

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

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 [(i)] (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.

