

**POST-RETIREMENT EMPLOYMENT**

**AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel R. Liljenquist**

House Sponsor: \_\_\_\_\_

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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 to maximum retirement allowance restrictions.

**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;
- ▶ requires a participating employer who hires a retiree to 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 returns to work with a participating employer on or after July 1, 2010 is returned to active member status to earn additional service credit but:
  - the retiree's allowance is canceled; and
  - the employer's retirement contribution is made to the retirement system on



- 28 behalf of the retiree for additional service credit;
- 29       ▶ provides that a retiree who begins reemployment on a part-time basis with any
- 30 participating employer on or after July 1, 2010 is subject to certain earnings
- 31 limitations;
- 32       ▶ repeals the maximum allowance that a member may receive for a member who
- 33 initially retires on or after July 1, 2010, in the following systems:
- 34       • the Public Safety Contributory Retirement System;
- 35       • the Public Safety Noncontributory Retirement System;
- 36       • the Firefighters Retirement System;
- 37       • the Judges' Contributory Retirement System; and
- 38       • the Judges' Noncontributory Retirement System; and
- 39       ▶ makes technical changes.

40 **Monies Appropriated in this Bill:**

41       None

42 **Other Special Clauses:**

43       This bill takes effect on July 1, 2010.

44 **Utah Code Sections Affected:**

45 AMENDS:

- 46       **49-11-102**, as last amended by Laws of Utah 2009, Chapter 101
- 47       **49-11-405**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 48       **49-11-504**, as last amended by Laws of Utah 2009, Chapter 101
- 49       **49-12-701**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 50       **49-13-701**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 51       **49-14-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 52       **49-15-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 53       **49-16-203**, as last amended by Laws of Utah 2005, Chapter 116
- 54       **49-16-402**, as last amended by Laws of Utah 2003, Chapter 240
- 55       **49-17-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 56       **49-18-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250

57 ENACTS:

- 58       **49-11-505**, Utah Code Annotated 1953

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

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

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

As used in this title:

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

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

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

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

(4) (a) "Agency" means:

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

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

(iii) a state college or university; or

(iv) any other participating employer.

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

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

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

(7) (a) "Amortization rate" means the percent of salary required to gradually reduce the unfunded actuarial accrued liability of a system by means of periodic payments sufficient to liquidate the debt over a period specified by the board's funding policy.

(b) "Amortization rate" includes the difference between the normal cost rate and the certified contribution rate.

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

90           ~~[(8)]~~ (9) "Appointive officer" means an employee appointed to a position for a definite  
91 and fixed term of office by official and duly recorded action of a participating employer whose  
92 appointed position is designated in the participating employer's charter, creation document, or  
93 similar document, and who earns during the first full month of the term of office \$500 or more,  
94 indexed as of January 1, 1990, as provided in Section 49-12-407.

95           ~~[(9)]~~ (10) (a) "At-will employee" means a person who is employed by a participating  
96 employer and:

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

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

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

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

107           ~~[(10)]~~ (11) "Beneficiary" means any person entitled to receive a payment under this  
108 title through a relationship with or designated by a member, participant, covered individual, or  
109 alternate payee of a defined contribution plan.

110           ~~[(11)]~~ (12) "Board" means the Utah State Retirement Board established under Section  
111 49-11-202.

112           ~~[(12)]~~ (13) "Board member" means a person serving on the Utah State Retirement  
113 Board as established under Section 49-11-202.

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

117           ~~[(13)]~~ (15) "Contributions" means the total amount paid by the participating employer  
118 and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under  
119 Chapter 19, Utah Governors' and Legislators' Retirement Act.

120           ~~[(14)]~~ (16) "Council member" means a person serving on the Membership Council

121 established under Section 49-11-202.

122 ~~[(15)]~~ (17) "Covered individual" means any individual covered under Chapter 20,  
123 Public Employees' Benefit and Insurance Program Act.

124 ~~[(16)]~~ (18) "Current service" means covered service as defined in Chapters 12, 13, 14,  
125 15, 16, 17, 18, and 19.

126 ~~[(17)]~~ (19) "Defined benefit" or "defined benefit plan" or "defined benefit system"  
127 means a system or plan offered under this title to provide a specified allowance to a retiree or a  
128 retiree's spouse after retirement that is based on a set formula involving one or more of the  
129 following factors:

- 130 (a) years of service;
- 131 (b) final average monthly salary; or
- 132 (c) a retirement multiplier.

133 ~~[(18)]~~ (20) "Defined contribution" or "defined contribution plan" means any defined  
134 contribution plan or deferred compensation plan authorized under the Internal Revenue Code  
135 and administered by the board.

136 ~~[(19)]~~ (21) "Educational institution" means a political subdivision or instrumentality of  
137 the state or a combination thereof primarily engaged in educational activities or the  
138 administration or servicing of educational activities, including:

- 139 (a) the State Board of Education and its instrumentalities;
- 140 (b) any institution of higher education and its branches;
- 141 (c) any school district and its instrumentalities;
- 142 (d) any vocational and technical school; and
- 143 (e) any entity arising out of a consolidation agreement between entities described under  
144 this Subsection ~~[(19)]~~ (21).

145 ~~[(20)]~~ (22) (a) "Employer" means any department, educational institution, or political  
146 subdivision of the state eligible to participate in a government-sponsored retirement system  
147 under federal law.

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

150 ~~[(21)]~~ (23) "Exempt employee" means an employee working for a participating  
151 employer:

152 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,  
153 49-14-203, 49-15-203, or 49-16-203; and

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

156 [~~(22)~~] (24) "Final average monthly salary" means the amount computed by dividing the  
157 compensation received during the final average salary period under each system by the number  
158 of months in the final average salary period.

159 [~~(23)~~] (25) "Fund" means any fund created under this title for the purpose of paying  
160 benefits or costs of administering a system, plan, or program.

161 [~~(24)~~] (26) (a) "Inactive member" means a member who has not been employed by a  
162 participating employer for a period of at least 120 days.

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

164 [~~(25)~~] (27) (a) "Member" means a person, except a retiree, with contributions on  
165 deposit with a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19,  
166 Utah Governors' and Legislators' Retirement Act, or with a terminated system.

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

173 [~~(26)~~] (28) "Member contributions" means the sum of the contributions paid to a  
174 system or the Utah Governors' and Legislators' Retirement Plan, including refund interest if  
175 allowed by a system, and which are made by:

176 (a) the member; and

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

179 [~~(27)~~] (29) "Nonelective contribution" means an amount contributed by a participating  
180 employer into a participant's defined contribution account.

181 (30) "Normal cost rate" means the percent of salary that is necessary for a retirement  
182 system that is fully funded to maintain its fully funded status in combination with the assumed

183 rate of return as established by the board.

184 [~~(28)~~] (31) "Office" means the Utah State Retirement Office.

185 [~~(29)~~] (32) "Participant" means an individual with voluntary deferrals or nonelective  
186 contributions on deposit with the defined contribution plans administered under this title.

187 [~~(30)~~] (33) "Participating employer" means a participating employer, as defined by  
188 [~~Chapters 12, 13, 14, 15, 16, 17, and 18~~] Chapter 12, Public Employees' Contributory  
189 Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14,  
190 Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory  
191 Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory  
192 Retirement Act, and Chapter 18, Judges' Noncontributory Retirement Act, or an agency  
193 financed in whole or in part by public funds which is participating in a system or plan as of  
194 January 1, 2002.

195 [~~(31)~~] (34) "Pension" means monthly payments derived from participating employer  
196 contributions.

197 [~~(32)~~] (35) "Plan" means the Utah Governors' and Legislators' Retirement Plan created  
198 by Chapter 19, Utah Governors' and Legislators' Retirement Act, or the defined contribution  
199 plans created under Section 49-11-801.

200 [~~(33)~~] (36) (a) "Political subdivision" means any local government entity, including  
201 cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is  
202 legally separate and distinct from the state and only if its employees are not by virtue of their  
203 relationship to the entity employees of the state.

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

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

208 [~~(34)~~] (37) "Program" means the Public Employees' Insurance Program created under  
209 Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'  
210 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term  
211 Disability Act.

212 [~~(35)~~] (38) "Public funds" means those funds derived, either directly or indirectly, from  
213 public taxes or public revenue, dues or contributions paid or donated by the membership of the

214 organization, used to finance an activity whose objective is to improve, on a nonprofit basis,  
215 the governmental, educational, and social programs and systems of the state or its political  
216 subdivisions.

217 ~~[(36)]~~ (39) "Qualified defined contribution plan" means a defined contribution plan  
218 that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

219 ~~[(37)]~~ (40) "Refund interest" means the amount accrued on member contributions at a  
220 rate adopted by the board.

221 ~~[(38)]~~ (41) "Retiree" means an individual who has qualified for an allowance under this  
222 title.

223 ~~[(39)]~~ (42) "Retirement" means the status of an individual who has become eligible,  
224 applies for, and is entitled to receive an allowance under this title.

225 ~~[(40)]~~ (43) "Retirement date" means the date selected by the member on which the  
226 member's retirement becomes effective with the office.

227 ~~[(41)]~~ (44) "Service credit" means:

228 (a) the period during which an employee is employed and compensated by a  
229 participating employer and meets the eligibility requirements for membership in a system or the  
230 Utah Governors' and Legislators' Retirement Plan, provided that any required contributions are  
231 paid to the office; and

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

233 ~~[(42)]~~ (45) "System" means the individual retirement systems created by Chapter 12,  
234 Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'  
235 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,  
236 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'  
237 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges'  
238 Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement  
239 Act.

240 (46) "Unfunded actuarial accrued liability" or "UAAL" means the excess, if any, of the  
241 accrued liability of a retirement system over the actuarial value of its assets as determined by  
242 the system's actuary.

243 ~~[(43)]~~ (47) "Voluntary deferrals" means an amount contributed by a participant into  
244 that participant's defined contribution account.



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

246 **49-11-405. Service credit from different systems or plans -- Eligibility and**  
247 **calculation of service credit.**

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

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

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

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

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

263 (5) This section does not apply to a retiree who is subject to ~~[Section]~~ Sections  
264 49-11-504 and 49-11-505.

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

266 **49-11-504. Reemployment of a retiree -- Restrictions.**

267 (1) As used in this section and Section 49-11-505:

268 (a) "Full-time" means:

269 (i) employment requiring 20 or more hours of work per week; or

270 (ii) at least a half-time teaching contract.

271 (b) "Reemployed," "reemploy," or "reemployment" means service after retirement, in  
272 exchange for compensation.

273 (2) (a) Except for the provisions of Subsections (1) and (3), the provisions of this  
274 section do not apply to a person who is subject to the provisions of Section 49-11-505.

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

276           ~~[(1)]~~ (3) A person who ~~[retires from a nonparticipating employer]~~ is not a retiree under  
277 this title is not subject to any postretirement restrictions under this title.

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

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

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

285           (a) a different agency; or

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

287           ~~[(4)]~~ (5) A retiree of an agency who is reemployed on a full-time basis by the same  
288 agency within six months of the date of retirement is subject to the following:

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

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

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

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

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

301           ~~[(5)]~~ (6) A retiree of an agency who is reemployed by the same agency within six  
302 months of retirement on a less than full-time basis by the same agency is subject to the  
303 following:

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

306           (b) if a retiree receives compensation in a calendar year in excess of the Social Security

307 limitation, 25% of the allowance shall be suspended for the remainder of the six-month period;

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

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

312 [~~(6)~~] (7) For six months immediately following retirement, the retiree and participating  
313 employer who are subject to Subsection (6) shall:

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

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

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

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

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

323 (8) [~~(a)~~] If a participating employer hires a [~~nonexempt~~] retiree who may not earn  
324 additional service credit under [~~this section~~] Subsection (4), the participating employer shall  
325 contribute the [~~same percentage of a retiree's salary that the participating employer would have~~  
326 ~~been required to contribute if the retiree were an active member, up to the amount allowed by~~  
327 ~~federal law.~~] amortization rate, as defined under Section 49-11-102, for the retiree to the office  
328 to be credited to the system that would have covered the retiree in the new position.

329 [~~(b) The contributions shall be paid to a retiree-designated:]~~

330 [~~(i) qualified defined contribution plan administered by the board, if the participating~~  
331 ~~employer participates in a qualified defined contribution plan administered by the board; or]~~

332 [~~(ii) qualified defined contribution plan offered by the participating employer if the~~  
333 ~~participating employer does not participate in a qualified defined contribution plan~~  
334 ~~administered by the board.]~~

335 [~~(c) Notwithstanding the provisions of Subsection (8)(b), if an employer is not~~  
336 ~~participating in a qualified defined contribution plan administered by the board, the employer~~  
337 ~~may elect to pay the contributions to a nonqualified deferred compensation plan administered~~

338 by the board:]

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

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

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

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

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

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

349 **49-11-505. Reemployment of a retiree -- Restrictions.**

350 (1) (a) This section applies to a retiree who begins reemployment with a participating  
351 employer on or after July 1, 2010.

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

353 (2) (a) A participating employer who hires a retiree subject to this section on a  
354 full-time basis shall immediately notify the office.

355 (b) The office shall:

356 (i) cancel the retiree's allowance on the first day of the month following the date of  
357 employment; and

358 (ii) reinstate the retiree to active member status effective on the first day of the month  
359 following the date of reemployment.

360 (3) (a) A retiree subject to Subsection (2) who retires within two years from the date of  
361 reemployment:

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

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

364 (b) A retiree subject to this section who retires two or more years after the date of  
365 reemployment shall be credited with additional service credit as a member of the system.

366 (4) A retiree who has returned to work, accrued additional service credit, and again  
367 retires shall:

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

369 (b) receive an additional allowance based on the formula in effect at the date of the  
370 subsequent retirement for all service credit accrued between the first and subsequent retirement  
371 dates.

372 (5) A retiree of an agency who is reemployed on a less than full-time basis is subject to  
373 the following:

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

376 (b) if a retiree receives compensation, from a participating employer, in a calendar year  
377 in excess of the Social Security limitation, 25% of the allowance shall be suspended;

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

380 (d) any suspension of a retiree's allowance under this Subsection (5) shall be applied on  
381 a calendar year basis.

382 (6) A retiree and participating employer who are subject to Subsection (5) shall:

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

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

385 (c) immediately notify the office in writing of any postretirement earnings under  
386 Subsection (5); and

387 (d) immediately notify the office in writing whether the postretirement earnings equal  
388 or exceed the exempt earnings under Subsection (5).

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

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

391 **49-12-701. Early retirement incentive -- Eligibility -- Calculation of benefit --**

392 **Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**  
393 **reemployment.**

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

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

399 (b) the member elects to forfeit any stipend for retirement offered by the participating

400 employer; and

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

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

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

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

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

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

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

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

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

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

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

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

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

435 (ii) for school employees, by direct contributions from the employing unit, which may  
436 not be funded through an increase in the retirement contribution amount established in Title  
437 53A, Chapter 17a, Minimum School Program Act; and

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

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

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

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

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

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

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

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

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

457 **49-13-701. Early retirement incentive -- Eligibility -- Calculation of benefit --**  
458 **Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**  
459 **reemployment.**

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

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

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

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

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

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

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

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

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

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

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

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

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

492 (b) The cost of providing the allowance under this section shall be funded beginning



493 July 1, 1988, by means of an increase in the retirement contribution rate established by the  
494 consulting actuary and approved by the board.

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

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

499 (ii) for school employees, by direct contributions from the employing unit, which may  
500 not be funded through an increase in the retirement contribution amount established in Title  
501 53A, Chapter 17a, Minimum School Program Act; and

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

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

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

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

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

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

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

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

520 Section 7. Section **49-14-402** is amended to read:

521 **49-14-402. Calculation of retirement allowance.**

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

523 (a) 2.5% of final average monthly salary multiplied by the number of years of service

524 credit, limited to 20 years; plus

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

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

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

532 Section 8. Section **49-15-402** is amended to read:

533 **49-15-402. Calculation of retirement benefit.**

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

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

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

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

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

544 Section 9. Section **49-16-203** is amended to read:

545 **49-16-203. Exemption of certain employees from coverage -- Exception.**

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

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

552 Section 10. Section **49-16-402** is amended to read:

553 **49-16-402. Calculation of retirement allowance.**

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

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

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

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

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

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

565 Section 11. Section **49-17-402** is amended to read:

566 **49-17-402. Calculation of retirement allowance.**

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

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

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

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

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

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

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

582 Section 12. Section **49-18-402** is amended to read:

583 **49-18-402. Calculation of retirement allowance.**

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

585 (a) 5% of the final average monthly salary multiplied by the number of years of service

586 credit, limited to 10 years; plus

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

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

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

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

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

599 Section 13. **Effective date.**

600 This bill takes effect on July 1, 2010.

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**Legislative Review Note**  
**as of 1-18-10 6:45 AM**

**Office of Legislative Research and General Counsel**

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**S.B. 43 - 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.