

**UTAH RETIREMENT SYSTEMS AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: Craig Hall

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**LONG TITLE**

**Committee Note:**

The Retirement and Independent Entities Interim Committee recommended this bill.

Legislative Vote: 14 voting for 0 voting against 1 absent

**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;
- ▶ 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



28 participating employer's admission to the Utah Retirement System;

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

31       ▶ makes technical and conforming changes.

32 **Money Appropriated in this Bill:**

33       None

34 **Other Special Clauses:**

35       This bill provides a special effective date.

36 **Utah Code Sections Affected:**

37 AMENDS:

38       49-11-401, as last amended by Laws of Utah 2010, Chapter 266

39       49-11-608, as renumbered and amended by Laws of Utah 2002, Chapter 250

40       49-11-613, as last amended by Laws of Utah 2016, Chapter 251

41       49-11-613.5, as enacted by Laws of Utah 2016, Chapter 251

42       49-11-1205, as last amended by Laws of Utah 2020, Chapter 449

43       49-11-1303, as last amended by Laws of Utah 2020, Chapter 98

44       49-11-1401, as last amended by Laws of Utah 2020, Chapter 24

45       49-12-202, as last amended by Laws of Utah 2018, Chapter 415

46       49-12-406, as last amended by Laws of Utah 2019, Chapter 31

47       49-13-202, as last amended by Laws of Utah 2018, Chapter 415

48       49-13-406, as last amended by Laws of Utah 2019, Chapter 31

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

50       49-23-202, as last amended by Laws of Utah 2012, Chapter 298

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

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

54       **49-11-401. Transfer of service credit -- Eligibility for service credit --**

55 **Computation of service credit -- Retirement from most recent system.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

90 (6) (a) Under no circumstances may service credit earned by a member under Chapter  
91 22, New Public Employees' Tier II Contributory Retirement Act, or Chapter 23, New Public  
92 Safety and Firefighter Tier II Contributory Retirement Act, be transferable to any other system  
93 or plan under this title.

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

- 98 (i) Chapter 12, Public Employees' Contributory Retirement Act;
- 99 (ii) Chapter 13, Public Employees' Noncontributory Retirement Act;
- 100 (iii) Chapter 14, Public Safety Contributory Retirement Act;
- 101 (iv) Chapter 15, Public Safety Noncontributory Retirement Act;
- 102 (v) Chapter 16, Firefighters' Retirement Act; or
- 103 (vi) Chapter 19, Utah Governors' and Legislators' Retirement Act.

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

105 **49-11-608. False statements or records -- Unlawfully cashing benefit checks --**  
106 **Unlawfully obtaining or appropriating benefit payments.**

107 (1) A person who knowingly makes any false statement, or who falsifies or permits to  
108 be falsified any record necessary for carrying out the intent of this title is in violation of Section  
109 [76-6-504](#).

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

112 (3) A person who obtains a benefit payment, including a direct deposit or electronic  
113 benefit payment, to which that person is not entitled and who fails to take reasonable measures  
114 to return the benefit payment to the office is in violation of Section [76-6-407](#).

115 (4) A person who appropriates property or a benefit of another person, including a  
116 direct deposit or electronic benefit payment, by obtaining or exercising unauthorized control  
117 over the property or the benefit is in violation of Section [76-6-404.5](#).

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

119 **49-11-613. Appeals procedure -- Right of appeal to hearing officer -- Board**  
120 **reconsideration -- Judicial review.**

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

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

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

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

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

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

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

143 (2) The hearing officer shall:

144 (a) be hired by the executive director after consultation with the board;

145 (b) follow and enforce the procedures and requirements of:

146 (i) this title;

147 (ii) the rules adopted by the board in accordance with Subsection (9); and

148 (iii) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically  
149 modified under this title or the rules adopted by the board in accordance with Subsection (9);

150 (c) hear and determine all facts relevant to a decision, including facts pertaining to  
151 applications for benefits under any system, plan, or program under this title and all matters

152 pertaining to the administration of the office; and

153 (d) make conclusions of law in determining the person's rights under any system, plan,  
154 or program under this title and matters pertaining to the administration of the office.

155 (3) The board shall review and approve or deny all decisions of the hearing officer in  
156 accordance with rules adopted by the board in accordance with Subsection (9).

157 (4) The moving party in any proceeding brought under this section shall bear the  
158 burden of proof.

159 (5) A party may file an application for reconsideration by the board upon any of the  
160 following grounds:

161 (a) that the board acted in excess of [~~its~~] the board's powers;

162 (b) that the order or the award was procured by fraud;

163 (c) that the evidence does not justify the determination of the hearing officer; or

164 (d) that the party has discovered new material evidence that could not, with reasonable  
165 diligence, have been discovered or procured prior to the hearing.

166 (6) The board shall affirm, reverse, or modify the decision of the hearing officer, or  
167 remand the application to the hearing officer for further consideration.

168 (7) A party aggrieved by the board's final decision under Subsection (6) may obtain  
169 judicial review by complying with the procedures and requirements of:

170 (a) this title;

171 (b) rules adopted by the board in accordance with Subsection (9); and

172 (c) Title 63G, Chapter 4, Administrative Procedures Act, except as specifically  
173 modified under this title or the rules adopted by the board in accordance with Subsection (9).

174 (8) The program shall provide an appeals process for medical claims that complies  
175 with federal law.

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

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

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

182 **49-11-613.5. Limitation of actions -- Cause of action.**

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

187 (b) A person who is dissatisfied with an executive director's ruling under Section  
188 49-11-613 and who seeks a review of that claim by a hearing officer shall file a request for  
189 board action within 30 days of the day on which the hearing officer issues the ruling.

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

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

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

198 (i) a cause of action specifically accrues at the time the requisite retirement  
199 contributions relating to that retirement service credit are paid or should have been paid to the  
200 office; and

201 (ii) the person is deemed to be on notice of the payment or nonpayment of those  
202 retirement contributions.

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

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

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

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

214 employer.

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

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

220 Section 5. Section **49-11-1205** is amended to read:

221 **49-11-1205. Postretirement reemployment restriction exceptions.**

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

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

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

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

229 (B) medical benefits;

230 (C) dental benefits;

231 (D) other insurance benefits except for workers' compensation as provided under Title  
232 34A, Chapter 2, Workers' Compensation Act, Title 34A, Chapter 3, Utah Occupational Disease  
233 Act, and withholdings required by federal or state law for social security, Medicare, and  
234 unemployment insurance; or

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

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

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

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

244 (2) A retiree shall be considered as having completed the one-year separation from



245 employment with a participating employer required under Section 49-11-1204, if the retiree:

246 (a) before retiring:

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

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

254 (iii) had less than 30 years of service credit but had sufficient service credit to retire,  
255 with an unreduced allowance making the public safety service employee ineligible for  
256 long-term disability payments under Chapter 21, Public Employees' Long-Term Disability Act,  
257 or a substantially similar long-term disability program; [~~and~~]

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

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

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

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

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

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

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

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

271 (b) For purposes of Subsections (3)(a)(i) and (ii), the total amount of any discounts, tax  
272 credits, vouchers, and payments to an affiliated emergency services worker may not exceed  
273 \$500 per month.

274 (c) [~~Beginning January 1, 2016, the~~] The board shall adjust the amount under  
275 Subsection (3)(b) by the annual change in the Consumer Price Index during the previous

276 calendar year as measured by a United States Bureau of Labor Statistics Consumer Price Index  
277 average as determined by the board.

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

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

283 (ii) 55 years old.

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

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

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

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

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

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

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

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

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

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

305 (B) an amount that the part-time appointed or elected board member receives for per  
306 diem and travel expenses for up to 12 approved meetings or activities of the government board

307 per year, if the per diem and travel expenses do not exceed the amounts established by the  
 308 Division of Finance under Sections 63A-3-106 and 63A-3-107 or by rules made by the  
 309 Division of Finance according to Sections 63A-3-106 and 63A-3-107.

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

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

318 (b) The office shall cancel the retirement allowance of a retiree for the remainder of the  
 319 calendar year if the reemployment with a participating employer exceeds the limitation under  
 320 Subsection (1)(a)(iii), (3)(b), or (4)(b).

321 Section 6. Section 49-11-1303 is amended to read:

322 **49-11-1303. Phased retirement -- Eligibility -- Restrictions -- Amortization rate --**  
 323 **Public safety service or firefighter service employees.**

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

326 (a) the retiree:

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

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

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

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

334 (B) 55 years old;

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

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

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

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

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

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

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

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

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

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

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

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

356 (i) any non-retirement related benefits;

357 (ii) leave benefits;

358 (iii) medical benefits; and

359 (iv) other benefits.

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

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

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

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

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

368 (iv) a participating employer that employs the retiree shall contribute to the office the

369 certified contribution rate applicable to the system that would have covered the retiree if the  
370 retiree's part-time position were considered to be an eligible, full-time position within the  
371 system;

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

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

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

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

381 (A) any non-retirement related benefits;

382 (B) leave benefits;

383 (C) medical benefits; and

384 (D) other benefits.

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

389 Section 7. Section **49-11-1401** is amended to read:

390 **49-11-1401. Forfeiture of retirement benefits for employees for employment**  
391 **related offense convictions -- Notifications -- Investigations -- Appeals.**

392 (1) As used in this section:

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

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

399 (c) (i) "Employment related offense" means a felony committed during employment or

400 the term of an elected or appointed office with a participating employer that is:

- 401 (A) during the performance of the employee's duties;
- 402 (B) within the scope of the employee's employment; or
- 403 (C) under color of the employee's authority.

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

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

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

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

- 413 (a) if the employee is convicted of an employment related offense;
- 414 (b) beginning on the day on which the employment related offense occurred; and
- 415 (c) until the employee is either:

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

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

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

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

422 (a) immediately notify the office:

423 (i) if an employee is charged with an offense that is or may be an employment related  
424 offense under this section; and

425 (ii) if the employee described in Subsection (4)(a)(i) is acquitted of the offense that is  
426 or may be an employment related offense under this section; and

427 (b) if the employee is convicted of an offense that may be an employment related  
428 offense:

429 (i) conduct an investigation, which may rely on the conviction, to determine:

430 (A) whether the conviction is for an employment related offense; and

431 (B) the date on which the employment related offense was initially committed; and  
432 (ii) after the period of time for an appeal by an employee under Subsection (5),  
433 immediately notify the office of the employer's determination under this Subsection (4)(b).

434 (5) An employee may appeal the employee's participating employer's determination  
435 under Subsection (4)(b) in accordance with the participating employer's procedures for  
436 appealing agency action, including Title 63G, Chapter 4, Administrative Procedures Act, if  
437 applicable.

438 (6) (a) Notwithstanding Subsection (4), a district attorney, a county attorney, the  
439 attorney general's office, or the state auditor may notify the office and the employee's  
440 participating employer if an employee is charged with an offense that is or may be an  
441 employment related offense under this section.

442 (b) If the employee's participating employer receives a notification under Subsection  
443 (6)(a), the participating employer shall immediately report to the entity that provided the  
444 notification under Subsection (6)(a):

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

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

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

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

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

461 (8) This section applies to an employee who is convicted on or after the effective date

462 of this act for an employment related offense.

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

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

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

468 **49-12-202. Participation of employers -- Limitations -- Exclusions -- Admission**  
469 **requirements -- Exceptions -- Nondiscrimination requirements.**

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

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

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

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

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

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

484 (b) an employer that is a charter school authorized under Title 53G, Chapter 5, Part 3,  
485 Charter School Authorization, and does not elect to participate in accordance with Section  
486 [53G-5-407](#);

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

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



493 an election of nonparticipation in accordance with Subsection (4).

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

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

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

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

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

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

508 (iii) is irrevocable; and

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

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

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

514 or

515 (ii) under any other program.

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

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

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

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

529 Section 9. Section **49-12-406** is amended to read:

530 **49-12-406. Exceptions for part-time elective or appointive service -- Computation**  
531 **of allowance -- Justice court judges.**

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

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

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

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

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

551 (i) a participating employer; [~~or~~]

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

554 [~~(i)~~] (iii) the Administrative Office of the Courts beginning on or after January 1,

555 2009, based on the judge's aggregate caseload of the multiple employers as determined by the  
556 judge's caseloads of the individual courts of each employer in accordance with Subsection  
557 [78A-7-206\(1\)\(b\)\(ii\)](#).

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

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

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

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

571 Section 10. Section **49-13-202** is amended to read:

572 **49-13-202. Participation of employers -- Limitations -- Exclusions -- Admission**  
573 **requirements -- Nondiscrimination requirements -- Service credit purchases.**

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

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

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

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

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

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

588 (b) an employer that is a charter school authorized under Title 53G, Chapter 5, Part 3,  
589 Charter School Authorization, and does not elect to participate in accordance with Section  
590 53G-5-407;

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

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

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

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

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

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

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

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

617 under this chapter.

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

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

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

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

624 (iii) is irrevocable; and

625 (iv) applies to the employer as described in Subsection (5)(a)(i), (ii), or (iii) and to all  
626 employees of that employer.

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

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

631 (ii) under any other program.

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

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

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

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

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

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

645 Section 11. Section 49-13-406 is amended to read:

646 **49-13-406. Exceptions for part-time elective or appointive service -- Computation**  
647 **of allowance -- Justice court judges.**

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

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

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

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

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

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

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

670 ~~(ii)~~ (iii) the Administrative Office of the Courts beginning on or after January 1,  
671 2009, based on the judge's aggregate caseload of the multiple employers as determined by the  
672 judge's caseloads of the individual courts of each employer in accordance with Subsection  
673 78A-7-206(1)(b)(ii).

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

677 (c) If a justice court judge has part-time service performed that is not within a period  
678 considered full-time service under Subsection (3)(a), the office shall compute a separate

679 allowance on the basis of compensation actually received by the member during the period of  
680 part-time service.

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

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

687 Section 12. Section 49-15-202 is amended to read:

688 **49-15-202. Participation of employers -- Requirements -- Admission -- Full**  
689 **participation in system -- Supplemental programs authorized.**

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

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

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

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

708 (4) (a) Until June 30, 2011, an employer that is not participating in this system may by  
709 resolution of [its] the employer's governing body apply for coverage of [its] the employer's

710 public safety service employees by this system.

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

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

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

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

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

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

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

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

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

731 Section 13. Section **49-23-202** is amended to read:

732 **49-23-202. Participation of employers -- Admission requirements.**

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

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

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

737 (ii) firefighter service employees in accordance with Section 49-16-202.

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

740 (b) Upon approval of the resolution by the board, the employer is a participating



741 employer in this system and is subject to this title.

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

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

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

750 Section 14. **Effective date.**

751 This bill takes effect on July 1, 2021.