

Senator Wayne A. Harper proposes the following substitute bill:

UTAH RETIREMENT SYSTEMS AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Craig Hall

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ clarifies that an employee does not receive service credit until required contributions are paid to the Utah State Retirement Office;
- ▶ provides that additional acts relating to unlawfully obtaining or appropriating benefit payments are criminal violations;
- ▶ amends the procedures for making an appeal related to a benefit, right, obligation, or employment right;
- ▶ clarifies that a person is still convicted of an employment related offense if the person pleads guilty, even if a charge is reduced or dismissed under a plea agreement;
- ▶ allows certain independent entities to make an election to withdraw from participation in a Utah retirement system or plan for current and future employees;
- ▶ requires the independent entities that make the withdrawal to pay certain costs that arise out of the election to withdraw;
- ▶ imposes minimum age requirements on certain retirees who will receive in-service



26 retirement distributions;

27 ▶ amends certain provisions that govern a participating employer's purchase of service
28 credit on behalf of an employee for years of service provided before the
29 participating employer's admission to the Utah Retirement System;

30 ▶ amends the process for establishing the service status of justice court judges with
31 multiple employers; and

32 ▶ makes technical and conforming changes.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 This bill provides a special effective date.

37 **Utah Code Sections Affected:**

38 AMENDS:

39 49-11-401, as last amended by Laws of Utah 2010, Chapter 266

40 49-11-608, as renumbered and amended by Laws of Utah 2002, Chapter 250

41 49-11-613, as last amended by Laws of Utah 2016, Chapter 251

42 49-11-613.5, as enacted by Laws of Utah 2016, Chapter 251

43 49-11-1205, as last amended by Laws of Utah 2020, Chapter 449

44 49-11-1303, as last amended by Laws of Utah 2020, Chapter 98

45 49-11-1401, as last amended by Laws of Utah 2020, Chapter 24

46 49-12-202, as last amended by Laws of Utah 2018, Chapter 415

47 49-12-203, as last amended by Laws of Utah 2020, Chapters 24 and 365

48 49-12-406, as last amended by Laws of Utah 2019, Chapter 31

49 49-13-202, as last amended by Laws of Utah 2018, Chapter 415

50 49-13-203, as last amended by Laws of Utah 2020, Chapters 24 and 365

51 49-13-406, as last amended by Laws of Utah 2019, Chapter 31

52 49-15-202, as last amended by Laws of Utah 2014, Chapter 15

53 49-22-203, as last amended by Laws of Utah 2020, Chapters 24 and 365

54 49-23-202, as last amended by Laws of Utah 2012, Chapter 298

55 ENACTS:

56 49-11-625, Utah Code Annotated 1953

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

Section 1. Section **49-11-401** is amended to read:

**49-11-401. Transfer of service credit -- Eligibility for service credit --
Computation of service credit -- Retirement from most recent system.**

(1) (a) The office shall make the transfer of service credit, together with related member and participating employer contributions, from one system to another upon terms and conditions established by the board.

(b) The terms and conditions may not result in a loss of accrued benefits.

(2) [~~Transfer of~~] An employee does not lose active member status by transferring employment from a position covered by one system to a position covered by another system [~~does not cause the employee to lose active member status~~].

(3) In the accrual of service credit, the following provisions apply:

(a) [~~A~~] (i) a person employed and compensated by a participating employer who meets the eligibility requirements for membership in a system or the Utah Governors' and Legislators' Retirement Plan shall receive service credit for the term of the employment provided that all required contributions are paid to the office[-]; and

(ii) the person may not receive service credit for a term of employment until all required contributions related to that service credit have been paid to the office;

(b) [~~An~~] an allowance or other benefit may not accrue under this title which is based upon the same period of employment as has been the basis for any retirement benefits under some other public retirement system[-];

(c) (i) [~~The~~] the board shall fix the minimum time per day, per month, and per year upon the basis of which one year of service and proportionate parts of a year shall be credited toward qualification for retirement[-];

(ii) [Service] service may be computed on a fiscal or calendar year basis and portions of years served shall be accumulated and counted as service[-]; and

(iii) [In] in any event, all of the service rendered in any one fiscal or calendar year may not count for more than one year[-];

(d) [~~Service~~] service credit shall be accrued on a fiscal or calendar year basis as determined by the participating employer[-];

88 (e) [~~A~~] a member may not accrue more than one year of service credit per fiscal or
89 calendar year as determined by the office[-]; and

90 (f) [~~Fractions~~] fractions of years of service credit shall be accumulated and counted in
91 proportion to the work performed.

92 (4) The office may estimate the amount of service credit, compensation, or age of any
93 member, participant, or alternate payee, if information is not contained in the records.

94 (5) A member shall retire from the system [~~which~~] that most recently covered the
95 member.

96 (6) (a) Under no circumstances may service credit earned by a member under Chapter
97 22, New Public Employees' Tier II Contributory Retirement Act, or Chapter 23, New Public
98 Safety and Firefighter Tier II Contributory Retirement Act, be transferable to any other system
99 or plan under this title.

100 (b) Under no circumstances may service credit earned by a member under one of the
101 following systems be transferable to the system created under Chapter 22, New Public
102 Employees' Tier II Contributory Retirement Act, or under Chapter 23, New Public Safety and
103 Firefighter Tier II Contributory Retirement Act:

- 104 (i) Chapter 12, Public Employees' Contributory Retirement Act;
- 105 (ii) Chapter 13, Public Employees' Noncontributory Retirement Act;
- 106 (iii) Chapter 14, Public Safety Contributory Retirement Act;
- 107 (iv) Chapter 15, Public Safety Noncontributory Retirement Act;
- 108 (v) Chapter 16, Firefighters' Retirement Act; or
- 109 (vi) Chapter 19, Utah Governors' and Legislators' Retirement Act.

110 Section 2. Section **49-11-608** is amended to read:

111 **49-11-608. False statements or records -- Unlawfully cashing benefit checks --**

112 **Unlawfully obtaining or appropriating benefit payments.**

113 (1) A person who knowingly makes any false statement, or who falsifies or permits to
114 be falsified any record necessary for carrying out the intent of this title is in violation of Section
115 [76-6-504](#).

116 (2) A person cashing a benefit check to which that person is not entitled is in violation
117 of Section [76-6-501](#).

118 (3) A person who obtains a benefit payment, including a direct deposit or electronic

119 benefit payment, to which that person is not entitled and who fails to take reasonable measures
120 to return the benefit payment to the office is in violation of Section [76-6-407](#).

121 (4) A person who appropriates property or a benefit of another person, including a
122 direct deposit or electronic benefit payment, by obtaining or exercising unauthorized control
123 over the property or the benefit is in violation of Section [76-6-407](#).

124 Section 3. Section **49-11-613** is amended to read:

125 **49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board**
126 **reconsideration -- Judicial review.**

127 (1) (a) A member, retiree, participant, alternative payee, covered individual, employer,
128 participating employer, and covered employer shall inform themselves of their benefits, rights
129 [~~and~~], obligations, and employment rights under this title.

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

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

136 (ii) A request for a ruling to the executive director under this section shall constitute
137 the initiation of an action for purposes of the limitations periods [~~prescribed~~] described in
138 Section [49-11-613.5](#).

139 (d) A person who is dissatisfied by a ruling under Subsection (1)(c) with respect to any
140 benefit, right, obligation, or employment right under this title [~~shall have 30 days from the date~~
141 ~~of the ruling to~~] may request a review of that claim by a hearing officer within the time period
142 described in Section [49-11-613.5](#).

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

147 (ii) The filing of a notice of board action shall constitute the initiation of an action for
148 purposes of the limitations periods described in Section [49-11-613.5](#).

149 (2) The hearing officer shall:

- 150 (a) be hired by the executive director after consultation with the board;
- 151 (b) follow and enforce the procedures and requirements of:
- 152 (i) this title;
- 153 (ii) the rules adopted by the board in accordance with Subsection (9); and
- 154 (iii) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically
- 155 modified under this title or the rules adopted by the board in accordance with Subsection (9);
- 156 (c) hear and determine all facts relevant to a decision, including facts pertaining to
- 157 applications for benefits under any system, plan, or program under this title and all matters
- 158 pertaining to the administration of the office; and
- 159 (d) make conclusions of law in determining the person's rights under any system, plan,
- 160 or program under this title and matters pertaining to the administration of the office.
- 161 (3) The board shall review and approve or deny all decisions of the hearing officer in
- 162 accordance with rules adopted by the board in accordance with Subsection (9).
- 163 (4) The moving party in any proceeding brought under this section shall bear the
- 164 burden of proof.
- 165 (5) A party may file an application for reconsideration by the board upon any of the
- 166 following grounds:
- 167 (a) that the board acted in excess of [~~its~~] the board's powers;
- 168 (b) that the order or the award was procured by fraud;
- 169 (c) that the evidence does not justify the determination of the hearing officer; or
- 170 (d) that the party has discovered new material evidence that could not, with reasonable
- 171 diligence, have been discovered or procured prior to the hearing.
- 172 (6) The board shall affirm, reverse, or modify the decision of the hearing officer, or
- 173 remand the application to the hearing officer for further consideration.
- 174 (7) A party aggrieved by the board's final decision under Subsection (6) may obtain
- 175 judicial review by complying with the procedures and requirements of:
- 176 (a) this title;
- 177 (b) rules adopted by the board in accordance with Subsection (9); and
- 178 (c) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically
- 179 modified under this title or the rules adopted by the board in accordance with Subsection (9).
- 180 (8) The program shall provide an appeals process for medical claims that complies

181 with federal law.

182 (9) (a) The board [~~may~~] shall make rules to implement this section and to establish
183 procedures and requirements for adjudicative proceedings.

184 (b) The rules shall be substantially similar to or incorporate provisions of the Utah
185 Rules of Civil Procedure, the Utah Rules of Evidence, and Title 63G, Chapter 4,
186 Administrative Procedures Act.

187 Section 4. Section **49-11-613.5** is amended to read:

188 **49-11-613.5. Limitation of actions -- Cause of action.**

189 (1) (a) Subject to the procedures provided in Section **49-11-613** and except as provided
190 in Subsection (3), an action regarding a benefit, right, obligation, or employment right brought
191 under this title may be commenced only within four years of the [~~date that~~] day on which the
192 cause of action accrues.

193 (b) A person who is dissatisfied with an executive director's ruling under Section
194 49-11-613 and who seeks a review of that claim by a hearing officer shall file a request for
195 board action within 30 days of the day on which the hearing officer issues the ruling.

196 (2) (a) A cause of action accrues under this title and the limitation period in this section
197 runs from the [~~date when~~] day on which the aggrieved party became aware, or through the
198 exercise of reasonable diligence should have become aware, of the facts giving rise to the cause
199 of action, including when:

- 200 (i) a benefit, right, or employment right is or should have been granted;
- 201 (ii) a payment is or should have been made; or
- 202 (iii) an obligation is or should have been performed.

203 (b) If a claim involves a retirement service credit issue under this title:

- 204 (i) a cause of action specifically accrues at the time the requisite retirement
205 contributions relating to that retirement service credit are paid or should have been paid to the
206 office; and
- 207 (ii) the person is deemed to be on notice of the payment or nonpayment of those
208 retirement contributions.

209 (3) If an aggrieved party fails to discover the facts giving rise to the cause of action due
210 to misrepresentation, fraud, intentional nondisclosure, or other affirmative steps to conceal the
211 cause of action, a limitation period prescribed in this section does not begin to run until the

212 aggrieved party actually discovers the existence of the cause of action.

213 (4) The person claiming a benefit, right, obligation, or employment right arising under
214 this title has the burden of bringing the action within the period prescribed in this section.

215 (5) Nothing in this section relieves a member, retiree, participant, alternative payee,
216 covered individual, employer, participating employer, or covered employer of the obligations
217 under this title.

218 (6) The office is not required to bring a claim on behalf of a member, retiree,
219 participant, alternative payee, covered individual, employer, participating employer, or covered
220 employer.

221 (7) (a) A limitation period provided in this section does not apply to actions for which
222 a specific limit is otherwise specified in this title or by contract, including master policies or
223 other insurance contracts.

224 (b) For actions arising under this title, this section supersedes any applicable limitation
225 period provided in Title 78B, Chapter 2, Statutes of Limitations.

226 Section 5. Section **49-11-625** is enacted to read:

227 **49-11-625. Withdrawing independent entity -- Participation election date --**

228 **Withdrawal costs -- Rulemaking.**

229 (1) As used in this section, "withdrawing entity" means an entity that:

230 (a) participates in a system or plan under this title before January 1, 2021;

231 (b) is an independent entity listed under Subsection [63E-1-102\(4\)\(b\)](#); and

232 (c) after beginning participation with a system or plan under this title, has restructured
233 the entity's business operations and employment of employees under contract through a
234 regional, multi-state partnership.

235 (2) A withdrawing entity may elect to withdraw from participation in all systems or
236 plans for all current and future employees of the withdrawing entity, beginning on the date set
237 in accordance with Subsection (3)(a).

238 (3) Notwithstanding any other provision of this title, a withdrawing entity may provide
239 for the participation of the withdrawing entity's employees with the system or plan as follows:

240 (a) the withdrawing entity shall determine a date that is before July 1, 2022, on which
241 the withdrawing entity shall make an election under Subsection (2); and

242 (b) subject to Subsection (6), the withdrawing entity shall pay to the office any

243 reasonable actuarial and administrative costs determined by the office to have arisen out of an
244 election made under this section.

245 (4) (a) An election made under Subsection (2):

246 (i) shall be made on or before the date specified under Subsection (3)(a);

247 (ii) shall be documented by a resolution adopted by the governing body of the
248 withdrawing entity;

249 (iii) remains in effect unless and until the withdrawing entity again becomes a
250 participating entity with the office in accordance with Subsection (5); and

251 (iv) applies to a withdrawing entity as the employer and to all employees of the
252 withdrawing entity.

253 (b) Notwithstanding an election made under Subsection (2), any eligibility for service
254 credit earned by an employee under this title before the date specified under Subsection (3)(a)
255 is not affected by this section.

256 (c) Notwithstanding any other provision of this title, a withdrawing entity that makes
257 an election under Subsection (2) may provide or participate in any type of public or private
258 retirement for the withdrawing entity's employees.

259 (5) After the withdrawal and subject to the laws and rules governing participating
260 employer admission, the withdrawing entity may elect, by resolution of the withdrawing
261 entity's governing body, to resume participation with the office and apply for admission as a
262 participating employer in a system or plan under this title.

263 (6) Before a withdrawing entity may withdraw under this section, the withdrawing
264 entity and the office shall enter into an agreement on:

265 (a) the costs described in Subsection (3)(b); and

266 (b) arrangements for the payment of the costs described in Subsection (3)(b).

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

268 Section 6. Section **49-11-1205** is amended to read:

269 **49-11-1205. Postretirement reemployment restriction exceptions.**

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

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

274 (ii) upon reemployment after the break in service under Subsection (1)(a)(i), the retiree
275 does not receive any employer paid benefits, including:

276 (A) retirement service credit or retirement-related contributions;

277 (B) medical benefits;

278 (C) dental benefits;

279 (D) other insurance benefits except for workers' compensation as provided under Title
280 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease
281 Act, and withholdings required by federal or state law for social security, Medicare, and
282 unemployment insurance; or

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

284 (iii) (A) the retiree does not earn in any calendar year of reemployment an amount in
285 excess of the lesser of \$15,000 or one-half of the retiree's final average salary upon which the
286 retiree's retirement allowance is based; or

287 (B) the retiree is reemployed as a judge as defined under Section [78A-11-102](#).

288 (b) [~~Beginning January 1, 2013, the~~] The board shall adjust the amounts under
289 Subsection (1)(a)(iii) by the annual change in the Consumer Price Index during the previous
290 calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index
291 average as determined by the board.

292 (2) A retiree shall be considered as having completed the one-year separation from
293 employment with a participating employer required under Section [49-11-1204](#), if the retiree:

294 (a) before retiring:

295 (i) was employed with a participating employer as a public safety service employee as
296 defined in Section [49-14-102](#), [49-15-102](#), or [49-23-102](#);

297 (ii) [~~and~~] during the employment under Subsection (2)(a)(i), suffered a physical injury
298 resulting from external force or violence while performing the duties of the employment, [~~and~~]
299 for which injury the retiree would have been approved for total disability in accordance with
300 the provisions under Chapter 21, Public Employees' Long-Term Disability Act, if years of
301 service are not considered;

302 (iii) had less than 30 years of service credit but had sufficient service credit to retire,
303 with an unreduced allowance making the public safety service employee ineligible for
304 long-term disability payments under Chapter 21, Public Employees' Long-Term Disability Act,

305 or a substantially similar long-term disability program; ~~and~~

306 (iv) does not receive any long-term disability benefits from any participating employer;

307 and

308 (v) is at least 50 years old; and

309 (b) is reemployed by a different participating employer.

310 (3) (a) The office may not cancel the retirement allowance of a retiree who is employed
311 as an affiliated emergency services worker within one year of the retiree's retirement date if the
312 affiliated emergency services worker does not receive any compensation, except for:

313 (i) a nominal fee, stipend, discount, tax credit, voucher, or other fixed sum of money or
314 cash equivalent payment not tied to productivity and paid periodically for services;

315 (ii) a length-of-service award;

316 (iii) insurance policy premiums paid by the participating employer in the event of death
317 of an affiliated emergency services worker or a line-of-duty accidental death or disability; or

318 (iv) reimbursement of expenses incurred in the performance of duties.

319 (b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax
320 credits, vouchers, and payments to an affiliated emergency services worker may not exceed
321 \$500 per month.

322 (c) ~~[Beginning January 1, 2016, the]~~ The board shall adjust the amount under
323 Subsection (3)(b) by the annual change in the Consumer Price Index during the previous
324 calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index
325 average as determined by the board.

326 (d) A retiree is eligible for an exemption from the requirement to cease service without
327 cancellation of a retirement allowance under this Subsection (3) only if the retiree, at the time
328 of retirement, is at least:

329 (i) 50 years old, if the retiree is retiring from a public safety system or a firefighter
330 system; or

331 (ii) 55 years old.

332 (4) (a) The office may not cancel the retirement allowance of a retiree employed as a
333 part-time appointed or elected board member within one year after the retiree's retirement date
334 if the part-time appointed or elected board member does not receive any compensation
335 exceeding the amount described in this Subsection (4).

336 (b) A retiree who is a part-time appointed or elected board member for one or more
337 boards, commissions, councils, committees, panels, or other bodies of participating employers:
338 (i) may receive an aggregate amount of compensation, remuneration, a stipend, or other
339 benefit for service on a single or multiple boards, commissions, councils, committees, panels,
340 or other bodies of no more than \$5,000 per year; and
341 (ii) may not receive an employer paid retirement service credit or retirement-related
342 contribution.

343 (c) For purposes of Subsection (4)(b)(i):
344 (i) a part-time appointed or elected board member's compensation includes:
345 (A) an amount paid for the part-time appointed or elected board member's coverage in
346 a group insurance plan provided by the participating employer; and
347 (B) the part-time appointed or elected board member's receipt of any other benefit
348 provided by the participating employer; and
349 (ii) the part-time appointed or elected board member's compensation does not include:
350 (A) an amount the participating employer pays for employer-matching employment
351 taxes, if the participating employer treats the part-time appointed or elected board member as
352 an employee for federal tax purposes; or
353 (B) an amount that the part-time appointed or elected board member receives for per
354 diem and travel expenses for up to 12 approved meetings or activities of the government board
355 per year, if the per diem and travel expenses do not exceed the amounts established by the
356 Division of Finance under Sections 63A-3-106 and 63A-3-107 or by rules made by the
357 Division of Finance according to Sections 63A-3-106 and 63A-3-107.

358 (d) [~~Beginning January 1, 2021, the~~] The board shall adjust the amount under
359 Subsection (4)(b)(i) by the annual change in the Consumer Price Index during the previous
360 calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index
361 average, as determined by the board.

362 (5) (a) If a retiree is reemployed under the provisions of Subsection (1) or (4), the
363 termination date of the reemployment, as confirmed in writing by the participating employer, is
364 considered the retiree's retirement date for the purpose of calculating the separation
365 requirement under Section 49-11-1204.

366 (b) The office shall cancel the retirement allowance of a retiree for the remainder of the

367 calendar year if the reemployment with a participating employer exceeds the limitation under
368 Subsection (1)(a)(iii), (3)(b), or (4)(b).

369 Section 7. Section 49-11-1303 is amended to read:

370 **49-11-1303. Phased retirement -- Eligibility -- Restrictions -- Amortization rate --**
371 **Public safety service or firefighter service employees.**

372 (1) A retiree is eligible for employment with only one position for only one
373 participating employer under phased retirement following the retiree's retirement date if:

374 (a) the retiree:

375 (i) is eligible to retire and retires in accordance with this title;

376 (ii) has been employed full time, for not less than four years immediately before the
377 retiree's retirement date;

378 (iii) ~~[for a retiree employed as a public safety service employee or a firefighter service~~
379 ~~employee, is at least 50 years old;]~~ is, at the time of retirement, at least:

380 (A) 50 years old, if the retiree is employed as a public safety service employee or a
381 firefighter service employee; or

382 (B) 55 years old;

383 (iv) completes and submits all required retirement forms to the office; and

384 (v) prior to the retiree's retirement date, completes and submits all required phased
385 retirement forms to the office; and

386 (b) the retiree and the participating employer enter into an agreement described under
387 Section 49-11-1304.

388 (2) A retiree shall begin phased retirement employment after the retiree's retirement
389 date but no later than 120 days after the retiree's retirement date.

390 (3) Except as provided in Subsection (4), for the period of the phased retirement:

391 (a) the retiree receives 50% of the retiree's monthly allowance;

392 (b) the participating employer employs the retiree on a half-time basis;

393 (c) a participating employer that employs the retiree shall contribute the amortization
394 rate to the office;

395 (d) the retiree or an alternate payee may not receive an annual cost-of-living adjustment
396 to the retiree's or alternate payee's allowance;

397 (e) any death benefits payable to a surviving spouse or other beneficiary shall be paid

398 based on 100% of the retiree's retirement allowance;

399 (f) the retiree may not receive any employer provided retirement benefits, service credit
400 accruals, or any retirement related contributions from the participating employer; and

401 (g) except as specified under this section, a retiree working under phased retirement
402 shall be treated in the same manner as any other part-time employee working a similar position
403 and number of hours with the participating employer, including:

404 (i) any non-retirement related benefits;

405 (ii) leave benefits;

406 (iii) medical benefits; and

407 (iv) other benefits.

408 (4) (a) If a retiree is employed as a public safety service employee or a firefighter
409 service employee, for the period of the phased retirement the requirements of Subsection (3) or
410 (4)(b) are satisfied.

411 (b) For the period of the phased retirement:

412 (i) the retiree is employed as a public safety service employee or a firefighter service
413 employee;

414 (ii) the retiree receives 25% of the retiree's monthly allowance;

415 (iii) the participating employer employs the retiree on a three-quarter time basis;

416 (iv) a participating employer that employs the retiree shall contribute to the office the
417 certified contribution rate applicable to the system that would have covered the retiree if the
418 retiree's part-time position were considered to be an eligible, full-time position within the
419 system;

420 (v) the retiree or an alternate payee may not receive an annual cost-of-living adjustment
421 to the retiree's or alternate payee's allowance;

422 (vi) any death benefits payable to a surviving spouse or other beneficiary shall be paid
423 based on 100% of the retiree's retirement allowance;

424 (vii) the retiree may not receive any employer provided retirement benefits, service
425 credit accruals, or any retirement related contributions from the participating employer; and

426 (viii) except as specified under this section, a retiree working under phased retirement
427 shall be treated in the same manner as any other part-time employee working a similar position
428 and number of hours with the participating employer, including:

- 429 (A) any non-retirement related benefits;
- 430 (B) leave benefits;
- 431 (C) medical benefits; and
- 432 (D) other benefits.
- 433 (5) The office shall begin paying 100% of the retiree's retirement allowance on the first
- 434 day of the month following the month in which the office receives written notification and any
- 435 required supporting documentation that the retiree's phased retirement has been irrevocably
- 436 terminated.

437 Section 8. Section **49-11-1401** is amended to read:

438 **49-11-1401. Forfeiture of retirement benefits for employees for employment**
439 **related offense convictions -- Notifications -- Investigations -- Appeals.**

440 (1) As used in this section:

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

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

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

- 449 (A) during the performance of the employee's duties;
- 450 (B) within the scope of the employee's employment; or
- 451 (C) under color of the employee's authority.

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

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

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

- 460 (3) An employee shall forfeit the benefits described under Subsection (2)(a):
461 (a) if the employee is convicted of an employment related offense;
462 (b) beginning on the day on which the employment related offense occurred; and
463 (c) until the employee is either:
464 (i) re-elected or reappointed to office; or
465 (ii) (A) terminated from the position for which the employee was found to have
466 committed an employment related offense; and
467 (B) rehired or hired as an employee who is eligible to be a member of a Utah state
468 retirement system or plan.
469 (4) The employee's participating employer shall:
470 (a) immediately notify the office:
471 (i) if an employee is charged with an offense that is or may be an employment related
472 offense under this section; and
473 (ii) if the employee described in Subsection (4)(a)(i) is acquitted of the offense that is
474 or may be an employment related offense under this section; and
475 (b) if the employee is convicted of an offense that may be an employment related
476 offense:
477 (i) conduct an investigation, which may rely on the conviction, to determine:
478 (A) whether the conviction is for an employment related offense; and
479 (B) the date on which the employment related offense was initially committed; and
480 (ii) after the period of time for an appeal by an employee under Subsection (5),
481 immediately notify the office of the employer's determination under this Subsection (4)(b).
482 (5) An employee may appeal the employee's participating employer's determination
483 under Subsection (4)(b) in accordance with the participating employer's procedures for
484 appealing agency action, including Title 63G, Chapter 4, Administrative Procedures Act, if
485 applicable.
486 (6) (a) Notwithstanding Subsection (4), a district attorney, a county attorney, the
487 attorney general's office, or the state auditor may notify the office and the employee's
488 participating employer if an employee is charged with an offense that is or may be an
489 employment related offense under this section.
490 (b) If the employee's participating employer receives a notification under Subsection

491 (6)(a), the participating employer shall immediately report to the entity that provided the
492 notification under Subsection (6)(a):

493 (i) if the employee is acquitted of the offense;

494 (ii) if the employee is convicted of an offense that may be an employment related
495 offense; and

496 (iii) when the participating employer has concluded [its] the participating employer's
497 duties under this section if the employee is convicted, including conducting an investigation,
498 making a determination under Subsection (4)(b) that the conviction was for an employment
499 related offense, and notifying the office under Subsection (7).

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

502 (7) Upon receiving a notification from a participating employer that the participating
503 employer has made a determination under Subsection (4)(b) that the conviction was for an
504 employment related offense, the office shall immediately forfeit any service credit, employer
505 retirement related contributions, including employer contributions to the employer sponsored
506 contribution plans, or other retirement related benefits accrued by or made for the benefit of the
507 employee, beginning on the date of the initial employment related offense determined under
508 Subsection (4)(b).

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

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

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

515 Section 9. Section **49-12-202** is amended to read:

516 **49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission**
517 **requirements -- Exceptions -- Nondiscrimination requirements.**

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

520 (b) In addition to [their] participation in this system, a participating [employers]
521 employer may provide or participate in public or private retirement, supplemental or defined

522 contribution plan, either directly or indirectly, for ~~their~~ the participating employer's
523 employees.

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

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

527 (i) the employer elects not to provide or participate in any type of private or public
528 retirement, supplemental or defined contribution plan, either directly or indirectly, for ~~its~~ the
529 employer's employees, except for Social Security; or

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

532 (b) an employer that is a charter school authorized under Title 53G, Chapter 5, Part 3,
533 Charter School Authorization, and does not elect to participate in accordance with Section
534 [53G-5-407](#);

535 (c) an employer that is a hospital created as a special service district under Title 17D,
536 Chapter 1, Special Service District Act, that makes an election of nonparticipation in
537 accordance with Subsection (4); or

538 (d) an employer that is licensed as a nursing care facility under Title 26, Chapter 21,
539 Health Care Facility Licensing and Inspection Act, and created as a special service district
540 under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes
541 an election of nonparticipation in accordance with Subsection (4).

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

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

547 (ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under
548 Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a
549 special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area
550 of the state may make an election of nonparticipation as an employer for retirement programs
551 under this chapter.

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

- 553 (i) is a one-time election made no later than the time specified under Subsection (4)(a);
- 554 (ii) shall be documented by a resolution adopted by the governing body of the special
- 555 service district;
- 556 (iii) is irrevocable; and
- 557 (iv) applies to the special service district as the employer and to all employees of the
- 558 special service district.

559 (c) The governing body of the special service district may offer employee benefit plans
560 for ~~[its]~~ special service district's employees:

- 561 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;
- 562 or
- 563 (ii) under any other program.

564 (5) (a) If a participating employer purchases service credit on behalf of a regular
565 full-time ~~[employees]~~ employee for service rendered prior to the participating employer's
566 admission to this system, the participating employer shall:

- 567 (i) purchase service credit ~~[shall be purchased]~~ in a nondiscriminatory manner on
- 568 behalf of all current and former regular full-time employees who were eligible for service
- 569 credit at the time service was rendered~~[-];~~ and
- 570 (ii) comply with the provisions of Section 49-11-403, except for the requirement
- 571 described in Subsection 49-11-403(2)(a).

- 572 (b) For a purchase made under this Subsection (5), an employee is not required to:
- 573 (i) have at least four years of service credit before the purchase can be made; or
- 574 (ii) forfeit service credit or any defined contribution balance based on the employer
- 575 contributions under any other retirement system or plan based on the period of employment for
- 576 which service credit is being purchased.

577 Section 10. Section **49-12-203** is amended to read:

578 **49-12-203. Exclusions from membership in system.**

- 579 (1) The following employees are not eligible for service credit in this system:
- 580 (a) subject to the requirements of Subsection (2), an employee whose employment
- 581 status is temporary in nature due to the nature or the type of work to be performed;
- 582 (b) except as provided under Subsection (3)(a), an employee of an institution of higher
- 583 education who participates in a retirement system with a public or private retirement system,

584 organization, or company designated by the Utah Board of Higher Education, or the technical
585 college board of trustees for an employee of each technical college, during any period in which
586 required contributions based on compensation have been paid on behalf of the employee by the
587 employer;

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

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

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

596 (f) an employee who is employed on or after July 1, 2009, with an employer that has
597 elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection
598 49-12-202(2)(c);

599 (g) an employee who is employed on or after July 1, 2014, with an employer that has
600 elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection
601 49-12-202(2)(d);

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

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

606 (ii) all employees from participation in this system under Subsection 49-11-623(3)(b);
607 [or]

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

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

613 (ii) all employees from participation in this system under Subsection
614 49-11-624(3)(b)[-]; or

615 (j) an employee who is employed with a withdrawing entity that has elected under
616 Section 49-11-625, before July 1, 2022, to exclude all employees from participation in this
617 system.

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

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

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

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

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

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

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

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

641 (b) an elected official;

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

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

- 646 (e) an employee of the Governor's Office of Economic Development;
- 647 (f) an employee of the Commission on Criminal and Juvenile Justice;
- 648 (g) an employee of the Governor's Office;
- 649 (h) an employee of the State Auditor's Office;
- 650 (i) an employee of the State Treasurer's Office;
- 651 (j) any other member who is permitted to make an election under Section 49-11-406;
- 652 (k) a person appointed as a city manager or chief city administrator or another person
653 employed by a municipality, county, or other political subdivision, who is an at-will employee;
- 654 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
655 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through
656 membership in a labor organization that provides retirement benefits to its members; and
- 657 (m) an employee serving as an exchange employee from outside the state for an
658 employer who has elected to make all of the employer's exchange employees eligible for
659 service credit in this system.
- 660 (5) (a) Each participating employer shall prepare and maintain a list designating those
661 positions eligible for exemption under Subsection (4).
- 662 (b) An employee may not be exempted unless the employee is employed in an
663 exempted position designated by the participating employer.
- 664 (6) (a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a
665 municipality, county, or political subdivision may not exempt a total of more than 50 positions
666 or a number equal to 10% of the eligible employees of the municipality, county, or political
667 subdivision, whichever is less.
- 668 (b) A municipality, county, or political subdivision may exempt at least one regular
669 full-time employee.
- 670 (7) Each participating employer shall:
 - 671 (a) maintain a list of employee exemptions; and
 - 672 (b) update the employee exemptions in the event of any change.
- 673 (8) The office may make rules to implement this section.
- 674 (9) An employee's exclusion, exemption, participation, or election described in this
675 section:
 - 676 (a) shall be made in accordance with this section; and

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

678 Section 11. Section 49-12-406 is amended to read:

679 **49-12-406. Exceptions for part-time elective or appointive service -- Computation**
680 **of allowance -- Justice court judges.**

681 (1) Notwithstanding the provisions of Sections 49-11-401 and 49-12-102, and unless
682 otherwise provided in this section, a member's elective or appointive service rendered on a
683 basis not considered full-time by the office shall have a separate allowance computed on the
684 basis of compensation actually received by the member during the period of elective or
685 appointive service.

686 (2) (a) (i) A justice court judge who has service with only one participating employer
687 shall be considered part-time or full-time by the office as certified by the participating
688 employer.

689 (ii) If there is a dispute between the office and a participating employer or justice court
690 judge over whether service is full-time or part-time for any employment period, the disputed
691 service shall be submitted by the office to the Administrative Office of the Courts for
692 determination.

693 (b) If a justice court judge has a combination of part-time service and full-time position
694 service with one participating employer, the office shall compute separate allowances on the
695 basis of compensation actually received by the judge during the part-time and full-time periods
696 of service.

697 (3) (a) A justice court judge who has service with more than one participating
698 employer shall be considered full-time by the office for a period of service in which the judge
699 is certified as full-time by:

700 (i) a participating employer; ~~or~~

701 (ii) a group of participating employers where the judge's part-time work for each
702 employer, when aggregated, amounts to full-time service; or

703 ~~[(i)]~~ (iii) the Administrative Office of the Courts beginning on or after January 1,
704 2009, based on the judge's aggregate caseload of the multiple employers as determined by the
705 judge's caseloads of the individual courts of each employer in accordance with Subsection
706 78A-7-206(1)(b)(ii).

707 (b) If a justice court judge has full-time service under Subsection (3)(a), the office shall

708 compute an allowance on the basis of total compensation actually received from all
709 participating employers by the judge during the total period of full-time service.

710 (c) If a justice court judge has part-time service performed that is not within a period
711 considered full-time service under Subsection (3)(a), the office shall compute a separate
712 allowance on the basis of compensation actually received by the member during the period of
713 part-time service.

714 (d) If there is a dispute between the office and a participating employer, a group of
715 participating employers, or a justice court judge over whether service is full-time or part-time
716 for any employment period, the disputed service shall be submitted by the office to the
717 Administrative Office of the Courts for determination.

718 (4) All of the service rendered by a justice court judge in any one fiscal or calendar
719 year may not count for more than one year of service credit.

720 Section 12. Section **49-13-202** is amended to read:

721 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**
722 **requirements -- Nondiscrimination requirements -- Service credit purchases.**

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

725 (b) In addition to [~~their~~] participation in this system, a participating [employers]
726 employer may provide or participate in any additional public or private retirement,
727 supplemental or defined contribution plan, either directly or indirectly, for [~~their~~] the
728 participating employer's employees.

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

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

732 (i) the employer elects not to provide or participate in any type of private or public
733 retirement, supplemental or defined contribution plan, either directly or indirectly, for [~~its~~] the
734 employer's employees, except for Social Security; or

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

737 (b) an employer that is a charter school authorized under Title 53G, Chapter 5, Part 3,
738 Charter School Authorization, and does not elect to participate in accordance with Section

739 53G-5-407;

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

743 (d) an employer that is licensed as a nursing care facility under Title 26, Chapter 21,
744 Health Care Facility Licensing and Inspection Act, and created as a special service district
745 under Title 17D, Chapter 1, Special Service District Act, in a rural area of the state that makes
746 an election of nonparticipation in accordance with Subsection (5); or

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

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

755 (4) (a) An employer may, by resolution of [~~its~~] the employer's governing body, apply
756 for admission to this system.

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

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

762 (ii) Until June 30, 2014, an employer that is licensed as a nursing care facility under
763 Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and created as a
764 special service district under Title 17D, Chapter 1, Special Service District Act, in a rural area
765 of the state may make an election of nonparticipation as an employer for retirement programs
766 under this chapter.

767 (iii) On or before July 1, 2010, an employer described in Subsection (2)(e) may make
768 an election of nonparticipation as an employer for retirement programs under this chapter.

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

- 770 (i) is a one-time election made no later than the time specified under Subsection (5)(a);
771 (ii) shall be documented by a resolution adopted by the governing body of the
772 employer;
773 (iii) is irrevocable; and
774 (iv) applies to the employer as described in Subsection (5)(a)(i), (ii), or (iii) and to all
775 employees of that employer.

776 (c) The employer making an election under Subsection (5)(a) may offer employee
777 benefit plans for ~~[its]~~ the employer's employees:

- 778 (i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act;
779 or
780 (ii) under any other program.

781 (6) (a) If a participating employer purchases service credit on behalf of a regular
782 full-time ~~[employees]~~ employee for service rendered prior to the participating employer's
783 admission to this system, the participating employer shall:

- 784 (i) purchase service credit ~~[shall be purchased]~~ in a nondiscriminatory manner on
785 behalf of all current and former regular full-time employees who were eligible for service
786 credit at the time service was rendered~~[-];~~ and
787 (ii) comply with the provisions of Section 49-11-403, except for the requirement
788 described in Subsection 49-11-403(2)(a).

789 (b) For a purchase made under this Subsection (6), an employee is not required to:
790 (i) have at least four years of service credit before the purchase can be made; or
791 (ii) forfeit service credit or any defined contribution balance based on the employer
792 contributions under any other retirement system or plan based on the period of employment for
793 which service credit is being purchased.

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

795 **49-13-203. Exclusions from membership in system.**

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

- 797 (a) subject to the requirements of Subsection (2), an employee whose employment
798 status is temporary in nature due to the nature or the type of work to be performed;
799 (b) except as provided under Subsection (3)(a), an employee of an institution of higher
800 education who participates in a retirement system with a public or private retirement system,

801 organization, or company designated by the Utah Board of Higher Education, or the technical
802 college board of trustees for an employee of each technical college, during any period in which
803 required contributions based on compensation have been paid on behalf of the employee by the
804 employer;

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

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

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

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

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

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

821 (ii) all employees from participation in this system under Subsection 49-11-623(3)(b);
822 [or]

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

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

828 (ii) all employees from participation in this system under Subsection
829 49-11-624(3)(b)[-]; or

830 (i) an employee who is employed with a withdrawing entity that has elected under
831 Section 49-11-625, before July 1, 2022, to exclude all employees from participation in this

832 system.

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

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

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

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

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

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

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

853 (b) an elected official;

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

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

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

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

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

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

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

- 863 (j) any other member who is permitted to make an election under Section 49-11-406;
- 864 (k) a person appointed as a city manager or chief city administrator or another person
- 865 employed by a municipality, county, or other political subdivision, who is an at-will employee;
- 866 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
- 867 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through
- 868 membership in a labor organization that provides retirement benefits to its members;
- 869 (m) an employee of the Utah Science Technology and Research Initiative created under
- 870 Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act; and
- 871 (n) an employee serving as an exchange employee from outside the state for an
- 872 employer who has elected to make all of the employer's exchange employees eligible for
- 873 service credit in this system.
- 874 (5) (a) Each participating employer shall prepare and maintain a list designating those
- 875 positions eligible for exemption under Subsection (4).
- 876 (b) An employee may not be exempted unless the employee is employed in a position
- 877 designated by the participating employer.
- 878 (6) (a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a
- 879 municipality, county, or political subdivision may not exempt a total of more than 50 positions
- 880 or a number equal to 10% of the eligible employees of the municipality, county, or political
- 881 subdivision, whichever is less.
- 882 (b) A municipality, county, or political subdivision may exempt at least one regular
- 883 full-time employee.
- 884 (7) Each participating employer shall:
- 885 (a) maintain a list of employee exemptions; and
- 886 (b) update the employee exemptions in the event of any change.
- 887 (8) The office may make rules to implement this section.
- 888 (9) An employee's exclusion, exemption, participation, or election described in this
- 889 section:
- 890 (a) shall be made in accordance with this section; and
- 891 (b) is subject to requirements under federal law and rules made by the board.
- 892 Section 14. Section 49-13-406 is amended to read:
- 893 **49-13-406. Exceptions for part-time elective or appointive service -- Computation**

894 **of allowance -- Justice court judges.**

895 (1) Notwithstanding the provisions of Sections 49-11-401 and 49-13-102, and unless
896 otherwise provided in this section, a member's elective or appointive service rendered on a
897 basis not considered full-time by the office shall have a separate allowance computed on the
898 basis of compensation actually received by the member during the period of elective or
899 appointive service.

900 (2) (a) (i) A justice court judge who has service with only one participating employer
901 shall be considered part-time or full-time by the office as certified by the participating
902 employer.

903 (ii) If there is a dispute between the office and a participating employer or justice court
904 judge over whether service is full-time or part-time for any employment period, the disputed
905 service shall be submitted by the office to the Administrative Office of the Courts for
906 determination.

907 (b) If a justice court judge has a combination of part-time service and full-time position
908 service with one participating employer, the office shall compute separate allowances on the
909 basis of compensation actually received by the judge during the part-time and full-time periods
910 of service.

911 (3) (a) A justice court judge who has service with more than one participating
912 employer shall be considered full-time by the office for a period of service in which the judge
913 is certified as full-time by:

914 (i) a participating employer; ~~or~~

915 (ii) a group of participating employers where the judge's part-time work for each
916 employer, when aggregated, amounts to full-time service; or

917 ~~[(ii)]~~ (iii) the Administrative Office of the Courts beginning on or after January 1,
918 2009, based on the judge's aggregate caseload of the multiple employers as determined by the
919 judge's caseloads of the individual courts of each employer in accordance with Subsection
920 78A-7-206(1)(b)(ii).

921 (b) If a justice court judge has full-time service under Subsection (3)(a), the office shall
922 compute an allowance on the basis of total compensation actually received from all
923 participating employers by the judge during the total period of full-time service.

924 (c) If a justice court judge has part-time service performed that is not within a period

925 considered full-time service under Subsection (3)(a), the office shall compute a separate
926 allowance on the basis of compensation actually received by the member during the period of
927 part-time service.

928 (d) If there is a dispute between the office and a participating employer, a group of
929 participating employers, or a justice court judge over whether service is full-time or part-time
930 for any employment period, the disputed service shall be submitted by the office to the
931 Administrative Office of the Courts for determination.

932 (4) All of the service rendered by a justice court judge in any one fiscal or calendar
933 year may not count for more than one year of service credit.

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

935 **49-15-202. Participation of employers -- Requirements -- Admission -- Full**
936 **participation in system -- Supplemental programs authorized.**

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

- 942 (a) Chapter 12, Public Employees' Contributory Retirement Act;
943 (b) Chapter 13, Public Employees' Noncontributory Retirement Act;
944 (c) Chapter 14, Public Safety Contributory Retirement Act;
945 (d) Chapter 15, Public Safety Noncontributory Retirement Act; or
946 (e) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

947 (2) An employer that covers [~~its~~] the employer's public safety employees under
948 Subsection (1)(d) is a participating employer in this system.

949 (3) If a participating employer under Subsection (1) covers any of [~~its~~] the participating
950 employer's public safety service employees under the Public Safety Contributory Retirement
951 System or the Public Safety Noncontributory Retirement System, that participating employer
952 shall cover all of [~~its~~] the participating employer's public safety service employees under one of
953 those systems, except for a public safety service employee initially entering employment with a
954 participating employer beginning on or after July 1, 2011.

955 (4) (a) Until June 30, 2011, an employer that is not participating in this system may by

956 resolution of [its] the employer's governing body apply for coverage of [its] the employer's
957 public safety service employees by this system.

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

960 (5) (a) If a participating employer purchases service credit on behalf of [~~employees~~] an
961 employee for service rendered prior to the participating employer's admission to this system,
962 the participating employer shall:

963 (i) purchase service credit [~~must be purchased~~] in a nondiscriminatory manner on
964 behalf of all current and former employees who were eligible for service credit at the time
965 service was rendered[-]; and

966 (ii) comply with the provisions of Section 49-11-403, except for the requirement
967 described in Subsection 49-11-403(2)(a).

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

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

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

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

974 (7) In addition to [their] participation in the system, a participating [employers]
975 employer may provide or participate in any additional public or private retirement,
976 supplemental or defined contribution plan, either directly or indirectly, for [their] the public
977 employer's employees.

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

979 **49-22-203. Exclusions from membership in system.**

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

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

983 (b) except as provided under Subsection (3), an employee of an institution of higher
984 education who participates in a retirement system with a public or private retirement system,
985 organization, or company designated by the Utah Board of Higher Education, or the technical
986 college board of trustees for an employee of each technical college, during any period in which

987 required contributions based on compensation have been paid on behalf of the employee by the
988 employer;

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

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

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

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

997 or

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

999 (f) a person who files a written request for exemption with the office under Section
1000 49-22-205; [or]

1001 (g) an employee described in Subsection (1)(g)(i) or (ii) who is employed with a
1002 withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to
1003 exclude:

1004 (i) new employees from participation in this system under Subsection 49-11-624(3)(a);

1005 or

1006 (ii) all employees from participation in this system under Subsection

1007 49-11-624(3)(b)[-]; or

1008 (h) an employee who is employed with a withdrawing entity that has elected under
1009 Section 49-11-625, before July 1, 2022, to exclude all employees from participation in this
1010 system.

1011 (2) If an employee whose status is temporary in nature due to the nature of type of
1012 work to be performed:

1013 (a) is employed for a term that exceeds six months and the employee otherwise
1014 qualifies for service credit in this system, the participating employer shall report and certify to
1015 the office that the employee is a regular full-time employee effective the beginning of the
1016 seventh month of employment; or

1017 (b) was previously terminated prior to being eligible for service credit in this system

1018 and is reemployed within three months of termination by the same participating employer, the
1019 participating employer shall report and certify that the member is a regular full-time employee
1020 when the total of the periods of employment equals six months and the employee otherwise
1021 qualifies for service credits in this system.

1022 (3) Upon cessation of the participating employer contributions, an employee under
1023 Subsection (1)(b) is eligible for service credit in this system.

1024 (4) An employee's exclusion, exemption, participation, or election described in this
1025 section:

1026 (a) shall be made in accordance with this section; and

1027 (b) is subject to requirements under federal law and rules made by the board.

1028 Section 17. Section **49-23-202** is amended to read:

1029 **49-23-202. Participation of employers -- Admission requirements.**

1030 (1) (a) An employer is a participating employer and may not withdraw from
1031 participation in this system.

1032 (b) A participating employer shall cover ~~[its]~~ the participating employer's:

1033 (i) public safety service employees in accordance with Section [49-15-202](#); and

1034 (ii) firefighter service employees in accordance with Section [49-16-202](#).

1035 (2) (a) An employer may, by resolution of ~~[its]~~ the employer's governing body, apply
1036 for admission to this system.

1037 (b) Upon approval of the resolution by the board, the employer is a participating
1038 employer in this system and is subject to this title.

1039 (3) If a participating employer purchases service credit on behalf of a public safety
1040 service ~~[employees]~~ employee or a or firefighter service ~~[employees]~~ employee for service
1041 rendered prior to the participating employer's admission to this system, the participating
1042 employer shall:

1043 (a) purchase service credit ~~[shall be purchased]~~ in a nondiscriminatory manner on
1044 behalf of all current and former public safety service employees or firefighter service
1045 employees who were eligible for service credit at the time service was rendered~~[-];~~ and

1046 (b) comply with the provisions of Section [49-11-403](#).

1047 Section 18. **Effective date.**

1048 (1) Except as provided in Subsection (2), this bill takes effect on May 5, 2021.

- 1049 (2) The changes affecting the following sections take effect on July 1, 2021:
- 1050 (a) Section [49-11-613](#);
- 1051 (b) Section [49-11-613.5](#);
- 1052 (c) Section [49-11-1205](#); and
- 1053 (d) Section [49-11-1303](#).