

SB0129S01 compared with SB0129

~~deleted text~~ shows text that was in SB0129 but was deleted in SB0129S01.

Inserted text shows text that was not in SB0129 but was inserted into SB0129S01.

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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: _____

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

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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 Retirement System;~~† and

- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2020:

- ▶ to the Utah State Retirement Office -- New Public Safety and Firefighter Tier II Retirement System, as a one-time appropriation:
 - from the General Fund, One-time, \$5,300,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

~~{ 32B-2-301, as last amended by Laws of Utah 2018, Chapter 329~~

† 49-23-301, as last amended by Laws of Utah 2016, Chapter 84

49-23-302, as last amended by Laws of Utah 2016, Chapter 227

49-23-304, as last amended by Laws of Utah 2017, Chapter 141

49-23-401, as last amended by Laws of Utah 2016, Chapter 227

~~{ENACTS:~~

—~~49-11-903, Utah Code Annotated 1953~~

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

Section 1. Section ~~{32B-2}~~49-23-301 is amended to read:

~~{ 32B-2-301. State property -- Liquor Control Fund -- Money to be retained by~~

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~~department~~ ~~==~~ ~~Department building process:~~

~~—— (1) The following are property of the state:~~

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

~~and~~

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

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

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

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

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

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

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

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

~~—— (i) to purchase an alcoholic product;~~

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

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

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

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

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

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

~~—— (ii) package agency compensation; and~~

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

~~—— (5) (a) The Division of Finance shall transfer annually from the Liquor Control Fund to~~

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~~the General Fund a sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer of money under this Subsection (5).~~

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

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

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

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

~~—— (ii) report the deposit to the state treasurer.~~

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

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

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

~~—— (a) capital equipment purchases;~~

~~—— (b) salary increases for department employees;~~

~~—— (c) performance awards for department employees; or~~

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

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

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

Part 9. Revenue Distribution

~~—— 49-11-903. Premium tax revenues -- Liquor Control Fund revenues --~~

Distribution:

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

~~—— (i) an amount equal to the lesser of:~~

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

~~—— (B) \$1,500,000; plus~~

~~—— (ii) an amount equal to the lesser of:~~

~~—— (A) the growth in the net profit earned from the sale of liquor in the Liquor Control Fund that is required to be transferred to the General Fund in accordance with Subsection 32B-2-301(5) in the current fiscal year that exceeds the net profit earned from the sale of liquor in the Liquor Control Fund that was required to be transferred to the General Fund in accordance with Subsection 32B-2-301(5) in the 2017-18 fiscal year; or~~

~~—— (B) \$1,500,000.~~

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

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

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

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

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

~~—— Section 3. Section 49-23-301 is amended to read:~~

~~‡~~ **49-23-301. Contributions.**

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

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

(b) A member shall only pay to the office the amount, if any, of the certified

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contribution rate for the defined benefit portion of this system that exceeds the percent of compensation paid by the participating employer under Subsection (2)(a).

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

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

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

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

(c) A member contribution is vested and nonforfeitable.

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

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

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

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

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

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

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

Section ~~44~~2. Section **49-23-302** is amended to read:

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

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plans.

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

(i) is sponsored by the board; and

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

(b) The member may make voluntary deferrals to:

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

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

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

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

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

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

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

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

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

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

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

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

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (2)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

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

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

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

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

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

Section ~~5~~3. Section **49-23-304** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Option Four is a reduced allowance paid to and throughout the lifetime of the retiree, and upon the death of the retiree, an amount equal to 1/2 of the retiree's allowance is

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paid to and throughout the lifetime of the retiree's lawful spouse at the time of retirement.

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

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

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

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

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

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

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

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

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

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

Section ~~6~~4. Section **49-23-401** is amended to read:

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49-23-401. Contributions -- Rates.

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

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

(i) is sponsored by the board; and

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

(b) The member may make voluntary deferrals to:

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

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

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

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

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

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

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

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

(4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be

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invested in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).

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

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

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

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

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

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

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

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

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

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

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

Section ~~{7}~~5. **Appropriation.**

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

ITEM 1

To Utah State Retirement Office -- New Public Safety and Firefighter Tier II

Retirement System

<u>From General Fund, One-time</u>	<u>\$5,300,000</u>
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Schedule of Programs:

<u>Administration</u>	<u>\$5,300,000</u>
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Section ~~{8}~~6. **Effective date.**

This bill takes effect on July 1, 2019.