

Utah Retirement Systems Amendments for Military Personnel

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Heidi Balderree

House Sponsor: Val L. Peterson

LONG TITLE**Committee Note:**

The Retirement and Independent Entities Interim Committee recommended this bill.

Legislative Vote: 9 voting for 0 voting against 6 absent

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

31 **49-23-302**, as last amended by Laws of Utah 2019, Chapter 484

32 **49-23-401**, as last amended by Laws of Utah 2022, Chapter 171

33 ENACTS:

34 **49-22-504**, Utah Code Annotated 1953

35 **49-23-505**, Utah Code Annotated 1953

36

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

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

39 **49-12-203 . Exclusions from membership in system.**

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

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

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

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

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

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

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

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

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

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

- 99 earned by an employee under this chapter before July 1, 2014, is not affected under
100 Subsection (1)(g).
- 101 (4) Upon filing a written request for exemption with the office, the following employees
102 shall be exempt from coverage under this system:
- 103 (a) a full-time student or the spouse of a full-time student and individuals employed in a
104 trainee relationship;
- 105 (b) an elected official;
- 106 (c) an executive department head of the state, a member of the State Tax Commission, a
107 member of the Public Service Commission, and a member of a full-time or part-time
108 board or commission;
- 109 (d) an employee of the Governor's Office of Planning and Budget;
- 110 (e) an employee of the Governor's Office of Economic Opportunity;
- 111 (f) an employee of the Commission on Criminal and Juvenile Justice;
- 112 (g) an employee of the Governor's Office;
- 113 (h) an employee of the Public Lands Policy Coordinating Office, created in Section
114 63L-11-201;
- 115 (i) an employee of the State Auditor's Office;
- 116 (j) an employee of the State Treasurer's Office;
- 117 (k) any other member who is permitted to make an election under Section 49-11-406;
- 118 (l) a person appointed as a city manager or chief city administrator or another person
119 employed by a municipality, county, or other political subdivision, who is an at-will
120 employee;
- 121 (m) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
122 Interlocal Cooperation Act, who is engaged in a specialized trade customarily
123 provided through membership in a labor organization that provides retirement
124 benefits to the organization's members;~~and~~
- 125 (n) an employee serving as an exchange employee from outside the state for an
126 employer who has elected to make all of the employer's exchange employees eligible
127 for service credit in this system[-] ; and
- 128 (o) the adjutant general of the Utah National Guard appointed under Section 39A-1-201
129 and each individual listed in Subsection 39A-1-203(1).
- 130 (5)(a) Each participating employer shall prepare and maintain a list designating those
131 positions eligible for exemption under Subsection (4).
- 132 (b) An employee may not be exempted unless the employee is employed in an exempted

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

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

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

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

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

303 (iii) the member is not eligible for additional service credit in the system for the
304 period of exempt employment.

305 (6) If an employee who is a member of the Tier II hybrid retirement system subsequently
306 revokes the election of exemption made under Subsection (1), the provisions described
307 in Subsection (5)(b) shall no longer be applicable and the coverage for the employee
308 shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

309 (7)(a) All employer contributions made on behalf of an employee shall be invested in
310 accordance with Subsection 49-22-303(3)(a) or 49-22-401(4)(a) until the one-year
311 election period under Subsection 49-22-201(2)(c) is expired if the employee:

312 (i) elects to be exempt in accordance with Subsection (1); and

313 (ii) continues employment with the participating employer through the one-year
314 election period under Subsection 49-22-201(2)(c).

315 (b) An employee is entitled to receive a distribution of the employer contributions made
316 on behalf of the employee and all associated investment gains and losses if the
317 employee:

318 (i) elects to be exempt in accordance with Subsection (1); and

319 (ii) terminates employment prior to the one-year election period under Subsection
320 49-22-201(2)(c).

321 (8)(a) The office shall make rules to implement this section.

322 (b) The rules made under this Subsection (8) shall include provisions to allow the
323 exemption provided under Subsection (1) to apply to all contributions made
324 beginning on or after July 1, 2011, on behalf of an exempted employee who began
325 the employment before May 8, 2012.

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

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

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

329 Section 4. Section **49-22-303** is amended to read:

330 **49-22-303 . Defined contribution benefit established -- Contribution by employer**
331 **and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of**
332 **plans.**

333 (1)(a) A participating employer shall make a nonelective contribution on behalf of each
334 regular full-time employee who is a member of this system in an amount equal to
335 10% minus the contribution rate paid by the employer under Subsection
336 49-22-301(2)(a) of the member's compensation to a defined contribution plan

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

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

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

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

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

464 **49-22-504 . Exemption from vesting requirements for military service members**
465 **and spouses with orders outside the state.**

466 (1) As used in this section, "service member" means the same as that term is defined in
467 Section 71A-1-101.

468 (2) Employer nonelective contributions made on a member's behalf to a defined
469 contribution plan under Section 49-22-303 or 49-22-401 are exempt from the vesting
470 requirements of Subsections 49-22-303(2)(a) and 49-22-401(3)(a) if:

471 (a) the member or the member's lawful spouse is a service member;

472 (b) before the employer nonelective contributions vest in accordance with Subsection

473 49-22-303(2)(a) or 49-22-401(3)(a), the member or the member's spouse receives
 474 permanent change of station or relocation orders outside the state;

475 (c) the member has a bona fide termination of employment with all participating
 476 employers; and

477 (d) the member applies in writing to the office requesting an exemption under this
 478 section.

479 (3) After the office receives a written application under this section and determines the
 480 member satisfies the conditions described in Subsection (2), the total amount of
 481 employer nonelective contributions made on a member's behalf vest to the member.

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

483 **49-23-302 . Defined contribution benefit established -- Contribution by employer**
 484 **and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of**
 485 **plans.**

486 (1)(a) A participating employer shall make a nonelective contribution on behalf of each
 487 public safety service employee or firefighter service employee who is a member of
 488 this system in an amount equal to 14% minus the contribution rate paid by the
 489 employer under Subsection 49-23-301(2)(a) of the member's compensation to a
 490 defined contribution plan qualified under Section 401(k) of the Internal Revenue
 491 Code which:

492 (i) is sponsored by the board; and

493 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of
 494 1986.

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

496 (i) the qualified 401(k) plan which receives the employer contribution described in
 497 this Subsection (1); or

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

500 (2)(a) ~~[The]~~ Except as provided in Sections 49-22-504 and 49-23-505, the total amount
 501 contributed by the participating employer under Subsection (1)(a), including
 502 associated investment gains and losses, vests to the member upon accruing four years
 503 of service credit under this title.

504 (b) The total amount contributed by the member under Subsection (1)(b) vests to the
 505 member's benefit immediately and is nonforfeitable.

506 (c)(i) Years of service credit under Subsection (2)(a) includes any fraction of a year

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

541 (7) The office may request from any other qualified 401(k) plan under Subsection (1) or (2)
542 any relevant information pertaining to the maintenance of its tax qualification under the
543 Internal Revenue Code.

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

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

547 **49-23-401 . Contributions -- Rates.**

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

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

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

563 (i) is sponsored by the board; and

564 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of
565 1986.

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

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

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

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

- 575 (3)(a) Except as provided under Sections 49-22-504 and 49-23-505 and Subsection
576 (3)(c), the total amount contributed by the participating employer under Subsection
577 (2)(a) vests to the member upon accruing four years of service credit under this title.
- 578 (b) The total amount contributed by the member under Subsection (2)(b) vests to the
579 member's benefit immediately and is nonforfeitable.
- 580 (c)(i) Upon filing a written request for exemption with the office, an eligible
581 employee is exempt from the vesting requirements of Subsection (3)(a) in
582 accordance with Section 49-23-203.
- 583 (ii) An employee who is exempt under this Subsection (3)(c) is not eligible for
584 additional service credit in the plan for the period of exempt employment.
- 585 (d)(i) Years of service credit under Subsection (3)(a) includes any fraction of a year
586 to which the member may be entitled.
- 587 (ii) At the time of vesting, if a member's years of service credit is within one-tenth of
588 one year of the total years required for vesting, the member shall be considered to
589 have the total years of service credit required for vesting.
- 590 (4)(a) Contributions made by a participating employer under Subsection (2)(a) shall be
591 invested in a default option selected by the board until the member is vested in
592 accordance with Subsection (3)(a).
- 593 (b) A member may direct the investment of contributions, including associated
594 investment gains and losses, made by a participating employer under Subsection
595 (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).
- 596 (c) A member may direct the investment of contributions made by the member under
597 Subsection (3)(b).
- 598 (5) No loans shall be available from contributions made by a participating employer under
599 Subsection (2)(a).
- 600 (6) No hardship distributions shall be available from contributions made by a participating
601 employer under Subsection (2)(a).
- 602 (7)(a) Except as provided in Subsection (7)(b), if a member terminates employment
603 with a participating employer prior to the vesting period described in Subsection
604 (3)(a), all contributions made by a participating employer on behalf of the member
605 under Subsection (2)(a), including associated investment gains and losses are subject
606 to forfeiture.
- 607 (b) If a member who terminates employment with a participating employer prior to the
608 vesting period described in Subsection (3)(a) subsequently enters employment with

609 the same or another participating employer within 10 years of the termination date of
610 the previous employment:

611 (i) all contributions made by the previous participating employer on behalf of the
612 member, including associated investment gains and losses, shall be reinstated
613 upon the member's employment as a regular full-time employee; and

614 (ii) the length of time that the member worked with the previous employer shall be
615 included in determining whether the member has completed the vesting period
616 under Subsection (3)(a).

617 (c) The office shall establish a forfeiture account and shall specify the uses of the
618 forfeiture account, which may include an offset against administrative costs of
619 employer contributions made under this section.

620 (8) The office may request from any other plan under Subsection (2)(b)(ii) any relevant
621 information pertaining to the maintenance of the plan's tax qualification under the
622 Internal Revenue Code.

623 (9) The office may take any action that in the office's judgment is necessary to maintain the
624 tax-qualified status of the office's 401(k) defined contribution plan under federal law.

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

626 **49-23-505 . Exemption from vesting requirements for military service members**
627 **and spouses with orders outside the state.**

628 (1) As used in this section, "service member" means the same as that term is defined in
629 Section 71A-1-101.

630 (2) Employer nonelective contributions made on a member's behalf to a defined
631 contribution plan under Section 49-22-303 or 49-22-401 are exempt from the vesting
632 requirements of Subsections 49-22-303(2)(a) and 49-22-401(3)(a) if:

633 (a) the member or the member's lawful spouse is a service member;

634 (b) before the employer nonelective contributions vest in accordance with Subsection
635 49-22-303(2)(a) or 49-22-401(3)(a), the member or the member's spouse receives
636 permanent change of station or relocation orders outside the state;

637 (c) the member has a bona fide termination of employment with all participating
638 employers; and

639 (d) the member applies in writing to the office requesting an exemption under this
640 section.

641 (3) After the office receives a written application under this section and determines the
642 member satisfies the conditions described in Subsection (2), the total amount of

643 employer nonelective contributions made on a member's behalf vest to the member.

644 Section 10. **Effective date.**

645 This bill takes effect on July 1, 2025.