

1                                   **RETIREMENT SYSTEMS AMENDMENTS**

2   2018 GENERAL SESSION

3   STATE OF UTAH

4   **Chief Sponsor: Jefferson Moss**

5   Senate Sponsor: Daniel Hemmert

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies the Utah State Retirement and Insurance Benefit Act by amending  
10 retirement and insurance provisions.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ clarifies that the Utah State Retirement Investment Fund may sue and be sued in its  
14 own name;
- 15           ▶ requires a participating employer to provide certain records to the Utah Retirement  
16 Systems or its independent auditors;
- 17           ▶ modifies when a domestic relations order must be received by the Utah Retirement  
18 Systems to be valid for determining benefits following a member's death;
- 19           ▶ modifies cancellation, reinstatement, and calculation provisions for a retiree's  
20 retirement allowance affected by reemployment;
- 21           ▶ requires a participating employer to maintain a list of employee exemptions instead  
22 of filing it annually with the Utah Retirement Systems; and
- 23           ▶ makes technical changes.

24 **Money Appropriated in this Bill:**

25           None

26 **Other Special Clauses:**

27           This bill provides a special effective date.

28 **Utah Code Sections Affected:**

29 AMENDS:

30           **49-11-103**, as renumbered and amended by Laws of Utah 2002, Chapter 250  
31           **49-11-301**, as last amended by Laws of Utah 2016, Chapter 304  
32           **49-11-604**, as last amended by Laws of Utah 2003, Chapter 240  
33           **49-11-612**, as last amended by Laws of Utah 2015, Chapter 243  
34           **49-11-1204**, as enacted by Laws of Utah 2016, Chapter 310  
35           **49-12-203**, as last amended by Laws of Utah 2017, Chapters 20, 363 and last amended  
36 by Coordination Clause, Laws of Utah 2017, Chapter 382  
37           **49-13-203**, as last amended by Laws of Utah 2017, Chapters 20, 363 and last amended  
38 by Coordination Clause, Laws of Utah 2017, Chapter 382  
39           **49-14-501**, as last amended by Laws of Utah 2016, Chapter 84  
40           **49-15-501**, as last amended by Laws of Utah 2016, Chapter 84  
41           **49-22-205**, as last amended by Laws of Utah 2016, Chapter 227

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

44           Section 1. Section **49-11-103** is amended to read:

45           **49-11-103. Purpose -- Liberal construction.**

46           (1) The purpose of this title is to establish:

47           (a) retirement systems and the Utah Governors' and Legislators' Retirement Plan for  
48 members which provide:

- 49           (i) a uniform system of membership;
- 50           (ii) retirement requirements;
- 51           (iii) benefits for members;
- 52           (iv) funding on an actuarially sound basis;
- 53           (v) contributions; and
- 54           (vi) economy and efficiency in public service; and

55           (b) a central administrative office and a board to administer the various systems, plans,  
56 and programs established by the Legislature or the board.

57           (2) This title shall be liberally construed to provide maximum benefits and protections

58 consistent with sound fiduciary and actuarial [~~principals~~] principles.

59 Section 2. Section **49-11-301** is amended to read:

60 **49-11-301. Creation -- Board to act as trustees of the fund -- Commingling and**  
61 **pooling of funds -- Interest earnings -- Funded ratio.**

62 (1) (a) There is created a common trust fund known as the "Utah State Retirement  
63 Investment Fund" for the purpose of enlarging the investment base and simplifying investment  
64 procedures and functions.

65 (b) The Utah State Retirement Investment Fund may sue and be sued in its own name.

66 (2) (a) The board shall act as trustees of the Utah State Retirement Investment Fund  
67 and, through the executive director, may commingle and pool the funds and investments of any  
68 system, plan, or program into the Utah State Retirement Investment Fund, if the principal  
69 amounts of the participating funds do not lose their individual identity and are maintained as  
70 separate trust funds on the books of the office.

71 (b) (i) In combining the investments of any fund, each of the participating funds shall  
72 be credited initially with its share of the total assets transferred to the Utah State Retirement  
73 Investment Fund.

74 (ii) The value of the transferred assets shall be calculated in accordance with generally  
75 accepted accounting principles.

76 (c) Subsequent transfers of additional capital from participating funds shall be credited  
77 similarly to its respective trust account.

78 (d) The income or principal or equity credit belonging to one participating fund may  
79 not be transferred to another, except for the purpose of:

80 (i) actuarially recommended transfers in order to adjust employer contribution rates for  
81 an employer that participates in both contributory and noncontributory systems; or

82 (ii) transfers which reflect the value of service credit accrued in different systems  
83 during a member's career.

84 (3) The assets of the funds are for the exclusive benefit of the members, participants,  
85 and covered individuals and may not be diverted or appropriated for any purpose other than

86 that permitted by this title.

87 (4) (a) Interest and other earnings shall be credited to each participating fund on a pro  
88 rata equity position basis.

89 (b) (i) A portion of the interest and other earnings of the common trust fund may be  
90 credited to a reserve account within the Utah State Retirement Investment Fund to meet  
91 adverse experiences arising from investments or other contingencies.

92 (ii) Each participating fund shall retain its proportionate equity in the reserve account.

93 (5) (a) The actuarial funded ratio of the systems may reach and be maintained at 110%,  
94 as determined by the board's actuary using assumptions adopted by the board, before the board  
95 is required to certify a decrease in contribution rates.

96 (b) Except as provided in Subsection (6), the board may not increase contribution rates  
97 to attain an actuarial funded ratio greater than 100%.

98 (6) (a) The cost of any amendment to this title shall be included in the final  
99 contribution rates adopted and certified by the board in accordance with Subsections  
100 49-11-102(14) and 49-11-203(1)(l).

101 (b) If a preliminary certified contribution rate approved by the board prior to an annual  
102 general session or special session of the Legislature was maintained at a previous year's level  
103 that is higher than the contribution rate calculated by the board's actuary for that year in  
104 accordance with Subsection (5)(a), the board's final certified contribution rate shall be the sum  
105 of the actuarially determined costs from any amendment to this title during the general session  
106 or special session and the preliminary certified contribution rate.

107 Section 3. Section 49-11-604 is amended to read:

108 **49-11-604. Office audits of participating employers -- Penalties for failure to**  
109 **comply.**

110 (1) (a) The office may perform an on-site compliance [~~audits~~] audit of a participating  
111 [~~employers~~] employer to determine compliance with reporting, contribution, and certification  
112 requirements under this title.

113 (b) The office or its independent auditor may perform an on-site compliance audit of a

114 participating employer or request records to be provided by the participating employer,  
115 including records required to complete:  
116 (i) audited financial statements;  
117 (ii) schedules of employer allocations and pension reporting in accordance with  
118 Governmental Accounting Standards Board statements; and  
119 (iii) service organizational controls reports.

120 ~~(b)~~ (c) The office may request records to be provided by the participating employer at  
121 the time of the audit.

122 ~~(c)~~ (d) Audits shall be conducted at the sole discretion of the office after reasonable  
123 notice to the participating employer of at least five working days.

124 ~~(d)~~ (e) The participating employer shall extract and provide records as requested by  
125 the office in an appropriate, organized, and usable format.

126 ~~(e)~~ (f) Failure of a participating employer to allow access, provide records, or comply  
127 in any way with an office audit shall result in the participating employer being liable to the  
128 office for:

129 (i) any liabilities and expenses, including administrative expenses and travel expenses,  
130 resulting from the participating employer's failure to comply with the audit; and

131 (ii) a penalty equal to 1% of the participating employer's last month's contributions.

132 (2) If the audit reveals a participating employer's failure to make contributions as  
133 required under Section 49-11-601, a failure to maintain records as required under Section  
134 49-11-602, or a failure to correctly report or certify eligibility as required under Section  
135 49-11-603, the participating employer shall reimburse the office for the cost of the audit.

136 (3) If the audit reveals that an incorrect benefit has been paid by the office to a  
137 member, participant, alternate payee, or beneficiary due to a participating employer's failure to  
138 comply with the requirements of Section 49-11-601, 49-11-602, or 49-11-603, in addition to  
139 the liabilities contained in Subsection (2), the participating employer shall be liable to the  
140 office for the following:

141 (a) the actuarial cost of correcting the incorrect benefit; and

142 (b) administrative expenses.

143 (4) The executive director may waive all or any part of the interest, penalties, expenses,  
144 and fees if the executive director finds there were extenuating circumstances surrounding the  
145 participating employer's failure to comply with this section.

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

147 **49-11-612. Domestic relations order benefits -- Nonassignability of benefits or**  
148 **payments -- Exemption from legal process.**

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

150 (a) an allowance;

151 (b) a defined contribution account established under:

152 (i) Part 8, Defined Contribution Plans;

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

154 (iii) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement

155 Act;

156 (c) a continuing monthly death benefit established under:

157 (i) Chapter 14, Part 5, Death Benefit;

158 (ii) Chapter 15, Part 5, Death Benefit;

159 (iii) Chapter 16, Part 5, Death Benefit;

160 (iv) Chapter 17, Part 5, Death Benefit;

161 (v) Chapter 18, Part 5, Death Benefit; or

162 (vi) Chapter 19, Part 5, Death Benefit;

163 (d) a lump sum death benefit provided under:

164 (i) Chapter 12, Part 5, Death Benefit;

165 (ii) Chapter 13, Part 5, Death Benefit;

166 (iii) Chapter 22, Part 5, Death Benefit; or

167 (iv) Chapter 23, Part 5, Death Benefit; or

168 (e) a refund of member contributions upon termination.

169 (2) Except as provided in Subsections (3), (4), and (5), the right of any member, retiree,

170 participant, covered individual, or beneficiary to any retirement benefit, retirement payment, or  
171 any other retirement right accrued or accruing under this title and the assets of the funds created  
172 by this title are not subject to alienation or assignment by the member, retiree, participant, or  
173 their beneficiaries and are not subject to attachment, execution, garnishment, or any other legal  
174 or equitable process.

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

178 (b) The office may, upon the request of a retiree of a public safety or firefighter system,  
179 deduct insurance premiums from the retiree's allowance.

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

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

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

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

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

192 (iii) the alternate payee shall receive payments in the same form as allowances received  
193 by the member or beneficiary.

194 (d) (i) ~~[To]~~ Except as provided under Subsection (4)(d)(ii), to be valid, a court order  
195 under this section must be [received by the office within 12 months of the death of the  
196 member] on file with the office before the member's date of death.

197 (ii) A court order under this section received by the office after the member's date of

198 death shall be considered valid if it is received in good order before benefits relating to the  
199 member's death are paid or settled.

200 (e) A court order under this section may not require and may not be interpreted in any  
201 way to require the office to provide any type of benefit or any option not otherwise provided  
202 under this title.

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

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

208 Section 5. Section **49-11-1204** is amended to read:

209 **49-11-1204. General restrictions -- Election following one-year separation --**  
210 **Amortization rate.**

211 (1) A retiree may not for the same period of reemployment:

- 212 (a) (i) earn additional service credit; or
- 213 (ii) receive any retirement related contribution from a participating employer; and
- 214 (b) receive a retirement allowance.

215 (2) Except as provided under Section [49-11-1205](#), the office shall cancel the retirement  
216 allowance of a retiree if the reemployment with a participating employer begins within one year  
217 of the retiree's retirement date.

218 (3) If a reemployed retiree has completed the one-year separation from employment  
219 with a participating employer required under Subsection (2), the retiree may elect to:

- 220 (a) cancel the retiree's retirement allowance and instead earn additional service credit in  
221 accordance with this title; or
- 222 (b) continue to receive the retiree's retirement allowance, forfeit earning additional  
223 service credit, and forfeit any retirement-related contribution from the participating employer  
224 that reemployed the retiree.

225 (4) (a) ~~[If the office receives notice of the election of a reemployed retiree under~~



226 ~~Subsection (3)(a), the office shall immediately cancel the retiree's retirement allowance.~~(b) (i)  
 227 ~~If the retiree under Subsection (4)(a)]~~ If a retiree's retirement allowance is cancelled and the  
 228 retiree is eligible for retirement coverage in [~~the~~] a reemployed position, the office shall  
 229 reinstate the retiree to active member status on the first day of the month following the date of  
 230 the employee's [~~election~~] eligible reemployment.

231        [(ii)] (b) Except as provided under Subsection (4)(c), if the retiree is not otherwise  
 232 eligible for retirement coverage in the reemployed position, the participating employer that  
 233 reemploys the retiree shall contribute the amortization rate to the office on behalf of the retiree.

234        (c) A participating employer that reemploys a retiree in accordance with Subsection  
 235 49-11-1205(1) is not required to contribute the amortization rate to the office.

236        (5) (a) For a retiree under Subsection (4)[~~(b)~~](a) who retires within two years from the  
 237 date of reemployment, the office:

- 238        (i) may not recalculate a retirement benefit for the retiree; and
- 239        (ii) shall resume the allowance that was being paid to the retiree at the time of the
- 240 cancellation.

241        (b) Subject to Subsection (1), for a retiree who is reinstated to active membership  
 242 under Subsection (4)[~~(b)~~](a) and retires two or more years after the date of reinstatement to  
 243 active membership, the office shall:

- 244        (i) resume the allowance that was being paid at the time of cancellation; and
- 245        (ii) calculate an additional allowance for the retiree based on the formula in effect at
- 246 the date of the subsequent retirement for all service credit accrued between the first and
- 247 subsequent retirement dates.

248        Section 6. Section **49-12-203** is amended to read:

249        **49-12-203. Exclusions from membership in system.**

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

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

253        (b) except as provided under Subsection (3)(a), an employee of an institution of higher

254 education who participates in a retirement system with a public or private retirement system,  
255 organization, or company designated by the State Board of Regents, or the Board of Directors  
256 of each technical college for an employee of each technical college, during any period in which  
257 required contributions based on compensation have been paid on behalf of the employee by the  
258 employer;

259 (c) an employee serving as an exchange employee from outside the state;

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

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

265 (f) an employee who is employed on or after July 1, 2009, with an employer that has  
266 elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection  
267 [49-12-202\(2\)\(c\)](#);

268 (g) an employee who is employed on or after July 1, 2014, with an employer that has  
269 elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection  
270 [49-12-202\(2\)\(d\)](#);

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

273 (i) new employees from participation in this system under Subsection [49-11-623\(3\)\(a\)](#);

274 or

275 (ii) all employees from participation in this system under Subsection [49-11-623\(3\)\(b\)](#);

276 or

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

280 (i) new employees from participation in this system under Subsection [49-11-624\(3\)\(a\)](#);

281 or

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

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

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

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

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

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

299 (c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service  
300 credit earned by an employee under this chapter before July 1, 2014, is not affected under  
301 Subsection (1)(g).

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

304 (a) a full-time student or the spouse of a full-time student and individuals employed in  
305 a trainee relationship;

306 (b) an elected official;

307 (c) an executive department head of the state, a member of the State Tax Commission,  
308 a member of the Public Service Commission, and a member of a full-time or part-time board or  
309 commission;

- 310 (d) an employee of the Governor's Office of Management and Budget;
- 311 (e) an employee of the Governor's Office of Economic Development;
- 312 (f) an employee of the Commission on Criminal and Juvenile Justice;
- 313 (g) an employee of the Governor's Office;
- 314 (h) an employee of the State Auditor's Office;
- 315 (i) an employee of the State Treasurer's Office;
- 316 (j) any other member who is permitted to make an election under Section 49-11-406;
- 317 (k) a person appointed as a city manager or chief city administrator or another person
- 318 employed by a municipality, county, or other political subdivision, who is an at-will employee;
- 319 and

320 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,  
321 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through  
322 membership in a labor organization that provides retirement benefits to its members.

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

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

327 (6) (a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a  
328 municipality, county, or political subdivision may not exempt a total of more than 50 positions  
329 or a number equal to 10% of the eligible employees of the municipality, county, or political  
330 subdivision, whichever is less.

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

333 (7) Each participating employer shall:

334 (a) ~~[file]~~ maintain a list of employee exemptions ~~[annually with the office]~~; and

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

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

337 Section 7. Section **49-13-203** is amended to read:

338 **49-13-203. Exclusions from membership in system.**

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

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

342 (b) except as provided under Subsection (3)(a), an employee of an institution of higher  
343 education who participates in a retirement system with a public or private retirement system,  
344 organization, or company designated by the State Board of Regents, or the Board of Directors  
345 of each technical college for an employee of each technical college, during any period in which  
346 required contributions based on compensation have been paid on behalf of the employee by the  
347 employer;

348 (c) an employee serving as an exchange employee from outside the state;

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

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

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

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

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

361 or

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

363 or

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

366 exclude:

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

368 or

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

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

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

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

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

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

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

388 (a) a full-time student or the spouse of a full-time student and individuals employed in  
389 a trainee relationship;

390 (b) an elected official;

391 (c) an executive department head of the state, a member of the State Tax Commission,  
392 a member of the Public Service Commission, and a member of a full-time or part-time board or  
393 commission;

- 394 (d) an employee of the Governor's Office of Management and Budget;
- 395 (e) an employee of the Governor's Office of Economic Development;
- 396 (f) an employee of the Commission on Criminal and Juvenile Justice;
- 397 (g) an employee of the Governor's Office;
- 398 (h) an employee of the State Auditor's Office;
- 399 (i) an employee of the State Treasurer's Office;
- 400 (j) any other member who is permitted to make an election under Section 49-11-406;
- 401 (k) a person appointed as a city manager or chief city administrator or another person
- 402 employed by a municipality, county, or other political subdivision, who is an at-will employee;
- 403 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
- 404 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through
- 405 membership in a labor organization that provides retirement benefits to its members; and
- 406 (m) an employee of the Utah Science Technology and Research Initiative created under
- 407 Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.
- 408 (5) (a) Each participating employer shall prepare and maintain a list designating those
- 409 positions eligible for exemption under Subsection (4).
- 410 (b) An employee may not be exempted unless the employee is employed in a position
- 411 designated by the participating employer.
- 412 (6) (a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a
- 413 municipality, county, or political subdivision may not exempt a total of more than 50 positions
- 414 or a number equal to 10% of the eligible employees of the municipality, county, or political
- 415 subdivision, whichever is less.
- 416 (b) A municipality, county, or political subdivision may exempt at least one regular
- 417 full-time employee.
- 418 (7) Each participating employer shall:
- 419 (a) ~~[file]~~ maintain a list of employee exemptions ~~[annually with the office]~~; and
- 420 (b) update the employee exemptions in the event of any change.
- 421 (8) The office may make rules to implement this section.

422 Section 8. Section **49-14-501** is amended to read:

423 **49-14-501. Death of active member in Division A -- Payment of benefits.**

424 (1) If an active member of this system enrolled in Division A under Section **49-14-301**  
425 dies, benefits are payable as follows:

426 (a) If the death is classified by the office as a line-of-duty death, the surviving spouse  
427 shall receive a lump sum equal to six months of the active member's final average salary and an  
428 allowance equal to 30% of the deceased member's final average monthly salary.

429 (b) If the death is not classified by the office as a line-of-duty death, benefits are  
430 payable as follows:

431 (i) If the member has accrued less than 10 years of public safety service credit, the  
432 [~~beneficiary~~] surviving spouse shall receive the sum of \$1,000 or a refund of the member's  
433 member contributions, whichever is greater.

434 (ii) If the member has accrued 10 or more years of public safety service credit at the  
435 time of death, the surviving spouse shall receive the sum of \$500, plus an allowance equal to  
436 2% of the member's final average monthly salary for each year of service credit accrued by the  
437 member up to a maximum of 30% of the member's final average monthly salary.

438 (2) Except as provided under Subsection (1)(b)(i), benefits are not payable to minor  
439 children of members covered under Division A.

440 (3) If a benefit is not distributed under this section, and the member has designated a  
441 beneficiary, the member's member contributions shall be paid to the beneficiary.

442 (4) (a) A surviving spouse who requests a benefit under this section shall apply in  
443 writing to the office.

444 (b) The allowance shall begin on the first day of the month following the month in  
445 which the:

446 (i) member died, if the application is received by the office within 90 days of the  
447 member's death; or

448 (ii) application is received by the office, if the application is received by the office  
449 more than 90 days after the member's death.



450 Section 9. Section **49-15-501** is amended to read:

451 **49-15-501. Death of active member in Division A -- Payment of benefits.**

452 (1) If an active member of this system enrolled in Division A under Section **49-15-301**  
453 dies, benefits are payable as follows:

454 (a) If the death is classified by the office as a line-of-duty death, benefits are payable as  
455 follows:

456 (i) If the member has accrued less than 20 years of public safety service credit, the  
457 surviving spouse shall receive a lump sum equal to six months of the active member's final  
458 average salary and an allowance equal to 30% of the member's final average monthly salary.

459 (ii) If the member has accrued 20 or more years of public safety service credit, the  
460 member shall be considered to have retired with an allowance calculated under Section  
461 **49-15-402** and the surviving spouse shall receive the death benefit payable to a surviving  
462 spouse under Section **49-15-504**.

463 (b) If the death is not classified as a line-of-duty death by the office, benefits are  
464 payable as follows:

465 (i) If the member has accrued less than 10 years of public safety service credit, the  
466 [~~beneficiary~~] surviving spouse shall receive the sum of \$1,000 or a refund of the member's  
467 member contributions, whichever is greater.

468 (ii) If the member has accrued 10 or more years, but less than 20 years of public safety  
469 service credit at the time of death, the surviving spouse shall receive the sum of \$500, plus an  
470 allowance equal to 2% of the member's final average monthly salary for each year of service  
471 credit accrued by the member up to a maximum of 30% of the member's final average monthly  
472 salary.

473 (iii) If the member has accrued 20 or more years of public safety service credit, the  
474 benefit shall be calculated as provided in Subsection (1)(a)(ii).

475 (2) Except as provided under Subsection (1)(b)(i), benefits are not payable to minor  
476 children under Division A.

477 (3) If a benefit is not distributed under this section, and the member has designated a

478 beneficiary, the member's member contribution shall be paid to the beneficiary.

479 (4) (a) A surviving spouse who requests a benefit under this section shall apply in  
480 writing to the office.

481 (b) The allowance shall begin on the first day of the month following the month in  
482 which the:

483 (i) member died, if the application is received by the office within 90 days of the  
484 member's death; or

485 (ii) application is received by the office, if the application is received by the office  
486 more than 90 days after the member's death.

487 Section 10. Section **49-22-205** is amended to read:

488 **49-22-205. Exemptions from participation in system.**

489 (1) Upon filing a written request for exemption with the office, the following  
490 employees are exempt from participation in the system as provided in this section:

491 (a) an executive department head of the state;

492 (b) a member of the State Tax Commission;

493 (c) a member of the Public Service Commission;

494 (d) a member of a full-time or part-time board or commission;

495 (e) an employee of the Governor's Office of Management and Budget;

496 (f) an employee of the Governor's Office of Economic Development;

497 (g) an employee of the Commission on Criminal and Juvenile Justice;

498 (h) an employee of the Governor's Office;

499 (i) an employee of the State Auditor's Office;

500 (j) an employee of the State Treasurer's Office;

501 (k) any other member who is permitted to make an election under Section [49-11-406](#);

502 (l) a person appointed as a city manager or appointed as a city administrator or another  
503 at-will employee of a municipality, county, or other political subdivision;

504 (m) an employee of an interlocal cooperative agency created under Title 11, Chapter  
505 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided

506 through membership in a labor organization that provides retirement benefits to its members;  
507 and

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

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

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

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

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

520 (4) Each participating employer shall:

521 (a) [~~file each employee exemption annually with the office~~] maintain a list of employee  
522 exemptions; and

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

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

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

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

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

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

532 (i) the participating employer shall contribute the nonelective contribution and the  
533 amortization rate described in Section 49-22-401, except that the contribution is exempt from

534 the vesting requirements of Subsection 49-22-401(3)(a);

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

536 (iii) the member is not eligible for additional service credit in the system.

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

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

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

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

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

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

550 (ii) terminates employment prior to the one-year election period under Subsection  
551 49-22-201(2)(c).

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

553 (b) The rules made under this Subsection (8) shall include provisions to allow the  
554 exemption provided under Subsection (1) to apply to all contributions made beginning on or  
555 after July 1, 2011, on behalf of an exempted employee who began the employment before May  
556 8, 2012.

557 Section 11. **Effective date.**

558 If approved by two-thirds of all the members elected to each house, this bill takes effect  
559 upon approval by the governor, or the day following the constitutional time limit of Utah  
560 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,  
561 the date of veto override.

