

HOUSE BILL NO. 49

INTRODUCED BY EUDAILY, SCHULTZ, LORY

BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

IN THE HOUSE

January 6, 1981	Introduced and referred to Committee on State Administration.
	On motion by chief sponsor, Representatives Shultz, Lory were added as authors to the prefiled bill.
January 12, 1981	Committee recommend bill do pass. Report adopted.
January 13, 1981	Bill printed and placed on members' desks.
January 14, 1981	Second reading, do pass as amended.
January 15, 1981	Correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 16, 1981	Introduced and referred to Committee on State Administration.
March 26, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 28, 1981	Second reading, concurred in.
March 30, 1981	Motion pass consideration.

March 31, 1981

Third reading, concurred in
as amended. Ayes, 49; Noes, 0.

On motion rules suspended.
Bill allowed to be trans-
mitted on 71st legislative day.
Motion adopted.

IN THE HOUSE

April 1, 1981

Returned from Senate with
amendments.

April 8, 1981

Second reading, amendments
concurred in.

April 9, 1981

Third reading, amendments
concurred in. Ayes, 93;
Noes, 0. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 48
 2 INTRODUCED BY EUDAILY
 3 BY REQUEST OF THE TEACHERS' RETIREMENT BOARD
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE THE TYPE AND
 6 AMOUNT OF EARNED COMPENSATION THAT CAN BE INCLUDED IN THE
 7 DEFINITION OF AVERAGE FINAL COMPENSATION FOR CALCULATING
 8 BENEFITS IN THE TEACHERS' RETIREMENT SYSTEM; AMENDING
 9 SECTION 19-4-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 19-4-101, MCA, is amended to read:
 13 "19-4-101. Definitions. As used in this chapter, unless
 14 the context clearly indicates otherwise, the following
 15 definitions apply:

16 (1) "Accumulated contributions" means the sum of all
 17 the amounts deducted from the compensation of a member or
 18 paid by a member and credited to his individual account in
 19 the annuity savings fund, together with interest. Regular
 20 interest shall be computed and allowed to provide a benefit
 21 at the time of retirement.

22 (2) "Actuarial equivalent" means a benefit of equal
 23 value when computed, with regular interest, on the basis of
 24 the mortality tables adopted by the retirement board.

25 (3) "Annuity" means the payments made to a beneficiary

1 for life which are derived from a member's accumulated
 2 contributions.

3 (4) "Annuity reserve" means the present value of all
 4 payments to be made on account of a member's annuity
 5 computed, with regular interest, on the basis of the
 6 mortality tables adopted by the retirement board.

7 (5) "Average final compensation" means the average of
 8 the earned compensation of a member during the 3 consecutive
 9 years of full-time service which yield the highest average
 10 and on which contributions have been made as required by
 11 19-4-602(1). If the earned compensation includes any form of
 12 termination pay or any lump-sum payment for deferred
 13 compensation, sick leave, or accumulated vacation credit or
 14 any other payment for time not worked other than
 15 compensation received while on sick leave or authorized
 16 leave of absence, the amount of such compensation used in
 17 the calculation of average final compensation must be
 18 divided by the total number of years of creditable service
 19 with the employer from whom this type of compensation was
 20 received to determine a yearly amount. The yearly amount
 21 must be added to each of the 3 consecutive years' salary
 22 used in the calculation of the "average final compensation".

23 (6) "Beneficiary" means a person in receipt of a
 24 pension, annuity, retirement allowance, or other benefit
 25 provided by the retirement system.

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1 (7) "Creditable service" is that service defined by
2 19-4-401.

3 (8) "Earned compensation" means the full compensation,
4 pay, or salary actually paid to a member and reported to the
5 retirement system, including irregular forms of
6 remuneration, such as amounts paid for special duty or under
7 a salary reduction agreement, and amounts paid in kind, such
8 as maintenance. The employer shall fix the value of any
9 compensation paid in kind. The earned compensation of a
10 member who had less than 3 consecutive years of full-time
11 service during the 5 years preceding his retirement is the
12 compensation, pay, or salary which he would have earned had
13 his part-time service been full-time service. The earned
14 compensation of a member who is awarded a disability
15 retirement allowance prior to the completion of a full year
16 is the compensation, pay, or salary which he would have
17 received had he completed the full year.

18 (9) "Employer" means the state of Montana, the trustees
19 of a district, or any other agency or subdivision of the
20 state which employs a person who is designated a member of
21 the retirement system.

22 (10) "Full-time service" means service which is
23 full-time and which extends over a normal academic year of
24 at least 9 months. With respect to those members employed by
25 the office of the superintendent of public instruction, any

1 other state agency or institution, or the office of a county
2 superintendent, "full-time service" means service which is
3 full-time and which totals at least 9 months in any one
4 year.

5 (11) "Member" means a person who has an individual
6 account in the annuity savings fund. An active member is a
7 person included under the provisions of 19-4-302. An
8 inactive member is a person included under the provisions of
9 19-4-303.

10 (12) "Part-time service" means service which is less
11 than full-time or which totals less than 9 months in any one
12 year. Part-time service shall be credited in the proportion
13 that the actual time worked bears to full-time service.

14 (13) "Pension" means the payments made to a beneficiary
15 for life which are paid out of the pension accumulation
16 fund.

17 (14) "Pension reserve" means the present value of all
18 payments to be made on account of a pension computed, with
19 regular interest, on the basis of the mortality tables
20 adopted by the retirement board.

21 (15) "Prior service" means employment of the same nature
22 as service defined in subsection (20) of this section and
23 rendered before September 1, 1937.

24 (16) "Regular interest" means interest at 4% per annum,
25 compounded annually or at such other rate as may be set by

1 the retirement board in accordance with 19-4-501(2).

2 (17) "Retirement allowance" means the annuity plus the
3 pension.

4 (18) "Retirement board" means the retirement system's
5 governing board provided for in 2-15-1010.

6 (19) "Retirement system" means the teachers' retirement
7 system of the state of Montana provided for in 19-4-102.

8 (20) "Service" means the performance of such
9 instructional duties or related activities as would entitle
10 the person to active membership in the retirement system
11 under the provisions of 19-4-302."

12 Section 2. Effective date. This act is effective August
13 1, 1982.

-End-

HB48

Approved by Committee
on State Administration

HOUSE BILL NO. 48

INTRODUCED BY EUDAILY, SCHULTZ, LORY

BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE THE TYPE AND AMOUNT OF EARNED COMPENSATION THAT CAN BE INCLUDED IN THE DEFINITION OF AVERAGE FINAL COMPENSATION FOR CALCULATING BENEFITS IN THE TEACHERS' RETIREMENT SYSTEM; AMENDING SECTION 19-4-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-4-101, MCA, is amended to read:

"19-4-101. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accumulated contributions" means the sum of all the amounts deducted from the compensation of a member or paid by a member and credited to his individual account in the annuity savings fund, together with interest. Regular interest shall be computed and allowed to provide a benefit at the time of retirement.

(2) "Actuarial equivalent" means a benefit of equal value when computed, with regular interest, on the basis of the mortality tables adopted by the retirement board.

(3) "Annuity" means the payments made to a beneficiary

for life which are derived from a member's accumulated contributions.

(4) "Annuity reserve" means the present value of all payments to be made on account of a member's annuity computed, with regular interest, on the basis of the mortality tables adopted by the retirement board.

(5) "Average final compensation" means the average of the earned compensation of a member during the 3 consecutive years of full-time service which yield the highest average and on which contributions have been made as required by 19-4-602(1). If the earned compensation includes any form of termination pay or any lump-sum payment for deferred compensation, sick leave, or accumulated vacation credit or any other payment for time not worked other than compensation received while on sick leave or authorized leave of absence, the amount of such compensation used in the calculation of average final compensation must be divided by the total number of years of creditable service with the employer from whom this type of compensation was received to determine a yearly amount. The yearly amount must be added to each of the 3 consecutive years' salary used in the calculation of the "average final compensation".

(6) "Beneficiary" means a person in receipt of a pension, annuity, retirement allowance, or other benefit provided by the retirement system.

SECOND READING

1 (7) "Creditable service" is that service defined by
2 19-4-401.

3 (8) "Earned compensation" means the full compensation,
4 pay, or salary actually paid to a member and reported to the
5 retirement system, including irregular forms of
6 remuneration, such as amounts paid for special duty or under
7 a salary reduction agreement, and amounts paid in kind, such
8 as maintenance. The employer shall fix the value of any
9 compensation paid in kind. The earned compensation of a
10 member who had less than 3 consecutive years of full-time
11 service during the 5 years preceding his retirement is the
12 compensation, pay, or salary which he would have earned had
13 his part-time service been full-time service. The earned
14 compensation of a member who is awarded a disability
15 retirement allowance prior to the completion of a full year
16 is the compensation, pay, or salary which he would have
17 received had he completed the full year.

18 (9) "Employer" means the state of Montana, the
19 trustees of a district, or any other agency or subdivision
20 of the state which employs a person who is designated a
21 member of the retirement system.

22 (10) "Full-time service" means service which is
23 full-time and which extends over a normal academic year of
24 at least 9 months, with respect to those members employed by
25 the office of the superintendent of public instruction, any

1 other state agency or institution, or the office of a county
2 superintendent, "full-time service" means service which is
3 full-time and which totals at least 9 months in any one
4 year.

5 (11) "Member" means a person who has an individual
6 account in the annuity savings fund. An active member is a
7 person included under the provisions of 19-4-302. An
8 inactive member is a person included under the provisions of
9 19-4-303.

10 (12) "Part-time service" means service which is less
11 than full-time or which totals less than 9 months in any one
12 year. Part-time service shall be credited in the proportion
13 that the actual time worked bears to full-time service.

14 (13) "Pension" means the payments made to a beneficiary
15 for life which are paid out of the pension accumulation
16 fund.

17 (14) "Pension reserve" means the present value of all
18 payments to be made on account of a pension computed, with
19 regular interest, on the basis of the mortality tables
20 adopted by the retirement board.

21 (15) "Prior service" means employment of the same
22 nature as service defined in subsection (20) of this section
23 but rendered before September 1, 1937.

24 (16) "Regular interest" means interest at 4% per annum
25 compounded annually or at such other rate as may be set by

1 the retirement board in accordance with 19-4-501(2).

2 (17) "Retirement allowance" means the annuity plus the
3 pension.

4 (18) "Retirement board" means the retirement system's
5 governing board provided for in 2-15-1010.

6 (19) "Retirement system" means the teachers' retirement
7 system of the state of Montana provided for in 19-4-102.

8 (20) "Service" means the performance of such
9 instructional duties or related activities as would entitle
10 the person to active membership in the retirement system
11 under the provisions of 19-4-302."

12 Section 2. Effective date. This act is effective
13 August 1, 1982.

-End-

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3 BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

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21 at the time of retirement.

22 (2) "Actuarial equivalent" means a benefit of equal
23 value when computed, with regular interest, on the basis of
24 the mortality tables adopted by the retirement board.

25 (3) "Annuity" means the payments made to a beneficiary

1 for life which are derived from a member's accumulated
2 contributions.

3 (4) "Annuity reserve" means the present value of all
4 payments to be made on account of a member's annuity
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6 mortality tables adopted by the retirement board.

7 (5) "Average final compensation" means the average of
8 the earned compensation of a member during the 3 consecutive
9 years of full-time service which yield the highest average
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11 19-4-602(1). If the earned compensation includes any form of
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17 the calculation of average final compensation must be
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19 with the employer from whom this type of compensation was
20 received to determine a yearly amount. The yearly amount
21 must be added to each of the 3 consecutive years' salary
22 used in the calculation of the "average final compensation".

23 (6) "Beneficiary" means a person in receipt of a
24 pension, annuity, retirement allowance, or other benefit
25 provided by the retirement system.

1 (7) "Creditable service" is that service defined by
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3 (8) "Earned compensation" means the full compensation,
4 pay, or salary actually paid to a member and reported to the
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18 (9) "Employer" means the state of Montana, the
19 trustees of a district, or any other agency or subdivision
20 of the state which employs a person who is designated a
21 member of the retirement system.

22 (10) "Full-time service" means service which is
23 full-time and which extends over a normal academic year of
24 at least 9 months. With respect to those members employed by
25 the office of the superintendent of public instruction, any

1 other state agency or institution, or the office of a county
2 superintendent, "full-time service" means service which is
3 full-time and which totals at least 9 months in any one
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6 account in the annuity savings fund. An active member is a
7 person included under the provisions of 19-4-302. An
8 inactive member is a person included under the provisions of
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5 governing board provided for in 2-15-1010.

6 (19) "Retirement system" means the teachers' retirement
7 system of the state of Montana provided for in 19-4-102.

8 (20) "Service" means the performance of such
9 instructional duties or related activities as would entitle
10 the person to active membership in the retirement system
11 under the provisions of 19-4-302."

12 Section 2. Effective date. This act is effective
13 August 1, ~~1982~~ 1981.

-End-

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22 (2) "Actuarial equivalent" means a benefit of equal
23 value when computed, with regular interest, on the basis of
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3 (4) "Annuity reserve" means the present value of all
4 payments to be made on account of a member's annuity
5 computed, with regular interest, on the basis of the
6 mortality tables adopted by the retirement board.

7 (5) [A] "Average final compensation" means the average
8 of the earned compensation of a member during the 3
9 consecutive years of full-time service which yield the
10 highest average and on which contributions have been made as
11 required by 19-4-602(1). If the earned compensation includes
12 any form of termination pay or any lump-sum payment for
13 deferred compensation, sick leave or accumulated vacation
14 credit or any other payment for time not worked other than
15 compensation received while on sick leave or authorized
16 leave of absence, the MEMBER SHALL SELECT ONE OF THE
17 FOLLOWING OPTIONS:

18 (I) USE THE TOTAL TERMINATION PAY IN THE CALCULATION
19 OF THE AVERAGE FINAL COMPENSATION. THE MEMBER AND THE
20 EMPLOYER SHALL PAY SUCH CONTRIBUTIONS TO THE RETIREMENT
21 SYSTEM AS ARE DETERMINED BY THE BOARD TO ADEQUATELY
22 COMPENSATE THE SYSTEM FOR THE ADDITIONAL RETIREMENT BENEFIT.
23 THE CONTRIBUTIONS MUST BE MADE AT THE TIME THE TERMINATION
24 PAY IS RECEIVED.

25 (II) USE A YEARLY AMOUNT OF TERMINATION PAY ADDED TO

1 EACH OF THE 3 CONSECUTIVE YEARS' SALARY USED IN THE
 2 CALCULATION OF THE AVERAGE FINAL COMPENSATION. THE amount of
 3 such compensation used in the calculation of average final
 4 compensation must be divided by the total number of years of
 5 creditable service with the employer from whom this type of
 6 compensation was received to determine a yearly amount. The
 7 yearly--amount--must--be--added--to--each--of--the--3--consecutive
 8 years--salary--used--in--the--calculation--of--the--"average--final
 9 compensation". THE MEMBER AND THE EMPLOYER MUST PAY THE
 10 REGULAR CONTRIBUTION ON THE TERMINATION PAY; OR

11 (III) EXCLUDE THE TERMINATION PAY FROM THE AVERAGE
 12 FINAL COMPENSATION. NO CONTRIBUTION IS REQUIRED OF EITHER
 13 THE EMPLOYER OR MEMBER.

14 (8) FOR PURPOSES OF THIS SUBSECTION, TERMINATION PAY
 15 INCLUDES ANY FORM OF TERMINATION PAY OR ANY LUMP-SUM PAYMENT
 16 FOR DEFERRED COMPENSATION, SICK LEAVE, OR ACCUMULATED
 17 VACATION CREDIT OR ANY OTHER PAYMENT FOR TIME NOT WORKED
 18 OTHER THAN COMPENSATION RECEIVED WHILE ON SICK LEAVE OR
 19 AUTHORIZED LEAVE OF ABSENCE.

20 (6) "Beneficiary" means a person in receipt of a
 21 pension, annuity, retirement allowance, or other benefit
 22 provided by the retirement system.

23 (7) "Creditable service" is that service defined by
 24 19-4-401.

25 (8) "Earned compensation" means the full compensation,

1 pay, or salary actually paid to a member and reported to the
 2 retirement system, including irregular forms of
 3 remuneration, such as amounts paid for special duty or under
 4 a salary reduction agreement, and amounts paid in kind, such
 5 as maintenance. The employer shall fix the value of any
 6 compensation paid in kind. The earned compensation of a
 7 member who had less than 3 consecutive years of full-time
 8 service during the 5 years preceding his retirement is the
 9 compensation, pay, or salary which he would have earned had
 10 his part-time service been full-time service. The earned
 11 compensation of a member who is awarded a disability
 12 retirement allowance prior to the completion of a full year
 13 is the compensation, pay, or salary which he would have
 14 received had he completed the full year.

15 (9) "Employer" means the state of Montana, the
 16 trustees of a district, or any other agency or subdivision
 17 of the state which employs a person who is designated a
 18 member of the retirement system.

19 (10) "Full-time service" means service which is
 20 full-time and which extends over a normal academic year of
 21 at least 9 months. With respect to those members employed by
 22 the office of the superintendent of public instruction, any
 23 other state agency or institution, or the office of a county
 24 superintendent, "full-time service" means service which is
 25 full-time and which totals at least 9 months in any one

1 year.

2 (11) "Member" means a person who has an individual
3 account in the annuity savings fund. An active member is a
4 person included under the provisions of 19-4-302. An
5 inactive member is a person included under the provisions of
6 19-4-303.

7 (12) "Part-time service" means service which is less
8 than full-time or which totals less than 9 months in any one
9 year. Part-time service shall be credited in the proportion
10 that the actual time worked bears to full-time service.

11 (13) "Pension" means the payments made to a beneficiary
12 for life which are paid out of the pension accumulation
13 fund.

14 (14) "Pension reserve" means the present value of all
15 payments to be made on account of a pension computed, with
16 regular interest, on the basis of the mortality tables
17 adopted by the retirement board.

18 (15) "Prior service" means employment of the same
19 nature as service defined in subsection (20) of this section
20 but rendered before September 1, 1937.

21 (16) "Regular interest" means interest at 4% per annum
22 compounded annually or at such other rate as may be set by
23 the retirement board in accordance with 19-4-501(2).

24 (17) "Retirement allowance" means the annuity plus the
25 pension.

1 (18) "Retirement board" means the retirement system's
2 governing board provided for in 2-15-1010.

3 (19) "Retirement system" means the teachers' retirement
4 system of the state of Montana provided for in 19-4-102.

5 (20) "Service" means the performance of such
6 instructional duties or related activities as would entitle
7 the person to active membership in the retirement system
8 under the provisions of 19-4-302."

9 Section 2. Effective date. This act is effective
10 August 1, ~~1982~~ 1981.

-End-

March 26, 1981

SENATE STANDING COMMITTEE REPORT
(State Administration)

That House Bill No. 48 be amended as follows:

1. Page 2, line 7.
Following: "(5)"
Insert: "(a)"
2. Page 2, line 11.
Following: "any"
Strike: "form of"
3. Page 2, line 12 through 16.
Following: "pay"
Strike: "remainder of line 12 through "absence, the" on line 16
Insert: "the member shall select one of the following options:
(i) use the total termination pay in the calculation of the average final compensation. The member and the employer shall pay such contributions to the retirement system as are determined by the board to adequately compensate the system for the additional retirement benefit. The contributions must be made at the time the termination pay is received;
(ii) use a yearly amount of termination pay added to each of the 3 consecutive years' salary used in the calculation of the average final compensation. The"
4. Page 2, line 20.
Following: "amount."
Strike: Remainder of line 20 through line 22 in its entirety
Insert: "The member and the employer must pay the regular contribution on the termination pay; or
(iii) exclude the termination pay from the average final compensation. No contribution is required of either the employer or member.
(b) For purposes of this subsection, termination pay includes any form of termination pay or any lump sum payment for deferred compensation, sick leave, or accumulated vacation credit or any other payment for time not worked other than compensation received while on sick leave or authorized leave of absence."