

# HB0024S01 compared with HB0024

~~{deleted text}~~ shows text that was in HB0024 but was deleted in HB0024S01.

inserted text shows text that was not in HB0024 but was inserted into HB0024S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Don L. Ipson proposes the following substitute bill:

## UTAH RETIREMENT SYSTEM AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Don L. Ipson**

Senate Sponsor: \_\_\_\_\_

---

### LONG TITLE

~~{Committee Note:~~

~~—The Retirement and Independent Entities Interim Committee recommended this bill.~~

~~{General Description:~~

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending its provisions.

### Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends retiree reemployment provisions by prohibiting a participating employer from making a retirement related contribution that exceeds the normal cost rate for all reemployed retirees, not just full-time employees;
- ▶ increases the amount that is required to be corrected in payments made by the office

## HB0024S01 compared with HB0024

- if an error is discovered that results in a modification of the benefit amount;
- ▶ amends provisions related to benefit information forms that must be signed by each employee;
  - ▶ allows the retirement office to communicate with members, beneficiaries, participating employers, and others through electronic means;
  - ▶ ~~provides~~ clarifies that an employee of an institution of higher education who participates in other retirement systems is excluded from membership in the Utah Retirement Systems until the participating employer ceases employer contributions;
  - ▶ repeals provisions that require death benefits to be provided through purchase of a group insurance policy for Tier I public employees and for Tier II employees;
  - ▶ expands the offsets used in determining long-term disability benefits to include any benefit earned for the same period of disability as the benefit was based;
  - ▶ clarifies the date of termination of long-term disability benefits for exempted employees and volunteer firefighters;
  - ▶ establishes investment requirements for employer contributions made on behalf of certain employees who are exempt from the four-year vesting requirements in the Tier II systems;
  - ▶ provides that employees who are exempt from the four-year vesting requirement in the Tier II systems and who terminate before the one-year election period are entitled to all employer contributions and associated investment gains and losses;
  - and
  - ▶ makes technical changes.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

None

### **Utah Code Sections Affected:**

AMENDS:

**49-11-102**, as last amended by Laws of Utah 2012, Chapter 298

**49-11-504**, as last amended by Laws of Utah 2011, Chapter 439

**49-11-607**, as last amended by Laws of Utah 2003, Chapter 240

## HB0024S01 compared with HB0024

49-11-612, as last amended by Laws of Utah 2012, Chapter 298

49-11-616, as last amended by Laws of Utah 2012, Chapter 298

49-11-617, as renumbered and amended by Laws of Utah 2002, Chapter 250

49-12-203, as last amended by Laws of Utah 2009, Chapter 51

49-12-204, as last amended by Laws of Utah 2010, Chapter 158

49-12-501, as renumbered and amended by Laws of Utah 2002, Chapter 250

49-13-203, as last amended by Laws of Utah 2010, Chapter 280

49-13-204, as last amended by Laws of Utah 2010, Chapter 158

49-13-501, as renumbered and amended by Laws of Utah 2002, Chapter 250

49-21-102, as last amended by Laws of Utah 2012, Chapter 55

49-21-402, as last amended by Laws of Utah 2012, Chapter 298

49-21-403, as last amended by Laws of Utah 2011, Chapters 366 and 439

49-22-203, as enacted by Laws of Utah 2010, Chapter 266

49-22-401, as last amended by Laws of Utah 2012, Chapter 298

49-22-501, as last amended by Laws of Utah 2011, Chapter 439

49-23-401, as last amended by Laws of Utah 2012, Chapter 298

49-23-501, as last amended by Laws of Utah 2011, Chapter 439

---

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

Section 1. Section **49-11-102** is amended to read:

**49-11-102. Definitions.**

As used in this title:

(1) (a) "Active member" means a member who is employed or who has been employed by a participating employer within the previous 120 days.

(b) "Active member" does not include retirees.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of mortality tables as recommended by the actuary and adopted by the executive director, including regular interest.

(3) "Actuarial interest rate" means the interest rate as recommended by the actuary and adopted by the board upon which the funding of system costs and benefits are computed.

(4) (a) "Agency" means:

## HB0024S01 compared with HB0024

(i) a department, division, agency, office, authority, commission, board, institution, or hospital of the state;

(ii) a county, municipality, school district, local district, or special service district;

(iii) a state college or university; or

(iv) any other participating employer.

(b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a subdivision of another entity listed under Subsection (4)(a).

(5) "Allowance" or "retirement allowance" means the pension plus the annuity, including any cost of living or other authorized adjustments to the pension and annuity.

(6) "Alternate payee" means a member's former spouse or family member eligible to receive payments under a Domestic Relations Order in compliance with Section 49-11-612.

(7) "Amortization rate" means the board certified percent of salary required to amortize the unfunded actuarial accrued liability in accordance with policies established by the board upon the advice of the actuary.

(8) "Annuity" means monthly payments derived from member contributions.

(9) "Appointive officer" means an employee appointed to a position for a definite and fixed term of office by official and duly recorded action of a participating employer whose appointed position is designated in the participating employer's charter, creation document, or similar document, and:

(a) who earns \$500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407 for a Tier I appointive officer; and

(b) whose appointive position is full-time as certified by the participating employer for a Tier II appointive officer.

(10) (a) "At-will employee" means a person who is employed by a participating employer and:

(i) who is not entitled to merit or civil service protection and is generally considered exempt from a participating employer's merit or career service personnel systems;

(ii) whose on-going employment status is entirely at the discretion of the person's employer; or

(iii) who may be terminated without cause by a designated supervisor, manager, or director.

## HB0024S01 compared with HB0024

(b) "At-will employee" does not include a career employee who has obtained a reasonable expectation of continued employment based on inclusion in a participating employer's merit system, civil service protection system, or career service personnel systems, policies, or plans.

(11) "Beneficiary" means any person entitled to receive a payment under this title through a relationship with or designated by a member, participant, covered individual, or alternate payee of a defined contribution plan.

(12) "Board" means the Utah State Retirement Board established under Section 49-11-202.

(13) "Board member" means a person serving on the Utah State Retirement Board as established under Section 49-11-202.

(14) "Certified contribution rate" means the board certified percent of salary paid on behalf of an active member to the office to maintain the system on a financially and actuarially sound basis.

(15) "Contributions" means the total amount paid by the participating employer and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act.

(16) "Council member" means a person serving on the Membership Council established under Section 49-11-202.

(17) "Covered individual" means any individual covered under Chapter 20, Public Employees' Benefit and Insurance Program Act.

(18) "Current service" means covered service ~~[as defined in Chapters 12, 13, 14, 15, 16, 17, 18, and 19.]~~ under:

(a) Chapter 12, Public Employees' Contributory Retirement Act;

(b) Chapter 13, Public Employees' Noncontributory Retirement Act;

(c) Chapter 14, Public Safety Contributory Retirement Act;

(d) Chapter 15, Public Safety Noncontributory Retirement Act;

(e) Chapter 16, Firefighters' Retirement Act;

(f) Chapter 17, Judges' Contributory Retirement Act;

(g) Chapter 18, Judges' Noncontributory Retirement Act; ~~and~~

(h) Chapter 19, Governors' and Legislators' Retirement Act. ~~;~~

## HB0024S01 compared with HB0024

(i) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or

(j) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act.

(19) "Defined benefit" or "defined benefit plan" or "defined benefit system" means a system or plan offered under this title to provide a specified allowance to a retiree or a retiree's spouse after retirement that is based on a set formula involving one or more of the following factors:

- (a) years of service;
- (b) final average monthly salary; or
- (c) a retirement multiplier.

(20) "Defined contribution" or "defined contribution plan" means any defined contribution plan or deferred compensation plan authorized under the Internal Revenue Code and administered by the board.

(21) "Educational institution" means a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including:

- (a) the State Board of Education and its instrumentalities;
- (b) any institution of higher education and its branches;
- (c) any school district and its instrumentalities;
- (d) any vocational and technical school; and

(e) any entity arising out of a consolidation agreement between entities described under this Subsection (21).

(22) "Elected official":

(a) means a person elected to a state office, county office, municipal office, school board or school district office, local district office, or special service district office;

(b) includes a person who is appointed to serve an unexpired term of office described under Subsection (22)(a); and

(c) does not include a judge or justice who is subject to a retention election under Section 20A-12-201.

(23) (a) "Employer" means any department, educational institution, or political subdivision of the state eligible to participate in a government-sponsored retirement system under federal law.

## HB0024S01 compared with HB0024

(b) "Employer" may also include an agency financed in whole or in part by public funds.

(24) "Exempt employee" means an employee working for a participating employer:

(a) who is not eligible for service credit under Section 49-12-203, 49-13-203, 49-14-203, 49-15-203, or 49-16-203; and

(b) for whom a participating employer is not required to pay contributions or nonelective contributions.

(25) "Final average monthly salary" means the amount computed by dividing the compensation received during the final average salary period under each system by the number of months in the final average salary period.

(26) "Fund" means any fund created under this title for the purpose of paying benefits or costs of administering a system, plan, or program.

(27) (a) "Inactive member" means a member who has not been employed by a participating employer for a period of at least 120 days.

(b) "Inactive member" does not include retirees.

(28) (a) "Initially entering" means hired, appointed, or elected for the first time, in current service as a member with any participating employer.

(b) "Initially entering" does not include a person who has any prior service credit on file with the office.

(c) "Initially entering" includes an employee of a participating employer, except for an employee that is not eligible under a system or plan under this title, who:

(i) does not have any prior service credit on file with the office;

(ii) is covered by a retirement plan other than a retirement plan created under this title;

and

(iii) moves to a position with a participating employer that is covered by this title.

(29) "Institution of higher education" means an institution described in Section ~~53B-2-101~~ 53B-1-102.

~~(29)~~ (30) (a) "Member" means a person, except a retiree, with contributions on deposit with a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act, or with a terminated system.

(b) "Member" also includes leased employees within the meaning of Section 414(n)(2)

## HB0024S01 compared with HB0024

of the Internal Revenue Code, if the employees have contributions on deposit with the office. If leased employees constitute less than 20% of the participating employer's work force that is not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code, "member" does not include leased employees covered by a plan described in Section 414(n)(5) of the federal Internal Revenue Code.

~~[(30)]~~ (31) "Member contributions" means the sum of the contributions paid to a system or the Utah Governors' and Legislators' Retirement Plan, including refund interest if allowed by a system, and which are made by:

- (a) the member; and
- (b) the participating employer on the member's behalf under Section 414(h) of the Internal Revenue Code.

~~[(31)]~~ (32) "Nonelective contribution" means an amount contributed by a participating employer into a participant's defined contribution account.

~~[(32)]~~ (33) "Normal cost rate":

- (a) means the percent of salary that is necessary for a retirement system that is fully funded to maintain its fully funded status; and
- (b) is determined by the actuary based on the assumed rate of return established by the board.

~~[(33)]~~ (34) "Office" means the Utah State Retirement Office.

~~[(34)]~~ (35) "Participant" means an individual with voluntary deferrals or nonelective contributions on deposit with the defined contribution plans administered under this title.

~~[(35)]~~ (36) "Participating employer" means a participating employer, as defined by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, and Chapter 18, Judges' Noncontributory Retirement Act, or an agency financed in whole or in part by public funds which is participating in a system or plan as of January 1, 2002.

~~[(36)]~~ (37) "Pension" means monthly payments derived from participating employer contributions.

~~[(37)]~~ (38) "Plan" means the Utah Governors' and Legislators' Retirement Plan created



## HB0024S01 compared with HB0024

by Chapter 19, Utah Governors' and Legislators' Retirement Act, the New Public Employees' Tier II Defined Contribution Plan created by Chapter 22, Part 4, Tier II Defined Contribution Plan, the New Public Safety and Firefighter Tier II Defined Contribution Plan created by Chapter 23, Part 4, Tier II Defined Contribution Plan, or the defined contribution plans created under Section 49-11-801.

~~[(38)]~~ (39) (a) "Political subdivision" means any local government entity, including cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally separate and distinct from the state and only if its employees are not by virtue of their relationship to the entity employees of the state.

(b) "Political subdivision" includes local districts, special service districts, or authorities created by the Legislature or by local governments, including the office.

(c) "Political subdivision" does not include a project entity created under Title 11, Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

~~[(39)]~~ (40) "Program" means the Public Employees' Insurance Program created under Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees' Long-Term Disability program created under Chapter 21, Public Employees' Long-Term Disability Act.

~~[(40)]~~ (41) "Public funds" means those funds derived, either directly or indirectly, from public taxes or public revenue, dues or contributions paid or donated by the membership of the organization, used to finance an activity whose objective is to improve, on a nonprofit basis, the governmental, educational, and social programs and systems of the state or its political subdivisions.

~~[(41)]~~ (42) "Qualified defined contribution plan" means a defined contribution plan that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

~~[(42)]~~ (43) (a) "Reemployed," "reemploy," or "reemployment" means work or service performed after retirement, in exchange for compensation.

(b) Reemployment includes work or service performed on a contract if the retiree is:

(i) listed as the contractor; or

(ii) an owner, partner, or principle of the contractor.

~~[(43)]~~ (44) "Refund interest" means the amount accrued on member contributions at a rate adopted by the board.

## HB0024S01 compared with HB0024

~~[(44)]~~ (45) "Retiree" means an individual who has qualified for an allowance under this title.

~~[(45)]~~ (46) "Retirement" means the status of an individual who has become eligible, applies for, and is entitled to receive an allowance under this title.

~~[(46)]~~ (47) "Retirement date" means the date selected by the member on which the member's retirement becomes effective with the office.

~~[(47)]~~ (48) "Retirement related contribution":

(a) means any employer payment to any type of retirement plan or program made on behalf of an employee; and

(b) does not include Social Security payments or Social Security substitute payments made on behalf of an employee.

~~[(48)]~~ (49) "Service credit" means:

(a) the period during which an employee is employed and compensated by a participating employer and meets the eligibility requirements for membership in a system or the Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are paid to the office; and

(b) periods of time otherwise purchasable under this title.

~~[(49)]~~ (50) "System" means the individual retirement systems created by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges' Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement Act, the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 22, Part 3, Tier II Hybrid Retirement System, and the defined benefit portion of the Tier II Hybrid Retirement System under Chapter 23, Part 3, Tier II Hybrid Retirement System.

~~[(50)]~~ (51) "Tier I" means a system or plan under this title for which an employee is eligible to participate if the employee initially enters regular full-time employment before July 1, 2011.

~~[(51)]~~ (52) (a) "Tier II" means a system or plan under this title provided in lieu of a Tier I system or plan for which an employee is eligible to participate, if the employee initially

## HB0024S01 compared with HB0024

enters regular full-time employment on or after July 1, 2011.

(b) "Tier II" includes:

(i) the Tier II hybrid system established under:

(A) Chapter 22, Part 3, Tier II Hybrid Retirement System; or

(B) Chapter 23, Part 3, Tier II Hybrid Retirement System; and

(ii) the Tier II Defined Contribution Plan (Tier II DC Plan) established under:

(A) Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(B) Chapter 23, Part 4, Tier II Defined Contribution Plan.

~~[(52)]~~ (53) "Unfunded actuarial accrued liability" or "UAAL":

(a) is determined by the system's actuary; and

(b) means the excess, if any, of the accrued liability of a retirement system over the actuarial value of its assets.

~~[(53)]~~ (54) "Voluntary deferrals" means an amount contributed by a participant into that participant's defined contribution account.

Section 2. Section **49-11-504** is amended to read:

### **49-11-504. Reemployment of a retiree -- Restrictions.**

(1) As used in this section, "full-time" means:

(a) employment requiring 20 or more hours of work per week; or

(b) at least a half-time teaching contract.

(2) (a) Except for the provisions of Subsection (3), the provisions of this section do not apply to a person who is subject to the provisions of Section 49-11-505.

(b) This section does not apply to employment as an elected official.

(3) A person who is not a retiree under this title is not subject to any postretirement restrictions under this title.

(4) A retiree of an agency who is reemployed may not earn additional service credit, if the retiree is reemployed by:

(a) a different agency; or

(b) the same agency after six months from the retirement date.

(5) A retiree of an agency who is reemployed on a full-time basis by the same agency within six months of the date of retirement is subject to the following:

(a) the agency shall immediately notify the office;

## HB0024S01 compared with HB0024

(b) the office shall cancel the retiree's allowance and reinstate the retiree to active member status;

(c) the allowance cancellation and reinstatement to active member status is effective on the first day of the month following the date of reemployment;

(d) the reinstated retiree may not retire again with a recalculated benefit for a two-year period from the date of cancellation of the original allowance, and if the retiree retires again within the two-year period, the original allowance shall be resumed; and

(e) a reinstated retiree retiring after the two-year period shall be credited with the service credit in the retiree's account at the time of the first retirement and from that time shall be treated as a member of a system, including the accrual of additional service credit, but subject to recalculation of the allowance under Subsection (9).

(6) A retiree of an agency who is reemployed by the same agency within six months of retirement on a less than full-time basis by the same agency is subject to the following:

(a) the retiree may earn, without penalty, compensation from that position which is not in excess of the exempt earnings permitted by Social Security;

(b) if a retiree receives compensation in a calendar year in excess of the Social Security limitation, 25% of the allowance shall be suspended for the remainder of the six-month period;

(c) the effective date of a suspension and reinstatement of an allowance shall be set by the office; and

(d) any suspension of a retiree's allowance under this Subsection (6) shall be applied on a calendar year basis.

(7) For six months immediately following retirement, the retiree and participating employer who are subject to Subsection (6) shall:

(a) maintain an accurate record of gross earnings in employment;

(b) report the gross earnings at least monthly to the office;

(c) immediately notify the office in writing of any postretirement earnings under Subsection (6); and

(d) immediately notify the office in writing whether postretirement earnings equal or exceed the exempt earnings under Subsection (6).

(8) (a) If a participating employer hires a retiree, [~~on a full-time basis, who may not earn additional service credit under Subsection (4);~~] the participating employer may not make a

## HB0024S01 compared with HB0024

retirement related contribution in an amount that exceeds the normal cost rate as defined under Section 49-11-102 on behalf of the retiree under Subsections (8)(b) and (c).

(b) The contributions under Subsection (8)(a) are not required, but if paid, shall be paid to a retiree-designated:

(i) qualified defined contribution plan administered by the board, if the participating employer participates in a qualified defined contribution plan administered by the board; or

(ii) qualified defined contribution plan offered by the participating employer if the participating employer does not participate in a qualified defined contribution plan administered by the board.

(c) Notwithstanding the provisions of Subsection (8)(b), if an employer is not participating in a qualified defined contribution plan administered by the board, the employer may elect to pay the contributions under Subsection (8)(a) to a deferred compensation plan administered by the board.

(9) A retiree who has returned to work, accrued additional service credit, and again retires shall have the retiree's allowance recalculated using:

(a) the formula in effect at the date of the retiree's original retirement for all service credit accrued prior to that date; and

(b) the formula in effect at the date of the subsequent retirement for all service credit accrued between the first and subsequent retirement dates.

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

Section 3. Section **49-11-607** is amended to read:

**49-11-607. Determination of benefits -- Errors in records or calculations --**

**Correction of errors by the office.**

(1) After the retirement date, which shall be set by a member in the member's application for retirement, no alteration, addition, or cancellation of a benefit may be made except as provided in Subsections (2), (3), and (4) or other law.

(2) (a) Errors in the records or in the calculations of the office which result in an incorrect benefit to any member, retiree, participant, covered individual, alternate payee, or beneficiary shall be corrected by the office if the correction results in a modification of the benefit amount of [~~\$1~~] \$5 or more.

(b) Future payments shall be made to any member, retiree, participant, covered

## HB0024S01 compared with HB0024

individual, alternate payee, or beneficiary to:

- (i) pay the benefit to which the member or beneficiary was entitled; or
- (ii) recover any overpayment.

(3) (a) Errors in the records or calculation of a participating employer which result in an incorrect benefit to a member, retiree, participant, covered individual, alternate payee, or beneficiary shall be corrected by the participating employer.

(b) If insufficient employer contributions have been received by the office, the participating employer shall pay any delinquent employer contributions, plus interest under Section 49-11-503, required by the office to maintain the system, plan, or program affected on an actuarially sound basis.

(c) If excess contributions have been received by the office, the contributions shall be refunded to the participating employer or member which paid the contributions.

(4) If a dispute exists between a participating employer and a member at the time of the member's retirement which will affect the member's benefit calculation, and notice of the dispute is given to the office prior to the calculation of a member's benefit, the benefit may be paid based on the member's retirement date and the records available and then recalculated upon settlement of the dispute.

Section 4. Section 49-11-612 is amended to read:

**49-11-612. Domestic relations order benefits -- Nonassignability of benefits or payments -- Exemption from legal process.**

(1) As used in this section, "domestic relations order benefits" means:

- (a) an allowance;
- (b) a defined contribution account established under:
  - (i) Part 8, Defined Contribution Plans;
  - (ii) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
  - (iii) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement

Act;

(c) a continuing monthly death benefit established under:

- (i) Chapter 14, Part 5, Death Benefit;
- (ii) Chapter 15, Part 5, Death Benefit;
- (iii) Chapter 16, Part 5, Death Benefit;

## HB0024S01 compared with HB0024

- (iv) Chapter 17, Part 5, Death Benefit;
- (v) Chapter 18, Part 5, Death Benefit; or
- (vi) Chapter 19, Part 5, Death Benefit;
- (d) a lump sum death benefit provided ~~[under a group insurance policy]~~ under:
  - (i) Chapter 12, Part 5, Death Benefit;
  - (ii) Chapter 13, Part 5, Death Benefit;
  - (iii) Chapter 22, Part 5, Death Benefit; or
  - (iv) Chapter 23, Part 5, Death Benefit; or
  - (e) a refund of member contributions upon termination.

(2) Except as provided in Subsections (3), (4), and (5), the right of any member, retiree, participant, covered individual, or beneficiary to any retirement benefit, retirement payment, or any other retirement right accrued or accruing under this title and the assets of the funds created by this title are not subject to alienation or assignment by the member, retiree, participant, or their beneficiaries and are not subject to attachment, execution, garnishment, or any other legal or equitable process.

(3) The office may, upon the request of the retiree, deduct from the retiree's allowance insurance premiums or other dues payable on behalf of the retiree, but only to those entities that have received the deductions prior to February 1, 2002.

(4) (a) The office shall provide for the division of domestic relations order benefits with former spouses and family members under an order of a court of competent jurisdiction with respect to domestic relations matters on file with the office.

(b) The court order shall specify the manner in which the domestic relations order benefits shall be partitioned, whether as a fixed amount or as a percentage of the benefit.

(c) Domestic relations order benefits split under a domestic relations order are subject to the following:

(i) the amount to be paid or the period for which payments shall be made under the original domestic relations order may not be altered if the alteration affects the actuarial calculation of the allowance;

(ii) payments to an alternate payee shall begin at the time the member or beneficiary begins receiving payments; and

(iii) the alternate payee shall receive payments in the same form as allowances received

## HB0024S01 compared with HB0024

by the member or beneficiary.

(d) To be valid, a court order under this section ~~(f)~~ must be received by the office within 12 months of the death of the member.

(5) In accordance with federal law, the board may deduct the required amount from any benefit, payment, or other right accrued or accruing to any member or beneficiary of a system, plan, or program under this title to offset any amount that member or beneficiary owes to a system, plan, or program administered by the board.

(6) The board shall make rules to implement this section.

Section ~~(4)~~5. Section **49-11-616** is amended to read:

### **49-11-616. Benefits information.**

(1) (a) The office shall provide ~~[written general information]~~ a form to each participating employer ~~[concerning]~~ providing:

(i) general information on the benefits available under this title[-]; and

(ii) a place for each employee to sign verifying that the employee has received the form.

(2) (a) A participating employer shall provide the ~~[information]~~ form under Subsection (1) to each eligible employee immediately upon:

(i) termination of service;

(ii) leave of absence;

(iii) commencement of long-term disability benefits; or

(iv) retirement.

(b) When received from a participating employer under this section, an employee shall sign the form under Subsection (1) verifying that the employee has received it.

~~[(b)]~~ (c) (i) Each participating employer shall maintain the records necessary to demonstrate that each employee has received the ~~[information outlined in]~~ form under Subsection (1).

(ii) The records shall be made available to the office upon request.

~~[(3)]~~ (a) ~~The office shall provide each participating employer with a form to be signed by each employee which verifies that the employee has been given the information required by this section.]~~

~~[(b) A copy of the signed form shall be immediately forwarded to the office by the~~



## HB0024S01 compared with HB0024

participating employer or the employee.]

Section ~~{5}~~6. Section 49-11-617 is amended to read:

### 49-11-617. Original documents.

(1) At the reasonable discretion of the office, any document relating to this title may be treated as an original, whether created by photocopy, facsimile, e-mail, electronic transmission, imaging, or other technology.

~~(2) The office may communicate with participating employers, members, beneficiaries, and others through electronic means as determined appropriate by the office.~~

Section ~~{6}~~7. Section 49-12-203 is amended to read:

### 49-12-203. Exclusions from membership in system.

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

(a) ~~{An}~~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~~[- provided that: ]~~;

~~[(i) if the term of employment 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 ]~~

~~[(ii) if an employee, previously terminated prior to being eligible for service credit in this system 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 credit in this system. ]~~

(b) ~~[(i) { } A current or future employee of a two-year or four-year college or university who holds, or is entitled to hold, under Section 49-12-204, a retirement annuity contract ]~~  
~~{An}~~except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with the Teachers' Insurance and Annuity Association of America or with any other public or private retirement system, organization, or company during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer~~[- ]~~;

~~[(ii) The employee, upon cessation of the participating employer contributions, shall~~

## HB0024S01 compared with HB0024

immediately become ~~{ }~~ eligible ~~{ ineligible}~~ for service credit in this system. ]

(c) ~~{An}~~ an employee serving as an exchange employee from outside the state ~~[-];~~

(d) ~~{An}~~ an executive department head of the state, a member of the State Tax Commission, 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}~~ an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act ~~[-]; or~~

(f) ~~[(i)]~~ ~~{An}~~ an employee who is employed on or after July 1, 2009 with an employer that has elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection 49-12-202(2)(c).

(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.

~~[(ii)]~~ ~~(b)~~ Notwithstanding the provisions of ~~[this]~~ Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before July 1, 2009 is not affected under ~~[this]~~ Subsection (1)(f).

~~[(2)]~~ (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;

## HB0024S01 compared with HB0024

(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 Development;

(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; and

(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.

~~[(3)]~~ [(5)] (a) Each participating employer shall prepare a list designating those positions eligible for exemption under Subsection ~~[(2)]~~ [(4)].

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

~~[(4)]~~ [(6)] (a) In accordance with this section, a municipality, county, or political subdivision may not exempt more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision whichever is lesser.

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

~~[(5)]~~ [(7)] Each participating employer shall:

(a) file employee exemptions annually with the office; and

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

~~[(6)]~~ [(8)] The office may make rules to implement this section.

Section ~~[(7)]~~ 8. Section **49-12-204** is amended to read:

**49-12-204. Higher education employees' eligibility requirements -- Election**

## HB0024S01 compared with HB0024

### **between different retirement plans -- Classification requirements -- Transfer between systems -- One-time election window -- Rulemaking.**

(1) (a) A regular full-time employee of an institution of higher education who is eligible to participate in either this system or [~~in a retirement annuity contract~~] with the Teachers' Insurance and Annuity Association of America or with any other public or private retirement system, organization, or company, designated by the Board of Regents, shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1).

(b) The election is final, and no right exists to make any further election.

(2) (a) Except as provided under Subsection (2)(c), a regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan which attaches to the person's employment classification.

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the Board of Regents, so that each classification is assigned with either:

(i) this system;

(ii) the Teachers' Insurance and Annuity Association of America; or

(iii) another public or private system, organization, or company designated by the Board of Regents.

(c) Notwithstanding a person's employment classification assignment under Subsection (2)(b), a regular full-time employee who begins employment with an institution of higher education on or after May 11, 2010, has a one-time irrevocable election to continue participation in this system, if the employee has service credit in this system before the date of employment.

(3) Notwithstanding an employment classification assignment change made under Subsection (2)(b), a regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system may elect to continue participation in this system.

(4) A regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system shall participate in this system.

## HB0024S01 compared with HB0024

(5) (a) Notwithstanding any other provision of this section, a regular full-time employee of an institution of higher education shall have a one-time irrevocable election to participate in this system if the employee:

(i) was hired after January 1, 1979;

(ii) whose employment classification assignment under Subsection (2)(b) required participation in a retirement program other than this system; and

(iii) has service credit in a system under this title.

(b) The election under Subsection (5)(a) shall be made before June 30, 2010.

(c) All forms required by the office must be completed and received by the office no later than June 30, 2010, for the election to participate in this system to be effective.

(d) Beginning July 1, 2010, a regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (5)(a) may begin to accrue service credit in this system.

(6) A regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (2)(c) or (5)(a), may purchase periods of employment while covered under another retirement program sponsored by the institution of higher education by complying with the requirements of Section 49-11-403.

(7) The board shall make rules to implement this section.

Section 9. Section 49-12-501 is amended to read:

**49-12-501. Death benefit~~{by means of group insurance policy}~~ -- Eligibility for death benefit -- Benefit calculation -- Payment of claim -- Exclusion.**

(1) The office shall provide a death benefit ~~[through the purchase of a group insurance policy]~~ for members of this system.

(2) The board shall make rules to administer the death benefit provided by this section and may, in accordance with federal law, establish:

(a) benefit levels;

(b) classes of members; and

(c) a living benefit option.

(3) This death benefit is payable when:

(a) the member dies prior to the member's retirement date or dies under circumstances which Section 49-12-402 requires to be treated as the death of a member before retirement;

## **HB0024S01 compared with HB0024**

(b) the office receives acceptable proof of death; and

(c) benefits are not payable under Section 49-12-404.

(4) The death benefit payable to the beneficiary under this section is a lump-sum payment consisting of:

(a) the return of any member contributions under this chapter; plus

(b) a percentage of the final average salary of the member to be determined by the board.

(5) Any amount of a living benefit option paid to the member prior to death shall be deducted from the benefit payable to the beneficiary.

(6) The cost of the death benefit shall be paid by the participating employer as a portion of the contribution rate established under Section 49-12-301.

(7) The portion of the death benefit provided under Subsection (4)(b) may not be paid to the beneficiary of an inactive member unless:

(a) that member has 10 or more years of accrued service credit prior to July 1, 1987; or

(b) the death of the member occurs either:

(i) within a period of 120 days after the last day of work for which the person received compensation; or

(ii) while the member is still physically or mentally incapacitated from performance of duties, if the incapacity has been continuous since the last day of work for which compensation was received.

(8) The death benefit provided under Subsection (4)(b) shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(9) The death benefit paid to the beneficiary of an inactive member, except as otherwise provided under Subsection (7), is a lump-sum return of the member's member contributions.

(10) Payment of the death benefit by the office constitutes a full settlement of any beneficiary's claim against the office, and the office is not liable for any further or additional claims or assessments on behalf of the member.

(11) Unless otherwise specified in a written document filed with the office, death benefits payable to beneficiaries shall be in accordance with the order of precedence established under Title 75, Chapter 2, Intestate Succession and Wills.

## HB0024S01 compared with HB0024

(12) A death benefit under this section may not be paid to a beneficiary of a retiree under this system.

Section ~~{8}~~10. 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) ~~{An}~~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~~[-]; provided that:~~[-];

~~[-](i) if the term of employment 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; and~~[-]

~~[-](ii) if an employee, previously terminated prior to becoming eligible for service credit in this system, is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify to the office 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 credit in this system.~~[-]

(b) (i) ~~[A current or future employee of a two-year or four-year college or university who holds, or is entitled to hold, under Section 49-13-204, a retirement annuity contract]~~{An}~~except as provided under Subsection (3)(a), an~~ employee of an institution of higher education who participates in a retirement system with the Teachers' Insurance and Annuity Association of America or with any other public or private retirement system, organization, or company during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer~~[-];~~[-];

~~[-](ii) The employee, upon cessation of the participating employer contributions, shall immediately become { } eligible { } ineligible for service credit in this system.~~[-]

(c) ~~{An}~~an employee serving as an exchange employee from outside the state~~[-];~~[-];

(d) ~~{An}~~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~~[-];~~[-];

## HB0024S01 compared with HB0024

(e) ~~{An}~~an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act~~[-]; or~~

(f) ~~[(i)]~~ ~~{An}~~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).

(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.

~~[(ii)]~~ (b) Notwithstanding the provisions of ~~[this]~~ 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 ~~[this]~~ Subsection (1)(f).

~~[(2)]~~ (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 Development;



## HB0024S01 compared with HB0024

- (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 of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research [~~and~~] Governing Authority Act.

~~[(3)]~~ [(5)] (a) Each participating employer shall prepare a list designating those positions eligible for exemption under Subsection ~~[(2)]~~ [(4)].

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

~~[(4)]~~ [(6)] (a) In accordance with this section, a municipality, county, or political subdivision may not exempt more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision, whichever is lesser.

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

~~[(5)]~~ [(7)] Each participating employer shall:

- (a) file employee exemptions annually with the office; and
- (b) update the employee exemptions in the event of any change.

~~[(6)]~~ [(8)] The office may make rules to implement this section.

Section ~~[(9)]~~ [(11)]. Section **49-13-204** is amended to read:

**49-13-204. Higher education employees' eligibility requirements -- Election between different retirement plans -- Classification requirements -- Transfer between systems -- One-time election window -- Rulemaking.**

(1) (a) A regular full-time employee of an institution of higher education who is eligible to participate in either this system or in a retirement [~~annuity contract~~] system with the

## HB0024S01 compared with HB0024

Teachers' Insurance and Annuity Association of America or with any other public or private retirement system, organization, or company, designated by the Board of Regents, shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1)(a).

(b) The election is final, and no right exists to make any further election.

(2) (a) Except as provided under Subsection (2)(c), a regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan which attaches to the person's employment classification.

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the Board of Regents, so that each classification is assigned with either:

(i) this system;

(ii) the Teachers' Insurance and Annuity Association of America; or

(iii) another public or private system, organization, or company designated by the Board of Regents.

(c) Notwithstanding a person's employment classification assignment under Subsection (2)(b), a regular full-time employee who begins employment with an institution of higher education on or after May 11, 2010, has a one-time irrevocable election to continue participation in this system, if the employee has service credit in this system before the date of employment.

(3) Notwithstanding an employment classification assignment change made under Subsection (2)(b), a regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system may elect to continue participation in this system.

(4) A regular full-time employee hired by an institution of higher education after January 1, 1979, whose employment classification requires participation in this system shall participate in this system.

(5) (a) Notwithstanding any other provision of this section, a regular full-time employee of an institution of higher education whose employment classification assignment under Subsection (2)(b) required participation in a retirement program other than this system shall have a one-time irrevocable election to participate in this system.

## HB0024S01 compared with HB0024

(b) The election under Subsection (5)(a) shall be made before June 30, 2010.

(c) All forms required by the office must be completed and received by the office no later than June 30, 2010, for the election to participate in this system to be effective.

(d) Beginning July 1, 2010, a regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (5)(a) may begin to accrue service credit in this system.

(6) A regular full-time employee of an institution of higher education who elects to be covered by this system under Subsection (2)(c) or (5)(a) may purchase periods of employment while covered under another retirement program by complying with the requirements of Section 49-11-403.

(7) The board shall make rules to implement this section.

Section 12. Section 49-13-501 is amended to read:

**49-13-501. Death benefit~~{ by means of group insurance policy}~~ -- Eligibility for death benefit -- Benefit calculation -- Payment of claim.**

(1) The office shall provide a death benefit ~~[through the purchase of a group insurance policy]~~ for members of this system.

(2) The board shall make rules to administer the death benefit provided by this section and may, in accordance with federal law, establish:

- (a) benefit levels;
- (b) classes of members; and
- (c) a living benefit option.

(3) This death benefit is payable when:

(a) the member dies prior to the member's retirement date or dies under circumstances which Section 49-13-402 requires to be treated as the death of a member before retirement;

- (b) the office receives acceptable proof of death; and
- (c) benefits are not payable under Section 49-13-404.

(4) The death benefit payable to the beneficiary under this section is a lump-sum payment consisting of:

- (a) the return of any member contributions under this chapter; plus
- (b) a percentage of the final average salary of the member to be determined by the

board.

## HB0024S01 compared with HB0024

(5) Any amount of a living benefit option paid to the member prior to death shall be deducted from the benefit payable to the beneficiary.

(6) The cost of the death benefit shall be paid by the participating employer as a portion of the contribution rate established under Section 49-13-301.

(7) The portion of the death benefit provided under Subsection (4)(b), may not be paid to the beneficiary of an inactive member unless:

(a) that member has 10 or more years of service credit prior to July 1, 1987; or

(b) the death of the member occurs either:

(i) within a period of 120 days after the last day of work for which the person received compensation; or

(ii) while the member is still physically or mentally incapacitated from performance of duties, if the incapacity has been continuous since the last day of work for which compensation was received.

(8) The death benefit provided under Subsection (4)(b) shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(9) The death benefit paid to the beneficiary of an inactive member, except as otherwise provided under Subsection (7), is a lump-sum return of the member's member contributions.

(10) Payment of the death benefit by the office constitutes a full settlement of any beneficiary's claim against the office and the office is not liable for any further or additional claims or assessments on behalf of the member.

(11) Unless otherwise specified in a written document filed with the office, death benefits payable to beneficiaries shall be in accordance with the order of precedence established under Title 75, Chapter 2, Intestate Succession and Wills.

(12) A death benefit under this section may not be paid on behalf of a retiree under this system.

Section 13. Section 49-21-102 is amended to read:

### **49-21-102. Definitions.**

As used in this chapter:

(1) "Date of disability" means the date on which a period of continuous disability commences, and may not commence on or before the last day of actual work.

## HB0024S01 compared with HB0024

(2) (a) "Eligible employee" means the following employee whose employer provides coverage under this chapter:

(i) (A) any regular full-time employee as defined under Section 49-12-102, 49-13-102, or 49-22-102;

(B) any public safety service employee as defined under Section 49-14-102, 49-15-102, or 49-23-102;

(C) any firefighter service employee or volunteer firefighter as defined under Section 49-23-102 who began firefighter service on or after July 1, 2011;

(D) any judge as defined under Section 49-17-102 or 49-18-102; or

(E) the governor of the state;

(ii) an employee who is exempt from participating in a retirement system under Subsection 49-12-203~~[(2)]~~[(4)], 49-13-203~~[(2)]~~[(4)], 49-14-203(1), or 49-15-203(1); and

(iii) an employee who is covered by a retirement program offered by the Teachers' Insurance and Annuity Association of America.

(b) "Eligible employee" does not include:

(i) any employee that is exempt from coverage under Section 49-21-201; or

(ii) a retiree.

(3) "Elimination period" means the three months at the beginning of each continuous period of total disability for which no benefit will be paid. The elimination period begins on the nearest first day of the month from the date of disability. The elimination period may include a one-time trial return to work period of less than 15 consecutive calendar days.

(4) "Maximum benefit period" means the maximum period of time the monthly disability income benefit will be paid under Section 49-21-403 for any continuous period of total disability.

(5) "Monthly disability benefit" means the monthly payments and accrual of service credit under Section 49-21-401.

(6) "Objective medical impairment" means an impairment resulting from an injury or illness which is diagnosed by a physician and which is based on accepted objective medical tests or findings rather than subjective complaints.

(7) "Physician" means a licensed physician.

(8) "Regular monthly salary" means the amount certified by the participating employer

## HB0024S01 compared with HB0024

as the monthly salary of the eligible employee, unless there is a discrepancy between the certified amount and the amount actually paid, in which case the office shall determine the regular monthly salary.

(9) "Regular occupation" means either the primary duties performed by the eligible employee for the 12 months preceding the date of disability, or a permanent assignment of duty to the eligible employee.

(10) "Rehabilitative employment" means any occupation or employment for wage or profit, for which the eligible employee is reasonably qualified to perform based on education, training, or experience.

(11) (a) "Total disability" means the complete inability, due to objective medical impairment, whether physical or mental, to engage in the eligible employee's regular occupation during the elimination period and the first 24 months of disability benefits.

(b) (i) "Total disability" means, after the elimination period and the first 24 months of disability benefits, the complete inability, as determined under Subsection (11)(b)(ii), to engage in any gainful occupation which is reasonable, considering the eligible employee's education, training, and experience.

(ii) For purposes of Subsection (11)(b)(i), inability is determined:

(A) based solely on physical objective medical impairment; and

(B) regardless of the existence or absence of any mental impairment.

Section ~~{10}~~14. Section **49-21-402** is amended to read:

**49-21-402. Reduction or reimbursement of benefit -- Circumstances --**

### **Application for other benefits required.**

(1) A monthly disability benefit may be terminated unless:

(a) the eligible employee is under the ongoing care and treatment of a physician other than the eligible employee; and

(b) the eligible employee provides the information and documentation requested by the office.

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

## HB0024S01 compared with HB0024

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

(b) workers' compensation indemnity benefits;

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

(d) unemployment compensation benefits;

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

(f) any money received by a judgment, settlement, or other payment as a result of a claim against an employer; and

(g) any payments made for sick leave, annual leave, or similar payments.

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

(a) any [~~employer-sponsored retirement programs~~] retirement payment earned through or provided by public or private employment; and

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

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

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

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

(b) If the eligible employee fails to make application under this Subsection (6), the monthly disability benefit shall be suspended.

Section ~~{11}~~15. Section **49-21-403** is amended to read:

## HB0024S01 compared with HB0024

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

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

(a) the date of the eligible employee's death;

(b) the date the eligible employee no longer has a disability;

(c) the date the eligible employee has accumulated or would have accumulated, if the employee had not chosen the Title 49, Chapter 22, Part 4, Tier II Defined Contribution Plan, Title 49, Chapter 23, Part 4, Tier II Defined Contribution Plan, been a volunteer firefighter, or exempted from a retirement system or plan:

(i) 20 years of service credit if the eligible employee is covered by Chapter 14, Public Safety Contributory Retirement Act, or Chapter 15, Public Safety Noncontributory Retirement Act;

(ii) 25 years of service credit if the eligible employee is covered by Chapter 17, Judges' Contributory Retirement Act, or Chapter 18, Judges' Noncontributory Retirement Act;

(iii) 30 years of service credit if the eligible employee is covered by Chapter 12, Public Employees' Contributory Retirement Act, or Chapter 13, Public Employees' Noncontributory Retirement Act;

(iv) 35 years of service credit if the eligible employee is covered by the defined benefit portion under Chapter 22, Part 3, Tier II Hybrid Retirement System, or is covered by the defined contribution plan under Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(v) 25 years of service credit if the eligible employee is covered by the defined benefit portion under Chapter 23, Part 3, Tier II Hybrid Retirement System, or is covered by the defined contribution plan under Chapter 23, Part 4, Tier II Defined Contribution Plan; or

(d) the date the eligible employee has received a monthly disability benefit for the following applicable time periods:

(i) if the eligible employee is under age 60, the monthly disability benefit is payable until age 65;

(ii) if the eligible employee is 60 or 61 years of age on the date of disability, the monthly disability benefit is payable for five years;



## HB0024S01 compared with HB0024

(iii) if the eligible employee is 62 or 63 years of age on the date of disability, the monthly disability benefit is payable for four years;

(iv) if the eligible employee is 64 or 65 years of age on the date of disability, the monthly disability benefit is payable for three years;

(v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the monthly disability benefit is payable for two years; and

(vi) if the eligible employee is 69 years of age or older on the date of disability, the monthly disability benefit is payable for one year.

(2) (a) Upon termination of a monthly disability benefit, an eligible employee eligible for service credit under a system may retire under the requirements of the system which covered the eligible employee on the date of disability.

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

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

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

(5) An eligible employee covered by this chapter who is a participant in the Tier II Defined Contribution Plan, created in Chapter 22, Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II Defined Contribution Plan, who applies and is qualified for a monthly disability benefit, shall receive a monthly disability benefit until the earlier of:

(a) the date of the eligible employee's death;

(b) the date the eligible employee no longer has a disability;

(c) (i) 35 years from the date the eligible employee began participation in the Tier II

## HB0024S01 compared with HB0024

Defined Contribution Plan, created in Chapter 22, Part 4, Tier II Defined Contribution Plan; or

(ii) 25 years from the date the eligible employee began participation in the Tier II

Defined Contribution Plan created in Chapter 23, Part 4, Tier II Defined Contribution Plan; or

(d) the date the eligible employee has received a monthly disability benefit for the following applicable time periods:

(i) if the eligible employee is under age 60, the monthly disability benefit is payable until age 65;

(ii) if the eligible employee is 60 or 61 years of age on the date of disability, the monthly disability benefit is payable for five years;

(iii) if the eligible employee is 62 or 63 years of age on the date of disability, the monthly disability benefit is payable for four years;

(iv) if the eligible employee is 64 or 65 years of age on the date of disability, the monthly disability benefit is payable for three years;

(v) if the eligible employee is 66, 67, or 68 years of age on the date of disability, the monthly disability benefit is payable for two years; and

(vi) if the eligible employee is 69 years of age or older on the date of disability, the monthly disability benefit is payable for one year.

Section ~~{12}~~16. Section **49-22-203** is amended to read:

### **49-22-203. Exclusions from membership in system.**

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

~~[(1) An]~~ (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~~[, provided that:]~~:

~~[(a) if the term of employment 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; and]~~

~~[(b) if an employee, previously terminated prior to becoming eligible for service credit in this system, is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify to the office that the member is a regular full-time employee when the total of the periods of employment equals six months and~~

## HB0024S01 compared with HB0024

~~the employee otherwise qualifies for service credit in this system.~~

~~[(2) (a) ~~{}~~ A current or future] ~~{ An}~~~~

(b) except as provided under Subsection (3), an employee of an institution of higher education who ~~[holds, or is entitled to hold, under Section 49-22-204, a retirement annuity contract]~~ participates in a retirement system with the Teachers' Insurance and Annuity Association of America or with any other public or private retirement system, organization, or company during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer~~[-];~~

~~[(b) The employee, upon cessation of the participating employer contributions, shall immediately become ~~{}~~ eligible ~~{}~~ ineligible] for service credit in this system.~~

~~[(3) An] (c) an~~ employee serving as an exchange employee from outside the state~~[-]; or~~

~~[(4) An] (d) an~~ employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

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

Section ~~{13}~~17. 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

## HB0024S01 compared with HB0024

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 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 (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 Subsection (3)(c), the total amount contributed by the participating employer under Subsection (2)(a) vests to the member upon accruing four years 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) Upon filing a written request for exemption with the office, the following employees are exempt from the vesting requirements of Subsection (3)(a):

- (i) an executive department head of the state;
- (ii) a member of the State Tax Commission;
- (iii) a member of the Public Service Commission;
- (iv) an employee of the Governor's Office of Planning and Budget;
- (v) an employee of the Governor's Office of Economic Development;
- (vi) an employee of the Commission on Criminal and Juvenile Justice;
- (vii) an employee of the Governor's Office;
- (viii) an employee of the State Auditor's Office;
- (ix) an employee of the State Treasurer's Office;
- (x) a person appointed as a city manager or appointed as a city administrator or another

## HB0024S01 compared with HB0024

at-will employee of a municipality, county, or other political subdivision;

(xi) 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

(xii) an employee of the Utah Science Technology and Research Initiative created under Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.

(d) (i) A participating employer shall prepare a list designating those positions eligible for exemption under Subsection (3)(c).

(ii) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (3)(c).

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

(A) elects to be exempt in accordance with Subsection (3)(c); and

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

(ii) 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:

(A) elects to be exempt in accordance with Subsection (3)(c); and

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

~~(f)~~ (f) (i) In accordance with this section, a municipality, county, or political subdivision may not exempt more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision, whichever is less.

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

~~(g)~~ (g) Each participating employer shall:

(i) file each employee exemption annually with the office; and

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

~~(g)~~ (h) (i) The office shall make rules to implement this Subsection (3).

## HB0024S01 compared with HB0024

(ii) The rules made under Subsection [~~(3)(g)(i)~~] (3)(h)(i) shall include provisions to allow the exemption provided under Subsection (3)(c) 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.

(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

## HB0024S01 compared with HB0024

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 qualified 401(k) plan under Subsection (2) any relevant information pertaining to the maintenance of its tax qualification under the Internal Revenue Code.

(9) 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 18. Section 49-22-501 is amended to read:

**49-22-501. Death benefit~~{ by means of group insurance policy}~~ -- Eligibility for death benefit -- Benefit calculation -- Payment of claim.**

(1) The office shall provide a death benefit ~~[through the purchase of a group insurance policy]~~ for members of this system.

(2) The board shall make rules to administer the death benefit provided by this section and may, in accordance with federal law, establish:

- (a) benefit levels;
- (b) classes of members; and
- (c) a living benefit option.

(3) This death benefit is payable when:

(a) the member dies prior to the member's retirement date or dies under circumstances which Subsection 49-22-305(4) requires to be treated as the death of a member before retirement;

- (b) the office receives acceptable proof of death; and
- (c) benefits are not payable under Section 49-22-307.

(4) The death benefit payable to the beneficiary under this section is a lump-sum payment consisting of:

- (a) the return of any member contributions under this chapter; plus
- (b) a percentage of the final average salary of the member to be determined by the board.

(5) Any amount of a living benefit option paid to the member prior to death shall be deducted from the benefit payable to the beneficiary.

(6) The cost of the death benefit shall be paid by the participating employer in addition

## HB0024S01 compared with HB0024

to the contribution rate established under Section 49-22-301 or 49-22-401.

(7) The portion of the death benefit provided under Subsection (4)(b) may not be paid to the beneficiary of an inactive member unless the death of the member occurs either:

(a) within a period of 120 days after the last day of work for which the person received compensation; or

(b) while the member is still physically or mentally incapacitated from performance of duties, if the incapacity has been continuous since the last day of work for which compensation was received.

(8) The death benefit provided under Subsection (4)(b) shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(9) The death benefit paid to the beneficiary of an inactive member, except as otherwise provided under Subsection (7), is a lump-sum return of the member's member contributions.

(10) Payment of the death benefit by the office constitutes a full settlement of any beneficiary's claim against the office and the office is not liable for any further or additional claims or assessments on behalf of the member.

(11) Unless otherwise specified in a written document filed with the office, death benefits payable to beneficiaries shall be in accordance with the order of precedence established under Title 75, Chapter 2, Intestate Succession and Wills.

(12) A death benefit under this section may not be paid on behalf of a retiree under this system.

Section ~~{14}~~19. Section **49-23-401** is amended to read:

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

(1) Up to the amount allowed by federal law, the participating employer shall make a nonelective contribution of 12% of the participant's compensation to a defined contribution plan.

(2) (a) The participating employer shall contribute the 12% nonelective contribution described in Subsection (1) 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.



## HB0024S01 compared with HB0024

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan which 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 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) Upon filing a written request for exemption with the office, the following employees are exempt from the vesting requirements of Subsection (3)(a) if the employee is a public safety service employee and is:

(i) an executive department head of the state;

(ii) an elected or appointed sheriff of a county; or

(iii) an elected or appointed chief of police of a municipality.

(d) (i) A participating employer shall prepare a list designating those positions eligible for exemption under Subsection (3)(c).

(ii) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (3)(c).

(e) (i) All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-23-302(3)(a) until the one-year election period under Subsection 49-23-201(2)(c) is expired if the employee:

(A) elects to be exempt in accordance with Subsection (3)(c); and

(B) continues employment with the participating employer through the one-year election period under Subsection 49-23-201(2)(c).

(ii) 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:

## HB0024S01 compared with HB0024

(A) elects to be exempt in accordance with Subsection (3)(c); and

(B) terminates employment prior to the one-year election period under Subsection 49-23-201(2)(c).

~~(e)~~ (f) Each participating employer shall:

(i) file each employee exemption annually with the office; and

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

~~(f)~~ (g) (i) The office shall make rules to implement this Subsection (3).

(ii) The rules made under Subsection ~~[(3)(f)(i)]~~ (3)(g)(i) shall include provisions to allow the exemption provided under Subsection (3)(c) 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.

(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, ~~f~~ 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:

## HB0024S01 compared with HB0024

(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 of employer contributions made under this section.

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

(9) 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.

†

### Legislative Review Note

— as of ~~10-22-12 10:06 AM~~

— ~~Office of Legislative Research and General Counsel;~~ Section 20. Section 49-23-501 is amended to read:

**49-23-501. Death benefit -- Eligibility for death benefit -- Benefit calculation -- Payment of claim.**

(1) The office shall provide a death benefit [through the purchase of a group insurance policy] for members of this system.

(2) The board shall make rules to administer the death benefit provided by this section and may, in accordance with federal law, establish:

(a) benefit levels;

(b) classes of members; and

## HB0024S01 compared with HB0024

(c) a living benefit option.

(3) This death benefit is payable when:

(a) the member dies prior to the member's retirement date or dies under circumstances which Subsection 49-23-304(4) requires to be treated as the death of a member before retirement;

(b) the office receives acceptable proof of death; and

(c) benefits are not payable under Section 49-23-306.

(4) The death benefit payable to the beneficiary under this section is a lump-sum payment consisting of:

(a) the return of any member contributions under this chapter; plus

(b) a percentage of the final average salary of the member to be determined by the board.

(5) Any amount of a living benefit option paid to the member prior to death shall be deducted from the benefit payable to the beneficiary.

(6) The cost of the death benefit shall be paid by the participating employer in addition to the contribution rate established under Section 49-23-301 or 49-23-401.

(7) The portion of the death benefit provided under Subsection (4)(b) may not be paid to the beneficiary of an inactive member unless the death of the member occurs either:

(a) within a period of 120 days after the last day of work for which the person received compensation; or

(b) while the member is still physically or mentally incapacitated from performance of duties, if the incapacity has been continuous since the last day of work for which compensation was received.

(8) The death benefit provided under Subsection (4)(b) shall be paid in accordance with Sections 49-11-609 and 49-11-610.

(9) The death benefit paid to the beneficiary of an inactive member, except as otherwise provided under Subsection (7), is a lump-sum return of the member's member contributions.

(10) Payment of the death benefit by the office constitutes a full settlement of any beneficiary's claim against the office and the office is not liable for any further or additional claims or assessments on behalf of the member.

## **HB0024S01 compared with HB0024**

(11) Unless otherwise specified in a written document filed with the office, death benefits payable to beneficiaries shall be in accordance with the order of precedence established under Title 75, Chapter 2, Intestate Succession and Wills.

(12) A death benefit under this section may not be paid on behalf of a retiree under this system.