

1 **RETIREMENT DEFERRED COMPENSATION**

2 **EMPLOYER MATCH**

3 2000 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Gene Davis**

6 AN ACT RELATING TO RETIREMENT; AMENDING EMPLOYER CONTRIBUTION TO
7 CERTAIN EMPLOYEES' SUPPLEMENTAL BENEFITS; AND PROVIDING AN EFFECTIVE
8 DATE.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **49-3-302**, as last amended by Chapter 157, Laws of Utah 1992

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

13 Section 1. Section **49-3-302** is amended to read:

14 **49-3-302. Supplemental benefit established -- Deferred compensation plan options**
15 **-- Contribution by employer and employee -- Immediate vesting of contributions -- Plans to**
16 **be separate -- Tax-qualified status of plans.**

17 (1) There is established a supplemental deferred compensation benefit for members of this
18 system.

19 (a) (i) For members of level A under Section 49-3-301, which are participating educational
20 institutions or participating employers whose activities are associated with participating
21 educational institutions, the employer shall contribute on behalf of each of its employees 1.5% of
22 the employee's salary to a deferred compensation plan qualified under Section 401(k) of the
23 Internal Revenue Code which is selected by the employee and which is sponsored by the board,
24 by that level A employer, or by a group of similar level A employers and which has been
25 grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

26 (ii) For all other members of level A under Section 49-3-301, the employer shall contribute
27 on behalf of each of its employees [~~1.5% of the employee's salary~~] to the deferred compensation

28 plan qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the
29 board[-];

30 (A) 1.5% of the employee's salary; and

31 (B) 1% of the employee's salary for each 1% of the employee's salary contributed by the
32 employee up to a maximum employer participation of 4% under this Subsection (1)(a)(ii).

33 (iii) The employee may also make elective contributions to either the qualified 401(k) plan
34 which receives the [~~1.5%~~] employer contribution described in this Subsection [~~(i)~~] (1)(a), or to any
35 other deferred compensation plan qualified under Section 401(k) of the Internal Revenue Code
36 which is selected by the employee and sponsored by the board, that level A employer, or a group
37 of similar level A employers, and which has been grandfathered under Section 1116 of the Federal
38 Tax Reform Act of 1986, but only up to an amount permitted by federal law.

39 (b) (i) For members of level B under Section 49-3-301, the participating employer may
40 contribute on behalf of each of its employees any amount to the deferred compensation plan
41 qualified under Section 401(k) of the Internal Revenue Code which is sponsored by the board.

42 (ii) The employee may also contribute to the same qualified 401(k) plan which the
43 employee selected to receive the employer contribution described in Subsection (1)(b)(i), but only
44 up to an amount permitted by federal law.

45 (c) The employee may not make elective contributions to any other qualified 401(k) plan
46 sponsored by a state or local government.

47 (2) The total amount contributed by the employer under Subsection (1)(a) or (b) vests to
48 the employee's benefit immediately and is nonforfeitable.

49 (3) (a) Each qualified deferred compensation 401(k) plan is separate and distinct from any
50 other qualified deferred compensation 401(k) plan for all purposes including, but not limited to,
51 purposes of fiduciary liability and plan administration.

52 (b) The board may request from any other qualified 401(k) plan under Subsection
53 (1)(a)(iii) any relevant information pertaining to the maintenance of its tax qualification under the
54 Internal Revenue Code and may request indemnification from such other plan to the extent it
55 performs testing functions for that plan.

56 (4) (a) Prior to January 1 of each calendar year, each employee of an employing unit
57 specified in Subsection (1)(a)(i) shall notify the employing unit which qualified deferred
58 compensation 401(k) plan the employee has selected to receive the employer and employee

59 contributions described in Subsections (1)(a) and (b) for that calendar year.

60 **(b)** This election may be changed only in accordance with procedures established by the
61 employing unit.

62 **(c)** Notwithstanding this section, the board may take any action which in its judgment is
63 necessary to maintain the tax-qualified status of its 401(k) deferred compensation plan pursuant
64 to federal law. The board shall submit findings of fact and its conclusions prior to taking any such
65 action.

66 Section 2. **Effective date.**

67 This act takes effect on July 1, 2000.

Legislative Review Note
as of 1-18-00 1:31 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel