

**Senator Daniel R. Liljenquist** 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; ~~§~~ → [and  
→] ← ~~shall contribute the amortization rate for the reemployed retiree to the retirement system that would have covered the retiree in the new position;~~ ← ~~§~~
- ▶ provides that a retiree from the Utah State Retirement System who initially returns



26 to work with a participating employer on or after July 1, 2010, is returned to active member  
27 status to earn additional service credit but:

- 28       • the retiree's allowance is cancelled; and
- 29       • the employer's retirement contribution is made to the retirement system on  
30 behalf of the retiree for additional service credit;
- 31       ▶ provides exceptions to the allowance cancellation for reemployed retirees who  
32 initially return to work with a participating employer on or after July 1, 2010, if the  
33 retirees' reemployment status:
  - 34           • is seasonal, temporary, or part-time and the employment does not exceed 750  
35 hours of work per calendar year; and
  - 36           • does not begin sooner than six months after the retirement date, if the  
37 reemployment is with the same agency;
- 38       ▶ repeals the maximum allowance that a member may receive for a member who  
39 initially retires on or after July 1, 2010, in the following systems:
  - 40           • the Public Safety Contributory Retirement System;
  - 41           • the Public Safety Noncontributory Retirement System;
  - 42           • the Firefighters' Retirement System;
  - 43           • the Judges' Contributory Retirement System; and
  - 44           • the Judges' Noncontributory Retirement System;
- 45       ▶ prevents the Commissioner of Public Safety, an elected or appointed sheriff, or a  
46 chief of police from retiring in place on or after July 1, 2010; and
- 47       ▶ makes technical changes.

48 **Monies Appropriated in this Bill:**

49       None

50 **Other Special Clauses:**

51       This bill takes effect on July 1, 2010.

52 **Utah Code Sections Affected:**

53 AMENDS:

54       **49-11-102**, as last amended by Laws of Utah 2009, Chapter 101

55       **49-11-405**, as renumbered and amended by Laws of Utah 2002, Chapter 250

56       **49-11-504**, as last amended by Laws of Utah 2009, Chapter 101

- 57           **49-12-701**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 58           **49-13-701**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 59           **49-14-203**, as last amended by Laws of Utah 2006, Chapter 260
- 60           **49-14-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 61           **49-15-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 62           **49-15-203**, as last amended by Laws of Utah 2005, Chapter 176
- 63           **49-16-203**, as last amended by Laws of Utah 2005, Chapter 116
- 64           **49-16-402**, as last amended by Laws of Utah 2003, Chapter 240
- 65           **49-17-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 66           **49-18-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250

67 ENACTS:

68           **49-11-505**, Utah Code Annotated 1953



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

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

72           **49-11-102. Definitions.**

73           As used in this title:

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

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

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

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

82           (4) (a) "Agency" means:

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

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

86           (iii) a state college or university; or

87           (iv) any other participating employer.

88 (b) "Agency" does not include an entity listed under Subsection (4)(a)(i) that is a  
89 subdivision of another entity listed under Subsection (4)(a).

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

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

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

97 [~~(7)~~] (8) "Annuity" means monthly payments derived from member contributions.

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

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

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

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

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

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

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

118 [~~(11)~~] (12) "Board" means the Utah State Retirement Board established under Section

119 49-11-202.

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

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

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

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

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

132 [~~(16)~~] (18) "Current service" means covered service as defined in Chapters 12, 13, 14,  
133 15, 16, 17, 18, and 19.

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

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

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

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

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

150 (d) any vocational and technical school; and

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

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

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

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

160 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,  
161 49-14-203, 49-15-203, or 49-16-203; and

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

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

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

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

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

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

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

181           ~~[(26)]~~ (28) "Member contributions" means the sum of the contributions paid to a  
182 system or the Utah Governors' and Legislators' Retirement Plan, including refund interest if  
183 allowed by a system, and which are made by:

184           (a) the member; and

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

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

189           (30) "Normal cost rate" means:

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

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

194           ~~[(28)]~~ (31) "Office" means the Utah State Retirement Office.

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

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

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

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

210           ~~[(33)]~~ (36) (a) "Political subdivision" means any local government entity, including  
211 cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is

212 legally separate and distinct from the state and only if its employees are not by virtue of their  
213 relationship to the entity employees of the state.

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

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

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

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

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

229 (40) "Reemployed," "reemploy," or "reemployment" means service after retirement, in  
230 exchange for compensation.

231 [~~(37)~~] (41) "Refund interest" means the amount accrued on member contributions at a  
232 rate adopted by the board.

233 [~~(38)~~] (42) "Retiree" means an individual who has qualified for an allowance under this  
234 title.

235 [~~(39)~~] (43) "Retirement" means the status of an individual who has become eligible,  
236 applies for, and is entitled to receive an allowance under this title.

237 [~~(40)~~] (44) "Retirement date" means the date selected by the member on which the  
238 member's retirement becomes effective with the office.

239 [~~(41)~~] (45) "Service credit" means:

240 (a) the period during which an employee is employed and compensated by a  
241 participating employer and meets the eligibility requirements for membership in a system or the  
242 Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are



243 paid to the office; and

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

245 [~~(42)~~] (46) "System" means the individual retirement systems created by Chapter 12,  
246 Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'  
247 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,  
248 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'  
249 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges'  
250 Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement  
251 Act.

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

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

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

256 [~~(43)~~] (48) "Voluntary deferrals" means an amount contributed by a participant into  
257 that participant's defined contribution account.

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

259 **49-11-405. Service credit from different systems or plans -- Eligibility and**  
260 **calculation of service credit.**

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

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

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

269 (3) If a member meets the requirements of Subsection (2), the office shall calculate the  
270 member's allowance using all service credit earned from any system or the Utah Governors' and  
271 Legislators' Retirement Plan, with no actuarial reduction applied to the allowance, except the  
272 service credit used to calculate the benefit shall be increased or decreased to reflect the value of  
273 the assets transferred.

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

276 (5) This section does not apply to a retiree who is subject to ~~[Section]~~ Sections  
277 49-11-504 and 49-11-505.

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

279 **49-11-504. Reemployment of a retiree -- Restrictions.**

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

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

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

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

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

286 ~~[(1)]~~ (3) A person who ~~[retires from a nonparticipating employer]~~ is not a retiree under  
287 this title is not subject to any postretirement restrictions under this title.

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

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

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

295 (a) a different agency; or

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

297 ~~[(4)]~~ (5) A retiree of an agency who is reemployed on a full-time basis by the same  
298 agency within six months of the date of retirement is subject to the following:

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

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

302 (c) the allowance cancellation and reinstatement to active member status is effective on  
303 the first day of the month following the date of reemployment;

304 (d) the reinstated retiree may not retire again with a recalculated benefit for a two-year

305 period from the date of cancellation of the original allowance, and if the retiree retires again  
 306 within the two-year period, the original allowance shall be resumed; and

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

311 ~~[(5)]~~ (6) A retiree of an agency who is reemployed by the same agency within six  
 312 months of retirement on a less than full-time basis by the same agency is subject to the  
 313 following:

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

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

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

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

322 ~~[(6)]~~ (7) For six months immediately following retirement, the retiree and participating  
 323 employer who are subject to Subsection (6) shall:

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

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

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

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

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

333 (8) (a) If a participating employer hires a ~~[nonexempt]~~ retiree, on a full-time basis, who  
 334 may not earn additional service credit under ~~[this section]~~ Subsection (4), the participating  
 335 employer ~~§→ [:] ←§~~

336 ~~§~~ → [(f)] ← § may not contribute an amount that exceeds the normal cost rate as defined under  
 337 Section 49-11-102 to a plan for the retiree under Subsection (8)(b) ~~§~~ → [; and  
 338 ~~— (ii) shall contribute the~~ ← § [same percentage of a retiree's salary that the participating  
 339 employer would have been required to contribute if the retiree were an active member, up to  
 340 the amount allowed by federal law.] ~~§~~ → [amortization rate, as defined under Section 49-11-102, for  
 341 the retiree to the office to be credited to the system that would have covered the retiree in the  
 342 new position] ← § .

343 (b) The contributions under Subsection (8)(a) ~~§~~ → [(f)] ← § are not required, but if paid, shall be  
 344 paid to a retiree-designated:

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

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

350 (c) Notwithstanding the provisions of Subsection (8)(b), if an employer is not  
 351 participating in a qualified defined contribution plan administered by the board, the employer  
 352 may elect to pay the contributions under Subsection (8)(a) ~~§~~ → [(f)] ← § to a nonqualified deferred  
 353 compensation plan administered by the board.

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

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

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

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

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

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

364 **49-11-505. Reemployment of a retiree -- Restrictions.**

365 (1) ~~§~~ → (a) ← § This section applies to:

366 ~~§~~ → [(a)] (i) ← § a participating employer; and

367 ~~§~~→ ~~(fb)~~ (ii) ←~~§~~ a retiree who begins reemployment for the first time after retirement with a  
 368 participating employer on or after July 1, 2010.

368a ~~§~~→ (b) **This section does not apply to a retiree who is reemployed as an active senior**  
 368b **judge appointed to hear cases by the Utah Supreme Court in accordance with Article VIII,**  
 368c **Section 4, Utah Constitution.** ←~~§~~

369 (2) (a) Except as provided under Subsection (2)(b), the office shall cancel the  
 370 retirement allowance of a retiree who is reemployed with a participating employer if the initial  
 371 reemployment begins on or after July 1, 2010.

372 (b) The office may not cancel the retirement allowance under Subsection (2)(a), if the  
 373 participating employer certifies that:

374 (i) the date of reemployment begins ~~§~~→ ~~[not] no~~ ←~~§~~ sooner than six months after the date of  
 375 retirement, if the reemployment is with the same agency from which the retiree retired;

376 (ii) the reemployment status is seasonal, temporary, or part-time in nature;

377 (iii) the cumulative amount of reemployment with any participating employer may not  
 378 exceed 750 hours of work in any one calendar year; and

379 (iv) the participating employer and the reemployed employee have a duty to  
 380 immediately notify the office if:

381 (A) any change of reemployment status occurs; or

382 (B) any of the conditions of Subsections (2)(b)(i) through (iii) are violated.

383 (c) A retiree who is reemployed may not earn additional service credit during any  
 384 period in which the retiree is collecting a retirement allowance.

385 (3) (a) A participating employer who hires a retiree subject to this section shall provide  
 386 the office the information required in Subsection (6)(a).

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

389 (4) (a) When the office receives notice or learns of a condition under Subsection (2),  
 390 which requires the cancellation of a retiree's allowance, the office shall immediately cancel the  
 391 retirement allowance of a retiree in accordance with Subsection (4)(b).

392 (b) If required under this section, the office shall:

393 (i) cancel the retiree's allowance on the first day of the month following:

394 (A) the date of reemployment if the retiree is not exempted under Subsection (2)(b); or

395 (B) the date of the violation under Subsections (2)(b)(i) through (iii);

396 (ii) reinstate the retiree to active member status effective on the first day of the month  
 397 following the:

398 (A) date of reemployment if the retiree is not exempted under Subsection (2)(b); or

399 (B) the date of the violation under Subsections (2)(b)(i) through (iii).

400 (5) (a) A retiree subject to Subsection (4) who retires within two years from the date of  
401 reemployment:

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

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

404 (b) Subject to Subsection (2)(c), a retiree who is re-instated to active membership  
405 under Subsection (4) and who retires two or more years after the date of re-instatement to  
406 active membership shall be credited with additional service credit as a member of the system.

407 (c) A retiree who has returned to work and accrued additional service credit under  
408 Subsection (5)(b) and again retires shall:

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

410 (ii) receive an additional allowance based on the formula in effect at the date of the  
411 subsequent retirement for all service credit accrued between the first and subsequent retirement  
412 dates.

413 (6) (a) A participating employer who is subject to this section shall:

414 (i) immediately report to the office, the date of reemployment of a retiree and the status  
415 of the reemployment under Subsection (2);

416 (ii) report any change in reemployment status during the period of reemployment;

417 (iii) maintain an accurate record of gross earnings, hours worked in the reemployment,  
418 and reemployment status;

419 (iv) report the gross earnings, hours worked, and reemployment status at least monthly  
420 to the office; and

421 (v) immediately notify the office in writing if the employee is, or should be, aware of a  
422 condition under Subsection (2), that requires the cancellation of a retiree's allowance under this  
423 section.

424 (b) A retiree subject to this section shall:

425 (i) report to the office the status of the reemployment under Subsection (2);

426 (ii) maintain an accurate record of all hours worked during a calendar year for any  
427 participating employer; and

428 (iii) if reemployed under Subsection (2)(b)(ii), immediately notify the office if the

429 retiree exceeds the number of hours allowed under Subsection (2)(b)(iii) as a result of any work  
430 for any participating employer during the calendar year.

431 (7) The board may make rules to implement this section.

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

433 **49-12-701. Early retirement incentive -- Eligibility -- Calculation of benefit --**  
434 **Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**  
435 **reemployment.**

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

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

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

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

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

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

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

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

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

457 (iii) If the member agrees to delay the retirement date, the retirement date shall be  
458 delayed, but service credit may not be accrued after the member's original retirement date  
459 elected by the member, and compensation earned after the member's original retirement date

460 may not be used in the calculation of the final average salary for determining the retirement  
461 allowance.

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

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

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

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

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

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

477 (ii) for school employees, by direct contributions from the employing unit, which may  
478 not be funded through an increase in the retirement contribution amount established in Title  
479 53A, Chapter 17a, Minimum School Program Act; and

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

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

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

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



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

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

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

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

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

499 **49-13-701. Early retirement incentive -- Eligibility -- Calculation of benefit --**  
500 **Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**  
501 **reemployment.**

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

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

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

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

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

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

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

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

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

521 (iii) If the member agrees to delay the retirement date, the retirement date shall be

522 delayed, but service credit may not be accrued after the member's original retirement date  
523 elected by the member, and compensation earned after the member's original retirement date  
524 may not be used in the calculation of the final average salary for determining the retirement  
525 allowance.

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

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

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

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

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

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

541 (ii) for school employees, by direct contributions from the employing unit, which may  
542 not be funded through an increase in the retirement contribution amount established in Title  
543 53A, Chapter 17a, Minimum School Program Act; and

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

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

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

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

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

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

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

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

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

563 **49-14-203. Exemption of certain employees from coverage.**

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

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

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

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

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

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

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

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

579 **49-14-402. Calculation of retirement allowance.**

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

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

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

584 credit in excess of 20 years.

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

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

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

591 **49-15-203. Exemption of certain employees from coverage.**

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

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

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

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

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

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

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

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

607 **49-15-402. Calculation of retirement benefit.**

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

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

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

613 (2) (a) Except as modified by cost-of-living adjustments and except as provided under  
614 Subsection (2)(b), an allowance under this system may not exceed 70% of a retiree's final

615 average monthly salary.

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

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

619 **49-16-203. Exemption of certain employees from coverage -- Exception.**

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

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

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

627 **49-16-402. Calculation of retirement allowance.**

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

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

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

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

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

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

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

640 **49-17-402. 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 14. Section **49-18-402** is amended to read:

657 **49-18-402. Calculation of retirement allowance.**

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

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

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

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

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

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

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

673 Section 15. **Effective date.**

674 This bill takes effect on July 1, 2010.

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**S.B. 43 1st Sub. (Green) - 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 and gain additional service credit. 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.