

Representative John Dougall proposes the following substitute bill:

RETIREMENT MODIFICATIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Don L. Ipson

Senate Sponsor: Todd Weiler

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ provides that "initially entering" employment includes employees that move from a position not covered under a Utah Retirement System to a position that is covered;
- ▶ clarifies post retirement employment provisions for a retiree who returns to work within one year or who elects to earn additional service credit;
- ▶ provides that a domestic relations court order must be received within 12 months of the death of the member;
- ▶ repeals language related to presentment by a policyholder;
- ▶ amends the definition of regular full-time employee to provide that the minimum earnings required for an elective or appointive officer to be eligible for a retirement benefit under the Tier I Public Employees' Systems is based on a monthly rate, not just the first month in office;
- ▶ clarifies that an employer must be a participating employer whether or not the employer has applied for admission to the system;



- 26 ▶ allows an employee who is in a confidential relationship and reports directly to a
- 27 department head or deputy director to be excluded from the Public Employees'
- 28 Contributory Retirement System and the Public Employees' Noncontributory
- 29 Retirement System;
- 30 ▶ allows the executive director of the Department of Corrections to be excluded from
- 31 the Public Safety Contributory Retirement System, the Public Safety
- 32 Noncontributory Retirement System, and the Tier I Public Safety Noncontributory
- 33 Retirement System;
- 34 ▶ clarifies that only Tier II governors and legislators and their spouses, not all Tier II
- 35 public employees, may be eligible for the governors' and legislative paid-up group
- 36 health coverage;
- 37 ▶ clarifies that Tier II firefighters, including volunteer firefighters, are covered under
- 38 the URS long-term disability program;
- 39 ▶ provides that long-term disability claims must be made within six months, rather
- 40 than one year, from the employee's date of disability;
- 41 ▶ requires an employee receiving monthly disability benefits to provide certain
- 42 information and documentation requested by the office;
- 43 ▶ provides that monthly disability benefits are reduced for payments made for sick
- 44 leave, annual leave, or similar payments;
- 45 ▶ clarifies participation requirements for employers in the Tier II systems;
- 46 ▶ allows certain at-will employees to be exempt from the vesting requirement for the
- 47 defined contribution plan in the Tier II Public Employees' Retirement System;
- 48 ▶ allows certain public safety service employees to be exempt from the vesting
- 49 requirement for the defined contribution plan in the New Public Safety and
- 50 Firefighter Tier II Contributory Retirement System;
- 51 ▶ clarifies who a participating employer must cover under the Tier II Public Safety
- 52 and Firefighters Systems; and
- 53 ▶ makes technical changes.

54 Money Appropriated in this Bill:

55 None

56 Other Special Clauses:

57 None

58 **Utah Code Sections Affected:**

59 AMENDS:

- 60 **49-11-102**, as last amended by Laws of Utah 2011, Chapter 439
- 61 **49-11-505**, as last amended by Laws of Utah 2011, Chapters 138 and 439
- 62 **49-11-612**, as last amended by Laws of Utah 2010, Chapter 266
- 63 **49-11-616**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 64 **49-12-102**, as last amended by Laws of Utah 2008, Chapter 318
- 65 **49-12-203**, as last amended by Laws of Utah 2009, Chapter 51
- 66 **49-13-102**, as last amended by Laws of Utah 2008, Chapter 318
- 67 **49-13-202**, as last amended by Laws of Utah 2010, Chapter 280
- 68 **49-13-203**, as last amended by Laws of Utah 2010, Chapter 280
- 69 **49-14-203**, as last amended by Laws of Utah 2010, Chapter 264
- 70 **49-15-203**, as last amended by Laws of Utah 2010, Chapter 264
- 71 **49-20-404**, as last amended by Laws of Utah 2011, Chapter 439
- 72 **49-21-201**, as last amended by Laws of Utah 2010, Chapter 266
- 73 **49-21-401**, as last amended by Laws of Utah 2011, Chapters 366 and 439
- 74 **49-21-402**, as last amended by Laws of Utah 2011, Chapter 439
- 75 **49-22-202**, as enacted by Laws of Utah 2010, Chapter 266
- 76 **49-22-401**, as last amended by Laws of Utah 2011, Chapter 439
- 77 **49-23-202**, as enacted by Laws of Utah 2010, Chapter 266
- 78 **49-23-401**, as last amended by Laws of Utah 2011, Chapter 439
- 79 **49-23-601**, as last amended by Laws of Utah 2011, Chapters 290 and 439

80

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

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

83 **49-11-102. Definitions.**

84 As used in this title:

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

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

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

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

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

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

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

97 (iii) a state college or university; or

98 (iv) any other participating employer.

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

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

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

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

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

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

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

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

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

119 employer and:

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

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

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

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

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

133 (12) "Board" means the Utah State Retirement Board established under Section
134 49-11-202.

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

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

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

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

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

147 (18) "Current service" means covered service as defined in Chapters 12, 13, 14, 15, 16,
148 17, 18, and 19.

149 (19) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a

150 system or plan offered under this title to provide a specified allowance to a retiree or a retiree's
151 spouse after retirement that is based on a set formula involving one or more of the following
152 factors:

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

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

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

- 162 (a) the State Board of Education and its instrumentalities;
- 163 (b) any institution of higher education and its branches;
- 164 (c) any school district and its instrumentalities;
- 165 (d) any vocational and technical school; and
- 166 (e) any entity arising out of a consolidation agreement between entities described under
167 this Subsection (21).

168 (22) "Elected official":

- 169 (a) means a person elected to a state office, county office, municipal office, school
170 board or school district office, local district office, or special service district office;
- 171 (b) includes a person who is appointed to serve an unexpired term of office described
172 under Subsection (22)(a); and
- 173 (c) does not include a judge or justice who is subject to a retention election under
174 Section 20A-12-201.

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

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

180 (24) "Exempt employee" means an employee working for a participating employer:

181 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,
182 49-14-203, 49-15-203, or 49-16-203; and

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

185 (25) "Final average monthly salary" means the amount computed by dividing the
186 compensation received during the final average salary period under each system by the number
187 of months in the final average salary period.

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

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

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

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

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

197 (c) "Initially entering" includes an employee of a participating employer, except for an
198 employee that is not eligible under a system or plan under this title, who:

199 (i) does not have any prior service credit on file with the office;

200 (ii) is covered by a retirement plan other than a retirement plan created under this title;

201 and

202 (iii) moves to a position with a participating employer that is covered by this title.

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

206 (b) "Member" also includes leased employees within the meaning of Section 414(n)(2)
207 of the Internal Revenue Code, if the employees have contributions on deposit with the office.

208 If leased employees constitute less than 20% of the participating employer's work force that is
209 not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code,
210 "member" does not include leased employees covered by a plan described in Section 414(n)(5)
211 of the federal Internal Revenue Code.

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

215 (a) the member; and

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

218 (31) "Nonelective contribution" means an amount contributed by a participating
219 employer into a participant's defined contribution account.

220 (32) "Normal cost rate":

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

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

225 (33) "Office" means the Utah State Retirement Office.

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

228 (35) "Participating employer" means a participating employer, as defined by Chapter
229 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'
230 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,
231 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'
232 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges'
233 Noncontributory Retirement Act, or an agency financed in whole or in part by public funds
234 which is participating in a system or plan as of January 1, 2002.

235 (36) "Pension" means monthly payments derived from participating employer
236 contributions.

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

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

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

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

251 (39) "Program" means the Public Employees' Insurance Program created under Chapter
252 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'
253 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term
254 Disability Act.

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

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

262 (42) (a) "Reemployed," "reemploy," or "reemployment" means work or service
263 performed after retirement, in exchange for compensation.

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

265 (i) listed as the contractor; or

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

267 (43) "Refund interest" means the amount accrued on member contributions at a rate
268 adopted by the board.

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

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

272 (46) "Retirement date" means the date selected by the member on which the member's
273 retirement becomes effective with the office.

274 (47) "Retirement related contribution":

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

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

279 (48) "Service credit" means:

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

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

285 (49) "System" means the individual retirement systems created by Chapter 12, Public
286 Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory
287 Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public
288 Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17,
289 Judges' Contributory Retirement Act, Chapter 18, Judges' Noncontributory Retirement Act, and
290 Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the
291 Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System,
292 and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part
293 3, Tier II Hybrid Retirement System.

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

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

299 (b) "Tier II" includes:

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

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

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

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

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

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

306 (52) "Unfunded actuarial accrued liability" or "UAAL":

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

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

310 (53) "Voluntary deferrals" means an amount contributed by a participant into that
311 participant's defined contribution account.

312 Section 2. Section **49-11-505** is amended to read:

313 **49-11-505. Reemployment of a retiree -- Restrictions.**

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

315 (i) means a person who:

316 (A) retired from a participating employer; and

317 (B) begins reemployment on or after July 1, 2010, with a participating employer; [~~and~~]

318 (ii) does not include a person:

319 (A) who was reemployed by a participating employer before July 1, 2010; and

320 (B) whose participating employer that reemployed the person under Subsection

321 (1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with
322 Section 49-11-621 after July 1, 2010; and

323 [~~(ii)~~] (iii) does not include a [~~retiree~~] person who is reemployed as an active senior
324 judge appointed to hear cases by the Utah Supreme Court in accordance with Article VIII,
325 Section 4, Utah Constitution.

326 (b) (i) This section does not apply to employment as an elected official if the elected
327 official's position is not full-time as certified by the participating employer.

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

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

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

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

333 (b) receive a retirement allowance.

334 (3) (a) Except as provided under Subsection (3)(b), the office shall cancel the

335 retirement allowance of a retiree if the reemployment with a participating employer begins

336 within one year of the retiree's retirement date.

337 (b) The office may not cancel the retirement allowance of a retiree who is reemployed
338 with a participating employer within one year of the retiree's retirement date if:

339 (i) the retiree is not reemployed by a participating employer for a period of at least 60
340 days from the retiree's retirement date;

341 (ii) upon reemployment after the break in service under Subsection (3)(b)(i), the retiree
342 does not receive any employer provided benefits, including:

343 (A) medical benefits;

344 (B) dental benefits;

345 (C) other insurance benefits except for workers' compensation as provided under Title
346 34A, Chapter 2, Workers' Compensation Act and withholdings required by federal or state law
347 for Social Security, Medicare, and unemployment insurance; or

348 (D) paid time off, including sick, annual, or other type of leave; and

349 (iii) the retiree does not earn in any calendar year of reemployment an amount in excess
350 of the lesser of:

351 (A) \$15,000; or

352 (B) one-half of the retiree's final average salary upon which the retiree's retirement
353 allowance is based.

354 (c) Beginning January 1, 2013, the board shall adjust the amount under Subsection
355 (3)(b)(iii)(A) by the annual change in the Consumer Price Index during the previous calendar
356 year as measured by a United States Bureau of Labor Statistics Consumer Price Index average
357 as determined by the board.

358 (d) The office shall cancel the retirement allowance of a retiree for the remainder of the
359 calendar year if the reemployment with a participating employer exceeds the limitations under
360 Subsection (3)(b)(iii).

361 (e) If a retiree is reemployed under the provisions of (3)(b), the termination date of the
362 reemployment, as confirmed in writing by the participating employer, is considered the retiree's
363 retirement date for the purpose of calculating the separation requirement under Subsection
364 (3)(a).

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

366 (a) earn additional service credit in accordance with this title and cancel the retiree's

367 retirement allowance; or

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

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

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

375 (i) if the participating employer reemploys a retiree;

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

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

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

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

382 (d) If a participating employer fails to notify the office in accordance with this section,
383 the participating employer is immediately subject to a compliance audit by the office.

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

386 (i) the reemployment of a retiree in violation of Subsection (3); or

387 (ii) the election of a reemployed retiree under Subsection (4)(a).

388 (b) ~~[The]~~ If the retiree is eligible for retirement coverage in the reemployed position,
389 the office shall cancel the allowance of a retiree subject to Subsection (7)(a), and reinstate the
390 retiree to active member status on the first day of the month following the date of:

391 (i) reemployment if the retiree is subject to Subsection (3); or

392 (ii) an election by an employee under Subsection (4)(a).

393 (c) If the retiree is not otherwise eligible for retirement coverage in the reemployed
394 position:

395 (i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and

396 (ii) the participating employer shall pay the amortization rate to the office on behalf of
397 the retiree.

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

400 (i) is not entitled to a recalculated retirement benefit; and

401 (ii) will resume the allowance that was being paid at the time of cancellation.

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

405 (i) resume receiving the allowance that was being paid at the time of cancellation; and

406 (ii) receive an additional allowance based on the formula in effect at the date of the
407 subsequent retirement for all service credit accrued between the first and subsequent retirement
408 dates.

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

411 (b) If the retiree fails to inform the office of an election under Subsection (9)(a), the
412 office shall withhold one month's benefit for each month the retiree fails to inform the office
413 under Subsection (9)(a).

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

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

416 **49-11-612. Domestic relations order benefits -- Nonassignability of benefits or**
417 **payments -- Exemption from legal process.**

418 (1) As used in this section, "domestic relations order benefits" means:

419 (a) an allowance;

420 (b) a defined contribution account established under:

421 (i) [~~Chapter 11,~~] Part 8, Defined Contribution Plans;

422 (ii) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

423 (iii) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement
424 Act;

425 (c) a continuing monthly death benefit established under:

426 (i) Chapter 14, Part 5, Death Benefit;

427 (ii) Chapter 15, Part 5, Death Benefit;

428 (iii) Chapter 16, Part 5, Death Benefit;

- 429 (iv) Chapter 17, Part 5, Death Benefit;
- 430 (v) Chapter 18, Part 5, Death Benefit; or
- 431 (vi) Chapter 19, Part 5, Death Benefit;
- 432 (d) a death benefit provided under a group insurance policy under:
- 433 (i) Chapter 12, Part 5, Death Benefit;
- 434 (ii) Chapter 13, Part 5, Death Benefit;
- 435 (iii) Chapter 22, Part 5, Death Benefit; or
- 436 (iv) Chapter 23, Part 5, Death Benefit; or
- 437 (e) a refund of member contributions upon termination.
- 438 (2) Except as provided in Subsections (3), (4), and (5), the right of any member, retiree,
- 439 participant, covered individual, or beneficiary to any retirement benefit, retirement payment, or
- 440 any other retirement right accrued or accruing under this title and the assets of the funds created
- 441 by this title are not subject to alienation or assignment by the member, retiree, participant, or
- 442 their beneficiaries and are not subject to attachment, execution, garnishment, or any other legal
- 443 or equitable process.
- 444 (3) The office may, upon the request of the retiree, deduct from the retiree's allowance
- 445 insurance premiums or other dues payable on behalf of the retiree, but only to those entities
- 446 that have received the deductions prior to February 1, 2002.
- 447 (4) (a) The office shall provide for the division of domestic relations order benefits
- 448 with former spouses and family members under an order of a court of competent jurisdiction
- 449 with respect to domestic relations matters on file with the office.
- 450 (b) The court order shall specify the manner in which the domestic relations order
- 451 benefits shall be partitioned, whether as a fixed amount or as a percentage of the benefit.
- 452 (c) Domestic relations order benefits split under a domestic relations order are subject
- 453 to the following:
- 454 (i) the amount to be paid or the period for which payments shall be made under the
- 455 original domestic relations order may not be altered if the alteration affects the actuarial
- 456 calculation of the allowance;
- 457 (ii) payments to an alternate payee shall begin at the time the member or beneficiary
- 458 begins receiving payments; and
- 459 (iii) the alternate payee shall receive payments in the same form as allowances received

460 by the member or beneficiary.

461 (d) ~~[A] To be valid, a court order under this section [may not be issued more than]~~
462 must be received by the office within 12 months ~~[after]~~ of the death of the member.

463 (5) In accordance with federal law, the board may deduct the required amount from any
464 benefit, payment, or other right accrued or accruing to any member or beneficiary of a system,
465 plan, or program under this title to offset any amount that member or beneficiary owes to a
466 system, plan, or program administered by the board.

467 (6) The board shall make rules to implement this section.

468 Section 4. Section **49-11-616** is amended to read:

469 **49-11-616. Benefits information.**

470 (1) The office shall provide written general information to each participating employer
471 concerning benefits available under this title.

472 (2) (a) A participating employer shall provide the information under Subsection (1) to
473 each eligible employee immediately upon:

474 (i) termination of service;

475 (ii) leave of absence;

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

477 (iv) retirement.

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

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

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

484 (b) A copy of the signed form shall be immediately forwarded to the office by the
485 participating employer or the employee.

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

489 Section 5. Section **49-12-102** is amended to read:

490 **49-12-102. Definitions.**

491 As used in this chapter:

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

495 (i) bonuses;

496 (ii) cost-of-living adjustments;

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

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

502 (v) member contributions.

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

505 (c) "Compensation" does not include:

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

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

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

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

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

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

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

521 (a) Except as provided in Subsection (2)(b), the percentage increase in annual

522 compensation in any one of the years used may not exceed the previous year's compensation by
523 more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power
524 of the dollar during the previous year, as measured by a United States Bureau of Labor
525 Statistics Consumer Price Index average as determined by the board.

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

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

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

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

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

537 (3) "Participating employer" means an employer which meets the participation
538 requirements of Sections 49-12-201 and 49-12-202.

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

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

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

547 (ii) a classified school employee whose employment normally requires an average of
548 20 hours per week or more for a participating employer, regardless of benefits provided;

549 (iii) an officer, elective or appointive, who earns [~~during the first full month of the term~~
550 ~~of office~~] \$500 or more per month, indexed as of January 1, 1990, as provided in Section
551 49-12-407;

552 (iv) a faculty member or employee of an institution of higher education who is

553 considered full-time by that institution of higher education; and

554 (v) an individual who otherwise meets the definition of this Subsection (4) who
555 performs services for a participating employer through a professional employer organization or
556 similar arrangement.

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

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

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

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

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

568 Section 6. Section **49-12-203** is amended to read:

569 **49-12-203. Exclusions from membership in system.**

570 (1) The following employees are not eligible for service credit in this system:

571 (a) An employee whose employment status is temporary in nature due to the nature or
572 the type of work to be performed, provided that:

573 (i) if the term of employment exceeds six months and the employee otherwise qualifies
574 for service credit in this system, the participating employer shall report and certify to the office
575 that the employee is a regular full-time employee effective the beginning of the seventh month
576 of employment; or

577 (ii) if an employee, previously terminated prior to being eligible for service credit in
578 this system is reemployed within three months of termination by the same participating
579 employer, the participating employer shall report and certify that the member is a regular
580 full-time employee when the total of the periods of employment equals six months and the
581 employee otherwise qualifies for service credit in this system.

582 (b) (i) A current or future employee of a two-year or four-year college or university
583 who holds, or is entitled to hold, under Section 49-12-204, a retirement annuity contract with

584 the Teachers' Insurance and Annuity Association of America or with any other public or private
585 system, organization, or company during any period in which required contributions based on
586 compensation have been paid on behalf of the employee by the employer.

587 (ii) The employee, upon cessation of the participating employer contributions, shall
588 immediately become eligible for service credit in this system.

589 (c) An employee serving as an exchange employee from outside the state.

590 (d) An executive department head of the state, a member of the State Tax Commission,
591 the Public Service Commission, and a member of a full-time or part-time board or commission
592 who files a formal request for exemption.

593 (e) An employee of the Department of Workforce Services who is covered under
594 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

595 (f) (i) An employee who is employed on or after July 1, 2009 with an employer that has
596 elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection
597 49-12-202(2)(c).

598 (ii) Notwithstanding the provisions of this Subsection (1)(f), any eligibility for service
599 credit earned by an employee under this chapter before July 1, 2009 is not affected under this
600 Subsection (1)(f).

601 (2) Upon filing a written request for exemption with the office, the following
602 employees shall be exempt from coverage under this system:

603 (a) a full-time student or the spouse of a full-time student and individuals employed in
604 a trainee relationship;

605 (b) an elected official;

606 (c) (i) an executive department head of the state[;];

607 (ii) a member of the State Tax Commission[;];

608 (iii) a member of the Public Service Commission[~~;~~and];

609 (iv) a state employee designated under schedule AD under Section 67-19-15; and

610 (v) a member of a full-time or part-time board or commission;

611 (d) an employee of the Governor's Office of Planning and Budget;

612 (e) an employee of the Governor's Office of Economic Development;

613 (f) an employee of the Commission on Criminal and Juvenile Justice;

614 (g) an employee of the Governor's Office;

- 615 (h) an employee of the State Auditor's Office;
- 616 (i) an employee of the State Treasurer's Office;
- 617 (j) any other member who is permitted to make an election under Section 49-11-406;
- 618 (k) a person appointed as a city manager or chief city administrator or another person
- 619 employed by a municipality, county, or other political subdivision, who is an at-will employee;
- 620 and

621 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,

622 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through

623 membership in a labor organization that provides retirement benefits to its members.

624 (3) (a) Each participating employer shall prepare a list designating those positions

625 eligible for exemption under Subsection (2).

626 (b) An employee may not be exempted unless the employee is employed in a position

627 designated by the participating employer.

628 (4) (a) In accordance with this section, a municipality, county, or political subdivision

629 may not exempt more than 50 positions or a number equal to 10% of the employees of the

630 municipality, county, or political subdivision whichever is lesser.

631 (b) A municipality, county, or political subdivision may exempt at least one regular

632 full-time employee.

633 (5) Each participating employer shall:

634 (a) file employee exemptions annually with the office; and

635 (b) update the employee exemptions in the event of any change.

636 (6) The office may make rules to implement this section.

637 Section 7. Section **49-13-102** is amended to read:

638 **49-13-102. Definitions.**

639 As used in this chapter:

640 (1) (a) Except as provided in Subsection (1)(c), "compensation" means the total

641 amount of payments made by a participating employer to a member of this system for services

642 rendered to the participating employer, including:

643 (i) bonuses;

644 (ii) cost-of-living adjustments;

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

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

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

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

652 (c) "Compensation" does not include:

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

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

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

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

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

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

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

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

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

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

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

676 (c) If the member retires more than six months from the date of termination of

677 employment and for purposes of computing the member's final average salary only, the
678 member is considered to have been in service at his last rate of pay from the date of the
679 termination of employment to the effective date of retirement.

680 (3) "Participating employer" means an employer which meets the participation
681 requirements of Sections 49-13-201 and 49-13-202.

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

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

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

690 (ii) a classified school employee whose employment normally requires an average of
691 20 hours per week or more for a participating employer, regardless of benefits provided;

692 (iii) an officer, elective or appointive, who earns [~~during the first full month of the term~~
693 ~~of office~~] \$500 or more per month, indexed as of January 1, 1990, as provided in Section
694 49-13-407;

695 (iv) a faculty member or employee of an institution of higher education who is
696 considered full-time by that institution of higher education; and

697 (v) an individual who otherwise meets the definition of this Subsection (4) who
698 performs services for a participating employer through a professional employer organization or
699 similar arrangement.

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

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

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

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

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

710 Section 8. Section **49-13-202** is amended to read:

711 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**
712 **requirements -- Nondiscrimination requirements -- Service credit purchases.**

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

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

718 (2) The following employers may be excluded from participation in this system:

719 (a) an employer not initially admitted or included as a participating employer in this
720 system before January 1, 1982, if:

721 (i) the employer elects not to provide or participate in any type of private or public
722 retirement, supplemental or defined contribution plan, either directly or indirectly, for its
723 employees, except for Social Security; or

724 (ii) the employer offers another collectively bargained retirement benefit and has
725 continued to do so on an uninterrupted basis since that date;

726 (b) an employer that is a charter school sponsored by the State Board of Education or a
727 school district that makes an election of nonparticipation in accordance with Section
728 53A-1a-512 unless the charter school makes a one-time, irrevocable retraction of the election
729 of nonparticipation in accordance with Subsection 53A-1a-512(9);

730 (c) an employer that is a hospital created as a special service district under Title 17D,
731 Chapter 1, Special Service District Act, that makes an election of nonparticipation in
732 accordance with Subsection (5); or

733 (d) an employer that is a risk management association initially created by interlocal
734 agreement before 1986 for the purpose of implementing a self-insurance joint protection
735 program for the benefit of member municipalities of the association.

736 (3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to
737 provide or participate in any type of public or private retirement, supplemental or defined
738 contribution plan, either directly or indirectly, except for Social Security, the employer shall be

739 a participating employer in this system regardless of whether the employer has applied for
740 admission under Subsection (4).

741 (4) (a) An employer may, by resolution of its governing body, apply for admission to
742 this system.

743 (b) Upon approval of the resolution by the board, the employer is a participating
744 employer in this system and is subject to this title.

745 (5) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service
746 district under Title 17D, Chapter 1, Special Service District Act, may make an election of
747 nonparticipation as an employer for retirement programs under this chapter.

748 (ii) On or before July 1, 2010, an employer described in Subsection (2)(d) may make
749 an election of nonparticipation as an employer for retirement programs under this chapter.

750 (b) An election provided under Subsection (5)(a):

751 (i) is a one-time election made no later than the time specified under Subsection (5)(a);

752 (ii) shall be documented by a resolution adopted by the governing body of the
753 employer;

754 (iii) is irrevocable; and

755 (iv) applies to the employer described in Subsection (5)(a) and to all employees of that
756 employer.

757 (c) The employer making an election under Subsection (5)(a) may offer employee
758 benefit plans for its employees:

759 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

760 or

761 (ii) under any other program.

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

767 Section 9. Section **49-13-203** is amended to read:

768 **49-13-203. Exclusions from membership in system.**

769 (1) The following employees are not eligible for service credit in this system:

770 (a) An employee whose employment status is temporary in nature due to the nature or
771 the type of work to be performed, provided that:

772 (i) if the term of employment exceeds six months and the employee otherwise qualifies
773 for service credit in this system, the participating employer shall report and certify to the office
774 that the employee is a regular full-time employee effective the beginning of the seventh month
775 of employment; and

776 (ii) if an employee, previously terminated prior to becoming eligible for service credit
777 in this system, is reemployed within three months of termination by the same participating
778 employer, the participating employer shall report and certify to the office that the member is a
779 regular full-time employee when the total of the periods of employment equals six months and
780 the employee otherwise qualifies for service credit in this system.

781 (b) (i) A current or future employee of a two-year or four-year college or university
782 who holds, or is entitled to hold, under Section 49-13-204, a retirement annuity contract with
783 the Teachers' Insurance and Annuity Association of America or with any other public or private
784 system, organization, or company during any period in which required contributions based on
785 compensation have been paid on behalf of the employee by the employer.

786 (ii) The employee, upon cessation of the participating employer contributions, shall
787 immediately become eligible for service credit in this system.

788 (c) An employee serving as an exchange employee from outside the state.

789 (d) An executive department head of the state or a legislative director, senior executive
790 employed by the governor's office, a member of the State Tax Commission, a member of the
791 Public Service Commission, and a member of a full-time or part-time board or commission
792 who files a formal request for exemption.

793 (e) An employee of the Department of Workforce Services who is covered under
794 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

795 (f) (i) An employee who is employed with an employer that has elected to be excluded
796 from participation in this system under Subsection 49-13-202(5), effective on or after the date
797 of the employer's election under Subsection 49-13-202(5).

798 (ii) Notwithstanding the provisions of this Subsection (1)(f), any eligibility for service
799 credit earned by an employee under this chapter before the date of the election under
800 Subsection 49-13-202(5) is not affected under this Subsection (1)(f).

- 801 (2) Upon filing a written request for exemption with the office, the following
802 employees shall be exempt from coverage under this system:
- 803 (a) a full-time student or the spouse of a full-time student and individuals employed in
804 a trainee relationship;
- 805 (b) an elected official;
- 806 (c) (i) an executive department head of the state[;];
807 (ii) a member of the State Tax Commission[;];
808 (iii) a member of the Public Service Commission[~~;~~and];
809 (iv) a state employee designated under schedule AD under Section 67-19-15; and
810 (v) a member of a full-time or part-time board or commission;
- 811 (d) an employee of the Governor's Office of Planning and Budget;
- 812 (e) an employee of the Governor's Office of Economic Development;
- 813 (f) an employee of the Commission on Criminal and Juvenile Justice;
- 814 (g) an employee of the Governor's Office;
- 815 (h) an employee of the State Auditor's Office;
- 816 (i) an employee of the State Treasurer's Office;
- 817 (j) any other member who is permitted to make an election under Section 49-11-406;
- 818 (k) a person appointed as a city manager or chief city administrator or another person
819 employed by a municipality, county, or other political subdivision, who is an at-will employee;
- 820 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
821 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through
822 membership in a labor organization that provides retirement benefits to its members; and
- 823 (m) an employee of the Utah Science Technology and Research Initiative created under
824 Title 63M, Chapter 2, Utah Technology Research and Governing Authority Act.
- 825 (3) (a) Each participating employer shall prepare a list designating those positions
826 eligible for exemption under Subsection (2).
- 827 (b) An employee may not be exempted unless the employee is employed in a position
828 designated by the participating employer.
- 829 (4) (a) In accordance with this section, a municipality, county, or political subdivision
830 may not exempt more than 50 positions or a number equal to 10% of the employees of the
831 municipality, county, or political subdivision, whichever is lesser.

832 (b) A municipality, county, or political subdivision may exempt at least one regular
833 full-time employee.

834 (5) Each participating employer shall:

835 (a) file employee exemptions annually with the office; and

836 (b) update the employee exemptions in the event of any change.

837 (6) The office may make rules to implement this section.

838 Section 10. Section **49-14-203** is amended to read:

839 **49-14-203. Exemption of certain employees from coverage.**

840 (1) A public safety service employee is excluded from coverage under this system if
841 the employee:

842 (a) is serving:

843 (i) as the Commissioner of Public Safety[~~-or~~];

844 (ii) as the executive director of the Department of Corrections; or

845 (iii) as the elected or appointed sheriff or chief of police of a public safety

846 organization[~~-is excluded from coverage under this system if that public safety service~~
847 employee]; and

848 (b) files a formal written request seeking the exemption.

849 (2) Except as provided in Subsection (3), the public safety service employee may not
850 continue employment with the same participating employer and receive an allowance from the
851 office based on public safety service at the same time.

852 (3) (a) The Commissioner of Public Safety or an elected sheriff who is eligible to retire
853 under Section 49-14-401 may until July 1, 2010:

854 (i) retire from this system and receive an allowance;

855 (ii) continue in the elected or appointed position; and

856 (iii) file for the exemption under Subsection (1).

857 (b) A person who makes an election under Subsection (3)(a) may continue under the
858 terms of the election.

859 Section 11. Section **49-15-203** is amended to read:

860 **49-15-203. Exemption of certain employees from coverage.**

861 (1) A public safety service employee is excluded from coverage under this system if
862 the employee:

- 863 (a) is serving:
- 864 (i) as the Commissioner of Public Safety[~~-or~~];
- 865 (ii) as the executive director of the Department of Corrections; or
- 866 (iii) as the elected or appointed sheriff or chief of police of a public safety
- 867 organization[~~, is excluded from coverage under this system if that public safety service~~
- 868 employee]; and
- 869 (b) files a formal written request seeking the exemption.
- 870 (2) Except as provided in Subsection (3), the public safety service employee may not
- 871 continue employment with the same participating employer and receive an allowance from the
- 872 office based on public safety service at the same time.
- 873 (3) (a) The Commissioner of Public Safety, an elected sheriff, or an appointed chief of
- 874 police who is eligible to retire under Section 49-15-401 may until July 1, 2010:
- 875 (i) retire from this system and receive an allowance;
- 876 (ii) continue in the elected or appointed position; and
- 877 (iii) file for the exemption under Subsection (1).
- 878 (b) A person who makes an election under Subsection (3)(a) may continue under the
- 879 terms of the election.
- 880 Section 12. Section **49-20-404** is amended to read:
- 881 **49-20-404. Governors' and legislative benefit.**
- 882 (1) The state shall pay the percentage described in Subsection (3) of the cost of
- 883 providing paid-up group health coverage policy for members and their surviving spouses
- 884 covered under Chapter 19, Utah Governors' and Legislators' Retirement Act, or governors and
- 885 legislators, as defined in Section 49-19-102, and their surviving spouses covered under Chapter
- 886 22, New Public Employees' Tier II Contributory Retirement Act, who:
- 887 (a) retire after January 1, 1998;
- 888 (b) are at least 62 but less than 65 years of age;
- 889 (c) elect to receive and apply for this benefit to the program; and
- 890 (d) are active members at the time of retirement or have continued coverage with the
- 891 program until the date of eligibility for the benefit under this Subsection (1).
- 892 (2) The state shall pay the percentage described in Subsection (3) of the cost of
- 893 providing Medicare supplemental coverage for members and their surviving spouses covered

894 under Chapter 19, Utah Governors' and Legislators' Retirement Act who:

- 895 (a) retire after January 1, 1998;
 - 896 (b) are at least 65 years of age; and
 - 897 (c) elect to receive and apply for this benefit to the program.
- 898 (3) The following percentages apply to the benefit described in Subsections (1) and (2):
- 899 (a) 100% if the member has accrued 10 or more years of service credit;
 - 900 (b) 80% if the member has accrued 8 or more years of service credit;
 - 901 (c) 60% if the member has accrued 6 or more years of service credit; and
 - 902 (d) 40% if the member has accrued 4 or more years of service credit.

903 Section 13. Section **49-21-201** is amended to read:

904 **49-21-201. Program membership -- Eligibility.**

- 905 (1) The state shall cover all of its eligible employees under this chapter.
- 906 (2) Public safety service employees, as defined in Sections 49-14-102, 49-15-102, and
907 49-23-102 shall be covered under this chapter or a substantially similar long-term disability
908 program in accordance with the provisions of Section 49-14-601, 49-15-601, or 49-23-601.
- 909 (3) Beginning on July 1, 2011, firefighter service employees, as defined in Section
910 49-23-102, initially entering employment on or after July 1, 2011, and volunteer firefighters, as
911 defined in Section 49-23-102, shall be covered under this chapter [~~or a substantially similar~~
912 ~~long-term disability program~~] in accordance with the provisions of Section 49-23-601.
- 913 (4) Except as provided under Subsection (5), all other employers may provide coverage
914 for their eligible employees under this chapter.
- 915 (5) If an employer elects to cover any of its eligible employees under this chapter, all of
916 its eligible employees shall be covered.

917 (6) Except as provided under Subsections (1) and (2), nothing in this chapter requires
918 any employer to cover its eligible employees under this chapter.

919 (7) The following employees are not eligible for coverage under this chapter:

- 920 (a) firefighter service employees, as defined under Section 49-16-102, that initially
921 entered employment prior to July 1, 2011; and
- 922 (b) legislators.

923 Section 14. Section **49-21-401** is amended to read:

924 **49-21-401. Disability benefits -- Application -- Eligibility.**

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

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

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

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

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

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

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

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

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

939 (4) The office shall review all relevant information and determine whether or not the
940 eligible employee has a total disability.

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

946 (6) If the office determines that the eligible employee has a total disability due to
947 psychiatric illness, the eligible employee shall receive:

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

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

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

956 illness.

957 (7) If the office determines that the eligible employee has a total disability due to a
958 physical injury resulting from external force or violence as a result of the performance of an
959 employment duty, the eligible employee shall receive a monthly disability benefit equal to
960 100% of the eligible employee's regular monthly salary, for each month the total disability
961 continues beyond the elimination period, not to exceed the maximum benefit period.

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

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

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

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

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

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

972 (9) The office may, at any time, have any eligible employee claiming to have a
973 disability examined by a physician chosen by the office to determine if the eligible employee
974 has a total disability.

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

980 (11) Medical or psychiatric conditions which existed prior to eligibility may not be a
981 basis for disability benefits until the eligible employee has had one year of continuous
982 eligibility in the Public Employees Long-Term Disability Program.

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

986 (13) Regardless of any medical evidence provided by the employee to support the

987 application for disability, an employee is not eligible for long-term disability benefits during
988 any period in which the employee:

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

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

996 Section 15. Section **49-21-402** is amended to read:

997 **49-21-402. Reduction or reimbursement of benefit -- Circumstances --**
998 **Application for other benefits required.**

999 (1) A monthly disability benefit may ~~[not be paid for any period of total disability]~~ be
1000 terminated unless:

1001 (a) the eligible employee is under the ongoing care and treatment of a physician other
1002 than the eligible employee[-]; and

1003 (b) the eligible employee provides the information and documentation requested by the
1004 office.

1005 (2) The monthly disability benefit shall be reduced or reimbursed by any amount
1006 received by, or payable to, the eligible employee from the following sources for the same
1007 period of time during which the eligible employee is entitled to receive a monthly disability
1008 benefit:

1009 (a) Social Security disability benefits, including all benefits received by the eligible
1010 employee, the eligible employee's spouse, and the eligible employee's children as determined
1011 by the Social Security Administration;

1012 (b) workers' compensation indemnity benefits;

1013 (c) any money received by judgment, legal action, or settlement from a third party
1014 liable to the employee for the disability;

1015 (d) unemployment compensation benefits;

1016 (e) automobile no-fault, medical payments, or similar insurance payments; ~~[and]~~

1017 (f) any money received by a judgment, settlement, or other payment as a result of a

1018 claim against an employer[-]; and

1019 (g) any payments made for sick leave, annual leave, or similar payments.

1020 (3) The monthly disability benefit shall be reduced by any amount in excess of
1021 one-third of the eligible employee's regular monthly salary received by, or payable to, the
1022 eligible employee from the following sources for the same period of time during which the
1023 eligible employee is entitled to receive a monthly disability benefit:

1024 (a) any employer-sponsored retirement programs; and

1025 (b) any disability benefit resulting from the disability for which benefits are being
1026 received under this chapter.

1027 (4) After the date of disability, cost-of-living increases to any of the benefits listed in
1028 Subsection (2) or (3) may not be considered in calculating a reduction to the monthly disability
1029 benefit.

1030 (5) Any amounts payable to the eligible employee from one or more of the sources
1031 under Subsection (2) are considered as amounts received whether or not the amounts were
1032 actually received by the eligible employee.

1033 (6) (a) An eligible employee shall first apply for all disability benefits from
1034 governmental entities under Subsection (2) to which the eligible employee is or may be
1035 entitled, and provide to the office evidence of the applications.

1036 (b) If the eligible employee fails to make application under this Subsection (6), the
1037 monthly disability benefit shall be suspended.

1038 Section 16. Section **49-22-202** is amended to read:

1039 **49-22-202. Participation of employers -- Limitations -- Exclusions -- Admission**
1040 **requirements.**

1041 (1) Unless excluded under Subsection (2), an employer is a participating employer and
1042 may not withdraw from participation in this system.

1043 ~~[(2) An employer that is a charter school sponsored by the State Board of Education or~~
1044 ~~a school district may be excluded from participation in this system if the charter school makes~~
1045 ~~an election of nonparticipation in accordance with Section 53A-1a-512 unless the charter~~
1046 ~~school makes a one-time, irrevocable retraction of the election of nonparticipation in~~
1047 ~~accordance with Subsection 53A-1a-512(9).]~~

1048 (2) The following employers may be excluded from participation in this system:

1049 (a) an employer not initially admitted or included as a participating employer in this
1050 system before January 1, 1982, if:

1051 (i) the employer elects not to provide or participate in any type of private or public
1052 retirement, supplemental or defined contribution plan, either directly or indirectly, for its
1053 employees, except for Social Security; or

1054 (ii) the employer offers another collectively bargained retirement benefit and has
1055 continued to do so on an uninterrupted basis since that date;

1056 (b) an employer that is a charter school sponsored by the State Board of Education or a
1057 school district that makes an election of nonparticipation in accordance with Section
1058 53A-1a-512 unless the charter school makes a one-time, irrevocable retraction of the election
1059 of nonparticipation in accordance with Subsection 53A-1a-512(9); or

1060 (c) an employer that is a risk management association initially created by interlocal
1061 agreement before 1986 for the purpose of implementing a self-insurance joint protection
1062 program for the benefit of member municipalities of the association.

1063 (3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to
1064 provide or participate in any type of public or private retirement, supplemental or defined
1065 contribution plan, either directly or indirectly, except for Social Security, the employer shall be
1066 a participating employer in this system regardless of whether the employer has applied for
1067 admission under Subsection (4).

1068 [~~3~~] (4) (a) An employer may, by resolution of its governing body, apply for admission
1069 to this system.

1070 (b) Upon approval of the resolution by the board, the employer is a participating
1071 employer in this system and is subject to this title.

1072 [~~4~~] (5) If a participating employer purchases service credit on behalf of a regular
1073 full-time [~~employees~~] employee for service rendered prior to the participating employer's
1074 admission to this system, [~~the service credit shall be purchased~~] the participating employer:

1075 (a) shall purchase credit in a nondiscriminatory manner on behalf of all current and
1076 former regular full-time employees who were eligible for service credit at the time service was
1077 rendered[-]; and

1078 (b) shall comply with the provisions of Section 49-11-403.

1079 Section 17. Section ~~49-22-401~~ is amended to read:

1080 **49-22-401. Contributions -- Rates.**

1081 (1) Up to the amount allowed by federal law, the participating employer shall make a
1082 nonelective contribution of 10% of the participant's compensation to a defined contribution
1083 plan.

1084 (2) (a) The participating employer shall contribute the 10% nonelective contribution
1085 described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the
1086 Internal Revenue Code which:

1087 (i) is sponsored by the board; and

1088 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

1089 (b) The member may make voluntary deferrals to:

1090 (i) the qualified 401(k) plan which receives the employer contribution described in this
1091 Subsection (2); or

1092 (ii) at the member's option, another defined contribution plan established by the
1093 participating employer.

1094 (c) In addition to the percent specified under Subsection (2)(a), the participating
1095 employer shall pay the corresponding Tier I system amortization rate of the employee's
1096 compensation to the office to be applied to the employer's corresponding Tier I system liability.

1097 (3) (a) [The] Except as provided under Subsection (3)(c), the total amount contributed
1098 by the participating employer under Subsection (2)(a) vests to the member upon accruing four
1099 years employment as a regular full-time employee under this title.

1100 (b) The total amount contributed by the member under Subsection (2)(b) vests to the
1101 member's benefit immediately and is nonforfeitable.

1102 (c) Upon filing a written request for exemption with the office, the following
1103 employees are exempt from the vesting requirements of Subsection (3)(a):

1104 (i) an executive department head of the state;

1105 (ii) a member of the State Tax Commission;

1106 (iii) a member of the Public Service Commission;

1107 (iv) an employee of the Governor's Office of Planning and Budget;

1108 (v) an employee of the Governor's Office of Economic Development;

1109 (vi) an employee of the Commission on Criminal and Juvenile Justice;

1110 (vii) an employee of the Governor's Office;

- 1111 (viii) an employee of the State Auditor's Office;
1112 (ix) an employee of the State Treasurer's Office;
1113 (x) a person appointed as a city manager or appointed as a city administrator or another
1114 at-will employee of a municipality, county, or other political subdivision;
1115 (xi) an employee of an interlocal cooperative agency created under Title 11, Chapter
1116 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided
1117 through membership in a labor organization that provides retirement benefits to its members;
1118 and
1119 (xii) an employee of the Utah Science Technology and Research Initiative created
1120 under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.
1121 (d) (i) A participating employer shall prepare a list designating those positions eligible
1122 for exemption under Subsection (3)(c).
1123 (ii) An employee may not be exempted unless the employee is employed in a position
1124 designated by the participating employer under Subsection (3)(c).
1125 (e) (i) In accordance with this section, a municipality, county, or political subdivision
1126 may not exempt more than 50 positions or a number equal to 10% of the employees of the
1127 municipality, county, or political subdivision, whichever is less.
1128 (ii) A municipality, county, or political subdivision may exempt at least one regular
1129 full-time employee.
1130 (f) Each participating employer shall:
1131 (i) file each employee exemption annually with the office; and
1132 (ii) update an employee exemption in the event of any change.
1133 (g) (i) The office shall make rules to implement this Subsection (3).
1134 (ii) The rules made under Subsection (3)(g)(i) shall include provisions to allow the
1135 exemption provided under Subsection (3)(c) to apply to all contributions made beginning on or
1136 after July 1, 2011 on behalf an exempted employee who began the employment before May 8,
1137 2012.
1138 (4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be
1139 invested in a default option selected by the board until the member is vested in accordance with
1140 Subsection (3)(a).
1141 (b) A member may direct the investment of contributions including associated

1142 investment gains and losses made by a participating employer under Subsection (2)(a) only
1143 after the contributions have vested in accordance with Subsection (3)(a).

1144 (c) A member may direct the investment of contributions made by the member under
1145 Subsection (3)(b).

1146 (5) No loans shall be available from contributions made by a participating employer
1147 under Subsection (2)(a).

1148 (6) No hardship distributions shall be available from contributions made by a
1149 participating employer under Subsection (2)(a).

1150 (7) (a) Except as provided in Subsection (7)(b), if a member terminates employment
1151 with a participating employer prior to the vesting period described in Subsection (3)(a), all
1152 contributions made by a participating employer on behalf of the member including associated
1153 investment gains and losses under Subsection (2)(a) are subject to forfeiture.

1154 (b) If a member who terminates employment with a participating employer prior to the
1155 vesting period described in Subsection (3)(a) subsequently enters employment with the same or
1156 another participating employer within 10 years of the termination date of the previous
1157 employment:

1158 (i) all contributions made by the previous participating employer on behalf of the
1159 member including associated investment gains and losses shall be reinstated upon the member's
1160 employment as a regular full-time employee; and

1161 (ii) the length of time that the member worked with the previous employer shall be
1162 included in determining whether the member has completed the vesting period under
1163 Subsection (3)(a).

1164 (c) The office shall establish a forfeiture account and shall specify the uses of the
1165 forfeiture account, which may include an offset against administrative costs or employer
1166 contributions made under this section.

1167 (8) The office may request from any other qualified 401(k) plan under Subsection (2)
1168 any relevant information pertaining to the maintenance of its tax qualification under the
1169 Internal Revenue Code.

1170 (9) The office may take any action which in its judgment is necessary to maintain the
1171 tax-qualified status of its 401(k) defined contribution plan under federal law.

1172 Section 18. Section **49-23-202** is amended to read:

1173 **49-23-202. Participation of employers -- Admission requirements.**

1174 (1) (a) An employer is a participating employer and may not withdraw from
1175 participation in this system.

1176 (b) A participating employer shall cover its:

1177 (i) public safety service employees in accordance with Section 49-15-202; and

1178 (ii) firefighter service employees in accordance with Section 49-16-202.

1179 (2) (a) An employer may, by resolution of its governing body, apply for admission to
1180 this system.

1181 (b) Upon approval of the resolution by the board, the employer is a participating
1182 employer in this system and is subject to this title.

1183 (3) If a participating employer purchases service credit on behalf of public safety
1184 service employees or firefighter service employees for service rendered prior to the
1185 participating employer's admission to this system, the service credit shall be purchased in a
1186 nondiscriminatory manner on behalf of all current and former public safety service employees
1187 or firefighter service employees who were eligible for service credit at the time service was
1188 rendered.

1189 Section 19. Section **49-23-401** is amended to read:

1190 **49-23-401. Contributions -- Rates.**

1191 (1) Up to the amount allowed by federal law, the participating employer shall make a
1192 nonelective contribution of 12% of the participant's compensation to a defined contribution
1193 plan.

1194 (2) (a) The participating employer shall contribute the 12% nonelective contribution
1195 described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the
1196 Internal Revenue Code which:

1197 (i) is sponsored by the board; and

1198 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

1199 (b) The member may make voluntary deferrals to:

1200 (i) the qualified 401(k) plan which receives the employer contribution described in this
1201 Subsection (2); or

1202 (ii) at the member's option, another defined contribution plan established by the
1203 participating employer.

1204 (c) In addition to the percent specified under Subsection (2)(a), the participating
1205 employer shall pay the corresponding Tier I system amortization rate of the employee's
1206 compensation to the office to be applied to the employer's corresponding Tier I system liability.

1207 (3) (a) ~~[The]~~ Except as provided under Subsection (3)(c), the total amount contributed
1208 by the participating employer under Subsection (2)(a) vests to the member upon accruing four
1209 years of [employment as a regular full-time employee under this chapter] service credit under
1210 this title.

1211 (b) The total amount contributed by the member under Subsection (2)(b) vests to the
1212 member's benefit immediately and is nonforfeitable.

1213 (c) Upon filing a written request for exemption with the office, the following
1214 employees are exempt from the vesting requirements of Subsection (3)(a) if employee is a
1215 public safety service employee and is:

1216 (i) an executive department head of the state;

1217 (ii) an elected or appointed sheriff of a county; or

1218 (iii) an elected or appointed chief of police of a municipality.

1219 (d) (i) A participating employer shall prepare a list designating those positions eligible
1220 for exemption under Subsection (3)(c).

1221 (ii) An employee may not be exempted unless the employee is employed in a position
1222 designated by the participating employer under Subsection (3)(c).

1223 (e) Each participating employer shall:

1224 (i) file each employee exemption annually with the office; and

1225 (ii) update an employee exemption in the event of any change.

1226 (f) (i) The office shall make rules to implement this Subsection (3).

1227 (ii) The rules made under Subsection (3)(f)(i) shall include provisions to allow the
1228 exemption provided under Subsection (3)(c) to apply to all contributions made beginning on or
1229 after July 1, 2011 on behalf an exempted employee who began the employment before May 8,
1230 2012.

1231 (4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be
1232 invested in a default option selected by the board until the member is vested in accordance with
1233 Subsection (3)(a).

1234 (b) A member may direct the investment of contributions, including associated

1235 investment gains and losses, made by a participating employer under Subsection (2)(a) only
1236 after the contributions have vested in accordance with Subsection (3)(a).

1237 (c) A member may direct the investment of contributions made by the member under
1238 Subsection (3)(b).

1239 (5) No loans shall be available from contributions made by a participating employer
1240 under Subsection (2)(a).

1241 (6) No hardship distributions shall be available from contributions made by a
1242 participating employer under Subsection (2)(a).

1243 (7) (a) Except as provided in Subsection (7)(b), if a member terminates employment
1244 with a participating employer prior to the vesting period described in Subsection (3)(a), all
1245 contributions made by a participating employer on behalf of the member under Subsection
1246 (2)(a), including associated investment gains and losses [~~under Subsection (2)(a)~~] are subject to
1247 forfeiture.

1248 (b) If a member who terminates employment with a participating employer prior to the
1249 vesting period described in Subsection (3)(a) subsequently enters employment with the same or
1250 another participating employer within 10 years of the termination date of the previous
1251 employment:

1252 (i) all contributions made by the previous participating employer on behalf of the
1253 member, including associated investment gains and losses, shall be reinstated upon the
1254 member's employment as a regular full-time employee; and

1255 (ii) the length of time that the member worked with the previous employer shall be
1256 included in determining whether the member has completed the vesting period under
1257 Subsection (3)(a).

1258 (c) The office shall establish a forfeiture account and shall specify the uses of the
1259 forfeiture account, which may include an offset against administrative costs of employer
1260 contributions made under this section.

1261 (8) The office may request from any other qualified 401(k) plan under Subsection (2)
1262 any relevant information pertaining to the maintenance of its tax qualification under the
1263 Internal Revenue Code.

1264 (9) The office may take any action which in its judgment is necessary to maintain the
1265 tax-qualified status of its 401(k) defined contribution plan under federal law.

1266 Section 20. Section **49-23-601** is amended to read:

1267 **49-23-601. Long-term disability coverage.**

1268 (1) A participating employer shall cover a public safety employee who initially enters
1269 employment on or after July 1, 2011, under [~~Title 49,~~] Chapter 21, Public Employees'
1270 Long-Term Disability Act, or a substantially similar long-term disability program.

1271 (2) (a) A participating employer shall cover a firefighter employee who initially enters
1272 employment on or after July 1, 2011, under [~~Title 49,~~] Chapter 21, Public Employees'
1273 Long-Term Disability Act.

1274 (b) In accordance with this section, a participating employer shall provide long-term
1275 disability benefit coverage for a volunteer firefighter as provided under Section 49-16-701.

1276 (c) The office shall ensure that the cost of the long-term disability benefit coverage
1277 provided under Subsections (2)(a) and (b) is funded with revenue received under Section
1278 49-11-901.5.