

**Representative Stephen E. Sandstrom** proposes the following substitute bill:

**POST-RETIREMENT EMPLOYMENT**

**AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel R. Liljenquist**

House Sponsor: Brad L. Dee

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**LONG TITLE**

**General Description:**

This bill modifies the Utah State Retirement and Insurance Benefit Act by amending provisions related to a retiree who returns to work for a participating employer, and the restrictions on the maximum retirement allowance certain employees can accrue.

**Highlighted Provisions:**

This bill:

- ▶ defines certain terms;
- ▶ repeals a requirement that a participating employer who hires a retiree contribute the same percentage of a retiree's salary that the participating employer would have been required to contribute if the retiree were an active member of the retirement system;
- ▶ provides that a participating employer who hires a retiree before July 1, 2010 may not contribute an amount that exceeds the normal cost rate to a qualified defined contribution plan;
- ▶ provides that a retiree from the Utah State Retirement System who returns to work with a participating employer on or after July 1, 2010, is returned to active member status to earn additional service credit if the retiree is reemployed within one year



26 from retirement;

27       ▶ provides that a retiree who returns to work with a participating employer after a year  
28 from the date of retirement may elect to either:

29             • receive a retirement allowance and forfeit any retirement contribution related to  
30 the reemployment; or

31             • cancel the retiree's retirement allowance and earn additional service credit for  
32 the period of reemployment;

33       ▶ requires a participating employer to pay the amortization rate to the retirement  
34 system that would have covered the retiree who is:

35             • reemployed after July 1, 2010; and

36             • receiving a retirement allowance;

37       ▶ repeals the maximum allowance that a member may receive for a member who  
38 initially retires on or after July 1, 2010, in the following systems:

39             • the Public Safety Contributory Retirement System;

40             • the Public Safety Noncontributory Retirement System;

41             • the Firefighters' Retirement System;

42             • the Judges' Contributory Retirement System; and

43             • the Judges' Noncontributory Retirement System;

44       ▶ prevents the Commissioner of Public Safety, an elected or appointed sheriff, or a  
45 chief of police from retiring in place on or after July 1, 2010; and

46       ▶ makes technical changes.

47 **Monies Appropriated in this Bill:**

48       None

49 **Other Special Clauses:**

50       This bill takes effect on July 1, 2010.

51 **Utah Code Sections Affected:**

52 AMENDS:

53       **49-11-102**, as last amended by Laws of Utah 2009, Chapter 101

54       **49-11-405**, as renumbered and amended by Laws of Utah 2002, Chapter 250

55       **49-11-504**, as last amended by Laws of Utah 2009, Chapter 101

56       **49-12-701**, as renumbered and amended by Laws of Utah 2002, Chapter 250

- 57           **49-13-701**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 58           **49-14-203**, as last amended by Laws of Utah 2006, Chapter 260
- 59           **49-14-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 60           **49-15-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 61           **49-15-203**, as last amended by Laws of Utah 2005, Chapter 176
- 62           **49-16-203**, as last amended by Laws of Utah 2005, Chapter 116
- 63           **49-16-402**, as last amended by Laws of Utah 2003, Chapter 240
- 64           **49-17-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 65           **49-18-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250

66 ENACTS:

67           **49-11-505**, Utah Code Annotated 1953



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

70           Section 1. Section **49-11-102** is amended to read:

71           **49-11-102. Definitions.**

72           As used in this title:

73           (1) (a) "Active member" means a member who is employed or who has been employed  
74 by a participating employer within the previous 120 days.

75           (b) "Active member" does not include retirees.

76           (2) "Actuarial equivalent" means a benefit of equal value when computed upon the  
77 basis of mortality tables as recommended by the actuary and adopted by the executive director,  
78 including regular interest.

79           (3) "Actuarial interest rate" means the interest rate as recommended by the actuary and  
80 adopted by the board upon which the funding of system costs and benefits are computed.

81           (4) (a) "Agency" means:

82           (i) a department, division, agency, office, authority, commission, board, institution, or  
83 hospital of the state;

84           (ii) a county, municipality, school district, local district, or special service district;

85           (iii) a state college or university; or

86           (iv) any other participating employer.

87           (b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a

88 subdivision of another entity listed under Subsection (4)(a).

89 (5) "Allowance" or "retirement allowance" means the pension plus the annuity,  
90 including any cost of living or other authorized adjustments to the pension and annuity.

91 (6) "Alternate payee" means a member's former spouse or family member eligible to  
92 receive payments under a Domestic Relations Order in compliance with Section 49-11-612.

93 (7) "Amortization rate" means the board certified percent of salary required to amortize  
94 the unfunded actuarial accrued liability in accordance with policies established by the board  
95 upon the advice of the actuary.

96 [~~7~~] (8) "Annuity" means monthly payments derived from member contributions.

97 [~~8~~] (9) "Appointive officer" means an employee appointed to a position for a definite  
98 and fixed term of office by official and duly recorded action of a participating employer whose  
99 appointed position is designated in the participating employer's charter, creation document, or  
100 similar document, and who earns during the first full month of the term of office \$500 or more,  
101 indexed as of January 1, 1990, as provided in Section 49-12-407.

102 [~~9~~] (10) (a) "At-will employee" means a person who is employed by a participating  
103 employer and:

104 (i) who is not entitled to merit or civil service protection and is generally considered  
105 exempt from a participating employer's merit or career service personnel systems;

106 (ii) whose on-going employment status is entirely at the discretion of the person's  
107 employer; or

108 (iii) who may be terminated without cause by a designated supervisor, manager, or  
109 director.

110 (b) "At-will employee" does not include a career employee who has obtained a  
111 reasonable expectation of continued employment based on inclusion in a participating  
112 employer's merit system, civil service protection system, or career service personnel systems,  
113 policies, or plans.

114 [~~10~~] (11) "Beneficiary" means any person entitled to receive a payment under this  
115 title through a relationship with or designated by a member, participant, covered individual, or  
116 alternate payee of a defined contribution plan.

117 [~~11~~] (12) "Board" means the Utah State Retirement Board established under Section  
118 49-11-202.

119            [~~(12)~~] (13) "Board member" means a person serving on the Utah State Retirement  
120 Board as established under Section 49-11-202.

121            (14) "Certified contribution rate" means the board certified percent of salary paid on  
122 behalf of an active member to the office to maintain the system on a financially and actuarially  
123 sound basis.

124            [~~(13)~~] (15) "Contributions" means the total amount paid by the participating employer  
125 and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under  
126 Chapter 19, Utah Governors' and Legislators' Retirement Act.

127            [~~(14)~~] (16) "Council member" means a person serving on the Membership Council  
128 established under Section 49-11-202.

129            [~~(15)~~] (17) "Covered individual" means any individual covered under Chapter 20,  
130 Public Employees' Benefit and Insurance Program Act.

131            [~~(16)~~] (18) "Current service" means covered service as defined in Chapters 12, 13, 14,  
132 15, 16, 17, 18, and 19.

133            [~~(17)~~] (19) "Defined benefit" or "defined benefit plan" or "defined benefit system"  
134 means a system or plan offered under this title to provide a specified allowance to a retiree or a  
135 retiree's spouse after retirement that is based on a set formula involving one or more of the  
136 following factors:

- 137            (a) years of service;
- 138            (b) final average monthly salary; or
- 139            (c) a retirement multiplier.

140            [~~(18)~~] (20) "Defined contribution" or "defined contribution plan" means any defined  
141 contribution plan or deferred compensation plan authorized under the Internal Revenue Code  
142 and administered by the board.

143            [~~(19)~~] (21) "Educational institution" means a political subdivision or instrumentality of  
144 the state or a combination thereof primarily engaged in educational activities or the  
145 administration or servicing of educational activities, including:

- 146            (a) the State Board of Education and its instrumentalities;
- 147            (b) any institution of higher education and its branches;
- 148            (c) any school district and its instrumentalities;
- 149            (d) any vocational and technical school; and

150 (e) any entity arising out of a consolidation agreement between entities described under  
151 this Subsection [~~(19)~~] (21).

152 [~~(20)~~] (22) (a) "Employer" means any department, educational institution, or political  
153 subdivision of the state eligible to participate in a government-sponsored retirement system  
154 under federal law.

155 (b) "Employer" may also include an agency financed in whole or in part by public  
156 funds.

157 [~~(21)~~] (23) "Exempt employee" means an employee working for a participating  
158 employer:

159 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,  
160 49-14-203, 49-15-203, or 49-16-203; and

161 (b) for whom a participating employer is not required to pay contributions or  
162 nonelective contributions.

163 [~~(22)~~] (24) "Final average monthly salary" means the amount computed by dividing the  
164 compensation received during the final average salary period under each system by the number  
165 of months in the final average salary period.

166 [~~(23)~~] (25) "Fund" means any fund created under this title for the purpose of paying  
167 benefits or costs of administering a system, plan, or program.

168 [~~(24)~~] (26) (a) "Inactive member" means a member who has not been employed by a  
169 participating employer for a period of at least 120 days.

170 (b) "Inactive member" does not include retirees.

171 [~~(25)~~] (27) (a) "Member" means a person, except a retiree, with contributions on  
172 deposit with a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19,  
173 Utah Governors' and Legislators' Retirement Act, or with a terminated system.

174 (b) "Member" also includes leased employees within the meaning of Section 414(n)(2)  
175 of the Internal Revenue Code, if the employees have contributions on deposit with the office.  
176 If leased employees constitute less than 20% of the participating employer's work force that is  
177 not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code,  
178 "member" does not include leased employees covered by a plan described in Section 414(n)(5)  
179 of the federal Internal Revenue Code.

180 [~~(26)~~] (28) "Member contributions" means the sum of the contributions paid to a

181 system or the Utah Governors' and Legislators' Retirement Plan, including refund interest if  
182 allowed by a system, and which are made by:

183 (a) the member; and

184 (b) the participating employer on the member's behalf under Section 414(h) of the  
185 Internal Revenue Code.

186 ~~[(27)]~~ (29) "Nonelective contribution" means an amount contributed by a participating  
187 employer into a participant's defined contribution account.

188 (30) "Normal cost rate":

189 (a) means the percent of salary that is necessary for a retirement system that is fully  
190 funded to maintain its fully funded status; and

191 (b) is determined by the actuary based on the assumed rate of return established by the  
192 board.

193 ~~[(28)]~~ (31) "Office" means the Utah State Retirement Office.

194 ~~[(29)]~~ (32) "Participant" means an individual with voluntary deferrals or nonelective  
195 contributions on deposit with the defined contribution plans administered under this title.

196 ~~[(30)]~~ (33) "Participating employer" means a participating employer, as defined by  
197 [Chapters 12, 13, 14, 15, 16, 17, and 18] Chapter 12, Public Employees' Contributory  
198 Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14,  
199 Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory  
200 Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory  
201 Retirement Act, and Chapter 18, Judges' Noncontributory Retirement Act, or an agency  
202 financed in whole or in part by public funds which is participating in a system or plan as of  
203 January 1, 2002.

204 ~~[(31)]~~ (34) "Pension" means monthly payments derived from participating employer  
205 contributions.

206 ~~[(32)]~~ (35) "Plan" means the Utah Governors' and Legislators' Retirement Plan created  
207 by Chapter 19, Utah Governors' and Legislators' Retirement Act, or the defined contribution  
208 plans created under Section 49-11-801.

209 ~~[(33)]~~ (36) (a) "Political subdivision" means any local government entity, including  
210 cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is  
211 legally separate and distinct from the state and only if its employees are not by virtue of their

212 relationship to the entity employees of the state.

213 (b) "Political subdivision" includes local districts, special service districts, or  
214 authorities created by the Legislature or by local governments, including the office.

215 (c) "Political subdivision" does not include a project entity created under Title 11,  
216 Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

217 [~~34~~] (37) "Program" means the Public Employees' Insurance Program created under  
218 Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'  
219 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term  
220 Disability Act.

221 [~~35~~] (38) "Public funds" means those funds derived, either directly or indirectly, from  
222 public taxes or public revenue, dues or contributions paid or donated by the membership of the  
223 organization, used to finance an activity whose objective is to improve, on a nonprofit basis,  
224 the governmental, educational, and social programs and systems of the state or its political  
225 subdivisions.

226 [~~36~~] (39) "Qualified defined contribution plan" means a defined contribution plan  
227 that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

228 (40) (a) "Reemployed," "reemploy," or "reemployment" means work or service  
229 performed after retirement, in exchange for compensation.

230 (b) Reemployment includes work or service performed on a contract if the retiree is:

231 (i) listed as the contractor; or

232 (ii) an owner, partner, or principle of the contractor.

233 [~~37~~] (41) "Refund interest" means the amount accrued on member contributions at a  
234 rate adopted by the board.

235 [~~38~~] (42) "Retiree" means an individual who has qualified for an allowance under this  
236 title.

237 [~~39~~] (43) "Retirement" means the status of an individual who has become eligible,  
238 applies for, and is entitled to receive an allowance under this title.

239 [~~40~~] (44) "Retirement date" means the date selected by the member on which the  
240 member's retirement becomes effective with the office.

241 [~~41~~] (45) "Service credit" means:

242 (a) the period during which an employee is employed and compensated by a



243 participating employer and meets the eligibility requirements for membership in a system or the  
244 Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are  
245 paid to the office; and

246 (b) periods of time otherwise purchasable under this title.

247 [~~(42)~~] (46) "System" means the individual retirement systems created by Chapter 12,  
248 Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'  
249 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,  
250 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'  
251 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges'  
252 Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement  
253 Act.

254 (47) "Unfunded actuarial accrued liability" or "UAAL":

255 (a) is determined by the system's actuary; and

256 (b) means the excess, if any, of the accrued liability of a retirement system over the  
257 actuarial value of its assets.

258 [~~(43)~~] (48) "Voluntary deferrals" means an amount contributed by a participant into  
259 that participant's defined contribution account.

260 Section 2. Section **49-11-405** is amended to read:

261 **49-11-405. Service credit from different systems or plans -- Eligibility and**  
262 **calculation of service credit.**

263 (1) (a) A member who has service credit from two or more systems or one or more  
264 systems and the Utah Governors' and Legislators' Retirement Plan may combine service credit  
265 for purposes of determining eligibility for retirement.

266 (b) The provisions of Subsection (1)(a) do not apply to concurrent service.

267 (2) To be eligible for the calculation under Subsection (3), the member's service credit  
268 earned under the different systems or the Utah Governors' and Legislators' Retirement Plan  
269 shall at least equal the minimum amount of service credit required to retire from the system  
270 which most recently covered the member.

271 (3) If a member meets the requirements of Subsection (2), the office shall calculate the  
272 member's allowance using all service credit earned from any system or the Utah Governors' and  
273 Legislators' Retirement Plan, with no actuarial reduction applied to the allowance, except the

274 service credit used to calculate the benefit shall be increased or decreased to reflect the value of  
275 the assets transferred.

276 (4) The office shall establish the standards used for calculating any increase or decrease  
277 in the service credit.

278 (5) This section does not apply to a retiree who is subject to ~~[Section]~~ Sections  
279 49-11-504 and 49-11-505.

280 Section 3. Section **49-11-504** is amended to read:

281 **49-11-504. Reemployment of a retiree -- Restrictions.**

282 (1) As used in this section, "full-time" means:

283 (a) employment requiring 20 or more hours of work per week; or

284 (b) at least a half-time teaching contract.

285 (2) (a) Except for the provisions of Subsection (3), the provisions of this section do not  
286 apply to a person who is subject to the provisions of Section 49-11-505.

287 (b) This section does not apply to elected positions.

288 ~~[(+)]~~ (3) A person who ~~[retires from a nonparticipating employer]~~ is not a retiree under  
289 this title is not subject to any postretirement restrictions under this title.

290 ~~[(2) A retiree of an agency who returns to work at a different agency is not subject to~~  
291 ~~any postretirement restrictions under this section and may not earn additional service credit.]~~

292 ~~[(3) For the purposes of Subsections (4) and (5), "full-time" employment means~~  
293 ~~employment requiring 20 hours of work per week or more or at least a half-time teaching~~  
294 ~~contract.]~~

295 (4) A retiree of an agency who is reemployed may not earn additional service credit, if  
296 the retiree is reemployed by:

297 (a) a different agency; or

298 (b) the same agency after six months from the retirement date.

299 ~~[(+)]~~ (5) A retiree of an agency who is reemployed on a full-time basis by the same  
300 agency within six months of the date of retirement is subject to the following:

301 (a) the agency shall immediately notify the office;

302 (b) the office shall cancel the retiree's allowance and reinstate the retiree to active  
303 member status;

304 (c) the allowance cancellation and reinstatement to active member status is effective on

305 the first day of the month following the date of reemployment;

306 (d) the reinstated retiree may not retire again with a recalculated benefit for a two-year  
307 period from the date of cancellation of the original allowance, and if the retiree retires again  
308 within the two-year period, the original allowance shall be resumed; and

309 (e) a reinstated retiree retiring after the two-year period shall be credited with the  
310 service credit in the retiree's account at the time of the first retirement and from that time shall  
311 be treated as a member of a system, including the accrual of additional service credit, but  
312 subject to recalculation of the allowance under Subsection (9) .

313 ~~[(5)]~~ (6) A retiree of an agency who is reemployed by the same agency within six  
314 months of retirement on a less than full-time basis by the same agency is subject to the  
315 following:

316 (a) the retiree may earn, without penalty, compensation from that position which is not  
317 in excess of the exempt earnings permitted by Social Security;

318 (b) if a retiree receives compensation in a calendar year in excess of the Social Security  
319 limitation, 25% of the allowance shall be suspended for the remainder of the six-month period;

320 (c) the effective date of a suspension and reinstatement of an allowance shall be set by  
321 the office; and

322 (d) any suspension of a retiree's allowance under this Subsection ~~[(5)]~~ (6) shall be  
323 applied on a calendar year basis.

324 ~~[(6)]~~ (7) For six months immediately following retirement, the retiree and participating  
325 employer who are subject to Subsection (6) shall:

326 (a) maintain an accurate record of gross earnings in employment;

327 (b) report the gross earnings at least monthly to the office;

328 (c) immediately notify the office in writing of any postretirement earnings under  
329 Subsection ~~[(4)]~~ (6); and

330 (d) immediately notify the office in writing whether postretirement earnings equal or  
331 exceed the exempt earnings under Subsection ~~[(5)]~~ (6).

332 ~~[(7) A retiree of an agency who is reemployed by the same agency after six months  
333 from the retirement date is not subject to any postretirement restrictions under this title and  
334 may not earn additional service credit.]~~

335 (8) (a) If a participating employer hires a ~~[nonexempt]~~ retiree, on a full-time basis, who

336 may not earn additional service credit under [~~this section~~] Subsection (4), the participating  
337 employer [~~shall contribute the same percentage of a retiree's salary that the participating~~  
338 ~~employer would have been required to contribute if the retiree were an active member, up to~~  
339 ~~the amount allowed by federal law~~] may not contribute an amount that exceeds the normal cost  
340 rate as defined under Section 49-11-102 to a plan for the retiree under Subsection (8)(b).

341 (b) The contributions under Subsection (8)(a) are not required, but if paid, shall be paid  
342 to a retiree-designated:

343 (i) qualified defined contribution plan administered by the board, if the participating  
344 employer participates in a qualified defined contribution plan administered by the board; or

345 (ii) qualified defined contribution plan offered by the participating employer if the  
346 participating employer does not participate in a qualified defined contribution plan  
347 administered by the board.

348 (c) Notwithstanding the provisions of Subsection (8)(b), if an employer is not  
349 participating in a qualified defined contribution plan administered by the board, the employer  
350 may elect to pay the contributions under Subsection (8)(a) to a nonqualified deferred  
351 compensation plan administered by the board.

352 (9) [~~Notwithstanding any other provision of this section, a~~] A retiree who has returned  
353 to work, accrued additional service credit, and again retires shall have the retiree's allowance  
354 recalculated using:

355 (a) the formula in effect at the date of the retiree's original retirement for all service  
356 credit accrued prior to that date; and

357 (b) the formula in effect at the date of the subsequent retirement for all service credit  
358 accrued between the first and subsequent retirement dates.

359 [~~(10) This section does not apply to elected positions.~~]

360 [~~(H)~~] (10) The board may make rules to implement this section.

361 Section 4. Section **49-11-505** is enacted to read:

362 **49-11-505. Reemployment of a retiree -- Restrictions.**

363 (1) For purposes of this section, "retiree":

364 (a) means a person who:

365 (i) retired from a participating employer; and

366 (ii) begins reemployment on or after July 1, 2010 with a participating employer; and

367 (b) does not include a retiree who is reemployed as an active senior judge appointed to  
 368 hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah  
 369 Constitution.

370 (2) A retiree may not for the same period of reemployment:

371 (a) (i) earn additional service credit; or

372 (ii) receive any retirement related contribution from a participating employer; and

373 (b) receive a retirement allowance.

374 (3) The office shall cancel the retirement allowance of a retiree if the reemployment  
 375 with a participating employer begins within one year of the retiree's retirement date.

376 (4) If a retiree is not subject to Subsection (3), the retiree may elect to:

377 (a) earn additional service credit in accordance with this title and cancel the retiree's  
 378 retirement allowance; or

379 (b) continue to receive the retiree's retirement allowance and forfeit any retirement  
 380 related contribution from the participating employer who reemployed the retiree.

381 (5) If an employee makes an election under Subsection (4)(b) to continue to receive a  
 382 retirement allowance while reemployed, the participating employer shall contribute to the  
 383 office the amortization rate, as defined in Section 49-11-102, to be applied to the system that  
 384 would have covered the retiree.

385 (6) (a) A participating employer shall immediately notify the office:

386 (i) if the participating employer reemploys a retiree;

387 (ii) whether the reemployment is subject to Subsection (3) or (4) of this section; and

388 (iii) any election by the retiree under Subsection (4).

389 (b) A participating employer is liable to the office for a payment or failure ~~H~~→ to ←~~H~~  
 389a make a  
 390 payment in violation of this section.

391 (c) If a participating employer fails to notify the office in accordance with this section,  
 392 the participating employer is immediately subject to a compliance audit by the office.

393 (7) (a) The office shall immediately cancel the retirement allowance of a retiree in  
 394 accordance with Subsection (7)(b) if the office receives notice or learns of:

395 (i) the reemployment of a retiree subject to Subsection (3); or

396 (ii) the election of a reemployed retiree under Subsection (4)(a).

397 (b) The office shall cancel the allowance of a retiree subject to Subsection (7)(a), and

398 reinstate the retiree to active member status on the first day of the month following the date of:

399 (i) reemployment if the retiree is subject to Subsection (3); or

400 (ii) an election by an employee under Subsection (4)(a).

401 (8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date

402 of reemployment:

403 (i) is not entitled to a recalculated retirement benefit; and

404 (ii) will resume the allowance that was being paid at the time of cancellation.

405 (b) Subject to Subsection (2), a retiree who is re-instated to active membership under

406 Subsection (7) and who retires two or more years after the date of re-instatement to active

407 membership shall:

408 (i) resume receiving the allowance that was being paid at the time of cancellation; and

409 (ii) receive an additional allowance based on the formula in effect at the date of the

410 subsequent retirement for all service credit accrued between the first and subsequent retirement

411 dates.

412 (9) A retiree subject to this section shall report to the office the status of the

413 reemployment under Subsection (3) or (4).

414 (10) The board may make rules to implement this section.

415 Section 5. Section **49-12-701** is amended to read:

416 **49-12-701. Early retirement incentive -- Eligibility -- Calculation of benefit --**

417 **Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**

418 **reemployment.**

419 (1) Any member of this system may retire and receive the allowance allowed under

420 Subsection (2) if the member meets the following requirements as of the member's retirement

421 date:

422 (a) the member is eligible for retirement under Section 49-12-401, or has 25 years of  
423 service credit;

424 (b) the member elects to forfeit any stipend for retirement offered by the participating  
425 employer; and

426 (c) the member elects to retire from this system by applying for retirement by the date  
427 established under Subsection (3)(a) or (3)(b).

428 (2) (a) A member who retires under Subsection (1) shall receive 2% of that member's

429 final average salary for all years of service credit.

430 (b) An actuarial reduction may not be applied to the allowance granted under this  
431 section.

432 (3) In order to receive the allowance allowed by this section, a member shall submit an  
433 application to the office as follows:

434 (a) (i) For state and school employees under Level A, the application shall be filed by  
435 May 31, 1987. The member's retirement date shall then be set by the member on the 1st or 16th  
436 day of July, August, or September, 1987.

437 (ii) If a Level A member elects to retire, the executive director or participating  
438 employer may request the member to delay the retirement date until a later date, but no later  
439 than June 30, 1988.

440 (iii) If the member agrees to delay the retirement date, the retirement date shall be  
441 delayed, but service credit may not be accrued after the member's original retirement date  
442 elected by the member, and compensation earned after the member's original retirement date  
443 may not be used in the calculation of the final average salary for determining the retirement  
444 allowance.

445 (b) (i) For political subdivision employees under Level B, the application shall be filed  
446 by September 30, 1987.

447 (ii) The retirement date shall then be set by the member on the 1st or 16th day of July,  
448 August, September, October, November, or December, 1987.

449 (4) (a) The cost of providing the allowance under this section shall be funded in fiscal  
450 year 1987-88 by a supplemental appropriation in the 1988 General Session based on the  
451 retirement contribution rate increase established by the consulting actuary and approved by the  
452 board.

453 (b) The cost of providing the allowance under this section shall be funded beginning  
454 July 1, 1988, by means of an increase in the retirement contribution rate established by the  
455 consulting actuary and approved by the board.

456 (c) The rate increase under Subsections (4)(a) and (b) shall be funded:

457 (i) for state employees, by an appropriation from the account established by the  
458 Division of Finance under Subsection (4)(d), which is funded by savings derived from this  
459 early retirement incentive and a work force reduction;

460 (ii) for school employees, by direct contributions from the employing unit, which may  
461 not be funded through an increase in the retirement contribution amount established in Title  
462 53A, Chapter 17a, Minimum School Program Act; and

463 (iii) for political subdivisions under Level B, by direct contributions by the  
464 participating employer.

465 (d) (i) Each year, any excess savings derived from this early retirement incentive which  
466 are above the costs of funding the increase and the costs of paying insurance, sick leave,  
467 compensatory leave, and vacation leave under Subsections (4)(c)(i) and (c)(ii) shall be reported  
468 to the Legislature and shall be appropriated as provided by law.

469 (ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an  
470 account into which all savings derived from this early retirement incentive shall be deposited as  
471 the savings are realized.

472 (iii) In the case of Subsection (4)(c)(ii), the State Office of Education shall certify the  
473 amount of savings derived from this early retirement incentive.

474 (iv) The State Office of Education and the participating employer may not spend the  
475 savings until appropriated by the Legislature as provided by law.

476 (5) A member who retires under this section is subject to ~~[Section]~~ Sections 49-11-504  
477 and 49-11-505.

478 (6) The board may adopt rules to administer this section.

479 (7) The Legislative Auditor General shall perform an audit to ensure compliance with  
480 this section.

481 Section 6. Section **49-13-701** is amended to read:

482 **49-13-701. Early retirement incentive -- Eligibility -- Calculation of benefit --**  
483 **Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**  
484 **reemployment.**

485 (1) Any member of this system may retire and receive the allowance allowed under  
486 Subsection (2) if the member meets the following requirements as of the member's retirement:

487 (a) the member is eligible for retirement under Section 49-13-401, or has 25 years of  
488 service credit;

489 (b) the member elects to forfeit any stipend for retirement offered by the participating  
490 employer; and



491 (c) the member elects to retire from this system by applying for retirement by the date  
492 established under Subsection (3)(a) or (3)(b).

493 (2) (a) A member who retires under Subsection (1) shall receive 2% of that member's  
494 final average salary for all years of service credit.

495 (b) No actuarial reduction may be applied to the allowance granted under this section.

496 (3) In order to receive the allowance allowed by this section, a member shall submit an  
497 application to the office as follows:

498 (a) (i) For state and school employees under Level A, the application shall be filed by  
499 May 31, 1987. The member's retirement date shall then be set by the member on the 1st or 16th  
500 day of July, August, or September, 1987.

501 (ii) If a Level A member elects to retire, the executive director or participating  
502 employer may request the member to delay the retirement date until a later date, but no later  
503 than June 30, 1988.

504 (iii) If the member agrees to delay the retirement date, the retirement date shall be  
505 delayed, but service credit may not be accrued after the member's original retirement date  
506 elected by the member, and compensation earned after the member's original retirement date  
507 may not be used in the calculation of the final average salary for determining the retirement  
508 allowance.

509 (b) (i) For political subdivision employees under Level B, the application shall be filed  
510 by September 30, 1987.

511 (ii) The member's retirement date shall then be set by the member on the 1st or 16th  
512 day of July, August, September, October, November, or December, 1987.

513 (4) (a) The cost of providing the allowance under this section shall be funded in fiscal  
514 year 1987-88 by a supplemental appropriation in the 1988 General Session based on the  
515 retirement contribution rate increase established by the consulting actuary and approved by the  
516 board.

517 (b) The cost of providing the allowance under this section shall be funded beginning  
518 July 1, 1988, by means of an increase in the retirement contribution rate established by the  
519 consulting actuary and approved by the board.

520 (c) The rate increase under Subsections (4)(a) and (b) shall be funded:

521 (i) for state employees, by an appropriation from the account established by the

522 Division of Finance under Subsection (4)(d), which is funded by savings derived from this  
523 early retirement incentive and a work force reduction;

524 (ii) for school employees, by direct contributions from the employing unit, which may  
525 not be funded through an increase in the retirement contribution amount established in Title  
526 53A, Chapter 17a, Minimum School Program Act; and

527 (iii) for political subdivisions under Level B, by direct contributions by the  
528 participating employer.

529 (d) (i) Each year, any excess savings derived from this early retirement incentive which  
530 are above the costs of funding the increase and the costs of paying insurance, sick leave,  
531 compensatory leave, and vacation leave under Subsections (4)(c)(i) and (c)(ii) shall be reported  
532 to the Legislature and shall be appropriated as provided by law.

533 (ii) In the case of Subsection (4)(c)(i), the Division of Finance shall establish an  
534 account into which all savings derived from this early retirement incentive shall be deposited as  
535 the savings are realized.

536 (iii) In the case of Subsection (4)(c)(ii), the State Office of Education shall certify the  
537 amount of savings derived from this early retirement incentive.

538 (iv) The State Office of Education and the participating employer may not spend the  
539 savings until appropriated by the Legislature as provided by law.

540 (5) A member who retires under this section is subject to [~~Section~~] Sections 49-11-504  
541 and 49-11-505.

542 (6) The board may make rules to administer this section.

543 (7) The Legislative Auditor General shall perform an audit to ensure compliance with  
544 this section.

545 Section 7. Section **49-14-203** is amended to read:

546 **49-14-203. Exemption of certain employees from coverage.**

547 (1) A public safety service employee serving as the Commissioner of Public Safety, or  
548 as the elected or appointed sheriff or chief of police of a public safety organization, is excluded  
549 from coverage under this system if that public safety service employee files a formal written  
550 request seeking exemption.

551 (2) Except as provided in Subsection (3), the public safety service employee may not  
552 continue employment with the same participating employer and receive an allowance from the

553 office based on public safety service at the same time.

554 (3) (a) The Commissioner of Public Safety or an elected sheriff who is eligible to retire  
555 under Section 49-14-401 may until July 1, 2010:

556 [~~(a)~~] (i) retire from this system and receive an allowance;

557 [~~(b)~~] (ii) continue in the elected or appointed position; and

558 [~~(c)~~] (iii) file for the exemption under Subsection (1).

559 (b) A person who makes an election under Subsection (3)(a) may continue under the  
560 terms of the election.

561 Section 8. Section **49-14-402** is amended to read:

562 **49-14-402. Calculation of retirement allowance.**

563 (1) A retiree under this system shall receive an allowance equal to:

564 (a) 2.5% of final average monthly salary multiplied by the number of years of service  
565 credit, limited to 20 years; plus

566 (b) 2% of final average monthly salary, multiplied by the number of years of service  
567 credit in excess of 20 years.

568 (2) (a) Except as modified by cost-of-living adjustments and except as provided under  
569 Subsection (2)(b), an allowance under this system may not exceed 70% of a retiree's final  
570 average monthly salary.

571 (b) The allowance limitation under Subsection (2)(a) does not apply to a member who  
572 initially retires on or after July 1, 2010.

573 Section 9. Section **49-15-203** is amended to read:

574 **49-15-203. Exemption of certain employees from coverage.**

575 (1) A public safety service employee serving as the Commissioner of Public Safety, or  
576 as the elected or appointed sheriff or chief of police of a public safety organization, is excluded  
577 from coverage under this system if that public safety service employee files a formal written  
578 request seeking exemption.

579 (2) Except as provided in Subsection (3), the public safety service employee may not  
580 continue employment with the same participating employer and receive an allowance from the  
581 office based on public safety service at the same time.

582 (3) (a) The Commissioner of Public Safety, an elected sheriff, or an appointed chief of  
583 police who is eligible to retire under Section 49-15-401 may until July 1, 2010:

584           ~~[(a)]~~ (i) retire from this system and receive an allowance;  
585           ~~[(b)]~~ (ii) continue in the elected or appointed position; and  
586           ~~[(c)]~~ (iii) file for the exemption under Subsection (1).

587           (b) A person who makes an election under Subsection (3)(a) may continue under the  
588 terms of the election.

589           Section 10. Section **49-15-402** is amended to read:

590           **49-15-402. Calculation of retirement benefit.**

591           (1) A retiree under this system shall receive an allowance equal to:

592           (a) 2.5% of final average monthly salary multiplied by the number of years of service  
593 credit, limited to 20 years; plus

594           (b) 2% of final average monthly salary, multiplied by the number of years of service  
595 credit in excess of 20 years.

596           (2) (a) Except as modified by cost-of-living adjustments and except as provided under  
597 Subsection (2)(b), an allowance under this system may not exceed 70% of a retiree's final  
598 average monthly salary.

599           (b) The allowance limitation under Subsection (2)(a) does not apply to a member who  
600 initially retires on or after July 1, 2010.

601           Section 11. Section **49-16-203** is amended to read:

602           **49-16-203. Exemption of certain employees from coverage -- Exception.**

603           (1) A firefighter service employee serving as the chief of any fire department or district  
604 is excluded from coverage under this system if that firefighter service employee files a formal  
605 written request seeking exemption.

606           (2) The chief of any fire department or district who retires from that position shall  
607 comply with the provisions of ~~[Section]~~ Sections 49-11-504 and 49-11-505 upon  
608 reemployment by the participating employer.

609           Section 12. Section **49-16-402** is amended to read:

610           **49-16-402. Calculation of retirement allowance.**

611           (1) A retiree under this system shall receive an allowance equal to:

612           (a) 2.5% of final average monthly salary multiplied by the number of years of service  
613 credit, limited to 20 years; plus

614           (b) 2% of final average monthly salary, multiplied by the number of years of service

615 credit in excess of 20 years.

616 (2) The minimum allowance payable under this section is \$500.

617 (3) (a) Except as modified by cost-of-living adjustments and except as provided under  
618 Subsection (3)(b), an allowance under this system may not exceed 70% of a firefighter service  
619 employee's final average monthly salary.

620 (b) The allowance limitation under Subsection (3)(a) does not apply to a member who  
621 initially retires on or after July 1, 2010.

622 Section 13. Section **49-17-402** is amended to read:

623 **49-17-402. Calculation of retirement allowance.**

624 (1) A retiree under this system shall receive an allowance equal to:

625 (a) 5% of the final average monthly salary multiplied by the number of years of service  
626 credit, limited to 10 years; plus

627 (b) 2.25% of the final average monthly salary multiplied by the number of years of  
628 service credit in excess of 10 years and up to and including 20 years; plus

629 (c) 1% of the final average monthly salary multiplied by the number of years of service  
630 credit in excess of 20 years.

631 (2) (a) Except as modified by cost-of-living adjustments and except as provided under  
632 Subsection (2)(b), an allowance under this system may not exceed 75% of the member's final  
633 average monthly salary.

634 (b) The allowance limitation under Subsection (2)(a) does not apply to a member who  
635 initially retires on or after July 1, 2010.

636 (3) If the retiree has attained the age of 55 years and has 20 years or more of service  
637 credit, the retiree shall receive an early retirement reduction to the allowance based on an  
638 actuarial calculation assuming a normal retirement age of 65 years.

639 Section 14. Section **49-18-402** is amended to read:

640 **49-18-402. Calculation of retirement allowance.**

641 (1) A retiree under this system shall receive an allowance equal to:

642 (a) 5% of the final average monthly salary multiplied by the number of years of service  
643 credit, limited to 10 years; plus

644 (b) 2.25% of the final average monthly salary multiplied by the number of years of  
645 service credit in excess of 10 years and up to and including 20 years; plus

646 (c) 1% of the final average monthly salary multiplied by the number of years of service  
647 credit in excess of 20 years.

648 (2) (a) Except as modified by cost-of-living adjustments and except as provided under  
649 Subsection (2)(b), an allowance under this system may not exceed 75% of the member's final  
650 average monthly salary.

651 (b) The allowance limitation under Subsection (2)(a) does not apply to a member who  
652 initially retires on or after July 1, 2010.

653 (3) If the retiree has attained the age of 55 years and has 20 years or more of service  
654 credit, the retiree shall receive an early retirement reduction to the allowance based on an  
655 actuarial calculation assuming a normal retirement age of 65 years.

656 Section 15. **Effective date.**

657 This bill takes effect on July 1, 2010.

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**S.B. 43 3rd Sub. (Ivory) - Post-retirement Employment Amendments**

**Fiscal Note**

2010 General Session  
State of Utah

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**State Impact**

Enactment of this bill will increase retirement contribution rates by 0.23 percentage points for employees covered by the Public Safety Contributory system and by 0.27 percentage points for employees covered by the Public Safety Noncontributory system. It will also increase the Firefighters Retirement System by 1.37 percentage points and the Judges Retirement system by 1.45 percentage points. This will require an appropriation of approximately \$609,000 distributed among state agencies.

The immediate increases in contribution rates come from removing maximum allowances. Over time there will be a net savings to the retirement system for individuals that work longer. Savings to the state may be as high as \$10.5 million depending on retirement patterns.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</u> <u>Revenue</u>
General Fund	\$0	\$515,800	\$515,800	\$0	\$0	\$0
General Fund Restricted	\$0	\$17,100	\$17,100	\$0	\$0	\$0
Federal Funds	\$0	\$58,500	\$58,500	\$0	\$0	\$0
Dedicated Credits	\$0	\$17,600	\$17,600	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$609,000</b>	<b>\$609,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses. Local governments will experience increased contribution rates for Firefighters Retirement System between 0.64 and 1.37 percentage points. Public Safety Contributory and Noncontributory systems would experience increased rates between 0.15 and 0.60 percentage points. Individuals may be impacted due to the proposed change in statute.