

Representative Bradley G. Last proposes the following substitute bill:

POST-RETIREMENT EMPLOYMENT

AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel R. Liljenquist

House Sponsor: Brad L. Dee

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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



26 from retirement;

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

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

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

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

35 • the Public Safety Contributory Retirement System;

36 • the Public Safety Noncontributory Retirement System;

37 • the Firefighters' Retirement System;

38 • the Judges' Contributory Retirement System; and

39 • the Judges' Noncontributory Retirement System;

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

42 ▶ makes technical changes.

43 **Monies Appropriated in this Bill:**

44 None

45 **Other Special Clauses:**

46 This bill takes effect on July 1, 2010.

47 **Utah Code Sections Affected:**

48 AMENDS:

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

50 **49-11-405**, as renumbered and amended by Laws of Utah 2002, Chapter 250

51 **49-11-504**, as last amended by Laws of Utah 2009, Chapter 101

52 **49-12-701**, as renumbered and amended by Laws of Utah 2002, Chapter 250

53 **49-13-701**, as renumbered and amended by Laws of Utah 2002, Chapter 250

54 **49-14-203**, as last amended by Laws of Utah 2006, Chapter 260

55 **49-14-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250

56 **49-15-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250

- 57 **49-15-203**, as last amended by Laws of Utah 2005, Chapter 176
- 58 **49-16-203**, as last amended by Laws of Utah 2005, Chapter 116
- 59 **49-16-402**, as last amended by Laws of Utah 2003, Chapter 240
- 60 **49-17-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 61 **49-18-402**, as renumbered and amended by Laws of Utah 2002, Chapter 250

62 ENACTS:

63 **49-11-505**, Utah Code Annotated 1953



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

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

67 **49-11-102. Definitions.**

68 As used in this title:

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

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

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

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

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

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

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

81 (iii) a state college or university; or

82 (iv) any other participating employer.

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

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

87 (6) "Alternate payee" means a member's former spouse or family member eligible to

88 receive payments under a Domestic Relations Order in compliance with Section 49-11-612.

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

92 [~~7~~] (8) "Annuity" means monthly payments derived from member contributions.

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

98 [~~9~~] (10) (a) "At-will employee" means a person who is employed by a participating
99 employer and:

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

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

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

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

110 [~~10~~] (11) "Beneficiary" means any person entitled to receive a payment under this
111 title through a relationship with or designated by a member, participant, covered individual, or
112 alternate payee of a defined contribution plan.

113 [~~11~~] (12) "Board" means the Utah State Retirement Board established under Section
114 49-11-202.

115 [~~12~~] (13) "Board member" means a person serving on the Utah State Retirement
116 Board as established under Section 49-11-202.

117 (14) "Certified contribution rate" means the board certified percent of salary paid on
118 behalf of an active member to the office to maintain the system on a financially and actuarially

119 sound basis.

120 [~~(13)~~] (15) "Contributions" means the total amount paid by the participating employer
121 and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under
122 Chapter 19, Utah Governors' and Legislators' Retirement Act.

123 [~~(14)~~] (16) "Council member" means a person serving on the Membership Council
124 established under Section 49-11-202.

125 [~~(15)~~] (17) "Covered individual" means any individual covered under Chapter 20,
126 Public Employees' Benefit and Insurance Program Act.

127 [~~(16)~~] (18) "Current service" means covered service as defined in Chapters 12, 13, 14,
128 15, 16, 17, 18, and 19.

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

- 133 (a) years of service;
134 (b) final average monthly salary; or
135 (c) a retirement multiplier.

136 [~~(18)~~] (20) "Defined contribution" or "defined contribution plan" means any defined
137 contribution plan or deferred compensation plan authorized under the Internal Revenue Code
138 and administered by the board.

139 [~~(19)~~] (21) "Educational institution" means a political subdivision or instrumentality of
140 the state or a combination thereof primarily engaged in educational activities or the
141 administration or servicing of educational activities, including:

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

148 [~~(20)~~] (22) (a) "Employer" means any department, educational institution, or political
149 subdivision of the state eligible to participate in a government-sponsored retirement system

150 under federal law.

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

153 ~~[(21)]~~ (23) "Exempt employee" means an employee working for a participating
154 employer:

155 (a) who is not eligible for service credit under Section 49-12-203, 49-13-203,
156 49-14-203, 49-15-203, or 49-16-203; and

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

159 ~~[(22)]~~ (24) "Final average monthly salary" means the amount computed by dividing the
160 compensation received during the final average salary period under each system by the number
161 of months in the final average salary period.

162 ~~[(23)]~~ (25) "Fund" means any fund created under this title for the purpose of paying
163 benefits or costs of administering a system, plan, or program.

164 ~~[(24)]~~ (26) (a) "Inactive member" means a member who has not been employed by a
165 participating employer for a period of at least 120 days.

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

167 ~~[(25)]~~ (27) (a) "Member" means a person, except a retiree, with contributions on
168 deposit with a system, the Utah Governors' and Legislators' Retirement Plan under Chapter 19,
169 Utah Governors' and Legislators' Retirement Act, or with a terminated system.

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

176 ~~[(26)]~~ (28) "Member contributions" means the sum of the contributions paid to a
177 system or the Utah Governors' and Legislators' Retirement Plan, including refund interest if
178 allowed by a system, and which are made by:

179 (a) the member; and

180 (b) the participating employer on the member's behalf under Section 414(h) of the

181 Internal Revenue Code.

182 ~~[(27)]~~ (29) "Nonelective contribution" means an amount contributed by a participating
183 employer into a participant's defined contribution account.

184 (30) "Normal cost rate":

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

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

189 ~~[(28)]~~ (31) "Office" means the Utah State Retirement Office.

190 ~~[(29)]~~ (32) "Participant" means an individual with voluntary deferrals or nonelective
191 contributions on deposit with the defined contribution plans administered under this title.

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

200 ~~[(31)]~~ (34) "Pension" means monthly payments derived from participating employer
201 contributions.

202 ~~[(32)]~~ (35) "Plan" means the Utah Governors' and Legislators' Retirement Plan created
203 by Chapter 19, Utah Governors' and Legislators' Retirement Act, or the defined contribution
204 plans created under Section 49-11-801.

205 ~~[(33)]~~ (36) (a) "Political subdivision" means any local government entity, including
206 cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is
207 legally separate and distinct from the state and only if its employees are not by virtue of their
208 relationship to the entity employees of the state.

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

211 (c) "Political subdivision" does not include a project entity created under Title 11,

212 Chapter 13, Interlocal Cooperation Act, that was formed prior to July 1, 1987.

213 ~~[(34)]~~ (37) "Program" means the Public Employees' Insurance Program created under
214 Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees'
215 Long-Term Disability program created under Chapter 21, Public Employees' Long-Term
216 Disability Act.

217 ~~[(35)]~~ (38) "Public funds" means those funds derived, either directly or indirectly, from
218 public taxes or public revenue, dues or contributions paid or donated by the membership of the
219 organization, used to finance an activity whose objective is to improve, on a nonprofit basis,
220 the governmental, educational, and social programs and systems of the state or its political
221 subdivisions.

222 ~~[(36)]~~ (39) "Qualified defined contribution plan" means a defined contribution plan
223 that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

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

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

227 (i) listed as the contractor; or

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

229 ~~[(37)]~~ (41) "Refund interest" means the amount accrued on member contributions at a
230 rate adopted by the board.

231 ~~[(38)]~~ (42) "Retiree" means an individual who has qualified for an allowance under this
232 title.

233 ~~[(39)]~~ (43) "Retirement" means the status of an individual who has become eligible,
234 applies for, and is entitled to receive an allowance under this title.

235 ~~[(40)]~~ (44) "Retirement date" means the date selected by the member on which the
236 member's retirement becomes effective with the office.

237 ~~[(41)]~~ (45) "Service credit" means:

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

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

243 [~~(42)~~] (46) "System" means the individual retirement systems created by Chapter 12,
244 Public Employees' Contributory Retirement Act, Chapter 13, Public Employees'
245 Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act,
246 Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters'
247 Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges'
248 Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement
249 Act.

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

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

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

254 [~~(43)~~] (48) "Voluntary deferrals" means an amount contributed by a participant into
255 that participant's defined contribution account.

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

257 **49-11-405. Service credit from different systems or plans -- Eligibility and**
258 **calculation of service credit.**

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

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

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

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

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

274 (5) This section does not apply to a retiree who is subject to ~~[Section]~~ Sections
275 49-11-504 and 49-11-505.

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

277 **49-11-504. Reemployment of a retiree -- Restrictions.**

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

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

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

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

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

284 ~~[(1)]~~ (3) A person who ~~[retires from a nonparticipating employer]~~ is not a retiree under
285 this title is not subject to any postretirement restrictions under this title.

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

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

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

293 (a) a different agency; or

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

295 ~~[(4)]~~ (5) A retiree of an agency who is reemployed on a full-time basis by the same
296 agency within six months of the date of retirement is subject to the following:

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

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

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

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

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

309 ~~[(5)]~~ (6) A retiree of an agency who is reemployed by the same agency within six
310 months of retirement on a less than full-time basis by the same agency is subject to the
311 following:

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

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

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

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

320 ~~[(6)]~~ (7) For six months immediately following retirement, the retiree and participating
321 employer who are subject to Subsection (6) shall:

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

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

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

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

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

331 (8) (a) If a participating employer hires a ~~[nonexempt]~~ retiree, on a full-time basis, who
332 may not earn additional service credit under ~~[this section]~~ Subsection (4), the participating
333 employer ~~[shall contribute the same percentage of a retiree's salary that the participating
334 employer would have been required to contribute if the retiree were an active member, up to
335 the amount allowed by federal law]~~ may not contribute an amount that exceeds the normal cost

336 rate as defined under Section 49-11-102 to a plan for the retiree under Subsection (8)(b).

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

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

341 (ii) qualified defined contribution plan offered by the participating employer if the
342 participating employer does not participate in a qualified defined contribution plan
343 administered by the board.

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

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

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

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

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

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

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

358 **49-11-505. Reemployment of a retiree -- Restrictions.**

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

360 (a) means a person who:

361 (i) retired from a participating employer; and

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

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

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

- 367 (a) (i) earn additional service credit; or
368 (ii) receive any retirement related contribution from a participating employer; and
369 (b) receive a retirement allowance.
- 370 (3) The office shall cancel the retirement allowance of a retiree if the reemployment
371 with a participating employer begins within one year of the retiree's retirement date.
- 372 (4) If a retiree is not subject to Subsection (3), the retiree may elect to:
373 (a) earn additional service credit in accordance with this title and cancel the retiree's
374 retirement allowance; or
375 (b) continue to receive the retiree's retirement allowance and forfeit any retirement
376 related contribution from the participating employer who reemployed the retiree.
- 377 (5) (a) A participating employer shall immediately notify the office:
378 (i) if the participating employer reemploys a retiree;
379 (ii) whether the reemployment is subject to Subsection (3) or (4) of this section; and
380 (iii) any election by the retiree under Subsection (4).
- 381 (b) A participating employer is liable to the office for a payment or failure make a
382 payment in violation of this section.
- 383 (c) If a participating employer fails to notify the office in accordance with this section,
384 the participating employer is immediately subject to a compliance audit by the office.
- 385 (6) (a) The office shall immediately cancel the retirement allowance of a retiree in
386 accordance with Subsection (6)(b) if the office receives notice or learns of:
387 (i) the reemployment of a retiree subject to Subsection (3); or
388 (ii) the election of a reemployed retiree under Subsection (4)(a).
- 389 (b) The office shall cancel the allowance of a retiree subject to Subsection (6)(a), and
390 reinstate the retiree to active member status on the first day of the month following the date of:
391 (i) reemployment if the retiree is subject to Subsection (3); or
392 (ii) an election by an employee under Subsection (4)(a).
- 393 (7) (a) A retiree subject to Subsection (6)(b) who retires within two years from the date
394 of reemployment:
395 (i) is not entitled to a recalculated retirement benefit; and
396 (ii) will resume the allowance that was being paid at the time of cancellation.
397 (b) Subject to Subsection (2), a retiree who is re-instated to active membership under

398 Subsection (6) and who retires two or more years after the date of re-instatement to active
399 membership shall:

400 (i) resume receiving the allowance that was being paid at the time of cancellation; and
401 (ii) receive an additional allowance based on the formula in effect at the date of the
402 subsequent retirement for all service credit accrued between the first and subsequent retirement
403 dates.

404 (8) A retiree subject to this section shall report to the office the status of the
405 reemployment under Subsection (3) or (4).

406 (9) The board may make rules to implement this section.

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

408 **49-12-701. Early retirement incentive -- Eligibility -- Calculation of benefit --**
409 **Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**
410 **reemployment.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

452 (ii) for school employees, by direct contributions from the employing unit, which may
453 not be funded through an increase in the retirement contribution amount established in Title
454 53A, Chapter 17a, Minimum School Program Act; and

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

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

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

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

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

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

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

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

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

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

474 **49-13-701. Early retirement incentive -- Eligibility -- Calculation of benefit --**
475 **Payment of costs -- Savings to be appropriated by Legislature -- Restrictions on**
476 **reemployment.**

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

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

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

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

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

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

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

490 (a) (i) For state and school employees under Level A, the application shall be filed by

491 May 31, 1987. The member's retirement date shall then be set by the member on the 1st or 16th
492 day of July, August, or September, 1987.

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

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

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

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

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

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

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

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

516 (ii) for school employees, by direct contributions from the employing unit, which may
517 not be funded through an increase in the retirement contribution amount established in Title
518 53A, Chapter 17a, Minimum School Program Act; and

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

521 (d) (i) Each year, any excess savings derived from this early retirement incentive which

522 are above the costs of funding the increase and the costs of paying insurance, sick leave,
523 compensatory leave, and vacation leave under Subsections (4)(c)(i) and (c)(ii) shall be reported
524 to the Legislature and shall be appropriated as provided by law.

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

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

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

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

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

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

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

538 **49-14-203. Exemption of certain employees from coverage.**

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

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

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

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

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

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

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

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

554 **49-14-402. Calculation of retirement allowance.**

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

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

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

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

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

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

566 **49-15-203. Exemption of certain employees from coverage.**

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

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

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

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

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

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

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

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

582 **49-15-402. Calculation of retirement benefit.**

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

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

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

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

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

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

594 **49-16-203. Exemption of certain employees from coverage -- Exception.**

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

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

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

602 **49-16-402. Calculation of retirement allowance.**

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

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

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

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

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

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

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

615 **49-17-402. Calculation of retirement allowance.**

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

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

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

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

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

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

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

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

632 **49-18-402. Calculation of retirement allowance.**

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

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

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

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

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

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

645 (3) If the retiree has attained the age of 55 years and has 20 years or more of service

646 credit, the retiree shall receive an early retirement reduction to the allowance based on an
647 actuarial calculation assuming a normal retirement age of 65 years.

648 Section 15. **Effective date.**

649 This bill takes effect on July 1, 2010.