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 from retirement;
- provides that a retiree who returns to work with a participating employer after a year from the date of retirement may elect to either:
  - receive a retirement allowance and forfeit any retirement contribution related to
the reemployment; or

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

- requires a participating employer to pay the amortization rate to the retirement system that would have covered the retiree who is:
  - reemployed after July 1, 2010; and
  - receiving a retirement allowance;

- repeals the maximum allowance that a member may receive for a member who initially retires on or after July 1, 2010, in the following systems:
  - the Public Safety Contributory Retirement System;
  - the Public Safety Noncontributory Retirement System;
  - the Firefighters' Retirement System;
  - the Judges' Contributory Retirement System; and
  - the Judges' Noncontributory Retirement System;

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

- makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2010.

**Utah Code Sections Affected:**

**AMENDS:**

- 49-11-102, as last amended by Laws of Utah 2009, Chapter 101
- 49-11-405, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 49-11-504, as last amended by Laws of Utah 2009, Chapter 101
- 49-12-701, as renumbered and amended by Laws of Utah 2002, Chapter 250
- 49-13-701, as renumbered and amended by Laws of Utah 2002, Chapter 250
Be it enacted by the Legislature of the state of Utah:

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

49-11-102. Definitions.

As used in this title:

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

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

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

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

(4) (a) "Agency" means:

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

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

(iii) a state college or university; or
(iv) any other participating employer.

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

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

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

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

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

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

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

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

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

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

(b) "At-will employee" does not include a career employee who has obtained a reasonable expectation of continued employment based on inclusion in a participating employer's merit system, civil service protection system, or career service personnel systems, policies, or plans.
"Beneficiary" means any person entitled to receive a payment under this title through a relationship with or designated by a member, participant, covered individual, or alternate payee of a defined contribution plan.

"Board" means the Utah State Retirement Board established under Section 49-11-202.

"Board member" means a person serving on the Utah State Retirement Board as established under Section 49-11-202.

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

"Contributions" means the total amount paid by the participating employer and the member into a system or to the Utah Governors' and Legislators' Retirement Plan under Chapter 19, Utah Governors' and Legislators' Retirement Act.

"Council member" means a person serving on the Membership Council established under Section 49-11-202.

"Covered individual" means any individual covered under Chapter 20, Public Employees' Benefit and Insurance Program Act.

"Current service" means covered service as defined in Chapters 12, 13, 14, 15, 16, 17, 18, and 19.

"Defined benefit" or "defined benefit plan" or "defined benefit system" means a system or plan offered under this title to provide a specified allowance to a retiree or a retiree's spouse after retirement that is based on a set formula involving one or more of the following factors:

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

"Defined contribution" or "defined contribution plan" means any defined contribution plan or deferred compensation plan authorized under the Internal Revenue Code.
"Educational institution" means a political subdivision or instrumentality of the state or a combination thereof primarily engaged in educational activities or the administration or servicing of educational activities, including:

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

"Employer" means any department, educational institution, or political subdivision of the state eligible to participate in a government-sponsored retirement system under federal law.

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

"Exempt employee" means an employee working for a participating employer:

(a) who is not eligible for service credit under Section 49-12-203, 49-13-203, 49-14-203, 49-15-203, or 49-16-203; and
(b) for whom a participating employer is not required to pay contributions or nonelective contributions.

"Final average monthly salary" means the amount computed by dividing the compensation received during the final average salary period under each system by the number of months in the final average salary period.

"Fund" means any fund created under this title for the purpose of paying benefits or costs of administering a system, plan, or program.

(a) "Inactive member" means a member who has not been employed by a participating employer for a period of at least 120 days.
(b) "Inactive member" does not include retirees.

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

(b) "Member" also includes leased employees within the meaning of Section 414(n)(2) of the Internal Revenue Code, if the employees have contributions on deposit with the office.

If leased employees constitute less than 20% of the participating employer's work force that is not highly compensated within the meaning of Section 414(n)(5)(c)(ii), Internal Revenue Code, "member" does not include leased employees covered by a plan described in Section 414(n)(5) of the federal Internal Revenue Code.

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

(a) the member; and

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

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

(30) "Normal cost rate":

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

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

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

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

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

"Pension" means monthly payments derived from participating employer contributions.

"Plan" means the Utah Governors' and Legislators' Retirement Plan created by Chapter 19, Utah Governors' and Legislators' Retirement Act, or the defined contribution plans created under Section 49-11-801.

"Political subdivision" means any local government entity, including cities, towns, counties, and school districts, but only if the subdivision is a juristic entity that is legally separate and distinct from the state and only if its employees are not by virtue of their relationship to the entity employees of the state.

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

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

"Program" means the Public Employees' Insurance Program created under Chapter 20, Public Employees' Benefit and Insurance Program Act, or the Public Employees' Long-Term Disability program created under Chapter 21, Public Employees' Long-Term Disability Act.

"Public funds" means those funds derived, either directly or indirectly, from public taxes or public revenue, dues or contributions paid or donated by the membership of the organization, used to finance an activity whose objective is to improve, on a nonprofit basis, the governmental, educational, and social programs and systems of the state or its political subdivisions.
"Qualified defined contribution plan" means a defined contribution plan that meets the requirements of Section 401(k) or Section 403(b) of the Internal Revenue Code.

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

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

(i) listed as the contractor; or

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

"Refund interest" means the amount accrued on member contributions at a rate adopted by the board.

"Retiree" means an individual who has qualified for an allowance under this title.

"Retirement" means the status of an individual who has become eligible, applies for, and is entitled to receive an allowance under this title.

"Retirement date" means the date selected by the member on which the member's retirement becomes effective with the office.

"Service credit" means:

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

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

"System" means the individual retirement systems created by Chapter 12, Public Employees' Contributory Retirement Act, Chapter 13, Public Employees' Noncontributory Retirement Act, Chapter 14, Public Safety Contributory Retirement Act, Chapter 15, Public Safety Noncontributory Retirement Act, Chapter 16, Firefighters' Retirement Act, Chapter 17, Judges' Contributory Retirement Act, Chapter 18, Judges' Noncontributory Retirement Act, and Chapter 19, Utah Governors' and Legislators' Retirement Act.
(47) "Unfunded actuarial accrued liability" or "UAAL":
(a) is determined by the system's actuary; and
(b) means the excess, if any, of the accrued liability of a retirement system over the actuarial value of its assets.

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

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

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

(1) (a) A member who has service credit from two or more systems or one or more systems and the Utah Governors' and Legislators' Retirement Plan may combine service credit for purposes of determining eligibility for retirement.
(b) The provisions of Subsection (1)(a) do not apply to concurrent service.
(2) To be eligible for the calculation under Subsection (3), the member's service credit earned under the different systems or the Utah Governors' and Legislators' Retirement Plan shall at least equal the minimum amount of service credit required to retire from the system which most recently covered the member.
(3) If a member meets the requirements of Subsection (2), the office shall calculate the member's allowance using all service credit earned from any system or the Utah Governors' and Legislators' Retirement Plan, with no actuarial reduction applied to the allowance, except the service credit used to calculate the benefit shall be increased or decreased to reflect the value of the assets transferred.
(4) The office shall establish the standards used for calculating any increase or decrease in the service credit.
(5) This section does not apply to a retiree who is subject to [Section] Sections 49-11-504 and 49-11-505.

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

49-11-504. Reemployment of a retiree -- Restrictions.
(1) As used in this section, "full-time" means:

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

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

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

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

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

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

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

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

(a) a different agency; or

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

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

(a) the agency shall immediately notify the office;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[(8)(a)] If a participating employer hires a [nonexempt] retiree, on a full-time basis,
who may not earn additional service credit under [this section] Subsection (4), the
participating employer [shall 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, up to the amount allowed by federal law] may not contribute an amount that exceeds
the normal cost rate as defined under Section 49-11-102 to a plan for the retiree under
Subsection (8)(b).
(b) The contributions under Subsection (8)(a) are not required, but if paid, shall be
paid to a retiree-designated:
(i) qualified defined contribution plan administered by the board, if the participating
employer participates in a qualified defined contribution plan administered by the board; or
(ii) qualified defined contribution plan offered by the participating employer if the
participating employer does not participate in a qualified defined contribution plan
administered by the board.
(c) Notwithstanding the provisions of Subsection (8)(b), if an employer is not
participating in a qualified defined contribution plan administered by the board, the employer
may elect to pay the contributions under Subsection (8)(a) to a nonqualified deferred
compensation plan administered by the board.
(9) [Notwithstanding any other provision of this section, a] A retiree who has returned
to work, accrued additional service credit, and again retires shall have the retiree's allowance
recalculated using:
(a) the formula in effect at the date of the retiree’s original retirement for all service
credit accrued prior to that date; and
(b) the formula in effect at the date of the subsequent retirement for all service credit
accrued between the first and subsequent retirement dates.
(10) This section does not apply to elected positions.
(11) The board may make rules to implement this section.
Section 4. Section 49-11-505 is enacted to read:
49-11-505. Reemployment of a retiree -- Restrictions.
(1) For purposes of this section, "retiree":

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(a) means a person who:

(i) retired from a participating employer; and

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

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

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

(a) (i) earn additional service credit; or

(ii) receive any retirement related contribution from a participating employer; and

(b) receive a retirement allowance.

(3) The office shall cancel the retirement allowance of a retiree if the reemployment with a participating employer begins within one year of the retiree's retirement date.

(4) If a retiree is not subject to Subsection (3), the retiree may elect to:

(a) earn additional service credit in accordance with this title and cancel the retiree's retirement allowance; or

(b) continue to receive the retiree's retirement allowance and forfeit any retirement related contribution from the participating employer who reemployed the retiree.

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

(6) (a) A participating employer shall immediately notify the office:

(i) if the participating employer reemploys a retiree;

(ii) whether the reemployment is subject to Subsection (3) or (4) of this section; and

(iii) any election by the retiree under Subsection (4).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) The State Office of Education and the participating employer may not spend the savings until appropriated by the Legislature as provided by law.
(5) A member who retires under this section is subject to [Section] Sections 49-11-504 and 49-11-505.

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

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

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

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

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

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

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

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

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

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

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

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

(ii) If a Level A member elects to retire, the executive director or participating employer may request the member to delay the retirement date until a later date, but no later than June 30, 1988.
If the member agrees to delay the retirement date, the retirement date shall be delayed, but service credit may not be accrued after the member's original retirement date elected by the member, and compensation earned after the member's original retirement date may not be used in the calculation of the final average salary for determining the retirement allowance.

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

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

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

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

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

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

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

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

(d) (i) Each year, any excess savings derived from this early retirement incentive which are above the costs of funding the increase and the costs of paying insurance, sick 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
Section 8. Section 49-14-402 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A person who makes an election under Subsection (3)(a) may continue under the
Section 10. Section 49-15-402 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) 2% of final average monthly salary, multiplied by the number of years of service credit in excess of 20 years.
The minimum allowance payable under this section is $500.

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

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

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

49-17-402. Calculation of retirement allowance.

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

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

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

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

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

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

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

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


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

(a) 5% of the final average monthly salary multiplied by the number of years of service credit, limited to 10 years; plus
(b) 2.25% of the final average monthly salary multiplied by the number of years of service credit in excess of 10 years and up to and including 20 years; plus

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

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

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

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

Section 15. **Effective date.**

This bill takes effect on July 1, 2010.