

SB0308S01 compared with SB0308

~~{deleted text}~~ shows text that was in SB0308 but was deleted in SB0308S01.

inserted text shows text that was not in SB0308 but was inserted into SB0308S01.

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Senator Daniel R. Liljenquist proposes the following substitute bill:

AMENDMENTS TO PUBLIC EMPLOYEE'S BENEFIT AND INSURANCE PROGRAM

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel R. Liljenquist

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ clarifies in the Utah Workforce Services Code that only a person who is eligible to purchase service credit under the Utah Retirement Systems may purchase service credit in those systems;
- ▶ amends definitions;
- ▶ clarifies that an employee who elects to participate exclusively in the defined

SB0308S01 compared with SB0308

- contribution plan may not purchase service credit for that period of employment;
- ▶ provides that only an active member may purchase service credit in the Utah Retirement Systems;
 - ▶ clarifies that Social Security substitute payments are not limited for purposes of post-retirement employment retirement related contributions made on behalf of an employee;
 - ▶ provides that reemployment restrictions for a person who begins reemployment after July 1, 2010, do not apply to employment as an elected official ~~{except an}~~if the elected ~~{sheriff}~~position is not full-time;
 - ▶ provides that a participating employer must provide information requested by the Retirement Office electronically in a manner approved by the office;
 - ▶ provides that a participating employer shall treat any information provided to the office as subject to certain confidentiality restrictions;
 - ▶ provides that a person who is dissatisfied by a ruling of the executive director or deputy director regarding a medical claim may request a ruling by an external reviewer in accordance with federal law;
 - ▶ requires the Retirement Office to fund the long-term disability benefits for new volunteer firefighters using certain insurance premium tax revenues formerly deposited in the Firefighters' Retirement Trust Fund;
 - ▶ provides that a member must cease employment with any participating employer to be eligible to receive a retirement allowance;
 - ▶ modifies the timing of adjusted retirement benefit payments and standardizes language for applying for benefits following the death of a retiree or a retiree's spouse under certain retirement options;
 - ▶ clarifies that new governors and legislators who are only eligible for a Tier II retirement system may be eligible for paid-up group health coverage policy for members and their surviving spouses;
 - ▶ provides that Tier II new employees and employees who are exempt from the retirement systems are eligible for long-term disability coverage;
 - ▶ provides that an employee is not eligible for long-term disability benefits if the employee has a pending action before any federal administrative body in which the

SB0308S01 compared with SB0308

employee has made a claim that the employee is able to work;

- ▶ repeals a requirement that an eligible employee first apply at the earliest eligible age for all unreduced retirement benefits to get long-term disability benefits;
- ▶ provides for the time periods for which a new Tier II employee under a defined contribution plan is eligible for long-term disability benefits consistent with other Tier II new employees;
- ▶ provides that an elected official, instead of only a governor and a legislator, initially entering office on or after July 1, 2011, is only eligible to participate in the Tier II defined contribution plan;
- ▶ provides that an elected official and appointive official are eligible for Tier II retirement benefits if they are defined as full-time employees:
- ▶ provides that a person initially entering regular full-time employment after July 1, 2011, has one year instead of 30 days to make an irrevocable election between a Tier II hybrid retirement system and a Tier II defined contribution retirement plan and that the election must be submitted electronically;
- ▶ allows the Legislature to decrease benefits in the defined benefit portion of the Tier II Hybrid Retirement System for new public employees and new public safety and firefighter employees for future years of service under certain conditions;
- ▶ provides that vesting of the defined contribution balance occurs upon accruing four years of service credit instead of four years from the date of employment under the Tier II hybrid retirement systems;
- ▶ defines eligibility to receive a retirement allowance for a benefit tied to a retirement date for member in a defined contribution plan;
- ▶ allows an offset for administrative costs for forfeited defined contribution accounts; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

SB0308S01 compared with SB0308

AMENDS:

- 35A-4-502, as last amended by Laws of Utah 2010, Chapters 266 and 286
- 49-11-102, as last amended by Laws of Utah 2010, Chapters 264 and 266
- 49-11-403, as last amended by Laws of Utah 2010, Chapters 257, 266, and 321
- 49-11-504, as last amended by Laws of Utah 2010, Chapter 264
- 49-11-505, as enacted by Laws of Utah 2010, Chapter 264
- 49-11-602, as last amended by Laws of Utah 2004, Chapter 118
- 49-11-613, as last amended by Laws of Utah 2008, Chapters 252 and 382
- 49-11-902, as last amended by Laws of Utah 2008, Chapter 227
- 49-12-401, as last amended by Laws of Utah 2010, Chapter 321
- 49-12-402, as last amended by Laws of Utah 2007, Chapters 130 and 306
- 49-12-405, as last amended by Laws of Utah 2005, Chapter 116
- 49-13-401, as last amended by Laws of Utah 2010, Chapter 321
- 49-13-402, as last amended by Laws of Utah 2007, Chapter 130
- 49-13-405, as last amended by Laws of Utah 2005, Chapter 116
- 49-14-401, as last amended by Laws of Utah 2010, Chapter 321
- 49-14-501, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 49-14-502, as last amended by Laws of Utah 2003, Chapter 240
- 49-14-503, as last amended by Laws of Utah 2003, Chapter 240
- 49-15-401, as last amended by Laws of Utah 2010, Chapter 321
- 49-15-501, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 49-15-502, as last amended by Laws of Utah 2003, Chapter 240
- 49-15-503, as last amended by Laws of Utah 2003, Chapter 240
- 49-16-301, as last amended by Laws of Utah 2004, Chapter 262
- 49-16-401, as last amended by Laws of Utah 2010, Chapter 321
- 49-16-501, as last amended by Laws of Utah 2003, Chapter 240
- 49-16-502, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 49-16-503, as last amended by Laws of Utah 2003, Chapter 240
- 49-16-701, as last amended by Laws of Utah 2005, Chapter 116
- 49-17-401, as last amended by Laws of Utah 2010, Chapter 321
- 49-17-501, as renumbered and amended by Laws of Utah 2002, Chapter 250

SB0308S01 compared with SB0308

49-18-401, as last amended by Laws of Utah 2010, Chapter 321
49-18-501, as last amended by Laws of Utah 2003, Chapter 240
49-19-501, as last amended by Laws of Utah 2006, Chapter 260
49-20-404, as last amended by Laws of Utah 2008, Chapter 252
49-21-102, as last amended by Laws of Utah 2007, Chapter 130
49-21-401, as last amended by Laws of Utah 2010, Chapter 321
49-21-402, as last amended by Laws of Utah 2010, Chapter 321
49-21-403, as last amended by Laws of Utah 2010, Chapters 266 and 321
49-22-102, as enacted by Laws of Utah 2010, Chapter 266
49-22-201, as enacted by Laws of Utah 2010, Chapter 266
49-22-301, as enacted by Laws of Utah 2010, Chapter 266
49-22-303, as enacted by Laws of Utah 2010, Chapter 266
49-22-304, as enacted by Laws of Utah 2010, Chapter 266
49-22-305, as enacted by Laws of Utah 2010, Chapter 266
49-22-401, as enacted by Laws of Utah 2010, Chapter 266
49-22-501, as enacted by Laws of Utah 2010, Chapter 266
49-22-502, as enacted by Laws of Utah 2010, Chapter 266
49-23-201, as enacted by Laws of Utah 2010, Chapter 266
49-23-301, as enacted by Laws of Utah 2010, Chapter 266
49-23-302, as enacted by Laws of Utah 2010, Chapter 266
49-23-303, as enacted by Laws of Utah 2010, Chapter 266
49-23-304, as enacted by Laws of Utah 2010, Chapter 266
49-23-401, as enacted by Laws of Utah 2010, Chapter 266
49-23-501, as enacted by Laws of Utah 2010, Chapter 266
49-23-502, as enacted by Laws of Utah 2010, Chapter 266
49-23-601, as enacted by Laws of Utah 2010, Chapter 266
67-5-8, as last amended by Laws of Utah 2007, Chapter 166

ENACTS:

49-11-407, Utah Code Annotated 1953
49-11-901.5, Utah Code Annotated 1953
49-22-310, Utah Code Annotated 1953

SB0308S01 compared with SB0308

49-22-403, Utah Code Annotated 1953

49-23-309, Utah Code Annotated 1953

49-23-403, Utah Code Annotated 1953

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

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

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

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

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

(c) The division may:

(i) employ persons;

(ii) make expenditures;

(iii) require reports;

(iv) make investigations;

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

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

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

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

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

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

SB0308S01 compared with SB0308

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

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

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

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

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

- (i) were hired prior to October 1, 1980; and
- (ii) have been retained by the department without significant interruption in the employees' services for the department.

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

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

(ii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act, [~~if the date of purchase under this Subsection (4)(c) is on or after July 1, 2011~~] for a purchase

SB0308S01 compared with SB0308

made under this Subsection (4)(c) by an employee eligible for service credit under Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

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

(a) The executive director shall appoint:

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

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

(iii) five public representatives chosen at large.

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

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

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

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

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

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

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

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

(i) reducing and preventing unemployment;

SB0308S01 compared with SB0308

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

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

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

(v) appraising the industrial potential of the state.

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

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

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

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

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

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

(a) administer oaths and affirmations;

(b) take depositions;

(c) certify to official acts; and

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

(7) (a) In case of contumacy by or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which the person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the director of the division or the director's designee shall have jurisdiction to issue to that person an order requiring the person to appear before the director or the director's designee to produce evidence, if so ordered, or give testimony

SB0308S01 compared with SB0308

regarding the matter under investigation or in question. Any failure to obey that order of the court may be punished by the court as contempt.

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

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

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

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

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

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

49-11-102. Definitions.

As used in this title:

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

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

SB0308S01 compared with SB0308

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

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

(4) (a) "Agency" means:

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

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

(iii) a state college or university; or

(iv) any other participating employer.

(b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a subdivision of another entity listed under Subsection (4)(a).

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

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

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

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

(9) "Appointive officer" means an employee appointed to a position for a definite and fixed term of office by official and duly recorded action of a participating employer whose appointed position is designated in the participating employer's charter, creation document, or similar document, and:

(a) who earns during the first full month of the term of office \$500 or more, indexed as of January 1, 1990, as provided in Section 49-12-407[-] for a Tier I appointive officer; and

(b) whose appointive position is full-time as certified by the participating employer for a Tier II appointive officer.

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

SB0308S01 compared with SB0308

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

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

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

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

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

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

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

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

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

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

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

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

(19) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a system or plan offered under this title to provide a specified allowance to a retiree or a retiree's

SB0308S01 compared with SB0308

spouse after retirement that is based on a set formula involving one or more of the following factors:

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

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

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

- (a) the State Board of Education and its instrumentalities;
- (b) any institution of higher education and its branches;
- (c) any school district and its instrumentalities;
- (d) any vocational and technical school; and
- (e) any entity arising out of a consolidation agreement between entities described under

this Subsection (21).

(22) "Elected official":

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

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

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

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

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

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

SB0308S01 compared with SB0308

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

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

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

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

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

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

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

(b) "Initially entering" does not include a person who has any prior service credit on file with the office.

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

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

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

(a) the member; and

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

SB0308S01 compared with SB0308

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

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

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

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

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

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

~~[(34)]~~ (35) "Participating employer" means a participating employer, as defined by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges' Noncontributory Retirement Act, or an agency financed in whole or in part by public funds which is participating in a system or plan as of January 1, 2002.

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

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

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

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

SB0308S01 compared with SB0308

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

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

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

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

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

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

(i) listed as the contractor; or

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

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

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

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

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

(47) "Retirement related contribution":

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

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

SB0308S01 compared with SB0308

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

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

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

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

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

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

(b) "Tier II" includes:

(i) the Tier II hybrid system established under:

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

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

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

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

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

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

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

(b) means the excess, if any, of the accrued liability of a retirement system over the

SB0308S01 compared with SB0308

actuarial value of its assets.

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

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

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

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

(a) United States federal employment;

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

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

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

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

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

(i) the member was receiving:

(A) long-term disability benefits;

(B) short-term disability benefits; or

(C) worker's compensation disability benefits; and

(ii) the member's employer had not entered into a benefit protection contract under Section 49-11-404 during the period the member was disabled due to sickness or accident;

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

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

(2) A member shall:

SB0308S01 compared with SB0308

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

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

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

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

(i) recommended by the actuary; and

(ii) adopted by the board.

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

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

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

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

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

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

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

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

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

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

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

(7) If the recalculated cost under Subsection (6)(a) is less than the amount paid for the

SB0308S01 compared with SB0308

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

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

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

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

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

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

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

Notwithstanding any other provision of this title, only an active member may purchase service credit under this title.

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

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

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

- (a) employment requiring 20 or more hours of work per week; or
- (b) at least a half-time teaching contract.

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

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

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

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

- (a) a different agency; or
- (b) the same agency after six months from the retirement date.

(5) A retiree of an agency who is reemployed on a full-time basis by the same agency

SB0308S01 compared with SB0308

within six months of the date of retirement is subject to the following:

(a) the agency shall immediately notify the office;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

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

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

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

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

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

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

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

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

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

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

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

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

~~(a)~~ (i) means a person who:

~~(i)~~ (A) retired from a participating employer; and

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

and

~~(b)~~ (ii) does not include a retiree who is reemployed as an active senior judge

SB0308S01 compared with SB0308

appointed to hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah Constitution.

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

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

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

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

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

(b) receive a retirement allowance.

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

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

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

(b) continue to receive the retiree's retirement allowance and forfeit any retirement related contribution from the participating employer who reemployed the retiree.

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

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

(i) if the participating employer reemploys a retiree;

(ii) whether the reemployment is subject to Subsection (3) or (4) of this section; and

(iii) of any election by the retiree under Subsection (4).

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

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

~~(c)~~ (d) If a participating employer fails to notify the office in accordance with this

SB0308S01 compared with SB0308

section, the participating employer is immediately subject to a compliance audit by the office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

- (a) three years after the date of retirement of the employee from a system or plan;
- (b) three years after the date of death of the employee; or
- (c) 65 years from the date of employment with the participating employer.

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

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

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

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

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

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

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

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

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

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

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

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

(c) A person who disputes a benefit, right, obligation, or employment right under this

SB0308S01 compared with SB0308

title shall request a ruling by the executive director who may delegate the decision to the deputy director.

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

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

(2) The hearing officer shall:

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

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

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

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

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

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

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

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

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

Part 9. Insurance Premium Tax Revenues Distribution

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

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

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

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

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

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

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

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

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

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

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

(1) ~~[(a)]~~ If the premium tax revenue received by the office under Subsection

SB0308S01 compared with SB0308

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

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

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

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

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

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

(a) Division A1 and B1; and

(b) the contributory and noncontributory trust funds.

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

of 65 years;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) (i) Years of service includes any fractions of years of service to which the retiree

SB0308S01 compared with SB0308

may be entitled.

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

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

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

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

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

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

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

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

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

(e) Option Six is a modification of Option Four so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time of initial retirement under Option One shall be paid to the retiree for the remainder of the

SB0308S01 compared with SB0308

retiree's life, beginning on the [~~last day of the month following the month in which the lawful spouse dies.~~] first day of the month:

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

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

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

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

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

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

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

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

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

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

(1) Upon the request of a deceased member's lawful spouse at the time of the member's death, the deceased member is considered to have retired under Option Three on the first day of

SB0308S01 compared with SB0308

the month following the month in which the member died if the following requirements are met:

(a) the member has:

(i) 25 or more years of service credit;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

of 65 years;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) (i) Years of service include any fractions of years of service to which the retiree

SB0308S01 compared with SB0308

may be entitled.

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

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

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

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

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

(c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree, and upon the death of the retiree, an amount equal to $[\frac{1}{2}]$ one-half of the retiree's allowance paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

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

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

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

(e) Option Six is a modification of Option Four so that if the lawful spouse at the time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time

SB0308S01 compared with SB0308

of initial retirement under Option One shall be paid to the retiree for the remainder of the retiree's life, beginning on the [~~last day of the month following the month in which the lawful spouse dies.~~] first day of the month:

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

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

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

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

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

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

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

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

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

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

(1) As used in this section, "member's full allowance" means an Option Three

SB0308S01 compared with SB0308

allowance calculated under Section 49-13-402 without an actuarial reduction.

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

(a) the member has:

(i) 15 or more years of service credit;

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

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

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

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

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

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

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

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

Qualifications.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) If the death is classified by the office as a line-of-duty death, the spouse at the time of death shall receive a lump sum of \$1,000 and an allowance equal to 30% of the deceased

SB0308S01 compared with SB0308

member's final average monthly salary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

provided under Subsection (1)(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

the month in which the death occurred.

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

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

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

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

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

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

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

Qualifications.

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

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

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

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

office.

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

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

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

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

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

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

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

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

(c) If the death is not classified by the office as a line-of-duty death, and the member has accrued less than two years of public safety service credit at the time of death, the spouse at the time of death shall receive a refund of the member's member contributions, plus 50% of the member's most recent 12 months' compensation.

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

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

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

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

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

SB0308S01 compared with SB0308

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

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

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

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

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

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

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

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

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

(b) This amount is held in trust for the payment of benefits to the member or the member's beneficiaries.

(c) All member contributions are vested and nonforfeitable.

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

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

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

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

SB0308S01 compared with SB0308

~~companies within the state; and]~~

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

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

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

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

Qualifications.

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

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

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

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

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

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

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

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

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

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

(i) If the member has accrued five or more years of firefighter service credit, the death is considered line-of-duty and the same benefits are payable as established under Subsection (1)(a).

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

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

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

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

SB0308S01 compared with SB0308

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

Section 30. Section 49-16-701 is amended to read:

49-16-701. Volunteer firefighters eligible for line-of-duty death and disability benefits in Division A -- Computation of benefit.

(1) A volunteer firefighter is only eligible for line-of-duty death and line-of-duty disability benefits provided for firefighters enrolled in Division A, subject to ~~[Section]~~ Sections 49-16-602 and 49-16-603.

(2) The lowest monthly compensation of firefighters of a city of the first class in this state at the time of death or disability shall be considered to be the final average monthly salary of a volunteer firefighter for purposes of computing these benefits.

(3) Each volunteer fire department shall maintain a current roll of all volunteer firefighters which meet the requirements of Subsection 49-16-102(10) to determine eligibility for this benefit.

Section ~~30~~31. Section **49-17-401** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

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

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

Section ~~31~~32. Section **49-17-501** is amended to read:

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

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

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

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

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

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

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

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

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

Section ~~32~~33. Section **49-18-401** is amended to read:

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

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

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

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

SB0308S01 compared with SB0308

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

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

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

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

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

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

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

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

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

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

Section ~~33~~34. Section 49-18-501 is amended to read:

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

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

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

Section ~~34~~35. Section **49-19-501** is amended to read:

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

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

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

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

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

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

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

Section ~~35~~36. Section **49-20-404** is amended to read:

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

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

(a) retire after January 1, 1998;

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

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

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

SB0308S01 compared with SB0308

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

- (a) retire after January 1, 1998;
- (b) are at least 65 years of age; and
- (c) elect to receive and apply for this benefit to the program.

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

- (a) 100% if the member has accrued 10 or more years of service credit;
- (b) 80% if the member has accrued 8 or more years of service credit;
- (c) 60% if the member has accrued 6 or more years of service credit; and
- (d) 40% if the member has accrued 4 or more years of service credit.

Section ~~36~~37. Section 49-21-102 is amended to read:

49-21-102. Definitions.

As used in this chapter:

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

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

(ii) an employee who is exempt from participating in a retirement system under Subsection 49-12-203(2), 49-13-203(2), 49-14-203(1), or 49-15-203(1); and

~~[(ii)] (iii) an employee who is covered by a retirement program offered by the Teachers' Insurance and Annuity Association of America[, if the employee's employer provides coverage under this chapter, and].~~

(b) "Eligible employee" does not include:

(i) any employee that is exempt from coverage under Section 49-21-201[-]; or

(ii) a retiree.

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

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

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

(7) "Physician" means a licensed physician.

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

(9) "Regular occupation" means either the primary duties performed by the eligible employee for the 12 months preceding the date of disability, or a permanent assignment of duty to the eligible employee.

(10) "Rehabilitative employment" means any occupation or employment for wage or profit, for which the eligible employee is reasonably qualified to perform based on education, training, or experience.

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

(b) "Total disability" means, after the elimination period and the first 24 months of

SB0308S01 compared with SB0308

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

Section ~~37~~38. Section **49-21-401** is amended to read:

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

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

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

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

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

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

(i) the attorney for an eligible employee; or

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

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

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

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

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

(i) results from the same or related causes;

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

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

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

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

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

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

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

SB0308S01 compared with SB0308

eligibility in the Public Employees Long-Term Disability Program.

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

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

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

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

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

Section ~~38~~39. Section **49-21-402** is amended to read:

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

Application for other benefits required.

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

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

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

(b) workers' compensation indemnity benefits;

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

(d) unemployment compensation benefits;

SB0308S01 compared with SB0308

(e) automobile no-fault, medical payments, or similar insurance payments; and

(f) any money received by a judgment, settlement, or other payment as a result of a claim against an employer.

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

(a) any employer-sponsored retirement programs; and

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

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

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

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

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

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

Section ~~39~~40. Section **49-21-403** is amended to read:

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

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

SB0308S01 compared with SB0308

monthly disability benefit until the earlier of:

- (a) the date of the eligible employee's death;
- (b) the date the eligible employee is no longer disabled;
- (c) the date the eligible employee has accumulated:
 - (i) 20 years of service credit if the eligible employee is covered by Chapter 14, Public Safety Contributory Retirement Act, or Chapter 15, Public Safety Noncontributory Retirement Act;
 - (ii) 25 years of service credit if the eligible employee is covered by Chapter 17, Judges' Contributory Retirement Act, or Chapter 18, Judges' Noncontributory Retirement Act;
 - (iii) 30 years of service credit if the eligible employee is covered by Chapter 12, Public Employees' Contributory Retirement Act, or Chapter 13, Public Employees' Noncontributory Retirement Act;
 - (iv) 35 years of service credit if the eligible employee is covered by the defined benefit portion under Chapter 22, Part 3, Tier II Hybrid Retirement System, or is covered by the defined contribution plan under Chapter 22, Part 4, Tier II Defined Contribution Plan; or
 - (v) 25 years of service credit if the eligible employee is covered by the defined benefit portion under Chapter 23, Part 3, Tier II Hybrid Retirement System, or is covered by the defined contribution plan under Chapter 23, Part 4, Tier II Defined Contribution Plan; or
- (d) the date the eligible employee has received a monthly disability benefit for the following applicable time periods:
 - (i) if the eligible employee is under age 60, the monthly disability benefit is payable until age 65;
 - (ii) if the eligible employee is 60 or 61 years of age on the date of disability, the monthly disability benefit is payable for five years;
 - (iii) if the eligible employee is 62 or 63 years of age on the date of disability, the monthly disability benefit is payable for four years;
 - (iv) if the eligible employee is 64 or 65 years of age on the date of disability, the monthly disability benefit is payable for three years;
 - (v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the monthly disability benefit is payable for two years; and
 - (vi) if the eligible employee is 69 years of age or older on the date of disability, the

SB0308S01 compared with SB0308

monthly disability benefit is payable for one year.

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

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

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

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

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

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

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

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

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

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

(b) the date the eligible employee ~~is~~ no longer ~~{disabled}~~ has a disability;

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

SB0308S01 compared with SB0308

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

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

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

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

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

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

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

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

Section ~~{40}~~41. Section 49-22-102 is amended to read:

49-22-102. Definitions.

As used in this chapter:

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

(i) bonuses;

(ii) cost-of-living adjustments;

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

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

(v) member contributions.

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

SB0308S01 compared with SB0308

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

(c) "Compensation" does not include:

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

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

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

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

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs.

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

(2) "Corresponding Tier I system" means the system or plan that would have covered the member if the member had initially entered employment before July 1, 2011.

(3) "Final average salary" means the amount computed by averaging the highest five years of annual compensation preceding retirement subject to Subsections (3)(a), (b), (c), and (d).

(a) Except as provided in Subsection (3)(b), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

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

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

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

(c) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes

SB0308S01 compared with SB0308

of computing the member's final average salary only.

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

(4) "Participating employer" means an employer which meets the participation requirements of:

- (a) Sections 49-12-201 and 49-12-202;
- (b) Sections 49-13-201 and 49-13-202;
- (c) Section 49-19-201; or
- (d) Section 49-22-201 or 49-22-202.

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

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

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half-time or more;

(ii) a classified school employee whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

~~[(iii) an appointed officer {}, elective or appointive, {} who earns during the first full month of the term of office \$500 or more, indexed as of January 1, 1990, as provided in Section {} 49-22-309 {} 49-22-308;~~

~~— (iv);]~~

(iii) an appointive officer whose appointed position is full-time as certified by the participating employer;

(iv) the governor, the lieutenant governor, the state auditor, the state treasurer, the attorney general, and a state legislator;

(v) an elected official not included under Subsection (5)(b)(iv) whose elected position is full-time as certified by the participating employer;

[(iv)] (vi) a faculty member or employee of an institution of higher education who is

SB0308S01 compared with SB0308

considered full-time by that institution of higher education; and

~~[(v)]~~ (vii) an individual who otherwise meets the definition of this Subsection (5) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include:

(i) a firefighter service employee as defined in Section 49-23-102; or

(ii) a public safety service employee as defined in Section 49-23-102.

(6) "System" means the New Public Employees' Tier II Contributory Retirement System created under this chapter.

(7) "Years of service credit" means:

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

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

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

Section ~~{41}~~42. Section **49-22-201** is amended to read:

49-22-201. System membership -- Eligibility.

(1) Beginning July 1, 2011, a participating employer shall participate in this system.

(2) (a) A person initially entering regular full-time employment with a participating employer on or after July 1, 2011, is eligible:

(i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(ii) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan.

(b) A person initially entering regular full-time employment with a participating employer on or after July 1, 2011, shall:

(i) make an election to participate in the system created under this chapter within 30 days from the date of ~~[employment]~~ eligibility for accrual of benefits:

SB0308S01 compared with SB0308

(A) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(B) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan; and

(ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.

(c) An election made by a person initially entering regular full-time employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.

(d) If no election is made under Subsection (2)(b)(i), the person shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.

(3) Notwithstanding the provisions of this section, [~~a governor or legislator~~] an elected official initially entering office on or after July 1, 2011:

(a) is only eligible to participate in the Tier II defined contribution plan established under Chapter 22, Part 4, Tier II Defined Contribution Plan; and

(b) is not eligible to participate in the Tier II hybrid retirement system established under Chapter 22, Part 3, Tier II Hybrid Retirement System.

Section ~~{42}~~43. Section 49-22-301 is amended to read:

49-22-301. Contributions.

(1) Participating employers and members shall [~~jointly~~] pay the certified contribution rates to the office to maintain the defined benefit portion of this system on a financially and actuarially sound basis.

(2) (a) A participating employer shall pay up to 10% of compensation toward the certified contribution rate to the office for the defined benefit portion of this system.

(b) A member shall [~~pay~~] only pay to the office the amount, if any, of the certified contribution rate for the defined benefit portion of this system that exceeds [~~10% to the office~~] the percent of compensation paid by the participating employer under Subsection (2)(a).

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

SB0308S01 compared with SB0308

(3) A participating employer may not elect to pay all or part of the required member contributions under Subsection (2)(b), in addition to the required participating employer contributions.

(4) (a) A member contribution is credited by the office to the account of the individual member.

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

(c) A member contribution is vested and nonforfeitable.

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

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

(6) Benefits provided under the defined benefit portion of the Tier II Hybrid Retirement System created under this part:

(a) may not be increased unless the actuarial funded ratios of all systems under this title reach 100%[-]; and

(b) may be decreased only in accordance with the provisions of Section 49-22-310.

Section ~~43~~44. Section **49-22-303** is amended to read:

49-22-303. Defined contribution benefit established -- Contribution by employer and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of plans.

(1) (a) A participating employer shall make a nonelective contribution on behalf of each regular full-time employee who is a member of this system in an amount equal to 10% minus the contribution rate paid by the employer pursuant to Subsection 49-22-301(2)(a) of the member's compensation to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make [~~additional payments~~] voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (1); or

SB0308S01 compared with SB0308

(ii) at the member's option, another defined contribution plan established by the participating employer.

(2) (a) The total amount contributed by the participating employer under Subsection (1)(a), including associated investment gains and losses, vests to the ~~[member's benefit after four years of employment from the date of employment]~~ member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (1)(b) vests to the member's benefit immediately and is nonforfeitable.

(3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (2)(a).

(b) A member may direct the investment of contributions made by a participating employer under Subsection (1)(a) only after the contributions have vested in accordance with Subsection (2)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (1)(b).

(4) No loans shall be available from contributions made by a participating employer under Subsection (1)(a).

(5) No hardship distributions shall be available from contributions made by a participating employer under Subsection (1)(a).

(6) (a) Except as provided in Subsection (6)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a), all contributions, including associated investment gains and losses, made by a participating employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon ~~[the member's completion of the vesting period under Subsection (2)(a)]~~ employment as a regular

SB0308S01 compared with SB0308

full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (2)(a).

(c) The [board] office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs or employer contributions made under this section.

(7) The [board] office may request from any other qualified 401(k) plan under Subsection (1) or (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(8) The [board] office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section ~~(44)~~45. Section **49-22-304** is amended to read:

49-22-304. Defined benefit eligibility for an allowance -- Date of retirement --

Qualifications.

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

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

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

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

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

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

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

(iv) the member has accrued at least 35 years of service credit.

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

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

SB0308S01 compared with SB0308

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

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

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

Section ~~{45}~~46. Section **49-22-305** is amended to read:

49-22-305. Defined benefit service retirement plans -- Calculation of retirement allowance -- Social Security limitations.

(1) (a) The retirees of this system may choose from the six retirement options described in this section.

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

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

(a) If the retiree is at least 65 years of age or has accrued at least 35 years of service credit, the allowance is an amount equal to 1.5% of the retiree's final average salary multiplied by the number of years of service credit accrued on and after July 1, 2011.

(b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full actuarial amount for each year of retirement from age 60 to age 65, unless the member has 35 or more years of accrued credit in which event no reduction is made to the allowance.

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

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

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

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

(a) Option Two is a reduced allowance paid to and throughout the lifetime of the retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's

SB0308S01 compared with SB0308

member contributions, the remaining balance of the retiree's member contributions shall be paid in accordance with Sections 49-11-609 and 49-11-610.

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

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

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

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

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

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

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

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

~~[(4) Periods of employment which are exempt from this system under Subsection 49-22-203(1)(b) may be purchased by the member for the purpose of retirement only if all benefits from the Teachers' Insurance and Annuity Association of America or any other public or private system or organization based on this period of employment are forfeited.]~~

SB0308S01 compared with SB0308

~~[(5)]~~ (4) (a) If a retiree under Option One dies within 120 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.

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

~~[(6)]~~ (5) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there is no court order filed in the matter.

Section ~~(46)~~47. Section 49-22-310 is enacted to read:

49-22-310. Defined benefit adjustments -- Conditions -- Process -- Future years accrual.

(1) In accordance with this section, the Legislature may make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System created under this part if the member's contribution required under Subsection 49-22-301(2)(b) to the certified contribution rate for the defined benefit portion of this system exceeds 2% of the member's salary and:

(a) (i) the membership council created under Section 49-11-202 recommends an adjustment to the board in accordance with Subsection (2); and

(ii) the board recommends specific adjustments to the Legislature in accordance with Subsection (2); or

(b) an actuarial study that conforms with generally accepted actuarial principles and practices and with the Actuarial Standards of Practice issued by the Actuarial Standards Board and requested or commissioned by the board or the Legislature concludes:

(i) there is a significant likelihood that contribution rates will continue to rise; and

(ii) that participating employers are liable for system costs above the contribution rate established under Subsection 49-22-301(2)(a).

(2) If the conditions under Subsection (1)(a) or (b) are met, the Legislature may adjust benefits for the defined benefit portion of the Tier II Hybrid Retirement System accrued or applied for future years of service including:

(a) the final average salary calculation provided under Section 49-22-102;

(b) the years of service required to be eligible to receive a retirement allowance under

SB0308S01 compared with SB0308

Section 49-22-304:

- (c) the years of service credit multiplier established under Subsection 49-22-305(2)(a);
- (d) the annual cost-of-living adjustment under Section 49-22-308; or
- (e) other provisions of the defined benefit portion of the Tier II Hybrid Retirement

System.

(3) (a) Notwithstanding the provisions of Subsections (1) and (2), the Legislature may make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System created under this part if an actuarial study described under Subsection (1)(b) concludes, due to current and projected economic conditions, member participation levels, and system structure~~47~~, that the system:

- (i) cannot reasonably be sustained under its current provisions;
- (ii) is critically underfunded; and
- (iii) has become unstable and is in risk of collapse.

(b) Subject to federal law, the adjustments under Subsection (3)(a) may include:

- (i) conversion to a different type of retirement plan;
- (ii) equitable distribution of system assets to retirees and members; and
- (iii) a closure of the system.

Section ~~47~~48. Section **49-22-401** is amended to read:

49-22-401. Contributions -- Rates.

(1) Up to the amount allowed by federal law, the participating employer shall ~~contribute~~ make a nonelective contribution of 10% of the participant's compensation to a defined contribution plan.

(2) (a) The participating employer shall contribute the 10% nonelective contribution described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

- (i) is sponsored by the board; and
- (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make ~~additional payments~~ voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (2); or

- (ii) at the member's option, another defined contribution plan established by the

SB0308S01 compared with SB0308

participating employer.

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) (a) The total amount contributed by the participating employer under Subsection (2)(a) vests to the ~~[member's benefit after four years of employment from the date of employment]~~ member upon accruing four years employment as a regular full-time employee under this title.

(b) The total amount contributed by the member under Subsection (2)(b) vests to the member's benefit immediately and is nonforfeitable.

(4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).

(b) A member may direct the investment of contributions including associated investment gains and losses made by a participating employer under Subsection (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (3)(b).

(5) No loans shall be available from contributions made by a participating employer under Subsection (2)(a).

(6) No hardship distributions shall be available from contributions made by a participating employer under Subsection (2)(a).

(7) (a) Except as provided in Subsection (7)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a), all contributions made by a participating employer on behalf of the member including associated investment gains and losses under Subsection (2)(a) are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the

SB0308S01 compared with SB0308

member including associated investment gains and losses shall be reinstated upon the member's [~~completion of the vesting period under Subsection (3)(a)~~] employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (3)(a).

(c) The [~~board~~] office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs or employer contributions made under this section.

(8) The [~~board~~] office may request from any other qualified 401(k) plan under Subsection (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(9) The [~~board~~] office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section ~~{48}~~49. Section **49-22-403** is enacted to read:

49-22-403. Eligibility to receive a retirement allowance for a benefit tied to a retirement date for Defined Contribution members.

(1) As used in this section, "eligible to receive a retirement allowance" means the date selected by the member who is a participant under this part on which the member has ceased employment and would be qualified to receive an allowance under Section 49-22-304 if the member had been under the Tier II Hybrid Retirement System for the same period of employment.

(2) The office and a participating employer shall make an accounting of years of service credit accrued for a member who is a participant under this part in order to calculate when a member would be eligible to receive a retirement allowance for purposes of establishing when a member may be eligible for a benefit tied to a retirement date that may be provided under Section 67-19-14.4, this title, another state statute, or by a participating employer.

Section ~~{49}~~50. Section **49-22-501** is amended to read:

49-22-501. Death benefit by means of group insurance policy -- Eligibility for death benefit -- Benefit calculation -- Payment of claim.

SB0308S01 compared with SB0308

(1) The office shall provide a death benefit through the purchase of a group insurance policy for members of this system.

(2) The board shall make rules to administer the death benefit provided by this section and may, in accordance with federal law, establish:

- (a) benefit levels;
- (b) classes of members; and
- (c) a living benefit option.

(3) This death benefit is payable when:

(a) the member dies prior to the member's retirement date or dies under circumstances which Subsection [~~49-22-305(5)~~] 49-22-305(4) requires to be treated as the death of a member before retirement;

- (b) the office receives acceptable proof of death; and
- (c) benefits are not payable under Section 49-22-307.

(4) The death benefit payable to the beneficiary under this section is a lump-sum payment consisting of:

- (a) the return of any member contributions under this chapter; plus
- (b) a percentage of the final average salary of the member to be determined by the board.

(5) Any amount of a living benefit option paid to the member prior to death shall be deducted from the benefit payable to the beneficiary.

(6) The cost of the death benefit shall be paid by the participating employer in addition to the contribution rate established under Section 49-22-301 or 49-22-401.

(7) The portion of the death benefit provided under Subsection (4)(b) may not be paid to the beneficiary of an inactive member unless the death of the member occurs either:

(a) within a period of 120 days after the last day of work for which the person received compensation; or

(b) while the member is still physically or mentally incapacitated from performance of duties, if the incapacity has been continuous since the last day of work for which compensation was received.

(8) The death benefit provided under Subsection (4)(b) shall be paid in accordance with Sections 49-11-609 and 49-11-610.

SB0308S01 compared with SB0308

(9) The death benefit paid to the beneficiary of an inactive member, except as otherwise provided under Subsection (7), is a lump-sum return of the member's member contributions.

(10) Payment of the death benefit by the office constitutes a full settlement of any beneficiary's claim against the office and the office is not liable for any further or additional claims or assessments on behalf of the member.

(11) Unless otherwise specified in a written document filed with the office, death benefits payable to beneficiaries shall be in accordance with the order of precedence established under Title 75, Chapter 2, Intestate Succession and Wills.

(12) A death benefit under this section may not be paid on behalf of a retiree under this system.

Section ~~50~~51. Section 49-22-502 is amended to read:

49-22-502. Death of married members -- Service retirement benefits to surviving spouse.

(1) As used in this section, "member's full allowance" means an Option Three allowance calculated under Section 49-22-305 without an actuarial reduction.

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

(a) the member has:

(i) 15 or more years of service credit;

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

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

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

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

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

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

SB0308S01 compared with SB0308

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

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

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

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

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

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

(5) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-22-501 and shall constitute a full and final settlement of the claim of the spouse or any other beneficiary filing a claim for benefits under Section 49-22-501.

Section ~~51~~52. Section **49-23-201** is amended to read:

49-23-201. System membership -- Eligibility.

(1) Beginning July 1, 2011, a participating employer that employs public safety service employees or firefighter service employees shall participate in this system.

(2) (a) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, is eligible:

(i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(ii) as a participant for defined contributions under the Tier II defined contributions plan established by Part 4, Tier II Defined Contribution Plan.

(b) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, shall:

(i) make an election to participate in the system created under this chapter within 30 days from the date of ~~employment~~ eligibility for accrual of benefits:

(A) as a member for service credit and defined contributions under the Tier II hybrid

SB0308S01 compared with SB0308

retirement system established by Part 3, Tier II Hybrid Retirement System; or

(B) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan; and

(ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.

(c) An election made by a public safety service employee or firefighter service employee initially entering employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.

(d) If no election is made under Subsection (2)(b)(i), the public safety service employee or firefighter service employee shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.

Section ~~(52)~~53. Section **49-23-301** is amended to read:

49-23-301. Contributions.

(1) Participating employers and members shall [~~jointly~~] pay the certified contribution rates to the office to maintain the defined benefit portion of this system on a financially and actuarially sound basis in accordance with Subsection (2).

(2) (a) A participating employer shall pay up to 12% of compensation toward the certified contribution rate to the office for the defined benefit portion of this system.

(b) A member shall [~~pay~~] only pay to the office the amount, if any, of the certified contribution rate for the defined benefit portion of this system that exceeds [~~12% to the office~~] the percent of compensation paid by the participating employer under Subsection (2)(a).

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) A participating employer may not elect to pay all or part of the required member contributions under Subsection (2)(b), in addition to the required participating employer contributions.

(4) (a) A member contribution is credited by the office to the account of the individual member.

(b) This amount, together with refund interest, is held in trust for the payment of

SB0308S01 compared with SB0308

benefits to the member or the member's beneficiaries.

(c) A member contribution is vested and nonforfeitable.

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

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

(6) Benefits provided under the defined benefit portion of the Tier II hybrid retirement system created under this part:

(a) may not be increased unless the actuarial funded ratios of all systems under this title reach 100%[-]; and

(b) may be decreased only in accordance with the provisions of Section 49-23-309.

Section ~~{53}~~54. Section **49-23-302** is amended to read:

49-23-302. Defined contribution benefit established -- Contribution by employer and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of plans.

(1) (a) A participating employer shall make a nonelective contribution on behalf of each public safety service employee or firefighter service employee who is a member of this system in an amount equal to 12% minus the contribution rate paid by the employer pursuant to Subsection 49-23-301(2)(a) of the member's compensation to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make ~~[additional payments]~~ voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (1); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(2) (a) The total amount contributed by the participating employer under Subsection (1)(a), including associated investment gains and losses, vests to the ~~[member's benefit after four years of employment from the date of employment]~~ member upon accruing four years of service credit under this title.

SB0308S01 compared with SB0308

(b) The total amount contributed by the member under Subsection (1)(b) vests to the member's benefit immediately and is nonforfeitable.

(3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (2)(a).

(b) A member may direct the investment of contributions made by a participating employer under Subsection (1)(a) only after the contributions have vested in accordance with Subsection (2)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (1)(b).

(4) No loans shall be available from contributions made by a participating employer under Subsection (1)(a).

(5) No hardship distributions shall be available from contributions made by a participating employer under Subsection (1)(a).

(6) (a) Except as provided in Subsection (6)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a), all contributions, including associated investment gains and losses, made by a participating employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon the member's [~~completion of the vesting period under Subsection (2)(a)~~] employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (2)(a).

(c) The [~~board~~] office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs or employer

SB0308S01 compared with SB0308

contributions made under this section.

(7) The [board] office may request from any other qualified 401(k) plan under Subsection (1) or (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(8) The [board] office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section ~~{54}~~55. Section 49-23-303 is amended to read:

49-23-303. Defined benefit eligibility for an allowance -- Date of retirement --

Qualifications.

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

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

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

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

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

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

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

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

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

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

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

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

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

Section ~~{55}~~56. Section 49-23-304 is amended to read:

SB0308S01 compared with SB0308

49-23-304. Defined benefit service retirement plans -- Calculation of retirement allowance -- Social Security limitations.

(1) (a) The retirees of this system may choose from the six retirement options described in this section.

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

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

(a) If the retiree is at least 65 years of age or has accrued at least 25 years of service credit, the allowance is an amount equal to 1.5% of the retiree's final average salary multiplied by the number of years of service credit accrued on and after July 1, 2011.

(b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full actuarial amount for each year of retirement from age 60 to age 65, unless the member has 25 or more years of accrued credit in which event no reduction is made to the allowance.

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

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

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

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

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

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

(c) Option Four is a reduced allowance paid to and throughout the lifetime of the

SB0308S01 compared with SB0308

retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance is paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

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

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

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

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

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

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

~~[(4) Periods of employment which are exempt from this system may be purchased by the member for the purpose of retirement only if all benefits from any other public or private system or organization based on this period of employment are forfeited.]~~

~~[(5)]~~ (4) (a) If a retiree under Option One dies within 120 days after the retiree's retirement date, the retirement is canceled and the death shall be considered as that of a member before retirement.

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

~~[(6)]~~ (5) If a retiree retires under either Option Five or Six and subsequently divorces, the retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there is no court order filed in the matter.

SB0308S01 compared with SB0308

Section ~~56~~57. Section 49-23-309 is enacted to read:

49-23-309. Defined benefit adjustments -- Conditions -- Process -- Future years accrual.

(1) In accordance with this section, the Legislature may make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System created under this part if the member's contribution required under Subsection 49-23-301(2)(b) to the certified contribution rate for the defined benefit portion of this system exceeds 2% of the member's salary and:

(a) (i) the membership council created under Section 49-11-202 recommends an adjustment to the board in accordance with Subsection (2); and

(ii) the board recommends specific adjustments to the Legislature in accordance with Subsection (2); or

(b) an actuarial study that conforms with generally accepted actuarial principles and practices and with the Actuarial Standards of Practice issued by the Actuarial Standards Board and requested or commissioned by the board or the Legislature concludes:

(i) there is a significant likelihood that contribution rates will continue to rise; and

(ii) that participating employers are liable for system costs above the contribution rate established under Subsection 49-23-301(2)(a).

(2) If the conditions under Subsection (1)(a) or (b) are met, the Legislature may adjust benefits for the defined benefit portion of the Tier II Hybrid Retirement System accrued or applied for future years of service including:

(a) the final average salary calculation provided under Section 49-23-102;

(b) the years of service required to be eligible to receive a retirement allowance under Section 49-23-303;

(c) the years of service credit multiplier established under Subsection 49-23-304(2)(a);

(d) the annual cost-of-living adjustment under Section 49-23-307; or

(e) other provisions of the defined benefit portion of the Tier II Hybrid Retirement System.

(3) (a) Notwithstanding the provisions of Subsections (1) and (2), the Legislature may make adjustments to the benefits provided for the defined benefit portion of the Tier II Hybrid Retirement System created under this part if an actuarial study described under Subsection

SB0308S01 compared with SB0308

(1)(b) concludes, due to current and projected economic conditions, member participation levels, and system structure, that the system:

(i) cannot reasonably be sustained under its current provisions;

(ii) is critically underfunded; and

(iii) has become unstable and is in risk of collapse.

(b) Subject to federal law, the adjustments under Subsection (3)(a) may include:

(i) conversion to a different type of retirement plan;

(ii) equitable distribution of system assets to retirees and members; and

(iii) a closure of the system.

Section ~~57~~58. Section **49-23-401** is amended to read:

49-23-401. Contributions -- Rates.

(1) Up to the amount allowed by federal law, the participating employer shall ~~contribute~~ make a nonelective contribution of 12% of the participant's compensation to a defined contribution plan.

(2) (a) The participating employer shall contribute the 12% nonelective contribution described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make ~~[additional payments]~~ voluntary deferrals to:

(i) the qualified 401(k) plan which receives the employer contribution described in this Subsection (2); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) (a) The total amount contributed by the participating employer under Subsection (2)(a) vests to the ~~[member's benefit after four years of employment from the date of employment]~~ member upon accruing four years of employment as a regular full-time employee under this chapter.

SB0308S01 compared with SB0308

(b) The total amount contributed by the member under Subsection (2)(b) vests to the member's benefit immediately and is nonforfeitable.

(4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).

(b) A member may direct the investment of contributions, including associated investment gains and losses, made by a participating employer under Subsection (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (3)(b).

(5) No loans shall be available from contributions made by a participating employer under Subsection (2)(a).

(6) No hardship distributions shall be available from contributions made by a participating employer under Subsection (2)(a).

(7) (a) Except as provided in Subsection (7)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a), all contributions made by a participating employer on behalf of the member including associated investment gains and losses under Subsection (2)(a) are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon the member's [~~completion of the vesting period under Subsection (3)(a)] employment as a regular full-time employee; and~~

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (3)(a).

(c) The [~~board~~] office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs of employer

SB0308S01 compared with SB0308

contributions made under this section.

(8) The [board] office may request from any other qualified 401(k) plan under Subsection (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(9) The [board] office may take any action which in its judgment is necessary to maintain the tax-qualified status of its 401(k) defined contribution plan under federal law.

Section ~~{58}~~59. Section 49-23-403 is enacted to read:

49-23-403. Eligibility to receive a retirement allowance for a benefit tied to a retirement date for Defined Contribution members.

(1) As used in this section, "eligible to receive a retirement allowance" means the date selected by the member who is a participant under this part on which the member has ceased employment and would be qualified to receive an allowance under Section 49-23-303 if the member had been under the Tier II Hybrid Retirement System for the same period of employment.

(2) The office and a participating employer shall make an accounting of years of service credit accrued for a member who is a participant under this part in order to calculate when a member would be eligible to receive a retirement allowance for purposes of establishing when a member may be eligible for a benefit tied to a retirement date that may be provided under Section 67-19-14.4, this title, another state statute, or by a participating employer.

Section ~~{59}~~60. Section 49-23-501 is amended to read:

49-23-501. Death benefit by means of group insurance policy -- Eligibility for death benefit -- Benefit calculation -- Payment of claim.

(1) The office shall provide a death benefit through the purchase of a group insurance policy for members of this system.

(2) The board shall make rules to administer the death benefit provided by this section and may, in accordance with federal law, establish:

- (a) benefit levels;
 - (b) classes of members; and
 - (c) a living benefit option.
- (3) This death benefit is payable when:

SB0308S01 compared with SB0308

(a) the member dies prior to the member's retirement date or dies under circumstances which Subsection [~~49-23-304(5)~~] 49-23-304(4) requires to be treated as the death of a member before retirement;

(b) the office receives acceptable proof of death; and

(c) benefits are not payable under Section 49-23-306.

(4) The death benefit payable to the beneficiary under this section is a lump-sum payment consisting of:

(a) the return of any member contributions under this chapter; plus

(b) a percentage of the final average salary of the member to be determined by the board.

(5) Any amount of a living benefit option paid to the member prior to death shall be deducted from the benefit payable to the beneficiary.

(6) The cost of the death benefit shall be paid by the participating employer in addition to the contribution rate established under Section 49-23-301 or 49-23-401.

(7) The portion of the death benefit provided under Subsection (4)(b) may not be paid to the beneficiary of an inactive member unless the death of the member occurs either:

(a) within a period of 120 days after the last day of work for which the person received compensation; or

(b) while the member is still physically or mentally incapacitated from performance of duties, if the incapacity has been continuous since the last day of work for which compensation was received.

(8) The death benefit provided under Subsection (4)(b) shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(9) The death benefit paid to the beneficiary of an inactive member, except as otherwise provided under Subsection (7), is a lump-sum return of the member's member contributions.

(10) Payment of the death benefit by the office constitutes a full settlement of any beneficiary's claim against the office and the office is not liable for any further or additional claims or assessments on behalf of the member.

(11) Unless otherwise specified in a written document filed with the office, death benefits payable to beneficiaries shall be in accordance with the order of precedence

SB0308S01 compared with SB0308

established under Title 75, Chapter 2, Intestate Succession and Wills.

(12) A death benefit under this section may not be paid on behalf of a retiree under this system.

Section ~~60~~61. Section 49-23-502 is amended to read:

49-23-502. Death of married members -- Service retirement benefits to surviving spouse.

(1) As used in this section, "member's full allowance" means an Option Three allowance calculated under Section 49-23-304 without an actuarial reduction.

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

(a) the member has:

(i) 15 or more years of service credit;

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

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

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

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

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

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

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

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

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

(c) if the member has between 15-19 years of service credit and is not age 62 or older

SB0308S01 compared with SB0308

at the time of death, the surviving spouse shall receive [~~1/3~~] one-third of the member's full allowance; or

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

(5) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any other payments made under Section 49-23-501 and shall constitute a full and final settlement of the claim of the spouse or any other beneficiary filing a claim for benefits under Section 49-23-501.

Section ~~{61}~~62. Section **49-23-601** is amended to read:

49-23-601. Long-term disability coverage.

[Each] (1) ~~{Each}~~A participating employer shall cover [the following employees] a public safety employee who initially enters employment on or after July 1, 2011, under Title 49, Chapter 21, Public Employees' Long-Term Disability Act, or a substantially similar long-term disability program~~[-]~~.

~~[(1) { (a) } public safety employees initially entering employment on or after July 1, 2011;]~~

~~[(2) { (b) } firefighter service employees initially entering employment on or after July 1, 2011; and]~~

~~[(3) { (c) } volunteer firefighters.]~~

~~(2) { The office shall ensure that the long-term disability program provided for volunteer firefighters under this section is funded with money paid under Section 49-11-901.5.~~

(3) (a) (a) A participating employer shall cover a firefighter employee who initially enters employment on or after July 1, 2011 under Title 49, Chapter 21, Public Employees' Long-Term Disability Act.

(b) In accordance with {rules made by the office} this section, a participating employer shall {provide the office with information on each person who is actively serving the participating employer as} provided long term disability benefit coverage for a volunteer firefighter {in order for the person to be eligible for} as provided under Section 49-16-701.

(c) The office shall ensure that the cost of the long-term disability {coverage under this

SB0308S01 compared with SB0308

section:

~~— (b) A participating employer shall provide to the office:~~

~~— (i) the information} benefit coverage provided under Subsection (~~(3)~~(a), not later than July 1, 2011; and~~

~~— (ii) updates to the information as changes occur.~~

~~— Section 62}2(a) and (b) is funded with revenue received under Section 49-11-901.5.~~

Section 63. Section **67-5-8** is amended to read:

67-5-8. Eligibility for career service status.

(1) (a) The attorney general has sole authority to determine who may be employed with the Office of the Attorney General.

(b) An employee of the state or any of its departments or agencies has no claim or right to a position in the attorney general's office by virtue of that employment.

(2) (a) An employee of the Office of the Attorney General shall be placed in a career service status if:

(i) for an employee who is an attorney, the attorney is a member in good standing of the Utah State Bar Association; and

(ii) except as provided in Subsection (3), the employee has been employed by the Office of the Attorney General as a probationary employee for a period of:

(A) at least one year but no more than 18 months; or

(B) in the case of investigators, at least 18 months, but no more than two years.

(b) An employee now employed by the attorney general's office in career service may not be terminated under this chapter except for cause.

(3) (a) The attorney general shall determine whether an employee should be granted career service status.

(b) If, at the end of the probationary period established under Subsection (2), the attorney general determines that an employee should be granted career service status, the attorney general shall notify the employee in writing of that decision and place a copy of the notification in the employee's personnel file.

(c) If the attorney general determines that career service status should not be granted, the attorney general may either terminate the employee or extend the probationary period for a period not to exceed one year.

SB0308S01 compared with SB0308

(d) The attorney general shall notify the employee in writing of that decision and place a copy of the notification in the employee's personnel file.

(e) An employee terminated under this section has no appeal rights under this chapter.

(4) (a) An attorney in career service status under this chapter shall retire upon attaining the age of 70 years.

(b) Subject to the provisions of [~~Section~~] Sections 49-11-504 and 49-11-505, an attorney required to retire under this section may be employed by the attorney general, after retirement, as a special assistant attorney general.

(c) An attorney employed in the capacity of a special assistant under Subsection (4)(b) 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~~