

UTAH RETIREMENT AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: _____

LONG TITLE

Committee Note:

The Retirement and Independent Entities Interim Committee recommended this bill.

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act and the Utah State Personnel Management Act by amending retirement provisions.

Highlighted Provisions:

This bill:

- ▶ clarifies definitions;
- ▶ replaces mention of the Teachers Insurance and Annuity Association of America with a retirement plan offered by a public or private system, organization, or company designated by the State Board of Regents;

- ▶ clarifies that a governor, legislator, other full-time elected official, or employee with Tier I service credit in a system or plan administered by the Utah State Retirement Board may only participate in another Tier I system or plan if the individual enters office or employment with a participating employer on or after July 1, 2011;

- ▶ expands the annual CPI increases for postretirement earnings limitations to include reemployed earnings that are based on one-half of final average salary;

- ▶ clarifies reporting provisions for participating ~~§~~→ **[employees]** **employers** ←~~§~~ regarding the employees' accrual of service credit;

- ▶ eliminates the requirement that certain retirement application forms must be



28 notarized when submitted to the Utah State Retirement Office;

29 ▶ provides that a beneficiary who qualifies for a monthly benefit must apply in writing
 30 to the Utah State Retirement Office and that the allowance shall begin on the first
 31 day of the month following the month in which the participant died if the
 32 application is received within 90 days of the death, or the following month if the
 33 application is received by the office more than 90 days after the date of death;

34 ▶ provides that for certain employer service credit purchases, an employee is not
 35 required to have at least four years of service credit or to forfeit service credit or any
 36 defined contribution balance;

37 ▶ provides that a minor child beneficiary may receive a refund of a deceased
 38 member's public safety member contributions;

39 ▶ clarifies that a judge with 25 or more years of service credit does not get penalized
 40 for retiring before age 65;

41 ▶ provides that an eligible employee in the Tier II public employees system includes
 42 an employee who is covered by a retirement program offered by another public or
 43 private system, organization, or company designated by the State Board of Regents;

44 ▶ provides that a person who is receiving long-term disability benefits may only
 45 accrue service credit until the earlier of date of death, the date the person retires, or
 46 the date the person has accumulated or would have accumulated service credit in a
 47 defined benefit system or plan under this title, sufficient to be eligible to retire with
 48 an unreduced benefit;

49 ▶ clarifies that a qualifying employee must be receiving paid leave benefits to be
 50 eligible to receive the state employee matching supplemental defined contribution
 51 benefit; and

52 ▶ makes technical changes.

53 **Money Appropriated in this Bill:**

54 None

55 **Other Special Clauses:**

56 ~~Ŝ~~→ [None] This bill takes effect immediately. ←~~Ŝ~~

57 **Utah Code Sections Affected:**

58 AMENDS:

- 59 [49-11-102](#), as last amended by Laws of Utah 2013, Chapters 215 and 316
- 60 [49-11-201](#), as last amended by Laws of Utah 2004, Chapter 118
- 61 [49-11-403](#), as last amended by Laws of Utah 2011, Chapters 366 and 439
- 62 [49-11-505](#), as last amended by Laws of Utah 2013, Chapter 48
- 63 [49-11-603](#), as last amended by Laws of Utah 2008, Chapter 252
- 64 [49-11-610](#), as renumbered and amended by Laws of Utah 2002, Chapter 250
- 65 [49-12-201](#), as last amended by Laws of Utah 2010, Chapter 266
- 66 [49-12-202](#), as last amended by Laws of Utah 2009, Chapters 51 and 165
- 67 [49-12-203](#), as last amended by Laws of Utah 2013, Chapters 310 and 316
- 68 [49-12-204](#), as last amended by Laws of Utah 2013, Chapter 316
- 69 [49-12-401](#), as last amended by Laws of Utah 2013, Chapter 215
- 70 [49-12-402](#), as last amended by Laws of Utah 2011, Chapter 439
- 71 [49-13-102](#), as last amended by Laws of Utah 2013, Chapters 109 and 127
- 72 [49-13-201](#), as last amended by Laws of Utah 2010, Chapter 266
- 73 [49-13-202](#), as last amended by Laws of Utah 2012, Chapter 298
- 74 [49-13-203](#), as last amended by Laws of Utah 2013, Chapters 310 and 316
- 75 [49-13-204](#), as last amended by Laws of Utah 2013, Chapter 316
- 76 [49-13-401](#), as last amended by Laws of Utah 2013, Chapter 215
- 77 [49-13-402](#), as last amended by Laws of Utah 2011, Chapter 439
- 78 [49-14-201](#), as last amended by Laws of Utah 2010, Chapter 266
- 79 [49-14-401](#), as last amended by Laws of Utah 2013, Chapter 215
- 80 [49-14-501](#), as last amended by Laws of Utah 2011, Chapter 439
- 81 [49-14-504](#), as last amended by Laws of Utah 2011, Chapter 366
- 82 [49-15-201](#), as last amended by Laws of Utah 2010, Chapter 266
- 83 [49-15-202](#), as last amended by Laws of Utah 2010, Chapter 266
- 84 [49-15-401](#), as last amended by Laws of Utah 2013, Chapter 215
- 85 [49-15-501](#), as last amended by Laws of Utah 2011, Chapter 439
- 86 [49-15-504](#), as last amended by Laws of Utah 2011, Chapter 366
- 87 [49-16-201](#), as last amended by Laws of Utah 2011, Chapter 366
- 88 [49-16-401](#), as last amended by Laws of Utah 2013, Chapter 215
- 89 [49-16-504](#), as last amended by Laws of Utah 2011, Chapter 366

- 90 49-17-401, as last amended by Laws of Utah 2011, Chapter 439
- 91 49-17-402, as last amended by Laws of Utah 2010, Chapter 264
- 92 49-17-502, as last amended by Laws of Utah 2009, Chapter 224
- 93 49-18-401, as last amended by Laws of Utah 2011, Chapter 439
- 94 49-18-402, as last amended by Laws of Utah 2010, Chapter 264
- 95 49-18-502, as last amended by Laws of Utah 2009, Chapter 224
- 96 49-19-201, as last amended by Laws of Utah 2010, Chapter 266
- 97 49-19-401, as last amended by Laws of Utah 2004, Chapter 118
- 98 49-21-102, as last amended by Laws of Utah 2013, Chapter 316
- 99 49-22-201, as last amended by Laws of Utah 2011, Chapter 439
- 100 49-22-203, as last amended by Laws of Utah 2013, Chapter 316
- 101 49-22-204, as enacted by Laws of Utah 2010, Chapter 266
- 102 49-22-304, as last amended by Laws of Utah 2013, Chapter 215
- 103 49-23-201, as last amended by Laws of Utah 2011, Chapter 439
- 104 49-23-303, as last amended by Laws of Utah 2013, Chapter 215
- 105 49-23-503, as last amended by Laws of Utah 2013, Chapter 40
- 106 67-19-43, as enacted by Laws of Utah 2013, Chapter 277

ENACTS:

49-21-408, Utah Code Annotated 1953

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

Section 1. 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:

(i) is employed by a participating employer and accruing service credit; or [who]

(ii) within the previous 120 days:

(A) has been employed by a participating employer [within the previous 120 days.];

and

(B) accrued service credit.

(b) "Active member" does not include [retirees] a retiree.

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

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

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

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

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

130 (iii) a state college or university; or

131 (iv) any other participating employer.

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

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

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

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

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

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

146 (a) who earns \$500 or more per month, indexed as of January 1, 1990, as provided in
147 Section [49-12-407](#) for a Tier I appointive officer; and

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

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

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

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

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

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

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

165 (12) "Board" means the Utah State Retirement Board established under Section
166 [49-11-202](#).

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

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

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

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

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

179 (18) "Current service" means covered service under:

180 (a) Chapter 12, Public Employees' Contributory Retirement Act;

181 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;

182 (c) Chapter 14, Public Safety Contributory Retirement Act;

- 183 (d) Chapter 15, Public Safety Noncontributory Retirement Act;
184 (e) Chapter 16, Firefighters' Retirement Act;
185 (f) Chapter 17, Judges' Contributory Retirement Act;
186 (g) Chapter 18, Judges' Noncontributory Retirement Act;
187 (h) Chapter 19, Utah Governors' and Legislators' Retirement Act;
188 (i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
189 (j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

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

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

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

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

- 203 (a) the State Board of Education and its instrumentalities;
204 (b) any institution of higher education and its branches;
205 (c) any school district and its instrumentalities;
206 (d) any vocational and technical school; and
207 (e) any entity arising out of a consolidation agreement between entities described under
208 this Subsection (21).

209 (22) "Elected official":

- 210 (a) means a person elected to a state office, county office, municipal office, school
211 board or school district office, local district office, or special service district office;
212 (b) includes a person who is appointed to serve an unexpired term of office described
213 under Subsection (22)(a); and

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

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

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

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

222 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,
223 49-14-203, 49-15-203, or 49-16-203; and

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

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

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

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

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

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

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

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

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

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

242 and

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

244 (29) "Institution of higher education" means an institution described in Section

245 53B-1-102.

246 (30) (a) "Member" means a person, except a retiree, with contributions on deposit with
247 a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah
248 Governors' and Legislators' Retirement Act, or with a terminated system.

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

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

258 (a) the member; and

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

261 (32) "Nonelective contribution" means an amount contributed by a participating
262 employer into a participant's defined contribution account.

263 (33) "Normal cost rate":

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

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

268 (34) "Office" means the Utah State Retirement Office.

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

271 (36) "Participating employer" means a participating employer, as defined by Chapter
272 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'
273 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,
274 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'
275 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges'

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

278 (37) "Part-time appointed board member" means a person:

279 (a) who is appointed to serve as a member of a board, commission, council, committee,
280 or panel of a participating employer; and

281 (b) whose service as a part-time appointed board member does not qualify as a regular
282 full-time employee as defined under Section [49-12-102](#), [49-13-102](#), or [49-22-102](#).

283 (38) "Pension" means monthly payments derived from participating employer
284 contributions.

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

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

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

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

299 (41) "Program" means the Public Employees' Insurance Program created under Chapter
300 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'
301 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term
302 Disability Act.

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

307 subdivisions.

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

310 (44) (a) "Reemployed," "reemploy," or "reemployment" means work or service
311 performed for a participating employer after retirement, in exchange for compensation.

312 (b) Reemployment includes work or service performed on a contract for a participating
313 employer if the retiree is:

314 (i) listed as the contractor; or

315 (ii) an owner, partner, or [~~principle~~] principal of the contractor.

316 (45) "Refund interest" means the amount accrued on member contributions at a rate
317 adopted by the board.

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

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

321 (48) "Retirement date" means the date selected by the member on which the member's
322 retirement becomes effective with the office.

323 (49) "Retirement related contribution":

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

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

328 (50) "Service credit" means:

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

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

334 (51) "System" means the individual retirement systems created by Chapter 12, Public
335 Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory
336 Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public
337 Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17,

338 Judges' Contributory Retirement Act, Chapter 18, Judges' Noncontributory Retirement Act, and
339 Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the
340 Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System,
341 and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part
342 3, Tier II Hybrid Retirement System.

343 (52) "Tier I" means a system or plan under this title for which:

344 (a) an employee is eligible to participate if the employee initially enters regular
345 full-time employment before July 1, 2011[-]; or

346 (b) a governor or legislator who initially enters office before July 1, 2011.

347 (53) (a) "Tier II" means a system or plan under this title provided in lieu of a Tier I
348 system or plan for ~~[which an employee is eligible to participate,]~~ an employee, governor,
349 legislator, or full-time elected official who does not have Tier I service credit in a system or
350 plan under this title:

351 (i) if the employee initially enters regular full-time employment on or after July 1,
352 2011[-]; or

353 (ii) if the governor, legislator, or full-time elected official initially enters office on or
354 after July 1, 2011.

355 (b) "Tier II" includes:

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

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

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

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

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

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

362 (54) "Unfunded actuarial accrued liability" or "UAAL":

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

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

366 (55) "Voluntary deferrals" means an amount contributed by a participant into that
367 participant's defined contribution account.

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

369 **49-11-201. Establishment of retirement office -- An independent state agency --**
370 **Office exemption.**

371 (1) (a) There is established the Utah State Retirement Office, which may also be
372 known and function as the Utah State Retirement Systems or the Utah Retirement Systems.

373 (b) The office shall administer the systems, plans, and programs and perform all other
374 functions assigned to it under this title.

375 (2) (a) The office is an independent state agency.

376 (b) It is subject to legislative and executive department budgetary review and comment.

377 (3) The office may establish branch offices upon approval of the board.

378 (4) The board and office are exempt from those acts which are applicable to state and
379 other governmental entities under this code.

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

381 **49-11-403. Purchase of public service credit not otherwise qualifying for benefit.**

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

385 (a) United States federal employment;

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

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

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

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

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

395 (i) the member was receiving:

396 (A) long-term disability benefits;

397 (B) short-term disability benefits; or

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

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

400 Section ~~49-11-404~~ during the period the member had a disability due to sickness or accident;

401 (g) employment covered by a [~~Teachers Insurance and Annuity Association of~~
402 ~~America~~] retirement plan offered by a public or private system, organization, or company
403 designated by the State Board of Regents, if the member forfeits any retirement benefit from
404 that retirement plan for the period of employment to be purchased under this Subsection (1)(g);
405 or

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

409 (2) A member shall:

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

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

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

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

420 (i) recommended by the actuary; and

421 (ii) adopted by the board.

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

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

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

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

431 participating employer jointly may:

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

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

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

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

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

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

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

439 retirement.

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

441 purchase, the office shall refund the excess payment to the member or participating employer

442 who paid for the purchase.

443 (8) (a) The board may adopt rules under which a member may make the necessary

444 payments to the office for purchases under this title as permitted by federal law.

445 (b) The office may reject any payments if the office determines the tax status of the

446 system, plans, or programs would be jeopardized by allowing the payment.

447 (9) An employee who elects to participate exclusively in the defined contribution plan

448 under Chapter 22, Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II

449 Defined Contribution Plan, may not purchase service credit for that period of employment.

450 Section 4. Section **49-11-505** is amended to read:

451 **49-11-505. Reemployment of a retiree -- Restrictions.**

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

453 (i) means a person who:

454 (A) retired from a participating employer; and

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

456 (ii) does not include a person:

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

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

459 (1)(a)(ii)(A) was dissolved, consolidated, merged, or structurally changed in accordance with

460 Section **49-11-621** after July 1, 2010; and

461 (iii) does not include a person who is reemployed as an active senior judge appointed

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

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

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

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

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

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

471 (b) receive a retirement allowance.

472 (3) (a) Except as provided under Subsection (3)(b), the office shall cancel the
473 retirement allowance of a retiree if the reemployment with a participating employer begins
474 within one year of the retiree's retirement date.

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

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

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

481 (A) medical benefits;

482 (B) dental benefits;

483 (C) other insurance benefits except for workers' compensation as provided under Title
484 34A, Chapter 2, Workers' Compensation Act, and withholdings required by federal or state law
485 for Social Security, Medicare, and unemployment insurance; or

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

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

489 (A) \$15,000; or

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

492 (c) Beginning January 1, 2013, the board shall adjust the [~~amount~~] amounts under

493 Subsection (3)(b)(iii)[(A)] by the annual change in the Consumer Price Index during the
494 previous calendar year as measured by a United States Bureau of Labor Statistics Consumer
495 Price Index average as determined by the board.

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

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

503 (4) If a reemployed retiree has completed the one-year separation from employment
504 with a participating employer required under Subsection (3)(a), the retiree may elect to:

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

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

509 (5) A participating employer who reemploys a retiree shall contribute to the office the
510 amortization rate, as defined in Section 49-11-102, to be applied to the system that would have
511 covered the retiree, if the reemployed retiree:

512 (a) has completed the one-year separation from employment with a participating
513 employer required under Subsection (3)(a); and

514 (b) makes an election under Subsection (4)(b) to continue to receive a retirement
515 allowance while reemployed.

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

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

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

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

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

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

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

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

- 528 (i) the reemployment of a retiree in violation of Subsection (3); or
- 529 (ii) the election of a reemployed retiree under Subsection (4)(a).

530 (b) If the retiree is eligible for retirement coverage in the reemployed position, the
531 office shall cancel the allowance of a retiree subject to Subsection (7)(a), and reinstate the
532 retiree to active member status on the first day of the month following the date of:

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

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

- 537 (i) the office shall cancel the allowance of a retiree subject to Subsection (7)(a)(i); and
- 538 (ii) the participating employer shall pay the amortization rate to the office on behalf of
539 the retiree.

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

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

544 (b) Subject to Subsection (2), a retiree who is reinstated to active membership under
545 Subsection (7) and who retires two or more years after the date of reinstatement to active
546 membership shall:

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

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

553 (b) If the retiree fails to inform the office of an election under Subsection (4), the office
554 shall withhold one month's benefit for each month the retiree fails to inform the office under

555 Subsection (9)(a).

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

557 Section 5. Section **49-11-603** is amended to read:

558 **49-11-603. Participating employer to report and certify -- Time limit -- Penalties**
559 **for failure to comply.**

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

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

563 (i) [~~all current members~~] each current employee;

564 (ii) each new [~~member~~] employee as [~~they begin~~] the new employee begins
565 employment; and

566 (iii) any changes to eligibility for service credit accrual of each [~~member.~~] employee;

567 (b) the compensation of each current [~~member~~] employee eligible for service credit;

568 and

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

571 (2) Each participating employer shall submit the reports required under Subsection (1)
572 in a format approved by the office.

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

574 (a) any liabilities and expenses, including administrative expenses and the cost of
575 increased benefits to [~~members~~] employees, resulting from the participating employer's failure
576 to correctly report and certify records under this section;

577 (b) a penalty equal to \$250 or 50% of the total contributions for the [~~member~~]
578 employees for the period of the reporting error, whichever is greater; and

579 (c) attorney fees.

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

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

585 Section 6. Section **49-11-610** is amended to read:

586 **49-11-610. Benefits payable in name of beneficiary -- Delivery.**

587 (1) (a) Any benefits payable to a beneficiary shall be made in the name of and
588 delivered to the beneficiary or the lawfully appointed guardian or conservator of the
589 beneficiary, or delivered as otherwise ordered by a court of competent jurisdiction under Title
590 75, Utah Uniform Probate Code.

591 (b) If the benefit involves a payment not to exceed an amount authorized by the Utah
592 Uniform Probate Code to any one beneficiary, the office may, without the appointment of a
593 guardian or conservator or the giving of a bond, pay the amount due to the beneficiary or to the
594 persons assuming their support.

595 (c) The payment shall be in either a lump sum or in monthly amounts.

596 (d) The total of the payments made under this section shall fully discharge and release
597 the office from any further claims.

598 ~~[(2) All continuing monthly benefits payable to beneficiaries upon the death of a
599 member or participant shall be effective on the first day of the month following the date of
600 death of the member or participant.]~~

601 (2) A beneficiary who qualifies for a monthly benefit under this section shall apply in
602 writing to the office.

603 (3) The allowance shall begin on the first day of the month following the month in
604 which the:

605 (a) member or participant died, if the application is received by the office within 90
606 days of the date of death of the member or participant; or

607 (b) application is received by the office, if the application is received by the office
608 more than 90 days after the date of death of the member or participant.

609 Section 7. Section **49-12-201** is amended to read:

610 **49-12-201. System membership -- Eligibility.**

611 (1) A regular full-time employee of a participating employer is eligible for service
612 credit in this system upon the later of:

613 (a) the date on which the participating employer began participating in this system; or

614 (b) the effective date of employment of the regular full-time employee with the
615 participating employer.

616 (2) Beginning July 1, 1986, a person entering employment with the state and its

617 educational institutions may not participate in this system.

618 (3) Notwithstanding the provisions of Subsection (1), a person initially entering
619 employment with a participating employer on or after July 1, 2011, who does not have service
620 credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may
621 not participate in this system.

622 Section 8. Section **49-12-202** is amended to read:

623 **49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission**
624 **requirements -- Exceptions -- Nondiscrimination requirements.**

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

627 (b) In addition to their participation in this system, participating employers may
628 provide or participate in public or private retirement, supplemental or defined contribution
629 plan, either directly or indirectly, for their employees.

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

631 (a) an employer not initially admitted or included as a participating employer in this
632 system prior to January 1, 1982 if:

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

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

638 (b) an employer that is a charter school sponsored by the State Board of Education or a
639 school district that makes an election of nonparticipation in accordance with Section
640 [53A-1a-512](#) unless the charter school makes a one-time, irrevocable retraction of the election
641 of nonparticipation in accordance with Subsection [53A-1a-512\(9\)](#); or

642 (c) an employer that is a hospital created as a special service district under Title 17D,
643 Chapter 1, Special Service District Act, that makes an election of nonparticipation in
644 accordance with Subsection (4).

645 (3) An employer who did not become a participating employer in this system prior to
646 July 1, 1986, may not participate in this system.

647 (4) (a) Until June 30, 2009, a employer that is a hospital created as a special service

648 district under Title 17D, Chapter 1, Special Service District Act, may make an election of
649 nonparticipation as an employer for retirement programs under this chapter.

650 (b) An election provided under Subsection (4)(a):

651 (i) is a one-time election made no later than the time specified under Subsection (4)(a);

652 (ii) shall be documented by a resolution adopted by the governing body of the special
653 service district;

654 (iii) is irrevocable; and

655 (iv) applies to the special service district as the employer and to all employees of the
656 special service district.

657 (c) The governing body of the special service district may offer employee benefit plans
658 for its employees:

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

660 or

661 (ii) under any other program.

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

667 (b) For a purchase made under this Subsection (5), an employee is not required to:

668 (i) have at least four years of service credit before the purchase can be made; or

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

672 Section 9. Section **49-12-203** is amended to read:

673 **49-12-203. Exclusions from membership in system.**

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

675 (a) subject to the requirements of Subsection (2), an employee whose employment
676 status is temporary in nature due to the nature or the type of work to be performed;

677 (b) except as provided under Subsection (3)(a), an employee of an institution of higher
678 education who participates in a retirement system with ~~[the Teachers' Insurance and Annuity~~

679 ~~Association of America or with any other~~] a public or private retirement system, organization,
680 or company designated by the State Board of Regents during any period in which required
681 contributions based on compensation have been paid on behalf of the employee by the
682 employer;

683 (c) an employee serving as an exchange employee from outside the state;

684 (d) an executive department head of the state, a member of the State Tax Commission,
685 the Public Service Commission, and a member of a full-time or part-time board or commission
686 who files a formal request for exemption;

687 (e) an employee of the Department of Workforce Services who is covered under
688 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; or

689 (f) an employee who is employed on or after July 1, 2009 with an employer that has
690 elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection
691 [49-12-202\(2\)\(c\)](#).

692 (2) If an employee whose status is temporary in nature due to the nature of type of
693 work to be performed:

694 (a) is employed for a term that exceeds six months and the employee otherwise
695 qualifies for service credit in this system, the participating employer shall report and certify to
696 the office that the employee is a regular full-time employee effective the beginning of the
697 seventh month of employment; or

698 (b) was previously terminated prior to being eligible for service credit in this system
699 and is reemployed within three months of termination by the same participating employer, the
700 participating employer shall report and certify that the member is a regular full-time employee
701 when the total of the periods of employment equals six months and the employee otherwise
702 qualifies for service credits in this system.

703 (3) (a) Upon cessation of the participating employer contributions, an employee under
704 Subsection (1)(b) is eligible for service credit in this system.

705 (b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service
706 credit earned by an employee under this chapter before July 1, 2009 is not affected under
707 Subsection (1)(f).

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

- 710 (a) a full-time student or the spouse of a full-time student and individuals employed in
- 711 a trainee relationship;
- 712 (b) an elected official;
- 713 (c) an executive department head of the state, a member of the State Tax Commission,
- 714 a member of the Public Service Commission, and a member of a full-time or part-time board or
- 715 commission;
- 716 (d) an employee of the Governor's Office of Management and Budget;
- 717 (e) an employee of the Governor's Office of Economic Development;
- 718 (f) an employee of the Commission on Criminal and Juvenile Justice;
- 719 (g) an employee of the Governor's Office;
- 720 (h) an employee of the State Auditor's Office;
- 721 (i) an employee of the State Treasurer's Office;
- 722 (j) any other member who is permitted to make an election under Section 49-11-406;
- 723 (k) a person appointed as a city manager or chief city administrator or another person
- 724 employed by a municipality, county, or other political subdivision, who is an at-will employee;
- 725 and
- 726 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
- 727 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through
- 728 membership in a labor organization that provides retirement benefits to its members.
- 729 (5) (a) Each participating employer shall prepare a list designating those positions
- 730 eligible for exemption under Subsection (4).
- 731 (b) An employee may not be exempted unless the employee is employed in a position
- 732 designated by the participating employer.
- 733 (6) (a) In accordance with this section, a municipality, county, or political subdivision
- 734 may not exempt more than 50 positions or a number equal to 10% of the employees of the
- 735 municipality, county, or political subdivision whichever is lesser.
- 736 (b) A municipality, county, or political subdivision may exempt at least one regular
- 737 full-time employee.
- 738 (7) Each participating employer shall:
- 739 (a) file employee exemptions annually with the office; and
- 740 (b) update the employee exemptions in the event of any change.

741 (8) The office may make rules to implement this section.

742 Section 10. Section **49-12-204** is amended to read:

743 **49-12-204. Higher education employees' eligibility requirements -- Election**
744 **between different retirement plans -- Classification requirements -- Transfer between**
745 **systems -- One-time election window -- Rulemaking.**

746 (1) (a) A regular full-time employee of an institution of higher education who is
747 eligible to participate in either this system or [~~with the Teachers' Insurance and Annuity~~
748 ~~Association of America or with any other~~] a public or private retirement system, organization,
749 or company, designated by the Board of Regents, shall, not later than January 1, 1979, elect to
750 participate exclusively in this system or in an annuity contract allowed under this Subsection
751 (1).

752 (b) The election is final, and no right exists to make any further election.

753 (2) (a) Except as provided under Subsection (2)(c), a regular full-time employee hired
754 by an institution of higher education after January 1, 1979, may participate only in the
755 retirement plan which attaches to the person's employment classification.

756 (b) Each institution of higher education shall prepare or amend existing employment
757 classifications, under the direction of the Board of Regents, so that each classification is
758 assigned with either:

759 (i) this system; or

760 [~~(ii) the Teachers' Insurance and Annuity Association of America; or~~]

761 [~~(iii) another~~] (ii) a public or private system, organization, or company designated by
762 the Board of Regents.

763 (c) Notwithstanding a person's employment classification assignment under Subsection
764 (2)(b), a regular full-time employee who begins employment with an institution of higher
765 education on or after May 11, 2010, has a one-time irrevocable election to continue
766 participation in this system, if the employee has service credit in this system before the date of
767 employment.

768 (3) Notwithstanding an employment classification assignment change made under
769 Subsection (2)(b), a regular full-time employee hired by an institution of higher education after
770 January 1, 1979, whose employment classification requires participation in this system may
771 elect to continue participation in this system.

772 (4) A regular full-time employee hired by an institution of higher education after
773 January 1, 1979, whose employment classification requires participation in this system shall
774 participate in this system.

775 (5) (a) Notwithstanding any other provision of this section, a regular full-time
776 employee of an institution of higher education shall have a one-time irrevocable election to
777 participate in this system if the employee:

778 (i) was hired after January 1, 1979;

779 (ii) whose employment classification assignment under Subsection (2)(b) required
780 participation in a retirement program other than this system; and

781 (iii) has service credit in a system under this title.

782 (b) The election under Subsection (5)(a) shall be made before June 30, 2010.

783 (c) All forms required by the office must be completed and received by the office no
784 later than June 30, 2010, for the election to participate in this system to be effective.

785 (d) Beginning July 1, 2010, a regular full-time employee of an institution of higher
786 education who elects to be covered by this system under Subsection (5)(a) may begin to accrue
787 service credit in this system.

788 (6) A regular full-time employee of an institution of higher education who elects to be
789 covered by this system under Subsection (2)(c) or (5)(a), may purchase periods of employment
790 while covered under another retirement program sponsored by the institution of higher
791 education by complying with the requirements of Section [49-11-403](#).

792 (7) The board shall make rules to implement this section.

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

794 **49-12-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

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

796 (a) except as provided under Subsection (3), the member ceases actual work for every
797 participating employer that employs the member before the member's retirement date and
798 provides evidence of the termination;

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

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

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

803 of 65 years;

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

805 of 62 years;

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

807 of 60 years; or

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

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

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

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

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

813 the office.

814 (b) Except as provided under Subsection (3), a member may not be employed by a

815 participating employer in the system established by this chapter on the retirement date selected

816 under Subsection (2)(a)(i).

817 (3) (a) A member who is employed by a participating employer and who is also an

818 elected official is not required to cease service as an elected official to be qualified to receive

819 an allowance under Subsection (1), unless the member is retiring from service as an elected

820 official.

821 (b) A member who is employed by a participating employer and who is also a part-time

822 appointed board member is not required to cease service as a part-time appointed board

823 member to be qualified to receive an allowance under Subsection (1).

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

825 **49-12-402. Service retirement plans -- Calculation of retirement allowance --**

826 **Social Security limitations.**

827 (1) (a) Except as provided under Section [49-12-701](#), retirees of this system may choose

828 from the six retirement options described in this section.

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

830 calculation.

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

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

833 credit, the allowance is:

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

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

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

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

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

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

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

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

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

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

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

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

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

869 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
870 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
871 of initial retirement under Option One shall be paid to the retiree for the remainder of the
872 retiree's life, beginning on the first day of the month following the month in which the:

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

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

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

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

885 (b) Periods of employment which are exempt from this system under Subsection
886 [49-12-203\(1\)\(b\)](#), may be purchased by the member for the purpose of retirement only if all
887 benefits from ~~[the Teachers' Insurance and Annuity Association of America or any other public~~
888 ~~or private system or organization]~~ a public or private system, organization, or company
889 designated by the State Board of Regents based on this period of employment are forfeited.

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

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

895 (6) If a retiree retires under either Option Five or Six and subsequently divorces, the

896 retiree may elect to convert the benefit to a Option One benefit at the time of divorce, if there is
897 no court order filed in the matter.

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

899 **49-13-102. Definitions.**

900 As used in this chapter:

901 (1) "Benefits normally provided" has the same meaning as defined in Section
902 [49-12-102](#).

903 (2) (a) Except as provided in Subsection (2)(c), "compensation" means the total
904 amount of payments made by a participating employer to a member of this system for services
905 rendered to the participating employer, including:

- 906 (i) bonuses;
- 907 (ii) cost-of-living adjustments;
- 908 (iii) other payments currently includable in gross income and that are subject to Social
909 Security deductions, including any payments in excess of the maximum amount subject to
910 deduction under Social Security law; and

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

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

915 (c) "Compensation" does not include:

- 916 (i) the monetary value of remuneration paid in kind, including a residence or use of
917 equipment;
- 918 (ii) the cost of any employment benefits paid for by the participating employer;
- 919 (iii) compensation paid to a temporary employee, an exempt employee, or an employee
920 otherwise ineligible for service credit;

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

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

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

927 (2) falls within the definition of compensation.

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

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

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

- 937 (i) the member has transferred from another agency; or
938 (ii) the member has been promoted to a new position.

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

943 (4) "Participating employer" means an employer which meets the participation
944 requirements of Sections [49-13-201](#) and [49-13-202](#).

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

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

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

953 (ii) a classified school employee:

954 (A) who is hired before July 1, 2013; and

955 (B) whose employment normally requires an average of 20 hours per week or more for
956 a participating employer, regardless of benefits provided;

957 (iii) an officer, elective or appointive, who earns \$500 or more per month, indexed as

958 of January 1, 1990, as provided in Section [49-13-407](#);

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

961 (v) an individual who otherwise meets the definition of this Subsection [~~(4)~~] (5) who
962 performs services for a participating employer through a professional employer organization or
963 similar arrangement.

964 (c) "Regular full-time employee" does not include a classified school employee:

965 (i) (A) who is hired on or after July 1, 2013; and

966 (B) who does not receive benefits normally provided by the participating employer
967 even if the employment normally requires an average of 20 hours per week or more for a
968 participating employer; or

969 (ii) (A) who is hired before July 1, 2013;

970 (B) who did not qualify as a regular full-time employee before July 1, 2013;

971 (C) who does not receive benefits normally provided by the participating employer;

972 and

973 (D) whose employment hours are increased on or after July 1, 2013, to require an
974 average of 20 hours per week or more for a participating employer.

975 (6) "System" means the Public Employees' Noncontributory Retirement System.

976 (7) "Years of service credit" means:

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

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

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

985 Section 14. Section **49-13-201** is amended to read:

986 **49-13-201. System membership -- Eligibility.**

987 (1) Beginning July 1, 1986, the state and its educational institutions shall participate in
988 this system.

989 (a) A person entering regular full-time employment with the state or its educational
990 institutions after July 1, 1986, but before July 1, 2011, is eligible for service credit in this
991 system.

992 (b) A person entering regular full-time employment with the state or its educational
993 institutions after July 1, 2011, who has service credit accrued before July 1, 2011, in a Tier I
994 system or plan administered by the board, is eligible for service credit in this system.

995 ~~[(b)]~~ (c) A regular full-time employee of the state or its educational institutions prior to
996 July 1, 1986, may either become eligible for service credit in this system or remain eligible for
997 service in the system established under Chapter 12, Public Employees' Contributory Retirement
998 Act, by following the procedures established by the board in accordance with this chapter.

999 (2) An employer, other than the state and its educational institutions, may participate in
1000 this system except that once an employer elects to participate in this system, that election is
1001 irrevocable and the election must be made before July 1, 2011.

1002 (a) Until June 30, 2011, a person initially entering regular full-time employment with a
1003 participating employer which elects to participate in this system is eligible for service credit in
1004 this system.

1005 (b) A person in regular full-time employment with a participating employer prior to the
1006 participating employer's election to participate in this system may either become eligible for
1007 service credit in this system or remain eligible for service in the system established under
1008 Chapter 12, Public Employees' Contributory Retirement Act, by following the procedures
1009 established by the board in accordance with this chapter.

1010 (3) Notwithstanding the provisions of Subsections (1) and (2), a person initially
1011 entering employment with a participating employer on or after July 1, 2011, who does not have
1012 service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board,
1013 may not participate in this system.

1014 Section 15. Section **49-13-202** is amended to read:

1015 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**
1016 **requirements -- Nondiscrimination requirements -- Service credit purchases.**

1017 (1) (a) Unless excluded under Subsection (2), an employer is a participating employer
1018 and may not withdraw from participation in this system.

1019 (b) In addition to their participation in this system, participating employers may

1020 provide or participate in any additional public or private retirement, supplemental or defined
1021 contribution plan, either directly or indirectly, for their employees.

1022 (2) The following employers may be excluded from participation in this system:

1023 (a) an employer not initially admitted or included as a participating employer in this
1024 system before January 1, 1982, if:

1025 (i) the employer elects not to provide or participate in any type of private or public
1026 retirement, supplemental or defined contribution plan, either directly or indirectly, for its
1027 employees, except for Social Security; or

1028 (ii) the employer offers another collectively bargained retirement benefit and has
1029 continued to do so on an uninterrupted basis since that date;

1030 (b) an employer that is a charter school sponsored by the State Board of Education or a
1031 school district that makes an election of nonparticipation in accordance with Section
1032 [53A-1a-512](#) unless the charter school makes a one-time, irrevocable retraction of the election
1033 of nonparticipation in accordance with Subsection [53A-1a-512\(9\)](#);

1034 (c) an employer that is a hospital created as a special service district under Title 17D,
1035 Chapter 1, Special Service District Act, that makes an election of nonparticipation in
1036 accordance with Subsection (5); or

1037 (d) an employer that is a risk management association initially created by interlocal
1038 agreement before 1986 for the purpose of implementing a self-insurance joint protection
1039 program for the benefit of member municipalities of the association.

1040 (3) If an employer that may be excluded under Subsection (2)(a)(i) elects at any time to
1041 provide or participate in any type of public or private retirement, supplemental or defined
1042 contribution plan, either directly or indirectly, except for Social Security, the employer shall be
1043 a participating employer in this system regardless of whether the employer has applied for
1044 admission under Subsection (4).

1045 (4) (a) An employer may, by resolution of its governing body, apply for admission to
1046 this system.

1047 (b) Upon approval of the resolution by the board, the employer is a participating
1048 employer in this system and is subject to this title.

1049 (5) (a) (i) Until June 30, 2009, a employer that is a hospital created as a special service
1050 district under Title 17D, Chapter 1, Special Service District Act, may make an election of

1051 nonparticipation as an employer for retirement programs under this chapter.

1052 (ii) On or before July 1, 2010, an employer described in Subsection (2)(d) may make
1053 an election of nonparticipation as an employer for retirement programs under this chapter.

1054 (b) An election provided under Subsection (5)(a):

1055 (i) is a one-time election made no later than the time specified under Subsection (5)(a);

1056 (ii) shall be documented by a resolution adopted by the governing body of the
1057 employer;

1058 (iii) is irrevocable; and

1059 (iv) applies to the employer described in Subsection (5)(a) and to all employees of that
1060 employer.

1061 (c) The employer making an election under Subsection (5)(a) may offer employee
1062 benefit plans for its employees:

1063 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;

1064 or

1065 (ii) under any other program.

1066 (6) (a) If a participating employer purchases service credit on behalf of regular
1067 full-time employees for service rendered prior to the participating employer's admission to this
1068 system, the service credit shall be purchased in a nondiscriminatory manner on behalf of all
1069 current and former regular full-time employees who were eligible for service credit at the time
1070 service was rendered.

1071 (b) For a purchase made under this Subsection (6), an employee is not required to:

1072 (i) have at least four years of service credit before the purchase can be made; or

1073 (ii) forfeit service credit or any defined contribution balance based on the employer

1074 contributions under any other retirement system or plan based on the period of employment for
1075 which service credit is being purchased.

1076 Section 16. Section **49-13-203** is amended to read:

1077 **49-13-203. Exclusions from membership in system.**

1078 (1) The following employees are not eligible for service credit in this system:

1079 (a) subject to the requirements of Subsection (2), an employee whose employment
1080 status is temporary in nature due to the nature or the type of work to be performed;

1081 (b) except as provided under Subsection (3)(a), an employee of an institution of higher

1082 education who participates in a retirement system with [~~the Teachers' Insurance and Annuity~~
1083 ~~Association of America or with any other~~] a public or private retirement system, organization,
1084 or company designated by the State Board of Regents during any period in which required
1085 contributions based on compensation have been paid on behalf of the employee by the
1086 employer;

1087 (c) an employee serving as an exchange employee from outside the state;

1088 (d) an executive department head of the state or a legislative director, senior executive
1089 employed by the governor's office, a member of the State Tax Commission, a member of the
1090 Public Service Commission, and a member of a full-time or part-time board or commission
1091 who files a formal request for exemption;

1092 (e) an employee of the Department of Workforce Services who is covered under
1093 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act; or

1094 (f) an employee who is employed with an employer that has elected to be excluded
1095 from participation in this system under Subsection 49-13-202(5), effective on or after the date
1096 of the employer's election under Subsection 49-13-202(5).

1097 (2) If an employee whose status is temporary in nature due to the nature of type of
1098 work to be performed:

1099 (a) is employed for a term that exceeds six months and the employee otherwise
1100 qualifies for service credit in this system, the participating employer shall report and certify to
1101 the office that the employee is a regular full-time employee effective the beginning of the
1102 seventh month of employment; or

1103 (b) was previously terminated prior to being eligible for service credit in this system
1104 and is reemployed within three months of termination by the same participating employer, the
1105 participating employer shall report and certify that the member is a regular full-time employee
1106 when the total of the periods of employment equals six months and the employee otherwise
1107 qualifies for service credits in this system.

1108 (3) (a) Upon cessation of the participating employer contributions, an employee under
1109 Subsection (1)(b) is eligible for service credit in this system.

1110 (b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service
1111 credit earned by an employee under this chapter before the date of the election under
1112 Subsection 49-13-202(5) is not affected under Subsection (1)(f).

- 1113 (4) Upon filing a written request for exemption with the office, the following
1114 employees shall be exempt from coverage under this system:
- 1115 (a) a full-time student or the spouse of a full-time student and individuals employed in
1116 a trainee relationship;
- 1117 (b) an elected official;
- 1118 (c) an executive department head of the state, a member of the State Tax Commission,
1119 a member of the Public Service Commission, and a member of a full-time or part-time board or
1120 commission;
- 1121 (d) an employee of the Governor's Office of Management and Budget;
- 1122 (e) an employee of the Governor's Office of Economic Development;
- 1123 (f) an employee of the Commission on Criminal and Juvenile Justice;
- 1124 (g) an employee of the Governor's Office;
- 1125 (h) an employee of the State Auditor's Office;
- 1126 (i) an employee of the State Treasurer's Office;
- 1127 (j) any other member who is permitted to make an election under Section [49-11-406](#);
- 1128 (k) a person appointed as a city manager or chief city administrator or another person
1129 employed by a municipality, county, or other political subdivision, who is an at-will employee;
- 1130 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
1131 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through
1132 membership in a labor organization that provides retirement benefits to its members; and
- 1133 (m) an employee of the Utah Science Technology and Research Initiative created under
1134 Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.
- 1135 (5) (a) Each participating employer shall prepare a list designating those positions
1136 eligible for exemption under Subsection (4).
- 1137 (b) An employee may not be exempted unless the employee is employed in a position
1138 designated by the participating employer.
- 1139 (6) (a) In accordance with this section, a municipality, county, or political subdivision
1140 may not exempt more than 50 positions or a number equal to 10% of the employees of the
1141 municipality, county, or political subdivision, whichever is lesser.
- 1142 (b) A municipality, county, or political subdivision may exempt at least one regular
1143 full-time employee.

- 1144 (7) Each participating employer shall:
- 1145 (a) file employee exemptions annually with the office; and
- 1146 (b) update the employee exemptions in the event of any change.
- 1147 (8) The office may make rules to implement this section.

1148 Section 17. Section ~~49-13-204~~ is amended to read:

1149 **49-13-204. Higher education employees' eligibility requirements -- Election**
 1150 **between different retirement plans -- Classification requirements -- Transfer between**
 1151 **systems -- One-time election window -- Rulemaking.**

1152 (1) (a) A regular full-time employee of an institution of higher education who is
 1153 eligible to participate in either this system or in a retirement system with [~~the Teachers'~~
 1154 ~~Insurance and Annuity Association of America or with any other~~] a public or private retirement
 1155 system, organization, or company, designated by the Board of Regents, shall, not later than
 1156 January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed
 1157 under this Subsection (1)(a).

1158 (b) The election is final, and no right exists to make any further election.

1159 (2) (a) Except as provided under Subsection (2)(c), a regular full-time employee hired
 1160 by an institution of higher education after January 1, 1979, may participate only in the
 1161 retirement plan which attaches to the person's employment classification.

1162 (b) Each institution of higher education shall prepare or amend existing employment
 1163 classifications, under the direction of the Board of Regents, so that each classification is
 1164 assigned with either:

- 1165 (i) this system; or
- 1166 [~~(ii) the Teachers' Insurance and Annuity Association of America; or~~]
- 1167 [~~(iii) another~~] (ii) a public or private system, organization, or company designated by
 1168 the Board of Regents.

1169 (c) Notwithstanding a person's employment classification assignment under Subsection
 1170 (2)(b), a regular full-time employee who begins employment with an institution of higher
 1171 education on or after May 11, 2010, has a one-time irrevocable election to continue
 1172 participation in this system, if the employee has service credit in this system before the date of
 1173 employment.

1174 (3) Notwithstanding an employment classification assignment change made under

1175 Subsection (2)(b), a regular full-time employee hired by an institution of higher education after
1176 January 1, 1979, whose employment classification requires participation in this system may
1177 elect to continue participation in this system.

1178 (4) A regular full-time employee hired by an institution of higher education after
1179 January 1, 1979, whose employment classification requires participation in this system shall
1180 participate in this system.

1181 (5) (a) Notwithstanding any other provision of this section, a regular full-time
1182 employee of an institution of higher education whose employment classification assignment
1183 under Subsection (2)(b) required participation in a retirement program other than this system
1184 shall have a one-time irrevocable election to participate in this system.

1185 (b) The election under Subsection (5)(a) shall be made before June 30, 2010.

1186 (c) All forms required by the office must be completed and received by the office no
1187 later than June 30, 2010, for the election to participate in this system to be effective.

1188 (d) Beginning July 1, 2010, a regular full-time employee of an institution of higher
1189 education who elects to be covered by this system under Subsection (5)(a) may begin to accrue
1190 service credit in this system.

1191 (6) A regular full-time employee of an institution of higher education who elects to be
1192 covered by this system under Subsection (2)(c) or (5)(a) may purchase periods of employment
1193 while covered under another retirement program by complying with the requirements of
1194 Section [49-11-403](#).

1195 (7) The board shall make rules to implement this section.

1196 Section 18. Section **49-13-401** is amended to read:

1197 **49-13-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

1198 (1) A member is qualified to receive an allowance from this system when:

1199 (a) except as provided under Subsection (3), the member ceases actual work for every
1200 participating employer that employs the member before the member's retirement date and
1201 provides evidence of the termination;

1202 (b) the member has submitted to the office a ~~notarized~~ retirement application form
1203 that states the member's proposed retirement date; and

1204 (c) one of the following conditions is met as of the member's retirement date:

1205 (i) the member has accrued at least four years of service credit and has attained an age

1206 of 65 years;

1207 (ii) the member has accrued at least 10 years of service credit and has attained an age
1208 of 62 years;

1209 (iii) the member has accrued at least 20 years of service credit and has attained an age
1210 of 60 years;

1211 (iv) the member has accrued at least 30 years of service credit; or

1212 (v) the member has accrued at least 25 years of service credit, in which case the
1213 member shall be subject to the reduction under Subsection 49-13-402(2)(b).

1214 (2) (a) The member's retirement date:

1215 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1216 (ii) shall be on or after the date of termination; and

1217 (iii) may not be more than 90 days before or after the date the application is received by
1218 the office.

1219 (b) Except as provided under Subsection (3), a member may not be employed by a
1220 participating employer in the system established by this chapter on the retirement date selected
1221 under Subsection (2)(a)(i).

1222 (3) (a) A member who is employed by a participating employer and who is also an
1223 elected official is not required to cease service as an elected official to be qualified to receive
1224 an allowance under Subsection (1), unless the member is retiring from service as an elected
1225 official.

1226 (b) A member who is employed by a participating employer and who is also a part-time
1227 appointed board member is not required to cease service as a part-time appointed board
1228 member to be qualified to receive an allowance under Subsection (1).

1229 Section 19. Section 49-13-402 is amended to read:

1230 **49-13-402. Service retirement plans -- Calculation of retirement allowance --**
1231 **Social Security limitations.**

1232 (1) (a) Except as provided under Section 49-13-701, retirees of this system may choose
1233 from the six retirement options described in this section.

1234 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One
1235 calculation.

1236 (2) The Option One benefit is an allowance calculated as follows:

1237 (a) If the retiree is at least 65 years of age or has accrued at least 30 years of service
1238 credit, the allowance is an amount equal to 2% of the retiree's final average monthly salary
1239 multiplied by the number of years of service credit accrued.

1240 (b) If the retiree is less than 65 years of age, the allowance shall be reduced 3% for
1241 each year of retirement from age 60 to age 65, plus a full actuarial reduction for each year of
1242 retirement prior to age 60, unless the member has 30 or more years of accrued credit, in which
1243 event no reduction is made to the allowance.

1244 (c) (i) Years of service include any fractions of years of service to which the retiree
1245 may be entitled.

1246 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,
1247 service credit is within 1/10 of one year of the total years of service credit required for
1248 retirement, the retiree shall be considered to have the total years of service credit required for
1249 retirement.

1250 (d) An Option One allowance is only payable to the member during the member's
1251 lifetime.

1252 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated
1253 by reducing an Option One benefit based on actuarial computations to provide the following:

1254 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the
1255 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's
1256 member contributions, the remaining balance of the retiree's member contributions shall be
1257 paid in accordance with Sections [49-11-609](#) and [49-11-610](#).

1258 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the
1259 retiree, and, upon the death of the retiree, the same reduced allowance paid to and throughout
1260 the lifetime of the retiree's lawful spouse at the time of retirement.

1261 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the
1262 retiree, and upon the death of the retiree, an amount equal to one-half of the retiree's allowance
1263 paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

1264 (d) Option Five is a modification of Option Three so that if the lawful spouse at the
1265 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the
1266 time of initial retirement under Option One shall be paid to the retiree for the remainder of the
1267 retiree's life, beginning on the first day of the month following the month in which the:

1268 (i) ~~[following the month in which the]~~ spouse died, if the application is received by the
1269 office within 90 days of the spouse's death; or

1270 (ii) ~~[following the month in which the]~~ application is received by the office, if the
1271 application is received by the office more than 90 days after the spouse's death.

1272 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time
1273 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time
1274 of initial retirement under Option One shall be paid to the retiree for the remainder of the
1275 retiree's life, beginning on the first day of the month following the month in which the:

1276 (i) ~~[following the month in which the]~~ spouse died, if the application is received by the
1277 office within 90 days of the spouse's death; or

1278 (ii) ~~[following the month in which the]~~ application is received by the office, if the
1279 application is received by the office more than 90 days after the spouse's death.

1280 (4) (a) (i) The final average salary is limited in the computation of that part of an
1281 allowance based on service rendered prior to July 1, 1967, during a period when the retiree
1282 received employer contributions on a portion of compensation from an educational institution
1283 toward the payment of the premium required on a retirement annuity contract with ~~[the~~
1284 ~~Teachers' Insurance and Annuity Association of America or with any other]~~ a public or private
1285 system, organization, or company designated by the State Board of Regents to \$4,800.

1286 (ii) This limitation is not applicable to retirees who elected to continue in the Public
1287 Employees' Contributory Retirement System by July 1, 1967.

1288 (b) Periods of employment which are exempt from this system as permitted under
1289 Subsection [49-13-203\(1\)\(b\)](#) may be purchased by the member for the purpose of retirement
1290 only if all benefits from ~~[the Teachers' Insurance and Annuity Association of America or any~~
1291 ~~other]~~ a public or private system ~~[or organization]~~, organization, or company designated by the
1292 State Board of Regents based on this period of employment are forfeited.

1293 (5) (a) If a retiree under Option One dies within 90 days after the retiree's retirement
1294 date, the retirement is canceled and the death shall be considered as that of a member before
1295 retirement.

1296 (b) Any payments made to the retiree shall be deducted from the amounts due to the
1297 beneficiary.

1298 (6) If a retiree retires under either Option Five or Six and subsequently divorces, the

1299 retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there
1300 is no court order filed in the matter.

1301 Section 20. Section **49-14-201** is amended to read:

1302 **49-14-201. System membership -- Eligibility.**

1303 (1) Except as provided in Section **49-15-201**, a public safety service employee of a
1304 participating employer participating in this system is eligible for service credit in this system at
1305 the earliest of:

1306 (a) July 1, 1969, if the public safety service employee was employed by the
1307 participating employer on July 1, 1969, and the participating employer was participating in this
1308 system on that date;

1309 (b) the date the participating employer begins participating in this system if the public
1310 safety service employee was employed by the participating employer on that date; or

1311 (c) the date the public safety service employee is employed by the participating
1312 employer and is eligible to perform public safety service, except that a public safety service
1313 employee initially entering employment with a participating employer on or after July 1, 2011,
1314 who does not have service credit accrued before July 1, 2011, in a Tier I system or plan
1315 administered by the board, may not participate in this system.

1316 (2) (a) (i) A participating employer that has public safety service and firefighter service
1317 employees that require cross-training and duty shall enroll those dual purpose employees in the
1318 system in which the greatest amount of time is actually worked.

1319 (ii) The employees shall either be full-time public safety service or full-time firefighter
1320 service employees of the participating employer.

1321 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
1322 participating employer shall receive written permission from the office.

1323 (ii) The office may request documentation to verify the appropriateness of the transfer.

1324 (3) The board may combine or segregate the actuarial experience of participating
1325 employers in this system for the purpose of setting contribution rates.

1326 (4) (a) (i) Each participating employer participating in this system shall annually
1327 submit to the office a schedule indicating the positions to be covered under this system in
1328 accordance with this chapter.

1329 (ii) The office may require documentation to justify the inclusion of any position under

1330 this system.

1331 (b) If there is a dispute between the office and a participating employer or employee
1332 over any position to be covered, the disputed position shall be submitted to the Peace Officer
1333 Standards and Training Council established under Section 53-6-106 for determination.

1334 (c) (i) The Peace Officer Standards and Training Council’s authority to decide
1335 eligibility for public safety service credit is limited to claims for coverage under this system for
1336 time periods after July 1, 1989.

1337 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
1338 to service credit earned in another system prior to July 1, 1989.

1339 (iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer
1340 Standards and Training Council granting a position coverage under this system may only be
1341 applied prospectively from the date of that decision.

1342 (iv) A decision of the Peace Officer Standards and Training Council granting a position
1343 coverage under this system may be applied retroactively only if:

1344 (A) the participating employer covered other similarly situated positions under this
1345 system during the time period in question; and

1346 (B) the position otherwise meets all eligibility requirements for receiving service credit
1347 in this system during the period for which service credit is to be granted.

1348 (5) The Peace Officer Standards and Training Council may use a subcommittee to
1349 provide a recommendation to the council in determining disputes between the office and a
1350 participating employer or employee over a position to be covered under this system.

1351 (6) The Peace Officer Standards and Training Council shall comply with Title 63G,
1352 Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

1353 (7) A public safety employee who is transferred or promoted to an administration
1354 position not covered by this system shall continue to earn public safety service credit in this
1355 system as long as the employee remains employed in the same department.

1356 (8) Any employee who is reassigned to the Department of Technology Services or to
1357 the Department of Human Resource Management, and who was a member of this system, shall
1358 be entitled to remain a member of this system.

1359 (9) (a) To determine that a position is covered under this system, the office and, if a
1360 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the

1361 position requires the employee to:

1362 (i) place the employee's life or personal safety at risk; and

1363 (ii) complete training as provided in Section 53-13-103, 53-13-104, or 53-13-105.

1364 (b) If a position satisfies the requirements of Subsection (9)(a), the office and the Peace
1365 Officer Standards and Training Council shall consider whether or not the position requires the
1366 employee to:

1367 (i) perform duties that consist primarily of actively preventing or detecting crime and
1368 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

1369 (ii) perform duties that consist primarily of providing community protection; and

1370 (iii) respond to situations involving threats to public safety and make emergency
1371 decisions affecting the lives and health of others.

1372 (10) If a subcommittee is used to recommend the determination of disputes to the
1373 Peace Officer Standards and Training Council, the subcommittee shall comply with the
1374 requirements of Subsection (9) in making its recommendation.

1375 (11) A final order of the Peace Officer Standards and Training Council regarding a
1376 dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative
1377 Procedures Act.

1378 (12) Except as provided under Subsection (13), if a participating employer's public
1379 safety service employees are not covered by this system or under Chapter 15, Public Safety
1380 Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees
1381 who may otherwise qualify for membership in this system shall, at the discretion of the
1382 participating employer, remain in their current retirement system.

1383 (13) (a) A public safety service employee employed by an airport police department,
1384 which elects to cover its public safety service employees under the Public Safety
1385 Noncontributory Retirement System under Subsection (12), may elect to remain in the public
1386 safety service employee's current retirement system.

1387 (b) The public safety service employee's election to remain in the current retirement
1388 system under Subsection (13)(a):

1389 (i) shall be made at the time the employer elects to move its public safety service
1390 employees to a public safety retirement system;

1391 (ii) documented by written notice to the participating employer; and

1392 (iii) is irrevocable.

1393 (14) Notwithstanding any other provision of this section, a person initially entering
1394 employment with a participating employer on or after July 1, 2011, who does not have service
1395 credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may
1396 not participate in this system.

1397 Section 21. Section **49-14-401** is amended to read:

1398 **49-14-401. Eligibility for service retirement -- Date of retirement --**
1399 **Qualifications.**

1400 (1) A member is qualified to receive an allowance from this system when:

1401 (a) except as provided under Subsection (3), the member ceases actual work for every
1402 participating employer that employs the member before the member's retirement date and
1403 provides evidence of the termination;

1404 (b) the member has submitted to the office a [~~notarized~~] retirement application form
1405 that states the member's proposed retirement date; and

1406 (c) one of the following conditions is met as of the member's retirement date:

1407 (i) the member has accrued at least 20 years of service credit;

1408 (ii) the member has accrued at least 10 years of service credit and has attained an age
1409 of 60 years; or

1410 (iii) the member has accrued at least four years of service credit and has attained an age
1411 of 65 years.

1412 (2) (a) The member's retirement date:

1413 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1414 (ii) shall be on or after the date of termination; and

1415 (iii) may not be more than 90 days before or after the date the application is received by
1416 the office.

1417 (b) Except as provided under Subsection (3), a member may not be employed by a
1418 participating employer in the system established by this chapter on the retirement date selected
1419 under Subsection (2)(a)(i).

1420 (3) (a) A member who is employed by a participating employer and who is also an
1421 elected official is not required to cease service as an elected official to be qualified to receive
1422 an allowance under Subsection (1), unless the member is retiring from service as an elected

1423 official.

1424 (b) A member who is employed by a participating employer and who is also a part-time
1425 appointed board member is not required to cease service as a part-time appointed board
1426 member to be qualified to receive an allowance under Subsection (1).

1427 Section 22. Section **49-14-501** is amended to read:

1428 **49-14-501. Death of active member in Division A -- Payment of benefits.**

1429 (1) If an active member of this system enrolled in Division A under Section [49-14-301](#)
1430 dies, benefits are payable as follows:

1431 (a) If the death is classified by the office as a line-of-duty death, the spouse at the time
1432 of death shall receive a lump sum of \$1,000 and an allowance equal to 30% of the deceased
1433 member's final average monthly salary.

1434 (b) If the death is not classified by the office as a line-of-duty death, benefits are
1435 payable as follows:

1436 (i) If the member has accrued less than 10 years of public safety service credit, the
1437 beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions,
1438 whichever is greater.

1439 (ii) If the member has accrued 10 or more years of public safety service credit at the
1440 time of death, the spouse at the time of death shall receive the sum of \$500, plus an allowance
1441 equal to 2% of the member's final average monthly salary for each year of service credit
1442 accrued by the member up to a maximum of 30% of the member's final average monthly salary.

1443 (2) [~~Benefits~~] Except as provided under Subsection (1)(b)(i), benefits are not payable
1444 to minor children of members covered under Division A.

1445 (3) If a benefit is not distributed under this section, and the member has designated a
1446 beneficiary, the member's member contributions shall be paid to the beneficiary.

1447 (4) (a) A spouse who requests a benefit under this section shall apply in writing to the
1448 office.

1449 (b) The allowance shall begin on the first day of the month following the month in
1450 which the:

1451 (i) [~~following the month in which the~~] member died, if the application is received by
1452 the office within 90 days of the member's death; or

1453 (ii) [~~following the month in which the~~] application is received by the office, if the

1454 application is received by the office more than 90 days after the member's death.

1455 Section 23. Section **49-14-504** is amended to read:

1456 **49-14-504. Benefits payable upon death of retired member -- Enhanced benefit**
1457 **election -- Rulemaking.**

1458 (1) If a retiree who retired under either Division A or Division B dies, the retiree's
1459 spouse at the time of death of the retiree shall receive an allowance equal to 65% of the
1460 allowance that was being paid to the retiree at the time of death.

1461 (2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time
1462 of retirement, a retiree may elect to increase the spousal death benefit to 75% of an allowance
1463 computed in accordance with Section [49-14-402](#).

1464 (b) If an election is made under Subsection (2)(a), the member's allowance shall be
1465 reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to
1466 pay for the increased spousal death benefit above 65%.

1467 (3) (a) For a retiree whose retirement date is before July 1, 2009, the office shall
1468 provide an optional spousal death benefit to bring the total spousal death benefit up to 75% of
1469 an allowance computed in accordance with Section [49-14-402](#).

1470 (b) A retiree may elect to purchase the optional spousal death benefit until July 1,
1471 2010.

1472 (c) If an election is made under Subsection (3)(b), the retiree's allowance shall be
1473 reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to
1474 pay for the increased spousal death benefit above 65%.

1475 (d) The board shall make rules to administer the death benefit under this Subsection
1476 (3).

1477 (4) If the retiree retired solely under Division B and dies leaving unmarried children
1478 under the age of 18 or dependent unmarried children with a mental or physical disability, the
1479 children shall qualify for a benefit as prescribed for children under Subsection [49-14-502\(1\)\(c\)](#)
1480 [~~which is payable on the first day of the month following the month in which the retiree died~~].

1481 (5) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply
1482 in writing to the office.

1483 (b) The allowance shall begin on the first day of the month following the month in
1484 which the:

1485 (i) member or participant died, if the application is received by the office within 90
1486 days of the date of death of the member or participant; or

1487 (ii) application is received by the office, if the application is received by the office
1488 more than 90 days after the date of death of the member or participant.

1489 Section 24. Section **49-15-201** is amended to read:

1490 **49-15-201. System membership -- Eligibility.**

1491 (1) (a) A public safety service employee employed by the state after July 1, 1989, but
1492 before July 1, 2011, is eligible for service credit in this system.

1493 (b) A public safety service employee employed by the state prior to July 1, 1989, may
1494 either elect to receive service credit in this system or continue to receive service credit under
1495 the system established under Chapter 14, Public Safety Contributory Retirement Act, by
1496 following the procedures established by the board under this chapter.

1497 (2) (a) Public safety service employees of a participating employer other than the state
1498 that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement
1499 System shall be eligible only for service credit in that system.

1500 (b) (i) A participating employer other than the state that elected on or before July 1,
1501 1989, to participate in this system shall, have allowed, prior to July 1, 1989, a public safety
1502 service employee to elect to participate in either this system or the Public Safety Contributory
1503 Retirement System.

1504 (ii) Except as expressly allowed by this title, the election of the public safety service
1505 employee is final and may not be changed.

1506 (c) A public safety service employee hired by a participating employer other than the
1507 state after July 1, 1989, but before July 1, 2011, shall become a member in this system.

1508 (d) A public safety service employee of a participating employer other than the state
1509 who began participation in this system after July 1, 1989, but before July 1, 2011, is only
1510 eligible for service credit in this system.

1511 (e) A person initially entering employment with a participating employer on or after
1512 July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system
1513 or plan administered by the board, may not participate in this system.

1514 (3) (a) (i) A participating employer that has public safety service and firefighter service
1515 employees that require cross-training and duty shall enroll those dual purpose employees in the

1516 system in which the greatest amount of time is actually worked.

1517 (ii) The employees shall either be full-time public safety service or full-time firefighter
1518 service employees of the participating employer.

1519 (b) (i) Prior to transferring a dual purpose employee from one system to another, the
1520 participating employer shall receive written permission from the office.

1521 (ii) The office may request documentation to verify the appropriateness of the transfer.

1522 (4) The board may combine or segregate the actuarial experience of participating
1523 employers in this system for the purpose of setting contribution rates.

1524 (5) (a) (i) Each participating employer participating in this system shall annually
1525 submit to the office a schedule indicating the positions to be covered under this system in
1526 accordance with this chapter.

1527 (ii) The office may require documentation to justify the inclusion of any position under
1528 this system.

1529 (b) If there is a dispute between the office and a participating employer or employee
1530 over any position to be covered, the disputed position shall be submitted to the Peace Officer
1531 Standards and Training Council established under Section [53-6-106](#) for determination.

1532 (c) (i) The Peace Officer Standards and Training Council's authority to decide
1533 eligibility for public safety service credit is limited to claims for coverage under this system for
1534 time periods after July 1, 1989.

1535 (ii) A decision of the Peace Officer Standards and Training Council may not be applied
1536 to service credit earned in another system prior to July 1, 1989.

1537 (iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer
1538 Standards and Training Council granting a position coverage under this system may only be
1539 applied prospectively from the date of that decision.

1540 (iv) A decision of the Peace Officer Standards and Training Council granting a position
1541 coverage under this system may be applied retroactively only if:

1542 (A) the participating employer covered other similarly situated positions under this
1543 system during the time period in question; and

1544 (B) the position otherwise meets all eligibility requirements for receiving service credit
1545 in this system during the period for which service credit is to be granted.

1546 (6) The Peace Officer Standards and Training Council may use a subcommittee to

1547 provide a recommendation to the council in determining disputes between the office and a
1548 participating employer or employee over a position to be covered under this system.

1549 (7) The Peace Officer Standards and Training Council shall comply with Title 63G,
1550 Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

1551 (8) A public safety service employee who is transferred or promoted to an
1552 administration position not covered by this system shall continue to earn public safety service
1553 credit in this system as long as the employee remains employed in the same department.

1554 (9) Any employee who is reassigned to the Department of Technology Services or to
1555 the Department of Human Resource Management, and who was a member in this system, shall
1556 be entitled to remain a member in this system.

1557 (10) (a) To determine that a position is covered under this system, the office and, if a
1558 coverage dispute arises, the Peace Officer Standards and Training Council shall find that the
1559 position requires the employee to:

1560 (i) place the employee's life or personal safety at risk; and

1561 (ii) complete training as provided in Section [53-13-103](#), [53-13-104](#), or [53-13-105](#).

1562 (b) If a position satisfies the requirements of Subsection (10)(a), the office and Peace
1563 Officer Standards and Training Council shall consider whether the position requires the
1564 employee to:

1565 (i) perform duties that consist primarily of actively preventing or detecting crime and
1566 enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

1567 (ii) perform duties that consist primarily of providing community protection; and

1568 (iii) respond to situations involving threats to public safety and make emergency
1569 decisions affecting the lives and health of others.

1570 (11) If a subcommittee is used to recommend the determination of disputes to the
1571 Peace Officer Standards and Training Council, the subcommittee shall comply with the
1572 requirements of Subsection (10) in making its recommendation.

1573 (12) A final order of the Peace Officer Standards and Training Council regarding a
1574 dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative
1575 Procedures Act.

1576 (13) Except as provided under Subsection (14), if a participating employer's public
1577 safety service employees are not covered by this system or under Chapter 14, Public Safety

1578 Contributory Retirement Act, as of January 1, 1998, those public safety service employees who
1579 may otherwise qualify for membership in this system shall, at the discretion of the participating
1580 employer, remain in their current retirement system.

1581 (14) (a) A public safety service employee employed by an airport police department,
1582 which elects to cover its public safety service employees under the Public Safety
1583 Noncontributory Retirement System under Subsection (13), may elect to remain in the public
1584 safety service employee's current retirement system.

1585 (b) The public safety service employee's election to remain in the current retirement
1586 system under Subsection (14)(a):

1587 (i) shall be made at the time the employer elects to move its public safety service
1588 employees to a public safety retirement system;

1589 (ii) documented by written notice to the participating employer; and

1590 (iii) is irrevocable.

1591 (15) Notwithstanding any other provision of this section, a person initially entering
1592 employment with a participating employer on or after July 1, 2011, who does not have service
1593 credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may
1594 not participate in this system.

1595 Section 25. Section **49-15-202** is amended to read:

1596 **49-15-202. Participation of employers -- Requirements -- Admission -- Full**
1597 **participation in system -- Supplemental programs authorized.**

1598 (1) An employer that employs public safety service employees and is required by
1599 Section [49-12-202](#) or [49-13-202](#) to be a participating employer in the Public Employees'
1600 Contributory Retirement System or the Public Employees' Noncontributory Retirement System
1601 shall cover all its public safety service employees under one of the following systems or plans:

1602 (a) Chapter 12, Public Employees' Contributory Retirement Act;

1603 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;

1604 (c) Chapter 14, Public Safety Contributory Retirement Act;

1605 (d) Chapter 15, Public Safety Noncontributory Retirement Act; or

1606 (e) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

1607 (2) An employer that covers its public safety employees under Subsection (1)(d) is a
1608 participating employer in this system.

1609 (3) If a participating employer under Subsection (1) covers any of its public safety
1610 service employees under the Public Safety Contributory Retirement System or the Public
1611 Safety Noncontributory Retirement System, that participating employer shall cover all of its
1612 public safety service employees under one of those systems, except for a public safety service
1613 employee initially entering employment with a participating employer beginning on or after
1614 July 1, 2011.

1615 (4) (a) Until June 30, 2011, an employer that is not participating in this system may by
1616 resolution of its governing body apply for coverage of its public safety service employees by
1617 this system.

1618 (b) Upon approval of the board, the employer shall become a participating employer in
1619 this system subject to this title.

1620 (5) (a) If a participating employer purchases service credit on behalf of employees for
1621 service rendered prior to the participating employer's admission to this system, the service
1622 credit must be purchased in a nondiscriminatory manner on behalf of all current and former
1623 employees who were eligible for service credit at the time service was rendered.

1624 (b) For a purchase made under this Subsection (5), an employee is not required to:

1625 (i) have at least four years of service credit before the purchase can be made; or

1626 (ii) forfeit service credit or any defined contribution balance based on the employer
1627 contributions under any other retirement system or plan based on the period of employment for
1628 which service credit is being purchased.

1629 (6) A participating employer may not withdraw from this system.

1630 (7) In addition to their participation in the system, participating employers may provide
1631 or participate in any additional public or private retirement, supplemental or defined
1632 contribution plan, either directly or indirectly, for their employees.

1633 Section 26. Section **49-15-401** is amended to read:

1634 **49-15-401. Eligibility for service retirement -- Date of retirement --**

1635 **Qualifications.**

1636 (1) A member is qualified to receive an allowance from this system when:

1637 (a) except as provided under Subsection (3), the member ceases actual work for every
1638 participating employer that employs the member before the member's retirement date and
1639 provides evidence of the termination;

1640 (b) the member has submitted to the office a [notarized] retirement application form
1641 that states the member's proposed retirement date; and

1642 (c) one of the following conditions is met as of the member's retirement date:

1643 (i) the member has accrued at least 20 years of service credit;

1644 (ii) the member has accrued at least 10 years of service credit and has attained an age
1645 of 60 years; or

1646 (iii) the member has accrued at least four years of service and has attained an age of 65
1647 years.

1648 (2) (a) The member's retirement date:

1649 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1650 (ii) shall be on or after the date of termination; and

1651 (iii) may not be more than 90 days before or after the date the application is received by
1652 the office.

1653 (b) Except as provided under Subsection (3), a member may not be employed by a
1654 participating employer in the system established by this chapter on the retirement date selected
1655 under Subsection (2)(a)(i).

1656 (3) (a) A member who is employed by a participating employer and who is also an
1657 elected official is not required to cease service as an elected official to be qualified to receive
1658 an allowance under Subsection (1), unless the member is retiring from service as an elected
1659 official.

1660 (b) A member who is employed by a participating employer and who is also a part-time
1661 appointed board member is not required to cease service as a part-time appointed board
1662 member to be qualified to receive an allowance under Subsection (1).

1663 Section 27. Section **49-15-501** is amended to read:

1664 **49-15-501. Death of active member in Division A -- Payment of benefits.**

1665 (1) If an active member of this system enrolled in Division A under Section **49-15-301**
1666 dies, benefits are payable as follows:

1667 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as
1668 follows:

1669 (i) If the member has accrued less than 20 years of public safety service credit, the
1670 spouse at the time of death shall receive a lump sum of \$1,000 and an allowance equal to 30%

1671 of the member's final average monthly salary.

1672 (ii) If the member has accrued 20 or more years of public safety service credit, the
1673 member shall be considered to have retired with an allowance calculated under Section
1674 49-15-402 and the spouse at the time of death shall receive the death benefit payable to a
1675 spouse at the time of death under Section 49-15-504.

1676 (b) If the death is not classified as a line-of-duty death by the office, benefits are
1677 payable as follows:

1678 (i) If the member has accrued less than 10 years of public safety service credit, the
1679 beneficiary shall receive the sum of \$1,000 or a refund of the member's member contributions,
1680 whichever is greater.

1681 (ii) If the member has accrued 10 or more years, but less than 20 years of public safety
1682 service credit at the time of death, the spouse at the time of death shall receive the sum of \$500,
1683 plus an allowance equal to 2% of the member's final average monthly salary for each year of
1684 service credit accrued by the member up to a maximum of 30% of the member's final average
1685 monthly salary.

1686 (iii) If the member has accrued 20 or more years of public safety service credit, the
1687 benefit shall be calculated as provided in Subsection (1)(a)(ii).

1688 (2) ~~[Benefits]~~ Except as provided under Subsection (1)(b)(i), benefits are not payable
1689 to minor children under Division A.

1690 (3) If a benefit is not distributed under this section, and the member has designated a
1691 beneficiary, the member's member contribution shall be paid to the beneficiary.

1692 (4) (a) A spouse who requests a benefit under this section shall apply in writing to the
1693 office.

1694 (b) The allowance shall begin on the first day of the month following the month in
1695 which the:

1696 (i) ~~[following the month in which the]~~ member died, if the application is received by
1697 the office within 90 days of the member's death; or

1698 (ii) ~~[following the month in which the]~~ application is received by the office, if the
1699 application is received by the office more than 90 days after the member's death.

1700 Section 28. Section 49-15-504 is amended to read:

1701 **49-15-504. Benefits payable upon death of retired member -- Enhanced benefit**

1702 **election -- Rulemaking.**

1703 (1) If a retiree who retired under either Division A or Division B dies, the retiree's
1704 spouse at the time of death of the retiree shall receive an allowance equal to 65% of the
1705 allowance that was being paid to the retiree at the time of death.

1706 (2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time
1707 of retirement, a retiree may elect to increase the spousal death benefit to 75% of an allowance
1708 computed in accordance with Section [49-15-402](#).

1709 (b) If an election is made under Subsection (2)(a), the member's allowance shall be
1710 reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to
1711 pay for the increased spousal death benefit above 65%.

1712 (3) (a) For a retiree whose retirement date is before July 1, 2009, the office shall
1713 provide an optional spousal death benefit to bring the total spousal death benefit up to 75% of
1714 an allowance computed in accordance with Section [49-15-402](#).

1715 (b) A retiree may elect to purchase the optional spousal death benefit until July 1,
1716 2010.

1717 (c) If an election is made under Subsection (3)(b), the retiree's allowance shall be
1718 reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to
1719 pay for the increased spousal death benefit above 65%.

1720 (d) The board shall make rules to administer the death benefit under this Subsection
1721 (3).

1722 (4) If the retiree retired solely under Division B and dies leaving unmarried children
1723 under the age of 18 or dependent unmarried children with a mental or physical disability, the
1724 children shall qualify for a benefit as prescribed under Subsection [49-15-502\(1\)\(d\)](#) [~~which is
1725 payable on the first day of the month following the month in which the retiree died~~].

1726 (5) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply
1727 in writing to the office.

1728 (b) The allowance shall begin on the first day of the month following the month in
1729 which the:

1730 (i) member or participant died, if the application is received by the office within 90
1731 days of the date of death of the member or participant; or

1732 (ii) application is received by the office, if the application is received by the office

1733 more than 90 days after the date of death of the member or participant.

1734 Section 29. Section **49-16-201** is amended to read:

1735 **49-16-201. System membership -- Eligibility.**

1736 (1) A firefighter service employee who performs firefighter service for an employer
1737 participating in this system is eligible for service credit in this system upon the earliest of:

1738 (a) July 1, 1971, if the firefighter service employee was employed by the participating
1739 employer on July 1, 1971, and the participating employer was participating in this system on
1740 that date;

1741 (b) the date the participating employer begins participating in this system if the
1742 firefighter service employee was employed by the participating employer on that date; or

1743 (c) the date the firefighter service employee is hired to perform firefighter services for a
1744 participating employer, if the firefighter:

1745 (i) initially enters employment before July 1, 2011[-]; or

1746 (ii) has service credit accrued before July 1, 2011, in a Tier I system or plan

1747 administered by the board.

1748 (2) (a) (i) A participating employer that has public safety service and firefighter service
1749 employees that require cross-training and duty shall enroll the dual purpose employees in the
1750 system in which the greatest amount of time is actually worked.

1751 (ii) The employees shall either be full-time public safety service or full-time firefighter
1752 service employees of the participating employer.

1753 (b) (i) Before transferring a dual purpose employee from one system to another, the
1754 participating employer shall receive written permission from the office.

1755 (ii) The office may request documentation to verify the appropriateness of the transfer.

1756 (3) (a) A person hired by a regularly constituted fire department on or after July 1,
1757 1971, who does not perform firefighter service is not eligible for service credit in this system.

1758 (b) The nonfirefighter service employee shall become a member of the system for
1759 which the nonfirefighter service employee qualifies for service credit.

1760 (c) The service credit exclusion under this Subsection (3) may not be interpreted to
1761 prohibit the assignment of a firefighter with a disability or partial disability to a nonfirefighter
1762 service position.

1763 (d) If Subsection (3)(c) applies, the firefighter service employee remains eligible for

1764 service credit in this system.

1765 (4) An allowance or other benefit may not be granted under this system that is based
1766 upon the same service for benefits received under some other system.

1767 (5) Service as a volunteer firefighter is not eligible for service credit in this system.

1768 (6) An employer that maintains a regularly constituted fire department is eligible to
1769 participate in this system.

1770 (7) Beginning July 1, 2011, a person who is initially entering employment with a
1771 participating employer and who does not have service credit accrued before July 1, 2011, in a
1772 Tier I system or plan administered by the board may not participate in this system.

1773 Section 30. Section **49-16-401** is amended to read:

1774 **49-16-401. Eligibility for service retirement -- Date of retirement --**

1775 **Qualifications.**

1776 (1) A member is qualified to receive an allowance from this system when:

1777 (a) except as provided under Subsection (3), the member ceases actual work for every
1778 participating employer that employs the member before the member's retirement date and
1779 provides evidence of the termination;

1780 (b) the member has submitted to the office a [~~notarized~~] retirement application form
1781 that states the member's proposed retirement date; and

1782 (c) one of the following conditions is met as of the member's retirement date:

1783 (i) the member has accrued at least 20 years of service credit;

1784 (ii) the member has accrued at least 10 years of service credit and has attained an age
1785 of 60 years; or

1786 (iii) the member has accrued at least four years of service credit and has attained an age
1787 of 65 years.

1788 (2) (a) The member's retirement date:

1789 (i) shall be the 1st or the 16th day of the month, as selected by the firefighter service
1790 employee;

1791 (ii) shall be on or after the date of termination; and

1792 (iii) may not be more than 90 days before or after the date the application is received by
1793 the office.

1794 (b) Except as provided under Subsection (3), a member may not be employed by a

1795 participating employer in the system established by this chapter on the retirement date selected
1796 under Subsection (2)(a)(i).

1797 (3) (a) A member who is employed by a participating employer and who is also an
1798 elected official is not required to cease service as an elected official to be qualified to receive
1799 an allowance under Subsection (1), unless the member is retiring from service as an elected
1800 official.

1801 (b) A member who is employed by a participating employer and who is also a part-time
1802 appointed board member is not required to cease service as a part-time appointed board
1803 member to be qualified to receive an allowance under Subsection (1).

1804 Section 31. Section **49-16-504** is amended to read:

1805 **49-16-504. Benefits payable upon death of retired member.**

1806 (1) If a retiree who retired under either Division A or Division B dies, the retiree's
1807 spouse at the time of death shall receive an allowance equal to 75% of the allowance that was
1808 being paid to the retiree at the time of death.

1809 (2) If the retiree retired solely under Division B and dies leaving unmarried children
1810 under the age of 21 or dependent unmarried children with a mental or physical disability, the
1811 children shall qualify for a benefit as prescribed under Subsection **49-16-502(1)(c)** [~~which is~~
1812 ~~payable on the first day of the month following the month in which the retiree died~~].

1813 (3) (a) A beneficiary who qualifies for a monthly benefit under this section shall apply
1814 in writing to the office.

1815 (b) The allowance shall begin on the first day of the month following the month in
1816 which the:

1817 (i) member or participant died, if the application is received by the office within 90
1818 days of the date of death of the member or participant; or

1819 (ii) application is received by the office, if the application is received by the office
1820 more than 90 days after the date of death of the member or participant.

1821 Section 32. Section **49-17-401** is amended to read:

1822 **49-17-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

1823 (1) A member is qualified to receive an allowance when:

1824 (a) the member ceases actual work for every participating employer that employs the
1825 member before the member's retirement date and provides evidence of the termination;

1826 (b) the member has submitted to the office a [notarized] retirement application form
1827 that states the member's proposed retirement date; and

1828 (c) one of the following conditions is met as of the member's retirement date:

1829 (i) the member has accrued at least six years of service credit and has attained an age of
1830 70 years;

1831 (ii) the member has accrued at least 10 years of service credit and has attained an age
1832 of 62 years;

1833 (iii) the member has accrued at least 20 years of service credit and has attained an age
1834 of 55 years; or

1835 (iv) the member has accrued at least 25 years of service credit.

1836 (2) (a) The member's retirement date:

1837 (i) shall be the 1st or the 16th day of the month, as selected by the member;

1838 (ii) shall be on or after the date of termination; and

1839 (iii) may not be more than 90 days before or after the date the application is received by
1840 the office.

1841 (b) A member may not be employed by a participating employer in the system
1842 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1843 Section 33. Section **49-17-402** is amended to read:

1844 **49-17-402. Calculation of retirement allowance.**

1845 (1) A retiree under this system shall receive an allowance equal to:

1846 (a) 5% of the final average monthly salary multiplied by the number of years of service
1847 credit, limited to 10 years; plus

1848 (b) 2.25% of the final average monthly salary multiplied by the number of years of
1849 service credit in excess of 10 years and up to and including 20 years; plus

1850 (c) 1% of the final average monthly salary multiplied by the number of years of service
1851 credit in excess of 20 years.

1852 (2) (a) Except as modified by cost-of-living adjustments and except as provided under
1853 Subsection (2)(b), an allowance under this system may not exceed 75% of the member's final
1854 average monthly salary.

1855 (b) The allowance limitation under Subsection (2)(a) does not apply to a member who
1856 initially retires on or after July 1, 2010.

1857 (3) If the retiree has attained the age of 55 years and has 20 years or more but less than
1858 25 years of service credit, the retiree shall receive an early retirement reduction to the
1859 allowance based on an actuarial calculation assuming a normal retirement age of 65 years.

1860 Section 34. Section **49-17-502** is amended to read:

1861 **49-17-502. Benefits payable upon death of retired member.**

1862 (1) (a) The death benefit payable to a retiree's spouse at the time of death is an
1863 allowance equal to 65% of the allowance which was being paid to the retiree at the time of
1864 death.

1865 (b) The effective date of the accrual of this allowance is the first day of the month
1866 following the month in which the retiree died.

1867 (2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time
1868 of retirement, a retiree may elect to increase the spousal death benefit up to 75% of an
1869 allowance computed in accordance with Section **49-17-402**.

1870 (b) If an election is made under Subsection (2)(a), the member's allowance shall be
1871 reduced to reflect the actuarial equivalent necessary to pay for the increased spousal death
1872 benefit above 65%.

1873 (3) (a) A spouse who qualifies for a monthly benefit under this section shall apply in
1874 writing to the office.

1875 (b) The allowance shall begin on the first day of the month following the month in
1876 which the:

1877 (i) member or participant died, if the application is received by the office within 90
1878 days of the date of death of the member or participant; or

1879 (ii) application is received by the office, if the application is received by the office
1880 more than 90 days after the date of death of the member or participant.

1881 Section 35. Section **49-18-401** is amended to read:

1882 **49-18-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

1883 (1) A member is qualified to receive an allowance when:

1884 (a) the member ceases actual work for every participating employer that employs the
1885 member before the member's retirement date and provides evidence of the termination;

1886 (b) the member has submitted to the office a [~~notarized~~] retirement application form
1887 that states the member's proposed retirement date; and

- 1888 (c) one of the following conditions is met as of the member's retirement date:
1889 (i) the member has accrued at least six years of service credit and has attained an age of
1890 70 years;
1891 (ii) the member has accrued at least 10 years of service credit and has attained an age
1892 of 62 years;
1893 (iii) the member has accrued at least 20 years of service credit and has attained an age
1894 of 55 years; or
1895 (iv) the member has accrued at least 25 years of service credit.

- 1896 (2) (a) The member's retirement date:
1897 (i) shall be the 1st or the 16th day of the month, as selected by the member;
1898 (ii) shall be on or after the date of termination; and
1899 (iii) may not be more than 90 days before or after the date the application is received by
1900 the office.

1901 (b) A member may not be employed by a participating employer in the system
1902 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

1903 Section 36. Section **49-18-402** is amended to read:

1904 **49-18-402. Calculation of retirement allowance.**

- 1905 (1) A retiree under this system shall receive an allowance equal to:
1906 (a) 5% of the final average monthly salary multiplied by the number of years of service
1907 credit, limited to 10 years; plus
1908 (b) 2.25% of the final average monthly salary multiplied by the number of years of
1909 service credit in excess of 10 years and up to and including 20 years; plus
1910 (c) 1% of the final average monthly salary multiplied by the number of years of service
1911 credit in excess of 20 years.

1912 (2) (a) Except as modified by cost-of-living adjustments and except as provided under
1913 Subsection (2)(b), an allowance under this system may not exceed 75% of the member's final
1914 average monthly salary.

1915 (b) The allowance limitation under Subsection (2)(a) does not apply to a member who
1916 initially retires on or after July 1, 2010.

1917 (3) If the retiree has attained the age of 55 years and has 20 years or more but less than
1918 25 years of service credit, the retiree shall receive an early retirement reduction to the

1919 allowance based on an actuarial calculation assuming a normal retirement age of 65 years.

1920 Section 37. Section **49-18-502** is amended to read:

1921 **49-18-502. Benefits payable upon death of retired member.**

1922 (1) [~~(a)~~] The death benefit payable to a retiree's spouse at the time of death is an
1923 allowance equal to 65% of the allowance which was being paid to the retiree at the time of
1924 death.

1925 [~~(b) The effective date of the accrual of this allowance is the first day of the month~~
1926 ~~following the month in which the retiree died.~~]

1927 (2) (a) Notwithstanding the amount of the allowance under Subsection (1), at the time
1928 of retirement, a retiree may elect to increase the spousal death benefit up to 75% of an
1929 allowance computed in accordance with Section **49-18-402**.

1930 (b) If an election is made under Subsection (2)(a), the member's allowance shall be
1931 reduced to an amount payable monthly for life to reflect the actuarial equivalent necessary to
1932 pay for the increased spousal death benefit above 65%.

1933 (3) (a) A spouse who qualifies for a monthly benefit under this section shall apply in
1934 writing to the office.

1935 (b) The allowance shall begin on the first day of the month following the month in
1936 which the:

1937 (i) member or participant died, if the application is received by the office within 90
1938 days of the date of death of the member or participant; or

1939 (ii) application is received by the office, if the application is received by the office
1940 more than 90 days after the date of death of the member or participant.

1941 Section 38. Section **49-19-201** is amended to read:

1942 **49-19-201. Plan participation -- Eligibility.**

1943 (1) [~~Governors and legislators who enter office before July 1, 2011, are~~] A governor or
1944 legislator is eligible for service credit in this plan during their term of service in their elected
1945 position[-] if the governor or legislator:

1946 (a) entered office before July 1, 2011; or

1947 (b) accrued service credit in a Tier I system or plan administered by the board before
1948 July 1, 2011.

1949 (2) A governor or legislator initially entering office on or after July 1, 2011, who does

1950 not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by
1951 the board:

1952 (a) may not participate in this system;

1953 (b) is only eligible to participate in the Tier II Defined Contribution Plan established
1954 under Chapter 22, Part 4, Tier II Defined Contribution Plan; and

1955 (c) is not eligible to participate in the Tier II hybrid retirement system established under
1956 Chapter 22, Part 3, Tier II Hybrid Retirement System.

1957 Section 39. Section **49-19-401** is amended to read:

1958 **49-19-401. Eligibility for an allowance -- Governor -- Legislator.**

1959 (1) A governor is qualified to receive an allowance when:

1960 (a) the governor has submitted to the office a [~~notarized~~] retirement application form
1961 that states the proposed retirement date; and

1962 (b) one of the following conditions is met as of the retirement date:

1963 (i) the governor has completed at least one full term in office and has attained an age of
1964 65 years; or

1965 (ii) the governor has served as governor of the state for at least 10 years and has
1966 attained an age of 62 years.

1967 (2) A legislator is qualified to receive an allowance when:

1968 (a) the legislator has submitted to the office a [~~notarized~~] retirement application form
1969 that states the proposed retirement date; and

1970 (b) one of the following conditions is met as of the retirement date:

1971 (i) the legislator has completed at least four years in the Legislature and has attained an
1972 age of 65 years; or

1973 (ii) the legislator has completed at least 10 years in the Legislature and has attained an
1974 age of 62 years.

1975 (3) (a) The retirement date shall be the 1st or the 16th day of the month as selected by
1976 the member.

1977 (b) The retirement date may not be more than 90 days before or after the date the
1978 application is received by the office.

1979 (4) A member who withdraws member contributions shall forfeit all allowances based
1980 on those contributions.

1981 (5) If a retired legislator is elected to another term in the Legislature or continues to
1982 serve in the Legislature, the legislative allowance ceases at the beginning of each session under
1983 rules established by the board, but is restored at the same amount at the end of the session.

1984 (6) A member receiving an allowance while serving as a legislator is eligible for
1985 additional service credits and allowance adjustments at the end of each term of office if the
1986 legislator continues as a contributing member during the member's service as a legislator.

1987 Section 40. Section **49-21-102** is amended to read:

1988 **49-21-102. Definitions.**

1989 As used in this chapter:

1990 (1) "Date of disability" means the date on which a period of continuous disability
1991 commences, and may not commence on or before the last day of actual work.

1992 (2) (a) "Eligible employee" means the following employee whose employer provides
1993 coverage under this chapter:

1994 (i) (A) any regular full-time employee as defined under Section [49-12-102](#), [49-13-102](#),
1995 or [49-22-102](#);

1996 (B) any public safety service employee as defined under Section [49-14-102](#), [49-15-102](#),
1997 or [49-23-102](#);

1998 (C) any firefighter service employee or volunteer firefighter as defined under Section
1999 [49-23-102](#) who began firefighter service on or after July 1, 2011;

2000 (D) any judge as defined under Section [49-17-102](#) or [49-18-102](#); or

2001 (E) the governor of the state;

2002 (ii) an employee who is exempt from participating in a retirement system under
2003 Subsection [49-12-203\(4\)](#), [49-13-203\(4\)](#), [49-14-203\(1\)](#), or [49-15-203\(1\)](#); and

2004 (iii) an employee who is covered by a retirement program offered by [~~the Teachers'~~
2005 ~~Insurance and Annuity Association of America~~] a public or private system, organization, or
2006 company designated by the State Board of Regents.

2007 (b) "Eligible employee" does not include:

2008 (i) any employee that is exempt from coverage under Section [49-21-201](#); or

2009 (ii) a retiree.

2010 (3) "Elimination period" means the three months at the beginning of each continuous
2011 period of total disability for which no benefit will be paid. The elimination period begins on

2012 the nearest first day of the month from the date of disability. The elimination period may
2013 include a one-time trial return to work period of less than 15 consecutive calendar days.

2014 (4) "Maximum benefit period" means the maximum period of time the monthly
2015 disability income benefit will be paid under Section 49-21-403 for any continuous period of
2016 total disability.

2017 (5) "Monthly disability benefit" means the monthly payments and accrual of service
2018 credit under Section 49-21-401.

2019 (6) "Objective medical impairment" means an impairment resulting from an injury or
2020 illness which is diagnosed by a physician and which is based on accepted objective medical
2021 tests or findings rather than subjective complaints.

2022 (7) "Physician" means a licensed physician.

2023 (8) "Regular monthly salary" means the amount certified by the participating employer
2024 as the monthly salary of the eligible employee, unless there is a discrepancy between the
2025 certified amount and the amount actually paid, in which case the office shall determine the
2026 regular monthly salary.

2027 (9) "Regular occupation" means either the primary duties performed by the eligible
2028 employee for the 12 months preceding the date of disability, or a permanent assignment of duty
2029 to the eligible employee.

2030 (10) "Rehabilitative employment" means any occupation or employment for wage or
2031 profit, for which the eligible employee is reasonably qualified to perform based on education,
2032 training, or experience.

2033 (11) (a) "Total disability" means the complete inability, due to objective medical
2034 impairment, whether physical or mental, to engage in the eligible employee's regular
2035 occupation during the elimination period and the first 24 months of disability benefits.

2036 (b) (i) "Total disability" means, after the elimination period and the first 24 months of
2037 disability benefits, the complete inability, as determined under Subsection (11)(b)(ii), to engage
2038 in any gainful occupation which is reasonable, considering the eligible employee's education,
2039 training, and experience.

2040 (ii) For purposes of Subsection (11)(b)(i), inability is determined:

2041 (A) based solely on physical objective medical impairment; and

2042 (B) regardless of the existence or absence of any mental impairment.

2043 Section 41. Section **49-21-408** is enacted to read:

2044 **49-21-408. Limitation of service credit accrual -- Disability benefits from a**
2045 **long-term disability program other than under this chapter.**

2046 Beginning on July 1, 2014, an eligible employee who receives a monthly disability
2047 benefit from a long-term disability program other than under this chapter and who is eligible
2048 for service credit under a system or plan shall accrue service credit in that system or plan until
2049 the earlier of:

2050 (1) the date of the eligible employee's death;

2051 (2) the date the eligible employee retires from the system or plan; or

2052 (3) the date the eligible employee has accumulated or would have accumulated service
2053 credit in a defined benefit system or plan under this title, sufficient to be eligible to retire with
2054 an unreduced allowance, if the employee had not:

2055 (a) chosen a defined contribution plan under Title 49, Chapter 22, Part 4, Tier II
2056 Defined Contribution Plan, or under Title 49, Chapter 23, Part 4, Tier II Defined Contribution
2057 Plan;

2058 (b) been a volunteer firefighter; or

2059 (c) been exempted from a retirement system or plan under this title.

2060 Section 42. Section **49-22-201** is amended to read:

2061 **49-22-201. System membership -- Eligibility.**

2062 (1) Beginning July 1, 2011, a participating employer shall participate in this system.

2063 (2) (a) A person initially entering regular full-time employment with a participating
2064 employer on or after July 1, 2011, who does not have service credit accrued before July 1,
2065 2011, in a Tier I system or plan administered by the board, is eligible:

2066 (i) as a member for service credit and defined contributions under the Tier II hybrid
2067 retirement system established by Part 3, Tier II Hybrid Retirement System; or

2068 (ii) as a participant for defined contributions under the Tier II defined contribution plan
2069 established by Part 4, Tier II Defined Contribution Plan.

2070 (b) A person initially entering regular full-time employment with a participating
2071 employer on or after July 1, 2011, shall:

2072 (i) make an election to participate in the system created under this chapter within 30
2073 days from the date of eligibility for accrual of benefits:

2074 (A) as a member for service credit and defined contributions under the Tier II hybrid
2075 retirement system established by Part 3, Tier II Hybrid Retirement System; or

2076 (B) as a participant for defined contributions under the Tier II defined contribution plan
2077 established by Part 4, Tier II Defined Contribution Plan; and

2078 (ii) electronically submit to the office notification of the member's election under
2079 Subsection (2)(b)(i) in a manner approved by the office.

2080 (c) An election made by a person initially entering regular full-time employment with a
2081 participating employer under this Subsection (2) is irrevocable beginning one year from the
2082 date of eligibility for accrual of benefits.

2083 (d) If no election is made under Subsection (2)(b)(i), the person shall become a
2084 member eligible for service credit and defined contributions under the Tier II hybrid retirement
2085 system established by Part 3, Tier II Hybrid Retirement System.

2086 (3) Notwithstanding the provisions of this section, an elected official initially entering
2087 office on or after July 1, 2011:

2088 (a) is only eligible to participate in the Tier II defined contribution plan established
2089 under Chapter 22, Part 4, Tier II Defined Contribution Plan; and

2090 (b) is not eligible to participate in the Tier II hybrid retirement system established
2091 under Chapter 22, Part 3, Tier II Hybrid Retirement System.

2092 Section 43. Section **49-22-203** is amended to read:

2093 **49-22-203. Exclusions from membership in system.**

2094 (1) The following employees are not eligible for service credit in this system:

2095 (a) subject to the requirements of Subsection (2), an employee whose employment
2096 status is temporary in nature due to the nature or the type of work to be performed;

2097 (b) except as provided under Subsection (3), an employee of an institution of higher
2098 education who participates in a retirement system with [~~the Teachers' Insurance and Annuity~~
2099 ~~Association of America or with any other~~] a public or private retirement system, organization,
2100 or company designated by the State Board of Regents during any period in which required
2101 contributions based on compensation have been paid on behalf of the employee by the
2102 employer;

2103 (c) an employee serving as an exchange employee from outside the state; or

2104 (d) an employee of the Department of Workforce Services who is covered under

2105 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

2106 (2) If an employee whose status is temporary in nature due to the nature of type of
2107 work to be performed:

2108 (a) is employed for a term that exceeds six months and the employee otherwise
2109 qualifies for service credit in this system, the participating employer shall report and certify to
2110 the office that the employee is a regular full-time employee effective the beginning of the
2111 seventh month of employment; or

2112 (b) was previously terminated prior to being eligible for service credit in this system
2113 and is reemployed within three months of termination by the same participating employer, the
2114 participating employer shall report and certify that the member is a regular full-time employee
2115 when the total of the periods of employment equals six months and the employee otherwise
2116 qualifies for service credits in this system.

2117 (3) Upon cessation of the participating employer contributions, an employee under
2118 Subsection (1)(b) is eligible for service credit in this system.

2119 Section 44. Section **49-22-204** is amended to read:

2120 **49-22-204. Higher education employees' eligibility requirements -- Election**
2121 **between different retirement plans -- Classification requirements -- Transfer between**
2122 **systems.**

2123 (1) (a) Regular full-time employees of institutions of higher education who are eligible
2124 to participate in either this system or in a retirement annuity contract with [~~the Teachers'~~
2125 ~~Insurance and Annuity Association of America or with any other~~] a public or private system,
2126 organization, or company, designated by the Board of Regents, shall, not later than January 1,
2127 1979, elect to participate exclusively in this system or in an annuity contract allowed under this
2128 Subsection (1)(a).

2129 (b) The election is final, and no right exists to make any further election.

2130 (2) (a) A regular full-time employee hired by an institution of higher education after
2131 January 1, 1979, may participate only in the retirement plan which attaches to the person's
2132 employment classification.

2133 (b) Each institution of higher education shall prepare or amend existing employment
2134 classifications, under the direction of the Board of Regents, so that each classification is
2135 assigned with either:

2136 (i) this system; or
 2137 [~~(ii) the Teachers' Insurance and Annuity Association of America; or~~]
 2138 [~~(iii) another~~] (ii) a public or private system, organization, or company designated by
 2139 the Board of Regents.

2140 (3) A regular full-time employee hired by an institution of higher education on or after
 2141 July 1, 2011, whose employment classification requires participation in this system may elect
 2142 to continue participation in this system upon change to an employment classification which
 2143 requires participation in [~~(a) an annuity plan with the Teachers' Insurance and Annuity~~
 2144 ~~Association of America; or (b) another~~] a public or private system, organization, or company
 2145 designated by the Board of Regents.

2146 (4) A regular full-time employee hired by an institution of higher education on or after
 2147 July 1, 2011, whose employment classification requires participation in this system shall
 2148 participate in this system.

2149 Section 45. Section **49-22-304** is amended to read:

2150 **49-22-304. Defined benefit eligibility for an allowance -- Date of retirement --**
 2151 **Qualifications.**

2152 (1) A member is qualified to receive an allowance from this system when:

2153 (a) except as provided under Subsection (3), the member ceases actual work for every
 2154 participating employer that employs the member before the member's retirement date and
 2155 provides evidence of the termination;

2156 (b) the member has submitted to the office a [~~notarized~~] retirement application form
 2157 that states the member's proposed retirement date; and

2158 (c) one of the following conditions is met as of the member's retirement date:

2159 (i) the member has accrued at least four years of service credit and has attained an age
 2160 of 65 years;

2161 (ii) the member has accrued at least 10 years of service credit and has attained an age
 2162 of 62 years;

2163 (iii) the member has accrued at least 20 years of service credit and has attained an age
 2164 of 60 years; or

2165 (iv) the member has accrued at least 35 years of service credit.

2166 (2) (a) The member's retirement date:

2167 (i) shall be the 1st or the 16th day of the month, as selected by the member;
2168 (ii) shall be on or after the date of termination; and
2169 (iii) may not be more than 90 days before or after the date the application is received by
2170 the office.

2171 (b) Except as provided under Subsection (3), a member may not be employed by a
2172 participating employer in the system established by this chapter on the retirement date selected
2173 under Subsection (2)(a)(i).

2174 (3) (a) A member who is employed by a participating employer and who is also an
2175 elected official is not required to cease service as an elected official to be qualified to receive
2176 an allowance under Subsection (1), unless the member is retiring from service as an elected
2177 official.

2178 (b) A member who is employed by a participating employer and who is also a part-time
2179 appointed board member is not required to cease service as a part-time appointed board
2180 member to be qualified to receive an allowance under Subsection (1).

2181 Section 46. Section **49-23-201** is amended to read:

2182 **49-23-201. System membership -- Eligibility.**

2183 (1) Beginning July 1, 2011, a participating employer that employs public safety service
2184 employees or firefighter service employees shall participate in this system.

2185 (2) (a) A public safety service employee or a firefighter service employee initially
2186 entering employment with a participating employer on or after July 1, 2011, who does not have
2187 service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board,
2188 is eligible:

2189 (i) as a member for service credit and defined contributions under the Tier II hybrid
2190 retirement system established by Part 3, Tier II Hybrid Retirement System; or

2191 (ii) as a participant for defined contributions under the Tier II defined contributions
2192 plan established by Part 4, Tier II Defined Contribution Plan.

2193 (b) A public safety service employee or a firefighter service employee initially entering
2194 employment with a participating employer on or after July 1, 2011, shall:

2195 (i) make an election to participate in the system created under this chapter within 30
2196 days from the date of eligibility for accrual of benefits:

2197 (A) as a member for service credit and defined contributions under the Tier II hybrid

2198 retirement system established by Part 3, Tier II Hybrid Retirement System; or

2199 (B) as a participant for defined contributions under the Tier II defined contribution plan
2200 established by Part 4, Tier II Defined Contribution Plan; and

2201 (ii) electronically submit to the office notification of the member's election under
2202 Subsection (2)(b)(i) in a manner approved by the office.

2203 (c) An election made by a public safety service employee or firefighter service
2204 employee initially entering employment with a participating employer under this Subsection (2)
2205 is irrevocable beginning one year from the date of eligibility for accrual of benefits.

2206 (d) If no election is made under Subsection (2)(b)(i), the public safety service employee
2207 or firefighter service employee shall become a member eligible for service credit and defined
2208 contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid
2209 Retirement System.

2210 Section 47. Section **49-23-303** is amended to read:

2211 **49-23-303. Defined benefit eligibility for an allowance -- Date of retirement --**

2212 **Qualifications.**

2213 (1) A member is qualified to receive an allowance from this system when:

2214 (a) except as provided under Subsection (3), the member ceases actual work for every
2215 participating employer that employs the member before the member's retirement date and
2216 provides evidence of the termination;

2217 (b) the member has submitted to the office a [notarized] retirement application form
2218 that states the member's proposed retirement date; and

2219 (c) one of the following conditions is met as of the member's retirement date:

2220 (i) the member has accrued at least four years of service credit and has attained an age
2221 of 65 years;

2222 (ii) the member has accrued at least 10 years of service credit and has attained an age
2223 of 62 years;

2224 (iii) the member has accrued at least 20 years of service credit and has attained an age
2225 of 60 years; or

2226 (iv) the member has accrued at least 25 years of service credit.

2227 (2) (a) The member's retirement date:

2228 (i) shall be the 1st or the 16th day of the month, as selected by the member;

2229 (ii) shall be on or after the date of termination; and
2230 (iii) may not be more than 90 days before or after the date the application is received by
2231 the office.

2232 (b) Except as provided under Subsection (3), a member may not be employed by a
2233 participating employer in the system established by this chapter on the retirement date selected
2234 under Subsection (2)(a)(i).

2235 (3) (a) A member who is employed by a participating employer and who is also an
2236 elected official is not required to cease service as an elected official to be qualified to receive
2237 an allowance under Subsection (1), unless the member is retiring from service as an elected
2238 official.

2239 (b) A member who is employed by a participating employer and who is also a part-time
2240 appointed board member is not required to cease service as a part-time appointed board
2241 member to be qualified to receive an allowance under Subsection (1).

2242 Section 48. Section **49-23-503** is amended to read:

2243 **49-23-503. Death of active member in line of duty -- Payment of benefits.**

2244 If an active member of this system dies, benefits are payable as follows:

2245 (1) If the death is classified by the office as a line-of-duty death, benefits are payable as
2246 follows:

2247 (a) If the member has accrued less than 20 years of public safety service or firefighter
2248 service credit, the spouse at the time of death shall receive a lump sum of \$1,000 and an
2249 allowance equal to 30% of the member's final average monthly salary.

2250 (b) If the member has accrued 20 or more years of public safety service or firefighter
2251 service credit, the member shall be considered to have retired with an Option One allowance
2252 calculated without an actuarial reduction under Section [49-23-304](#) and the spouse at the time of
2253 death shall receive the allowance that would have been payable to the member.

2254 (2) (a) A volunteer firefighter is eligible for a line-of-duty death benefit under this
2255 section if the death results from external force, violence, or disease directly resulting from
2256 firefighter service.

2257 (b) The lowest monthly compensation of firefighters of a city of the first class in this
2258 state at the time of death shall be considered to be the final average monthly salary of a
2259 volunteer firefighter for purposes of computing these benefits.

2260 (c) Each volunteer fire department shall maintain a current roll of all volunteer
 2261 firefighters which meet the requirements of Subsection 49-23-102(12) to determine the
 2262 eligibility for this benefit.

2263 (3) (a) If the death is classified as a line-of-duty death by the office, death benefits are
 2264 payable under this section and the spouse at the time of death is not eligible for benefits under
 2265 Section 49-23-502.

2266 (b) If the death is not classified as a line-of-duty death by the office, benefits are
 2267 payable in accordance with Section 49-23-502.

2268 (4) (a) A spouse who qualifies for a monthly benefit under this section shall apply in
 2269 writing to the office.

2270 (b) The allowance shall begin on the first day of the month following the month in
 2271 which the:

2272 (i) member or participant died, if the application is received by the office within 90
 2273 days of the date of death of the member or participant; or

2274 (ii) application is received by the office, if the application is received by the office
 2275 more than 90 days after the date of death of the member or participant.

2276 Section 49. Section 67-19-43 is amended to read:

2277 **67-19-43. State employee matching supplemental defined contribution benefit.**

2278 (1) As used in this section, "qualifying employee" means an employee who is:

2279 (a) in a position that is $\hat{S} \rightarrow$ [receiving] $\leftarrow \hat{S}$;

2280 (i) $\hat{S} \rightarrow$ receiving $\leftarrow \hat{S}$ retirement benefits under Title 49, Utah State Retirement and
 2280a Insurance Benefit Act;

2281 and

2282 (ii) $\hat{S} \rightarrow$ accruing $\leftarrow \hat{S}$ paid leave benefits $\hat{S} \rightarrow$ ~~[accrued on a biweekly basis]~~ that can be
 2282a used in the current and future calendar years $\leftarrow \hat{S}$; and

2283 (b) not an employee who is reemployed as defined in Section 49-11-102.

2284 (2) Subject to the requirements of Subsection (3) and beginning on or after January 4,
 2285 2014, an employer shall make a biweekly matching contribution to every qualifying employee's
 2286 defined contribution plan qualified under Section 401(k) of the Internal Revenue Code, subject
 2287 to federal requirements and limitations, which is sponsored by the Utah State Retirement
 2288 Board.

2289 (3) (a) In accordance with the requirements of this Subsection (3), each qualifying
 2290 employee shall be eligible to receive the same dollar amount for the contribution under

2291 Subsection (2).

2292 (b) A qualifying employee:

2293 (i) shall receive the contribution amount determined under Subsection (3)(c) if the
2294 qualifying employee makes a voluntary personal contribution to the defined contribution plan
2295 account described in Subsection (2) in an amount equal to or greater than the employer's
2296 contribution amount determined in Subsection (3)(c);

2297 (ii) shall receive a partial contribution amount that is equal to the qualifying employee's
2298 personal contribution amount if the employee makes a voluntary personal contribution to the
2299 defined contribution plan account described in Subsection (2) in an amount less than the
2300 employer's contribution amount determined in Subsection (3)(c); or

2301 (iii) may not receive a contribution under Subsection (2) if the qualifying employee
2302 does not make a voluntary personal contribution to the defined contribution plan account
2303 described in Subsection (2).

2304 (c) (i) Subject to the maximum limit under Subsection (3)(c)(iii), the Legislature shall
2305 annually determine the contribution amount that an employer shall provide to each qualifying
2306 employee under Subsection (2).

2307 (ii) The department shall make recommendations annually to the Legislature on the
2308 contribution amount required under Subsection (2), in consultation with the Governor's Office
2309 of Management and Budget and the Division of Finance.

2310 (iii) The biweekly matching contribution amount required under Subsection (2) may
2311 not exceed \$26 for each qualifying employee.

2312 (4) A qualifying employee is eligible to receive the biweekly contribution under this
2313 section for any pay period in which the employee is in a paid status or other status protected by
2314 federal or state law.

2315 (5) The employer and employee contributions made under this section vest
2316 immediately upon deposit and can be withdrawn by the employee at any time, subject to
2317 Internal Revenue Code regulations on the withdrawals.

2318 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2319 executive director shall make rules establishing procedures to implement the provisions of this
2320 section.

2320a **Ŝ→ Section 50. Effective date.**

2320b **If approved by two-thirds of all the members elected to each house, this bill takes effect upon**

2320c **approval by the governor, or the day following the constitutional time limit of Utah**

2320d **Constitution Article VII, Section 8, without the governor's signature, or in the case of a**

2320e **veto, the date of veto override.** ←Ŝ

Legislative Review Note
as of 11-20-13 1:00 PM

Office of Legislative Research and General Counsel