

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



retirement distributions;

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

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

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ENACTS:

49-11-625, Utah Code Annotated 1953

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~~[-];~~

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

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

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

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

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

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

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

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

(iii) Chapter 14, Public Safety Contributory Retirement Act;

(iv) Chapter 15, Public Safety Noncontributory Retirement Act;

(v) Chapter 16, Firefighters' Retirement Act; or

(vi) Chapter 19, Utah Governors' and Legislators' Retirement Act.

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

49-11-608. False statements or records -- Unlawfully cashing benefit checks -- Unlawfully obtaining or appropriating benefit payments.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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

with federal law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

49-11-625. Withdrawing independent entity -- Participation election date --
Withdrawal costs -- Rulemaking.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

49-11-1205. Postretirement reemployment restriction exceptions.

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

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

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

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

(B) medical benefits;

(C) dental benefits;

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

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

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

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

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

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

(a) before retiring:

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

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

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

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

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

(v) is at least 50 years old; and

(b) is reemployed by a different participating employer.

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

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

(ii) a length-of-service award;

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

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

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

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

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

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

(ii) 55 years old.

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

(b) A retiree who is a part-time appointed or elected board member for one or more boards, commissions, councils, committees, panels, or other bodies of participating employers:

(i) may receive an aggregate amount of compensation, remuneration, a stipend, or other benefit for service on a single or multiple boards, commissions, councils, committees, panels, or other bodies of no more than \$5,000 per year; and

(ii) may not receive an employer paid retirement service credit or retirement-related contribution.

(c) For purposes of Subsection (4)(b)(i):

(i) a part-time appointed or elected board member's compensation includes:

(A) an amount paid for the part-time appointed or elected board member's coverage in a group insurance plan provided by the participating employer; and

(B) the part-time appointed or elected board member's receipt of any other benefit provided by the participating employer; and

(ii) the part-time appointed or elected board member's compensation does not include:

(A) an amount the participating employer pays for employer-matching employment taxes, if the participating employer treats the part-time appointed or elected board member as an employee for federal tax purposes; or

(B) an amount that the part-time appointed or elected board member receives for per diem and travel expenses for up to 12 approved meetings or activities of the government board per year, if the per diem and travel expenses do not exceed the amounts established by the Division of Finance under Sections 63A-3-106 and 63A-3-107 or by rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

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

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

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

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

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

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

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

(a) the retiree:

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

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

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

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

(B) 55 years old;

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) any non-retirement related benefits;

(ii) leave benefits;

(iii) medical benefits; and

(iv) other benefits.

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

(b) For the period of the phased retirement:

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

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

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

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

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

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

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

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

(A) any non-retirement related benefits;

(B) leave benefits;

(C) medical benefits; and

(D) other benefits.

(5) The office shall begin paying 100% of the retiree's retirement allowance on the first day of the month following the month in which the office receives written notification and any required supporting documentation that the retiree's phased retirement has been irrevocably terminated.

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

(b) The forfeiture of retirement related benefits under Subsection (2)(a) does not 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

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

- (i) if the employee is acquitted of the offense;
- (ii) if the employee is convicted of an offense that may be an employment related offense; and
- (iii) when the participating employer has concluded ~~[its]~~ the participating employer's duties under this section if the employee is convicted, including conducting an investigation, making a determination under Subsection (4)(b) that the conviction was for an employment related offense, and notifying the office under Subsection (7).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) under any other program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) an elected official;

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

(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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

53G-5-407;

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) under any other program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) an employee who is employed with a withdrawing entity that has elected under 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;

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

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

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

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

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

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

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

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

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

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

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

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

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

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

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

Section 14. Section 49-13-406 is amended to read:

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 [(it)] (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

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

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

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

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

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

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

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

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

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

(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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 18. **Effective date.**

(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](#).