

Senator Lincoln Fillmore proposes the following substitute bill:

PUBLIC SAFETY AND FIREFIGHTER TIER II

RETIREMENT ENHANCEMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Lee B. Perry

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; and

- ▶ makes technical changes.

Money Appropriated in this Bill:



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

30 **Other Special Clauses:**

31 This bill provides a special effective date.

32 **Utah Code Sections Affected:**

33 AMENDS:

- 34 **49-23-301**, as last amended by Laws of Utah 2016, Chapter 84
- 35 **49-23-302**, as last amended by Laws of Utah 2016, Chapter 227
- 36 **49-23-304**, as last amended by Laws of Utah 2017, Chapter 141
- 37 **49-23-401**, as last amended by Laws of Utah 2016, Chapter 227



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

40 Section 1. Section **49-23-301** is amended to read:

41 **49-23-301. Contributions.**

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

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

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

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

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

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

57 member.

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

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

61 (5) (a) Each member is considered to consent to payroll deductions of member
62 contributions.

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

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

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

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

70 (7) (a) The Legislature authorizes an increase to the death benefit provided to a Tier II
71 public safety service employee or firefighter member's surviving spouse effective on May 12,
72 2015, as provided in Section [49-23-503](#).

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

76 Section 2. Section **49-23-302** is amended to read:

77 **49-23-302. Defined contribution benefit established -- Contribution by employer**
78 **and employee -- Vesting of contributions -- Plans to be separate -- Tax-qualified status of**
79 **plans.**

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

85 (i) is sponsored by the board; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

136 Section 3. Section **49-23-304** is amended to read:

137 **49-23-304. Defined benefit service retirement plans -- Calculation of retirement**
138 **allowance -- Social security limitations.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

181 after the spouse's death.

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

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

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

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

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

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

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

202 Section 4. Section ~~49-23-401~~ is amended to read:

203 **49-23-401. Contributions -- Rates.**

204 (1) Up to the amount allowed by federal law, the participating employer shall make a
205 nonelective contribution of [~~+2%~~] 16% of the participant's compensation to a defined
206 contribution plan.

207 (2) (a) The participating employer shall contribute the [~~+2%~~] 16% nonelective
208 contribution described in Subsection (1) to a defined contribution plan qualified under Section
209 401(k) of the Internal Revenue Code which:

210 (i) is sponsored by the board; and

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

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

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

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

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

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

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

225 (c) Upon filing a written request for exemption with the office, an eligible employee is
226 exempt from the vesting requirements of Subsection (3)(a) in accordance with Section
227 [49-23-203](#).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

267 **Section 5. Appropriation.**

268 The following sums of money are appropriated for the fiscal year beginning July 1,
269 2019, and ending June 30, 2020. These are additions to amounts previously appropriated for
270 fiscal year 2020. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
271 Act, the Legislature appropriates the following sums of money from the funds or accounts
272 indicated for the use and support of the government of the state of Utah.

273 ITEM 1

274	<u>To Utah State Retirement Office -- New Public Safety and Firefighter Tier II</u>	
275	<u>Retirement System</u>	
276	<u>From General Fund, One-time</u>	<u>\$5,300,000</u>
277	<u>Schedule of Programs:</u>	
278	<u>Administration</u>	<u>\$5,300,000</u>
279	Section 6. Effective date.	
280	<u>This bill takes effect on July 1, 2019.</u>	