



CYPEN & CYPEN NEWSLETTER for June 13, 2019

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Never Forget September 11, 2001
and
Always Remember May 2, 2011

1. ONLY 11 PERCENT OF U.S. PRIVATE-SECTOR WAGE AND SALARY WORKERS PARTICIPATE IN DEFINED BENEFIT PENSION PLANS:

A new study from the Employee Benefit Research Institute (EBRI) finds that the percentage of private-sector wage and salary workers participating in an employment based defined benefit (DB) pension plan plummeted by 71 percent since 1979, signifying a profound change to the American retirement landscape and introducing new challenges to private-sector workers in retirement. The study, "Tracking the Shift in Private-Sector, Employment-Based Retirement Plan Participation From Defined Benefit to Defined Contribution Plans, 1979–2017," finds that the percentage of private-sector wage and salary workers participating in DB plans decreased from 38 percent in 1979 to 11 percent in 2017. Correspondingly, the percentage participating in defined contribution (DC) plans went from 17 percent to 46 percent (some workers participated in both types of plans).

“Employers and policymakers have long been aware that having an employment-based retirement plan is one of the most significant predictors of an individual having a financially secure retirement,” said Craig Copeland, EBRI senior research associate and author of the report. “But it is also important to note that the move toward DC plans comes with an increased responsibility for retirees to figure out how to make those assets last throughout retirement. Developing a reliable drawdown strategy is of critical importance.” Up through 1999, the Department of Labor’s (DOL) Pension Plan Bulletin estimated the percentages of private-sector wage and salary workers who were in each type of retirement plan (DB plan only, DC plan only, or both plans). EBRI has continued estimating these numbers to show the sustained movement of participants from DB plans to DC plans in the private sector. EBRI’s goal of this analysis was to match the DOL trend as closely as possible, despite considerable changes in the data sources, and to show how this trend has subsequently evolved. The study, “Tracking the Shift in Private-Sector, Employment-Based Retirement Plan Participation From Defined Benefit to Defined Contribution Plans, 1979–2017,” is available at www.ebri.org. Betsy Jaffe, EBRI, June 6, 2019.

2. IRS REMINDER--TAX SCAMS CONTINUE YEAR-ROUND:

Although the April filing deadline has passed, scam artists remain hard at work, and the IRS urged taxpayers to be on the lookout for a spring surge of evolving phishing emails and telephone scams. The IRS is seeing signs of two new variations of tax-related scams. One involves Social Security numbers related to tax issues and another threatens people with a tax bill from a fictional government agency. Here are some details:

- The SSN hustle. The latest twist includes scammers claiming to be able to suspend or cancel the victim’s Social Security number. In this variation, the Social Security cancellation threat scam is similar to and often associated with the IRS impersonation scam. It is yet another attempt by con artists to frighten people into returning ‘robocall’ voicemails. Scammers may mention overdue taxes in addition to threatening to cancel the person’s SSN.
- Fake tax agency. This scheme involves the mailing of a letter threatening an IRS lien or levy. The lien or levy is based on bogus delinquent taxes owed to a non-existent agency, “Bureau of Tax Enforcement.” There is no such agency. The lien notification scam also likely references the IRS to confuse potential victims into thinking the letter is from a legitimate organization.

Both display classic signs of being scams. The IRS and its [Security Summit](#) partners – the state tax agencies and the tax industry – remind everyone to stay alert to scams that use the IRS or reference taxes, especially in late spring and early summer as tax bills and refunds arrive.

Phone scams The IRS does not leave pre-recorded, urgent or threatening messages. In many variations of the phone scam, victims are told if they do not call back, a warrant will be issued for their arrest. Other verbal threats include law-enforcement agency intervention, deportation or revocation of licenses. Criminals can fake or “spoof” caller ID numbers to appear to be anywhere in the country, including from an IRS office. This prevents taxpayers from being able to verify the true call number. Fraudsters also have spoofed local sheriff’s offices, state departments of motor vehicles, federal agencies and others to convince taxpayers the call is legitimate.

Email phishing scams The IRS does not initiate contact with taxpayers by email to request personal or financial information. The IRS initiates most contacts through regular mail delivered by the United States Postal Service. However, there are special circumstances when the IRS will call or [come to a home or business](#). These visits include times when a taxpayer has an overdue tax bill, a delinquent tax return or a delinquent employment tax payment, or the IRS needs to tour a business as part of a civil investigation (such as an audit or collection case) or during criminal investigation. If a taxpayer receives an unsolicited email that appears to be from either the IRS or a program closely linked to the IRS that is fraudulent, report it by sending it to phishing@irs.gov. The [Report Phishing and Online Scams](#) page provides complete details.

Telltale signs of a scam The IRS (and its [authorized private collection agencies](#)) will never:

- Call to demand immediate payment using a specific payment method such as a prepaid debit card, gift card or wire transfer. The IRS does not use these methods for tax payments. Generally, the IRS will first mail a bill to any taxpayer who owes taxes. All tax payments should only be made payable to the U.S. Treasury and checks should never be made payable to third parties.
- Threaten to immediately bring in local police or other law-enforcement groups to have the taxpayer arrested for not paying.
- Demand that taxes be paid without giving the taxpayer the opportunity to question or appeal the amount owed.
- Ask for credit or debit card numbers over the phone.

For anyone who doesn’t owe taxes and has no reason to think they do:

- Do not give out any information. Hang up immediately.
- Contact the Treasury Inspector General for Tax Administration to report the call.

Use their [IRS Impersonation Scam Reporting](#) web page.

- Report the caller ID and/or callback number to the IRS by sending it to phishing@irs.gov (Subject: IRS Phone Scam).
- Report it to the Federal Trade Commission. Use the [FTC Complaint Assistant](#) on FTC.gov. Add "IRS Telephone Scam" in the notes.

For anyone who owes tax or thinks they do:

- [View tax account information online](#) at IRS.gov to see the actual amount owed. Taxpayers can then also review their [payment options](#).
- Call the number on the billing notice, or
- Call the IRS at 800.829.1040. IRS workers can help.

The IRS does not use text messages or social media to discuss personal tax issues, such as those involving bills or refunds. For more information, visit the [Tax Scams and Consumer Alerts](#) page on IRS.gov. Additional information about tax scams is also available on IRS social media sites, including YouTube videos. IRS Newswire, Issue Number: IR-2019-104, June 5, 2019.

3. YOUNGER WORKERS PUT STUDENT LOAN AID NEAR TOP OF DESIRED BENEFITS:

Millennial workers and their younger colleagues just entering the workforce are more likely than older workers to choose--and stay with--employers that offer them financial security in an uncertain world, new research shows. Health insurance, paid time off and student loan repayment aid--in that order--were the top three benefits identified by recent college graduates and those approaching graduation when asked what benefits they most value from an employer. The findings, based on responses from 547 job seekers who graduated from college in the last 24 months, or who will graduate in the next 12 months, were released by the American Institute of Certified Public Accountants (AICPA). Tellingly, respondents with college debt most wanted any new benefit dollars from their employer to go toward helping them repay their loans. It could be that a relatively low number of respondents (36 percent) selected 401(k) match as a top benefit because retirement may seem like it's in the distant future, said Gregory Anton, chairman of the AICPA's national CPA financial literacy commission. He warned, however, that not contributing to 401(k) or similar accounts early in their careers can leave workers with insufficient retirement savings decades from now. "A mentality of 'I'll start saving when I get a bit older' often results in retirement savings being put on the back burner," Anton said. "By beginning to

save toward retirement as early as possible, new graduates will benefit from decades of compounding growth." Student loan debt can also cause new graduates to overlook an employer's benefits package and focus solely on the salary offer. "Wide disparities between health insurance options, employer retirement contributions as well as vacation and sick leave underscore the need for prospective employees to fully understand the value of the benefits being offered to them," Anton observed. Survey results are posted on the AICPA's [360 Degrees of Financial Literacy website](#), which also features [calculators](#) to help individuals with decisions regarding 401(k) contributions, loan repayment and monthly budgeting. Not every employer can, or should, add a loan repayment benefit, cautioned Lydia Jilek, senior director of voluntary benefits at consultancy Willis Towers Watson. "Employers hear the buzz about brands offering student loan benefits and think they need to follow suit. But don't do this just because it's the next hot thing," she advised. "Assess first if it's critical to your employees and prospects." Technology, financial services and health care companies trying to attract workers in highly competitive markets are more likely to provide this benefit, as are "employers with headquarters off the beaten path, as a way to sweeten the pot and attract new talent to remote locations," Jilek noted.

Health Care Is Still Benefit No. 1

Despite the buzz around student loan aid, a very traditional benefit--health insurance--remains the top offering sought by all generations. "More and more, our Millennial employees are realizing that they need to pay attention to their health care benefits," said Jocelyn Durfield, vice president of HR at Strike, a pipeline and energy infrastructure firm with employees across the U.S. "With many just coming off of their parents' plans, they often are unsure about what to consider when selecting a benefits plan, and how to best use it for care throughout the year," she said. Strike educates Millennial employees on their options, "so they can pick the plan that best meets their needs, and then effectively leverage that plan to make smart, cost-conscious health care decisions for any treatment they require year-round," Durfield said. In engaging Millennials about health care benefits, "it's important for us to meet them where they are," Durfield said. "We've had success reaching out to Millennials via text messages--sending them links to our benefits page," developed with DirectPath, a benefits education, enrollment and health care transparency firm. "The more mobile you can go, the more you can get Millennials to pay attention," she noted. The company has also had success using incentives, "such as raffling off Apple watches or gift cards during open enrollment to encourage employees to complete their plan selections early," Durfield pointed out.

Keeping Millennials Onboard

HR consultancy Mercer also recently examined younger workers' attitudes about pay and benefits. Earlier this year, the firm's analysts [mined a data set of over 2 million employee](#)

[records](#) across different industries to ascertain the top reasons, by generation, that employees quit jobs. For Millennials ages 24 to 39, the research showed the following:

- **Base pay matters.** The higher base pay is as a percentage of total compensation, the stronger the retention effect on Millennials, Mercer found. [Other studies](#) have noted the importance of salary as well. Because they feel financially insecure--due largely to student loan debt--Millennials may be more averse than their older counterparts to having pay tied to their performance, rather than guaranteed. In other words, they aren't certain that variable, performance-based pay--ranging from bonuses to stock-based compensation--will be reliable sources of income.

Response: Communicate how variable pay works by showing clear connections between performance goals and financial rewards. Demonstrate how performance-based pay can help workers increase their income.

- **Career advancement matters.** Recently promoted Millennials are substantially more likely to leave their employers, so they might be using promotions to secure better opportunities elsewhere. High performance ratings also don't seem to keep Millennials from leaving employers and are, instead, associated with greater turnover. This suggests that positive feedback inspires confidence and encourages these workers to seek better pay and career advancement.

Response: Develop and share career path trajectories, showing younger workers how they can earn higher pay and leadership status in the organization.

- **Supervisor relationships matter.** Compared to other generations, Millennials are far less likely to leave if their supervisor is highly rated (or, interestingly, is a woman), and they are substantially more likely to quit if their supervisor quits. Because their loyalty tends to be to the person they report to, they're prepared to leave when that relationship no longer anchors them to the organization.

Response: Show workers that the organization values and cares about them. Here's where benefits such as financial wellness offerings--including student loan aid, if feasible--play an important role. Workplace flexibility such as alternative work arrangements have long been touted as a retention benefit. But they may be overrated when it comes to Millennials, Mercer found. Offering flexible employment did less to retain Millennials than older workers, the analysis showed, perhaps because younger workers are waiting to have children until their careers are further along. "Hard dollars, predictable variable pay and effective supervisors may be what it takes to improve employee experience and

motivate the Millennial workforce to stay," concluded Tauseef Rahman, a Mercer principal and co-author of the report. "While these findings were detected in our statistical modeling across our dataset, effects vary from company to company," he added. "It's important for each company to understand the statistical drivers of turnover for their workforce by generation--and what these statistical drivers reveal" as regards benefit selections.

Facing an Uncertain Future

Additional findings about Millennials, also called Generation Y, are highlighted in [Mercer's 2019 Global Talent Trends](#) report, based on responses from more than 4,800 employees and 1,600 HR leaders. This study found that:

- One in three Millennial employees are concerned that AI and automation will replace their job in the next three years, more than older generations.
- They are more likely than older generations to take on a new project at work without extra pay or benefits, or to exchange vacation days for experiences in other departments, to help diversify their skills "portfolio."
- At the same time, they are more willing than older workers to consider freelance or contingent work (84 percent of Millennials vs. 74 percent of Baby Boomers), if they feel it will lead to better opportunities down the road.

While the potential for long-term career opportunities is Millennials' number one reason for joining an organization, job security and opportunities for professional development are the main reasons they remain loyal, the study found. As with all the generations in the workplace, competitive compensation is the main reason they leave. SHRM Foundation, Stephen Miller, CEBS, June 5, 2019.

4. COMPANIES OFFER STUDENT LOAN REPAYMENT HELP TO LURE YOUNG WORKERS:

Forget gym memberships, ping-pong tables and free snacks. When it comes to luring top Millennial talent, companies have a new pitch: offering to pay down a portion of employees' student debt. With student loans outstanding reaching \$1.5 trillion this year, employers realize it's a perk that can attract some of the best educated recruits. Among those who have student debt, the average owed was [\\$32,731](#), according to a recent Federal Reserve Report on the Economic Well-Being of U.S. Households. That's enough that many younger households aren't feeling so well--or doing things they want, like having kids, buying homes or saving for retirement. Meanwhile, corporate America is struggling to attract talent, what with the unemployment rate below 4% and Baby Boomers

heading into retirement. So to recruit and retain graduates, some employers have begun offering to help with student debt repayment. One unusually generous repayment program is offered by Nvidia, the Santa Clara, Cal. graphics chip maker, [which ranks #1 in worker treatment on the Just 100](#) (a ranking by Just Capital and *Forbes* of the public companies that are the most responsible corporate actors). Nvidia offers \$6,000 a year to help students pay back their loans up to a maximum of \$30,000. Employees have to work at least twenty hours a week and been employed at Nvidia for at least three months. Other [companies that offer student loan help](#) include Aetna (up to \$2,000 a year, for five years) and PricewaterhouseCoopers (up to \$1,200 a year for up to six years). Fidelity Investments began offering its own workers \$2,000 a year in repayment (capped at \$10,000 over five years) in March 2016, and found the benefit so popular that it rolled out a platform for other companies. It quickly [signed up dozens of companies](#), including Hewlett Packard Enterprise, The Options Clearing Corp., Ariel Corp., New York Air Brake, and Millennium Trust. Still student loan repayment as an employee benefit is in its infancy and lacks the tax advantaged status of say, employer assistance for current classes or contributions to a 401(k). But multiple efforts are afoot to change that.

Making Loan Repayments Tax Free

Currently, any student loan repayment a worker receives from his or her employer is treated as taxable income, just as salary would be. But [the Employer Participation in Repayment Act](#)--first introduced in 2017, and reintroduced this Congress in February 2019 -- would broaden the provision in the tax code that allows employers to provide up to \$5,250 a year in tuition assistance to each employee without it being taxed as income. The bill, which has 142 House cosponsors, [would allow that tax free \\$5,250 education stipend to be used instead for loan repayment](#). A [similar bill in the Senate](#) has 27 cosponsors. The outlook for passage is unclear, since it would cost Uncle Sam tax revenue and critics might argue that it would only benefit those with the most generous employers.

Helping Workers Save For Retirement Student While Paying Debt

Another approach that shows promise doesn't rely on Congressional action. Instead, it appears, the Internal Revenue Service' approval is enough. Employers must meet strict rules designed to make sure their 401(k)s don't discriminate against certain workers. Typically, to receive an employer "match" an employee must contribute some of his own money. Last year, in a private letter ruling, the IRS blessed a plan by Abbott Laboratories to treat a worker's student loan repayments as an eligible 401(k) contribution for the purpose of earning the company match. In effect, rather than paying off its workers' student loans directly, Abbott is helping them out by subsidizing their retirement savings. Called the Freedom 2 Save Plan, Abbott's plan allows full time and part time employees

who qualify for 401(k)s and are spending at least 2% of their pay for student loan repayments to get the healthcare company's 5% match deposited into the 401(k). Normally, they'd have to contribute at least 2% to their 401(k) to get that match. Abbott [estimates](#) that an employee who starts with a \$70,000 salary and uses the program, will, at the end of 10 years, have \$54,000 more in their 401(k) than they would if student debt kept them from being able to get an Abbott's match. Abbott's program, which launched in June 2018, was well received by businesses, advocates and student loan lenders. But the IRS' private letter approval for Abbott can't be relied on by other companies. So the ERISA Industry Committee, the trade group for large employers, is asking the IRS to issue guidance that would allow this sort of program across the board. That could encourage a lot more companies to offer a similar benefit. Donna Fuscaldo, Forbes, June 3, 2019.

5. THE IMPLICATIONS OF SOCIAL SECURITY'S "MISSING TRUST FUND":

Introduction

As policymakers consider restoring financial balance to Social Security, understanding the reason for the shortfall is important. If the cost of currently scheduled benefits simply exceeds what today's workers are paying into the system, the traditional proposals to reduce benefits or raise payroll taxes would be most relevant. However, the cause of the shortfall lies elsewhere. Specifically, the program's "pay-as-you-go" approach – with the exception of the recent build-up and spend-down of a modest trust fund in anticipation of the baby boom – makes the program expensive. This financing approach is the result of a policy decision in the late 1930s to pay benefits far in excess of contributions for the early cohorts of workers. The decision essentially gave away the trust fund that would have accumulated and, importantly, gave away the interest on those contributions. This *brief*, based on a recent paper, explores the implications of the "Missing Trust Fund." The discussion proceeds as follows. The first section discusses the origin of the Missing Trust Fund and its cost implications for current workers. The second section discusses how the Missing Trust Fund relates to Social Security's Legacy Debt and the pattern of net transfers over the generations. The third section lays out alternative paths forward – funding vs. pay-as-you-go and payroll taxes vs. income taxes. The final section highlights three implications. First, Social Security costs are high, not because the program is particularly generous, but because the trust fund is missing. Second, the beneficiaries of the trust fund giveaway were early generations; in contrast, the much-maligned baby boomers are scheduled to pay for their full benefits. Finally, if policymakers choose to maintain Social Security benefits at current-law levels, little rationale exists for placing the entire burden of the Missing Trust Fund on today's workers through higher payroll taxes; that component could be financed more equitably through the income tax.

Conclusion

The Missing Trust Fund is mostly a result of Legacy Debt built up during the early years of the Social Security program. These origins suggest that – if the goal were to maintain benefits at current-law levels – policymakers might want to consider a variety of ways to structure a revenue increase, ranging from an increase in the payroll tax without an expansion of its base, to a smaller increase in the payroll tax with an expansion of its base, to an increase in the income tax. Taxing society more widely – through an income tax increase – could make sense given that society as a whole benefited from having a generation of people receive benefits who did not fully contribute to the system. In theory, any of these taxes could be raised permanently by a moderate amount, effectively paying the missing interest from the Missing Trust Fund, or by a larger amount, ultimately replacing the Missing Trust Fund before returning taxes to their current level. But the real issue is that the cost implications of the Missing Trust Fund are worth considering in any proposal to close Social Security’s financing gap. See full report [here](#). Alicia H. Munnell, Wenliang Hou and Geoffrey T. Sanzenbacher, Center for Retirement Research at Boston University, June 2019.

6. FIREFIGHTER CANCER PRESUMPTION BILL (SB 426):

The fourth year is the charm. After years of persistence and study, the Florida Legislature adopted the long anticipated cancer presumption bill (“SB 426”) by a unanimous vote in the Florida House and Senate. By doing so Florida joins a list of over forty states that have enacted some form of cancer presumption for firefighters. The new law creates Fla. Stat. §112.1816, a set of detailed statutory provisions that are discussed below. SB 426 provides certain benefits to firefighters who receive a cancer diagnosis when specific conditions are met. Florida’s firefighter pension boards should be aware that this new law will affect the way disability applications are processed. In order to qualify for the new benefits under §112.1816, firefighters must be employed full-time with a fire department or public safety department whose primary responsibility is to prevent and extinguish fires. A firefighter diagnosed with any one of the following types of cancers is conclusively presumed to have contracted the illness in-the-line-of-duty.

- Bladder cancer
- Brain cancer
- Breast cancer
- Cervical cancer
- Colon cancer
- Esophageal cancer
- Invasive Skin cancer
- Kidney cancer

- Prostate cancer
- Rectal cancer
- Stomach cancer
- Large Intestinal cancer
- Lung cancer
- Malignant melanoma
- Mesothelioma
- Multiple myeloma
- Non-Hodgkin's lymphoma
- Oral cavity and pharynx cancer
- Ovarian cancer
- Testicular cancer
- Thyroid cancer

Upon receiving a cancer diagnosis, and as an alternative to pursuing workers' compensation benefits, a firefighter would be entitled to these benefits when he or she has: (a) been employed by a municipal fire department for at least five continuous years, (b) has abstained from tobacco products for at least the five years preceding his or her diagnosis, and (c) has not been employed in any other position in the preceding five years which is proven to create a higher cancer risk. Despite the cancer job related illness, a cancer diagnosis would be covered under the firefighter's health insurance and he or she would be entitled to the following employer provided benefits:

- A timely reimbursement for all out-of-pocket deductibles, copayments, or coinsurance costs incurred due to the treatment of cancer and
- A one-time cash payout of \$25,000.

Firefighters who terminate employment with their department, are not employed as a firefighter following that termination, and have met the criteria mentioned above upon termination, may elect to continue health insurance coverage in an employer-sponsored plan or a health insurance trust fund. Those who elect this option are entitled to coverage for ten years following his or her termination date. For purposes of pension and retirement, a firefighter will be considered totally and permanently disabled in the line-of-duty if he or she is unable to perform the duties of a firefighter as a result of a cancer diagnosis or circumstances that arise out of the treatment thereof. For those firefighters not in an employer-sponsored retirement plan, a disability retirement benefit of at least 42% of the firefighter's annual salary must be provided until his or her death. If the firefighter dies before retirement, his or her beneficiary is entitled to receive death benefits totaling at least 42% of the firefighter's most recent annual salary for at least ten years. SB 426

further provides that the cancer presumption extends to statutory death benefits for firefighters under §112.191(2)(a), Fla. Stat. As discussed in another memo, effective July 1, 2019, S.B. 7098 increases the statutory firefighter death benefit to \$75,000 (which is separate and distinct from pension benefits). Employers may purchase an insurance policy to cover some or all of these statutory benefits. The cost of such a policy must be borne solely by the employer and may not be funded by individual firefighters, by any group health insurance trust fund, or by any self-insured trust fund providing health insurance coverage funded partially or wholly by firefighters. Many questions have been asked about the implementation of SB 426. As with any new law, time will be required to fully understand SB 426's application. We would like to thank our associates at Klausner, Kaufman, Jensen & Levinson for this memorandum. A copy of SB 426 (also known as Chapter 2019-21) is available upon request or can be downloaded using the following link: <http://laws.flrules.org/2019/21>.

7. STATUTORY DEATH BENEFITS AND EXPANDED PUBLIC RECORDS EXEMPTIONS (SB 7098 & SB 248):

The purpose of this memo is to provide a summary of two recent bills which were adopted by the Florida Legislature that relate to public safety officers. While neither bill directly implicates police or firefighter pension benefits, both bills are relevant to public safety officers and plan administrators.

SB 7098/Chapter 2019-24

In addition to pension benefits under Chapters 175 and 185, Florida law also provides specified statutory death benefits that are required to be paid by cities/special districts. Death benefits for law enforcement officers are codified in Section 112.19, Fla.Stat. Death benefits for firefighters are codified in Section 112.191, Fla.Stat. In November of 2018, Florida voters approved Amendment 7 to the Florida Constitution. Because Amendment 7 is not self-executing, the Legislature was required to amend Chapter 112 to implement Amendment 7. SB 7098 codifies Amendment 7 under Florida law and is described below. Among other things, SB 7098 expands the coverage of statutory death benefits to include members of the U.S. Armed Forces, paramedics and EMTs. SB 7098 also increases statutory death benefits that apply under three sets of circumstances: 1) when a public safety officer is "accidentally killed," 2) when a public safety officer is "accidentally killed" during an "emergency," and 3) when a public safety officer is "intentionally killed" as a result of an "unlawful and intentional act." Effective July 1, 2019, SB 7098 increases the statutory death benefits for public safety officers (law enforcement officer or fire fighter/EMT/paramedic) as follows:

- Accidental death benefit of \$75,000: When a public safety officer is "accidentally

killed” in the performance of their duties, the employer is required to pay a death benefit of \$75,000, separate and apart from pension and Worker’s Compensation benefits.

- Emergency death benefit of \$150,000: When a public safety officer is “accidentally killed” while responding to “what is reasonably believed to be an emergency,” the death benefit doubles to \$150,000. In the case of law enforcement officers, accidental deaths include deaths that occur during “fresh pursuit,” while responding to “what is reasonably believed to be an emergency,” while at the scene of a traffic accident, or while enforcing the traffic law. In the case of firefighters/EMTs/paramedics, accidental death benefits double to \$150,000 if the accidental death occurs while responding to “what is reasonably believed to be an emergency” involving the protection of life or property, or while participating in a training exercise.
- Intentional act death benefit of \$225,000: When a public safety officer is “unlawfully and intentionally killed,” the death benefit increases to \$225,000. In the case of law enforcement officers, the \$225,000 benefit applies to deaths resulting from “intentional acts” that occur while “engaged in the performance of the officer’s law enforcement duties.” In the case of firefighters/EMTs/paramedics, the \$225,000 death benefit applies when the death is the result of a fire determined to have been caused by an act of arson.

In addition to the statutory death benefits set forth above, spouses and children are entitled to receive educational benefits which include the waiver of tuition and educational expenses while obtaining a career certificate, undergraduate education, or postgraduate education at a state educational institution. While these benefits have existed in Florida for many years, SB 7098 increases the death benefits to \$75,000, \$150,000, and \$225,000. Under prior law, the death benefits were lower, but were subject to adjustment every year based on the cost of living. By way of example, the death benefit was originally \$50,000 in the year 2002, but has grown to over \$69,000 with annual COLA adjustments. We would like to thank our associates at Klausner & Kaufman for this memorandum. Here is a link to SB 7098: <http://www.flsenate.gov/Session/Bill/2019/7098/BillText/er/PDF>.

8. PUBLIC RECORDS EXEMPTIONS FOR EMPLOYEES OF A LAW ENFORCEMENT AGENCY (SB 248):

The purpose of this memo is to provide a summary of the 2019 Public Records bill (SB 248), which was adopted by a nearly unanimous vote of the Florida Legislature. As described below, SB 248 expands the list of exemptions to Florida Public Record law to protect sensitive information for current and former employees of law enforcement agencies. By way of background, Florida’s broad Public Records Law (also known as the

“Sunshine Law”) is codified in Chapter 119, Florida Statutes. SB 248 amends Section 119.0701 to expand the list of exemptions to Florida’s Public Record law. While the Florida Constitution provides for public access to inspect or copy governmental records, over the years the Legislature has adopted a growing list of exceptions to the Public Records Law. Effective July 1, 2019 the following records of a current or former employee of a law enforcement agency (including civilian employees) will be exempt from disclosure:

- Home address;
- Telephone number;
- Dates of birth;
- Photographs
- All of the above for spouses and children of current or former employees of a law enforcement agency;
- Places of employment of spouses and children of current or former employees of a law enforcement agency;
- Names and locations of schools and day care facilities attended by the children of current or former employees of a law enforcement agency.

SB 248 also expands the definition of “home address” to include not just the commonly used street address, but other identifying information that can be used to reveal a home address. Accordingly, the following identifying information will also be exempt from disclosure under Section 119.071(4)(d)1a’s expanded definition of “home address”:

- the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

Note that this expansive definition includes “any other descriptive property information that may reveal the home address,” when used in conjunction with other information. Prior to the adoption of SB 248, the Open Government Sunset Review Act provided for a legislative review process of exemptions to the Sunshine Law. Unless periodically reenacted by the Legislature, certain exemptions were automatically repealed. SB 248 removes the automatic sunset requirement, making the exemptions discussed above permanent. We would like to thank our associates at Klausner & Kaufman for this memorandum. Here is a link to SB 248/Chapter 2019-12: <http://laws.flrules.org/2019/12>

9. DID YOU KNOW BENJAMIN FRANKLIN SAID THIS?:

Write injuries in dust, benefits in marble.

10. PONDERISMS:

Why are there interstate highways in Hawaii?

11. INSPIRATIONAL QUOTES:

The only way to discover the limits of the possible is to go beyond them into the impossible. - Arthur C. Clarke

12. TODAY IN HISTORY:

On this day in 1866, US House of representatives passes 14th Amendment (Civil rights).

13. REMEMBER, YOU CAN NEVER OUTLIVE YOUR DEFINED RETIREMENT BENEFIT.

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