

HB 644 INTRODUCED BY NATHE
LIMITING EARNED COMPENSATION UNDER THE TEACHERS'
RETIREMENT SYSTEM

2/06 INTRODUCED
2/06 REFERRED TO STATE ADMINISTRATION
2/07 FISCAL NOTE REQUESTED
2/12 HEARING
2/12 COMMITTEE REPORT--BILL NOT PASSED
2/13 FISCAL NOTE RECEIVED
2/13 ADVERSE COMMITTEE REPORT ADOPTED

86 11

1 House BILL NO. 644
2 INTRODUCED BY NATHAN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE AMOUNT OF
5 EARNED COMPENSATION THAT MAY BE USED IN CALCULATING
6 CONTRIBUTIONS AND BENEFITS UNDER THE TEACHERS' RETIREMENT
7 SYSTEM FOR CERTAIN MEMBERS; AMENDING SECTION 19-4-101, MCA;
8 AND PROVIDING AN APPLICABILITY DATE AND 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



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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 lump-sum payment
 11 for deferred compensation, sick leave, or accumulated
 12 vacation credit, or any other payment for time not worked
 13 other than compensation received while on sick leave or
 14 authorized leave of absence.

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

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

20 (8) "Earned compensation" means the full compensation,
 21 pay, or salary, up to a maximum of \$30,000, actually paid to
 22 a member and reported to the retirement system, including
 23 amounts paid under a salary reduction agreement to a tax
 24 sheltered annuity or deferred compensation program and the
 25 value of any housing provided by the employer. The employer

1 shall fix the value of any housing provided. The term does
 2 not include any other amounts paid in kind or fringe
 3 benefits not actually paid to a member. The earned
 4 compensation of a member who had less than 3 consecutive
 5 years of full-time service during the 5 years preceding his
 6 retirement is the compensation, pay, or salary, up to a
 7 maximum of \$30,000, which he would have earned had his
 8 part-time service been full-time service. The earned
 9 compensation of a member who is awarded a disability
 10 retirement allowance prior to the completion of a full year
 11 is the compensation, pay, or salary, up to a maximum of
 12 \$30,000, which he would have received had he completed the
 13 full year, except that any termination pay, as defined in
 14 subsection (5)(b), received by the member is limited to the
 15 amount actually paid and is not the amount he would have
 16 earned had he completed the full year.

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

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

1 superintendent, "full-time service" means service which is
2 full-time and which totals at least 9 months in any one
3 year.

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

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

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

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

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

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

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

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

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

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

11 NEW SECTION. Section 2. Extension of authority. Any
12 existing authority of the teachers' retirement board to make
13 rules on the subject of the provisions of this act is
14 extended to the provisions of this act.

15 NEW SECTION. Section 3. Applicability. This act
16 applies to persons who become members of the teachers'
17 retirement system on or after July 1, 1987.

18 NEW SECTION. Section 4. Effective date. This act is
19 effective July 1, 1987.

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