

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 842
96TH GENERAL ASSEMBLY

Reported from the Committee on Veterans' Affairs, Emerging Issues, Pensions and Urban Affairs, March 29, 2012, with recommendation that the Senate Committee Substitute do pass.

5194S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 169.030, 169.070, 169.620, and 169.670, RSMo, and to enact in lieu thereof four new sections relating to teacher and school employee retirement systems, with existing penalty provisions and an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 169.030, 169.070, 169.620, and 169.670, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 169.030, 169.070, 169.620, and 169.670, to read as follows:

169.030. 1. The funds required for the operation of the retirement system
2 created by sections 169.010 to 169.141 shall come from contributions made in
3 equal amounts by members of the system and their employers, except as provided
4 for certain members and employers by section 104.342, and from such interest as
5 may be derived from the investment of any part of such contributions. All
6 contributions shall be transmitted to the board of trustees by employers in such
7 manner and at such time as the board by rule shall require.

8 2. For each school year following the date on which the system becomes
9 operative, each and every employer of one or more persons who are members of
10 the system shall transmit to the board of trustees, in the manner and
11 accompanied by such supporting data as the board shall prescribe, twice the
12 amount that is deductible from the pay of such employee or employees during the
13 school year. Failure or refusal to transmit such amount as required shall render
14 the person or persons responsible therefor individually liable for twice the
15 amount so withheld. Suits for the recovery of amounts for which individuals are
16 thus rendered liable shall be instituted and prosecuted by the board of trustees

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 in the name of the retirement system. In addition to such civil penalty, and not
18 in lieu thereof, any person or persons made responsible for the payment of
19 contributions who shall willfully and knowingly fail or refuse to transmit such
20 contributions or any part thereof to the board of trustees shall be deemed guilty
21 of a misdemeanor and upon conviction thereof shall be punished by a fine of not
22 less than twenty-five dollars and not more than two hundred dollars, and each
23 day such person or persons shall so fail or refuse to transmit such contributions
24 shall be deemed a separate offense.

25 3. The contributions of members of the retirement system shall be
26 collected by their employers through appropriate deductions from paychecks,
27 except as provided for certain members and employers by section 104.342. The
28 total amount deducted from the paychecks of members during any school year
29 shall equal such a percent of their salary rates as may be required by the
30 contribution rate then in effect. Contributions transmitted to the retirement
31 system before February 20, 1996, based on salary rates which either included or
32 excluded employer-paid medical benefits for members, shall be deemed to have
33 been in compliance with this section. The retirement system shall not refund or
34 adjust contributions or adjust benefit determinations with respect to any period
35 before February 20, 1996, solely because of the treatment of employer-paid
36 medical benefits for members. Effective December 31, 1995, compensation in
37 excess of the limitations set forth in Section 401(a)(17) of Title 26 of the United
38 States Code shall be disregarded for purposes of determining contributions under
39 this section and calculating benefits paid by the public school retirement system
40 of Missouri. The limitation on compensation for eligible employees shall not be
41 less than the amount which was allowed to be taken into account under the
42 system as in effect on July 1, 1993. For this purpose, an "eligible employee" is an
43 individual who was a member of the system before July 1, 1996.

44 4. The board of trustees shall fix and certify to the employers the level
45 rate of contribution subject to the following:

46 (1) The level rate of contribution for a fiscal year shall not exceed the level
47 rate of contribution for the prior fiscal year by more than one-half
48 percent. **Beginning in the 2012-2013 school year, the employee and**
49 **employer contribution rates shall not be fixed below the rate certified**
50 **for the 2011-2012 school year rate until the system experiences a funded**
51 **ratio, as defined in section 105.660, of at least one hundred percent, but**
52 **the level rate of contribution for a fiscal year shall not exceed the level**

53 **rate of contribution for the prior fiscal year by more than one-half**
54 **percent;**

55 (2) The board shall fix and certify to the employers the rate of
56 contribution for a fiscal year no later than six months prior to the date such rate
57 is to be effective;

58 (3) The board shall fix and certify to the employers the rate of
59 contribution for a fiscal year based on an actuarial valuation of the system as of
60 a date not earlier than the last day of the second prior fiscal year, **except that**
61 **the actuarial valuation shall not be used to fix the contribution rates**
62 **so long as the contribution rates are fixed at or above the 2011-2012**
63 **school year rate, as provided in subdivision (1) of this subsection.** Such
64 actuarial valuation of the system shall be performed using processes and
65 actuarial assumptions that are in accordance with actuarial standards of practice
66 in effect at the time the valuation is performed, as promulgated by the actuarial
67 standards board or its successor; provided that such actuarial valuation shall be
68 based on the entry age normal actuarial cost method and an asset valuation
69 method based on the market value of system assets that may provide for
70 smoothing of investment gains and losses, and, further, that the level rate of
71 contribution shall be the total of the normal cost rate and a rate which shall
72 amortize the unfunded actuarial accrued liability over a period that shall not
73 exceed thirty years [from the date of the valuation], **beginning with the school**
74 **year that started on July 1, 2011, and decreasing until the end of the**
75 **thirty-year period or until the system experiences a funded ratio, as**
76 **defined in section 105.660, of at least one hundred percent,** subject to the
77 limitations of this subsection; and

78 (4) Not less than once every ten years the board shall have an actuary,
79 other than the actuary performing the actuarial valuation pursuant to this
80 section, review such actuarial valuation and perform an additional valuation of
81 the system.

82 5. Regardless of the provisions of any law governing compensation and
83 contracts, every teacher or employee shall be deemed to consent and agree to the
84 deductions provided herein. Payment of salary or compensation less such
85 deduction shall be a full and complete discharge of all salary or compensation
86 claims and demands during the period covered by such payment, except as to the
87 benefits provided under sections 169.010 to 169.141.

88 6. Notwithstanding any other provision of sections 169.010 to 169.141 to

89 the contrary, no legislation shall be enacted after July 1, 2003, that increases
90 benefits provided to members or retirees of the public school retirement system
91 of Missouri above that which may be funded using a rate of contribution of ten
92 and one-half percent as determined using an actuarial valuation as provided in
93 subsection 4 of this section; provided that, notwithstanding the provision of this
94 subsection, legislation may be enacted after July 1, 2003, that provides for an
95 extension of time within which a member may make an election pursuant to
96 subdivisions (3) to (8) of subsection 1 of section 169.070.

169.070. 1. The retirement allowance of a member whose age at
2 retirement is sixty years or more and whose creditable service is five years or
3 more, or whose sum of age and creditable service equals eighty years or more, or
4 who has attained age fifty-five and whose creditable service is twenty-five years
5 or more or whose creditable service is thirty years or more regardless of age, may
6 be the sum of the following items, not to exceed one hundred percent of the
7 member's final average salary:

8 (1) Two and five-tenths percent of the member's final average salary for
9 each year of membership service;

10 (2) Six-tenths of the amount payable for a year of membership service for
11 each year of prior service not exceeding thirty years. In lieu of the retirement
12 allowance otherwise provided in subdivisions (1) and (2) of this subsection, a
13 member may elect to receive a retirement allowance of:

14 (3) Between July 1, 1998, and July 1, 2013, two and four-tenths percent
15 of the member's final average salary for each year of membership service, if the
16 member's creditable service is twenty-nine years or more but less than thirty
17 years, and the member has not attained age fifty-five;

18 (4) Between July 1, 1998, and July 1, 2013, two and
19 thirty-five-hundredths percent of the member's final average salary for each year
20 of membership service, if the member's creditable service is twenty-eight years
21 or more but less than twenty-nine years, and the member has not attained age
22 fifty-five;

23 (5) Between July 1, 1998, and July 1, 2013, two and three-tenths percent
24 of the member's final average salary for each year of membership service, if the
25 member's creditable service is twenty-seven years or more but less than
26 twenty-eight years, and the member has not attained age fifty-five;

27 (6) Between July 1, 1998, and July 1, 2013, two and
28 twenty-five-hundredths percent of the member's final average salary for each year

29 of membership service, if the member's creditable service is twenty-six years or
30 more but less than twenty-seven years, and the member has not attained age
31 fifty-five;

32 (7) Between July 1, 1998, and July 1, 2013, two and two-tenths percent
33 of the member's final average salary for each year of membership service, if the
34 member's creditable service is twenty-five years or more but less than twenty-six
35 years, and the member has not attained age fifty-five;

36 (8) Between July 1, 2001, and July 1, 2013, two and fifty-five hundredths
37 percent of the member's final average salary for each year of membership service,
38 if the member's creditable service is thirty-one years or more regardless of age.

39 2. In lieu of the retirement allowance provided in subsection 1 of this
40 section, a member whose age is sixty years or more on September 28, 1975, may
41 elect to have the member's retirement allowance calculated as a sum of the
42 following items:

43 (1) Sixty cents plus one and five-tenths percent of the member's final
44 average salary for each year of membership service;

45 (2) Six-tenths of the amount payable for a year of membership service for
46 each year of prior service not exceeding thirty years;

47 (3) Three-fourths of one percent of the sum of subdivisions (1) and (2) of
48 this subsection for each month of attained age in excess of sixty years but not in
49 excess of age sixty-five.

50 3. (1) In lieu of the retirement allowance provided either in subsection 1
51 or 2 of this section, collectively called "option 1", a member whose creditable
52 service is twenty-five years or more or who has attained the age of fifty-five with
53 five or more years of creditable service may elect in the member's application for
54 retirement to receive the actuarial equivalent of the member's retirement
55 allowance in reduced monthly payments for life during retirement with the
56 provision that:

57 Option 2. Upon the member's death the reduced retirement allowance
58 shall be continued throughout the life of and paid to such person as has an
59 insurable interest in the life of the member as the member shall have nominated
60 in the member's election of the option, and provided further that if the person so
61 nominated dies before the retired member, the retirement allowance will be
62 increased to the amount the retired member would be receiving had the retired
63 member elected option 1;

101 nominated who survives the member for the remainder of the sixty monthly
102 payments, the total of the remainder of such sixty monthly payments shall be
103 paid to the surviving spouse, surviving children in equal shares, surviving
104 parents in equal shares, or estate of the last person, in that order of precedence,
105 to receive a monthly allowance in a lump sum payment. If the total of the sixty
106 payments paid to the retired individual and the beneficiary of the retired
107 individual is less than the total of the member's accumulated contributions, the
108 difference shall be paid to the beneficiary in a lump sum.

109 (2) The election of an option may be made only in the application for
110 retirement and such application must be filed prior to the date on which the
111 retirement of the member is to be effective. If either the member or the person
112 nominated to receive the survivorship payments dies before the effective date of
113 retirement, the option shall not be effective, provided that:

114 (a) If the member or a person retired on disability retirement dies after
115 acquiring twenty-five or more years of creditable service or after attaining the age
116 of fifty-five years and acquiring five or more years of creditable service and before
117 retirement, except retirement with disability benefits, and the person named by
118 the member as the member's beneficiary has an insurable interest in the life of
119 the deceased member, the designated beneficiary may elect to receive either
120 survivorship benefits under option 2 or a payment of the accumulated
121 contributions of the member. If survivorship benefits under option 2 are elected
122 and the member at the time of death would have been eligible to receive an
123 actuarial equivalent of the member's retirement allowance, the designated
124 beneficiary may further elect to defer the option 2 payments until the date the
125 member would have been eligible to receive the retirement allowance provided in
126 subsection 1 or 2 of this section;

127 (b) If the member or a person retired on disability retirement dies before
128 attaining age fifty-five but after acquiring five but fewer than twenty-five years
129 of creditable service, and the person named as the member's beneficiary has an
130 insurable interest in the life of the deceased member, the designated beneficiary
131 may elect to receive either a payment of the member's accumulated contributions,
132 or survivorship benefits under option 2 to begin on the date the member would
133 first have been eligible to receive an actuarial equivalent of the member's
134 retirement allowance, or to begin on the date the member would first have been
135 eligible to receive the retirement allowance provided in subsection 1 or 2 of this
136 section.

137 4. If the total of the retirement or disability allowance paid to an
138 individual before the death of the individual is less than the accumulated
139 contributions at the time of retirement, the difference shall be paid to the
140 beneficiary of the individual, or to the surviving spouse, surviving children in
141 equal shares, surviving parents in equal shares, or estate of the individual in that
142 order of precedence. If an optional benefit as provided in option 2, 3 or 4 in
143 subsection 3 of this section had been elected, and the beneficiary dies after
144 receiving the optional benefit, and if the total retirement allowance paid to the
145 retired individual and the beneficiary of the retired individual is less than the
146 total of the contributions, the difference shall be paid to the surviving spouse,
147 surviving children in equal shares, surviving parents in equal shares, or estate
148 of the beneficiary, in that order of precedence, unless the retired individual
149 designates a different recipient with the board at or after retirement.

150 5. If a member dies and his or her financial institution is unable to accept
151 the final payment or payments due to the member, the final payment or payments
152 shall be paid to the beneficiary of the member or, if there is no beneficiary, to the
153 surviving spouse, surviving children in equal shares, surviving parents in equal
154 shares, or estate of the member, in that order of precedence, unless otherwise
155 stated. If the beneficiary of a deceased member dies and his or her financial
156 institution is unable to accept the final payment or payments, the final payment
157 or payments shall be paid to the surviving spouse, surviving children in equal
158 shares, surviving parents in equal shares, or estate of the member, in that order
159 of precedence, unless otherwise stated.

160 6. If a member dies before receiving a retirement allowance, the member's
161 accumulated contributions at the time of the death of the member shall be paid
162 to the beneficiary of the member or, if there is no beneficiary, to the surviving
163 spouse, surviving children in equal shares, surviving parents in equal shares, or
164 to the estate of the member, in that order of precedence; except that, no such
165 payment shall be made if the beneficiary elects option 2 in subsection 3 of this
166 section, unless the beneficiary dies before having received benefits pursuant to
167 that subsection equal to the accumulated contributions of the member, in which
168 case the amount of accumulated contributions in excess of the total benefits paid
169 pursuant to that subsection shall be paid to the surviving spouse, surviving
170 children in equal shares, surviving parents in equal shares, or estate of the
171 beneficiary, in that order of precedence.

172 7. If a member ceases to be a public school employee as herein defined

173 and certifies to the board of trustees that such cessation is permanent, or if the
174 membership of the person is otherwise terminated, the member shall be paid the
175 member's accumulated contributions with interest.

176 8. Notwithstanding any provisions of sections 169.010 to 169.141 to the
177 contrary, if a member ceases to be a public school employee after acquiring five
178 or more years of membership service in Missouri, the member may at the option
179 of the member leave the member's contributions with the retirement system and
180 claim a retirement allowance any time after reaching the minimum age for
181 voluntary retirement. When the member's claim is presented to the board, the
182 member shall be granted an allowance as provided in sections 169.010 to 169.141
183 on the basis of the member's age, years of service, and the provisions of the law
184 in effect at the time the member requests the member's retirement to become
185 effective.

186 9. The retirement allowance of a member retired because of disability
187 shall be nine-tenths of the allowance to which the member's creditable service
188 would entitle the member if the member's age were sixty, or fifty percent of
189 one-twelfth of the annual salary rate used in determining the member's
190 contributions during the last school year for which the member received a year
191 of creditable service immediately prior to the member's disability, whichever is
192 greater, except that no such allowance shall exceed the retirement allowance to
193 which the member would have been entitled upon retirement at age sixty if the
194 member had continued to teach from the date of disability until age sixty at the
195 same salary rate.

196 10. Notwithstanding any provisions of sections 169.010 to 169.141 to the
197 contrary, from October 13, 1961, the contribution rate pursuant to sections
198 169.010 to 169.141 shall be multiplied by the factor of two-thirds for any member
199 of the system for whom federal Old Age and Survivors Insurance tax is paid from
200 state or local tax funds on account of the member's employment entitling the
201 person to membership in the system. The monetary benefits for a member who
202 elected not to exercise an option to pay into the system a retroactive contribution
203 of four percent on that part of the member's annual salary rate which was in
204 excess of four thousand eight hundred dollars but not in excess of eight thousand
205 four hundred dollars for each year of employment in a position covered by this
206 system between July 1, 1957, and July 1, 1961, as provided in subsection 10 of
207 this section as it appears in RSMo, 1969, shall be the sum of:

208 (1) For years of service prior to July 1, 1946, six-tenths of the full amount

209 payable for years of membership service;

210 (2) For years of membership service after July 1, 1946, in which the full
211 contribution rate was paid, full benefits under the formula in effect at the time
212 of the member's retirement;

213 (3) For years of membership service after July 1, 1957, and prior to July
214 1, 1961, the benefits provided in this section as it appears in RSMo, 1959; except
215 that if the member has at least thirty years of creditable service at retirement the
216 member shall receive the benefit payable pursuant to that section as though the
217 member's age were sixty-five at retirement;

218 (4) For years of membership service after July 1, 1961, in which the
219 two-thirds contribution rate was paid, two-thirds of the benefits under the
220 formula in effect at the time of the member's retirement.

221 11. The monetary benefits for each other member for whom federal Old
222 Age and Survivors Insurance tax is or was paid at any time from state or local
223 funds on account of the member's employment entitling the member to
224 membership in the system shall be the sum of:

225 (1) For years of service prior to July 1, 1946, six-tenths of the full amount
226 payable for years of membership service;

227 (2) For years of membership service after July 1, 1946, in which the full
228 contribution rate was paid, full benefits under the formula in effect at the time
229 of the member's retirement;

230 (3) For years of membership service after July 1, 1957, in which the
231 two-thirds contribution rate was paid, two-thirds of the benefits under the
232 formula in effect at the time of the member's retirement.

233 12. Any retired member of the system who was retired prior to September
234 1, 1972, or beneficiary receiving payments under option 1 or option 2 of
235 subsection 3 of this section, as such option existed prior to September 1, 1972,
236 will be eligible to receive an increase in the retirement allowance of the member
237 of two percent for each year, or major fraction of more than one-half of a year,
238 which the retired member has been retired prior to July 1, 1975. This increased
239 amount shall be payable commencing with January, 1976, and shall thereafter
240 be referred to as the member's retirement allowance. The increase provided for
241 in this subsection shall not affect the retired member's eligibility for
242 compensation provided for in section 169.580 or 169.585, nor shall the amount
243 being paid pursuant to these sections be reduced because of any increases
244 provided for in this section.

245 13. If the board of trustees determines that the cost of living, as measured
246 by generally accepted standards, increases two percent or more in the preceding
247 fiscal year, the board shall increase the retirement allowances which the retired
248 members or beneficiaries are receiving by two percent of the amount being
249 received by the retired member or the beneficiary at the time the annual increase
250 is granted by the board with the provision that the increases provided for in this
251 subsection shall not become effective until the fourth January first following the
252 member's retirement or January 1, 1977, whichever later occurs, or in the case
253 of any member retiring on or after July 1, 2000, the increase provided for in this
254 subsection shall not become effective until the third January first following the
255 member's retirement, or in the case of any member retiring on or after July 1,
256 2001, the increase provided for in this subsection shall not become effective until
257 the second January first following the member's retirement. Commencing with
258 January 1, 1992, if the board of trustees determines that the cost of living has
259 increased five percent or more in the preceding fiscal year, the board shall
260 increase the retirement allowances by five percent. The total of the increases
261 granted to a retired member or the beneficiary after December 31, 1976, may not
262 exceed eighty percent of the retirement allowance established at retirement or as
263 previously adjusted by other subsections. If the cost of living increases less than
264 five percent, the board of trustees may determine the percentage of increase to
265 be made in retirement allowances, but at no time can the increase exceed five
266 percent per year, **except that the board shall increase the retirement**
267 **allowances which the retired members or beneficiaries are receiving by**
268 **two percent of the amount being received by the retired member or the**
269 **beneficiary at the time the annual increase is granted by the board,**
270 **until the system experiences a funded ratio, as defined in section**
271 **105.660, of at least one hundred percent.** If the cost of living decreases in
272 a fiscal year, there [will] **shall** be no increase in allowances for retired members
273 on the following January first.

274 14. The board of trustees may reduce the amounts which have been
275 granted as increases to a member pursuant to subsection 13 of this section if the
276 cost of living, as determined by the board and as measured by generally accepted
277 standards, is less than the cost of living was at the time of the first increase
278 granted to the member; except that, the reductions shall not exceed the amount
279 of increases which have been made to the member's allowance after December 31,
280 1976.

281 15. Any application for retirement shall include a sworn statement by the
282 member certifying that the spouse of the member at the time the application was
283 completed was aware of the application and the plan of retirement elected in the
284 application.

285 16. Notwithstanding any other provision of law, any person retired prior
286 to September 28, 1983, who is receiving a reduced retirement allowance under
287 option 1 or option 2 of subsection 3 of this section, as such option existed prior to
288 September 28, 1983, and whose beneficiary nominated to receive continued
289 retirement allowance payments under the elected option dies or has died, shall
290 upon application to the board of trustees have his or her retirement allowance
291 increased to the amount he or she would have been receiving had the option not
292 been elected, actuarially adjusted to recognize any excessive benefits which would
293 have been paid to him or her up to the time of application.

294 17. Benefits paid pursuant to the provisions of the public school
295 retirement system of Missouri shall not exceed the limitations of Section 415 of
296 Title 26 of the United States Code except as provided pursuant to this
297 subsection. Notwithstanding any other law to the contrary, the board of trustees
298 may establish a benefit plan pursuant to Section 415(m) of Title 26 of the United
299 States Code. Such plan shall be created solely for the purpose described in
300 Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees
301 may promulgate regulations necessary to implement the provisions of this
302 subsection and to create and administer such benefit plan.

303 18. Notwithstanding any other provision of law to the contrary, any
304 person retired before, on, or after May 26, 1994, shall be made, constituted,
305 appointed and employed by the board as a special consultant on the matters of
306 education, retirement and aging, and upon request shall give written or oral
307 opinions to the board in response to such requests. As compensation for such
308 duties the person shall receive an amount based on the person's years of service
309 so that the total amount received pursuant to sections 169.010 to 169.141 shall
310 be at least the minimum amounts specified in subdivisions (1) to (4) of this
311 subsection. In determining the minimum amount to be received, the amounts in
312 subdivisions (3) and (4) of this subsection shall be adjusted in accordance with the
313 actuarial adjustment, if any, that was applied to the person's retirement
314 allowance. In determining the minimum amount to be received, beginning
315 September 1, 1996, the amounts in subdivisions (1) and (2) of this subsection
316 shall be adjusted in accordance with the actuarial adjustment, if any, that was

317 applied to the person's retirement allowance due to election of an optional form
318 of retirement having a continued monthly payment after the person's
319 death. Notwithstanding any other provision of law to the contrary, no person
320 retired before, on, or after May 26, 1994, and no beneficiary of such a person,
321 shall receive a retirement benefit pursuant to sections 169.010 to 169.141 based
322 on the person's years of service less than the following amounts:

- 323 (1) Thirty or more years of service, one thousand two hundred dollars;
324 (2) At least twenty-five years but less than thirty years, one thousand
325 dollars;
326 (3) At least twenty years but less than twenty-five years, eight hundred
327 dollars;
328 (4) At least fifteen years but less than twenty years, six hundred dollars.

329 19. Notwithstanding any other provisions of law to the contrary, any
330 person retired prior to May 26, 1994, and any designated beneficiary of such a
331 retired member who was deceased prior to July 1, 1999, shall be made,
332 constituted, appointed and employed by the board as a special consultant on the
333 matters of education, retirement or aging and upon request shall give written or
334 oral opinions to the board in response to such requests. Beginning September 1,
335 1996, as compensation for such service, the member shall have added, pursuant
336 to this subsection, to the member's monthly annuity as provided by this section
337 a dollar amount equal to the lesser of sixty dollars or the product of two dollars
338 multiplied by the member's number of years of creditable service. Beginning
339 September 1, 1999, the designated beneficiary of the deceased member shall as
340 compensation for such service have added, pursuant to this subsection, to the
341 monthly annuity as provided by this section a dollar amount equal to the lesser
342 of sixty dollars or the product of two dollars multiplied by the member's number
343 of years of creditable service. The total compensation provided by this section
344 including the compensation provided by this subsection shall be used in
345 calculating any future cost-of-living adjustments provided by subsection 13 of this
346 section.

347 20. Any member who has retired prior to July 1, 1998, and the designated
348 beneficiary of a deceased retired member shall be made, constituted, appointed
349 and employed by the board as a special consultant on the matters of education,
350 retirement and aging, and upon request shall give written or oral opinions to the
351 board in response to such requests. As compensation for such duties the person
352 shall receive a payment equivalent to eight and seven-tenths percent of the

353 previous month's benefit, which shall be added to the member's or beneficiary's
354 monthly annuity and which shall not be subject to the provisions of subsections
355 13 and 14 of this section for the purposes of the limit on the total amount of
356 increases which may be received.

357 21. Any member who has retired shall be made, constituted, appointed
358 and employed by the board as a special consultant on the matters of education,
359 retirement and aging, and upon request shall give written or oral opinions to the
360 board in response to such request. As compensation for such duties, the
361 beneficiary of the retired member, or, if there is no beneficiary, the surviving
362 spouse, surviving children in equal shares, surviving parents in equal shares, or
363 estate of the retired member, in that order of precedence, shall receive as a part
364 of compensation for these duties a death benefit of five thousand dollars.

365 22. Any member who has retired prior to July 1, 1999, and the designated
366 beneficiary of a retired member who was deceased prior to July 1, 1999, shall be
367 made, constituted, appointed and employed by the board as a special consultant
368 on the matters of education, retirement and aging, and upon request shall give
369 written or oral opinions to the board in response to such requests. As
370 compensation for such duties, the person shall have added, pursuant to this
371 subsection, to the monthly annuity as provided by this section a dollar amount
372 equal to five dollars times the member's number of years of creditable service.

373 23. Any member who has retired prior to July 1, 2000, and the designated
374 beneficiary of a deceased retired member shall be made, constituted, appointed
375 and employed by the board as a special consultant on the matters of education,
376 retirement and aging, and upon request shall give written or oral opinions to the
377 board in response to such requests. As compensation for such duties, the person
378 shall receive a payment equivalent to three and five-tenths percent of the
379 previous month's benefit, which shall be added to the member or beneficiary's
380 monthly annuity and which shall not be subject to the provisions of subsections
381 13 and 14 of this section for the purposes of the limit on the total amount of
382 increases which may be received.

383 24. Any member who has retired prior to July 1, 2001, and the designated
384 beneficiary of a deceased retired member shall be made, constituted, appointed
385 and employed by the board as a special consultant on the matters of education,
386 retirement and aging, and upon request shall give written or oral opinions to the
387 board in response to such requests. As compensation for such duties, the person
388 shall receive a dollar amount equal to three dollars times the member's number

389 of years of creditable service, which shall be added to the member's or
390 beneficiary's monthly annuity and which shall not be subject to the provisions of
391 subsections 13 and 14 of this section for the purposes of the limit on the total
392 amount of increases which may be received.

169.620. 1. The funds required for the operation of the retirement system
2 created by sections 169.600 to 169.715 shall come from contributions made in
3 equal amounts by employees as herein defined and their employers, beginning
4 November 1, 1965, and from such interest or income as may be derived from the
5 investment of funds of the system. All contributions shall be transmitted to the
6 board of trustees by employers in such manner and at such times as the board by
7 rule shall require.

8 2. For each school year following the date on which the system becomes
9 operative, each and every employer of one or more persons who are members of
10 the system shall transmit to the board of trustees, in the manner and
11 accompanied by such supporting data as the board shall prescribe, twice the
12 amount that is deductible from the pay of such employee or employees during the
13 school year. Failure or refusal to transmit such amount as required shall render
14 the person or persons responsible therefor individually liable for twice the
15 amount so withheld. Suits for the recovery of amounts for which individuals are
16 thus rendered liable shall be instituted and prosecuted by the board of trustees
17 in the name of the retirement system. In addition to such civil penalty, and not
18 in lieu thereof, any person or persons made responsible for the remittance of
19 contributions who shall willfully and knowingly fail or refuse to transmit such
20 contributions or any part thereof to the board of trustees shall be deemed guilty
21 of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not
22 less than twenty-five dollars and not more than two hundred dollars. Each day
23 such person or persons shall so fail or refuse to transmit such contributions shall
24 be deemed a separate offense. The board of trustees may request the employer
25 to provide the information necessary to administer the system and to advise each
26 member of such member's status.

27 3. The contributions of members of the retirement system shall be
28 collected by their employers through appropriate deductions from paychecks. The
29 total amount deducted from the paychecks of members during any school year
30 shall equal such a percent of their salary rates as may be required by the
31 contribution rate then in effect. For contribution purposes any annual salary rate
32 less than one thousand two hundred dollars shall be regarded as one thousand

33 two hundred dollars. Contributions transmitted to the retirement system before
34 February 20, 1996, based on salary rates which either included or excluded
35 employer-paid medical benefits for members, shall be deemed to have been in
36 compliance with this section. The retirement system shall not refund or adjust
37 contributions or adjust benefit determinations with respect to any period before
38 February 20, 1996, solely because of the treatment of employer-paid medical
39 benefits for members. Effective December 31, 1995, compensation in excess of the
40 limitations set forth in Section 401(a)(17) of Title 26 of the United States Code
41 shall be disregarded for purposes of determining contributions pursuant to this
42 section and calculating benefits paid by the public education employee retirement
43 system of Missouri. The limitation on compensation for eligible employees shall
44 not be less than the amount which was allowed to be taken into account under
45 the system as in effect on July 1, 1993. For the purpose of this subsection, an
46 "eligible employee" is an individual who was a member of the system before July
47 1, 1996.

48 4. The board of trustees shall fix and certify to the employers the level
49 rate of contribution subject to the following:

50 (1) The level rate of contribution for a fiscal year shall not exceed the level
51 rate of contribution for the prior fiscal year by more than one-quarter
52 percent. **Beginning in the 2012-2013 school year, the employee and**
53 **employer contribution rates shall not be fixed below the rate certified**
54 **for the 2011-2012 school year rate until the system experiences a funded**
55 **ratio, as defined in section 105.660, of at least one hundred percent, but**
56 **the level rate of contribution for a fiscal year shall not exceed the level**
57 **rate of contribution for the prior fiscal year by more than one-quarter**
58 **percent;**

59 (2) The board shall fix and certify to the employers the rate of
60 contribution for a fiscal year no later than six months prior to the date such rate
61 is to be effective;

62 (3) The board shall fix and certify to the employers the rate of
63 contribution for a fiscal year based on an actuarial valuation of the system as of
64 a date not earlier than the last day of the second prior fiscal year, **except that**
65 **the actuarial valuation shall not be used to fix the contribution rates**
66 **so long as the contribution rates are fixed at or above the 2011-2012**
67 **school year rate, as provided in subdivision (1) of this subsection.** Such
68 actuarial valuation of the system shall be performed using processes and

69 actuarial assumptions that are in accordance with actuarial standards of practice
70 in effect at the time the valuation is performed, as promulgated by the actuarial
71 standards board or its successor; provided that such actuarial valuation shall be
72 based on the entry age normal actuarial cost method and an asset valuation
73 method based on the market value of system assets that may provide for
74 smoothing of investment gains and losses, and further, that the level rate of
75 contribution shall be the total of the normal cost and a rate which shall amortize
76 the unfunded actuarial accrued liability over a period that shall not exceed thirty
77 years [from the date of the valuation], **beginning with the school year that**
78 **started on July 1, 2011, and decreasing annually until the end of the**
79 **thirty-year period or until the system experiences a funded ratio, as**
80 **defined in section 105.660, of at least one hundred percent,** subject to the
81 limitations of this subsection; and

82 (4) Not less than once every ten years the board shall have an actuary,
83 other than the actuary performing the actuarial valuation pursuant to this
84 section, review such actuarial valuation and perform an additional actuarial
85 valuation of the system.

86 5. Regardless of the provisions of any law governing compensation and
87 contracts, every employee shall be deemed to consent and agree to the deductions
88 provided herein. Payment of salary or compensation less such deduction shall be
89 a full and complete discharge of all salary or compensation claims and demands
90 during the period covered by such payment, except as to the benefits provided
91 pursuant to sections 169.600 to 169.715.

92 6. A person serving as an employee as defined in section 169.600, who
93 became a member after November 1, 1965, and before July 1, 1974, and who was
94 regularly employed to serve for twenty or more hours per week at some time
95 during the period November 1, 1965, to July 1, 1974, may receive membership
96 service credit for such service by paying into the system the amount, with interest
97 at such rate as may be set by the board within the limits set by law for interest
98 rates, the person would have contributed had the person been eligible for
99 membership.

100 7. Notwithstanding any other provision of sections 169.600 to 169.715 to
101 the contrary, no legislation shall be enacted after July 1, 2003, that increases
102 benefits provided to members or retirees of the public education employee
103 retirement system of Missouri above that which may be funded using a rate of
104 contribution of five percent as determined using an actuarial valuation as

105 provided in subsection 4 of this section; provided that, notwithstanding the
106 provisions of this subsection, legislation may be enacted after July 1, 2003, that
107 provides for an extension of time within which a member may make an election
108 pursuant to subdivision (4) of subsection 1 of section 169.670.

169.670. 1. The retirement allowance of a member whose age at
2 retirement is sixty years or more and whose creditable service is five years or
3 more, or whose sum of age and creditable service equals eighty years or more, or
4 whose creditable service is thirty years or more regardless of age, shall be the
5 sum of the following items:

6 (1) For each year of membership service, one and sixty-one hundredths
7 percent of the member's final average salary;

8 (2) Six-tenths of the amount payable for a year of membership service for
9 each year of prior service;

10 (3) Eighty-five one-hundredths of one percent of any amount by which the
11 member's average compensation for services rendered prior to July 1, 1973,
12 exceeds the average monthly compensation on which federal Social Security taxes
13 were paid during the period over which such average compensation was
14 computed, for each year of membership service credit for services rendered prior
15 to July 1, 1973, plus six-tenths of the amount payable for a year of membership
16 service for each year of prior service credit;

17 (4) In lieu of the retirement allowance otherwise provided by subdivisions
18 (1) to (3) of this subsection, between July 1, 2001, and July 1, 2013, a member
19 may elect to receive a retirement allowance of:

20 (a) One and fifty-nine hundredths percent of the member's final average
21 salary for each year of membership service, if the member's creditable service is
22 twenty-nine years or more but less than thirty years and the member has not
23 attained the age of fifty-five;

24 (b) One and fifty-seven hundredths percent of the member's final average
25 salary for each year of membership service, if the member's creditable service is
26 twenty-eight years or more but less than twenty-nine years, and the member has
27 not attained the age of fifty-five;

28 (c) One and fifty-five hundredths percent of the member's final average
29 salary for each year of membership service, if the member's creditable service is
30 twenty-seven years or more but less than twenty-eight years and the member has
31 not attained the age of fifty-five;

32 (d) One and fifty-three hundredths percent of the member's final average

33 salary for each year of membership service, if the member's creditable service is
34 twenty-six years or more but less than twenty-seven years and the member has
35 not attained the age of fifty-five;

36 (e) One and fifty-one hundredths percent of the member's final average
37 salary for each year of membership service, if the member's creditable service is
38 twenty-five years or more but less than twenty-six years and the member has not
39 attained the age of fifty-five; and

40 (5) In addition to the retirement allowance provided in subdivisions (1)
41 to (3) of this subsection, a member retiring on or after July 1, 2001, whose
42 creditable service is thirty years or more or whose sum of age and creditable
43 service is eighty years or more, shall receive a temporary retirement allowance
44 equivalent to eight-tenths of one percent of the member's final average salary
45 multiplied by the member's years of service until such time as the member
46 reaches the minimum age for Social Security retirement benefits.

47 2. If the board of trustees determines that the cost of living, as measured
48 by generally accepted standards, increases five percent or more in the preceding
49 fiscal year, the board shall increase the retirement allowances which the retired
50 members or beneficiaries are receiving by five percent of the amount being
51 received by the retired member or the beneficiary at the time the annual increase
52 is granted by the board; provided that, the increase provided in this subsection
53 shall not become effective until the fourth January first following a member's
54 retirement or January 1, 1982, whichever occurs later, and the total of the
55 increases granted to a retired member or the beneficiary after December 31, 1981,
56 may not exceed eighty percent of the retirement allowance established at
57 retirement or as previously adjusted by other provisions of law. If the cost of
58 living increases less than five percent, the board of trustees may determine the
59 percentage of increase to be made in retirement allowances, but at no time can
60 the increase exceed five percent per year, **except that the board shall**
61 **increase the retirement allowances which the retired members or**
62 **beneficiaries are receiving by two percent of the amount being received**
63 **by the retired member or the beneficiary at the time the annual**
64 **increase is granted by the board, until the system experiences a funded**
65 **ratio, as defined in section 105.660, of at least one hundred percent.** If
66 the cost of living decreases in a fiscal year, there [will] **shall** be no increase in
67 allowances for retired members on the following January first.

68 3. The board of trustees may reduce the amounts which have been granted

69 as increases to a member pursuant to subsection 2 of this section if the cost of
70 living, as determined by the board and as measured by generally accepted
71 standards, is less than the cost of living was at the time of the first increase
72 granted to the member; provided that, the reductions shall not exceed the amount
73 of increases which have been made to the member's allowance after December 31,
74 1981.

75 4. (1) In lieu of the retirement allowance provided in subsection 1 of this
76 section, called option 1, a member whose creditable service is twenty-five years
77 or more or who has attained age fifty-five with five or more years of creditable
78 service may elect, in the application for retirement, to receive the actuarial
79 equivalent of the member's retirement allowance in reduced monthly payments
80 for life during retirement with the provision that:

81 Option 2. Upon the member's death, the reduced retirement allowance
82 shall be continued throughout the life of and paid to such person as has an
83 insurable interest in the life of the member as the member shall have nominated
84 in the member's election of the option, and provided further that if the person so
85 nominated dies before the retired member, the retirement allowance will be
86 increased to the amount the retired member would be receiving had the member
87 elected option 1;

88 OR

89 Option 3. Upon the death of the member three-fourths of the reduced
90 retirement allowance shall be continued throughout the life of and paid to such
91 person as has an insurable interest in the life of the member and as the member
92 shall have nominated in an election of the option, and provided further that if the
93 person so nominated dies before the retired member, the retirement allowance
94 will be increased to the amount the retired member would be receiving had the
95 member elected option 1;

96 OR

97 Option 4. Upon the death of the member one-half of the reduced
98 retirement allowance shall be continued throughout the life of, and paid to, such
99 person as has an insurable interest in the life of the member and as the member
100 shall have nominated in an election of the option, and provided further that if the
101 person so nominated dies before the retired member, the retirement allowance
102 shall be increased to the amount the retired member would be receiving had the
103 member elected option 1;

104 OR

105 Option 5. Upon the death of the member prior to the member having
 106 received one hundred twenty monthly payments of the member's reduced
 107 allowance, the remainder of the one hundred twenty monthly payments of the
 108 reduced allowance shall be paid to such beneficiary as the member shall have
 109 nominated in the member's election of the option or in a subsequent nomination.
 110 If there is no beneficiary so nominated who survives the member for the
 111 remainder of the one hundred twenty monthly payments, the reserve for the
 112 remainder of such one hundred twenty monthly payments shall be paid to the
 113 surviving spouse, surviving children in equal shares, surviving parents in equal
 114 shares, or estate of the last person, in that order of precedence, to receive a
 115 monthly allowance in a lump sum payment. If the total of the one hundred
 116 twenty payments paid to the retired individual and the beneficiary of the retired
 117 individual is less than the total of the member's accumulated contributions, the
 118 difference shall be paid to the beneficiary in a lump sum;

119 OR

120 Option 6. Upon the death of the member prior to the member having
 121 received sixty monthly payments of the member's reduced allowance, the
 122 remainder of the sixty monthly payments of the reduced allowance shall be paid
 123 to such beneficiary as the member shall have nominated in the member's election
 124 of the option or in a subsequent nomination. If there is no beneficiary so
 125 nominated who survives the member for the remainder of the sixty monthly
 126 payments, the reserve for the remainder of such sixty monthly payments shall be
 127 paid to the surviving spouse, surviving children in equal shares, surviving
 128 parents in equal shares, or estate of the last person, in that order of precedence,
 129 to receive a monthly allowance in a lump sum payment. If the total of the sixty
 130 payments paid to the retired individual and the beneficiary of the retired
 131 individual is less than the total of the member's accumulated contributions, the
 132 difference shall be paid to the beneficiary in a lump sum;

133 OR

134 Option 7. A plan of variable monthly benefit payments which provides,
 135 in conjunction with the member's retirement benefits under the federal Social
 136 Security laws, level or near-level retirement benefit payments to the member for
 137 life during retirement, and if authorized, to an appropriate beneficiary designated
 138 by the member. Such a plan shall be actuarially equivalent to the retirement
 139 allowance under option 1 and shall be available for election only if established by
 140 the board of trustees under duly adopted rules.

141 (2) The election of an option may be made only in the application for
142 retirement and such application must be filed prior to the date on which the
143 retirement of the member is to be effective. If either the member or the person
144 nominated dies before the effective date of retirement, the option shall not be
145 effective, provided that:

146 (a) If the member or a person retired on disability retirement dies after
147 attaining age fifty-five and acquiring five or more years of creditable service or
148 after acquiring twenty-five or more years of creditable service and before
149 retirement, except retirement with disability benefits, and the person named by
150 the member as the beneficiary has an insurable interest in the life of
151 the deceased member, the designated beneficiary may elect to receive either
152 survivorship payments under option 2 or a payment of the member's accumulated
153 contributions. If survivorship benefits under option 2 are elected and the member
154 at the time of death would have been eligible to receive an actuarial equivalent
155 of the member's retirement allowance, the designated beneficiary may further
156 elect to defer the option 2 payments until the date the member would have been
157 eligible to receive the retirement allowance provided in subsection 1 of this
158 section.

159 (b) If the member or a person retired on disability retirement dies before
160 attaining age fifty-five but after acquiring five but fewer than twenty-five years
161 of creditable service, and the person named as the beneficiary has an insurable
162 interest in the life of the deceased member or disability retiree, the designated
163 beneficiary may elect to receive either a payment of the person's accumulated
164 contributions or survivorship benefits under option 2 to begin on the date the
165 member would first have been eligible to receive an actuarial equivalent of the
166 person's retirement allowance, or to begin on the date the member would first
167 have been eligible to receive the retirement allowance provided in subsection 1
168 of this section.

169 5. If the total of the retirement or disability allowances paid to an
170 individual before the person's death is less than the person's accumulated
171 contributions at the time of the person's retirement, the difference shall be paid
172 to the person's beneficiary or, if there is no beneficiary, to the surviving spouse,
173 surviving children in equal shares, surviving parents in equal shares, or person's
174 estate, in that order of precedence; provided, however, that if an optional benefit,
175 as provided in option 2, 3 or 4 in subsection 4 of this section, had been elected
176 and the beneficiary dies after receiving the optional benefit, then, if the total

177 retirement allowances paid to the retired individual and the individual's
178 beneficiary are less than the total of the contributions, the difference shall be
179 paid to the surviving spouse, surviving children in equal shares, surviving
180 parents in equal shares, or estate of the beneficiary, in that order of precedence,
181 unless the retired individual designates a different recipient with the board at or
182 after retirement.

183 6. If a member dies and his or her financial institution is unable to accept
184 the final payment or payments due to the member, the final payment or payments
185 shall be paid to the beneficiary of the member or, if there is no beneficiary, to the
186 surviving spouse, surviving children in equal shares, surviving parents in equal
187 shares, or estate of the member, in that order of precedence, unless otherwise
188 stated. If the beneficiary of a deceased member dies and his or her financial
189 institution is unable to accept the final payment or payments, the final payment
190 or payments shall be paid to the surviving spouse, surviving children in equal
191 shares, surviving parents in equal shares, or estate of the member, in that order
192 of precedence, unless otherwise stated.

193 7. If a member dies before receiving a retirement allowance, the member's
194 accumulated contributions at the time of the member's death shall be paid to the
195 member's beneficiary or, if there is no beneficiary, to the surviving spouse,
196 surviving children in equal shares, surviving parents in equal shares, or to the
197 member's estate; provided, however, that no such payment shall be made if the
198 beneficiary elects option 2 in subsection 4 of this section, unless the beneficiary
199 dies before having received benefits pursuant to that subsection equal to the
200 accumulated contributions of the member, in which case the amount of
201 accumulated contributions in excess of the total benefits paid pursuant to that
202 subsection shall be paid to the surviving spouse, surviving children in equal
203 shares, surviving parents in equal shares, or estate of the beneficiary, in that
204 order of precedence.

205 8. If a member ceases to be an employee as defined in section 169.600 and
206 certifies to the board of trustees that such cessation is permanent or if the
207 person's membership is otherwise terminated, the person shall be paid the
208 person's accumulated contributions with interest.

209 9. Notwithstanding any provisions of sections 169.600 to 169.715 to the
210 contrary, if a member ceases to be an employee as defined in section 169.600 after
211 acquiring five or more years of creditable service, the member may, at the option
212 of the member, leave the member's contributions with the retirement system and

213 claim a retirement allowance any time after the member reaches the minimum
214 age for voluntary retirement. When the member's claim is presented to the
215 board, the member shall be granted an allowance as provided in sections 169.600
216 to 169.715 on the basis of the member's age and years of service.

217 10. The retirement allowance of a member retired because of disability
218 shall be nine-tenths of the allowance to which the member's creditable service
219 would entitle the member if the member's age were sixty.

220 11. Notwithstanding any provisions of sections 169.600 to 169.715 to the
221 contrary, any member who is a member prior to October 13, 1969, may elect to
222 have the member's retirement allowance computed in accordance with sections
223 169.600 to 169.715 as they existed prior to October 13, 1969.

224 12. Any application for retirement shall include a sworn statement by the
225 member certifying that the spouse of the member at the time the application was
226 completed was aware of the application and the plan of retirement elected in the
227 application.

228 13. Notwithstanding any other provision of law, any person retired prior
229 to August 14, 1984, who is receiving a reduced retirement allowance under option
230 1 or 2 of subsection 4 of this section, as the option existed prior to August 14,
231 1984, and whose beneficiary nominated to receive continued retirement allowance
232 payments under the elected option dies or has died, shall upon application to the
233 board of trustees have the person's retirement allowance increased to the amount
234 the person would have been receiving had the person not elected the option
235 actuarially adjusted to recognize any excessive benefits which would have been
236 paid to the person up to the time of the application.

237 14. Benefits paid pursuant to the provisions of the public education
238 employee retirement system of Missouri shall not exceed the limitations of
239 Section 415 of Title 26 of the United States Code, except as provided under this
240 subsection. Notwithstanding any other law, the board of trustees may establish
241 a benefit plan under Section 415(m) of Title 26 of the United States Code. Such
242 plan shall be credited solely for the purpose described in Section 415(m)(3)(A) of
243 Title 26 of the United States Code. The board of trustees may promulgate
244 regulations necessary to implement the provisions of this subsection and to create
245 and administer such benefit plan.

246 15. Any member who has retired prior to July 1, 1999, and the designated
247 beneficiary of a deceased retired member upon request shall be made, constituted,
248 appointed and employed by the board as a special consultant on the matters of

249 education, retirement and aging. As compensation for such duties the person
250 shall receive a payment equivalent to seven and four-tenths percent of the
251 previous month's benefit, which shall be added to the member's or beneficiary's
252 monthly annuity and which shall not be subject to the provisions of subsections
253 2 and 3 of this section for the purposes of the limit on the total amount of
254 increases which may be received.

255 16. Any member who has retired prior to July 1, 2000, and the designated
256 beneficiary of a deceased retired member upon request shall be made, constituted,
257 appointed and employed by the board as a special consultant on the matters of
258 education, retirement and aging. As compensation for such duties the person
259 shall receive a payment equivalent to three and four-tenths percent of the
260 previous month's benefit, which shall be added to the member's or beneficiary's
261 monthly annuity and which shall not be subject to the provisions of subsections
262 2 and 3 of this section for the purposes of the limit on the total amount of
263 increases which may be received.

264 17. Any member who has retired prior to July 1, 2001, and the designated
265 beneficiary of a deceased retired member upon request shall be made, constituted,
266 appointed and employed by the board as a special consultant on the matters of
267 education, retirement and aging. As compensation for such duties the person
268 shall receive a payment equivalent to seven and one-tenth percent of the previous
269 month's benefit, which shall be added to the member's or beneficiary's monthly
270 annuity and which shall not be subject to the provisions of subsections 2 and 3
271 of this section for the purposes of the limit on the total amount of increases which
272 may be received.

Section B. Because of the importance of maintaining the long-term
2 viability of the public school retirement system of Missouri and the public
3 education employee retirement system of Missouri, section A of this act is deemed
4 necessary for the immediate preservation of the public health, welfare, peace and
5 safety, and is hereby declared to be an emergency act within the meaning of the
6 constitution, and section A of this act shall in full force and effect upon July 1,
7 2012, or upon approval, whichever occurs first.

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