## HOUSE BILL NO. 256

# INTRODUCED BY EUDAILY, LORY

## BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

# IN THE HOUSE

			10002
January 18, 1985			Introduced and referred to Committee on Education and Cultural Resources.
January 21, 1985			Rereferred to Committee on State Administration.
February 9, 1985			Committee recommend bill do pass as amended. Report adopted.
			Bill printed and placed on members' desks.
February 11, 1985			Second reading, do pass.
			Considered correctly engrossed.
February 12, 1985			Third reading, passed.
			Transmitted to Senate.
	IN	THE	SENATE
February 13, 1985			Introduced and referred to Committee on State Administration.
March 13, 1985			Committee recommend bill be concurred in. Report adopted.
March 15, 1985			Second reading, concurred in.
March 18, 1985			Third reading, concurred in. Ayes, 49; Noes, 0.
			Returned to House.

## IN THE HOUSE

March 19, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

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1	HOUSE BILL NO. 256
2	INTRODUCED BY Livery Jony
3	BE REQUEST OF THE
4	TEACHERS' RETIREMENT BOARD
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING ELIGIBILITY TO
7	USE A YEARLY AMOUNT OF TERMINATION PAY IN THE CALCULATION OF
8	AVERAGE FINAL COMPENSATION UNDER THE TEACHERS' RETIREMENT
9	SYSTEM; CLARIFYING THE RATE OF CONTRIBUTION ON THIS AMOUNT;
10	AMENDING SECTION 19-4-101, MCA; AND PROVIDING AN EFFECTIVE
11	DATE."
12	
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14	Section 1. Section 19-4-101, MCA, is amended to read:
15	"19-4-101. Definitions. As used in this chapter,
16	unless the context clearly indicates otherwise, the
17	following definitions apply:
18	(1) "Accumulated contributions" means the sum of all
19	the amounts deducted from the compensation of a member or
20	paid by a member and credited to his individual account in
21	the annuity savings fund, together with interest. Regular
22	interest shall be computed and allowed to provide a benefit
23	at the time of retirement.
24	(2) "Actuarial equivalent" means a benefit of equal

value when computed, with regular interest, on the basis of

2	(3) "Annuity" means the payments made to a beneficiary
3	for life which are derived from a member's accumulated
4	contributions.
5	(4) "Annuity reserve" means the present value of all
6	payments to be made on account of a member's annuity
7	computed, with regular interest, on the basis of the
8	mortality tables adopted by the retirement board.
9	(5) (a) "Average final compensation" means the average
10	of the earned compensation of a member during the 3
11	consecutive years of full-time service which yield the
12	highest average and on which contributions have been made as
13	required by 19-4-602(1). If the earned compensation includes
14	any termination pay, the member shall select one of the
15	following options:
16	(i) use the total termination pay in the calculation
17	of the average final compensation. The member and the
18	employer shall pay such contributions to the retirement
19	system as are determined by the board to adequately
20	compensate the system for the additional retirement benefit.
21	The contributions must be made at the time the termination
22	pay is received.
23	(ii) use a yearly amount of termination pay added to

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1 the mortality tables adopted by the retirement board. 2 means the payments made to a beneficiary derived from a member's accumulated 3 erve" means the present value of all on account of a member's annuity ar interest, on the basis of the ed by the retirement board. final compensation" means the average ensation of a member during the 3 10 full-time service which yield the 11 12 which contributions have been made as 13 l). If the earned compensation includes 14 the member shall select one of the 15 al termination pay in the calculation 16 17 il compensation. The member and the

each of the 3 consecutive years' salary used in the calculation of the average final compensation, if the member has four or more years of service with the employer from which the termination pay was received. 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 member and the employer must pay the regular contribution contributions on the termination pay according to the rates provided for in 19-4-602(1) and 19-4-605(1); or

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- (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.
  - (6) "Beneficiary" means a person in receipt of a pension, annuity, retirement allowance, or other benefit provided by the retirement system.
- 22 (7) "Creditable service" is that service defined by 23 19-4-401.
- 24 (8) "Earned compensation" means the full compensation,
  25 pay, or salary actually paid to a member and reported to the

retirement system, including amounts paid under a salary 1 reduction agreement to a tax sheltered annuity or deferred 2 3 compensation program and the value of any housing provided by the employer. The employer shall fix the value of any housing provided. The term does not include any other 5 6 amounts paid in kind or fringe benefits not actually paid to 7 a member. The earned compensation of a member who had less 8 than 3 consecutive years of full-time service during the 5 years preceding his retirement is the compensation, pay, or 9 salary which he would have earned had his part-time service 10 been full-time service. The earned compensation of a member 11 12 who is awarded a disability retirement allowance prior to the completion of a full year is the compensation, pay, or 13 14 salary which he would have received had he completed the 15 full year, except that any termination pay, as defined in 16 subsection (5)(b), received by the member is limited to the 17 amount actually paid and is not the amount he would have 18 earned had he completed the full year.

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

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

- the office of the superintendent of public instruction, any
  other state agency or institution, or the office of a county
  superintendent, "full-time service" means service which is
  full-time and which totals at least 9 months in any one
  year.
- 6 (11) "Member" means a person who has an individual
  7 account in the annuity savings fund. An active member is a
  8 person included under the provisions of 19-4-302. An
  9 inactive member is a person included under the provisions of
  10 19-4-303.
- 11 (12) "Part-time service" means service which is less
  12 than full-time or which totals less than 9 months in any one
  13 year. Part-time service shall be credited in the proportion
  14 that the actual time worked bears to full-time service.
- 15 (13) "Pension" means the payments made to a beneficiary

  16 for life which are paid out of the pension accumulation

  17 fund.
- 18 (14) "Pension reserve" means the present value of all
  19 payments to be made on account of a pension computed, with
  20 regular interest, on the basis of the mortality tables
  21 adopted by the retirement board.
- 22 (15) "Prior service" means employment of the same 23 nature as service defined in subsection (20) of this section 24 but rendered before September 1, 1937.
- 25 (16) "Regular interest" means interest at 4% per annum

- compounded annually or at such other rate as may be set by
  the retirement board in accordance with 19-4-501(2).
- 3 (17) "Retirement allowance" means the annuity plus the 4 pension.
- 5 (18) "Retirement board" means the retirement system's 6 governing board provided for in 2-15-1010.
- 7 (19) "Retirement system" means the teachers' retirement 8 system of the state of Montana provided for in 19-4-102.
- 9 (20) "Service" means the performance of such 10 instructional duties or related activities as would entitle 11 the person to active membership in the retirement system 12 under the provisions of 19-4-302."
- NEW SECTION. Section 2. Extension of authority. Any existing authority of the teachers' retirement board to make rules on the subject of the provisions of this act is
- NEW SECTION. Section 3. Effective date. This act is effective July 1, 1985.

extended to the provisions of this act.

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-End-

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#### RE-REFFERED AND

HOUSE BILL NO. 256

# APPROVED BY COMMITTEE ON STATE ADMINISTRATION

2	INTRODUCED BY EUDAILY, LORY
3	BY REQUEST OF THE
4	TEACHERS' RETIREMENT BOARD
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING ELIGIBILITY TO
7	USE A YEARLY AMOUNT OF TERMINATION PAY IN THE CALCULATION OF
8	AVERAGE FINAL COMPENSATION UNDER THE TEACHERS' RETIREMENT
9	SYSTEM; CLARIFYING THE RATE OF CONTRIBUTION ON THIS AMOUNT
10	AMENDING SECTION 19-4-101, MCA; AND PROVIDING AN EFFECTIVE
11	DATE."
12	
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14	Section 1. Section 19-4-101, MCA, is amended to read
15	"19-4-101. Definitions. As used in this chapter
16	unless the context clearly indicates otherwise, the
17	following definitions apply:
18	(1) "Accumulated contributions" means the sum of al
19	the amounts deducted from the compensation of a member o
20	paid by a member and credited to his individual account i
21	the annuity savings fund, together with interest. Regula
22	interest shall be computed and allowed to provide a benefi
23	at the time of retirement.
24	(2) "Actuarial equivalent" means a benefit of equa
25	value when computed, with regular interest, on the basis o

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1 1	the	mortality	tables	adopted	bv	the	retirement	board.

- 2 (3) "Annuity" means the payments made to a beneficiary
  3 for life which are derived from a member's accumulated
  4 contributions.
- 5 (4) "Annuity reserve" means the present value of all 6 payments to be made on account of a member's annuity 7 computed, with regular interest, on the basis of the 8 mortality tables adopted by the retirement board.
- 9 (5) (a) "Average final compensation" means the average 10 of the earned compensation of a member during the 3 11 consecutive years of full-time service which yield the 12 highest average and on which contributions have been made as 13 required by 19-4-602(1). If the earned compensation includes 14 any termination pay, the member shall select one of the 15 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
- 23 (ii) use a yearly amount of termination pay added to 24 each of the 3 consecutive years' salary used in the 25 calculation of the average final compensation, if the member

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pay is received.

- 1 has four or more years of service with the employer from 2 which the termination pay was received. The amount of such 3 compensation used in the calculation of average final 4 compensation must be divided by the total number of years of creditable service with-the-employer-from-whom-this-type--of 5 6 compensation-was-received to determine a yearly amount. The 7 member and the employer must pay the requiar contribution contributions on the termination pay according to the rates 9 provided for in 19-4-602(1) and 19-4-605(1); or
- 10 (iii) exclude the termination pay from the average
  11 final compensation. No contribution is required of either
  12 the employer or member.

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- (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.
- 19 (6) "Beneficiary" means a person in receipt of a 20 pension, annuity, retirement allowance, or other benefit 21 provided by the retirement system.
- 22 (7) "Creditable service" is that service defined by 23 19-4-401.
- (8) "Earned compensation" means the full compensation,pay, or salary actually paid to a member and reported to the

retirement system, including amounts paid under a salary reduction agreement to a tax sheltered annuity or deferred 3 compensation program and the value of any housing provided by the employer. The employer shall fix the value of any housing provided. The term does not include any other amounts paid in kind or fringe benefits not actually paid to a member. The earned compensation of a member who had less than 3 consecutive years of full-time service during the 5 years preceding his retirement is the compensation, pay, or salary which he would have earned had his part-time service 10 11 been full-time service. The earned compensation of a member who is awarded a disability retirement allowance prior to the completion of a full year is the compensation, pay, or 13 14 salary which he would have received had he completed the full year, except that any termination pay, as defined in subsection (5)(b), received by the member is limited to the 16 17 amount actually paid and is not the amount he would have earned had he completed the full year. 18

- 19 (9) "Employer" means the state of Montana, the 20 trustees of a district, or any other agency or subdivision 21 of the state which employs a person who is designated a 22 member of the retirement system.
- 23 (10) "Full-time service" means service which is 24 full-time and which extends over a normal academic year of 25 at least 9 months. With respect to those members employed by

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- 1 the office of the superintendent of public instruction, any 2 other state agency or institution, or the office of a county superintendent, "full-time service" means service which is 3 full-time and which totals at least 9 months in any one 4 5 year.
  - (11) "Member" means a person who has an individual account in the annuity savings fund. An active member is a person included under the provisions of 19-4-302. An inactive member is a person included under the provisions of 19~4-303.

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- (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 14 that the actual time worked bears to full-time service.
- (13) "Pension" means the payments made to a beneficiary 15 for life which are paid out of the pension accumulation 16 17 fund.
  - (14) "Pension reserve" means the present value of all payments to be made on account of a pension computed, with regular interest, on the basis of the mortality tables adopted by the retirement board.
- (15) "Prior service" means employment of the same 22 nature as service defined in subsection (20) of this section 23 24 but rendered before September 1, 1937.
- (16) "Regular interest" means interest at 4% per annum 25

- compounded annually or at such other rate as may be set by 2 the retirement board in accordance with 19-4-501(2).
- (17) "Retirement allowance" means the annuity plus the
- 3 4 pension.
- (18) "Retirement board" means the retirement system's 5 governing board provided for in 2-15-1010.
- 7 (19) "Retirement system" means the teachers' retirement system of the state of Montana provided for in 19-4-102.
- 9 (20) "Service" means the performance of 10 instructional duties or related activities as would entitle the person to active membership in the retirement system 11
- 13 NEW SECTION. Section 2. Extension of authority. Any 14 existing authority of the teachers' retirement board to make
- rules on the subject of the provisions of this act is 15
- 16 extended to the provisions of this act.

under the provisions of 19-4-302."

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17 NEW SECTION. Section 3. Effective date. This act is effective July 1, 1985. 18

-End-

HB 256

HB 0256/02

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2	INTRODUCED BY EUDAILY, LORY
3	BY REQUEST OF THE
4	TEACHERS' RETIREMENT BOARD
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6	A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING ELIGIBILITY TO
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20	paid by a member and credited to his individual account in
21	the annuity savings fund, together with interest. Regular
22	interest shall be computed and allowed to provide a benefit
23	at the time of retirement.
24	(2) "Actuarial equivalent" means a benefit of equal
25	value when computed, with regular interest, on the basis of

HOUSE BILL NO. 256

2	(3	) "Annuity" means the payments made to a beneficiary
3	for 1	fe which are derived from a member's accumulated
4	contril	outions.
5	(4	) "Annuity reserve" means the present value of all
6	payment	s to be made on account of a member's annuity
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8	mortali	ty tables adopted by the retirement board.
9	( 5	) (a) "Average final compensation" means the average
10	of the	e earned compensation of a member during the 3
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12	highest	average and on which contributions have been made as
13	require	d by 19-4-602(1). If the earned compensation includes
14	any te	rmination pay, the member shall select one of the
15	follow	ng options:
16	· (i	) use the total termination pay in the calculation
17	of the	e average final compensation. The member and the
18	employe	r shall pay such contributions to the retirement
19	system	as are determined by the board to adequately
20-	compens	ate the system for the additional retirement benefit.

pay is received.

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the mortality tables adopted by the retirement board.

(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, if the member

The contributions must be made at the time the termination

has four or more years of service with the employer from which the termination pay was received. 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 member and the employer must pay the-regular-contribution contributions on the termination pay according to the rates provided for in 19-4-602(1) and 19-4-605(1); or

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- 10 (iii) exclude the termination pay from the average 11 final compensation. No contribution is required of either 12 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.
  - (6) "Beneficiary" means a person in receipt of a pension, annuity, retirement allowance, or other benefit provided by the retirement system.
  - (7) "Creditable service" is that service defined by 19-4-401.
- 24 (8) "Earned compensation" means the full compensation,25 pay, or salary actually paid to a member and reported to the

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- retirement system, including amounts paid under a salary 1 2 reduction agreement to a tax sheltered annuity or deferred 3 compensation program and the value of any housing provided by the employer. The employer shall fix the value of any 5 housing provided. The term does not include any other amounts paid in kind or fringe benefits not actually paid to 7 a member. The earned compensation of a member who had less 8 than 3 consecutive years of full-time service during the 5 9. years preceding his retirement is the compensation, pay, or 10 salary which he would have earned had his part-time service 11 been full-time service. The earned compensation of a member 12 who is awarded a disability retirement allowance prior to 1.3 the completion of a full year is the compensation, pay, or salary which he would have received had he completed the 14 15 full year, except that any termination pay, as defined in 16 subsection (5)(b), received by the member is limited to the 17 amount actually paid and is not the amount he would have 18 earned had he completed the full year.
- 19 (9) "Employer" means the state of Montana, the 20 trustees of a district, or any other agency or subdivision 21 of the state which employs a person who is designated a 22 member of the retirement system.
- 23 (10) "Full-time service" means service which is 24 full-time and which extends over a normal academic year of 25 at least 9 months. With respect to those members employed by

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

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- (11) "Member" means a person who has an individual account in the annuity savings fund. An active member is a person included under the provisions of 19-4-302. An inactive member is a person included under the provisions of 19-4-303.
- (12) "Part-time service" means service which is less than full-time or which totals less than 9 months in any one year. Part-time service shall be credited in the proportion that the actual time worked bears to full-time service.
- 15 (13) "Pension" means the payments made to a beneficiary 16 for life which are paid out of the pension accumulation 17. fund.
- 18 (14) "Pension reserve" means the present value of all 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 23 nature as service defined in subsection (20) of this section but rendered before September 1, 1937. 24
  - (16) "Regular interest" means interest at 4% per annum

- 1 compounded annually or at such other rate as may be set by the retirement board in accordance with 19-4-501(2).
- 3 (17) "Retirement allowance" means the annuity plus the pension.
- (18) "Retirement board" means the retirement system's governing board provided for in 2-15-1010.
- 7 (19) "Retirement system" means the teachers' retirement system of the state of Montana provided for in 19-4-102.
- (20) "Service" means the performance of such 10 instructional duties or related activities as would entitle the person to active membership in the retirement system 11 12 under the provisions of 19-4-302."
- 13 NEW SECTION. Section 2. Extension of authority. Any existing authority of the teachers' retirement board to make 14 15 rules on the subject of the provisions of this act is 16 extended to the provisions of this act.
- 17 NEW SECTION. Section 3. Effective date. This act is 18 effective July 1, 1985.

-End-

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HB 0256/02

49th Legislature

HB 0256/02

1	HOUSE BILL NO. 256
2	INTRODUCED BY EUDAILY, LORY
3	BY REQUEST OF THE
4	TEACHERS' RETIREMENT BOARD
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING ELIGIBILITY TO
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22	interest shall be computed and allowed to provide a benefit
23	at the time of retirement.
24	(2) "Actuarial equivalent" means a benefit of equal
25	value when computed, with regular interest, on the basis of

- the mortality tables adopted by the retirement board. 1
- 2 (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 5 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) (a) "Average final compensation" means the average of the earned compensation of a member during the 3 10 consecutive years of full-time service which yield the 11 12 highest average and on which contributions have been made as 13 required by 19-4-602(1). If the earned compensation includes 14 any termination pay, the member shall select one of the 15 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.
- 23 (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, if the member

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which the termination pay was received. 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 member and the employer must pay the—regular—contribution contributions on the termination pay according to the rates provided for in 19-4-602(1) and 19-4-605(1); or

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- (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.
- (6) "Beneficiary" means a person in receipt of a pension, annuity, retirement allowance, or other benefit provided by the retirement system.
- 22 (7) "Creditable service" is that service defined by 23 19-4-401.
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retirement system, including amounts paid under a salary reduction agreement to a tax sheltered annuity or deferred compensation program and the value of any housing provided 3 by the employer. The employer shall fix the value of any Λ housing provided. The term does not include any other amounts paid in kind or fringe benefits not actually paid to 6 a member. The earned compensation of a member who had less 7 than 3 consecutive years of full-time service during the 5 8 years preceding his retirement is the compensation, pay, or 9 salary which he would have earned had his part-time service 10 been full-time service. The earned compensation of a member 11 who is awarded a disability retirement allowance prior to 12 the completion of a full year is the compensation, pay, or 13 salary which he would have received had he completed the 14 full year, except that any termination pay, as defined in 15 subsection (5)(b), received by the member is limited to the 16 amount actually paid and is not the amount he would have 17 earned had he completed the full year.

- (9) "Employer" means the state of Montana, the trustees of a district, or any other agency or subdivision of the state which employs a person who is designated a member of the retirement system.
- 23 (10) "Full-time service" means service which is 24 full-time and which extends over a normal academic year of 25 at least 9 months. With respect to those members employed by

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- the office of the superintendent of public instruction, any
- 2 other state agency or institution, or the office of a county
- 3 superintendent, "full-time service" means service which is
- 4 full-time and which totals at least 9 months in any one
- 5 year.
- 6 (11) "Member" means a person who has an individual
- 7 account in the annuity savings fund. An active member is a
- 8 person included under the provisions of 19-4-302. An
- 9 inactive member is a person included under the provisions of
- 10 19-4-303.
- 11 (12) "Part-time service" means service which is less
- than full-time or which totals less than 9 months in any one
- 13 year. Part-time service shall be credited in the proportion
- 14 that the actual time worked bears to full-time service.
- 15 (13) "Pension" means the payments made to a beneficiary
- 16 for life which are paid out of the pension accumulation
- 17 fund.
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- 20 regular interest, on the basis of the mortality tables
- 21 adopted by the retirement board.
- 22 (15) "Prior service" means employment of the same
- 23 nature as service defined in subsection (20) of this section
- 24 but rendered before September 1, 1937.
- 25 (16) "Regular interest" means interest at 4% per annum

- 1 compounded annually or at such other rate as may be set by
- the retirement board in accordance with 19-4-501(2).
- 3 (17) "Retirement allowance" means the annuity plus the 4 pension.
- 5 (18) "Retirement board" means the retirement system's
- 6 governing board provided for in 2-15-1010.
- 7 (19) "Retirement system" means the teachers' retirement
- 8 system of the state of Montana provided for in 19-4-102.
- 9 (20) "Service" means the performance of such
- 10 instructional duties or related activities as would entitle
- 11 the person to active membership in the retirement system
- 12 under the provisions of 19-4-302."
- 13 NEW SECTION. Section 2. Extension of authority. Any
- 14 existing authority of the teachers' retirement board to make
- 15 rules on the subject of the provisions of this act is
- 16 extended to the provisions of this act.
- 17 NEW SECTION. Section 3. Effective date. This act is
- 18 effective July 1, 1985.

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