

HB 276 INTRODUCED BY EUDAILY, ET AL.
CLARIFY TERMINATION PAY IN TEACHERS' RETIREMENT ACT
BY REQUEST OF TEACHERS' RETIREMENT BOARD

1/19 INTRODUCED

1/19 REFERRED TO STATE ADMINISTRATION
FAILED TO MEET TRANSMITTAL DEADLINE

1 *House* BILL NO. *276*
 2 INTRODUCED BY *Endailey Long Peak*
 3 BY REQUEST OF THE TEACHERS' RETIREMENT BOARD
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5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING AND REVISING
 6 THE DEFINITION OF TERMINATION PAY USED IN CALCULATING
 7 BENEFITS UNDER THE TEACHERS' RETIREMENT SYSTEM; AMENDING
 8 SECTION 19-4-101, MCA; AND PROVIDING AN EFFECTIVE DATE."
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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

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

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

24 (3) "Annuity" means the payments made to a beneficiary
 25 for life which are derived from a member's accumulated

1 contributions.

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

6 (5) (a) "Average final compensation" means the average
 7 of the earned compensation of a member during the 3
 8 consecutive years of full-time service which yield the
 9 highest average and on which contributions have been made as
 10 required by 19-4-602. If the earned compensation includes
 11 any termination pay, the member shall select one of the
 12 following options:

13 (i) use the total termination pay in the calculation
 14 of the average final compensation. The member and the
 15 employer shall pay such contributions to the retirement
 16 system as are determined by the board to adequately
 17 compensate the system for the additional retirement benefit.
 18 The contributions must be made at the time the termination
 19 pay is received.

20 (ii) use a yearly amount of termination pay added to
 21 each of the 3 consecutive years' salary used in the
 22 calculation of the average final compensation, if the member
 23 has 4 or more years of service with the employer from which
 24 the termination pay was received. The amount of such
 25 compensation used in the calculation of average final



1 compensation must be divided by the total number of years of
 2 creditable service to determine a yearly amount. The member
 3 and the employer must pay contributions on the termination
 4 pay according to the rates provided for in 19-4-602(1) and
 5 19-4-605(1).

6 (iii) exclude the termination pay from the average
 7 final compensation. No contribution is required of either
 8 the employer or member.

9 (b) For purposes of this subsection, ~~termination--pay~~
 10 ~~includes--any--form--of--termination-pay-or-any~~ "termination
 11 pay" means:

12 (i) lump-sum payment payments for deferred
 13 compensation, sick leave, or accumulated vacation credit, or
 14 any other payment credits for time not worked other-than;

15 (ii) any additional compensation received-while-on-sick
 16 leave--or--authorized-leave-of-absence; paid in anticipation
 17 of retirement; and

18 (iii) that portion of earned compensation in the last
 19 year of employment that exceeds the preceding year by more
 20 than \$3,000.

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

24 (7) "Creditable service" is that service defined by
 25 19-4-401.

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

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

25 (10) "Full-time service" means service which is

1 full-time and which extends over a normal academic year of
 2 at least 9 months. With respect to those members employed by
 3 the office of the superintendent of public instruction, any
 4 other state agency or institution, or the office of a county
 5 superintendent, "full-time service" means service which is
 6 full-time and which totals at least 9 months in any one
 7 year.

8 (11) "Member" means a person who has an individual
 9 account in the annuity savings fund. An active member is a
 10 person included under the provisions of 19-4-302. An
 11 inactive member is a person included under the provisions of
 12 19-4-303.

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

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

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

24 (15) "Prior service" means employment of the same
 25 nature as service defined in subsection (20) of this section

1 but rendered before September 1, 1937.

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

5 (17) "Retirement allowance" means the annuity plus the
 6 pension.

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

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

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

15 NEW SECTION. Section 2. Extension of authority. Any
 16 existing authority of the teachers' retirement board to make
 17 rules on the subject of the provisions of this act is
 18 extended to the provisions of this act.

19 NEW SECTION. Section 3. Effective date. This act is
 20 effective July 1, 1987.

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