

Utah Retirement Systems Amendments for Military Personnel

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Heidi Balderree

House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill modifies the vesting requirements for employer contributions made to a defined contribution plan.

Highlighted Provisions:

This bill:

- provides that employer nonelective contributions made on behalf of an employee to a defined contribution plan vest upon the member's termination of employment, if the member or the member's spouse is a military service member who receives permanent change of station or relocation orders outside the state;

- allows specified Utah National Guard personnel, including the adjutant general, to elect to be exempt from the retirement systems, allowing employer contributions to vest immediately; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-12-203, as last amended by Laws of Utah 2023, Chapter 512

49-13-203, as last amended by Laws of Utah 2023, Chapter 512

49-22-205, as last amended by Laws of Utah 2022, Chapter 171

49-22-303, as last amended by Laws of Utah 2016, Chapter 227

49-22-401, as last amended by Laws of Utah 2022, Chapter 171

49-23-302, as last amended by Laws of Utah 2019, Chapter 484

29 **49-23-401**, as last amended by Laws of Utah 2022, Chapter 171

30 ENACTS:

31 **49-22-504**, Utah Code Annotated 1953

32 **49-23-505**, Utah Code Annotated 1953

33

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

35 Section 1. Section **49-12-203** is amended to read:

36 **49-12-203 . Exclusions from membership in system.**

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

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

40 (b) except as provided under Subsection (3)(a), an employee of an institution of higher
41 education who participates in a retirement system with a public or private retirement
42 system, organization, or company designated by the Utah Board of Higher Education,
43 or the technical college board of trustees for an employee of each technical college,
44 during any period in which required contributions based on compensation have been
45 paid on behalf of the employee by the employer;

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

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

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

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

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

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

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

- 63 or
- 64 (ii) all employees from participation in this system under Subsection 49-11-623(3)(b);
- 65 (i) an employee described in Subsection (1)(i)(i) or (ii) who is employed with a
- 66 withdrawing entity that has elected under Section 49-11-624, before January 1, 2018,
- 67 to exclude:
- 68 (i) new employees from participation in this system under Subsection 49-11-624(3)(a);
- 69 or
- 70 (ii) all employees from participation in this system under Subsection 49-11-624(3)(b);
- 71 (j) an employee who is employed with a withdrawing entity that has elected under
- 72 Section 49-11-625, before July 1, 2022, to exclude all employees from participation
- 73 in this system; or
- 74 (k) an employee who is employed with a withdrawing entity that elects under Section
- 75 49-11-626 to exclude:
- 76 (i) new employees from participation in this system under Subsection 49-11-626(3)(a);
- 77 or
- 78 (ii) all employees from participation in this system under Subsection 49-11-626(3)(b).
- 79 (2) If an employee whose status is temporary in nature due to the nature of type of work to
- 80 be performed:
- 81 (a) is employed for a term that exceeds six months and the employee otherwise qualifies
- 82 for service credit in this system, the participating employer shall report and certify to
- 83 the office that the employee is a regular full-time employee effective the beginning of
- 84 the seventh month of employment; or
- 85 (b) was previously terminated prior to being eligible for service credit in this system and
- 86 is reemployed within three months of termination by the same participating
- 87 employer, the participating employer shall report and certify that the member is a
- 88 regular full-time employee when the total of the periods of employment equals six
- 89 months and the employee otherwise qualifies for service credits in this system.
- 90 (3)(a) Upon cessation of the participating employer contributions, an employee under
- 91 Subsection (1)(b) is eligible for service credit in this system.
- 92 (b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit
- 93 earned by an employee under this chapter before July 1, 2009 is not affected under
- 94 Subsection (1)(f).
- 95 (c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service credit
- 96 earned by an employee under this chapter before July 1, 2014, is not affected under

97 Subsection (1)(g).

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

- 100 (a) a full-time student or the spouse of a full-time student and individuals employed in a
101 trainee relationship;
- 102 (b) an elected official;
- 103 (c) an executive department head of the state, a member of the State Tax Commission, a
104 member of the Public Service Commission, and a member of a full-time or part-time
105 board or commission;
- 106 (d) an employee of the Governor's Office of Planning and Budget;
- 107 (e) an employee of the Governor's Office of Economic Opportunity;
- 108 (f) an employee of the Commission on Criminal and Juvenile Justice;
- 109 (g) an employee of the Governor's Office;
- 110 (h) an employee of the Public Lands Policy Coordinating Office, created in Section
111 63L-11-201;
- 112 (i) an employee of the State Auditor's Office;
- 113 (j) an employee of the State Treasurer's Office;
- 114 (k) any other member who is permitted to make an election under Section 49-11-406;
- 115 (l) a person appointed as a city manager or chief city administrator or another person
116 employed by a municipality, county, or other political subdivision, who is an at-will
117 employee;
- 118 (m) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
119 Interlocal Cooperation Act, who is engaged in a specialized trade customarily
120 provided through membership in a labor organization that provides retirement
121 benefits to the organization's members;[-and]
- 122 (n) an employee serving as an exchange employee from outside the state for an
123 employer who has elected to make all of the employer's exchange employees eligible
124 for service credit in this system[-] ; and
- 125 (o) the adjutant general of the Utah National Guard appointed under Section 39A-1-201
126 and each individual listed in Subsection 39A-1-203(1).

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

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

- 131 (6)(a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a
132 municipality, county, or political subdivision may not exempt a total of more than 50
133 positions or a number equal to 10% of the eligible employees of the municipality,
134 county, or political subdivision, whichever is less.
- 135 (b) A municipality, county, or political subdivision may exempt at least one regular
136 full-time employee.
- 137 (7) Each participating employer shall:
- 138 (a) maintain a list of employee exemptions; and
139 (b) update the employee exemptions in the event of any change.
- 140 (8) The office may make rules to implement this section.
- 141 (9) An employee's exclusion, exemption, participation, or election described in this section:
- 142 (a) shall be made in accordance with this section; and
143 (b) is subject to requirements under federal law and rules made by the board.
- 144 Section 2. Section **49-13-203** is amended to read:
- 145 **49-13-203 . Exclusions from membership in system.**
- 146 (1) The following employees are not eligible for service credit in this system:
- 147 (a) subject to the requirements of Subsection (2), an employee whose employment status
148 is temporary in nature due to the nature or the type of work to be performed;
149 (b) except as provided under Subsection (3)(a), an employee of an institution of higher
150 education who participates in a retirement system with a public or private retirement
151 system, organization, or company designated by the Utah Board of Higher Education,
152 or the technical college board of trustees for an employee of each technical college,
153 during any period in which required contributions based on compensation have been
154 paid on behalf of the employee by the employer;
- 155 (c) an employee serving as an exchange employee from outside the state for an employer
156 who has not elected to make all of the employer's exchange employees eligible for
157 service credit in this system;
- 158 (d) an executive department head of the state or a legislative director, senior executive
159 employed by the governor's office, a member of the State Tax Commission, a
160 member of the Public Service Commission, and a member of a full-time or part-time
161 board or commission who files a formal request for exemption;
- 162 (e) an employee of the Department of Workforce Services who is covered under another
163 retirement system allowed under Title 35A, Chapter 4, Employment Security Act;
164 (f) an employee who is employed with an employer that has elected to be excluded from

- 165 participation in this system under Subsection 49-13-202(5), effective on or after the
166 date of the employer's election under Subsection 49-13-202(5);
- 167 (g) an employee who is employed with a withdrawing entity that has elected under
168 Section 49-11-623, prior to January 1, 2017, to exclude:
- 169 (i) new employees from participation in this system under Subsection 49-11-623(3)(a);
170 or
171 (ii) all employees from participation in this system under Subsection 49-11-623(3)(b);
- 172 (h) an employee described in Subsection (1)(h)(i) or (ii) who is employed with a
173 withdrawing entity that has elected under Section 49-11-624, before January 1, 2018,
174 to exclude:
- 175 (i) new employees from participation in this system under Subsection 49-11-624(3)(a);
176 or
177 (ii) all employees from participation in this system under Subsection 49-11-624(3)(b);
- 178 (i) an employee who is employed with a withdrawing entity that has elected under
179 Section 49-11-625, before July 1, 2022, to exclude all employees from participation
180 in this system; or
- 181 (j) an employee who is employed with a withdrawing entity that elects under Section
182 49-11-626 to exclude:
- 183 (i) new employees from participation in this system under Subsection 49-11-626(3)(a);
184 or
185 (ii) all employees from participation in this system under Subsection 49-11-626(3)(b).
- 186 (2) If an employee whose status is temporary in nature due to the nature of type of work to
187 be performed:
- 188 (a) is employed for a term that exceeds six months and the employee otherwise qualifies
189 for service credit in this system, the participating employer shall report and certify to
190 the office that the employee is a regular full-time employee effective the beginning of
191 the seventh month of employment; or
- 192 (b) was previously terminated prior to being eligible for service credit in this system and
193 is reemployed within three months of termination by the same participating
194 employer, the participating employer shall report and certify that the member is a
195 regular full-time employee when the total of the periods of employment equals six
196 months and the employee otherwise qualifies for service credits in this system.
- 197 (3)(a) Upon cessation of the participating employer contributions, an employee under
198 Subsection (1)(b) is eligible for service credit in this system.

- 199 (b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit
200 earned by an employee under this chapter before the date of the election under
201 Subsection 49-13-202(5) is not affected under Subsection (1)(f).
- 202 (4) Upon filing a written request for exemption with the office, the following employees
203 shall be exempt from coverage under this system:
- 204 (a) a full-time student or the spouse of a full-time student and individuals employed in a
205 trainee relationship;
- 206 (b) an elected official;
- 207 (c) an executive department head of the state, a member of the State Tax Commission, a
208 member of the Public Service Commission, and a member of a full-time or part-time
209 board or commission;
- 210 (d) an employee of the Governor's Office of Planning and Budget;
- 211 (e) an employee of the Governor's Office of Economic Opportunity;
- 212 (f) an employee of the Commission on Criminal and Juvenile Justice;
- 213 (g) an employee of the Governor's Office;
- 214 (h) an employee of the State Auditor's Office;
- 215 (i) an employee of the State Treasurer's Office;
- 216 (j) any other member who is permitted to make an election under Section 49-11-406;
- 217 (k) a person appointed as a city manager or chief city administrator or another person
218 employed by a municipality, county, or other political subdivision, who is an at-will
219 employee;
- 220 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
221 Interlocal Cooperation Act, who is engaged in a specialized trade customarily
222 provided through membership in a labor organization that provides retirement
223 benefits to its members;[~~and~~]
- 224 (m) an employee serving as an exchange employee from outside the state for an
225 employer who has elected to make all of the employer's exchange employees eligible
226 for service credit in this system[-] ; and
- 227 (n) the adjutant general of the Utah National Guard appointed under Section 39A-1-201
228 and each individual listed in Subsection 39A-1-203(1).
- 229 (5)(a) Each participating employer shall prepare and maintain a list designating those
230 positions eligible for exemption under Subsection (4).
- 231 (b) An employee may not be exempted unless the employee is employed in a position
232 designated by the participating employer.

- 233 (6)(a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a
 234 municipality, county, or political subdivision may not exempt a total of more than 50
 235 positions or a number equal to 10% of the eligible employees of the municipality,
 236 county, or political subdivision, whichever is less.
- 237 (b) A municipality, county, or political subdivision may exempt at least one regular
 238 full-time employee.
- 239 (7) Each participating employer shall:
- 240 (a) maintain a list of employee exemptions; and
 241 (b) update the employee exemptions in the event of any change.
- 242 (8) The office may make rules to implement this section.
- 243 (9) An employee's exclusion, exemption, participation, or election described in this section:
 244 (a) shall be made in accordance with this section; and
 245 (b) is subject to requirements under federal law and rules made by the board.
- 246 Section 3. Section **49-22-205** is amended to read:
 247 **49-22-205 . Exemptions from participation in system.**
- 248 (1) Upon filing a written request for exemption with the office, the following employees are
 249 exempt from participation in the system as provided in this section:
- 250 (a) an executive department head of the state;
 251 (b) a member of the State Tax Commission;
 252 (c) a member of the Public Service Commission;
 253 (d) a member of a full-time or part-time board or commission;
 254 (e) an employee of the Governor's Office of Planning and Budget;
 255 (f) an employee of the Governor's Office of Economic Opportunity;
 256 (g) an employee of the Commission on Criminal and Juvenile Justice;
 257 (h) an employee of the Governor's Office;
 258 (i) an employee of the State Auditor's Office;
 259 (j) an employee of the State Treasurer's Office;
 260 (k) any other member who is permitted to make an election under Section 49-11-406;
 261 (l) a person appointed as a city manager or appointed as a city administrator or another
 262 at-will employee of a municipality, county, or other political subdivision;
 263 (m) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
 264 Interlocal Cooperation Act, who is engaged in a specialized trade customarily
 265 provided through membership in a labor organization that provides retirement
 266 benefits to its members;[-and]

- 267 (n) an employee serving as an exchange employee from outside the state for an
268 employer who has elected to make all of the employer's exchange employees eligible
269 for service credit in this system[-] ; and
- 270 (o) the adjutant general of the Utah National Guard appointed under Section 39A-1-201
271 and each individual listed in Subsection 39A-1-203(1).
- 272 (2)(a) A participating employer shall prepare and maintain a list designating those
273 positions eligible for exemption under Subsection (1).
- 274 (b) An employee may not be exempted unless the employee is employed in a position
275 designated by the participating employer under Subsection (1).
- 276 (3)(a) In accordance with this section, Section 49-12-203, and Section 49-13-203, a
277 municipality, county, or political subdivision may not exempt a total of more than 50
278 positions or a number equal to 10% of the eligible employees of the municipality,
279 county, or political subdivision, whichever is less.
- 280 (b) A municipality, county, or political subdivision may exempt at least one regular
281 full-time employee.
- 282 (4) Each participating employer shall:
- 283 (a) maintain a list of employee exemptions; and
- 284 (b) update an employee exemption in the event of any change.
- 285 (5) Beginning on the effective date of the exemption for an employee who elects to be
286 exempt in accordance with Subsection (1):
- 287 (a) for a member of the Tier II defined contribution plan:
- 288 (i) the participating employer shall contribute the nonelective contribution and the
289 amortization rate described in Section 49-22-401, except that the nonelective
290 contribution is exempt from the vesting requirements of Subsection
291 49-22-401(3)(a);
- 292 (ii) the member may make voluntary deferrals as provided in Section 49-22-401; and
- 293 (iii) the member is not eligible for additional service credit in the plan for the period
294 of exempt employment; and
- 295 (b) for a member of the Tier II hybrid retirement system:
- 296 (i) the participating employer shall contribute the nonelective contribution and the
297 amortization rate described in Section 49-22-401, except that the contribution is
298 exempt from the vesting requirements of Subsection 49-22-401(3)(a);
- 299 (ii) the member may make voluntary deferrals as provided in Section 49-22-401; and
- 300 (iii) the member is not eligible for additional service credit in the system for the

- 301 period of exempt employment.
- 302 (6) If an employee who is a member of the Tier II hybrid retirement system subsequently
 303 revokes the election of exemption made under Subsection (1), the provisions described
 304 in Subsection (5)(b) shall no longer be applicable and the coverage for the employee
 305 shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.
- 306 (7)(a) All employer contributions made on behalf of an employee shall be invested in
 307 accordance with Subsection 49-22-303(3)(a) or 49-22-401(4)(a) until the one-year
 308 election period under Subsection 49-22-201(2)(c) is expired if the employee:
- 309 (i) elects to be exempt in accordance with Subsection (1); and
 310 (ii) continues employment with the participating employer through the one-year
 311 election period under Subsection 49-22-201(2)(c).
- 312 (b) An employee is entitled to receive a distribution of the employer contributions made
 313 on behalf of the employee and all associated investment gains and losses if the
 314 employee:
- 315 (i) elects to be exempt in accordance with Subsection (1); and
 316 (ii) terminates employment prior to the one-year election period under Subsection
 317 49-22-201(2)(c).
- 318 (8)(a) The office shall make rules to implement this section.
- 319 (b) The rules made under this Subsection (8) shall include provisions to allow the
 320 exemption provided under Subsection (1) to apply to all contributions made
 321 beginning on or after July 1, 2011, on behalf of an exempted employee who began
 322 the employment before May 8, 2012.
- 323 (9) An employee's exemption, participation, or election described in this section:
- 324 (a) shall be made in accordance with this section; and
 325 (b) is subject to requirements under federal law and rules made by the board.
- 326 Section 4. Section **49-22-303** is amended to read:
- 327 **49-22-303 . Defined contribution benefit established -- Contribution by employer**
 328 **and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of**
 329 **plans.**
- 330 (1)(a) A participating employer shall make a nonelective contribution on behalf of each
 331 regular full-time employee who is a member of this system in an amount equal to
 332 10% minus the contribution rate paid by the employer under Subsection
 333 49-22-301(2)(a) of the member's compensation to a defined contribution plan
 334 qualified under Section 401(k) of the Internal Revenue Code which:

- 335 (i) is sponsored by the board; and
336 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of
337 1986.
- 338 (b) The member may make voluntary deferrals to:
339 (i) the qualified 401(k) plan which receives the employer contribution described in
340 this Subsection (1); or
341 (ii) at the member's option, another defined contribution plan established by the
342 participating employer.
- 343 (2)(a) [The] Except as provided in Sections 49-22-503 and 49-23-504, the total amount
344 contributed by the participating employer under Subsection (1)(a), including
345 associated investment gains and losses, vests to the member upon accruing four years
346 of service credit under this title.
- 347 (b) The total amount contributed by the member under Subsection (1)(b) vests to the
348 member's benefit immediately and is nonforfeitable.
- 349 (c)(i) Years of service credit under Subsection (2)(a) includes any fraction of a year
350 to which the member may be entitled.
351 (ii) At the time of vesting, if a member's years of service credit is within one-tenth of
352 one year of the total years required for vesting, the member shall be considered to
353 have the total years of service credit required for vesting.
- 354 (3)(a) Contributions made by a participating employer under Subsection (1)(a) shall be
355 invested in a default option selected by the board until the member is vested in
356 accordance with Subsection (2)(a).
- 357 (b) A member may direct the investment of contributions made by a participating
358 employer under Subsection (1)(a) only after the contributions have vested in
359 accordance with Subsection (2)(a).
- 360 (c) A member may direct the investment of contributions made by the member under
361 Subsection (1)(b).
- 362 (4) No loans shall be available from contributions made by a participating employer under
363 Subsection (1)(a).
- 364 (5) No hardship distributions shall be available from contributions made by a participating
365 employer under Subsection (1)(a).
- 366 (6)(a) Except as provided in Subsection (6)(b) and Section 49-22-205, if a member
367 terminates employment with a participating employer prior to the vesting period
368 described in Subsection (2)(a), all contributions, including associated investment

- 369 gains and losses, made by a participating employer on behalf of the member under
370 Subsection (1)(a) are subject to forfeiture.
- 371 (b) If a member who terminates employment with a participating employer prior to the
372 vesting period described in Subsection (2)(a) subsequently enters employment with
373 the same or another participating employer within 10 years of the termination date of
374 the previous employment:
- 375 (i) all contributions made by the previous participating employer on behalf of the
376 member, including associated investment gains and losses, shall be reinstated
377 upon employment as a regular full-time employee; and
- 378 (ii) the length of time that the member worked with the previous employer shall be
379 included in determining whether the member has completed the vesting period
380 under Subsection (2)(a).
- 381 (c) The office shall establish a forfeiture account and shall specify the uses of the
382 forfeiture account, which may include an offset against administrative costs or
383 employer contributions made under this section.
- 384 (7) The office may request from any other qualified 401(k) plan under Subsection (1) or (2)
385 any relevant information pertaining to the maintenance of its tax qualification under the
386 Internal Revenue Code.
- 387 (8) The office may take any action which in its judgment is necessary to maintain the
388 tax-qualified status of its 401(k) defined contribution plan under federal law.
- 389 Section 5. Section **49-22-401** is amended to read:
- 390 **49-22-401 . Contributions -- Rates.**
- 391 (1) Up to the amount allowed by federal law, the participating employer shall make a
392 nonelective contribution of 10% of the participant's compensation to a defined
393 contribution plan.
- 394 (2)(a) The participating employer shall contribute the 10% nonelective contribution
395 described in Subsection (1) to a defined contribution plan qualified under Section
396 401(k) of the Internal Revenue Code that:
- 397 (i) is sponsored by the board; and
- 398 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of
399 1986.
- 400 (b) The member may make voluntary deferrals to:
- 401 (i) the qualified 401(k) plan that receives the employer contribution described in this
402 Subsection (2); or

- 403 (ii) at the member's option, another defined contribution plan established by the
404 participating employer.
- 405 (c) In addition to the percent specified under Subsection (2)(a), the participating
406 employer shall pay the corresponding Tier I system amortization rate of the
407 employee's compensation to the office to be applied to the employer's corresponding
408 Tier I system liability.
- 409 (3)(a) Except as provided under Sections 49-22-503 and 49-23-504 and Subsection (3)(c),
410 the total amount contributed by the participating employer under Subsection (2)(a)
411 vests to the member upon accruing four years of employment as a regular full-time
412 employee under this title.
- 413 (b) The total amount contributed by the member under Subsection (2)(b) vests to the
414 member's benefit immediately and is nonforfeitable.
- 415 (c)(i) Upon filing a written request for exemption with the office, an eligible
416 employee is exempt from the vesting requirements of Subsection (3)(a) in
417 accordance with Section 49-22-205.
- 418 (ii) An employee who is exempt under this Subsection (3)(c) is not eligible for
419 additional service credit in the plan for the period of exempt employment.
- 420 (d)(i) Years of employment under Subsection (3)(a) includes any fraction of a year to
421 which the member may be entitled.
- 422 (ii) At the time of vesting, if a member's years of service credit is within one-tenth of
423 one year of the total years required for vesting, the member shall be considered to
424 have the total years of employment required for vesting.
- 425 (4)(a) Contributions made by a participating employer under Subsection (2)(a) shall be
426 invested in a default option selected by the board until the member is vested in
427 accordance with Subsection (3)(a).
- 428 (b) A member may direct the investment of contributions including associated
429 investment gains and losses made by a participating employer under Subsection (2)(a)
430 only after the contributions have vested in accordance with Subsection (3)(a).
- 431 (c) A member may direct the investment of contributions made by the member under
432 Subsection (3)(b).
- 433 (5) No loans shall be available from contributions made by a participating employer under
434 Subsection (2)(a).
- 435 (6) No hardship distributions shall be available from contributions made by a participating
436 employer under Subsection (2)(a).

- 437 (7)(a) Except as provided in Subsection (7)(b), if a member terminates employment with
438 a participating employer prior to the vesting period described in Subsection (3)(a), all
439 contributions made by a participating employer on behalf of the member including
440 associated investment gains and losses under Subsection (2)(a) are subject to
441 forfeiture.
- 442 (b) If a member who terminates employment with a participating employer prior to the
443 vesting period described in Subsection (3)(a) subsequently enters employment with
444 the same or another participating employer within 10 years of the termination date of
445 the previous employment:
- 446 (i) all contributions made by the previous participating employer on behalf of the
447 member including associated investment gains and losses shall be reinstated upon
448 the member's employment as a regular full-time employee; and
- 449 (ii) the length of time that the member worked with the previous employer shall be
450 included in determining whether the member has completed the vesting period
451 under Subsection (3)(a).
- 452 (c) The office shall establish a forfeiture account and shall specify the uses of the
453 forfeiture account, which may include an offset against administrative costs or
454 employer contributions made under this section.
- 455 (8) The office may request from any other plan under Subsection (2)(b)(ii) any relevant
456 information pertaining to the maintenance of the plan's tax qualification under the
457 Internal Revenue Code.
- 458 (9) The office may take any action that in the office's judgment is necessary to maintain the
459 tax-qualified status of the office's 401(k) defined contribution plan under federal law.

460 Section 6. Section **49-22-504** is enacted to read:

461 **49-22-504 . Exemption from vesting requirements for military service members**
462 **and spouses with orders outside the state.**

- 463 (1) As used in this section, "service member" means the same as that term is defined in
464 Section 71A-1-101.
- 465 (2) Employer nonelective contributions made on a member's behalf to a defined
466 contribution plan under Section 49-22-303 or 49-22-401 are exempt from the vesting
467 requirements of Subsections 49-22-303(2)(a) and 49-22-401(3)(a) if:
- 468 (a) the member or the member's lawful spouse is a service member;
- 469 (b) before the employer nonelective contributions vest in accordance with Subsection
470 49-22-303(2)(a) or 49-22-401(3)(a), the member or the member's spouse receives

- 471 permanent change of station or relocation orders outside the state;
472 (c) the member has a bona fide termination of employment with all participating
473 employers; and
474 (d) the member applies in writing to the office requesting an exemption under this
475 section.
476 (3) After the office receives a written application under this section and determines the
477 member satisfies the conditions described in Subsection (2), the total amount of
478 employer nonelective contributions made on a member's behalf vest to the member.

479 Section 7. Section **49-23-302** is amended to read:

480 **49-23-302 . Defined contribution benefit established -- Contribution by employer**
481 **and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of**
482 **plans.**

- 483 (1)(a) A participating employer shall make a nonelective contribution on behalf of each
484 public safety service employee or firefighter service employee who is a member of
485 this system in an amount equal to 14% minus the contribution rate paid by the
486 employer under Subsection 49-23-301(2)(a) of the member's compensation to a
487 defined contribution plan qualified under Section 401(k) of the Internal Revenue
488 Code which:
489 (i) is sponsored by the board; and
490 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of
491 1986.
492 (b) The member may make voluntary deferrals to:
493 (i) the qualified 401(k) plan which receives the employer contribution described in
494 this Subsection (1); or
495 (ii) at the member's option, another defined contribution plan established by the
496 participating employer.
497 (2)(a) [The] Except as provided in Sections 49-22-504 and 49-23-505, the total amount
498 contributed by the participating employer under Subsection (1)(a), including
499 associated investment gains and losses, vests to the member upon accruing four years
500 of service credit under this title.
501 (b) The total amount contributed by the member under Subsection (1)(b) vests to the
502 member's benefit immediately and is nonforfeitable.
503 (c)(i) Years of service credit under Subsection (2)(a) includes any fraction of a year
504 to which the member may be entitled.

- 505 (ii) At the time of vesting, if a member's years of service credit is within one-tenth of
506 one year of the total years required for vesting, the member shall be considered to
507 have the total years of service credit required for vesting.
- 508 (3)(a) Contributions made by a participating employer under Subsection (1)(a) shall be
509 invested in a default option selected by the board until the member is vested in
510 accordance with Subsection (2)(a).
- 511 (b) A member may direct the investment of contributions made by a participating
512 employer under Subsection (1)(a) only after the contributions have vested in
513 accordance with Subsection (2)(a).
- 514 (c) A member may direct the investment of contributions made by the member under
515 Subsection (1)(b).
- 516 (4) No loans shall be available from contributions made by a participating employer under
517 Subsection (1)(a).
- 518 (5) No hardship distributions shall be available from contributions made by a participating
519 employer under Subsection (1)(a).
- 520 (6)(a) Except as provided in Subsection (6)(b), if a member terminates employment with
521 a participating employer prior to the vesting period described in Subsection (2)(a), all
522 contributions, including associated investment gains and losses, made by a
523 participating employer on behalf of the member under Subsection (1)(a) are subject
524 to forfeiture.
- 525 (b) If a member who terminates employment with a participating employer prior to the
526 vesting period described in Subsection (2)(a) subsequently enters employment with
527 the same or another participating employer within 10 years of the termination date of
528 the previous employment:
- 529 (i) all contributions made by the previous participating employer on behalf of the
530 member, including associated investment gains and losses, shall be reinstated
531 upon the member's employment as a regular full-time employee; and
- 532 (ii) the length of time that the member worked with the previous employer shall be
533 included in determining whether the member has completed the vesting period
534 under Subsection (2)(a).
- 535 (c) The office shall establish a forfeiture account and shall specify the uses of the
536 forfeiture account, which may include an offset against administrative costs or
537 employer contributions made under this section.
- 538 (7) The office may request from any other qualified 401(k) plan under Subsection (1) or (2)

539 any relevant information pertaining to the maintenance of its tax qualification under the
540 Internal Revenue Code.

541 (8) The office may take any action which in its judgment is necessary to maintain the
542 tax-qualified status of its 401(k) defined contribution plan under federal law.

543 Section 8. Section **49-23-401** is amended to read:

544 **49-23-401 . Contributions -- Rates.**

545 (1)(a) Up to the amount allowed by federal law, the participating employer shall make a
546 nonelective contribution of 14% of the participant's compensation to a defined
547 contribution plan.

548 (b) In addition to the nonelective contribution described in Subsection (1)(a), if a
549 participating employer elects under Subsection 49-23-301(2)(c) to pay all or part of
550 the required member contribution on behalf of the participating employer's
551 employees that are members covered under Part 3, Tier II Hybrid Retirement System,
552 the participating employer shall make an additional nonelective contribution to an
553 employee that is a member covered under this part at the same percentage rate of the
554 participant's compensation as the participating employer's election to pay required
555 member contributions on behalf of the participating employer's employees that are
556 members covered under Part 3, Tier II Hybrid Retirement System.

557 (2)(a) The participating employer shall contribute the contributions described in
558 Subsection (1) to a defined contribution plan qualified under Section 401(k) of the
559 Internal Revenue Code that:

560 (i) is sponsored by the board; and

561 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of
562 1986.

563 (b) The member may make voluntary deferrals to:

564 (i) the qualified 401(k) plan that receives the employer contribution described in this
565 Subsection (2); or

566 (ii) at the member's option, another defined contribution plan established by the
567 participating employer.

568 (c) In addition to the contributions specified under Subsection (2)(a), the participating
569 employer shall pay the corresponding Tier I system amortization rate of the
570 employee's compensation to the office to be applied to the employer's corresponding
571 Tier I system liability.

572 (3)(a) Except as provided under Sections 49-22-504 and 49-23-505 and Subsection (3)(c),

- 573 the total amount contributed by the participating employer under Subsection (2)(a)
574 vests to the member upon accruing four years of service credit under this title.
- 575 (b) The total amount contributed by the member under Subsection (2)(b) vests to the
576 member's benefit immediately and is nonforfeitable.
- 577 (c)(i) Upon filing a written request for exemption with the office, an eligible
578 employee is exempt from the vesting requirements of Subsection (3)(a) in
579 accordance with Section 49-23-203.
- 580 (ii) An employee who is exempt under this Subsection (3)(c) is not eligible for
581 additional service credit in the plan for the period of exempt employment.
- 582 (d)(i) Years of service credit under Subsection (3)(a) includes any fraction of a year
583 to which the member may be entitled.
- 584 (ii) At the time of vesting, if a member's years of service credit is within one-tenth of
585 one year of the total years required for vesting, the member shall be considered to
586 have the total years of service credit required for vesting.
- 587 (4)(a) Contributions made by a participating employer under Subsection (2)(a) shall be
588 invested in a default option selected by the board until the member is vested in
589 accordance with Subsection (3)(a).
- 590 (b) A member may direct the investment of contributions, including associated
591 investment gains and losses, made by a participating employer under Subsection
592 (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).
- 593 (c) A member may direct the investment of contributions made by the member under
594 Subsection (3)(b).
- 595 (5) No loans shall be available from contributions made by a participating employer under
596 Subsection (2)(a).
- 597 (6) No hardship distributions shall be available from contributions made by a participating
598 employer under Subsection (2)(a).
- 599 (7)(a) Except as provided in Subsection (7)(b), if a member terminates employment with
600 a participating employer prior to the vesting period described in Subsection (3)(a), all
601 contributions made by a participating employer on behalf of the member under
602 Subsection (2)(a), including associated investment gains and losses are subject to
603 forfeiture.
- 604 (b) If a member who terminates employment with a participating employer prior to the
605 vesting period described in Subsection (3)(a) subsequently enters employment with
606 the same or another participating employer within 10 years of the termination date of

- 607 the previous employment:
- 608 (i) all contributions made by the previous participating employer on behalf of the
- 609 member, including associated investment gains and losses, shall be reinstated
- 610 upon the member's employment as a regular full-time employee; and
- 611 (ii) the length of time that the member worked with the previous employer shall be
- 612 included in determining whether the member has completed the vesting period
- 613 under Subsection (3)(a).
- 614 (c) The office shall establish a forfeiture account and shall specify the uses of the
- 615 forfeiture account, which may include an offset against administrative costs of
- 616 employer contributions made under this section.
- 617 (8) The office may request from any other plan under Subsection (2)(b)(ii) any relevant
- 618 information pertaining to the maintenance of the plan's tax qualification under the
- 619 Internal Revenue Code.
- 620 (9) The office may take any action that in the office's judgment is necessary to maintain the
- 621 tax-qualified status of the office's 401(k) defined contribution plan under federal law.

622 Section 9. Section **49-23-505** is enacted to read:

623 **49-23-505 . Exemption from vesting requirements for military service members**

624 **and spouses with orders outside the state.**

- 625 (1) As used in this section, "service member" means the same as that term is defined in
- 626 Section 71A-1-101.
- 627 (2) Employer nonelective contributions made on a member's behalf to a defined
- 628 contribution plan under Section 49-22-303 or 49-22-401 are exempt from the vesting
- 629 requirements of Subsections 49-22-303(2)(a) and 49-22-401(3)(a) if:
- 630 (a) the member or the member's lawful spouse is a service member;
- 631 (b) before the employer nonelective contributions vest in accordance with Subsection
- 632 49-22-303(2)(a) or 49-22-401(3)(a), the member or the member's spouse receives
- 633 permanent change of station or relocation orders outside the state;
- 634 (c) the member has a bona fide termination of employment with all participating
- 635 employers; and
- 636 (d) the member applies in writing to the office requesting an exemption under this
- 637 section.
- 638 (3) After the office receives a written application under this section and determines the
- 639 member satisfies the conditions described in Subsection (2), the total amount of
- 640 employer nonelective contributions made on a member's behalf vest to the member.

641 Section 10. **Effective date.**
642 This bill takes effect on July 1, 2025.