

1                                   **UTAH RETIREMENT SYSTEMS AMENDMENTS**

2   2020 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Craig Hall**

5                                   Senate Sponsor: Wayne A. Harper

---

---

7 **LONG TITLE**

8 **General Description:**

9           This bill modifies the Utah State Retirement and Insurance Benefit Act by amending  
10 retirement and insurance provisions.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ provides that certain employee exclusions, exemptions, participation, or elections  
14 are subject to requirements under federal law and rules made by the Utah State  
15 Retirement Board;
- 16           ▶ amends the type of plans that an employer may contribute to for an employer related  
17 contribution for certain reemployed retirees;
- 18           ▶ amends the application process for payments to certain survivors based on an  
19 affidavit if there are no designated beneficiaries for the deceased member;
- 20           ▶ authorizes premium payments for eligible retired firefighters and public safety  
21 officers to be made from a defined contribution plan;
- 22           ▶ clarifies that a retiree may be eligible to earn additional service credit in a  
23 reemployed position, regardless of whether the retirement allowance was cancelled  
24 by the Utah State Retirement Office or at the retiree's election;
- 25           ▶ modifies provisions relating to the forfeiture of retirement benefits to:
  - 26           • clarify that reduced charges in accordance with all plea agreements may be  
27 considered convictions; and
  - 28           • establish procedures to be used for an employee appeal of the employer's  
29 determination if the Administrative Procedures Act is not applicable to that

- 30 employer;
- 31       ▶ authorizes, but does not require, an employer to elect to make all of its exchange
- 32 employees eligible for retirement participation;
- 33       ▶ modifies provisions to provide notice of the available death benefits for public
- 34 safety and firefighter members of the Tier II Defined Contribution Plan; and
- 35       ▶ makes technical changes.

36 **Money Appropriated in this Bill:**

37       None

38 **Other Special Clauses:**

39       This bill provides a special effective date.

40 **Utah Code Sections Affected:**

41 AMENDS:

- 42       **49-11-406**, as last amended by Laws of Utah 2013, Chapter 310
- 43       **49-11-504**, as last amended by Laws of Utah 2016, Chapter 310
- 44       **49-11-609**, as last amended by Laws of Utah 2018, Chapter 281
- 45       **49-11-612**, as last amended by Laws of Utah 2018, Chapter 10
- 46       **49-11-1204**, as last amended by Laws of Utah 2018, Chapter 10
- 47       **49-11-1401**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
- 48       **49-12-203**, as last amended by Laws of Utah 2018, Chapter 10 and last amended by
- 49 Coordination Clause, Laws of Utah 2018, Chapter 315
- 50       **49-12-204**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 51       **49-13-203**, as last amended by Laws of Utah 2018, Chapter 10 and last amended by
- 52 Coordination Clause, Laws of Utah 2018, Chapter 315
- 53       **49-13-204**, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 54       **49-14-203**, as last amended by Laws of Utah 2012, Chapter 298
- 55       **49-15-203**, as last amended by Laws of Utah 2012, Chapter 298
- 56       **49-16-203**, as last amended by Laws of Utah 2016, Chapter 310
- 57       **49-19-403**, as enacted by Laws of Utah 2002, Chapter 250

- 58 [49-22-201](#), as last amended by Laws of Utah 2016, Chapter 227
- 59 [49-22-203](#), as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 60 [49-22-204](#), as last amended by Coordination Clause, Laws of Utah 2018, Chapter 315
- 61 [49-22-205](#), as last amended by Laws of Utah 2018, Chapter 10
- 62 [49-23-203](#), as enacted by Laws of Utah 2015, Chapter 315
- 63 [49-23-501](#), as last amended by Laws of Utah 2013, Chapter 316



64  
65 *Be it enacted by the Legislature of the state of Utah:*

66 Section 1. Section **49-11-406** is amended to read:

67 **49-11-406. Governor's appointed executives and senior staff -- Appointed**  
 68 **legislative employees -- Transfer of value of accrued defined benefit -- Procedures.**

69 (1) As used in this section:

70 (a) "Defined benefit balance" means the total amount of the contributions made on  
71 behalf of a member to a defined benefit system plus refund interest.

72 (b) "Senior staff" means an at-will employee who reports directly to an elected official,  
73 executive director, or director and includes a deputy director and other similar, at-will  
74 employee positions designated by the governor, the speaker of the House, or the president of  
75 the Senate and filed with the Department of Human Resource Management and the Utah State  
76 Retirement Office.

77 (2) In accordance with this section and subject to requirements under federal law and  
78 rules made by the board, a member who has service credit from a system may elect to be  
79 exempt from coverage under a defined benefit system and to have the member's defined benefit  
80 balance transferred from the defined benefit system or plan to a defined contribution plan in the  
81 member's own name if the member is:

- 82 (a) the state auditor;
- 83 (b) the state treasurer;
- 84 (c) an appointed executive under Subsection [67-22-2\(1\)\(a\)](#);
- 85 (d) an employee in the Governor's Office;

- 86 (e) senior staff in the Governor's Office of Management and Budget;
- 87 (f) senior staff in the Governor's Office of Economic Development;
- 88 (g) senior staff in the Commission on Criminal and Juvenile Justice;
- 89 (h) a legislative employee appointed under Subsection 36-12-7(3)(a);
- 90 (i) a legislative employee appointed by the speaker of the House of Representatives, the
- 91 House of Representatives minority leader, the president of the Senate, or the Senate minority
- 92 leader; or

93 (j) senior staff of the Utah Science Technology and Research Initiative created under  
94 Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.

95 (3) An election made under Subsection (2):

- 96 (a) is final, and no right exists to make any further election;
- 97 (b) is considered a request to be exempt from coverage under a defined benefits
- 98 system; and

99 (c) shall be made on forms provided by the office.

100 (4) The board shall adopt rules to implement and administer this section.

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

102 **49-11-504. Reemployment of a retiree -- Restrictions.**

103 (1) As used in this section:

104 (a) "full-time" means:

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

107 (b) "Reemployed," "reemploy," or "reemployment" means the same as those terms are  
108 defined in Section 49-11-1202.

109 (2) (a) Except for the provisions of Subsection (3), the provisions of this section do not  
110 apply to a person who is subject to the provisions of Chapter 11, Part 12, Postretirement  
111 Reemployment Restrictions Act.

112 (b) This section does not apply to employment as an elected official.

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

114 restrictions under this title.

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

117 (a) a different agency; or

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

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

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

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

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

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

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

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

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

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

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

141 (d) any suspension of a retiree's allowance under this Subsection (6) shall be applied on

142 a calendar year basis.

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

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

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

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

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

151 (8) (a) If a participating employer hires a retiree, the participating employer may not  
152 make a retirement related contribution in an amount that exceeds the normal cost rate as  
153 defined under Section 49-11-102 on behalf of the retiree under ~~[Subsections]~~ Subsection (8)(b)  
154 ~~[and (c)]~~.

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

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

159 ~~[(ii) qualified defined contribution plan offered by the participating employer if the~~  
160 ~~participating employer does not participate in a qualified defined contribution plan~~  
161 ~~administered by the board.]~~

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

166 (ii) deferred compensation plan administered by the board.

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

169 (a) the formula in effect at the date of the retiree's original retirement for all service

170 credit accrued prior to that date; and

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

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

174 Section 3. Section **49-11-609** is amended to read:

175 **49-11-609. Beneficiary designations -- Revocation of beneficiary designation --**  
176 **Procedure -- Beneficiary not designated -- Payment to survivors in order established**  
177 **under the Uniform Probate Code -- Restrictions on payment -- Payment of deceased's**  
178 **expenses.**

179 (1) As used in this section, "member" includes a member, retiree, participant, covered  
180 individual, a spouse of a retiree participating in the insurance benefits created by Sections  
181 [49-12-404](#), [49-13-404](#), [49-22-307](#), and [49-23-306](#), or an alternate payee under a domestic  
182 relations order dividing a defined contribution account.

183 (2) (a) Except as provided under Subsection (2)(b) or (c), the most recent beneficiary  
184 designations signed by the member and filed with the office, including electronic records, at the  
185 time of the member's death are binding in the payment of any benefits due under this title.

186 (b) (i) The divorce or annulment of a member's marriage shall revoke the member's  
187 former spouse as a beneficiary from any of the member's beneficiary designations.

188 (ii) A revocation of a former spouse as a beneficiary in accordance with Subsection  
189 (2)(b)(i) does not revoke any other beneficiaries named on the member's beneficiary  
190 designations.

191 (c) A former spouse whose beneficiary designation is revoked solely under Subsection  
192 (2)(b) shall be revived on the member's beneficiary designations by:

193 (i) the member's remarriage to the former spouse; or

194 (ii) a nullification of the divorce or annulment.

195 (d) A revocation under Subsection (2)(b) does not apply to a former spouse named as a  
196 beneficiary in a beneficiary designation signed by the member and filed with the office after the  
197 date of the divorce or annulment.

198 (e) The office is not liable for having made a payment of any benefits to a beneficiary  
199 designated in a beneficiary designation affected by a divorce, annulment, or remarriage before  
200 the office received written notice of the divorce, annulment, or remarriage.

201 (3) (a) Except where an optional continuing benefit is chosen, or the law makes a  
202 specific benefit designation to a dependent spouse, a member may revoke a beneficiary  
203 designation at any time and may execute and file a different beneficiary designation with the  
204 office.

205 (b) A beneficiary designation or change of beneficiary designation shall be completed  
206 on forms provided by the office.

207 (4) (a) All benefits payable by the office may be paid or applied to the benefit of the  
208 decedent's heirs in the order of precedence established under Title 75, Chapter 2, Intestate  
209 Succession and Wills, if:

210 (i) no beneficiary is designated or if all designated beneficiaries have predeceased the  
211 member;

212 (ii) the location of the beneficiary or secondary beneficiaries cannot be ascertained by  
213 the office within 12 months of the date a reasonable attempt is made by the office to locate the  
214 beneficiaries; or

215 (iii) the beneficiary has not completed the forms necessary to pay the benefits within  
216 six months of the date that beneficiary forms are sent to the beneficiary's last-known address.

217 (b) (i) A payment may not be made to a person included in any of the groups referred  
218 to in Subsection (4)(a) if at the date of payment there is a living person in any of the groups  
219 preceding it.

220 (ii) Payment to a person in any group may be based upon receipt [~~from the person~~] of  
221 an affidavit in a form satisfactory to the office that:

222 (A) there are no living individuals in the group preceding it;

223 (B) the probate of the estate of the deceased has not been commenced; and

224 (C) more than 30 days have elapsed since the date of death of the decedent.

225 (5) Benefits paid under this section shall be:

- 226 (a) a full satisfaction and discharge of all claims for benefits under this title; and
- 227 (b) payable by reason of the death of the decedent.

228 Section 4. Section **49-11-612** is amended to read:

229 **49-11-612. Domestic relations order benefits -- Nonassignability of benefits or**  
230 **payments -- Exemption from legal process.**

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

- 232 (a) an allowance;
- 233 (b) a defined contribution account established under:
  - 234 (i) Part 8, Defined Contribution Plans;
  - 235 (ii) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
  - 236 (iii) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement
  - 237 Act;

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

- 239 (i) Chapter 14, Part 5, Death Benefit;
- 240 (ii) Chapter 15, Part 5, Death Benefit;
- 241 (iii) Chapter 16, Part 5, Death Benefit;
- 242 (iv) Chapter 17, Part 5, Death Benefit;
- 243 (v) Chapter 18, Part 5, Death Benefit; or
- 244 (vi) Chapter 19, Part 5, Death Benefit;

245 (d) a lump sum death benefit provided under:

- 246 (i) Chapter 12, Part 5, Death Benefit;
- 247 (ii) Chapter 13, Part 5, Death Benefit;
- 248 (iii) Chapter 22, Part 5, Death Benefit; or
- 249 (iv) Chapter 23, Part 5, Death Benefit; or

250 (e) a refund of member contributions upon termination.

251 (2) Except as provided in Subsections (3), (4), and (5), the right of any member, retiree,  
252 participant, covered individual, or beneficiary to any retirement benefit, retirement payment, or  
253 any other retirement right accrued or accruing under this title and the assets of the funds created

254 by this title are not subject to alienation or assignment by the member, retiree, participant, or  
255 their beneficiaries and are not subject to attachment, execution, garnishment, or any other legal  
256 or equitable process.

257 (3) (a) The office may, upon the request of the retiree, deduct from the retiree's  
258 allowance, insurance premiums or other dues payable on behalf of the retiree, but only to those  
259 entities that have received the deductions prior to February 1, 2002.

260 (b) The office may, upon the request of a retiree of a public safety or firefighter system,  
261 deduct insurance premiums from the retiree's allowance or defined contribution plan  
262 administered by the board.

263 (4) (a) The office shall provide for the division of domestic relations order benefits  
264 with former spouses and family members under an order of a court of competent jurisdiction  
265 with respect to domestic relations matters on file with the office.

266 (b) The court order shall specify the manner in which the domestic relations order  
267 benefits shall be partitioned, whether as a fixed amount or as a percentage of the benefit.

268 (c) Domestic relations order benefits split under a domestic relations order are subject  
269 to the following:

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

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

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

277 (d) (i) Except as provided under Subsection (4)(d)(ii), to be valid, a court order under  
278 this section must be on file with the office before the member's date of death.

279 (ii) A court order under this section received by the office after the member's date of  
280 death shall be considered valid if it is received in good order before benefits relating to the  
281 member's death are paid or settled.

282 (e) A court order under this section may not require and may not be interpreted in any  
283 way to require the office to provide any type of benefit or any option not otherwise provided  
284 under this title.

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

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

290 Section 5. Section **49-11-1204** is amended to read:

291 **49-11-1204. General restrictions -- Election following one-year separation --**  
292 **Amortization rate.**

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

- 294 (a) (i) earn additional service credit; or
- 295 (ii) receive any retirement related contribution from a participating employer; and
- 296 (b) receive a retirement allowance.

297 (2) (a) Except as provided under Section [49-11-1205](#), the office shall cancel the  
298 retirement allowance of a retiree if the reemployment with a participating employer begins  
299 within one year of the retiree's retirement date.

300 (b) If the office cancels the retiree's retirement allowance under Subsection (2)(a), the  
301 retiree may be eligible to earn additional service credit in the reemployed position and receive  
302 an allowance in accordance with Subsections (4)(a) and (5) and other provisions of this title.

303 (3) If a reemployed retiree [~~has completed~~], in accordance with Subsection (2)(a), is  
304 exempt from having the allowance cancelled, including for completing the one-year separation  
305 from employment with a participating employer [~~required under Subsection (2)~~], the retiree  
306 may elect to:

- 307 (a) cancel the retiree's retirement allowance and instead earn additional service credit in  
308 the reemployed position and receive an allowance in accordance with Subsections (4)(a) and  
309 (5) and other provisions of this title; or

310 (b) continue to receive the retiree's retirement allowance, forfeit earning additional  
311 service credit, and forfeit any retirement-related contribution from the participating employer  
312 that reemployed the retiree.

313 (4) (a) If a retiree's retirement allowance is cancelled and the retiree is eligible for  
314 retirement coverage in a reemployed position, the office shall reinstate the retiree to active  
315 member status on the first day of the month following the date of the employee's eligible  
316 reemployment.

317 (b) Except as provided under Subsection (4)(c), if the retiree is not otherwise eligible  
318 for retirement coverage in the reemployed position, the participating employer that reemploys  
319 the retiree shall contribute the amortization rate to the office on behalf of the retiree.

320 (c) A participating employer that reemploys a retiree in accordance with Subsection  
321 49-11-1205(1) is not required to contribute the amortization rate to the office.

322 (5) (a) For a retiree reinstated to active member status under Subsection (4)(a) who  
323 retires within two years from the date of reemployment, the office:

324 (i) may not recalculate a retirement benefit for the retiree; and

325 (ii) shall resume the allowance that was being paid to the retiree at the time of the  
326 cancellation.

327 (b) Subject to Subsection (1), for a retiree who is reinstated to active membership  
328 under Subsection (4)(a) and retires two or more years after the date of reinstatement to active  
329 membership, the office shall:

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

331 (ii) calculate an additional allowance for the retiree based on the formula in effect at  
332 the date of the subsequent retirement for all service credit accrued between the first and  
333 subsequent retirement dates.

334 Section 6. Section 49-11-1401 is amended to read:

335 **49-11-1401. Forfeiture of retirement benefits for employees for employment**  
336 **related offense convictions -- Notifications -- Investigations -- Appeals.**

337 (1) As used in this section:

338 (a) "Convicted" means a conviction by plea or by verdict, including a plea of guilty or a  
339 plea of no contest that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance,  
340 regardless of whether the charge was, or is, subsequently reduced in accordance with the plea  
341 agreement or reduced or dismissed in accordance with the plea in abeyance agreement.

342 (b) "Employee" means a member of a system or plan administered by the board.

343 (c) (i) "Employment related offense" means a felony committed during employment or  
344 the term of an elected or appointed office with a participating employer that is:

345 (A) during the performance of the employee's duties;

346 (B) within the scope of the employee's employment; or

347 (C) under color of the employee's authority.

348 (ii) "Employment related offense" does not include any federal offense for conduct that  
349 is lawful under Title 26, Chapter 61a, Utah Medical Cannabis Act.

350 (2) (a) Notwithstanding any other provision of this title, an employee shall forfeit  
351 accrual of service credit, employer retirement related contributions, including employer  
352 contributions to the employer sponsored defined contribution plans, or other retirement related  
353 benefits from a system or plan under this title in accordance with this section.

354 (b) The forfeiture of retirement related benefits under Subsection (2)(a) does not  
355 include the employee's contribution to a defined contribution plan.

356 (3) An employee shall forfeit the benefits described under Subsection (2)(a):

357 (a) if the employee is convicted of an employment related offense;

358 (b) beginning on the day on which the employment related offense occurred; and

359 (c) until the employee is either:

360 (i) re-elected or reappointed to office; or

361 (ii) (A) terminated from the position for which the employee was found to have  
362 committed an employment related offense; and

363 (B) rehired or hired as an employee who is eligible to be a member of a Utah state  
364 retirement system or plan.

365 (4) The employee's participating employer shall:

366 (a) immediately notify the office:  
367 (i) if an employee is charged with an offense that is or may be an employment related  
368 offense under this section; and  
369 (ii) if the employee described in Subsection (4)(a)(i) is acquitted of the offense that is  
370 or may be an employment related offense under this section; and  
371 (b) if the employee is convicted of an offense that may be an employment related  
372 offense:  
373 (i) conduct an investigation, which may rely on the conviction, to determine:  
374 (A) whether the conviction is for an employment related offense; and  
375 (B) the date on which the employment related offense was initially committed; and  
376 (ii) after the period of time for an appeal by an employee under Subsection (5),  
377 immediately notify the office of the employer's determination under this Subsection (4)(b).  
378 (5) An employee may appeal the employee's participating employer's determination  
379 under Subsection (4)(b) in accordance with the participating employer's procedures for  
380 appealing agency action, including Title 63G, Chapter 4, Administrative Procedures Act, if  
381 applicable.  
382 (6) (a) Notwithstanding Subsection (4), a district attorney, a county attorney, the  
383 attorney general's office, or the state auditor may notify the office and the employee's  
384 participating employer if an employee is charged with an offense that is or may be an  
385 employment related offense under this section.  
386 (b) If the employee's participating employer receives a notification under Subsection  
387 (6)(a), the participating employer shall immediately report to the entity that provided the  
388 notification under Subsection (6)(a):  
389 (i) if the employee is acquitted of the offense;  
390 (ii) if the employee is convicted of an offense that may be an employment related  
391 offense; and  
392 (iii) when the participating employer has concluded its duties under this section if the  
393 employee is convicted, including conducting an investigation, making a determination under

394 Subsection (4)(b) that the conviction was for an employment related offense, and notifying the  
395 office under Subsection (7).

396 (c) The notifying entity under Subsection (6)(a) may assist the employee's participating  
397 employer with the investigation and determination described under Subsection (4)(b).

398 (7) Upon receiving a notification from a participating employer that the participating  
399 employer has made a determination under Subsection (4)(b) that the conviction was for an  
400 employment related offense, the office shall immediately forfeit any service credit, employer  
401 retirement related contributions, including employer contributions to the employer sponsored  
402 contribution plans, or other retirement related benefits accrued by or made for the benefit of the  
403 employee, beginning on the date of the initial employment related offense determined under  
404 Subsection (4)(b).

405 (8) This section applies to an employee who is convicted on or after the effective date  
406 of this act for an employment related offense.

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

408 (10) If any provision of this section, or the application of any provision to any person  
409 or circumstance, is held invalid, the remainder of this section shall be given effect without the  
410 invalid provision or application.

411 Section 7. Section **49-12-203** is amended to read:

412 **49-12-203. Exclusions from membership in system.**

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

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

416 (b) except as provided under Subsection (3)(a), an employee of an institution of higher  
417 education who participates in a retirement system with a public or private retirement system,  
418 organization, or company designated by the State Board of Regents, or the Board of Directors  
419 of each technical college for an employee of each technical college, during any period in which  
420 required contributions based on compensation have been paid on behalf of the employee by the  
421 employer;

422 (c) an employee serving as an exchange employee from outside the state for an  
423 employer who has not elected to make all of the employer's exchange employees eligible for  
424 service credit in this system;

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

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

430 (f) an employee who is employed on or after July 1, 2009, with an employer that has  
431 elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection  
432 49-12-202(2)(c);

433 (g) an employee who is employed on or after July 1, 2014, with an employer that has  
434 elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection  
435 49-12-202(2)(d);

436 (h) an employee who is employed with a withdrawing entity that has elected under  
437 Section 49-11-623, prior to January 1, 2017, to exclude:

438 (i) new employees from participation in this system under Subsection 49-11-623(3)(a);  
439 or

440 (ii) all employees from participation in this system under Subsection 49-11-623(3)(b);  
441 or

442 (i) an employee described in Subsection (1)(i)(i) or (ii) who is employed with a  
443 withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to  
444 exclude:

445 (i) new employees from participation in this system under Subsection 49-11-624(3)(a);  
446 or

447 (ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

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

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

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

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

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

464 (c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service  
465 credit earned by an employee under this chapter before July 1, 2014, is not affected under  
466 Subsection (1)(g).

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

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

471 (b) an elected official;

472 (c) an executive department head of the state, a member of the State Tax Commission,  
473 a member of the Public Service Commission, and a member of a full-time or part-time board or  
474 commission;

475 (d) an employee of the Governor's Office of Management and Budget;

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

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

- 478 (g) an employee of the Governor's Office;
- 479 (h) an employee of the State Auditor's Office;
- 480 (i) an employee of the State Treasurer's Office;
- 481 (j) any other member who is permitted to make an election under Section 49-11-406;
- 482 (k) a person appointed as a city manager or chief city administrator or another person
- 483 employed by a municipality, county, or other political subdivision, who is an at-will employee;
- 484 [~~and~~]

485 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,  
486 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through  
487 membership in a labor organization that provides retirement benefits to its members[=]; and

488 (m) an employee serving as an exchange employee from outside the state for an  
489 employer who has elected to make all of the employer's exchange employees eligible for  
490 service credit in this system.

491 (5) (a) Each participating employer shall prepare and maintain a list designating those  
492 positions eligible for exemption under Subsection (4).

493 (b) An employee may not be exempted unless the employee is employed in an  
494 exempted position designated by the participating employer.

495 (6) (a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a  
496 municipality, county, or political subdivision may not exempt a total of more than 50 positions  
497 or a number equal to 10% of the eligible employees of the municipality, county, or political  
498 subdivision, whichever is less.

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

501 (7) Each participating employer shall:

502 (a) maintain a list of employee exemptions; and

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

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

505 (9) An employee's exclusion, exemption, participation, or election described in this

506 section:

507 (a) shall be made in accordance with this section; and

508 (b) is subject to requirements under federal law and rules made by the board.

509 Section 8. Section **49-12-204** is amended to read:

510 **49-12-204. Higher education employees' eligibility requirements -- Election**  
511 **between different retirement plans -- Classification requirements -- Transfer between**  
512 **systems -- One-time election window -- Rulemaking.**

513 (1) (a) A regular full-time employee of an institution of higher education who is  
514 eligible to participate in either this system or a public or private retirement system,  
515 organization, or company, designated as described in Subsection (1)(c) or (d), shall, not later  
516 than January 1, 1979, elect to participate exclusively in this system or in an annuity contract  
517 allowed under this Subsection (1).

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

519 (c) Except as provided in Subsection (1)(d), the Board of Regents shall designate the  
520 public or private retirement systems, organizations, or companies that a regular full-time  
521 employee of an institution of higher education is eligible to participate in under Subsection  
522 (1)(a).

523 (d) The Board of Directors of each technical college shall designate the public or  
524 private retirement systems, organizations, or companies that a regular full-time employee of  
525 each technical college is eligible to participate in under Subsection (1)(a).

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

529 (b) Each institution of higher education shall prepare or amend existing employment  
530 classifications, under the direction of the Board of Regents, or the Board of Directors of each  
531 technical college for each technical college, so that each classification is assigned with either:

532 (i) this system; or

533 (ii) a public or private system, organization, or company designated by:

534 (A) except as provided in Subsection (2)(b)(ii)(B), the Board of Regents; or  
535 (B) the Board of Directors of each technical college for regular full-time employees of  
536 each technical college.

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

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

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

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

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

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

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

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

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

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

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

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

567 (8) An employee's participation or election described in this section:

568 (a) shall be made in accordance with this section; and

569 (b) is subject to requirements under federal law and rules made by the board.

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

571 **49-13-203. Exclusions from membership in system.**

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

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

575 (b) except as provided under Subsection (3)(a), an employee of an institution of higher  
576 education who participates in a retirement system with a public or private retirement system,  
577 organization, or company designated by the State Board of Regents, or the Board of Directors  
578 of each technical college for an employee of each technical college, during any period in which  
579 required contributions based on compensation have been paid on behalf of the employee by the  
580 employer;

581 (c) an employee serving as an exchange employee from outside the state for an  
582 employer who has not elected to make all of the employer's exchange employees eligible for  
583 service credit in this system;

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

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

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

593 (g) an employee who is employed with a withdrawing entity that has elected under  
594 Section 49-11-623, prior to January 1, 2017, to exclude:

595 (i) new employees from participation in this system under Subsection 49-11-623(3)(a);

596 or

597 (ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

598 or

599 (h) an employee described in Subsection (1)(h)(i) or (ii) who is employed with a  
600 withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to  
601 exclude:

602 (i) new employees from participation in this system under Subsection 49-11-624(3)(a);

603 or

604 (ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

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

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

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

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

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

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

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

625 (b) an elected official;

626 (c) an executive department head of the state, a member of the State Tax Commission,  
627 a member of the Public Service Commission, and a member of a full-time or part-time board or  
628 commission;

629 (d) an employee of the Governor's Office of Management and Budget;

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

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

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

633 (h) an employee of the State Auditor's Office;

634 (i) an employee of the State Treasurer's Office;

635 (j) any other member who is permitted to make an election under Section 49-11-406;

636 (k) a person appointed as a city manager or chief city administrator or another person  
637 employed by a municipality, county, or other political subdivision, who is an at-will employee;

638 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,  
639 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through  
640 membership in a labor organization that provides retirement benefits to its members; ~~and~~

641 (m) an employee of the Utah Science Technology and Research Initiative created under  
642 Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act[-]; and

643 (n) an employee serving as an exchange employee from outside the state for an  
644 employer who has elected to make all of the employer's exchange employees eligible for  
645 service credit in this system.

646 (5) (a) Each participating employer shall prepare and maintain a list designating those  
647 positions eligible for exemption under Subsection (4).

648 (b) An employee may not be exempted unless the employee is employed in a position  
649 designated by the participating employer.

650 (6) (a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a  
651 municipality, county, or political subdivision may not exempt a total of more than 50 positions  
652 or a number equal to 10% of the eligible employees of the municipality, county, or political  
653 subdivision, whichever is less.

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

656 (7) Each participating employer shall:

657 (a) maintain a list of employee exemptions; and

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

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

660 (9) An employee's exclusion, exemption, participation, or election described in this  
661 section:

662 (a) shall be made in accordance with this section; and

663 (b) is subject to requirements under federal law and rules made by the board.

664 Section 10. Section 49-13-204 is amended to read:

665 **49-13-204. Higher education employees' eligibility requirements -- Election**  
666 **between different retirement plans -- Classification requirements -- Transfer between**  
667 **systems -- One-time election window -- Rulemaking.**

668 (1) (a) A regular full-time employee of an institution of higher education who is  
669 eligible to participate in either this system or in a retirement system with a public or private  
670 retirement system, organization, or company, designated as described in Subsection (1)(c) or  
671 (d), shall, not later than January 1, 1979, elect to participate exclusively in this system or in an  
672 annuity contract allowed under this Subsection (1)(a).

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

674 (c) Except as provided in Subsection (1)(d), the Board of Regents shall designate the  
675 public or private retirement systems, organizations, or companies that a regular full-time  
676 employee of an institution of higher education is eligible to participate in under Subsection  
677 (1)(a).

678 (d) The Board of Directors of each technical college shall designate the public or  
679 private retirement systems, organizations, or companies that a regular full-time employee of  
680 each technical college is eligible to participate in under Subsection (1)(a).

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

684 (b) Each institution of higher education shall prepare or amend existing employment  
685 classifications, under the direction of the Board of Regents, or the Board of Directors of each  
686 technical college for regular full-time employees of each technical college, so that each  
687 classification is assigned with either:

688 (i) this system; or

689 (ii) a public or private system, organization, or company designated by:

690 (A) except as provided in Subsection (2)(b)(ii)(B), the Board of Regents; or

691 (B) the Board of Directors of each technical college for regular full-time employees of  
692 each technical college.

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

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

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

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

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

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

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

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

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

720 (8) An employee's participation or election described in this section:

721 (a) shall be made in accordance with this section; and

722 (b) is subject to requirements under federal law and rules made by the board.

723 Section 11. Section 49-14-203 is amended to read:

724 **49-14-203. Exemption of certain employees from coverage.**

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

727 (a) is serving:

728 (i) as the Commissioner of Public Safety;

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

730 (iii) as the elected or appointed sheriff or chief of police of a public safety organization;  
731 and

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

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

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

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

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

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

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

743 (4) An employee's exclusion, exemption, participation, or election described in this  
744 section:

745 (a) shall be made in accordance with this section; and

746 (b) is subject to requirements under federal law and rules made by the board.

747 Section 12. Section 49-15-203 is amended to read:

748 **49-15-203. Exemption of certain employees from coverage.**

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

751 (a) is serving:

752 (i) as the Commissioner of Public Safety;

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

754 (iii) as the elected or appointed sheriff or chief of police of a public safety organization;

755 and

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

757 (2) Except as provided in Subsection (3), the public safety service employee may not

758 continue employment with the same participating employer and receive an allowance from the  
759 office based on public safety service at the same time.

760 (3) (a) The Commissioner of Public Safety, an elected sheriff, or an appointed chief of  
761 police who is eligible to retire under Section 49-15-401 may until July 1, 2010:

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

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

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

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

767 (4) An employee's exclusion, exemption, participation, or election described in this  
768 section:

769 (a) shall be made in accordance with this section; and

770 (b) is subject to requirements under federal law and rules made by the board.

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

772 **49-16-203. Exemption of certain employees from coverage -- Exception.**

773 (1) A firefighter service employee serving as the chief of any fire department or district  
774 is excluded from coverage under this system if that firefighter service employee files a formal  
775 written request seeking exemption.

776 (2) The chief of any fire department or district who retires from that position shall  
777 comply with the provisions of Section 49-11-504 and Chapter 11, Part 12, Postretirement  
778 Reemployment Restrictions Act, upon reemployment by the participating employer.

779 (3) An employee's exclusion, exemption, participation, or election described in this  
780 section:

781 (a) shall be made in accordance with this section; and

782 (b) is subject to requirements under federal law and rules made by the board.

783 Section 14. Section 49-19-403 is amended to read:

784 **49-19-403. Retirement option.**

785 (1) A governor or legislator may elect to forfeit the allowance provided by this chapter

786 and in lieu thereof participate, on the same basis as other state elected and appointed officers  
787 under Title 67, Chapter 22, State Officer Compensation, in a defined contribution plan  
788 administered by the office, in accordance with Section 49-11-801 and in accordance with  
789 federal law.

790 (2) A governor's or legislator's exclusion, exemption, participation, or election  
791 described in this section:

792 (a) shall be made in accordance with this section; and

793 (b) is subject to requirements under federal law and rules made by the board.

794 Section 15. Section 49-22-201 is amended to read:

795 **49-22-201. System membership -- Eligibility.**

796 (1) Beginning July 1, 2011, a participating employer shall participate in this system.

797 (2) (a) A person initially entering regular full-time employment with a participating  
798 employer on or after July 1, 2011, who does not have service credit accrued before July 1,  
799 2011, in a Tier I system or plan administered by the board, is eligible:

800 (i) as a member for service credit and defined contributions under the Tier II hybrid  
801 retirement system established by Part 3, Tier II Hybrid Retirement System; or

802 (ii) as a participant for defined contributions under the Tier II defined contribution plan  
803 established by Part 4, Tier II Defined Contribution Plan.

804 (b) A person initially entering regular full-time employment with a participating  
805 employer on or after July 1, 2011, shall:

806 (i) make an election to participate in the system created under this chapter:

807 (A) as a member for service credit and defined contributions under the Tier II hybrid  
808 retirement system established by Part 3, Tier II Hybrid Retirement System; or

809 (B) as a participant for defined contributions under the Tier II defined contribution plan  
810 established by Part 4, Tier II Defined Contribution Plan; and

811 (ii) electronically submit to the office notification of the member's election under  
812 Subsection (2)(b)(i) in a manner approved by the office.

813 (c) An election made by a person initially entering regular full-time employment with a

814 participating employer under this Subsection (2) is irrevocable beginning one year from the  
815 date of eligibility for accrual of benefits.

816 (d) If no election is made under Subsection (2)(b)(i), the person shall become a  
817 member eligible for service credit and defined contributions under the Tier II hybrid retirement  
818 system established by Part 3, Tier II Hybrid Retirement System.

819 (3) Notwithstanding the provisions of this section and except as provided in Subsection  
820 (4), an elected official initially entering office on or after July 1, 2011:

821 (a) is only eligible to participate in the Tier II defined contribution plan established  
822 under Part 4, Tier II Defined Contribution Plan;

823 (b) is not eligible to participate in the Tier II hybrid retirement system established  
824 under Part 3, Tier II Hybrid Retirement System; and

825 (c) is vested immediately in the elected official's benefit and the benefit is  
826 nonforfeitable, including the total amount contributed by the participating employer and the  
827 total amount contributed by the member in the Tier II defined contribution plan.

828 (4) Notwithstanding the provisions of Subsection (3), a legislator or full-time elected  
829 official initially entering office on or after July 1, 2011, who has previously accrued service  
830 credit [~~accrued before July 1, 2011~~]:

831 (a) in a Tier I retirement system or plan administered by the board shall continue in the  
832 Tier I system or plan for which the legislator or full-time elected official is eligible; or

833 (b) in a Tier II hybrid retirement system shall continue in the Tier II system for which  
834 the legislator or full-time elected official is eligible.

835 Section 16. Section **49-22-203** is amended to read:

836 **49-22-203. Exclusions from membership in system.**

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

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

840 (b) except as provided under Subsection (3), an employee of an institution of higher  
841 education who participates in a retirement system with a public or private retirement system,

842 organization, or company designated by the State Board of Regents, or the Board of Directors  
843 of each technical college for an employee of each technical college, during any period in which  
844 required contributions based on compensation have been paid on behalf of the employee by the  
845 employer;

846 (c) an employee serving as an exchange employee from outside the state for an  
847 employer who has not elected to make all of the employer's exchange employees eligible for  
848 service credit in this system;

849 (d) an employee of the Department of Workforce Services who is covered under  
850 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

851 (e) an employee who is employed with a withdrawing entity that has elected under  
852 Section 49-11-623, prior to January 1, 2017, to exclude:

853 (i) new employees from participation in this system under Subsection 49-11-623(3)(a);  
854 or

855 (ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

856 (f) a person who files a written request for exemption with the office under Section  
857 49-22-205; or

858 (g) an employee described in Subsection (1)(g)(i) or (ii) who is employed with a  
859 withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to  
860 exclude:

861 (i) new employees from participation in this system under Subsection 49-11-624(3)(a);  
862 or

863 (ii) all employees from participation in this system under Subsection 49-11-624(3)(b).

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

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

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

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

877 (4) An employee's exclusion, exemption, participation, or election described in this  
878 section:

879 (a) shall be made in accordance with this section; and

880 (b) is subject to requirements under federal law and rules made by the board.

881 Section 17. Section **49-22-204** is amended to read:

882 **49-22-204. Higher education employees' eligibility requirements -- Election**  
883 **between different retirement plans -- Classification requirements -- Transfer between**  
884 **systems.**

885 (1) (a) A regular full-time employee of an institution of higher education who is  
886 eligible to participate in either this system or in a retirement annuity contract with a public or  
887 private system, organization, or company, designated as described in Subsection (1)(c) or (d),  
888 shall, not later than January 1, 1979, elect to participate exclusively in this system or in an  
889 annuity contract allowed under this Subsection (1).

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

891 (c) Except as provided in Subsection (1)(d), the Board of Regents shall designate the  
892 public or private retirement systems, organizations, or companies that a regular full-time  
893 employee of an institution of higher education is eligible to participate in under Subsection  
894 (1)(a).

895 (d) The Board of Directors of each technical college shall designate the public or  
896 private retirement systems, organizations, or companies that a regular full-time employee of  
897 each technical college is eligible to participate in under Subsection (1)(a).

898 (2) (a) A regular full-time employee hired by an institution of higher education after  
899 January 1, 1979, may participate only in the retirement plan which attaches to the person's  
900 employment classification.

901 (b) Each institution of higher education shall prepare or amend existing employment  
902 classifications, under the direction of the Board of Regents, or the Board of Directors of each  
903 technical college for each technical college, so that each classification is assigned with either:

904 (i) this system; or

905 (ii) a public or private system, organization, or company designated by:

906 (A) except as provided under Subsection (2)(b)(ii)(B), the Board of Regents; or

907 (B) the Board of Directors of each technical college for regular full-time employees of  
908 each technical college.

909 (3) A regular full-time employee hired by an institution of higher education on or after  
910 July 1, 2011, whose employment classification requires participation in this system may elect  
911 to continue participation in this system upon change to an employment classification which  
912 requires participation in a public or private system, organization, or company designated by:

913 (a) except as provided in Subsection (3)(b), the Board of Regents; or

914 (b) the Board of Directors of each technical college for regular full-time employees of  
915 each technical college.

916 (4) A regular full-time employee hired by an institution of higher education on or after  
917 July 1, 2011, whose employment classification requires participation in this system shall  
918 participate in this system.

919 (5) An employee's participation or election described in this section:

920 (a) shall be made in accordance with this section; and

921 (b) is subject to requirements under federal law and rules made by the board.

922 Section 18. Section **49-22-205** is amended to read:

923 **49-22-205. Exemptions from participation in system.**

924 (1) Upon filing a written request for exemption with the office, the following  
925 employees are exempt from participation in the system as provided in this section:

- 926 (a) an executive department head of the state;
- 927 (b) a member of the State Tax Commission;
- 928 (c) a member of the Public Service Commission;
- 929 (d) a member of a full-time or part-time board or commission;
- 930 (e) an employee of the Governor's Office of Management and Budget;
- 931 (f) an employee of the Governor's Office of Economic Development;
- 932 (g) an employee of the Commission on Criminal and Juvenile Justice;
- 933 (h) an employee of the Governor's Office;
- 934 (i) an employee of the State Auditor's Office;
- 935 (j) an employee of the State Treasurer's Office;
- 936 (k) any other member who is permitted to make an election under Section 49-11-406;
- 937 (l) a person appointed as a city manager or appointed as a city administrator or another
- 938 at-will employee of a municipality, county, or other political subdivision;
- 939 (m) an employee of an interlocal cooperative agency created under Title 11, Chapter
- 940 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided
- 941 through membership in a labor organization that provides retirement benefits to its members;
- 942 [and]
- 943 (n) an employee of the Utah Science Technology and Research Initiative created under
- 944 Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act[-]; and
- 945 (o) an employee serving as an exchange employee from outside the state for an
- 946 employer who has elected to make all of the employer's exchange employees eligible for
- 947 service credit in this system.
- 948 (2) (a) A participating employer shall prepare and maintain a list designating those
- 949 positions eligible for exemption under Subsection (1).
- 950 (b) An employee may not be exempted unless the employee is employed in a position
- 951 designated by the participating employer under Subsection (1).
- 952 (3) (a) In accordance with this section, Section 49-12-203, and Section 49-13-203, a
- 953 municipality, county, or political subdivision may not exempt a total of more than 50 positions

954 or a number equal to 10% of the eligible employees of the municipality, county, or political  
955 subdivision, whichever is less.

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

958 (4) Each participating employer shall:

959 (a) maintain a list of employee exemptions; and

960 (b) update an employee exemption in the event of any change.

961 (5) Beginning on the effective date of the exemption for an employee who elects to be  
962 exempt in accordance with Subsection (1):

963 (a) for a member of the Tier II defined contribution plan:

964 (i) the participating employer shall contribute the nonelective contribution and the  
965 amortization rate described in Section 49-22-401, except that the nonelective contribution is  
966 exempt from the vesting requirements of Subsection 49-22-401(3)(a); and

967 (ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

968 (b) for a member of the Tier II hybrid retirement system:

969 (i) the participating employer shall contribute the nonelective contribution and the  
970 amortization rate described in Section 49-22-401, except that the contribution is exempt from  
971 the vesting requirements of Subsection 49-22-401(3)(a);

972 (ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

973 (iii) the member is not eligible for additional service credit in the system.

974 (6) If an employee who is a member of the Tier II hybrid retirement system  
975 subsequently revokes the election of exemption made under Subsection (1), the provisions  
976 described in Subsection (5)(b) shall no longer be applicable and the coverage for the employee  
977 shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

978 (7) (a) All employer contributions made on behalf of an employee shall be invested in  
979 accordance with Subsection 49-22-303(3)(a) or 49-22-401(4)(a) until the one-year election  
980 period under Subsection 49-22-201(2)(c) is expired if the employee:

981 (i) elects to be exempt in accordance with Subsection (1); and

982 (ii) continues employment with the participating employer through the one-year  
983 election period under Subsection 49-22-201(2)(c).

984 (b) An employee is entitled to receive a distribution of the employer contributions  
985 made on behalf of the employee and all associated investment gains and losses if the employee:

986 (i) elects to be exempt in accordance with Subsection (1); and

987 (ii) terminates employment prior to the one-year election period under Subsection  
988 49-22-201(2)(c).

989 (8) (a) The office shall make rules to implement this section.

990 (b) The rules made under this Subsection (8) shall include provisions to allow the  
991 exemption provided under Subsection (1) to apply to all contributions made beginning on or  
992 after July 1, 2011, on behalf of an exempted employee who began the employment before May  
993 8, 2012.

994 (9) An employee's exemption, participation, or election described in this section:

995 (a) shall be made in accordance with this section; and

996 (b) is subject to requirements under federal law and rules made by the board.

997 Section 19. Section 49-23-203 is amended to read:

998 **49-23-203. Exemptions from participation in system.**

999 (1) Upon filing a written request for exemption with the office, the following  
1000 employees are exempt from participation in the system as provided in this section if the  
1001 employee is a public safety service employee and is:

1002 (a) an executive department head of the state;

1003 (b) an elected or appointed sheriff of a county; or

1004 (c) an elected or appointed chief of police of a municipality.

1005 (2) (a) A participating employer shall prepare a list designating those positions eligible  
1006 for exemption under Subsection (1).

1007 (b) An employee may not be exempted unless the employee is employed in a position  
1008 designated by the participating employer under Subsection (1).

1009 (3) Each participating employer shall:

- 1010 (a) file each employee exemption annually with the office; and
- 1011 (b) update an employee exemption in the event of any change.
- 1012 (4) Beginning on the effective date of the exemption for an employee who elects to be
- 1013 exempt in accordance with Subsection (1):
  - 1014 (a) for a member of the Tier II defined contribution plan:
    - 1015 (i) the participating employer shall contribute the nonelective contribution and the
    - 1016 amortization rate described in Section 49-23-401, except that the contribution is exempt from
    - 1017 the vesting requirements of Subsection 49-23-401(3)(a); and
    - 1018 (ii) the member may make voluntary deferrals as provided in Section 49-23-401; and
  - 1019 (b) for a member of the Tier II hybrid retirement system:
    - 1020 (i) the participating employer shall contribute the nonelective contribution and the
    - 1021 amortization rate described in Section 49-23-401, except that the contribution is exempt from
    - 1022 the vesting requirements of Subsection 49-23-401(3)(a);
    - 1023 (ii) the member may make voluntary deferrals as provided in Section 49-23-401; and
    - 1024 (iii) the member is not eligible for additional service credit in the system.
- 1025 (5) If an employee who is a member of the Tier II hybrid retirement system
- 1026 subsequently revokes the election of exemption made under Subsection (1), the provisions
- 1027 described in Subsection (4)(b) shall no longer be applicable and the coverage for the employee
- 1028 shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.
- 1029 (6) (a) All employer contributions made on behalf of an employee shall be invested in
- 1030 accordance with Subsection 49-23-302(3)(a) or 49-23-401(4)(a) until the one-year election
- 1031 period under Subsection 49-23-201(2)(c) is expired if the employee:
  - 1032 (i) elects to be exempt in accordance with Subsection (1); and
  - 1033 (ii) continues employment with the participating employer through the one-year
  - 1034 election period under Subsection 49-23-201(2)(c).
- 1035 (b) An employee is entitled to receive a distribution of the employer contributions
- 1036 made on behalf of the employee and all associated investment gains and losses if the employee:
  - 1037 (i) elects to be exempt in accordance with Subsection (1); and

1038 (ii) terminates employment prior to the one-year election period under Subsection  
1039 49-23-201(2)(c).

1040 (7) (a) The office shall make rules to implement this section.

1041 (b) The rules made under this Subsection (7) shall include provisions to allow the  
1042 exemption provided under Subsection (1) to apply to all contributions made beginning on or  
1043 after July 1, 2011, on behalf of an exempted employee who began the employment before May  
1044 8, 2012.

1045 (8) An employee's exemption, participation, or election described in this section:

1046 (a) shall be made in accordance with this section; and

1047 (b) is subject to requirements under federal law and rules made by the board.

1048 Section 20. Section 49-23-501 is amended to read:

1049 **49-23-501. Death benefit -- Eligibility for death benefit -- Benefit calculation --**  
1050 **Payment of claim.**

1051 (1) The office shall provide a death benefit for members of this system.

1052 (2) The board shall make rules to administer the death benefit provided by this section  
1053 and may, in accordance with federal law, establish:

1054 (a) benefit levels;

1055 (b) classes of members; and

1056 (c) a living benefit option.

1057 (3) This death benefit is payable when:

1058 (a) the member dies prior to the member's retirement date or dies under circumstances  
1059 which Subsection 49-23-304(4) requires to be treated as the death of a member before  
1060 retirement;

1061 (b) the office receives acceptable proof of death; and

1062 (c) benefits are not payable under Section 49-23-306.

1063 (4) The death benefit payable to the beneficiary under this section is a lump-sum  
1064 payment consisting of:

1065 (a) the return of any member contributions under this chapter; plus

1066 (b) a percentage of the final average salary of the member to be determined by the  
1067 board.

1068 (5) Any amount of a living benefit option paid to the member prior to death shall be  
1069 deducted from the benefit payable to the beneficiary.

1070 (6) The cost of the death benefit shall be paid by the participating employer in addition  
1071 to the contribution rate established under Section 49-23-301 or 49-23-401.

1072 (7) The portion of the death benefit provided under Subsection (4)(b) may not be paid  
1073 to the beneficiary of an inactive member unless the death of the member occurs either:

1074 (a) within a period of 120 days after the last day of work for which the person received  
1075 compensation; or

1076 (b) while the member is still physically or mentally incapacitated from performance of  
1077 duties, if the incapacity has been continuous since the last day of work for which compensation  
1078 was received.

1079 (8) The death benefit provided under Subsection (4)(b) shall be paid in accordance  
1080 with Sections 49-11-609 and 49-11-610.

1081 (9) The death benefit paid to the beneficiary of an inactive member, except as  
1082 otherwise provided under Subsection (7), is a lump-sum return of the member's member  
1083 contributions.

1084 (10) Payment of the death benefit by the office constitutes a full settlement of any  
1085 beneficiary's claim against the office and the office is not liable for any further or additional  
1086 claims or assessments on behalf of the member.

1087 (11) Unless otherwise specified in a written document filed with the office, death  
1088 benefits payable to beneficiaries shall be in accordance with the order of precedence  
1089 established under Title 75, Chapter 2, Intestate Succession and Wills.

1090 (12) A death benefit under this section may not be paid on behalf of a retiree under this  
1091 system.

1092 (13) Except for the death benefit described in Subsection (4), a member of the Tier II  
1093 defined contribution plan is not eligible for death benefits under this section or Section

1094 [49-23-502](#) or [49-23-503](#).

1095 Section 21. **Effective date.**

1096 This bill takes effect on July 1, 2020.