



- 30           ▶ provides that after the date of disability, cost-of-living increases to any offsetting
- 31 benefits may not be considered in calculating monthly disability benefits;
- 32           ▶ provides that monthly disability benefits shall cease when the eligible employee
- 33 dies; and
- 34           ▶ makes technical changes.

35 **Monies Appropriated in this Bill:**

36           None

37 **Other Special Clauses:**

38           None

39 **Utah Code Sections Affected:**

40 AMENDS:

- 41           **49-11-202**, as last amended by Laws of Utah 2003, Chapter 240
- 42           **49-11-403**, as last amended by Laws of Utah 2006, Chapter 260
- 43           **49-11-404**, as last amended by Laws of Utah 2008, Chapter 252
- 44           **49-12-401**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 45           **49-13-401**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 46           **49-14-401**, as last amended by Laws of Utah 2003, Chapter 240
- 47           **49-15-401**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 48           **49-16-401**, as last amended by Laws of Utah 2003, Chapter 240
- 49           **49-17-401**, as last amended by Laws of Utah 2003, Chapter 240
- 50           **49-18-401**, as last amended by Laws of Utah 2003, Chapter 240
- 51           **49-21-401**, as last amended by Laws of Utah 2008, Chapter 252
- 52           **49-21-402**, as last amended by Laws of Utah 2007, Chapter 93
- 53           **49-21-403**, as last amended by Laws of Utah 2008, Chapter 252



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

56           Section 1. Section **49-11-202** is amended to read:

57           **49-11-202. Establishment of Utah State Retirement Board -- Quorum -- Terms --**

58 **Officers -- Expenses and per diem -- Membership Council established.**

59 (1) There is established the Utah State Retirement Board composed of seven board  
60 members determined as follows:

61 (a) Four board members, with experience in investments or banking, shall be  
62 appointed by the governor from the general public.

63 (b) One board member shall be a school employee appointed by the governor from at  
64 least three nominations submitted by the governing board of the school employees' association  
65 that is representative of a majority of the school employees who are members of a system  
66 administered by the board.

67 (c) One board member shall be a public employee appointed by the governor from at  
68 least three nominations submitted by the governing board of the public employee association  
69 that is representative of a majority of the public employees who are members of a system  
70 administered by the board.

71 (d) One board member shall be the state treasurer.

72 (2) Four board members constitute a quorum for the transaction of business.

73 (3) (a) All appointments to the board shall be made on a nonpartisan basis, with the  
74 consent of the Senate.

75 (b) Board members shall serve until their successors are appointed and take the  
76 constitutional oath of office.

77 (c) When a vacancy occurs on the board for any reason, the replacement shall be  
78 appointed for the unexpired term.

79 (4) (a) Except as required by Subsection (4)(b), all appointed board members shall  
80 serve for four-year terms.

81 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the  
82 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
83 board members are staggered so that:

84 (i) approximately half of the board is appointed every two years[-]; and

85 (ii) no more than two of the board members appointed under Subsection (1)(a) are

86 appointed every two years.

87 (c) A board member who is appointed as a school employee or as a public employee  
88 who retires or who is no longer employed with a participating employer shall immediately  
89 resign from the board.

90 (5) (a) Each year the board shall elect a president and vice president from its  
91 membership.

92 (b) Each board member shall receive a per diem plus expenses for attending regularly  
93 constituted meetings and conferences as provided by board action.

94 (6) (a) There is established a Membership Council to perform the duties under  
95 Subsection (10).

96 (b) The board may pay the travel expenses of council members who attend council  
97 meetings.

98 (7) The Membership Council shall be composed of 13 council members selected as  
99 follows:

100 (a) Three council members shall be school employees selected by the governing board  
101 of an association representative of a majority of school employees who are members of a  
102 system administered by the board.

103 (b) One council member shall be a classified school employee selected by the  
104 governing board of the association representative of a majority of classified school employees  
105 who are members of a system administered by the board.

106 (c) Two council members shall be public employees selected by the governing board  
107 of the association representative of a majority of the public employees who are members of a  
108 system administered by the board.

109 (d) One council member shall be a municipal officer or employee selected by the  
110 governing board of the association representative of a majority of the municipalities who  
111 participate in a system administered by the board.

112 (e) One council member shall be a county officer or employee selected by the  
113 governing board of the association representative of a majority of counties who participate in a

114 system administered by the board.

115 (f) One council member shall be a representative of members of the Judges'  
116 Noncontributory Retirement System selected by the Judicial Council.

117 (g) One council member shall be a representative of members of the Public Safety  
118 Retirement Systems selected by the governing board of the association representative of the  
119 majority of peace officers who are members of the Public Safety Retirement Systems.

120 (h) One council member shall be a representative of members of the Firefighters'  
121 Retirement System selected by the governing board of the association representative of the  
122 majority of paid professional firefighters who are members of the Firefighters' Retirement  
123 System.

124 (i) One council member shall be a retiree selected by the governing board of the  
125 association representing the largest number of retirees, who are not public education retirees,  
126 from the Public Employees' Contributory and Public Employees' Noncontributory Retirement  
127 Systems.

128 (j) One council member shall be a retiree selected by the governing board of the  
129 association representing the largest number of public education retirees.

130 (8) (a) Each entity granted authority to select council members under Subsection (7)  
131 may also revoke the selection at any time.

132 (b) Each term on the council shall be for a period of four years, subject to Subsection  
133 (8)(a).

134 (c) Each term begins on July 1 and expires on June 30.

135 (d) When a vacancy occurs on the council for any reason, the replacement shall be  
136 selected for the remainder of the unexpired term.

137 (9) The council shall annually designate one council member as chair.

138 (10) The council shall:

139 (a) recommend to the board and to the Legislature benefits and policies for members  
140 of any system or plan administered by the board;

141 (b) recommend procedures and practices to improve the administration of the systems

142 and plans and the public employee relations responsibilities of the board and office;

143 (c) examine the record of all decisions affecting retirement benefits made by a hearing  
144 officer under Section 49-11-613;

145 (d) submit nominations to the board for the position of executive director if that  
146 position is vacant;

147 (e) advise and counsel with the board and the director on policies affecting members  
148 of the various systems administered by the office; and

149 (f) perform other duties assigned to it by the board.

150 Section 2. Section **49-11-403** is amended to read:

151 **49-11-403. Purchase of public service credit not otherwise qualifying for**  
152 **benefit.**

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

156 (a) United States federal employment;

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

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

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

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

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

166 (i) the member was receiving:

167 (A) long-term disability benefits;

168 (B) short-term disability benefits; or

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

170 (ii) the member's employer had not entered into a benefit protection contract under  
171 Section 49-11-404 during the period the member was disabled due to sickness or accident; or

172 (g) employment covered by a Teachers Insurance and Annuity Association of America  
173 retirement plan if the member forfeits any retirement benefit from that retirement plan for the  
174 period of employment to be purchased under this Subsection (1)(g).

175 (2) A member shall ~~have~~:

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

178 (b) ~~[forfeited]~~ forfeit service credit and any defined contribution balance based on  
179 employer contributions under any other retirement system or plan based on the period of  
180 employment for which service credit is being purchased.

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

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

186 (i) recommended by the actuary; and

187 (ii) adopted by the board.

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

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

192 (6) (a) ~~[H]~~ For a purchase made before July 1, 2010, if any of the factors used to  
193 determine the cost of a service credit purchase change at or before the member's retirement  
194 date, the cost of the purchase shall be recalculated at the time of retirement.

195 (b) ~~[H]~~ For a purchase made before July 1, 2010, if the recalculated cost exceeds the  
196 amount paid for the purchase, the member, a participating employer, or a member and a  
197 participating employer jointly may:

- 198 (i) pay the increased cost, plus interest, to receive the full amount of service credit; or
- 199 (ii) not pay the increased cost and have the purchased service credit prorated.

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

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

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

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

204 (ii) the cost of the service credit purchase shall not be recalculated at the time of  
 205 retirement.

206 (7) If the recalculated cost under Subsection (6)(a) is less than the amount paid for the  
 207 purchase, the office shall refund the excess payment to the member or participating employer  
 208 who paid for the purchase.

209 (8) (a) The board may adopt rules under which a member may make the necessary  
 210 payments to the office for purchases under this title as permitted by federal law.

211 (b) The office may reject any payments if the office determines the tax status of the  
 212 system, plans, or programs would be jeopardized by allowing the payment.

213 Section 3. Section **49-11-404** is amended to read:

214 **49-11-404. Benefit protection contract authorized -- Annual report required.**

215 (1) (a) A participating employer may establish a salary protection program under  
 216 which its employees are paid during periods of disability.

217 (b) If a salary protection program is established, a participating employer may enter  
 218 into benefit protection contracts with the office.

219 (c) A salary protection program shall:

220 (i) pay benefits based on the disabled member's rate of compensation at the time of  
 221 disability;

222 (ii) pay benefits over the period of the disability;

223 (iii) not include settlement or lump sum payments of any type;

224 ~~(iii)~~ (iv) be substantially equivalent to the long-term disability programs offered  
 225 under Chapter 21, Public Employees' Long-Term Disability Act; and



226            [(iii)] (v) comply with requirements adopted by the board.

227            (2) A benefit protection contract shall allow:

228            (a) the disabled member to be considered an active member in a system and continue  
229 to accrue service credit and salary credit based on the member's rate of pay in effect at the time  
230 disability commences;

231            (b) the office to require participating employer contributions to be paid before  
232 granting service credit and salary credit to the member;

233            (c) the disabled member to remain eligible during the contract period for any benefits  
234 provided by the system that covers the member; and

235            (d) the benefit for the disabled member to be improved by the annual cost-of-living  
236 increase factor applied to retired members of the system that covered the member on the date  
237 the member is eligible to receive benefits under a benefit protection contract.

238            (3) (a) The office shall establish the manner and times when employer contributions  
239 are paid.

240            (b) A failure to make the required payments is cause for the office to cancel a contract.

241            (c) Service credit and salary credit granted and accrued up to the time of cancellation  
242 may not be forfeited.

243            (4) A participating employer that has entered into a benefit protection contract under  
244 this section shall submit an annual report to the office which identifies:

245            (a) the employees receiving long-term disability benefits under policies initiated by the  
246 participating employer and approved under the benefit protection contract;

247            (b) the employees that have applied for long-term disability benefits and who are  
248 waiting approval; and

249            (c) the insurance carriers that are actively providing long-term disability benefits.

250            (5) If an employer fails to provide the annual report required under Subsection (4), the  
251 benefits that would have accrued under the benefit protection contract shall be forfeited.

252            (6) The board may adopt rules to implement and administer this section.

253            Section 4. Section **49-12-401** is amended to read:

254 **49-12-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

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

256 (a) the member ceases actual work for a participating employer in this system before  
257 the member's retirement date and provides evidence of the termination;

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

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

261 (i) the member has accrued at least four years of service credit and has attained an age  
262 of 65 years;

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

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

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

268 (2) (a) The member's retirement date ~~shall~~:

269 (i) shall be the 1st or the 16th day of the month, as selected by the member~~[-but the~~  
270 ~~retirement date must]~~;

271 (ii) shall be on or after the date of termination~~[-(b) The retirement date may not]~~; and

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

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

276 Section 5. Section **49-13-401** is amended to read:

277 **49-13-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

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

279 (a) the member ceases actual work for a participating employer in this system before  
280 the member's retirement date and provides evidence of the termination;

281 (b) the member has submitted to the office a notarized retirement application form that

282 states the member's proposed retirement date; and

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

284 (i) the member has accrued at least four years of service credit and has attained an age  
285 of 65 years;

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

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

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

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

293 (2) (a) The member's retirement date ~~shall~~:

294 (i) shall be the 1st or the 16th day of the month, as selected by the member~~[-but the~~  
295 ~~retirement date must]~~;

296 (ii) shall be on or after the date of termination~~[-(b) The retirement date may not]~~; and

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

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

301 Section 6. Section **49-14-401** is amended to read:

302 **49-14-401. Eligibility for service retirement -- Date of retirement --**

303 **Qualifications.**

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

305 (a) the member ceases actual work for a participating employer in this system before  
306 the member's retirement date and provides evidence of the termination;

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

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

- 310 (i) the member has accrued at least 20 years of service credit;
- 311 (ii) the member has accrued at least 10 years of service credit and has attained an age
- 312 of 60 years; or
- 313 (iii) the member has accrued at least four years of service credit and has attained an
- 314 age of 65 years.

315 (2) (a) The member's retirement date ~~shall~~:

316 (i) shall be the 1st or the 16th day of the month, as selected by the member~~[-but the~~  
317 ~~retirement date must]~~;

318 (ii) shall be on or after the date of termination~~[-(b) The retirement date may not]~~; and

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

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

323 Section 7. Section **49-15-401** is amended to read:

324 **49-15-401. Eligibility for service retirement -- Date of retirement --**

325 **Qualifications.**

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

327 (a) the member ceases actual work for a participating employer in this system before  
328 the member's retirement date and provides evidence of the termination;

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

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

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

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

335 (iii) the member has accrued at least four years of service and has attained an age of  
336 65 years.

337 (2) (a) The member's retirement date ~~shall~~:

338 (i) shall be the 1st or the 16th day of the month, as selected by the member~~[-but the~~  
339 ~~retirement date must]~~;

340 (ii) shall be on or after the date of termination~~[-(b) The retirement date may not]~~; and

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

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

345 Section 8. Section **49-16-401** is amended to read:

346 **49-16-401. Eligibility for service retirement -- Date of retirement --**

347 **Qualifications.**

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

349 (a) the member ceases actual work for a participating employer in this system before  
350 the member's retirement date and provides evidence of the termination;

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

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

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

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

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

359 (2) (a) The member's retirement date ~~[shall]~~:

360 (i) shall be the 1st or the 16th day of the month, as selected by the firefighter service  
361 employee~~[-but the retirement date must]~~;

362 (ii) shall be on or after the date of termination~~[-(b) The retirement date may]~~; and

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

365 (b) A member may not be employed by a participating employer in the system

366 established by this chapter on the retirement date selected under Subsection (2)(a)(i).

367 Section 9. Section **49-17-401** is amended to read:

368 **49-17-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

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

370 (a) the member ceases actual work for a participating employer in this system before  
371 the member's retirement date and provides evidence of the termination;

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

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

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

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

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

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

382 (2) (a) The member's retirement date ~~shall~~:

383 (i) shall be the 1st or the 16th day of the month, as selected by the member~~[-but the~~  
384 ~~retirement date must];~~

385 (ii) shall be on or after the date of termination~~[-(b) The retirement date may]; and~~

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

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

390 Section 10. Section **49-18-401** is amended to read:

391 **49-18-401. Eligibility for an allowance -- Date of retirement -- Qualifications.**

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

393 (a) the member ceases actual work for a participating employer in this system before

394 the member's retirement date and provides evidence of the termination;

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

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

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

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

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

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

405 (2) (a) The member's retirement date ~~shall~~:

406 (i) shall be the 1st or the 16th day of the month, as selected by the member~~[-but the~~  
407 ~~retirement date must]~~;

408 (ii) shall be on or after the date of termination~~[-(b) The retirement date may]~~; and

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

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

413 Section 11. Section **49-21-401** is amended to read:

414 **49-21-401. Disability benefits -- Application -- Eligibility.**

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

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

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

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

421 (2) (a) If an eligible employee is unable to apply on the employee's own behalf, the

422 application may be made by a person who is:

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

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

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

427 [~~(2)~~] (3) Upon request by the office, the participating employer of the eligible  
428 employee shall provide to the office documentation and information concerning the eligible  
429 employee.

430 [~~(3)~~] (4) The office shall review all relevant information and determine whether or not  
431 the eligible employee is totally disabled.

432 [~~(4)~~] (5) If the office determines that the eligible employee is totally disabled due to  
433 accidental bodily injury or physical illness which is not the result of the performance of an  
434 employment duty, the eligible employee shall receive a monthly disability benefit equal to  
435 [~~2/3~~] two-thirds of the eligible employee's regular monthly salary, for each month the total  
436 disability continues beyond the elimination period, not to exceed the maximum benefit period.

437 [~~(5)~~] (6) If the office determines that the eligible employee is totally disabled due to  
438 psychiatric illness, the eligible employee shall receive:

439 (a) a maximum of two years of monthly disability benefits equal to [~~2/3~~] two-thirds of  
440 the eligible employee's regular monthly salary for each month the total disability continues  
441 beyond the elimination period;

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

445 (c) payment of monthly disability benefits according to contractual provisions for a  
446 period not to exceed five years if the eligible employee is institutionalized due to psychiatric  
447 illness.

448 [~~(6)~~] (7) If the office determines that the eligible employee is totally disabled due to a  
449 physical injury resulting from external force or violence as a result of the performance of an



450 employment duty, the eligible employee shall receive a monthly disability benefit equal to  
451 100% of the eligible employee's regular monthly salary, for each month the total disability  
452 continues beyond the elimination period, not to exceed the maximum benefit period.

453 ~~[(7)]~~ (8) (a) Successive periods of disability are considered as a continuous period of  
454 disability if the period of disability:

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

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

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

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

461 (c) If Subsection ~~[(7)]~~ (8)(a) or (b) does not apply, successive periods of disability are  
462 considered as separate periods of disability.

463 ~~[(8)]~~ (9) The office may, at any time, have any eligible employee claiming disability  
464 examined by a physician chosen by the office to determine if the eligible employee is totally  
465 disabled.

466 ~~[(9)]~~ (10) A claim brought by an eligible employee for long-term disability benefits  
467 under the Public Employee's Long-Term Disability Program is barred if it is not commenced  
468 within one year from the eligible employee's date of disability, unless the office determines  
469 that under the surrounding facts and circumstances, the eligible employee's failure to comply  
470 with the time limitations was reasonable.

471 ~~[(10)]~~ (11) Medical or psychiatric conditions which existed prior to eligibility may not  
472 be a basis for disability benefits until the eligible employee has had one year of continuous  
473 eligibility in the Public Employees Long-Term Disability Program.

474 ~~[(11)]~~ (12) If there is a valid benefit protection contract, service credit shall accrue  
475 during the period of total disability, unless the disabled eligible employee is exempted from a  
476 system, or is otherwise ineligible for service credit.

477 ~~[(12)]~~ (13) Regardless of any medical evidence provided by the employee to support

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

- 480 (a) makes a claim that the employee is able to work; or
- 481 (b) has a pending action in a court or before any state or local administrative body in  
482 which the employee has made a claim that the employee is able to work.

483 [~~13~~] (14) Notwithstanding the provisions of Section 49-11-618, upon written request  
484 by an employer, information obtained under this part may, upon an order of a court or an  
485 administrative law judge, be released to an employer who is a party in an action under  
486 Subsection [~~12~~] (13).

487 Section 12. Section **49-21-402** is amended to read:

488 **49-21-402. Reduction or reimbursement of benefit -- Circumstances --**  
489 **Application for other benefits required.**

490 (1) A monthly disability benefit may not be paid for any period of total disability  
491 unless the eligible employee is under the ongoing care and treatment of a physician other than  
492 the eligible employee.

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

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

500 (b) workers' compensation indemnity benefits;

501 (c) any monies received by judgment, legal action, or settlement from a third party  
502 liable to the employee for the disability;

503 (d) unemployment compensation benefits;

504 (e) automobile no-fault, medical payments, or similar insurance payments; and

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

506 claim against an employer.

507 (3) The monthly disability benefit shall be reduced by any amount in excess of [~~1/3~~]  
508 one-third of the eligible employee's regular monthly salary received by, or payable to, the  
509 eligible employee from the following sources for the same period of time during which the  
510 eligible employee is entitled to receive a monthly disability benefit:

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

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

514 (4) [~~Cost-of-living~~] After the date of disability, cost-of-living increases to any of the  
515 benefits listed in Subsection (2) or (3) may not be considered in calculating a reduction to the  
516 monthly disability benefit.

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

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

523 (b) The eligible employee shall also first apply at the earliest eligible age for all  
524 unreduced retirement benefits to which the eligible employee is or may be entitled, and  
525 provide to the office evidence of the application.

526 (c) If the eligible employee fails to make application under Subsection (6)(a) or (b),  
527 the monthly disability benefit shall be suspended.

528 Section 13. Section **49-21-403** is amended to read:

529 **49-21-403. Termination of disability benefits -- Calculation of retirement benefit.**

530 (1) An eligible employee covered by this chapter and eligible for service credit under a  
531 system, including an eligible employee who relinquishes rights to retirement benefits under  
532 Section 49-11-619, who applies and is qualified for a monthly disability benefit shall receive a  
533 monthly disability benefit until the earlier of:

534            (a) the date of the eligible employee's death;  
535            [~~(a)~~] (b) the date the eligible employee is no longer disabled;  
536            [~~(b)~~] (c) the date the eligible employee has accumulated:  
537            (i) 20 years of service credit if the eligible employee is covered by Chapter 14, Public  
538 Safety Contributory Retirement Act, or Chapter 15, Public Safety Noncontributory Retirement  
539 Act;  
540            (ii) 25 years of service credit if the eligible employee is covered by Chapter 17, Judges'  
541 Contributory Retirement Act, or Chapter 18, Judges' Noncontributory Retirement Act; or  
542            (iii) 30 years of service credit if the eligible employee is covered by Chapter 12, Public  
543 Employees' Contributory Retirement Act, or Chapter 13, Public Employees' Noncontributory  
544 Retirement Act; or  
545            [~~(c)~~] (d) the date the eligible employee has received a monthly disability benefit for the  
546 following applicable time periods:  
547            (i) if the eligible employee is under age 60, the monthly disability benefit is payable  
548 until age 65;  
549            (ii) if the eligible employee is 60 or 61 years of age on the date of disability, the  
550 monthly disability benefit is payable for five years;  
551            (iii) if the eligible employee is 62 or 63 years of age on the date of disability, the  
552 monthly disability benefit is payable for four years;  
553            (iv) if the eligible employee is 64 or 65 years of age on the date of disability, the  
554 monthly disability benefit is payable for three years;  
555            (v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the  
556 monthly disability benefit is payable for two years; and  
557            (vi) if the eligible employee is 69 years of age or older on the date of disability, the  
558 monthly disability benefit is payable for one year.  
559            (2) (a) Upon termination of a monthly disability benefit, an eligible employee eligible  
560 for service credit under a system may retire under the requirements of the system which  
561 covered the eligible employee on the date of disability.

562           (b) The final average salary used in the calculation of the allowance shall be based on  
563 the annual rate of pay on the date of disability, improved by the annual cost-of-living increase  
564 factor applied to retirees of the system which covered the eligible employee on the date of  
565 disability.

566           (3) An eligible employee who is eligible for service credit in a system, but has  
567 relinquished rights to an allowance under Section 49-11-619, may receive the benefits the  
568 eligible employee would have received by being eligible for service credit in the system  
569 covering the eligible employee on the date of disability, except for the accrual of service credit,  
570 in accordance with this title.

571           (4) An eligible employee receiving a monthly disability benefit who has service credit  
572 from two or more systems may not combine service credits under Section 49-11-405 in  
573 qualifying for retirement, unless the eligible employee would receive a greater allowance by  
574 combining the service credits.

575           (5) A monthly disability benefit payable to an eligible employee who is not eligible for  
576 service credit under a system shall terminate at the earliest of:

- 577           (a) the date the eligible employee would be eligible for an unreduced allowance;
- 578           (b) the date the eligible employee has received a monthly disability benefit for the  
579 applicable time period as set forth in Subsection (1)~~(b)~~(c); or
- 580           (c) the date the eligible employee receives a reduced allowance.