

SENATE BILL 799

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11r1836
CF 11r1837

By: **Senator Jones–Rodwell (Chair, Joint Committee on Pensions)**

Introduced and read first time: February 4, 2011

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **State Retirement and Pension System – Retirees and Beneficiaries of**
3 **Retirees – Annual Retirement Allowance Adjustments**

4 FOR the purpose of providing that certain annual retirement allowance adjustments
5 shall be a certain amount under certain circumstances; requiring that certain
6 annual retirement allowances be reduced by a certain amount under certain
7 circumstances; defining certain terms; repealing certain termination provisions;
8 requiring the State Retirement Agency to review certain provisions of the State
9 Personnel and Pensions Article for a certain purpose and make certain
10 recommendations to the Joint Committee on Pensions on or before a certain
11 date; and generally relating to annual retirement allowance adjustments for
12 retirees of the several systems of the State Retirement and Pension System.

13 BY repealing and reenacting, with amendments,
14 Article – State Personnel and Pensions
15 Section 24–401(e), 29–406, 29–407, 29–412, 29–418, and 29–427
16 Annotated Code of Maryland
17 (2009 Replacement Volume and 2010 Supplement)

18 BY repealing
19 Chapter 56 of the Acts of the General Assembly of 2010
20 Section 4

21 BY repealing
22 Chapter 57 of the Acts of the General Assembly of 2010
23 Section 4

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article – State Personnel and Pensions**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 24-401.

2 (e) (1) Subject to paragraph (2) of this subsection, a retiree, or a
3 beneficiary of a retiree, who retires on or before June 30, 1999 with a service
4 retirement allowance, shall receive an annual retirement allowance adjustment as of
5 July 1, 1999, as follows:

6 (i) for a retiree who has been retired not more than 5 years,
7 \$1,200;

8 (ii) for a retiree who has been retired more than 5 years but not
9 more than 10 years, \$1,500;

10 (iii) for a retiree who has been retired more than 10 years but
11 not more than 15 years, \$1,800; and

12 (iv) for a retiree who has been retired more than 15 years,
13 \$2,100.

14 (2) Except as provided in paragraph (3) of this subsection, each fiscal
15 year, the Board of Trustees shall [increase] ADJUST the adjustment received by the
16 retiree or the beneficiary as of July 1, 1999, by multiplying the adjustment by a
17 fraction that has:

18 (i) as its numerator, the Consumer Price Index for the calendar
19 year ending December 31 of the preceding fiscal year; and

20 (ii) as its denominator, the Consumer Price Index for the
21 calendar year ending December 31, 1998.

22 [(3) (i) For fiscal year 2011, if the annual retirement allowance
23 adjustment that is adjusted as provided in paragraph (2) of this subsection is less than
24 the annual retirement allowance adjustment payable for fiscal year 2010, the annual
25 retirement allowance adjustment payable for fiscal year 2011 shall equal the annual
26 retirement allowance adjustment payable for fiscal year 2010.

27 (ii) For fiscal year 2012, the annual retirement allowance
28 adjustment that is adjusted as provided in paragraph (2) of this subsection shall be
29 reduced by the difference between the annual retirement allowance adjustment
30 payable for fiscal year 2010 and the annual retirement allowance adjustment that
31 would have been payable for fiscal year 2011 if it had been adjusted under paragraph
32 (2) of this subsection.]

33 (3) (1) IN THIS PARAGRAPH, "ZERO-ADJUSTMENT FISCAL
34 YEAR" MEANS ANY FISCAL YEAR WHEN THE ALLOWANCE ADJUSTMENT AS

1 PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION IS LESS THAN THE
2 ALLOWANCE ADJUSTMENT PAID FOR THE PRECEDING FISCAL YEAR.

3 (II) FOR ANY FISCAL YEAR, THE ALLOWANCE ADJUSTMENT
4 MAY NOT BE LESS THAN THE ALLOWANCE ADJUSTMENT PAID FOR THE
5 PRECEDING FISCAL YEAR.

6 (III) 1. THIS SUBPARAGRAPH APPLIES ONLY TO A FISCAL
7 YEAR THAT IS NOT A ZERO-ADJUSTMENT FISCAL YEAR.

8 2. SUBJECT TO SUBSUBPARAGRAPH 3 OF THIS
9 SUBPARAGRAPH:

10 A. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY
11 AFTER A ZERO-ADJUSTMENT FISCAL YEAR, THE ALLOWANCE ADJUSTMENT AS
12 PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION SHALL BE REDUCED BY THE
13 DIFFERENCE BETWEEN THE ALLOWANCE ADJUSTMENT PAID IN THE PRECEDING
14 FISCAL YEAR AND THE ALLOWANCE ADJUSTMENT THAT WOULD HAVE BEEN
15 PAYABLE FOR THE PRECEDING FISCAL YEAR IF THE ALLOWANCE FOR THAT
16 FISCAL YEAR HAD BEEN ADJUSTED AS PROVIDED UNDER PARAGRAPH (2) OF
17 THIS SUBSECTION; AND

18 B. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY
19 AFTER 2 OR MORE CONSECUTIVE ZERO-ADJUSTMENT FISCAL YEARS, THE
20 ALLOWANCE ADJUSTMENT AS PROVIDED IN PARAGRAPH (2) OF THIS
21 SUBSECTION SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE TOTAL OF
22 THE ALLOWANCE ADJUSTMENTS PAID IN EACH CONSECUTIVE
23 ZERO-ADJUSTMENT FISCAL YEAR PRECEDING THE FISCAL YEAR AND THE
24 TOTAL ALLOWANCES THAT WOULD HAVE BEEN PAYABLE FOR EACH OF THE
25 ZERO-ADJUSTMENT FISCAL YEARS IF THE ALLOWANCE ADJUSTMENT FOR EACH
26 OF THOSE FISCAL YEARS HAD BEEN ADJUSTED UNDER PARAGRAPH (2) OF THIS
27 SUBSECTION.

28 3. IF THE AMOUNT OF THE REDUCTION REQUIRED
29 FOR ANY FISCAL YEAR UNDER SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH
30 EXCEEDS THE DIFFERENCE BETWEEN THE ALLOWANCE ADJUSTMENT AS
31 PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION FOR THE FISCAL YEAR AND
32 THE ALLOWANCE ADJUSTMENT PAID IN THE PRECEDING FISCAL YEAR, THE
33 EXCESS SHALL BE DEDUCTED IN FUTURE FISCAL YEARS, SUBJECT TO
34 SUBPARAGRAPH (II) OF THIS PARAGRAPH, UNTIL THE DIFFERENCE IS FULLY
35 RECOVERED.

36 29-406.

1 (a) [(1)] [Except as provided in paragraph (2) of this subsection and
2 subject] **SUBJECT** to subsection (c) of this section, the cost-of-living adjustment made
3 under this Part II equals the initial allowance multiplied by a fraction that has:

4 [(i)] **(1)** as its numerator, the amount obtained by subtracting
5 the Consumer Price Index for the calendar year ending December 31 of the preceding
6 fiscal year from the base year Consumer Price Index described in subsection (b) of this
7 section; and

8 [(ii)] **(2)** as its denominator, the base year Consumer Price
9 Index described in subsection (b) of this section.

10 [(2) If the cost-of-living adjustment determined under paragraph (1) of
11 this subsection for fiscal year 2011 would result in an allowance payable for fiscal year
12 2011 that is less than the allowance payable for fiscal year 2010, the annual
13 cost-of-living adjustment for fiscal year 2011 shall equal \$0.00.]

14 (b) The base year Consumer Price Index referred to in subsection (a) of this
15 section equals the later of:

16 (1) the Consumer Price Index for the calendar year ending December
17 31 of the fiscal year that preceded the last adjustment; or

18 (2) (i) for a retiree, the Consumer Price Index for the calendar year
19 ending December 31 of the fiscal year in which the retiree was last employed as a
20 member; or

21 (ii) for a former member who elected a vested allowance in
22 accordance with § 29-303 of this title, the Consumer Price Index for the calendar year
23 ending December 31 of the fiscal year in which the former member became 62 years
24 old.

25 (c) The cost-of-living adjustment under this section may not exceed 3% of
26 the initial allowance.

27 29-407.

28 (a) Except as provided in subsection (b) of this section, the total allowance
29 payable in any fiscal year shall be the sum of:

30 (1) the initial allowance;

31 (2) all prior cost-of-living adjustments;

32 (3) the cost-of-living adjustment provided for under § 29-406 of this
33 subtitle; and

1 (4) any additional annuity.

2 [(b) For fiscal year 2012, the allowance payable as provided in subsection (a)
3 of this section shall be reduced by the difference between the allowance payable for
4 fiscal year 2010 and the allowance that would have been paid for fiscal year 2011 if the
5 cost-of-living adjustment had been calculated as provided under § 29-406(a) of this
6 subtitle.]

7 (B) (1) IN THIS SUBSECTION, “ZERO-ADJUSTMENT FISCAL YEAR”
8 MEANS ANY FISCAL YEAR WHEN THE COST-OF-LIVING ADJUSTMENT PROVIDED
9 IN § 29-406 OF THIS SUBTITLE IS LESS THAN \$0.00.

10 (2) FOR ANY FISCAL YEAR, THE TOTAL ALLOWANCE PAYABLE MAY
11 NOT BE LESS THAN THE ALLOWANCE PAID FOR THE PRECEDING FISCAL YEAR.

12 (3) (I) THIS PARAGRAPH APPLIES ONLY TO A FISCAL YEAR
13 THAT IS NOT A ZERO-ADJUSTMENT FISCAL YEAR.

14 (II) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH:

15 1. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY
16 AFTER A ZERO-ADJUSTMENT FISCAL YEAR, THE ALLOWANCE PAYABLE AS
17 PROVIDED IN SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED BY THE
18 DIFFERENCE BETWEEN THE ALLOWANCE PAID IN THE PRECEDING FISCAL YEAR
19 AND THE ALLOWANCE THAT WOULD HAVE BEEN PAYABLE FOR THE PRECEDING
20 FISCAL YEAR IF THE ALLOWANCE FOR THAT FISCAL YEAR HAD BEEN
21 CALCULATED WITHOUT REGARD TO PARAGRAPH (2) OF THIS SUBSECTION; AND

22 2. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY
23 AFTER 2 OR MORE CONSECUTIVE ZERO-ADJUSTMENT FISCAL YEARS, THE
24 ALLOWANCE PAYABLE AS PROVIDED IN SUBSECTION (A) OF THIS SECTION
25 SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE TOTAL OF THE
26 ALLOWANCES PAID IN EACH CONSECUTIVE ZERO-ADJUSTMENT FISCAL YEAR
27 PRECEDING THE FISCAL YEAR AND THE TOTAL ALLOWANCES THAT WOULD
28 HAVE BEEN PAYABLE FOR EACH OF THOSE FISCAL YEARS IF THE ALLOWANCE
29 FOR EACH OF THOSE FISCAL YEARS HAD BEEN CALCULATED WITHOUT REGARD
30 TO PARAGRAPH (2) OF THIS SUBSECTION.

31 (III) IF THE AMOUNT OF THE REDUCTION REQUIRED FOR
32 ANY FISCAL YEAR UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH EXCEEDS
33 THE DIFFERENCE BETWEEN THE ALLOWANCE AS PROVIDED IN SUBSECTION (A)
34 OF THIS SECTION FOR THE FISCAL YEAR AND THE ALLOWANCE PAID IN THE
35 PRECEDING FISCAL YEAR, THE EXCESS SHALL BE DEDUCTED IN FUTURE YEARS,

1 **SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, UNTIL THE DIFFERENCE IS**
2 **FULLY RECOVERED.**

3 29–412.

4 (a) Except as provided in subsection (b) of this section and subject to §
5 29–413 of this subtitle, each fiscal year, the Board of Trustees shall adjust an initial
6 allowance by multiplying the initial allowance by the fraction that has:

7 (1) as its numerator, the Consumer Price Index for the calendar year
8 ending December 31 of the preceding fiscal year; and

9 (2) as its denominator:

10 (i) for a retiree, the beneficiary of a retiree, or the surviving
11 spouse of a member, the Consumer Price Index for the calendar year ending December
12 31 of the fiscal year in which the retiree or member was last employed; or

13 (ii) for a former member or the beneficiary of a former member,
14 the Consumer Price Index for the calendar year ending December 31 of the fiscal year
15 in which the former member reaches normal retirement age.

16 [(b) For fiscal year 2011, if the allowance adjusted as provided in subsection
17 (a) of this section is less than the allowance payable for fiscal year 2010, the allowance
18 payable for fiscal year 2011 shall equal the allowance payable for fiscal year 2010.

19 (c) For fiscal year 2012, the allowance adjusted as provided in subsection (a)
20 of this section shall be reduced by the difference between the allowance payable for
21 fiscal year 2010 and the allowance that would have been payable for fiscal year 2011 if
22 it had been adjusted under subsection (a) of this section.]

23 **(B) (1) IN THIS SUBSECTION, “ZERO–ADJUSTMENT FISCAL YEAR”**
24 **MEANS ANY FISCAL YEAR WHEN THE ALLOWANCE ADJUSTED AS PROVIDED IN**
25 **SUBSECTION (A) OF THIS SECTION RESULTS IN AN ALLOWANCE THAT IS LESS**
26 **THAN THE ALLOWANCE PAYABLE FOR THE PRECEDING FISCAL YEAR.**

27 **(2) FOR ANY FISCAL YEAR, THE ALLOWANCE PAYABLE MAY NOT**
28 **BE LESS THAN THE ALLOWANCE PAID FOR THE PRECEDING FISCAL YEAR.**

29 **(3) (I) THIS PARAGRAPH APPLIES ONLY TO A FISCAL YEAR**
30 **THAT IS NOT A ZERO–ADJUSTMENT FISCAL YEAR.**

31 **(II) SUBJECT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH:**

32 **1. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY**
33 **AFTER A ZERO–ADJUSTMENT FISCAL YEAR, THE ALLOWANCE PAYABLE AS**

1 PROVIDED IN SUBSECTION (A) OF THIS SECTION SHALL BE REDUCED BY THE
2 DIFFERENCE BETWEEN THE ALLOWANCE PAID IN THE PRECEDING FISCAL YEAR
3 AND THE ALLOWANCE THAT WOULD HAVE BEEN PAYABLE FOR THE PRECEDING
4 FISCAL YEAR IF THE ALLOWANCE FOR THAT FISCAL YEAR HAD BEEN
5 CALCULATED WITHOUT REGARD TO PARAGRAPH (2) OF THIS SUBSECTION; AND

6 2. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY
7 AFTER 2 OR MORE CONSECUTIVE ZERO-ADJUSTMENT FISCAL YEARS, THE
8 ALLOWANCE PAYABLE AS PROVIDED IN SUBSECTION (A) OF THIS SECTION
9 SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE TOTAL OF THE
10 ALLOWANCES PAID IN EACH CONSECUTIVE ZERO-ADJUSTMENT FISCAL YEAR
11 PRECEDING THE FISCAL YEAR AND THE TOTAL ALLOWANCES THAT WOULD
12 HAVE BEEN PAYABLE FOR EACH OF THOSE FISCAL YEARS IF THE ALLOWANCE
13 FOR EACH OF THOSE FISCAL YEARS HAD BEEN CALCULATED WITHOUT REGARD
14 TO PARAGRAPH (2) OF THIS SUBSECTION.

15 (III) IF THE AMOUNT OF THE REDUCTION REQUIRED FOR
16 ANY FISCAL YEAR UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH EXCEEDS
17 THE DIFFERENCE BETWEEN THE ALLOWANCE AS PROVIDED IN SUBSECTION (A)
18 OF THIS SECTION FOR THE FISCAL YEAR AND THE ALLOWANCE PAID IN THE
19 PRECEDING FISCAL YEAR, THE EXCESS SHALL BE DEDUCTED IN FUTURE YEARS,
20 SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, UNTIL THE DIFFERENCE IS
21 FULLY RECOVERED.

22 29-418.

23 (a) ~~[(1)]~~ [Except as provided in paragraph (2) of this subsection, each]
24 EACH fiscal year, the Board of Trustees shall adjust an allowance by multiplying the
25 allowance for the preceding fiscal year, exclusive of any additional voluntary annuity,
26 by a rate not exceeding 5%, that is obtained by dividing the Consumer Price Index for
27 the calendar year ending December 31, in the preceding fiscal year by the Consumer
28 Price Index for the calendar year ending December 31 in the second preceding fiscal
29 year.

30 ~~[(2)]~~ If the adjustment determined under paragraph (1) of this
31 subsection for fiscal year 2011 would result in an allowance payable for fiscal year
32 2011 that is less than the allowance for fiscal year 2010, the adjustment for fiscal year
33 2011 shall equal \$0.00.]

34 (b) The adjustment under subsection (a) of this section shall begin the second
35 July 1 after the day preceding the retiree's date of retirement or the former member's
36 effective date for receipt of a vested allowance.

37 (c) (1) Except as provided in paragraph (2) of this subsection, the total
38 allowance payable in each fiscal year shall be the sum of:

- 1 (i) the annual rate of allowance paid during the preceding fiscal
2 year;
- 3 (ii) the adjustment in allowance provided for under this section;
4 and
- 5 (iii) any additional annuity.

6 [(2) For fiscal year 2012, the allowance payable as provided in
7 subsection (a) of this section shall be reduced by the difference between the allowance
8 payable for fiscal year 2010 and the allowance that would have been paid for fiscal
9 year 2011 if the adjustment had been calculated as provided under subsection (a) of
10 this section.]

11 **(2) (I) IN THIS PARAGRAPH, “ZERO-ADJUSTMENT FISCAL**
12 **YEAR” MEANS ANY FISCAL YEAR WHEN THE ALLOWANCE ADJUSTED AS**
13 **PROVIDED IN SUBSECTION (A) OF THIS SECTION RESULTS IN AN ALLOWANCE**
14 **THAT IS LESS THAN THE ALLOWANCE PAYABLE FOR THE PRECEDING FISCAL**
15 **YEAR.**

16 **(II) FOR ANY FISCAL YEAR, THE ALLOWANCE PAYABLE MAY**
17 **NOT BE LESS THAN THE ALLOWANCE PAID FOR THE PRECEDING FISCAL YEAR.**

18 **(III) 1. THIS SUBPARAGRAPH APPLIES ONLY TO A FISCAL**
19 **YEAR THAT IS NOT A ZERO-ADJUSTMENT FISCAL YEAR.**

20 **2. SUBJECT TO SUBSUBPARAGRAPH 3 OF THIS**
21 **SUBPARAGRAPH:**

22 **A. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY**
23 **AFTER A ZERO-ADJUSTMENT FISCAL YEAR, THE ALLOWANCE PAYABLE AS**
24 **PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE REDUCED BY THE**
25 **DIFFERENCE BETWEEN THE ALLOWANCE PAID IN THE PRECEDING FISCAL YEAR**
26 **AND THE ALLOWANCE THAT WOULD HAVE BEEN PAYABLE FOR THE PRECEDING**
27 **FISCAL YEAR IF THE ALLOWANCE FOR THAT FISCAL YEAR HAD BEEN**
28 **CALCULATED WITHOUT REGARD TO SUBPARAGRAPH (II) OF THIS PARAGRAPH;**
29 **AND**

30 **B. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY**
31 **AFTER 2 OR MORE CONSECUTIVE ZERO-ADJUSTMENT FISCAL YEARS, THE**
32 **ALLOWANCE PAYABLE AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION**
33 **SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE TOTAL OF THE**
34 **ALLOWANCES PAID IN EACH CONSECUTIVE ZERO-ADJUSTMENT FISCAL YEAR**
35 **PRECEDING THE FISCAL YEAR AND THE TOTAL ALLOWANCES THAT WOULD**

1 HAVE BEEN PAYABLE FOR EACH OF THOSE FISCAL YEARS IF THE ALLOWANCE
2 FOR EACH OF THOSE FISCAL YEARS HAD BEEN CALCULATED WITHOUT REGARD
3 TO SUBPARAGRAPH (II) OF THIS PARAGRAPH.

4 **3. IF THE AMOUNT OF THE REDUCTION REQUIRED**
5 **FOR ANY FISCAL YEAR UNDER SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH**
6 **EXCEEDS THE DIFFERENCE BETWEEN THE ALLOWANCE AS PROVIDED IN**
7 **PARAGRAPH (1) OF THIS SUBSECTION FOR THE FISCAL YEAR AND THE**
8 **ALLOWANCE PAID IN THE PRECEDING FISCAL YEAR, THE EXCESS SHALL BE**
9 **DEDUCTED IN FUTURE YEARS, SUBJECT TO SUBPARAGRAPH (II) OF THIS**
10 **PARAGRAPH, UNTIL THE DIFFERENCE IS FULLY RECOVERED.**

11 29–427.

12 (a) ~~[(1)]~~ [Except as provided in paragraph (2) of this subsection, each]
13 **EACH** fiscal year, the Board of Trustees shall adjust an allowance by multiplying the
14 allowance for the preceding fiscal year, exclusive of any additional voluntary annuity,
15 by a rate not exceeding 3%, that is obtained by dividing the Consumer Price Index for
16 the calendar year ending December 31 in the preceding fiscal year by the Consumer
17 Price Index for the calendar year ending December 31 in the second preceding fiscal
18 year.

19 ~~[(2)]~~ If the adjustment determined under paragraph (1) of this
20 subsection for fiscal year 2011 would result in an allowance payable for fiscal year
21 2011 that is less than the allowance payable for fiscal year 2010, the adjustment for
22 fiscal year 2011 shall equal \$0.00.]

23 (b) The adjustment under subsection (a) of this section shall begin the second
24 July 1 after the day preceding the retiree's date of retirement or the former member's
25 effective date for receipt of a vested allowance.

26 (c) (1) Except as provided in paragraph (2) of this subsection, the total
27 allowance payable in each fiscal year shall be the sum of:

28 (i) the annual rate of allowance paid during the preceding fiscal
29 year;

30 (ii) the adjustment in allowance provided for under this section;
31 and

32 (iii) any additional annuity.

33 ~~[(2)]~~ For fiscal year 2012, the allowance payable as provided in
34 subsection (a) of this section shall be reduced by the difference between the allowance
35 payable for fiscal year 2010 and the allowance that would have been paid for fiscal

1 year 2011 if the adjustment had been calculated as provided under subsection (a) of
2 this section.]

3 **(2) (I) IN THIS PARAGRAPH, “ZERO-ADJUSTMENT FISCAL**
4 **YEAR” MEANS ANY FISCAL YEAR WHEN THE ALLOWANCE ADJUSTED AS**
5 **PROVIDED IN SUBSECTION (A) OF THIS SECTION IS LESS THAN THE ALLOWANCE**
6 **PAID FOR THE PRECEDING FISCAL YEAR.**

7 **(II) FOR ANY FISCAL YEAR, THE ALLOWANCE PAYABLE MAY**
8 **NOT BE LESS THAN THE ALLOWANCE PAID FOR THE PRECEDING FISCAL YEAR.**

9 **(III) 1. THIS SUBPARAGRAPH APPLIES ONLY TO A FISCAL**
10 **YEAR THAT IS NOT A ZERO-ADJUSTMENT FISCAL YEAR.**

11 **2. SUBJECT TO SUBSUBPARAGRAPH 3 OF THIS**
12 **SUBPARAGRAPH:**

13 **A. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY**
14 **AFTER A ZERO-ADJUSTMENT FISCAL YEAR, THE ALLOWANCE PAYABLE AS**
15 **PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE REDUCED BY THE**
16 **DIFFERENCE BETWEEN THE ALLOWANCE PAID IN THE PRECEDING FISCAL YEAR**
17 **AND THE ALLOWANCE THAT WOULD HAVE BEEN PAYABLE FOR THE PRECEDING**
18 **FISCAL YEAR IF THE ALLOWANCE FOR THAT FISCAL YEAR HAD BEEN**
19 **CALCULATED WITHOUT REGARD TO SUBPARAGRAPH (II) OF THIS PARAGRAPH;**
20 **AND**

21 **B. FOR A FISCAL YEAR THAT FOLLOWS IMMEDIATELY**
22 **AFTER 2 OR MORE CONSECUTIVE ZERO-ADJUSTMENT FISCAL YEARS, THE**
23 **ALLOWANCE PAYABLE AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION**
24 **SHALL BE REDUCED BY THE DIFFERENCE BETWEEN THE TOTAL OF THE**
25 **ALLOWANCES PAID IN EACH CONSECUTIVE ZERO-ADJUSTMENT FISCAL YEAR**
26 **PRECEDING THE FISCAL YEAR AND THE TOTAL ALLOWANCES THAT WOULD**
27 **HAVE BEEN PAYABLE FOR EACH OF THOSE FISCAL YEARS IF THE ALLOWANCE**
28 **FOR EACH OF THOSE FISCAL YEARS HAD BEEN CALCULATED WITHOUT REGARD**
29 **TO SUBPARAGRAPH (II) OF THIS PARAGRAPH.**

30 **3. IF THE AMOUNT OF THE REDUCTION REQUIRED**
31 **FOR ANY FISCAL YEAR UNDER SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH**
32 **EXCEEDS THE DIFFERENCE BETWEEN THE ALLOWANCE AS PROVIDED IN**
33 **PARAGRAPH (1) OF THIS SUBSECTION FOR THE FISCAL YEAR AND THE**
34 **ALLOWANCE PAID IN THE PRECEDING FISCAL YEAR, THE EXCESS SHALL BE**
35 **DEDUCTED IN FUTURE YEARS, SUBJECT TO SUBPARAGRAPH (II) OF THIS**
36 **PARAGRAPH, UNTIL THE DIFFERENCE IS FULLY RECOVERED.**

