

1 **AMENDMENTS TO PUBLIC EMPLOYEE'S BENEFIT AND**
2 **INSURANCE PROGRAM**

3 2011 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Daniel R. Liljenquist**

6 House Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Utah State Retirement and Insurance Benefit Act by amending
11 retirement and long-term disability provisions.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ clarifies in the Utah Workforce Services Code that only a person who is eligible to
15 purchase service credit under the Utah Retirement Systems may purchase service
16 credit in those systems;

17 ▶ amends definitions;

18 ▶ clarifies that an employee who elects to participate exclusively in the defined
19 contribution plan may not purchase service credit for that period of employment;

20 ▶ provides that only an active member may purchase service credit in the Utah
21 Retirement Systems;

22 ▶ clarifies that Social Security substitute payments are not limited for purposes of
23 post-retirement employment retirement related contributions made on behalf of an
24 employee;

25 ▶ provides that reemployment restrictions for a person who begins reemployment
26 after July 1, 2010, do not apply to employment as an elected official ~~§~~→ [except an
27 elected sheriff] if the elected position is not full-time ←~~§~~ ;



- 28 ▶ provides that a participating employer must provide information requested by the
29 Retirement Office electronically in a manner approved by the office;
- 30 ▶ provides that a participating employer shall treat any information provided to the
31 office as subject to certain confidentiality restrictions;
- 32 ▶ provides that a person who is dissatisfied by a ruling of the executive director or
33 deputy director regarding a medical claim may request a ruling by an external
34 reviewer in accordance with federal law;
- 35 ▶ requires the Retirement Office to fund the long-term disability benefits for new
36 volunteer firefighters using certain insurance premium tax revenues formerly
37 deposited in the Firefighters' Retirement Trust Fund;
- 38 ▶ provides that a member must cease employment with any participating employer to
39 be eligible to receive a retirement allowance;
- 40 ▶ modifies the timing of adjusted retirement benefit payments and standardizes
41 language for applying for benefits following the death of a retiree or a retiree's
42 spouse under certain retirement options;
- 43 ▶ clarifies that new governors and legislators who are only eligible for a Tier II
44 retirement system may be eligible for paid-up group health coverage policy for
45 members and their surviving spouses;
- 46 ▶ provides that Tier II new employees and employees who are exempt from the
47 retirement systems are eligible for long-term disability coverage;
- 48 ▶ provides that an employee is not eligible for long-term disability benefits if the
49 employee has a pending action before any federal administrative body in which the
50 employee has made a claim that the employee is able to work;
- 51 ▶ repeals a requirement that an eligible employee first apply at the earliest eligible age
52 for all unreduced retirement benefits to get long-term disability benefits;
- 53 ▶ provides for the time periods for which a new Tier II employee under a defined
54 contribution plan is eligible for long-term disability benefits consistent with other
55 Tier II new employees;
- 56 ▶ provides that an elected official, instead of only a governor and a legislator, initially
57 entering office on or after July 1, 2011, is only eligible to participate in the Tier II
58 defined contribution plan;

- 59 ▶ provides that a person initially entering regular full-time employment after July 1,
- 60 2011, has one year instead of 30 days to make an irrevocable election between a
- 61 Tier II hybrid retirement system and a Tier II defined contribution retirement plan
- 62 and that the election must be submitted electronically;
- 63 ▶ allows the Legislature to decrease benefits in the defined benefit portion of the Tier
- 64 II Hybrid Retirement System for new public employees and new public safety and
- 65 firefighter employees for future years of service under certain conditions;
- 66 ▶ provides that vesting of the defined contribution balance occurs upon accruing four
- 67 years of service credit instead of four years from the date of employment under the
- 68 Tier II hybrid retirement systems;
- 69 ▶ defines eligibility to receive a retirement allowance for a benefit tied to a retirement
- 70 date for member in a defined contribution plan;
- 71 ▶ allows an offset for administrative costs for forfeited defined contribution accounts;
- 72 and
- 73 ▶ makes technical changes.

74 **Money Appropriated in this Bill:**

75 None

76 **Other Special Clauses:**

77 None

78 **Utah Code Sections Affected:**

79 AMENDS:

- 80 **35A-4-502**, as last amended by Laws of Utah 2010, Chapters 266 and 286
- 81 **49-11-102**, as last amended by Laws of Utah 2010, Chapters 264 and 266
- 82 **49-11-403**, as last amended by Laws of Utah 2010, Chapters 257, 266, and 321
- 83 **49-11-504**, as last amended by Laws of Utah 2010, Chapter 264
- 84 **49-11-505**, as enacted by Laws of Utah 2010, Chapter 264
- 85 **49-11-602**, as last amended by Laws of Utah 2004, Chapter 118
- 86 **49-11-613**, as last amended by Laws of Utah 2008, Chapters 252 and 382
- 87 **49-11-902**, as last amended by Laws of Utah 2008, Chapter 227
- 88 **49-12-401**, as last amended by Laws of Utah 2010, Chapter 321
- 89 **49-12-402**, as last amended by Laws of Utah 2007, Chapters 130 and 306

- 90 **49-12-405**, as last amended by Laws of Utah 2005, Chapter 116
- 91 **49-13-401**, as last amended by Laws of Utah 2010, Chapter 321
- 92 **49-13-402**, as last amended by Laws of Utah 2007, Chapter 130
- 93 **49-13-405**, as last amended by Laws of Utah 2005, Chapter 116
- 94 **49-14-401**, as last amended by Laws of Utah 2010, Chapter 321
- 95 **49-14-501**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 96 **49-14-502**, as last amended by Laws of Utah 2003, Chapter 240
- 97 **49-14-503**, as last amended by Laws of Utah 2003, Chapter 240
- 98 **49-15-401**, as last amended by Laws of Utah 2010, Chapter 321
- 99 **49-15-501**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 100 **49-15-502**, as last amended by Laws of Utah 2003, Chapter 240
- 101 **49-15-503**, as last amended by Laws of Utah 2003, Chapter 240
- 102 **49-16-301**, as last amended by Laws of Utah 2004, Chapter 262
- 103 **49-16-401**, as last amended by Laws of Utah 2010, Chapter 321
- 104 **49-16-501**, as last amended by Laws of Utah 2003, Chapter 240
- 105 **49-16-502**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 106 **49-16-503**, as last amended by Laws of Utah 2003, Chapter 240
- 107 **49-17-401**, as last amended by Laws of Utah 2010, Chapter 321
- 108 **49-17-501**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 109 **49-18-401**, as last amended by Laws of Utah 2010, Chapter 321
- 110 **49-18-501**, as last amended by Laws of Utah 2003, Chapter 240
- 111 **49-19-501**, as last amended by Laws of Utah 2006, Chapter 260
- 112 **49-20-404**, as last amended by Laws of Utah 2008, Chapter 252
- 113 **49-21-102**, as last amended by Laws of Utah 2007, Chapter 130
- 114 **49-21-401**, as last amended by Laws of Utah 2010, Chapter 321
- 115 **49-21-402**, as last amended by Laws of Utah 2010, Chapter 321
- 116 **49-21-403**, as last amended by Laws of Utah 2010, Chapters 266 and 321
- 117 **49-22-102**, as enacted by Laws of Utah 2010, Chapter 266
- 118 **49-22-201**, as enacted by Laws of Utah 2010, Chapter 266
- 119 **49-22-301**, as enacted by Laws of Utah 2010, Chapter 266
- 120 **49-22-303**, as enacted by Laws of Utah 2010, Chapter 266

- 121 **49-22-304**, as enacted by Laws of Utah 2010, Chapter 266
- 122 **49-22-305**, as enacted by Laws of Utah 2010, Chapter 266
- 123 **49-22-401**, as enacted by Laws of Utah 2010, Chapter 266
- 124 **49-22-501**, as enacted by Laws of Utah 2010, Chapter 266
- 125 **49-22-502**, as enacted by Laws of Utah 2010, Chapter 266
- 126 **49-23-201**, as enacted by Laws of Utah 2010, Chapter 266
- 127 **49-23-301**, as enacted by Laws of Utah 2010, Chapter 266
- 128 **49-23-302**, as enacted by Laws of Utah 2010, Chapter 266
- 129 **49-23-303**, as enacted by Laws of Utah 2010, Chapter 266
- 130 **49-23-304**, as enacted by Laws of Utah 2010, Chapter 266
- 131 **49-23-401**, as enacted by Laws of Utah 2010, Chapter 266
- 132 **49-23-501**, as enacted by Laws of Utah 2010, Chapter 266
- 133 **49-23-502**, as enacted by Laws of Utah 2010, Chapter 266
- 134 **49-23-601**, as enacted by Laws of Utah 2010, Chapter 266
- 135 **67-5-8**, as last amended by Laws of Utah 2007, Chapter 166

136 ENACTS:

- 137 **49-11-407**, Utah Code Annotated 1953
- 138 **49-11-901.5**, Utah Code Annotated 1953
- 139 **49-22-310**, Utah Code Annotated 1953
- 140 **49-22-403**, Utah Code Annotated 1953
- 141 **49-23-309**, Utah Code Annotated 1953
- 142 **49-23-403**, Utah Code Annotated 1953

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

145 Section 1. Section **35A-4-502** is amended to read:

146 **35A-4-502. Administration of Employment Security Act.**

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

148 (b) The department may make, amend, or rescind any rules and special orders

149 necessary for the administration of this chapter.

150 (c) The division may:

151 (i) employ persons;

- 152 (ii) make expenditures;
- 153 (iii) require reports;
- 154 (iv) make investigations;
- 155 (v) make audits of any or all funds provided for under this chapter when necessary; and
- 156 (vi) take any other action it considers necessary or suitable to that end.

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

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

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

169 (2) (a) The department may make, amend, or rescind rules in accordance with Title
170 63G, Chapter 3, Utah Administrative Rulemaking Act.

171 (b) The director of the division or the director's designee may adopt, amend, or rescind
172 special orders after appropriate notice and opportunity to be heard. Special orders become
173 effective 10 days after notification or mailing to the last-known address of the individuals or
174 concerns affected thereby.

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

- 177 (a) the text of this chapter;
- 178 (b) the department's rules pertaining to this chapter;
- 179 (c) the department's annual reports to the governor required by Subsection (1)(e); and
- 180 (d) any other material the director of the division or the director's designee considers
181 relevant and suitable and shall furnish them to any person upon application.

182 (4) (a) The division may delegate to any person so appointed the power and authority it

183 considers reasonable and proper for the effective administration of this chapter and may bond
184 any person handling money or signing checks under this authority.

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

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

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

192 (c) An employee of the department who no longer may participate in a federal or other
193 retirement system as a result of a change in status or appropriation under this chapter may
194 purchase credit with the employee's assets from the federal or other retirement system in which
195 the employee may no longer participate in a retirement system created under:

196 (i) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act for a
197 purchase made under this Subsection (4)(c) [~~made prior to July 1, 2011~~] by an employee
198 eligible for service credit under Title 49, Chapter 13, Public Employees' Noncontributory
199 Retirement Act; or

200 (ii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act,
201 [~~if the date of purchase under this Subsection (4)(c) is on or after July 1, 2011~~] for a purchase
202 made under this Subsection (4)(c) by an employee eligible for service credit under Title 49,
203 Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

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

206 (a) The executive director shall appoint:

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

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

211 (iii) five public representatives chosen at large.

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

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

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

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

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

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

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

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

232 (i) reducing and preventing unemployment;

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

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

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

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

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

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

243 (k) A member may not receive compensation or benefits for the member's service, but
244 may receive per diem and travel expenses in accordance with:

245 (i) Section 63A-3-106;
246 (ii) Section 63A-3-107; and
247 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
248 63A-3-107.

249 (l) The department shall provide staff support to the council.

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

253 (a) administer oaths and affirmations;

254 (b) take depositions;

255 (c) certify to official acts; and

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

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

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

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

274 (8) (a) In the administration of this chapter, the division shall cooperate with the United
275 States Department of Labor to the fullest extent consistent with the provisions of this chapter

276 and shall take action, through the adoption of appropriate rules by the department and
277 administrative methods and standards, as necessary to secure to this state and its citizens all
278 advantages available under the provisions of:

- 279 (i) the Social Security Act that relate to unemployment compensation;
- 280 (ii) the Federal Unemployment Tax Act; and
- 281 (iii) the Federal-State Extended Unemployment Compensation Act of 1970.

282 (b) In the administration of Section 35A-4-402, which is enacted to conform with the
283 requirements of the Federal-State Extended Unemployment Compensation Act of 1970, 26
284 U.S.C. 3304, the division shall take any action necessary to ensure that the section is
285 interpreted and applied to meet the requirements of the federal act, as interpreted by the United
286 States Department of Labor and to secure to this state the full reimbursement of the federal
287 share of extended and regular benefits paid under this chapter that are reimbursable under the
288 federal act.

289 Section 2. Section **49-11-102** is amended to read:

290 **49-11-102. Definitions.**

291 As used in this title:

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

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

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

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

300 (4) (a) "Agency" means:

301 (i) a department, division, agency, office, authority, commission, board, institution, or
302 hospital of the state;

303 (ii) a county, municipality, school district, local district, or special service district;

304 (iii) a state college or university; or

305 (iv) any other participating employer.

306 (b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a

307 subdivision of another entity listed under Subsection (4)(a).

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

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

312 (7) "Amortization rate" means the board certified percent of salary required to amortize
313 the unfunded actuarial accrued liability in accordance with policies established by the board
314 upon the advice of the actuary.

315 (8) "Annuity" means monthly payments derived from member contributions.

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

321 (10) (a) "At-will employee" means a person who is employed by a participating
322 employer and:

323 (i) who is not entitled to merit or civil service protection and is generally considered
324 exempt from a participating employer's merit or career service personnel systems;

325 (ii) whose on-going employment status is entirely at the discretion of the person's
326 employer; or

327 (iii) who may be terminated without cause by a designated supervisor, manager, or
328 director.

329 (b) "At-will employee" does not include a career employee who has obtained a
330 reasonable expectation of continued employment based on inclusion in a participating
331 employer's merit system, civil service protection system, or career service personnel systems,
332 policies, or plans.

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

336 (12) "Board" means the Utah State Retirement Board established under Section
337 49-11-202.

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

340 (14) "Certified contribution rate" means the board certified percent of salary paid on
341 behalf of an active member to the office to maintain the system on a financially and actuarially
342 sound basis.

343 (15) "Contributions" means the total amount paid by the participating employer and the
344 member into a system or to the Utah Governors' and Legislators' Retirement Plan under
345 Chapter 19, Utah Governors' and Legislators' Retirement Act.

346 (16) "Council member" means a person serving on the Membership Council
347 established under Section 49-11-202.

348 (17) "Covered individual" means any individual covered under Chapter 20, Public
349 Employees' Benefit and Insurance Program Act.

350 (18) "Current service" means covered service as defined in Chapters 12, 13, 14, 15, 16,
351 17, 18, and 19.

352 (19) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a
353 system or plan offered under this title to provide a specified allowance to a retiree or a retiree's
354 spouse after retirement that is based on a set formula involving one or more of the following
355 factors:

- 356 (a) years of service;
- 357 (b) final average monthly salary; or
- 358 (c) a retirement multiplier.

359 (20) "Defined contribution" or "defined contribution plan" means any defined
360 contribution plan or deferred compensation plan authorized under the Internal Revenue Code
361 and administered by the board.

362 (21) "Educational institution" means a political subdivision or instrumentality of the
363 state or a combination thereof primarily engaged in educational activities or the administration
364 or servicing of educational activities, including:

- 365 (a) the State Board of Education and its instrumentalities;
- 366 (b) any institution of higher education and its branches;
- 367 (c) any school district and its instrumentalities;
- 368 (d) any vocational and technical school; and

369 (e) any entity arising out of a consolidation agreement between entities described under
370 this Subsection (21).

371 (22) "Elected official":

372 (a) means a person elected to a state office, county office, municipal office, school
373 board or school district office, local district office, or special service district office;

374 (b) includes a person who is appointed to serve an unexpired term of office described
375 under Subsection (22)(a); and

376 (c) does not include a judge or justice who is subject to a retention election under
377 Section 20A-12-201.

378 [~~22~~] (23) (a) "Employer" means any department, educational institution, or political
379 subdivision of the state eligible to participate in a government-sponsored retirement system
380 under federal law.

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

383 [~~23~~] (24) "Exempt employee" means an employee working for a participating
384 employer:

385 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,
386 49-14-203, 49-15-203, or 49-16-203; and

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

389 [~~24~~] (25) "Final average monthly salary" means the amount computed by dividing the
390 compensation received during the final average salary period under each system by the number
391 of months in the final average salary period.

392 [~~25~~] (26) "Fund" means any fund created under this title for the purpose of paying
393 benefits or costs of administering a system, plan, or program.

394 [~~26~~] (27) (a) "Inactive member" means a member who has not been employed by a
395 participating employer for a period of at least 120 days.

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

397 [~~27~~] (28) (a) "Initially entering" means hired, appointed, or elected for the first time,
398 in current service as a member with any participating employer.

399 (b) "Initially entering" does not include a person who has any prior service credit on

400 file with the office.

401 ~~[(28)]~~ (29) (a) "Member" means a person, except a retiree, with contributions on
402 deposit with a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19,
403 Utah Governors' and Legislators' Retirement Act, or with a terminated system.

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

410 ~~[(29)]~~ (30) "Member contributions" means the sum of the contributions paid to a
411 system or the Utah Governors' and Legislators' Retirement Plan, including refund interest if
412 allowed by a system, and which are made by:

413 (a) the member; and

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

416 ~~[(30)]~~ (31) "Nonelective contribution" means an amount contributed by a participating
417 employer into a participant's defined contribution account.

418 ~~[(31)]~~ (32) "Normal cost rate":

419 (a) means the percent of salary that is necessary for a retirement system that is fully
420 funded to maintain its fully funded status; and

421 (b) is determined by the actuary based on the assumed rate of return established by the
422 board.

423 ~~[(32)]~~ (33) "Office" means the Utah State Retirement Office.

424 ~~[(33)]~~ (34) "Participant" means an individual with voluntary deferrals or nonelective
425 contributions on deposit with the defined contribution plans administered under this title.

426 ~~[(34)]~~ (35) "Participating employer" means a participating employer, as defined by
427 Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'
428 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,
429 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'
430 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges'

431 Noncontributory Retirement Act, or an agency financed in whole or in part by public funds
432 which is participating in a system or plan as of January 1, 2002.

433 ~~[(35)]~~ (36) "Pension" means monthly payments derived from participating employer
434 contributions.

435 ~~[(36)]~~ (37) "Plan" means the Utah Governors' and Legislators' Retirement Plan created
436 by Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees'
437 Tier II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution
438 Plan, the New Public Safety and Firefighter Tier II Defined Contribution Plan created by
439 Chapter 23, Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created
440 under Section 49-11-801.

441 ~~[(37)]~~ (38) (a) "Political subdivision" means any local government entity, including
442 cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is
443 legally separate and distinct from the state and only if its employees are not by virtue of their
444 relationship to the entity employees of the state.

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

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

449 ~~[(38)]~~ (39) "Program" means the Public Employees' Insurance Program created under
450 Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'
451 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term
452 Disability Act.

453 ~~[(39)]~~ (40) "Public funds" means those funds derived, either directly or indirectly, from
454 public taxes or public revenue, dues or contributions paid or donated by the membership of the
455 organization, used to finance an activity whose objective is to improve, on a nonprofit basis,
456 the governmental, educational, and social programs and systems of the state or its political
457 subdivisions.

458 ~~[(40)]~~ (41) "Qualified defined contribution plan" means a defined contribution plan
459 that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

460 ~~[(41)]~~ (42) (a) "Reemployed," "reemploy," or "reemployment" means work or service
461 performed after retirement, in exchange for compensation.

462 (b) Reemployment includes work or service performed on a contract if the retiree is:

463 (i) listed as the contractor; or

464 (ii) an owner, partner, or principle of the contractor.

465 [~~(42)~~] (43) "Refund interest" means the amount accrued on member contributions at a
466 rate adopted by the board.

467 [~~(43)~~] (44) "Retiree" means an individual who has qualified for an allowance under this
468 title.

469 [~~(44)~~] (45) "Retirement" means the status of an individual who has become eligible,
470 applies for, and is entitled to receive an allowance under this title.

471 [~~(45)~~] (46) "Retirement date" means the date selected by the member on which the
472 member's retirement becomes effective with the office.

473 (47) "Retirement related contribution":

474 (a) means any employer payment to any type of retirement plan or program made on
475 behalf of an employee; and

476 (b) does not include Social Security payments or Social Security substitute payments
477 made on behalf of an employee.

478 [~~(46)~~] (48) "Service credit" means:

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

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

484 [~~(47)~~] (49) "System" means the individual retirement systems created by Chapter 12,
485 Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'
486 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,
487 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'
488 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges'
489 Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement
490 Act, the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22, Part
491 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid
492 Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

493 [~~(48)~~] (50) "Tier I" means a system or plan under this title for which an employee is
494 eligible to participate if the employee initially enters regular full-time employment before July
495 1, 2011.

496 [~~(49)~~] (51) (a) "Tier II" means a system or plan under this title provided in lieu of a
497 Tier I system or plan for which an employee is eligible to participate, if the employee initially
498 enters regular full-time employment on or after July 1, 2011.

499 (b) "Tier II" includes:

500 (i) the Tier II hybrid system established under:

501 (A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or

502 (B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and

503 (ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:

504 (A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or

505 (B) Chapter 23, Part 4, Tier II Defined Contribution Plan.

506 [~~(50)~~] (52) "Unfunded actuarial accrued liability" or "UAAL":

507 (a) is determined by the system's actuary; and

508 (b) means the excess, if any, of the accrued liability of a retirement system over the
509 actuarial value of its assets.

510 [~~(51)~~] (53) "Voluntary deferrals" means an amount contributed by a participant into
511 that participant's defined contribution account.

512 Section 3. Section **49-11-403** is amended to read:

513 **49-11-403. Purchase of public service credit not otherwise qualifying for benefit.**

514 (1) A member, a participating employer, or a member and a participating employer
515 jointly may purchase service credit equal to the period of the member's employment in the
516 following:

517 (a) United States federal employment;

518 (b) employment in a private school based in the United States, if the member received
519 an employer paid retirement benefit for the employment;

520 (c) public employment in another state or territory of the United States which qualifies
521 the member for membership in the public plan or system covering the employment, but only if
522 the member does not qualify for any retirement benefits based on the employment;

523 (d) forfeited service credit in this state if the member does not qualify for an allowance

524 based on the service credit;

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

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

527 (i) the member was receiving:

528 (A) long-term disability benefits;

529 (B) short-term disability benefits; or

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

531 (ii) the member's employer had not entered into a benefit protection contract under

532 Section 49-11-404 during the period the member was disabled due to sickness or accident;

533 (g) employment covered by a Teachers Insurance and Annuity Association of America
534 retirement plan if the member forfeits any retirement benefit from that retirement plan for the
535 period of employment to be purchased under this Subsection (1)(g); or

536 (h) employment in a charter school located within the state if the member forfeits any
537 retirement benefit under any other retirement system or plan for the period of employment to be
538 purchased under this Subsection (1)(h).

539 (2) A member shall:

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

542 (b) forfeit service credit and any defined contribution balance based on employer
543 contributions under any other retirement system or plan based on the period of employment for
544 which service credit is being purchased.

545 (3) (a) To purchase credit under this section, the member, a participating employer, or a
546 member and a participating employer jointly shall make payment to the system under which the
547 member is currently covered.

548 (b) The amount of the payment shall be determined by the office based on a formula
549 that is:

550 (i) recommended by the actuary; and

551 (ii) adopted by the board.

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

554 (5) Total payment must be completed prior to the member's effective date of retirement

555 or service credit will be prorated in accordance with the amount paid.

556 (6) (a) For a purchase made before July 1, 2010, if any of the factors used to determine
557 the cost of a service credit purchase change at or before the member's retirement date, the cost
558 of the purchase shall be recalculated at the time of retirement.

559 (b) For a purchase made before July 1, 2010, if the recalculated cost exceeds the
560 amount paid for the purchase, the member, a participating employer, or a member and a
561 participating employer jointly may:

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

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

564 (c) For a purchase made on or after July 1, 2010:

565 (i) the purchase shall be made in accordance with rules:

566 (A) adopted by the board based on recommendations by the board's actuary; and

567 (B) in effect at the time the purchase is completed; and

568 (ii) the cost of the service credit purchase shall not be recalculated at the time of
569 retirement.

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

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

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

577 [~~9) Account balances created under Section 49-22-303, 49-22-401, 49-23-302, or~~
578 ~~49-23-401 may not be used to purchase service credit for a benefit under Sections 49-22-304,~~
579 ~~49-22-305, 49-23-303, and 49-23-304.]~~

580 (9) An employee who elects to participate exclusively in the defined contribution plan
581 under Chapter 22, Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II
582 Defined Contribution Plan, may not purchase service credit for that period of employment.

583 Section 4. Section **49-11-407** is enacted to read:

584 **49-11-407. Service credit purchases by active employees only.**

585 Notwithstanding any other provision of this title, only an active member may purchase

586 service credit under this title.

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

588 **49-11-504. Reemployment of a retiree -- Restrictions.**

589 (1) As used in this section, "full-time" means:

590 (a) employment requiring 20 or more hours of work per week; or

591 (b) at least a half-time teaching contract.

592 (2) (a) Except for the provisions of Subsection (3), the provisions of this section do not
593 apply to a person who is subject to the provisions of Section 49-11-505.

594 (b) This section does not apply to [~~elected positions~~] employment as an elected official.

595 (3) A person who is not a retiree under this title is not subject to any postretirement
596 restrictions under this title.

597 (4) A retiree of an agency who is reemployed may not earn additional service credit, if
598 the retiree is reemployed by:

599 (a) a different agency; or

600 (b) the same agency after six months from the retirement date.

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

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

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

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

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

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

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

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

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

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

623 (d) any suspension of a retiree's allowance under this Subsection (6) shall be applied
624 on a calendar year basis.

625 (7) For six months immediately following retirement, the retiree and participating
626 employer who are subject to Subsection (6) shall:

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

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

629 (c) immediately notify the office in writing of any postretirement earnings under
630 Subsection (6); and

631 (d) immediately notify the office in writing whether postretirement earnings equal or
632 exceed the exempt earnings under Subsection (6).

633 (8) (a) If a participating employer hires a retiree, on a full-time basis, who may not earn
634 additional service credit under Subsection (4), the participating employer may not ~~contribute~~
635 make a retirement related contribution in an amount that exceeds the normal cost rate as
636 defined under Section 49-11-102 ~~[to a plan for]~~ on behalf of the retiree under ~~[Subsection]~~
637 Subsections (8)(b) and (c).

638 (b) The contributions under Subsection (8)(a) are not required, but if paid, shall be paid
639 to a retiree-designated:

640 (i) qualified defined contribution plan administered by the board, if the participating
641 employer participates in a qualified defined contribution plan administered by the board; or

642 (ii) qualified defined contribution plan offered by the participating employer if the
643 participating employer does not participate in a qualified defined contribution plan
644 administered by the board.

645 (c) Notwithstanding the provisions of Subsection (8)(b), if an employer is not
646 participating in a qualified defined contribution plan administered by the board, the employer
647 may elect to pay the contributions under Subsection (8)(a) to a ~~[nonqualified]~~ deferred

648 compensation plan administered by the board.

649 (9) A retiree who has returned to work, accrued additional service credit, and again
650 retires shall have the retiree's allowance recalculated using:

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

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

655 (10) The board may make rules to implement this section.

656 Section 6. Section **49-11-505** is amended to read:

657 **49-11-505. Reemployment of a retiree -- Restrictions.**

658 (1) (a) For purposes of this section, "retiree":

659 [(a)] (i) means a person who:

660 [(i)] (A) retired from a participating employer; and

661 [(ii)] (B) begins reemployment on or after July 1, 2010 with a participating employer;

662 and

663 [(b)] (ii) does not include a retiree who is reemployed as an active senior judge
664 appointed to hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4,
665 Utah Constitution.

666 (b) (i) ~~§~~ → ~~[Except as provided in Subsection (1)(b)(ii), this]~~ ~~This~~ ← ~~§~~ section does not apply to
667 employment as an elected official ~~§~~ → if the elected official's position is not full-time as certified
667a by the participating employer ← ~~§~~ .

668 (ii) The provisions of this section apply to an elected ~~§~~ → [sheriff] official whose elected
668a position is full-time as certified by the participating employer ← ~~§~~ .

669 (2) A retiree may not for the same period of reemployment:

670 (a) (i) earn additional service credit; or

671 (ii) receive any retirement related contribution from a participating employer; and

672 (b) receive a retirement allowance.

673 (3) The office shall cancel the retirement allowance of a retiree if the reemployment
674 with a participating employer begins within one year of the retiree's retirement date.

675 (4) If a retiree is not subject to Subsection (3), the retiree may elect to:

676 (a) earn additional service credit in accordance with this title and cancel the retiree's
677 retirement allowance; or

678 (b) continue to receive the retiree's retirement allowance and forfeit any retirement

679 related contribution from the participating employer who reemployed the retiree.

680 (5) If an employee makes an election under Subsection (4)(b) to continue to receive a
681 retirement allowance while reemployed, the participating employer shall contribute to the
682 office the amortization rate, as defined in Section 49-11-102, to be applied to the system that
683 would have covered the retiree.

684 (6) (a) A participating employer shall immediately notify the office:

- 685 (i) if the participating employer reemploys a retiree;
- 686 (ii) whether the reemployment is subject to Subsection (3) or (4) of this section; and
- 687 (iii) of any election by the retiree under Subsection (4).

687a **§→ (b) A participating employer shall certify to the office whether the position of an**
687b **elected official is full-time or is not full-time.**

688 [~~(b)~~](c) ←§ A participating employer is liable to the office for a payment or failure to make a
689 payment in violation of this section.

690 **§→** [~~(c)~~](d) ←§ If a participating employer fails to notify the office in accordance with this
690a section,
691 the participating employer is immediately subject to a compliance audit by the office.

692 (7) (a) The office shall immediately cancel the retirement allowance of a retiree in
693 accordance with Subsection (7)(b) if the office receives notice or learns of:

- 694 (i) the reemployment of a retiree subject to Subsection (3); or
- 695 (ii) the election of a reemployed retiree under Subsection (4)(a).

696 (b) The office shall cancel the allowance of a retiree subject to Subsection (7)(a), and
697 reinstate the retiree to active member status on the first day of the month following the date of:

- 698 (i) reemployment if the retiree is subject to Subsection (3); or
- 699 (ii) an election by an employee under Subsection (4)(a).

700 (8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date
701 of reemployment:

- 702 (i) is not entitled to a recalculated retirement benefit; and
- 703 (ii) will resume the allowance that was being paid at the time of cancellation.

704 (b) Subject to Subsection (2), a retiree who is re-instated to active membership under
705 Subsection (7) and who retires two or more years after the date of re-instatement to active
706 membership shall:

- 707 (i) resume receiving the allowance that was being paid at the time of cancellation; and
- 708 (ii) receive an additional allowance based on the formula in effect at the date of the
709 subsequent retirement for all service credit accrued between the first and subsequent retirement

710 dates.

711 (9) A retiree subject to this section shall report to the office the status of the
712 reemployment under Subsection (3) or (4).

713 (10) The board may make rules to implement this section.

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

715 **49-11-602. Participating employer to maintain records -- Time limit -- Penalties**
716 **for failure to comply.**

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

720 (2) A participating employer shall maintain the records required under Subsection (1)
721 until the earliest of:

722 (a) three years after the date of retirement of the employee from a system or plan;

723 (b) three years after the date of death of the employee; or

724 (c) 65 years from the date of employment with the participating employer.

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

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

729 (b) a penalty equal to 1% of the participating employer's last month's contributions.

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

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

735 (6) (a) A participating employer shall enroll an employee, make reports, submit
736 contributions, and provide other requested information electronically in a manner approved by
737 the office.

738 (b) A participating employer shall treat any information provided electronically or
739 otherwise by the office as subject to the confidentiality provisions of this title.

740 Section 8. Section **49-11-613** is amended to read:

741 **49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board**
742 **reconsideration -- Judicial review.**

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

746 (1) (a) A member, retiree, participant, alternative payee, covered individual, employer,
747 participating employer, and covered employer shall inform themselves of their rights and
748 obligations under this title.

749 (b) ~~[Any]~~ Subject to the provisions in Subsection (8), any dispute regarding a benefit,
750 right, obligation, or employment right under this title is subject to the procedures provided
751 under this section.

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

755 (d) A person who is dissatisfied by a ruling ~~[of the executive director or deputy~~
756 ~~director]~~ under Subsection (1)(c) with respect to any benefit, right, obligation, or employment
757 right under this title shall request a review of that claim by a hearing officer.

758 (e) The executive director, on behalf of the board, may request that the hearing officer
759 review a dispute regarding any benefit, right, obligation, or employment right under this title by
760 filing a notice of board action and providing notice to all affected parties in accordance with
761 rules adopted by the board.

762 (2) The hearing officer shall:

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

764 (b) follow the procedures and requirements of Title 63G, Chapter 4, Administrative
765 Procedures Act, except as specifically modified under this title;

766 (c) hear and determine all facts relevant to a decision, including facts pertaining to
767 applications for benefits under any system, plan, or program under this title and all matters
768 pertaining to the administration of the office; and

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

771 (3) The board shall review and approve or deny all decisions of the hearing officer in

772 accordance with rules adopted by the board.

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

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

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

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

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

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

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

784 (7) A party aggrieved by the board's decision may obtain judicial review by complying
785 with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

786 (8) The program shall provide an appeals process for medical claims that complies
787 with federal law.

788 [~~8~~] (9) The board may make rules to implement this section.

789 Section 9. Section **49-11-901.5** is enacted to read:

790 **Part 9. Insurance Premium Tax Revenues Distribution**

791 **49-11-901.5. Premium tax revenues -- Distribution.**

792 (1) (a) In accordance with this section, there shall be paid to the office:

793 (i) 50% of the annual tax levied, assessed, and collected under Title 59, Chapter 9,
794 Taxation of Admitted Insurers, upon premiums for property insurance, as defined under
795 Section 31A-1-301, and as applied to fire and allied lines insurance collected by insurance
796 companies within the state; and

797 (ii) 10% of all money assessed and collected under Title 59, Chapter 9, Taxation of
798 Admitted Insurers, upon premiums for life insurance, as defined in Section 31A-1-301, within
799 the state.

800 (b) Payments to the fund shall be made annually until the service liability under this
801 part is liquidated, after which the tax revenue provided in this Subsection (1) ceases.

802 (2) The office shall distribute the premium tax revenue paid under Subsection (1) as

803 follows:

804 (a) an amount determined by the office to fully fund the long-term disability program
805 provided for volunteer firefighters under Section 49-23-601;

806 (b) an amount determined by the office to the Firefighters' Retirement Trust Fund
807 created under Section 49-16-104 equal to the amount when calculated as a percentage of the
808 certified contribution rate for members in Divisions A and B, as defined under Section
809 49-16-301, that is the percentage of the certified contribution rate paid to the Firefighters'
810 Retirement Trust Fund on July 1, 2004; and

811 (c) any remaining amount in accordance with Section 49-11-902.

812 Section 10. Section **49-11-902** is amended to read:

813 **49-11-902. Premium tax revenues -- Formula -- Deposits.**

814 (1) ~~[(a)]~~ If the premium tax revenue received by the office under Subsection
815 ~~[49-16-301(6), when calculated as a percentage of the certified contribution rate for members~~
816 ~~in Division A and B, as defined under Section 49-16-301, exceeds the percentage of the~~
817 ~~certified contribution rate paid to the Firefighters' Retirement Trust Fund in accordance with~~
818 ~~Subsection 49-16-301(6) on July 1, 2004]~~ 49-11-901.5(1) and first paid in accordance with
819 Subsections 49-11-901.5 (2)(a) and (b), include any remaining amount, the office shall deposit
820 the ~~[difference]~~ amount in the:

821 (a) Public Safety Contributory Trust Fund created under Section 49-14-104; and [the]

822 (b) Public Safety Noncontributory Retirement Trust Fund created under Section
823 49-15-104.

824 ~~[(b) If the premium tax revenue does not exceed the percentage of the certified~~
825 ~~contribution rate paid to the Firefighters' Retirement Trust Fund in accordance with Subsection~~
826 ~~49-16-301(6) on July 1, 2004 as calculated under Subsection (1)(a), the board may not make a~~
827 ~~deposit under Subsection (1)(a).]~~

828 (2) The money deposited under this section shall be used to fund an increase for
829 retirees in the public safety retirement systems from a 2.5% maximum annual cost-of-living
830 adjustment to a 4% maximum annual cost-of-living adjustment under Sections 49-14-403 and
831 49-15-403 in the public safety retirement systems.

832 (3) As required to implement this section, the office shall make the calculations and
833 deposits for the equitable apportionment of money between:

- 834 (a) Division A1 and B1; and
- 835 (b) the contributory and noncontributory trust funds.

836 Section 11. Section **49-12-401** is amended to read:

837 **49-12-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

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

839 (a) the member ceases actual work for [a] every participating employer [~~in this system~~]
840 that employs the member before the member's retirement date and provides evidence of the
841 termination;

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

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

845 (i) the member has accrued at least four years of service credit and has attained an age
846 of 65 years;

847 (ii) the member has accrued at least 10 years of service credit and has attained an age
848 of 62 years;

849 (iii) the member has accrued at least 20 years of service credit and has attained an age
850 of 60 years; or

851 (iv) the member has accrued at least 30 years of service credit.

852 (2) (a) The member's retirement date:

853 (i) shall be the 1st or the 16th day of the month, as selected by the member;

854 (ii) shall be on or after the date of termination; and

855 (iii) may not be more than 90 days before or after the date the application is received by
856 the office.

857 (b) A member may not be employed by a participating employer in the system
858 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

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

860 **49-12-402. Service retirement plans -- Calculation of retirement allowance --**
861 **Social Security limitations.**

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

864 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One

865 calculation.

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

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

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

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

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

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

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

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

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

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

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

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

896 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
897 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
898 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
899 retiree's life, beginning on the ~~[last day of the month following the month in which the lawful~~
900 ~~spouse dies.]~~ first day of the month:

901 (i) following the month in which the spouse died, if the application is received by the
902 office within 90 days of the spouse's death; or

903 (ii) following the month in which the application is received by the office, if the
904 application is received by the office more than 90 days after the spouse's death.

905 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
906 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
907 of initial retirement under Option One shall be paid to the retiree for the remainder of the
908 retiree's life, beginning on the ~~[last day of the month following the month in which the lawful~~
909 ~~spouse dies.]~~ first day of the month:

910 (i) following the month in which the spouse died, if the application is received by the
911 office within 90 days of the spouse's death; or

912 (ii) following the month in which the application is received by the office, if the
913 application is received by the office more than 90 days after the spouse's death.

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

920 (ii) This limitation is not applicable to retirees who elected to continue in this system
921 by July 1, 1967.

922 (b) Periods of employment which are exempt from this system under Subsection
923 49-12-203(1)(b), may be purchased by the member for the purpose of retirement only if all
924 benefits from the Teachers' Insurance and Annuity Association of America or any other public
925 or private system or organization based on this period of employment are forfeited.

926 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement

927 date, the retirement is canceled and the death shall be considered as that of a member before
928 retirement.

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

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

934 Section 13. Section **49-12-405** is amended to read:

935 **49-12-405. Death of married member -- Service retirement benefits to surviving**
936 **spouse.**

937 (1) Upon the request of a deceased member's lawful spouse at the time of the member's
938 death, the deceased member is considered to have retired under Option Three on the first day of
939 the month following the month in which the member died if the following requirements are
940 met:

941 (a) the member has:

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

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

944 (iii) attained age 62 with 10 or more years of service credit; or

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

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

948 (2) The spouse who requests a benefit under this section shall apply in writing to the
949 office. The allowance shall begin on the first day of the month:

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

952 (b) following the month in which the application is received by the office, if the
953 application is received by the office more than 90 days after the spouse's death.

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

956 (4) Except for a return of member contributions, benefits payable under this section are
957 retirement benefits and shall be paid in addition to any payments made under Section

958 49-12-501 and constitute a full and final settlement of the claim of the spouse or any other
959 beneficiary filing claim for benefits under Section 49-12-501.

960 Section 14. Section **49-13-401** is amended to read:

961 **49-13-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

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

963 (a) the member ceases actual work for [a] every participating employer [~~in this system~~]
964 that employs the member before the member's retirement date and provides evidence of the
965 termination;

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

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

969 (i) the member has accrued at least four years of service credit and has attained an age
970 of 65 years;

971 (ii) the member has accrued at least 10 years of service credit and has attained an age
972 of 62 years;

973 (iii) the member has accrued at least 20 years of service credit and has attained an age
974 of 60 years;

975 (iv) the member has accrued at least 30 years of service credit; or

976 (v) the member has accrued at least 25 years of service credit, in which case the
977 member shall be subject to the reduction under Subsection 49-13-402(2)(b).

978 (2) (a) The member's retirement date:

979 (i) shall be the 1st or the 16th day of the month, as selected by the member;

980 (ii) shall be on or after the date of termination; and

981 (iii) may not be more than 90 days before or after the date the application is received by
982 the office.

983 (b) A member may not be employed by a participating employer in the system
984 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

985 Section 15. Section **49-13-402** is amended to read:

986 **49-13-402. Service retirement plans -- Calculation of retirement allowance --**
987 **Social Security limitations.**

988 (1) (a) Except as provided under Section 49-13-701, retirees of this system may choose

989 from the six retirement options described in this section.

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

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

993 (a) If the retiree is at least 65 years of age or has accrued at least 30 years of service
994 credit, the allowance is an amount equal to 2% of the retiree's final average monthly salary
995 multiplied by the number of years of service credit accrued.

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

1000 (c) (i) Years of service include any fractions of years of service to which the retiree
1001 may be entitled.

1002 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
1003 service credit is within 1/10 of one year of the total years of service credit required for
1004 retirement, the retiree shall be considered to have the total years of service credit required for
1005 retirement.

1006 (d) An Option One allowance is only payable to the member during the member's
1007 lifetime.

1008 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
1009 by reducing an Option One benefit based on actuarial computations to provide the following:

1010 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
1011 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
1012 member contributions, the remaining balance of the retiree's member contributions shall be
1013 paid in accordance with Sections 49-11-609 and 49-11-610.

1014 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
1015 retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout
1016 the lifetime of the retiree's lawful spouse at the time of retirement.

1017 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
1018 retiree, and upon the death of the retiree, an amount equal to [~~1/2~~] one-half of the retiree's
1019 allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of

1020 retirement.

1021 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
1022 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
1023 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
1024 retiree's life, beginning on the ~~[last day of the month following the month in which the lawful~~
1025 ~~spouse dies.]~~ first day of the month:

1026 (i) following the month in which the spouse died, if the application is received by the
1027 office within 90 days of the spouse's death; or

1028 (ii) following the month in which the application is received by the office, if the
1029 application is received by the office more than 90 days after the spouse's death.

1030 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
1031 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
1032 of initial retirement under Option One shall be paid to the retiree for the remainder of the
1033 retiree's life, beginning on the ~~[last day of the month following the month in which the lawful~~
1034 ~~spouse dies.]~~ first day of the month:

1035 (i) following the month in which the spouse died, if the application is received by the
1036 office within 90 days of the spouse's death; or

1037 (ii) following the month in which the application is received by the office, if the
1038 application is received by the office more than 90 days after the spouse's death.

1039 (4) (a) (i) The final average salary is limited in the computation of that part of an
1040 allowance based on service rendered prior to July 1, 1967, during a period when the retiree
1041 received employer contributions on a portion of compensation from an educational institution
1042 toward the payment of the premium required on a retirement annuity contract with the
1043 Teachers' Insurance and Annuity Association of America or with any other public or private
1044 system, organization, or company to \$4,800.

1045 (ii) This limitation is not applicable to retirees who elected to continue in the Public
1046 Employees' Contributory Retirement System by July 1, 1967.

1047 (b) Periods of employment which are exempt from this system as permitted under
1048 Subsection 49-13-203(1)(b) may be purchased by the member for the purpose of retirement
1049 only if all benefits from the Teachers' Insurance and Annuity Association of America or any
1050 other public or private system or organization based on this period of employment are forfeited.

1051 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement
1052 date, the retirement is canceled and the death shall be considered as that of a member before
1053 retirement.

1054 (b) Any payments made to the retiree shall be deducted from the amounts due to the
1055 beneficiary.

1056 (6) If a retiree retires under either Option Five or Six and subsequently divorces, the
1057 retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there
1058 is no court order filed in the matter.

1059 Section 16. Section **49-13-405** is amended to read:

1060 **49-13-405. Death of married members -- Service retirement benefits to surviving**
1061 **spouse.**

1062 (1) As used in this section, "member's full allowance" means an Option Three
1063 allowance calculated under Section 49-13-402 without an actuarial reduction.

1064 (2) Upon the request of a deceased member's lawful spouse at the time of the member's
1065 death, the deceased member is considered to have retired under Option Three on the first day of
1066 the month following the month in which the member died if the following requirements are
1067 met:

1068 (a) the member has:

1069 (i) 15 or more years of service credit;

1070 (ii) attained age 62 with 10 or more years of service credit; or

1071 (iii) attained age 65 with four or more years of service credit; and

1072 (b) the member dies leaving a spouse to whom the member has been married at least
1073 six months immediately prior to the death date.

1074 (3) The spouse who requests a benefit under this section shall apply in writing to the
1075 office. The allowance shall begin on the first day of the month:

1076 (a) following the month in which the member died, if the application is received by the
1077 office within 90 days of the member's death; or

1078 (b) following the month in which the application is received by the office, if the
1079 application is received by the office more than 90 days after the spouse's death.

1080 (4) The allowance payable to a surviving spouse under Subsection (2) is:

1081 (a) if the member has 25 or more years of service credit at the time of death, the

1082 surviving spouse shall receive the member's full allowance;

1083 (b) if the member has between 20-24 years of service credit and is not age 60 or older
1084 at the time of death, the surviving spouse shall receive [~~2/3~~] two-thirds of the member's full
1085 allowance;

1086 (c) if the member has between 15-19 years of service credit and is not age 62 or older
1087 at the time of death, the surviving spouse shall receive [~~1/3~~] one-third of the member's full
1088 allowance; or

1089 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
1090 older with 10 or more years of service credit, or age 65 or older with four or more years of
1091 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
1092 with actuarial reductions.

1093 (5) Except for a return of member contributions, benefits payable under this section are
1094 retirement benefits and shall be paid in addition to any other payments made under Section
1095 49-13-501 and shall constitute a full and final settlement of the claim of the spouse or any other
1096 beneficiary filing a claim for benefits under Section 49-13-501.

1097 Section 17. Section **49-14-401** is amended to read:

1098 **49-14-401. Eligibility for service retirement -- Date of retirement --**

1099 **Qualifications.**

1100 (1) A member is qualified to receive an allowance from this system when:

1101 (a) the member ceases actual work for [~~a~~] every participating employer [~~in this system~~]
1102 that employs the member before the member's retirement date and provides evidence of the
1103 termination;

1104 (b) the member has submitted to the office a notarized retirement application form that
1105 states the member's proposed retirement date; and

1106 (c) one of the following conditions is met as of the member's retirement date:

1107 (i) the member has accrued at least 20 years of service credit;

1108 (ii) the member has accrued at least 10 years of service credit and has attained an age
1109 of 60 years; or

1110 (iii) the member has accrued at least four years of service credit and has attained an age
1111 of 65 years.

1112 (2) (a) The member's retirement date:

1113 (i) shall be the 1st or the 16th day of the month, as selected by the member;
1114 (ii) shall be on or after the date of termination; and
1115 (iii) may not be more than 90 days before or after the date the application is received by
1116 the office.

1117 (b) A member may not be employed by a participating employer in the system
1118 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1119 Section 18. Section **49-14-501** is amended to read:

1120 **49-14-501. Death of active member in Division A -- Payment of benefits.**

1121 (1) If an active member of this system enrolled in Division A under Section 49-14-301
1122 dies, benefits are payable as follows:

1123 (a) If the death is classified by the office as a line-of-duty death, the spouse at the time
1124 of death shall receive a lump sum of \$1,000 and an allowance equal to 30% of the deceased
1125 member's final average monthly salary.

1126 (b) If the death is not classified by the office as a line-of-duty death, benefits are
1127 payable as follows:

1128 (i) If the member has accrued less than 10 years of public safety service credit, the
1129 beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions,
1130 whichever is greater.

1131 (ii) If the member has accrued 10 or more years of public safety service credit at the
1132 time of death, the spouse at the time of death shall receive the sum of \$500, plus an allowance
1133 equal to 2% of the member's final average monthly salary for each year of service credit
1134 accrued by the member up to a maximum of 30% of the member's final average monthly salary.

1135 (2) Benefits are not payable to minor children of members covered under Division A.

1136 (3) If a benefit is not distributed under this section, and the member has designated a
1137 beneficiary, the member's member contributions shall be paid to the beneficiary.

1138 (4) (a) A spouse who requests a benefit under this section shall apply in writing to the
1139 office.

1140 (b) The allowance shall begin on the first day of the month:

1141 (i) following the month in which the member died, if the application is received by the
1142 office within 90 days of the member's death; or

1143 (ii) following the month in which the application is received by the office, if the

1144 application is received by the office more than 90 days after the member's death.

1145 Section 19. Section **49-14-502** is amended to read:

1146 **49-14-502. Death of active member in Division B -- Payment of benefits.**

1147 (1) If an active member of this system enrolled in Division B under Section 49-14-301
1148 dies, benefits are payable as follows:

1149 (a) If the death is classified by the office as a line-of-duty death, the spouse at the time
1150 of death shall receive a lump sum of \$1,500 and an allowance equal to 37.5% of the member's
1151 final average monthly salary.

1152 (b) If the death is not classified by the office as a line-of-duty death, benefits are
1153 payable as follows:

1154 (i) If the member has accrued two or more years of public safety service credit at the
1155 time of death, the death is considered a line-of-duty death and the benefit shall be paid as
1156 provided under Subsection (1)(a).

1157 (ii) If the member has accrued less than two years of public safety service credit at the
1158 time of death, the spouse at the time of death shall receive a refund of the member's member
1159 contributions, plus 50% of the member's most recent 12 months' compensation.

1160 (c) (i) If the member has accrued two or more years of public safety service credit at
1161 the time of death, each of the member's unmarried children to age 18 or dependent unmarried
1162 mentally or physically disabled children shall receive a monthly allowance of \$50.

1163 (ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or
1164 as otherwise provided under Sections 49-11-609 and 49-11-610.

1165 (2) In the event of the death of both parents, the spouse's benefit shall be prorated and
1166 paid to each of the member's unmarried children to age 18.

1167 (3) If a benefit is not distributed under the previous subsections, and the member has
1168 designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

1169 (4) The combined annual payments made to the beneficiaries of any member under this
1170 section may not exceed 75% of the member's final average monthly salary.

1171 (5) (a) A spouse who requests a benefit under this section shall apply in writing to the
1172 office.

1173 (b) The allowance shall begin on the first day of the month:

1174 (i) following the month in which the member died, if the application is received by the

1175 office within 90 days of the member's death; or

1176 (ii) following the month in which the application is received by the office, if the

1177 application is received by the office more than 90 days after the member's death.

1178 Section 20. Section **49-14-503** is amended to read:

1179 **49-14-503. Benefits payable upon death of inactive member.**

1180 (1) If an inactive member who has less than 20 years of public safety service credit
1181 dies, the spouse at the time of death, or, if there is no spouse at the time of death, the member's
1182 minor children shall receive a refund of the member's member contributions or \$500,
1183 whichever is greater.

1184 (2) (a) If an inactive member with 20 or more years of public safety service credit dies,
1185 the spouse at the time of death shall receive an allowance in an amount of 50% of the amount
1186 the member would have received had retirement occurred on the first of the month following
1187 the month in which the death occurred.

1188 (b) This allowance shall be based on years of service credit and final average monthly
1189 salary under Section 49-14-402, reduced actuarially from age 50 to the age of the member at
1190 the time of death if the member is under age 50 at the time of death.

1191 (3) (a) A spouse who requests a benefit under this section shall apply in writing to the
1192 office.

1193 (b) The allowance shall begin on the first day of the month:

1194 (i) following the month in which the member died, if the application is received by the
1195 office within 90 days of the member's death; or

1196 (ii) following the month in which the application is received by the office, if the
1197 application is received by the office more than 90 days after the member's death.

1198 Section 21. Section **49-15-401** is amended to read:

1199 **49-15-401. Eligibility for service retirement -- Date of retirement --**

1200 **Qualifications.**

1201 (1) A member is qualified to receive an allowance from this system when:

1202 (a) the member ceases actual work for [a] every participating employer [~~in this system~~]
1203 that employs the member before the member's retirement date and provides evidence of the
1204 termination;

1205 (b) the member has submitted to the office a notarized retirement application form that

1206 states the member's proposed retirement date; and

1207 (c) one of the following conditions is met as of the member's retirement date:

1208 (i) the member has accrued at least 20 years of service credit;

1209 (ii) the member has accrued at least 10 years of service credit and has attained an age

1210 of 60 years; or

1211 (iii) the member has accrued at least four years of service and has attained an age of 65

1212 years.

1213 (2) (a) The member's retirement date:

1214 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1215 (ii) shall be on or after the date of termination; and

1216 (iii) may not be more than 90 days before or after the date the application is received by

1217 the office.

1218 (b) A member may not be employed by a participating employer in the system

1219 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1220 Section 22. Section **49-15-501** is amended to read:

1221 **49-15-501. Death of active member in Division A -- Payment of benefits.**

1222 (1) If an active member of this system enrolled in Division A under Section 49-15-301
1223 dies, benefits are payable as follows:

1224 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as
1225 follows:

1226 (i) If the member has accrued less than 20 years of public safety service credit, the
1227 spouse at the time of death shall receive a lump sum of \$1,000 and an allowance equal to 30%
1228 of the member's final average monthly salary.

1229 (ii) If the member has accrued 20 or more years of public safety service credit, the
1230 member shall be considered to have retired with an allowance calculated under Section
1231 49-15-402 and the spouse at the time of death shall receive the death benefit payable to a
1232 spouse at the time of death under Section 49-15-504.

1233 (b) If the death is not classified as a line-of-duty death by the office, benefits are
1234 payable as follows:

1235 (i) If the member has accrued less than 10 years of public safety service credit, the
1236 beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions,

1237 whichever is greater.

1238 (ii) If the member has accrued 10 or more years, but less than 20 years of public safety
1239 service credit at the time of death, the spouse at the time of death shall receive the sum of \$500,
1240 plus an allowance equal to 2% of the member's final average monthly salary for each year of
1241 service credit accrued by the member up to a maximum of 30% of the member's final average
1242 monthly salary.

1243 (iii) If the member has accrued 20 or more years of public safety service credit, the
1244 benefit shall be calculated as provided in Subsection (1)(a)(ii).

1245 (2) Benefits are not payable to minor children under Division A.

1246 (3) If a benefit is not distributed under this section, and the member has designated a
1247 beneficiary, the member's member contribution shall be paid to the beneficiary.

1248 (4) (a) A spouse who requests a benefit under this section shall apply in writing to the
1249 office.

1250 (b) The allowance shall begin on the first day of the month:

1251 (i) following the month in which the member died, if the application is received by the
1252 office within 90 days of the member's death; or

1253 (ii) following the month in which the application is received by the office, if the
1254 application is received by the office more than 90 days after the member's death.

1255 Section 23. Section **49-15-502** is amended to read:

1256 **49-15-502. Death of active member in Division B -- Payment of benefits.**

1257 (1) If an active member of this system enrolled in Division B under Section 49-15-301
1258 dies, benefits are payable as follows:

1259 (a) If the death is classified by the office as a line-of-duty death, the spouse at the time
1260 of death shall receive a lump sum of \$1,500 and an allowance equal to 37.5% of the member's
1261 final average monthly salary.

1262 (b) If the death is not classified by the office as a line-of-duty death, and the member
1263 has accrued two or more years of public safety service credit at the time of death, the death is
1264 considered line-of-duty and the benefit shall be paid as provided under Subsection (1)(a).

1265 (c) If the death is not classified by the office as a line-of-duty death, and the member
1266 has accrued less than two years of public safety service credit at the time of death, the spouse at
1267 the time of death shall receive a refund of the member's member contributions, plus 50% of the

1268 member's most recent 12 months' compensation.

1269 (d) (i) If the member has accrued two or more years of public safety service credit at
1270 the time of death, each of the member's unmarried children to age 18 or dependent unmarried
1271 mentally or physically disabled children shall receive an allowance of \$50.

1272 (ii) Payments shall be made to the surviving parent or to a duly appointed guardian, or
1273 as otherwise provided under Section 49-11-609 or 49-11-610.

1274 (2) In the event of the death of both parents, the spouse's benefit shall be prorated and
1275 paid to each of the member's unmarried children to age 18.

1276 (3) If a benefit is not distributed under the previous subsections, and the member has
1277 designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

1278 (4) The combined payments to beneficiaries of any member under this section may not
1279 exceed 75% of the member's final average monthly salary.

1280 (5) (a) A spouse who requests a benefit under this section shall apply in writing to the
1281 office.

1282 (b) The allowance shall begin on the first day of the month:

1283 (i) following the month in which the member died, if the application is received by the
1284 office within 90 days of the member's death; or

1285 (ii) following the month in which the application is received by the office, if the
1286 application is received by the office more than 90 days after the member's death.

1287 Section 24. Section **49-15-503** is amended to read:

1288 **49-15-503. Benefits payable upon death of inactive member.**

1289 (1) If an inactive member who has less than 20 years of public safety service credit
1290 dies, the spouse at the time of death, or, if there is no spouse at the time of death, the member's
1291 minor children shall receive a refund of the member's member contributions or \$500,
1292 whichever is greater.

1293 (2) (a) If an inactive member with 20 or more years of public safety service credit dies,
1294 the spouse at the time of death shall receive an allowance in an amount of 50% of the amount
1295 the member would have received had retirement occurred on the first of the month following
1296 the month in which the death occurred.

1297 (b) This allowance shall be based on years of service credit and final average monthly
1298 salary under Section 49-15-402, reduced actuarially from age 50 to the age of the member at

1299 the time of death if the member is under 50 years of age at the time of death.

1300 (3) (a) A spouse who requests a benefit under this section shall apply in writing to the
1301 office.

1302 (b) The allowance shall begin on the first day of the month:

1303 (i) following the month in which the member died, if the application is received by the
1304 office within 90 days of the member's death; or

1305 (ii) following the month in which the application is received by the office, if the
1306 application is received by the office more than 90 days after the member's death.

1307 Section 25. Section **49-16-301** is amended to read:

1308 **49-16-301. Contributions -- Two divisions -- Election by employer to pay**
1309 **employee contributions -- Accounting for and vesting of worker contributions --**
1310 **Deductions.**

1311 (1) In addition to the money paid to this system under [~~Subsection (6)~~] Section
1312 49-11-901.5, participating employers and firefighter service employees shall jointly pay the
1313 certified contribution rates to the office to maintain this system on a financially and actuarially
1314 sound basis.

1315 (2) For purposes of determining contribution rates, this system is divided into two
1316 divisions according to Social Security coverage as follows:

1317 (a) members of this system with on-the-job Social Security coverage are in Division A;
1318 and

1319 (b) members of this system without on-the-job Social Security coverage are in Division
1320 B.

1321 (3) (a) A participating employer may elect to pay all or part of the required member
1322 contributions, in addition to the required participating employer contributions.

1323 (b) Any amount contributed by a participating employer under this section shall vest to
1324 the member's benefit as though the member had made the contribution.

1325 (c) The required member contributions shall be reduced by the amount that is paid by
1326 the participating employer.

1327 (4) (a) All member contributions are credited by the office to the account of the
1328 individual member.

1329 (b) This amount is held in trust for the payment of benefits to the member or the

1330 member's beneficiaries.

1331 (c) All member contributions are vested and nonforfeitable.

1332 (5) (a) Each member is considered to consent to payroll deductions of member
1333 contributions.

1334 (b) The payment of compensation less these payroll deductions is considered to be full
1335 payment for services rendered by the member.

1336 ~~[(6) (a) Except as provided in Section 49-11-902, in addition to contribution rates
1337 described under this section, there shall be paid to the Firefighters' Retirement Trust Fund
1338 created under Section 49-16-104:]~~

1339 ~~[(i) 50% of the annual tax levied, assessed, and collected under Title 59, Chapter 9,
1340 Taxation of Admitted Insurers, upon premiums for property insurance, as defined under
1341 Section 31A-1-301, and as applied to fire and allied lines insurance collected by insurance
1342 companies within the state; and]~~

1343 ~~[(ii) 10% of all money assessed and collected under Title 59, Chapter 9, Taxation of
1344 Admitted Insurers, upon premiums for life insurance, as defined in Section 31A-1-301, within
1345 the state.]~~

1346 ~~[(b) Payments to the fund shall be made annually until the service liability is
1347 liquidated, after which the tax revenue provided in this Subsection (6) for the Firefighters'
1348 Retirement Trust Fund ceases:]~~

1349 Section 26. Section 49-16-401 is amended to read:

1350 **49-16-401. Eligibility for service retirement -- Date of retirement --**
1351 **Qualifications.**

1352 (1) A member is qualified to receive an allowance from this system when:

1353 (a) the member ceases actual work for [a] every participating employer [~~in this system~~]
1354 that employs the member before the member's retirement date and provides evidence of the
1355 termination;

1356 (b) the member has submitted to the office a notarized retirement application form that
1357 states the member's proposed retirement date; and

1358 (c) one of the following conditions is met as of the member's retirement date:

1359 (i) the member has accrued at least 20 years of service credit;

1360 (ii) the member has accrued at least 10 years of service credit and has attained an age

1361 of 60 years; or

1362 (iii) the member has accrued at least four years of service credit and has attained an age
1363 of 65 years.

1364 (2) (a) The member's retirement date:

1365 (i) shall be the 1st or the 16th day of the month, as selected by the firefighter service
1366 employee;

1367 (ii) shall be on or after the date of termination; and

1368 (iii) may not be more than 90 days before or after the date the application is received by
1369 the office.

1370 (b) A member may not be employed by a participating employer in the system
1371 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1372 Section 27. Section **49-16-501** is amended to read:

1373 **49-16-501. Death of active member in Division A -- Payment of benefits.**

1374 (1) If an active member of this system enrolled in Division A under Section 49-16-301
1375 dies, benefits are payable as follows:

1376 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as
1377 follows:

1378 (i) If the member has accrued less than 20 years of firefighter service credit, the spouse
1379 at the time of death shall receive a lump sum of \$1,500 and an allowance equal to 30% of the
1380 member's final average monthly salary.

1381 (ii) If the member has accrued 20 or more years of firefighter service credit, the
1382 member shall be considered to have retired with an allowance calculated under Section
1383 49-16-402 and the spouse at the time of death shall receive the death benefit payable to a
1384 spouse under Section 49-16-504.

1385 (b) If the death is not classified as a line-of-duty death by the office, benefits are
1386 payable as follows:

1387 (i) If the member has accrued less than 10 years of firefighter service credit, the
1388 beneficiary shall receive a sum of \$1,000 or a refund of the member's member contributions,
1389 whichever is greater.

1390 (ii) If the member has accrued 10 or more years of firefighter service credit the spouse
1391 at the time of death shall receive a sum of \$500, plus an allowance equal to 2% of the member's

1392 final average monthly salary for each year of service credit accrued by the member up to a
1393 maximum of 30% of the member's final average monthly salary.

1394 (2) (a) If the member dies without a current spouse, the spouse's allowance shall be
1395 equally divided and paid to each unmarried child until the child reaches age 21.

1396 (b) The payment shall be made to a duly appointed guardian or as provided under
1397 Sections 49-11-609 and 49-11-610.

1398 (3) If the benefit is not distributed under this section, and the member has designated a
1399 beneficiary, the member's member contributions shall be paid to the beneficiary.

1400 (4) (a) A spouse who requests a benefit under this section shall apply in writing to the
1401 office.

1402 (b) The allowance shall begin on the first day of the month:

1403 (i) following the month in which the member died, if the application is received by the
1404 office within 90 days of the member's death; or

1405 (ii) following the month in which the application is received by the office, if the
1406 application is received by the office more than 90 days after the member's death.

1407 Section 28. Section **49-16-502** is amended to read:

1408 **49-16-502. Death of active member in Division B -- Payment of benefits.**

1409 (1) If an active member of this system enrolled in Division B under Section 49-16-301
1410 dies, benefits are payable as follows:

1411 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as
1412 follows:

1413 (i) If the member has accrued less than 20 years of firefighter service credit, the spouse
1414 at the time of death shall receive a lump sum of \$1,500 and an allowance equal to 37.5% of the
1415 member's final average monthly salary.

1416 (ii) If the member has accrued 20 or more years of firefighter service credit, the
1417 member shall be considered to have retired with an allowance calculated under Subsection
1418 49-16-402 and the spouse at the time of death shall receive the death benefit payable to a
1419 spouse under Section 49-16-504.

1420 (b) If the death is not classified by the office as a line-of-duty death, the benefits are
1421 payable as follows:

1422 (i) If the member has accrued five or more years of firefighter service credit, the death

1423 is considered line-of-duty and the same benefits are payable as established under Subsection
1424 (1)(a).

1425 (ii) If the member has accrued less than five years of firefighter service credit, the
1426 spouse at the time of death shall receive a refund of the member's contributions, plus 50% of
1427 the member's most recent 12 months compensation.

1428 (c) If the member has accrued five or more years of firefighter service credit, the
1429 member's unmarried children until they reach age 21 or dependent unmarried mentally or
1430 physically disabled children, shall receive a monthly allowance of \$75.

1431 (2) (a) In the event of the death of the member and spouse, the spouse's benefits are
1432 equally divided and paid to each unmarried child until the child reaches age 21.

1433 (b) The payments shall be made to the surviving parent or duly appointed guardian or
1434 as provided under Sections 49-11-609 and 49-11-610.

1435 (3) If a benefit is not distributed under the previous subsections, and the member has
1436 designated a beneficiary, the member's member contributions shall be paid to the beneficiary.

1437 (4) The combined monthly payments made to the beneficiaries of any member under
1438 this section may not exceed 75% of the member's final average monthly salary.

1439 (5) (a) A spouse who requests a benefit under this section shall apply in writing to the
1440 office.

1441 (b) The allowance shall begin on the first day of the month:

1442 (i) following the month in which the member died, if the application is received by the
1443 office within 90 days of the member's death; or

1444 (ii) following the month in which the application is received by the office, if the
1445 application is received by the office more than 90 days after the member's death.

1446 Section 29. Section **49-16-503** is amended to read:

1447 **49-16-503. Benefits payable upon death of inactive member.**

1448 (1) If an inactive member who has less than 20 years of firefighter service credit dies,
1449 the spouse at the time of death, or, if there is no spouse at the time of death, the member's
1450 minor children shall receive a refund of the member's member contributions or \$500,
1451 whichever is greater.

1452 (2) (a) If an inactive member with 20 or more years of firefighter service credit dies,
1453 the spouse at the time of death shall receive an allowance in the amount of 50% of the amount

1454 the member would have received had retirement occurred on the first of the month following
1455 the month in which the death occurred.

1456 (b) This allowance shall be based on years of service credit and final average monthly
1457 salary under Section 49-16-402, reduced actuarially from age 50 to the age of the member at
1458 the time of death if the member is under 50 years of age at the time of death.

1459 (3) (a) A spouse who requests a benefit under this section shall apply in writing to the
1460 office.

1461 (b) The allowance shall begin on the first day of the month:

1462 (i) following the month in which the member died, if the application is received by the
1463 office within 90 days of the member's death; or

1464 (ii) following the month in which the application is received by the office, if the
1465 application is received by the office more than 90 days after the member's death.

1466 Section 30. Section **49-17-401** is amended to read:

1467 **49-17-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

1468 (1) A member is qualified to receive an allowance when:

1469 (a) the member ceases actual work for [a] every participating employer [~~in this system~~]
1470 that employs the member before the member's retirement date and provides evidence of the
1471 termination;

1472 (b) the member has submitted to the office a notarized retirement application form that
1473 states the member's proposed retirement date; and

1474 (c) one of the following conditions is met as of the member's retirement date:

1475 (i) the member has accrued at least six years of service credit and has attained an age of
1476 70 years;

1477 (ii) the member has accrued at least 10 years of service credit and has attained an age
1478 of 62 years;

1479 (iii) the member has accrued at least 20 years of service credit and has attained an age
1480 of 55 years; or

1481 (iv) the member has accrued at least 25 years of service credit.

1482 (2) (a) The member's retirement date:

1483 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1484 (ii) shall be on or after the date of termination; and

1485 (iii) may not be more than 90 days before or after the date the application is received by
1486 the office.

1487 (b) A member may not be employed by a participating employer in the system
1488 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1489 Section 31. Section **49-17-501** is amended to read:

1490 **49-17-501. Death benefit for members before retirement -- Computation.**

1491 (1) Upon the receipt of acceptable proof of death of a member before the member's
1492 retirement date, the member's spouse at the time of death shall have the choice of the following
1493 death benefits:

1494 (a) a refund of the member's member contributions, including refund interest, plus 65%
1495 of the member's most recent 12 months' compensation prior to death; or

1496 (b) an allowance equal to 65% of the allowance computed in accordance with Section
1497 49-17-402, but disregarding early retirement reductions.

1498 (2) If there is no spouse to whom the member is married at the time of death, member
1499 contributions, including refund interest, shall be refunded to a beneficiary, in accordance with
1500 Sections 49-11-609 and 49-11-610.

1501 (3) (a) A spouse who requests a benefit under this section shall apply in writing to the
1502 office.

1503 (b) The allowance shall begin on the first day of the month:

1504 (i) following the month in which the member died, if the application is received by the
1505 office within 90 days of the member's death; or

1506 (ii) following the month in which the application is received by the office, if the
1507 application is received by the office more than 90 days after the member's death.

1508 Section 32. Section **49-18-401** is amended to read:

1509 **49-18-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

1510 (1) A member is qualified to receive an allowance when:

1511 (a) the member ceases actual work for [a] every participating employer [~~in this system~~]
1512 that employs the member before the member's retirement date and provides evidence of the
1513 termination;

1514 (b) the member has submitted to the office a notarized retirement application form that
1515 states the member's proposed retirement date; and

- 1516 (c) one of the following conditions is met as of the member's retirement date:
1517 (i) the member has accrued at least six years of service credit and has attained an age of
1518 70 years;
1519 (ii) the member has accrued at least 10 years of service credit and has attained an age
1520 of 62 years;
1521 (iii) the member has accrued at least 20 years of service credit and has attained an age
1522 of 55 years; or
1523 (iv) the member has accrued at least 25 years of service credit.

1524 (2) (a) The member's retirement date:

- 1525 (i) shall be the 1st or the 16th day of the month, as selected by the member;
1526 (ii) shall be on or after the date of termination; and
1527 (iii) may not be more than 90 days before or after the date the application is received by
1528 the office.

1529 (b) A member may not be employed by a participating employer in the system
1530 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1531 Section 33. Section **49-18-501** is amended to read:

1532 **49-18-501. Death benefit for members before retirement -- Computation.**

1533 (1) Upon the receipt of acceptable proof of death of a member before the member's
1534 retirement date, the member's spouse at the time of death shall have the choice of the following
1535 death benefits:

1536 (a) a refund of the member's member contributions, if any, plus 65% of the member's
1537 most recent 12 months' compensation prior to death; or

1538 (b) an allowance equal to 65% of the allowance computed in accordance with Section
1539 49-18-402, but disregarding early retirement reductions.

1540 (2) If there is no spouse to whom the member is married at the time of death, member
1541 contributions shall be refunded to a beneficiary, in accordance with Sections 49-11-609 and
1542 49-11-610.

1543 (3) (a) A spouse who requests a benefit under this section shall apply in writing to the
1544 office.

1545 (b) The allowance shall begin on the first day of the month:

1546 (i) following the month in which the member died, if the application is received by the

1547 office within 90 days of the member's death; or
1548 (ii) following the month in which the application is received by the office, if the
1549 application is received by the office more than 90 days after the member's death.

1550 Section 34. Section **49-19-501** is amended to read:

1551 **49-19-501. Death of member or retiree -- Surviving spouse benefit.**

1552 (1) Upon the death of a governor or legislator who has not yet retired and who has
1553 completed four or more years in the elected office, the member's spouse at the time of death
1554 shall receive an allowance equal to 50% of the allowance to which the governor or legislator
1555 would have been entitled upon reaching age 65, if the governor or legislator and surviving
1556 spouse had been married at least six months.

1557 (2) Upon the death of a governor or legislator receiving an allowance under this plan,
1558 the member's spouse at the time of death is entitled to an allowance equal to 50% of the
1559 allowance being paid to the member at the time of death.

1560 (3) (a) A spouse who requests a benefit under this section shall apply in writing to the
1561 office.

1562 (b) The allowance shall begin on the first day of the month:

1563 (i) following the month in which the member died, if the application is received by the
1564 office within 90 days of the member's death; or

1565 (ii) following the month in which the application is received by the office, if the
1566 application is received by the office more than 90 days after the member's death.

1567 Section 35. Section **49-20-404** is amended to read:

1568 **49-20-404. Governors' and legislative benefit.**

1569 (1) The state shall pay the percentage described in Subsection (3) of the cost of
1570 providing paid-up group health coverage policy for members and their surviving spouses
1571 covered under Chapter 19, Utah Governors' and Legislators' Retirement Act, or Chapter 22,
1572 New Public Employees' Tier II Contributory Retirement Act, who:

1573 (a) retire after January 1, 1998;

1574 (b) are at least 62 but less than 65 years of age;

1575 (c) elect to receive and apply for this benefit to the program; and

1576 (d) are active members at the time of retirement or have continued coverage with the
1577 program until the date of eligibility for the benefit under this Subsection (1).

1578 (2) The state shall pay the percentage described in Subsection (3) of the cost of
 1579 providing Medicare supplemental coverage for members and their surviving spouses covered
 1580 under Chapter 19, Utah Governors' and Legislators' Retirement Act who:

1581 (a) retire after January 1, 1998;

1582 (b) are at least 65 years of age; and

1583 (c) elect to receive and apply for this benefit to the program.

1584 (3) The following percentages apply to the benefit described in Subsections (1) and (2):

1585 (a) 100% if the member has accrued 10 or more years of service credit;

1586 (b) 80% if the member has accrued 8 or more years of service credit;

1587 (c) 60% if the member has accrued 6 or more years of service credit; and

1588 (d) 40% if the member has accrued 4 or more years of service credit.

1589 Section 36. Section **49-21-102** is amended to read:

1590 **49-21-102. Definitions.**

1591 As used in this chapter:

1592 (1) "Date of disability" means the date on which a period of continuous disability
 1593 commences, and may not commence on or before the last day of actual work.

1594 (2) "Elimination period" means the three months at the beginning of each continuous
 1595 period of total disability for which no benefit will be paid. The elimination period begins on
 1596 the nearest first day of the month from the date of disability. The elimination period may
 1597 include a one-time trial return to work period of less than 15 consecutive calendar days.

1598 (3) (a) "Eligible employee" means the following employee whose employer provides
 1599 coverage under this chapter:

1600 (i) (A) any regular full-time employee as defined under Section 49-12-102 [or],
 1601 49-13-102, or 49-22-102;

1602 (B) any public safety service employee as defined under Section 49-14-102 [or],
 1603 49-15-102, or 49-23-102;

1604 (C) any firefighter service employee or volunteer firefighter as defined under Section
 1605 49-23-102 who began firefighter service on or after July 1, 2011;

1606 (D) any judge as defined under Section 49-17-102 or 49-18-102[~~whose employer~~
 1607 provides coverage under this chapter,]; or

1608 (E) the governor of the state; [and]

- 1609 (ii) an employee who is exempt from participating in a retirement system under
1610 Subsection 49-12-203(2), 49-13-203(2), 49-14-203(1), or 49-15-203(1); and
1611 ~~[(ii)]~~ (iii) an employee who is covered by a retirement program offered by the Teachers'
1612 Insurance and Annuity Association of America~~[, if the employee's employer provides coverage~~
1613 ~~under this chapter; and]~~.
- 1614 (b) "Eligible employee" does not include:
1615 (i) any employee that is exempt from coverage under Section 49-21-201~~[-]; or~~
1616 (ii) a retiree.
- 1617 (4) "Maximum benefit period" means the maximum period of time the monthly
1618 disability income benefit will be paid under Section 49-21-403 for any continuous period of
1619 total disability.
- 1620 (5) "Monthly disability benefit" means the monthly payments and accrual of service
1621 credit under Section 49-21-401.
- 1622 (6) "Objective medical impairment" means an impairment resulting from an injury or
1623 illness which is diagnosed by a physician and which is based on accepted objective medical
1624 tests or findings rather than subjective complaints.
- 1625 (7) "Physician" means a licensed physician.
- 1626 (8) "Regular monthly salary" means the amount certified by the participating employer
1627 as the monthly salary of the eligible employee, unless there is a discrepancy between the
1628 certified amount and the amount actually paid, in which case the office shall determine the
1629 regular monthly salary.
- 1630 (9) "Regular occupation" means either the primary duties performed by the eligible
1631 employee for the 12 months preceding the date of disability, or a permanent assignment of duty
1632 to the eligible employee.
- 1633 (10) "Rehabilitative employment" means any occupation or employment for wage or
1634 profit, for which the eligible employee is reasonably qualified to perform based on education,
1635 training, or experience.
- 1636 (11) (a) "Total disability" or "totally disabled" means the complete inability, due to
1637 objective medical impairment, whether physical or mental, to engage in the eligible employee's
1638 regular occupation during the elimination period and the first 24 months of disability benefits.
- 1639 (b) "Total disability" means, after the elimination period and the first 24 months of

1640 disability benefits, the complete inability, based solely on physical objective medical
1641 impairment, to engage in any gainful occupation which is reasonable, considering the eligible
1642 employee's education, training, and experience.

1643 Section 37. Section **49-21-401** is amended to read:

1644 **49-21-401. Disability benefits -- Application -- Eligibility.**

1645 (1) An eligible employee shall apply for long-term disability benefits under this chapter
1646 by:

1647 (a) completing an application form prepared by the office;

1648 (b) signing a consent form allowing the office access to the eligible employee's medical
1649 records; and

1650 (c) providing any documentation or information reasonably requested by the office.

1651 (2) (a) If an eligible employee is unable to apply on the employee's own behalf, the
1652 application may be made by a person who is:

1653 (i) the attorney for an eligible employee; or

1654 (ii) appointed as a conservator or guardian of the eligible employee.

1655 (b) A person described in Subsection (2)(a), may not make an application for a
1656 deceased employee.

1657 (3) Upon request by the office, the participating employer of the eligible employee
1658 shall provide to the office documentation and information concerning the eligible employee.

1659 (4) The office shall review all relevant information and determine whether or not the
1660 eligible employee is totally disabled.

1661 (5) If the office determines that the eligible employee is totally disabled due to
1662 accidental bodily injury or physical illness which is not the result of the performance of an
1663 employment duty, the eligible employee shall receive a monthly disability benefit equal to
1664 two-thirds of the eligible employee's regular monthly salary, for each month the total disability
1665 continues beyond the elimination period, not to exceed the maximum benefit period.

1666 (6) If the office determines that the eligible employee is totally disabled due to
1667 psychiatric illness, the eligible employee shall receive:

1668 (a) a maximum of two years of monthly disability benefits equal to two-thirds of the
1669 eligible employee's regular monthly salary for each month the total disability continues beyond
1670 the elimination period;

1671 (b) a maximum of \$10,000 for psychiatric expenses, including rehabilitation expenses
1672 preauthorized by the office's consultants, paid during the period of monthly disability benefits;
1673 and

1674 (c) payment of monthly disability benefits according to contractual provisions for a
1675 period not to exceed five years if the eligible employee is institutionalized due to psychiatric
1676 illness.

1677 (7) If the office determines that the eligible employee is totally disabled due to a
1678 physical injury resulting from external force or violence as a result of the performance of an
1679 employment duty, the eligible employee shall receive a monthly disability benefit equal to
1680 100% of the eligible employee's regular monthly salary, for each month the total disability
1681 continues beyond the elimination period, not to exceed the maximum benefit period.

1682 (8) (a) Successive periods of disability are considered as a continuous period of
1683 disability if the period of disability:

1684 (i) results from the same or related causes;

1685 (ii) is separated by less than six months of continuous full-time work at the individual's
1686 usual place of employment; and

1687 (iii) commences while the individual is an eligible employee covered by this chapter.

1688 (b) The inability to work for a period of less than 15 consecutive calendar days is not
1689 considered as a period of disability.

1690 (c) If Subsection (8)(a) or (b) does not apply, successive periods of disability are
1691 considered as separate periods of disability.

1692 (9) The office may, at any time, have any eligible employee claiming disability
1693 examined by a physician chosen by the office to determine if the eligible employee is totally
1694 disabled.

1695 (10) A claim brought by an eligible employee for long-term disability benefits under
1696 the Public Employee's Long-Term Disability Program is barred if it is not commenced within
1697 one year from the eligible employee's date of disability, unless the office determines that under
1698 the surrounding facts and circumstances, the eligible employee's failure to comply with the
1699 time limitations was reasonable.

1700 (11) Medical or psychiatric conditions which existed prior to eligibility may not be a
1701 basis for disability benefits until the eligible employee has had one year of continuous

1702 eligibility in the Public Employees Long-Term Disability Program.

1703 (12) If there is a valid benefit protection contract, service credit shall accrue during the
1704 period of total disability, unless the disabled eligible employee is exempted from a system, or is
1705 otherwise ineligible for service credit.

1706 (13) Regardless of any medical evidence provided by the employee to support the
1707 application for disability, an employee is not eligible for long-term disability benefits during
1708 any period in which the employee:

1709 (a) makes a claim that the employee is able to work; or

1710 (b) has a pending action in a court or before any federal, state, or local administrative
1711 body in which the employee has made a claim that the employee is able to work.

1712 (14) Notwithstanding the provisions of Section 49-11-618, upon written request by an
1713 employer, information obtained under this part may, upon an order of a court or an
1714 administrative law judge, be released to an employer who is a party in an action under
1715 Subsection (13).

1716 Section 38. Section **49-21-402** is amended to read:

1717 **49-21-402. Reduction or reimbursement of benefit -- Circumstances --**

1718 **Application for other benefits required.**

1719 (1) A monthly disability benefit may not be paid for any period of total disability unless
1720 the eligible employee is under the ongoing care and treatment of a physician other than the
1721 eligible employee.

1722 (2) The monthly disability benefit shall be reduced or reimbursed by any amount
1723 received by, or payable to, the eligible employee from the following sources for the same
1724 period of time during which the eligible employee is entitled to receive a monthly disability
1725 benefit:

1726 (a) Social Security disability benefits, including all benefits received by the eligible
1727 employee, the eligible employee's spouse, and the eligible employee's children as determined
1728 by the Social Security Administration;

1729 (b) workers' compensation indemnity benefits;

1730 (c) any money received by judgment, legal action, or settlement from a third party
1731 liable to the employee for the disability;

1732 (d) unemployment compensation benefits;

1733 (e) automobile no-fault, medical payments, or similar insurance payments; and
1734 (f) any money received by a judgment, settlement, or other payment as a result of a
1735 claim against an employer.

1736 (3) The monthly disability benefit shall be reduced by any amount in excess of
1737 one-third of the eligible employee's regular monthly salary received by, or payable to, the
1738 eligible employee from the following sources for the same period of time during which the
1739 eligible employee is entitled to receive a monthly disability benefit:

1740 (a) any employer-sponsored retirement programs; and

1741 (b) any disability benefit resulting from the disability for which benefits are being
1742 received under this chapter.

1743 (4) After the date of disability, cost-of-living increases to any of the benefits listed in
1744 Subsection (2) or (3) may not be considered in calculating a reduction to the monthly disability
1745 benefit.

1746 (5) Any amounts payable to the eligible employee from one or more of the sources
1747 under Subsection (2) are considered as amounts received whether or not the amounts were
1748 actually received by the eligible employee.

1749 (6) (a) An eligible employee shall first apply for all disability benefits from
1750 governmental entities under Subsection (2) to which the eligible employee is or may be
1751 entitled, and provide to the office evidence of the applications.

1752 ~~[(b) The eligible employee shall also first apply at the earliest eligible age for all~~
1753 ~~unreduced retirement benefits to which the eligible employee is or may be entitled, and provide~~
1754 ~~to the office evidence of the application.]~~

1755 ~~[(c)]~~ (b) If the eligible employee fails to make application under this Subsection (6)~~[(a)~~
1756 ~~or (b)]~~, the monthly disability benefit shall be suspended.

1757 Section 39. Section ~~49-21-403~~ is amended to read:

1758 **49-21-403. Termination of disability benefits -- Calculation of retirement benefit.**

1759 (1) An eligible employee covered by this chapter and eligible for service credit under a
1760 system or plan, ~~[or a participant in the Tier II Defined Contribution Plan, created in Chapter 22,~~
1761 ~~Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II Defined Contribution~~
1762 ~~Plan,]~~ including an eligible employee who relinquishes rights to retirement benefits under
1763 Section 49-11-619, who applies and is qualified for a monthly disability benefit shall receive a

1764 monthly disability benefit until the earlier of:

1765 (a) the date of the eligible employee's death;

1766 (b) the date the eligible employee is no longer disabled;

1767 (c) the date the eligible employee has accumulated:

1768 (i) 20 years of service credit if the eligible employee is covered by Chapter 14, Public
1769 Safety Contributory Retirement Act, or Chapter 15, Public Safety Noncontributory Retirement
1770 Act;

1771 (ii) 25 years of service credit if the eligible employee is covered by Chapter 17, Judges'
1772 Contributory Retirement Act, or Chapter 18, Judges' Noncontributory Retirement Act;

1773 (iii) 30 years of service credit if the eligible employee is covered by Chapter 12, Public
1774 Employees' Contributory Retirement Act, or Chapter 13, Public Employees' Noncontributory
1775 Retirement Act;

1776 (iv) 35 years of service credit if the eligible employee is covered by the defined benefit
1777 portion under Chapter 22, Part 3, Tier II Hybrid Retirement System, or is covered by the
1778 defined contribution plan under Chapter 22, Part 4, Tier II Defined Contribution Plan; or

1779 (v) 25 years of service credit if the eligible employee is covered by the defined benefit
1780 portion under Chapter 23, Part 3, Tier II Hybrid Retirement System, or is covered by the
1781 defined contribution plan under Chapter 23, Part 4, Tier II Defined Contribution Plan; or

1782 (d) the date the eligible employee has received a monthly disability benefit for the
1783 following applicable time periods:

1784 (i) if the eligible employee is under age 60, the monthly disability benefit is payable
1785 until age 65;

1786 (ii) if the eligible employee is 60 or 61 years of age on the date of disability, the
1787 monthly disability benefit is payable for five years;

1788 (iii) if the eligible employee is 62 or 63 years of age on the date of disability, the
1789 monthly disability benefit is payable for four years;

1790 (iv) if the eligible employee is 64 or 65 years of age on the date of disability, the
1791 monthly disability benefit is payable for three years;

1792 (v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the
1793 monthly disability benefit is payable for two years; and

1794 (vi) if the eligible employee is 69 years of age or older on the date of disability, the

1795 monthly disability benefit is payable for one year.

1796 (2) (a) Upon termination of a monthly disability benefit, an eligible employee eligible
1797 for service credit under a system may retire under the requirements of the system which
1798 covered the eligible employee on the date of disability.

1799 (b) The final average salary used in the calculation of the allowance shall be based on
1800 the annual rate of pay on the date of disability, improved by the annual cost-of-living increase
1801 factor applied to retirees of the system which covered the eligible employee on the date of
1802 disability.

1803 (3) An eligible employee who is eligible for service credit in a system, but has
1804 relinquished rights to an allowance under Section 49-11-619, may receive the benefits the
1805 eligible employee would have received by being eligible for service credit in the system
1806 covering the eligible employee on the date of disability, except for the accrual of service credit,
1807 in accordance with this title.

1808 (4) An eligible employee receiving a monthly disability benefit who has service credit
1809 from two or more systems may not combine service credits under Section 49-11-405 in
1810 qualifying for retirement, unless the eligible employee would receive a greater allowance by
1811 combining the service credits.

1812 ~~[(5) A monthly disability benefit payable to an eligible employee who is not eligible for
1813 service credit under a system shall terminate at the earliest of:]~~

1814 ~~[(a) the date the eligible employee would be eligible for an unreduced allowance;]~~

1815 ~~[(b) the date the eligible employee has received a monthly disability benefit for the
1816 applicable time period as set forth in Subsection (1)(c); or]~~

1817 ~~[(c) the date the eligible employee receives a reduced allowance.]~~

1818 (5) An eligible employee covered by this chapter who is a participant in the Tier II
1819 Defined Contribution Plan, created in Chapter 22, Part 4, Tier II Defined Contribution Plan, or
1820 Chapter 23, Part 4, Tier II Defined Contribution Plan, who applies and is qualified for a
1821 monthly disability benefit, shall receive a monthly disability benefit until the earlier of:

1822 (a) the date of the eligible employee's death;

1823 (b) the date the eligible employee ~~is~~ → [is no longer disabled] no longer has a disability ← ~~is~~ ;

1824 (c) (i) 35 years from the date the eligible employee began participation in the Tier II
1825 Defined Contribution Plan, created in Chapter 22, Part 4, Tier II Defined Contribution Plan; or

1826 (ii) 25 years from the date the eligible employee began participation in the Tier II
1827 Defined Contribution Plan created in Chapter 23, Part 4, Tier II Defined Contribution Plan; or

1828 (d) the date the eligible employee has received a monthly disability benefit for the
1829 following applicable time periods:

1830 (i) if the eligible employee is under age 60, the monthly disability benefit is payable
1831 until age 65;

1832 (ii) if the eligible employee is 60 or 61 years of age on the date of disability, the
1833 monthly disability benefit is payable for five years;

1834 (iii) if the eligible employee is 62 or 63 years of age on the date of disability, the
1835 monthly disability benefit is payable for four years;

1836 (iv) if the eligible employee is 64 or 65 years of age on the date of disability, the
1837 monthly disability benefit is payable for three years;

1838 (v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the
1839 monthly disability benefit is payable for two years; and

1840 (vi) if the eligible employee is 69 years of age or older on the date of disability, the
1841 monthly disability benefit is payable for one year.

1842 Section 40. Section **49-22-102** is amended to read:

1843 **49-22-102. Definitions.**

1844 As used in this chapter:

1845 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total
1846 amount of payments made by a participating employer to a member of this system for services
1847 rendered to the participating employer, including:

1848 (i) bonuses;

1849 (ii) cost-of-living adjustments;

1850 (iii) other payments currently includable in gross income and that are subject to Social
1851 Security deductions, including any payments in excess of the maximum amount subject to
1852 deduction under Social Security law;

1853 (iv) amounts that the member authorizes to be deducted or reduced for salary deferral
1854 or other benefits authorized by federal law; and

1855 (v) member contributions.

1856 (b) "Compensation" for purposes of this chapter may not exceed the amount allowed

1857 under Internal Revenue Code, Section 401(a)(17).

1858 (c) "Compensation" does not include:

1859 (i) the monetary value of remuneration paid in kind, including a residence or use of
1860 equipment;

1861 (ii) the cost of any employment benefits paid for by the participating employer;

1862 (iii) compensation paid to a temporary employee or an employee otherwise ineligible
1863 for service credit;

1864 (iv) any payments upon termination, including accumulated vacation, sick leave
1865 payments, severance payments, compensatory time payments, or any other special payments; or

1866 (v) any allowances or payments to a member for costs or expenses paid by the
1867 participating employer, including automobile costs, uniform costs, travel costs, tuition costs,
1868 housing costs, insurance costs, equipment costs, and dependent care costs.

1869 (d) The executive director may determine if a payment not listed under this Subsection
1870 (1) falls within the definition of compensation.

1871 (2) "Corresponding Tier I system" means the system or plan that would have covered
1872 the member if the member had initially entered employment before July 1, 2011.

1873 (3) "Final average salary" means the amount computed by averaging the highest five
1874 years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and
1875 (d).

1876 (a) Except as provided in Subsection (3)(b), the percentage increase in annual
1877 compensation in any one of the years used may not exceed the previous year's compensation by
1878 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
1879 of the dollar during the previous year, as measured by a United States Bureau of Labor
1880 Statistics Consumer Price Index average as determined by the board.

1881 (b) In cases where the participating employer provides acceptable documentation to the
1882 office, the limitation in Subsection (3)(a) may be exceeded if:

1883 (i) the member has transferred from another agency; or

1884 (ii) the member has been promoted to a new position.

1885 (c) If the member retires more than six months from the date of termination of
1886 employment, the member is considered to have been in service at the member's last rate of pay
1887 from the date of the termination of employment to the effective date of retirement for purposes

1888 of computing the member's final average salary only.

1889 (d) If the member has less than five years of service credit in this system, final average
1890 salary means the average annual compensation paid to the member during the full period of
1891 service credit.

1892 (4) "Participating employer" means an employer which meets the participation
1893 requirements of:

1894 (a) Sections 49-12-201 and 49-12-202;

1895 (b) Sections 49-13-201 and 49-13-202;

1896 (c) Section 49-19-201; or

1897 (d) Section 49-22-201 or 49-22-202.

1898 (5) (a) "Regular full-time employee" means an employee whose term of employment
1899 for a participating employer contemplates continued employment during a fiscal or calendar
1900 year and whose employment normally requires an average of 20 hours or more per week,
1901 except as modified by the board, and who receives benefits normally provided by the
1902 participating employer.

1903 (b) "Regular full-time employee" includes:

1904 (i) a teacher whose term of employment for a participating employer contemplates
1905 continued employment during a school year and who teaches half-time or more;

1906 (ii) a classified school employee whose employment normally requires an average of
1907 20 hours per week or more for a participating employer, regardless of benefits provided;

1908 (iii) an appointed officer[~~elective or appointive,~~] who earns during the first full month
1909 of the term of office \$500 or more, indexed as of January 1, 1990, as provided in Section
1910 [~~49-22-309~~] 49-22-308;

1911 (iv) a faculty member or employee of an institution of higher education who is
1912 considered full-time by that institution of higher education; and

1913 (v) an individual who otherwise meets the definition of this Subsection (5) who
1914 performs services for a participating employer through a professional employer organization or
1915 similar arrangement.

1916 (c) "Regular full-time employee" does not include:

1917 (i) a firefighter service employee as defined in Section 49-23-102; or

1918 (ii) a public safety service employee as defined in Section 49-23-102.

1919 (6) "System" means the New Public Employees' Tier II Contributory Retirement
 1920 System created under this chapter.

1921 (7) "Years of service credit" means:

1922 (a) a period, consisting of 12 full months as determined by the board;

1923 (b) a period determined by the board, whether consecutive or not, during which a
 1924 regular full-time employee performed services for a participating employer, including any time
 1925 the regular full-time employee was absent on a paid leave of absence granted by a participating
 1926 employer or was absent in the service of the United States government on military duty as
 1927 provided by this chapter; or

1928 (c) the regular school year consisting of not less than eight months of full-time service
 1929 for a regular full-time employee of an educational institution.

1930 Section 41. Section **49-22-201** is amended to read:

1931 **49-22-201. System membership -- Eligibility.**

1932 (1) Beginning July 1, 2011, a participating employer shall participate in this system.

1933 (2) (a) A person initially entering regular full-time employment with a participating
 1934 employer on or after July 1, 2011, is eligible:

1935 (i) as a member for service credit and defined contributions under the Tier II hybrid
 1936 retirement system established by Part 3, Tier II Hybrid Retirement System; or

1937 (ii) as a participant for defined contributions under the Tier II defined contribution plan
 1938 established by Part 4, Tier II Defined Contribution Plan.

1939 (b) A person initially entering regular full-time employment with a participating
 1940 employer on or after July 1, 2011, shall:

1941 (i) make an election to participate in the system created under this chapter within 30
 1942 days from the date of [~~employment~~] eligibility for accrual of benefits:

1943 (A) as a member for service credit and defined contributions under the Tier II hybrid
 1944 retirement system established by Part 3, Tier II Hybrid Retirement System; or

1945 (B) as a participant for defined contributions under the Tier II defined contribution plan
 1946 established by Part 4, Tier II Defined Contribution Plan; and

1947 (ii) electronically submit to the office notification of the member's election under
 1948 Subsection (2)(b)(i) in a manner approved by the office.

1949 (c) An election made by a person initially entering regular full-time employment with a

1950 participating employer under this Subsection (2) is irrevocable beginning one year from the
1951 date of eligibility for accrual of benefits.

1952 (d) If no election is made under Subsection (2)(b)(i), the person shall become a
1953 member eligible for service credit and defined contributions under the Tier II hybrid retirement
1954 system established by Part 3, Tier II Hybrid Retirement System.

1955 (3) Notwithstanding the provisions of this section, [~~a governor or legislator~~] an elected
1956 official initially entering office on or after July 1, 2011:

1957 (a) is only eligible to participate in the Tier II defined contribution plan established
1958 under Chapter 22, Part 4, Tier II Defined Contribution Plan; and

1959 (b) is not eligible to participate in the Tier II hybrid retirement system established
1960 under Chapter 22, Part 3, Tier II Hybrid Retirement System.

1961 Section 42. Section **49-22-301** is amended to read:

1962 **49-22-301. Contributions.**

1963 (1) Participating employers and members shall [~~jointly~~] pay the certified contribution
1964 rates to the office to maintain the defined benefit portion of this system on a financially and
1965 actuarially sound basis.

1966 (2) (a) A participating employer shall pay up to 10% of compensation toward the
1967 certified contribution rate to the office for the defined benefit portion of this system.

1968 (b) A member shall [~~pay~~] only pay to the office the amount, if any, of the certified
1969 contribution rate for the defined benefit portion of this system that exceeds [~~10% to the office~~]
1970 the percent of compensation paid by the participating employer under Subsection (2)(a).

1971 (c) In addition to the percent specified under Subsection (2)(a), the participating
1972 employer shall pay the corresponding Tier I system amortization rate of the employee's
1973 compensation to the office to be applied to the employer's corresponding Tier I system liability.

1974 (3) A participating employer may not elect to pay all or part of the required member
1975 contributions under Subsection (2)(b), in addition to the required participating employer
1976 contributions.

1977 (4) (a) A member contribution is credited by the office to the account of the individual
1978 member.

1979 (b) This amount, together with refund interest, is held in trust for the payment of
1980 benefits to the member or the member's beneficiaries.

- 1981 (c) A member contribution is vested and nonforfeitable.
- 1982 (5) (a) Each member is considered to consent to payroll deductions of member
1983 contributions.
- 1984 (b) The payment of compensation less these payroll deductions is considered full
1985 payment for services rendered by the member.
- 1986 (6) Benefits provided under the defined benefit portion of the Tier II Hybrid
1987 Retirement System created under this part:
- 1988 (a) may not be increased unless the actuarial funded ratios of all systems under this title
1989 reach 100%[-]; and
- 1990 (b) may be decreased only in accordance with the provisions of Section 49-22-310.
- 1991 Section 43. Section **49-22-303** is amended to read:
- 1992 **49-22-303. Defined contribution benefit established -- Contribution by employer**
1993 **and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of**
1994 **plans.**
- 1995 (1) (a) A participating employer shall make a nonelective contribution on behalf of
1996 each regular full-time employee who is a member of this system in an amount equal to 10%
1997 minus the contribution rate paid by the employer pursuant to Subsection 49-22-301(2)(a) of the
1998 member's compensation to a defined contribution plan qualified under Section 401(k) of the
1999 Internal Revenue Code which:
- 2000 (i) is sponsored by the board; and
- 2001 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.
- 2002 (b) The member may make [~~additional payments~~] voluntary deferrals to:
- 2003 (i) the qualified 401(k) plan which receives the employer contribution described in this
2004 Subsection (1); or
- 2005 (ii) at the member's option, another defined contribution plan established by the
2006 participating employer.
- 2007 (2) (a) The total amount contributed by the participating employer under Subsection
2008 (1)(a), including associated investment gains and losses, vests to the [~~member's benefit after~~
2009 ~~four years of employment from the date of employment~~] member upon accruing four years of
2010 service credit under this title.
- 2011 (b) The total amount contributed by the member under Subsection (1)(b) vests to the

2012 member's benefit immediately and is nonforfeitable.

2013 (3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be
2014 invested in a default option selected by the board until the member is vested in accordance with
2015 Subsection (2)(a).

2016 (b) A member may direct the investment of contributions made by a participating
2017 employer under Subsection (1)(a) only after the contributions have vested in accordance with
2018 Subsection (2)(a).

2019 (c) A member may direct the investment of contributions made by the member under
2020 Subsection (1)(b).

2021 (4) No loans shall be available from contributions made by a participating employer
2022 under Subsection (1)(a).

2023 (5) No hardship distributions shall be available from contributions made by a
2024 participating employer under Subsection (1)(a).

2025 (6) (a) Except as provided in Subsection (6)(b), if a member terminates employment
2026 with a participating employer prior to the vesting period described in Subsection (2)(a), all
2027 contributions, including associated investment gains and losses, made by a participating
2028 employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.

2029 (b) If a member who terminates employment with a participating employer prior to the
2030 vesting period described in Subsection (2)(a) subsequently enters employment with the same or
2031 another participating employer within 10 years of the termination date of the previous
2032 employment:

2033 (i) all contributions made by the previous participating employer on behalf of the
2034 member, including associated investment gains and losses, shall be reinstated upon [~~the~~
2035 ~~member's completion of the vesting period under Subsection (2)(a)] employment as a regular
2036 full-time employee; and~~

2037 (ii) the length of time that the member worked with the previous employer shall be
2038 included in determining whether the member has completed the vesting period under
2039 Subsection (2)(a).

2040 (c) The [~~board~~] office shall establish a forfeiture account and shall specify the uses of
2041 the forfeiture account, which may include an offset against administrative costs or employer
2042 contributions made under this section.

2043 (7) The [board] office may request from any other qualified 401(k) plan under
2044 Subsection (1) or (2) any relevant information pertaining to the maintenance of its tax
2045 qualification under the Internal Revenue Code.

2046 (8) The [board] office may take any action which in its judgment is necessary to
2047 maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

2048 Section 44. Section **49-22-304** is amended to read:

2049 **49-22-304. Defined benefit eligibility for an allowance -- Date of retirement --**
2050 **Qualifications.**

2051 (1) A member is qualified to receive an allowance from this system when:

2052 (a) before the member's retirement date, the member ceases actual work for [a] every
2053 participating employer [~~in this system~~] that employs the member and provides evidence of the
2054 termination;

2055 (b) the member has submitted to the office a notarized retirement application form that
2056 states the member's proposed retirement date; and

2057 (c) one of the following conditions is met as of the member's retirement date:

2058 (i) the member has accrued at least four years of service credit and has attained an age
2059 of 65 years;

2060 (ii) the member has accrued at least 10 years of service credit and has attained an age
2061 of 62 years;

2062 (iii) the member has accrued at least 20 years of service credit and has attained an age
2063 of 60 years; or

2064 (iv) the member has accrued at least 35 years of service credit.

2065 (2) (a) The member's retirement date:

2066 (i) shall be the 1st or the 16th day of the month, as selected by the member;

2067 (ii) shall be on or after the date of termination; and

2068 (iii) may not be more than 90 days before or after the date the application is received by
2069 the office.

2070 (b) A member may not be employed by a participating employer in the system
2071 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

2072 Section 45. Section **49-22-305** is amended to read:

2073 **49-22-305. Defined benefit service retirement plans -- Calculation of retirement**

2074 **allowance -- Social Security limitations.**

2075 (1) (a) The retirees of this system may choose from the six retirement options described
2076 in this section.

2077 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One
2078 calculation.

2079 (2) The Option One benefit is an annual allowance calculated as follows:

2080 (a) If the retiree is at least 65 years of age or has accrued at least 35 years of service
2081 credit, the allowance is an amount equal to 1.5% of the retiree's final average salary multiplied
2082 by the number of years of service credit accrued on and after July 1, 2011.

2083 (b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full
2084 actuarial amount for each year of retirement from age 60 to age 65, unless the member has 35
2085 or more years of accrued credit in which event no reduction is made to the allowance.

2086 (c) (i) Years of service includes any fractions of years of service to which the retiree
2087 may be entitled.

2088 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
2089 service credit is within [~~1/10~~] one-tenth of one year of the total years of service credit required
2090 for retirement, the retiree shall be considered to have the total years of service credit required
2091 for retirement.

2092 (d) An Option One allowance is only payable to the member during the member's
2093 lifetime.

2094 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
2095 by reducing an Option One benefit based on actuarial computations to provide the following:

2096 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
2097 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
2098 member contributions, the remaining balance of the retiree's member contributions shall be
2099 paid in accordance with Sections 49-11-609 and 49-11-610.

2100 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
2101 retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout
2102 the lifetime of the retiree's lawful spouse at the time of retirement.

2103 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
2104 retiree, and upon the death of the retiree, an amount equal to [~~1/2~~] one-half of the retiree's

2105 allowance is paid to and throughout the lifetime of the retiree's lawful spouse at the time of
2106 retirement.

2107 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
2108 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
2109 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
2110 retiree's life, beginning on the ~~[last day of the month following the month in which the lawful~~
2111 ~~spouse dies.]~~ first day of the month:

2112 (i) following the month in which the spouse died, if the application is received by the
2113 office within 90 days of the spouse's death; or

2114 (ii) following the month in which the application is received by the office, if the
2115 application is received by the office more than 90 days after the spouse's death.

2116 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
2117 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
2118 of initial retirement under Option One shall be paid to the retiree for the remainder of the
2119 retiree's life, beginning on the ~~[last day of the month following the month in which the lawful~~
2120 ~~spouse dies.]~~ first day of the month:

2121 (i) following the month in which the spouse died, if the application is received by the
2122 office within 90 days of the spouse's death; or

2123 (ii) following the month in which the application is received by the office, if the
2124 application is received by the office more than 90 days after the spouse's death.

2125 ~~[(4) Periods of employment which are exempt from this system under Subsection~~
2126 ~~49-22-203(1)(b) may be purchased by the member for the purpose of retirement only if all~~
2127 ~~benefits from the Teachers' Insurance and Annuity Association of America or any other public~~
2128 ~~or private system or organization based on this period of employment are forfeited.]~~

2129 ~~[(5)]~~ (4) (a) If a retiree under Option One dies within 120 days after the retiree's
2130 retirement date, the retirement is canceled and the death shall be considered as that of a
2131 member before retirement.

2132 (b) Any payments made to the retiree shall be deducted from the amounts due to the
2133 beneficiary.

2134 ~~[(6)]~~ (5) If a retiree retires under either Option Five or Six and subsequently divorces,
2135 the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if

2136 there is no court order filed in the matter.

2137 Section 46. Section **49-22-310** is enacted to read:

2138 **49-22-310. Defined benefit adjustments -- Conditions -- Process -- Future years**
2139 **accrual.**

2140 (1) In accordance with this section, the Legislature may make adjustments to the
2141 benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System
2142 created under this part if the member's contribution required under Subsection 49-22-301(2)(b)
2143 to the certified contribution rate for the defined benefit portion of this system exceeds 2% of
2144 the member's salary and:

2145 (a) (i) the membership council created under Section 49-11-202 recommends an
2146 adjustment to the board in accordance with Subsection (2); and

2147 (ii) the board recommends specific adjustments to the Legislature in accordance with
2148 Subsection (2); or

2149 (b) an actuarial study that conforms with generally accepted actuarial principles and
2150 practices and with the Actuarial Standards of Practice issued by the Actuarial Standards Board
2151 and requested or commissioned by the board or the Legislature concludes:

2152 (i) there is a significant likelihood that contribution rates will continue to rise; and

2153 (ii) that participating employers are liable for system costs above the contribution rate
2154 established under Subsection 49-22-301(2)(a).

2155 (2) If the conditions under Subsection (1)(a) or (b) are met, the Legislature may adjust
2156 benefits for the defined benefit portion of the Tier II Hybrid Retirement System accrued or
2157 applied for future years of service including:

2158 (a) the final average salary calculation provided under Section 49-22-102;

2159 (b) the years of service required to be eligible to receive a retirement allowance under
2160 Section 49-22-304;

2161 (c) the years of service credit multiplier established under Subsection 49-22-305(2)(a);

2162 (d) the annual cost-of-living adjustment under Section 49-22-308; or

2163 (e) other provisions of the defined benefit portion of the Tier II Hybrid Retirement
2164 System.

2165 (3) (a) Notwithstanding the provisions of Subsections (1) and (2), the Legislature may
2166 make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid

2167 Retirement System created under this part if an actuarial study described under Subsection
2168 (1)(b) concludes, due to current and projected economic conditions, member participation
2169 levels, and system structure. that the system:

2170 (i) cannot reasonably be sustained under its current provisions;

2171 (ii) is critically underfunded; and

2172 (iii) has become unstable and is in risk of collapse.

2173 (b) Subject to federal law, the adjustments under Subsection (3)(a) may include:

2174 (i) conversion to a different type of retirement plan;

2175 (ii) equitable distribution of system assets to retirees and members; and

2176 (iii) a closure of the system.

2177 Section 47. Section **49-22-401** is amended to read:

2178 **49-22-401. Contributions -- Rates.**

2179 (1) Up to the amount allowed by federal law, the participating employer shall
2180 [~~contribute~~] make a nonelective contribution of 10% of the participant's compensation to a
2181 defined contribution plan.

2182 (2) (a) The participating employer shall contribute the 10% nonelective contribution
2183 described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the
2184 Internal Revenue Code which:

2185 (i) is sponsored by the board; and

2186 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

2187 (b) The member may make [~~additional payments~~] voluntary deferrals to:

2188 (i) the qualified 401(k) plan which receives the employer contribution described in this
2189 Subsection (2); or

2190 (ii) at the member's option, another defined contribution plan established by the
2191 participating employer.

2192 (c) In addition to the percent specified under Subsection (2)(a), the participating
2193 employer shall pay the corresponding Tier I system amortization rate of the employee's
2194 compensation to the office to be applied to the employer's corresponding Tier I system liability.

2195 (3) (a) The total amount contributed by the participating employer under Subsection
2196 (2)(a) vests to the [~~member's benefit after four years of employment from the date of~~
2197 ~~employment~~] member upon accruing four years employment as a regular full-time employee

2198 under this title.

2199 (b) The total amount contributed by the member under Subsection (2)(b) vests to the
2200 member's benefit immediately and is nonforfeitable.

2201 (4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be
2202 invested in a default option selected by the board until the member is vested in accordance with
2203 Subsection (3)(a).

2204 (b) A member may direct the investment of contributions including associated
2205 investment gains and losses made by a participating employer under Subsection (2)(a) only
2206 after the contributions have vested in accordance with Subsection (3)(a).

2207 (c) A member may direct the investment of contributions made by the member under
2208 Subsection (3)(b).

2209 (5) No loans shall be available from contributions made by a participating employer
2210 under Subsection (2)(a).

2211 (6) No hardship distributions shall be available from contributions made by a
2212 participating employer under Subsection (2)(a).

2213 (7) (a) Except as provided in Subsection (7)(b), if a member terminates employment
2214 with a participating employer prior to the vesting period described in Subsection (3)(a), all
2215 contributions made by a participating employer on behalf of the member including associated
2216 investment gains and losses under Subsection (2)(a) are subject to forfeiture.

2217 (b) If a member who terminates employment with a participating employer prior to the
2218 vesting period described in Subsection (3)(a) subsequently enters employment with the same or
2219 another participating employer within 10 years of the termination date of the previous
2220 employment:

2221 (i) all contributions made by the previous participating employer on behalf of the
2222 member including associated investment gains and losses shall be reinstated upon the member's
2223 [~~completion of the vesting period under Subsection (3)(a)~~] employment as a regular full-time
2224 employee; and

2225 (ii) the length of time that the member worked with the previous employer shall be
2226 included in determining whether the member has completed the vesting period under
2227 Subsection (3)(a).

2228 (c) The ~~board~~ office shall establish a forfeiture account and shall specify the uses of

2229 the forfeiture account, which may include an offset against administrative costs or employer
2230 contributions made under this section.

2231 (8) The [board] office may request from any other qualified 401(k) plan under
2232 Subsection (2) any relevant information pertaining to the maintenance of its tax qualification
2233 under the Internal Revenue Code.

2234 (9) The [board] office may take any action which in its judgment is necessary to
2235 maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

2236 Section 48. Section **49-22-403** is enacted to read:

2237 **49-22-403. Eligibility to receive a retirement allowance for a benefit tied to a**
2238 **retirement date for Defined Contribution members.**

2239 (1) As used in this section, "eligible to receive a retirement allowance" means the date
2240 selected by the member who is a participant under this part on which the member has ceased
2241 employment and would be qualified to receive an allowance under Section 49-22-304 if the
2242 member had been under the Tier II Hybrid Retirement System for the same period of
2243 employment.

2244 (2) The office and a participating employer shall make an accounting of years of
2245 service credit accrued for a member who is a participant under this part in order to calculate
2246 when a member would be eligible to receive a retirement allowance for purposes of
2247 establishing when a member may be eligible for a benefit tied to a retirement date that may be
2248 provided under Section 67-19-14.4, this title, another state statute, or by a participating
2249 employer.

2250 Section 49. Section **49-22-501** is amended to read:

2251 **49-22-501. Death benefit by means of group insurance policy -- Eligibility for**
2252 **death benefit -- Benefit calculation -- Payment of claim.**

2253 (1) The office shall provide a death benefit through the purchase of a group insurance
2254 policy for members of this system.

2255 (2) The board shall make rules to administer the death benefit provided by this section
2256 and may, in accordance with federal law, establish:

2257 (a) benefit levels;

2258 (b) classes of members; and

2259 (c) a living benefit option.

- 2260 (3) This death benefit is payable when:
- 2261 (a) the member dies prior to the member's retirement date or dies under circumstances
- 2262 which Subsection [~~49-22-305(5)~~] 49-22-305(4) requires to be treated as the death of a member
- 2263 before retirement;
- 2264 (b) the office receives acceptable proof of death; and
- 2265 (c) benefits are not payable under Section 49-22-307.
- 2266 (4) The death benefit payable to the beneficiary under this section is a lump-sum
- 2267 payment consisting of:
- 2268 (a) the return of any member contributions under this chapter; plus
- 2269 (b) a percentage of the final average salary of the member to be determined by the
- 2270 board.
- 2271 (5) Any amount of a living benefit option paid to the member prior to death shall be
- 2272 deducted from the benefit payable to the beneficiary.
- 2273 (6) The cost of the death benefit shall be paid by the participating employer in addition
- 2274 to the contribution rate established under Section 49-22-301 or 49-22-401.
- 2275 (7) The portion of the death benefit provided under Subsection (4)(b) may not be paid
- 2276 to the beneficiary of an inactive member unless the death of the member occurs either:
- 2277 (a) within a period of 120 days after the last day of work for which the person received
- 2278 compensation; or
- 2279 (b) while the member is still physically or mentally incapacitated from performance of
- 2280 duties, if the incapacity has been continuous since the last day of work for which compensation
- 2281 was received.
- 2282 (8) The death benefit provided under Subsection (4)(b) shall be paid in accordance
- 2283 with Sections 49-11-609 and 49-11-610.
- 2284 (9) The death benefit paid to the beneficiary of an inactive member, except as
- 2285 otherwise provided under Subsection (7), is a lump-sum return of the member's member
- 2286 contributions.
- 2287 (10) Payment of the death benefit by the office constitutes a full settlement of any
- 2288 beneficiary's claim against the office and the office is not liable for any further or additional
- 2289 claims or assessments on behalf of the member.
- 2290 (11) Unless otherwise specified in a written document filed with the office, death

2291 benefits payable to beneficiaries shall be in accordance with the order of precedence
2292 established under Title 75, Chapter 2, Intestate Succession and Wills.

2293 (12) A death benefit under this section may not be paid on behalf of a retiree under this
2294 system.

2295 Section 50. Section **49-22-502** is amended to read:

2296 **49-22-502. Death of married members -- Service retirement benefits to surviving**
2297 **spouse.**

2298 (1) As used in this section, "member's full allowance" means an Option Three
2299 allowance calculated under Section 49-22-305 without an actuarial reduction.

2300 (2) Upon the request of a deceased member's lawful spouse at the time of the member's
2301 death, the deceased member is considered to have retired under Option Three on the first day of
2302 the month following the month in which the member died if the following requirements are
2303 met:

2304 (a) the member has:

2305 (i) 15 or more years of service credit;

2306 (ii) attained age 62 with 10 or more years of service credit; or

2307 (iii) attained age 65 with four or more years of service credit; and

2308 (b) the member dies leaving a spouse to whom the member has been married at least
2309 six months immediately prior to the death date.

2310 (3) The spouse who requests a benefit under this section shall apply in writing to the
2311 office. The allowance shall begin on the first day of the month:

2312 (a) following the month in which the member died, if the application is received by the
2313 office within 90 days of the member's death; or

2314 (b) following the month in which the application is received by the office, if the
2315 application is received by the office more than 90 days after the spouse's death.

2316 (4) The allowance payable to a surviving spouse under Subsection (2) is as follows:

2317 (a) if the member has 25 or more years of service credit at the time of death, the
2318 surviving spouse shall receive the member's full allowance;

2319 (b) if the member has between 20-24 years of service credit and is not age 60 or older
2320 at the time of death, the surviving spouse shall receive 2/3 of the member's full allowance;

2321 (c) if the member has between 15-19 years of service credit and is not age 62 or older

2322 at the time of death, the surviving spouse shall receive 1/3 of the member's full allowance; or

2323 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
2324 older with 10 or more years of service credit, or age 65 or older with four or more years of
2325 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
2326 with actuarial reductions.

2327 (5) Except for a return of member contributions, benefits payable under this section are
2328 retirement benefits and shall be paid in addition to any other payments made under Section
2329 49-22-501 and shall constitute a full and final settlement of the claim of the spouse or any other
2330 beneficiary filing a claim for benefits under Section 49-22-501.

2331 Section 51. Section **49-23-201** is amended to read:

2332 **49-23-201. System membership -- Eligibility.**

2333 (1) Beginning July 1, 2011, a participating employer that employs public safety service
2334 employees or firefighter service employees shall participate in this system.

2335 (2) (a) A public safety service employee or a firefighter service employee initially
2336 entering employment with a participating employer on or after July 1, 2011, is eligible:

2337 (i) as a member for service credit and defined contributions under the Tier II hybrid
2338 retirement system established by Part 3, Tier II Hybrid Retirement System; or

2339 (ii) as a participant for defined contributions under the Tier II defined contributions
2340 plan established by Part 4, Tier II Defined Contribution Plan.

2341 (b) A public safety service employee or a firefighter service employee initially entering
2342 employment with a participating employer on or after July 1, 2011, shall:

2343 (i) make an election to participate in the system created under this chapter within 30
2344 days from the date of [~~employment~~] eligibility for accrual of benefits:

2345 (A) as a member for service credit and defined contributions under the Tier II hybrid
2346 retirement system established by Part 3, Tier II Hybrid Retirement System; or

2347 (B) as a participant for defined contributions under the Tier II defined contribution plan
2348 established by Part 4, Tier II Defined Contribution Plan; and

2349 (ii) electronically submit to the office notification of the member's election under
2350 Subsection (2)(b)(i) in a manner approved by the office.

2351 (c) An election made by a public safety service employee or firefighter service
2352 employee initially entering employment with a participating employer under this Subsection (2)

2353 is irrevocable beginning one year from the date of eligibility for accrual of benefits.

2354 (d) If no election is made under Subsection (2)(b)(i), the public safety service employee
2355 or firefighter service employee shall become a member eligible for service credit and defined
2356 contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid
2357 Retirement System.

2358 Section 52. Section **49-23-301** is amended to read:

2359 **49-23-301. Contributions.**

2360 (1) Participating employers and members shall [~~jointly~~] pay the certified contribution
2361 rates to the office to maintain the defined benefit portion of this system on a financially and
2362 actuarially sound basis in accordance with Subsection (2).

2363 (2) (a) A participating employer shall pay up to 12% of compensation toward the
2364 certified contribution rate to the office for the defined benefit portion of this system.

2365 (b) A member shall [~~pay~~] only pay to the office the amount, if any, of the certified
2366 contribution rate for the defined benefit portion of this system that exceeds [~~12% to the office~~]
2367 the percent of compensation paid by the participating employer under Subsection (2)(a).

2368 (c) In addition to the percent specified under Subsection (2)(a), the participating
2369 employer shall pay the corresponding Tier I system amortization rate of the employee's
2370 compensation to the office to be applied to the employer's corresponding Tier I system liability.

2371 (3) A participating employer may not elect to pay all or part of the required member
2372 contributions under Subsection (2)(b), in addition to the required participating employer
2373 contributions.

2374 (4) (a) A member contribution is credited by the office to the account of the individual
2375 member.

2376 (b) This amount, together with refund interest, is held in trust for the payment of
2377 benefits to the member or the member's beneficiaries.

2378 (c) A member contribution is vested and nonforfeitable.

2379 (5) (a) Each member is considered to consent to payroll deductions of member
2380 contributions.

2381 (b) The payment of compensation less these payroll deductions is considered full
2382 payment for services rendered by the member.

2383 (6) Benefits provided under the defined benefit portion of the Tier II hybrid retirement

2384 system created under this part:

2385 (a) may not be increased unless the actuarial funded ratios of all systems under this title
2386 reach 100%[-]; and

2387 (b) may be decreased only in accordance with the provisions of Section 49-23-309.

2388 Section 53. Section **49-23-302** is amended to read:

2389 **49-23-302. Defined contribution benefit established -- Contribution by employer**
2390 **and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of**
2391 **plans.**

2392 (1) (a) A participating employer shall make a nonelective contribution on behalf of
2393 each public safety service employee or firefighter service employee who is a member of this
2394 system in an amount equal to 12% minus the contribution rate paid by the employer pursuant to
2395 Subsection 49-23-301(2)(a) of the member's compensation to a defined contribution plan
2396 qualified under Section 401(k) of the Internal Revenue Code which:

2397 (i) is sponsored by the board; and

2398 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

2399 (b) The member may make [~~additional payments~~] voluntary deferrals to:

2400 (i) the qualified 401(k) plan which receives the employer contribution described in this
2401 Subsection (1); or

2402 (ii) at the member's option, another defined contribution plan established by the
2403 participating employer.

2404 (2) (a) The total amount contributed by the participating employer under Subsection
2405 (1)(a), ~~including associated investment gains and losses,~~ vests to the [~~member's benefit after~~
2406 ~~four years of employment from the date of employment~~] member upon accruing four years of
2407 service credit under this title.

2408 (b) The total amount contributed by the member under Subsection (1)(b) vests to the
2409 member's benefit immediately and is nonforfeitable.

2410 (3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be
2411 invested in a default option selected by the board until the member is vested in accordance with
2412 Subsection (2)(a).

2413 (b) A member may direct the investment of contributions made by a participating
2414 employer under Subsection (1)(a) only after the contributions have vested in accordance with

2415 Subsection (2)(a).

2416 (c) A member may direct the investment of contributions made by the member under
2417 Subsection (1)(b).

2418 (4) No loans shall be available from contributions made by a participating employer
2419 under Subsection (1)(a).

2420 (5) No hardship distributions shall be available from contributions made by a
2421 participating employer under Subsection (1)(a).

2422 (6) (a) Except as provided in Subsection (6)(b), if a member terminates employment
2423 with a participating employer prior to the vesting period described in Subsection (2)(a), all
2424 contributions, including associated investment gains and losses, made by a participating
2425 employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.

2426 (b) If a member who terminates employment with a participating employer prior to the
2427 vesting period described in Subsection (2)(a) subsequently enters employment with the same or
2428 another participating employer within 10 years of the termination date of the previous
2429 employment:

2430 (i) all contributions made by the previous participating employer on behalf of the
2431 member, including associated investment gains and losses, shall be reinstated upon the
2432 member's [~~completion of the vesting period under Subsection (2)(a)~~] employment as a regular
2433 full-time employee; and

2434 (ii) the length of time that the member worked with the previous employer shall be
2435 included in determining whether the member has completed the vesting period under
2436 Subsection (2)(a).

2437 (c) The [~~board~~] office shall establish a forfeiture account and shall specify the uses of
2438 the forfeiture account, which may include an offset against administrative costs or employer
2439 contributions made under this section.

2440 (7) The [~~board~~] office may request from any other qualified 401(k) plan under
2441 Subsection (1) or (2) any relevant information pertaining to the maintenance of its tax
2442 qualification under the Internal Revenue Code.

2443 (8) The [~~board~~] office may take any action which in its judgment is necessary to
2444 maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

2445 Section 54. Section **49-23-303** is amended to read:

2446 **49-23-303. Defined benefit eligibility for an allowance -- Date of retirement --**

2447 **Qualifications.**

2448 (1) A member is qualified to receive an allowance from this system when:

2449 (a) before the member's retirement date, the member ceases actual work for [a] every
2450 participating employer [~~in this system~~] that employs the member and provides evidence of the
2451 termination;

2452 (b) the member has submitted to the office a notarized retirement application form that
2453 states the member's proposed retirement date; and

2454 (c) one of the following conditions is met as of the member's retirement date:

2455 (i) the member has accrued at least four years of service credit and has attained an age
2456 of 65 years;

2457 (ii) the member has accrued at least 10 years of service credit and has attained an age
2458 of 62 years;

2459 (iii) the member has accrued at least 20 years of service credit and has attained an age
2460 of 60 years; or

2461 (iv) the member has accrued at least 25 years of service credit.

2462 (2) (a) The member's retirement date:

2463 (i) shall be the 1st or the 16th day of the month, as selected by the member;

2464 (ii) shall be on or after the date of termination; and

2465 (iii) may not be more than 90 days before or after the date the application is received by
2466 the office.

2467 (b) A member may not be employed by a participating employer in the system
2468 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

2469 Section 55. Section **49-23-304** is amended to read:

2470 **49-23-304. Defined benefit service retirement plans -- Calculation of retirement**
2471 **allowance -- Social Security limitations.**

2472 (1) (a) The retirees of this system may choose from the six retirement options described
2473 in this section.

2474 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One
2475 calculation.

2476 (2) The Option One benefit is an annual allowance calculated as follows:

2477 (a) If the retiree is at least 65 years of age or has accrued at least 25 years of service
2478 credit, the allowance is an amount equal to 1.5% of the retiree's final average salary multiplied
2479 by the number of years of service credit accrued on and after July 1, 2011.

2480 (b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full
2481 actuarial amount for each year of retirement from age 60 to age 65, unless the member has 25
2482 or more years of accrued credit in which event no reduction is made to the allowance.

2483 (c) (i) Years of service includes any fractions of years of service to which the retiree
2484 may be entitled.

2485 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
2486 service credit is within 1/10 of one year of the total years of service credit required for
2487 retirement, the retiree shall be considered to have the total years of service credit required for
2488 retirement.

2489 (d) An Option One allowance is only payable to the member during the member's
2490 lifetime.

2491 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
2492 by reducing an Option One benefit based on actuarial computations to provide the following:

2493 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
2494 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
2495 member contributions, the remaining balance of the retiree's member contributions shall be
2496 paid in accordance with Sections 49-11-609 and 49-11-610.

2497 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
2498 retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout
2499 the lifetime of the retiree's lawful spouse at the time of retirement.

2500 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
2501 retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance is
2502 paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

2503 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
2504 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
2505 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
2506 retiree's life, beginning on the [~~last day of the month following the month in which the lawful~~
2507 ~~spouse dies.] first day of the month:~~

2508 (i) following the month in which the spouse died, if the application is received by the
2509 office within 90 days of the spouse's death; or

2510 (ii) following the month in which the application is received by the office, if the
2511 application is received by the office more than 90 days after the spouse's death.

2512 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
2513 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
2514 of initial retirement under Option One shall be paid to the retiree for the remainder of the
2515 retiree's life, beginning on the ~~[last day of the month following the month in which the lawful~~
2516 ~~spouse dies.]~~ first day of the month:

2517 (i) following the month in which the spouse died, if the application is received by the
2518 office within 90 days of the spouse's death; or

2519 (ii) following the month in which the application is received by the office, if the
2520 application is received by the office more than 90 days after the spouse's death.

2521 ~~[(4) Periods of employment which are exempt from this system may be purchased by~~
2522 ~~the member for the purpose of retirement only if all benefits from any other public or private~~
2523 ~~system or organization based on this period of employment are forfeited.]~~

2524 ~~[(5)]~~ (4) (a) If a retiree under Option One dies within 120 days after the retiree's
2525 retirement date, the retirement is canceled and the death shall be considered as that of a
2526 member before retirement.

2527 (b) Any payments made to the retiree shall be deducted from the amounts due to the
2528 beneficiary.

2529 ~~[(6)]~~ (5) If a retiree retires under either Option Five or Six and subsequently divorces,
2530 the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if
2531 there is no court order filed in the matter.

2532 Section 56. Section **49-23-309** is enacted to read:

2533 **49-23-309. Defined benefit adjustments -- Conditions -- Process -- Future years**
2534 **accrual.**

2535 (1) In accordance with this section, the Legislature may make adjustments to the
2536 benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System
2537 created under this part if the member's contribution required under Subsection 49-23-301(2)(b)
2538 to the certified contribution rate for the defined benefit portion of this system exceeds 2% of

2539 the member's salary and:

2540 (a) (i) the membership council created under Section 49-11-202 recommends an
2541 adjustment to the board in accordance with Subsection (2); and

2542 (ii) the board recommends specific adjustments to the Legislature in accordance with
2543 Subsection (2); or

2544 (b) an actuarial study that conforms with generally accepted actuarial principles and
2545 practices and with the Actuarial Standards of Practice issued by the Actuarial Standards Board
2546 and requested or commissioned by the board or the Legislature concludes:

2547 (i) there is a significant likelihood that contribution rates will continue to rise; and

2548 (ii) that participating employers are liable for system costs above the contribution rate
2549 established under Subsection 49-23-301(2)(a).

2550 (2) If the conditions under Subsection (1)(a) or (b) are met, the Legislature may adjust
2551 benefits for the defined benefit portion of the Tier II Hybrid Retirement System accrued or
2552 applied for future years of service including:

2553 (a) the final average salary calculation provided under Section 49-23-102;

2554 (b) the years of service required to be eligible to receive a retirement allowance under
2555 Section 49-23-303;

2556 (c) the years of service credit multiplier established under Subsection 49-23-304(2)(a);

2557 (d) the annual cost-of-living adjustment under Section 49-23-307; or

2558 (e) other provisions of the defined benefit portion of the Tier II Hybrid Retirement
2559 System.

2560 (3) (a) Notwithstanding the provisions of Subsections (1) and (2), the Legislature may
2561 make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid
2562 Retirement System created under this part if an actuarial study described under Subsection
2563 (1)(b) concludes, due to current and projected economic conditions, member participation
2564 levels, and system structure, that the system:

2565 (i) cannot reasonably be sustained under its current provisions;

2566 (ii) is critically underfunded; and

2567 (iii) has become unstable and is in risk of collapse.

2568 (b) Subject to federal law, the adjustments under Subsection (3)(a) may include:

2569 (i) conversion to a different type of retirement plan;

2570 (ii) equitable distribution of system assets to retirees and members; and

2571 (iii) a closure of the system.

2572 Section 57. Section **49-23-401** is amended to read:

2573 **49-23-401. Contributions -- Rates.**

2574 (1) Up to the amount allowed by federal law, the participating employer shall
2575 [~~contribute~~] make a nonelective contribution of 12% of the participant's compensation to a
2576 defined contribution plan.

2577 (2) (a) The participating employer shall contribute the 12% nonelective contribution
2578 described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the
2579 Internal Revenue Code which:

2580 (i) is sponsored by the board; and

2581 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

2582 (b) The member may make [~~additional payments~~] voluntary deferrals to:

2583 (i) the qualified 401(k) plan which receives the employer contribution described in this
2584 Subsection (2); or

2585 (ii) at the member's option, another defined contribution plan established by the
2586 participating employer.

2587 (c) In addition to the percent specified under Subsection (2)(a), the participating
2588 employer shall pay the corresponding Tier I system amortization rate of the employee's
2589 compensation to the office to be applied to the employer's corresponding Tier I system liability.

2590 (3) (a) The total amount contributed by the participating employer under Subsection
2591 (2)(a) vests to the [~~member's benefit after four years of employment from the date of~~
2592 ~~employment~~] member upon accruing four years of employment as a regular full-time employee
2593 under this chapter.

2594 (b) The total amount contributed by the member under Subsection (2)(b) vests to the
2595 member's benefit immediately and is nonforfeitable.

2596 (4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be
2597 invested in a default option selected by the board until the member is vested in accordance with
2598 Subsection (3)(a).

2599 (b) A member may direct the investment of contributions, including associated
2600 investment gains and losses, made by a participating employer under Subsection (2)(a) only

2601 after the contributions have vested in accordance with Subsection (3)(a).

2602 (c) A member may direct the investment of contributions made by the member under
2603 Subsection (3)(b).

2604 (5) No loans shall be available from contributions made by a participating employer
2605 under Subsection (2)(a).

2606 (6) No hardship distributions shall be available from contributions made by a
2607 participating employer under Subsection (2)(a).

2608 (7) (a) Except as provided in Subsection (7)(b), if a member terminates employment
2609 with a participating employer prior to the vesting period described in Subsection (3)(a), all
2610 contributions made by a participating employer on behalf of the member including associated
2611 investment gains and losses under Subsection (2)(a) are subject to forfeiture.

2612 (b) If a member who terminates employment with a participating employer prior to the
2613 vesting period described in Subsection (3)(a) subsequently enters employment with the same or
2614 another participating employer within 10 years of the termination date of the previous
2615 employment:

2616 (i) all contributions made by the previous participating employer on behalf of the
2617 member, including associated investment gains and losses, shall be reinstated upon the
2618 member's [~~completion of the vesting period under Subsection (3)(a)~~] employment as a regular
2619 full-time employee; and

2620 (ii) the length of time that the member worked with the previous employer shall be
2621 included in determining whether the member has completed the vesting period under
2622 Subsection (3)(a).

2623 (c) The [~~board~~] office shall establish a forfeiture account and shall specify the uses of
2624 the forfeiture account, which may include an offset against administrative costs of employer
2625 contributions made under this section.

2626 (8) The [~~board~~] office may request from any other qualified 401(k) plan under
2627 Subsection (2) any relevant information pertaining to the maintenance of its tax qualification
2628 under the Internal Revenue Code.

2629 (9) The [~~board~~] office may take any action which in its judgment is necessary to
2630 maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

2631 Section 58. Section **49-23-403** is enacted to read:

2632 **49-23-403. Eligibility to receive a retirement allowance for a benefit tied to a**
2633 **retirement date for Defined Contribution members.**

2634 (1) As used in this section, "eligible to receive a retirement allowance" means the date
2635 selected by the member who is a participant under this part on which the member has ceased
2636 employment and would be qualified to receive an allowance under Section 49-23-303 if the
2637 member had been under the Tier II Hybrid Retirement System for the same period of
2638 employment.

2639 (2) The office and a participating employer shall make an accounting of years of
2640 service credit accrued for a member who is a participant under this part in order to calculate
2641 when a member would be eligible to receive a retirement allowance for purposes of
2642 establishing when a member may be eligible for a benefit tied to a retirement date that may be
2643 provided under Section 67-19-14.4, this title, another state statute, or by a participating
2644 employer.

2645 Section 59. Section **49-23-501** is amended to read:

2646 **49-23-501. Death benefit by means of group insurance policy -- Eligibility for**
2647 **death benefit -- Benefit calculation -- Payment of claim.**

2648 (1) The office shall provide a death benefit through the purchase of a group insurance
2649 policy for members of this system.

2650 (2) The board shall make rules to administer the death benefit provided by this section
2651 and may, in accordance with federal law, establish:

- 2652 (a) benefit levels;
- 2653 (b) classes of members; and
- 2654 (c) a living benefit option.

2655 (3) This death benefit is payable when:

2656 (a) the member dies prior to the member's retirement date or dies under circumstances
2657 which Subsection [~~49-23-304(5)~~] 49-23-304(4) requires to be treated as the death of a member
2658 before retirement;

2659 (b) the office receives acceptable proof of death; and

2660 (c) benefits are not payable under Section 49-23-306.

2661 (4) The death benefit payable to the beneficiary under this section is a lump-sum
2662 payment consisting of:

2663 (a) the return of any member contributions under this chapter; plus

2664 (b) a percentage of the final average salary of the member to be determined by the
2665 board.

2666 (5) Any amount of a living benefit option paid to the member prior to death shall be
2667 deducted from the benefit payable to the beneficiary.

2668 (6) The cost of the death benefit shall be paid by the participating employer in addition
2669 to the contribution rate established under Section 49-23-301 or 49-23-401.

2670 (7) The portion of the death benefit provided under Subsection (4)(b) may not be paid
2671 to the beneficiary of an inactive member unless the death of the member occurs either:

2672 (a) within a period of 120 days after the last day of work for which the person received
2673 compensation; or

2674 (b) while the member is still physically or mentally incapacitated from performance of
2675 duties, if the incapacity has been continuous since the last day of work for which compensation
2676 was received.

2677 (8) The death benefit provided under Subsection (4)(b) shall be paid in accordance
2678 with Sections 49-11-609 and 49-11-610.

2679 (9) The death benefit paid to the beneficiary of an inactive member, except as
2680 otherwise provided under Subsection (7), is a lump-sum return of the member's member
2681 contributions.

2682 (10) Payment of the death benefit by the office constitutes a full settlement of any
2683 beneficiary's claim against the office and the office is not liable for any further or additional
2684 claims or assessments on behalf of the member.

2685 (11) Unless otherwise specified in a written document filed with the office, death
2686 benefits payable to beneficiaries shall be in accordance with the order of precedence
2687 established under Title 75, Chapter 2, Intestate Succession and Wills.

2688 (12) A death benefit under this section may not be paid on behalf of a retiree under this
2689 system.

2690 Section 60. Section **49-23-502** is amended to read:

2691 **49-23-502. Death of married members -- Service retirement benefits to surviving**
2692 **spouse.**

2693 (1) As used in this section, "member's full allowance" means an Option Three

2694 allowance calculated under Section 49-23-304 without an actuarial reduction.

2695 (2) Upon the request of a deceased member's lawful spouse at the time of the member's
2696 death, the deceased member is considered to have retired under Option Three on the first day of
2697 the month following the month in which the member died if the following requirements are
2698 met:

2699 (a) the member has:

2700 (i) 15 or more years of service credit;

2701 (ii) attained age 62 with 10 or more years of service credit; or

2702 (iii) attained age 65 with four or more years of service credit; and

2703 (b) the member dies leaving a spouse to whom the member has been married at least
2704 six months immediately prior to the death date.

2705 (3) The spouse who requests a benefit under this section shall apply in writing to the
2706 office. The allowance shall begin on the first day of the month:

2707 (a) following the month in which the member died, if the application is received by the
2708 office within 90 days of the member's death; or

2709 (b) following the month in which the application is received by the office, if the
2710 application is received by the office more than 90 days after the spouse's death.

2711 (4) The allowance payable to a surviving spouse under Subsection (2) is:

2712 (a) if the member has 25 or more years of service credit at the time of death, the
2713 surviving spouse shall receive the member's full allowance;

2714 (b) if the member has between 20-24 years of service credit and is not age 60 or older
2715 at the time of death, the surviving spouse shall receive [~~2/3~~] two-thirds of the member's full
2716 allowance;

2717 (c) if the member has between 15-19 years of service credit and is not age 62 or older
2718 at the time of death, the surviving spouse shall receive [~~1/3~~] one-third of the member's full
2719 allowance; or

2720 (d) if the member is age 60 or older with 20 or more years of service credit, age 62 or
2721 older with 10 or more years of service credit, or age 65 or older with four or more years of
2722 service credit at the time of death, the surviving spouse shall receive an Option Three benefit
2723 with actuarial reductions.

2724 (5) Except for a return of member contributions, benefits payable under this section are

2725 retirement benefits and shall be paid in addition to any other payments made under Section
2726 49-23-501 and shall constitute a full and final settlement of the claim of the spouse or any other
2727 beneficiary filing a claim for benefits under Section 49-23-501.

2728 Section 61. Section **49-23-601** is amended to read:

2729 **49-23-601. Long-term disability coverage.**

2730 (1) Each participating employer shall cover the following employees under Title 49,
2731 Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term
2732 disability program:

2733 [~~(1)~~] (a) public safety employees initially entering employment on or after July 1, 2011;

2734 [~~(2)~~] (b) firefighter service employees initially entering employment on or after July 1,
2735 2011; and

2736 [~~(3)~~] (c) volunteer firefighters.

2737 (2) The office shall ensure that the long-term disability program provided for volunteer
2738 firefighters under this section is funded with money paid under Section 49-11-901.5.

2739 (3) (a) In accordance with rules made by the office, a participating employer shall
2740 provide the office with information on each person who is actively serving the participating
2741 employer as a volunteer firefighter in order for the person to be eligible for long-term disability
2742 coverage under this section.

2743 (b) A participating employer shall provide to the office:

2744 (i) the information under Subsection (3)(a), not later than July 1, 2011; and

2745 (ii) updates to the information as changes occur.

2746 Section 62. Section **67-5-8** is amended to read:

2747 **67-5-8. Eligibility for career service status.**

2748 (1) (a) The attorney general has sole authority to determine who may be employed with
2749 the Office of the Attorney General.

2750 (b) An employee of the state or any of its departments or agencies has no claim or right
2751 to a position in the attorney general's office by virtue of that employment.

2752 (2) (a) An employee of the Office of the Attorney General shall be placed in a career
2753 service status if:

2754 (i) for an employee who is an attorney, the attorney is a member in good standing of
2755 the Utah State Bar Association; and

2756 (ii) except as provided in Subsection (3), the employee has been employed by the
2757 Office of the Attorney General as a probationary employee for a period of:
2758 (A) at least one year but no more than 18 months; or
2759 (B) in the case of investigators, at least 18 months, but no more than two years.
2760 (b) An employee now employed by the attorney general's office in career service may
2761 not be terminated under this chapter except for cause.
2762 (3) (a) The attorney general shall determine whether an employee should be granted
2763 career service status.
2764 (b) If, at the end of the probationary period established under Subsection (2), the
2765 attorney general determines that an employee should be granted career service status, the
2766 attorney general shall notify the employee in writing of that decision and place a copy of the
2767 notification in the employee's personnel file.
2768 (c) If the attorney general determines that career service status should not be granted,
2769 the attorney general may either terminate the employee or extend the probationary period for a
2770 period not to exceed one year.
2771 (d) The attorney general shall notify the employee in writing of that decision and place
2772 a copy of the notification in the employee's personnel file.
2773 (e) An employee terminated under this section has no appeal rights under this chapter.
2774 (4) (a) An attorney in career service status under this chapter shall retire upon attaining
2775 the age of 70 years.
2776 (b) Subject to the provisions of ~~[Section]~~ Sections 49-11-504 and 49-11-505, an
2777 attorney required to retire under this section may be employed by the attorney general, after
2778 retirement, as a special assistant attorney general.
2779 (c) An attorney employed in the capacity of a special assistant under Subsection (4)(b)
2780 is not in career service status and is subject to termination in accordance with Section 67-5-12.

Legislative Review Note
as of **2-4-11 12:51 PM**

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 308

SHORT TITLE: Amendments to Public Employee's Benefit and Insurance Program

SPONSOR: Liljenquist, D.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enacting this bill will reallocate revenue from the Firefighters' Retirement Trust Fund and under some conditions the Public Safety Contributory Trust and the Public Safety Noncontributory Trust to help pay for volunteer firefighters' long-term disability. The estimated reallocations should be negligible with no net impact to the state.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.