

HOUSE BILL NO. 244

INTRODUCED BY SCHWINDEN
BY REQUEST OF THE TEACHERS' RETIREMENT BOARD

IN THE HOUSE

JANUARY 19, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
FEBRUARY 2, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 3, 1993	PRINTING REPORT.
FEBRUARY 4, 1993	SECOND READING, DO PASS.
FEBRUARY 5, 1993	ENGROSSING REPORT.
FEBRUARY 6, 1993	THIRD READING, PASSED. AYES, 91; NOES, 6.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 9, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.
	FIRST READING.
MARCH 4, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 6, 1993	SECOND READING, CONCURRED IN.
MARCH 8, 1993	THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 16, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 244
2 INTRODUCED BY Schmidt
3 BY REQUEST OF THE TEACHERS' RETIREMENT BOARD
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
6 TEACHERS' RETIREMENT LAWS; PROVIDING FOR THE SPLITTING OF
7 WITHDRAWN ACCUMULATED CONTRIBUTIONS TO PRESERVE TAX-DEFERRED
8 STATUS; PROVIDING PROCEDURES TO DETERMINE DISABILITY;
9 REVISING THE DISABILITY RETIREMENT ALLOWANCE; AMENDING
10 SECTIONS 19-4-603, 19-4-901, AND 19-4-902, MCA; AND
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 19-4-603, MCA, is amended to read:

15 "19-4-603. Withdrawal of accumulated contributions --
16 options. Any inactive member electing to do so or any person
17 whose membership terminates may withdraw his the member's or
18 person's accumulated contributions from his the annuity
19 account in the retirement system in accordance with the
20 following provisions:

21 (1) An inactive member under the provisions of
22 subsection (1) or (3) of 19-4-303 may elect, without right
23 of revocation, to withdraw his the member's accumulated
24 contributions. If he the member does not withdraw his the
25 accumulated contributions, he the member remains an inactive

1 member of the retirement system with the right to qualify
2 for its benefits.

3 (2) Upon recovery from a disabling illness or
4 separation from the armed forces, any person qualifying as
5 an inactive member under the provisions of 19-4-303(2) may
6 withdraw his the member's accumulated contributions unless
7 he the member returns to active membership.

8 (3) Any person whose membership terminates under the
9 provisions of 19-4-304(4) may withdraw his the person's
10 accumulated contributions.

11 (4) Upon written request, a terminating member may have
12 the payment of the accumulated contributions split. The
13 tax-deferred portion of the contributions may be paid
14 directly to an individual retirement account or other
15 qualified plan designated by the member, and the other
16 portion must be paid directly to the terminating member. The
17 board shall provide forms for making the written request.
18 The terminating member is responsible for correctly
19 designating an account or plan eligible to receive the
20 tax-deferred amount in order to continue the status of the
21 amount."

22 **Section 2.** Section 19-4-901, MCA, is amended to read:

23 "19-4-901. Eligibility for disability retirement --
24 determination by board. (1) Upon the application of a member
25 or of his the member's employer for a disability retirement

1 allowance, any member who has 5 or more years of creditable
 2 service and who has become disabled while being an active
 3 member may be retired by the retirement board the month
 4 immediately following the month in which ~~he terminates his~~
 5 employment is terminated. In order for a member to be
 6 eligible for disability retirement, the retirement board
 7 must shall certify that he the member is mentally or
 8 physically incapacitated for the further performance of his
 9 the member's duties, that his the incapacity is likely to be
 10 permanent, and that he the member should be retired.

11 (2) In making a determination under subsection (1), the
 12 retirement board or its representative may:

13 (a) order examinations by a physician, psychologist, or
 14 vocational rehabilitation counselor;

15 (b) conduct hearings, administer oaths and
 16 affirmations, take depositions, and certify to official
 17 acts; and

18 (c) issue subpoenas to compel the attendance of
 19 witnesses and the production of books, papers,
 20 correspondence, memorandums, and other records considered
 21 necessary as evidence in connection with a claim for
 22 disability retirement. The subpoenas issued under this
 23 subsection (c) are enforceable as provided in 2-4-104.

24 (3) The retirement board may secure and pay reasonable
 25 compensation for professional services and advise the board

1 determines necessary to carry out the purposes of this
 2 part."

3 **Section 3.** Section 19-4-902, MCA, is amended to read:

4 "19-4-902. Allowance for disability retirement. ~~{}~~
 5 Upon retirement for disability, a member shall must receive
 6 ~~the superannuation allowance prescribed under part 6 of this~~
 7 ~~chapter if he is eligible.~~

8 ~~{2}--If--he--is--not--eligible--for--the--allowance--prescribed~~
 9 ~~under part 6 of this chapter, he shall receive a disability~~
 10 ~~retirement allowance which consists of:~~

11 ~~{a}--an annuity which is the actuarial equivalent of his~~
 12 ~~accumulated contributions at the time of retirement; and~~

13 ~~{b}--a---pension---which,---together---with---his---annuity,~~
 14 ~~provides a total retirement allowance equal to:~~

15 (1) one-sixtieth of his the member's average final
 16 compensation multiplied by the sum of the number of years of
 17 his creditable service, service transferred under 19-4-409,
 18 and additional service purchased under 19-4-412, if such the
 19 retirement allowance exceeds one-fourth of his the member's
 20 average final compensation; otherwise, or

21 (2) a pension which that, together with his the
 22 member's annuity, provides a total retirement allowance
 23 equal to one-fourth of his the member's average final
 24 compensation.

25 ~~{3}--No--allowance--under--subsection--{2}--may---exceed~~

LC 1109/01

1 one-sixtieth-of-his-average-final-compensation-multiplied-by
2 the--number--of--years-which-would-be-creditable-to-him-were
3 his-service-to-continue-until-the-attainment-of-the--minimum
4 age-for-superannuation-retirement."

5 NEW SECTION. Section 4. Effective date. [This act] is
6 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 HB0244, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the teachers' retirement laws; providing for the splitting of withdrawn accumulated contributions to preserve tax-deferred status; providing procedures to determine disability; and revising the disability retirement allowance.

ASSUMPTIONS:

1. Amendment to section 19-4-603, MCA, regarding withdrawal of contributions will not impact the funding or the cost of processing refunds to members.
2. Amendment to section 19-4-901, MCA, clarifying the board authority to request additional information may result in appeals and/or contested hearings. However, it is not possible to estimate the number of appeals or hearings or any additional administrative cost.
3. The board will request professional services and/or advice on 3 to 4 disability applications per year. The average cost for these services will not exceed \$300 per request.

FISCAL IMPACT:Retirement Benefits:

The TRS actuary has estimated that the present value of benefits under the proposed amendments to section 19-4-902, MCA, will increase by approximately \$150,000 and that the unfunded actuarial liability amortization period, as of July 1, 1992, would increase only slightly from the currently estimated 34.9 years. The actuary recommended no change in current contributions rates.

Expenditures:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
FTE	11.50	11.50	0.00	11.50	11.50	0.00
Personal Services	329,820	329,820	0	330,874	330,874	0
Operating Expenses	273,505	274,705	1,200	245,231	246,431	1,200
Equipment	19,969	19,969	0	10,964	10,964	0
Debt Service	61,474	61,474	0	61,474	61,474	0
TRS Retirement Trust (09)	684,768	685,968	1,200	648,543	649,743	1,200

David Lewis 1-25-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Dore Schwinden 1/25/93

DORE SCHWINDEN, PRIMARY SPONSOR DATE

Fiscal Note for HB0244, as introduced

HB 244

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

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8 STATUS; PROVIDING PROCEDURES TO DETERMINE DISABILITY;
9 REVISING THE DISABILITY RETIREMENT ALLOWANCE; AMENDING
10 SECTIONS 19-4-603, 19-4-901, AND 19-4-902, MCA; AND
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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 19-4-603, MCA, is amended to read:

15 "19-4-603. Withdrawal of accumulated contributions --
16 options. Any inactive member electing to do so or any person
17 whose membership terminates may withdraw his the member's or
18 person's accumulated contributions from his the annuity
19 account in the retirement system in accordance with the
20 following provisions:

21 (1) An inactive member under the provisions of
22 subsection (1) or (3) of 19-4-303 may elect, without right
23 of revocation, to withdraw his the member's accumulated
24 contributions. If he the member does not withdraw his the
25 accumulated contributions, he the member remains an inactive

1 member of the retirement system with the right to qualify
2 for its benefits.

3 (2) Upon recovery from a disabling illness or
4 separation from the armed forces, any person qualifying as
5 an inactive member under the provisions of 19-4-303(2) may
6 withdraw his the member's accumulated contributions unless
7 he the member returns to active membership.

8 (3) Any person whose membership terminates under the
9 provisions of 19-4-304(4) may withdraw his the person's
10 accumulated contributions.

11 (4) Upon written request, a terminating member may have
12 the payment of the accumulated contributions split. The
13 tax-deferred portion of the contributions may be paid
14 directly to an individual retirement account or other
15 qualified plan designated by the member, and the other
16 portion must be paid directly to the terminating member. The
17 board shall provide forms for making the written request.
18 The terminating member is responsible for correctly
19 designating an account or plan eligible to receive the
20 tax-deferred amount in order to continue the status of the
21 amount."

22 **Section 2.** Section 19-4-901, MCA, is amended to read:

23 "19-4-901. Eligibility for disability retirement --
24 determination by board. (1) Upon the application of a member
25 or of his the member's employer for a disability retirement

allowance, any member who has 5 or more years of creditable service and who has become disabled while being an active member may be retired by the retirement board the month immediately following the month in which he ~~terminates his~~ employment is terminated. In order for a member to be eligible for disability retirement, the retirement board must shall certify that he the member is mentally or physically incapacitated for the further performance of his the member's duties, that his the incapacity is likely to be permanent, and that he the member should be retired.

(2) In making a determination under subsection (1), the retirement board or its representative may:

(a) order examinations by a physician, psychologist, or vocational rehabilitation counselor;

(b) conduct hearings, administer oaths and affirmations, take depositions, and certify to official acts; and

(c) issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memorandums, and other records considered necessary as evidence in connection with a claim for disability retirement. The subpoenas issued under this subsection (c) are enforceable as provided in 2-4-104.

(3) The retirement board may secure and pay reasonable compensation for professional services and advise the board

determines necessary to carry out the purposes of this part."

Section 3. Section 19-4-902, MCA, is amended to read:

"19-4-902. Allowance for disability retirement. {1} Upon retirement for disability, a member shall must receive the ~~superannuation allowance prescribed under part 8 of this chapter if he is eligible~~

{2} ~~--if--he--is--not--eligible--for--the--allowance--prescribed under part 8 of this chapter, he shall receive a disability retirement allowance which consists of:~~

{a} ~~--an annuity which is the actuarial equivalent of his accumulated contributions at the time of retirement; and~~

{b} ~~--a pension which, together with his annuity, provides a total retirement allowance equal to:~~

(1) one-sixtieth of his the member's average final compensation multiplied by the sum of the number of years of his creditable service, service transferred under 19-4-409, and additional service purchased under 19-4-412, if such the retirement allowance exceeds one-fourth of his the member's average final compensation; otherwise, or

(2) a pension which that, together with his the member's annuity, provides a total retirement allowance equal to one-fourth of his the member's average final compensation.

{3} ~~--No allowance under subsection {2} may exceed~~

1 ~~one-sixtieth-of-his-average-final-compensation-multiplied-by~~
2 ~~the--number--of--years-which-would-be-creditable-to-him-were~~
3 ~~his-service-to-continue-until-the-attainment-of-the--minimum~~
4 ~~age-for-superannuation-retirement."~~

5 NEW SECTION. **Section 4.** Effective date. [This act] is
6 effective on passage and approval.

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3 (2) Upon recovery from a disabling illness or
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9 provisions of 19-4-304(4) may withdraw his the person's
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24 determination by board. (1) Upon the application of a member
25 or of his the member's employer for a disability retirement

allowance, any member who has 5 or more years of creditable service and who has become disabled while being an active member may be retired by the retirement board the month immediately following the month in which he terminates his employment is terminated. In order for a member to be eligible for disability retirement, the retirement board must shall certify that he the member is mentally or physically incapacitated for the further performance of his the member's duties, that his the incapacity is likely to be permanent, and that he the member should be retired.

(2) In making a determination under subsection (1), the retirement board or its representative may:

(a) order examinations by a physician, psychologist, or vocational rehabilitation counselor;

(b) conduct hearings, administer oaths and affirmations, take depositions, and certify to official acts; and

(c) issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memorandums, and other records considered necessary as evidence in connection with a claim for disability retirement. The subpoenas issued under this subsection (c) are enforceable as provided in 2-4-104.

(3) The retirement board may secure and pay reasonable compensation for professional services and advice the board

determines necessary to carry out the purposes of this part."

Section 3. Section 19-4-902, MCA, is amended to read:

"19-4-902. Allowance for disability retirement. (1) Upon retirement for disability, a member shall must receive the superannuation allowance prescribed under part 8 of this chapter if he is eligible:

(2) If he is not eligible for the allowance prescribed under part 8 of this chapter, he shall receive a disability retirement allowance which consists of:

(a) an annuity which is the actuarial equivalent of his accumulated contributions at the time of retirement; and

(b) a pension which, together with his annuity, provides a total retirement allowance equal to:

(1) one-sixtieth of his the member's average final compensation multiplied by the sum of the number of years of his creditable service, service transferred under 19-4-409, and additional service purchased under 19-4-412, if such the retirement allowance exceeds one-fourth of his the member's average final compensation; otherwise, or

(2) a pension which that, together with his the member's annuity, provides a total retirement allowance equal to one-fourth of his the member's average final compensation.

(3) No allowance under subsection (2) may exceed

1 one-sixtieth-of-his-average-final-compensation-multiplied-by
2 the--number--of--years-which-would-be-creditable-to-him-were
3 his-service-to-continue-until-the-attainment-of-the--minimum
4 age-for-superannuation-retirement."

5 NEW SECTION. Section 4. Effective date. (This act) is
6 effective on passage and approval.

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE TEACHERS' RETIREMENT LAWS; PROVIDING FOR THE SPLITTING OF WITHDRAWN ACCUMULATED CONTRIBUTIONS TO PRESERVE TAX-DEFERRED STATUS; PROVIDING PROCEDURES TO DETERMINE DISABILITY; REVISING THE DISABILITY RETIREMENT ALLOWANCE; AMENDING SECTIONS 19-4-603, 19-4-901, AND 19-4-902, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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Section 1. Section 19-4-603, MCA, is amended to read:

"19-4-603. Withdrawal of accumulated contributions options. Any inactive member electing to do so or any person whose membership terminates may withdraw his the member's or person's accumulated contributions from his the annuity account in the retirement system in accordance with the following provisions:

(1) An inactive member under the provisions of subsection (1) or (3) of 19-4-303 may elect, without right of revocation, to withdraw his the member's accumulated contributions. If he the member does not withdraw his the accumulated contributions, he the member remains an inactive

member of the retirement system with the right to qualify for its benefits.

(2) Upon recovery from a disabling illness or separation from the armed forces, any person qualifying as an inactive member under the provisions of 19-4-303(2) may withdraw his the member's accumulated contributions unless he the member returns to active membership.

(3) Any person whose membership terminates under the provisions of 19-4-304(4) may withdraw his the person's accumulated contributions.

(4) Upon written request, a terminating member may have the payment of the accumulated contributions split. The tax-deferred portion of the contributions may be paid directly to an individual retirement account or other qualified plan designated by the member, and the other portion must be paid directly to the terminating member. The board shall provide forms for making the written request. The terminating member is responsible for correctly designating an account or plan eligible to receive the tax-deferred amount in order to continue the status of the amount."

Section 2. Section 19-4-901, MCA, is amended to read:

"19-4-901. Eligibility for disability retirement determination by board. (1) Upon the application of a member or of his the member's employer for a disability retirement

1 allowance, any member who has 5 or more years of creditable
 2 service and who has become disabled while being an active
 3 member may be retired by the retirement board the month
 4 immediately following the month in which he ~~terminates his~~
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 10 permanent, and that he the member should be retired.

11 (2) In making a determination under subsection (1), the
 12 retirement board or its representative may:

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 22 disability retirement. The subpoenas issued under this
 23 subsection (c) are enforceable as provided in 2-4-104.

24 (3) The retirement board may secure and pay reasonable
 25 compensation for professional services and advice the board

1 determines necessary to carry out the purposes of this
 2 part."

3 **Section 3.** Section 19-4-902, MCA, is amended to read:

4 **"19-4-902. Allowance for disability retirement. (1)**
 5 Upon retirement for disability, a member shall must receive
 6 ~~the superannuation allowance prescribed under part 8 of this~~
 7 ~~chapter if he is eligible.~~

8 ~~(2) If he is not eligible for the allowance prescribed~~
 9 ~~under part 8 of this chapter, he shall receive a disability~~
 10 ~~retirement allowance which consists of:~~

11 ~~(a) an annuity which is the actuarial equivalent of his~~
 12 ~~accumulated contributions at the time of retirement; and~~

13 ~~(b) a pension which, together with his annuity,~~
 14 ~~provides a total retirement allowance equal to:~~

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 16 compensation multiplied by the sum of the number of years of
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 19 retirement allowance exceeds one-fourth of his the member's
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21 (2) a pension which that, together with his the
 22 member's annuity, provides a total retirement allowance
 23 equal to one-fourth of his the member's average final
 24 compensation.

25 ~~(3) No allowance under subsection (2) may exceed~~

1 one-sixtieth-of-his-average-final-compensation-multiplied-by
2 the--number--of--years-which-would-be-creditable-to-him-were
3 his-service-to-continue-until-the-attainment-of-the--minimum
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