811 (b) If the benefit involves a payment not to exceed an amount authorized by the Utah  
1812 Uniform Probate Code to any one beneficiary, the [~~administrator~~] office may, without the  
1813 appointment of a guardian or conservator or the giving of a bond, pay the amount due to the  
1814 [~~beneficiaries themselves~~] beneficiary or to the [~~person;~~] persons[, ~~or institutions~~] assuming their  
1815 support.

1816 (c) The payment shall be in either a lump sum or in monthly amounts[, ~~and the~~].

1817 (d) The total of the payments [~~so~~] made under this section shall [~~be a full~~] fully discharge  
1818 and release [~~to~~] the [~~system~~] office from any further claims.

1819 (2) All continuing monthly benefits payable to beneficiaries upon the death of [~~an active~~]  
1820 a member or participant shall be [~~paid~~] effective on the first day of the month following the date  
1821 of death of the member or participant.

1822 Section 34. Section **49-11-611**, which is renumbered from Section 49-1-608 is renumbered  
1823 and amended to read:

1824 ~~[49-1-608].~~ **49-11-611. Benefits and money in the fund exempt from taxation --**

1825 **Exceptions.**

1826 ~~[The]~~ (1) Except as provided under Subsection (2), the benefits accrued or paid to any  
1827 beneficiary of any system or plan administered by the ~~[retirement office]~~ board and the  
1828 ~~[accumulated]~~ contributions, money, ~~[and]~~ securities, and other assets in the ~~[fund]~~ funds created  
1829 by this title are exempt from any state, county, or municipal tax~~[-except that the retirement].~~

1830 (2) An allowance, a refund of member contributions, or other benefits that are subject to  
1831 ~~[the]~~ federal income tax, which ~~[are]~~ is received by a member, retiree, alternate payee, participant,  
1832 or beneficiary of any system or plan administered by the board and which ~~[have]~~ has not been  
1833 taxed is subject to Title 59, Chapter 10, Individual Income Tax Act.

1834 Section 35. Section **49-11-612**, which is renumbered from Section 49-1-609 is renumbered  
1835 and amended to read:

1836 ~~[49-1-609].~~ **49-11-612. Nonassignability of benefits or payments -- Exemption from**  
1837 **legal process.**

1838 (1) Except as provided in ~~[Subsection]~~ Subsections (2), (3), and (4), the right of any  
1839 member, retiree, participant, or beneficiary to any benefit, payment, or any other right accrued or  
1840 accruing ~~[to any person]~~ under this title and the assets of the ~~[fund]~~ funds created by this title are  
1841 not subject to alienation or assignment by the member, retiree, participant, or ~~[beneficiary]~~ their  
1842 beneficiaries and are not subject to attachment, execution, garnishment, or any other legal or  
1843 equitable process.

1844 ~~[(2) This section may not be construed to prohibit the administrator from deducting~~  
1845 ~~medical or other insurance premiums from a retirant's allowance as requested by the retirant~~  
1846 ~~providing that any request is within limitations and rules prescribed by the board.]~~

1847 (2) The office may, upon the request of the retiree, deduct from the retiree's allowance  
1848 insurance premiums or other dues payable on behalf of the retiree, but only to those entities that  
1849 have received the deductions prior to February 1, 2002.

1850 (3) (a) ~~[Notwithstanding Subsection (1), the retirement board]~~ The office shall provide for  
1851 the division of ~~[a member's service retirement]~~ an allowance, defined contribution account,  
1852 continuing monthly death benefit, or refund of member contributions upon termination to former  
1853 spouses and family members ~~[pursuant to]~~ under an order of a court of competent jurisdiction with  
1854 respect to domestic relations matters on file with the ~~[retirement]~~ office.

1855 (b) The court order shall specify the manner in which the ~~[retirement]~~ allowance, defined  
1856 contribution account, continuing monthly death benefit, or refund of member contributions shall

1857 be partitioned, whether as a fixed amount or as a percentage of the benefit.

1858 ~~[(e) The board may also provide for the division of a member's defined contribution~~  
1859 ~~account.]~~

1860 ~~[(d) Once benefit payments under a domestic relations order begin, the period for which~~  
1861 ~~the payment shall be made may not be altered.]~~

1862 ~~[(e) Benefit payments to an alternate payee shall begin at the time the member or~~  
1863 ~~beneficiary begins receiving benefit payments.]~~

1864 ~~[(f) The alternate payee shall receive benefits in the same form as benefits are received by~~  
1865 ~~the member.]~~

1866 ~~[(g) The board shall make rules to implement this section.]~~

1867 (c) Allowances, continuing monthly death benefits, and refunds of member contributions  
1868 split under a domestic relations order are subject to the following:

1869 (i) the period for which payments shall be made under the original domestic relations order  
1870 may not be altered;

1871 (ii) payments to an alternate payee shall begin at the time the member or beneficiary begins  
1872 receiving payments; and

1873 (iii) the alternate payee shall receive payments in the same form as payments received by  
1874 the member or beneficiary.

1875 (4) In accordance with federal law, the board may deduct the required amount from any  
1876 benefit, payment, or other right accrued or accruing to any member of a system, plan, or program  
1877 under this title to offset any amount that member owes to a system, plan, or program administered  
1878 by the board.

1879 (5) The board shall make rules to implement this section.

1880 Section 36. Section **49-11-613**, which is renumbered from Section 49-1-610 is renumbered  
1881 and amended to read:

1882 ~~[49-1-610].~~ **49-11-613. Appeals procedure -- Right of appeal to hearing officer --**  
1883 **Board reconsideration -- Judicial review.**

1884 (1) (a) All members, retirees, participants, alternative payees, or insureds of a system, plan,  
1885 or program under this title shall acquaint themselves with their rights and obligations ~~[as members]~~  
1886 under this title.

1887 (b) A ~~[member shall]~~ person who claims a benefit, legal right, or employment right under

1888 this title shall request a ruling by the [~~administrator on any benefit claim or legal right under this~~  
1889 ~~title~~] executive director.

1890 (c) [~~Any~~] A person who is dissatisfied by a ruling of the [~~administrator~~] executive director  
1891 with respect to any benefit claim or legal right under any system, plan, or program under this title  
1892 shall request a review of that claim by a hearing officer.

1893 [~~(d)~~] (2) The hearing officer shall:

1894 [~~(i)~~] (a) be hired by the executive director after consultation [~~and review~~] with the  
1895 [~~membership council~~] board; [~~and~~]

1896 [~~(ii)~~] (b) follow the procedures and requirements of Title 63, Chapter 46b, Administrative  
1897 Procedures Act[~~.(2)(a)(i) The hearing officer shall~~], except as specifically modified under this  
1898 title;

1899 (c) hear and determine all facts pertaining to applications for benefits under any  
1900 [~~retirement~~] system, plan, or program under this title and all matters pertaining to the  
1901 administration of the [~~system~~] office; and

1902 [~~(i) The membership council may examine the record of the hearing, provide a~~  
1903 ~~recommendation to the board, and recommend any necessary changes in retirement policy or~~  
1904 ~~procedure to the Legislature.]~~

1905 [~~(b)(i) If the executive officer of the board cannot determine from the records or other~~  
1906 ~~information available the length of service, compensation, or age of any member, the executive~~  
1907 ~~officer may estimate, for the purpose of any determination required to be made, any of these~~  
1908 ~~factors.]~~

1909 (d) make conclusions of law in determining the person's rights under any system, plan, or  
1910 program under this title and matters pertaining to the administration of the office.

1911 [~~(ii)~~] (3) The board shall review and approve or deny all decisions of the hearing officer  
1912 in accordance with rules adopted by the board.

1913 [~~(3)~~] (4) The moving party in any proceeding brought under this section shall bear the  
1914 burden of proof.

1915 [~~(4) Any applicant~~] (5) A party may file an application for reconsideration [~~according to~~  
1916 ~~the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act,]~~ by the  
1917 board upon any of the following grounds:

1918 (a) that the board acted in excess of its powers;

1919 (b) that the order or award was procured by fraud;

1920 (c) that the evidence does not justify the determination of the ~~[board]~~ hearing officer; or

1921 (d) that the ~~[applicant]~~ party has discovered new material evidence that could not, with  
1922 reasonable diligence, have been discovered or procured ~~[at]~~ prior to the hearing.

1923 (6) The board shall affirm, reverse, or modify the decision of the hearing officer, or  
1924 remand the application to the hearing officer for further consideration.

1925 ~~[(5)]~~ (7) A ~~[member]~~ party aggrieved by the board's decision may obtain judicial review  
1926 by complying with the procedures and requirements of Title 63, Chapter 46b, Administrative  
1927 Procedures Act.

1928 (8) The board may make rules to implement this section.

1929 Section 37. Section **49-11-614**, which is renumbered from Section 49-1-613 is renumbered  
1930 and amended to read:

1931 ~~[49-1-613].~~ **49-11-614. Vesting on termination of system or plan.**

1932 If any ~~[retirement plan established under this title]~~ system or the Utah Governors' and  
1933 Legislators' Retirement Plan is terminated, the accrued benefits of each member in the terminated  
1934 system or plan shall immediately become ~~[100%]~~ vested and nonforfeitable.

1935 Section 38. Section **49-11-615**, which is renumbered from Section 49-1-614 is renumbered  
1936 and amended to read:

1937 ~~[49-1-614].~~ **49-11-615. Election to grandfather -- Applicability of provisions.**

1938 (1) Notwithstanding any other provision of this title, the ~~[retirement plan or program]~~  
1939 allowance payable to any person who becomes a member of any system, administered by the board  
1940 on or after January 1, 1990, may not exceed the limitation imposed by Section 415 of the Internal  
1941 Revenue Code of 1986, as amended, which is incorporated by reference.

1942 (2) This constitutes an election of the grandfather provision under Section 415(b)(10)(C)  
1943 of the Internal Revenue Code.

1944 Section 39. Section **49-11-616**, which is renumbered from Section 49-1-615 is renumbered  
1945 and amended to read:

1946 ~~[49-1-615].~~ **49-11-616. Benefits information.**

1947 (1) The ~~[retirement board]~~ office shall provide ~~[the following]~~ written general  
1948 information~~[-, by means of a form to be adopted by the board,]~~ to each ~~[employing unit]~~  
1949 participating ~~[in a plan, program, or system administered by the board:]~~ employer concerning

1950 benefits available under this title.

1951 ~~[(a) all retirement benefits available to participants in a retirement system administered by~~  
1952 ~~the board, including the right to participate in deferred compensation programs and rights upon~~  
1953 ~~termination;]~~

1954 ~~[(b) all group health and dental insurance benefits available to participants, including~~  
1955 ~~conversion and coverage rights upon termination;]~~

1956 ~~[(c) all group life insurance benefits and other death benefits, including conversion and~~  
1957 ~~coverage rights upon termination;]~~

1958 ~~[(d) all long-term disability programs available to participants;]~~

1959 ~~[(e) any other benefits that the board may make available to eligible employers and their~~  
1960 ~~employees; and]~~

1961 ~~[(f) the address and telephone number of the division of the retirement office responsible~~  
1962 ~~for each of these plans, programs, and systems.]~~

1963 (2) (a) ~~[The] A~~ participating ~~[employing unit] employer~~ shall provide the information  
1964 under Subsection (1) to each eligible employee immediately upon:

1965 (i) termination of service[;];

1966 (ii) leave of absence[~~-or~~];

1967 (iii) commencement of long-term disability benefits; or

1968 (iv) retirement.

1969 (b) (i) Each participating employer shall maintain the records necessary to demonstrate that  
1970 each employee has received the information outlined in Subsection (1).

1971 (ii) The records shall be made available to the office upon request.

1972 ~~[(3) Each eligible employee shall sign the form provided under Subsection (1), a]~~

1973 (3) (a) The office shall provide each participating employer with a form to be signed by  
1974 each employee which verifies that the employee has been given the information required by this  
1975 section.

1976 (b) A copy of ~~[which] the signed form~~ shall be immediately forwarded to the ~~[retirement]~~  
1977 office [immediately] by the participating employer or the employee.

1978 (4) The dissemination of information to the employer by the ~~[board pursuant to] office~~  
1979 under this section constitutes presentment by the policyholder [pursuant to] under Title 31A,  
1980 Chapter 22, Contracts in Specific Lines, and other law.



1981 Section 40. Section **49-11-617**, which is renumbered from Section 49-1-616 is renumbered  
1982 and amended to read:

1983 ~~[49-1-616].~~ **49-11-617. Original documents.**

1984 ~~[(1) The retirement office may treat any document received by facsimile as an original if~~  
1985 ~~it pertains to member accounts and is forwarded by a member or employer.]~~

1986 ~~[(2) All records at the retirement office, filmed from facsimile or other sources, or~~  
1987 ~~produced from optical imaging or other technology, have the same legal effect as the original~~  
1988 ~~record.]~~

1989 At the reasonable discretion of the office, any document relating to this title may be treated  
1990 as an original, whether created by photocopy, facsimile, e-mail, electronic transmission, imaging,  
1991 or other technology.

1992 Section 41. Section **49-11-618**, which is renumbered from Section 49-1-403 is renumbered  
1993 and amended to read:

1994 ~~[49-1-403].~~ **49-11-618. Members and beneficiaries subject to chapter -- Furnishing**  
1995 **of information -- Confidentiality of information.**

1996 (1) (a) Every member, retiree, participant, insured, alternate payee, and beneficiary is  
1997 subject to this chapter [and to all], rules [adopted] made by the board [under this chapter] or office,  
1998 board actions, resolutions, policies, and procedures adopted under this title.

1999 (b) Each member, retiree, participant, insured, alternate payee, and beneficiary shall  
2000 furnish to the [retirement] office any information required [by the executive director affecting the  
2001 member's status as a member or beneficiary] to carry out the purposes of this title.

2002 (2) (a) All data [filed with the retirement] in the possession of the office is confidential,  
2003 and [no information contained in any record pertaining to individual data] may not be divulged by  
2004 [any official or employee of] the office except as permitted by board action. [The information]

2005 (b) All data in the possession of the office or divulged pursuant to board action shall be  
2006 used for the sole purpose of carrying into effect the provisions of this [chapter. The record may  
2007 not be open to inspection to any person except the board, the employees of the retirement office,  
2008 and the employing unit] title.

2009 Section 42. Section **49-11-619**, which is renumbered from Section 49-1-405 is renumbered  
2010 and amended to read:

2011 ~~[49-1-405].~~ **49-11-619. Permanent relinquishment of benefit -- Procedure.**

2012 ~~[Any retired member or beneficiary receiving a continuing benefit who for any reason~~  
2013 ~~desires to permanently relinquish that retirement benefit may do so at any time after the effective~~  
2014 ~~date of retirement. The relinquishment of the benefit is irrevocable 30 days after the witnessed~~  
2015 ~~signing of the waiver agreement by the member and the beneficiary.]~~

2016 (1) (a) Except for defined contribution plans authorized by this title, a retiree or beneficiary  
2017 may permanently relinquish a benefit under this title by signing an irrevocable written  
2018 relinquishment.

2019 (b) If the retiree has designated a beneficiary which is still living, the written  
2020 relinquishment must be signed by both the retiree and the beneficiary.

2021 (2) The value of the benefit permanently relinquished under Subsection (1) shall remain  
2022 in the fund from which the benefit was relinquished and shall be used in the calculation of future  
2023 contribution rates.

2024 (3) A designated beneficiary may disclaim beneficiary status and the benefit shall then be  
2025 payable first to any alternate designated beneficiary, then dispersed under Title 75, Chapter 2,  
2026 Intestate Succession and Wills, as applicable.

2027 (4) The office is not required to recognize or accept any written relinquishment that  
2028 jeopardizes the tax qualified status of the systems, plans, or programs or otherwise violates federal  
2029 law.

2030 Section 43. Section **49-11-620** is enacted to read:

2031 **49-11-620. Closing the retirement account -- Status of retirants and beneficiaries.**

2032 (1) The monthly benefit payable for the month a retiree, beneficiary, or alternate payee dies  
2033 shall be a full monthly benefit and shall be payable to the estate of the deceased.

2034 (2) If more than one year has elapsed since the death of a retiree whose designated  
2035 beneficiary is deceased and whose account payable to the beneficiary amounts to \$100 or less, the  
2036 account shall be closed and further payment may not be made.

2037 Section 44. Section **49-11-701**, which is renumbered from Section 49-1-701 is renumbered  
2038 and amended to read:

2039 **Part 7. Allowance Increase**

2040 **[49-1-701]. 49-11-701. Allowance increase to offset tax liability -- Administration.**

2041 (1) This section applies to members of any system administered by the board under this  
2042 title, whose retirement allowance remained exempt from the tax imposed under Title 59, Chapter

2043 10, Individual Income Tax Act, pursuant to Section 2, Chapter 195, Laws of Utah 1988, but whose  
2044 allowance has subsequently become subject to that tax.

2045 (2) Any member who meets the conditions established under Subsection (1) shall receive  
2046 the following:

2047 (a) the administrator shall calculate the member's retirement allowance pursuant to the  
2048 formula governing the system from which the member retired;

2049 (b) the administrator shall then increase the allowance calculated under Subsection (2)(a)  
2050 by 3%; and

2051 (c) the adjusted retirement allowance under Subsection (2) (b) is the new basis upon which  
2052 any future adjustments to benefits are made.

2053 (3) (a) For all members who retire or are receiving retirement allowances in calendar year  
2054 1989, the administrator shall apply the 3% adjustment under Subsection (2) to all retirement  
2055 allowances received in 1989, so that the period for which the allowance becomes subject to the tax  
2056 under Title 59, Chapter 10, Individual Income Tax Act, and the period for which the 3%  
2057 adjustment is given are the same.

2058 (b) For all members who retire after December 31, 1989, and who meet the requirements  
2059 of Subsection (1), the administrator shall apply the 3% adjustment under Subsection (2) beginning  
2060 on the effective date of retirement.

2061 (4) Any penalty or interest for underpayment of taxes under Title 59, Chapter 1, General  
2062 Taxation Policies, or 10, Individual Income Tax Act, shall be waived for members whose  
2063 noncompliance is attributable to Section [~~49-1-608~~] 49-11-611 and this section. This only applies  
2064 to tax year 1989.

2065 (5) The administrator shall comply with Title 59, Chapter 10, Part 4, Withholding of Tax,  
2066 with respect to withholding of taxes.

2067 (6) (a) The retirement board shall annually certify the contribution rate necessary for each  
2068 system to comply with this section and may adopt rules to administer this section.

2069 (b) This contribution rate shall be reported separately from the total contribution rate  
2070 necessary to fund the systems on an actuarially sound basis and may not be used in comparative  
2071 studies of public employee benefits.

2072 Section 45. Section **49-11-801**, which is renumbered from Section 49-1-611 is renumbered  
2073 and amended to read:

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### Part 8. Defined Contribution Plans

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

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

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

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

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

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

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

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

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

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

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

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

~~[(5) This supplemental program shall be limited to members who contract to participate~~

2105 in the program a minimum of one year.]

2106 [(6)] (5) The board or office may take [the] actions necessary to protect the tax qualified  
2107 status of the [plans,] systems, plans, and programs under its control, including the movement of  
2108 [members] individuals from defined contribution plans to defined benefit [plans] systems or the  
2109 creation of excess benefit plans authorized by federal law[, and shall report its actions to the  
2110 Legislature at the subsequent legislative session].

2111 (6) The office may, at its sole discretion, correct errors made in the administration of its  
2112 defined contribution plans.

2113 Section 46. Section 49-11-802 is enacted to read:

2114 **49-11-802. Permanent relinquishment of defined contribution benefit -- Procedure.**

2115 A participant or designated beneficiary under a defined contribution plan may permanently  
2116 relinquish the benefit by signing an irrevocable written relinquishment.

2117 Section 47. Section 49-12-101, which is renumbered from Section 49-2-101 is renumbered  
2118 and amended to read:

2119 **CHAPTER 12. PUBLIC EMPLOYEES' CONTRIBUTORY RETIREMENT ACT**

2120 **Part 1. General Provisions**

2121 ~~[49-2-101].~~ **49-12-101. Title.**

2122 This chapter is known as the "Public Employees' Contributory Retirement Act."

2123 Section 48. Section 49-12-102, which is renumbered from Section 49-2-103 is renumbered  
2124 and amended to read:

2125 ~~[49-2-103].~~ **49-12-102. Definitions.**

2126 As used in this chapter:

2127 [(1)] "Appointive officer" means an employee appointed to a position for a definite and  
2128 fixed term of office by official and duly recorded action of the governing body of an employing  
2129 unit who earns \$500 or more per month over a 12-month period adjusted annually by the Bureau  
2130 of Labor Statistics Consumer Price Index.]

2131 [(2)(a)] "Compensation," "salary," or "wages" means the total amount of payments made  
2132 by an employer to an employee for services rendered to the employer, including:]

2133 [(i)] bonuses;]

2134 [(ii)] cost-of-living adjustments;]

2135 [(iii)] other payments currently includable in gross income and that are subject to Social

2136 Security deductions, including any payments in excess of the maximum amount subject to  
2137 deduction under Social Security law; and]

2138 [~~(iv) amounts that the employee authorizes to be deducted or reduced for salary deferral  
2139 or other benefit programs authorized by federal law.]~~

2140 [~~(b) "Compensation" for purposes of this chapter may not exceed the amount allowed  
2141 under Internal Revenue Code Section 401(a)(17).]~~

2142 [~~(c) "Compensation," "salary," or "wages" does not include:]~~

2143 [~~(i) the monetary value of remuneration paid in kind, such as a residence or use of  
2144 equipment;~~

2145 [~~(ii) all contributions made by an employer under any plan for the benefit of a participant;]~~

2146 [~~(iii) salary paid to an employee working under the minimum number of hours required  
2147 for membership;]~~

2148 [~~(iv) salary paid to a temporary or exempt employee;]~~

2149 [~~(v) any payments upon termination, including accumulated vacation, sick leave payments,  
2150 or any other special payments; or]~~

2151 [~~(vi) uniform, travel, or similar allowances.]~~

2152 [~~(3) "Educational institution" means a political subdivision or instrumentality of the state  
2153 or a combination thereof primarily engaged in educational activities or the administration or  
2154 servicing of educational activities, including:]~~

2155 [~~(a) the State Board of Education and its instrumentalities;]~~

2156 [~~(b) any institution of higher learning and its branches;]~~

2157 [~~(c) any school district and its instrumentalities;]~~

2158 [~~(d) any vocational and technical school; and]~~

2159 [~~(e) any entity arising out of a consolidation agreement between entities under this  
2160 definition.]~~

2161 [~~(4) (a) "Employee" or "regular employee" means any regular full-time employee whose  
2162 term of employment for an employer contemplates continued employment during a calendar or  
2163 school year and who performs covered service for one or more employers.]~~

2164 [~~(b) "Employee" or "regular employee" means an officer, elective or appointive, who  
2165 receives as compensation from an employer \$500 or more per month over a 12-month period  
2166 adjusted annually by the Bureau of Labor Statistics Consumer Price Index.]~~

2167 ~~[(5) "Employer" or "employing unit" means any department, educational institution,~~  
2168 ~~political subdivision, or organization or agency financed in whole or in part by public funds for~~  
2169 ~~which any employee or member performs services subject to this chapter.]~~

2170 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total amount  
2171 of payments made by a participating employer to a member of this system for services rendered  
2172 to the participating employer, including:

2173 (i) bonuses;

2174 (ii) cost-of-living adjustments;

2175 (iii) other payments currently includable in gross income and that are subject to Social  
2176 Security deductions, including any payments in excess of the maximum amount subject to  
2177 deduction under Social Security law;

2178 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral or  
2179 other benefits authorized by federal law; and

2180 (v) member contributions.

2181 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed under  
2182 Internal Revenue Code, Section 401(a)(17).

2183 (c) "Compensation" does not include:

2184 (i) the monetary value of remuneration paid in kind, including a residence or use of  
2185 equipment;

2186 (ii) the cost of any employment benefits paid for by the participating employer;

2187 (iii) compensation paid to a temporary employee, an exempt employee, or an employee  
2188 otherwise ineligible for service credit;

2189 (iv) any payments upon termination, including accumulated vacation, sick leave payments,  
2190 severance payments, compensatory time payments, or any other special payments; or

2191 (v) any costs incurred by the member and reimbursed by the participating employer,  
2192 including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance  
2193 costs, and dependent care costs.

2194 (d) The executive director may determine if a payment not listed under this Subsection (1)  
2195 falls within the definition of compensation.

2196 ~~[(6)]~~ (2) "Final average salary" means the amount computed by averaging the highest five  
2197 years of annual compensation preceding retirement subject to Subsections [(6)] (2)(a), (b), (c), and

2198 (d).

2199 (a) Except as provided in Subsection ~~[(6)]~~ (2)(b), the percentage increase in annual  
2200 compensation in any one of the years used may not exceed the previous year's [salary]  
2201 compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the  
2202 purchasing power of the dollar during the previous year, as measured by ~~[the Consumer Price~~  
2203 ~~Index prepared by the]~~ a United States Bureau of Labor Statistics Consumer Price Index average  
2204 as determined by the board.

2205 (b) In cases where the ~~[employing unit]~~ participating employer provides acceptable  
2206 documentation to the ~~[board]~~ office, the limitation in Subsection ~~[(6)]~~ (2)(a) may be exceeded if:

2207 (i) the member has transferred from another ~~[employing unit]~~ agency; or

2208 (ii) the member has been promoted to a new position.

2209 (c) If the member retires more than six months from the date of termination of employment  
2210 ~~[and for purposes of computing the member's final average salary only]~~, the member is considered  
2211 to have been in service at the member's last [salary] rate of pay from the date of the termination  
2212 of employment to the effective date of retirement ~~[becomes effective if the member so requests]~~  
2213 for purposes of computing the member's final average salary only.

2214 (d) If ~~[participating service is]~~ the member has less than five years of service credit in this  
2215 system, final average salary means the average annual compensation paid to the member during  
2216 the full period of ~~[participating]~~ service credit.

2217 ~~[(7) "Normal retirement age" means the age of 65 years.]~~

2218 ~~[(8) "Organization or agency financed in whole or in part by public funds" means an~~  
2219 ~~agency, association, or organization that receives public funds. The term does not include political~~  
2220 ~~subdivisions, departments, or educational institutions.]~~

2221 ~~[(9) "Public funds" means those funds derived, either directly or indirectly, from public~~  
2222 ~~taxes or public revenue, dues or contributions paid or donated by the membership of the~~  
2223 ~~organization, used to finance an activity whose objective is to improve, on a nonprofit basis, the~~  
2224 ~~governmental, educational, and social programs and systems of the state or its political~~  
2225 ~~subdivisions.]~~

2226 ~~[(10) (a) "Regular full-time employee," in qualifying for membership and accrual of~~  
2227 ~~service credit under this system, means an employee whose employment normally requires an~~  
2228 ~~average of 20 hours or more per week, except as modified by the board, and who receives benefits~~



2229 normally provided by the employing unit.]

2230 ~~[(b) "Regular full-time employee" includes:]~~

2231 ~~[(i) a teacher who teaches half-time or more, or a classified school employee who works~~  
2232 ~~an average of 20 hours per week or more, regardless of benefits provided; and]~~

2233 ~~[(ii) an individual who otherwise meets the definition of this Subsection (10) who~~  
2234 ~~performs services for a participating employer through an employee leasing or similar~~  
2235 ~~arrangement.]~~

2236 ~~[(11) "Years of service" or "service years" means:]~~

2237 ~~[(a) the number of periods, each to consist of 12 full months as determined by the board;]~~

2238 ~~[(b) a period determined by the board, whether consecutive or not, during which an~~  
2239 ~~employee performed services for an employer or employers, including any time the employee~~  
2240 ~~rendered service in the armed forces of the United States before membership in the system or was~~  
2241 ~~absent on a paid leave of absence granted by an employer or absent in the service of the United~~  
2242 ~~States government on military duty as provided by this chapter; or]~~

2243 ~~[(c) for a teacher, school administrator, or other contract employee of an educational~~  
2244 ~~institution, not less than eight months of full-time service constitutes a service year.]~~

2245 (3) "Participating employer" means an employer which meets the participation  
2246 requirements of Section 49-12-201.

2247 (4) (a) "Regular full-time employee" means an employee whose term of employment for  
2248 a participating employer contemplates continued employment during a fiscal or calendar year and  
2249 whose employment normally requires an average of 20 hours or more per week, except as modified  
2250 by the board, and who receives benefits normally provided by the participating employer.

2251 (b) "Regular full-time employee" includes:

2252 (i) a teacher whose term of employment for a participating employer contemplates  
2253 continued employment during a school year and who teaches half-time or more or a classified  
2254 school employee who works an average of 20 hours per week or more for a participating employer,  
2255 regardless of benefits provided;

2256 (ii) an officer, elective or appointive, who earns during the first full month of the term of  
2257 office \$500 or more, indexed as of January 1, 1989, as provided in Section 49-12-407;

2258 (iii) a faculty member or employee of an institution of higher education who is considered  
2259 full-time by that institution of higher education; and

2260 (iv) an individual who otherwise meets the definition of this Subsection (4) who performs  
2261 services for a participating employer through an employee leasing or similar arrangement.

2262 (5) "System" means the Public Employees' Contributory Retirement System created under  
2263 this chapter.

2264 (6) "Years of service credit" means:

2265 (a) a period, consisting of 12 full months as determined by the board;

2266 (b) a period determined by the board, whether consecutive or not, during which a regular  
2267 full-time employee performed services for a participating employer, including any time the regular  
2268 full-time employee was absent on a paid leave of absence granted by a participating employer or  
2269 was absent in the service of the United States government on military duty as provided by this  
2270 chapter; or

2271 (c) the regular school year consisting of not less than eight months of full-time service for  
2272 a regular full-time employee of an educational institution.

2273 Section 49. Section **49-12-103**, which is renumbered from Section 49-2-201 is renumbered  
2274 and amended to read:

2275 **[49-2-201]. 49-12-103. Creation of system.**

2276 There is created for [~~the employees of the state, its educational institutions, and political~~  
2277 ~~subdivisions]~~ members employed by a participating employer the "Public Employees' Contributory  
2278 Retirement System."

2279 Section 50. Section **49-12-104**, which is renumbered from Section 49-2-202 is renumbered  
2280 and amended to read:

2281 **[49-2-202]. 49-12-104. Creation of trust fund.**

2282 (1) There is created the "Public Employees' Contributory Retirement Trust Fund" for the  
2283 purpose of paying the benefits and costs of administering this system.

2284 (2) The fund shall consist of all money paid into it, including interest, in accordance with  
2285 this chapter, whether in the form of cash, securities, or other assets, and of all money received from  
2286 any other source.

2287 (3) Custody, management, and investment of the fund shall be governed by [Title 49,]  
2288 Chapter [†] 11, Utah State Retirement Systems Administration.

2289 Section 51. Section **49-12-201**, which is renumbered from Section 49-2-203 is renumbered  
2290 and amended to read:

2291 **Part 2. Membership Eligibility**2292 ~~[49-2-203].~~ **49-12-201. System membership -- Eligibility.**2293 ~~[All employees, as defined under Section 49-2-103, who perform covered services for any~~  
2294 ~~employing unit, except as excluded by Section 49-2-205, are members of the retirement system~~  
2295 ~~as follows:]~~2296 ~~[(1) Every employee who is employed to perform covered services for a department or~~  
2297 ~~educational institution prior to July 1, 1986, shall become a member of the system effective on the~~  
2298 ~~date of employment.]~~2299 ~~[(2) Each employee engaged in performing covered services for a political subdivision on~~  
2300 ~~the date the political subdivision becomes a participant in the system under Section 49-2-204 shall~~  
2301 ~~become a member of the system as of the date of coverage. Each new employee of the covered~~  
2302 ~~unit shall thereafter become a member of the system effective on the date of employment.]~~2303 (1) A regular full-time employee of a participating employer is eligible for service credit  
2304 in this system upon the later of:2305 (a) the date on which the participating employer began participating in this system; or2306 (b) the effective date of employment of the regular full-time employee with the  
2307 participating employer.2308 (2) Beginning July 1, 1986, a person entering employment with the state and its  
2309 educational institutions may not participate in this system.2310 Section 52. Section **49-12-202**, which is renumbered from Section 49-2-204 is renumbered  
2311 and amended to read:2312 ~~[49-2-204].~~ **49-12-202. Participation of employers -- Limitations -- Exclusions --**  
2313 **Admission requirements -- Exceptions -- Nondiscrimination requirements.**2314 (1) (a) ~~[All political subdivisions of the state, unless] Unless~~ excluded under Subsection  
2315 (2), ~~[are] an employer is a participating [employers in the system] employer~~ and may not withdraw  
2316 from participation in ~~[the] this~~ system. ~~[All departments and educational institutions are also~~  
2317 ~~participating employers in the system and may not withdraw from participation in the system. As~~  
2318 ~~participating employers, political subdivisions, departments, and educational institutions shall meet~~  
2319 ~~all requirements for full participation in the system.]~~2320 (b) In addition to their participation in this system, participating employers may provide  
2321 or participate in public or private retirement, supplemental or defined contribution plan, either

2322 directly or indirectly, for their employees.

2323 (2) ~~[(a) Any political subdivision]~~ An employer not initially admitted or included as a  
2324 participating employer in ~~[the]~~ this system prior to January 1, 1982, may be excluded from  
2325 participation in ~~[the]~~ this system if:

2326 ~~[(i)]~~ (a) the ~~[political subdivision]~~ employer elects not to provide or participate in any type  
2327 of private or public retirement, supplemental or ~~[deferred income program]~~ defined contribution  
2328 plan, either directly or indirectly, for its employees, except for social security; or

2329 ~~[(ii)]~~ (b) the ~~[political subdivision participated in]~~ employer offers another collectively  
2330 bargained retirement ~~[program]~~ benefit and has continued to do so on an uninterrupted basis since  
2331 that date.

2332 ~~[(b) Any excluded political subdivision may by resolution of its governing body apply for~~  
2333 ~~and receive admission to the system. Once admitted, the political subdivision may not withdraw~~  
2334 ~~from participation and shall meet all requirements for full participation in the system. If an~~  
2335 ~~excluded political subdivision elects at any time to provide or participate in any type of public or~~  
2336 ~~private retirement, supplemental or deferred income program, either directly or indirectly, except~~  
2337 ~~for social security, the political subdivision shall be required to be a participating employer in the~~  
2338 ~~system. As a participating employer, the political subdivision may not withdraw from participation~~  
2339 ~~and shall meet all requirements for full participation in the system.]~~

2340 ~~[(3) (a) Any organization or agency supported in whole or in part by state public funds,~~  
2341 ~~which prior to application is not covered by this chapter, may by resolution of its governing body~~  
2342 ~~apply for admission to the system. The board may refuse admission to any organization or agency~~  
2343 ~~applying for admission upon a finding that it is not in the best interest of the participating~~  
2344 ~~employers and employees.]~~

2345 ~~[(b) Upon approval of the board, the organization or agency shall become a participant in~~  
2346 ~~the system if the board and the organization or agency agree upon:]~~

2347 ~~[(i) the terms by which its employees shall become members of the system, such as the~~  
2348 ~~effective date of coverage;]~~

2349 ~~[(ii) the amount of prior service credit with which they may be credited, if any;]~~

2350 ~~[(iii) the amount of any contributions in addition to regular contributions that will be~~  
2351 ~~required to provide any prior service credits or retroactive current service credits from either the~~  
2352 ~~employing unit or its employees; and]~~

2353           ~~[(iv) the manner in which retroactive current or prior service credits may be established,~~  
2354 ~~if any.]~~

2355           ~~[(c) Once admitted to the system, an organization or agency may not withdraw from~~  
2356 ~~participation, except as provided in Subsection (4), and shall meet all requirements for full~~  
2357 ~~participation in the system.]~~

2358           ~~[(d) An organization or agency supported in whole or in part by public funds may not~~  
2359 ~~apply for or receive admission to the system after the effective date of this Subsection (3)(d).]~~

2360           ~~[(4) (a) An organization or agency admitted to the system pursuant to Subsection (3) which~~  
2361 ~~no longer receives public funds may withdraw from the system if:]~~

2362           ~~[(i) the organization or agency's governing body, by resolution, petitions the board for~~  
2363 ~~withdrawal from the system; and]~~

2364           ~~[(ii) the board approves the withdrawal.]~~

2365           ~~[(b) Once approval to withdraw is granted, the organization or agency and its employees~~  
2366 ~~shall be governed by Sections 49-1-502 and 49-1-503.]~~

2367           ~~[(5) Except as provided in Sections 49-2-205 and 49-2-206, no participating employer may~~  
2368 ~~maintain full participation in the system by covering only part of its employees. The full~~  
2369 ~~participation requirement is satisfied if a participating employer covers those of its employees~~  
2370 ~~eligible for coverage under:]~~

2371           ~~[(a) Title 49, Chapter 4, Public Safety Retirement Act, or]~~

2372           ~~[(b) Title 49, Chapter 5, Firefighters' Retirement Act and its remaining employees under~~  
2373 ~~either Title 49, Chapter 2, Public Employees' Retirement Act or Title 49, Chapter 3, Public~~  
2374 ~~Employees' Noncontributory Retirement Act, whichever is applicable.]~~

2375           ~~[(6) In addition to their participation in the system, participating employers may provide~~  
2376 ~~or participate in any additional public or private retirement, supplemental or deferred income~~  
2377 ~~program, either directly or indirectly, for their employees.]~~

2378           ~~[(7) (a) Credit unions or private hospitals which are participating units in any system~~  
2379 ~~administered by the board may withdraw from participation upon applying to the board. This~~  
2380 ~~application shall be made between July 1, 2000, and December 31, 2000. The withdrawal is~~  
2381 ~~effective the day after the last day the withdrawing unit pays retirement contributions on its~~  
2382 ~~employees' salaries.]~~

2383           ~~[(b) Once the withdrawal of the credit union or private hospital is complete, the employees~~

2384 of the withdrawing unit may apply to withdraw their vested contributions. Refunds shall then be  
2385 paid in accordance with Subsection 49-1-502(3).]

2386 [~~(c)~~ Under no circumstance may a withdrawing unit receive the employer contributions  
2387 which have been made to the system.]

2388 (3) An employer who did not become a participating employer in this system prior to July  
2389 1, 1986, may not participate in this system.

2390 (4) If a participating employer purchases service credit on behalf of regular full-time  
2391 employees for service rendered prior to the participating employer's admission to this system, the  
2392 service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former  
2393 regular full-time employees who were eligible for service credit at the time service was rendered.

2394 Section 53. Section **49-12-203**, which is renumbered from Section 49-2-205 is renumbered  
2395 and amended to read:

2396 ~~[49-2-205].~~ **49-12-203. Exclusions from membership in system.**

2397 (1) The following employees are [excluded from membership in the retirement] not  
2398 eligible for service credit in this system:

2399 ~~[(1)]~~ (a) [Every] An employee whose employment status is temporary in nature due to the  
2400 nature or the type of work to be performed[;], provided that:

2401 (i) if the term of employment exceeds six months[; then for that employee a regular  
2402 full-time status shall be assumed, and the employee shall be enrolled in the system] and the  
2403 employee otherwise qualifies for service credit in this system, the participating employer shall  
2404 report and certify to the office that the employee is a regular full-time employee effective the  
2405 beginning of the seventh month of employment[;]; or

2406 (ii) if [the same] an employee, previously terminated prior to [enrollment as a member, is  
2407 again employed] being eligible for service credit in this system is reemployed within three months  
2408 of termination by the same participating employer, [the employee shall be immediately enrolled  
2409 as a member if the work constitutes full-time as defined in this chapter] the participating employer  
2410 shall report and certify that the member is a regular full-time employee when the total of the  
2411 periods of employment equals six months and the employee otherwise qualifies for service credit  
2412 in this system.

2413 ~~[(2)]~~ (b) [Full-time students or] A full-time student, the spouse of a full-time student [and  
2414 persons], or a person employed in a trainee relationship [may be excluded from coverage by rules

2415 ~~adopted by the board]~~ who files a formal request for exemption.

2416 ~~[(3)] (c) (i) [Every]~~ A current or future employee of a two-year or four-year college or  
2417 university who holds, or is entitled to hold, [pursuant to] under Section [49-2-206] 49-12-204, a  
2418 retirement annuity contract with the Teachers' Insurance and Annuity Association of America or  
2419 with any other public or private system, organization, or company during any period in which [that  
2420 employee has received] required contributions [toward the premiums required] based on  
2421 compensation [from the employing unit] have been paid on behalf of the employee by the  
2422 employer.

2423 ~~(ii)~~ The employee, upon cessation of the participating employer contributions, shall  
2424 immediately become [a contributing member] eligible for service credit in this system.

2425 ~~[(4)] (d) [Every]~~ An employee serving as an exchange employee from outside the state.

2426 ~~[(5)] (e) [Elected officials]~~ An elected official who [file] files a formal request for  
2427 exemption.

2428 ~~[(6) Executive]~~ (f) An executive department [heads] head of the state, [members] a  
2429 member of the State Tax Commission, the Public Service Commission, and [other members] a  
2430 member of a full-time or part-time [boards] board or [commissions] commission who [file] files  
2431 a formal request [to be excluded from coverage] for exemption.

2432 ~~[(7) (a) Employees of the Department of Employment Security who are covered under~~  
2433 ~~another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; or (b)~~  
2434 ~~employees]~~

2435 ~~(g)~~ An employee of the Department of Workforce Services [who were covered under  
2436 Subsection (a) and] who [are] is covered under another retirement system allowed under Title 35A,  
2437 Chapter 4, Employment Security Act.

2438 ~~[(8)] (h) (i) [Persons]~~ A person appointed as a city [managers] manager or chief city  
2439 [administrators or other persons] administrator or another person employed by a [city, town]  
2440 municipality, county, or other political subdivision who [are] is not entitled to merit or civil service  
2441 protection. [Persons]

2442 ~~(ii)~~ A person eligible for exclusion under [this] Subsection (1)(h)(i) shall file a formal  
2443 request for [exclusion from coverage] exemption and be employed in a position designated as  
2444 exempt under an employee exemption plan developed by the [city, town] municipality, county, or  
2445 political subdivision. [Employee exemption plans shall be subject to the following limitations:(a)

2446 The total number of positions a city, town]

2447 (2) (a) A municipality, county, or political subdivision may not exempt [~~may not exceed~~  
2448 ~~the lesser of]~~ more than 30 positions or a number equal to 10% of the employees of the [~~city, town]~~  
2449 ~~municipality, county, or political subdivision~~ [~~However, every city, town]~~ whichever is lesser.

2450 (b) A municipality, county, or political subdivision [~~is entitled to a minimum exemption~~  
2451 ~~of one eligible]~~ may exempt at least one regular full-time employee.

2452 [~~(b) Employee exemption plans shall be filed]~~

2453 (3) Each participating employer shall:

2454 (a) file employee exemptions annually with the [~~retirement]~~ office[;]; and [~~the city, town,~~  
2455 ~~county, or political subdivision shall]~~

2456 (b) update the [~~exemption plan]~~ employee exemptions in the event of any change.

2457 [~~(c) The retirement]~~

2458 (4) The office may [~~promulgate]~~ make rules to implement this [~~subsection]~~ section.

2459 Section 54. Section **49-12-204**, which is renumbered from Section 49-2-206 is renumbered  
2460 and amended to read:

2461 [~~49-2-206~~]. **49-12-204. Higher education employees' eligibility requirements --**  
2462 **Election between different retirement plans -- Classification requirements -- Transfer**  
2463 **between systems -- Supplemental plans authorized.**

2464 (1) (a) [~~The faculty members and]~~ Regular full-time employees of institutions of higher  
2465 education who are eligible to participate in either this system or in a retirement annuity contract  
2466 with the [~~Teacher's]~~ Teachers' Insurance and Annuity Association of America or with any other  
2467 public or private system, organization, or company, designated by the Board of Regents, shall, not  
2468 later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract  
2469 allowed under this Subsection (1).

2470 (b) The election is final, and no right exists to make any further election.

2471 (2) (a) A [~~faculty member or]~~ regular full-time employee hired by an institution of higher  
2472 education after January 1, 1979, may participate only in the retirement plan which attaches to the  
2473 person's employment classification[~~, and each]~~.

2474 (b) Each institution of higher education [~~is directed to]~~ shall prepare or amend existing  
2475 employment classifications, under the direction of the Board of Regents, so that each classification  
2476 is assigned with either:



2477 (i) this system [~~or with~~];  
2478 (ii) the [~~Teacher's~~] Teachers' Insurance and Annuity Association of America; or [~~with any~~  
2479 ~~other~~]

2480 (iii) another public or private system, organization, or company designated by the Board  
2481 of Regents.

2482 (3) A [~~faculty member or~~] regular full-time employee hired by an institution of higher  
2483 education after January 1, 1979, whose employment classification requires participation in [~~the~~  
2484 ~~state retirement~~] this system may[-] elect to continue participation in this system upon change to  
2485 an employment classification which requires participation in:

2486 (a) an annuity plan with the [~~Teacher's~~] Teachers' Insurance and Annuity Association of  
2487 America; or [~~with some other~~]

2488 (b) another public or private system, organization, or company designated by the Board  
2489 of Regents[-, ~~finally elect to continue participation in the state retirement system~~].

2490 (4) A [~~faculty member or~~] regular full-time employee hired by an institution of higher  
2491 education after January 1, 1979, whose employment classification requires participation in [~~such~~  
2492 ~~an annuity plan, upon change to an employment classification which requires participation in this~~  
2493 ~~system;~~] this system shall participate in this system.

2494 [~~(5) Nothing contained in this section prohibits a faculty member or employee of an~~  
2495 ~~institution of higher education from participating in a supplemental annuity plan, and the Board~~  
2496 ~~of Regents shall promulgate rules governing permissible participation, but in no event may the~~  
2497 ~~contribution by an institution for the purchase of an old age annuity or other approved investment~~  
2498 ~~exceed 14.2% of the employee's or member's salary.~~]

2499 [~~(6) The State Board of Education may assist its faculties and employees to purchase any~~  
2500 ~~old age annuity plan or other approved investment by promulgating rules governing permissible~~  
2501 ~~participation in a supplemental old age annuity plan or other approved investment, but such~~  
2502 ~~assistance is limited to contracting with the employee to receive a reduced salary, and investing~~  
2503 ~~the employee contribution towards the purchase of the annuity or other approved investment.~~]

2504 Section 55. Section **49-12-301**, which is renumbered from Section 49-2-301 is renumbered  
2505 and amended to read:

### 2506 **Part 3. Contributions**

2507 [~~49-2-301~~]. **49-12-301. Contributions -- Two levels -- Election by a participating**

2508 **employer to pay employee contributions -- Accounting for and vesting of member**  
2509 **contributions -- Deductions.**

2510 (1) ~~[The system shall be maintained on a financially and actuarially sound basis by means~~  
2511 ~~of contributions made jointly by the participating employer and by the active members of the~~  
2512 ~~system.] Participating employers and members shall jointly pay the certified contribution rates to~~  
2513 ~~the office to maintain this system on a financially and actuarially sound basis.~~

2514 (2) For purposes of determining contribution rates, ~~[the]~~ this system is divided into two  
2515 levels according to participating employers~~[-The levels are]~~ as follows:

2516 (a) Level A includes the state ~~[of Utah, the Utah State Retirement Office], its independent~~  
2517 ~~agencies, independent entities, public corporations, and other instrumentalities,~~ all participating  
2518 educational institutions, and all other participating employers whose activities are associated with  
2519 participating educational institutions.

2520 (b) Level B includes all other participating employers in ~~[the]~~ this system.

2521 ~~[(2) Any]~~ (3) (a) A participating employer may elect to pay all or part of ~~[its members']~~  
2522 the required member contributions, in addition to the required participating employer  
2523 contributions.

2524 (b) Any amount contributed by ~~[an]~~ a participating employer under this ~~[subsection]~~  
2525 section shall vest to the member's benefit as though the member had made the contribution.

2526 (c) The ~~[member's]~~ required ~~[contribution]~~ member contributions shall be reduced by the  
2527 amount that is paid by the participating employer.

2528 ~~[(3)]~~ (4) (a) All member contributions are credited by the ~~[retirement]~~ office to the account  
2529 of the individual member.

2530 (b) This amount, together with ~~[regular]~~ refund interest, is held in trust for the payment  
2531 of benefits to the member or the member's beneficiaries.

2532 (c) All member contributions are ~~[100%]~~ vested and nonforfeitable.

2533 ~~[(4)]~~ (5) (a) Each member is ~~[deemed]~~ considered to consent to ~~[monthly]~~ payroll  
2534 deductions of member contributions.

2535 (b) The payment of compensation less ~~[retirement]~~ these payroll deductions is considered  
2536 full payment ~~[of the employee's salary]~~ for services rendered by the member.

2537 ~~[(5)]~~ The board shall report at least biennially to the governor, the Legislature, and each  
2538 employing unit under Division A or B the contribution rates and any adjustments necessary to

2539 ~~maintain the system on a financially and actuarially sound basis, and the employer and employee~~  
2540 ~~shall pay the certified contribution rates.]~~

2541 Section 56. Section **49-12-302** is enacted to read:

2542 **49-12-302. Purchase of service credit.**

2543 Any member who works 20 or more hours per week for a participating employer  
2544 participating in this system, but does not meet other eligibility requirements for service credit, may  
2545 purchase the service credit in accordance with Section 49-11-403.

2546 Section 57. Section **49-12-401**, which is renumbered from Section 49-2-401 is renumbered  
2547 and amended to read:

2548 **Part 4. Defined Benefit**

2549 ~~[49-2-401].~~ **49-12-401. Eligibility for an allowance -- Date of retirement --**  
2550 **Qualifications.**

2551 ~~[(1) (a) Any member who qualifies for service retirement may retire by submitting to the~~  
2552 ~~retirement office an application form notarized by a notary public. The application shall state the~~  
2553 ~~proposed effective date of retirement, which may not be more than 90 days before or after the date~~  
2554 ~~of application.]~~

2555 ~~[(b) The effective date shall be the 1st or 16th day of the month, as selected by the~~  
2556 ~~member, but must be after the last day of actual work.]~~

2557 ~~[(c) The member shall actually terminate employment and provide evidence of~~  
2558 ~~termination.]~~

2559 ~~[(2) The member is qualified to retire upon termination of services on or before the~~  
2560 ~~effective date of retirement if one of the following requirements on that date is met:]~~

2561 (1) A member is qualified to receive an allowance from this system when:

2562 (a) the member ceases actual work for a participating employer in this system before the  
2563 member's retirement date and provides evidence of the termination;

2564 (b) the member has submitted to the office a notarized retirement application form that  
2565 states the member's proposed retirement date; and

2566 (c) one of the following conditions is met as of the member's retirement date:

2567 ~~[(a)]~~ (i) the member has ~~[been credited with]~~ accrued at least four years of service credit  
2568 and has attained an age of 65 years ~~[or more];~~

2569 ~~[(b)]~~ (ii) the member has ~~[been credited with]~~ accrued at least ten years of service credit

2570 and has attained an age of 62 years [~~or more~~];

2571 [~~(e)~~] (iii) the member has [~~been credited with~~] accrued at least 20 years of service credit  
2572 and has attained an age of 60 years [~~or more~~]; or

2573 [~~(d)~~] (iv) the member has [~~been credited with~~] accrued at least 30 years of service credit.

2574 (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as  
2575 selected by the member, but the retirement date must be on or after the date of termination.

2576 (b) The retirement date may not be more than 90 days before or after the date the  
2577 application is received by the office.

2578 Section 58. Section ~~49-12-402~~, which is renumbered from Section 49-2-402 is renumbered  
2579 and amended to read:

2580 ~~[49-2-402].~~ **49-12-402. Service retirement plans -- Calculation of retirement**  
2581 **allowance -- Social Security limitations.**

2582 (1) (a) [~~There are six service retirement plans available to members of the system. Plan~~  
2583 ~~One is as follows, with Plans Two, Three, Four, Five, and Six established under Section 49-2-403.]~~  
2584 Except as provided under Section 49-12-701, retirees of this system may choose from the six  
2585 retirement options described in this section.

2586 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One  
2587 calculation.

2588 (2) [~~Except for members of this system who meet the requirements of Section 49-2-802,~~  
2589 ~~upon the service retirement of a member under Section 49-2-401, the member shall receive a~~  
2590 ~~retirement allowance consisting of an annuity, a pension based on prior service and a pension~~  
2591 ~~based on current service, the total of which is determined]~~ The Option One benefit is an annual  
2592 allowance calculated as follows:

2593 (a) If the [~~member has attained the age of~~] retiree is at least 65 years of age or has accrued  
2594 at least 30 years of service credit, the [retirement] allowance is:

2595 [~~(i) (A) an amount equal to 1.10% of the member's final average monthly salary, multiplied~~  
2596 ~~by the number of years of service credited for service rendered prior to July 1, 1967; plus]~~

2597 [~~(B)~~] (i) an amount equal to 1.25% of the [~~member's~~] retiree's final average monthly salary  
2598 multiplied by the number of years of service [~~credited for service rendered on and after July 1,~~  
2599 ~~1967, through June 30, 1975]~~ credit accrued prior to July 1, 1975; plus

2600 [~~(C)~~] (ii) an amount equal to 2% of the [~~member's~~] retiree's final average monthly salary

2601 multiplied by the number of years of service [~~credited for service rendered~~] credit accrued on and  
2602 after July 1, 1975.

2603 [~~(ii) In no case may that part of a retiring member's allowance, based upon prior service,  
2604 as provided in Subsection (2)(a)(i)(A) be less than 1.15% of that member's final average monthly  
2605 salary if the final average monthly salary is \$500 or less, multiplied by the number of prior service  
2606 years standing to the member's credit at retirement.]~~

2607 (b) If the [~~member~~] retiree is less than 65 years [~~old~~] of age, the [~~retirement~~] allowance  
2608 shall be reduced 3% for each year of retirement from age 60 to age 65, unless the member has 30  
2609 or more years of accrued credit in which event no reduction is made to the allowance.

2610 [~~(3)~~] (c) (i) Years of service includes any fractions of years of service to which the  
2611 [~~member~~] retiree may be entitled. [~~Service amounting to 9/10 of one year constitutes a year of  
2612 service credit in the computation of a retirement benefit.]~~

2613 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service  
2614 credit is within 1/10 of one year of the total years of service credit required for retirement, the  
2615 retiree shall be considered to have the total years of service credit required for retirement.

2616 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated  
2617 by reducing an Option One benefit based on actuarial computations to provide the following:

2618 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree,  
2619 and, if the retiree receives less in annuity payments than the amount of the retiree's member  
2620 contributions, the remaining balance of the retiree's member contributions shall be paid in  
2621 accordance with Sections 49-11-609 and 49-11-610.

2622 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree,  
2623 and, upon the death of the retiree, the same reduced allowance paid to and throughout the lifetime  
2624 of the retiree's lawful spouse at the time of retirement.

2625 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree,  
2626 and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance paid to and  
2627 throughout the lifetime of the retiree's lawful spouse at the time of retirement.

2628 (d) Option Five is a modification of Option Three so that if the lawful spouse at the time  
2629 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time  
2630 of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's  
2631 life, beginning on the last day of the month following the month in which the lawful spouse dies.

2632 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time of  
2633 retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of  
2634 initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life,  
2635 beginning on the last day of the month following the month in which the lawful spouse dies.

2636 (4) (a) (i) The final average salary is limited in the computation of that part of [~~a member's~~  
2637 ~~prior service retirement~~] an allowance based on service rendered prior to July 1, 1967, during a  
2638 period when the [~~member~~] ~~retiree~~ received employer contributions on a portion of compensation  
2639 from an educational institution toward the payment of the premium required on a retirement  
2640 annuity contract with the Teachers' Insurance and Annuity Association of America or with any  
2641 other public or private system, organization, or company to \$4,800.

2642 (ii) This limitation is not applicable to [~~members~~] ~~retirees~~ who elected to continue in the  
2643 [~~state retirement~~] this system by July 1, 1967.

2644 (b) Periods of [~~service~~] ~~employment~~ which are exempt from this system under Subsection  
2645 [~~49-2-205(3), not to exceed four years~~] 49-12-203(1)(c), may be purchased by the member for the  
2646 purpose of retirement[-] only if all benefits from the Teachers' Insurance and Annuity Association  
2647 of America or any other public or private system or organization based on this period of  
2648 employment are forfeited.

2649 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement date,  
2650 the retirement is canceled and the death shall be considered as that of a member before retirement.

2651 (b) Any payments made to the retiree shall be deducted from the amounts due to the  
2652 beneficiary.

2653 (6) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree  
2654 may elect to convert the benefit to a Option One benefit at the time of divorce, if there is no court  
2655 order filed in the matter.

2656 Section 59. Section ~~49-12-403~~, which is renumbered from Section 49-2-404 is renumbered  
2657 and amended to read:

2658 [~~49-2-404~~]. **49-12-403. Allowance payable by lump sum payment.**

2659 (1) If a [~~retiring member's monthly~~] ~~retiree's~~ allowance, as computed under [~~Section~~  
2660 ~~49-2-402~~] this chapter, amounts to \$25 or less, the [~~benefit claim~~] allowance may be settled by the  
2661 [~~administrator~~] office by making a lump-sum payment of an amount actuarially equivalent to the  
2662 [~~monthly~~] allowance. [~~Payment thus~~]

2663           (2) A payment made under this section constitutes a full and complete settlement of the  
2664 ~~[retiring member's]~~ retiree's claim against ~~[the]~~ this system.

2665           Section 60. Section **49-12-404**, which is renumbered from Section 49-2-405 is renumbered  
2666 and amended to read:

2667           ~~[49-2-405].~~   **49-12-404. Lump-sum death benefit for retiree and spouse.**

2668           (1) (a) ~~[A member, upon service]~~ Upon retirement, a retiree may elect to have the  
2669 ~~[administrator set aside in reserve from the member's retirement allowance a sufficient sum of~~  
2670 ~~money, based upon age, sex, interest rate in effect, and the mortality rates for the member's group,]~~  
2671 office deduct an actuarially determined amount from the retiree's allowance to provide a lump-sum  
2672 benefit payable to a beneficiary upon the death of the ~~[member after retirement, under an~~  
2673 ~~agreement that will provide a reduced retirement allowance payable to the retirant throughout the~~  
2674 ~~retirant's lifetime, plus the lump-sum amount at death]~~ retiree.

2675           (b) A retiree may also elect to have an actuarially determined amount deducted from the  
2676 retiree's allowance to provide a lump-sum death benefit payable to a beneficiary upon the death  
2677 of the retiree's lawful spouse at the time of retirement.

2678           ~~[(b) This]~~ (c) The board may make rules for the administration of this lump-sum death  
2679 ~~[benefit may be purchased in accordance with rules adopted by the board]~~ benefit.

2680           ~~[(c) The spouse of a retiring member may also be covered with a death benefit upon the~~  
2681 ~~request of the member.]~~

2682           ~~[(2) The lump-sum death benefit provided by this section may be chosen as a modification~~  
2683 ~~of or deduction from the retirement allowance provided under Sections 49-2-402 and 49-2-403,~~  
2684 ~~and is payable to the designated beneficiary chosen at the time of the member's retirement, to a~~  
2685 ~~beneficiary subsequently designated, or to the retirant's estate under applicable conditions~~  
2686 ~~established under Section 49-1-606 or 49-1-607.]~~

2687           ~~[(3) If a retirant cancels retirement as permitted by this title, the lump-sum death benefit~~  
2688 ~~under this section shall also be canceled, with the appropriate reserve, as determined by the~~  
2689 ~~administrator, credited back to the member's contribution account.]~~

2690           ~~[(4) Payment of the lump-sum death benefit consists only of a refund of the retirant's~~  
2691 ~~reserve or the amount determined by the board and set aside as provided in this section if death~~  
2692 ~~occurs within three years from the date of retirement and is due to a health condition existing and~~  
2693 ~~being treated at the time of retirement.]~~

2694 ~~[(5) The board may establish rules and adopt suitable mortality rates to protect the fund~~  
2695 ~~against adverse selection of benefits by a retiring member under this section.]~~

2696 (2) (a) For retirees who pay for a lump-sum death benefit under this section through a  
2697 reduction of an allowance, benefits shall be paid in accordance with Sections 49-11-609 and  
2698 49-11-610.

2699 (b) If the retiree chooses Option Three, Four, Five, or Six, and a lump-sum death benefit  
2700 is payable after the death of the retiree or the lawful spouse, the allowance shall be restored to its  
2701 original amount.

2702 Section 61. Section **49-12-405**, which is renumbered from Section 49-2-406 is renumbered  
2703 and amended to read:

2704 ~~[49-2-406].~~ **49-12-405. Death of married member -- Service retirement benefits to**  
2705 **surviving spouse.**

2706 (1) ~~[(a) A member who has]~~ Upon the request of the member's lawful spouse at the time  
2707 of death, a member is considered to be eligible to retire under Option Three on the first day of the  
2708 month following the month in which the member died if the following requirements are met:

2709 (a) the member has:

2710 (i) 25 or more years of [credited] service[;] credit;

2711 (ii) attained age 60 with 20 or more years of [credited] service[;] credit;

2712 (iii) attained age 62 with ten or more years of [credited] service[;] credit; or

2713 (iv) attained age 65 with four or more years of [credited] service[, respectively, and who]  
2714 credit; and

2715 (b) the member dies leaving a spouse to whom the member has been married at least six  
2716 months prior to the death date[; may, upon the request of the spouse, be considered to have retired  
2717 on the first day of the month following the month in which death occurred under Plan Number  
2718 Three].

2719 ~~[(b)]~~ (2) The spouse who requests a benefit [pursuant to Subsection (1)(a)] under this  
2720 section shall apply in writing to the [retirement] office stating the proposed effective date to begin  
2721 receiving [a monthly retirement] an allowance, which may not be more than 90 days [before or]  
2722 after the date of application[, and which shall be effective on the 1st or 16th day of the month, as  
2723 selected by the spouse].

2724 ~~[(2)]~~ (3) The [benefit] Option Three benefit calculation, when there are 25 or more years



2725 of service credit, shall be calculated without ~~[an actuarial]~~ a reduction in allowance under Section  
2726 49-12-402.

2727 ~~[(3) Benefits]~~ (4) Except for a return of member contributions, benefits payable under this  
2728 section are ~~[service]~~ retirement benefits and shall be paid in addition to any payments made under  
2729 Section ~~[49-2-701, except for a return of accumulated contributions,]~~ 49-12-501 and constitute a  
2730 full and final settlement of the claim of the spouse or any other beneficiary filing claim for benefits  
2731 under Section ~~[49-2-701]~~ 49-12-501.

2732 Section 62. Section **49-12-406**, which is renumbered from Section 49-2-409 is renumbered  
2733 and amended to read:

2734 ~~[49-2-409].~~ **49-12-406. Part-time elective or appointive service -- Computation of**  
2735 **allowance.**

2736 ~~[Elective]~~ Notwithstanding any other provision of this title, elective or appointive service  
2737 rendered on a basis not considered full time by the ~~[board,]~~ office, unless otherwise provided by  
2738 this chapter, shall have a ~~[retirement]~~ separate allowance computed on the basis of compensation  
2739 actually received by the ~~[official]~~ member during the period of elective or appointive service.

2740 Section 63. Section **49-12-407**, which is renumbered from Section 49-2-601 is renumbered  
2741 and amended to read:

2742 ~~[49-2-601].~~ **49-12-407. Annual cost-of-living adjustment.**

2743 (1) ~~[There shall be computed and paid by the retirement]~~ The office,~~[upon the approval~~  
2744 ~~of the board,]~~ shall make an annual cost-of-living ~~[allowance]~~ adjustment to: ~~[all retired members~~  
2745 ~~of this system after the members have been retired one year. The adjustment shall be equal to the~~  
2746 ~~decrease in the purchasing power of the dollar during the preceding year, as measured by the~~  
2747 ~~Consumer Price Index, prepared by the United States Bureau of Labor Statistics, limited to a~~  
2748 ~~maximum of 4% of the retirant's or beneficiary's original retirement allowance. Decreases in the~~  
2749 ~~purchasing power of the dollar in excess of 4% annually shall be accumulated and used in~~  
2750 ~~subsequent allowances when the cost-of-living adjustment is less than 4% annually.]~~

2751 ~~[(2) If the cost-of-living shows a decline of 4% or more during any period of time~~  
2752 ~~extending longer than one year a reduction not to exceed the rate of 2% per year shall be made~~  
2753 ~~based upon the original retirement allowance. Payments made under this section shall be a part~~  
2754 ~~of the retired member's allowance. These payments and subsequent adjustments as prescribed for~~  
2755 ~~the retirant shall also apply to the beneficiary who is paid an allowance under optional retirement~~

2756 plans. ~~Cost-of-living benefits granted prior to July 1, 1975, are not subject to adjustment.]~~

2757 (a) an original allowance paid under Section 49-12-402 or 49-12-404, if the allowance has  
2758 been paid for at least one year; and

2759 (b) an original payment made to an alternate payee under a domestic relations order, if the  
2760 payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

2761 (2) (a) The original allowance shall be increased by the annual increase in the Consumer  
2762 Price Index up to a maximum of 4%.

2763 (b) Annual increases in the Consumer Price Index in excess of 4% shall be accumulated  
2764 and used in subsequent adjustments when the annual increase in the Consumer Price Index is less  
2765 than 4%.

2766 (3) The Consumer Price Index used in calculating adjustments shall be a United States  
2767 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

2768 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

2769 Section 64. Section **49-12-408**, which is renumbered from Section 49-2-602 is renumbered  
2770 and amended to read:

2771 ~~[49-2-602].~~ **49-12-408. Minimum monthly allowance.**

2772 (1) [No member who retired] A retiree under this system may not receive less than \$9 per  
2773 month for each year of service credit at the time of retirement.

2774 (2) The increased allowance provided by this section may not exceed the allowance  
2775 payable under [Plan I] Option One under Section 49-12-402, by more than 75%.

2776 (3) The cost of providing this benefit shall be assumed within the contribution rate  
2777 established under Section [49-2-301] 49-12-301.

2778 Section 65. Section **49-12-501**, which is renumbered from Section 49-2-701 is renumbered  
2779 and amended to read:

## 2780 **Part 5. Death Benefit**

2781 ~~[49-2-701].~~ **49-12-501. Death benefit by means of group insurance policy --**

2782 **Eligibility for death benefit -- Benefit calculation -- Payment of claim -- Exclusion.**

2783 (1) The [board] office shall provide a death benefit through the purchase of a group  
2784 insurance policy for members of this system.

2785 (2) The board shall make rules to [implement and] administer the death benefit provided  
2786 by this section and may, in accordance with federal law, establish:

2787 (a) benefit levels ~~[or]~~;

2788 (b) classes of ~~[employees]~~ members; and

2789 ~~[(b)]~~ (c) a living benefit option.

2790 ~~[(2) Upon receipt of acceptable proof of death of a member of the system, either prior to~~  
2791 ~~the effective date of the member's retirement, except as provided in Section 49-2-406, or after the~~  
2792 ~~date of retirement but under circumstances that Section 49-2-403 requires to be treated as the death~~  
2793 ~~of member before retirement, the following death benefits, except those benefits already provided~~  
2794 ~~to the member under a living benefit option, shall be paid to the beneficiary:]~~

2795 ~~[(a) the return of any accumulated contributions under this chapter; plus]~~

2796 ~~[(b) a percentage of the final average salary of the deceased member to be determined by~~  
2797 ~~the board. This percentage shall be the highest percentage of final average salary obtainable by~~  
2798 ~~the board through the purchase of a group insurance policy using the money contributed by the~~  
2799 ~~employer under Subsection (3).]~~

2800 (3) This death benefit is payable when:

2801 (a) the member dies prior to the member's retirement date or dies under circumstances  
2802 which Section 49-12-402 requires to be treated as the death of a member before retirement;

2803 (b) the office receives acceptable proof of death; and

2804 (c) benefits are not payable under Section 49-12-404.

2805 (4) The death benefit payable to the beneficiary under this section is a lump-sum payment  
2806 consisting of:

2807 (a) the return of any member contributions under this chapter; plus

2808 (b) a percentage of the final average salary of the member to be determined by the board.

2809 (5) Any amount of a living benefit option paid to the member prior to death shall be  
2810 deducted from the benefit payable to the beneficiary.

2811 ~~[(3)]~~ (6) The cost of the death benefit shall be paid by the participating employer as a  
2812 portion of the contribution rate established under Section 49-12-301.

2813 ~~[(4)]~~ (7) The portion of the death benefit provided under Subsection ~~[(2)]~~ (4)(b), based  
2814 upon the member's past compensation,] may not be paid to the beneficiary of an inactive member  
2815 unless:

2816 (a) that member has ~~[credit for]~~ ten or more years of accrued service credit prior to July  
2817 1, 1987; or

2818 (b) the death of the member occurs either:

2819 (i) within a period of 120 days after the last day of [service] work for which the person  
2820 received compensation; or

2821 (ii) while the [person] member is still physically or mentally incapacitated from  
2822 performance of duties, if the incapacity has been continuous since the last day of [service] work  
2823 for which compensation [is] was received~~[; or]~~.

2824 ~~[(iii) while that person is on military leave and has elected to remain in active contributing~~  
2825 ~~membership status as provided in Section 49-1-402.]~~

2826 ~~(8) The death benefit [may not be paid to any person except a beneficiary] provided under~~  
2827 ~~Subsection (4)(b) shall be paid in accordance with Sections 49-11-609 and 49-11-610.~~

2828 ~~[(5)] (9) The death benefit [for] paid to the beneficiary of an inactive member, except as~~  
2829 otherwise provided under Subsection ~~[(4)] (7)~~, is a lump-sum return of the ~~[deceased]~~ member's  
2830 ~~[accumulated] member~~ contributions.

2831 ~~[(6)] (10) Payment of the death benefit by the [retirement] office constitutes a full~~  
2832 settlement of any beneficiary's claim against the [system] office, and the [system] office is not  
2833 liable for any further or additional claims or assessments on behalf of the ~~[deceased]~~ member.

2834 ~~[(7)] (11) Unless otherwise specified in a written document filed [in] with the [retirement]~~  
2835 office, death benefits payable to beneficiaries shall be in accordance with the order of precedence  
2836 established under Title 75, Chapter 2, ~~[Uniform Probate Code]~~ Intestate Succession and Wills.

2837 ~~[(8) In the implementation of this section and for administrative purposes only, the State~~  
2838 ~~Tax Commission shall provide pertinent information to the retirement administrator, upon request,~~  
2839 ~~concerning dependents claimed by a deceased member on the income tax return covering the year~~  
2840 ~~prior to the member's death.]~~

2841 ~~[(9)] (12) A death benefit under this section may not be paid to a [member who has retired]~~  
2842 ~~beneficiary of a retiree under this system.~~

2843 Section 66. Section **49-12-601**, which is renumbered from Section 49-2-503 is renumbered  
2844 and amended to read:

#### 2845 **Part 6. Disability**

2846 ~~[49-2-503].~~ **49-12-601. Disability retirement -- Medical examinations --**

2847 **Reemployment of disabled retirant -- Cancellation of benefit -- Service credit -- Disabled**

2848 **retirant engaging in gainful employment -- Reduction of allowance -- Refusal to submit to**

2849 **medical examination.**

2850 (1) Only members of this system who became eligible for a disability retirement allowance  
2851 before January 1, 1983, are covered under this section.

2852 [~~(1)~~] (2) (a) The board may, upon the recommendation of the administrator, require any  
2853 retirant who has been retired for disability and who has not attained the age of 60 years, to undergo  
2854 a medical examination by a physician or surgeon, appointed by the board, at the place of residence  
2855 of the retirant or other place mutually agreed upon.

2856 (b) Upon the basis of the examination, the board shall determine whether the disabled  
2857 retirant is still incapacitated, physically or mentally, for service under this chapter.

2858 (c) If the board determines that the retirant is not incapacitated, the retirement allowance  
2859 shall be cancelled and the retirant shall be reinstated immediately to a position of the same class  
2860 as that held by the retirant when retired for disability.

2861 (d) If any employing unit is unable to reinstate the retirant, the board shall continue the  
2862 disability retirement allowance of the retirant until [~~such time as~~] employment is available.

2863 [~~(2)~~] (3) (a) If a disabled retirant under this system reenters covered service and is eligible  
2864 for membership in the retirement system, the retirement allowance shall be cancelled and the  
2865 retirant shall immediately become a member of the retirement system.

2866 (b) (i) The member's individual account shall be credited with an amount which is the  
2867 actuarial equivalent, at the time of reentry, based on a disabled life, of that portion of the member's  
2868 retirement allowance which was derived from the member's accumulated contributions[~~, but that~~].

2869 (ii) The amount credited may not exceed the amount of accumulated contributions  
2870 standing at the time of retirement.

2871 (c) Each member shall receive credit for the service [~~standing to~~] in the member's account  
2872 at the time of retirement.

2873 [~~(3)~~] (4) If the retirement allowance of any disabled retirant is cancelled for any cause other  
2874 than reentry into service, the retirant shall be paid the accumulated contributions less the amounts  
2875 prescribed by Subsection [~~(5)~~] (6).

2876 [~~(4)~~] (5) (a) If any member retired for disability engages in a gainful occupation prior to  
2877 attaining age 60, the administrator shall reduce the amount of the retirement [~~benefit~~] allowance  
2878 to an amount which, when added to the compensation earned monthly by the retirant in that  
2879 occupation, may not exceed the amount of the final average monthly salary on the basis of which

2880 the current service retirement [~~benefit~~] allowance was determined.

2881 (b) If the earning capacity of the retirant is further altered, the administrator may further  
2882 alter the retirement [~~benefit~~] allowance as provided in this Subsection (5).

2883 (c) In no event, however, may the retirement benefit be reduced below that portion of the  
2884 retirant's allowance derived from the retirant's own accumulated contributions.

2885 (d) When the retirant reaches age 60, the retirement allowance shall be made equal to the  
2886 amount upon which the retirant was originally retired and may not again be modified for any cause.

2887 [~~(5)~~] (6) (a) If any member who retired for disability under age 60, refuses to submit to a  
2888 medical examination, the retirement allowance may be discontinued until the retirant withdraws  
2889 that refusal[~~, and if~~].

2890 (b) If the refusal continues for one year the disability status may be cancelled and  
2891 membership terminated.

2892 (c) (i) The retirant's accumulated contribution account shall be the actuarial equivalent on  
2893 the date of the retirant's change of status, based on a disabled life, of that portion of the disability  
2894 retirement allowance which was derived from the retirant's accumulated contributions[~~, but that~~].

2895 (ii) The amount credited may not exceed the amount of the retirant's accumulated  
2896 contributions at the time of disability retirement.

2897 Section 67. Section **49-12-701**, which is renumbered from Section 49-2-802 is renumbered  
2898 and amended to read:

#### 2899 **Part 7. Early Retirement Incentive**

2900 [~~49-2-802~~]. **49-12-701. Early retirement incentive -- Eligibility -- Calculation of**  
2901 **benefit -- Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**  
2902 **reemployment.**

2903 (1) Any member of this system may retire and receive the [~~benefit~~] allowance allowed  
2904 under Subsection (2) if the member meets the following requirements as of the [~~effective date of~~]  
2905 member's retirement date:

2906 (a) the member is eligible for retirement under Section [~~49-2-401~~] 49-12-401, or  
2907 [~~otherwise~~] has 25 years of service credit;

2908 (b) the member elects to forfeit any stipend for retirement offered by the [~~employing unit~~]  
2909 participating employer; and

2910 (c) the member elects to retire from this system by applying for retirement by the date

2911 established under Subsection (3)(a) or (3)(b).

2912 (2) (a) A member who retires [~~pursuant to~~] under Subsection (1) shall receive 2% of that  
2913 member's final average salary for all years of service credit.

2914 (b) An actuarial reduction may not be applied to the [~~benefit~~] allowance granted under this  
2915 section.

2916 (3) In order to receive the [~~benefit~~] allowance allowed by this section, a member shall  
2917 submit an application to the [~~retirement~~] office as follows:

2918 (a) (i) For state and school employees under Level A, the application shall be filed by May  
2919 31, 1987. The [~~effective date of~~] member's retirement date shall then be set by the [~~employee~~]  
2920 member on the [~~first~~] 1st or [~~sixteenth~~] 16th day of July, August, or September, 1987.

2921 (ii) If a Level A [~~employee~~] member elects to retire, the [~~administrator~~] executive director  
2922 or participating employer may request the [~~employee~~] member to delay the [~~effective date of~~]  
2923 retirement date until a later date, but no later than June 30, 1988.

2924 (iii) If the [~~employee~~] member agrees to delay the [~~effective~~] retirement date, the  
2925 [~~effective~~] retirement date shall be delayed, but [~~no~~] service credit may not be accrued after the  
2926 member's original [~~effective date of~~] retirement date elected by the [~~employee~~] member, and [~~no~~]  
2927 [~~salary~~] compensation earned after [~~that effective~~] the member's original retirement date date may  
2928 not be used in the calculation of the final average salary for determining the retirement [~~benefit~~]  
2929 allowance.

2930 (b) (i) For political [~~subdivisions~~] subdivision employees under Level B, the application  
2931 shall be filed by September 30, 1987.

2932 (ii) The [~~effective date of~~] retirement date shall then be set by the [~~employee~~] member on  
2933 the [~~first~~] 1st or [~~sixteenth~~] 16th day of July, August, September, October, November, or  
2934 December, 1987.

2935 (4) (a) The cost of providing the [~~benefit~~] allowance under this section shall be funded in  
2936 fiscal year 1987-88 by a supplemental appropriation in the 1988 General Session based on the  
2937 retirement contribution rate increase established by the consulting actuary and approved by the  
2938 board.

2939 (b) The cost of providing the [~~benefit~~] allowance under this section shall be funded  
2940 beginning July 1, 1988, by means of an increase in the retirement contribution rate established by  
2941 the consulting actuary and approved by the board.

2942 (c) The rate increase under Subsections (4)(a) and (b) shall be funded:

2943 (i) for state employees, by an appropriation from the account established by the Division  
2944 of Finance under Subsection (4)(d), which is funded by savings derived from this early retirement  
2945 incentive and a work force reduction;

2946 (ii) for school employees, by direct contributions from the employing unit, which may not  
2947 be funded through an increase in the retirement contribution amount established in Title 53A,  
2948 Chapter 17a, Minimum School Program Act; and

2949 (iii) for political subdivisions under Level B, by direct contributions by the ~~[employing~~  
2950 ~~unit]~~ participating employer.

2951 (d) (i) Each year, any excess savings derived from this early retirement incentive which  
2952 are above the costs of funding the increase and the costs of paying insurance, sick leave,  
2953 compensatory leave, and vacation leave under Subsections (4)(c)(i) and (c)(ii) shall be reported  
2954 to the Legislature and shall be appropriated as provided by law.

2955 (ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an account  
2956 into which all savings derived from this early retirement incentive shall be deposited as the savings  
2957 are realized.

2958 (iii) In the case of Subsection (4)(c)(ii), the State Office of Education shall certify the  
2959 amount of savings derived from this early retirement incentive.

2960 (iv) The State Office of Education and the ~~[employing unit]~~ participating employer may  
2961 not spend the savings until appropriated by the Legislature as provided by law.

2962 (5) A member who retires under this section is subject to Section ~~[49-1-505]~~ 49-11-504.

2963 (6) The ~~[retirement]~~ board may adopt rules to ~~[implement and]~~ administer this section.

2964 (7) The Legislative Auditor General shall perform an audit to ensure compliance with this  
2965 section.

2966 Section 68. Section **49-13-101**, which is renumbered from Section 49-3-101 is renumbered  
2967 and amended to read:

2968 **CHAPTER 13. PUBLIC EMPLOYEES' NONCONTRIBUTORY RETIREMENT ACT**

2969 **Part 1. General Provisions**

2970 ~~[49-3-101]~~. **49-13-101. Title.**

2971 This chapter is known as the "Public Employees' Noncontributory Retirement Act."

2972 Section 69. Section **49-13-102**, which is renumbered from Section 49-3-103 is renumbered



2973 and amended to read:

2974 ~~[49-3-103].~~ **49-13-102. Definitions.**

2975 As used in this chapter:

2976 ~~[(1) "Appointive officer" means an employee appointed to a position for a definite and~~  
2977 ~~fixed term of office by official and duly recorded action of the governing body of an employing~~  
2978 ~~unit and who earns \$500 or more per month over a 12-month period adjusted by the Bureau of~~  
2979 ~~Labor Statistics Consumer Price Index.]~~

2980 ~~[(2) (a) "Compensation," "salary," or "wages" means the total amount of payments made~~  
2981 ~~by an employer to an employee for services rendered to the employer, including:]~~

2982 ~~[(i) bonuses;]~~

2983 ~~[(ii) cost-of-living adjustments;]~~

2984 ~~[(iii) other payments currently includable in gross income and that are subject to Social~~  
2985 ~~Security deductions, including any payments in excess of the maximum amount subject to~~  
2986 ~~deduction under Social Security law; and]~~

2987 ~~[(iv) amounts that the employee authorizes to be deducted or reduced for salary deferral~~  
2988 ~~or other benefit programs authorized by federal law.]~~

2989 ~~[(b) "Compensation" for purposes of this chapter may not exceed the amount allowed~~  
2990 ~~under Internal Revenue Code Section 401(a)(17).]~~

2991 ~~[(c) "Compensation," "salary," or "wages" does not include:]~~

2992 ~~[(i) the monetary value of remuneration paid in kind, such as a residence or use of~~  
2993 ~~equipment;]~~

2994 ~~[(ii) all contributions made by an employer under any plan for the benefit of a participant;]~~

2995 ~~[(iii) salary paid to an employee working under the minimum number of hours required~~  
2996 ~~for membership;]~~

2997 ~~[(iv) salary paid to a temporary or exempt employee;]~~

2998 ~~[(v) any payments upon termination, including accumulated lump-sum vacation, sick leave~~  
2999 ~~payments, or any other special payments; or]~~

3000 ~~[(vi) uniform, travel, or similar allowances.]~~

3001 ~~[(3) "Educational institution" means a political subdivision or instrumentality of the state~~  
3002 ~~or a combination thereof primarily engaged in educational activities or the administration or~~  
3003 ~~servicing of educational activities, including:]~~

3004 [~~(a) the State Board of Education and its instrumentalities;~~]

3005 [~~(b) any institution of higher learning and its branches;~~]

3006 [~~(c) any school district and its instrumentalities;~~]

3007 [~~(d) any vocational and technical school; and]~~

3008 [~~(e) any entity arising out of a consolidation agreement between entities under this~~  
3009 ~~definition.~~]

3010 [~~(4) "Effective date" of the noncontributory system means 12:01 a.m., July 1, 1986.]~~

3011 [~~(5) (a) "Employee" or "regular employee" means any regular full-time employee whose~~  
3012 ~~term of employment for an employer contemplates continued employment during a calendar or~~  
3013 ~~school year and who performs covered service for one or more employers.]~~

3014 [~~(b) "Employee" or "regular employee" means an officer, elective or appointive, who~~  
3015 ~~receives as compensation from an employer \$500 or more per month over a 12-month period~~  
3016 ~~adjusted by the Bureau of Labor Statistics Consumer Price Index.]~~

3017 [~~(6) "Employer" or "employing unit" means any department, educational institution,~~  
3018 ~~political subdivision, or eligible organization, or agency financed in whole or in part by public~~  
3019 ~~funds for which any employee or member performs services subject to this chapter.]~~

3020 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total amount  
3021 of payments made by a participating employer to a member of this system for services rendered  
3022 to the participating employer, including:

3023 (i) bonuses;

3024 (ii) cost-of-living adjustments;

3025 (iii) other payments currently includable in gross income and that are subject to Social  
3026 Security deductions, including any payments in excess of the maximum amount subject to  
3027 deduction under Social Security law; and

3028 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral or  
3029 other benefits authorized by federal law.

3030 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed under  
3031 Internal Revenue Code, Section 401(a)(17).

3032 (c) "Compensation" does not include:

3033 (i) the monetary value of remuneration paid in kind, including a residence or use of  
3034 equipment;

3035 (ii) the cost of any employment benefits paid for by the participating employer;

3036 (iii) compensation paid to a temporary employee, an exempt employee, or an employee  
3037 otherwise ineligible for service credit;

3038 (iv) any payments upon termination, including accumulated vacation, sick leave payments,  
3039 severance payments, compensatory time payments, or any other special payments; or

3040 (v) any costs incurred by the member and reimbursed by the participating employer,  
3041 including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance  
3042 costs, and dependent care costs.

3043 (d) The executive director may determine if a payment not listed under this Subsection (1)  
3044 falls within the definition of compensation.

3045 ~~[(7)]~~ (2) "Final average salary" means the amount computed by averaging the highest three  
3046 years of annual compensation preceding retirement subject to [Subsections (7)(a), (b), and (c)-] the  
3047 following:

3048 (a) Except as provided in Subsection ~~[(7)]~~ (2)(b), the percentage increase in annual  
3049 compensation in any one of the years used may not exceed the previous year's ~~[salary]~~  
3050 compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the  
3051 purchasing power of the dollar during the previous year, as measured by ~~[the Consumer Price~~  
3052 ~~Index prepared by the]~~ a United States Bureau of Labor Statistics Consumer Price Index average  
3053 as determined by the board.

3054 (b) In cases where the ~~[employing unit]~~ participating employer provides acceptable  
3055 documentation to the ~~[board]~~ office, the limitation in Subsection (2)(a) may be exceeded if:

3056 (i) the member has transferred from another ~~[employing unit]~~ agency; or

3057 (ii) the member has been promoted to a new position.

3058 (c) If the member retires more than six months from the date of termination of employment  
3059 and for purposes of computing the member's final average salary only, the member is considered  
3060 to have been in service at his last ~~[salary]~~ rate of pay from the date of the termination of  
3061 employment to the effective date of retirement ~~[becomes effective if the member so requests].~~

3062 ~~[(8) "Normal retirement age" means the age of 65 years.]~~

3063 ~~[(9) "Organization or agency financed in whole or in part by public funds" means an~~  
3064 ~~agency, association, or organization that receives public funds. The term does not include political~~  
3065 ~~subdivisions, departments, or educational institutions.]~~

3066           ~~[(10) "Public funds" means those funds derived, either directly or indirectly, from public~~  
3067 ~~taxes or public revenue, dues, or contributions paid or donated by the membership of the~~  
3068 ~~organization used to finance an activity whose objective is to improve, on a nonprofit basis, the~~  
3069 ~~governmental, educational, and social programs and systems of the state or its political~~  
3070 ~~subdivisions.]~~

3071           ~~[(11) (a) "Regular full-time employee," in qualifying for membership and accrual of~~  
3072 ~~service credit under this system, means an employee whose employment normally requires an~~  
3073 ~~average of 20 hours or more per week, except as modified by the board, and who receives benefits~~  
3074 ~~normally provided by the employing unit.]~~

3075           ~~[(b) "Regular full-time employee" includes:]~~

3076           ~~[(i) a teacher who teaches half-time or more or a classified school employee who works~~  
3077 ~~an average of 20 hours per week or more, regardless of benefits provided; and]~~

3078           ~~[(ii) an individual who otherwise meets the definition of this Subsection (11) who~~  
3079 ~~performs services for a participating employer through an employee leasing or similar~~  
3080 ~~arrangement.]~~

3081           ~~[(12) "Years of service" or "service years" means:]~~

3082           ~~[(a) the number of periods, each to consist of 12 full months as determined by the board;]~~

3083           ~~[(b) a period determined by the board, whether consecutive or not, during which an~~  
3084 ~~employee performed services for an employer or employers, including any time the employee~~  
3085 ~~rendered service in the armed forces of the United States before membership in the system or was~~  
3086 ~~absent on a paid leave of absence granted by an employer or absent in the service of the United~~  
3087 ~~States government on military duty as provided by this chapter; or]~~

3088           ~~[(c) for a teacher, school administrator, or other contract employee of an educational~~  
3089 ~~institution, not less than eight months of full-time service constitutes a service year.]~~

3090           ~~(3) "Participating employer" means an employer which meets the participation~~  
3091 ~~requirements of Section 49-13-201.~~

3092           ~~(4) (a) "Regular full-time employee" means an employee whose term of employment for~~  
3093 ~~a participating employer contemplates continued employment during a fiscal or calendar year and~~  
3094 ~~whose employment normally requires an average of 20 hours or more per week and who receives~~  
3095 ~~benefits normally provided by the participating employer.~~

3096           ~~(b) "Regular full-time employee" includes:~~

3097 (i) a teacher whose term of employment for a participating employer contemplates  
3098 continued employment during a school year and who teaches half-time or more or a classified  
3099 school employee who works an average of 20 hours per week or more for a participating employer,  
3100 regardless of benefits provided;

3101 (ii) an officer, elective or appointive, who earns during the first full month of the term of  
3102 office \$500 or more, indexed as of January 1, 1989, as provided in Section 49-13-407;

3103 (iii) a faculty member or employee of an institution of higher education who is considered  
3104 full-time by that institution of higher education; and

3105 (iv) an individual who otherwise meets the definition of this Subsection (4) who performs  
3106 services for a participating employer through an employee leasing or similar arrangement.

3107 (5) "System" means the Public Employees' Noncontributory Retirement System.

3108 (6) "Years of service credit" means:

3109 (a) a period, consisting of 12 full months as determined by the board;

3110 (b) a period determined by the board, whether consecutive or not, during which a regular  
3111 full-time employee performed services for a participating employer, including any time the regular  
3112 full-time employee was absent on a paid leave of absence granted by a participating employer or  
3113 was absent in the service of the United States government on military duty as provided by this  
3114 chapter; or

3115 (c) the regular school year consisting of not less than eight months of full-time service for  
3116 a regular full-time employee of an educational institution.

3117 Section 70. Section **49-13-103**, which is renumbered from Section 49-3-201 is renumbered  
3118 and amended to read:

3119 **[49-3-201]. 49-13-103. Creation of system.**

3120 There is created for ~~[the employees of the state, its educational institutions, and its political~~  
3121 ~~subdivisions]~~ members employed by a participating employer the "Public Employees'  
3122 Noncontributory Retirement System."

3123 Section 71. Section **49-13-104**, which is renumbered from Section 49-3-202 is renumbered  
3124 and amended to read:

3125 **[49-3-202]. 49-13-104. Creation of trust fund.**

3126 (1) There is created the "Public Employees' Noncontributory Retirement Trust Fund" for  
3127 the purpose of paying the benefits and costs of administering this system.

3128           (2) The fund shall consist of all money paid into it, including interest, in accordance with  
 3129 this chapter, whether in the form of cash, securities, or other assets, and of all money received from  
 3130 any other source.

3131           (3) Custody, management, and investment of the fund shall be governed by [~~Title 49;~~  
 3132 Chapter ~~[†]~~ 11, Utah State Retirement Systems Administration.

3133           Section 72. Section **49-13-201**, which is renumbered from Section 49-3-203 is renumbered  
 3134 and amended to read:

### Part 2. Membership Eligibility

3136           ~~[49-3-203].~~   **49-13-201. System membership -- Eligibility.**

3137           (1) Beginning July 1, 1986, the state and its educational institutions shall participate in this  
 3138 system.

3139           ~~[(1) Any]~~ (a) A person entering regular full-time employment with the state or its  
 3140 educational institutions after ~~[the effective date of this chapter shall automatically become a~~  
 3141 ~~member of the noncontributory retirement]~~ July 1, 1986, is eligible for service credit in this system.

3142           ~~[(2) Any person in]~~ (b) A regular full-time ~~[employment with]~~ employee of the state or  
 3143 its educational institutions prior to ~~[the effective date of this system]~~ July 1, 1986, may either  
 3144 become ~~[a member of this noncontributory]~~ eligible for service credit in this system or remain ~~[a~~  
 3145 ~~member of the Public Employees' Retirement System]~~ eligible for service in the system established  
 3146 under ~~[Title 49;]~~ Chapter ~~[2;]~~ 12, Public Employees' Contributory Retirement Act, by following  
 3147 the procedures established by the board ~~[pursuant to]~~ in accordance with this chapter.

3148           ~~[(3) Membership in the noncontributory system is optional for political subdivisions;]~~

3149           (2) An employer, other than the state and its educational institutions, may participate in  
 3150 this system except that once ~~[a political subdivision]~~ an employer elects to participate in ~~[the~~  
 3151 ~~noncontributory]~~ this system, that election is ~~[final and binding upon the political subdivision]~~  
 3152 irrevocable. ~~[Persons]~~

3153           (a) A person entering regular full-time employment with ~~[political subdivisions]~~ a  
 3154 participating employer which ~~[elect]~~ elects to participate in ~~[the noncontributory]~~ this system ~~[after~~  
 3155 ~~the effective date of this chapter shall automatically become members of the noncontributory~~  
 3156 ~~retirement]~~ is eligible for service credit in this system. ~~[Any]~~

3157           (b) A person in regular full-time employment with ~~[the political subdivision]~~ a  
 3158 participating employer prior to ~~[that]~~ the participating employer's election to participate in this

3159 system may either become [~~a member of the noncontributory retirement~~] eligible for service credit  
3160 in this system or remain [~~a member of the Public Employees' Retirement System~~] eligible for  
3161 service in the system established under [~~Title 49;~~] Chapter [~~2;~~] 12, Public Employees' Contributory  
3162 Retirement Act, by following the procedures established by the board [~~pursuant to~~] in accordance  
3163 with this chapter.

3164 Section 73. Section **49-13-202**, which is renumbered from Section 49-3-204 is renumbered  
3165 and amended to read:

3166 ~~[49-3-204].~~ **49-13-202. Participation of employers -- Limitations -- Exclusions --**

3167 **Admission requirements -- Nondiscrimination requirements.**

3168 (1) (a) [~~All political subdivisions of the state, unless~~] Unless excluded under Subsection  
3169 (2), [~~are~~] an employer is a participating [~~employers in the system~~] employer and may not withdraw  
3170 from participation in [~~the~~] this system. [~~All departments and educational institutions are also~~  
3171 ~~participating employers in the system and may not withdraw from participation in the system. As~~  
3172 ~~participating employers, political subdivisions, departments, and educational institutions shall meet~~  
3173 ~~all requirements for full participation in the system.~~]

3174 (b) In addition to their participation in this system, participating employers may provide  
3175 or participate in any additional public or private retirement, supplemental or defined contribution  
3176 plan, either directly or indirectly, for their employees.

3177 (2) [~~Any political subdivision~~] An employer not initially admitted or included as a  
3178 participating employer in [~~the~~] this system prior to January 1, 1982, may be excluded from  
3179 participation in [~~the~~] this system if the [~~political subdivision~~] employer elects not to provide or  
3180 participate in any type of private or public retirement, supplemental or [~~deferred income program~~]  
3181 defined contribution plan, either directly or indirectly, for its employees, except for Social Security.  
3182 [~~Any excluded political subdivision~~]

3183 (3) If an employer elects at any time to provide or participate in any type of public or  
3184 private retirement, supplemental or defined contribution plan, either directly or indirectly, except  
3185 for social security, the employer shall be a participating employer in this system.

3186 (4) (a) Any employer may by resolution of its governing body apply for [~~and receive~~]  
3187 admission to [~~the~~] this system. [~~Once admitted, the political subdivision may not withdraw from~~  
3188 ~~participation and shall meet all requirements for full participation in the system. If an excluded~~  
3189 ~~political subdivision elects at any time to provide or participate in any type of public or private~~

3190 retirement, supplemental or deferred income program, either directly or indirectly, except for social  
3191 security, the political subdivision shall be required to be a participating employer in the system.  
3192 As a participating employer, the political subdivision may not withdraw from participation and  
3193 shall meet all requirements for full participation in the system.]

3194 [(3) (a) Any organization or agency supported in whole or in part by state public funds,  
3195 which prior to application is not covered by this chapter, may by resolution of its governing body  
3196 apply for admission to the system. The board may refuse admission to any organization or agency  
3197 applying for admission upon a finding that it is not in the best interest of the participating  
3198 employers and employees.]

3199 (b) Upon approval of the board, the [organization or agency shall become a participant in  
3200 the system if the board and the organization or agency agree upon:] employer is a participating  
3201 employer in this system and is subject to this title.

3202 [(i) the terms by which its employees shall become members of the system, such as the  
3203 effective date of coverage;]

3204 [(ii) the amount of prior service credit with which they may be credited, if any;]

3205 [(iii) the amount of any contributions in addition to regular contributions that will be  
3206 required to provide any prior service credits or retroactive current service credits from either the  
3207 employing unit or its employees; and]

3208 [(iv) the manner in which retroactive current or prior service credits may be established;  
3209 if any.]

3210 [(c) Once admitted to the system, an organization or agency may not withdraw from  
3211 participation, except as provided in Subsection (4), and shall meet all requirements for full  
3212 participation in the system.]

3213 [(d) An organization or agency supported in whole or in part by public funds may not  
3214 apply for or receive admission to the system after July 1, 1991.]

3215 [(4) (a) An organization or agency admitted to the system pursuant to Subsection (3) which  
3216 no longer receives public funds may withdraw from the system if:]

3217 [(i) the organization or agency's governing body by resolution petitions the board for  
3218 withdrawal from the system; and]

3219 [(ii) the board approves the withdrawal.]

3220 [(b) Once approval to withdraw is granted, the organization or agency and its employees



3221 shall be governed by Sections ~~49-1-502 and 49-1-503.~~]

3222 [~~5~~] Except as provided in Sections ~~49-3-206 and 49-3-207~~, no participating employer may  
3223 maintain full participation in the system by covering only part of its employees. The full  
3224 participation requirement is satisfied if a participating employer covers those of its employees  
3225 eligible for coverage under:]

3226 [(a) Title 49, Chapter 4, Public Safety Retirement Act; or]

3227 [(b) Title 49, Chapter 5, Firefighters' Retirement Act and its remaining employees under  
3228 either Title 49, Chapter 2, Public Employees' Retirement Act or Title 49, Chapter 3, Public  
3229 Employees' Noncontributory Retirement Act, whichever is applicable.]

3230 [(6) In addition to their participation in the system, participating employers may provide  
3231 or participate in any additional public or private retirement, supplemental or deferred income  
3232 program, either directly or indirectly, for their employees.]

3233 [(7) (a) Credit unions or private hospitals which are participating units in any system  
3234 administered by the board may withdraw from participation upon applying to the board. This  
3235 application shall be made between July 1, 2000, and December 31, 2000. The withdrawal is  
3236 effective the day after the last day the withdrawing unit pays retirement contributions on its  
3237 employees' salaries.]

3238 [(b) Once the withdrawal of the credit union or private hospital is complete, the employees  
3239 of the withdrawing unit may apply to withdraw their vested contributions. Refunds shall then be  
3240 paid in accordance with Subsection 49-1-502(3).]

3241 [(c) Under no circumstance may a withdrawing unit receive the employer contributions  
3242 which have been made to the system.]

3243 (5) If a participating employer purchases service credit on behalf of regular full-time  
3244 employees for service rendered prior to the participating employer's admission to this system, the  
3245 service credit shall be purchased in a nondiscriminatory manner on behalf of all current and former  
3246 regular full-time employees who were eligible for service credit at the time service was rendered.

3247 Section 74. Section **49-13-203**, which is renumbered from Section 49-3-206 is renumbered  
3248 and amended to read:

3249 [~~49-3-206~~]. **49-13-203. Exclusions from membership in system.**

3250 (1) The following employees are [~~excluded from membership in the retirement~~] not  
3251 eligible for service credit in this system:

3252           ~~[(1)]~~ (a) ~~[Every]~~ An employee whose employment status is temporary in nature due to the  
3253 nature or the type of work to be performed~~[-]~~, provided that:

3254           (i) if the term of employment exceeds six months~~[-, then for that employee a regular~~  
3255 ~~full-time status shall be assumed, and the employee shall be enrolled in the system]~~ and the  
3256 employee otherwise qualifies for service credit in this system, the participating employer shall  
3257 report and certify to the office that the employee is a regular full-time employee effective the  
3258 beginning of the seventh month of employment[-]; and

3259           (ii) if ~~[the same]~~ an employee, previously terminated prior to ~~[enrollment as a member, is~~  
3260 ~~again employed]~~ becoming eligible for service credit in this system, is reemployed within three  
3261 months of termination by the same participating employer, the ~~[employee shall be immediately~~  
3262 ~~enrolled as a member if the work constitutes full-time as defined in this chapter]~~ participating  
3263 employer shall report and certify to the office and the member is a regular full-time employee when  
3264 the total of the periods of employment equals six months and the employee otherwise qualifies for  
3265 service credit in this system.

3266           ~~[(2)]~~ (b) ~~[Full-time students]~~ A full-time student or the spouse of a full-time student and  
3267 ~~[persons]~~ another person employed in a trainee relationship ~~[may be excluded from coverage by~~  
3268 ~~rules adopted by the board]~~ who file a formal request for exemption.

3269           ~~[(3)]~~ (c) (i) ~~[Every]~~ A current or future employee of a two-year or four-year college or  
3270 university who holds, or is entitled to hold, ~~[pursuant to]~~ under Section ~~[49-2-206]~~ 49-13-204, a  
3271 retirement annuity contract with the Teachers' Insurance and Annuity Association of America or  
3272 with any other public or private system, organization, or company during any period in which ~~[that~~  
3273 ~~employee has received]~~ required contributions ~~[toward the premiums required]~~ based on  
3274 compensation [from the employing unit] have been paid on behalf of the employee by the  
3275 employer.

3276           (ii) The employee, upon cessation of the participating employer contributions, shall  
3277 immediately become ~~[a contributing member]~~ eligible for service credit in this system.

3278           ~~[(4) Every]~~ (d) An employee serving as an exchange employee from outside the state.

3279           ~~[(5) Elected officials]~~ (e) An elected official who ~~[file]~~ files a formal request for  
3280 exemption.

3281           ~~[(6) Executive]~~ (f) An executive department ~~[heads]~~ head of the state or a legislative  
3282 ~~[directors]~~ director, senior ~~[executives]~~ executive employed by the governor's office, ~~[members]~~

3283 a member of the State Tax Commission, a member of the Public Service Commission, the State  
3284 Olympic Officer, and [~~other members~~] a member of a full-time or part-time [~~boards or~~  
3285 ~~commissions~~] board or commission who [~~file~~] files a formal request [~~to be excluded from~~  
3286 ~~coverage~~] for exemption.

3287 [~~(7)(a) Employees of the Department of Employment Security who are covered under~~  
3288 ~~another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; or (b)~~  
3289 ~~employees~~]

3290 (g) An employee of the Department of Workforce Services [~~who were covered under~~  
3291 ~~Subsection (7)(a) and~~] who [~~are~~] is covered under another retirement system allowed under Title  
3292 35A, Chapter 4, Employment Security Act.

3293 [~~(8)~~] (h) (i) [~~Persons~~] A person appointed as a city [~~managers~~] manager or chief city  
3294 [~~administrators~~] administrator or [~~other persons~~] another person employed by a [~~city, town,~~  
3295 municipality, county, or other political subdivision, who [~~are~~] is not entitled to merit or civil  
3296 service protection. [~~Persons~~]

3297 (ii) A person eligible for exclusion under [~~this~~] Subsection (1)(h)(i) shall file a formal  
3298 request for [~~exclusion from coverage~~] exemption and be employed in a position designated as  
3299 exempt under an employee exemption plan developed by the [~~city, town~~] municipality, county, or  
3300 political subdivision. [~~Employee exemption plans shall be subject to the following limitations: (a)~~  
3301 ~~The total number of positions a city, town~~]

3302 (2) (a) A municipality, county, or political subdivision may not exempt [~~may not exceed~~  
3303 ~~the lesser of~~] more than 30 positions or a number equal to 10% of the employees of the [~~city, town~~]  
3304 municipality, county, or political subdivision, whichever is lesser. [~~However, every city, town~~]

3305 (b) A municipality, county, or political subdivision [~~is entitled to a minimum exemption~~  
3306 ~~of one eligible~~] may exempt at least one regular full-time employee.

3307 [~~(b) Employee exemption plans shall be filed~~]

3308 (3) Each participating employer shall:

3309 (a) file employee exemptions annually with the [~~retirement~~] office[;]; and [~~the city, town,~~  
3310 ~~county, or political subdivision shall~~]

3311 (b) update the [~~exemption plan~~] employee exemptions in the event of any change.

3312 [~~(c) The retirement~~]

3313 (4) The office may [~~promulgate~~] make rules to implement this section.

3314 Section 75. Section **49-13-204**, which is renumbered from Section 49-3-207 is renumbered  
3315 and amended to read:

3316 ~~[49-3-207].~~ **49-13-204. Higher education employees' eligibility requirements --**  
3317 **Election between different retirement plans -- Classification requirements -- Transfer**  
3318 **between systems -- Supplemental plans authorized.**

3319 (1) (a) ~~[The faculty members and]~~ Regular full-time employees of institutions of higher  
3320 education who are eligible to participate in either this system or in a retirement annuity contract  
3321 with the ~~[Teacher's]~~ Teachers' Insurance and Annuity Association of America or with any other  
3322 public or private system, organization, or company, designated by the Board of Regents, shall, not  
3323 later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract  
3324 allowed under this Subsection (1)(a).

3325 (b) The election is final, and no right exists to make any further election.

3326 (2) (a) A ~~[faculty member or]~~ regular full-time employee hired by an institution of higher  
3327 education after January 1, 1979, may participate only in the retirement plan which attaches to the  
3328 person's employment classification~~[, and each]~~.

3329 (b) Each institution of higher education ~~[is directed to]~~ shall prepare or amend existing  
3330 employment classifications, under the direction of the Board of Regents, so that each classification  
3331 is assigned with either:

3332 (i) this system ~~[or with the Teacher's]~~;

3333 (ii) the Teachers' Insurance and Annuity Association of America; or ~~[with any other]~~

3334 (iii) another public or private system, organization, or company designated by the Board  
3335 of Regents.

3336 (3) A ~~[faculty member or]~~ regular full-time employee hired by an institution of higher  
3337 education after January 1, 1979, whose employment classification requires participation in ~~[the~~  
3338 ~~state retirement]~~ this system may~~[;]~~ elect to continue participation in this system upon change to  
3339 an employment classification which requires participation in:

3340 (a) an annuity plan with the ~~[Teacher's]~~ Teachers' Insurance and Annuity Association of  
3341 America; or ~~[with some other]~~

3342 (b) another public or private system, organization, or company designated by the Board  
3343 of Regents~~[, finally elect to continue participation in the state retirement system]~~.

3344 (4) A ~~[faculty member or]~~ regular full-time employee hired by an institution of higher

3345 education after January 1, 1979, whose employment classification requires participation in [~~such~~  
3346 ~~an annuity plan, upon change to an employment classification which requires participation in this~~  
3347 ~~system,]~~ this system shall participate in this system.

3348 [~~(5) Nothing contained in this section prohibits a faculty member or employee of an~~  
3349 ~~institution of higher education from participating in a supplemental annuity plan, and the Board~~  
3350 ~~of Regents shall promulgate rules governing permissible participation, but in no event may the~~  
3351 ~~contribution by an institution for the purchase of an old age annuity or other approved investment~~  
3352 ~~exceed 14.2% of the employee's or member's salary.]~~

3353 [~~(6) The State Board of Education may assist its faculties and employees to purchase any~~  
3354 ~~old age annuity plan or other approved investment by promulgating rules governing permissible~~  
3355 ~~participation in a supplemental old age annuity plan or other approved investment, but such~~  
3356 ~~assistance is limited to contracting with the employee to receive a reduced salary, and investing~~  
3357 ~~the employee contribution towards the purchase of the annuity or other approved investment.]~~

3358 Section 76. Section **49-13-205**, which is renumbered from Section 49-3-205 is renumbered  
3359 and amended to read:

3360 [~~49-3-205~~]. **49-13-205. Conversion to system -- Time schedule -- Conversion**  
3361 **windows.**

3362 [~~The following laws govern conversion to the Public Employees' Noncontributory~~  
3363 ~~Retirement System:]~~

3364 (1) [~~For persons governed by Subsection 49-3-203 (2);]~~ An employee governed under  
3365 Section 49-13-201 shall make the election to participate in [the noncontributory] this system [shall  
3366 be made] within six months of [~~the effective date of this chapter]~~ July 1, 1986.

3367 (2) (a) (i) [~~For political subdivisions governed by Subsection 49-3-203(3);]~~ An employer  
3368 governed under Sections 49-13-201 and 49-13-202 shall make the election to participate [as a local  
3369 government unit shall be made] in this system within six months of [~~the effective date of this~~  
3370 ~~chapter]~~ July 1, 1986.

3371 (ii) The [~~political subdivision]~~ employer shall indicate whether or not it elects to  
3372 participate by enacting a resolution or ordinance to that effect.

3373 (iii) Prior to the enactment of the resolution or ordinance, a hearing shall be held by the  
3374 [~~political subdivision]~~ employer, at which all employees of the political subdivision shall be given  
3375 an opportunity to be heard on the question of participating in this [~~noncontributory retirement]~~

3376 system.

3377 (iv) Notice of the hearing shall be mailed to all employees within 30 days of the hearing  
3378 and shall contain the time, place, and purpose of the hearing.

3379 (b) A ~~[person in]~~ regular full-time ~~[employment with a political subdivision prior to its~~  
3380 ~~election to participate]~~ employee has six months from the date the ~~[political subdivision]~~ employer  
3381 elects to participate in this system in which to ~~[elect to]~~ make the election to participate in this  
3382 system and become ~~[a member of the noncontributory]~~ eligible for service credit in this system.

3383 (3) Subsections (1) and (2) shall be used to provide a second time period of conversion to  
3384 this system beginning July 1, 1990.

3385 (4) Subsections (1) and (2) shall be used to provide a third time period of conversion to  
3386 this system beginning July 1, 1995.

3387 Section 77. Section **49-13-301**, which is renumbered from Section 49-3-301 is renumbered  
3388 and amended to read:

### 3389 **Part 3. Contributions**

3390 ~~[49-3-301].~~ **49-13-301. Contributions -- Two levels -- Report.**

3391 (1) ~~[The system shall be maintained on a financially and actuarially sound basis by means~~  
3392 ~~of contributions by the participating employer]~~ Participating employers shall pay the certified  
3393 contribution rates to the office to maintain this system on a financially and actuarially sound basis.

3394 (2) For purposes of determining contribution rates, ~~[the]~~ this system is divided into two  
3395 levels according to participating employers~~[- The levels are]~~ as follows:

3396 (a) Level A includes the state ~~[of Utah, the Utah State Retirement Office,],~~ its independent  
3397 agencies, independent entities, public corporations, and other instrumentalities, all participating  
3398 educational institutions, and all other participating employers whose activities are associated with  
3399 participating educational institutions.

3400 (b) Level B includes all other participating employers in ~~[the]~~ this system.

3401 ~~[(2) The board shall report at least biennially to the governor, the Legislature, and each~~  
3402 ~~employing unit under Division A or B the contribution rates and any adjustments necessary to~~  
3403 ~~maintain the system on a financially and actuarially sound basis, and the employer shall pay the~~  
3404 ~~certified contribution rates.]~~

3405 Section 78. Section **49-13-302** is enacted to read:

3406 **49-13-302. Purchase of service credit.**

3407 Any member who works 20 or more hours per week for a participating employer  
3408 participating in this system, but does not meet other eligibility requirements for service credit, may  
3409 purchase such service credit in accordance with Section 49-11-403.

3410 Section 79. Section **49-13-303**, which is renumbered from Section 49-3-302 is renumbered  
3411 and amended to read:

3412 ~~[49-3-302].~~ **49-13-303. Supplemental benefit established -- Defined contribution**  
3413 **plan options -- Contribution by employer and employee -- Immediate vesting of**  
3414 **contributions -- Plans to be separate -- Tax-qualified status of plans.**

3415 ~~[(1) There is established a supplemental deferred compensation benefit for members of~~  
3416 ~~this system.]~~

3417 ~~[(a) (i) For members of]~~

3418 (1) (a) Participating employers in Level A under Section [49-3-301] 49-13-301, which are  
3419 participating educational institutions or participating employers whose activities are associated  
3420 with participating educational institutions, [the employer] shall [contribute] make a nonelective  
3421 contribution on behalf of each of its regular full-time employees who are members of this system  
3422 an amount equal to at least 1.5% of the [employee's salary to a deferred compensation] member's  
3423 compensation to a defined contribution plan qualified under Section 401(k) of the Internal  
3424 Revenue Code which is selected by the regular full-time employee and which is sponsored by the  
3425 board, by that Level A employer, or by a group of similar Level A employers, and which has been  
3426 grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

3427 ~~[(ii) For all]~~ (b) All other [members of] Level A participating employers under Section  
3428 [49-3-301, the employer] 49-13-301 shall [contribute] make a nonelective contribution on behalf  
3429 of each of its regular full-time employees who are members of this system an amount equal to at  
3430 least 1.5% of the [employee's salary] member's compensation to the [deferred compensation]  
3431 defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which is  
3432 sponsored by the board.

3433 ~~[(iii) (c) The [employee] member or participating employer may [also] make [elective~~  
3434 ~~contributions] additional payments to either the qualified 401(k) plan which receives the 1.5%~~  
3435 ~~employer contribution described in this Subsection [(i) (1), or to any other [deferred~~  
3436 ~~compensation] defined contribution plan qualified under Section 401(k) of the Internal Revenue~~  
3437 ~~Code which is selected by the [employee] member and sponsored by the board, that Level A~~

3438 employer, or a group of similar Level A employers, and which has been grandfathered under  
3439 Section 1116 of the Federal Tax Reform Act of 1986~~[-, but only up to an amount permitted by~~  
3440 ~~federal law].~~

3441 ~~[(b) (i) For members of]~~

3442 (2) (a) Participating employers in Level B under Section [49-3-301, the participating  
3443 employer] 49-13-301 may [contribute] make nonelective contributions on behalf of each of its  
3444 regular full-time employees [any amount to the deferred compensation plan qualified under Section  
3445 401(k) of the Internal Revenue Code which is] who are members of this system to the 401(k)  
3446 defined contribution plan sponsored by the board or to a qualified plan sponsored by the  
3447 participating employer which has been grandfathered under Section 1116 of the Federal Tax  
3448 Reform Act of 1986.

3449 ~~[(ii) (b) The [employee] member may also [contribute] make voluntary deferrals to the~~  
3450 ~~same [qualified] 401(k) plan which the [employee] member selected to receive the employer~~  
3451 ~~contribution described in Subsection [(i), but only up to an amount permitted by federal law]~~  
3452 ~~(2)(a).~~

3453 (3) Each qualified defined contribution 401(k) plan is separate and distinct from any other  
3454 qualified defined contribution 401(k) plan for all purposes, including purposes of fiduciary liability  
3455 and plan administration.

3456 ~~[(c) The employee]~~ (4) A member may not make [elective contributions] voluntary  
3457 deferrals to any other qualified 401(k) plan sponsored by a state or local government.

3458 ~~[(2)]~~ (5) The total amount contributed by the participating employer and the member under  
3459 Subsection (1)[(a)] or [(b)] (2) vests to the [employee's] member's benefit immediately and is  
3460 nonforfeitable.

3461 ~~[(3) Each qualified deferred compensation 401(k) plan is separate and distinct from any~~  
3462 ~~other qualified deferred compensation 401(k) plan for all purposes including, but not limited to,~~  
3463 ~~purposes of fiduciary liability and plan administration.]~~

3464 (6) The board may request from any other qualified 401(k) plan under Subsection  
3465 (1)[(a)(iii)] or (2) any relevant information pertaining to the maintenance of its tax qualification  
3466 under the Internal Revenue Code [and may request indemnification from such other plan to the  
3467 extent it performs testing functions for that plan].

3468 ~~[(4) Prior to January 1 of each calendar year, each employee of an employing unit specified~~



3469 in Subsection (1)(a)(i) shall notify the employing unit which qualified deferred compensation  
3470 401(k) plan the employee has selected to receive the employer and employee contributions  
3471 described in Subsections (1)(a) and (b) for that calendar year. This election may be changed only  
3472 in accordance with procedures established by the employing unit. Notwithstanding this section,  
3473 the]

3474 (7) The board may take any action which in its judgment is necessary to maintain the  
3475 tax-qualified status of its 401(k) ~~[deferred compensation]~~ defined contribution plan ~~[pursuant to]~~  
3476 under federal law. ~~[The board shall submit findings of fact and its conclusions prior to taking any~~  
3477 ~~such action.]~~

3478 Section 80. Section ~~49-13-401~~, which is renumbered from Section 49-3-401 is renumbered  
3479 and amended to read:

#### 3480 Part 4. Defined Benefit

3481 ~~[49-3-401].~~ **49-13-401. Eligibility for an allowance -- Date of retirement --**  
3482 **Qualifications.**

3483 ~~[(1) (a) Any member who qualifies for service retirement may retire by submitting to the~~  
3484 ~~retirement office an application form notarized by a notary public. The application shall state the~~  
3485 ~~proposed effective date of retirement, which may not be more than 90 days before or after the date~~  
3486 ~~of application.]~~

3487 ~~[(b) The effective date shall be the 1st or 16th day of the month, as selected by the~~  
3488 ~~member, but must be after the last day of actual work.]~~

3489 ~~[(c) The member shall actually terminate employment and provide evidence of~~  
3490 ~~termination.]~~

3491 ~~[(2) The member is qualified to retire upon termination of services on or before the~~  
3492 ~~effective date of retirement if one of the following requirements on that date is met:]~~

3493 (1) A member is qualified to receive an allowance from this system when:

3494 (a) the member ceases actual work for a participating employer in this system before the  
3495 member's retirement date and provides evidence of the termination;

3496 (b) the member has submitted to the office a notarized retirement application form that  
3497 states the member's proposed retirement date; and

3498 (c) one of the following conditions is met as of the member's retirement date:

3499 ~~[(a)]~~ (i) the member has ~~[been credited with]~~ accrued at least four years of service credit

3500 and has attained an age of 65 years [~~or more~~];

3501        [~~(b)~~] (ii) the member has [~~been credited with~~] accrued at least ten years of service credit  
3502 and has attained an age of 62 years [~~or more~~];

3503        [~~(c)~~] (iii) the member has [~~been credited with~~] accrued at least 20 years of service credit  
3504 and has attained an age of 60 years [~~or more~~];

3505        [~~(d)~~] (iv) the member has [~~been credited with~~] accrued at least 30 years of service credit;  
3506 or

3507        [~~(e)~~] (v) the member [~~is credited with~~] has accrued at least 25 years of service credit, in  
3508 which case the member shall be subject to the reduction [~~set out~~] under Subsection [~~49-3-402~~]  
3509 49-13-402(2)(b).

3510        (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as  
3511 selected by the member, but the retirement date must be on or after the date of termination.

3512        (b) The retirement date may not be more than 90 days before or after the date the  
3513 application is received by the office.

3514        Section 81. Section **49-13-402**, which is renumbered from Section 49-3-402 is renumbered  
3515 and amended to read:

3516        [~~49-3-402~~]. **49-13-402. Service retirement plans -- Calculation of retirement**  
3517 **allowance -- Social Security limitations.**

3518        (1) (a) [~~There are six service retirement plans available to members of the system. Plan~~  
3519 ~~One is as follows, with Plans Two, Three, Four, Five, and Six established under Section 49-3-403]~~  
3520 Except as provided under Section 49-13-701, retirees of this system may choose from the six  
3521 retirement options described in this section.

3522        (b) Options Two, Three, Four, Five, and Six are modifications of the Option One  
3523 calculation.

3524        (2) [~~Except for members of this system who meet the requirements of Section 49-3-802,~~  
3525 ~~upon the service retirement of a member under Section 49-3-401, the member shall receive a~~  
3526 ~~retirement allowance consisting of a pension based on service determined]~~ The Option One benefit  
3527 is an allowance calculated as follows:

3528        (a) If the [~~member has attained the age of~~] retiree is at least 65 years of age or has accrued  
3529 at least 30 years of service credit, the [~~retirement~~] allowance is an amount equal to 2% of the  
3530 retiree's final average monthly salary multiplied by the number of years of service [~~credited to the~~

3531 ~~member~~ credit accrued.

3532 (b) If the ~~[member]~~ retiree is less than 65 years ~~[old,]~~ of age, the ~~[retirement]~~ allowance  
3533 shall be reduced 3% for each year of retirement from age 60 to age 65, plus a full actuarial  
3534 reduction for each year of retirement prior to age 60, unless the member has 30 or more years of  
3535 accrued credit, in which event no reduction is made to the allowance.

3536 ~~[(3)]~~ (c) (i) Years of service include any fractions of years of service to which the  
3537 [member] retiree may be entitled. [Service amounting to 9/10 of one year constitutes a year of  
3538 service credit in the computation of a retirement benefit.]

3539 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased, service  
3540 credit is within 1/10 of one year of the total years of service credit required for retirement, the  
3541 retiree shall be considered to have the total years of service credit required for retirement.

3542 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated  
3543 by reducing an Option One benefit based on actuarial computations to provide the following:

3544 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree,  
3545 and, if the retiree receives less in annuity payments than the amount of the retiree's member  
3546 contributions, the remaining balance of the retiree's member contributions shall be paid in  
3547 accordance with Sections 49-11-609 and 49-11-610.

3548 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the retiree,  
3549 and, upon the death of the retiree, the same reduced allowance paid to and throughout the lifetime  
3550 of the retiree's lawful spouse at the time of retirement.

3551 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree,  
3552 and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance paid to and  
3553 throughout the lifetime of the retiree's lawful spouse at the time of retirement.

3554 (d) Option Five is a modification of Option Three so that if the lawful spouse at the time  
3555 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time  
3556 of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's  
3557 life, beginning on the last day of the month following the month in which the lawful spouse dies.

3558 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time of  
3559 retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of  
3560 initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life,  
3561 beginning on the last day of the month following the month in which the lawful spouse dies.

3562 (4) (a) (i) The final average salary is limited in the computation of that part of [a member's  
3563 ~~prior service retirement~~] an allowance based on service rendered prior to July 1, 1967, during a  
3564 period when the [member] retiree received employer contributions on a portion of compensation  
3565 from an educational institution toward the payment of the premium required on a retirement  
3566 annuity contract with the Teachers' Insurance and Annuity Association of America or with any  
3567 other public or private system, organization, or company to \$4,800.

3568 (ii) This limitation is not applicable to [~~members~~] retirees who elected to continue in the  
3569 [~~state retirement system~~] Public Employees' Contributory Retirement System by July 1, 1967.

3570 (b) Periods of [~~service~~] employment which are exempt from this system as permitted under  
3571 Subsection [~~49-3-206(3), not to exceed four years,~~] 49-13-203(1)(c) may be purchased by the  
3572 member for the purpose of retirement only if all benefits from the Teachers' Insurance and  
3573 Annuity Association of America or any other public or private system or organization based on this  
3574 period of employment are forfeited.

3575 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement date,  
3576 the retirement is canceled and the death shall be considered as that of a member before retirement.

3577 (b) Any payments made to the retiree shall be deducted from the amounts due to the  
3578 beneficiary.

3579 (6) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree  
3580 may elect to convert the benefit to an Option One benefit at the time of divorce, if there is no court  
3581 order filed in the matter.

3582 Section 82. Section **49-13-403**, which is renumbered from Section 49-3-404 is renumbered  
3583 and amended to read:

3584 [~~49-3-404~~]. **49-13-403. Allowance payable by lump-sum payment.**

3585 (1) If a [~~retiring member's monthly~~] retiree's allowance, as computed under [~~Section~~  
3586 ~~49-3-402~~] this section, amounts to \$25 or less, the [~~benefit claim~~] allowance may be settled by the  
3587 [~~administrator~~] office by making a lump-sum payment of an amount actuarially equivalent to the  
3588 [~~monthly~~] allowance. [~~Payment thus~~]

3589 (2) A payment made under this section constitutes a full and complete settlement of the  
3590 [~~retiring member's~~] retiree's claim against [~~the~~] this system.

3591 Section 83. Section **49-13-404**, which is renumbered from Section 49-3-405 is renumbered  
3592 and amended to read:

3593 ~~[49-3-405].~~ **49-13-404. Lump-sum death benefit for retiree and spouse.**

3594 (1) (a) ~~[A member, upon]~~ Upon retirement, a retiree may elect to have the [administrator  
3595 set aside in reserve from the member's retirement] office deduct an actuarially determined amount  
3596 from the retiree's allowance [a sufficient sum of money, based upon age, sex, interest rate in effect,  
3597 and the mortality rates for the member's group;] to provide a lump-sum benefit payable to a  
3598 beneficiary upon the death of the ~~[member after retirement, under an agreement that will provide~~  
3599 ~~a reduced retirement allowance payable to the retirant throughout the retirant's lifetime, plus the~~  
3600 ~~lump-sum amount at death]~~ retiree.

3601 (b) A retiree may also elect to have an actuarially determined amount deducted from the  
3602 retiree's allowance to provide a lump-sum death benefit payable to a beneficiary upon the death  
3603 of the retiree's lawful spouse at the time of retirement.

3604 ~~[(b)]~~ (c) The board shall make rules for the administration of this lump-sum death benefit  
3605 [may be purchased in accordance with rules adopted by the board].

3606 ~~[(c) The spouse of a retiring member may also be covered with a death benefit upon the~~  
3607 ~~request of the member.]~~

3608 ~~[(2) The lump-sum death benefit provided by this section may be chosen as a modification~~  
3609 ~~of or deduction from the retirement allowance provided under Section 49-3-402 or 49-3-403, and~~  
3610 ~~is payable to the designated beneficiary chosen at the time of the member's retirement, to a~~  
3611 ~~beneficiary subsequently designated, or to the retirant's estate under applicable conditions~~  
3612 ~~established under Section 49-1-606 or 49-1-607.]~~

3613 ~~[(3) If a retirant cancels retirement as permitted by this title, the lump-sum death benefit~~  
3614 ~~under this section shall also be canceled, with the appropriate reserve, as determined by the~~  
3615 ~~administrator, credited back to the member's contribution account.]~~

3616 ~~[(4) Payment of the lump-sum death benefit consists only of a refund of the retirant's~~  
3617 ~~reserve or the amount determined by the board and set aside as provided in this section if death~~  
3618 ~~occurs within three years from the date of retirement and is due to a health condition existing and~~  
3619 ~~being treated at the time of retirement.]~~

3620 ~~[(5) The board may establish rules and adopt suitable mortality rates to protect the fund~~  
3621 ~~against adverse selection of benefits by a retiring member under this section.]~~

3622 (2) (a) For retirees who pay for a lump-sum death benefit under this section through a  
3623 reduction of an allowance, benefits shall be paid in accordance with Sections 49-11-609 and

3624 49-11-610.

3625 (b) If the retiree chooses Option Three, Four, Five, or Six, and a lump-sum death benefit  
3626 is payable after the death of the retiree or the lawful spouse, the allowance shall be restored to its  
3627 original amount.

3628 Section 84. Section **49-13-405**, which is renumbered from Section 49-3-406 is renumbered  
3629 and amended to read:

3630 ~~[49-3-406].~~ **49-13-405. Death of married members -- Service retirement benefits**  
3631 **to surviving spouse.**

3632 (1) As used in this section, "member's full allowance" means ~~[the benefit calculated using~~  
3633 ~~the formula]~~ an Option Three allowance calculated under Subsection ~~[49-3-402]~~ 49-13-402(2)(a)  
3634 without an actuarial reduction.

3635 (2) ~~[(a) Beginning January 1, 1997, a]~~ Upon the request of the member's lawful spouse at  
3636 the time of death, a member is considered to be eligible to retire under Option Three on the first  
3637 day of the month following the month in which the member died if the following requirements are  
3638 met:

3639 (a) the member [who] has:

3640 (i) 15 or more years of [credited] service[; age 60 with 20 or more years of credited  
3641 service;] credit;

3642 (ii) attained age 62 with ten or more years of [credited] service[;] credit; or

3643 (iii) attained age 65 with four or more years of [credited] service[; respectively, and who]  
3644 credit; and

3645 (b) the member dies leaving a spouse to whom the member has been married at least six  
3646 months prior to the death date[; may, upon the request of the spouse, be considered to have retired  
3647 on the first day of the month following the month in which death occurred and retired under Plan  
3648 Three].

3649 ~~[(b)]~~ (3) The spouse who requests a benefit ~~[pursuant to Subsection (2)(a)]~~ under this  
3650 section shall apply in writing to the [retirement] office stating the proposed effective date to begin  
3651 receiving [a monthly retirement] an allowance, which may not be more than 90 days [before or]  
3652 after the date of application[; and which shall be effective on the 1st or 16th day of the month, as  
3653 selected by the spouse].

3654 ~~[(3)]~~ (4) The ~~[retirement benefit]~~ allowance payable to a surviving spouse under

3655 Subsection (2) is:

3656 (a) if the member has 25 or more years of [~~credited~~] service credit at the time of death, the  
3657 surviving spouse shall receive the member's full allowance;

3658 (b) if the member has between 20-24 years of [~~credited~~] service credit and is not age 60  
3659 or older at the time of death, the surviving spouse shall receive two-thirds of the member's full  
3660 allowance;

3661 (c) if the member has between 15-19 years of [~~credited~~] service credit and is not age 62  
3662 or older at the time of death, the surviving spouse shall receive one-third of the member's full  
3663 allowance; or

3664 (d) if the member is age 60 or older with 20 or more years of [~~credited~~] service credit, age  
3665 62 or older with 10 or more years of [~~credited~~] service credit, or age 65 or older with four or more  
3666 years of [~~credited~~] service credit at the time of death, the surviving spouse shall receive [~~the benefit~~  
3667 ~~calculated using the formula and the actuarial reduction under Subsections 49-3-402(2)(a) and~~  
3668 ~~(2)(b)] an Option Three benefit with actuarial reductions.~~

3669 [~~(4) Benefits~~] (5) Except for a return of member contributions, benefits payable under this  
3670 section are [~~service~~] retirement benefits and shall be paid in addition to any other payments made  
3671 under Section [~~49-3-701, except for a return of accumulated contributions,~~] 49-13-501 and shall  
3672 constitute a full and final settlement of the claim of the spouse or any other beneficiary filing a  
3673 claim for benefits under Section [~~49-3-701~~] 49-13-501.

3674 Section 85. Section **49-13-406**, which is renumbered from Section 49-3-409 is renumbered  
3675 and amended to read:

3676 [~~49-3-409~~]. **49-13-406. Part-time elective or appointive service -- Computation of**  
3677 **allowance.**

3678 [~~Elective~~] Notwithstanding any other provisions of this title, elective or appointive service  
3679 rendered on a basis not considered full time by the [~~board,~~] office, unless otherwise provided by  
3680 this chapter, shall have a [~~retirement~~] separate allowance computed on the basis of compensation  
3681 actually received by the [~~official~~] member during the period of elective or appointive service.

3682 Section 86. Section **49-13-407**, which is renumbered from Section 49-3-601 is renumbered  
3683 and amended to read:

3684 [~~49-3-601~~]. **49-13-407. Annual cost-of-living adjustment.**

3685 (1) [~~There shall be computed and paid by the retirement~~] The office [~~, upon the approval~~

3686 of the board;] shall make an annual cost-of-living [allowance] adjustment to: [all retired members  
3687 of this system after the members have been retired one year. The adjustment shall be equal to the  
3688 decrease in the purchasing power of the dollar during the preceding year, as measured by the  
3689 Consumer Price Index, prepared by the United States Bureau of Labor Statistics, limited to a  
3690 maximum of 4% of the retirants' or beneficiaries' original retirement allowance. Decreases in the  
3691 purchasing power of the dollar in excess of 4% annually shall be accumulated and used in  
3692 subsequent allowances when the cost-of-living adjustment is less than 4% annually.]

3693 [(2) If the cost-of-living shows a decline of 4% or more during any period of time  
3694 extending longer than one year, a reduction not to exceed the rate of 2% per year shall be made  
3695 based upon the original retirement allowance. Payments made under this section shall be a part  
3696 of the retired member's allowance. The payments and subsequent adjustments as prescribed for  
3697 the retirant shall likewise apply to the beneficiary who is paid an allowance under optional  
3698 retirement plans.]

3699 (a) an original allowance paid under Section 49-13-402 or 49-13-405, if the allowance has  
3700 been paid for at least one year; and

3701 (b) an original payment made to an alternate payee under a domestic relations order, if the  
3702 payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

3703 (2) (a) The original allowance shall be increased by the annual increase in the Consumer  
3704 Price Index up to a maximum of 4%.

3705 (b) Annual increases in the Consumer Price Index in excess of 4% shall be accumulated  
3706 and used in subsequent adjustments when the annual increase in the Consumer Price Index is less  
3707 than 4%.

3708 (3) The Consumer Price Index used in calculating adjustments may be a United States  
3709 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

3710 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

3711 Section 87. Section **49-13-408**, which is renumbered from Section 49-3-410 is renumbered  
3712 and amended to read:

3713 **[49-3-410]. 49-13-408. Purchase of service credit -- Conditions -- Cost --**

3714 **Nondiscrimination policy.**

3715 [(1) Any member of this system may receive retirement service credit in accordance with  
3716 Subsection (2):]



3717 ~~[(2)]~~ (1) (a) A member may purchase or a member and ~~[an employing unit]~~ a participating  
3718 employer may jointly purchase a ~~[combined]~~ maximum ~~[total]~~ of five years of ~~[retirement]~~ service  
3719 credit which ~~[is not]~~ cannot otherwise ~~[purchasable]~~ be purchased under this chapter.

3720 ~~[(b)]~~ The number of years of retirement service credit purchased may exceed the number  
3721 of years or age required by the member to retire with no actuarial reduction.]

3722 ~~[(c)]~~ The purchase of retirement]

3723 (b) At a minimum, the years of service credit [must] purchased shall be sufficient to allow  
3724 the member to meet the retirement eligibility requirements of this system with no actuarial  
3725 reduction.

3726 ~~[(d)]~~ (c) The ~~[member must retire effective]~~ member's retirement date shall be immediately  
3727 after the purchase of ~~[retirement]~~ years of service credit ~~[is made]~~.

3728 ~~[(e)]~~ (d) The member shall pay at least 5% of the cost of the purchase.

3729 ~~[(3)]~~ (2) The purchase price for the ~~[retirement]~~ years of service credit shall be calculated  
3730 and paid for as provided in Section ~~[49-1-407]~~ 49-11-403.

3731 ~~[(4)(a)]~~ The employing unit may elect to purchase retirement service credit for a member  
3732 under Subsection (2) while the member is on an unpaid leave of absence.]

3733 ~~[(b)]~~ If the member is on an unpaid leave of absence, the employing unit may make  
3734 installment payments towards the purchase in amounts fixed by the administrator.]

3735 ~~[(c)]~~ The member shall retire when the purchase obligations are fulfilled.]

3736 ~~[(5)]~~ A member who retires after the employer purchases retirement service credit under  
3737 this section shall be subject to the provisions of Section ~~49-1-505~~.]

3738 ~~[(6)]~~ (3) Prior to making any purchase of years of service credit under this section, ~~[an~~  
3739 employing unit] a participating employer shall adopt a purchase policy that includes  
3740 nondiscriminatory participation standards for all regular full-time employees.

3741 Section 88. Section **49-13-501**, which is renumbered from Section 49-3-701 is renumbered  
3742 and amended to read:

3743 **Part 5. Death Benefit**

3744 ~~[49-3-701]~~. **49-13-501. Death benefit by means of group insurance policy --**

3745 **Eligibility for death benefit -- Benefit calculation -- Payment of claim.**

3746 (1) The ~~[board]~~ office shall provide a death benefit through the purchase of a group  
3747 insurance policy for members of this system.

3748           ~~(2)~~ The board shall make rules to ~~[implement and]~~ administer the death benefit provided  
3749 by this section and may, in accordance with federal law, establish:

3750           (a) benefit levels ~~[or]~~;

3751           ~~(b)~~ classes of ~~[employees]~~ members; and

3752           ~~[(b)]~~ (c) a living benefit option.

3753           ~~[(2)]~~ Upon receipt of acceptable proof of death of a member of the system, either prior to  
3754 the effective date of the member's retirement, except as provided in Section 49-3-406, or after the  
3755 date of retirement but under circumstances that Section 49-3-403 requires to be treated as the death  
3756 of the member before retirement, the following death benefits, except those benefits already  
3757 provided to the member under a living benefit option, shall be paid to the beneficiary:]

3758           ~~[(a) the return of any accumulated contributions under this chapter; plus]~~

3759           ~~[(b) a percentage of the final average salary of the deceased member to be determined by~~  
3760 the board. This percentage shall be the highest percentage of final average salary obtainable by  
3761 the board through the purchase of a group insurance policy using the money contributed by the  
3762 employer under Subsection (3).]

3763           (3) This death benefit is payable when:

3764           (a) the member dies prior to the member's retirement date or dies under circumstances  
3765 which Section 49-13-402 requires to be treated as the death of a member before retirement;

3766           (b) the office receives acceptable proof of death; and

3767           (c) benefits are not payable under Section 49-13-404.

3768           (4) The death benefit payable to the beneficiary under this section is a lump-sum payment  
3769 consisting of:

3770           (a) the return of any member contributions under this chapter; plus

3771           (b) a percentage of the final average salary of the member to be determined by the board.

3772           (5) Any amount of a living benefit option paid to the member prior to death shall be  
3773 deducted from the benefit payable to the beneficiary.

3774           ~~[(3)]~~ (6) The cost of the death benefit shall be paid by the participating employer as a  
3775 portion of the contribution rate established under Section 49-13-301.

3776           ~~[(4)]~~ (7) The portion of the death benefit provided under Subsection ~~[(2)]~~ (4)(b), ~~[based~~  
3777 ~~upon the member's past compensation,]~~ may not be paid to the beneficiary of an inactive member  
3778 unless:

3779 (a) that member has ~~[credit for]~~ ten or more years of service credit prior to July 1, 1987;  
3780 or

3781 (b) the death of the member occurs either:

3782 (i) within a period of 120 days after the last day of ~~[service]~~ work for which the person  
3783 received compensation; or

3784 (ii) while the ~~[person]~~ member is still physically or mentally incapacitated from  
3785 performance of duties, if the incapacity has been continuous since the last day of ~~[service]~~ work  
3786 for which compensation ~~[is]~~ was received~~[; or]~~.

3787 ~~[(iii) that person is on military leave and has elected to remain in active contributing~~  
3788 ~~membership status as provided in Section 49-1-402.]~~

3789 ~~[(5)]~~ (8) The death benefit ~~[may not be paid to any person except a beneficiary]~~ provided  
3790 under Subsection (4)(b) shall be paid in accordance with Sections 49-11-609 and 49-11-610.

3791 ~~[(6)]~~ (9) The death benefit ~~[for]~~ paid to the beneficiary of an inactive member, except as  
3792 otherwise provided under Subsection ~~[(4)]~~ (7), is a lump-sum return of the ~~[deceased]~~ member's  
3793 ~~[accumulated]~~ member contributions.

3794 ~~[(7)]~~ (10) Payment of the death benefit by the ~~[retirement]~~ office constitutes a full  
3795 settlement of any beneficiary's claim against the ~~[system;]~~ office and the ~~[system]~~ office is not  
3796 liable for any further or additional claims or assessments on behalf of the ~~[deceased]~~ member.

3797 ~~[(8)]~~ (11) Unless otherwise specified in a written document filed ~~[in the retirement]~~ with  
3798 the office, death benefits payable to beneficiaries shall be in accordance with the order of  
3799 precedence established under Title 75, Chapter 2, ~~[Uniform Probate Code]~~ Intestate Succession  
3800 and Wills.

3801 ~~[(9) In the implementation of this section and for administrative purposes only, the State~~  
3802 ~~Tax Commission shall provide pertinent information to the retirement administrator, upon request,~~  
3803 ~~concerning dependents claimed by a deceased member on the income tax return covering the year~~  
3804 ~~prior to the member's death.]~~

3805 ~~[(10)]~~ (12) A death benefit under this section may not be paid ~~[to]~~ on behalf of a ~~[member~~  
3806 ~~who has retired]~~ retiree under this system.

3807 Section 89. Section **49-13-701**, which is renumbered from Section 49-3-802 is renumbered  
3808 and amended to read:

3809 **Part 6. Reserved**

3810 **Part 7. Early Retirement Incentive**

3811 ~~[49-3-802]~~. **49-13-701. Early retirement incentive -- Eligibility -- Calculation of**  
3812 **benefit -- Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**  
3813 **reemployment.**

3814 (1) Any member of this system may retire and receive the ~~[benefit]~~ allowance allowed  
3815 under Subsection (2) if the member meets the following requirements as of the ~~[effective date of]~~  
3816 member's retirement:

3817 (a) the member is eligible for retirement under Section ~~[49-3-401]~~ 49-13-401, or  
3818 ~~[otherwise]~~ has 25 years of service credit;

3819 (b) the member elects to forfeit any stipend for retirement offered by the ~~[employing unit]~~  
3820 participating employer; and

3821 (c) the member elects to retire from this system by applying for retirement by the date  
3822 established under Subsection (3)(a) or (3) (b).

3823 (2) (a) A member who retires ~~[pursuant to]~~ under Subsection (1) shall receive 2% of that  
3824 member's final average salary for all years of service credit.

3825 (b) No actuarial reduction may be applied to the ~~[benefit]~~ allowance granted under this  
3826 section.

3827 (3) In order to receive the ~~[benefit]~~ allowance allowed by this section, a member shall  
3828 submit an application to the ~~[retirement]~~ office as follows:

3829 (a) (i) For state and school employees under Level A, the application shall be filed by May  
3830 31, 1987. The ~~[effective date of]~~ member's retirement date shall then be set by the ~~[employee]~~  
3831 member on the 1st or 16th day of July, August, or September, 1987.

3832 (ii) If a Level A ~~[employee]~~ member elects to retire, the ~~[administrator]~~ executive director  
3833 or participating employer may request the ~~[employee]~~ member to delay the ~~[effective date of]~~  
3834 retirement date until a later date, but no later than June 30, 1988.

3835 (iii) If the ~~[employee]~~ member agrees to delay the ~~[effective]~~ retirement date, the  
3836 ~~[effective]~~ retirement date shall be delayed, but ~~[no]~~ service credit may not be accrued after the  
3837 member's original ~~[effective date of]~~ retirement date elected by the ~~[employee]~~ member, and ~~[no]~~  
3838 salary compensation earned after ~~[that effective]~~ the member's original retirement date may not  
3839 be used in the calculation of the final average salary for determining the retirement ~~[benefit]~~  
3840 allowance.

3841 (b) (i) For political [~~subdivisions~~] subdivision employees under Level B, the application  
3842 shall be filed by September 30, 1987.

3843 (ii) The [~~effective date of~~] member's retirement date shall then be set by the [~~employee~~]  
3844 member on the 1st or 16th day of July, August, September, October, November, or December,  
3845 1987.

3846 (4) (a) The cost of providing the [~~benefit~~] allowance under this section shall be funded in  
3847 fiscal year 1987-88 by a supplemental appropriation in the 1988 General Session based on the  
3848 retirement contribution rate increase established by the consulting actuary and approved by the  
3849 board.

3850 (b) The cost of providing the [~~benefit~~] allowance under this section shall be funded  
3851 beginning July 1, 1988, by means of an increase in the retirement contribution rate established by  
3852 the consulting actuary and approved by the board.

3853 (c) The rate increase under Subsections (4)(a) and (b) shall be funded:

3854 (i) for state employees, by an appropriation from the account established by the Division  
3855 of Finance under Subsection (4)(d), which is funded by savings derived from this early retirement  
3856 incentive and a work force reduction;

3857 (ii) for school employees, by direct contributions from the employing unit, which may not  
3858 be funded through an increase in the retirement contribution amount established in Title 53A,  
3859 Chapter 17a, Minimum School Program Act; and

3860 (iii) for political subdivisions under Level B, by direct contributions by the [~~employing~~  
3861 unit] participating employer.

3862 (d) (i) Each year, any excess savings derived from this early retirement incentive which  
3863 are above the costs of funding the increase and the costs of paying insurance, sick leave,  
3864 compensatory leave, and vacation leave under Subsections (4)(c)(i) and (c)(ii) shall be reported  
3865 to the Legislature and shall be appropriated as provided by law.

3866 (ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an account  
3867 into which all savings derived from this early retirement incentive shall be deposited as the savings  
3868 are realized.

3869 (iii) In the case of Subsection (4)(c)(ii), the State Office of Education shall certify the  
3870 amount of savings derived from this early retirement incentive.

3871 (iv) The State Office of Education and the [~~employing unit~~] participating employer may

3872 not spend the savings until appropriated by the Legislature as provided by law.

3873 (5) A member who retires under this section is subject to Section ~~[49-1-505]~~ 49-11-504.

3874 (6) The ~~[retirement]~~ board may ~~[adopt]~~ make rules to ~~[implement and]~~ administer this  
3875 section.

3876 (7) The Legislative Auditor General shall perform an audit to ensure compliance with this  
3877 section.

3878 Section 90. Section **49-14-101**, which is renumbered from Section 49-4-101 is renumbered  
3879 and amended to read:

## 3880 **CHAPTER 14. PUBLIC SAFETY CONTRIBUTORY RETIREMENT ACT**

### 3881 **Part 1. General Provisions**

#### 3882 ~~[49-4-101].~~ **49-14-101. Title.**

3883 This chapter is known as the "Public Safety Contributory Retirement Act."

3884 Section 91. Section **49-14-102**, which is renumbered from Section 49-4-103 is renumbered  
3885 and amended to read:

#### 3886 ~~[49-4-103].~~ **49-14-102. Definitions.**

3887 As used in this chapter:

3888 (1) ~~[(a)]~~ "Compensation[;]" ~~["salary," or "wages" means the total amount of payments~~  
3889 ~~which are currently includable in gross income made by an employer to an employee covered~~  
3890 ~~under the retirement system for services rendered to the employer as base income]~~ means the total  
3891 amount of payments that are includable in gross income which are received by a public safety  
3892 service employee as base income for the regularly scheduled work period. The participating  
3893 employer shall establish the regularly scheduled work period. Base income shall be determined  
3894 prior to ~~[any salary deductions or reductions for any]~~ the deduction of member contributions or any  
3895 amounts the public safety service employee authorizes to be deducted for salary deferral or [pretax  
3896 benefit programs] other benefits authorized by federal law.

3897 (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

3898 (c) "Compensation" does not include:

3899 (i) overtime;

3900 (ii) sick pay incentives;

3901 (iii) retirement pay incentives;

3902 (iv) the monetary value of remuneration paid in kind, ~~[such as]~~ including a residence, use

3903 of equipment or uniform ~~[or]~~, travel ~~[allowances]~~, or similar payments;

3904 (v) a lump-sum payment or special payments covering accumulated leave; and

3905 (vi) all contributions made by ~~[an]~~ a participating employer under this ~~[plan]~~ system or  
3906 under any other employee benefit system or plan maintained by ~~[an]~~ a participating employer for  
3907 the benefit of a member or participant.

3908 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under  
3909 Internal Revenue Code Section 401(a)(17).

3910 (2) "Final average salary" means the amount computed by averaging the highest three years  
3911 of annual compensation preceding retirement, subject to Subsections (2)(a) and (b).

3912 (a) Except as provided in Subsection (2)(b), the percentage increase in annual  
3913 compensation in any one of the years used may not exceed the previous year's ~~[salary]~~  
3914 compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the  
3915 purchasing power of the dollar during the previous year, as measured by ~~[the Consumer Price~~  
3916 ~~Index prepared by the]~~ a United States Bureau of Labor Statistics Consumer Price Index average  
3917 as determined by the board.

3918 (b) In cases where the ~~[employing unit]~~ participating employer provides acceptable  
3919 documentation to the ~~[board]~~ office, the limitation in Subsection (2)(a) may be exceeded if:

3920 (i) the ~~[member]~~ public safety service employee has transferred from another ~~[employing~~  
3921 ~~unit]~~ agency; or

3922 (ii) the ~~[member]~~ public safety service employee has been promoted to a new position.

3923 ~~[(3) "Full-time service" means 2,080 hours a year.]~~

3924 ~~[(4) (3) "Line-of-duty death" means a death resulting from external force, violence, or~~  
3925 ~~disease occasioned by an act of duty as a [peace officer or other] public safety [member] service~~  
3926 ~~employee.~~

3927 ~~[(5) (a) "Participating service" means public safety service rendered during which a person~~  
3928 ~~was a member of this system as well as any of the terminated systems during which the person was~~  
3929 ~~paid compensation upon which member contributions were taken.]~~

3930 ~~[(b) Participating service also means public safety service rendered for an employer~~  
3931 ~~covered by the retirement system and standing to the credit of a member as of June 30, 1969, who~~  
3932 ~~transferred to coverage under the public safety retirement system on July 1, 1969.]~~

3933 (4) "Participating employer" means an employer which meets the participation

3934 requirements of Section 49-14-201.

3935 ~~[(6)]~~ (5) (a) "Public safety service" means ~~[full-time paid service]~~ at least 2,080 hours of  
3936 regularly scheduled compensated employment per year rendered by a member who is a:

3937 (i) law enforcement ~~[officers]~~ officer in accordance with Section 53-13-103;

3938 (ii) correctional ~~[officers]~~ officer in accordance with Section 53-13-104; and

3939 (iii) special function ~~[officers]~~ officer approved in accordance with ~~[Section 49-4-203]~~

3940 Sections 49-14-201 and [Section] 53-13-105.

3941 ~~[(b) Subsection (6)(a) does not]~~

3942 (b) "Public safety service" also requires that in the course of employment the employee's  
3943 life or personal safety is at risk.

3944 (c) Except for the minimum hour requirement, Subsections (5)(a) and (b) do not apply to  
3945 any person who [became a member of the] was eligible for service credit in this system prior to  
3946 January 1, 1984.

3947 (6) "Public safety service employee" means an employee of a participating employer who  
3948 performs public safety service under this chapter.

3949 (7) "System" means the Public Safety Contributory Retirement System created under this  
3950 chapter.

3951 ~~[(7)]~~ (8) "Years of service credit" ~~[or "service years"]~~ means the number of periods, each  
3952 to consist of 12 full months as determined by the board, whether consecutive or not, during which  
3953 ~~[an] a public safety service employee [performed services for an]~~ was employed by a participating  
3954 employer [or employers], including time the public safety service employee was absent in the  
3955 service of the United States government on military duty.

3956 Section 92. Section **49-14-103**, which is renumbered from Section 49-4-201 is renumbered  
3957 and amended to read:

3958 ~~[49-4-201].~~ **49-14-103. Creation of system.**

3959 There is created for ~~[public safety personnel of the state and its political subdivisions]~~  
3960 members performing public safety service and who are employed by a participating employer the  
3961 "Public Safety Contributory Retirement System."

3962 Section 93. Section **49-14-104**, which is renumbered from Section 49-4-202 is renumbered  
3963 and amended to read:

3964 ~~[49-4-202].~~ **49-14-104. Creation of trust fund.**



3965 (1) There is created the "Public Safety Contributory Retirement Trust Fund" for the  
3966 purpose of paying the benefits and the costs of administering this system.

3967 (2) The fund shall consist of a number of individual trust accounts created as needed to  
3968 receive the money and assets transferred into them from the respective terminated systems, all  
3969 money paid into them, including interest, in accordance with this chapter, whether in the form of  
3970 cash, securities, or other assets, and of all money received from any other source.

3971 (3) Custody, management, and investment of the fund shall be governed by [~~Title 49,~~]  
3972 Chapter [~~+~~] 11, Utah State Retirement Systems Administration.

3973 Section 94. Section **49-14-201**, which is renumbered from Section 49-4-203 is renumbered  
3974 and amended to read:

### 3975 **Part 2. Membership Eligibility**

3976 [~~49-4-203~~]. **49-14-201. System membership -- Eligibility.**

3977 [~~All employees who perform covered public safety services for any employing unit, except~~  
3978 ~~those withdrawing from coverage as provided by this chapter, shall become members of the~~  
3979 ~~retirement system as follows:]~~

3980 [~~(1) Any employee who is employed to perform public safety services for an employer~~  
3981 ~~covered by this chapter on or after July 1, 1969, shall become a member of the system effective~~  
3982 ~~on the date of employment.]~~

3983 [~~(2) (a) Any employee engaged in performing public safety services for a department or~~  
3984 ~~political subdivision on the date it becomes a participant in the system under this chapter shall~~  
3985 ~~become a member of the system as of the date of coverage. Each new public safety employee of~~  
3986 ~~the covered unit shall thereafter become a member of the system effective on the date of~~  
3987 ~~employment. (b) In cities, counties, or other employing units of government]~~

3988 (1) Except as provided in Section 49-15-201, a public safety service employee of a  
3989 participating employer participating in this system is eligible for service credit in this system at the  
3990 earliest of:

3991 (a) July 1, 1969, if the public safety service employee was employed by the participating  
3992 employer on July 1, 1969, and the participating employer was participating in this system on that  
3993 date;

3994 (b) the date the participating employer begins participating in this system if the public  
3995 safety service employee was employed by the participating employer on that date; or

3996 (c) the date the public safety service employee is employed by the participating employer  
3997 and is eligible to perform public safety service.

3998 (2) (a) (i) A participating employer that [have] has public safety service and [fire fighter  
3999 personnel where] firefighter service employees that require cross-training and duty [is required,  
4000 the employing unit may] shall enroll those dual purpose [personnel] employees in the [retirement]  
4001 system in which the greatest amount of [duty] time is [contemplated and] actually worked.

4002 (ii) The [personnel] employees shall either be full-time public safety service or [fire  
4003 fighter] full-time firefighter service employees of the [employing unit] participating employer.

4004 (b) (i) Prior to transferring a dual purpose employee from one system to another, the  
4005 participating employer shall receive written permission from the office.

4006 (ii) The office may request documentation to verify the appropriateness of the transfer.

4007 ~~[(3) (a) The board may by rule establish other peace officer groups for purposes of:]~~

4008 ~~[(i) recommending eligibility for coverage under this system; and]~~

4009 ~~[(ii) recommending contribution rates.]~~

4010 (3) The board may combine or segregate the actuarial experience of participating  
4011 employers in this system for the purpose of setting contribution rates.

4012 ~~[(b) (i)]~~ (4) (a) (i) Each [employing unit covered by] participating employer participating  
4013 in this system shall annually submit to the [retirement] office a schedule indicating the positions  
4014 to be covered under this system in accordance with [Section 49-4-103] this chapter.

4015 (ii) The [retirement] office may require documentation to justify the inclusion of any  
4016 position under this system.

4017 ~~[(ii)]~~ (b) If there is a dispute between the [retirement] office and [an employing unit] a  
4018 participating employer or employee over any position to be covered, the disputed position shall be  
4019 submitted to the Peace Officer Standards and Training Council established under Section 53-6-106  
4020 for determination.

4021 ~~[(iii) (A)]~~ (c) (i) The Peace Officer Standards and Training Council's authority to decide  
4022 eligibility [questions] for [peace officers] public safety service credit is limited to claims for  
4023 coverage under [the Public Safety Retirement System] this system for time periods [subsequent  
4024 to] after July 1, 1989.

4025 ~~[(B)]~~ (ii) A decision of the Peace Officer Standards and Training Council may not be  
4026 applied to service credit earned in another system prior to July 1, 1989.

4027           ~~[(C)]~~ (iii) Except as provided under Subsection ~~[(3)(b)(iii)(D)]~~ (4)(c)(iv), a decision of the  
4028 Peace Officer Standards and Training Council granting ~~[an individual or]~~ a position coverage  
4029 under ~~[the Public Safety Retirement System]~~ this system may only be applied prospectively from  
4030 the date of that decision.

4031           ~~[(D)]~~ (iv) A decision of the Peace Officer Standards and Training Council granting ~~[an~~  
4032 ~~individual or]~~ a position coverage under ~~[the Public Safety Retirement System]~~ this system may  
4033 be applied retroactively only if:

4034           ~~[(F)]~~ (A) the ~~[employing unit]~~ participating employer covered other similarly situated  
4035 ~~[employees]~~ positions under ~~[the Public Safety Retirement System]~~ this system during the time  
4036 period in question; and

4037           ~~[(H)]~~ (B) the ~~[employee]~~ position otherwise meets all eligibility requirements for  
4038 ~~[membership in the Public Safety Retirement System]~~ receiving service credit in this system during  
4039 the period for which service credit is to be granted.

4040           ~~[(c)(i)]~~ (5) The Peace Officer Standards and Training Council may use a subcommittee  
4041 to provide a recommendation to the council in determining disputes between the ~~[retirement]~~ office  
4042 and ~~[an employing unit]~~ a participating employer or employee over a position to be covered under  
4043 this system.

4044           ~~[(i)]~~ (6) The Peace Officer Standards and Training Council shall comply with Title 63,  
4045 Chapter 46b, Administrative Procedures Act, in ~~[conducting adjudicative proceedings]~~ resolving  
4046 coverage disputes in this system.

4047           ~~[(4) Employees who have performed public safety service and who then transfer or are]~~

4048           (7) A public safety employee who is transferred or promoted to an administration  
4049 ~~[positions]~~ position not covered by this system shall continue to earn public safety service credit  
4050 ~~[under this chapter]~~ in this system as long as ~~[they remain]~~ the employee remains employed in the  
4051 same department.

4052           ~~[(5) Unless the Legislature fails to provide funding in the appropriations act for the~~  
4053 ~~inclusion of special function officers in the contributory system, special function officers shall be~~  
4054 ~~eligible for membership in the contributory system if approved by the Peace Officer Standards and~~  
4055 ~~Training Council.]~~

4056           (8) Any employee who is transferred to the Division of Information Technology Services  
4057 from the Department of Public Safety prior to January 1, 1992, and who was a member of this

4058 system, shall be entitled to remain a member of this system regardless of whether or not the  
4059 employee's current position is covered by this system.

4060 ~~[(6)] (9) (a) [The]~~ To determine that a position is covered under this system, the office and,  
4061 if a coverage dispute arises, the Peace Officer Standards and Training Council~~[, in determining~~  
4062 ~~disputes between the retirement office and an employing unit or employee over a position to be~~  
4063 ~~covered under this system, shall determine that to be eligible for membership in this system]~~ shall  
4064 find that the position requires the employee to:

4065 (i) ~~[is required as a duty of employment to serve in a position that may]~~ place the  
4066 ~~[employee at risk to]~~ employee's life ~~[and]~~ or personal safety at risk; and

4067 (ii) ~~[is required to]~~ complete training as provided in Section 53-13-103, 53-13-104, or  
4068 53-13-105.

4069 (b) If ~~[an employee]~~ a position satisfies the requirements of Subsection ~~[(6)] (9)(a), the~~  
4070 office and the Peace Officer Standards and Training Council shall consider~~[, in determining~~  
4071 eligibility for membership in the system;] whether or not the ~~[employee]~~ position requires the  
4072 employee to:

4073 (i) ~~[performs]~~ perform duties that consist primarily of actively preventing or detecting  
4074 crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

4075 (ii) ~~[performs]~~ perform duties that consist primarily of providing community protection;  
4076 and

4077 (iii) ~~[is required to]~~ respond to situations involving threats to public safety and make  
4078 emergency decisions affecting the lives and health of others.

4079 ~~[(7)] (10)~~ If a subcommittee is used to recommend the determination of disputes to the  
4080 Peace Officer Standards and Training Council, the subcommittee shall comply with the  
4081 requirements of Subsection ~~[(6)] (9)~~ in making its recommendation.

4082 ~~[(8)] (11)~~ A final order of the Peace Officer Standards and Training Council regarding a  
4083 dispute is a final agency action for purposes of Title 63, Chapter 46b, Administrative Procedures  
4084 Act.

4085 ~~[(9)] (12)~~ If a ~~[local law enforcement agency's law enforcement officers are not included~~  
4086 ~~in the Public Safety Retirement System under Title 49, Chapter 4, Public Safety Retirement Act,~~  
4087 ~~or Title 49;]~~ participating employer's public safety service employees are not covered by this  
4088 system or under Chapter [4a] 15, Public Safety Noncontributory Retirement Act, as of January 1,

4089 1998, those ~~[officers]~~ public safety service employees who may otherwise qualify for membership  
4090 in ~~[the]~~ this system shall, at the discretion of the ~~[respective municipality]~~ participating employer,  
4091 remain in their current retirement system.

4092 Section 95. Section **49-14-202**, which is renumbered from Section 49-4-204 is renumbered  
4093 and amended to read:

4094 ~~[49-4-204].~~ **49-14-202. Participation of employers -- Requirements -- Supplemental**  
4095 **programs -- Full participation in system.**

4096 (1) ~~[Any political subdivision, department, or educational institution which]~~ An employer  
4097 that employs public safety service employees ~~[to perform public safety services]~~ and is required  
4098 by Section ~~[49-2-204]~~ 49-12-202 or ~~[49-3-204]~~ 49-13-202 to be a participating ~~[employee]~~  
4099 employer in the Public Employees' Contributory Retirement System or the Public Employees'  
4100 Noncontributory Retirement System shall cover all its public safety service employees under  
4101 ~~[either (a) the Public Employees' Retirement System; or (b) the Public Safety Retirement System.~~  
4102 ~~As a participating employer, the political subdivision shall meet all requirements for full~~  
4103 ~~participation in the system.]~~ one of the following systems:

4104 (a) Chapter 12, Public Employees' Contributory Retirement Act;

4105 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;

4106 (c) Chapter 14, Public Safety Contributory Retirement Act; or

4107 (d) Chapter 15, Public Safety Noncontributory Retirement Act.

4108 ~~[(2) Any organization or agency supported in whole or in part by Utah public funds which~~  
4109 ~~is not or may not prior to application have been covered by this act may by resolution of its~~  
4110 ~~governing body apply for coverage of its public safety officers and employees by the system. Upon~~  
4111 ~~approval of the board, the organization or agency shall become a participant in the system provided~~  
4112 ~~that the board and the political subdivision, or the organization or agency shall agree upon (a) the~~  
4113 ~~terms pursuant to which its public safety employees shall become members of the system, such as~~  
4114 ~~the effective date of coverage, (b) the amount of prior service credit with which they may be~~  
4115 ~~credited, if any, (c) the amount of any contributions in addition to regular contributions that will~~  
4116 ~~be required to provide any prior service credits or retroactive current service credits from either~~  
4117 ~~the employing unit or its employees, and (d) the manner in which retroactive current or prior~~  
4118 ~~service credits may be established, if any. Once admitted to the system, an organization or agency~~  
4119 ~~may not withdraw from participation, except as provided in Subsection (3), and shall meet all~~

4120 requirements for full participation in the system.]

4121 ~~[(3) An organization or agency admitted to the system pursuant to Subsection (2), which~~  
4122 ~~no longer receives public funds, may withdraw from the system if:]~~

4123 ~~[(a) the organization or agency's governing body by resolution petitions the board for~~  
4124 ~~withdrawal from the system; and]~~

4125 ~~[(b) the board approves the withdrawal. Once approval to withdraw is granted, the~~  
4126 ~~organization or agency and its employees shall be governed by Sections 49-1-502 and 49-1-503.]~~

4127 ~~[(4) No participating employer may maintain full participation in the system by covering~~  
4128 ~~only part of its public safety employees.]~~

4129 (2) An employer that covers its public safety service employees under Subsection (1)(c)  
4130 is a participating employer in this system.

4131 (3) If a participating employer under Subsection (1) covers any of its public safety service  
4132 employees under the Public Safety Contributory Retirement System or the Public Safety  
4133 Noncontributory Retirement System, that participating employer shall cover all of its public safety  
4134 service employees under one of those systems.

4135 (4) A participating employer may not withdraw from this system.

4136 (5) In addition to their participation in the system, participating employers may provide  
4137 or participate in any additional public or private retirement, supplemental or defined contribution  
4138 plan, either directly or indirectly, for their employees.

4139 (6) An employer may not elect to participate in this system after July 1, 1989.

4140 Section 96. Section **49-14-203**, which is renumbered from Section 49-4-205 is renumbered  
4141 and amended to read:

4142 **[49-4-205]. 49-14-203. Exemption of certain employees from coverage.**

4143 (1) ~~[(a)]~~ A public safety service employee serving as the Commissioner of Public Safety,  
4144 or as the elected or appointed sheriff or chief of police of a public safety organization, is excluded  
4145 from coverage under this system if that public safety service employee files a formal written  
4146 request seeking ~~[exclusion from coverage]~~ exemption.

4147 ~~[(b)]~~ (2) Except as provided in Subsection ~~[(1)(c)]~~ (3), the public safety service employee  
4148 may not continue employment ~~[in the same covered employer unit]~~ with the same participating  
4149 employer and receive [payment from the retirement office] an allowance from the office based on  
4150 public safety service at the same time.







4213 (a) the member ceases actual work for a participating employer in this system before the  
4214 member's retirement date and provides evidence of the termination;

4215 (b) the member has submitted to the office a notarized retirement application form that  
4216 states the member's proposed retirement date; and

4217 (c) one of the following conditions is met as of the member's retirement date:

4218 ~~[(a)]~~ (i) the member has ~~[been credited with]~~ accrued at least 20 years of service credit;

4219 ~~[(b)]~~ (ii) the member has ~~[been credited with]~~ accrued at least ten years of service credit  
4220 and has attained an age of 60 years ~~[or more]~~; or

4221 ~~[(c)]~~ (iii) the member has ~~[been credited with]~~ accrued at least four years of service credit  
4222 and has attained an age of 65 years ~~[or more]~~.

4223 (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as  
4224 selected by the member, but the retirement date must be on or after the date of termination.

4225 (b) The retirement date may not be more than 90 days after the date the application is  
4226 received by the office.

4227 Section 99. Section **49-14-402**, which is renumbered from Section 49-4-402 is renumbered  
4228 and amended to read:

4229 ~~[49-4-402].~~ **49-14-402. Calculation of retirement allowance.**

4230 ~~[Upon the service retirement of a member under Section 49-4-401, the members shall~~  
4231 ~~receive a retirement allowance determined as follows:]~~

4232 ~~[(1) If the member has 20 or more years of public safety service credit, the retirement~~  
4233 ~~allowance is a monthly amount equal to:]~~

4234 ~~[(a) 2-1/2% of final average monthly salary multiplied by the number of years of public~~  
4235 ~~safety service credited, limited to 20 years, plus]~~

4236 ~~[(b) 2% of final average monthly salary multiplied by the number of years of public safety~~  
4237 ~~service credited in excess of 20 years, up to a maximum of 70%.]~~

4238 ~~[(2) If the member has attained age 60 years but less than age 65 years, and has ten years~~  
4239 ~~but less than 20 years of public safety service credit, the retirement allowance is computed the~~  
4240 ~~same as under Subsection (1).]~~

4241 ~~[(3) If the member has attained age 65 or older and has four or more years of public safety~~  
4242 ~~service credit the retirement allowance shall be a monthly amount equal to 2-1/2% of final average~~  
4243 ~~monthly salary multiplied by the number of years of public safety service credited, limited to 20~~

4244 years, plus 2% of final average monthly salary multiplied by the number of years of public safety  
4245 service credit in excess of 20 years.]

4246 [~~(4) Years of service include any fractions of years of service to which the member may~~  
4247 ~~be entitled. Notwithstanding the formula for computing the service retirement allowance for~~  
4248 ~~members participating in the program, the board shall, in as far as practical, adjust the percentage~~  
4249 ~~factor used in the service retirement allowance formula, in its application to the years of service~~  
4250 ~~of a retiring member to a percentage amount not less than 1-1/2% nor more than 2-1/2% per year~~  
4251 ~~of service, limited to the first 20 years. The foregoing adjustment when made shall maintain the~~  
4252 ~~retirement trust account on an actuarially sound basis if the employer contributions, member~~  
4253 ~~contributions, and earnings of the fund are insufficient to fund the benefits provided for members~~  
4254 ~~participating in the program.]~~

4255 (1) A retiree under this system shall receive an allowance equal to:

4256 (a) 2.5% of final average monthly salary multiplied by the number of years of service  
4257 credit, limited to 20 years; plus

4258 (b) 2% of final average monthly salary, multiplied by the number of years of service credit  
4259 in excess of 20 years.

4260 (2) Except as modified by cost-of-living adjustments, an allowance under this system may  
4261 not exceed 70% of a retiree's final average monthly salary.

4262 Section 100. Section **49-14-403**, which is renumbered from Section 49-4-601 is  
4263 renumbered and amended to read:

4264 ~~[49-4-601].~~ **49-14-403. Annual cost-of-living adjustment.**

4265 (1) The [retirement] office shall [compute and pay, upon approval by the board,] make an  
4266 annual cost-of-living adjustment to; [all retired members after the members have been retired one  
4267 year. The adjustment shall be equal to the decrease in the purchasing power of the dollar during  
4268 the preceding year, as measured by the Consumer Price Index, U.S. City Average, prepared by the  
4269 United States Bureau of Labor Statistics, and shall be limited to a maximum of 2.5% of the  
4270 retirant's or beneficiary's retirement allowance at the time of retirement. Decreases in the  
4271 purchasing power of the dollar exceeding 2.5% annually shall be accumulated and used in  
4272 subsequent allowances when the cost-of-living adjustment is less than 2.5%.]

4273 [~~(2) The cost-of-living adjustment shall be reduced if the index shows a decline of 4% or~~  
4274 ~~more during any period of more than one year. These reductions may not exceed 2% per year~~

4275 based upon the original retirement allowance. Payments made under this section shall be a part  
 4276 of the retired member's allowance. Payments and adjustments for the retirant shall also apply to  
 4277 the beneficiary;]

4278 (a) an original allowance paid under Section 49-14-402 and Part 5, Death Benefit, of this  
 4279 chapter if the allowance has been paid for at least one year; and

4280 (b) an original payment made to an alternate payee under a domestic relations order, if the  
 4281 payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

4282 (2) (a) The original allowance shall be increased by the annual increase in the Consumer  
 4283 Price Index up to a maximum of 2.5%.

4284 (b) Annual increases in the Consumer Price Index in excess of 2.5% shall be accumulated  
 4285 and used in subsequent adjustments when the annual increase in the Consumer Price Index is less  
 4286 than 2.5%.

4287 (3) The Consumer Price Index used in calculating adjustments shall be a United States  
 4288 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

4289 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

4290 Section 101. Section **49-14-501**, which is renumbered from Section 49-4-701 is  
 4291 renumbered and amended to read:

#### 4292 **Part 5. Death Benefit**

4293 ~~[49-4-701].~~ **49-14-501. Death of active member in Division A -- Payment of**  
 4294 **benefits.**

4295 (1) If an active member of [the] this system enrolled in Division A under Section  
 4296 [49-4-301] 49-14-301 dies, [the following] benefits are payable [according to the conditions  
 4297 stipulated] as follows:

4298 ~~[(1)]~~ (a) If the death is classified by the office as a line-of-duty death, the [dependent]  
 4299 spouse at the time of death shall receive a lump sum of \$1,000 and [a monthly] an allowance equal  
 4300 to 30% of the deceased member's final average monthly salary.

4301 ~~[(2)]~~ (b) If the death is not classified by the office as a line-of-duty death, [the following]  
 4302 benefits are payable as follows:

4303 ~~[(a)]~~ (i) If the member has accrued less than ten years of public safety service credit [at the  
 4304 time of death], the beneficiary shall receive the sum of \$1,000 or a refund of the member's member  
 4305 contributions, whichever [amount] is greater.

4306           ~~[(b)]~~ (ii) If the member has accrued ten or more years of public safety service credit at the  
4307 time of death, the ~~[dependent]~~ spouse at the time of death shall receive the sum of \$500, plus [a  
4308 ~~monthly~~] an allowance equal to 2% of the ~~[deceased]~~ member's final average monthly salary[;] for  
4309 each year of service credit ~~[standing to the member's account, with a]~~ accrued by the member up  
4310 to a maximum of 30% [allowed] of the member's final average monthly salary.

4311           ~~[(3) No benefits]~~ (2) Benefits are not payable to minor children of members covered under  
4312 Division A.

4313           ~~[(4)]~~ (3) If ~~[the]~~ a benefit is not distributed under this section, and ~~[there is]~~ the member  
4314 has designated a beneficiary, the ~~[vested contribution]~~ member's member contributions shall be  
4315 paid to the beneficiary.

4316           Section 102. Section **49-14-502**, which is renumbered from Section 49-4-702 is  
4317 renumbered and amended to read:

4318           ~~[49-4-702].~~   **49-14-502. Death of active member in Division B -- Payment of benefits.**

4319           (1) If an active member of ~~[the]~~ this system enrolled in Division B under Section  
4320 ~~[49-4-301]~~ 49-14-301 dies, ~~[the following]~~ benefits are payable ~~[according to the conditions~~  
4321 ~~stipulated]~~ as follows:

4322           ~~[(1)]~~ (a) If the member has accrued less than 20 years of public safety service credit and  
4323 if the death is classified by the office as a line-of-duty death, the ~~[dependent]~~ spouse at the time  
4324 of death shall receive a lump sum of \$1,500 and ~~[a monthly]~~ an allowance equal to ~~[37-1/2%]~~  
4325 37.5% of the ~~[deceased]~~ member's final average monthly salary.

4326           ~~[(2)]~~ (b) If the death is not classified by the office as a line-of-duty death, ~~[and]~~ benefits  
4327 are payable as follows:

4328           (i) If the [deceased] member has accrued two or more years of public safety service credit  
4329 at the time of death, the death is considered a line-of-duty death and the benefit ~~[payable is the~~  
4330 ~~same]~~ shall be paid as provided under Subsection (1)(a).

4331           ~~[(3)]~~ (ii) If ~~[the death is not classified as line-of-duty death and the deceased]~~ the member  
4332 has accrued less than two years of public safety service credit at the time of death, the ~~[benefit~~  
4333 ~~payable is]~~ spouse at the time of death shall receive a refund of the [deceased] member's member  
4334 contributions, plus 50% of the member's most recent 12 months' [regular salary] compensation.

4335           ~~[(4)]~~ (c) (i) If the ~~[deceased]~~ member has accrued two or more years of public safety  
4336 service credit at the time of death, ~~[the benefit payable to]~~ each of the member's unmarried children

4337 to age 18 [is] or dependent unmarried mentally or physically disabled children shall receive a  
4338 monthly allowance of \$50.

4339 (ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or as  
4340 otherwise provided under ~~[Title 49, Chapter 1]~~ Sections 49-11-609 and 49-11-610.

4341 ~~[(5)]~~ (2) In the event of the death of both parents, the spouse's benefit shall be prorated and  
4342 paid to each of the member's unmarried children to age 18.

4343 ~~[(6)]~~ (3) If ~~[the]~~ a benefit is not distributed under ~~[this section]~~ the previous subsections,  
4344 and ~~[there is]~~ the member has designated a beneficiary, the ~~[vested contribution-]~~ member's  
4345 member contributions shall be paid to the beneficiary.

4346 ~~[(7)]~~ (4) The ~~[total monthly]~~ combined annual payments ~~[to be]~~ made ~~[on behalf of any~~  
4347 ~~one deceased member's account]~~ to the beneficiaries of any member under this section may not  
4348 exceed 75% of the member's final average monthly salary.

4349 Section 103. Section **49-14-503**, which is renumbered from Section 49-4-703 is  
4350 renumbered and amended to read:

4351 ~~[49-4-703].~~ **49-14-503. Benefits payable upon death of inactive member.**

4352 ~~[(1) The death benefit payable on behalf of an active or an inactive member who dies and~~  
4353 ~~has no spouse or minor children as a beneficiary is 100% of the deceased member's contributions~~  
4354 ~~or \$500, whichever amount is larger.]~~

4355 ~~[(2)(a) The death benefit payable on behalf of an inactive member who dies and is~~  
4356 ~~survived by a spouse to whom that member was married at the time of death is a monthly pension~~  
4357 ~~if that member had 20 or more years of public safety service at the time of death.]~~

4358 ~~[(b) The pension payable to the spouse is]~~

4359 (1) If an inactive member who has less than 20 years of public safety service credit dies,  
4360 the designated beneficiary shall receive a refund of the member's member contributions or \$500,  
4361 whichever is greater.

4362 (2) (a) If an inactive member with 20 or more years of public safety service credit dies, the  
4363 spouse at the time of death shall receive an allowance in an amount of 50% of the amount the  
4364 member would have received had retirement occurred on the first of the month in which the death  
4365 occurred[,- the benefit being].

4366 (b) This allowance shall be based [upon] on years of service credit and final average  
4367 monthly salary under Section [49-4-402] 49-14-402, reduced actuarially from age 50 to the age [at]

4368 of the member at the time of death if the member is under age 50 at the time of death.

4369 ~~[(3) The death benefit payable upon the death of an inactive member who has less than 20~~  
4370 ~~years of public safety service and who leaves a spouse or minor children as the beneficiary is a~~  
4371 ~~100% refund of the deceased member's contributions or \$500, whichever is larger.]~~

4372 Section 104. Section **49-14-504**, which is renumbered from Section 49-4-704 is  
4373 renumbered and amended to read:

4374 ~~[49-4-704].~~ **49-14-504. Benefits payable upon death of retired member.**

4375 (1) If ~~[the member]~~ a retiree who retired under either Division A or Division B~~[-the death~~  
4376 ~~benefit payable to the dependent spouse after the death of the retired member of this system is a~~  
4377 ~~monthly amount]~~ dies, the retiree's spouse at the time of death shall receive an allowance equal  
4378 to 65% of the allowance that was being paid to the ~~[retired member]~~ retiree at the time of death.

4379 (2) ~~[(a)]~~ If the ~~[member]~~ retiree retired solely under Division B ~~[or]~~ and dies leaving  
4380 ~~[dependent]~~ unmarried children under the age of 18 or dependent unmarried mentally or physically  
4381 disabled children, the children shall qualify for a benefit as prescribed for children under ~~[Section~~  
4382 ~~49-4-702, with the total being paid as limited by that section. (b) The effective date of accrual of~~  
4383 ~~this pension is]~~ Subsection 49-14-502(1)(c) which is payable on the first day of the month  
4384 following the month in which the ~~[retirant]~~ retiree died.

4385 ~~[(c) Payment of the full pension for this latter month shall be made to the dependent~~  
4386 ~~beneficiary in lieu of the deceased member.]~~

4387 Section 105. Section **49-14-505** is enacted to read:

4388 **49-14-505. Benefits for surviving spouse under Division A or Division B.**

4389 The spouse at the time of death, if eligible, shall receive a benefit computed under either  
4390 Division A or Division B, whichever provides the larger benefit, but may not receive a benefit  
4391 under both divisions if it would result in a duplicate benefit.

4392 Section 106. Section **49-15-101**, which is renumbered from Section 49-4a-101 is  
4393 renumbered and amended to read:

4394 **CHAPTER 15. PUBLIC SAFETY NONCONTRIBUTORY RETIREMENT ACT**

4395 **Part 1. General Provisions**

4396 ~~[49-4a-101].~~ **49-15-101. Title.**

4397 This chapter is known as the "Public Safety Noncontributory Retirement Act."

4398 Section 107. Section **49-15-102**, which is renumbered from Section 49-4a-103 is

4399 renumbered and amended to read:

4400 ~~[49-4a-103].~~ **49-15-102. Definitions.**

4401 As used in this chapter:

4402 (1) (a) "Compensation[;]" ~~["salary," or "wages"]~~ means the total amount of payments  
4403 ~~[which] that are [currently] includable in gross income [made by an employer to an employee for~~  
4404 ~~services rendered to the employer as base income for the position covered under the retirement~~  
4405 ~~system] received by a public safety service employee as base income for the regularly scheduled~~  
4406 ~~work period. The participating employer shall establish the regularly scheduled work period. Base~~  
4407 ~~income shall be determined prior to [any salary deductions or reductions for any] the deduction of~~  
4408 ~~any amounts the public safety service employee authorizes to be deducted for salary deferral or~~  
4409 ~~[pretax benefit programs] other benefits~~ authorized by federal law.

4410 (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

4411 (c) "Compensation" does not include:

4412 (i) overtime;

4413 (ii) sick pay incentives;

4414 (iii) retirement pay incentives;

4415 (iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment  
4416 or uniform ~~[or]~~, travel [allowances], or similar payments;

4417 (v) a lump-sum payment or special payment covering accumulated leave; and

4418 (vi) all contributions made by ~~[an]~~ a participating employer under this ~~[plan]~~ system or  
4419 under any other employee benefit system or plan maintained by ~~[an]~~ a participating employer for  
4420 the benefit of a member or participant.

4421 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under  
4422 Internal Revenue Code Section 401(a)(17).

4423 (2) "Final average salary" means the amount computed by averaging the highest three years  
4424 of annual compensation preceding retirement subject to Subsections (2)(a) and (b).

4425 (a) Except as provided in Subsection (2)(b), the percentage increase in annual  
4426 compensation in any one of the years used may not exceed the previous year's ~~[salary]~~  
4427 compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the  
4428 purchasing power of the dollar during the previous year, as measured by ~~[the Consumer Price~~  
4429 ~~Index prepared by the]~~ a United States Bureau of Labor Statistics Consumer Price Index average

4430 as determined by the board.

4431 (b) In cases where the ~~[employing unit]~~ participating employer provides acceptable  
4432 documentation to the ~~[board]~~ office, the limitation in Subsection ~~[(2)]~~ (3)(a) may be exceeded if:

4433 (i) the ~~[member]~~ public safety service employee has transferred from another ~~[employing~~  
4434 ~~unit]~~ agency; or

4435 (ii) the ~~[member]~~ public safety service employee has been promoted to a new position.

4436 ~~[(3) "Full-time service" means 2,080 hours a year.]~~

4437 ~~[(4)]~~ (3) "Line-of-duty death" means a death resulting from external force, violence, or  
4438 disease occasioned by an act of duty as a ~~[peace officer or other]~~ public safety ~~[member]~~ service  
4439 employee.

4440 (4) "Participating employer" means an employer which meets the participation  
4441 requirements of Section 49-15-201.

4442 (5) (a) "Public safety service" means [full-time paid service] at least 2,080 hours of  
4443 regularly scheduled compensated employment per year rendered by a member who is a:

4444 ~~[(a)]~~ (i) law enforcement ~~[officers]~~ officer in accordance with Section 53-13-103;

4445 ~~[(b)]~~ (ii) correctional ~~[officers]~~ officer in accordance with Section 53-13-104; and

4446 ~~[(c)]~~ (iii) special function ~~[officers]~~ officer approved in accordance with Section 49-4a-203  
4447 and Section 53-13-105.

4448 (b) "Public safety service" also requires that in the course of employment the employee's  
4449 life or personal safety is at risk.

4450 (6) "Public safety service employee" means an employee of a participating employer who  
4451 performs public safety service under this chapter.

4452 (7) "System" means the Public Safety Noncontributory Retirement System created under  
4453 this chapter.

4454 ~~[(6)]~~ (8) "Years of service credit" [or "service years"] means the number of periods, each  
4455 to consist of 12 full months as determined by the board, whether consecutive or not, during which  
4456 [an] a public safety service employee [performed services for an] was employed by a participating  
4457 employer [or employers], including time the public safety service employee was absent in the  
4458 service of the United States government on military duty.

4459 Section 108. Section **49-15-103**, which is renumbered from Section 49-4a-201 is  
4460 renumbered and amended to read:



4461 ~~[49-4a-201].~~ **49-15-103. Creation of system.**

4462 There is created for ~~[public safety personnel of the state and its political subdivisions]~~  
4463 members performing public safety service and who are employed by a participating employer the  
4464 "Public Safety Noncontributory Retirement System."

4465 Section 109. Section **49-15-104**, which is renumbered from Section 49-4a-202 is  
4466 renumbered and amended to read:

4467 ~~[49-4a-202].~~ **49-15-104. Creation of trust fund.**

4468 (1) There is created the "Public Safety Noncontributory Retirement Trust Fund" for the  
4469 purpose of paying the benefits and the costs of administering this system.

4470 (2) The fund shall consist of a number of individual trust accounts created as needed to  
4471 receive the money and assets transferred into them from the respective terminated systems, all  
4472 money paid into them, including interest, in accordance with this chapter, whether in the form of  
4473 cash, securities, or other assets, and of all money received from any other source.

4474 (3) Custody, management, and investment of the fund shall be governed by ~~[Title 49,]~~  
4475 Chapter ~~[†]~~ 11, Utah State Retirement Systems Administration.

4476 Section 110. Section **49-15-201**, which is renumbered from Section 49-4a-203 is  
4477 renumbered and amended to read:

4478 **Part 2. Membership Eligibility**

4479 ~~[49-4a-203].~~ **49-15-201. System membership -- Eligibility.**

4480 ~~[(1) Any person entering full-time employment in a state public safety position after the~~  
4481 ~~effective date of this chapter shall automatically become a member of the noncontributory~~  
4482 ~~retirement system.]~~

4483 (1) (a) A public safety service employee employed by the state after July 1, 1989, is  
4484 eligible for service credit in this system.

4485 ~~[(2) Any person in full-time employment in a state public safety position prior to the~~  
4486 ~~effective date of this system may either become a member of this noncontributory system or~~  
4487 ~~remain a member of the Public Safety Retirement System]~~

4488 (b) A public safety service employee employed by the state prior to July 1, 1989, may  
4489 either elect to receive service credit in this system or continue to receive service credit under the  
4490 system established under ~~[Title 49,]~~ Chapter ~~[4]~~ 14, Public Safety Contributory Retirement Act,  
4491 by following the procedures established by the board ~~[pursuant to]~~ under this chapter.

4492           ~~[(3) (a) Membership in the noncontributory system is optional for political subdivisions;~~  
4493 ~~except that once a political subdivision elects to participate in the noncontributory system that~~  
4494 ~~election is final and binding upon the political subdivision.]~~

4495           ~~[(b) Persons entering public safety employment with political subdivisions that elect to~~  
4496 ~~participate in the noncontributory system after the effective date of this chapter shall automatically~~  
4497 ~~become members of the noncontributory retirement system.]~~

4498           ~~[(c) Any person in full-time employment with the political subdivision prior to that~~  
4499 ~~election to participate in this system may either become a member of the noncontributory~~  
4500 ~~retirement system or remain a member of the Public Safety Retirement System established under~~  
4501 ~~Title 49, Chapter 4, by following the procedures established by the board pursuant to this chapter.]~~

4502           (2) (a) Public safety service employees of a participating employer other than the state that  
4503 elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement System  
4504 shall be eligible only for service credit in that system.

4505           (b) (i) A participating employer other than the state that elected on or before July 1, 1989,  
4506 to participate in this system shall, have allowed, prior to July 1, 1989, a public safety service  
4507 employee to elect to participate in either this system or the Public Safety Contributory Retirement  
4508 System.

4509           (ii) Except as expressly allowed by this title, the election of the public safety service  
4510 employee is final and may not be changed.

4511           (c) A public safety service employee hired by a participating employer other than the state  
4512 after July 1, 1989, shall become a member in this system.

4513           (d) A public safety service employee of a participating employer other than the state who  
4514 began participation in this system after July 1, 1989, is only eligible for service credit in this  
4515 system.

4516           ~~[(4) In cities, counties, or other employing units of government]~~

4517           ~~(3) (a) (i) A participating employer that [have] has public safety service and [fire fighter~~  
4518 ~~personnel where] firefighter service employees that require cross-training and duty [is required;~~  
4519 ~~the employing unit may] shall enroll those dual purpose [personnel] employees in the [retirement]~~  
4520 ~~system in which the greatest amount of [duty] time is [contemplated and] actually worked [in~~  
4521 ~~accordance with Subsection (3)].~~

4522           (ii) The [personnel] employees shall either be full-time public safety service or [fire

4523 ~~fighter]~~ full-time firefighter service employees of the ~~[employing unit. New public safety~~  
4524 ~~employing units after July 1, 1989, are covered under this chapter]~~ participating employer.

4525 (b) (i) Prior to transferring a dual purpose employee from one system to another, the  
4526 participating employer shall receive written permission from the office.

4527 (ii) The office may request documentation to verify the appropriateness of the transfer.

4528 ~~[(5)(a) The board may by rule establish other peace officer groups for purposes of:]~~

4529 ~~[(i) recommending eligibility for coverage under this system; and]~~

4530 ~~[(ii) recommending contribution rates.]~~

4531 (4) The board may combine or segregate the actuarial experience of participating  
4532 employers in this system for the purpose of setting contribution rates.

4533 ~~[(b)(i)]~~ (5) (a) (i) Each [employing unit covered by] participating employer participating  
4534 in this system shall annually submit to the [retirement] office a schedule indicating the positions  
4535 to be covered under this system in accordance with [Section 49-4a-103] this chapter.

4536 (ii) The [retirement] office may require documentation to justify the inclusion of any  
4537 position under this system.

4538 ~~[(ii)]~~ (b) If there is a dispute between the [retirement] office and [an employing unit] a  
4539 participating employer or employee over any position to be covered, the disputed position shall be  
4540 submitted to the Peace Officer Standards and Training Council established under Section 53-6-106  
4541 for determination.

4542 ~~[(iii)(A)]~~ (c) (i) The Peace Officer Standards and Training Council's authority to decide  
4543 eligibility [questions for peace officers] for public safety service credit is limited to claims for  
4544 coverage under [the Public Safety Retirement System] this system for time periods [subsequent  
4545 to] after July 1, 1989.

4546 ~~[(B)]~~ (ii) A decision of the Peace Officer Standards and Training Council may not be  
4547 applied to service credit earned in another system prior to July 1, 1989.

4548 ~~[(C)]~~ (iii) Except as provided under Subsection [(5)(b)(iii)(D)] (5)(c)(iv), a decision of the  
4549 Peace Officer Standards and Training Council granting [an individual or] a position coverage  
4550 under [the Public Safety Retirement System] this system may only be applied prospectively from  
4551 the date of that decision.

4552 ~~[(D)]~~ (iv) A decision of the Peace Officer Standards and Training Council granting [an  
4553 individual or] a position coverage under [the Public Safety Retirement System] this system may

4554 be applied retroactively only if:

4555 ~~[(F)]~~ (A) the ~~[employing unit]~~ participating employer covered other similarly situated  
4556 ~~[employees under the Public Safety Retirement System]~~ positions under this system during the  
4557 time period in question; and

4558 ~~[(H)]~~ (B) the ~~[employee]~~ position otherwise meets all eligibility requirements for  
4559 ~~[membership in the Public Safety Retirement System]~~ receiving service credit in this system during  
4560 the period for which service credit is to be granted.

4561 ~~[(e)-(i)]~~ (6) The Peace Officer Standards and Training Council may use a subcommittee  
4562 to provide a recommendation to the council in determining disputes between the ~~[retirement]~~ office  
4563 and ~~[an employing unit]~~ a participating employer or employee over a position to be covered under  
4564 this system.

4565 ~~[(ii)]~~ (7) The Peace Officer Standards and Training Council shall comply with Title 63,  
4566 Chapter 46b, Administrative Procedures Act, in ~~[conducting adjudicative proceedings]~~ resolving  
4567 coverage disputes in this system.

4568 ~~[(6) Employees who have performed public safety service and who then transfer or are]~~

4569 (8) A public safety service employee who is transferred or promoted to an administration  
4570 ~~[positions]~~ position not covered by this system shall continue to earn public safety service credit  
4571 ~~[under this chapter]~~ in this system as long as ~~[they remain]~~ the employee remains employed in the  
4572 same department.

4573 ~~[(7) Unless the Legislature fails to provide funding in the appropriations act for the~~  
4574 ~~inclusion of special function officers in the noncontributory system, special function officers shall~~  
4575 ~~be eligible for membership in the noncontributory system if approved by the Peace Officers~~  
4576 ~~Standards and Training Council.]~~

4577 (9) Any employee who is transferred to the Division of Information Technology Services  
4578 from the Department of Public Safety prior to January 1, 1992, and who was a member in this  
4579 system, shall be entitled to remain a member in this system regardless of whether or not the  
4580 employee's current position is covered by this system.

4581 ~~[(8)]~~ (10) (a) ~~[The]~~ To determine that a position is covered under this system, the office  
4582 and, if a coverage dispute arises, the Peace Officer Standards and Training Council~~[-in~~  
4583 ~~determining disputes between the retirement office and an employing unit or employee over a~~  
4584 ~~position to be covered under this system, shall determine that to be eligible for membership in this~~

4585 ~~system]~~ shall find that the position requires the employee to:

4586 (i) ~~[is required as a duty of employment to serve in a position that may]~~ place the  
4587 ~~[employee at risk to]~~ employee's life [and] or personal safety at risk; and

4588 (ii) ~~[is required to]~~ complete training as provided in Section 53-13-103, 53-13-104, or  
4589 53-13-105.

4590 (b) If ~~[an employee]~~ a position satisfies the requirements of Subsection ~~[(8)]~~ (10)(a), the  
4591 office and Peace Officer Standards and Training Council shall consider~~[-, in determining eligibility~~  
4592 ~~for membership in the system,]~~ whether the position requires the employee to:

4593 (i) ~~[performs]~~ perform duties that consist primarily of actively preventing or detecting  
4594 crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

4595 (ii) ~~[performs]~~ perform duties that consist primarily of providing community protection;  
4596 and

4597 (iii) ~~[is required to]~~ respond to situations involving threats to public safety and make  
4598 emergency decisions affecting the lives and health of others.

4599 ~~[(9)]~~ (11) If a subcommittee is used to recommend the determination of disputes to the  
4600 Peace Officer Standards and Training Council, the subcommittee shall comply with the  
4601 requirements of Subsection ~~[(8)]~~ (10) in making its recommendation.

4602 ~~[(10)]~~ (12) A final order of the Peace Officer Standards and Training Council regarding  
4603 a dispute is a final agency action for purposes of Title 63, Chapter 46b, Administrative Procedures  
4604 Act.

4605 (13) If a participating employer's public safety service employees are not covered by this  
4606 system under Chapter 14, Public Safety Contributory Retirement Act, as of January 1, 1998, those  
4607 public safety service employees who may otherwise qualify for membership in this system shall,  
4608 at the discretion of the participating employer, remain in their current retirement system.

4609 Section 111. Section **49-15-202**, which is renumbered from Section 49-4a-204 is  
4610 renumbered and amended to read:

4611 ~~[49-4a-204].~~ **49-15-202. Participation of employers -- Requirements --**  
4612 **Admission -- Full participation in system -- Supplemental programs authorized.**

4613 (1) ~~[Any political subdivision, department, or educational institution which]~~ An employer  
4614 that employs public safety service employees [to perform public safety services] and is required  
4615 by Section ~~[49-2-204]~~ 49-12-202 or ~~[49-3-204]~~ 49-13-202 to be a participating ~~[employee]~~

4616 employer in the Public Employees' Contributory Retirement System or the Public Employees'  
4617 Noncontributory Retirement System shall cover all its public safety service employees under  
4618 [~~either~~] one of the following systems:

4619 (a) [~~the~~] Chapter 12, Public Employees' Contributory Retirement [System] Act; [or]  
4620 [~~the Public Safety Retirement System. As a participating employer, the political~~  
4621 ~~subdivision shall meet all requirements for full participation in the system.~~]

4622 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;

4623 (c) Chapter 14, Public Safety Contributory Retirement Act; or

4624 (d) Chapter 15, Public Safety Noncontributory Retirement Act.

4625 [~~(2) (a) Any organization or agency supported in whole or in part by Utah public funds~~  
4626 ~~which is not or may not prior to application have been covered by this act]~~

4627 (2) An employer that covers its public safety employees under Subsection (1)(d) is a  
4628 participating employer in this system.

4629 (3) If a participating employer under Subsection (1) covers any of its public safety service  
4630 employees under the Public Safety Contributory Retirement System or the Public Safety  
4631 Noncontributory Retirement System, that participating employer shall cover all of its public safety  
4632 service employees under one of those systems.

4633 (4) (a) An employer that is not participating in this system may by resolution of its  
4634 governing body apply for coverage of its public safety [officers and] service employees by [the]  
4635 this system. [Upon approval of the board, the organization or agency shall become a participant  
4636 in the system provided that the board and the political subdivision, or the organization or agency  
4637 shall agree upon:]

4638 [(i) ~~the terms pursuant to which its public safety employees shall become members of the~~  
4639 ~~system, such as the effective date of coverage;]~~

4640 [(ii) ~~the amount of prior service credit with which they may be credited, if any;]~~

4641 [(iii) ~~the amount of any contributions in addition to regular contributions that will be~~  
4642 ~~required to provide any prior service credits or retroactive current service credits from either the~~  
4643 ~~employing unit or its employees; and]~~

4644 [(iv) ~~the manner in which retroactive current or prior service credits may be established;~~  
4645 ~~if any.]~~

4646 [(b) ~~Once admitted to the system, an organization or agency may not withdraw from~~

4647 participation, except as provided in Subsection (3), and shall meet all requirements for full  
4648 participation in the system.]

4649 ~~[(3) An organization or agency admitted to the system pursuant to Subsection (2), which~~  
4650 ~~no longer receives public funds, may withdraw from the system if:]~~

4651 ~~[(a) the organization or agency's governing body by resolution petitions the board for~~  
4652 ~~withdrawal from the system; and]~~

4653 ~~[(b) the board approves the withdrawal.]~~

4654 ~~[(4) Once approval to withdraw is granted, the organization or agency and its employees~~  
4655 ~~shall be governed by Sections 49-1-502 and 49-1-503.]~~

4656 ~~[(5) No participating employer may maintain full participation in the system by covering~~  
4657 ~~only part of its public safety employees.]~~

4658 (b) Upon approval of the board, the employer shall become a participating employer in this  
4659 system subject to this title.

4660 (5) If a participating employer purchases service credit on behalf of employees for service  
4661 rendered prior to the participating employer's admission to this system, the service credit must be  
4662 purchased in a nondiscriminatory manner on behalf of all current and former employees who were  
4663 eligible for service credit at the time service was rendered.

4664 (6) A participating employer may not withdraw from this system.

4665 (7) In addition to their participation in the system, participating employers may provide  
4666 or participate in any additional public or private retirement, supplemental or defined contribution  
4667 plan, either directly or indirectly, for their employees.

4668 Section 112. Section **49-15-203**, which is renumbered from Section 49-4a-206 is  
4669 renumbered and amended to read:

4670 ~~[49-4a-206].~~ **49-15-203. Exemption of certain employees from coverage.**

4671 (1) ~~[(a)]~~ A public safety service employee serving as the Commissioner of Public Safety,  
4672 or as the elected or appointed sheriff or chief of police of a public safety organization, is excluded  
4673 from coverage under this system if that public safety service employee files a formal written  
4674 request seeking ~~[exclusion from coverage]~~ exemption.

4675 ~~[(b)]~~ (2) Except as provided in Subsection ~~[(1)(c)]~~ (3), the public safety service employee  
4676 may not continue employment ~~[in]~~ with the same ~~[covered]~~ participating employer ~~[unit]~~ and  
4677 receive ~~[payment from the retirement office]~~ an allowance from the office based on public safety

4678 service at the same time.

4679 ~~[(e)]~~ (3) An elected sheriff who is eligible to retire under Section ~~[49-4a-401]~~ 49-15-401

4680 may:

4681 ~~[(i)]~~ (a) retire from ~~[the]~~ this system and receive ~~[a retirement payment]~~ an allowance;

4682 ~~[(ii)]~~ (b) continue in the elected ~~[office]~~ position; and

4683 ~~[(iii)]~~ (c) file for the ~~[exclusion]~~ exemption under Subsection (1)~~[(a)]~~.

4684 ~~[(2) Any member of the system or any newly hired employee who is eligible for coverage~~

4685 ~~and who is drawing a military pension may, by application to the retirement administrator, be~~

4686 ~~exempted from participating in the system.]~~

4687 Section 113. Section **49-15-204**, which is renumbered from Section 49-4a-205 is

4688 renumbered and amended to read:

4689 ~~[49-4a-205]~~. **49-15-204. Conversion to system -- Time schedule.**

4690 The following laws govern conversion to the Public Safety Noncontributory Retirement  
4691 System:

4692 (1) For ~~[persons]~~ an employee governed by Subsection ~~[49-4a-203(2)]~~ 49-15-201(1)(a),  
4693 the election to participate in ~~[the noncontributory]~~ this system shall be made within six months of  
4694 ~~[the effective date of this chapter]~~ July 1, 1989.

4695 (2) (a) (i) For ~~[political subdivisions]~~ an employer governed by Subsection ~~[49-4a-203(3)]~~  
4696 49-15-201(2)(a), the election to participate ~~[as a local government unit]~~ in this system shall be  
4697 made within six months of ~~[the effective date of this chapter]~~ July 1, 1989.

4698 (ii) The ~~[political subdivision]~~ employer shall indicate whether or not it elects to  
4699 participate by enacting a resolution or ordinance to that effect.

4700 (iii) Prior to the enactment of the resolution or ordinance, a hearing shall be held by the  
4701 ~~[political subdivision]~~ employer, at which all public safety service employees of the ~~[political~~  
4702 ~~subdivision]~~ employer shall be given an opportunity to be heard on the question of participating  
4703 in this ~~[noncontributory retirement]~~ system.

4704 (iv) Notice of the hearing shall be mailed to all public safety service employees within 30  
4705 days of the hearing and shall contain the time, place, and purpose of the hearing.

4706 (b) A ~~[person in full-time employment with a political subdivision]~~ public safety service  
4707 employee of an employer, prior to its election to participate, has six months from the date the  
4708 ~~[political subdivision]~~ employer elects to participate in which to elect to become ~~[a member of the~~



4709 ~~noncontributory~~ eligible for service credit in this system.

4710 (3) (a) Subsections (1) and (2) shall be used to provide a time period of conversion to the  
4711 Public Safety Noncontributory Retirement System beginning July 1, 1998, and ending December  
4712 31, 1998.

4713 (b) A person converting to the system during this time period ~~shall be~~ is subject to all the  
4714 rights, limitations, terms, and conditions of [~~Title 49;~~] Chapter [~~4a~~] 15, Public Safety  
4715 Noncontributory Retirement Act.

4716 Section 114. Section **49-15-301**, which is renumbered from Section 49-4a-301 is  
4717 renumbered and amended to read:

### 4718 **Part 3. Contributions**

4719 ~~[49-4a-301].~~ **49-15-301. Contributions -- Two divisions -- Report.**

4720 [~~(1) The system shall be maintained on a financially and actuarially sound basis by means~~  
4721 ~~of contributions by the participating employer.]~~

4722 (1) Participating employers shall pay the certified contribution rates to the office to  
4723 maintain this system on a financially and actuarially sound basis.

4724 (2) For purposes of determining contribution rates, [~~the~~] this system is divided into two  
4725 divisions according to Social Security coverage.

4726 (a) [~~Public safety employees~~] Members of this system with on-the-job Social Security  
4727 coverage are Division A. [~~These are the state, Bountiful, and Division A other peace officer~~  
4728 ~~units.]~~

4729 (b) [~~Public safety employees~~] Members of this system without on-the-job Social Security  
4730 coverage are in Division B. [~~These are Logan, Ogden, Provo, Salt Lake City, and Division B~~  
4731 ~~other peace officer units.]~~

4732 [~~(2) The board shall report to the governor, the Legislature, and each employing unit under~~  
4733 ~~Division A or B the contribution rates and any adjustments necessary to maintain the system on~~  
4734 ~~a financially and actuarially sound basis, and the employer shall pay the certified contribution~~  
4735 ~~rates.]~~

4736 Section 115. Section **49-15-401**, which is renumbered from Section 49-4a-401 is  
4737 renumbered and amended to read:

### 4738 **Part 4. Defined Benefit**

4739 ~~[49-4a-401].~~ **49-15-401. Eligibility for service retirement -- Date of retirement**

4740 -- **Qualifications.**

4741 ~~[(1) (a) Any member who qualifies for service retirement may retire by submitting to the~~  
4742 ~~retirement office an application form notarized by a notary public. The application shall state the~~  
4743 ~~proposed effective date of retirement, which may not be more than 90 days before or after the date~~  
4744 ~~of application.]~~

4745 ~~[(b) The effective date shall be the 1st or 16th day of the month, as selected by the~~  
4746 ~~member, but must be after the last day of actual work.]~~

4747 ~~[(c) The member shall actually terminate employment and provide evidence of~~  
4748 ~~termination.]~~

4749 ~~[(2) The member is qualified to retire upon termination of services on or before the~~  
4750 ~~effective date of retirement if one of the following requirements on that date is met:]~~

4751 (1) A member is qualified to receive an allowance from this system when:

4752 (a) the member ceases actual work for a participating employer in this system before the  
4753 member's retirement date and provides evidence of the termination;

4754 (b) the member has submitted to the office a notarized retirement application form that  
4755 states the member's proposed retirement date; and

4756 (c) one of the following conditions is met as of the member's retirement date:

4757 ~~[(a)]~~ (i) the member has ~~[been credited with]~~ accrued at least 20 years of service credit;

4758 ~~[(b)]~~ (ii) the member has ~~[been credited with]~~ accrued at least ten years of service credit  
4759 and has attained an age of 60 years ~~[or more]~~; or

4760 ~~[(c)]~~ (iii) the member has ~~[been credited with]~~ accrued at least four years of service and  
4761 has attained an age of 65 years ~~[or more]~~.

4762 (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as  
4763 selected by the member, but the retirement date must be on or after the date of termination.

4764 (b) The retirement date may not be more than 90 days before or after the date the  
4765 application is received by the office.

4766 Section 116. Section ~~49-15-402~~, which is renumbered from Section 49-4a-402 is  
4767 renumbered and amended to read:

4768 ~~[49-4a-402].~~ **49-15-402. Calculation of retirement benefit.**

4769 ~~[Upon the service retirement of a member under Section 49-4a-401, the member shall~~  
4770 ~~receive a retirement allowance determined as follows:]~~

4771 ~~[(1) If the member has 20 or more years of public safety service credit, the retirement~~  
4772 ~~allowance is a monthly amount equal to:]~~

4773 ~~[(a) 2-1/2% of final average monthly salary multiplied by the number of years of public~~  
4774 ~~safety service credited, limited to 20 years, plus]~~

4775 ~~[(b) 2% of final average monthly salary multiplied by the number of years of public safety~~  
4776 ~~service credited in excess of 20 years, up to a maximum of 70%.]~~

4777 ~~[(2) If the member has attained age 60 years but less than age 65 years, and has ten years~~  
4778 ~~but less than 20 years of public safety service credit, the retirement allowance is computed the~~  
4779 ~~same as under Subsection (1).]~~

4780 ~~[(3) If the member has attained age 65 or older and has four or more years of public safety~~  
4781 ~~service credit the retirement allowance shall be a monthly amount equal to 2-1/2% of final average~~  
4782 ~~monthly salary multiplied by the number of years of public safety service credited, limited to 20~~  
4783 ~~years, plus 2% of final average monthly salary multiplied by the number of years of public safety~~  
4784 ~~service credit in excess of 20 years.].]~~

4785 ~~[(4) Years of service include any fractions of years of service to which the member may~~  
4786 ~~be entitled.].]~~

4787 (1) A retiree under this system shall receive an allowance equal to:

4788 (a) 2.5% of final average monthly salary multiplied by the number of years of service  
4789 credit, limited to 20 years; plus

4790 (b) 2% of final average monthly salary, multiplied by the number of years of service credit  
4791 in excess of 20 years.

4792 (2) Except as modified by cost-of-living adjustments, an allowance under this system may  
4793 not exceed 70% of a retiree's final average monthly salary.

4794 Section 117. Section **49-15-403**, which is renumbered from Section 49-4a-601 is  
4795 renumbered and amended to read:

4796 ~~[49-4a-601].~~ **49-15-403. Annual cost-of-living adjustment.**

4797 ~~[(1) The retirement office shall compute and pay, upon approval by the board, an annual~~  
4798 ~~cost-of-living adjustment to all retired members after the members have been retired one year. The~~  
4799 ~~adjustment shall be equal to the decrease in the purchasing power of the dollar during the~~  
4800 ~~preceding year, as measured by the Consumer Price Index, U.S. City Average, prepared by the~~  
4801 ~~United States Bureau of Labor Statistics, and shall be limited to a maximum of 2.5% of the~~

4802 ~~retirant's or beneficiary's retirement allowance at the time of retirement. Decreases in the~~  
4803 ~~purchasing power of the dollar exceeding 2.5% annually shall be accumulated and used in~~  
4804 ~~subsequent allowances when the cost-of-living adjustment is less than 2.5%.]~~

4805 ~~[(2) The cost-of-living adjustment shall be reduced if the index shows a decline of 4% or~~  
4806 ~~more during any period of more than one year. These reductions may not exceed 2% per year~~  
4807 ~~based upon the original retirement allowance. Payments made under this section shall be a part~~  
4808 ~~of the retired member's allowance. Payments and adjustments for the retirant shall also apply to~~  
4809 ~~the beneficiary.]~~

4810 (1) The office shall make an annual cost-of-living adjustment to:

4811 (a) an original allowance paid under Section 49-15-402 and Part 5, Death Benefit, of this  
4812 chapter if the allowance has been paid for at least one year; and

4813 (b) an original payment made to an alternate payee under a domestic relations order if the  
4814 payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

4815 (2) (a) The original allowance shall be increased by the annual increase in the Consumer  
4816 Price Index up to a maximum of 2.5%.

4817 (b) Annual increases in the Consumer Price Index in excess of 2.5% shall be accumulated  
4818 and used in subsequent adjustments when the annual increase in the Consumer Price Index is less  
4819 than 2.5%.

4820 (3) The Consumer Price Index used in calculating adjustments shall be a United States  
4821 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

4822 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

4823 Section 118. Section **49-15-501**, which is renumbered from Section 49-4a-701 is  
4824 renumbered and amended to read:

#### 4825 **Part 5. Death Benefit**

4826 ~~[49-4a-701].~~ **49-15-501. Death of active member in Division A -- Payment of**  
4827 **benefits.**

4828 (1) If an active member of [the] this system enrolled in Division A under Section  
4829 [49-4a-301] 49-15-301 dies, [the following] benefits are payable [according to the conditions  
4830 stipulated] as follows:

4831 ~~[(1)](a) [Except as provided in Subsection (1)(b), if] If the death is classified by the office~~  
4832 ~~as a line-of-duty death, [the dependent] benefits are payable as follows:~~

4833 (i) If the member has accrued less than 20 years of public safety service credit, the spouse  
4834 at the time of death shall receive a lump sum of \$1,000 and [a monthly] an allowance equal to 30%  
4835 of the [deceased] member's final average monthly salary.

4836 ~~[(b)]~~ (ii) If the member has accrued 20 or more years of public safety service credit, the  
4837 member shall be considered to have retired with ~~[a monthly]~~ an allowance calculated under  
4838 ~~[Subsection 49-4a-402(1)]~~ Section 49-15-402 and the ~~[dependent]~~ spouse at the time of death shall  
4839 receive the death benefit payable to a ~~[dependent]~~ spouse at the time of death under ~~[Subsection~~  
4840 ~~49-4a-704(1)]~~ Section 49-15-504.

4841 ~~[(2)]~~ (b) If the death is not classified as a line-of-duty death by the office, ~~[the following]~~  
4842 benefits are payable as follows:

4843 ~~[(a)]~~ (i) If the member has accrued less than ten years of public safety service credit ~~[at the~~  
4844 ~~time of death]~~, the beneficiary shall receive the sum of \$1,000 or a refund of the member's member  
4845 contributions, whichever [amount] is greater.

4846 ~~[(b)]~~ (ii) If the member has accrued ten or more years, but less than 20 years of public  
4847 safety service credit at the time of death, the ~~[dependent]~~ spouse at the time of death shall receive  
4848 the sum of \$500, plus ~~[a monthly]~~ an allowance equal to 2% of the ~~[deceased]~~ member's final  
4849 average monthly salary~~[-]~~ for each year of service credit ~~[standing to the member's account, with]~~  
4850 accrued by the member up to a maximum of 30% [allowed] of the member's final average monthly  
4851 salary.

4852 ~~[(c)]~~ (iii) If the member has accrued 20 or more years of public safety service credit, the  
4853 benefit shall be calculated as provided in Subsection (1)~~[(b)]~~~~(a)~~(ii).

4854 ~~[(3) No benefits]~~ (2) Benefits are not payable to minor children under Division A.

4855 ~~[(4)]~~ (3) If ~~[the]~~ a benefit is not distributed under this section, and ~~[there is]~~ the member  
4856 has designated a beneficiary, the ~~[vested]~~ member's member contribution shall be paid to the  
4857 beneficiary.

4858 Section 119. Section **49-15-502**, which is renumbered from Section 49-4a-702 is  
4859 renumbered and amended to read:

4860 ~~[49-4a-702].~~ **49-15-502. Death of active member in Division B -- Payment of**  
4861 **benefits.**

4862 (1) If an active member of ~~[the]~~ this system enrolled in Division B under Section  
4863 ~~[49-4a-301]~~ 49-15-301 dies, ~~[the following]~~ benefits are payable ~~[according to the conditions~~

4864 stipulated] as follows:

4865 ~~[(1)]~~ (a) If the member has accrued less than 20 years of public safety service credit and  
4866 if the death is classified by the office as a line-of-duty death, the ~~[dependent]~~ spouse at the time  
4867 of death shall receive a lump sum of \$1,500 and ~~[a monthly]~~ an allowance equal to ~~[37-1/2%]~~  
4868 37.5% of the ~~[deceased]~~ member's final average monthly salary.

4869 ~~[(2)]~~ (b) If the death is not classified by the office as a line-of-duty death, and the  
4870 ~~[deceased]~~ member has accrued two or more years of public safety service credit at the time of  
4871 death, the death is considered line-of-duty and the benefit ~~[payable is the same]~~ shall be paid as  
4872 provided under Subsection (1)(a).

4873 ~~[(3)]~~ (c) If the death is not classified by the office as a line-of-duty death, and the  
4874 ~~[deceased]~~ member has accrued less than two years of public safety service credit at the time of  
4875 death, the ~~[benefit payable is]~~ spouse at the time of death shall receive a refund of the ~~[deceased]~~  
4876 member's member contributions, plus 50% of the member's most recent 12 months' ~~[regular salary]~~  
4877 compensation.

4878 ~~[(4)]~~ (d) (i) If the ~~[deceased]~~ member has accrued two or more years of public safety  
4879 service credit at the time of death, ~~[the benefit payable to]~~ each of the member's unmarried children  
4880 to age 18 ~~[is a monthly]~~ or dependent unmarried mentally or physically disabled children shall  
4881 receive an allowance of \$50.

4882 (ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or as  
4883 otherwise provided under ~~[Title 49, Chapter 1]~~ Section 49-11-609 or 49-11-610.

4884 ~~[(5)]~~ (2) In the event of the death of both parents, the spouse's benefit shall be prorated and  
4885 paid to each of the member's unmarried children to age 18.

4886 ~~[(6)]~~ (3) If ~~[the]~~ a benefit is not distributed under ~~[this section, and there is]~~ the previous  
4887 subsections, and the member has designated a beneficiary, the ~~[vested contribution]~~ member's  
4888 member contributions shall be paid to the beneficiary.

4889 ~~[(7)]~~ (4) The ~~[total monthly]~~ combined payments ~~[to be made on behalf of any one~~  
4890 ~~deceased member's account]~~ to beneficiaries of any member under this section may not exceed  
4891 75% of the member's final average monthly salary.

4892 Section 120. Section **49-15-503**, which is renumbered from Section 49-4a-703 is  
4893 renumbered and amended to read:

4894 ~~[49-4a-703]~~. **49-15-503. Benefits payable upon death of inactive member.**

4895 ~~[(1) The death benefit payable on behalf of an active or an inactive member who dies and~~  
4896 ~~has no spouse or minor children as a beneficiary is 100% of the deceased member's contributions~~  
4897 ~~or \$500, whichever amount is greater.]~~

4898 ~~[(2) (a) The death benefit payable on behalf of an inactive member who dies and is~~  
4899 ~~survived by a spouse to whom that member was married at the time of death is a monthly pension~~  
4900 ~~if that member had 20 or more years of public safety service at the time of death.]~~

4901 ~~[(b) The pension payable to the spouse is]~~

4902 (1) If an inactive member who has less than 20 years of public safety service credit dies,  
4903 the designated beneficiary shall receive a refund of the member's member contributions or \$500,  
4904 whichever is greater.

4905 (2) (a) If an inactive member with 20 or more years of public safety service credit dies, the  
4906 spouse at the time of death shall receive an allowance in an amount of 50% of the amount the  
4907 member would have received had retirement occurred on the first of the month in which the death  
4908 occurred[, the benefit being].

4909 (b) This allowance shall be based [upon] on years of service credit and final average  
4910 monthly salary under Section [49-4a-402] 49-15-402, reduced actuarially from age 50 to the age  
4911 of the member at the time of death [if the member is under age 50 at the time of death].

4912 ~~[(3) The death benefit payable upon the death of an inactive member who has less than 20~~  
4913 ~~years of public safety service and who leaves a spouse or minor children as the beneficiary is a~~  
4914 ~~100% refund of the deceased member's contributions or \$500, whichever is greater.]~~

4915 Section 121. Section **49-15-504**, which is renumbered from Section 49-4a-704 is  
4916 renumbered and amended to read:

4917 ~~[49-4a-704].~~ **49-15-504. Benefits payable upon death of retired member.**

4918 (1) If ~~[the member]~~ a retiree who retired under either Division A or Division B~~[, the death~~  
4919 ~~benefit payable to the dependent spouse after the death of the retired member of this system is a~~  
4920 ~~monthly amount]~~ dies, the retiree's spouse at the time of death shall receive an allowance equal to  
4921 65% of the allowance that was being paid to the [retired member] retiree at the time of death.

4922 (2) ~~[(a)]~~ If the ~~[member]~~ retiree retired solely under Division B ~~[or]~~ and dies leaving  
4923 [dependent] unmarried children under the age of 18 or dependent unmarried mentally or physically  
4924 disabled children, the children shall qualify for a benefit as prescribed [for children] under [Section  
4925 49-4a-702, with the total being paid as limited by that section. (b) The effective date of accrual of

4926 ~~this pension is]~~ Subsection 49-15-502(1)(c) which is payable on the first day of the month  
4927 following the month in which the ~~[retirant]~~ retiree died.

4928 ~~[(c) Payment of the full pension for this latter month shall be made to the dependent~~  
4929 ~~beneficiary in lieu of the deceased member.]~~

4930 Section 122. Section **49-15-505** is enacted to read:

4931 **49-15-505. Benefits for surviving spouse under Division A or Division B.**

4932 The spouse at the time of death, if eligible, shall receive a benefit computed under either  
4933 Division A or Division B, whichever provides the larger benefit, but may not receive a benefit  
4934 under both divisions if it would result in a duplicate benefit.

4935 Section 123. Section **49-16-101**, which is renumbered from Section 49-5-101 is  
4936 renumbered and amended to read:

## 4937 **CHAPTER 16. FIREFIGHTERS' RETIREMENT ACT**

### 4938 **Part 1. General Provisions**

4939 ~~[49-5-101].~~ **49-16-101. Title.**

4940 This chapter is known as the "Firefighters' Retirement Act."

4941 Section 124. Section **49-16-102**, which is renumbered from Section 49-5-103 is  
4942 renumbered and amended to read:

4943 ~~[49-5-103].~~ **49-16-102. Definitions.**

4944 As used in this chapter:

4945 (1) (a) "Compensation[;]" ~~["salary," or "wages"]~~ means the total amount of payments that  
4946 are ~~[currently]~~ includable ~~[in]~~ as gross income [made by an employer to an employee for services  
4947 rendered to the employer as base income] which are received by a firefighter service employee  
4948 as base income for the regularly scheduled work period. The participating employer shall establish  
4949 the regularly scheduled work period. Base income shall be determined prior to ~~[any salary~~  
4950 ~~deductions or reductions]~~ the deduction of member contributions or any amounts the firefighter  
4951 service employee authorizes to be deducted for ~~[any]~~ salary deferral or ~~[pretax benefit programs~~  
4952 ] other benefits authorized by federal law~~[; for the position covered under the retirement system].~~

4953 (b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

4954 (c) "Compensation" does not include:

4955 (i) overtime;

4956 (ii) sick pay incentives;



4957 (iii) retirement pay incentives;  
4958 (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, [or] travel  
4959 [allowances], or similar payments;

4960 (v) a lump-sum payment or special payments covering accumulated leave; and

4961 (vi) all contributions made by [an] a participating employer under this [plan] system or  
4962 under any other employee benefit system or plan maintained by [an] a participating employer for  
4963 the benefit of a member or participant.

4964 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed under  
4965 Internal Revenue Code Section 401(a)(17).

4966 (2) (a) "Disability" means a physical or mental condition that, in the judgment of the  
4967 [board] office, is total and presumably permanent, prevents a member from fulfilling the  
4968 responsibilities of the member's [assignment] position, and prevents the member from performing  
4969 satisfactorily in some other [assignment] position of the same general class.

4970 (b) The determination of disability is based upon medical and other evidence satisfactory  
4971 to the [board] office.

4972 [~~(3) "Employer" or "employing unit" means any regularly constituted fire department of~~  
4973 ~~a political subdivision for which any employee or member performs services subject to this~~  
4974 ~~chapter.]~~

4975 [~~(4) (3) "Final average salary" means the amount computed by averaging the highest three~~  
4976 ~~years of annual compensation preceding retirement[, but not including overtime or lump-sum or~~  
4977 ~~special salary adjustments received instead of uniform or other allowances or expenses or other~~  
4978 ~~payments made covering accumulated leave] subject to Subsections (3)(a) and (b).~~

4979 (a) Except as provided in Subsection [~~(4) (3)~~](b), the percentage increase in annual  
4980 compensation in any one of the years used may not exceed the previous year's [salary]  
4981 compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the  
4982 purchasing power of the dollar during the previous year, as measured by [~~the Consumer Price~~  
4983 ~~Index prepared by the] a United States Bureau of Labor Statistics Consumer Price Index average  
4984 as determined by the board.~~

4985 (b) In cases where the [~~employing unit] participating employer provides acceptable~~  
4986 documentation to the [board] office the limitation in Subsection [~~(4) (3)~~](a) may be exceeded if:

4987 (i) the member has transferred from another [~~employing unit] agency; or~~

4988 (ii) the member has been promoted to a new position.

4989 [~~(5)~~] (4) "Firefighter service" means [~~full-time paid service rendered as an individual or~~  
4990 ~~as a member of a group of firefighters regularly assigned to~~] at least 2,080 hours of regularly  
4991 scheduled compensated employment per year rendered by a member who is a firefighter service  
4992 employee trained in firefighter techniques and assigned to a position of hazardous duty with a  
4993 regularly constituted fire department, but does not include secretarial staff or other similar  
4994 employees.

4995 (5) "Firefighter service employee" means an employee of a participating employer who  
4996 provides firefighter service under this chapter. An employee of a regularly constituted fire  
4997 department who does not perform firefighter service is not a firefighter service employee.

4998 [~~(6) "Full-time service" means 2,080 hours per year.~~]

4999 [~~(7) "Inactive member" means a member who has received no compensation for a period~~  
5000 ~~of longer than four months.~~]

5001 [~~(8)~~] (6) "Line-of-duty death or disability" means a death or any physical or mental  
5002 disability resulting from external force, violence, or disease [~~occasioned by an act of duty as a~~  
5003 ~~firefighter and includes for a paid firefighter, after five years of credited service, any death or~~  
5004 ~~disability resulting from heart disease, lung disease, or respiratory tract, but if a firefighter ceases~~  
5005 ~~to be a contributing member because of personal illness or service-connected disability, neither of~~  
5006 ~~which is related to~~] directly resulting from firefighter service.

5007 (a) A paid firefighter who has five years of firefighter service credit is eligible for a  
5008 line-of-duty death or disability resulting from heart [or] disease, lung disease [nor the], or  
5009 respiratory tract condition.

5010 (b) A paid firefighter who receives a service connected disability benefit for [a period of]  
5011 more than six months [or more and then again becomes a contributing member, the provision  
5012 relating to death or disability resulting from] due to violence or illness other than heart disease,  
5013 lung disease, or respiratory [disease does not apply until the member again becomes a contributing  
5014 member for a period of not less than two years or] tract condition, and then returns to paid  
5015 firefighter service, may not be eligible for a line-of-duty death or disability benefit due to heart  
5016 disease, lung disease, or respiratory tract condition for two years after the firefighter returned to  
5017 work unless clear and [precise] convincing evidence is presented that the heart disease, lung  
5018 disease, or respiratory [disease] tract condition was[, in fact, occasioned in the line-of-duty]

5019 directly a result of firefighter service.

5020 ~~[(9) (a) "Member" means any person included in the membership of the retirement~~  
5021 ~~system.]~~

5022 ~~[(b) A person is a member if the person has contributions on deposit with the retirement~~  
5023 ~~system.]~~

5024 ~~[(c) A person hired on or after July 1, 1971, in a fire department, who is assigned directly~~  
5025 ~~to a clerical position, and because of lack of training in fire fighting techniques, is not subject to~~  
5026 ~~reassignment into positions of hazardous duty, is not eligible for membership in this system.]~~

5027 ~~[(i) The person in a clerical position shall become a contributing member of the~~  
5028 ~~appropriate retirement system.]~~

5029 ~~[(ii) The required employer contributions shall be paid by the fire department.]~~

5030 ~~[(iii) This membership exclusion may not be interpreted to prohibit the assignment of a~~  
5031 ~~disabled or partially disabled firefighter to that position.]~~

5032 ~~[(iv) If Subsection (9)(c)(iii) applies, the firefighter retains status as a contributing member~~  
5033 ~~of this system and continues to accrue service credits while so employed.]~~

5034 (7) "Participating employer" means an employer which meets the participation  
5035 requirements of Section 49-16-201.

5036 ~~[(10)]~~ (8) "Regularly constituted fire department" means a fire department that employs  
5037 a [full-time] fire chief [and promulgates rules] who performs firefighter service for at least 2,080  
5038 hours of regularly scheduled paid employment per year.

5039 ~~[(11) (a) "Service" or "covered service" means firefighter service rendered an employer~~  
5040 ~~for compensation included in computations relating to membership status or benefit rights under~~  
5041 ~~this chapter.]~~

5042 ~~[(b) A retirement allowance or other benefit may not be granted under this system that is~~  
5043 ~~based upon the same service for retirement benefits under some other retirement system~~  
5044 ~~administered by the board.]~~

5045 (9) "System" means the Firefighters' Retirement System created under this chapter.

5046 ~~[(12)]~~ (10) (a) "Volunteer firefighter" means any individual that is not regularly employed  
5047 as a firefighter service employee, but who is on the rolls of a regularly constituted fire department.

5048 (b) An individual that volunteers assistance but is not a regularly enrolled firefighter is not  
5049 a volunteer firefighter.

5050 ~~[(c) Service as a volunteer firefighter is not creditable towards qualifying for a service~~  
5051 ~~retirement allowance.]~~

5052 ~~[(13)] (11) "Years of service credit" [or "service years"] means the number of periods~~  
5053 ~~[consisting], each to consist of 12 full months as determined by the board, whether consecutive~~  
5054 ~~or not, during which [an] a firefighter service employee [performed services for an] was employed~~  
5055 ~~by a participating employer or received full-time pay while on sick leave, including any time the~~  
5056 ~~firefighter service employee was absent in the service of the United States on military duty.~~

5057 Section 125. Section **49-16-103**, which is renumbered from Section 49-5-201 is  
5058 renumbered and amended to read:

5059 ~~[49-5-201].~~ **49-16-103. Creation of system.**

5060 There is created for ~~[firefighters in this state]~~ members performing firefighter service and  
5061 who are employed by a participating employer the "Firefighters' Retirement System."

5062 Section 126. Section **49-16-104**, which is renumbered from Section 49-5-202 is  
5063 renumbered and amended to read:

5064 ~~[49-5-202].~~ **49-16-104. Creation of trust fund.**

5065 (1) There is created the "Firefighters' Retirement Trust Fund" for the purpose of paying  
5066 the benefits and costs of administering this system.

5067 (2) The fund shall consist of all money and assets transferred to it from any terminated  
5068 system, all money paid into it, including interest, in accordance with this chapter, whether in the  
5069 form of cash, securities, or other assets, and of all money received from any other source.

5070 (3) The custody, management, and investment of the fund shall be governed by ~~[Title 49,]~~  
5071 Chapter [†] 11, Utah State Retirement Systems Administration.

5072 Section 127. Section **49-16-201**, which is renumbered from Section 49-5-203 is  
5073 renumbered and amended to read:

5074 **Part 2. Membership Eligibility**

5075 ~~[49-5-203].~~ **49-16-201. System membership -- Eligibility.**

5076 ~~[(1) Any employee who performs covered services for any political subdivision after the~~  
5077 ~~effective date of this system shall become a member of this retirement system.]~~

5078 ~~[(2) (a) Any new employee engaged to perform covered services for an agency or political~~  
5079 ~~subdivision after the effective date of this chapter shall undergo a physical examination to~~  
5080 ~~determine the employee's fitness for employment, and file a membership form with the retirement~~

5081 office. ~~The employer shall notify the administrator of the employee's employment within 30 days~~  
5082 ~~of employment.]~~

5083 ~~[(b) In political subdivisions with]~~

5084 (1) A firefighter service employee who performs firefighter service for an employer  
5085 participating in this system is eligible for service credit in this system upon the earliest of:

5086 (a) July 1, 1971, if the firefighter service employee was employed by the participating  
5087 employer on July 1, 1971, and the participating employer was participating in this system on that  
5088 date;

5089 (b) the date the participating employer begins participating in this system if the firefighter  
5090 service employee was employed by the participating employer on that date; or

5091 (c) the date the firefighter service employee is hired to perform firefighter services for a  
5092 participating employer.

5093 (2) (a) (i) A participating employer that has public safety ~~service~~ and firefighter [~~personnel~~  
5094 where] ~~service employees that require~~ cross-training and duty [~~is required, the employing unit may~~  
5095 shall enroll the dual purpose [~~personnel~~] employees in the [~~retirement~~] system in which the greatest  
5096 amount of [~~duty~~] time is [~~contemplated and~~] actually worked.

5097 (ii) The [~~personnel~~] ~~employees~~ shall either be full-time public safety ~~service~~ or full-time  
5098 firefighter ~~service~~ employees of the [~~employing unit~~] participating employer.

5099 (b) (i) Prior to transferring a dual purpose employee from one system to another, the  
5100 participating employer shall receive written permission from the office.

5101 (ii) The office may request documentation to verify the appropriateness of the transfer.

5102 (3) (a) A person hired by a regularly constituted fire department on or after July 1, 1971,  
5103 who does not perform firefighter service is not eligible for service credit in this system.

5104 (b) The nonfirefighter service employee shall become a member of the system for which  
5105 the nonfirefighter service employee qualifies for service credit.

5106 (c) The service credit exclusion under this Subsection (3) may not be interpreted to  
5107 prohibit the assignment of a disabled or partially disabled firefighter to a nonfirefighter service  
5108 position.

5109 (d) If Subsection (3)(c) applies, the firefighter service employee remains eligible for  
5110 service credit in this system.

5111 (4) An allowance or other benefit may not be granted under this system that is based upon

5112 the same service for benefits received under some other system.

5113 (5) Service as a volunteer firefighter is not eligible for service credit in this system.

5114 Section 128. Section **49-16-202**, which is renumbered from Section 49-5-204 is  
5115 renumbered and amended to read:

5116 **[49-5-204]. 49-16-202. Participation of employers -- Full participation in system**  
5117 **-- Supplemental programs authorized.**

5118 ~~[(1) All political subdivisions are participating employers in the system and may not~~  
5119 ~~withdraw from participation in the system. As participating employers, political subdivisions shall~~  
5120 ~~meet all requirements for full participation in the system.]~~

5121 ~~[(2) No participating employer may maintain participation in the system by covering only~~  
5122 ~~part of its eligible employees, but the chief of any fire department may elect not to participate in~~  
5123 ~~the system, but cannot continue employment in the same covered employer unit and receive~~  
5124 ~~payment from the retirement office at the same time.]~~

5125 (1) An employer that employs firefighter service employees and is required by Section  
5126 49-12-202 or 49-13-202 to be a participating employer in the Public Employees' Contributory  
5127 Retirement System or the Public Employees' Noncontributory Retirement System shall cover all  
5128 of its firefighter service employees under one of the following systems:

5129 (a) Chapter 12, Public Employees' Contributory Retirement Act;

5130 (b) Chapter 13, Public Employees' Noncontributory Retirement Act; or

5131 (c) Chapter 16, Firefighters' Retirement Act.

5132 (2) Any employer that covers its firefighter service employees under Subsection (1)(c) is  
5133 a participating employer in this system.

5134 (3) If a participating employer under Subsection (1) covers any of its firefighter service  
5135 employees under the Firefighters' Retirement System, that participating employer shall cover all  
5136 of its firefighter service employees under that system.

5137 (4) A participating employer may not withdraw from this system.

5138 ~~[(3)]~~ (5) In addition to their participation in the system, participating employers may  
5139 provide or participate in any additional public or private retirement, supplemental or [deferred  
5140 income program] defined contribution plan, either directly or indirectly, for their firefighter service  
5141 employees.

5142 Section 129. Section **49-16-203** is enacted to read:

5143 **49-16-203. Exemption of certain employees from coverage -- Exception.**

5144 (1) A firefighter service employee serving as the chief of any fire department or district  
5145 is excluded from coverage under this system if that firefighter service employee files a formal  
5146 written request seeking exemption.

5147 (2) A firefighter service employee serving as the chief of any fire department or district  
5148 may not continue employment with the same participating employer and receive an allowance from  
5149 the office based on firefighter service at the same time.

5150 Section 130. Section **49-16-301**, which is renumbered from Section 49-5-301 is  
5151 renumbered and amended to read:

5152 **Part 3. Contributions**

5153 **[49-5-301]. 49-16-301. Contributions -- Two divisions -- Election by employer to**  
5154 **pay employee contributions -- Accounting for and vesting of worker contributions --**  
5155 **Deductions.**

5156 (1) [~~The system shall be maintained on a financially and actuarially sound basis by means~~  
5157 of contributions made by the state, the employing units, and the active members of the system] In  
5158 addition to the monies paid to this system under Subsection (6), participating employers and  
5159 firefighter service employees shall jointly pay the certified contribution rates to the office to  
5160 maintain this system on a financially and actuarially sound basis.

5161 (2) For purposes of determining contribution rates [~~and benefits, the~~], this system is  
5162 divided into two divisions according to Social Security coverage[~~. Firefighters~~] as follows:

5163 (a) members of this system with on-the-job Social Security coverage are in Division A[~~;~~  
5164 and firefighters]; and

5165 (b) members of this system without on-the-job Social Security coverage are in Division  
5166 B.

5167 [~~(2) Any city, town, special district, or county~~]

5168 (3) (a) A participating employer may elect to pay all or part of [~~its members'~~] the required  
5169 member contributions, in addition to the required participating employer contributions.

5170 (b) Any amount contributed by [~~a city, town, or county~~] a participating employer under this  
5171 [~~subsection~~] section shall vest to the member's [~~credit~~] benefit as though the member had made the  
5172 contribution.

5173 (c) The [~~member's~~] required [~~contribution~~] member contributions shall be reduced by the

5174 amount that is paid by the participating employer.

5175 ~~[(3)]~~ (4) (a) All member contributions are credited by the office to the account of the  
5176 individual ~~[and]~~ member.

5177 (b) This amount is held in trust for the payment of benefits to the member or the member's  
5178 beneficiaries.

5179 (c) All member contributions are [100%] vested and nonforfeitable.

5180 ~~[(4)]~~ (5) (a) Each member is considered to consent to ~~[monthly]~~ payroll deductions of  
5181 member contributions.

5182 (b) The payment of compensation less [retirement] these payroll deductions is considered  
5183 to be full payment [of the salary of the employee] for services rendered by the member.

5184 ~~[(5) The board shall report to the governor, the Legislature, and each employing unit under~~  
5185 ~~Division A or B the contribution rates and any adjustments necessary to maintain the system on~~  
5186 ~~a financially and actuarially sound basis, and the employer and employee shall pay the certified~~  
5187 ~~contribution rates.]~~

5188 (6) (a) In addition to contribution rates described under this section, there shall be paid to  
5189 the Firefighters' Retirement Trust Fund created under Section 49-16-104:

5190 ~~[(a)]~~ (i) 50% of the annual tax ~~[for each year that is]~~ levied, assessed, and collected under  
5191 Title 59, Chapter 9, Taxation of Admitted Insurers, upon property insurance premiums, as defined  
5192 ~~[by]~~ under Section 31A-1-301, and as applied to fire and allied lines insurance collected by  
5193 insurance companies within the state; and

5194 ~~[(b)]~~ (ii) 10% of all money assessed and collected under Title 59, Chapter 9, Taxation of  
5195 Admitted Insurers, upon life insurance premiums as defined in Section 31A-1-301 within the state.

5196 (b) Payments to the fund shall be made annually until the service liability is liquidated,  
5197 after which the tax revenue provided in this subsection for the Firefighters' Retirement Trust Fund  
5198 ceases.

5199 Section 131. Section **49-16-401**, which is renumbered from Section 49-5-401 is  
5200 renumbered and amended to read:

5201 **Part 4. Defined Benefit**

5202 ~~[49-5-401].~~ **49-16-401. Eligibility for service retirement -- Date of retirement --**  
5203 **Qualifications.**

5204 ~~[(1)(a) Any member who qualifies for service retirement may retire by submitting to the~~



5205 retirement office an application form notarized by a notary public. The application shall state the  
5206 proposed effective date of retirement, which may not be more than 90 days before or after the date  
5207 of application.]

5208 ~~[(b) The effective date shall be the 1st or 16th day of the month, as selected by the~~  
5209 ~~member, but must follow the last day of actual work.]~~

5210 ~~[(c) The member shall actually terminate employment and provide evidence of~~  
5211 ~~termination.]~~

5212 ~~[(2) The member is qualified to retire upon termination of service on or before the~~  
5213 ~~effective date of retirement if one of the following requirements on that date is met:]~~

5214 ~~(1) A member is qualified to receive an allowance from this system when:~~

5215 ~~(a) the member ceases actual work for a participating employer in this system before the~~  
5216 ~~member's retirement date and provides evidence of the termination;~~

5217 ~~(b) the member has submitted to the office a notarized retirement application form that~~  
5218 ~~states the member's proposed retirement date; and~~

5219 ~~(c) one of the following conditions is met as of the member's retirement date:~~

5220 ~~[(a)] (i) the member [is credited with] has accrued at least 20 years of service credit;~~

5221 ~~[(b)] (ii) the member [is credited with] has accrued at least ten years of service credit and~~  
5222 ~~[is] has attained an age of 60 years [of age or more]; or~~

5223 ~~[(c)] (iii) the member [is credited with] has accrued at least four years of service credit and~~  
5224 ~~[is] has attained an age of 65 years [of age or more].~~

5225 ~~(2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as~~  
5226 ~~selected by the firefighter service employee, but the retirement date must be on or after the date~~  
5227 ~~of termination.~~

5228 ~~(b) The retirement date may not be more than 90 days after the date the application is~~  
5229 ~~received by the office.~~

5230 Section 132. Section **49-16-402**, which is renumbered from Section 49-5-402 is  
5231 renumbered and amended to read:

5232 ~~[49-5-402].~~ **49-16-402. Calculation of retirement allowance.**

5233 ~~[Upon retirement as provided in Section 49-5-401, the member shall receive a retirement~~  
5234 ~~allowance as follows:]~~

5235 ~~[(1) If the member is a participant in Division A or B and has 20 or more years of service~~

5236 credit, the monthly retirement allowance is equal to:]

5237 ~~[(a) 2-1/2% of the member's final average monthly salary multiplied by the number of~~  
5238 ~~years of service credited the member, limited to 20 years; plus]~~

5239 ~~[(b) 2% of the member's final average monthly salary multiplied by the number of service~~  
5240 ~~credit years credited the member in excess of 20 years.]~~

5241 ~~[(2) If the member is a participant in Division A or B and is 60 but less than 65 years of~~  
5242 ~~age and has ten but less than 20 years of service credit, the monthly retirement allowance is an~~  
5243 ~~amount equal to 2-1/2% of the member's final average monthly salary multiplied by the number~~  
5244 ~~of years of service credit.]~~

5245 ~~[(3) If the member is a participant in Division A or B and is 65 years of age or older and~~  
5246 ~~has four years of service credit or more, the monthly retirement allowance is an amount equal to:]~~

5247 ~~[(a) 2-1/2% of the member's final average monthly salary multiplied by the number of~~  
5248 ~~years of service credit, limited to 20 years; plus]~~

5249 ~~[(b) 2% of the final average monthly salary multiplied by the number of years of service~~  
5250 ~~credit in excess of 20 years.]~~

5251 ~~[(4) The monthly service retirement allowance as calculated under this section may not~~  
5252 ~~exceed 70% of the member's final average monthly salary.]~~

5253 ~~[(5) Years of service include any fractions of years of service to which the member may~~  
5254 ~~be entitled. Notwithstanding the formula for computing the service retirement allowance under~~  
5255 ~~this section for members participating in the program, the board shall, in as far as practical, adjust~~  
5256 ~~the percentage factor used in the service retirement allowance formula, in its application to the~~  
5257 ~~years of service of a retiring member, to a percentage amount not less than 1-1/2%, nor more than~~  
5258 ~~2-1/2% per year of service, limited to the first 25 years. This adjustment when made shall maintain~~  
5259 ~~the retirement trust account on an actuarially sound basis if the employer contributions, member~~  
5260 ~~contributions, insurance fees, and earnings of the fund are insufficient to fund the benefits provided~~  
5261 ~~for members participating in the program.]~~

5262 (1) A retiree under this system shall receive an allowance equal to:

5263 (a) 2.5% of final average monthly salary multiplied by the number of years of service  
5264 credit, limited to 20 years; plus

5265 (b) 2% of final average monthly salary, multiplied by the number of years of service credit  
5266 in excess of 20 years.

5267 (2) The minimum annual allowance payable under this section is \$500.

5268 (3) Except as modified by cost-of-living adjustments, an allowance under this system may  
5269 not exceed 70% of a firefighter service employee's final average monthly salary.

5270 Section 133. Section **49-16-403**, which is renumbered from Section 49-5-601 is  
5271 renumbered and amended to read:

5272 ~~[49-5-601].~~ **49-16-403. Annual cost-of-living adjustment.**

5273 (1) ~~[(a)]~~ The ~~[retirement]~~ office shall ~~[compute and pay, upon approval by the board,]~~  
5274 make an annual cost-of-living adjustment to [all retired members after those members have been  
5275 retired for one year.];

5276 ~~[(b) The adjustment is equal to the decrease in the purchasing power of the dollar during~~  
5277 ~~the preceding year, as measured by the Consumer Price Index, United States City Average,~~  
5278 ~~prepared by the United States Bureau of Labor Statistics, and is limited to a maximum of 4% of~~  
5279 ~~the retirant's or beneficiary's original retirement allowance.]~~

5280 ~~[(c) Decreases in the purchasing power of the dollar exceeding 4% annually are~~  
5281 ~~accumulated and used in subsequent allowances when the cost-of-living adjustment is less than~~  
5282 ~~4% annually.]~~

5283 ~~[(2) (a) The cost-of-living adjustment shall be reduced if the index shows a decline of 4%~~  
5284 ~~or more during any period of more than one year.]~~

5285 ~~[(b) These reductions may not exceed 2% per year based upon the original retirement~~  
5286 ~~allowance.]~~

5287 ~~[(c) Payments made under this section are a part of the retired member's allowance.]~~

5288 ~~[(d) Payments and adjustments for the retirant also apply to the beneficiary.]~~

5289 ~~[(e) The net cost of increasing the cost-of-living adjustment from 2-1/2% to 4% annually~~  
5290 ~~under this section, after recognizing the decrease in the contribution rates for actuarial expense,~~  
5291 ~~is 1.74% for Division A firefighters and 1.9% for Division B firefighters. The net cost shall be~~  
5292 ~~added to the employee contribution rate in Division A and Division B.]~~

5293 (a) an original allowance paid under Section 49-16-402, Part 5, Death Benefit, and Part  
5294 6, Disability Benefit, of this chapter if the allowance has been paid for at least one year; and

5295 (b) an original payment made to an alternate payee under a domestic relations order, if the  
5296 payment is to be paid as a percentage of the allowance rather than a specific dollar amount.

5297 (2) (a) The original allowance shall be increased by the annual increase in the Consumer

5298 Price Index up to a maximum of 4%.

5299 (b) Annual increases in the Consumer Price Index in excess of 4% shall be accumulated  
5300 and used in subsequent adjustments when the annual increase in the Consumer Price Index is less  
5301 than 4%.

5302 (3) The Consumer Price Index used in calculating adjustments shall be a United States  
5303 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

5304 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

5305 Section 134. Section **49-16-501**, which is renumbered from Section 49-5-701 is  
5306 renumbered and amended to read:

5307 **Part 5. Death Benefit**

5308 ~~[49-5-701].~~ **49-16-501. Death of active member in Division A -- Payment of**  
5309 **benefits.**

5310 (1) If an active member of [the] this system enrolled in Division A under Section  
5311 49-16-301 dies, [the following] benefits are payable as follows:

5312 ~~[(1)(a) Except as provided in Subsection (1)(b), if]~~

5313 (a) If the death is classified by the office as a line-of-duty[, the dependent spouse receives]  
5314 death, benefits are payable as follows:

5315 (i) If the member has accrued less than 20 years of firefighter service credit, the spouse at  
5316 the time of death shall receive a lump sum of \$1,500 and [a monthly] an allowance equal to 30%  
5317 of the [deceased] member's final average monthly salary.

5318 ~~[(b)]~~ (ii) If the member has accrued 20 or more years of firefighter service credit, the  
5319 member shall be considered to have retired with [a monthly] an allowance calculated under  
5320 [Subsection 49-5-402(1)] Section 49-16-402 and the [dependent] spouse at the time of death shall  
5321 receive the death benefit payable to a [dependent] spouse under Section [49-5-704] 49-16-504.

5322 ~~[(2)]~~ (b) If the death is not classified as a line-of-duty[, the benefit is] death by the office,  
5323 benefits are payable as follows:

5324 ~~[(a)]~~ (i) If the member has accrued less than ten years of firefighter service credit, [at the  
5325 time of death,] the [member's] beneficiary [receives] shall receive a sum of \$1,000 or a refund of  
5326 the member's member contributions, whichever is greater.

5327 ~~[(b)]~~ (ii) If the member has accrued ten or more years of firefighter service credit the  
5328 [dependent] spouse [receives] at the time of death shall receive a sum of \$500, plus [a monthly]

5329 an allowance equal to 2% of the member's final average monthly salary [~~of the deceased member~~]  
5330 for each year of service credit [~~with a~~] accrued by the member up to a maximum of 30% [~~allowed~~]  
5331 of the member's final average monthly salary.

5332 [~~(3) In the event of the death of the member and there is no spouse;~~]

5333 (2) (a) If the member dies without a current spouse, the spouse's benefit shall be equally  
5334 divided and paid to each unmarried child until the child reaches age 21.

5335 (b) The payment shall be made to a duly appointed guardian or as provided under Sections  
5336 49-11-609 and 49-11-610.

5337 [~~(4)~~] (3) If the benefit is not distributed under this section, [~~and there is~~] and the member  
5338 has designated a beneficiary, the [~~vested contribution~~] member's member contributions shall be  
5339 paid to the beneficiary.

5340 Section 135. Section **49-16-502**, which is renumbered from Section 49-5-702 is  
5341 renumbered and amended to read:

5342 [~~49-5-702~~]. **49-16-502. Death of active member in Division B -- Payment of benefits.**

5343 (1) If an active member of [~~the~~] this system enrolled in Division B under Section  
5344 49-16-301 dies, [~~the following~~] benefits are payable as follows:

5345 [~~(1)~~] (a) If the death is classified by the office as a line-of-duty [~~, the dependent spouse~~  
5346 ~~receives~~] death, benefits are payable as follows:

5347 (i) If the member has accrued less than 20 years of firefighter service credit, the spouse at  
5348 the time of death shall receive a lump sum of \$1,500 and [a monthly] an allowance equal to  
5349 [37-1/2%] 37.5% of the [deceased] member's final average monthly salary [~~, subject to Section~~  
5350 ~~49-5-503~~].

5351 [(2)] (ii) If [~~death is classified as line-of-duty, and~~] the member has accrued 20 or more  
5352 years of firefighter service credit, the member shall be considered to have retired with an allowance  
5353 calculated under Subsection 49-16-402 and the [dependent] spouse at the time of death shall  
5354 receive the death benefit payable to a [retired member] spouse under Section [49-5-704]  
5355 49-16-504.

5356 [(3)] (b) If the death is not classified by the office as a line-of-duty [~~and the deceased~~]  
5357 death, the benefits are payable as follows:

5358 (i) If the member has accrued five or more years of firefighter service credit, the death is  
5359 considered line-of-duty and the same benefits are payable as established under Subsection (1) [or

5360 ~~(2)~~ (a).

5361 ~~[(4)]~~ (ii) If ~~[death is not classified as line-of-duty and the deceased]~~ the member has  
5362 accrued less than five years of firefighter service credit, the ~~[benefit is]~~ spouse at the time of death  
5363 shall receive a refund of the ~~[deceased]~~ member's contributions, plus 50% of the member's most  
5364 recent 12 months ~~[regular salary]~~ compensation.

5365 ~~[(5)]~~ (c) If the ~~[deceased]~~ member has accrued five or more years of firefighter service  
5366 credit, the member's unmarried children~~[-]~~ until they reach age 21~~[-]~~ or dependent unmarried  
5367 mentally or physically disabled children, shall receive a monthly allowance of \$75.

5368 ~~(2)~~ (a) In the event of the death of the member and spouse, the spouse's benefits are equally  
5369 divided and paid to each unmarried child until the child reaches age 21.

5370 (b) The payments shall be made to the surviving parent or duly appointed guardian or  
5371 ~~[pursuant to Section 49-1-607]~~ as provided under Sections 49-11-609 and 49-11-610.

5372 ~~[(6)]~~ (3) If ~~[the]~~ a benefit is not distributed under ~~[this section, and there is]~~ the previous  
5373 subsections, and the member has designated a beneficiary, the ~~[vested contribution]~~ member's  
5374 member contributions shall be paid to the beneficiary.

5375 ~~[(7)]~~ (4) The ~~[total monthly]~~ combined monthly payments made ~~[on behalf of any one~~  
5376 deceased member's account] to the beneficiaries of any member under this section may not exceed  
5377 75% of the member's final average monthly salary.

5378 Section 136. Section **49-16-503**, which is renumbered from Section 49-5-703 is  
5379 renumbered and amended to read:

5380 ~~[49-5-703].~~ **49-16-503. Benefits payable upon death of inactive member.**

5381 ~~[(1) The death settlement payable on behalf of an active or inactive member who dies~~  
5382 without spouse or minor children is 100% of the employee's contributions or \$500, whichever is  
5383 larger.]

5384 ~~[(2) The death benefit payable monthly on behalf of an inactive member who dies and is~~  
5385 survived by a spouse to whom the member was married at the time of death is]

5386 (1) If an inactive member who has less than 20 years of firefighter service credit dies, the  
5387 designated beneficiary shall receive a refund of the member's member contributions or \$500,  
5388 whichever is greater.

5389 (2) (a) If an inactive member with 20 or more years of firefighter service credit dies, the  
5390 spouse at the time of death shall receive an allowance in the amount of 50% of the amount the

5391 member would have received had [~~the member retired~~] retirement occurred on the first [~~day~~] of  
5392 the month following the month in which the death occurred[~~, the computation being based upon~~].

5393 (b) This allowance shall be based on years of service credit and final average monthly  
5394 salary under Section 49-16-402, reduced actuarially from age 50 to the age of the member at the  
5395 time of death[~~, if the member was not 50 years of age when death occurred~~].

5396 [~~(3) No monthly pension may be paid under this section unless the member had 20 years~~  
5397 ~~of service credit at the time of death.~~]

5398 Section 137. Section **49-16-504**, which is renumbered from Section 49-5-704 is  
5399 renumbered and amended to read:

5400 ~~[49-5-704].~~ **49-16-504. Benefits payable upon death of retired member.**

5401 [~~(1) (a) The death benefit payable to a dependent spouse after death of the retirant is a~~  
5402 ~~monthly amount equal to 75% of the allowance being paid to the retirant at the time of death.~~]

5403 [~~(b) The effective date of accrual of this pension is~~]

5404 (1) If a retiree who retired under either Division A or Division B dies, the retiree's spouse  
5405 at the time of death shall receive an allowance equal to 75% of the allowance that was being paid  
5406 to the retiree at the time of death.

5407 (2) If the retiree retired solely under Division B and dies leaving unmarried children under  
5408 the age of 18 or dependent unmarried mentally or physically disabled children, the children shall  
5409 qualify for a benefit as prescribed under Subsection 49-16-502(1)(c) which is payable on the first  
5410 day of the month following the month in which the [retirant] retiree died.

5411 [~~(c) Payment of the full pension for this latter month shall be made to the dependent~~  
5412 ~~beneficiary instead of the deceased member.~~]

5413 [~~(2) If the member retires under Division B and dies leaving dependent children, they~~  
5414 ~~qualify for benefits prescribed for children under Section 49-5-701 or 49-5-702.~~]

5415 Section 138. Section **49-16-505** is enacted to read:

5416 **49-16-505. Benefits for surviving spouse under Division A or Division B.**

5417 The spouse at the time of death, if eligible, shall receive a benefit computed under either  
5418 Division A or Division B, whichever provides the larger benefit, but may not receive a benefit  
5419 under both divisions if it would result in a duplicate benefit.

5420 Section 139. Section **49-16-506** is enacted to read:

5421 **49-16-506. Minimum allowance for spouse.**

5422 The minimum allowance payable to the spouse who qualifies for an allowance under  
5423 Section 49-16-501, 49-16-502, 49-16-503 or 49-16-504, shall be \$350 per month.

5424 Section 140. Section **49-16-601**, which is renumbered from Section 49-5-501 is  
5425 renumbered and amended to read:

5426 **Part 6. Disability Benefit**

5427 ~~[49-5-501].~~ **49-16-601. Disability benefit -- Line-of-duty disability -- Benefits --**  
5428 **Monthly allowance.**

5429 ~~[Any]~~ (1) An active member of this system who ~~[becomes disabled]~~ is unable to perform  
5430 firefighter service due to a physical or mental condition may apply to the ~~[retirement]~~ office for  
5431 a disability retirement benefit subject to the following provisions:

5432 ~~[(1)]~~ (a) If the ~~[disability]~~ condition is classified by the office as a line-of-duty disability,  
5433 the member shall ~~[retire on disability and]~~ be granted a disability ~~[allowance]~~ retirement benefit  
5434 subject to Section ~~[49-5-502]~~ 49-16-602.

5435 ~~[(b) If the member is a participant in Division A or B, the monthly disability allowance is~~  
5436 ~~an amount equal to 50% of the member's final average monthly salary.]~~

5437 (b) If the condition is classified by the office as a nonline-of-duty disability and if the  
5438 member has less than five years of service credit in this system, disability benefits are not payable.

5439 ~~[(2)-(a)]~~ (c) If the ~~[disability]~~ condition is classified by the office as ~~[ordinary disability~~  
5440 ~~and not incurred in the line-of-duty]~~ a nonline-of-duty disability and if the member has five or  
5441 more years of service credit in this system, the member shall ~~[retire on disability and]~~ be granted  
5442 a disability ~~[allowance]~~ retirement benefit subject to Section ~~[49-5-502]~~ 49-16-602.

5443 ~~[(b) If the member is a participant in Division A or B, the monthly]~~

5444 (2) The monthly disability ~~[allowance]~~ retirement benefit is ~~[an amount equal to]~~ 50% of  
5445 the member's final average monthly salary.

5446 Section 141. Section **49-16-602**, which is renumbered from Section 49-5-502 is  
5447 renumbered and amended to read:

5448 ~~[49-5-502].~~ **49-16-602. Disability retirement -- Disability allowance eligibility --**  
5449 **Conversion to service retirement -- Examinations -- Reemployment.**

5450 ~~[The following rules apply to all members applying for disability retirement under this~~  
5451 ~~part:]~~

5452 (1) ~~[Any]~~ A member of this system who applies and is qualified for disability retirement



5453 shall receive a disability [~~allowance~~] retirement benefit until the earlier of:

5454 (a) the date the member of this system is no longer disabled;

5455 (b) the date the member of this system has accumulated 20 years of service credit,  
5456 including years earned while disabled; or

5457 (c) the date the member of this system has received disability retirement benefits for the  
5458 following time periods:

5459 (i) if the member is under age 60 or the date of disability, the disability [~~allowance~~]  
5460 retirement benefit is payable until age 65;

5461 (ii) if the member is 60[=] or 61 years of age on the date of disability, the disability  
5462 [~~allowance~~] retirement benefit is payable for five years;

5463 (iii) if the member is 62[=] or 63 years of age on the date of disability, the disability  
5464 [~~allowance~~] retirement benefit is payable for four years;

5465 (iv) if the member is 64[=] or 65 years of age on the date of disability, the disability  
5466 [~~allowance~~] retirement benefit is payable for three years;

5467 (v) if the member is 66[=], 67, or 68 years of age on the date of disability, the disability  
5468 [~~allowance~~] retirement benefit is payable for two years; and

5469 (vi) if the member is [~~age~~] 69 [~~or older~~] years of age or older on the date of disability, the  
5470 disability retirement benefit is payable for one year.

5471 (2) (a) (i) The [~~member~~] disability retiree shall receive service credit in this system during  
5472 the period of disability. [~~However, if the member~~]

5473 (ii) If the disability retiree is employed by a participating employer during the period of  
5474 disability, the [~~member~~] disability retiree may not receive service credit for that employment.

5475 (b) The disability retirement shall be converted to a service retirement at the time the  
5476 disability retirement benefits terminate.

5477 (3) The [~~board~~] office shall approve or disapprove applications for disability retirement  
5478 benefits based upon [~~both~~]:

5479 (a) the evaluation and recommendations of one or more treating physicians along with  
5480 medical records relating to the [~~disability which may, at the board's option, be reviewed by an~~  
5481 ~~independent medical examiner selected by the board, to the effect that the member is mentally or~~  
5482 ~~physically totally disabled; and~~] condition;

5483 (b) the evaluation and recommendations of one or more independent physicians selected

5484 by the office; and

5485 ~~[(b)]~~ (c) receipt of ~~[proof]~~ documentation by the ~~[board]~~ office from the participating  
5486 employer that the member ~~[has become totally disabled]~~ is mentally or physically unable to  
5487 perform firefighter service.

5488 ~~[(4) Any disability retiree who regains health and is regularly employed shall have the~~  
5489 ~~disability allowance reduced or suspended as the retiree's earnings justify.]~~

5490 ~~[(5)]~~ (4) (a) ~~[Members receiving]~~ A disability retiree who receives benefits under this  
5491 section shall, upon request of the ~~[administrator]~~ executive director, submit to a medical  
5492 examination by one or more physicians as directed by the ~~[board]~~ office.

5493 ~~[(b) If the member resides outside the state and is requested to submit to an examination,~~  
5494 ~~the member shall be examined under the same rules in the area in which the member resides.]~~

5495 ~~[(e)]~~ (b) If, after an examination, the examiners report that the ~~[retiree]~~ disability retiree  
5496 is physically able and capable of resuming firefighter service employment, the ~~[retiree]~~ disability  
5497 retiree shall be reinstated by the participating employer for which the disability retiree last worked  
5498 at the ~~[retiree's]~~ disability retiree's former classification and rank, and the disability ~~[benefits]~~  
5499 retirement benefit shall terminate.

5500 ~~[(d) Examinations]~~ (c) A disability retiree may not be required to submit to an  
5501 examination under this Subsection (4) more than once every year.

5502 ~~[(e)]~~ (d) A ~~[retiree]~~ disability retiree who returns to firefighter service employment with  
5503 a participating employer in this system shall immediately ~~[commence]~~ begin accruing service  
5504 credit that shall be added to that service credit that has been previously accrued ~~[by virtue of~~  
5505 ~~previous service]~~, including service ~~[credited]~~ credit while disabled.

5506 ~~[(6) Retired members are]~~ (5) A disability retiree is not subject to medical examinations  
5507 after reaching age 55.

5508 ~~[(7)]~~ (6) Refusal or neglect of a member to submit to an examination as requested by the  
5509 office either before or after a decision regarding disability benefits has been made is sufficient  
5510 cause for denial, suspension, or discontinuance of benefits and if the refusal or neglect continues  
5511 for one year, the member's or disability retiree's rights to ~~[all]~~ disability retirement benefits may  
5512 be revoked by the ~~[board]~~ office.

5513 ~~[(8) Retirees]~~ (7) (a) A disability retiree who ~~[receive]~~ receives benefits under this part  
5514 shall file a sworn statement with the ~~[retirement]~~ office on or before January 15 of each year for

5515 the first five years a ~~[retirant]~~ disability retiree receives benefits.

5516 (b) The sworn statement shall indicate whether or not the ~~[retirant]~~ disability retiree  
5517 engaged in any ~~[gainful]~~ employment during the preceding year and, if so, the amount of earnings  
5518 received during the calendar year.

5519 ~~[(a) If the retirant has been gainfully employed, the retirant's benefit payments shall be~~  
5520 ~~reduced in the year following employment so that the total payments, when added to the~~  
5521 ~~compensation received for employment, do not exceed]~~

5522 (c) If the total amount received in one year by a disability retiree for disability retirement  
5523 benefits and gross earnings from other employment exceeds 125% of the disability retiree's final  
5524 average salary, the office shall offset the disability retirement benefit paid the following year by  
5525 the amount in excess of 125% of the [retirant's] disability retiree's final average salary.

5526 ~~[(b)]~~ (d) (i) If ~~[any retirant]~~ a disability retiree refuses or neglects to file a sworn statement  
5527 as required under this Subsection (7), the ~~[administrator]~~ executive director may suspend payment  
5528 of any and all benefits pending receipt of the statement.

5529 (ii) Upon filing the statement, the ~~[retirant's]~~ disability retiree's payments shall be resumed.

5530 ~~[(9)]~~ (8) The disability ~~[allowance]~~ retirement benefit shall be improved by the annual  
5531 cost-of-living increase factor applied to ~~[retired members]~~ retirees of the system that covered the  
5532 firefighter service employee at the time of disability.

5533 ~~[(10)]~~ (9) A line of duty disability allowance paid on or after January 1, 2002, under  
5534 ~~[Subsection 49-5-501(1)]~~ Section 49-16-601 is exempt from taxation to the extent permitted under  
5535 federal law.

5536 (10) (a) An active member of this system with five or more years of firefighter service  
5537 credit shall be eligible for a line-of-duty death or disability benefit resulting from heart disease,  
5538 lung disease, or respiratory tract disease.

5539 (b) An active member of this system who receives a line-of-duty disability benefit for more  
5540 than six months due to violence or illness other than heart disease, lung disease, or respiratory tract  
5541 disease, and then returns to paid firefighter service, is not eligible for a line-of-duty death or  
5542 disability benefit due to those diseases for two years after the member returned to paid firefighter  
5543 service unless clear and convincing evidence is presented that the heart, lung, or respiratory tract  
5544 disease was directly a result of firefighter service.

5545 Section 142. Section **49-16-603**, which is renumbered from Section 49-5-503 is

5546 renumbered and amended to read:

5547 ~~[49-5-503].~~ **49-16-603. Suspension of benefit upon settlement of workers'**  
5548 **compensation claim.**

5549 (1) Settlement of a claim for workers' compensation for injury or disability shall suspend  
5550 ~~[payments]~~ disability retirement benefits granted under this part, except for the initial three months,  
5551 to a member granted ~~[disability]~~ the benefits until workers' compensation payments terminate.

5552 (2) If there is a lump-sum settlement of the workers' compensation claim, the  
5553 ~~[administrator]~~ office shall suspend the ~~[allowance]~~ disability retirement benefit until the total of  
5554 suspended ~~[payments]~~ benefits is equal to 75% of the settlement received from workers'  
5555 compensation. ~~[If death is in the line of duty, the surviving spouse is eligible for a firefighter's~~  
5556 ~~pension on the first day of the month following the date of death. Settlement with workers'~~  
5557 ~~compensation has no effect on the spouse's retirement allowance, nor do other benefits paid at the~~  
5558 ~~member's death have any effect on the spouse's allowance.]~~

5559 Section 143. Section **49-16-701**, which is renumbered from Section 49-5-802 is  
5560 renumbered and amended to read:

5561 **Part 7. Volunteer Firefighters**

5562 ~~[49-5-802].~~ **49-16-701. Volunteer firefighters eligible for line-of-duty death and**  
5563 **disability benefits in Division A -- Computation of benefit.**

5564 ~~[Volunteer firefighters are considered members of the system but are]~~

5565 (1) A volunteer firefighter is only eligible for line-of-duty death and line-of-duty  
5566 disability benefits provided for firefighters enrolled in Division A, subject to Section [49-5-503]  
5567 49-16-603.

5568 (2) The lowest monthly ~~[salary]~~ compensation of firefighters of a city of the first class in  
5569 this state at the time of death or disability shall be ~~[the basis for computing]~~ considered to be the  
5570 final average monthly salary [payable to] of a volunteer firefighter~~[- the surviving spouse, and~~  
5571 ~~children] for purposes of computing these benefits.~~

5572 Section 144. Section **49-17-101**, which is renumbered from Section 49-6-101 is  
5573 renumbered and amended to read:

5574 **CHAPTER 17. JUDGES' CONTRIBUTORY RETIREMENT ACT**

5575 **Part 1. General Provisions**

5576 ~~[49-6-101].~~ **49-17-101. Title.**

5577 This chapter is known as the "Judges' Contributory Retirement Act."

5578 Section 145. Section **49-17-102**, which is renumbered from Section 49-6-103 is  
5579 renumbered and amended to read:

5580 ~~[49-6-103].~~ **49-17-102. Definitions.**

5581 As used in this chapter:

5582 (1) (a) "Compensation[;]" [~~"salary," or "wages"~~] means the total amount of payments  
5583 which are currently includable in gross income made by [~~an~~] a participating employer to [~~an~~  
5584 ~~employee~~] a member of this system for services rendered to the participating employer.

5585 (b) "Compensation" includes:

5586 (i) performance-based bonuses;

5587 (ii) cost-of-living adjustments;

5588 (iii) payments subject to Social Security deductions;

5589 (iv) any payments in excess of the maximum amount subject to deduction under Social  
5590 Security law; [~~and~~]

5591 (v) amounts which the [~~employee~~] member authorizes to be deducted or reduced for salary  
5592 deferral or other [~~authorized benefit programs.~~] benefits authorized by federal law; and

5593 (vi) member contributions.

5594 (c) "Compensation" for purposes of this chapter may not exceed the amount allowed under  
5595 Internal Revenue Code Section 401(a)(17).

5596 (d) "Compensation," [~~"salary," or "wages"~~] does not include:

5597 (i) the monetary value of remuneration paid in kind, such as a residence or use of  
5598 equipment;

5599 (ii) all contributions made by [~~an~~] a participating employer under any system or plan for  
5600 the benefit of a member or participant;

5601 [~~(iii) salary paid to an employee working under the minimum number of hours required~~  
5602 ~~for membership;~~]

5603 [~~(iv)~~] (iii) salary paid to a temporary or exempt employee;

5604 [~~(v)~~] (iv) payments upon termination or any other special payments including early  
5605 retirement inducements; or

5606 [~~(vi)~~] (v) uniform, travel, or similar [~~allowances~~] payments.

5607 (2) "Final average salary" means the amount computed by averaging the highest two years

5608 of annual compensation preceding retirement, subject to Subsections (2)(a) and (b).

5609 (a) Except as provided in Subsection (2)(b), the percentage increase in annual  
5610 compensation in any one of the years used may not exceed the previous year's [~~salary~~  
5611 compensation] by more than 10% plus a cost-of-living adjustment equal to the decrease in the  
5612 purchasing power of the dollar during the previous year, as measured by [~~the Consumer Price~~  
5613 Index prepared by the] a United States Bureau of Labor Statistics Consumer Price Index average  
5614 as determined by the board.

5615 (b) In cases where the [~~employing unit~~] participating employer provides acceptable  
5616 documentation to the board, the limitation in Subsection (2)(a) may be exceeded if:

5617 (i) the member has transferred from another [~~employing unit~~] participating employer; or

5618 (ii) the member has been promoted to a new position.

5619 [~~(3) "Normal retirement age" means the age of 65 years.~~]

5620 (3) "Judge" means a judge or justice of the courts of record as enumerated in Section  
5621 78-1-1.

5622 (4) "Participating employer" means the state.

5623 (5) "System" means the Judges' Contributory Retirement System created under this  
5624 chapter.

5625 [~~(4)~~] (6) "Years of service credit" [or "service years"] means the number of periods, each  
5626 to consist of 12 full months as determined by the board, whether consecutive or not, during which  
5627 a [member] judge was employed [to perform services for the] by a participating employer.

5628 Section 146. Section **49-17-103**, which is renumbered from Section 49-6-201 is  
5629 renumbered and amended to read:

5630 **[49-6-201]. 49-17-103. Creation of system.**

5631 There is created for [~~justices and~~] judges [~~of the courts of record,~~] the "Judges' Contributory  
5632 Retirement System."

5633 Section 147. Section **49-17-104**, which is renumbered from Section 49-6-202 is  
5634 renumbered and amended to read:

5635 **[49-6-202]. 49-17-104. Creation of trust fund.**

5636 (1) There is created the "Judges' Contributory Retirement Trust Fund" for the purpose of  
5637 paying the benefits and costs of administering this system.

5638 (2) The fund shall consist of all money, including interest, and assets transferred to it under

5639 any terminated system, the money paid into it under this system, whether in the form of cash,  
5640 securities, or other assets, and of all money received from any other source.

5641 (3) Custody, management, and investment of the fund shall be governed by [Title 49,]  
5642 Chapter [†] 11, Utah State Retirement Systems Administration.

5643 Section 148. Section **49-17-201**, which is renumbered from Section 49-6-203 is  
5644 renumbered and amended to read:

5645 **Part 2. Membership Eligibility**

5646 ~~[49-6-203].~~ **49-17-201. System membership -- Eligibility.**

5647 ~~[Justices and judges of the courts of record shall become members of this system.]~~ Except  
5648 as provided in Section 49-18-201, judges are members of and are eligible for service credit in this  
5649 system.

5650 Section 149. Section **49-17-301**, which is renumbered from Section 49-6-301 is  
5651 renumbered and amended to read:

5652 **Part 3. Contributions**

5653 ~~[49-6-301].~~ **49-17-301. Contributions by members and participating employers --**  
5654 **Retirement fees -- Deductions.**

5655 (1) ~~[The system shall be maintained]~~ In addition to the monies paid to this system under  
5656 Subsection (3), participating employers and members shall jointly pay the certified contribution  
5657 rates to the office to maintain this system on a financially and actuarially sound basis [by means  
5658 of contributions made jointly by the employer and by the active members of the system].

5659 (2) The participating employer may make contributions on behalf of ~~[justices and judges~~  
5660 ~~of the courts of record]~~ members of this system in addition to the contribution required of the  
5661 ~~[state]~~ participating employer, except ~~[for]~~ that 2% of [covered salary, which] compensation shall  
5662 be paid by the member. ~~[All contributions paid on behalf of the member vest to the member's~~  
5663 ~~credit. These contributions shall begin upon agreement between an employer and the board.~~  
5664 Payment of members' contributions under this section by the employer does not include the  
5665 cost-of-living contribution provided under Section 49-6-601.]

5666 ~~[(3) Fees and contributions shall be remitted monthly to the retirement office.]~~

5667 (3) Fees collected under Subsection 78-7-35(1)(i) shall be paid monthly to the office to  
5668 maintain this system and the system established under Chapter 18, Judges' Noncontributory  
5669 Retirement Act.

5670 (4) (a) All member contributions are credited by the ~~[retirement]~~ office to the account of  
5671 the individual member.

5672 (b) This amount, ~~[together with regular]~~ plus refund interest, is held in trust for the  
5673 payment of benefits to the member or the member's beneficiaries.

5674 (c) All member contributions are ~~[100%]~~ vested and nonforfeitable.

5675 (5) (a) Each member is ~~[deemed]~~ considered to consent to ~~[monthly]~~ payroll deductions  
5676 of the member contributions.

5677 (b) The payment of compensation less ~~[retirement]~~ these payroll deductions is considered  
5678 [a] full payment [of member's salary] for services rendered by the member.

5679 ~~[(6) The board shall report to the governor, the Legislature, and the employing unit the  
5680 contribution rates and any adjustments necessary to maintain the system on a financially and  
5681 actuarially sound basis, and the employer and employee shall pay the certified contribution rates.]~~

5682 Section 150. Section **49-17-401**, which is renumbered from Section 49-6-401 is  
5683 renumbered and amended to read:

5684 **Part 4. Defined Benefit**

5685 ~~[49-6-401].~~ **49-17-401. Eligibility for an allowance -- Date of retirement --**

5686 **Qualifications.**

5687 ~~[(1) (a) Any judge who qualifies for service retirement may retire by submitting to the  
5688 retirement office an application form notarized by a notary public. The application shall state the  
5689 proposed effective date of retirement, which may not be more than 90 days before or after the date  
5690 of application.]~~

5691 ~~[(b) The effective date shall be the 1st or 16th day of the month, as selected by the  
5692 member, but must be after the last day of actual work.]~~

5693 ~~[(c) The member shall actually terminate employment and provide evidence of  
5694 termination.]~~

5695 ~~[(2) The member is qualified to retire upon termination of services on or before the  
5696 effective date of retirement if one of the following requirements on that date is met:]~~

5697 (1) A member is qualified to receive an allowance when:

5698 (a) the member ceases actual work for a participating employer in this system before the  
5699 member's retirement date and provides evidence of the termination;

5700 (b) the member has submitted to the office a notarized retirement application form that



5701 states the member's proposed retirement date; and

5702 (c) one of the following conditions is met as of the member's retirement date:

5703 ~~[(a)]~~ (i) the member has ~~[been credited with]~~ accrued at least six years of service credit and  
5704 has attained an age of 70 years ~~[or more];~~

5705 ~~[(b)]~~ (ii) the member has ~~[been credited with]~~ accrued at least ten years of service credit  
5706 and has attained an age of 62 years ~~[or more];~~

5707 ~~[(c)]~~ (iii) the member has ~~[been credited with]~~ accrued at least 20 years of service credit  
5708 and has attained an age of 55 years ~~[or more];~~ or

5709 ~~[(d)]~~ (iv) the member has ~~[been credited with]~~ accrued at least 25 years of service credit.

5710 (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as  
5711 selected by the member, but the retirement date must be on or after the date of termination.

5712 (b) The retirement date may not be more than 90 days after the date the application is  
5713 received by the office.

5714 Section 151. Section ~~49-17-402~~, which is renumbered from Section 49-6-402 is  
5715 renumbered and amended to read:

5716 ~~[49-6-402].~~ **49-17-402. Calculation of retirement allowance.**

5717 ~~[Upon the service retirement of a justice or judge under Section 49-6-401, the justice or~~  
5718 ~~judge shall receive a retirement allowance determined as follows:]~~

5719 ~~[(1) If the justice or judge has attained the age of 62 years and has ten or more years of~~  
5720 ~~judicial service credit, the retirement allowance is a monthly amount equal to:]~~

5721 (1) A retiree under this system shall receive an allowance equal to:

5722 (a) 5% of the final average monthly salary multiplied by the number of years of ~~[judicial]~~  
5723 ~~service ~~[credited, limited]~~ credit, limited to ten years[;]; plus~~

5724 (b) 2.25% of the final average monthly salary multiplied by the number of years of  
5725 ~~[judicial] service ~~[credited]~~ credit in excess of ten years ~~[but less than]~~ and up to and including 20~~  
5726 ~~years[;]; plus~~

5727 (c) 1% of the final average monthly salary multiplied by the number of years of ~~[judicial]~~  
5728 ~~service ~~[credited]~~ credit in excess of 20 years. ~~[Total monthly retirement allowance to which a~~  
5729 ~~justice or judge is entitled may not exceed 75% of the final average monthly salary.]~~~~

5730 ~~[(2) If the justice or judge has attained age 70 years and has six years or more of judicial~~  
5731 ~~service credit, the retirement allowance is the same as computed under Subsection (1).]~~

5732 ~~[(3) If the justice or judge has 25 years or more of judicial service credit, the retirement~~  
5733 ~~allowance is the same as computed under Subsection (1).]~~

5734 (2) Except as modified by cost-of-living adjustments, an allowance under this system may  
5735 not exceed 75% of the member's final average monthly salary.

5736 ~~[(4)] (3) If the [justice or judge] retiree has attained the age of 55 years and has 20 years~~  
5737 ~~or more of [judicial] service credit, the [retirement allowance is the same as computed under~~  
5738 ~~Subsection (1) reduced to an amount payable monthly for life which would be the same actuarial~~  
5739 ~~equivalent based on the justice's or judge's age at retirement as would be the value of the retirement~~  
5740 ~~pay based on life expectancy if the justice or judge were 65 years of age] retiree shall receive an~~  
5741 ~~early retirement reduction to the allowance based on an actuarial calculation assuming a normal~~  
5742 ~~retirement age of 65 years.~~

5743 ~~[(5) All members and their beneficiaries, as of July 1, 1983, shall receive an increase in~~  
5744 ~~monthly benefits in the amount of \$120 for each member or \$60 for each beneficiary. The cost of~~  
5745 ~~implementing this subsection shall be shared equally between the employer and employee.]~~

5746 ~~[(6) Years of service include any fractions of years of service to which the members may~~  
5747 ~~be entitled. Notwithstanding the formula for computing the service retirement allowance for~~  
5748 ~~members participating in the program, the board shall, in as far as practical, adjust the percentage~~  
5749 ~~factor used in the service retirement allowance formula, in its application to the years of service~~  
5750 ~~of a retiring member to a percentage amount which maintains the retirement trust account on an~~  
5751 ~~actuarially sound basis if the employer contributions, members' contributions, retirement court~~  
5752 ~~fees, and earnings of the fund are insufficient to fund the benefits provided for members~~  
5753 ~~participating in the program.]~~

5754 Section 152. Section **49-17-403** is enacted to read:

5755 **49-17-403. Minimum allowance.**

5756 Beginning July 1, 1990, all retirees or beneficiaries under this chapter who receive an  
5757 allowance less than \$1,000 per month shall have the allowance increased 10%, but the increased  
5758 allowance may not equal more than \$1,000.

5759 Section 153. Section **49-17-404**, which is renumbered from Section 49-6-404 is  
5760 renumbered and amended to read:

5761 **[49-6-404]. 49-17-404. Temporary retirement window for 20 years of service.**

5762 (1) If a member qualified to retire under ~~[Subsection 49-6-401(2)]~~ Section 49-17-401 or

5763 a member of this system of any age [~~credited~~] with at least 20 years of service credit or a member  
5764 [~~who is credited~~] of this system with at least six years of service credit and has attained an age of  
5765 65 years or older retires on or after July 1, 1992, and on or before December 31, 1992, the  
5766 retirement allowance shall be the same as calculated in [~~Subsection 49-6-402 (1)~~] Section  
5767 49-17-402, except that the final average monthly salary shall be calculated upon the member's final  
5768 year of service.

5769 (2) (a) Nominations for appointments resulting from this section shall be presented to the  
5770 governor not later than October 15, 1992.

5771 (b) To qualify, the member shall give notice of intent to retire under this section to the  
5772 Administrative Office of the Courts no later than February 28, 1992.

5773 (c) Notice of intent to retire under this section may not be revoked.

5774 (d) The Administrative Office of the Courts shall provide the member's application to  
5775 retire to the [~~retirement~~] office as required by Section [~~49-6-401~~] 49-17-401.

5776 Section 154. Section **49-17-405**, which is renumbered from Section 49-6-601 is  
5777 renumbered and amended to read:

5778 [~~49-6-601~~]. **49-17-405. Annual cost-of-living adjustment.**

5779 [~~(1) Beginning in 1975, in a month selected by the board, there shall be computed and paid~~  
5780 ~~from the Judges' Retirement Fund an annual cost-of-living allowance adjustment to all retired~~  
5781 ~~members after one year of retirement equal to the decrease in the purchasing power of the dollar~~  
5782 ~~during the preceding year measured by the Consumers Price Index. The cost-of-living adjustment~~  
5783 ~~shall be limited each year to a maximum of 4% of the retired member's or beneficiary's monthly~~  
5784 ~~retirement allowance. Decreases in the purchasing power of the dollar in excess of 4% annually~~  
5785 ~~shall be accumulated over two or more years and used in whole or in part in making subsequent~~  
5786 ~~annual adjustments when the cost-of-living adjustment is less than 4%.]~~

5787 [(2) ~~The cost-of-living adjustment is based upon the retirant's or beneficiary's allowance~~  
5788 ~~as of July 1, 1973, and is subject to reduction if the cost of living shows a decline of 4% for more~~  
5789 ~~than one year and applies to any cost-of-living increases made after January 1, 1975. These~~  
5790 ~~reductions may not exceed the rate of 2% per year based upon the established retirement allowance~~  
5791 ~~base. Payments made under this section are a part of the retired member's allowance. The~~  
5792 ~~payments and subsequent adjustments as prescribed for the retirant shall likewise apply to any~~  
5793 ~~beneficiary who is paid an allowance. Cost-of-living benefits granted prior to January 1, 1975, are~~

5794 not subject to adjustment.]

5795 ~~[(3) Funds for the benefits provided by this section shall be obtained from contributions~~  
5796 ~~paid on covered salaries.]~~

5797 (1) The office shall make an annual cost-of-living adjustment to:

5798 (a) an allowance paid under Section 49-17-402 and Part 5, Death Benefit, of this chapter  
5799 if the benefit has been paid for at least one year; and

5800 (b) a payment made to an alternate payee under a domestic relations order, if the payment  
5801 is to be paid as a percentage of the allowance rather than a specific dollar amount.

5802 (2) (a) The allowance shall be increased by the annual increase in the Consumer Price  
5803 Index up to a maximum of 4%.

5804 (b) Annual increases in the Consumer Price Index in excess of 4% shall be accumulated  
5805 and used in subsequent adjustments when the annual increase in the Consumer Price Index is less  
5806 than 4%.

5807 (3) The Consumer Price Index used in calculating adjustments shall be a United States  
5808 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

5809 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

5810 Section 155. Section **49-17-501**, which is renumbered from Section 49-6-701 is  
5811 renumbered and amended to read:

#### 5812 **Part 5. Death Benefit**

5813 ~~[49-6-701].~~ **49-17-501. Death benefit for members before retirement --**

#### 5814 **Computation.**

5815 (1) Upon the receipt of acceptable proof of death of a member [or an inactive member]  
5816 before the [effective date of] member's retirement date, the [dependent] member's spouse at the  
5817 time of death shall have the choice of the following death benefits:

5818 ~~[(1)]~~ (a) a refund of [accumulated] the member's member contributions, including refund  
5819 interest, plus 65% of the [judge's final average salary on a yearly rate] member's most recent 12  
5820 months' compensation prior to death; or

5821 ~~[(2) a monthly]~~ (b) an allowance equal to 65% of the [monthly] allowance computed [on  
5822 the basis of the service retirement allowance formula, based upon the years of service and final  
5823 average salary] in accordance with Section 49-17-402, but disregarding early retirement reductions.

5824 ~~[The pension may not exceed an amount which would have been paid if the deceased judge served~~

5825 to age 70 and had the retirement allowance then computed on the basis of final average salary  
5826 under Section 49-6-402.]

5827 [~~(3)~~] (2) [~~Where~~] If there is no [dependent] spouse[~~-, accumulated~~] to whom the member  
5828 is married at the time of death, member contributions, including refund interest, shall be refunded  
5829 to a [~~designated~~] beneficiary, in accordance with [~~Section 49-1-607~~] Sections 49-11-609 and  
5830 49-11-610.

5831 Section 156. Section **49-17-502**, which is renumbered from Section 49-6-702 is  
5832 renumbered and amended to read:

5833 [~~49-6-702~~]. **49-17-502. Benefits payable upon death of retired member.**

5834 (1) (a) The death benefit payable to a [~~dependent~~] retiree's spouse [after the death of a  
5835 retired member of this system is a monthly amount] at the time of death is an allowance equal to  
5836 65% of the allowance which was being paid to the [~~retired member~~] retiree at the time of death.

5837 (b) The effective date of the accrual of this [~~pension~~] allowance is the first day of the  
5838 month following the month in which the [~~retirant~~] retiree died. [~~Payment of the full pension for~~  
5839 ~~this latter month shall be made to the dependent beneficiary in lieu of the deceased member.~~]

5840 (2) [~~A member~~] (a) At the time of retirement, a retiree may elect to increase the [surviving  
5841 spouse's monthly allowance] spousal death benefit up to 75% of [a monthly] an allowance  
5842 computed [on the basis of the service retirement allowance formula under] in accordance with  
5843 Section [49-6-402] 49-17-402.

5844 (b) The [~~amount payable to the member upon retirement would be reduced to an amount~~  
5845 ~~payable monthly for life, which would]~~ member's allowance shall be reduced to reflect the  
5846 actuarial equivalent necessary to [fund] pay for the increased [percentage for the surviving spouse]  
5847 spousal death benefit above 65%.

5848 Section 157. Section **49-17-701**, which is renumbered from Section 49-6-801 is  
5849 renumbered and amended to read:

#### 5850 Part 6. Reserved

#### 5851 Part 7. Early Retirement Incentive

5852 [~~49-6-801~~]. **49-17-701. Judges' mandatory retirement age.**

5853 (1) Except as provided in Subsection (2), a [~~justice or~~] judge [~~who qualifies as a member~~  
5854 ~~of this system under Section 49-6-203]~~ shall retire upon attaining the age of 75 years.

5855 (2) A [~~justice or~~] judge serving on July 1, 1996, who is 75 years of age or older on July

5856 1, 1996, or who attains 75 years of age prior to the ~~[justice or]~~ judge's next retention election may  
5857 not be a candidate in that retention election and shall retire on or before December 31 of the year  
5858 in which the ~~[justice or]~~ judge would have been subject to a retention election.

5859 Section 158. Section **49-18-101**, which is renumbered from Section 49-6a-101 is  
5860 renumbered and amended to read:

5861 **CHAPTER 18. JUDGES' NONCONTRIBUTORY RETIREMENT ACT**

5862 **Part 1. General Provisions**

5863 ~~[49-6a-101].~~ **49-18-101. Title.**

5864 This chapter is known as the "Judges' Noncontributory Retirement Act."

5865 Section 159. Section **49-18-102**, which is renumbered from Section 49-6a-103 is  
5866 renumbered and amended to read:

5867 ~~[49-6a-103].~~ **49-18-102. Definitions.**

5868 As used in this chapter:

5869 (1) (a) "Compensation[;]" ~~["salary," or "wages"]~~ means the total amount of payments  
5870 which are currently includable in gross income made by ~~[an]~~ a participating employer to ~~[an~~  
5871 ~~employee]~~ a member of this system for services rendered to the participating employer.

5872 (b) "Compensation" includes:

5873 (i) performance-based bonuses;

5874 (ii) cost-of-living adjustments;

5875 (iii) payments subject to Social Security deductions;

5876 (iv) any payments in excess of the maximum amount subject to deduction under Social  
5877 Security law; and

5878 (v) amounts which the ~~[employee]~~ member authorizes to be deducted or reduced for salary  
5879 deferral or other ~~[authorized benefit programs]~~ benefits authorized by federal law.

5880 (c) "Compensation" for purposes of this chapter may not exceed the amount allowed under  
5881 Internal Revenue Code Section 401(a)(17).

5882 (d) "Compensation[;]" ~~["salary," or "wages"]~~ does not include:

5883 (i) the monetary value of remuneration paid in kind, such as a residence or use of  
5884 equipment;

5885 (ii) all contributions made by ~~[an]~~ a participating employer under ~~[any]~~ a system or plan  
5886 for the benefit of a member or participant;

5887 ~~[(iii) salary paid to an employee working under the minimum number of hours required~~  
 5888 ~~for membership;]~~

5889 ~~[(iv)]~~ (iii) salary paid to a temporary or exempt employee;

5890 ~~[(v)]~~ (iv) payments upon termination or any other special payments including early  
 5891 retirement inducements; or

5892 ~~[(vi)]~~ (v) uniform, travel, or similar ~~[allowances]~~ payments.

5893 ~~[(2)]~~ (2) "Final average salary" means the amount computed by averaging the highest two  
 5894 years of annual compensation preceding retirement, subject to Subsections (2)(a) and (b).

5895 (a) Except as provided in Subsection (2)(b), the percentage increase in annual  
 5896 compensation in any one of the years used may not exceed the previous year's ~~[salary]~~  
 5897 compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the  
 5898 purchasing power of the dollar during the previous year, as measured by ~~[the Consumer Price~~  
 5899 ~~Index prepared by the]~~ a United States Bureau of Labor Statistics Consumer Price Index average  
 5900 as determined by the board.

5901 (b) In cases where the ~~[employing unit]~~ participating employer provides acceptable  
 5902 documentation to the board, the limitation in Subsection (2)(a) may be exceeded if:

5903 (i) the member has transferred from another ~~[employing unit]~~ agency; or

5904 (ii) the member has been promoted to a new position.

5905 ~~[(3) "Normal retirement age" means the age of 65 years.]~~

5906 (3) "Judge" means a judge or justice of the courts of record as enumerated in Section  
 5907 78-1-1.

5908 (4) "Participating employer" means the state.

5909 (5) "System" means the Judges' Noncontributory Retirement System created under this  
 5910 chapter.

5911 ~~[(4)]~~ (6) "Years of service credit" ~~[or "service years" mean]~~ means the number of periods,  
 5912 each to consist of 12 full months or as determined by the board, whether consecutive or not, during  
 5913 which a ~~[member]~~ judge was employed ~~[to perform services for the]~~ by a participating employer.

5914 Section 160. Section **49-18-103**, which is renumbered from Section 49-6a-201 is  
 5915 renumbered and amended to read:

5916 ~~[49-6a-201].~~ **49-18-103. Creation of system.**

5917 There is created for ~~[justices and]~~ judges ~~[of courts of record,]~~ the "Judges' Noncontributory

5918 Retirement System."

5919 Section 161. Section **49-18-104**, which is renumbered from Section 49-6a-202 is  
5920 renumbered and amended to read:

5921 ~~[49-6a-202].~~ **49-18-104. Creation of trust fund.**

5922 (1) There is created the "Judges' Noncontributory Retirement Trust Fund" for the purpose  
5923 of paying the benefits and costs of administering this system.

5924 (2) The fund shall consist of all money, including interest, and assets transferred to it under  
5925 any terminated system, the money paid into it under this system, whether in the form of cash,  
5926 securities, or other assets, and of all money received from any other source.

5927 (3) Custody, management, and investment of the fund shall be governed by ~~[Title 49,]~~  
5928 Chapter ~~[+]~~ 11, Utah State Retirement Systems Administration.

5929 Section 162. Section **49-18-201**, which is renumbered from Section 49-6a-203 is  
5930 renumbered and amended to read:

### 5931 **Part 2. Membership Eligibility**

5932 ~~[49-6a-203].~~ **49-18-201. System membership -- Eligibility.**

5933 (1) ~~[Justices and judges of courts of record]~~ Judges appointed after July 1, 1997, ~~[shall~~  
5934 ~~automatically become]~~ are members of [this system] and are eligible for service credit in this  
5935 system.

5936 (2) (a) Any ~~[justice or]~~ judge appointed prior to July 1, 1997, may either become a member  
5937 of ~~[this noncontributory system]~~ the Judges' Noncontributory Retirement System or remain a  
5938 member of the Judges' Contributory Retirement System established under ~~[Title 49,]~~ Chapter ~~[6]~~  
5939 17, Judges' Contributory Retirement Act, by following the procedures established by the board  
5940 pursuant to this chapter.

5941 ~~[(3) Justices and judges]~~ (b) Judges may only elect to participate in ~~[the noncontributory]~~  
5942 this system under Subsection (2) prior to January 1, 1998.

5943 Section 163. Section **49-18-301**, which is renumbered from Section 49-6a-301 is  
5944 renumbered and amended to read:

### 5945 **Part 3. Contributions**

5946 ~~[49-6a-301].~~ **49-18-301. Contributions by employees and employers --**  
5947 **Retirement fees.**

5948 (1) ~~[The system shall be maintained]~~ In addition to the monies paid to this system under



5949 Subsection (2), participating employers shall pay the certified contribution rates to the office to  
5950 maintain this system on a financially and actuarially sound basis [by means of contributions and  
5951 fees made entirely by the employer].

5952 [~~(2) Fees and contributions shall be remitted monthly to the retirement office.~~]

5953 [~~(3) The board shall report to the governor, the Legislature, and the employing unit the~~  
5954 ~~contribution rates and any adjustments necessary to maintain the system on a financially and~~  
5955 ~~actuarially sound basis, and the employer shall pay the certified contribution rates.]~~

5956 (2) Fees collected under Subsection 78-7-35(1)(i) shall be paid monthly to the office to  
5957 maintain this system and the system established under Chapter 17, Judges' Contributory Retirement  
5958 Act.

5959 Section 164. Section **49-18-401**, which is renumbered from Section 49-6a-401 is  
5960 renumbered and amended to read:

5961 **Part 4. Defined Benefit**

5962 ~~**[49-6a-401].**~~ **49-18-401. Eligibility for an allowance -- Date of retirement --**  
5963 **Qualifications.**

5964 [~~(1) (a) Any judge who qualifies for service retirement may retire by submitting to the~~  
5965 ~~retirement office an application form notarized by a notary public. The application shall state the~~  
5966 ~~proposed effective date of retirement, which may not be more than 90 days before or after the date~~  
5967 ~~of application.]~~

5968 [~~(b) The effective date shall be the 1st or 16th day of the month, as selected by the~~  
5969 ~~member, but must be after the last day of actual work.]~~

5970 [~~(c) The member shall actually terminate employment and provide evidence of~~  
5971 ~~termination.]~~

5972 [~~(2) The member is qualified to retire upon termination of services on or before the~~  
5973 ~~effective date of retirement if one of the following requirements on that date is met:]~~

5974 (1) A member is qualified to receive an allowance when:

5975 (a) the member ceases actual work for a participating employer in this system before the  
5976 member's retirement date and provides evidence of the termination;

5977 (b) the member has submitted to the office a notarized retirement application form that  
5978 states the member's proposed retirement date; and

5979 (c) one of the following conditions is met as of the member's retirement date:

5980           ~~[(a)]~~ (i) the member has ~~[been credited with]~~ accrued at least six years of service credit and  
5981 has attained an age of 70 years ~~[or more]~~;

5982           ~~[(b)]~~ (ii) the member has ~~[been credited with]~~ accrued at least ten years of service credit  
5983 and has attained an age of 62 years ~~[or more]~~;

5984           ~~[(c)]~~ (iii) the member has ~~[been credited with]~~ accrued at least 20 years of service credit  
5985 and has attained an age of 55 years ~~[or more]~~; or

5986           ~~[(d)]~~ (iv) the member has ~~[been credited with]~~ accrued at least 25 years of service credit.

5987           (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as  
5988 selected by the member, but the retirement date must be on or after the date of termination.

5989           (b) The retirement date may not be more than 90 days after the date the application is  
5990 received by the office.

5991           Section 165. Section **49-18-402**, which is renumbered from Section 49-6a-402 is  
5992 renumbered and amended to read:

5993           ~~[49-6a-402].~~           **49-18-402. Calculation of retirement allowance.**

5994           ~~[Upon the service retirement of a justice or judge under Section 49-6a-401, the justice or~~  
5995 ~~judge shall receive a retirement allowance determined as follows:]~~

5996           ~~[(1) If the justice or judge has attained the age of 62 years and has ten or more years of~~  
5997 ~~judicial service credit, the retirement allowance is a monthly amount equal to:]~~

5998           (1) A retiree under this system shall receive an allowance equal to:

5999           (a) 5% of the final average monthly salary multiplied by the number of years of ~~[judicial]~~  
6000 service ~~[credited, limited]~~ credit, limited to ten years~~[-];~~ plus

6001           (b) 2.25% of the final average monthly salary multiplied by the number of years of  
6002 ~~[judicial]~~ service ~~[credited]~~ credit in excess of ten years ~~[but less than]~~ and up to and including 20  
6003 years~~[-];~~ plus

6004           (c) 1% of the final average monthly salary multiplied by the number of years of ~~[judicial]~~  
6005 service ~~[credited]~~ credit in excess of 20 years. ~~[Total monthly retirement allowance to which a~~  
6006 ~~justice or judge is entitled may not exceed 75% of the final average monthly salary.]~~

6007           ~~[(2) If the justice or judge has attained the age of 70 years and has six years or more of~~  
6008 ~~judicial service credit, the retirement allowance is the same as computed under Subsection (1).]~~

6009           ~~[(3) If the justice or judge has 25 years or more of judicial service credit, the retirement~~  
6010 ~~allowance is the same as computed under Subsection (1).]~~

6011            (2) Except as modified by cost-of-living adjustments, an allowance under this system may  
6012 not exceed 75% of the member's final average monthly salary.

6013            [~~(4)~~] (3) If the [~~justice or judge~~] retiree has attained the age of 55 years and has 20 years  
6014 or more of [~~judicial~~] service credit, the [~~retirement allowance is the same as computed under~~  
6015 ~~Subsection (1) reduced to an amount payable monthly for life which would be the same actuarial~~  
6016 ~~equivalent based on the justice's or judge's age at retirement as would be the value of the retirement~~  
6017 ~~pay based on life expectancy if the justice or judge were 65 years of age]~~ retiree shall receive an  
6018 early retirement reduction to the allowance based on an actuarial calculation assuming a normal  
6019 retirement age of 65 years.

6020            [~~(5) All members and their beneficiaries, as of July 1, 1983, shall receive an increase in~~  
6021 ~~monthly benefits in the amount of \$120 for each member or \$60 for each beneficiary. The cost of~~  
6022 ~~implementing this subsection shall be shared equally between the employer and employee.]~~

6023            [~~(6) Years of service include any fractions of years of service to which the members may~~  
6024 ~~be entitled. Notwithstanding the formula for computing the service retirement allowance for~~  
6025 ~~members participating in the program, the board shall, in as far as practical, adjust the percentage~~  
6026 ~~factor used in the service retirement allowance formula, in its application to the years of service~~  
6027 ~~of a retiring member to a percentage amount which maintains the retirement trust account on an~~  
6028 ~~actuarially sound basis if the employer contributions, retirement court fees, and earnings of the~~  
6029 ~~fund are insufficient to fund the benefits provided for members participating in the program.]~~

6030            Section 166. Section **49-18-403**, which is renumbered from Section 49-6a-501 is  
6031 renumbered and amended to read:

6032            ~~[49-6a-501].~~            **49-18-403. Annual cost-of-living adjustment.**

6033            [(1) There shall be computed and paid from the Judges' Noncontributory Retirement Fund  
6034 an annual cost-of-living allowance adjustment to all retired members after one year of retirement  
6035 equal to the decrease in the purchasing power of the dollar during the preceding year measured by  
6036 the Consumers Price Index. The cost-of-living adjustment shall be limited each year to a  
6037 maximum of 4% of the retired member's or beneficiary's monthly retirement allowance. Decreases  
6038 in the purchasing power of the dollar in excess of 4% annually shall be accumulated over two or  
6039 more years and used in whole or in part in making subsequent annual adjustments when the  
6040 cost-of-living adjustment is less than 4%.]

6041            [(2) The cost-of-living adjustment is based upon the retirant's or beneficiary's allowance,

6042 is subject to reduction if the cost-of-living shows a decline of 4% for more than one year, and  
6043 applies to any cost-of-living increase. These reductions may not exceed the rate of 2% per year  
6044 based upon the established retirement allowance base. Payments made under this section are a part  
6045 of the retired member's allowance. The payments and subsequent adjustments as prescribed for  
6046 the retirant shall likewise apply to any beneficiary who is paid an allowance.]

6047 [~~(3) Funds for the benefits provided by this section shall be obtained from contributions~~  
6048 ~~and fees paid on covered salaries.]~~

6049 (1) The office shall make an annual cost-of-living adjustment to:

6050 (a) an allowance paid under Section 49-18-402 and Part 5, Death Benefit, of this chapter  
6051 if the benefit has been paid for at least one year; and

6052 (b) a payment made to an alternate payee under a domestic relations order, if the payment  
6053 is to be paid as a percentage of the allowance rather than a specific dollar amount.

6054 (2) (a) The allowance shall be increased by the annual increase in the Consumer Price  
6055 Index up to a maximum of 4%.

6056 (b) Annual increases in the Consumer Price Index in excess of 4% shall be accumulated  
6057 and used in subsequent adjustments when the increase in the Consumer Price Index is less than  
6058 4%.

6059 (3) The Consumer Price Index used in calculating adjustments shall be a United States  
6060 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

6061 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

6062 Section 167. Section **49-18-501**, which is renumbered from Section 49-6a-601 is  
6063 renumbered and amended to read:

#### 6064 **Part 5. Death Benefit**

6065 ~~[49-6a-601].~~ **49-18-501. Death benefit for members before retirement --**

#### 6066 **Computation.**

6067 ~~[(+)]~~ Upon the receipt of acceptable proof of death of a member ~~[or an inactive member]~~  
6068 before the ~~[effective date of]~~ member's retirement date, the ~~[dependent]~~ member's spouse at the  
6069 time of death shall have the choice of the following death benefits:

6070 ~~[(a)]~~ (1) a refund of [accumulated] the member's member contributions, if any, including  
6071 refund interest, plus 65% of the [judge's final average salary on a yearly rate] member's most recent  
6072 12 months' compensation prior to death; or

6073 ~~[(b) a monthly]~~ (2) an allowance equal to 65% of the [~~monthly~~] allowance computed [~~on~~  
6074 ~~the basis of the service retirement allowance formula, based upon the years of service and final~~  
6075 ~~average salary]~~ in accordance with Section 49-18-402, but disregarding early retirement reductions.

6076 ~~[(2) The pension may not exceed an amount which would have been paid if the deceased~~  
6077 ~~judge served to age 70 and had the retirement allowance then computed on the basis of final~~  
6078 ~~average salary under Section 49-6a-402.]~~

6079 Section 168. Section **49-18-502**, which is renumbered from Section 49-6a-602 is  
6080 renumbered and amended to read:

6081 ~~[49-6a-602].~~ **49-18-502. Benefits payable upon death of retired member.**

6082 (1) (a) The death benefit payable to a [~~dependent~~] retiree's spouse [~~after the death of a~~  
6083 ~~retired member of this system is a monthly amount]~~ at the time of death is an allowance equal to  
6084 65% of the allowance which was being paid to the [~~retired member~~] retiree at the time of death.

6085 (b) The effective date of the accrual of this [~~pension~~] allowance is the first day of the  
6086 month following the month in which the [~~retirant~~] retiree died. [~~Payment of the full pension for~~  
6087 ~~this latter month shall be made to the dependent beneficiary in lieu of the deceased member.]~~

6088 (2) [~~A member~~] (a) At the time of retirement, a retiree may elect to increase the [~~surviving~~  
6089 ~~spouse's monthly allowance]~~ spousal death benefit up to 75% of [~~a monthly~~] an allowance  
6090 computed [~~on the basis of the service retirement allowance formula under]~~ in accordance with  
6091 Section [~~49-6a-402]~~ 49-18-402.

6092 (b) The [~~amount payable to the member upon retirement would]~~ member's allowance shall  
6093 be reduced to an amount payable monthly for life[~~, which would]~~ to reflect the actuarial equivalent  
6094 necessary to [~~fund]~~ pay for the increased [~~percentage for the surviving spouse]~~ spousal death  
6095 benefit above 65%.

6096 Section 169. Section **49-18-701**, which is renumbered from Section 49-6a-701 is  
6097 renumbered and amended to read:

#### 6098 **Part 6. Reserved**

#### 6099 **Part 7. Early Retirement Incentive**

6100 ~~[49-6a-701].~~ **49-18-701. Judges' mandatory retirement age.**

6101 (1) Except as provided in Subsection (2), a [~~justice or~~] judge [~~who qualifies as a member~~  
6102 ~~of this system under Section 49-6a-203]~~ shall retire upon attaining the age of 75 years.

6103 (2) A [~~justice or~~] judge serving on July 1, 1996, who is 75 years of age or older on July

6104 1, 1996, or who attains 75 years of age prior to the [~~justice or~~] judge's next retention election may  
6105 not be a candidate in that retention election and shall retire on or before December 31 of the year  
6106 in which the [~~justice or~~] judge would have been subject to a retention election.

6107 Section 170. Section **49-19-101**, which is renumbered from Section 49-7-101 is  
6108 renumbered and amended to read:

6109 **CHAPTER 19. UTAH GOVERNORS' AND**  
6110 **LEGISLATORS' RETIREMENT ACT**

6111 **Part 1. General Provisions**

6112 ~~[49-7-101].~~ **49-19-101. Title.**

6113 This chapter is known as the "~~[Governor's and Legislative Service Pension]~~ Utah  
6114 Governors' and Legislators' Retirement Act."

6115 Section 171. Section **49-19-102** is enacted to read:

6116 **49-19-102. Definitions.**

6117 As used in this chapter:

6118 (1) "Governor" includes former governors.

6119 (2) "Legislator" includes former legislators.

6120 (3) "Plan" means the Utah Governors' and Legislators' Retirement Plan created under this  
6121 chapter.

6122 Section 172. Section **49-19-103**, which is renumbered from Section 49-7-201 is  
6123 renumbered and amended to read:

6124 ~~[49-7-201].~~ **49-19-103. Creation of plan.**

6125 There is created for Utah governors[;] and legislators[; ~~and legislative employees~~  
6126 ~~enumerated under this chapter~~] the "~~[Governor's and Legislative Service Pension]~~ Utah Governors'  
6127 and Legislators' Retirement Plan."

6128 Section 173. Section **49-19-104**, which is renumbered from Section 49-7-202 is  
6129 renumbered and amended to read:

6130 ~~[49-7-202].~~ **49-19-104. Creation of trust fund.**

6131 (1) There is created the "~~[Governor's and Legislative Service Pension]~~ Utah Governors'  
6132 and Legislators' Retirement Trust Fund" for the purpose of paying the benefits and costs of  
6133 administering this [~~pension~~] plan.

6134 (2) The fund shall consist of all money paid into it, including interest, in accordance with

6135 this chapter, whether in the form of cash, securities, or other assets, and of all money received from  
6136 any other source.

6137 (3) Custody, management, and investment of the fund shall be governed by [~~Title 49,~~  
6138 Chapter [~~†~~] 11, Utah State Retirement Systems Administration.

6139 Section 174. Section **49-19-201**, which is renumbered from Section 49-7-203 is  
6140 renumbered and amended to read:

6141 **Part 2. Membership Eligibility**

6142 [~~49-7-203~~]. **49-19-201. Plan participation -- Eligibility.**

6143 [The following persons are eligible for benefits from this pension plan:]

6144 [~~(1) former governors of the state who reach age 65, who serve at least one term, and who  
6145 apply for the pension benefit to the retirement office; and]~~

6146 [~~(2) legislators with four or more years of service in the Utah Legislature.]~~

6147 Governors and legislators are eligible for service credit in this plan during their term of  
6148 service in their elected position.

6149 Section 175. Section **49-19-301**, which is renumbered from Section 49-7-301 is  
6150 renumbered and amended to read:

6151 **Part 3. Contribution**

6152 [~~49-7-301~~]. **49-19-301. Contribution rate -- Annual legislative appropriation.**

6153 (1) [~~The pension plan shall be maintained]~~ The Legislature, by means of annual  
6154 appropriations, shall maintain this plan on a financially and actuarially sound basis [~~by means of~~  
6155 ~~annual appropriations by the Legislature].~~

6156 [~~(2) The board shall certify to the director of the Division of Finance the amount necessary  
6157 to fund the cost of the pension provided under this chapter, plus any liability which may have  
6158 accrued. The director of the Division of Finance shall then pay the trust fund the certified and  
6159 appropriated amount.]~~

6160 (2) The Legislature shall cause the appropriate amount to be paid to the office.

6161 Section 176. Section **49-19-401**, which is renumbered from Section 49-7-401 is  
6162 renumbered and amended to read:

6163 **Part 4. Defined Benefit**

6164 [~~49-7-401~~]. **49-19-401. Eligibility for an allowance -- Governor -- Legislator.**

6165 [~~(1) Upon reaching age 65, each former governor of Utah is eligible, upon application, to~~

6166 receive a lifetime monthly pension of \$500 per term. Payments under this lifetime pension cease  
6167 during any period that a former governor holds an office of profit or trust with the government of  
6168 United States, this state, or a political subdivision of the state paying more than the retirant is  
6169 entitled to receive per month under this section.]

6170 ~~[(2) Upon reaching age 65, and upon application, a legislative pension shall be paid to a~~  
6171 ~~member who has four or more years of service as a legislator in the Utah Legislature. The pension~~  
6172 ~~is \$10 per month for each year of service as a member of the Legislature. If the retired member~~  
6173 ~~is elected to another term in the Legislature or continues to serve in the Legislature after reaching~~  
6174 ~~age 65, the legislative allowance ceases at the beginning of each session under rules established~~  
6175 ~~by the board, but is restored at the same amount at the end of the session. Members receiving an~~  
6176 ~~allowance while serving as legislators are eligible for additional service credits and allowance~~  
6177 ~~adjustments at the end of each two-year term of office if they continue as contributing members~~  
6178 ~~during their service as legislators.]~~

6179 ~~[(3) A member who is eligible for a pension under this section, may apply for an allowance~~  
6180 ~~at age 62, if the member has ten or more years of service credit, and receive a reduced allowance.]~~

6181 ~~[(4) The allowance provided for former governors, legislators, and their beneficiaries shall~~  
6182 ~~include any normal retirement benefits accrued in any system administered by the board by reason~~  
6183 ~~of their contributions and service as a governor or legislator in the system.]~~

6184 (1) A governor is qualified to receive an allowance when:

6185 (a) the governor has submitted to the office a notarized retirement application form that  
6186 states the proposed retirement date; and

6187 (b) one of the following conditions is met as of the retirement date:

6188 (i) the governor has completed at least one full term in office and has attained an age of  
6189 65 years; or

6190 (ii) the governor has served as governor of the state for at least ten years and has attained  
6191 an age of 62 years.

6192 (2) A legislator is qualified to receive an allowance when:

6193 (a) the legislator has submitted to the office a notarized retirement application form that  
6194 states the proposed retirement date; and

6195 (b) one of the following conditions is met as of the retirement date:

6196 (i) the legislator has completed at least four years in the Legislature and has attained an age



6197 of 65 years; or

6198 (ii) the legislator has completed at least ten years in the Legislature and has attained an age  
6199 of 62 years.

6200 (3) (a) The retirement date shall be the 1st or the 16th day of the month as selected by the  
6201 member.

6202 (b) The retirement date may not be more than 90 days after the date the application is  
6203 received by the office.

6204 (4) A member who retires and continues to serve in office may not receive an additional  
6205 increase to the allowance from that service.

6206 (5) A ~~[withdrawal of]~~ member who withdraws member contributions ~~[by a governor,~~  
6207 legislator, or legislative employee] shall forfeit all ~~[pensions and]~~ allowances ~~[provided under this~~  
6208 chapter] based on those contributions.

6209 Section 177. Section **49-19-402** is enacted to read:

6210 **49-19-402. Calculation of allowance -- Reduction for early retirement.**

6211 (1) (a) The base retirement amount for a governor under this plan is \$500 per term,  
6212 adjusted as provided in Section 49-19-404 since 1973.

6213 (b) A governor's allowance shall be calculated by multiplying the base retirement amount  
6214 at the end of the governor's service by the number of terms the governor served, including fractions  
6215 of terms.

6216 (2) (a) The base retirement amount for a legislator under this plan is \$10 per year of service  
6217 in the Legislature, adjusted as provided in Section 49-19-404, since 1967.

6218 (b) A legislator's allowance shall be calculated by multiplying the base retirement amount  
6219 at the end of the legislator's service by the number of years the legislator served, including fractions  
6220 of years.

6221 (3) If a governor or legislator retires prior to age 65, the allowance shall be reduced by 3%  
6222 for each year of retirement between age 62 and age 65.

6223 Section 178. Section **49-19-403** is enacted to read:

6224 **49-19-403. Retirement option.**

6225 A governor or legislator may elect to forfeit the allowance provided by this chapter and in  
6226 lieu thereof participate, on the same basis as other state elected and appointed officers under Title  
6227 67, Chapter 22, State Officer Compensation, in a defined contribution plan administered by the

6228 office, in accordance with Section 49-11-801 and in accordance with federal law.

6229 Section 179. Section **49-19-404** is enacted to read:

6230 **49-19-404. Annual cost-of-living adjustment.**

6231 (1) The office shall make an annual cost-of-living adjustment to:

6232 (a) an original allowance paid under Section 49-19-402 and Part 5, Death Benefit, of this  
6233 chapter if the benefit has been paid for at least one year;

6234 (b) an original payment made to an alternate payee under a domestic relations order, if the  
6235 payment is to be paid as a percentage of the allowance rather than a specific dollar amount; and

6236 (c) the base retirement amount for governors and legislators under Section 49-19-402.

6237 (2) (a) The original allowance shall be increased by the annual increase in the Consumer  
6238 Price Index up to a maximum of 4%.

6239 (b) Annual increases in the Consumer Price Index in excess of 4% shall be accumulated  
6240 and used in subsequent adjustments when the increase in the Consumer Price Index is less than  
6241 4%.

6242 (3) The Consumer Price Index used in calculating adjustments shall be a United States  
6243 Bureau of Labor Statistics Consumer Price Index average as determined by the board.

6244 (4) The cost-of-living adjustment made under this section may not decrease the allowance.

6245 Section 180. Section **49-19-501**, which is renumbered from Section 49-7-403 is  
6246 renumbered and amended to read:

#### 6247 **Part 5. Death Benefit**

6248 ~~[49-7-403].~~ **49-19-501. Death of member or retiree -- Surviving spouse benefit.**

6249 (1) Upon the death of a ~~[member or retiree having]~~ governor or legislator who has not yet  
6250 retired and who has completed four or more years ~~[of service as a governor or legislator, there is~~  
6251 paid to the surviving spouse a monthly pension] in the elected office, the member's spouse shall  
6252 receive an allowance equal to 50% of the ~~[retirement]~~ allowance ~~[paid, or]~~ to which the ~~[retiree~~  
6253 or member] governor or legislator would have been entitled upon reaching age 65, if the ~~[deceased~~  
6254 member or retiree] governor or legislator and surviving spouse had been married at least six  
6255 months.

6256 (2) Upon the death of a governor or legislator receiving an allowance under this plan, the  
6257 member's spouse is entitled to an allowance equal to 50% of the allowance being paid to the  
6258 member at the time of death.

6259 Section 181. Section **49-20-101**, which is renumbered from Section 49-8-101 is  
6260 renumbered and amended to read:

6261 **CHAPTER 20. PUBLIC EMPLOYEES' INSURANCE PROGRAM ACT**

6262 **Part 1. General Provisions**

6263 ~~[49-8-101].~~ **49-20-101. Title.**

6264 This chapter is known as the "[Group] Public Employees' Insurance Program Act."

6265 Section 182. Section **49-20-102**, which is renumbered from Section 49-8-103 is  
6266 renumbered and amended to read:

6267 ~~[49-8-103].~~ **49-20-102. Definitions.**

6268 As used in this chapter[-];

6269 (1) "Employee [~~group~~] Benefit Plans" means any group health, dental, medical, disability,  
6270 life insurance, medicare supplement, conversion coverage, cafeteria, flex plans, or other program  
6271 for [~~employees~~] insureds administered by the [~~board and approved by the Legislature~~] Public  
6272 Employees' Insurance Program.

6273 (2) "Employer" means any department, educational institution, or political subdivision of  
6274 the state eligible to participate in a government-sponsored retirement system under federal law and  
6275 may also include an agency financed in whole or in part by public funds as allowed under Chapter  
6276 12, Public Employees' Contributory Retirement Act, or Chapter 13, Public Employees'  
6277 Noncontributory Retirement Act.

6278 (3) "Insurance" means coverage under an employee benefit plan offered under this chapter.

6279 (4) "Insured" means an individual eligible for insurance under this chapter.

6280 (5) "Insuring employer" means an employer as defined in Section 49-11-102 that offers  
6281 employee benefit plans under this chapter to its employees.

6282 (6) "Program" means the Public Employees' Insurance Program.

6283 Section 183. Section **49-20-103**, which is renumbered from Section 49-8-201 is  
6284 renumbered and amended to read:

6285 ~~[49-8-201].~~ **49-20-103. Creation of insurance program.**

6286 There is created for the employees of the state, its educational institutions, and political  
6287 subdivisions the "[Group Insurance] Public Employees' Insurance Program[-:]" within the office.

6288 Section 184. Section **49-20-104**, which is renumbered from Section 49-8-202 is  
6289 renumbered and amended to read:

6290 **[49-8-202]. 49-20-104. Creation of fund.**

6291 (1) There is created the "[Group Insurance] Public Employees' Trust Fund" for the purpose  
6292 of paying the benefits and the costs of administering this program.

6293 (2) The fund shall consist of all money and interest paid into it in accordance with this  
6294 chapter, whether in the form of cash, securities, or other assets, and of all money received from any  
6295 other source.

6296 (3) Custody, management, and investment of the fund shall be governed by [Title 49,]  
6297 Chapter [†] 11, Utah State Retirement Systems Administration.

6298 Section 185. Section **49-20-105**, which is renumbered from Section 49-8-102 is  
6299 renumbered and amended to read:

6300 **[49-8-102]. 49-20-105. Purpose.**

6301 The purpose of this chapter is to provide a mechanism [~~whereby the state, its educational~~  
6302 ~~institutions, and political subdivisions may provide their employees]~~ for insuring employers to  
6303 provide insureds with group health, dental, medical, disability, life insurance, medicare  
6304 supplement, conversion coverage, cafeteria, flex plan, and other programs requested by the state  
6305 or political subdivisions in the most efficient and economical manner.

6306 Section 186. Section **49-20-201**, which is renumbered from Section 49-8-203 is  
6307 renumbered and amended to read:

6308 **Part 2. Membership Eligibility**

6309 **[49-8-203]. 49-20-201. Program participation -- Eligibility -- Optional for certain**  
6310 **groups.**

6311 (1) (a) [~~All employers of the state, its educational institutions, and political subdivisions~~  
6312 ~~are]~~ The state shall participate in the program.

6313 (b) Other employers are eligible, but are not required, to participate in [~~this]~~ the program;  
6314 ~~but this section does not require political subdivisions, school districts, or institutions of higher~~  
6315 ~~education, including technical colleges, to participate in the program].~~

6316 (2) (a) The Department of Health may participate in [~~this]~~ the program for the purpose of  
6317 providing [~~program]~~ health and dental benefits to children enrolled in the Utah Children's Health  
6318 Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act, if the  
6319 provisions in Subsection 26-40-110(4) occur.

6320 (b) If the Department of Health participates in the program under the provisions of this

6321 Subsection (2), all insurance risk associated with the Children's Health Insurance Program shall  
6322 be the responsibility of the Department of Health and not the [~~group insurance division or the~~  
6323 ~~retirement~~] program or the office.

6324 (3) An insured covered under a medical employee benefit plan shall be eligible for  
6325 coverage after termination of employment under rules adopted by the board.

6326 (4) Retirees, members, participants, and their current spouses are eligible for Medicare  
6327 supplement coverage under this chapter upon becoming eligible for Medicare Part A and Part B  
6328 coverage.

6329 Section 187. Section **49-20-202**, which is renumbered from Section 49-8-204 is  
6330 renumbered and amended to read:

6331 ~~[49-8-204].~~ **49-20-202. Establishment of separate risk pools.**

6332 (1) The [~~group insurance division~~] program shall establish[~~-(1)~~] separate risk pools for:  
6333 (a) state employees[~~-, political subdivisions, and, if applicable, children enrolled in~~]; and  
6334 (b) the Utah Children's Health Insurance Program[~~-, created in Title 26, Chapter 40, for~~  
6335 ~~purposes of providing the benefits permitted by this chapter, and (2) rules and procedures~~  
6336 ~~governing the admission of political subdivisions to the program~~].

6337 (2) The program shall create risk pools for other insuring employers as determined by the  
6338 program.

6339 Section 188. Section **49-20-301**, which is renumbered from Section 49-8-301 is  
6340 renumbered and amended to read:

### 6341 **Part 3. Premiums**

6342 ~~[49-8-301].~~ **49-20-301. Premiums paid by employer and employee.**

6343 The [~~self-funded~~] program shall be maintained on a financially and actuarially sound basis  
6344 by means of [~~contributions~~] premiums paid by the insuring employer and the [~~employee~~] insured.

6345 Section 189. Section **49-20-401**, which is renumbered from Section 49-8-401 is  
6346 renumbered and amended to read:

### 6347 **Part 4. Insurance Program**

6348 ~~[49-8-401].~~ **49-20-401. Program -- Powers and duties.**

6349 (1) The [~~group insurance division of the retirement office~~] program shall:

6350 (a) act as a self-insurer of employee [~~group~~] benefit plans and administer those plans;

6351 (b) enter into contracts with private insurers to underwrite employee [~~group~~] benefit plans

6352 ~~[and to reinsure any appropriate self-insured plans]~~ as considered appropriate by the program;  
6353       (c) reinsure or purchase commercial reinsurance as considered appropriate by the program;  
6354       ~~[(e)]~~ (d) ~~[publish and disseminate]~~ provide descriptions of all employee benefit plans under  
6355 this chapter in cooperation with ~~[the Department of Human Resource Management and political~~  
6356 ~~subdivisions]~~ insuring employers;  
6357       ~~[(d)]~~ (e) ~~[administer the]~~ process ~~[of]~~ claims ~~[administration of]~~ for all employee benefit  
6358 plans under this chapter or enter into contracts~~[- after competitive bids are taken,]~~ with other  
6359 benefit administrators to provide for the administration of the claims process;  
6360       ~~[(e)]~~ (f) obtain an annual actuarial ~~[evaluation]~~ review of all ~~[self-insured]~~ health and  
6361 dental benefit plans and ~~[prepare an annual report for the governor and the Legislature describing~~  
6362 ~~the employee benefit plans being administered by the retirement office detailing historical and~~  
6363 ~~projected program costs and the status of reserve funds]~~ a periodic review of all other employee  
6364 benefit plans;  
6365       ~~[(f)]~~ (g) consult with the ~~[Department of Human Resource Management and the executive~~  
6366 ~~bodies of other political subdivisions]~~ insuring employers to evaluate employee benefit plans and  
6367 develop recommendations for ~~[new or improved]~~ benefit ~~[plans]~~ changes;  
6368       ~~[(g)]~~ (h) annually submit ~~[annually]~~ a budget and financial reports to the governor and  
6369 Legislature which includes total projected benefit costs and administrative costs;  
6370       ~~[(h)]~~ (i) maintain reserves sufficient to liquidate the unrevealed claims liability and other  
6371 liabilities of the ~~[self-funded]~~ employee ~~[group]~~ benefit plans as estimated by the ~~[board's]~~  
6372 program's consulting actuary;  
6373       ~~[(i)]~~ (j) submit its recommended benefit adjustments for state employees ~~[upon approval~~  
6374 ~~of the board]~~ to the director of the state Department of Human Resource Management~~[- The~~  
6375 ~~Department of Human Resource Management shall include the benefit adjustments in the total~~  
6376 ~~compensation plan recommended to the governor required by Subsection 67-19-12(6)(a)];~~  
6377       ~~[(j)]~~ adjust benefits, upon approval of the board, and upon appropriate notice to the state,  
6378 its educational institutions, and political subdivisions;]  
6379       ~~[(k)]~~ ~~for the purposes of stimulating competition, establishing better geographical~~  
6380 ~~distribution of medical care services, and providing alternative health and dental plan coverage for~~  
6381 ~~both active and retired employees,]~~  
6382       (k) determine benefits and rates, upon approval of the board, for multiemployer risk pools,

6383 retiree coverage, and conversion coverage:

6384 (l) determine benefits and premiums, upon approval of the board and the Legislature, for  
6385 state employees;

6386 (m) administer benefits and premiums, upon ratification of the board, for single employer  
6387 risk pools;

6388 (n) request proposals for [alternative health and dental coverage] provider networks or  
6389 benefit plans administered by third party carriers at least once every three years[, proposals] or  
6390 renegotiate rates with existing provider networks annually for the purposes of:

6391 (i) stimulating competition for the benefit of insureds;

6392 (ii) establishing better geographical distribution of medical care services; and

6393 (iii) providing insurance coverage for both active and retired insureds;

6394 (o) offer proposals which meet the criteria specified in [the request shall be offered] a  
6395 request for proposals and accepted by the program to active and retired state [employees and may  
6396 be offered] insureds and which may be offered to active and retired [employees of political  
6397 subdivisions] insureds of other insuring employers at the option of the [political subdivision; and]  
6398 insuring employer;

6399 [†] (p) perform the same functions established in Subsections (1)(a), (b), [†] (e), and  
6400 [‡] (h) for the Department of Health if the group insurance division provides program benefits  
6401 to children enrolled in the Utah Children's Health Insurance Program created in Title 26, Chapter  
6402 40[-], Utah Children's Health Insurance Act;

6403 (q) establish rules and procedures governing the admission of political subdivisions or  
6404 educational institutions and their employees to the program; and

6405 (r) contract directly with medical providers to provide services for insureds.

6406 (2) (a) Funds budgeted and expended shall accrue from premiums paid by the [various]  
6407 insuring employers and insureds.

6408 (b) Administrative costs [may not exceed that percentage of premium income which is  
6409 recommended] shall be approved by the board and [approved by] reported to the governor and the  
6410 Legislature.

6411 (3) The Department of Human Resource Management shall include the benefit adjustments  
6412 described in Subsection (1)(j) in the total compensation plan recommended to the governor  
6413 required under Subsection 67-19-12(6)(a).

6414 Section 190. Section **49-20-402**, which is renumbered from Section 49-8-402 is  
6415 renumbered and amended to read:

6416 ~~[49-8-402].~~ **49-20-402. Reserves to be held -- Refunds.**

6417 ~~[In no case may the average total]~~

6418 (1) The reserves in a risk pool in a given fiscal year [fall below the level of two months'  
6419 premiums] shall be maintained at the level recommended by the program's consulting actuary and  
6420 approved or ratified by the board. If the reserves drop below that level, insuring employers in the  
6421 risk pool are required to cure any deficiency in the reserve.

6422 (2) If substantial excess reserves are accrued above those required by this chapter, and the  
6423 board determines that a refund is appropriate, [refunds] a refund shall be made to [an employer and  
6424 employee] insuring employers which shall then make a refund to employees on the basis of the  
6425 contribution of each to the plan. [The board may make a full refund to any employer, other than  
6426 the state, and the employer is responsible for refunding employee contributions in accordance with  
6427 this section.]

6428 Section 191. Section **49-20-403** is enacted to read:

6429 **49-20-403. Assistance to members in purchase of life, health, dental, and medical**  
6430 **insurance after retirement -- Employment of personnel to administer section.**

6431 (1) The program may assist active and retired insureds and inactive insureds of the insuring  
6432 employers to purchase life, health, dental, and medical insurance on a group basis which can be  
6433 continued after retirement under rules adopted by the board.

6434 (2) The executive director may employ any personnel, including consultants, to administer  
6435 this section.

6436 Section 192. Section **49-20-404**, which is renumbered from Section 49-8-403 is  
6437 renumbered and amended to read:

6438 ~~[49-8-403].~~ **49-20-404. Governors' and legislative benefit.**

6439 ~~[(1) (a) The board may assist active and retired members and beneficiaries and inactive~~  
6440 ~~members of the various retirement systems administered under its direction, to purchase life,~~  
6441 ~~health, dental, and medical insurance on a group basis which can be continued after retirement~~  
6442 ~~under rules adopted by the board.]~~

6443 ~~[(b) The executive director may employ any personnel, including consultants, to administer~~  
6444 ~~this section.]~~



6445            [(2)(a)] (1) The [~~board shall annually report and the~~] state shall pay the percentage  
 6446 described in Subsection [(2)(c)] (3) of the cost of providing a paid-up group health insurance  
 6447 policy for members and their surviving spouses covered under [~~Title 49,~~] Chapter [~~7, Governor's~~  
 6448 ~~and Legislative Service Pension]~~ 19, Utah Governors' and Legislators' Retirement Act who:

6449            [(i)] (a) retire after January 1, 1998;

6450            [(ii)] (b) are at least 62 but less than 65 years of age;

6451            [(iii)] (c) elect to receive and apply for this benefit to the [~~group insurance division~~]  
 6452 program; and

6453            [(iv)] (d) are active members at the time of retirement or have retired and continued  
 6454 insurance coverage with the group insurance division until the date of eligibility for the benefit  
 6455 under this Subsection [(2)] (1).

6456            [(b)] (2) The [~~board shall annually report and the~~] state shall pay the percentage described  
 6457 in Subsection [(2)(c)] (3) of the cost of providing Medicare supplemental insurance for members  
 6458 and their surviving spouses covered under [~~Title 49,~~] Chapter [~~7, Governor's and Legislative~~  
 6459 ~~Service Pension]~~ 19, Utah Governors' and Legislators' Retirement Act who:

6460            [(i)] (a) retire after January 1, 1998;

6461            [(ii)] (b) are at least 65 years of age; and

6462            [(iii)] (c) elect to receive and apply for this benefit to the [~~group insurance division~~]  
 6463 program.

6464            [(c)] (3) The following percentages apply to the benefit described in Subsections [(2)(a)]  
 6465 (1) and [(b)] (2):

6466            [(i)] (a) 100% if the member has accrued 10 or more years of service credit;

6467            [(ii)] (b) 80% if the member has accrued 8 or more years of service credit;

6468            [(iii)] (c) 60% if the member has accrued 6 or more years of service credit; and

6469            [(iv)] (d) 40% if the member has accrued 4 or more years of service credit.

6470            Section 193. Section **49-20-405**, which is renumbered from Section 49-8-404 is  
 6471 renumbered and amended to read:

6472            ~~[49-8-404].~~    **49-20-405. Audit required -- Report to governor and Legislature.**

6473            The Insurance Department shall biennially audit [~~all funds]~~ the Public Employees' Trust  
 6474 Fund and programs authorized under this chapter and report its findings to the governor and the  
 6475 Legislature, but the commissioner may accept the annual audited statement of the programs under

6476 this chapter in lieu of the biennial audit requirement.

6477 Section 194. Section **49-20-406**, which is renumbered from Section 49-8-405 is  
6478 renumbered and amended to read:

6479 ~~[49-8-405]~~. **49-20-406. Insurance benefits for employees' beneficiaries.**

6480 (1) As used in this section:

6481 (a) "Children" includes stepchildren and legally adopted children.

6482 (b) "Line-of-duty death" means a death resulting from external force or violence  
6483 occasioned by an act of duty as an employee.

6484 (2) The beneficiary of an ~~[employee]~~ insured who is employed by the state and who dies  
6485 in the line of duty shall receive:

6486 (a) the proceeds of a group term life insurance policy in the amount of \$50,000 to be  
6487 purchased by the ~~[division]~~ program and paid for by the ~~[employing unit]~~ state; and

6488 (b) a group health insurance policy paid for by the ~~[employing unit]~~ state that covers the  
6489 ~~[employee's]~~ insured's:

6490 (i) surviving spouse until remarriage or becoming eligible for Medicare, whichever comes  
6491 first; and

6492 (ii) unmarried children up to the age of 26.

6493 (3) Any ~~[political subdivision]~~ insuring employer may provide the benefit under  
6494 Subsection (2).

6495 Section 195. Section **49-21-101**, which is renumbered from Section 49-9-101 is  
6496 renumbered and amended to read:

## 6497 **CHAPTER 21. PUBLIC EMPLOYEES' LONG-TERM DISABILITY ACT**

### 6498 **Part 1. General Provisions**

6499 ~~[49-9-101]~~. **49-21-101. Title.**

6500 This chapter is known as the "[~~Utah~~] Public Employees' Long-Term Disability Act."

6501 Section 196. Section **49-21-102**, which is renumbered from Section 49-9-103 is  
6502 renumbered and amended to read:

6503 ~~[49-9-103]~~. **49-21-102. Definitions.**

6504 As used in this chapter:

6505 (1) "Date of disability" means the date on which a period of continuous disability  
6506 commences, and may not commence on or before the last day of actual work.

6507 ~~[(2) "Educational institution" means a political subdivision or an instrumentality of a~~  
6508 ~~political subdivision, an instrumentality of the state, or any combination of these entities, which~~  
6509 ~~is primarily engaged in educational activities or the administration or servicing of educational~~  
6510 ~~activities. The term includes the State Board of Education and any instrumentality of the State~~  
6511 ~~Board of Education, institutions of higher education and their branches, school districts, and~~  
6512 ~~vocational and technical schools.]~~

6513 ~~[(3)]~~ (2) "Elimination period" means the three months at the beginning of each continuous  
6514 period of total disability for which no benefit will be paid and commences with the date of  
6515 disability.

6516 ~~[(4) "Employee"]~~

6517 (3) (a) "Eligible employee" means:

6518 (i) any regular full-time employee [of an employer who participates in any system  
6519 administered by the board, except those employees exempt from coverage under Section  
6520 49-9-102.] as defined under Section 49-12-102 or 49-13-102, public safety service employee as  
6521 defined under Section 49-14-102 or 49-15-102, or judge as defined under Section 49-17-102 or  
6522 49-18-102, whose employer provides coverage under this chapter, or the governor of the state; and

6523 (ii) an employee who is covered by a retirement program offered by the Teachers'  
6524 Insurance and Annuity Association of America, if the employee's employer provides coverage  
6525 under this chapter; and

6526 (b) "Eligible employee" does not include any employee that is exempt from coverage under  
6527 Section 49-21-201.

6528 ~~[(5)]~~ (4) "Maximum benefit period" means the maximum period of time the monthly  
6529 disability income benefit will be paid under Section 49-21-403 for any continuous period of total  
6530 disability.

6531 ~~[(6) "Medically determinable impairment" means an impairment that results from~~  
6532 ~~anatomical, physiological, or psychological abnormalities which can be shown by medically~~  
6533 ~~acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must~~  
6534 ~~be established by medical evidence consisting of signs, symptoms, and laboratory findings, not~~  
6535 ~~only by the individual's statement of symptoms.]~~

6536 (5) "Monthly disability benefit" means the monthly payments and accrual of service credit  
6537 under Section 49-21-401 and health insurance reimbursements paid under Section 49-21-408, or

6538 any combination of them.

6539 (6) "Objective medical impairment" means an impairment resulting from an injury or  
6540 illness which is diagnosed by a physician and which is based on accepted objective medical tests  
6541 or findings rather than subjective complaints.

6542 (7) "Physician" means a ~~legally qualified~~ licensed physician.

6543 (8) "Regular monthly salary" means the amount certified by the participating employer as  
6544 the monthly salary of the eligible employee, unless there is a discrepancy between the certified  
6545 amount and the amount actually paid, in which case the office shall determine the regular monthly  
6546 salary.

6547 (9) "Regular occupation" means either the primary duties performed by the eligible  
6548 employee for the twelve months preceding the date of disability, or a permanent assignment of  
6549 duty to the eligible employee.

6550 ~~[(8)]~~ (10) "Rehabilitative employment" means any ~~board-approved~~ occupation or  
6551 employment for wage or profit, for which the eligible employee is reasonably qualified ~~[by]~~ to  
6552 perform based on education, training, or experience~~[, in which the employee engages]~~ while unable  
6553 to perform ~~[his]~~ the employee's regular occupation ~~[as a result of injury or illness].~~

6554 ~~[(9)]~~ (11) (a) "Total disability" or "totally disabled" means the complete inability, due to  
6555 ~~[medically determinable physical or mental]~~ objective medical impairment, whether physical or  
6556 mental, to engage in the eligible employee's regular occupation during the elimination period and  
6557 the first 24 months of disability benefits. ~~[Thereafter, "total]~~

6558 (b) "Total disability" means, after the elimination period and the first 24 months of  
6559 disability benefits, the complete inability, based solely on ~~[medically determinable physical]~~  
6560 physical objective medical impairment, to engage in any gainful occupation which is reasonable,  
6561 considering the eligible employee's education, training, and experience. ~~["Total disability" exists~~  
6562 ~~only if during any period of "total disability" the employee is under the regular care of a physician~~  
6563 ~~other than the employee.]~~

6564 Section 197. Section **49-21-103**, which is renumbered from Section 49-9-201 is  
6565 renumbered and amended to read:

6566 ~~[49-9-201].~~ **49-21-103. Creation of program.**

6567 There is created for eligible employees ~~[of employers participating in any system~~  
6568 ~~administered by the board, unless otherwise exempted under this chapter,]~~ the "Public Employees'

6569 Long-Term Disability Program."

6570 Section 198. Section **49-21-104**, which is renumbered from Section 49-9-202 is  
6571 renumbered and amended to read:

6572 **[49-9-202]. 49-21-104. Creation of trust fund.**

6573 (1) There is created the "Public Employees' Long-Term Disability Trust Fund" for the  
6574 purpose of paying the benefits and costs of administering this program.

6575 (2) The fund shall consist of all money and interest paid into it in accordance with this  
6576 chapter, whether in the form of cash, securities, or other assets, and of all money received from any  
6577 other source.

6578 (3) Custody, management, and investment of the fund shall be governed by [~~Title 49,~~  
6579 Chapter ~~[+]~~ 11, Utah State Retirement Systems Administration.

6580 Section 199. Section **49-21-105**, which is renumbered from Section 49-9-102 is  
6581 renumbered and amended to read:

6582 **[49-9-102]. 49-21-105. Purpose.**

6583 (1) The purpose of this chapter is to provide long-term disability benefits for eligible  
6584 employees [~~of employers participating in any system administered by the board except employees~~  
6585 ~~covered under the Firefighters' Retirement Act, or employees covered under the Public Safety~~  
6586 ~~Retirement Act who are covered under a long-term disability program offered by a political~~  
6587 ~~subdivision which is substantially equivalent to the program offered by the state under this~~  
6588 ~~chapter].~~

6589 (2) The program shall be administered by the [~~executive officer of the board through the~~  
6590 ~~retirement]~~ office, under [~~the~~] policies and rules [~~promulgated~~] adopted by the board.

6591 Section 200. Section **49-21-201**, which is renumbered from Section 49-9-203 is  
6592 renumbered and amended to read:

6593 **Part 2. Membership Eligibility**

6594 **[49-9-203]. 49-21-201. Program membership -- Eligibility.**

6595 [~~(1) AH~~] (1) The state shall cover all of its eligible employees under this chapter.

6596 (2) Except as provided under Subsections (5), (6), and (7), all other employers  
6597 [~~participating in any system administered by the board may cover their~~] may provide coverage for  
6598 their eligible employees under this chapter [~~, except employees covered under the Firefighters'~~  
6599 ~~Retirement Act].~~



6631 ~~[(b) disease or illness causing total disability commencing while this chapter is in force;~~  
6632 ~~or]~~

6633 ~~[(c) physical injury resulting from external force or violence as a result of the performance~~  
6634 ~~of duty, the fund will pay to the employee a monthly disability benefit for each month the total~~  
6635 ~~disability continues beyond the elimination period, not to exceed the maximum benefit period.]~~

6636 (1) An eligible employee shall apply for long-term disability benefits under this chapter  
6637 by:

6638 (a) completing an application form prepared by the office;

6639 (b) signing a consent form allowing the office access to the eligible employee's medical  
6640 records; and

6641 (c) providing any documentation or information reasonably requested by the office.

6642 (2) Upon request by the office, the participating employer of the eligible employee shall  
6643 provide to the office documentation and information concerning the eligible employee.

6644 (3) The office shall review all relevant information and determine whether or not the  
6645 eligible employee is totally disabled.

6646 (4) If the office determines that the eligible employee is totally disabled due to accidental  
6647 bodily injury or physical illness which is not the result of the performance of an employment duty,  
6648 the eligible employee shall receive a monthly disability benefit equal to 2/3 of the eligible  
6649 employee's regular monthly salary, for each month the total disability continues beyond the  
6650 elimination period, not to exceed the maximum benefit period.

6651 (5) If the office determines that the eligible employee is totally disabled due to psychiatric  
6652 illness, the eligible employee shall receive:

6653 (a) a maximum of two years of monthly disability benefits equal to 2/3 of the eligible  
6654 employee's regular monthly salary for each month the total disability continues beyond the  
6655 elimination period;

6656 (b) a maximum of \$10,000 for psychiatric expenses, including rehabilitation expenses  
6657 approved by the office's consultants, paid during the period of monthly disability benefits; and

6658 (c) payment of monthly disability benefits according to contractual provisions for a period  
6659 not to exceed five years if the eligible employee is institutionalized due to psychiatric illness.

6660 (6) If the office determines that the eligible employee is totally disabled due to a physical  
6661 injury resulting from external force or violence as a result of the performance of an employment

6662 duty, the eligible employee shall receive a monthly disability benefit equal to 100% of the eligible  
6663 employee's regular monthly salary, for each month the total disability continues beyond the  
6664 elimination period, not to exceed the maximum benefit period.

6665 ~~[(2)] (7) (a)~~ Successive periods of disability ~~[which: (a) result]~~ are considered as a  
6666 continuous period of disability if the period of disability:

6667 (i) results from the same or related causes~~[-(b) are];~~

6668 (ii) is separated by less than six months of continuous full-time work at the individual's  
6669 usual place of employment~~[-]; and [(c) commence]~~

6670 (iii) commences while the individual is an eligible employee covered by this chapter~~[-shall~~  
6671 be considered as a single period of disability].

6672 (b) The inability to work for a period of less than 15 consecutive days ~~[may not be]~~ is not  
6673 considered as a period of disability. ~~[Otherwise, successive]~~

6674 (c) If Subsection (7)(a) or (b) does not apply, successive periods of disability ~~[shall be]~~ are  
6675 considered as separate periods of disability.

6676 ~~[(3)] (8)~~ The ~~[board]~~ office may, at any time, have any eligible employee claiming  
6677 disability examined by a physician chosen by the ~~[board]~~ office to determine if the eligible  
6678 employee is totally disabled~~[-, and if so, the extent of the disability].~~

6679 ~~[(4) (a) Except as provided in Subsection (4)(b), any]~~

6680 (9) A claim brought by an eligible employee for long-term disability benefits under the  
6681 Public Employee's Long-Term Disability Program is barred if it is not commenced within one year  
6682 from the eligible employee's date of disability~~[-(b) If an employee fails to commence a claim for~~  
6683 long-term disability benefits within the time limitations prescribed by Subsection (4)(a), the board  
6684 may permit an employee to commence a claim for long-term disability benefits if the employee  
6685 demonstrates that], unless the office determines that under the surrounding facts and  
6686 circumstances, the eligible employee's failure to comply with the time limitations was reasonable.

6687 ~~[(5) Benefits for disability based primarily on psychopathy shall be determined in~~  
6688 accordance with Section 49-9-406.]

6689 ~~[(6)] (10)~~ Medical or ~~[psychological]~~ psychiatric conditions which existed prior to  
6690 enrollment ~~[shall]~~ may not be a basis for disability benefits until the eligible employee has had one  
6691 year of continuous enrollment in the Public Employees Long-Term Disability Program.

6692 (11) If there is a valid benefit protection contract, service credit shall accrue during the



6693 period of total disability, unless the disabled eligible employee is exempted from a system, or is  
6694 otherwise ineligible for service credit.

6695 Section 203. Section **49-21-402**, which is renumbered from Section 49-9-402 is  
6696 renumbered and amended to read:

6697 **[49-9-402]. 49-21-402. Reduction of benefit -- Circumstances -- Application for**  
6698 **other benefits required.**

6699 ~~[(1) (a) The monthly income disability benefit is two-thirds of the regular monthly salary~~  
6700 ~~paid as of the last day of actual service for the disabilities defined in Subsections 49-9-401(1)(a)~~  
6701 ~~and (b) and 100% of the regular monthly salary paid as of the last day of actual service for the~~  
6702 ~~disabilities defined in Subsection 49-9-401(1)(c).]~~

6703 ~~[(b) Payments may]~~

6704 (1) A monthly disability benefit may not be [made by the fund] paid for any period of total  
6705 disability unless the eligible employee is under the [regular] ongoing care and treatment of a  
6706 physician other than the eligible employee.

6707 (2) The monthly disability [income] benefit shall be reduced by any amount received by,  
6708 or [due] payable to, the eligible employee from the following sources for the same period of time  
6709 during which the eligible employee is entitled to receive [the] a monthly disability benefit:

6710 (a) Social Security disability benefits, including all benefits received by the eligible  
6711 employee, the eligible employee's spouse, and the eligible employee's dependent children[~~, except~~  
6712 that if Social Security benefits are increased to compensate for a change in the Consumer Price  
6713 Index, the monthly disability income benefit may not be further reduced, but shall only be offset  
6714 by benefits determined at the level in effect at the time of the commencement of benefits];

6715 (b) workers' compensation indemnity benefits;

6716 ~~[(c) armed services retirement or disability programs;]~~

6717 ~~[(d) civil service retirement or disability programs;]~~

6718 ~~[(e) disability benefits under any group insurance plan providing disability income benefits~~  
6719 ~~for which contributions or payroll deductions are made by the employer;]~~

6720 ~~[(f) any employer-paid public or private retirement or disability program for which the~~  
6721 ~~employee is eligible;]~~

6722 ~~[(g) (c) any monies received by judgment, legal action, or settlement from a third party~~  
6723 ~~liable to the employee for the disability; [and]~~

6724 ~~[(4)]~~ (d) unemployment compensation benefits[-];

6725 (e) automobile no-fault, medical payments, or similar insurance payments; and

6726 (f) any other disability benefits resulting from the disability for which benefits are being  
6727 received under this chapter.

6728 (3) The monthly disability benefit shall be reduced by any amount in excess of 1/3 of the  
6729 eligible employee's regular monthly salary received by, or payable to, the eligible employee from  
6730 the following sources for the same period of time during which the eligible employee is entitled  
6731 to receive a monthly disability benefit:

6732 (a) any employer-sponsored retirement programs; and

6733 (b) any disability benefit resulting from the disability for which benefits are being received  
6734 under this chapter.

6735 (4) Cost-of-living increases to any of the benefits listed in Subsection (2) may not be  
6736 considered in calculating a reduction to the monthly disability benefit.

6737 ~~[(3)]~~ (5) Any amounts ~~[received by, or]~~ payable to[-] the eligible employee from one or  
6738 more of the sources under Subsection (2) ~~[shall be]~~ are considered as amounts received ~~[by the~~  
6739 ~~employee]~~ whether or not the amounts were actually received by the eligible employee.

6740 ~~[(4)]~~ (6) (a) ~~[In order to be eligible for benefits under this chapter the]~~ An eligible  
6741 employee shall first apply for all disability benefits from governmental entities under Subsection  
6742 (2) to which the eligible employee is or may be entitled, and provide to the office evidence of the  
6743 applications.

6744 (b) The eligible employee shall also first apply at the earliest eligible age for all unreduced  
6745 retirement benefits to which the eligible employee is or may be entitled, and provide to the office  
6746 evidence of the application.

6747 ~~[(c) If the employee fails to apply, the board may apply on behalf of the employee:]~~

6748 (c) If the eligible employee fails to make application under Subsection (6)(a) or (b), the  
6749 monthly disability benefit shall be suspended.

6750 ~~[(d) The board may treat as income any amount the employee is entitled to receive but does~~  
6751 ~~not receive because application for benefits is not made by the employee and may reduce the~~  
6752 ~~monthly disability accordingly.]~~

6753 Section 204. Section **49-21-403**, which is renumbered from Section 49-9-403 is  
6754 renumbered and amended to read:

6755            ~~[49-9-403].~~    **49-21-403. Termination of disability benefits -- Calculation of**  
6756 **retirement benefit.**

6757            (1) ~~[Any member]~~ An eligible employee covered by this chapter and eligible for service  
6758 credit under a system, including an eligible employee who relinquishes rights to retirement benefits  
6759 ~~[pursuant to]~~ under Section ~~[49-1-405]~~ 49-11-619, who applies and is qualified for a monthly  
6760 disability ~~[benefits]~~ benefit shall receive a monthly disability ~~[allowance]~~ benefit until the earlier  
6761 of:

6762            (a) the date the ~~[member or]~~ eligible employee ~~[who relinquishes rights to retirement~~  
6763 benefits] has accumulated:

6764            (i) 20 years of service credit if the ~~[member]~~ eligible employee is covered by ~~[Chapters~~  
6765 ~~4 or 4a,]~~ Chapter 14, Public Safety Contributory Retirement ~~[and]~~ Act, or Chapter 15, Public  
6766 Safety Noncontributory Retirement ~~[Acts]~~ Act;

6767            (ii) 25 years of service credit if the ~~[member]~~ eligible employee is covered by Chapter ~~[6]~~  
6768 17, Judges' Contributory Retirement Act, or Chapter 18, Judges' Noncontributory Retirement Act;  
6769 or

6770            (iii) 30 years of service credit if the ~~[member]~~ eligible employee is covered by ~~[Chapters~~  
6771 ~~2 or 3]~~ Chapter 12, Public Employees' Contributory Retirement ~~[and]~~ Act, or Chapter 13, Public  
6772 Employees' Noncontributory Retirement ~~[Acts]~~ Act; or

6773            (b) the ~~[member]~~ date the eligible employee has received a monthly disability ~~[benefits]~~  
6774 benefit for the following applicable time periods:

6775            (i) if the ~~[member]~~ eligible employee is under age 60, the monthly disability ~~[allowance]~~  
6776 benefit is payable until age 65;

6777            (ii) if the ~~[member]~~ eligible employee is 60~~[=]~~ or 61 years of age on the date of disability,  
6778 the monthly disability ~~[allowance]~~ benefit is payable for five years;

6779            (iii) if the ~~[member]~~ eligible employee is 62~~[=]~~ or 63 years of age on the date of disability,  
6780 the monthly disability ~~[allowance]~~ benefit is payable for four years;

6781            (iv) if the ~~[member]~~ eligible employee is 64~~[=]~~ or 65 years of age on the date of disability,  
6782 the monthly disability ~~[allowance]~~ benefit is payable for three years;

6783            (v) if the ~~[member]~~ eligible employee is 66~~[=]~~, 67, or 68 years of age on the date of  
6784 disability, the monthly disability ~~[allowance]~~ benefit is payable for two years; and

6785            (vi) if the ~~[member]~~ eligible employee is ~~[age]~~ 69 years of age or older on the date of

6786 disability, the monthly disability benefit is payable for one year.

6787 (2) (a) Upon termination of a monthly disability [~~benefits, the disabled~~] benefit, an eligible  
6788 employee [~~shall~~] eligible for service credit under a system may retire under the [~~retirement~~] system  
6789 which covered the eligible employee [~~at the time~~] on the date of disability.

6790 (b) The final average salary used in the calculation of the [~~retirement benefit~~] allowance  
6791 shall be based on the annual rate of pay [~~at the time~~] on the date of disability, improved by the  
6792 annual cost-of-living increase factor applied to [~~retired participants in~~] retirees of the system which  
6793 covered the eligible employee [~~at the time~~] on the date of disability. [~~Retirement credit shall accrue~~  
6794 ~~during the period of disability unless the disabled employee is exempted from the system.~~]

6795 (3) An eligible employee who is [~~in a position covered by a system administered by the~~  
6796 ~~board~~] eligible for service credit in a system, but has relinquished rights to [~~retirement benefits~~  
6797 ~~pursuant to~~] an allowance under Section [~~49-1-405~~] 49-11-619, may receive the [~~benefit~~] benefits  
6798 the eligible employee would have received by [~~full participation~~] being eligible for service credit  
6799 in the system covering the eligible employee on the date of disability, except for the accrual of  
6800 service credit, in accordance with this title.

6801 (4) An eligible employee receiving a monthly disability [~~benefits~~] benefit who has [~~years~~  
6802 ~~of~~] service credit from two or more systems [~~or plans administered by the board~~] may not combine  
6803 [~~these~~] service credits under Section [~~49-1-406~~] 49-11-405 in [~~determining eligibility~~] qualifying  
6804 for retirement, unless the eligible employee would receive a greater [~~retirement benefit~~] allowance  
6805 by combining [~~such~~] the service credits.

6806 (5) A monthly disability benefit payable to an eligible employee who is not eligible for  
6807 service credit under a system shall terminate at the earliest of:

6808 (a) the date the eligible employee is eligible for an unreduced retirement benefit; or

6809 (b) the date the eligible employee has received a monthly disability benefit for the  
6810 applicable time period as set forth in Subsection (1)(b).

6811 Section 205. Section **49-21-404**, which is renumbered from Section 49-9-404 is  
6812 renumbered and amended to read:

6813 [~~49-9-404~~]. **49-21-404. Annual adjustment to disability benefit.**

6814 (1) (a) An eligible employee receiving a monthly disability [~~benefits~~] benefit shall receive  
6815 an annual adjustment on the [~~employee's anniversary~~] date following the end of the elimination  
6816 period to reflect [~~changes~~] annual changes in the [~~Consumer Price Index as computed by the~~]

6817 United States Bureau of Labor Statistics Consumer Price Index average as determined by the  
6818 board. [~~The~~]

6819 (b) This adjustment [~~shall be approved by the board and~~] may not exceed adjustments  
6820 made to [~~retirants~~] retirees under the system which covered the eligible employee [~~at the time~~] on  
6821 the date of disability.

6822 (2) If an employee is not eligible for service credit under a system, the annual adjustment  
6823 shall be equal to the adjustment calculated under Section 49-13-407.

6824 Section 206. Section **49-21-405**, which is renumbered from Section 49-9-405 is  
6825 renumbered and amended to read:

6826 [~~49-9-405~~]. **49-21-405. Disability benefit -- Exclusions.**

6827 [~~The disability trust fund does not cover any loss resulting from~~] A monthly disability  
6828 benefit is not payable for the following:

6829 (1) self-inflicted injury;

6830 [~~(2) war or any act of war, or suffering while in military or naval services of any country~~  
6831 ~~at war;~~]

6832 [~~(3)~~] (2) alcoholism;

6833 [~~(4) drug addiction; or~~]

6834 (3) substance abuse;

6835 [~~(5)~~] (4) disability arising from or caused by acts of aggression committed by the eligible  
6836 employee[-]; or

6837 (5) the eligible employee committing or attempting to commit a felony or other illegal act.

6838 Section 207. Section **49-21-406**, which is renumbered from Section 49-9-407 is  
6839 renumbered and amended to read:

6840 [~~49-9-407~~]. **49-21-406. Rehabilitative employment -- Interview by disability**  
6841 **specialist -- Maintaining eligibility -- Additional treatment and care.**

6842 (1) (a) If an eligible employee, following a period of total disability for which the monthly  
6843 disability benefit is payable, engages in approved rehabilitative employment, the monthly disability  
6844 benefit otherwise payable shall be reduced by an amount equal to 50% of the [~~wages or profits~~]  
6845 income to which the eligible employee is entitled for the employment during the month.

6846 (b) This benefit [~~will be~~] is payable for up to [~~24 months~~] two years or to the end of the  
6847 maximum benefit period, whichever occurs first.

6848 (2) (a) Each [disabled] eligible employee receiving a monthly disability benefit shall be  
6849 interviewed [by a disability specialist employed] by the [board] office. [The disability specialist  
6850 shall prepare a written rehabilitation plan for the employee. If it appears that the employee cannot  
6851 return to his regular occupation, other vocational alternatives shall be sought whenever feasible.  
6852 These alternatives include, but are not limited to, training courses needed to qualify for a new  
6853 occupation, aids to mobility and job performance, and job placement assistance.]

6854 [(3) Each disabled employee, in order to maintain eligibility for benefits, shall engage  
6855 actively in a rehabilitation program if it is determined by a physician, or by a majority of a panel  
6856 of licensed physicians, that a rehabilitation program would reasonably ensure that the employee  
6857 would become capable of holding regular employment in any occupation. Failure on the part of  
6858 the employee to participate reasonably in a board-approved rehabilitation program shall result in  
6859 forfeiture of the monthly benefit.]

6860 (b) The office may refer the eligible employee to a disability specialist for a review of the  
6861 eligible employee's condition and a written rehabilitation plan.

6862 (3) If an eligible employee receiving a monthly disability benefit fails to participate in an  
6863 office-approved rehabilitation program within the limitations set forth by a physician, the monthly  
6864 disability benefit may be suspended or terminated.

6865 (4) The [board] office may, as a condition of [making any payment under this chapter]  
6866 paying a monthly disability benefit, require that the eligible employee receive [additional] medical  
6867 care and treatment [including, but not limited to, therapy, psychoanalysis, and regular medication,]  
6868 if that treatment is reasonable or usual according to current medical practices.

6869 Section 208. Section **49-21-407**, which is renumbered from Section 49-9-409 is  
6870 renumbered and amended to read:

6871 **[49-9-409]. 49-21-407. Health insurance reimbursements for persons with a**  
6872 **disability -- Limitations.**

6873 [(1) The fund created under Section 49-9-202 shall pay the costs of health insurance  
6874 coverage for each member receiving a disability benefit under this chapter beginning on the 25th  
6875 month following the date of disability.]

6876 [(2) Payments made from the fund for health insurance coverage may not exceed the  
6877 amount the member and the employer would have paid by participating in the Preferred Care  
6878 Program offered by the group insurance division to the member's employer pursuant to Title 49,

6879 ~~Chapter 8, Group Insurance Program Act, at the time of disability.]~~

6880 Beginning on the 25th month following the date of disability, the Public Employees'  
6881 Long-Term Disability Trust Fund shall pay the cost of the health insurance coverage in effect at  
6882 the time of disability up to the amount the state would have paid by participating in the Preferred  
6883 Care Program offered by the Group Insurance Division under Chapter 20, Public Employees'  
6884 Insurance Program Act.

6885 Section 209. Section **51-7-4** is amended to read:

6886 **51-7-4. Transfer of functions, powers, and duties relating to public funds to state**  
6887 **treasurer -- Exceptions -- Deposit of income from investment of state money.**

6888 (1) Unless otherwise required by the Utah Constitution or applicable federal law, the  
6889 functions, powers, and duties vested by law in each and every state officer, board, commission,  
6890 institution, department, division, agency, and other similar instrumentalities relating to the deposit,  
6891 investment, or reinvestment of public funds, and the purchase, sale, or exchange of any  
6892 investments or securities of or for any funds or accounts under the control and management of  
6893 these instrumentalities, are transferred to and shall be exercised by the state treasurer, except:

6894 (a) funds assigned to the Utah State Retirement Board for investment under Section  
6895 ~~[49-1-302]~~ 49-11-302;

6896 (b) funds of member institutions of the state system of higher education:

6897 (i) acquired by gift, devise, or bequest, or by federal or private contract or grant;

6898 (ii) derived from student fees or from income from operations of auxiliary enterprises,  
6899 which fees and income are pledged or otherwise dedicated to the payment of interest and principal  
6900 of bonds issued by such institutions; and

6901 (iii) any other funds which are not included in the institution's work program as approved  
6902 by the State Board of Regents;

6903 (c) funds of the Utah Technology Finance Corporation;

6904 (d) inmate funds as provided in Section 64-13-23 or in Title 64, Chapter 9b, Work  
6905 Programs for Prisoners;

6906 (e) trust funds established by judicial order;

6907 (f) funds of the Workers' Compensation Fund; and

6908 (g) funds of the Utah Housing Finance Agency.

6909 (2) All public funds held or administered by the state or any of its boards, commissions,

6910 institutions, departments, divisions, agencies, or similar instrumentalities and not transferred to the  
6911 state treasurer as provided by this section shall be:

6912 (a) deposited and invested by the custodian in accordance with this chapter, unless  
6913 otherwise required by statute or by applicable federal law; and

6914 (b) reported to the state treasurer in a form prescribed by the state treasurer.

6915 (3) Unless otherwise provided by the constitution or laws of this state or by contractual  
6916 obligation, the income derived from the investment of state money by the state treasurer shall be  
6917 deposited in and become part of the General Fund.

6918 Section 210. Section **53-6-107** is amended to read:

6919 **53-6-107. General duties of council.**

6920 (1) The council shall:

6921 (a) advise the director regarding:

6922 (i) the approval, certification, or revocation of certification of any certified academy  
6923 established in the state;

6924 (ii) the refusal, suspension, or revocation of certification of a peace officer;

6925 (iii) minimum courses of study, attendance requirements, and the equipment and facilities  
6926 to be required at a certified academy;

6927 (iv) minimum qualifications for instructors at a certified academy;

6928 (v) the minimum basic training requirements that peace officers shall complete before  
6929 receiving certification;

6930 (vi) the minimum basic training requirements that dispatchers shall complete before  
6931 receiving certification; and

6932 (vii) categories or classifications of advanced in-service training programs and minimum  
6933 courses of study and attendance requirements for the categories or classifications;

6934 (b) recommend that studies, surveys, or reports, or all of them be made by the director  
6935 concerning the implementation of the objectives and purposes of this chapter;

6936 (c) make recommendations and reports to the commissioner and governor from time to  
6937 time; and

6938 (d) perform other acts as necessary to carry out the duties of the council in this chapter.

6939 (2) The council may approve special function officers for membership in the Public Safety  
6940 Retirement System in accordance with Sections ~~[49-4-203]~~ 49-14-201 and ~~[49-4a-203]~~ 49-15-201.



6941 Section 211. Section **53-7-105** is amended to read:

6942 **53-7-105. State fire marshal, deputies, and investigators -- Status of law enforcement**  
6943 **officers -- Inclusion in Public Safety Retirement -- Training.**

6944 (1) The state fire marshal, his deputies, and investigators, for the purpose of enforcing and  
6945 investigating violations of fire related statutes and ordinances, have the status of law enforcement  
6946 officers.

6947 (2) Inclusion under Title 49, Chapter [~~4~~] 14, Public Safety Contributory Retirement Act,  
6948 or Title 49, Chapter [~~4a~~] 15, Public Safety Noncontributory Retirement Act, is not authorized by  
6949 Subsection (1) except as provided in those chapters.

6950 (3) The commissioner, with the concurrence of the Peace Officer Standards and Training  
6951 Advisory Board may require peace officer standards and training for the state fire marshal, his  
6952 deputies, and investigators.

6953 Section 212. Section **53-13-108** is amended to read:

6954 **53-13-108. Retirement.**

6955 Eligibility for coverage under the Public Safety Contributory Retirement System or Public  
6956 Safety Noncontributory Retirement System for persons and political subdivisions included in this  
6957 chapter is governed by Title 49, Chapter [~~4~~] 14, Public Safety Contributory Retirement Act, and  
6958 Chapter [~~4a~~] 15, Public Safety Noncontributory Retirement Act.

6959 Section 213. Section **53A-17a-125** is amended to read:

6960 **53A-17a-125. Appropriation for retirement and Social Security.**

6961 (1) There is appropriated to the State Board of Education for the fiscal year beginning July  
6962 1, 2001, \$214,685,479 for retirement and Social Security costs.

6963 (2) The employee's retirement contribution shall be 1% for employees who are under the  
6964 state's contributory retirement program.

6965 (3) The employer's contribution under the state's contributory retirement program is  
6966 determined under Section [~~49-2-301~~] 49-12-301, subject to the 1% contribution under Subsection  
6967 (2).

6968 (4) The employer-employee contribution rate for employees who are under the state's  
6969 noncontributory retirement program is determined under Section [~~49-3-301~~] 49-13-301.

6970 Section 214. Section **63-95-102** is amended to read:

6971 **63-95-102. Definitions.**

6972 For purposes of this chapter:

6973 (1) "Asset" means property of all kind, real and personal, tangible and intangible, and  
6974 includes:

6975 (a) cash, except reasonable compensation or salary for services rendered;

6976 (b) stock or other investments;

6977 (c) goodwill;

6978 (d) real property;

6979 (e) an ownership interest;

6980 (f) a license;

6981 (g) a cause of action; and

6982 (h) any similar property.

6983 (2) "Authorizing statutes" means the statutes creating an entity as a quasi-governmental  
6984 entity.

6985 (3) "Business interest" means:

6986 (a) holding the position of trustee, director, officer, or other similar position with a  
6987 business entity; or

6988 (b) the ownership, either legally or equitably, of at least 10% of the outstanding shares of  
6989 a corporation or 10% interest in any other business entity, being held by:

6990 (i) an individual;

6991 (ii) the individual's spouse;

6992 (iii) a minor child of the individual; or

6993 (iv) any combination of Subsections (3)(b)(i) through (iii).

6994 (4) "Committee" means the Legislative Quasi-Governmental Entities Committee created  
6995 in Section 63-95-201.

6996 (5) "Government requestor" means:

6997 (a) the governor;

6998 (b) an executive branch officer other than the governor;

6999 (c) an executive branch agency;

7000 (d) a legislator, including a legislative sponsor of legislation creating a quasi-governmental  
7001 entity; or

7002 (e) a legislative committee.

- 7003 (6) "Interested party" means a person that held or holds the position of trustee, director,  
7004 officer, or other similar position with a quasi-governmental entity within:
- 7005 (a) five years prior to the date of an action described in Subsection (8); or  
7006 (b) during the privatization of a quasi-governmental entity.
- 7007 (7) "Lobbyist" is a person that provided or provides services as a lobbyist, as defined in  
7008 Section 36-11-102, within:
- 7009 (a) five years prior to the date of an action described in Subsection (8); or  
7010 (b) during the privatization of a quasi-governmental entity.
- 7011 (8) (a) "Privatized" means an action described in Subsection (8)(b) taken under  
7012 circumstances in which the operations of the quasi-governmental entity are continued by a  
7013 successor entity that:
- 7014 (i) is privately owned;  
7015 (ii) is unaffiliated to the state; and  
7016 (iii) receives any asset of the quasi-governmental entity.
- 7017 (b) An action referred to in Subsection (8)(a) includes:
- 7018 (i) the repeal of the authorizing statute of a quasi-governmental entity and the revision to  
7019 state laws to terminate the relationship between the state and the quasi-governmental entity;  
7020 (ii) the dissolution of the quasi-governmental entity;  
7021 (iii) the merger or consolidation of the quasi-governmental entity with another entity; or  
7022 (iv) the sale of all or substantially all of the assets of the quasi-governmental entity.
- 7023 (9) (a) "Quasi-governmental entity" means an entity that:
- 7024 (i) is created by the state or is given by the state the right to exist and conduct its affairs  
7025 as a quasi-governmental entity:
- 7026 (A) to serve a public purpose; and  
7027 (B) to meet a need that cannot be met through a private business; and  
7028 (ii) is designated by the state as:
- 7029 (A) an independent state agency;  
7030 (B) an independent public corporation;  
7031 (C) a quasi-public corporation; or  
7032 (D) a term similar to that described in Subsections (9)(a)(ii)(A) through (C).
- 7033 (b) "Quasi-governmental entity" includes the:

- 7034 (i) Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;
- 7035 (ii) Utah Technology Finance Corporation created in Title 9, Chapter 13, Utah Technology  
7036 and Small Business Finance Act;
- 7037 (iii) Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3, Heber Valley  
7038 Historic Railroad Authority;
- 7039 (iv) Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah Science  
7040 Center Authority;
- 7041 (v) Utah Housing [~~Finance Agency~~] Corporation created in Title 9, Chapter 4, Part 9, Utah  
7042 Housing [~~Finance Agency~~] Corporation Act;
- 7043 (vi) Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah State Fair  
7044 Corporation Act;
- 7045 (vii) Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'  
7046 Compensation Fund;
- 7047 (viii) Utah State Retirement Office created in Title 49, Chapter [~~1, Part 2, Retirement~~  
7048 ~~Office and Board~~] 11, Utah State Retirement Systems Administration;
- 7049 (ix) School and Institutional Trust Lands Administration created in Title 53C, Chapter 1,  
7050 Part 2, School and Institutional Trust Lands Administration; and
- 7051 (x) Utah Communications Agency Network created in Title 63C, Chapter 7, Utah  
7052 Communications Agency Network Act.
- 7053 (c) Notwithstanding Subsection (9)(a), "quasi-governmental entity" does not include:
- 7054 (i) the Public Service Commission of Utah created in Section 54-1-1;
- 7055 (ii) an institution within the state system of higher education;
- 7056 (iii) a city, county, or town;
- 7057 (iv) a local school district;
- 7058 (v) a special district created under the authority of Title 17A, Special Districts; or
- 7059 (vi) a local district created under the authority of Title 17B, Limited Purpose Local  
7060 Government Entities.
- 7061 Section 215. Section **63-95-202** is amended to read:
- 7062 **63-95-202. Duties of the committee.**
- 7063 (1) The committee shall:
- 7064 (a) study the scope of this chapter and determine what entities should be treated under this

7065 chapter as quasi-governmental entities;

7066 (b) study the provisions of the Utah Code that govern each quasi-governmental entity  
7067 including whether or not there should be consistency in these provisions;

7068 (c) study what provisions of the Utah Code, if any, from which each quasi-governmental  
7069 entity should be exempted;

7070 (d) study whether or not the state should receive services from or provide services to each  
7071 quasi-governmental entity;

7072 (e) request and hear reports from each quasi-governmental entity;

7073 (f) review the annual audit of each quasi-governmental entity that is performed in  
7074 accordance with the statutes governing the quasi-governmental entity;

7075 (g) comply with Part 3, Creation of Quasi-Governmental Entity, in reviewing a proposal  
7076 to create a new quasi-governmental entity;

7077 (h) if the committee recommends a change in the organizational status of a  
7078 quasi-governmental entity as provided in Subsection (2) and subject to Part 4, Privatization of  
7079 Quasi-Governmental Entities, recommend the appropriate method of changing the organizational  
7080 status of the quasi-governmental entity;

7081 (i) study the following concerning an entity created by local agreement under Title 11,  
7082 Chapter 13, Interlocal Cooperation Act, if the state is a party to the agreement creating the entity:

7083 (i) whether or not the entity should be subject to this chapter;

7084 (ii) whether or not the state should receive services from or provide services to the entity;

7085 (iii) reporting and audit requirements for the entity; and

7086 (iv) the need, if any, to modify statutes related to the entity; and

7087 (j) report annually to the Legislative Management Committee by no later than the  
7088 Legislative Management Committee's November meeting.

7089 (2) The committee may:

7090 (a) establish a form for any report required under Subsection (1);

7091 (b) make recommendations to the Legislature concerning the organizational status of a  
7092 quasi-governmental entity;

7093 (c) advise the Legislature concerning issues involving quasi-governmental entities; and

7094 (d) study issues related to the implementation of Title 49, Utah State Retirement and  
7095 Insurance Benefit Act.

7096 Section 216. Section **63E-1-102 (Effective 07/01/02)** is amended to read:

7097 **63E-1-102 (Effective 07/01/02). Definitions.**

7098 As used in this title:

7099 (1) "Authorizing statute" means the statute creating an entity as an independent entity.

7100 (2) "Committee" means the Legislative Independent Entities Committee created in Section  
7101 63E-1-201.

7102 (3) "Independent corporation" means a corporation incorporated in accordance with  
7103 Chapter 2, Independent Corporations Act.

7104 (4) (a) "Independent entity" means an entity having a public purpose relating to the state  
7105 or its citizens that is individually created by the state or is given by the state the right to exist and  
7106 conduct its affairs as an:

7107 (i) independent state agency; or

7108 (ii) independent corporation.

7109 (b) "Independent entity" includes the:

7110 (i) Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

7111 (ii) Utah Technology Finance Corporation created in Title 9, Chapter 13, Utah Technology  
7112 and Small Business Finance Act;

7113 (iii) Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3, Heber Valley  
7114 Historic Railroad Authority;

7115 (iv) Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah Science  
7116 Center Authority;

7117 (v) Utah Housing [~~Finance Agency~~] Corporation created in Title 9, Chapter 4, Part 9, Utah  
7118 Housing [~~Finance Agency~~] Corporation Act;

7119 (vi) Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah State Fair  
7120 Corporation Act;

7121 (vii) Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'  
7122 Compensation Fund;

7123 (viii) Utah State Retirement Office created in Title 49, Chapter [~~1, Part 2, Retirement~~  
7124 ~~Office and Board~~] 11, Utah State Retirement Systems Administration;

7125 (ix) School and Institutional Trust Lands Administration created in Title 53C, Chapter 1,  
7126 Part 2, School and Institutional Trust Lands Administration; and

7127 (x) Utah Communications Agency Network created in Title 63C, Chapter 7, Utah  
7128 Communications Agency Network Act.

7129 (c) Notwithstanding this Subsection (4), "independent entity" does not include:

7130 (i) the Public Service Commission of Utah created in Section 54-1-1;

7131 (ii) an institution within the state system of higher education;

7132 (iii) a city, county, or town;

7133 (iv) a local school district;

7134 (v) a special district created under the authority of Title 17A, Special Districts; or

7135 (vi) a local district created under the authority of Title 17B, Limited Purpose Local  
7136 Government Entities.

7137 (5) "Independent state agency" means an entity that is created by the state, but is  
7138 independent of the governor's direct supervisory control.

7139 (6) "Monies held in trust" means monies maintained for the benefit of:

7140 (a) one or more private individuals, including public employees;

7141 (b) one or more public or private entities; or

7142 (c) the owners of a quasi-public corporation.

7143 (7) "Public corporation" means an artificial person, public in ownership, individually  
7144 created by the state as a body politic and corporate for the administration of a public purpose  
7145 relating to the state or its citizens.

7146 (8) "Quasi-public corporation" means an artificial person, private in ownership,  
7147 individually created as a corporation by the state which has accepted from the state the grant of a  
7148 franchise or contract involving the performance of a public purpose relating to the state or its  
7149 citizens.

7150 Section 217. Section **63E-1-202 (Effective 07/01/02)** is amended to read:

7151 **63E-1-202 (Effective 07/01/02). Duties of the committee.**

7152 (1) The committee shall:

7153 (a) study the scope of this title and determine what entities should be treated under this title  
7154 as independent entities;

7155 (b) study the provisions of the Utah Code that govern each independent entity, including  
7156 whether or not there should be consistency in these provisions;

7157 (c) study what provisions of the Utah Code, if any, from which each independent entity

7158 should be exempted;

7159 (d) study whether or not the state should receive services from or provide services to each  
7160 independent entity;

7161 (e) request and hear reports from each independent entity;

7162 (f) review the annual audit of each independent entity that is performed in accordance with  
7163 the statutes governing the independent entity;

7164 (g) comply with Part 3, Creation of Independent Entities, in reviewing a proposal to create  
7165 a new independent entity;

7166 (h) if the committee recommends a change in the organizational status of an independent  
7167 entity as provided in Subsection (2) and subject to Part 4, Privatization of Independent Entities,  
7168 recommend the appropriate method of changing the organizational status of the independent entity;

7169 (i) study the following concerning an entity created by local agreement under Title 11,  
7170 Chapter 13, Interlocal Cooperation Act, if the state is a party to the agreement creating the entity:

7171 (i) whether or not the entity should be subject to this chapter;

7172 (ii) whether or not the state should receive services from or provide services to the entity;

7173 (iii) reporting and audit requirements for the entity; and

7174 (iv) the need, if any, to modify statutes related to the entity;

7175 (j) make a recommendation on the organizational status of each independent entity prior  
7176 to the 2002 General Session; and

7177 (k) report annually to the Legislative Management Committee by no later than the  
7178 Legislative Management Committee's November meeting.

7179 (2) The committee may:

7180 (a) establish a form for any report required under Subsection (1);

7181 (b) make recommendations to the Legislature concerning the organizational status of an  
7182 independent entity;

7183 (c) advise the Legislature concerning issues involving independent entities; and

7184 (d) study issues related to the implementation of Title 49, Utah State Retirement and  
7185 Insurance Benefit Act.

7186 Section 218. Section **67-8-3** is amended to read:

7187 **67-8-3. Compensation plan for appointive officers -- Exceptions -- Legislative**  
7188 **approval -- Career status attorneys.**



7189 (1) (a) The director of the Department of Human Resource Management, based upon  
7190 recommendations of the Executive and Judicial Compensation Commission shall, before October  
7191 31 of each year, recommend to the governor a compensation plan for appointed officers of the state  
7192 except those officers whose compensation is set under Section [~~49-1-203~~] 49-11-203, 53A-1-301,  
7193 53B-1-105, or 53C-1-301.

7194 (b) The plan shall include salaries and wages, paid leave, group insurance plans, retirement  
7195 programs, and any other benefits that may be offered to state officers.

7196 (2) The governor shall include in each annual budget proposal to the Legislature specific  
7197 recommendations on compensation for those appointed state officers in Subsection (1).

7198 (3) (a) After consultation with the attorney general, the director of the Department of  
7199 Human Resource Management shall place career status attorneys on a state salary schedule at a  
7200 range comparable with salaries paid attorneys in private and other public employment.

7201 (b) The attorney general and the director shall take into consideration the experience of  
7202 the attorney, length of service with the Office of the Attorney General, quality of performance, and  
7203 responsibility involved in legal assignments.

7204 (c) The attorney general and the director shall periodically adjust the salary levels for  
7205 attorneys in a career status to reasonably compensate them for full-time employment and the  
7206 restrictions placed on the private practice of law.

7207 Section 219. Section **67-20-7** is amended to read:

7208 **67-20-7. Workers' compensation benefits for volunteer firefighters.**

7209 (1) In addition to the purposes set out in Subsections 67-20-3(2) and (3), a volunteer  
7210 firefighter, as defined in Section [~~49-5-103~~] 49-16-102, is considered an agency employee for the  
7211 purpose of receiving workers' compensation benefits under Title [~~35A~~] 34A, Chapter [~~3~~] 2,  
7212 Workers' Compensation and Chapter [~~3a~~] 3, Utah Occupational Disease Act.

7213 (2) These benefits are the exclusive remedy for all injuries and occupational diseases  
7214 resulting from his services as a volunteer firefighter. Compensation shall be computed as indicated  
7215 in Section [~~49-5-802~~] 49-16-701.

7216 Section 220. Section **67-22-1** is amended to read:

7217 **67-22-1. Compensation -- Constitutional offices.**

7218 (1) The Legislature fixes salaries for the constitutional offices as follows:

7219 (a) Governor \$100,600

- 7220 (b) Lieutenant Governor \$78,200
- 7221 (c) Attorney General \$84,600
- 7222 (d) State Auditor \$80,700
- 7223 (e) State Treasurer \$78,200
- 7224 (2) The Legislature fixes benefits for the constitutional offices as follows:
- 7225 (a) Governor:
- 7226 (i) a vehicle for official and personal use;
- 7227 (ii) housing;
- 7228 (iii) household and security staff;
- 7229 (iv) household expenses;
- 7230 (v) retirement benefits as provided in Title 49;
- 7231 (vi) health insurance;
- 7232 (vii) dental insurance;
- 7233 (viii) basic life insurance;
- 7234 (ix) workers' compensation;
- 7235 (x) required employer contribution to Social Security;
- 7236 (xi) long-term disability income insurance; and
- 7237 (xii) the same additional state paid life insurance available to other noncareer service
- 7238 employees.
- 7239 (b) Lieutenant governor, attorney general, state auditor, and state treasurer:
- 7240 (i) a vehicle for official and personal use;
- 7241 (ii) the option of participating in a state retirement system established by Title 49, Chapter
- 7242 [2] 12, Public Employees' Contributory Retirement Act, or Chapter [3] 13, Public Employees'
- 7243 Noncontributory Retirement Act, or in a deferred compensation plan administered by the State
- 7244 Retirement Office, in accordance with the Internal Revenue Code and its accompanying rules and
- 7245 regulations;
- 7246 (iii) health insurance;
- 7247 (iv) dental insurance;
- 7248 (v) basic life insurance;
- 7249 (vi) workers' compensation;
- 7250 (vii) required employer contribution to Social Security;

7251 (viii) long-term disability income insurance; and  
 7252 (ix) the same additional state paid life insurance available to other noncareer service  
 7253 employees.

7254 (c) Each constitutional office shall pay the cost of the additional state-paid life insurance  
 7255 for its constitutional officer from its existing budget.

7256 Section 221. Section **67-22-2** is amended to read:

7257 **67-22-2. Compensation -- Other state officers.**

7258 (1) The governor shall establish salaries for the following state officers within the  
 7259 following salary ranges fixed by the Legislature:

7260	State Officer	Salary Range
7261	Commissioner of Agriculture and Food	\$64,600 - \$87,500
7262	Commissioner of Insurance	\$64,600 - \$87,500
7263	Commissioner of the Labor Commission	\$64,600 - \$87,500
7264	Director, Alcoholic Beverage Control	
7265	Commission	\$64,600 - \$87,500
7266	Commissioner, Department of	
7267	Financial Institutions	\$64,600 - \$87,500
7268	Members, Board of Pardons and Parole	\$64,600 - \$87,500
7269	Executive Director, Department	
7270	of Commerce	\$64,600 - \$87,500
7271	Executive Director, Commission on	
7272	Criminal and Juvenile Justice	\$64,600 - \$87,500
7273	Adjutant General	\$64,600 - \$87,500
7274	Chair, Tax Commission	\$69,900 - \$94,300
7275	Commissioners, Tax Commission	\$69,900 - \$94,300
7276	Executive Director, Department of	
7277	Community and Economic	
7278	Development	\$69,900 - \$94,300
7279	Executive Director, Tax Commission	\$69,900 - \$94,300
7280	Chair, Public Service Commission	\$69,900 - \$94,300
7281	Commissioner, Public Service Commission	\$69,900 - \$94,300

7282	Executive Director, Department	
7283	of Corrections	\$76,000 - \$102,600
7284	Commissioner, Department of Public Safety	\$76,000 - \$102,600
7285	Executive Director, Department of	
7286	Natural Resources	\$76,000 - \$102,600
7287	Director, Office of Planning	
7288	and Budget	\$76,000 - \$102,600
7289	Executive Director, Department of	
7290	Administrative Services	\$76,000 - \$102,600
7291	Executive Director, Department of	
7292	Human Resource Management	\$76,000 - \$102,600
7293	Executive Director, Department of	
7294	Environmental Quality	\$76,000 - \$102,600
7295	State Olympic Officer	\$82,800 - \$111,800
7296	Executive Director, Department of	
7297	Workforce Services	\$82,800 - \$111,800
7298	Executive Director, Department of	
7299	Health	\$82,800 - \$111,800
7300	Executive Director, Department	
7301	of Human Services	\$82,800 - \$111,800
7302	Executive Director, Department	
7303	of Transportation	\$82,800 - \$111,800
7304	Chief Information Officer	\$82,800 - \$111,800

7305 (2) (a) The Legislature fixes benefits for the state offices outlined in Subsection (1) as  
 7306 follows:

7307 (i) the option of participating in a state retirement system established by Title 49, Utah  
 7308 State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by  
 7309 the State Retirement Office in accordance with the Internal Revenue Code and its accompanying  
 7310 rules and regulations;

7311 (ii) health insurance;

7312 (iii) dental insurance;

- 7313 (iv) basic life insurance;
- 7314 (v) unemployment compensation;
- 7315 (vi) workers' compensation;
- 7316 (vii) required employer contribution to Social Security;
- 7317 (viii) long-term disability income insurance;
- 7318 (ix) the same additional state-paid life insurance available to other noncareer service
- 7319 employees;
- 7320 (x) the same severance pay available to other noncareer service employees;
- 7321 (xi) the same sick leave, converted sick leave, educational allowances, and holidays
- 7322 granted to Schedule B state employees, and the same annual leave granted to Schedule B state
- 7323 employees with more than ten years of state service;
- 7324 (xii) the option to convert accumulated sick leave to cash or insurance benefits as provided
- 7325 by law or rule upon resignation or retirement according to the same criteria and procedures applied
- 7326 to Schedule B state employees;
- 7327 (xiii) the option to purchase additional life insurance at group insurance rates according
- 7328 to the same criteria and procedures applied to Schedule B state employees; and
- 7329 (xiv) professional memberships if being a member of the professional organization is a
- 7330 requirement of the position.
- 7331 (b) Each department shall pay the cost of additional state-paid life insurance for its
- 7332 executive director from its existing budget.
- 7333 (3) The Legislature fixes the following additional benefits:
- 7334 (a) for the executive director of the State Tax Commission a vehicle for official and
- 7335 personal use;
- 7336 (b) for the executive director of the Department of Transportation a vehicle for official and
- 7337 personal use;
- 7338 (c) for the executive director of the Department of Natural Resources a vehicle for
- 7339 commute and official use;
- 7340 (d) for the Commissioner of Public Safety:
- 7341 (i) an accidental death insurance policy if POST certified; and
- 7342 (ii) a public safety vehicle for official and personal use;
- 7343 (e) for the executive director of the Department of Corrections:

- 7344 (i) an accidental death insurance policy if POST certified; and
- 7345 (ii) a public safety vehicle for official and personal use;
- 7346 (f) for the Adjutant General a vehicle for official and personal use; and
- 7347 (g) for each member of the Board of Pardons and Parole a vehicle for commute and official
- 7348 use.

7349 (4) (a) The governor has the discretion to establish a specific salary for each office listed  
7350 in Subsection (1), and, within that discretion, may provide salary increases within the range fixed  
7351 by the Legislature.

7352 (b) The governor shall apply the same overtime regulations applicable to other FLSA  
7353 exempt positions.

7354 (c) The governor may develop standards and criteria for reviewing the performance of the  
7355 state officers listed in Subsection (1).

7356 (5) Salaries for other Schedule A employees, as defined in Section 67-19-15, which are  
7357 not provided for in this chapter, or in Title 67, Chapter 8, Utah Executive and Judicial Salary Act,  
7358 shall be established as provided in Section 67-19-15.

7359 Section 222. Section **78-7-35** is amended to read:

7360 **78-7-35. Civil fees of the courts of record -- Courts complex design.**

7361 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court  
7362 of record not governed by another subsection is \$120.

7363 (b) The fee for filing a complaint or petition is:

7364 (i) \$37 if the claim for damages or amount in interpleader exclusive of court costs, interest,  
7365 and attorney fees is \$2,000 or less;

7366 (ii) \$80 if the claim for damages or amount in interpleader exclusive of court costs,  
7367 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

7368 (iii) \$120 if the claim for damages or amount in interpleader is \$10,000 or more; and

7369 (iv) \$80 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4,  
7370 Separate Maintenance.

7371 (c) The fee for filing a small claims affidavit is:

7372 (i) \$37 if the claim for damages or amount in interpleader exclusive of court costs, interest,  
7373 and attorney fees is \$2,000 or less; and

7374 (ii) \$60 if the claim for damages or amount in interpleader exclusive of court costs,

7375 interest, and attorney fees is greater than \$2,000.

7376 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party  
7377 complaint, or other claim for relief against an existing or joined party other than the original  
7378 complaint or petition is:

7379 (i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000  
7380 or less;

7381 (ii) \$60 if the claim for relief exclusive of court costs, interest, and attorney fees is greater  
7382 than \$2,000 and less than \$10,000;

7383 (iii) \$90 if the original petition is filed under Subsection (1)(a), the claim for relief is  
7384 \$10,000 or more, or the party seeks relief other than monetary damages; and

7385 (iv) \$60 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,  
7386 Chapter 4, Separate Maintenance.

7387 (e) The fee for filing a small claims counter affidavit is:

7388 (i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is \$2,000  
7389 or less; and

7390 (ii) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is greater  
7391 than \$2,000.

7392 (f) The fee for depositing funds under Section 57-1-29 when not associated with an action  
7393 already before the court is determined under Subsection (1)(b) based on the amount deposited.

7394 (g) The fee for filing a petition is:

7395 (i) \$70 for trial de novo of an adjudication of the justice court or of the small claims  
7396 department; and

7397 (ii) \$40 for an appeal of a municipal administrative determination in accordance with  
7398 Section 10-3-703.7.

7399 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or  
7400 petition for writ of certiorari is \$190.

7401 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a petition  
7402 for expungement is \$50.

7403 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).

7404 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be  
7405 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'

7406 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter [6] 17, Judges'

7407 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

7408 (ii) Two dollars of the fees established by Subsections (1)(a) through (i) shall be allocated  
7409 by the state treasurer to be deposited in the restricted account, Children's Legal Defense Account,  
7410 as provided in Section 63-63a-8.

7411 (iii) One dollar of the fees established under Subsections (1)(a) through (e), (1)(g), and  
7412 (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in Section  
7413 78-31b-9.

7414 (k) The fee for filing a judgment, order, or decree of a court of another state or of the  
7415 United States is \$25.

7416 (l) The fee for filing probate or child custody documents from another state is \$25.

7417 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the Utah  
7418 State Tax Commission is \$30.

7419 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state  
7420 or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing  
7421 officer of this state or of its political subdivisions other than the Utah State Tax Commission, is  
7422 \$40.

7423 (n) The fee for filing a judgment by confession without action under Section 78-22-3 is  
7424 \$25.

7425 (o) The fee for filing an award of arbitration for confirmation, modification, or vacation  
7426 under Title 78, Chapter 31a, Utah Arbitration Act, that is not part of an action before the court is  
7427 \$25.

7428 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$30.

7429 (q) The fee for filing any accounting required by law is:

7430 (i) \$10 for an estate valued at \$50,000 or less;

7431 (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;

7432 (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;

7433 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and

7434 (v) \$150 for an estate valued at more than \$168,000.

7435 (r) The fee for filing a demand for a civil jury is \$50.

7436 (s) The fee for filing a notice of deposition in this state concerning an action pending in



7437 another state under Utah Rule of Civil Procedure 26 is \$25.

7438 (t) The fee for filing documents that require judicial approval but are not part of an action  
7439 before the court is \$25.

7440 (u) The fee for a petition to open a sealed record is \$25.

7441 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$20 in addition  
7442 to any fee for a complaint or petition.

7443 (w) The fee for a petition for authorization for a minor to marry required by Section 30-1-9  
7444 is \$5.

7445 (x) The fee for a certificate issued under Section 26-2-25 is \$2.

7446 (y) The fee for a certified copy of a document is \$2 per document plus 50 cents per page.

7447 (z) The fee for an exemplified copy of a document is \$4 per document plus 50 cents per  
7448 page.

7449 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of documents  
7450 and forms and for the search and retrieval of records under Title 63, Chapter 2, Government  
7451 Records Access and Management Act. Fees under this subsection shall be credited to the court  
7452 as a reimbursement of expenditures.

7453 (bb) There is no fee for services or the filing of documents not listed in this section or  
7454 otherwise provided by law.

7455 (cc) Except as provided in this section, all fees collected under this section are paid to the  
7456 General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts  
7457 the pleading for filing or performs the requested service.

7458 (dd) The filing fees under this section may not be charged to the state, its agencies, or  
7459 political subdivisions filing or defending any action. In judgments awarded in favor of the state,  
7460 its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order  
7461 the filing fees and collection costs to be paid by the judgment debtor. The sums collected under  
7462 this subsection shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or  
7463 other penalty and costs permitted by law.

7464 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts shall  
7465 transfer all revenues representing the difference between the fees in effect after May 2, 1994, and  
7466 the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities  
7467 Construction and Management Capital Projects Fund.

7468           (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities  
7469 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the Capital  
7470 Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the  
7471 development of a courts complex in Salt Lake City.

7472           (B) If the Legislature approves funding for construction of a courts complex in Salt Lake  
7473 City in the 1995 Annual General Session, the Division of Facilities Construction and Management  
7474 shall use the revenue deposited in the Capital Projects Fund under Subsection (2)(a)(ii) to construct  
7475 a courts complex in Salt Lake City.

7476           (C) After the courts complex is completed and all bills connected with its construction  
7477 have been paid, the Division of Facilities Construction and Management shall use any monies  
7478 remaining in the Capital Projects Fund under Subsection (2)(a)(ii) to fund the Vernal District Court  
7479 building.

7480           (iii) The Division of Facilities Construction and Management may enter into agreements  
7481 and make expenditures related to this project before the receipt of revenues provided for under this  
7482 Subsection (2)(a)(iii).

7483           (iv) The Division of Facilities Construction and Management shall:

7484           (A) make those expenditures from unexpended and unencumbered building funds already  
7485 appropriated to the Capital Projects Fund; and

7486           (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under  
7487 this Subsection (2).

7488           (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues  
7489 representing the difference between the fees in effect after May 2, 1994, and the fees in effect  
7490 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted  
7491 account.

7492           (c) The Division of Finance shall deposit all revenues received from the court  
7493 administrator into the restricted account created by this section.

7494           (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall transfer  
7495 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a  
7496 court of record to the Division of Facilities Construction and Management Capital Projects Fund.  
7497 The division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine  
7498 or bail forfeiture paid.

7499 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer \$7  
7500 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court  
7501 of record or an administrative traffic proceeding in accordance with Section 10-3-703.5 to the  
7502 Division of Finance for deposit in the restricted account created by this section. The division of  
7503 money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine or bail forfeiture  
7504 paid.

7505 (3) (a) There is created within the General Fund a restricted account known as the State  
7506 Courts Complex Account.

7507 (b) The Legislature may appropriate monies from the restricted account to the  
7508 administrator of the courts for the following purposes only:

7509 (i) to repay costs associated with the construction of the court complex that were funded  
7510 from sources other than revenues provided for under this Subsection (3)(b)(i); and

7511 (ii) to cover operations and maintenance costs on the court complex.

7512 Section 223. **Repealer.**

7513 This act repeals:

7514 Section **49-1-501, Termination of membership.**

7515 Section **49-1-605, Extra monthly payments authorized -- Adjustment of benefits and**  
7516 **allowances -- Incorporation into normal allowance.**

7517 Section **49-1-612, Required distributions.**

7518 Section **49-1-617, Payment of additional retirement benefit -- Rules for**  
7519 **implementation.**

7520 Section **49-2-102, Purpose.**

7521 Section **49-2-403, Service retirement plans -- Additional options -- Death of member**  
7522 **within 90 days after retirement -- Divorce of member.**

7523 Section **49-2-501, Disability coverage.**

7524 Section **49-2-702, Closing the retirement account -- Status of retirants and**  
7525 **beneficiaries.**

7526 Section **49-3-102, Purpose.**

7527 Section **49-3-403, Service retirement plans -- Additional options -- Death of member**  
7528 **within 90 days after retirement.**

7529 Section **49-3-501, Disability coverage.**

7530 Section **49-3-702, Closing the retirement account -- Status of retirants and**  
7531 **beneficiaries.**

7532 Section **49-4-102, Purpose.**

7533 Section **49-4-403, Service credit under both Division A and B -- Computation of**  
7534 **benefit -- Benefits for surviving spouse.**

7535 Section **49-4a-102, Purpose.**

7536 Section **49-4a-403, Service credit under both Division A and B -- Computation of**  
7537 **benefit -- Benefits for surviving spouse.**

7538 Section **49-5-102, Purpose.**

7539 Section **49-5-403, Service credit under both Division A and B -- Computation of**  
7540 **benefit.**

7541 Section **49-5-602, Minimum monthly allowance -- Funded by member contributions.**

7542 Section **49-6-102, Purpose.**

7543 Section **49-6-602, Minimum retirement allowance.**

7544 Section **49-6a-102, Purpose.**

7545 Section **49-7-102, Purpose.**

7546 Section **49-7-402, Cost-of-living adjustment.**

7547 Section **49-7-404, Retirement option.**

7548 Section **49-9-302, Rates established on basis of agency experience -- Limitations --**  
7549 **Annual report to governor and Legislature.**

7550 Section **49-9-406, Psychopathy benefit.**

7551 Section **49-9-408, Administration of disabilities -- Members of Public Safety**  
7552 **Retirement System Members of Judges' Retirement System.**

7553 Section **49-10-303, Preservation of Hill Air Force Base Expendable Trust Fund.**

7554 Section 224. **Effective date.**

7555 If approved by two-thirds of all the members elected to each house, this act takes effect  
7556 upon approval by the governor, or the day following the constitutional time limit of Utah  
7557 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the  
7558 date of veto override.

**Legislative Review Note**

**as of 1-7-02 4:28 PM**

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

**Office of Legislative Research and General Counsel**