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## **MEMORANDUM**

**TO:** Members, Utah State Board of Education

**FROM:** Martell Menlove, Ph.D.  
Chief Executive Officer

**DATE:** February 7, 2014

**ACTION:** R277-118 LEA Post-employment Benefits Plan (New)

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### **Background:**

In a recent meeting of the Education Appropriations Sub-committee, due to the significant liability that exists in some school districts because of postretirement benefits offered by the districts, the chair of the committee gave direction to the State Board of Education to prepare a Board Rule concerning Other Post Retirement Benefits and Termination Benefits. Discussion has been held with Business Administrators from the Utah School Business Officials concerning the proposed content of this proposed new rule.

The purpose of this new rule R277-118 *LEA Post Employment Benefit Plans* is to provide direction to LEAs concerning postemployment benefits including closing eligibility to some plans and limiting retirement incentives for other plans.

### **Key Points:**

The new rule provides procedures and criteria for LEAs with Other Postemployment Benefit Plans (OPEB) and existing retirement incentive plans.

### **Anticipated Action:**

It is proposed that the Finance and Audit Committee consider approving R277-118 on first reading, and if approved by the Committee, the Board consider approving R277-118 on second reading.

**Contact:** Bruce Williams, Associate Superintendent, 801-538-7514

1 **R277. Education, Administration.**

2 **R277-118. LEA Post-employment Benefits Plans.**

3 **R277-118-1. Definitions.**

4 A. "Board" means the Utah State Board of Education.

5 B. "GASB Statement 43" means a Statement of the  
6 Governmental Accounting and Standards Boards that establishes  
7 uniform standards of financial reporting by state and local  
8 governmental entities for OPEB plans. This Statement provides  
9 standards for measurement, recognition, and display of the  
10 assets, liabilities, and, where applicable, net assets and  
11 changes in net assets of such funds and for related  
12 disclosures. GASB Statement 43 applies to financial reports of  
13 all state and local governmental entities, including public  
14 employee retirement systems.

15 C. "LEA" means a local education agency, including local  
16 school boards/public school districts, charter schools, and  
17 for purposes of this rule, the Utah Schools for the Deaf and  
18 the Blind.

19 D. "Other post-employment benefits (OPEB)" means benefits  
20 after retirement, other than pension benefits, provided over  
21 an extended period of time and may include:

- 22 (1) healthcare;  
23 (2) dental care; and  
24 (3) life insurance.

25 E. "Other post-employment benefits plan (OPEB plan)"  
26 means a plan approved by an LEA that provides post-employment  
27 benefits as identified in R277-118D to employees.

28 F. "Qualified actuary" means a statistician who  
29 determines the present effects of future contingent events;  
30 especially one who calculates insurance and pension rates on  
31 the basis of empirically based tables. An actuary shall have  
32 appropriate credentials or experience or both.

33 G. "Termination benefit plan" means benefit(s) (such as  
34 cash payments, health insurance supplements or bridge payments

35 or sick leave payouts) offered to an employee as incentive(s)  
36 to retire or sever employment from an LEA voluntarily.

37 H. "Trust or a set aside fund balance," for purposes of  
38 this rule, means a legal trust established consistent with  
39 requirements of state law or a designation of a portion of the  
40 LEA's maintenance and operations (M and O) fund balances.

41 Either a trust or an LEA designation of fund balance liability  
42 would be dedicated to supporting an LEA's outstanding post-  
43 employment benefits.

44 **R277-118-2. Authority and Purpose.**

45 A. This rule is authorized under Utah Constitution  
46 Article X, Section 3 which vests general control and  
47 supervision over public education in the Board, Section  
48 53A-1-401(3) which allows the Board to adopt rules in  
49 accordance with its responsibilities, and Section 53A-17a-125  
50 which appropriates funds to the Board to distribute to LEAs  
51 for employee retirement and social security payments.

52 B. The purpose of this rule is to direct LEAs not to add  
53 new employee benefits, not to lengthen existing employee  
54 benefits and not to offer employee benefit plans to new  
55 employees unless LEAs maintain adequate ongoing assets to fund  
56 the plans. The rule provides required timelines for meeting  
57 the provisions of this rule.

58 **R277-118-3. Other Post-employment Benefit Plans; Exceptions;**  
59 **Funding of Liability; Compliance.**

60 A. LEAs shall not add enhanced benefits nor extend time  
61 periods for benefits to employees currently enrolled in and  
62 not enroll new members in post-retirement benefit plans.

63 B. Exceptions to R277-118-3A

64 (1) If an LEA has and desires to continue an outstanding  
65 OPEB liability for post-employment benefit plans, the LEA  
66 shall comply with GASB Statement 43, Paragraph 24 in the LEA's

67 computation of its liability by a qualified actuary.

68 (2) If an LEA has an existing OPEB plan and the plan is  
69 fully funded consistent with the provisions of GASB Statement  
70 43, an LEA may make the plan open to new employees so long as  
71 it remains fully funded.

72 (3) If an LEA's OPEB plan becomes less than fully funded  
73 at any time and the LEA has not provided the documentation for  
74 an exception under R277-118-B(2), the OPEB plan shall be  
75 closed to eligibility to new employees and shall lose its USOE  
76 approved status.

77 C. Funding of liability - If an LEA has an OPEB plan:

78 (1) the LEA must compute an annual required contribution  
79 (ARC) as provided in GASB Statement 43;

80 (2) the LEA shall contribute annually the amount of the  
81 ARC in a trust account or annually set aside as a designated  
82 fund balance the equivalent amount of the ARC; and

83 (3) have a plan consistent with the timeline of GASB  
84 Statement 43, Paragraph 24, to ensure compliance with this  
85 rule.

86 D. Compliance

87 (1) LEAs with OPEB plans shall comply with all outlined  
88 GASB Statement 43 financial reporting requirements.

89 (2) If, due to adverse economic conditions, an LEA fails  
90 to meet the ARC requirement, the LEA shall provide to the  
91 Board a reasonable funding plan to bring the LEA into  
92 compliance with the actuarial timeline required in GASB  
93 Statement 43 by the end of the second year following the year  
94 of inadequate funding.

95 **R277-118-4. Early Retirement or Retirement Severance Benefits.**

96 A. LEAs shall not add to or extend the time periods for  
97 early retirement or severance benefit incentives after the  
98 effective date of this rule.

99 B. As an exception to R277-118-4A, an LEA may offer

100 retirement incentives if the LEA has adequate funds to fully  
101 fund and pay out the incentives in the fiscal year in which  
102 they are offered.

103 **KEY: post-retirement benefits**

104 **Date of Enactment or Last Substantive Amendment: 2014**

105 **Authorizing, and Implemented or Interpreted Law: Art X Sec 3;**

106 **53A-1-401(3); 53A-17a-125**