



28 **Other Special Clauses:**

29 This bill provides a special effective date.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **49-11-103**, as renumbered and amended by Laws of Utah 2002, Chapter 250

33 **49-11-301**, as last amended by Laws of Utah 2016, Chapter 304

34 **49-11-604**, as last amended by Laws of Utah 2003, Chapter 240

35 **49-11-612**, as last amended by Laws of Utah 2015, Chapter 243

36 **49-11-1204**, as enacted by Laws of Utah 2016, Chapter 310

37 **49-12-203**, 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 **49-13-203**, as last amended by Laws of Utah 2017, Chapters 20, 363 and last amended  
40 by Coordination Clause, Laws of Utah 2017, Chapter 382

41 **49-14-501**, as last amended by Laws of Utah 2016, Chapter 84

42 **49-15-501**, as last amended by Laws of Utah 2016, Chapter 84

43 **49-22-205**, as last amended by Laws of Utah 2016, Chapter 227



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

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

47 **49-11-103. Purpose -- Liberal construction.**

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

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

51 (i) a uniform system of membership;

52 (ii) retirement requirements;

53 (iii) benefits for members;

54 (iv) funding on an actuarially sound basis;

55 (v) contributions; and

56 (vi) economy and efficiency in public service; and

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

59 (2) This title shall be liberally construed to provide maximum benefits and protections  
60 consistent with sound fiduciary and actuarial [~~principals~~] principles.

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

62 **49-11-301. Creation -- Board to act as trustees of the fund -- Commingling and**  
63 **pooling of funds -- Interest earnings -- Funded ratio.**

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

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

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

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

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

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

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

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

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

86 (3) The assets of the funds are for the exclusive benefit of the members, participants,  
87 and covered individuals and may not be diverted or appropriated for any purpose other than  
88 that permitted by this title.

89 (4) (a) Interest and other earnings shall be credited to each participating fund on a pro

90 rata equity position basis.

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

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

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

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

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

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

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

110 **49-11-604. Office audits of participating employers -- Penalties for failure to**  
111 **comply.**

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

115 (b) The office or its independent auditor may perform an on-site compliance audit of a  
116 participating employer or request records to be provided by the participating employer,  
117 including records required to complete:

118 (i) audited financial statements;

119 (ii) schedules of employer allocations and pension reporting in accordance with

120 Governmental Accounting Standards Board statements; and

121 (iii) service organizational controls reports.

122 [~~(b)~~] (c) The office may request records to be provided by the participating employer at  
123 the time of the audit.

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

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

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

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

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

134 (2) If the audit reveals a participating employer's failure to make contributions as  
135 required under Section 49-11-601, a failure to maintain records as required under Section  
136 49-11-602, or a failure to correctly report or certify eligibility as required under Section  
137 49-11-603, the participating employer shall reimburse the office for the cost of the audit.

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

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

144 (b) administrative expenses.

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

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

149 **49-11-612. Domestic relations order benefits -- Nonassignability of benefits or**  
150 **payments -- Exemption from legal process.**

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

- 152 (a) an allowance;
- 153 (b) a defined contribution account established under:
  - 154 (i) Part 8, Defined Contribution Plans;
  - 155 (ii) Chapter 22, New Public Employees' Tier II Contributory Retirement Act; or
  - 156 (iii) Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement
  - 157 Act;
- 158 (c) a continuing monthly death benefit established under:
  - 159 (i) Chapter 14, Part 5, Death Benefit;
  - 160 (ii) Chapter 15, Part 5, Death Benefit;
  - 161 (iii) Chapter 16, Part 5, Death Benefit;
  - 162 (iv) Chapter 17, Part 5, Death Benefit;
  - 163 (v) Chapter 18, Part 5, Death Benefit; or
  - 164 (vi) Chapter 19, Part 5, Death Benefit;
- 165 (d) a lump sum death benefit provided under:
  - 166 (i) Chapter 12, Part 5, Death Benefit;
  - 167 (ii) Chapter 13, Part 5, Death Benefit;
  - 168 (iii) Chapter 22, Part 5, Death Benefit; or
  - 169 (iv) Chapter 23, Part 5, Death Benefit; or
- 170 (e) a refund of member contributions upon termination.
- 171 (2) Except as provided in Subsections (3), (4), and (5), the right of any member, retiree,
- 172 participant, covered individual, or beneficiary to any retirement benefit, retirement payment, or
- 173 any other retirement right accrued or accruing under this title and the assets of the funds created
- 174 by this title are not subject to alienation or assignment by the member, retiree, participant, or
- 175 their beneficiaries and are not subject to attachment, execution, garnishment, or any other legal
- 176 or equitable process.
- 177 (3) (a) The office may, upon the request of the retiree, deduct from the retiree's
- 178 allowance, insurance premiums or other dues payable on behalf of the retiree, but only to those
- 179 entities that have received the deductions prior to February 1, 2002.
- 180 (b) The office may, upon the request of a retiree of a public safety or firefighter system,
- 181 deduct insurance premiums from the retiree's allowance.
- 182 (4) (a) The office shall provide for the division of domestic relations order benefits

183 with former spouses and family members under an order of a court of competent jurisdiction  
184 with respect to domestic relations matters on file with the office.

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

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

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

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

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

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

199 (ii) A court order under this section received by the office after the member's date of  
200 death shall be considered valid if it is received in good order before benefits relating to the  
201 member's death are paid or settled.

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

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

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

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

211 **49-11-1204. General restrictions -- Election following one-year separation --**  
212 **Amortization rate.**

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

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

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

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

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

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

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

236 (c) A participating employer that reemploys a retiree in accordance with Subsection  
 237 49-11-1205(1) is not required to contribute the amortization rate to the office.

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

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

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



245 active membership, the office shall:

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

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

251 **49-12-203. Exclusions from membership in system.**

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

- 253 (a) subject to the requirements of Subsection (2), an employee whose employment  
254 status is temporary in nature due to the nature or the type of work to be performed;
- 255 (b) except as provided under Subsection (3)(a), an employee of an institution of higher  
256 education who participates in a retirement system with a public or private retirement system,  
257 organization, or company designated by the State Board of Regents, or the Board of Directors  
258 of each technical college for an employee of each technical college, during any period in which  
259 required contributions based on compensation have been paid on behalf of the employee by the  
260 employer;
- 261 (c) an employee serving as an exchange employee from outside the state;
- 262 (d) an executive department head of the state, a member of the State Tax Commission,  
263 the Public Service Commission, and a member of a full-time or part-time board or commission  
264 who files a formal request for exemption;
- 265 (e) an employee of the Department of Workforce Services who is covered under  
266 another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;
- 267 (f) an employee who is employed on or after July 1, 2009, with an employer that has  
268 elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection  
269 [49-12-202\(2\)\(c\)](#);
- 270 (g) an employee who is employed on or after July 1, 2014, with an employer that has  
271 elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection  
272 [49-12-202\(2\)\(d\)](#);
- 273 (h) an employee who is employed with a withdrawing entity that has elected under  
274 Section [49-11-623](#), prior to January 1, 2017, to exclude:
- 275 (i) new employees from participation in this system under Subsection [49-11-623\(3\)\(a\)](#);

276 or

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

278 or

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

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

283 or

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

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

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

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

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

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

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

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

306 (a) a full-time student or the spouse of a full-time student and individuals employed in

- 307 a trainee relationship;
- 308 (b) an elected official;
- 309 (c) an executive department head of the state, a member of the State Tax Commission,
- 310 a member of the Public Service Commission, and a member of a full-time or part-time board or
- 311 commission;
- 312 (d) an employee of the Governor's Office of Management and Budget;
- 313 (e) an employee of the Governor's Office of Economic Development;
- 314 (f) an employee of the Commission on Criminal and Juvenile Justice;
- 315 (g) an employee of the Governor's Office;
- 316 (h) an employee of the State Auditor's Office;
- 317 (i) an employee of the State Treasurer's Office;
- 318 (j) any other member who is permitted to make an election under Section 49-11-406;
- 319 (k) a person appointed as a city manager or chief city administrator or another person
- 320 employed by a municipality, county, or other political subdivision, who is an at-will employee;
- 321 and
- 322 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,
- 323 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through
- 324 membership in a labor organization that provides retirement benefits to its members.
- 325 (5) (a) Each participating employer shall prepare and maintain a list designating those
- 326 positions eligible for exemption under Subsection (4).
- 327 (b) An employee may not be exempted unless the employee is employed in an
- 328 exempted position designated by the participating employer.
- 329 (6) (a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a
- 330 municipality, county, or political subdivision may not exempt a total of more than 50 positions
- 331 or a number equal to 10% of the eligible employees of the municipality, county, or political
- 332 subdivision, whichever is less.
- 333 (b) A municipality, county, or political subdivision may exempt at least one regular
- 334 full-time employee.
- 335 (7) Each participating employer shall:
- 336 (a) ~~[file]~~ maintain a list of employee exemptions ~~[annually with the office]~~; and
- 337 (b) update the employee exemptions in the event of any change.

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

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

340 **49-13-203. Exclusions from membership in system.**

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

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

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

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

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

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

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

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

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

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

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

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

370 or

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

372 (2) If an employee whose status is temporary in nature due to the nature of type of

373 work to be performed:

374 (a) is employed for a term that exceeds six months and the employee otherwise  
375 qualifies for service credit in this system, the participating employer shall report and certify to

376 the office that the employee is a regular full-time employee effective the beginning of the

377 seventh month of employment; or

378 (b) was previously terminated prior to being eligible for service credit in this system  
379 and is reemployed within three months of termination by the same participating employer, the

380 participating employer shall report and certify that the member is a regular full-time employee  
381 when the total of the periods of employment equals six months and the employee otherwise

382 qualifies for service credits in this system.

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

385 (b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service  
386 credit earned by an employee under this chapter before the date of the election under

387 Subsection 49-13-202(5) is not affected under Subsection (1)(f).

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

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

392 (b) an elected official;

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

395 commission;

396 (d) an employee of the Governor's Office of Management and Budget;

397 (e) an employee of the Governor's Office of Economic Development;

398 (f) an employee of the Commission on Criminal and Juvenile Justice;

399 (g) an employee of the Governor's Office;

- 400 (h) an employee of the State Auditor's Office;
- 401 (i) an employee of the State Treasurer's Office;
- 402 (j) any other member who is permitted to make an election under Section 49-11-406;
- 403 (k) a person appointed as a city manager or chief city administrator or another person  
404 employed by a municipality, county, or other political subdivision, who is an at-will employee;
- 405 (l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13,  
406 Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through  
407 membership in a labor organization that provides retirement benefits to its members; and
- 408 (m) an employee of the Utah Science Technology and Research Initiative created under  
409 Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.
- 410 (5) (a) Each participating employer shall prepare and maintain a list designating those  
411 positions eligible for exemption under Subsection (4).
- 412 (b) An employee may not be exempted unless the employee is employed in a position  
413 designated by the participating employer.
- 414 (6) (a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a  
415 municipality, county, or political subdivision may not exempt a total of more than 50 positions  
416 or a number equal to 10% of the eligible employees of the municipality, county, or political  
417 subdivision, whichever is less.
- 418 (b) A municipality, county, or political subdivision may exempt at least one regular  
419 full-time employee.
- 420 (7) Each participating employer shall:
  - 421 (a) ~~[file]~~ maintain a list of employee exemptions ~~[annually with the office]~~; and
  - 422 (b) update the employee exemptions in the event of any change.
- 423 (8) The office may make rules to implement this section.
- 424 Section 8. Section 49-14-501 is amended to read:  
425 **49-14-501. Death of active member in Division A -- Payment of benefits.**
- 426 (1) If an active member of this system enrolled in Division A under Section 49-14-301  
427 dies, benefits are payable as follows:
  - 428 (a) If the death is classified by the office as a line-of-duty death, the surviving spouse  
429 shall receive a lump sum equal to six months of the active member's final average salary and an  
430 allowance equal to 30% of the deceased member's final average monthly salary.

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

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

436 (ii) If the member has accrued 10 or more years of public safety service credit at the  
437 time of death, the surviving spouse shall receive the sum of \$500, plus an allowance equal to  
438 2% of the member's final average monthly salary for each year of service credit accrued by the  
439 member up to a maximum of 30% of the member's final average monthly salary.

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

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

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

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

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

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

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

453 **49-15-501. Death of active member in Division A -- Payment of benefits.**

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

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

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

461 (ii) If the member has accrued 20 or more years of public safety service credit, the

462 member shall be considered to have retired with an allowance calculated under Section  
463 49-15-402 and the surviving spouse shall receive the death benefit payable to a surviving  
464 spouse under Section 49-15-504.

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

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

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

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

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

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

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

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

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

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

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

490 **49-22-205. Exemptions from participation in system.**

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



- 493 (a) an executive department head of the state;
- 494 (b) a member of the State Tax Commission;
- 495 (c) a member of the Public Service Commission;
- 496 (d) a member of a full-time or part-time board or commission;
- 497 (e) an employee of the Governor's Office of Management and Budget;
- 498 (f) an employee of the Governor's Office of Economic Development;
- 499 (g) an employee of the Commission on Criminal and Juvenile Justice;
- 500 (h) an employee of the Governor's Office;
- 501 (i) an employee of the State Auditor's Office;
- 502 (j) an employee of the State Treasurer's Office;
- 503 (k) any other member who is permitted to make an election under Section 49-11-406;
- 504 (l) a person appointed as a city manager or appointed as a city administrator or another
- 505 at-will employee of a municipality, county, or other political subdivision;
- 506 (m) an employee of an interlocal cooperative agency created under Title 11, Chapter
- 507 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided
- 508 through membership in a labor organization that provides retirement benefits to its members;
- 509 and
- 510 (n) an employee of the Utah Science Technology and Research Initiative created under
- 511 Title 63M, Chapter 2, Utah Science Technology and Research Governing Authority Act.
- 512 (2) (a) A participating employer shall prepare and maintain a list designating those
- 513 positions eligible for exemption under Subsection (1).
- 514 (b) An employee may not be exempted unless the employee is employed in a position
- 515 designated by the participating employer under Subsection (1).
- 516 (3) (a) In accordance with this section, Section 49-12-203, and Section 49-13-203, a
- 517 municipality, county, or political subdivision may not exempt a total of more than 50 positions
- 518 or a number equal to 10% of the eligible employees of the municipality, county, or political
- 519 subdivision, whichever is less.
- 520 (b) A municipality, county, or political subdivision may exempt at least one regular
- 521 full-time employee.
- 522 (4) Each participating employer shall:
- 523 (a) [~~file each employee exemption annually with the office~~] maintain a list of employee

524 exemptions; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

552 (ii) terminates employment prior to the one-year election period under Subsection  
553 49-22-201(2)(c).

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

555 (b) The rules made under this Subsection (8) shall include provisions to allow the  
556 exemption provided under Subsection (1) to apply to all contributions made beginning on or  
557 after July 1, 2011, on behalf of an exempted employee who began the employment before May  
558 8, 2012.

559 Section 11. **Effective date.**

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

---

---

**Legislative Review Note**  
**Office of Legislative Research and General Counsel**