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RETIREMENT OFFICE AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David Clark

Senate Sponsor: Carlene M. Walker

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending definitions, and making certain technical and administrative amendments.

Highlighted Provisions:

This bill:

- ▶ amends the definition of allowance by adding "or retirement allowance";
- ▶ amends the definition of "political subdivision" by providing that a project entity created under the Interlocal Cooperation Act is not a political subdivision if it was formed prior to 1987;
- ▶ requires that retirement contributions made by a participating employee for a retiree that is subject to postemployment retirement restrictions shall be made to a "qualified" defined contribution plan;
- ▶ adds "covered individual" to those whose benefits are not subject to alienation, assignment, or attachment for legal purposes;
- ▶ allows the executive director to delegate certain dispute rulings to the deputy director;
- ▶ provides that Option One retirement allowance is only payable to the member during the member's lifetime for the Public Employees' Contributory and Noncontributory systems;
- ▶ adds "mentally" able to resume firefighter service to the examiners report for a determination regarding disability benefits;
- ▶ allows reserves in an insurance risk pool to be refunded directly to covered

30 individuals;

31 ▶ repeals a requirement that employees not be allowed to change from the high
32 deductible health plan more frequently than every three years and replaces it with a
33 provision that the program must be administered so that the impact on the overall
34 health plan is actuarially neutral;

35 ▶ requires the office to consult with covered employers in addition to certain state
36 agencies prior to determining the amount of annual contributions to a health savings
37 account;

38 ▶ changes references to eligibility to receive a "retirement benefit" to eligibility to
39 receive a "retirement allowance" to clarify provisions of the Unused Sick Leave
40 Retirement Option Program I and II; and

41 ▶ makes technical changes.

42 **Monies Appropriated in this Bill:**

43 None

44 **Other Special Clauses:**

45 None

46 **Utah Code Sections Affected:**

47 AMENDS:

48 **49-11-102**, as last amended by Chapter 116, Laws of Utah 2005

49 **49-11-504**, as last amended by Chapter 116, Laws of Utah 2005

50 **49-11-612**, as last amended by Chapter 260, Laws of Utah 2006

51 **49-11-613**, as last amended by Chapter 116, Laws of Utah 2005

52 **49-12-402**, as last amended by Chapter 116, Laws of Utah 2005

53 **49-13-402**, as last amended by Chapter 116, Laws of Utah 2005

54 **49-16-602**, as last amended by Chapter 240, Laws of Utah 2003

55 **49-17-301**, as renumbered and amended by Chapter 250, Laws of Utah 2002

56 **49-18-301**, as renumbered and amended by Chapter 250, Laws of Utah 2002

57 **49-20-201**, as last amended by Chapter 118, Laws of Utah 2004

- 58 **49-20-402**, as renumbered and amended by Chapter 250, Laws of Utah 2002
- 59 **49-20-409**, as last amended by Chapter 260, Laws of Utah 2006
- 60 **49-20-410**, as enacted by Chapter 276, Laws of Utah 2006
- 61 **49-21-102**, as last amended by Chapter 116, Laws of Utah 2005
- 62 **49-21-401**, as last amended by Chapter 240, Laws of Utah 2003
- 63 **67-19-14.2**, as last amended by Chapter 15, Laws of Utah 2005
- 64 **67-19-14.4**, as enacted by Chapter 15, Laws of Utah 2005

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

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

68 **49-11-102. Definitions.**

69 As used in this title:

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

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

73 (2) "Actuarial equivalent" means a benefit of equal value when computed upon the
74 basis of mortality tables as recommended by the actuary and adopted by the executive director,
75 including regular interest.

76 (3) "Actuarial interest rate" means the interest rate as recommended by the actuary and
77 adopted by the board upon which the funding of system costs and benefits are computed.

78 (4) "Agency" means:

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

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

82 (c) a state college or university; or

83 (d) any other participating employer.

84 (5) "Allowance" or "retirement allowance" means the pension plus the annuity,
85 including any cost of living or other authorized adjustments to the pension and annuity.

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

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

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

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

97 (10) "Board" means the Utah State Retirement Board established under Section
98 49-11-202.

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

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

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

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

108 (15) "Current service" means covered service as defined in Chapters 12, 13, 14, 15, 16,
109 17, 18, and 19.

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

112 (17) "Educational institution" means a political subdivision or instrumentality of the
113 state or a combination thereof primarily engaged in educational activities or the administration

114 or servicing of educational activities, including:

- 115 (a) the State Board of Education and its instrumentalities;
- 116 (b) any institution of higher education and its branches;
- 117 (c) any school district and its instrumentalities;
- 118 (d) any vocational and technical school; and
- 119 (e) any entity arising out of a consolidation agreement between entities described under
120 this Subsection (17).

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

124 (b) "Employer" may also include an agency financed in whole or in part by public
125 funds.

126 (19) "Exempt employee" means an employee working for a participating employer:

127 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,
128 49-14-203, 49-15-203, or 49-16-203; and

129 (b) for whom a participating employer is not required to pay contributions or
130 nonelective contributions.

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

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

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

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

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

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

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

151 (a) the member; and

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

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

156 (26) "Office" means the Utah State Retirement Office.

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

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

162 (29) "Pension" means monthly payments derived from participating employer
163 contributions.

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

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

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

172 (c) "Political subdivision" does not include a project entity created under Title 11,
173 Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

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

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

183 (34) "Qualified defined contribution plan" means a defined contribution plan that
184 meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

185 [~~34~~] (35) "Refund interest" means the amount accrued on member contributions at a
186 rate adopted by the board.

187 [~~35~~] (36) "Retiree" means an individual who has qualified for an allowance under this
188 title.

189 [~~36~~] (37) "Retirement" means the status of an individual who has become eligible,
190 applies for, and is entitled to receive an allowance under this title.

191 [~~37~~] (38) "Retirement date" means the date selected by the member on which the
192 member's retirement becomes effective with the office.

193 [~~38~~] (39) "Service credit" means:

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

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

199 [~~(39)~~] (40) "System" means the individual retirement systems created by [~~Chapters 12,~~
200 ~~13, 14, 15, 16, 17, and 18~~] Chapter 12, Public Employees' Contributory Retirement Act,
201 Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety
202 Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act,
203 Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act,
204 Chapter 18, Judges' Noncontributory Retirement Act, and Utah Governors' and Legislators'
205 Retirement Act.

206 [~~(40)~~] (41) "Voluntary deferrals" means an amount contributed by a participant into
207 that participant's defined contribution account.

208 Section 2. Section **49-11-504** is amended to read:

209 **49-11-504. Reemployment of a retiree -- Restrictions.**

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

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

214 (3) For the purposes of Subsections (4) and (5), "full-time" employment means
215 employment requiring 20 hours of work per week or more or at least a half-time teaching
216 contract.

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

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

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

222 (c) the allowance cancellation and reinstatement to active member status is effective on
223 the first day of the month following the date of reemployment;

224 (d) the reinstated retiree may not retire again with a recalculated benefit for a two-year
225 period from the date of cancellation of the original allowance, and if the retiree retires again

226 within the two-year period, the original allowance shall be resumed; and

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

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

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

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

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

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

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

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

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

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

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

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

252 (8) If a participating employer hires a nonexempt retiree who may not earn additional
253 service credit under this section, the participating employer shall contribute the same

254 percentage of a retiree’s salary that the participating employer would have been required to
255 contribute if the retiree were an active member, up to the amount allowed by federal law, to a
256 retiree designated:

257 (a) qualified defined contribution plan administered by the board, if the participating
258 employer participates in [~~the~~] a qualified defined contribution plan administered by the board;
259 or

260 (b) qualified defined contribution plan offered by the participating employer if the
261 participating employer does not participate in a qualified defined contribution plan
262 administered by the board.

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

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

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

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

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

272 Section 3. Section **49-11-612** is amended to read:

273 **49-11-612. Nonassignability of benefits or payments -- Exemption from legal**
274 **process.**

275 (1) Except as provided in Subsections (2), (3), and (4), the right of any member, retiree,
276 participant, covered individual, or beneficiary to any retirement benefit, retirement payment, or
277 any other retirement right accrued or accruing under this title and the assets of the funds created
278 by this title are not subject to alienation or assignment by the member, retiree, participant, or
279 their beneficiaries and are not subject to attachment, execution, garnishment, or any other legal
280 or equitable process.

281 (2) The office may, upon the request of the retiree, deduct from the retiree's allowance

282 insurance premiums or other dues payable on behalf of the retiree, but only to those entities
283 that have received the deductions prior to February 1, 2002.

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

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

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

293 (i) the amount to be paid or the period for which payments shall be made under the
294 original domestic relations order may not be altered if the alteration affects the actuarial
295 calculation of the allowance;

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

298 (iii) the alternate payee shall receive payments in the same form as allowances received
299 by the member or beneficiary.

300 (d) A court order under this section may not be issued more than 12 months after the
301 death of the member.

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

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

307 Section 4. Section **49-11-613** is amended to read:

308 **49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board**
309 **reconsideration -- Judicial review.**

310 (1) (a) All members, retirees, participants, alternative payees, or covered individuals of
311 a system, plan, or program under this title shall acquaint themselves with their rights and
312 obligations under this title.

313 (b) Any dispute regarding a benefit, right, obligation, or employment right under this
314 title is subject to the procedures provided under this section.

315 (c) A person who disputes a benefit, right, obligation, or employment right under this
316 title shall request a ruling by the executive director who may delegate the decision to the
317 deputy director.

318 (d) A person who is dissatisfied by a ruling of the executive director or deputy director
319 with respect to any benefit, right, obligation, or employment right under this title shall request a
320 review of that claim by a hearing officer.

321 (2) The hearing officer shall:

322 (a) be hired by the executive director after consultation with the board;

323 (b) follow the procedures and requirements of Title 63, Chapter 46b, Administrative
324 Procedures Act, except as specifically modified under this title;

325 (c) hear and determine all facts pertaining to applications for benefits under any
326 system, plan, or program under this title and all matters pertaining to the administration of the
327 office; and

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

330 (3) The board shall review and approve or deny all decisions of the hearing officer in
331 accordance with rules adopted by the board.

332 (4) The moving party in any proceeding brought under this section shall bear the
333 burden of proof.

334 (5) A party may file an application for reconsideration by the board upon any of the
335 following grounds:

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

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

338 (c) that the evidence does not justify the determination of the hearing officer; or

339 (d) that the party has discovered new material evidence that could not, with reasonable
340 diligence, have been discovered or procured prior to the hearing.

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

343 (7) A party aggrieved by the board's decision may obtain judicial review by complying
344 with the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act.

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

346 Section 5. Section **49-12-402** is amended to read:

347 **49-12-402. Service retirement plans -- Calculation of retirement allowance --**
348 **Social Security limitations.**

349 (1) (a) Except as provided under Section 49-12-701, retirees of this system may choose
350 from the six retirement options described in this section.

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

353 (2) The Option One benefit is an annual allowance calculated as follows:

354 (a) If the retiree is at least 65 years of age or has accrued at least 30 years of service
355 credit, the allowance is:

356 (i) an amount equal to 1.25% of the retiree's final average monthly salary multiplied by
357 the number of years of service credit accrued prior to July 1, 1975; plus

358 (ii) an amount equal to 2% of the retiree's final average monthly salary multiplied by
359 the number of years of service credit accrued on and after July 1, 1975.

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

363 (c) (i) Years of service includes any fractions of years of service to which the retiree
364 may be entitled.

365 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,

366 service credit is within 1/10 of one year of the total years of service credit required for
367 retirement, the retiree shall be considered to have the total years of service credit required for
368 retirement.

369 (d) An Option One allowance is only payable to the member during the member's
370 lifetime.

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

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

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

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

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

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

393 (4) (a) (i) The final average salary is limited in the computation of that part of an

394 allowance based on service rendered prior to July 1, 1967, during a period when the retiree
395 received employer contributions on a portion of compensation from an educational institution
396 toward the payment of the premium required on a retirement annuity contract with the
397 Teachers' Insurance and Annuity Association of America or with any other public or private
398 system, organization, or company to \$4,800.

399 (ii) This limitation is not applicable to retirees who elected to continue in [~~the~~] this
400 system by July 1, 1967.

401 (b) Periods of employment which are exempt from this system under Subsection
402 49-12-203(1)(b), may be purchased by the member for the purpose of retirement only if all
403 benefits from the Teachers' Insurance and Annuity Association of America or any other public
404 or private system or organization based on this period of employment are forfeited.

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

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

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

413 Section 6. Section **49-13-402** is amended to read:

414 **49-13-402. Service retirement plans -- Calculation of retirement allowance --**
415 **Social Security limitations.**

416 (1) (a) Except as provided under Section 49-13-701, retirees of this system may choose
417 from the six retirement options described in this section.

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

420 (2) The Option One benefit is an allowance calculated as follows:

421 (a) If the retiree is at least 65 years of age or has accrued at least 30 years of service

422 credit, the allowance is an amount equal to 2% of the retiree's final average monthly salary
423 multiplied by the number of years of service credit accrued.

424 (b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for
425 each year of retirement from age 60 to age 65, plus a full actuarial reduction for each year of
426 retirement prior to age 60, unless the member has 30 or more years of accrued credit, in which
427 event no reduction is made to the allowance.

428 (c) (i) Years of service include any fractions of years of service to which the retiree
429 may be entitled.

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

434 (d) An Option One allowance is only payable to the member during the member's
435 lifetime.

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

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

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

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

448 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
449 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the

450 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
451 retiree's life, beginning on the last day of the month following the month in which the lawful
452 spouse dies.

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

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

464 (ii) This limitation is not applicable to retirees who elected to continue in the Public
465 Employees' Contributory Retirement System by July 1, 1967.

466 (b) Periods of employment which are exempt from this system as permitted under
467 Subsection 49-13-203(1)(b) may be purchased by the member for the purpose of retirement
468 only if all benefits from the Teachers' Insurance and Annuity Association of America or any
469 other public or private system or organization based on this period of employment are forfeited.

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

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

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

478 Section 7. Section **49-16-602** is amended to read:

479 **49-16-602. Disability retirement -- Disability allowance eligibility -- Conversion to**
480 **service retirement -- Examinations -- Reemployment.**

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

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

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

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

488 (i) if the member is under age 60 on the date of disability, the disability retirement
489 benefit is payable until age 65;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

534 (7) (a) A disability retiree who receives benefits under this part shall file a sworn
535 statement with the office on or before March 15 of each year for the first five years a disability
536 retiree receives benefits.

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

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

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

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

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

551 (9) A line of duty disability allowance paid on or after January 1, 2002, under Section
552 49-16-601 is exempt from taxation to the extent permitted under federal law.

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

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

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

564 Section 8. Section **49-17-301** is amended to read:

565 **49-17-301. Contributions by members and participating employers -- Retirement**
566 **fees -- Deductions.**

567 (1) In addition to the monies paid to this system under Subsection (3), participating
568 employers and members shall jointly pay the certified contribution rates to the office to
569 maintain this system on a financially and actuarially sound basis.

570 (2) The participating employer may make contributions on behalf of members of this
571 system in addition to the contribution required of the participating employer, except that 2% of
572 compensation shall be paid by the member.

573 (3) Fees collected under Subsection 78-7-35[~~(1)(i)~~] (1)(j)(i) shall be paid monthly to
574 the office to maintain this system and the system established under Chapter 18, Judges'
575 Noncontributory Retirement Act.

576 (4) (a) All member contributions are credited by the office to the account of the
577 individual member.

578 (b) This amount, plus refund interest, is held in trust for the payment of benefits to the
579 member or the member's beneficiaries.

580 (c) All member contributions are vested and nonforfeitable.

581 (5) (a) Each member is considered to consent to payroll deductions of the member
582 contributions.

583 (b) The payment of compensation less these payroll deductions is considered full
584 payment for services rendered by the member.

585 Section 9. Section **49-18-301** is amended to read:

586 **49-18-301. Contributions by employees and employers -- Retirement fees.**

587 (1) In addition to the monies paid to this system under Subsection (2), participating
588 employers shall pay the certified contribution rates to the office to maintain this system on a
589 financially and actuarially sound basis.

590 (2) Fees collected under Subsection 78-7-35[(1)(f)] (1)(j)(i) shall be paid monthly to
591 the office to maintain this system and the system established under Chapter 17, Judges'
592 Contributory Retirement Act.

593 Section 10. Section 49-20-201 is amended to read:

594 **49-20-201. Program participation -- Eligibility -- Optional for certain groups.**

595 (1) (a) The state shall participate in the program on behalf of its employees.

596 (b) Other employers, including political subdivisions and educational institutions, are
597 eligible, but are not required, to participate in the program on behalf of their employees.

598 (2) (a) The Department of Health may participate in the program for the purpose of
599 providing health and dental benefits to children enrolled in the Utah Children's Health
600 Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act, if the
601 provisions in Subsection 26-40-110(4) occur.

602 (b) If the Department of Health participates in the program under the provisions of this
603 Subsection (2), all insurance risk associated with the Children's Health Insurance Program shall
604 be the responsibility of the Department of Health and not the program or the office.

605 (3) A covered individual [~~covered under a medical employee benefit plan~~] shall be
606 eligible for coverage after termination of employment under rules adopted by the board.

607 (4) Only the following are eligible for Medicare supplement coverage under this
608 chapter upon becoming eligible for Medicare Part A and Part B coverage:

609 (a) retirees;

610 (b) members;

611 (c) participants;

612 (d) employees who have medical employee benefit plan coverage at the time of their
613 retirement; and

614 (e) current spouses of those who are eligible under Subsections (4)(a) through (d).

615 Section 11. Section 49-20-402 is amended to read:

616 **49-20-402. Reserves to be held -- Refunds.**

617 (1) The reserves in a risk pool in a given fiscal year shall be maintained at the level

618 recommended by the program's consulting actuary and approved or ratified by the board. If the
619 reserves drop below that level, covered employers in the risk pool are required to cure any
620 deficiency in the reserve.

621 (2) If substantial excess reserves are accrued above those required by this chapter, and
622 the board determines that a refund is appropriate, a refund shall be made:

623 (a) to covered employers which shall then make a refund to covered individuals on the
624 basis of the contribution of each to the plan[-]; or

625 (b) directly to covered individuals on the basis of the contribution of each to the plan.

626 Section 12. Section **49-20-409** is amended to read:

627 **49-20-409. Long-term disability -- Cost of health coverage benefit.**

628 (1) Under the direction of the board, the program shall provide for health insurance
629 coverage for state employees who receive a monthly disability benefit under Title 49, Chapter
630 21, Public Employees' Long-Term Disability Act.

631 (2) A risk pool, other than the state risk pool, may elect to provide a [~~waiver~~] benefit
632 for its employees similar to the [~~waiver~~] benefit provided under Subsection (1).

633 Section 13. Section **49-20-410** is amended to read:

634 **49-20-410. High deductible health plan -- Health savings account --**
635 **Contributions.**

636 (1) (a) In addition to other employee benefit plans offered under this part, the
637 [~~program~~] office shall offer a high deductible health plan with a federally qualified health
638 savings account as an optional health plan.

639 (b) The provisions and limitations of the plan shall be determined by the [~~program~~]
640 office in accordance with federal requirements and limitations.

641 (2) (a) The [~~program may not allow an employee to change from the high deductible~~
642 ~~health plan to another health plan offered for employees more frequently than every three~~
643 ~~years~~] office shall administer the high deductible health plan in coordination with the health
644 savings account so that the impact on the covered employer's overall health plan is actuarially
645 neutral.

646 (b) The [program] office shall offer the federally qualified health savings account for
647 medical expenses for each covered individual in the high deductible health plan.

648 (3) (a) Contributions to the health savings account may be made by the employer.

649 (b) The amount of the contributions under Subsection (3)(a) shall be determined
650 annually by the [program] office, after consultation with the covered employer, or on behalf of
651 the state as an employer, the Department of Human Resource Management and the Governor's
652 Office of Planning and Budget, based on:

653 (i) federal requirements and limitations; and

654 (ii) the actuarial value of the risk-adjusted high deductible to the [program] office.

655 (c) An employee may also make contributions to the health savings [plan] account.

656 Section 14. Section **49-21-102** is amended to read:

657 **49-21-102. Definitions.**

658 As used in this chapter:

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

661 (2) "Elimination period" means the three months at the beginning of each continuous
662 period of total disability for which no benefit will be paid. The elimination period begins on
663 the nearest first day of the month from the date of disability. The elimination period may
664 include a one-time trial return to work period of less than 15 consecutive calendar days.

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

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

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

673 (b) "Eligible employee" does not include any employee that is exempt from coverage

674 under Section 49-21-201.

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

678 (5) "Monthly disability benefit" means the monthly payments and accrual of service
679 credit under Section 49-21-401.

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

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

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

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

691 (10) "Rehabilitative employment" means any occupation or employment for wage or
692 profit, for which the eligible employee is reasonably qualified to perform based on education,
693 training, or experience [~~while unable to perform the employee's regular occupation~~].

694 (11) (a) "Total disability" or "totally disabled" means the complete inability, due to
695 objective medical impairment, whether physical or mental, to engage in the eligible employee's
696 regular occupation during the elimination period and the first 24 months of disability benefits.

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

701 Section 15. Section **49-21-401** is amended to read:

702 **49-21-401. Disability Benefits -- Application -- Eligibility.**

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

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

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

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

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

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

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

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

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

723 (b) a maximum of \$10,000 for psychiatric expenses, including rehabilitation expenses
724 preauthorized by the office's consultants, paid during the period of monthly disability benefits;
725 and

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

729 (6) If the office determines that the eligible employee is totally disabled due to a

730 physical injury resulting from external force or violence as a result of the performance of an
731 employment duty, the eligible employee shall receive a monthly disability benefit equal to
732 100% of the eligible employee's regular monthly salary, for each month the total disability
733 continues beyond the elimination period, not to exceed the maximum benefit period.

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

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

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

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

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

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

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

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

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

755 (11) If there is a valid benefit protection contract, service credit shall accrue during the
756 period of total disability, unless the disabled eligible employee is exempted from a system, or is
757 otherwise ineligible for service credit.

758 Section 16. Section **67-19-14.2** is amended to read:

759 **67-19-14.2. Unused Sick Leave Retirement Option Program -- Creation -- Payout**
760 **at retirement -- Continuing medical and life insurance benefits after retirement.**

761 (1) (a) There is created the "Unused Sick Leave Retirement Option Program I."

762 (b) An agency may offer the Unused Sick Leave Retirement Option Program I to an
763 employee who is eligible to receive [~~retirement benefits~~] a retirement allowance in accordance
764 with Title 49, Utah State Retirement and Insurance Benefit Act.

765 (2) The Unused Sick Leave Retirement Option Program I provides that upon
766 [~~retirement~~] becoming eligible to receive a retirement allowance an employee who was
767 employed by the state prior to January 1, 2006:

768 (a) receives a contribution under Subsection (3) for 25% of the employee's unused
769 accumulated sick leave accrued prior to January 1, 2006, at the employee's rate of pay at the
770 time of retirement;

771 (b) receives continuing medical and life insurance benefits until the earlier of:

772 (i) the date the employee reaches the age eligible for Medicare; or

773 (ii) up to the following number of years:

774 (A) five years if the employee retires during calendar year 2006;

775 (B) four years if the employee retires during calendar year 2007;

776 (C) three years if the employee retires during calendar year 2008;

777 (D) two years if the employee retires during calendar year 2009;

778 (E) one year if the employee retires during calendar year 2010; or

779 (F) zero years if the employee retires after calendar year 2010; and

780 (c) may purchase additional continuing medical and life insurance benefits in
781 accordance with Subsection (4).

782 (3) (a) Subject to federal requirements and limitations, the contribution under
783 Subsection (2)(a) shall be transferred directly to the employee's defined contribution plan
784 qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the Utah
785 State Retirement Board.

786 (b) If the amount calculated under Subsection (2)(a) exceeds the federal contribution
787 limitations, the employee's unused accumulated sick leave hours representing the excess shall
788 be used for the purchase of continuing medical and life insurance benefits under Subsection
789 (4).

790 (4) (a) An employee may purchase continuing medical and life insurance benefits, at
791 the rate of one month's coverage per policy for eight hours of unused sick leave remaining
792 after:

793 (i) the contribution of unused sick leave under Subsection (2)(a); and
794 (ii) an additional reduction, at the time of retirement, of unused sick leave hours as
795 follows:

- 796 (A) 480 hours if the employee retires during calendar year 2006;
- 797 (B) 384 hours if the employee retires during calendar year 2007;
- 798 (C) 288 hours if the employee retires during calendar year 2008;
- 799 (D) 192 hours if the employee retires during calendar year 2009;
- 800 (E) 96 hours if the employee retires during calendar year 2010; or
- 801 (F) 0 hours if the employee retires after calendar year 2010.

802 (b) The medical coverage level for member, two person, or family coverage that is
803 provided to the member at the time of retirement is the maximum coverage level available to
804 the member under this program.

805 (c) The purchase of continuing medical and life insurance benefits at the rate provided
806 under Subsection (4)(a) may be used by the employee to extend coverage:

- 807 (i) beyond the number of years provided under Subsection (2) until the employee
808 reaches the age of eligibility for Medicare; or
- 809 (ii) if the employee has reached the age of eligibility for Medicare, continuing medical
810 benefits for the employee's spouse may be purchased until the employee's spouse reaches the
811 age of eligibility for Medicare.

812 (d) An employee and the employee's spouse who are or who later become eligible for
813 Medicare may purchase Medicare supplemental insurance at the rate of one month's coverage

814 for eight hours of the employee's unused sick leave per person.

815 Section 17. Section **67-19-14.4** is amended to read:

816 **67-19-14.4. Unused Sick Leave Retirement Program II -- Creation --**

817 **Remuneration at retirement -- Medical expense account after retirement.**

818 (1) (a) There is created the "Unused Sick Leave Retirement Program II."

819 (b) An agency shall offer the Unused Sick Leave Retirement Option Program II to an
820 employee who is eligible to receive [~~retirement benefits~~] a retirement allowance in accordance
821 with Title 49, Utah State Retirement and Insurance Benefit Act.

822 (c) Beginning January 1, 2011, an employee who is participating in the Unused Sick
823 Leave Retirement Program I under Section 67-19-14.2 may make a one-time and irrevocable
824 election to transfer all unused sick leave hours which shall include all converted sick leave
825 hours under Section 67-19-14.1 for use under the Unused Sick Leave Retirement Program II
826 under this section.

827 (2) (a) The Unused Sick Leave Retirement Program II provides that upon [~~retirement~~]
828 becoming eligible to receive a retirement allowance an employee who is employed by the state
829 on or after January 1, 2006, shall receive remuneration for the employee's unused accumulated
830 sick leave and converted sick leave accrued beginning January 1, 2006 in accordance with this
831 section as follows:

832 (i) subject to federal requirements and limitations, a contribution at the employee's rate
833 of pay at the time of retirement for 25% of the employee's unused accumulated sick leave and
834 converted sick leave shall be transferred directly to the employee's defined contribution plan
835 qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the Utah
836 State Retirement Board; and

837 (ii) participation in a benefit plan that provides for reimbursement for medical
838 expenses using monies deposited at the employee's rate of pay at the time of retirement from
839 remaining unused accumulated sick leave and converted sick leave balances.

840 (b) If the amount calculated under Subsection (2)(a)(i) exceeds the federal contribution
841 limitations, the amount representing the excess shall be deposited under Subsection (2)(a)(ii).

842 (c) An employee's rate of pay at the time of retirement for purposes of Subsection
843 (2)(a)(ii) may not be less than the average rate of pay of state employees who retired in the
844 same retirement system under Title 49, Utah State Retirement and Insurance Benefit Act,
845 during the previous calendar year.

846 (3) The Utah State Retirement Office shall develop and maintain a program to provide
847 a benefit plan that provides for reimbursement for medical expenses under Subsection (2)(a)(ii)
848 with:

- 849 (a) monies deposited under Subsection (2)(a)(ii); and
- 850 (b) accrued earnings.