

**PUBLIC SAFETY AND FIREFIGHTER TIER II  
RETIREMENT ENHANCEMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: Lee B. Perry

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to the New Public Safety and Firefighter Tier II Contributory Retirement System by enhancing certain retirement benefits.

**Highlighted Provisions:**

This bill:

- ▶ increases the percentage of compensation that a participating employer shall pay to the office on behalf of a member for the defined benefit portion of the New Public Safety and Firefighter Tier II Contributory Retirement System;

- ▶ increases the amount of the nonelective contribution made by a participating employer on behalf of each public safety service employee or fighter service employee who is a member of the New Public Safety and Firefighter Tier II Contributory Retirement System;

- ▶ increases the multiplier percentage for the calculation of the retirement allowance of a participant in the New Public Safety and Firefighter Tier II hybrid retirement system for certain years;

- ▶ provides that a portion of the revenues collected from the tax on the admitted insurers and a portion of the net profits earned from the sale of liquor in the Liquor Control Fund shall annually be paid to the Utah State Retirement Office to fund certain benefit enhancements in the New Public Safety and Firefighter Tier II



28 Retirement System; and  
29       ▶ makes technical changes.

30 **Money Appropriated in this Bill:**

31 This bill appropriates in fiscal year 2020:  
32       ▶ to the Utah State Retirement Office -- New Public Safety and Firefighter Tier II  
33 Retirement System, as a one-time appropriation:  
34       • from the General Fund, One-time, \$5,300,000.

35 **Other Special Clauses:**

36 This bill provides a special effective date.

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39       **32B-2-301**, as last amended by Laws of Utah 2018, Chapter 329
- 40       **49-23-301**, as last amended by Laws of Utah 2016, Chapter 84
- 41       **49-23-302**, as last amended by Laws of Utah 2016, Chapter 227
- 42       **49-23-304**, as last amended by Laws of Utah 2017, Chapter 141
- 43       **49-23-401**, as last amended by Laws of Utah 2016, Chapter 227

44 ENACTS:

45       **49-11-903**, Utah Code Annotated 1953



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

48 Section 1. Section **32B-2-301** is amended to read:

49       **32B-2-301. State property -- Liquor Control Fund -- Money to be retained by**  
50 **department -- Department building process.**

51       (1) The following are property of the state:

52       (a) the money received in the administration of this title, except as otherwise provided;

53 and

54       (b) property acquired, administered, possessed, or received by the department.

55       (2) (a) There is created an enterprise fund known as the "Liquor Control Fund."

56       (b) Except as provided in Section **32B-2-304**, the department shall deposit the  
57 following into the Liquor Control Fund:

58       (i) money received in the administration of this title; and

59 (ii) money received from the markup described in Section 32B-2-304.

60 (c) The department may draw from the Liquor Control Fund only to the extent  
61 appropriated by the Legislature or provided by statute.

62 (d) The net position of the Liquor Control Fund may not fall below zero.

63 (3) (a) Notwithstanding Subsection (2)(c), the department may draw by warrant from  
64 the Liquor Control Fund without an appropriation for an expenditure that is directly incurred by  
65 the department:

66 (i) to purchase an alcoholic product;

67 (ii) to transport an alcoholic product from the supplier to a warehouse of the  
68 department; or

69 (iii) for variances related to an alcoholic product, including breakage or theft.

70 (b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the  
71 department draws against the Liquor Control Fund, to the extent necessary to cover the  
72 warrant, the cash resources of the General Fund may be used.

73 (4) (a) As used in this Subsection (4), "base budget" means the same as that term is  
74 defined in legislative rule.

75 (b) The department's base budget shall include as an appropriation from the Liquor  
76 Control Fund:

77 (i) credit card related fees paid by the department;

78 (ii) package agency compensation; and

79 (iii) the department's costs of shipping and warehousing alcoholic products.

80 (5) (a) The Division of Finance shall transfer annually from the Liquor Control Fund to  
81 the General Fund a sum equal to the amount of net profit earned from the sale of liquor since  
82 the preceding transfer of money under this Subsection (5).

83 (b) After each fiscal year, the Division of Finance shall calculate the amount for the  
84 transfer on or before September 1 and the Division of Finance shall make the transfer on or  
85 before September 30.

86 (c) The Division of Finance may make year-end closing entries in the Liquor Control  
87 Fund to comply with Subsection 51-5-6(2).

88 (6) (a) By the end of each day, the department shall:

89 (i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

90 (ii) report the deposit to the state treasurer.

91 (b) A commissioner or department employee is not personally liable for a loss caused  
92 by the default or failure of a qualified depository.

93 (c) Money deposited in a qualified depository is entitled to the same priority of  
94 payment as other public funds of the state.

95 (7) Before the Division of Finance makes the transfer described in Subsection (5), the  
96 department may retain each fiscal year from the Liquor Control Fund \$1,000,000 that the  
97 department may use for:

98 (a) capital equipment purchases;

99 (b) salary increases for department employees;

100 (c) performance awards for department employees; or

101 (d) information technology enhancements because of changes or trends in technology.

102 (8) Before the Division of Finance makes the transfer described in Subsection (5), the  
103 Division of Finance shall annually transfer the amount required in Section 49-11-903 to the  
104 Utah State Retirement Office in accordance with Section 49-11-903.

105 Section 2. Section 49-11-903 is enacted to read:

106 **Part 9. Revenue Distribution**

107 **49-11-903. Premium tax revenues -- Liquor Control Fund revenues --**

108 **Distribution.**

109 (1) (a) In accordance with this section and for a fiscal year beginning on or after July 1,  
110 2020, there shall be paid to the office:

111 (i) an amount equal to the lesser of:

112 (A) the growth in the amount of revenues collected in the current fiscal year from the  
113 annual tax levied, assessed, and collected under Title 59, Chapter 9, Taxation of Admitted  
114 Insurers, that exceeds the amount collected from the annual tax levied, assessed, and collected  
115 under Title 59, Chapter 9, Taxation of Admitted Insurers, in the 2017-18 fiscal year; or

116 (B) \$1,500,000; plus

117 (ii) an amount equal to the lesser of:

118 (A) the growth in the net profit earned from the sale of liquor in the Liquor Control  
119 Fund that is required to be transferred to the General Fund in accordance with Subsection

120 32B-2-301(5) in the current fiscal year that exceeds the net profit earned from the sale of liquor

121 in the Liquor Control Fund that was required to be transferred to the General Fund in  
122 accordance with Subsection [32B-2-301](#)(5) in the 2017-18 fiscal year; or

123 (B) \$1,500,000.

124 (b) Payments to the office shall be made annually.

125 (2) The office shall deposit the amount described in Subsection (1) into the New Public  
126 Safety and Firefighter Tier II Contributory Retirement Trust Fund created in Section  
127 [49-23-104](#).

128 (3) The money deposited under this section shall be used to fund:

129 (a) an increase to the multiplier for the calculation of the retirement allowance  
130 provided to a member of the New Public Safety and Firefighter Tier II hybrid retirement system  
131 effective July 1, 2019; and

132 (b) an increase in the defined contribution amount provided to a member of the New  
133 Public Safety and Firefighter Tier II defined contribution retirement system effective July 1,  
134 2019.

135 Section 3. Section **49-23-301** is amended to read:

136 **49-23-301. Contributions.**

137 (1) Participating employers and members shall pay the certified contribution rates to  
138 the office to maintain the defined benefit portion of this system on a financially and actuarially  
139 sound basis in accordance with Subsection (2).

140 (2) (a) A participating employer shall pay up to [~~12%~~] 16% of compensation toward  
141 the certified contribution rate to the office for the defined benefit portion of this system.

142 (b) A member shall only pay to the office the amount, if any, of the certified  
143 contribution rate for the defined benefit portion of this system that exceeds the percent of  
144 compensation paid by the participating employer under Subsection (2)(a).

145 (c) In addition to the percent specified under Subsection (2)(a), the participating  
146 employer shall pay the corresponding Tier I system amortization rate of the employee's  
147 compensation to the office to be applied to the employer's corresponding Tier I system liability.

148 (3) A participating employer may not elect to pay all or part of the required member  
149 contributions under Subsection (2)(b), in addition to the required participating employer  
150 contributions.

151 (4) (a) A member contribution is credited by the office to the account of the individual

152 member.

153 (b) This amount, together with refund interest, is held in trust for the payment of  
154 benefits to the member or the member's beneficiaries.

155 (c) A member contribution is vested and nonforfeitable.

156 (5) (a) Each member is considered to consent to payroll deductions of member  
157 contributions.

158 (b) The payment of compensation less these payroll deductions is considered full  
159 payment for services rendered by the member.

160 (6) Except as provided under Subsection (7), benefits provided under the defined  
161 benefit portion of the Tier II hybrid retirement system created under this part:

162 (a) may not be increased unless the actuarial funded ratios of all systems under this title  
163 reach 100%; and

164 (b) may be decreased only in accordance with the provisions of Section [49-23-309](#).

165 (7) (a) The Legislature authorizes an increase to the death benefit provided to a Tier II  
166 public safety service employee or firefighter member's surviving spouse effective on May 12,  
167 2015, as provided in Section [49-23-503](#).

168 (b) The Legislature authorizes an increase to the multiplier for the calculation of the  
169 retirement allowance provided to a member of the New Public Safety and Firefighter Tier II  
170 hybrid retirement system effective July 1, 2019, as provided in Section [49-23-304](#).

171 Section 4. Section **49-23-302** is amended to read:

172 **49-23-302. Defined contribution benefit established -- Contribution by employer**  
173 **and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of**  
174 **plans.**

175 (1) (a) A participating employer shall make a nonelective contribution on behalf of  
176 each public safety service employee or firefighter service employee who is a member of this  
177 system in an amount equal to [~~12%~~] 16% minus the contribution rate paid by the employer  
178 under Subsection [49-23-301](#)(2)(a) of the member's compensation to a defined contribution plan  
179 qualified under Section 401(k) of the Internal Revenue Code which:

180 (i) is sponsored by the board; and

181 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

182 (b) The member may make voluntary deferrals to:

183 (i) the qualified 401(k) plan which receives the employer contribution described in this  
184 Subsection (1); or

185 (ii) at the member's option, another defined contribution plan established by the  
186 participating employer.

187 (2) (a) The total amount contributed by the participating employer under Subsection  
188 (1)(a), including associated investment gains and losses, vests to the member upon accruing  
189 four years of service credit under this title.

190 (b) The total amount contributed by the member under Subsection (1)(b) vests to the  
191 member's benefit immediately and is nonforfeitable.

192 (c) (i) Years of service credit under Subsection (2)(a) includes any fraction of a year to  
193 which the member may be entitled.

194 (ii) At the time of vesting, if a member's years of service credit is within one-tenth of  
195 one year of the total years required for vesting, the member shall be considered to have the total  
196 years of service credit required for vesting.

197 (3) (a) Contributions made by a participating employer under Subsection (1)(a) shall be  
198 invested in a default option selected by the board until the member is vested in accordance with  
199 Subsection (2)(a).

200 (b) A member may direct the investment of contributions made by a participating  
201 employer under Subsection (1)(a) only after the contributions have vested in accordance with  
202 Subsection (2)(a).

203 (c) A member may direct the investment of contributions made by the member under  
204 Subsection (1)(b).

205 (4) No loans shall be available from contributions made by a participating employer  
206 under Subsection (1)(a).

207 (5) No hardship distributions shall be available from contributions made by a  
208 participating employer under Subsection (1)(a).

209 (6) (a) Except as provided in Subsection (6)(b), if a member terminates employment  
210 with a participating employer prior to the vesting period described in Subsection (2)(a), all  
211 contributions, including associated investment gains and losses, made by a participating  
212 employer on behalf of the member under Subsection (1)(a) are subject to forfeiture.

213 (b) If a member who terminates employment with a participating employer prior to the

214 vesting period described in Subsection (2)(a) subsequently enters employment with the same or  
215 another participating employer within 10 years of the termination date of the previous  
216 employment:

217 (i) all contributions made by the previous participating employer on behalf of the  
218 member, including associated investment gains and losses, shall be reinstated upon the  
219 member's employment as a regular full-time employee; and

220 (ii) the length of time that the member worked with the previous employer shall be  
221 included in determining whether the member has completed the vesting period under  
222 Subsection (2)(a).

223 (c) The office shall establish a forfeiture account and shall specify the uses of the  
224 forfeiture account, which may include an offset against administrative costs or employer  
225 contributions made under this section.

226 (7) The office may request from any other qualified 401(k) plan under Subsection (1)  
227 or (2) any relevant information pertaining to the maintenance of its tax qualification under the  
228 Internal Revenue Code.

229 (8) The office may take any action which in its judgment is necessary to maintain the  
230 tax-qualified status of its 401(k) defined contribution plan under federal law.

231 Section 5. Section **49-23-304** is amended to read:

232 **49-23-304. Defined benefit service retirement plans -- Calculation of retirement**  
233 **allowance -- Social security limitations.**

234 (1) (a) The retirees of this system may choose from the six retirement options described  
235 in this section.

236 (b) Options Two, Three, Four, Five, and Six are modifications of the Option One  
237 calculation.

238 (2) The Option One benefit is an annual allowance calculated as follows:

239 (a) If the retiree is at least 65 years of age or has accrued at least 25 years of service  
240 credit, the allowance is an amount equal to:

241 (i) 1.5% of the retiree's final average salary multiplied by the number of years of  
242 service credit accrued on and after July 1, 2011[-], but before July 1, 2019; plus

243 (ii) 2% of the retiree's final average salary multiplied by the number of years of service  
244 credit accrued on and after July 1, 2019.

245 (b) If the retiree is less than 65 years of age, the allowance shall be reduced by the full  
246 actuarial amount for each year of retirement from age 60 to age 65, unless the member has 25  
247 or more years of accrued credit in which event no reduction is made to the allowance.

248 (c) (i) Years of service includes any fractions of years of service to which the retiree  
249 may be entitled.

250 (ii) At the time of retirement, if a retiree's combined years of actual, not purchased,  
251 service credit is within 1/10 of one year of the total years of service credit required for  
252 retirement, the retiree shall be considered to have the total years of service credit required for  
253 retirement.

254 (d) An Option One allowance is only payable to the member during the member's  
255 lifetime.

256 (3) The allowance payable under Options Two, Three, Four, Five, and Six is calculated  
257 by reducing an Option One benefit based on actuarial computations to provide the following:

258 (a) Option Two is a reduced allowance paid to and throughout the lifetime of the  
259 retiree, and, if the retiree receives less in annuity payments than the amount of the retiree's  
260 member contributions, the remaining balance of the retiree's member contributions shall be  
261 paid in accordance with Sections [49-11-609](#) and [49-11-610](#).

262 (b) Option Three is a reduced allowance paid to and throughout the lifetime of the  
263 retiree, and, upon the death of the retiree, the same reduced allowance is paid to and throughout  
264 the lifetime of the retiree's lawful spouse at the time of retirement.

265 (c) Option Four is a reduced allowance paid to and throughout the lifetime of the  
266 retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance is  
267 paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

268 (d) Option Five is a modification of Option Three so that if the lawful spouse at the  
269 time of retirement predeceases the retiree, an allowance equivalent to the amount payable at the  
270 time of initial retirement under Option One shall be paid to the retiree for the remainder of the  
271 retiree's life, beginning on the first day of the month following the month in which the:

272 (i) spouse died, if notification and supporting documentation for the death are received  
273 by the office within 90 days of the spouse's death; or

274 (ii) notification and supporting documentation for the death are received by the office,  
275 if the notification and supporting documentation are received by the office more than 90 days

276 after the spouse's death.

277 (e) Option Six is a modification of Option Four so that if the lawful spouse at the time  
278 of retirement predeceases the retiree, an allowance equivalent to the amount payable at the time  
279 of initial retirement under Option One shall be paid to the retiree for the remainder of the  
280 retiree's life, beginning on the first day of the month following the month in which the:

281 (i) spouse died, if notification and supporting documentation for the death are received  
282 by the office within 90 days of the spouse's death; or

283 (ii) notification and supporting documentation for the death are received by the office,  
284 if the notification and supporting documentation are received by the office more than 90 days  
285 after the spouse's death.

286 (4) (a) If a retiree under Option One dies within 120 days after the retiree's retirement  
287 date, the retirement is canceled and the death shall be considered as that of a member before  
288 retirement.

289 (b) Any payments made to the retiree shall be deducted from the amounts due to the  
290 beneficiary.

291 (5) (a) If a retiree retires under either Option Five or Six and subsequently divorces, the  
292 retiree may elect to convert the benefit to an Option One benefit at the time of divorce, if there  
293 is no court order filed in the matter.

294 (b) A conversion to an Option One benefit under this Subsection (5) begins on the first  
295 day of the month following the month in which the notification and supporting documentation  
296 for the divorce are received by the office.

297 Section 6. Section ~~49-23-401~~ is amended to read:

298 **49-23-401. Contributions -- Rates.**

299 (1) Up to the amount allowed by federal law, the participating employer shall make a  
300 nonelective contribution of [~~12%~~] 16% of the participant's compensation to a defined  
301 contribution plan.

302 (2) (a) The participating employer shall contribute the [~~12%~~] 16% nonelective  
303 contribution described in Subsection (1) to a defined contribution plan qualified under Section  
304 401(k) of the Internal Revenue Code which:

305 (i) is sponsored by the board; and

306 (ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

307 (b) The member may make voluntary deferrals to:

308 (i) the qualified 401(k) plan which receives the employer contribution described in this  
309 Subsection (2); or

310 (ii) at the member's option, another defined contribution plan established by the  
311 participating employer.

312 (c) In addition to the percent specified under Subsection (2)(a), the participating  
313 employer shall pay the corresponding Tier I system amortization rate of the employee's  
314 compensation to the office to be applied to the employer's corresponding Tier I system liability.

315 (3) (a) Except as provided under Subsection (3)(c), the total amount contributed by the  
316 participating employer under Subsection (2)(a) vests to the member upon accruing four years of  
317 service credit under this title.

318 (b) The total amount contributed by the member under Subsection (2)(b) vests to the  
319 member's benefit immediately and is nonforfeitable.

320 (c) Upon filing a written request for exemption with the office, an eligible employee is  
321 exempt from the vesting requirements of Subsection (3)(a) in accordance with Section  
322 [49-23-203](#).

323 (d) (i) Years of service credit under Subsection (3)(a) includes any fraction of a year to  
324 which the member may be entitled.

325 (ii) At the time of vesting, if a member's years of service credit is within one-tenth of  
326 one year of the total years required for vesting, the member shall be considered to have the total  
327 years of service credit required for vesting.

328 (4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be  
329 invested in a default option selected by the board until the member is vested in accordance with  
330 Subsection (3)(a).

331 (b) A member may direct the investment of contributions, including associated  
332 investment gains and losses, made by a participating employer under Subsection (2)(a) only  
333 after the contributions have vested in accordance with Subsection (3)(a).

334 (c) A member may direct the investment of contributions made by the member under  
335 Subsection (3)(b).

336 (5) No loans shall be available from contributions made by a participating employer  
337 under Subsection (2)(a).

338 (6) No hardship distributions shall be available from contributions made by a  
339 participating employer under Subsection (2)(a).

340 (7) (a) Except as provided in Subsection (7)(b), if a member terminates employment  
341 with a participating employer prior to the vesting period described in Subsection (3)(a), all  
342 contributions made by a participating employer on behalf of the member under Subsection  
343 (2)(a), including associated investment gains and losses are subject to forfeiture.

344 (b) If a member who terminates employment with a participating employer prior to the  
345 vesting period described in Subsection (3)(a) subsequently enters employment with the same or  
346 another participating employer within 10 years of the termination date of the previous  
347 employment:

348 (i) all contributions made by the previous participating employer on behalf of the  
349 member, including associated investment gains and losses, shall be reinstated upon the  
350 member's employment as a regular full-time employee; and

351 (ii) the length of time that the member worked with the previous employer shall be  
352 included in determining whether the member has completed the vesting period under  
353 Subsection (3)(a).

354 (c) The office shall establish a forfeiture account and shall specify the uses of the  
355 forfeiture account, which may include an offset against administrative costs of employer  
356 contributions made under this section.

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

360 (9) The office may take any action which in its judgment is necessary to maintain the  
361 tax-qualified status of its 401(k) defined contribution plan under federal law.

362 **Section 7. Appropriation.**

363 The following sums of money are appropriated for the fiscal year beginning July 1,  
364 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for  
365 fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures  
366 Act, the Legislature appropriates the following sums of money from the funds or accounts  
367 indicated for the use and support of the government of the state of Utah.

368 ITEM 1

