

RETIREMENT OFFICE AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Ron Bigelow

This act modifies the Utah State Retirement and Insurance Benefit Act, including many technical or conforming amendments. This act amends definitions. This act modifies the penalties against a participating employer for delinquent contributions. This act allows recalculations of retirement benefits to be ignored if the change to the benefit is less than \$1. This act modifies death benefit and beneficiary provisions, including survivor and notice provisions. This act requires a member of the retirement system to have five years of service credit and meet federal eligibility requirements prior to purchasing service credit. This act requires participating employers to cover their public safety employees with long-term disability insurance. This act amends the retirement allowance provisions for members of the Governors' and Legislators' Retirement System. This act modifies provisions of the Public Employees' Long-Term Disability Act. This act makes technical corrections.

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

AMENDS:

49-11-102, as renumbered and amended by Chapter 250, Laws of Utah 2002

49-11-202, as last amended by Chapter 176 and renumbered and amended by Chapter 250, Laws of Utah 2002

49-11-501, as renumbered and amended by Chapter 250, Laws of Utah 2002

49-11-503, as renumbered and amended by Chapter 250, Laws of Utah 2002

49-11-504, as renumbered and amended by Chapter 250, Laws of Utah 2002

49-11-601, as renumbered and amended by Chapter 250, Laws of Utah 2002

49-11-602, as renumbered and amended by Chapter 250, Laws of Utah 2002

49-11-603, as enacted by Chapter 250, Laws of Utah 2002



28 **49-11-604**, as enacted by Chapter 250, Laws of Utah 2002
29 **49-11-607**, as renumbered and amended by Chapter 250, Laws of Utah 2002
30 **49-11-609**, as renumbered and amended by Chapter 250, Laws of Utah 2002
31 **49-11-612**, as renumbered and amended by Chapter 250, Laws of Utah 2002
32 **49-12-102**, as renumbered and amended by Chapter 250, Laws of Utah 2002
33 **49-12-405**, as renumbered and amended by Chapter 250, Laws of Utah 2002
34 **49-13-102**, as renumbered and amended by Chapter 250, Laws of Utah 2002
35 **49-13-202**, as renumbered and amended by Chapter 250, Laws of Utah 2002
36 **49-13-405**, as renumbered and amended by Chapter 250, Laws of Utah 2002
37 **49-13-408**, as renumbered and amended by Chapter 250, Laws of Utah 2002
38 **49-14-102**, as renumbered and amended by Chapter 250, Laws of Utah 2002
39 **49-14-401**, as renumbered and amended by Chapter 250, Laws of Utah 2002
40 **49-14-502**, as renumbered and amended by Chapter 250, Laws of Utah 2002
41 **49-14-503**, as renumbered and amended by Chapter 250, Laws of Utah 2002
42 **49-15-102**, as renumbered and amended by Chapter 250, Laws of Utah 2002
43 **49-15-502**, as renumbered and amended by Chapter 250, Laws of Utah 2002
44 **49-15-503**, as renumbered and amended by Chapter 250, Laws of Utah 2002
45 **49-15-504**, as renumbered and amended by Chapter 250, Laws of Utah 2002
46 **49-16-102**, as renumbered and amended by Chapter 250, Laws of Utah 2002
47 **49-16-401**, as renumbered and amended by Chapter 250, Laws of Utah 2002
48 **49-16-402**, as renumbered and amended by Chapter 250, Laws of Utah 2002
49 **49-16-501**, as renumbered and amended by Chapter 250, Laws of Utah 2002
50 **49-16-503**, as renumbered and amended by Chapter 250, Laws of Utah 2002
51 **49-16-504**, as renumbered and amended by Chapter 250, Laws of Utah 2002
52 **49-16-602**, as renumbered and amended by Chapter 250, Laws of Utah 2002
53 **49-17-401**, as renumbered and amended by Chapter 250, Laws of Utah 2002
54 **49-18-401**, as renumbered and amended by Chapter 250, Laws of Utah 2002
55 **49-18-501**, as renumbered and amended by Chapter 250, Laws of Utah 2002
56 **49-19-401**, as renumbered and amended by Chapter 250, Laws of Utah 2002
57 **49-20-301**, as renumbered and amended by Chapter 250, Laws of Utah 2002
58 **49-20-401**, as renumbered and amended by Chapter 250, Laws of Utah 2002

- 59 **49-20-406**, as renumbered and amended by Chapter 250, Laws of Utah 2002
- 60 **49-21-102**, as renumbered and amended by Chapter 250, Laws of Utah 2002
- 61 **49-21-401**, as renumbered and amended by Chapter 250, Laws of Utah 2002
- 62 **49-21-402**, as renumbered and amended by Chapter 250, Laws of Utah 2002
- 63 **49-21-403**, as renumbered and amended by Chapter 250, Laws of Utah 2002
- 64 **49-21-404**, as renumbered and amended by Chapter 250, Laws of Utah 2002
- 65 **49-21-406**, as renumbered and amended by Chapter 250, Laws of Utah 2002

66 ENACTS:

- 67 **49-14-506**, Utah Code Annotated 1953
- 68 **49-14-601**, Utah Code Annotated 1953
- 69 **49-15-506**, Utah Code Annotated 1953
- 70 **49-15-601**, Utah Code Annotated 1953
- 71 **49-16-507**, Utah Code Annotated 1953

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

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

74 **49-11-102. Definitions.**

75 As used in this title:

- 76 (1) (a) "Active member" means a member who is employed or who has been employed
- 77 by a participating employer within the previous 120 days.
- 78 (b) "Active member" does not include retirees.
- 79 (2) "Actuarial equivalent" means a benefit of equal value when computed upon the
- 80 basis of mortality tables as recommended by the actuary and adopted by the executive director,
- 81 including regular interest.
- 82 (3) "Actuarial interest rate" means the interest rate as recommended by the actuary and
- 83 adopted by the board upon which the funding of system costs and benefits are computed.
- 84 (4) "Agency" means:
- 85 (a) a department, division, agency, office, authority, commission, board, institution, or
- 86 hospital of the state;
- 87 (b) a county, municipality, school district, or special district;
- 88 (c) a state college or university; or
- 89 (d) any other participating employer.

90 (5) "Allowance" means the pension plus the annuity, including any cost of living or
91 other authorized adjustments to the pension and annuity.

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

94 (7) "Annuity" means monthly payments derived from member contributions.

95 (8) "Appointive officer" means an employee appointed to a position for a definite and
96 fixed term of office by official and duly recorded action of a participating employer whose
97 appointed position is designated in the participating employer's charter, creation document, or
98 similar document, and who earns during the first full month of the term of office \$500 or more,
99 indexed as of January 1, [~~1989~~] 1990, as provided in Section 49-12-407.

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

103 (10) "Board" means the Utah State Retirement Board established under Section
104 49-11-202.

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

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

110 (13) "Council member" means a person serving on the Membership Council
111 established under Section 49-11-202.

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

114 (15) "Current service" means covered service as defined in Chapters 12, 13, 14, 15, 16,
115 17, 18, and 19.

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

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

121 (a) the State Board of Education and its instrumentalities;
122 (b) any institution of higher education and its branches;
123 (c) any school district and its instrumentalities;
124 (d) any vocational and technical school; and
125 (e) any entity arising out of a consolidation agreement between entities described under
126 this Subsection (17).

127 (18) (a) "Employer" means any department, educational institution, or political
128 subdivision of the state eligible to participate in a government-sponsored retirement system
129 under federal law.

130 (b) "Employer" may also include an agency financed in whole or in part by public
131 funds ~~[as allowed under Chapter 12 or 13]~~.

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

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

137 (21) (a) "Inactive member" means a member who has not been employed by a
138 participating employer for a period of at least 120 days.

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

140 (22) (a) "Member" means a person, except a retiree, with contributions on deposit with
141 a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19, or with a
142 terminated system.

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

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

152 (a) the member; and

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

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

157 (25) "Office" means the Utah State Retirement Office.

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

160 (27) "Participating employer" means a participating employer, as defined by Chapters
161 12, 13, 14, 15, 16, 17, and 18, or an agency financed in whole or in part by public funds which
162 is participating in a system or plan as of January 1, 2002.

163 (28) "Pension" means monthly payments derived from participating employer
164 contributions.

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

167 (30) (a) "Political subdivision" means any local government entity, including cities,
168 towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally
169 separate and distinct from the state and only if its employees are not by virtue of their
170 relationship to the entity employees or the state.

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

173 (c) "Political subdivision" does not include a project entity created under Title 11,
174 Chapter 13, Interlocal Cooperation Act.

175 (31) "Program" means the Public Employees' Insurance Program created under Chapter
176 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'
177 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term
178 Disability Act.

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

183 subdivisions.

184 (33) "Refund interest" means the amount accrued on member contributions at a rate
185 adopted by the board.

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

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

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

191 (37) "Service credit" means:

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

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

197 (38) "System" means the individual retirement systems created by Chapters 12, 13, 14,
198 15, 16, 17, and 18.

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

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

202 **49-11-202. Establishment of Utah State Retirement Board -- Quorum -- Terms --**
203 **Officers -- Expenses and per diem -- Membership Council established.**

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

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

208 (b) One board member shall be a school employee appointed by the governor from at
209 least three nominations submitted by the governing board of the school employees' association
210 that is representative of a majority of the school employees who are members of a system
211 administered by the board.

212 (c) One board member shall be a public employee appointed by the governor from at
213 least three nominations submitted by the governing board of the public employee association

214 that is representative of a majority of the public employees who are members of a system
215 administered by the board.

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

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

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

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

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

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

226 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
227 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
228 board members are staggered so that approximately half of the board is appointed every two
229 years.

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

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

235 (b) Each board member shall receive a per diem plus expenses for attending regularly
236 constituted meetings and conferences as provided by board action.

237 (6) (a) There is established a Membership Council to perform the duties under
238 Subsection (10).

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

241 (7) The Membership Council shall be composed of 13 council members selected as
242 follows:

243 (a) Three council members shall be school employees selected by the governing board
244 of an association representative of a majority of school employees who are members of a

245 system administered by the board.

246 (b) One council member shall be a classified school employee selected by the
247 governing board of the association representative of a majority of classified school employees
248 who are members of a system administered by the board.

249 (c) Two council members shall be public employees selected by the governing board of
250 the association representative of a majority of the public employees who are members of a
251 system administered by the board.

252 (d) One council member shall be a municipal officer or employee selected by the
253 governing board of the association representative of a majority of the municipalities who
254 participate in a system administered by the board.

255 (e) One council member shall be a county officer or employee selected by the
256 governing board of the association representative of a majority of counties who participate in a
257 system administered by the board.

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

260 (g) One council member shall be a representative of members of the Public Safety
261 Retirement Systems selected by the governing board of the association representative of the
262 majority of peace officers who are members of the Public Safety Retirement Systems.

263 (h) One council member shall be a representative of members of the Firefighters'
264 Retirement System selected by the governing board of the association representative of the
265 majority of paid professional firefighters who are members of the Firefighters' Retirement
266 System.

267 (i) One council member shall be a retiree selected by the ~~[Utah Association of Retired~~
268 ~~Public Employees]~~ governing board of the association representing the largest number of
269 retirees, who are not public education retirees, from the Public Employees' Contributory and
270 Public Employees' Noncontributory Retirement Systems.

271 (j) One council member shall be a retiree selected by the ~~[Utah Retired School~~
272 ~~Employees' Association]~~ governing board of the association representing the largest number of
273 public education retirees.

274 (8) (a) Each entity granted authority to select council members under Subsection (7)
275 may also revoke the selection at any time.

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

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

279 (d) When a vacancy occurs on the council for any reason, the replacement shall be
280 selected for the remainder of the unexpired term.

281 (9) The council shall annually designate one council member as chair.

282 (10) The council shall:

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

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

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

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

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

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

294 Section 3. Section **49-11-501** is amended to read:

295 **49-11-501. Refunds of member contributions -- Transfers of contributions to**
296 **defined contribution plan.**

297 (1) If a member shall for any cause, except retirement, permanent or temporary
298 disability, or death, terminate employment with a participating employer the member may leave
299 the member contributions in the fund or may receive a refund of the member contributions as
300 provided under this section.

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

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

306 (4) If the member is reemployed by a participating employer within the time period

307 under Subsection (3), the member is not eligible for a refund.

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

310 (6) A member who is exempted from or becomes ineligible for service credit in a
311 system but who remains employed by a participating employer may request a [~~plan-to-plan~~]
312 direct transfer of member contributions to a qualified [~~defined contribution plan administered~~
313 ~~by the board~~] plan.

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

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

320 Section 4. Section **49-11-503** is amended to read:

321 **49-11-503. Rate of interest on redeposits, adjustments, and delinquent payments.**

322 The rate of interest charged on redeposits of refunds, [~~purchases~~] adjustments, or
323 delinquent payments is the greater of:

324 (1) the interest rate as determined under a formula approved by the board; or

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

326 Section 5. Section **49-11-504** is amended to read:

327 **49-11-504. Reemployment of a retiree -- Restrictions.**

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

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

332 (3) For the purposes of Subsections (4) and (5), "full-time" employment means
333 employment requiring [~~compensation for~~] 20 hours of work per week or more or at least a
334 half-time teaching contract.

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

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

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

340 (c) the allowance [~~calculations~~] cancellation and reinstatement to active member status
341 is effective on the first day of the month following the date of reemployment;

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

345 (e) a reinstated retiree retiring after the two-year period shall be credited with the
346 service credit in the retiree's account at the time of the first retirement and from that time shall
347 be treated as a member of a system, including the accrual of additional service credit, but
348 subject to recalculation of the allowance under Subsection (9).

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

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

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

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

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

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

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

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

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

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

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

369 earn additional service credit.

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

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

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

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

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

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

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

386 (11) The board may make rules to implement this section.

387 Section 6. Section **49-11-601** is amended to read:

388 **49-11-601. Payment of employer contributions -- Penalties for failure to comply --**
389 **Adjustments to be made.**

390 (1) The employer contributions, fees, premium taxes, contribution adjustments, and
391 other required payments shall be paid to the office by the participating employer as determined
392 by the executive director.

393 (2) A participating employer that fails to withhold the amount of any member
394 contributions, as soon as administratively possible, shall also pay the member contributions to
395 the office out of its own funds.

396 (3) If a participating employer does not make the contributions required by this title
397 within 60 days of the end of the pay period, the participating employer is liable to the office as
398 provided in Section 49-11-604 for:

399 (a) delinquent contributions;

400 (b) ~~[refund]~~ interest on the delinquent contributions as calculated under Section
401 49-11-503; and

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

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

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

408 Section 7. Section **49-11-602** is amended to read:

409 **49-11-602. Participating employer to maintain records -- Time limit -- Penalties**
410 **for failure to comply.**

411 (1) A participating employer shall maintain records necessary to calculate benefits
412 under this title and other records necessary for proper administration of this title as required by
413 the office.

414 (2) A participating employer shall maintain the records required under Subsection (1)
415 until ~~[three years after]~~ the latest of:

416 (a) three years after the date of retirement of the employee from a system or plan; ~~[or]~~

417 (b) three years after the date of death of the employee~~[-];~~ or

418 (c) 65 years from the date the employee terminates employment with the participating
419 employer.

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

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

424 (b) ~~[12% per annum]~~ a penalty ~~[of those liabilities and expenses]~~ equal to 1% of the
425 participating employer's last month's contributions.

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

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

431 Section 8. Section **49-11-603** is amended to read:

432 **49-11-603. Participating employer to report and certify -- Time limit -- Penalties**
433 **for failure to comply.**

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

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

437 (i) all current members;

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

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

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

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

443 (2) Each participating employer shall submit the reports required under Subsection (1)
444 in a ~~[form]~~ format approved by the office.

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

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

449 (b) ~~[12% per annum]~~ a penalty [of those liabilities and expenses] equal to 1% of the
450 participating employer's last month's contributions; and

451 (c) attorneys' fees.

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

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

457 Section 9. Section **49-11-604** is amended to read:

458 **49-11-604. Office audits of participating employers -- Penalties for failure to**
459 **comply.**

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

462 title.

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

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

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

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

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

474 (ii) a penalty equal to 1% [~~penalty~~] of the participating employer's last month's
475 contributions.

476 (2) If the audit reveals a participating employer's failure to make contributions as
477 required under Section 49-11-601, a failure to maintain records as required under Section
478 49-11-602, or a failure to correctly report or certify eligibility as required under Section
479 49-11-603, the participating employer shall reimburse the office for the cost of the audit.

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

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

486 (b) administrative expenses.

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

490 Section 10. Section **49-11-607** is amended to read:

491 **49-11-607. Determination of benefits -- Errors in records or calculations --**
492 **Correction of errors by the office.**

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

496 (2) (a) Errors in the records or in the calculations of the office which result in an
497 incorrect benefit to any member, retiree, participant, covered individual, alternate payee, or
498 beneficiary shall be corrected by the office if the correction results in a modification of the
499 benefit amount of \$1 or more.

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

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

503 (ii) recover any overpayment.

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

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

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

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

518 Section 11. Section **49-11-609** is amended to read:

519 **49-11-609. Beneficiary designations -- Revocation of beneficiary designation --**
520 **Procedure -- Beneficiary not designated -- Payment to survivors in order established**
521 **under the Uniform Probate Code -- Restrictions on payment -- Payment of deceased's**
522 **expenses.**

523 (1) As used in this section, "member" includes a member, retiree, participant, covered

524 individual, a spouse of a retiree participating in the insurance benefits created by Sections
525 49-12-404 and 49-13-404, or an alternate payee under a domestic relations order dividing a
526 defined contribution account.

527 (2) The most recent beneficiary designations contained in office records, including
528 electronic records, at the time of the member's death are binding in the payment of any benefits
529 due under this title.

530 (3) (a) Except where an optional continuing benefit is chosen, or the law makes a
531 specific benefit designation to a dependent spouse, a member may revoke a beneficiary
532 designation at any time and may execute and file a different beneficiary designation with the
533 office.

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

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

539 (i) no beneficiary is designated or if all designated beneficiaries have predeceased the
540 member;

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

543 (iii) the beneficiary has not completed the forms necessary to pay the benefits within
544 six months of the date [~~beneficiaries are provided the forms~~] that beneficiary forms are sent to
545 the beneficiary's last-known address.

546 (b) (i) A payment may not be made to a person included in any of the groups referred
547 to in Subsection [~~(3)~~] (4)(a) if at the date of payment there is a living person in any of the
548 groups preceding it.

549 (ii) Payment to a person in any group based upon receipt from the person of an
550 affidavit in a form satisfactory to the office that:

551 (A) there are no living individuals in the group preceding it;

552 (B) the probate of the estate of the deceased has not been commenced; and

553 (C) more than three months have elapsed since the date of death of the decedent.

554 (5) Benefits paid under this section shall be:

- 555 (a) a full satisfaction and discharge of all claims for benefits under this title; and
556 (b) payable by reason of the death of the decedent.

557 Section 12. Section **49-11-612** is amended to read:

558 **49-11-612. Nonassignability of benefits or payments -- Exemption from legal**
559 **process.**

560 (1) Except as provided in Subsections (2), (3), and (4), the right of any member, retiree,
561 participant, or beneficiary to any benefit, payment, or any other right accrued or accruing under
562 this title and the assets of the funds created by this title are not subject to alienation or
563 assignment by the member, retiree, participant, or their beneficiaries and are not subject to
564 attachment, execution, garnishment, or any other legal or equitable process.

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

568 (3) (a) The office shall provide for the division of an allowance, defined contribution
569 account, continuing monthly death benefit, or refund of member contributions upon
570 termination to former spouses and family members under an order of a court of competent
571 jurisdiction with respect to domestic relations matters on file with the office.

572 (b) The court order shall specify the manner in which the allowance, defined
573 contribution account, continuing monthly death benefit, or refund of member contributions
574 shall be partitioned, whether as a fixed amount or as a percentage of the benefit.

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

577 (i) the amount to be paid or the period for which payments shall be made under the
578 original domestic relations order may not be altered;

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

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

583 (4) In accordance with federal law, the board may deduct the required amount from any
584 benefit, payment, or other right accrued or accruing to any member of a system, plan, or
585 program under this title to offset any amount that member owes to a system, plan, or program

586 administered by the board.

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

588 Section 13. Section **49-12-102** is amended to read:

589 **49-12-102. Definitions.**

590 As used in this chapter:

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

594 (i) bonuses;

595 (ii) cost-of-living adjustments;

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

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

601 (v) member contributions.

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

604 (c) "Compensation" does not include:

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

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

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

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

612 (v) any [~~costs incurred by the member and reimbursed~~] allowances or payments to a
613 member for costs or expenses paid by the participating employer, including automobile costs,
614 uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and
615 dependent care costs.

616 (d) The executive director may determine if a payment not listed under this Subsection

617 (1) falls within the definition of compensation.

618 (2) "Final average salary" means the amount computed by averaging the highest five
619 years of annual compensation preceding retirement subject to Subsections (2)(a), (b), (c), and
620 (d).

621 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
622 compensation in any one of the years used may not exceed the previous year's compensation by
623 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
624 of the dollar during the previous year, as measured by a United States Bureau of Labor
625 Statistics Consumer Price Index average as determined by the board.

626 (b) In cases where the participating employer provides acceptable documentation to the
627 office, the limitation in Subsection (2)(a) may be exceeded if:

628 (i) the member has transferred from another agency; or

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

630 (c) If the member retires more than six months from the date of termination of
631 employment, the member is considered to have been in service at the member's last rate of pay
632 from the date of the termination of employment to the effective date of retirement for purposes
633 of computing the member's final average salary only.

634 (d) If the member has less than five years of service credit in this system, final average
635 salary means the average annual compensation paid to the member during the full period of
636 service credit.

637 (3) "Participating employer" means an employer which meets the participation
638 requirements of ~~[Section]~~ Sections 49-12-201 and 49-12-202.

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

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

645 (i) a teacher whose term of employment for a participating employer contemplates
646 continued employment during a school year and who teaches half-time or more or a classified
647 school employee ~~[who works]~~ whose employment normally requires an average of 20 hours per

648 week or more for a participating employer, regardless of benefits provided;

649 (ii) an officer, elective or appointive, who earns during the first full month of the term
650 of office \$500 or more, indexed as of January 1, [~~1989~~] 1990, as provided in Section
651 49-12-407;

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

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

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

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

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

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

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

668 Section 14. Section **49-12-405** is amended to read:

669 **49-12-405. Death of married member -- Service retirement benefits to surviving**
670 **spouse.**

671 (1) Upon the request of [~~the~~] a deceased member's lawful spouse at the time of the
672 member's death, [~~a~~] the deceased member is considered to [~~be eligible to retire~~] have retired
673 under Option Three on the first day of the month following the month in which the member
674 died if the following requirements are met:

675 (a) the member has:

676 (i) 25 or more years of service credit;

677 (ii) attained age 60 with 20 or more years of service credit;

678 (iii) attained age 62 with ten or more years of service credit; or

679 (iv) attained age 65 with four or more years of service credit; and

680 (b) the member dies leaving a spouse to whom the member has been married at least
681 six months prior to the death date.

682 (2) The spouse who requests a benefit under this section shall apply in writing to the
683 office [~~stating the proposed effective date to begin receiving an allowance, which may not be~~
684 ~~more than 90 days after the date of application~~]. The allowance shall begin on the first day of
685 the month:

686 (a) following the month in which the member died, if the application is received by the
687 office within 90 days of the member's death; or

688 (b) in which the application is received by the office.

689 (3) The Option Three benefit calculation, when there are 25 or more years of service
690 credit, shall be calculated without a reduction in allowance under Section 49-12-402.

691 (4) Except for a return of member contributions, benefits payable under this section are
692 retirement benefits and shall be paid in addition to any payments made under Section
693 49-12-501 and constitute a full and final settlement of the claim of the spouse or any other
694 beneficiary filing claim for benefits under Section 49-12-501.

695 Section 15. Section **49-13-102** is amended to read:

696 **49-13-102. Definitions.**

697 As used in this chapter:

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

701 (i) bonuses;

702 (ii) cost-of-living adjustments;

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

706 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
707 or other benefits authorized by federal law.

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

710 (c) "Compensation" does not include:

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

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

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

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

718 (v) any [~~costs incurred by the member and reimbursed~~] allowances or payments to a
719 member for costs or expenses paid by the participating employer, including automobile costs,
720 uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and
721 dependent care costs.

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

724 (2) "Final average salary" means the amount computed by averaging the highest three
725 years of annual compensation preceding retirement subject to the following:

726 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
727 compensation in any one of the years used may not exceed the previous year's compensation by
728 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
729 of the dollar during the previous year, as measured by a United States Bureau of Labor
730 Statistics Consumer Price Index average as determined by the board.

731 (b) In cases where the participating employer provides acceptable documentation to the
732 office, the limitation in Subsection (2)(a) may be exceeded if:

733 (i) the member has transferred from another agency; or

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

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

739 (3) "Participating employer" means an employer which meets the participation
740 requirements of [~~Section~~] Sections 49-13-201 and 49-13-202.

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

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

747 (i) a teacher whose term of employment for a participating employer contemplates
748 continued employment during a school year and who teaches half-time or more or a classified
749 school employee [~~who works~~] whose employment normally requires an average of 20 hours per
750 week or more for a participating employer, regardless of benefits provided;

751 (ii) an officer, elective or appointive, who earns during the first full month of the term
752 of office \$500 or more, indexed as of January 1, [~~1989~~] 1990, as provided in Section
753 49-13-407;

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

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

759 (5) "System" means the Public Employees' Noncontributory Retirement System.

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

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

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

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

769 Section 16. Section **49-13-202** is amended to read:

770 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**
771 **requirements -- Nondiscrimination requirements.**

772 (1) (a) Unless excluded under Subsection (2), an employer is a participating employer
773 and may not withdraw from participation in this system.

774 (b) In addition to their participation in this system, participating employers may
775 provide or participate in any additional public or private retirement, supplemental or defined
776 contribution plan, either directly or indirectly, for their employees.

777 (2) An employer not initially admitted or included as a participating employer in this
778 system prior to January 1, 1982, may be excluded from participation in this system if:

779 (a) the employer elects not to provide or participate in any type of private or public
780 retirement, supplemental or defined contribution plan, either directly or indirectly, for its
781 employees, except for Social Security[-]; or

782 (b) the employer offers another collectively bargained retirement benefit and has
783 continued to do so on an uninterrupted basis since that date.

784 (3) If an employer, except an employer that maintains a collectively bargained plan
785 under Subsection (2)(b), elects at any time to provide or participate in any type of public or
786 private retirement, supplemental or defined contribution plan, either directly or indirectly,
787 except for Social Security, the employer shall be a participating employer in this system.

788 (4) (a) Any employer may by resolution of its governing body apply for admission to
789 this system.

790 (b) Upon approval of the board, the employer is a participating employer in this system
791 and is subject to this title.

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

797 Section 17. Section **49-13-405** is amended to read:

798 **49-13-405. Death of married members -- Service retirement benefits to surviving**
799 **spouse.**

800 (1) As used in this section, "member's full allowance" means an Option Three
801 allowance calculated under [~~Subsection~~] Section 49-13-402[~~(2)(a)~~] without an actuarial
802 reduction.

803 (2) Upon the request of ~~[the]~~ a deceased member's lawful spouse at the time of the
804 member's death, [a] the deceased member is considered to ~~[be eligible to retire]~~ have retired
805 under Option Three on the first day of the month following the month in which the member
806 died if the following requirements are met:

807 (a) the member has:

808 (i) 15 or more years of service credit;

809 (ii) attained age 62 with ten or more years of service credit; or

810 (iii) attained age 65 with four or more years of service credit; and

811 (b) the member dies leaving a spouse to whom the member has been married at least
812 six months prior to the death date.

813 (3) The spouse who requests a benefit under this section shall apply in writing to the
814 office ~~[stating the proposed effective date to begin receiving an allowance, which may not be~~
815 ~~more than 90 days after the date of application]~~. The allowance shall begin on the first day of
816 the month:

817 (a) following the month in which the member died, if the application is received by the
818 office within 90 days of the member's death; or

819 (b) in which the application is received by the office.

820 (4) The allowance payable to a surviving spouse under Subsection (2) is:

821 (a) if the member has 25 or more years of service credit at the time of death, the
822 surviving spouse shall receive the member's full allowance;

823 (b) if the member has between 20-24 years of service credit and is not age 60 or older
824 at the time of death, the surviving spouse shall receive two-thirds of the member's full
825 allowance;

826 (c) if the member has between 15-19 years of service credit and is not age 62 or older
827 at the time of death, the surviving spouse shall receive one-third of the member's full
828 allowance; or

829 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
830 older with 10 or more years of service credit, or age 65 or older with four or more years of
831 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
832 with actuarial reductions.

833 (5) Except for a return of member contributions, benefits payable under this section are

834 retirement benefits and shall be paid in addition to any other payments made under Section
835 49-13-501 and shall constitute a full and final settlement of the claim of the spouse or any other
836 beneficiary filing a claim for benefits under Section 49-13-501.

837 Section 18. Section **49-13-408** is amended to read:

838 **49-13-408. Purchase of service credit -- Conditions -- Cost -- Nondiscrimination**
839 **policy.**

840 (1) (a) A member may purchase or a member and a participating employer may jointly
841 purchase a maximum of five years of service credit which cannot otherwise be purchased under
842 this [~~chapter~~] title.

843 (b) At a minimum, the years of service credit purchased shall be sufficient to allow the
844 member to meet the retirement eligibility requirements of this system with no actuarial
845 reduction.

846 (c) The member's retirement date shall be immediately after the purchase of years of
847 service credit.

848 (d) The member shall pay at least 5% of the cost of the purchase.

849 (e) To qualify for a purchase of service credit under this section, the member shall:

850 (i) have at least five years of service credit; and

851 (ii) otherwise meet federal eligibility requirements.

852 (2) The purchase price for the years of service credit shall be calculated and paid for as
853 provided in Section 49-11-403.

854 (3) Prior to making any purchase of years of service credit under this section, a
855 participating employer shall adopt a purchase policy that includes nondiscriminatory
856 participation standards for all regular full-time employees.

857 Section 19. Section **49-14-102** is amended to read:

858 **49-14-102. Definitions.**

859 As used in this chapter:

860 (1) (a) "Compensation" means the total amount of payments that are includable in
861 gross income which are received by a public safety service employee as base income for the
862 regularly scheduled work period. The participating employer shall establish the regularly
863 scheduled work period. Base income shall be determined prior to the deduction of member
864 contributions or any amounts the public safety service employee authorizes to be deducted for

865 salary deferral or other benefits authorized by federal law.

866 (b) "Compensation" includes performance-based bonuses and cost-of-living
867 adjustments.

868 (c) "Compensation" does not include:

869 (i) overtime;

870 (ii) sick pay incentives;

871 (iii) retirement pay incentives;

872 (iv) the monetary value of remuneration paid in kind, including a residence, use of
873 equipment or uniform, travel, or similar payments;

874 (v) a lump-sum payment or special payments covering accumulated leave; and

875 (vi) all contributions made by a participating employer under this system or under any
876 other employee benefit system or plan maintained by a participating employer for the benefit of
877 a member or participant.

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

880 (2) "Final average salary" means the amount computed by averaging the highest three
881 years of annual compensation preceding retirement, subject to Subsections (2)(a) and (b).

882 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
883 compensation in any one of the years used may not exceed the previous year's compensation by
884 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
885 of the dollar during the previous year, as measured by a United States Bureau of Labor
886 Statistics Consumer Price Index average as determined by the board.

887 (b) In cases where the participating employer provides acceptable documentation to the
888 office, the limitation in Subsection (2)(a) may be exceeded if:

889 (i) the public safety service employee has transferred from another agency; or

890 (ii) the public safety service employee has been promoted to a new position.

891 (3) "Line-of-duty death" means a death resulting from external force, violence, or
892 disease occasioned by an act of duty as a public safety service employee.

893 (4) "Participating employer" means an employer which meets the participation
894 requirements of Section 49-14-201.

895 (5) (a) "Public safety service" means [~~at least 2,080 hours of regularly scheduled~~

896 compensated] employment normally requiring an average of 2,080 hours of regularly scheduled
897 employment per year rendered by a member who is a:

898 (i) law enforcement officer in accordance with Section 53-13-103;
899 (ii) correctional officer in accordance with Section 53-13-104; and
900 (iii) special function officer approved in accordance with Sections 49-14-201 and
901 53-13-105.

902 (b) "Public safety service" also requires that in the course of employment the
903 employee's life or personal safety is at risk.

904 (c) Except for the minimum hour requirement, Subsections (5)(a) and (b) do not apply
905 to any person who was eligible for service credit in this system prior to January 1, 1984.

906 (6) "Public safety service employee" means an employee of a participating employer
907 who performs public safety service under this chapter.

908 (7) "System" means the Public Safety Contributory Retirement System created under
909 this chapter.

910 (8) "Years of service credit" means the number of periods, each to consist of 12 full
911 months as determined by the board, whether consecutive or not, during which a public safety
912 service employee was employed by a participating employer, including time the public safety
913 service employee was absent in the service of the United States government on military duty.

914 Section 20. Section **49-14-401** is amended to read:

915 **49-14-401. Eligibility for service retirement -- Date of retirement --**

916 **Qualifications.**

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

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

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

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

923 (i) the member has accrued at least 20 years of service credit;

924 (ii) the member has accrued at least ten years of service credit and has attained an age
925 of 60 years; or

926 (iii) the member has accrued at least four years of service credit and has attained an age

927 of 65 years.

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

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

932 Section 21. Section **49-14-502** is amended to read:

933 **49-14-502. Death of active member in Division B -- Payment of benefits.**

934 (1) If an active member of this system enrolled in Division B under Section 49-14-301
935 dies, benefits are payable as follows:

936 (a) If [~~the member has accrued less than 20 years of public safety service credit and if~~]
937 the death is classified by the office as a line-of-duty death, the spouse at the time of death shall
938 receive a lump sum of \$1,500 and an allowance equal to 37.5% of the member's final average
939 monthly salary.

940 (b) If the death is not classified by the office as a line-of-duty death, benefits are
941 payable as follows:

942 (i) If the member has accrued two or more years of public safety service credit at the
943 time of death, the death is considered a line-of-duty death and the benefit shall be paid as
944 provided under Subsection (1)(a).

945 (ii) If the member has accrued less than two years of public safety service credit at the
946 time of death, the spouse at the time of death shall receive a refund of the member's member
947 contributions, plus 50% of the member's most recent 12 months' compensation.

948 (c) (i) If the member has accrued two or more years of public safety service credit at
949 the time of death, each of the member's unmarried children to age 18 or dependent unmarried
950 mentally or physically disabled children shall receive a monthly allowance of \$50.

951 (ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or
952 as otherwise provided under Sections 49-11-609 and 49-11-610.

953 (2) In the event of the death of both parents, the spouse's benefit shall be prorated and
954 paid to each of the member's unmarried children to age 18.

955 (3) If a benefit is not distributed under the previous subsections, and the member has
956 designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

957 (4) The combined annual payments made to the beneficiaries of any member under this

958 section may not exceed 75% of the member's final average monthly salary.

959 Section 22. Section **49-14-503** is amended to read:

960 **49-14-503. Benefits payable upon death of inactive member.**

961 (1) If an inactive member who has less than 20 years of public safety service credit
962 dies, the ~~[designated beneficiary]~~ spouse at the time of death, or, if there is no spouse at the
963 time of death, the member's minor children shall receive a refund of the member's member
964 contributions or \$500, whichever is greater.

965 (2) (a) If an inactive member with 20 or more years of public safety service credit dies,
966 the spouse at the time of death shall receive an allowance in an amount of 50% of the amount
967 the member would have received had retirement occurred on the first of the month following
968 the month in which the death occurred.

969 (b) This allowance shall be based on years of service credit and final average monthly
970 salary under Section 49-14-402, reduced actuarially from age 50 to the age of the member at
971 the time of death if the member is under age 50 at the time of death.

972 Section 23. Section **49-14-506** is enacted to read:

973 **49-14-506. Benefits payable upon death of active or inactive member without**
974 **spouse or minor children.**

975 If an active or inactive member dies and at the time of death the member does not have
976 a spouse or minor children, the benefit payable to a designated beneficiary is a refund of the
977 member's member contributions or \$500, whichever is larger.

978 Section 24. Section **49-14-601** is enacted to read:

979 **Part 6. Disability**

980 **49-14-601. Long-term disability coverage.**

981 Each participating employer shall cover its public safety employees under Title 49,
982 Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term
983 disability program.

984 Section 25. Section **49-15-102** is amended to read:

985 **49-15-102. Definitions.**

986 As used in this chapter:

987 (1) (a) "Compensation" means the total amount of payments that are includable in
988 gross income received by a public safety service employee as base income for the regularly

989 scheduled work period. The participating employer shall establish the regularly scheduled
990 work period. Base income shall be determined prior to the deduction of any amounts the
991 public safety service employee authorizes to be deducted for salary deferral or other benefits
992 authorized by federal law.

993 (b) "Compensation" includes performance-based bonuses and cost-of-living
994 adjustments.

995 (c) "Compensation" does not include:

996 (i) overtime;

997 (ii) sick pay incentives;

998 (iii) retirement pay incentives;

999 (iv) the monetary value of remuneration paid in kind, as in a residence, use of
1000 equipment or uniform, travel, or similar payments;

1001 (v) a lump-sum payment or special payment covering accumulated leave; and

1002 (vi) all contributions made by a participating employer under this system or under any
1003 other employee benefit system or plan maintained by a participating employer for the benefit of
1004 a member or participant.

1005 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed
1006 under Internal Revenue Code Section 401(a)(17).

1007 (2) "Final average salary" means the amount computed by averaging the highest three
1008 years of annual compensation preceding retirement subject to Subsections (2)(a) and (b).

1009 (a) Except as provided in Subsection (2)(b), the percentage increase in annual
1010 compensation in any one of the years used may not exceed the previous year's compensation by
1011 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
1012 of the dollar during the previous year, as measured by a United States Bureau of Labor
1013 Statistics Consumer Price Index average as determined by the board.

1014 (b) In cases where the participating employer provides acceptable documentation to the
1015 office, the limitation in Subsection [~~(3)~~] (2)(a) may be exceeded if:

1016 (i) the public safety service employee has transferred from another agency; or

1017 (ii) the public safety service employee has been promoted to a new position.

1018 (3) "Line-of-duty death" means a death resulting from external force, violence, or
1019 disease occasioned by an act of duty as a public safety service employee.

1020 (4) "Participating employer" means an employer which meets the participation
1021 requirements of Section 49-15-201.

1022 (5) (a) "Public safety service" means ~~[at least]~~ employment normally requiring an
1023 average of 2,080 hours of regularly scheduled ~~[compensated]~~ employment per year rendered by
1024 a member who is a:

1025 (i) law enforcement officer in accordance with Section 53-13-103;

1026 (ii) correctional officer in accordance with Section 53-13-104; and

1027 (iii) special function officer approved in accordance with ~~[Section 49-4a-203]~~ Sections
1028 49-15-201 and ~~[Section]~~ 53-13-105.

1029 (b) "Public safety service" also requires that in the course of employment the
1030 employee's life or personal safety is at risk.

1031 (6) "Public safety service employee" means an employee of a participating employer
1032 who performs public safety service under this chapter.

1033 (7) "System" means the Public Safety Noncontributory Retirement System created
1034 under this chapter.

1035 (8) "Years of service credit" means the number of periods, each to consist of 12 full
1036 months as determined by the board, whether consecutive or not, during which a public safety
1037 service employee was employed by a participating employer, including time the public safety
1038 service employee was absent in the service of the United States government on military duty.

1039 Section 26. Section **49-15-502** is amended to read:

1040 **49-15-502. Death of active member in Division B -- Payment of benefits.**

1041 (1) If an active member of this system enrolled in Division B under Section 49-15-301
1042 dies, benefits are payable as follows:

1043 (a) If ~~[the member has accrued less than 20 years of public safety service credit and if]~~
1044 the death is classified by the office as a line-of-duty death, the spouse at the time of death shall
1045 receive a lump sum of \$1,500 and an allowance equal to 37.5% of the member's final average
1046 monthly salary.

1047 (b) If the death is not classified by the office as a line-of-duty death, and the member
1048 has accrued two or more years of public safety service credit at the time of death, the death is
1049 considered line-of-duty and the benefit shall be paid as provided under Subsection (1)(a).

1050 (c) If the death is not classified by the office as a line-of-duty death, and the member

1051 has accrued less than two years of public safety service credit at the time of death, the spouse at
1052 the time of death shall receive a refund of the member's member contributions, plus 50% of the
1053 member's most recent 12 months' compensation.

1054 (d) (i) If the member has accrued two or more years of public safety service credit at
1055 the time of death, each of the member's unmarried children to age 18 or dependent unmarried
1056 mentally or physically disabled children shall receive an allowance of \$50.

1057 (ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or
1058 as otherwise provided under Section 49-11-609 or 49-11-610.

1059 (2) In the event of the death of both parents, the spouse's benefit shall be prorated and
1060 paid to each of the member's unmarried children to age 18.

1061 (3) If a benefit is not distributed under the previous subsections, and the member has
1062 designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

1063 (4) The combined payments to beneficiaries of any member under this section may not
1064 exceed 75% of the member's final average monthly salary.

1065 Section 27. Section **49-15-503** is amended to read:

1066 **49-15-503. Benefits payable upon death of inactive member.**

1067 (1) If an inactive member who has less than 20 years of public safety service credit
1068 dies, the ~~[designated beneficiary]~~ spouse at the time of death, or, if there is no spouse at the
1069 time of death, the member's minor children shall receive a refund of the member's member
1070 contributions or \$500, whichever is greater.

1071 (2) (a) If an inactive member with 20 or more years of public safety service credit dies,
1072 the spouse at the time of death shall receive an allowance in an amount of 50% of the amount
1073 the member would have received had retirement occurred on the first of the month following
1074 the month in which the death occurred.

1075 (b) This allowance shall be based on years of service credit and final average monthly
1076 salary under Section 49-15-402, reduced actuarially from age 50 to the age of the member at
1077 the time of death if the member is under 50 years of age at the time of death.

1078 Section 28. Section **49-15-504** is amended to read:

1079 **49-15-504. Benefits payable upon death of retired member.**

1080 (1) If a retiree who retired under either Division A or Division B dies, the retiree's
1081 spouse at the time of death shall receive an allowance equal to 65% of the allowance that was

1082 being paid to the retiree at the time of death.

1083 (2) If the retiree retired solely under Division B and dies leaving unmarried children
1084 under the age of 18 or dependent unmarried mentally or physically disabled children, the
1085 children shall qualify for a benefit as prescribed under Subsection [~~49-15-502(1)(c)~~]
1086 49-15-502(1)(d) which is payable on the first day of the month following the month in which
1087 the retiree died.

1088 Section 29. Section **49-15-506** is enacted to read:

1089 **49-15-506. Benefits payable upon death of active or inactive member without**
1090 **spouse or minor children.**

1091 If an active or inactive member dies and at the time of death the member does not have
1092 a spouse or minor children, the benefit payable to a designated beneficiary is a refund of the
1093 member's member contributions or \$500, whichever is larger.

1094 Section 30. Section **49-15-601** is enacted to read:

1095 **Part 6. Disability**

1096 **49-15-601. Long-term disability coverage.**

1097 Each participating employer shall cover its public safety employees under Title 49,
1098 Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term
1099 disability program.

1100 Section 31. Section **49-16-102** is amended to read:

1101 **49-16-102. Definitions.**

1102 As used in this chapter:

1103 (1) (a) "Compensation" means the total amount of payments that are includable as
1104 gross income which are received by a firefighter service employee as base income for the
1105 regularly scheduled work period. The participating employer shall establish the regularly
1106 scheduled work period. Base income shall be determined prior to the deduction of member
1107 contributions or any amounts the firefighter service employee authorizes to be deducted for
1108 salary deferral or other benefits authorized by federal law.

1109 (b) "Compensation" includes performance-based bonuses and cost-of-living
1110 adjustments.

1111 (c) "Compensation" does not include:

1112 (i) overtime;

- 1113 (ii) sick pay incentives;
- 1114 (iii) retirement pay incentives;
- 1115 (iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel,
- 1116 or similar payments;
- 1117 (v) a lump-sum payment or special payments covering accumulated leave; and
- 1118 (vi) all contributions made by a participating employer under this system or under any
- 1119 other employee benefit system or plan maintained by a participating employer for the benefit of
- 1120 a member or participant.
- 1121 (d) "Compensation" for purposes of this chapter may not exceed the amount allowed
- 1122 under Internal Revenue Code Section 401(a)(17).
- 1123 (2) (a) "Disability" means a physical or mental condition that, in the judgment of the
- 1124 office, is total and presumably permanent, and prevents a member from [fulfilling the
- 1125 ~~responsibilities of the member's position, and prevents the member from performing~~
- 1126 ~~satisfactorily in some other position of the same general class]~~ performing firefighter service.
- 1127 (b) The determination of disability is based upon medical and other evidence
- 1128 satisfactory to the office.
- 1129 (3) "Final average salary" means the amount computed by averaging the highest three
- 1130 years of annual compensation preceding retirement subject to Subsections (3)(a) and (b).
- 1131 (a) Except as provided in Subsection (3)(b), the percentage increase in annual
- 1132 compensation in any one of the years used may not exceed the previous year's compensation by
- 1133 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
- 1134 of the dollar during the previous year, as measured by a United States Bureau of Labor
- 1135 Statistics Consumer Price Index average as determined by the board.
- 1136 (b) In cases where the participating employer provides acceptable documentation to the
- 1137 office the limitation in Subsection (3)(a) may be exceeded if:
- 1138 (i) the member has transferred from another agency; or
- 1139 (ii) the member has been promoted to a new position.
- 1140 (4) "Firefighter service" means [at least] employment normally requiring an average of
- 1141 2,080 hours of regularly scheduled [compensated] employment per year rendered by a member
- 1142 who is a firefighter service employee trained in firefighter techniques and assigned to a position
- 1143 of hazardous duty with a regularly constituted fire department, but does not include secretarial

1144 staff or other similar employees.

1145 (5) "Firefighter service employee" means an employee of a participating employer who
1146 provides firefighter service under this chapter. An employee of a regularly constituted fire
1147 department who does not perform firefighter service is not a firefighter service employee.

1148 (6) "Line-of-duty death or disability" means a death or any physical or mental disability
1149 resulting from external force, violence, or disease directly resulting from firefighter service.

1150 (a) A paid firefighter who has five years of firefighter service credit is eligible for a
1151 line-of-duty death or disability resulting from heart disease, lung disease, or respiratory tract
1152 condition.

1153 (b) A paid firefighter who receives a service connected disability benefit for more than
1154 six months due to violence or illness other than heart disease, lung disease, or respiratory tract
1155 condition, and then returns to paid firefighter service, may not be eligible for a line-of-duty
1156 death or disability benefit due to heart disease, lung disease, or respiratory tract condition for
1157 two years after the firefighter returned to work unless clear and convincing evidence is
1158 presented that the heart disease, lung disease, or respiratory tract condition was directly a result
1159 of firefighter service.

1160 (7) "Participating employer" means an employer which meets the participation
1161 requirements of Section 49-16-201.

1162 (8) "Regularly constituted fire department" means a fire department that employs a fire
1163 chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid
1164 employment per year.

1165 (9) "System" means the Firefighters' Retirement System created under this chapter.

1166 (10) (a) "Volunteer firefighter" means any individual that is not regularly employed as
1167 a firefighter service employee, but who is on the rolls of a regularly constituted fire department.

1168 (b) An individual that volunteers assistance but is not a regularly enrolled firefighter is
1169 not a volunteer firefighter.

1170 (11) "Years of service credit" means the number of periods, each to consist of 12 full
1171 months as determined by the board, whether consecutive or not, during which a firefighter
1172 service employee was employed by a participating employer or received full-time pay while on
1173 sick leave, including any time the firefighter service employee was absent in the service of the
1174 United States on military duty.

1175 Section 32. Section **49-16-401** is amended to read:

1176 **49-16-401. Eligibility for service retirement -- Date of retirement --**

1177 **Qualifications.**

1178 (1) A member is qualified to receive an allowance from this system when:

1179 (a) the member ceases actual work for a participating employer in this system before
1180 the member's retirement date and provides evidence of the termination;

1181 (b) the member has submitted to the office a notarized retirement application form that
1182 states the member's proposed retirement date; and

1183 (c) one of the following conditions is met as of the member's retirement date:

1184 (i) the member has accrued at least 20 years of service credit;

1185 (ii) the member has accrued at least ten years of service credit and has attained an age
1186 of 60 years; or

1187 (iii) the member has accrued at least four years of service credit and has attained an age
1188 of 65 years.

1189 (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as
1190 selected by the firefighter service employee, but the retirement date must be on or after the date
1191 of termination.

1192 (b) The retirement date may not be more than 90 days before or after the date the
1193 application is received by the office.

1194 Section 33. Section **49-16-402** is amended to read:

1195 **49-16-402. Calculation of retirement allowance.**

1196 (1) A retiree under this system shall receive an allowance equal to:

1197 (a) 2.5% of final average monthly salary multiplied by the number of years of service
1198 credit, limited to 20 years; plus

1199 (b) 2% of final average monthly salary, multiplied by the number of years of service
1200 credit in excess of 20 years.

1201 (2) The minimum [~~annual~~] allowance payable under this section is \$500.

1202 (3) Except as modified by cost-of-living adjustments, an allowance under this system
1203 may not exceed 70% of a firefighter service employee's final average monthly salary.

1204 Section 34. Section **49-16-501** is amended to read:

1205 **49-16-501. Death of active member in Division A -- Payment of benefits.**

1206 (1) If an active member of this system enrolled in Division A under Section 49-16-301
1207 dies, benefits are payable as follows:

1208 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as
1209 follows:

1210 (i) If the member has accrued less than 20 years of firefighter service credit, the spouse
1211 at the time of death shall receive a lump sum of \$1,500 and an allowance equal to 30% of the
1212 member's final average monthly salary.

1213 (ii) If the member has accrued 20 or more years of firefighter service credit, the
1214 member shall be considered to have retired with an allowance calculated under Section
1215 49-16-402 and the spouse at the time of death shall receive the death benefit payable to a
1216 spouse under Section 49-16-504.

1217 (b) If the death is not classified as a line-of-duty death by the office, benefits are
1218 payable as follows:

1219 (i) If the member has accrued less than ten years of firefighter service credit, the
1220 beneficiary shall receive a sum of \$1,000 or a refund of the member's member contributions,
1221 whichever is greater.

1222 (ii) If the member has accrued ten or more years of firefighter service credit the spouse
1223 at the time of death shall receive a sum of \$500, plus an allowance equal to 2% of the member's
1224 final average monthly salary for each year of service credit accrued by the member up to a
1225 maximum of 30% of the member's final average monthly salary.

1226 (2) (a) If the member dies without a current spouse, the spouse's ~~[benefit]~~ allowance
1227 shall be equally divided and paid to each unmarried child until the child reaches age 21.

1228 (b) The payment shall be made to a duly appointed guardian or as provided under
1229 Sections 49-11-609 and 49-11-610.

1230 (3) If the benefit is not distributed under this section, and the member has designated a
1231 beneficiary, the member's member contributions shall be paid to the beneficiary.

1232 Section 35. Section **49-16-503** is amended to read:

1233 **49-16-503. Benefits payable upon death of inactive member.**

1234 (1) If an inactive member who has less than 20 years of firefighter service credit dies,
1235 the ~~[designated beneficiary]~~ spouse at the time of death, or, if there is no spouse at the time of
1236 death, the member's minor children shall receive a refund of the member's member

1237 contributions or \$500, whichever is greater.

1238 (2) (a) If an inactive member with 20 or more years of firefighter service credit dies,
1239 the spouse at the time of death shall receive an allowance in the amount of 50% of the amount
1240 the member would have received had retirement occurred on the first of the month following
1241 the month in which the death occurred.

1242 (b) This allowance shall be based on years of service credit and final average monthly
1243 salary under Section 49-16-402, reduced actuarially from age 50 to the age of the member at
1244 the time of death if the member is under 50 years of age at the time of death.

1245 Section 36. Section **49-16-504** is amended to read:

1246 **49-16-504. Benefits payable upon death of retired member.**

1247 (1) If a retiree who retired under either Division A or Division B dies, the retiree's
1248 spouse at the time of death shall receive an allowance equal to 75% of the allowance that was
1249 being paid to the retiree at the time of death.

1250 (2) If the retiree retired solely under Division B and dies leaving unmarried children
1251 under the age of [~~18~~] 21 or dependent unmarried mentally or physically disabled children, the
1252 children shall qualify for a benefit as prescribed under Subsection 49-16-502(1)(c) which is
1253 payable on the first day of the month following the month in which the retiree died.

1254 Section 37. Section **49-16-507** is enacted to read:

1255 **49-16-507. Benefits payable upon death of active or inactive member without**
1256 **spouse or minor children.**

1257 If an active or inactive member dies and at the time of death the member does not have
1258 a spouse or minor children, the benefit payable to a designated beneficiary is a refund of the
1259 member's member contributions or \$500, whichever is larger.

1260 Section 38. Section **49-16-602** is amended to read:

1261 **49-16-602. Disability retirement -- Disability allowance eligibility -- Conversion to**
1262 **service retirement -- Examinations -- Reemployment.**

1263 (1) A member of this system who applies and is qualified for disability retirement shall
1264 receive a disability retirement benefit until the earlier of:

1265 (a) the date the member of this system is no longer disabled;

1266 (b) the date the member of this system has accumulated 20 years of firefighter service
1267 credit, including years earned while disabled; or

1268 (c) the date the member of this system has received disability retirement benefits for
1269 the following time periods:

1270 (i) if the member is under age 60 [~~or~~] on the date of disability, the disability retirement
1271 benefit is payable until age 65;

1272 (ii) if the member is 60 or 61 years of age on the date of disability, the disability
1273 retirement benefit is payable for five years;

1274 (iii) if the member is 62 or 63 years of age on the date of disability, the disability
1275 retirement benefit is payable for four years;

1276 (iv) if the member is 64 or 65 years of age on the date of disability, the disability
1277 retirement benefit is payable for three years;

1278 (v) if the member is 66, 67, or 68 years of age on the date of disability, the disability
1279 retirement benefit is payable for two years; and

1280 (vi) if the member is 69 years of age or older on the date of disability, the disability
1281 retirement benefit is payable for one year.

1282 (2) (a) (i) The disability retiree shall receive service credit in this system during the
1283 period of disability.

1284 (ii) If the disability retiree is employed by a participating employer during the period of
1285 disability, the disability retiree may not receive service credit for that employment.

1286 (b) The disability retirement shall be converted to a service retirement at the time the
1287 disability retirement benefits terminate.

1288 (3) The office shall approve or disapprove applications for disability retirement
1289 benefits based upon:

1290 (a) the evaluation and recommendations of one or more treating physicians along with
1291 medical records relating to the condition;

1292 (b) the evaluation and recommendations of one or more independent physicians
1293 selected by the office; and

1294 (c) receipt of documentation by the office from the participating employer that the
1295 member is mentally or physically unable to perform firefighter service.

1296 (4) (a) A disability retiree who receives benefits under this section shall, upon request
1297 of the executive director, submit to a medical examination by one or more physicians as
1298 directed by the office.

1299 (b) If, after an examination, the examiners report that the disability retiree is physically
1300 able and capable of resuming firefighter service employment, the disability retiree shall be
1301 reinstated by the participating employer for which the disability retiree last worked at the
1302 disability retiree's former classification and rank, and the disability retirement benefit shall
1303 terminate.

1304 (c) A disability retiree may not be required to submit to an examination under this
1305 Subsection (4) more than once every year.

1306 (d) A disability retiree who returns to firefighter service employment with a
1307 participating employer in this system shall immediately begin accruing service credit that shall
1308 be added to that service credit that has been previously accrued, including service credit while
1309 disabled.

1310 (5) A disability retiree is not subject to medical examinations after reaching age 55.

1311 (6) Refusal or neglect of a member to submit to an examination as requested by the
1312 office either before or after a decision regarding disability benefits has been made is sufficient
1313 cause for denial, suspension, or discontinuance of benefits and if the refusal or neglect
1314 continues for one year, the member's or disability retiree's rights to disability retirement
1315 benefits may be revoked by the office.

1316 (7) (a) A disability retiree who receives benefits under this part shall file a sworn
1317 statement with the office on or before [~~January~~] March 15 of each year for the first five years a
1318 disability retiree receives benefits.

1319 (b) The sworn statement shall indicate whether or not the disability retiree engaged in
1320 any employment during the preceding year and, if so, the amount of earnings received during
1321 the calendar year.

1322 (c) If the total amount received in one year by a disability retiree for disability
1323 retirement benefits and gross earnings from other employment exceeds 125% of the disability
1324 retiree's final average salary, the office shall offset the disability retirement benefit paid the
1325 following year by the amount in excess of 125% of the disability retiree's final average salary.

1326 (d) (i) If a disability retiree refuses or neglects to file a sworn statement as required
1327 under this Subsection (7), the executive director may suspend payment of any and all benefits
1328 pending receipt of the statement.

1329 (ii) Upon filing the statement, the disability retiree's payments shall be resumed.

1330 (8) The disability retirement benefit shall be improved by the annual cost-of-living
1331 increase factor applied to retirees of the system that covered the firefighter service employee at
1332 the time of disability.

1333 (9) A line of duty disability allowance paid on or after January 1, 2002, under Section
1334 49-16-601 is exempt from taxation to the extent permitted under federal law.

1335 (10) (a) An active member of this system with five or more years of firefighter service
1336 credit shall be eligible for a line-of-duty death or disability benefit resulting from heart disease,
1337 lung disease, or respiratory tract disease.

1338 (b) An active member of this system who receives a line-of-duty disability benefit for
1339 more than six months due to violence or illness other than heart disease, lung disease, or
1340 respiratory tract disease, and then returns to paid firefighter service, is not eligible for a
1341 line-of-duty death or disability benefit due to those diseases for two years after the member
1342 returned to paid firefighter service unless clear and convincing evidence is presented that the
1343 heart, lung, or respiratory tract disease was directly a result of firefighter service.

1344 (11) Disability retirement benefits shall be considered an allowance for purposes of
1345 Section 49-11-701.

1346 Section 39. Section **49-17-401** is amended to read:

1347 **49-17-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

1348 (1) A member is qualified to receive an allowance when:

1349 (a) the member ceases actual work for a participating employer in this system before
1350 the member's retirement date and provides evidence of the termination;

1351 (b) the member has submitted to the office a notarized retirement application form that
1352 states the member's proposed retirement date; and

1353 (c) one of the following conditions is met as of the member's retirement date:

1354 (i) the member has accrued at least six years of service credit and has attained an age of
1355 70 years;

1356 (ii) the member has accrued at least ten years of service credit and has attained an age
1357 of 62 years;

1358 (iii) the member has accrued at least 20 years of service credit and has attained an age
1359 of 55 years; or

1360 (iv) the member has accrued at least 25 years of service credit.

1361 (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as
1362 selected by the member, but the retirement date must be on or after the date of termination.

1363 (b) The retirement date may not be more than 90 days before or after the date the
1364 application is received by the office.

1365 Section 40. Section **49-18-401** is amended to read:

1366 **49-18-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

1367 (1) A member is qualified to receive an allowance when:

1368 (a) the member ceases actual work for a participating employer in this system before
1369 the member's retirement date and provides evidence of the termination;

1370 (b) the member has submitted to the office a notarized retirement application form that
1371 states the member's proposed retirement date; and

1372 (c) one of the following conditions is met as of the member's retirement date:

1373 (i) the member has accrued at least six years of service credit and has attained an age of
1374 70 years;

1375 (ii) the member has accrued at least ten years of service credit and has attained an age
1376 of 62 years;

1377 (iii) the member has accrued at least 20 years of service credit and has attained an age
1378 of 55 years; or

1379 (iv) the member has accrued at least 25 years of service credit.

1380 (2) (a) The member's retirement date shall be the 1st or the 16th day of the month, as
1381 selected by the member, but the retirement date must be on or after the date of termination.

1382 (b) The retirement date may not be more than 90 days before or after the date the
1383 application is received by the office.

1384 Section 41. Section **49-18-501** is amended to read:

1385 **49-18-501. Death benefit for members before retirement -- Computation.**

1386 (1) Upon the receipt of acceptable proof of death of a member before the member's
1387 retirement date, the member's spouse at the time of death shall have the choice of the following
1388 death benefits:

1389 [~~(1)~~] (a) a refund of the member's member contributions, if any, [~~including refund~~
1390 ~~interest,~~] plus 65% of the member's most recent 12 months' compensation prior to death; or

1391 [~~(2)~~] (b) an allowance equal to 65% of the allowance computed in accordance with

1392 Section 49-18-402, but disregarding early retirement reductions.

1393 (2) If there is no spouse to whom the member is married at the time of death, member
1394 contributions shall be refunded to a beneficiary, in accordance with Sections 49-11-609 and
1395 49-11-610.

1396 Section 42. Section **49-19-401** is amended to read:

1397 **49-19-401. Eligibility for an allowance -- Governor -- Legislator.**

1398 (1) A governor is qualified to receive an allowance when:

1399 (a) the governor has submitted to the office a notarized retirement application form that
1400 states the proposed retirement date; and

1401 (b) one of the following conditions is met as of the retirement date:

1402 (i) the governor has completed at least one full term in office and has attained an age of
1403 65 years; or

1404 (ii) the governor has served as governor of the state for at least ten years and has
1405 attained an age of 62 years.

1406 (2) A legislator is qualified to receive an allowance when:

1407 (a) the legislator has submitted to the office a notarized retirement application form
1408 that states the proposed retirement date; and

1409 (b) one of the following conditions is met as of the retirement date:

1410 (i) the legislator has completed at least four years in the Legislature and has attained an
1411 age of 65 years; or

1412 (ii) the legislator has completed at least ten years in the Legislature and has attained an
1413 age of 62 years.

1414 (3) (a) The retirement date shall be the 1st or the 16th day of the month as selected by
1415 the member.

1416 (b) The retirement date may not be more than 90 days before or after the date the
1417 application is received by the office.

1418 [~~(4) A member who retires and continues to serve in office may not receive an~~
1419 ~~additional increase to the allowance from that service.]~~

1420 [(5)] (4) A member who withdraws member contributions shall forfeit all allowances
1421 based on those contributions.

1422 (5) If a retired legislator is elected to another term in the Legislature or continues to

1423 serve in the Legislature after reaching age 65, the legislative allowance ceases at the beginning
1424 of each session under rules established by the board, but is restored at the same amount at the
1425 end of the session.

1426 (6) A member receiving an allowance while serving as a legislator is eligible for
1427 additional service credits and allowance adjustments at the end of each term of office if the
1428 legislator continues as a contributing member during the member's service as a legislator.

1429 Section 43. Section **49-20-301** is amended to read:

1430 **49-20-301. Payments made by employer and employee.**

1431 The program shall be maintained on a financially and actuarially sound basis by [~~means~~
1432 ~~of~~] payments from covered employers and covered individuals.

1433 Section 44. Section **49-20-401** is amended to read:

1434 **49-20-401. Program -- Powers and duties.**

1435 (1) The program shall:

1436 (a) act as a self-insurer of employee benefit plans and administer those plans;

1437 (b) enter into contracts with private insurers or carriers to underwrite employee benefit
1438 plans as considered appropriate by the program;

1439 (c) indemnify employee benefit plans or purchase commercial reinsurance as
1440 considered appropriate by the program;

1441 (d) provide descriptions of all employee benefit plans under this chapter in cooperation
1442 with covered employers;

1443 (e) process claims for all employee benefit plans under this chapter or enter into
1444 contracts, after competitive bids are taken, with other benefit administrators to provide for the
1445 administration of the claims process;

1446 (f) obtain an annual actuarial review of all health and dental benefit plans and a
1447 periodic review of all other employee benefit plans;

1448 (g) consult with the covered employers to evaluate employee benefit plans and develop
1449 recommendations for benefit changes;

1450 (h) annually submit a budget and audited financial statements to the governor and
1451 Legislature which includes total projected benefit costs and administrative costs;

1452 (i) maintain reserves sufficient to liquidate the unrevealed claims liability and other
1453 liabilities of the employee benefit plans as [~~estimated~~] certified by the program's consulting

1454 actuary;

1455 (j) submit its recommended benefit adjustments for state employees to the director of
1456 the state Department of Human Resource Management;

1457 (k) determine benefits and rates, upon approval of the board, for multiemployer risk
1458 pools, retiree coverage, and conversion coverage;

1459 (l) determine benefits and rates, upon approval of the board and the Legislature, for
1460 state employees;

1461 (m) administer benefits and rates, upon ratification of the board, for single employer
1462 risk pools;

1463 (n) request proposals for provider networks or benefit plans administered by third party
1464 carriers at least once every three years for the purposes of:

1465 (i) stimulating competition for the benefit of covered individuals;

1466 (ii) establishing better geographical distribution of medical care services; and

1467 (iii) providing coverage for both active and retired covered individuals;

1468 (o) offer proposals which meet the criteria specified in a request for proposals and
1469 accepted by the program to active and retired state covered individuals and which may be
1470 offered to active and retired covered individuals of other covered employers at the option of the
1471 covered employer;

1472 (p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for
1473 the Department of Health if the program provides program benefits to children enrolled in the
1474 Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's
1475 Health Insurance Act;

1476 (q) establish rules and procedures governing the admission of political subdivisions or
1477 educational institutions and their employees to the program; ~~and~~

1478 (r) contract directly with medical providers to provide services for covered
1479 individuals[-]; and

1480 (s) take additional actions necessary or appropriate to carry out the purposes of this
1481 chapter.

1482 (2) (a) Funds budgeted and expended shall accrue from rates paid by the covered
1483 employers and covered individuals.

1484 (b) Administrative costs shall be approved by the board and reported to the governor

1485 and the Legislature.

1486 (3) The Department of Human Resource Management shall include the benefit
1487 adjustments described in Subsection (1)(j) in the total compensation plan recommended to the
1488 governor required under Subsection 67-19-12(6)(a).

1489 Section 45. Section **49-20-406** is amended to read:

1490 **49-20-406. Insurance benefits for employees' beneficiaries.**

1491 (1) As used in this section:

1492 (a) "Children" includes stepchildren and legally adopted children.

1493 (b) "Line-of-duty death" means a death resulting from external force or violence
1494 occasioned by an act of duty as an employee.

1495 (2) The beneficiary of a covered individual who is employed by the state and who dies
1496 in the line of duty shall receive:

1497 (a) the proceeds of a group term life insurance policy in the amount of \$50,000 to be
1498 purchased by the program and paid for by the state; and

1499 (b) group health coverage paid for by the state that covers the covered individual's:

1500 (i) surviving spouse until remarriage or becoming eligible for Medicare, whichever
1501 comes first; and

1502 (ii) unmarried children up to the age of 26.

1503 (3) ~~[Any]~~ A covered employer not required to provide the benefits under Subsection
1504 (2) may provide either or both of the [benefit] benefits under Subsection (2) by paying rates
1505 established by the program.

1506 Section 46. Section **49-21-102** is amended to read:

1507 **49-21-102. Definitions.**

1508 As used in this chapter:

1509 (1) "Date of disability" means the date on which a period of continuous disability
1510 commences, and may not commence on or before the last day of actual work.

1511 (2) "Elimination period" means the three months at the beginning of each continuous
1512 period of total disability for which no benefit will be paid ~~[and commences with the date of~~
1513 ~~disability]~~. The elimination period begins on the nearest first day of the month from the date of
1514 disability. The elimination period may include a one-time trial return to work period of less
1515 than 15 consecutive calendar days.

1516 (3) (a) "Eligible employee" means:

1517 (i) any regular full-time employee as defined under Section 49-12-102 or 49-13-102,
1518 public safety service employee as defined under Section 49-14-102 or 49-15-102, or judge as
1519 defined under Section 49-17-102 or 49-18-102, whose employer provides coverage under this
1520 chapter, or the governor of the state; and

1521 (ii) an employee who is covered by a retirement program offered by the Teachers'
1522 Insurance and Annuity Association of America, if the employee's employer provides coverage
1523 under this chapter; and

1524 (b) "Eligible employee" does not include any employee that is exempt from coverage
1525 under Section 49-21-201.

1526 (4) "Maximum benefit period" means the maximum period of time the monthly
1527 disability income benefit will be paid under Section 49-21-403 for any continuous period of
1528 total disability.

1529 (5) "Monthly disability benefit" means the monthly payments and accrual of service
1530 credit under Section 49-21-401 and health insurance reimbursements paid under Section
1531 [~~49-21-408~~] 49-21-407, or any combination of them.

1532 (6) "Objective medical impairment" means an impairment resulting from an injury or
1533 illness which is diagnosed by a physician and which is based on accepted objective medical
1534 tests or findings rather than subjective complaints.

1535 (7) "Physician" means a licensed physician.

1536 (8) "Regular monthly salary" means the amount certified by the participating employer
1537 as the monthly salary of the eligible employee, unless there is a discrepancy between the
1538 certified amount and the amount actually paid, in which case the office shall determine the
1539 regular monthly salary.

1540 (9) "Regular occupation" means either the primary duties performed by the eligible
1541 employee for the twelve months preceding the date of disability, or a permanent assignment of
1542 duty to the eligible employee.

1543 (10) "Rehabilitative employment" means any occupation or employment for wage or
1544 profit, for which the eligible employee is reasonably qualified to perform based on education,
1545 training, or experience while unable to perform the employee's regular occupation.

1546 (11) (a) "Total disability" or "totally disabled" means the complete inability, due to

1547 objective medical impairment, whether physical or mental, to engage in the eligible employee's
1548 regular occupation during the elimination period and the first 24 months of disability benefits.

1549 (b) "Total disability" means, after the elimination period and the first 24 months of
1550 disability benefits, the complete inability, based solely on physical objective medical
1551 impairment, to engage in any gainful occupation which is reasonable, considering the eligible
1552 employee's education, training, and experience.

1553 Section 47. Section **49-21-401** is amended to read:

1554 **49-21-401. Disability Benefits -- Application -- Eligibility.**

1555 (1) An eligible employee shall apply for long-term disability benefits under this chapter
1556 by:

1557 (a) completing an application form prepared by the office;

1558 (b) signing a consent form allowing the office access to the eligible employee's medical
1559 records; and

1560 (c) providing any documentation or information reasonably requested by the office.

1561 (2) Upon request by the office, the participating employer of the eligible employee
1562 shall provide to the office documentation and information concerning the eligible employee.

1563 (3) The office shall review all relevant information and determine whether or not the
1564 eligible employee is totally disabled.

1565 (4) If the office determines that the eligible employee is totally disabled due to
1566 accidental bodily injury or physical illness which is not the result of the performance of an
1567 employment duty, the eligible employee shall receive a monthly disability benefit equal to 2/3
1568 of the eligible employee's regular monthly salary, for each month the total disability continues
1569 beyond the elimination period, not to exceed the maximum benefit period.

1570 (5) If the office determines that the eligible employee is totally disabled due to
1571 psychiatric illness, the eligible employee shall receive:

1572 (a) a maximum of two years of monthly disability benefits equal to 2/3 of the eligible
1573 employee's regular monthly salary for each month the total disability continues beyond the
1574 elimination period;

1575 (b) a maximum of \$10,000 for psychiatric expenses, including rehabilitation expenses
1576 [approved] preauthorized by the office's consultants, paid during the period of monthly
1577 disability benefits; and

1578 (c) payment of monthly disability benefits according to contractual provisions for a
1579 period not to exceed five years if the eligible employee is institutionalized due to psychiatric
1580 illness.

1581 (6) If the office determines that the eligible employee is totally disabled due to a
1582 physical injury resulting from external force or violence as a result of the performance of an
1583 employment duty, the eligible employee shall receive a monthly disability benefit equal to
1584 100% of the eligible employee's regular monthly salary, for each month the total disability
1585 continues beyond the elimination period, not to exceed the maximum benefit period.

1586 (7) (a) Successive periods of disability are considered as a continuous period of
1587 disability if the period of disability:

1588 (i) results from the same or related causes;

1589 (ii) is separated by less than six months of continuous full-time work at the individual's
1590 usual place of employment; and

1591 (iii) commences while the individual is an eligible employee covered by this chapter.

1592 (b) The inability to work for a period of less than 15 consecutive days is not considered
1593 as a period of disability.

1594 (c) If Subsection (7)(a) or (b) does not apply, successive periods of disability are
1595 considered as separate periods of disability.

1596 (8) The office may, at any time, have any eligible employee claiming disability
1597 examined by a physician chosen by the office to determine if the eligible employee is totally
1598 disabled.

1599 (9) A claim brought by an eligible employee for long-term disability benefits under the
1600 Public Employee's Long-Term Disability Program is barred if it is not commenced within one
1601 year from the eligible employee's date of disability, unless the office determines that under the
1602 surrounding facts and circumstances, the eligible employee's failure to comply with the time
1603 limitations was reasonable.

1604 (10) Medical or psychiatric conditions which existed prior to enrollment may not be a
1605 basis for disability benefits until the eligible employee has had one year of continuous
1606 enrollment in the Public Employees Long-Term Disability Program.

1607 (11) If there is a valid benefit protection contract, service credit shall accrue during the
1608 period of total disability, unless the disabled eligible employee is exempted from a system, or is

1609 otherwise ineligible for service credit.

1610 Section 48. Section **49-21-402** is amended to read:

1611 **49-21-402. Reduction of benefit -- Circumstances -- Application for other benefits**
1612 **required.**

1613 (1) A monthly disability benefit may not be paid for any period of total disability unless
1614 the eligible employee is under the ongoing care and treatment of a physician other than the
1615 eligible employee.

1616 (2) The monthly disability benefit shall be reduced by any amount received by, or
1617 payable to, the eligible employee from the following sources for the same period of time during
1618 which the eligible employee is entitled to receive a monthly disability benefit:

1619 (a) Social Security disability benefits, including all benefits received by the eligible
1620 employee, the eligible employee's spouse, and the eligible employee's dependent children;

1621 (b) workers' compensation indemnity benefits;

1622 (c) any monies received by judgment, legal action, or settlement from a third party
1623 liable to the employee for the disability;

1624 (d) unemployment compensation benefits; and

1625 (e) automobile no-fault, medical payments, or similar insurance payments[; ~~and~~].

1626 [~~(f) any other disability benefits resulting from the disability for which benefits are~~
1627 ~~being received under this chapter.~~]

1628 (3) The monthly disability benefit shall be reduced by any amount in excess of 1/3 of
1629 the eligible employee's regular monthly salary received by, or payable to, the eligible employee
1630 from the following sources for the same period of time during which the eligible employee is
1631 entitled to receive a monthly disability benefit:

1632 (a) any employer-sponsored retirement programs; and

1633 (b) any disability benefit resulting from the disability for which benefits are being
1634 received under this chapter.

1635 (4) Cost-of-living increases to any of the benefits listed in Subsection (2) may not be
1636 considered in calculating a reduction to the monthly disability benefit.

1637 (5) Any amounts payable to the eligible employee from one or more of the sources
1638 under Subsection (2) are considered as amounts received whether or not the amounts were
1639 actually received by the eligible employee.

1640 (6) (a) An eligible employee shall first apply for all disability benefits from
1641 governmental entities under Subsection (2) to which the eligible employee is or may be
1642 entitled, and provide to the office evidence of the applications.

1643 (b) The eligible employee shall also first apply at the earliest eligible age for all
1644 unreduced retirement benefits to which the eligible employee is or may be entitled, and provide
1645 to the office evidence of the application.

1646 (c) If the eligible employee fails to make application under Subsection (6)(a) or (b), the
1647 monthly disability benefit shall be suspended.

1648 Section 49. Section **49-21-403** is amended to read:

1649 **49-21-403. Termination of disability benefits -- Calculation of retirement benefit.**

1650 (1) An eligible employee covered by this chapter and eligible for service credit under a
1651 system, including an eligible employee who relinquishes rights to retirement benefits under
1652 Section 49-11-619, who applies and is qualified for a monthly disability benefit shall receive a
1653 monthly disability benefit until the earlier of:

1654 (a) the date the eligible employee has accumulated:

1655 (i) 20 years of service credit if the eligible employee is covered by Chapter 14, Public
1656 Safety Contributory Retirement Act, or Chapter 15, Public Safety Noncontributory Retirement
1657 Act;

1658 (ii) 25 years of service credit if the eligible employee is covered by Chapter 17, Judges'
1659 Contributory Retirement Act, or Chapter 18, Judges' Noncontributory Retirement Act; or

1660 (iii) 30 years of service credit if the eligible employee is covered by Chapter 12, Public
1661 Employees' Contributory Retirement Act, or Chapter 13, Public Employees' Noncontributory
1662 Retirement Act; or

1663 (b) the date the eligible employee has received a monthly disability benefit for the
1664 following applicable time periods:

1665 (i) if the eligible employee is under age 60, the monthly disability benefit is payable
1666 until age 65;

1667 (ii) if the eligible employee is 60 or 61 years of age on the date of disability, the
1668 monthly disability benefit is payable for five years;

1669 (iii) if the eligible employee is 62 or 63 years of age on the date of disability, the
1670 monthly disability benefit is payable for four years;

1671 (iv) if the eligible employee is 64 or 65 years of age on the date of disability, the
1672 monthly disability benefit is payable for three years;

1673 (v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the
1674 monthly disability benefit is payable for two years; and

1675 (vi) if the eligible employee is 69 years of age or older on the date of disability, the
1676 monthly disability benefit is payable for one year.

1677 (2) (a) Upon termination of a monthly disability benefit, an eligible employee eligible
1678 for service credit under a system may retire under the system which covered the eligible
1679 employee on the date of disability.

1680 (b) The final average salary used in the calculation of the allowance shall be based on
1681 the annual rate of pay on the date of disability, improved by the annual cost-of-living increase
1682 factor applied to retirees of the system which covered the eligible employee on the date of
1683 disability.

1684 (3) An eligible employee who is eligible for service credit in a system, but has
1685 relinquished rights to an allowance under Section 49-11-619, may receive the benefits the
1686 eligible employee would have received by being eligible for service credit in the system
1687 covering the eligible employee on the date of disability, except for the accrual of service credit,
1688 in accordance with this title.

1689 (4) An eligible employee receiving a monthly disability benefit who has service credit
1690 from two or more systems may not combine service credits under Section 49-11-405 in
1691 qualifying for retirement, unless the eligible employee would receive a greater allowance by
1692 combining the service credits.

1693 (5) A monthly disability benefit payable to an eligible employee who is not eligible for
1694 service credit under a system shall terminate at the earliest of:

1695 (a) the date the eligible employee [~~is~~] would be eligible for an unreduced retirement
1696 benefit; or

1697 (b) the date the eligible employee has received a monthly disability benefit for the
1698 applicable time period as set forth in Subsection (1)(b).

1699 Section 50. Section **49-21-404** is amended to read:

1700 **49-21-404. Annual adjustment to disability benefit.**

1701 (1) (a) An eligible employee receiving a monthly disability benefit shall receive an

1702 annual adjustment on the date following the end of the elimination period to reflect annual
1703 changes in the United States Bureau of Labor Statistics Consumer Price Index average as
1704 determined by the board.

1705 (b) This adjustment may not exceed adjustments made to retirees under the system
1706 which covered the eligible employee on the date of disability.

1707 (2) If an employee is not [~~eligible for service credit under~~] participating in a system, the
1708 annual adjustment [~~shall be equal to~~] may not exceed the adjustment [~~calculated under Section~~
1709 ~~49-13-407~~] paid in the system which would cover the employee if the employee were
1710 participating in a system.

1711 Section 51. Section **49-21-406** is amended to read:

1712 **49-21-406. Rehabilitative employment -- Interview by disability specialist --**
1713 **Maintaining eligibility -- Additional treatment and care.**

1714 (1) (a) If an eligible employee, [~~following~~] during a period of total disability for which
1715 the monthly disability benefit is payable, engages in approved rehabilitative employment, the
1716 monthly disability benefit otherwise payable shall be reduced by an amount equal to 50% of the
1717 income to which the eligible employee is entitled for the employment during the month.

1718 (b) This benefit is payable for up to two years or to the end of the maximum benefit
1719 period, whichever occurs first.

1720 (2) (a) Each eligible employee receiving a monthly disability benefit shall be
1721 interviewed by the office.

1722 (b) The office may refer the eligible employee to a disability specialist for a review of
1723 the eligible employee's condition and a written rehabilitation plan.

1724 (3) If an eligible employee receiving a monthly disability benefit fails to participate in
1725 an office-approved rehabilitation program within the limitations set forth by a physician, the
1726 monthly disability benefit may be suspended or terminated.

1727 (4) The office may, as a condition of paying a monthly disability benefit, require that
1728 the eligible employee receive medical care and treatment if that treatment is reasonable or usual
1729 according to current medical practices.

Legislative Review Note

as of 2-5-03 11:33 AM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0246

Retirement Office Amendments

07-Feb-03

2:42 PM

State Impact

No fiscal impact.

Individual and Business Impact

This bill modifies some benefits provided by the Utah Retirement Systems. Some members of the System may see enhanced benefits as a result of this legislation.

Office of the Legislative Fiscal Analyst