

1 **POST-RETIREMENT EMPLOYMENT**

2 **AMENDMENTS**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Daniel R. Liljenquist**

6 House Sponsor: Brad L. Dee

8 **LONG TITLE**

9 **General Description:**

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

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ defines certain terms;
- 16 ▶ repeals a requirement that a participating employer who hires a retiree contribute
17 the same percentage of a retiree's salary that the participating employer would have
18 been required to contribute if the retiree were an active member of the retirement
19 system;
- 20 ▶ provides that a participating employer who hires a retiree before July 1, 2010 may
21 not contribute an amount that exceeds the normal cost rate to a qualified defined
22 contribution plan;
- 23 ▶ provides that a retiree from the Utah State Retirement System who returns to work
24 with a participating employer on or after July 1, 2010, is returned to active member
25 status to earn additional service credit if the retiree is reemployed within one year
26 from retirement;
- 27 ▶ provides that a retiree who returns to work with a participating employer after a
28 year from the date of retirement may elect to either:
 - 29 • receive a retirement allowance and forfeit any retirement contribution related to

- 30 the reemployment; or
- 31 • cancel the retiree's retirement allowance and earn additional service credit for
- 32 the period of reemployment;
- 33 ▶ requires a participating employer to pay the amortization rate to the retirement
- 34 system that would have covered the retiree who is:
- 35 • reemployed after July 1, 2010; and
- 36 • receiving a retirement allowance;
- 37 ▶ repeals the maximum allowance that a member may receive for a member who
- 38 initially retires on or after July 1, 2010, in the following systems:
- 39 • the Public Safety Contributory Retirement System;
- 40 • the Public Safety Noncontributory Retirement System;
- 41 • the Firefighters' Retirement System;
- 42 • the Judges' Contributory Retirement System; and
- 43 • the Judges' Noncontributory Retirement System;
- 44 ▶ prevents the Commissioner of Public Safety, an elected or appointed sheriff, or a
- 45 chief of police from retiring in place on or after July 1, 2010; and
- 46 ▶ makes technical changes.

47 **Monies Appropriated in this Bill:**

48 None

49 **Other Special Clauses:**

50 This bill takes effect on July 1, 2010.

51 **Utah Code Sections Affected:**

52 AMENDS:

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

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

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

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

57 **49-13-701**, as renumbered and amended by Laws of Utah 2002, Chapter 250

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

66 ENACTS:

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



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

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

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

72 As used in this title:

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

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

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

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

81 (4) (a) "Agency" means:

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

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

85 (iii) a state college or university; or

86 (iv) any other participating employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

142 and administered by the board.

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

146 (a) the State Board of Education and its instrumentalities;

147 (b) any institution of higher education and its branches;

148 (c) any school district and its instrumentalities;

149 (d) any vocational and technical school; and

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

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

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

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

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

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

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

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

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

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

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

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

180 [~~(26)~~] (28) "Member contributions" means the sum of the contributions paid to a
181 system or the Utah Governors' and Legislators' Retirement Plan, including refund interest if
182 allowed by a system, and which are made by:

183 (a) the member; and

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

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

188 (30) "Normal cost rate":

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

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

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

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

196 [~~(30)~~] (33) "Participating employer" means a participating employer, as defined by
197 [~~Chapters 12, 13, 14, 15, 16, 17, and 18~~] Chapter 12, Public Employees' Contributory

198 Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14,
199 Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory
200 Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory
201 Retirement Act, and Chapter 18, Judges' Noncontributory Retirement Act, or an agency
202 financed in whole or in part by public funds which is participating in a system or plan as of
203 January 1, 2002.

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

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

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

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

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

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

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

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

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

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

231 (i) listed as the contractor; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

282 (1) As used in this section, "full-time" means:
283 (a) employment requiring 20 or more hours of work per week; or
284 (b) at least a half-time teaching contract.
285 (2) (a) Except for the provisions of Subsection (3), the provisions of this section do
286 not apply to a person who is subject to the provisions of Section 49-11-505.
287 (b) This section does not apply to elected positions.
288 ~~[(1)]~~ (3) A person who [retires from a nonparticipating employer] is not a retiree under
289 this title is not subject to any postretirement restrictions under this title.
290 ~~[(2) A retiree of an agency who returns to work at a different agency is not subject to~~
291 ~~any postretirement restrictions under this section and may not earn additional service credit.]~~
292 ~~[(3) For the purposes of Subsections (4) and (5), "full-time" employment means~~
293 ~~employment requiring 20 hours of work per week or more or at least a half-time teaching~~
294 ~~contract.]~~
295 (4) A retiree of an agency who is reemployed may not earn additional service credit, if
296 the retiree is reemployed by:
297 (a) a different agency; or
298 (b) the same agency after six months from the retirement date.
299 ~~[(4)]~~ (5) A retiree of an agency who is reemployed on a full-time basis by the same
300 agency within six months of the date of retirement is subject to the following:
301 (a) the agency shall immediately notify the office;
302 (b) the office shall cancel the retiree's allowance and reinstate the retiree to active
303 member status;
304 (c) the allowance cancellation and reinstatement to active member status is effective
305 on the first day of the month following the date of reemployment;
306 (d) the reinstated retiree may not retire again with a recalculated benefit for a two-year
307 period from the date of cancellation of the original allowance, and if the retiree retires again
308 within the two-year period, the original allowance shall be resumed; and
309 (e) a reinstated retiree retiring after the two-year period shall be credited with the

310 service credit in the retiree’s account at the time of the first retirement and from that time shall
311 be treated as a member of a system, including the accrual of additional service credit, but
312 subject to recalculation of the allowance under Subsection (9) .

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

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

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

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

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

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

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

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

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

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

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

336 (8) (a) If a participating employer hires a ~~[nonexempt]~~ retiree, on a full-time basis,
337 who may not earn additional service credit under ~~[this section]~~ Subsection (4), the

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

343 (b) The contributions under Subsection (8)(a) 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) 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) For purposes of this section, "retiree":

366 (a) means a person who:
367 (i) retired from a participating employer; and
368 (ii) begins reemployment on or after July 1, 2010 with a participating employer; and
369 (b) does not include a retiree who is reemployed as an active senior judge appointed to
370 hear cases by the Utah Supreme Court in accordance with Article VIII, Section 4, Utah
371 Constitution.

372 (2) A retiree may not for the same period of reemployment:
373 (a) (i) earn additional service credit; or
374 (ii) receive any retirement related contribution from a participating employer; and
375 (b) receive a retirement allowance.
376 (3) The office shall cancel the retirement allowance of a retiree if the reemployment
377 with a participating employer begins within one year of the retiree's retirement date.

378 (4) If a retiree is not subject to Subsection (3), the retiree may elect to:
379 (a) earn additional service credit in accordance with this title and cancel the retiree's
380 retirement allowance; or
381 (b) continue to receive the retiree's retirement allowance and forfeit any retirement
382 related contribution from the participating employer who reemployed the retiree.

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

387 (6) (a) A participating employer shall immediately notify the office:
388 (i) if the participating employer reemploys a retiree;
389 (ii) whether the reemployment is subject to Subsection (3) or (4) of this section; and
390 (iii) any election by the retiree under Subsection (4).

391 (b) A participating employer is liable to the office for a payment or failure to make a
392 payment in violation of this section.

393 (c) If a participating employer fails to notify the office in accordance with this section,

394 the participating employer is immediately subject to a compliance audit by the office.

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

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

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

399 (b) The office shall cancel the allowance of a retiree subject to Subsection (7)(a), and
400 reinstate the retiree to active member status on the first day of the month following the date of:

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

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

403 (8) (a) A retiree subject to Subsection (7)(b) who retires within two years from the date
404 of reemployment:

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

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

407 (b) Subject to Subsection (2), a retiree who is re-instated to active membership under
408 Subsection (7) and who retires two or more years after the date of re-instatement to active
409 membership shall:

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

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

414 (9) A retiree subject to this section shall report to the office the status of the
415 reemployment under Subsection (3) or (4).

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

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

418 **49-12-701. Early retirement incentive -- Eligibility -- Calculation of benefit --**
419 **Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**
420 **reemployment.**

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

422 Subsection (2) if the member meets the following requirements as of the member's retirement
423 date:

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

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

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

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

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

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

436 (a) (i) For state and school employees under Level A, the application shall be filed by
437 May 31, 1987. The member's retirement date shall then be set by the member on the 1st or
438 16th day of July, August, or September, 1987.

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

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

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

449 (ii) The retirement date shall then be set by the member on the 1st or 16th day of July,

450 August, September, October, November, or December, 1987.

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

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

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

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

462 (ii) for school employees, by direct contributions from the employing unit, which may
463 not be funded through an increase in the retirement contribution amount established in Title
464 53A, Chapter 17a, Minimum School Program Act; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

500 (a) (i) For state and school employees under Level A, the application shall be filed by
501 May 31, 1987. The member's retirement date shall then be set by the member on the 1st or
502 16th day of July, August, or September, 1987.

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

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

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

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

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

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

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

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

526 (ii) for school employees, by direct contributions from the employing unit, which may
527 not be funded through an increase in the retirement contribution amount established in Title
528 53A, Chapter 17a, Minimum School Program Act; and

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

531 (d) (i) Each year, any excess savings derived from this early retirement incentive
532 which are above the costs of funding the increase and the costs of paying insurance, sick
533 leave, compensatory leave, and vacation leave under Subsections (4)(c)(i) and (c)(ii) shall be

534 reported to the Legislature and shall be appropriated as provided by law.

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

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

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

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

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

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

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

548 **49-14-203. Exemption of certain employees from coverage.**

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

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

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

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

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

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

561 (b) A person who makes an election under Subsection (3)(a) may continue under the

562 terms of the election.

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

564 **49-14-402. Calculation of retirement allowance.**

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

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

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

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

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

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

576 **49-15-203. Exemption of certain employees from coverage.**

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

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

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

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

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

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

589 (b) A person who makes an election under Subsection (3)(a) may continue under the

590 terms of the election.

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

592 **49-15-402. Calculation of retirement benefit.**

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

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

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

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

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

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

604 **49-16-203. Exemption of certain employees from coverage -- Exception.**

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

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

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

612 **49-16-402. Calculation of retirement allowance.**

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

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

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

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

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

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

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

625 **49-17-402. Calculation of retirement allowance.**

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

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

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

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

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

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

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

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

642 **49-18-402. Calculation of retirement allowance.**

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

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

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

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

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

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

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

658 Section 15. **Effective date.**

659 This bill takes effect on July 1, 2010.