

**Utah Retirement Systems Amendments for Military Personnel**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Heidi Balderree**

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**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

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

**ENACTS:**

**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:

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

- (5)(a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).
- (b) An employee may not be exempted unless the employee is employed in an exempted position designated by the participating employer.
- (6)(a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality,

county, or political subdivision, whichever is less.

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

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

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

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

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

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

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

Section 2. Section **49-13-203** is amended to read:

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

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

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

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

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

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

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

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

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

Section 49-11-623, prior to January 1, 2017, to exclude:

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

or

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

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

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

or

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

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

(j) an employee who is employed with a withdrawing entity that elects under Section 49-11-626 to exclude:

(i) new employees from participation in this system under Subsection 49-11-626(3)(a);

or

(ii) all employees from participation in this system under Subsection 49-11-626(3)(b).

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

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

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

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

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before the date of the election under Subsection 49-13-202(5) is not affected under Subsection (1)(f).

- (4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:
- (a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;
  - (b) an elected official;
  - (c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;
  - (d) an employee of the Governor's Office of Planning and Budget;
  - (e) an employee of the Governor's Office of Economic Opportunity;
  - (f) an employee of the Commission on Criminal and Juvenile Justice;
  - (g) an employee of the Governor's Office;
  - (h) an employee of the State Auditor's Office;
  - (i) an employee of the State Treasurer's Office;
  - (j) any other member who is permitted to make an election under Section 49-11-406;
  - (k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;
  - (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; [and]
  - (m) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system[-] ; and
  - (n) the adjutant general of the Utah National Guard appointed under Section 39A-1-201 and each individual listed in Subsection 39A-1-203(1).
- (5)(a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).
- (b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.
- (6)(a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality,

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

(o) the adjutant general of the Utah National Guard appointed under Section 39A-1-201 and each individual listed in Subsection 39A-1-203(1).

(2)(a) A participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (1).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (1).

(3)(a) In accordance with this section, Section 49-12-203, and Section 49-13-203, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

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

(4) Each participating employer shall:

(a) maintain a list of employee exemptions; and

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

(5) Beginning on the effective date of the exemption for an employee who elects to be exempt in accordance with Subsection (1):

(a) for a member of the Tier II defined contribution plan:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the nonelective contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a);

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(iii) the member is not eligible for additional service credit in the plan for the period of exempt employment; and

(b) for a member of the Tier II hybrid retirement system:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a);

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

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

(6) If an employee who is a member of the Tier II hybrid retirement system subsequently revokes the election of exemption made under Subsection (1), the provisions described

in Subsection (5)(b) shall no longer be applicable and the coverage for the employee shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1)(a) A participating employer shall make a nonelective contribution on behalf of each regular full-time employee who is a member of this system in an amount equal to 10% minus the contribution rate paid by the employer under Subsection 49-22-301(2)(a) of the member's compensation to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code which:

(i) is sponsored by the board; and

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

(b) The member may make voluntary deferrals to:

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

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

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

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

(c)(i) Years of service credit under Subsection (2)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of service credit required for vesting.

(3)(a) Contributions made by a participating employer under Subsection (1)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (2)(a).

(b) A member may direct the investment of contributions made by a participating employer under Subsection (1)(a) only after the contributions have vested in accordance with Subsection (2)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (1)(b).

(4) No loans shall be available from contributions made by a participating employer under Subsection (1)(a).

(5) No hardship distributions shall be available from contributions made by a participating employer under Subsection (1)(a).

(6)(a) Except as provided in Subsection (6)(b) and Section 49-22-205, if a member terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a), all contributions, including associated investment gains and losses, made by a participating employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the

vesting period described in Subsection (2)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

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

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (2)(a).

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

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

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

Section 5. Section **49-22-401** is amended to read:

**49-22-401 . Contributions -- Rates.**

(1) Up to the amount allowed by federal law, the participating employer shall make a nonelective contribution of 10% of the participant's compensation to a defined contribution plan.

(2)(a) The participating employer shall contribute the 10% nonelective contribution described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code that:

(i) is sponsored by the board; and

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

(b) The member may make voluntary deferrals to:

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

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

(c) In addition to the percent specified under Subsection (2)(a), the participating

employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

- (3)(a) Except as provided under Sections 49-22-503 and 49-23-504 and Subsection (3)(c), the total amount contributed by the participating employer under Subsection (2)(a) vests to the member upon accruing four years of employment as a regular full-time employee under this title.
- (b) The total amount contributed by the member under Subsection (2)(b) vests to the member's benefit immediately and is nonforfeitable.
- (c)(i) Upon filing a written request for exemption with the office, an eligible employee is exempt from the vesting requirements of Subsection (3)(a) in accordance with Section 49-22-205.
- (ii) An employee who is exempt under this Subsection (3)(c) is not eligible for additional service credit in the plan for the period of exempt employment.
- (d)(i) Years of employment under Subsection (3)(a) includes any fraction of a year to which the member may be entitled.
- (ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of employment required for vesting.
- (4)(a) Contributions made by a participating employer under Subsection (2)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).
- (b) A member may direct the investment of contributions including associated investment gains and losses made by a participating employer under Subsection (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).
- (c) A member may direct the investment of contributions made by the member under Subsection (3)(b).
- (5) No loans shall be available from contributions made by a participating employer under Subsection (2)(a).
- (6) No hardship distributions shall be available from contributions made by a participating employer under Subsection (2)(a).
- (7)(a) Except as provided in Subsection (7)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a), all contributions made by a participating employer on behalf of the member

including associated investment gains and losses under Subsection (2)(a) are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) is sponsored by the board; and

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

(b) The member may make voluntary deferrals to:

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

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

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

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

(c)(i) Years of service credit under Subsection (2)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of service credit required for vesting.

- (3)(a) Contributions made by a participating employer under Subsection (1)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (2)(a).
- (b) A member may direct the investment of contributions made by a participating employer under Subsection (1)(a) only after the contributions have vested in accordance with Subsection (2)(a).
- (c) A member may direct the investment of contributions made by the member under Subsection (1)(b).
- (4) No loans shall be available from contributions made by a participating employer under Subsection (1)(a).
- (5) No hardship distributions shall be available from contributions made by a participating employer under Subsection (1)(a).
- (6)(a) Except as provided in Subsection (6)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a), all contributions, including associated investment gains and losses, made by a participating employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.
- (b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:
- (i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon the member's employment as a regular full-time employee; and
- (ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (2)(a).
- (c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs or employer contributions made under this section.
- (7) The office may request from any other qualified 401(k) plan under Subsection (1) or (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.
- (8) The office may take any action which in its judgment is necessary to maintain the

tax-qualified status of its 401(k) defined contribution plan under federal law.

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

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

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

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

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

(i) is sponsored by the board; and

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

(b) The member may make voluntary deferrals to:

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

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

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

(3)(a) Except as provided under Sections 49-22-504 and 49-23-505 and Subsection (3)(c), the total amount contributed by the participating employer under Subsection (2)(a) vests to the member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (2)(b) vests to the

member's benefit immediately and is nonforfeitable.

(c)(i) Upon filing a written request for exemption with the office, an eligible employee is exempt from the vesting requirements of Subsection (3)(a) in accordance with Section 49-23-203.

(ii) An employee who is exempt under this Subsection (3)(c) is not eligible for additional service credit in the plan for the period of exempt employment.

(d)(i) Years of service credit under Subsection (3)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of service credit required for vesting.

(4)(a) Contributions made by a participating employer under Subsection (2)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).

(b) A member may direct the investment of contributions, including associated investment gains and losses, made by a participating employer under Subsection (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (3)(b).

(5) No loans shall be available from contributions made by a participating employer under Subsection (2)(a).

(6) No hardship distributions shall be available from contributions made by a participating employer under Subsection (2)(a).

(7)(a) Except as provided in Subsection (7)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a), all contributions made by a participating employer on behalf of the member under Subsection (2)(a), including associated investment gains and losses are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the 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.