

HOUSE BILL NO. 317

INTRODUCED BY EUDAILY, R. NELSON, PECK
BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

IN THE HOUSE

JANUARY 20, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
JANUARY 21, 1989	FIRST READING.
FEBRUARY 15, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 16, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 94; NOES, 2.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
MARCH 10, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 11, 1989	PASS CONSIDERATION.
MARCH 13, 1989	SECOND READING, CONCURRED IN.
MARCH 15, 1989	THIRD READING, CONCURRED IN. AYES, 47; NOES, 0.
	RETURNED TO HOUSE.

MARCH 16, 1989

IN THE HOUSE

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *317*
2 INTRODUCED BY *Anthony R. Nelson*
3 BY REQUEST OF THE TEACHERS' RETIREMENT BOARD
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE
6 COMPENSATION THAT MAY BE USED IN THE CALCULATION OF AVERAGE
7 FINAL COMPENSATION WHEN A MEMBER OF THE TEACHERS' RETIREMENT
8 SYSTEM RECEIVES A SUBSTANTIAL INCREASE IN COMPENSATION THAT
9 MAY BE INCLUDED IN THE CALCULATION OF AVERAGE FINAL
10 COMPENSATION; DEFINING ANY AMOUNT IN EXCESS OF THE LIMIT
11 ESTABLISHED AS TERMINATION PAY; AMENDING SECTION 19-4-101,
12 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
13

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

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

16 "19-4-101. Definitions. As used in this chapter,
17 unless the context clearly indicates otherwise, the
18 following definitions apply:

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

25 (2) "Actuarial equivalent" means a benefit of equal

1 value when computed, with regular interest, on the basis of
2 the 1971 Group Annuity Mortality Table, with ages set back 4
3 years and an interest rate of 8% compounded annually.

4 (3) "Annuity" means the payments made to a beneficiary
5 for life which are derived from a member's accumulated
6 contributions.

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

11 (5) (a) "Average final compensation" means the average
12 of the earned compensation of a member during the 3
13 consecutive years of full-time service which yield the
14 highest average and on which contributions have been made as
15 required by 19-4-602.

16 (b) The amount of each year's earned compensation that
17 may be used in the calculation of average final compensation
18 may not exceed the greater of:

19 (i) 110% of the earned compensation from the preceding
20 year; or

21 (ii) the earned compensation negotiated under a
22 collective bargaining agreement for the school district,
23 state agency, or unit of the university system.

24 (c) Earned compensation in excess of the amount
25 specified in subsection (5)(b) shall be considered

1 termination pay as provided in subsection (5)(d).

2 (d) If the earned compensation includes any
3 termination pay, the member shall select one of the
4 following options:

5 (i) use the total termination pay in the calculation
6 of the average final compensation. The member and the
7 employer shall pay such contributions to the retirement
8 system as are determined by the board to adequately
9 compensate the system for the additional retirement benefit.
10 The contributions must be made at the time the termination
11 pay is received.

12 (ii) use a yearly amount of termination pay added to
13 each of the 3 consecutive years' salary used in the
14 calculation of the average final compensation, if the member
15 has 4 or more years of service with the employer from which
16 the termination pay was received. The amount of such
17 compensation used in the calculation of average final
18 compensation must be divided by the total number of years of
19 creditable service to determine a yearly amount. The member
20 and the employer must pay contributions on the termination
21 pay according to the rates provided for in 19-4-602(1) and
22 19-4-605(1).

23 (iii) exclude the termination pay from the average
24 final compensation. No contribution is required of either
25 the employer or member, and contributions made under

1 19-4-602 and 19-4-605 must be refunded.

2 ~~(b)~~(e) For purposes of this subsection, termination
3 pay includes any form of termination pay or any lump-sum
4 payment for deferred compensation, sick leave, or
5 accumulated vacation credit, or any other payment for time
6 not worked other than compensation received while on sick
7 leave or authorized leave of absence.

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

11 (7) "Creditable service" is that service defined by
12 19-4-401.

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

(10) "Full-time service" means service which is full-time and which extends over a normal academic year of 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.

(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.

(13) "Pension" means the payments made to a beneficiary for life which are paid out of the pension accumulation 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 nature as service defined in subsection (20) of this section but rendered before September 1, 1937.

(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).

(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.

(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 instructional duties or related activities as would entitle the person to active membership in the retirement system

LC 0579/01

1 under the provisions of 19-4-302."

2 NEW SECTION. **Section 2.** Extension of authority. Any
3 existing authority to make rules on the subject of the
4 provisions of [this act] is extended to the provisions of
5 [this act].

6 NEW SECTION. **Section 3.** Effective date. [This act] is
7 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB317, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to limit the compensation that may be used in the calculation of average final compensation when a member of the Teachers' Retirement System receives a substantial increase in compensation; providing for the full and equitable payment of benefits while maintaining the funding level of the system and defining any amounts in excess of the limit established by this act as termination pay.

ASSUMPTIONS:

1. Substantial increases in earned compensation result in benefit enhancement for which contribution have not been made, creating an unfunded liability in the TRS.
2. The unfunded liabilities created when salaries are substantially increased will require an increase in the employer and/or employee contribution rates if this legislation is not successful.
3. Based upon a sample of members retiring during the fiscal years 1986, 1987 and 1988 assume the following:
 - A. 10% or 15 to 20 retirees each year are receiving increases greater than 10%.
 - B. The average benefit, resulting from the larger than anticipated salary increases, is 4.4% greater than it would be with controls placed upon salary increases.
 - C. The contribution rate increase required to fund benefits without controls placed on salary increases would be .07%
4. Assume the cost of rewriting programs to calculate retirement estimates, based upon the provisions of this act, will not exceed \$10,000.
5. The cost to rewrite programs to calculate retirement benefits will be funded from the pension trust fund, no general fund appropriation will be required.

FISCAL IMPACT:

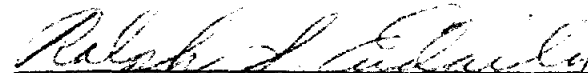
The TRS contribution rate must be increased .07% to fund benefits if controls are not placed on the earned compensation used in the calculation of benefits. Based upon the latest actuarial valuation, the annual cost of granting benefits without salary controls is \$238,000. As of July 1, 1988, the present value of the unfunded liability created, because of the lack of benefit controls, is \$4.7 million and will continue to increase without controls on earned compensation.



RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE

1/28/89



RALPH S. EUDAILY, PRIMARY SPONSOR

DATE

Fiscal Note for HB317, as introduced**HB 317**

Fiscal Note Request HB317 as introduced

Form BD-15

Page 2

		<u>FY90</u>			<u>FY91</u>	
<u>Expenditures:</u>	<u>Current</u>	<u>Proposed</u>		<u>Current</u>	<u>Proposed</u>	
	<u>Law</u>	<u>Law</u>	<u>Difference</u>	<u>Law</u>	<u>Law</u>	<u>Difference</u>
FTE	11	11	-0-	11	11	-0-
Personal Services	\$251,319	\$251,319	\$ -0-	\$251,684	\$251,684	\$ -0-
Operating Expense	199,990	209,990	10,000	174,409	174,409	-0-
Equipment	8,688	8,688	-0-	2,089	2,089	-0-
TOTAL	\$459,997	\$469,997	\$ 10,000	\$428,182	\$428,182	\$ -0-

Funding Source:

Interest earnings of the Teachers' Retirement System pension trust fund.

HB 317

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

HOUSE BILL NO. 317

INTRODUCED BY EUDAILY, R. NELSON, PECK

BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE
COMPENSATION THAT MAY BE USED IN THE CALCULATION OF AVERAGE
FINAL COMPENSATION WHEN A MEMBER OF THE TEACHERS' RETIREMENT
SYSTEM RECEIVES A SUBSTANTIAL INCREASE IN COMPENSATION THAT
MAY BE INCLUDED IN THE CALCULATION OF AVERAGE FINAL
COMPENSATION, SUBJECT TO RULES ADOPTED BY THE TEACHERS'
RETIREMENT BOARD; DEFINING ANY AMOUNT IN EXCESS OF THE LIMIT
ESTABLISHED AS TERMINATION PAY; AMENDING SECTION 19-4-101,
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

STATEMENT OF INTENT

It is the intent of the legislature to provide
equitable retirement benefits to all members of the
teachers' retirement system based on their normal service
and salary. The legislature further intends to limit the
effect on the retirement system of isolated salary increases
received by selected individuals through promotions or
one-time salary enhancements during their last years of
employment.

The bill provides that the amount of each year's earned
compensation that may be used in calculating a member's

average final compensation may not exceed the member's
earned compensation for the preceding year by more than 10%,
except as provided by rule by the board. The legislature
intends that the board's rules exempt from the 10% statutory
cap increases that:

- (1) result from collective bargaining agreements;
- (2) have been granted by the employer to all other
similarly situated employees; or
- (3) have been received as compensation for summer
employment.

In addition, the legislature intends that the board's
rules require a member to provide adequate documentation to
permit the board to make an informed decision concerning
exceptions to the 10% statutory cap.

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

1 at the time of retirement.

2 (2) "Actuarial equivalent" means a benefit of equal
3 value when computed, with regular interest, on the basis of
4 the 1971 Group Annuity Mortality Table, with ages set back 4
5 years and an interest rate of 8% compounded annually.

6 (3) "Annuity" means the payments made to a beneficiary
7 for life which are derived from a member's accumulated
8 contributions.

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

13 (5) (a) "Average final compensation" means the average
14 of the earned compensation of a member during the 3
15 consecutive years of full-time service which yield the
16 highest average and on which contributions have been made as
17 required by 19-4-602.

18 (b) The IN DETERMINING A MEMBER'S RETIREMENT ALLOWANCE
19 UNDER 19-4-802 OR 19-4-804, THE amount of each year's earned
20 compensation that may be used in the calculation of average
21 final compensation may not exceed the greater of:

22 (i)--110%--of the MEMBER'S earned compensation from the
23 preceding year;--or

24 (ii)--the--earned--compensation---negotiated---under---a
25 collective--bargaining--agreement--for--the--school--district;

1 state-agency,--or--unit--of--the--university--system BY MORE THAN
2 10%, EXCEPT AS PROVIDED BY RULE BY THE RETIREMENT BOARD.

3 (c) Earned compensation in excess of the amount
4 specified in subsection (5)(b) shall--be IS considered
5 termination pay as provided in subsection (5)(d).

6 (d) If the earned compensation includes any
7 termination pay, the member shall select one of the
8 following options:

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

16 (ii) use a yearly amount of termination pay added to
17 each of the 3 consecutive years' salary used in the
18 calculation of the average final compensation, if the member
19 has 4 or more years of service with the employer from which
20 the termination pay was received. The amount of such
21 compensation used in the calculation of average final
22 compensation must be divided by the total number of years of
23 creditable service to determine a yearly amount. The member
24 and the employer must pay contributions on the termination
25 pay according to the rates provided for in 19-4-602(1) and

1 19-4-605(1).

2 (iii) exclude the termination pay from the average
3 final compensation. No contribution is required of either
4 the employer or member, and contributions made under
5 19-4-602 and 19-4-605 must be refunded.

6 (b)(e) For purposes of this subsection, termination
7 pay includes any form of termination pay or any lump-sum
8 payment for deferred compensation, sick leave, or
9 accumulated vacation credit, or any other payment for time
10 not worked other than compensation received while on sick
11 leave or authorized leave of absence.

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

15 (7) "Creditable service" is that service defined by
16 19-4-401.

17 (8) "Earned compensation" means the full compensation,
18 pay, or salary actually paid to a member and reported to the
19 retirement system, including amounts paid under a salary
20 reduction agreement to a tax sheltered annuity or deferred
21 compensation program and the value of any housing provided
22 by the employer. The employer shall fix the value of any
23 housing provided. The term does not include any other
24 amounts paid in kind or fringe benefits not actually paid to
25 a member. The earned compensation of a member who had less

1 than 3 consecutive years of full-time service during the 5
2 years preceding his retirement is the compensation, pay, or
3 salary which he would have earned had his part-time service
4 been full-time service. The earned compensation of a member
5 who is awarded a disability retirement allowance prior to
6 the completion of a full year is the compensation, pay, or
7 salary which he would have received had he completed the
8 full year, except that any termination pay, as defined in
9 subsection (5)(b)(5)(e), received by the member is limited
10 to the amount actually paid and is not the amount he would
11 have earned had he completed the full year.

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

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

24 (11) "Member" means a person who has an individual
25 account in the annuity savings fund. An active member is a

1 person included under the provisions of 19-4-302. An
 2 inactive member is a person included under the provisions of
 3 19-4-303.

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

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

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

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

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

21 (17) "Retirement allowance" means the annuity plus the
 22 pension.

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

25 (19) "Retirement system" means the teachers' retirement

1 system of the state of Montana provided for in 19-4-102.

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

6 NEW SECTION. **Section 2.** Extension of authority. Any
 7 existing authority to make rules on the subject of the
 8 provisions of [this act] is extended to the provisions of
 9 [this act].

10 NEW SECTION. **Section 3.** Effective date. [This act] is
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15 STATEMENT OF INTENT

16 It is the intent of the legislature to provide
17 equitable retirement benefits to all members of the
18 teachers' retirement system based on their normal service
19 and salary. The legislature further intends to limit the
20 effect on the retirement system of isolated salary increases
21 received by selected individuals through promotions or
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23 employment.

24 The bill provides that the amount of each year's earned
25 compensation that may be used in calculating a member's

1 average final compensation may not exceed the member's
2 earned compensation for the preceding year by more than 10%,
3 except as provided by rule by the board. The legislature
4 intends that the board's rules exempt from the 10% statutory
5 cap increases that:

- 6 (1) result from collective bargaining agreements;
7 (2) have been granted by the employer to all other
8 similarly situated employees; or
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10 employment.

11 In addition, the legislature intends that the board's
12 rules require a member to provide adequate documentation to
13 permit the board to make an informed decision concerning
14 exceptions to the 10% statutory cap.

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2 inactive member is a person included under the provisions of
3 19-4-303.

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

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

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

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

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

21 (17) "Retirement allowance" means the annuity plus the
22 pension.

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

25 (19) "Retirement system" means the teachers' retirement

1 system of the state of Montana provided for in 19-4-102.

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

6 NEW SECTION. **Section 2.** Extension of authority. Any
7 existing authority to make rules on the subject of the
8 provisions of [this act] is extended to the provisions of
9 [this act].

10 NEW SECTION. **Section 3.** Effective date. [This act] is
11 effective on passage and approval.

-End-

1 HOUSE BILL NO. 317

2 INTRODUCED BY EUDAILY, R. NELSON, PECK

3 BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE
6 COMPENSATION THAT MAY BE USED IN THE CALCULATION OF AVERAGE
7 FINAL COMPENSATION WHEN A MEMBER OF THE TEACHERS' RETIREMENT
8 SYSTEM RECEIVES A SUBSTANTIAL INCREASE IN COMPENSATION THAT
9 MAY BE INCLUDED IN THE CALCULATION OF AVERAGE FINAL
10 COMPENSATION, SUBJECT TO RULES ADOPTED BY THE TEACHERS'
11 RETIREMENT BOARD; DEFINING ANY AMOUNT IN EXCESS OF THE LIMIT
12 ESTABLISHED AS TERMINATION PAY; AMENDING SECTION 19-4-101,
13 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

14
15 STATEMENT OF INTENT

16 It is the intent of the legislature to provide
17 equitable retirement benefits to all members of the
18 teachers' retirement system based on their normal service
19 and salary. The legislature further intends to limit the
20 effect on the retirement system of isolated salary increases
21 received by selected individuals through promotions or
22 one-time salary enhancements during their last years of
23 employment.

24 The bill provides that the amount of each year's earned
25 compensation that may be used in calculating a member's

1 average final compensation may not exceed the member's
2 earned compensation for the preceding year by more than 10%,
3 except as provided by rule by the board. The legislature
4 intends that the board's rules exempt from the 10% statutory
5 cap increases that:

- 6 (1) result from collective bargaining agreements;
7 (2) have been granted by the employer to all other
8 similarly situated employees; or
9 (3) have been received as compensation for summer
10 employment.

11 In addition, the legislature intends that the board's
12 rules require a member to provide adequate documentation to
13 permit the board to make an informed decision concerning
14 exceptions to the 10% statutory cap.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

18 "19-4-101. **Definitions.** As used in this chapter,
19 unless the context clearly indicates otherwise, the
20 following definitions apply:

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

1 at the time of retirement.

2 (2) "Actuarial equivalent" means a benefit of equal
3 value when computed, with regular interest, on the basis of
4 the 1971 Group Annuity Mortality Table, with ages set back 4
5 years and an interest rate of 8% compounded annually.

6 (3) "Annuity" means the payments made to a beneficiary
7 for life which are derived from a member's accumulated
8 contributions.

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

13 (5) (a) "Average final compensation" means the average
14 of the earned compensation of a member during the 3
15 consecutive years of full-time service which yield the
16 highest average and on which contributions have been made as
17 required by 19-4-602.

18 (b) The IN DETERMINING A MEMBER'S RETIREMENT ALLOWANCE
19 UNDER 19-4-802 OR 19-4-804, THE amount of each year's earned
20 compensation that may be used in the calculation of average
21 final compensation may not exceed the greater of:

22 (i) --110%-- of the MEMBER'S earned compensation from the
23 preceding year;--or

24 (ii) --the--earned--compensation--negotiated--under--a
25 collective--bargaining--agreement--for--the--school--district;

1 state-agency,--or--unit--of--the--university--system BY MORE THAN
2 10%, EXCEPT AS PROVIDED BY RULE BY THE RETIREMENT BOARD.

3 (c) Earned compensation in excess of the amount
4 specified in subsection (5)(b) shall--be IS considered
5 termination pay as provided in subsection (5)(d).

6 (d) If the earned compensation includes any
7 termination pay, the member shall select one of the
8 following options:

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

16 (ii) use a yearly amount of termination pay added to
17 each of the 3 consecutive years' salary used in the
18 calculation of the average final compensation, if the member
19 has 4 or more years of service with the employer from which
20 the termination pay was received. The amount of such
21 compensation used in the calculation of average final
22 compensation must be divided by the total number of years of
23 creditable service to determine a yearly amount. The member
24 and the employer must pay contributions on the termination
25 pay according to the rates provided for in 19-4-602(1) and

1 19-4-605(1).

2 (iii) exclude the termination pay from the average
3 final compensation. No contribution is required of either
4 the employer or member, and contributions made under
5 19-4-602 and 19-4-605 must be refunded.

6 (b)(e) For purposes of this subsection, termination
7 pay includes any form of termination pay or any lump-sum
8 payment for deferred compensation, sick leave, or
9 accumulated vacation credit, or any other payment for time
10 not worked other than compensation received while on sick
11 leave or authorized leave of absence.

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

15 (7) "Creditable service" is that service defined by
16 19-4-401.

17 (8) "Earned compensation" means the full compensation,
18 pay, or salary actually paid to a member and reported to the
19 retirement system, including amounts paid under a salary
20 reduction agreement to a tax sheltered annuity or deferred
21 compensation program and the value of any housing provided
22 by the employer. The employer shall fix the value of any
23 housing provided. The term does not include any other
24 amounts paid in kind or fringe benefits not actually paid to
25 a member. The earned compensation of a member who had less

1 than 3 consecutive years of full-time service during the 5
2 years preceding his retirement is the compensation, pay, or
3 salary which he would have earned had his part-time service
4 been full-time service. The earned compensation of a member
5 who is awarded a disability retirement allowance prior to
6 the completion of a full year is the compensation, pay, or
7 salary which he would have received had he completed the
8 full year, except that any termination pay, as defined in
9 subsection (5)(b)(5)(e), received by the member is limited
10 to the amount actually paid and is not the amount he would
11 have earned had he completed the full year.

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

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

24 (11) "Member" means a person who has an individual
25 account in the annuity savings fund. An active member is a

1 person included under the provisions of 19-4-302. An
2 inactive member is a person included under the provisions of
3 19-4-303.

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

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9 for life which are paid out of the pension accumulation
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