

# SENATE BILL NO. 1779

## 103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR HENDERSON.

7387S.011

KRISTINA MARTIN, Secretary

### AN ACT

To repeal sections 169.070 and 169.670, RSMo, and to enact in lieu thereof two new sections relating to limitations on cost of living increases on retirement allowances for certain public school employees.

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

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2 repealed and two new sections enacted in lieu thereof, to be  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

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

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

12 (2) Six-tenths of the amount payable for a year of  
13 membership service for each year of prior service not  
14 exceeding thirty years.

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

15 In lieu of the retirement allowance otherwise provided in  
16 subdivisions (1) and (2) of this subsection, a member may  
17 elect to receive a retirement allowance of:

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

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

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

33 (6) Two and twenty-five-hundredths percent of the  
34 member's final average salary for each year of membership  
35 service, if the member's creditable service is twenty-six  
36 years or more but less than twenty-seven years, and the  
37 member has not attained age fifty-five;

38 (7) Two and two-tenths percent of the member's final  
39 average salary for each year of membership service, if the  
40 member's creditable service is twenty-five years or more but  
41 less than twenty-six years, and the member has not attained  
42 age fifty-five;

43 (8) Two and fifty-five hundredths percent of the  
44 member's final average salary for each year of membership  
45 service, if the member's creditable service is thirty-two  
46 years or more regardless of age.



79 retired member would be receiving had the retired member  
80 elected option 1; or

81 Option 3.

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

91 Option 4.

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

101 Option 5.

102 Upon the death of the member prior to the member having  
103 received one hundred twenty monthly payments of the member's  
104 reduced allowance, the remainder of the one hundred twenty  
105 monthly payments of the reduced allowance shall be paid to  
106 such beneficiary as the member shall have nominated in the  
107 member's election of the option or in a subsequent  
108 nomination. If there is no beneficiary so nominated who  
109 survives the member for the remainder of the one hundred  
110 twenty monthly payments, the total of the remainder of such

111 one hundred twenty monthly payments shall be paid to the  
112 surviving spouse, surviving children in equal shares,  
113 surviving parents in equal shares, or estate of the last  
114 person, in that order of precedence, to receive a monthly  
115 allowance in a lump sum payment. If the total of the one  
116 hundred twenty payments paid to the retired individual and  
117 the beneficiary of the retired individual is less than the  
118 total of the member's accumulated contributions, the  
119 difference shall be paid to the beneficiary in a lump sum; or  
120 Option 6.

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

138 (2) The election of an option may be made only in the  
139 application for retirement and such application must be  
140 filed prior to the date on which the retirement of the  
141 member is to be effective. If either the member or the  
142 person nominated to receive the survivorship payments dies

143 before the effective date of retirement, the option shall  
144 not be effective, provided that:

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

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

175           4. If the total of the retirement or disability  
176 allowance paid to an individual before the death of the  
177 individual is less than the accumulated contributions at the  
178 time of retirement, the difference shall be paid to the  
179 beneficiary of the individual, or to the surviving spouse,  
180 surviving children in equal shares, surviving parents in  
181 equal shares, or estate of the individual in that order of  
182 precedence. If an optional benefit as provided in option 2,  
183 3 or 4 in subsection 3 of this section had been elected, and  
184 the beneficiary dies after receiving the optional benefit,  
185 and if the total retirement allowance paid to the retired  
186 individual and the beneficiary of the retired individual is  
187 less than the total of the contributions, the difference  
188 shall be paid to the surviving spouse, surviving children in  
189 equal shares, surviving parents in equal shares, or estate  
190 of the beneficiary, in that order of precedence, unless the  
191 retired individual designates a different recipient with the  
192 board at or after retirement.

193           5. If a member dies and his or her financial  
194 institution is unable to accept the final payment or  
195 payments due to the member, the final payment or payments  
196 shall be paid to the beneficiary of the member or, if there  
197 is no beneficiary, to the surviving spouse, surviving  
198 children in equal shares, surviving parents in equal shares,  
199 or estate of the member, in that order of precedence, unless  
200 otherwise stated. If the beneficiary of a deceased member  
201 dies and his or her financial institution is unable to  
202 accept the final payment or payments, the final payment or  
203 payments shall be paid to the surviving spouse, surviving  
204 children in equal shares, surviving parents in equal shares,  
205 or estate of the member, in that order of precedence, unless  
206 otherwise stated.

207           6. If a member dies before receiving a retirement  
208 allowance, the member's accumulated contributions at the  
209 time of the death of the member shall be paid to the  
210 beneficiary of the member or, if there is no beneficiary, to  
211 the surviving spouse, surviving children in equal shares,  
212 surviving parents in equal shares, or to the estate of the  
213 member, in that order of precedence; except that, no such  
214 payment shall be made if the beneficiary elects option 2 in  
215 subsection 3 of this section, unless the beneficiary dies  
216 before having received benefits pursuant to that subsection  
217 equal to the accumulated contributions of the member, in  
218 which case the amount of accumulated contributions in excess  
219 of the total benefits paid pursuant to that subsection shall  
220 be paid to the surviving spouse, surviving children in equal  
221 shares, surviving parents in equal shares, or estate of the  
222 beneficiary, in that order of precedence.

223           7. If a member ceases to be a public school employee  
224 as herein defined and certifies to the board of trustees  
225 that such cessation is permanent, or if the membership of  
226 the person is otherwise terminated, the member shall be paid  
227 the member's accumulated contributions with interest.

228           8. Notwithstanding any provisions of sections 169.010  
229 to 169.141 to the contrary, if a member ceases to be a  
230 public school employee after acquiring five or more years of  
231 membership service in Missouri, the member may at the option  
232 of the member leave the member's contributions with the  
233 retirement system and claim a retirement allowance any time  
234 after reaching the minimum age for voluntary retirement.  
235 When the member's claim is presented to the board, the  
236 member shall be granted an allowance as provided in sections  
237 169.010 to 169.141 on the basis of the member's age, years  
238 of service, and the provisions of the law in effect at the

239 time the member requests the member's retirement to become  
240 effective.

241 9. The retirement allowance of a member retired  
242 because of disability shall be nine-tenths of the allowance  
243 to which the member's creditable service would entitle the  
244 member if the member's age were sixty, or fifty percent of  
245 one-twelfth of the annual salary rate used in determining  
246 the member's contributions during the last school year for  
247 which the member received a year of creditable service  
248 immediately prior to the member's disability, whichever is  
249 greater, except that no such allowance shall exceed the  
250 retirement allowance to which the member would have been  
251 entitled upon retirement at age sixty if the member had  
252 continued to teach from the date of disability until age  
253 sixty at the same salary rate.

254 10. Notwithstanding any provisions of sections 169.010  
255 to 169.141 to the contrary, from October 13, 1961, the  
256 contribution rate pursuant to sections 169.010 to 169.141  
257 shall be multiplied by the factor of two-thirds for any  
258 member of the system for whom federal Old Age and Survivors  
259 Insurance tax is paid from state or local tax funds on  
260 account of the member's employment entitling the person to  
261 membership in the system. The monetary benefits for a  
262 member who elected not to exercise an option to pay into the  
263 system a retroactive contribution of four percent on that  
264 part of the member's annual salary rate which was in excess  
265 of four thousand eight hundred dollars but not in excess of  
266 eight thousand four hundred dollars for each year of  
267 employment in a position covered by this system between July  
268 1, 1957, and July 1, 1961, as provided in subsection 10 of  
269 this section as it appears in RSMo, 1969, shall be the sum  
270 of:

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

274 (2) For years of membership service after July 1,  
275 1946, in which the full contribution rate was paid, full  
276 benefits under the formula in effect at the time of the  
277 member's retirement;

278 (3) For years of membership service after July 1,  
279 1957, and prior to July 1, 1961, the benefits provided in  
280 this section as it appears in RSMo, 1959; except that if the  
281 member has at least thirty years of creditable service at  
282 retirement the member shall receive the benefit payable  
283 pursuant to that section as though the member's age were  
284 sixty-five at retirement;

285 (4) For years of membership service after July 1,  
286 1961, in which the two-thirds contribution rate was paid,  
287 two-thirds of the benefits under the formula in effect at  
288 the time of the member's retirement.

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

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

297 (2) For years of membership service after July 1,  
298 1946, in which the full contribution rate was paid, full  
299 benefits under the formula in effect at the time of the  
300 member's retirement;

301 (3) For years of membership service after July 1,  
302 1957, in which the two-thirds contribution rate was paid,

303 two-thirds of the benefits under the formula in effect at  
304 the time of the member's retirement.

305       12. Any retired member of the system who was retired  
306 prior to September 1, 1972, or beneficiary receiving  
307 payments under option 1 or option 2 of subsection 3 of this  
308 section, as such option existed prior to September 1, 1972,  
309 will be eligible to receive an increase in the retirement  
310 allowance of the member of two percent for each year, or  
311 major fraction of more than one-half of a year, which the  
312 retired member has been retired prior to July 1, 1975. This  
313 increased amount shall be payable commencing with January,  
314 1976, and shall thereafter be referred to as the member's  
315 retirement allowance. The increase provided for in this  
316 subsection shall not affect the retired member's eligibility  
317 for compensation provided for in section [169.580 or]  
318 169.585, nor shall the amount being paid pursuant to these  
319 sections be reduced because of any increases provided for in  
320 this section.

321       13. **(1)** If the board of trustees determines that the  
322 cost of living, as measured by generally accepted standards,  
323 increases two percent or more in the preceding fiscal year,  
324 the board shall increase the retirement allowances which the  
325 retired members or beneficiaries are receiving by two  
326 percent of the amount being received by the retired member  
327 or the beneficiary at the time the annual increase is  
328 granted by the board with the provision that the increases  
329 provided for in this subsection shall not become effective  
330 until the fourth January first following the member's  
331 retirement or January 1, 1977, whichever later occurs, or in  
332 the case of any member retiring on or after July 1, 2000,  
333 the increase provided for in this subsection shall not  
334 become effective until the third January first following the

335 member's retirement, or in the case of any member retiring  
336 on or after July 1, 2001, the increase provided for in this  
337 subsection shall not become effective until the second  
338 January first following the member's retirement. Commencing  
339 with January 1, 1992, if the board of trustees determines  
340 that the cost of living has increased five percent or more  
341 in the preceding fiscal year, the board shall increase the  
342 retirement allowances by five percent. The total of the  
343 increases granted to a retired member or the beneficiary  
344 after December 31, 1976, may not exceed eighty percent of  
345 the retirement allowance established at retirement or as  
346 previously adjusted by other subsections.

347       **(2) Notwithstanding any other provision of this**  
348 **chapter to the contrary, the limitation on the total of the**  
349 **increases granted to a retired member or beneficiary as**  
350 **provided by subdivision (1) of this subsection shall be**  
351 **subject to an annual increase approved by the board of**  
352 **trustees beginning on December 31, 2026, and on each**  
353 **December thirty-first thereafter, except that such annual**  
354 **increase shall not exceed two percent per year. Any**  
355 **increase to the limitation shall depend on the performance**  
356 **of the system's investments. If the system's investments**  
357 **earn two percent or greater returns in excess of the**  
358 **investment return rate adopted by the board of trustees in**  
359 **the immediately prior fiscal year, the percentage of the**  
360 **retirement allowance for the total of increases granted to a**  
361 **retired member or beneficiary shall be increased by two**  
362 **percent. The two percent increase shall be incorporated in**  
363 **the calculation applicable to the retirement allowances in**  
364 **the calendar year that immediately follows the fiscal year**  
365 **in which the system's investments met or exceeded by two**  
366 **percent the investment return rate. The total of the**

367 increases granted to a retired member or beneficiary shall  
368 not exceed eighty percent of the retirement allowance  
369 established at retirement or as previously adjusted by other  
370 sections. If a retired member or beneficiary has already  
371 reached the eighty percent cap under this subdivision, such  
372 retired member or beneficiary shall be granted a two percent  
373 cost of living adjustment for such year, but such increases  
374 shall not be cumulative. In a year that the system's  
375 investments fail to earn at least two percent returns in  
376 excess of the investment return rate adopted by the board of  
377 trustees in the immediately prior fiscal year, the retired  
378 member or beneficiary that has already reached the eighty  
379 percent cap under this subdivision shall not be granted a  
380 cost of living adjustment for that year. The percentage of  
381 the retirement allowance for the total of increases granted  
382 to a retired member or beneficiary shall not be decreased.  
383 Any reference to the limitation on the total of increases  
384 granted to a retired member or beneficiary in any other  
385 section of this chapter shall be construed to be the  
386 percentage of the retirement allowance in effect as  
387 increased pursuant to this subdivision unless such increase  
388 to the percentage of the retirement allowance is otherwise  
389 expressly excluded.

390 (3) If the cost of living increases less than five  
391 percent, the board of trustees may determine the percentage  
392 of increase to be made in retirement allowances, but at no  
393 time can the increase exceed five percent per year. If the  
394 cost of living decreases in a fiscal year, there will be no  
395 increase in allowances for retired members on the following  
396 January first.

397 14. The board of trustees may reduce the amounts which  
398 have been granted as increases to a member pursuant to

399 subsection 13 of this section if the cost of living, as  
400 determined by the board and as measured by generally  
401 accepted standards, is less than the cost of living was at  
402 the time of the first increase granted to the member; except  
403 that, the reductions shall not exceed the amount of  
404 increases which have been made to the member's allowance  
405 after December 31, 1976.

406 15. Any application for retirement shall include a  
407 sworn statement by the member certifying that the spouse of  
408 the member at the time the application was completed was  
409 aware of the application and the plan of retirement elected  
410 in the application.

411 16. Notwithstanding any other provision of law, any  
412 person retired prior to September 28, 1983, who is receiving  
413 a reduced retirement allowance under option 1 or option 2 of  
414 subsection 3 of this section, as such option existed prior  
415 to September 28, 1983, and whose beneficiary nominated to  
416 receive continued retirement allowance payments under the  
417 elected option dies or has died, shall upon application to  
418 the board of trustees have his or her retirement allowance  
419 increased to the amount he or she would have been receiving  
420 had the option not been elected, actuarially adjusted to  
421 recognize any excessive benefits which would have been paid  
422 to him or her up to the time of application.

423 17. Benefits paid pursuant to the provisions of the  
424 public school retirement system of Missouri shall not exceed  
425 the limitations of Section 415 of Title 26 of the United  
426 States Code except as provided pursuant to this subsection.  
427 Notwithstanding any other law to the contrary, the board of  
428 trustees may establish a benefit plan pursuant to Section  
429 415(m) of Title 26 of the United States Code. Such plan  
430 shall be created solely for the purpose described in Section

431 415(m) (3) (A) of Title 26 of the United States Code. The  
432 board of trustees may promulgate regulations necessary to  
433 implement the provisions of this subsection and to create  
434 and administer such benefit plan.

435 18. Notwithstanding any other provision of law to the  
436 contrary, any person retired before, on, or after May 26,  
437 1994, shall be made, constituted, appointed and employed by  
438 the board as a special consultant on the matters of  
439 education, retirement and aging, and upon request shall give  
440 written or oral opinions to the board in response to such  
441 requests. As compensation for such duties the person shall  
442 receive an amount based on the person's years of service so  
443 that the total amount received pursuant to sections 169.010  
444 to 169.141 shall be at least the minimum amounts specified  
445 in subdivisions (1) to (4) of this subsection. In  
446 determining the minimum amount to be received, the amounts  
447 in subdivisions (3) and (4) of this subsection shall be  
448 adjusted in accordance with the actuarial adjustment, if  
449 any, that was applied to the person's retirement allowance.  
450 In determining the minimum amount to be received, beginning  
451 September 1, 1996, the amounts in subdivisions (1) and (2)  
452 of this subsection shall be adjusted in accordance with the  
453 actuarial adjustment, if any, that was applied to the  
454 person's retirement allowance due to election of an optional  
455 form of retirement having a continued monthly payment after  
456 the person's death. Notwithstanding any other provision of  
457 law to the contrary, no person retired before, on, or after  
458 May 26, 1994, and no beneficiary of such a person, shall  
459 receive a retirement benefit pursuant to sections 169.010 to  
460 169.141 based on the person's years of service less than the  
461 following amounts:

462           (1) Thirty or more years of service, one thousand two  
463 hundred dollars;

464           (2) At least twenty-five years but less than thirty  
465 years, one thousand dollars;

466           (3) At least twenty years but less than twenty-five  
467 years, eight hundred dollars;

468           (4) At least fifteen years but less than twenty years,  
469 six hundred dollars.

470           19. Notwithstanding any other provisions of law to the  
471 contrary, any person retired prior to May 26, 1994, and any  
472 designated beneficiary of such a retired member who was  
473 deceased prior to July 1, 1999, shall be made, constituted,  
474 appointed and employed by the board as a special consultant  
475 on the matters of education, retirement or aging and upon  
476 request shall give written or oral opinions to the board in  
477 response to such requests. Beginning September 1, 1996, as  
478 compensation for such service, the member shall have added,  
479 pursuant to this subsection, to the member's monthly annuity  
480 as provided by this section a dollar amount equal to the  
481 lesser of sixty dollars or the product of two dollars  
482 multiplied by the member's number of years of creditable  
483 service. Beginning September 1, 1999, the designated  
484 beneficiary of the deceased member shall as compensation for  
485 such service have added, pursuant to this subsection, to the  
486 monthly annuity as provided by this section a dollar amount  
487 equal to the lesser of sixty dollars or the product of two  
488 dollars multiplied by the member's number of years of  
489 creditable service. The total compensation provided by this  
490 section including the compensation provided by this  
491 subsection shall be used in calculating any future cost-of-  
492 living adjustments provided by subsection 13 of this section.

493           20. Any member who has retired prior to July 1, 1998,  
494 and the designated beneficiary of a deceased retired member  
495 shall be made, constituted, appointed and employed by the  
496 board as a special consultant on the matters of education,  
497 retirement and aging, and upon request shall give written or  
498 oral opinions to the board in response to such requests. As  
499 compensation for such duties the person shall receive a  
500 payment equivalent to eight and seven-tenths percent of the  
501 previous month's benefit, which shall be added to the  
502 member's or beneficiary's monthly annuity and which shall  
503 not be subject to the provisions of subsections 13 and 14 of  
504 this section for the purposes of the limit on the total  
505 amount of increases which may be received.

506           21. Any member who has retired shall be made,  
507 constituted, appointed and employed by the board as a  
508 special consultant on the matters of education, retirement  
509 and aging, and upon request shall give written or oral  
510 opinions to the board in response to such request. As  
511 compensation for such duties, the beneficiary of the retired  
512 member, or, if there is no beneficiary, the surviving  
513 spouse, surviving children in equal shares, surviving  
514 parents in equal shares, or estate of the retired member, in  
515 that order of precedence, shall receive as a part of  
516 compensation for these duties a death benefit of five  
517 thousand dollars.

518           22. Any member who has retired prior to July 1, 1999,  
519 and the designated beneficiary of a retired member who was  
520 deceased prior to July 1, 1999, shall be made, constituted,  
521 appointed and employed by the board as a special consultant  
522 on the matters of education, retirement and aging, and upon  
523 request shall give written or oral opinions to the board in  
524 response to such requests. As compensation for such duties,

525 the person shall have added, pursuant to this subsection, to  
526 the monthly annuity as provided by this section a dollar  
527 amount equal to five dollars times the member's number of  
528 years of creditable service.

529         23. Any member who has retired prior to July 1, 2000,  
530 and the designated beneficiary of a deceased retired member  
531 shall be made, constituted, appointed and employed by the  
532 board as a special consultant on the matters of education,  
533 retirement and aging, and upon request shall give written or  
534 oral opinions to the board in response to such requests. As  
535 compensation for such duties, the person shall receive a  
536 payment equivalent to three and five-tenths percent of the  
537 previous month's benefit, which shall be added to the member  
538 or beneficiary's monthly annuity and which shall not be  
539 subject to the provisions of subsections 13 and 14 of this  
540 section for the purposes of the limit on the total amount of  
541 increases which may be received.

542         24. Any member who has retired prior to July 1, 2001,  
543 and the designated beneficiary of a deceased retired member  
544 shall be made, constituted, appointed and employed by the  
545 board as a special consultant on the matters of education,  
546 retirement and aging, and upon request shall give written or  
547 oral opinions to the board in response to such requests. As  
548 compensation for such duties, the person shall receive a  
549 dollar amount equal to three dollars times the member's  
550 number of years of creditable service, which shall be added  
551 to the member's or beneficiary's monthly annuity and which  
552 shall not be subject to the provisions of subsections 13 and  
553 14 of this section for the purposes of the limit on the  
554 total amount of increases which may be received.

169.670. 1. The retirement allowance of a member  
2 whose age at retirement is sixty years or more and whose

3 creditable service is five years or more, or whose sum of  
4 age and creditable service equals eighty years or more, or  
5 whose creditable service is thirty years or more regardless  
6 of age, shall be the sum of the following items:

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

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

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

20 (4) In lieu of the retirement allowance otherwise  
21 provided by subdivisions (1) to (3) of this subsection, a  
22 member may elect to receive a retirement allowance of:

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

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

33 (c) One and fifty-five hundredths percent of the  
34 member's final average salary for each year of membership

35 service, if the member's creditable service is twenty-seven  
36 years or more but less than twenty-eight years and the  
37 member has not attained the age of fifty-five;

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

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

48 (5) In addition to the retirement allowance provided  
49 in subdivisions (1) to (3) of this subsection, a member  
50 retiring on or after July 1, 2001, whose creditable service  
51 is thirty years or more or whose sum of age and creditable  
52 service is eighty years or more, shall receive a temporary  
53 retirement allowance equivalent to eight-tenths of one  
54 percent of the member's final average salary multiplied by  
55 the member's years of service until such time as the member  
56 reaches the minimum age for Social Security retirement  
57 benefits.

58 2. **(1)** If the board of trustees determines that the  
59 cost of living, as measured by generally accepted standards,  
60 increases five percent or more in the preceding fiscal year,  
61 the board shall increase the retirement allowances which the  
62 retired members or beneficiaries are receiving by five  
63 percent of the amount being received by the retired member  
64 or the beneficiary at the time the annual increase is  
65 granted by the board; provided that, the increase provided  
66 in this subsection shall not become effective until the

67 fourth January first following a member's retirement or  
68 January 1, 1982, whichever occurs later, and the total of  
69 the increases granted to a retired member or the beneficiary  
70 after December 31, 1981, may not exceed eighty percent of  
71 the retirement allowance established at retirement or as  
72 previously adjusted by other provisions of law.

73 (2) Notwithstanding any other provision of this  
74 chapter to the contrary, the limitation on the total of the  
75 increases granted to a retired member or beneficiary as  
76 provided by subdivision (1) of this subsection shall be  
77 subject to an annual increase approved by the board of  
78 trustees beginning on December 31, 2026, and on each  
79 December thirty-first thereafter, except that such annual  
80 increase shall not exceed two percent per year. Any  
81 increase to the limitation shall depend on the performance  
82 of the system's investments. If the system's investments  
83 earn two percent or greater returns in excess of the  
84 investment return rate adopted by the board of trustees in  
85 the immediately prior fiscal year, the percentage of the  
86 retirement allowance for the total of increases granted to a  
87 retired member or beneficiary shall be increased by two  
88 percent. The two percent increase shall be incorporated in  
89 the calculation applicable to the retirement allowances in  
90 the calendar year that immediately follows the fiscal year  
91 in which the system's investments met or exceeded by two  
92 percent the investment return rate. The total of the  
93 increases granted to a retired member or beneficiary shall  
94 not exceed eighty percent of the retirement allowance  
95 established at retirement or as previously adjusted by other  
96 sections. If a retired member or beneficiary has already  
97 reached the eighty percent cap under this subdivision, such  
98 retired member or beneficiary shall be granted a two percent

99 cost of living adjustment for such year, but such increases  
100 shall not be cumulative. In a year that the system's  
101 investments fail to earn at least two percent returns in  
102 excess of the investment return rate adopted by the board of  
103 trustees in the immediately prior fiscal year, the retired  
104 member or beneficiary that has already reached the eighty  
105 percent cap under this subdivision shall not be granted a  
106 cost of living adjustment for that year. The percentage of  
107 the retirement allowance for the total of increases granted  
108 to a retired member or beneficiary shall not be decreased.  
109 Any reference to the limitation on the total of increases  
110 granted to a retired member or beneficiary in any other  
111 section of this chapter shall be construed to be the  
112 percentage of the retirement allowance in effect as  
113 increased pursuant to this subdivision unless such increase  
114 to the percentage of the retirement allowance is otherwise  
115 expressly excluded.

116 (3) If the cost of living increases less than five  
117 percent, the board of trustees may determine the percentage  
118 of increase to be made in retirement allowances, but at no  
119 time can the increase exceed five percent per year. If the  
120 cost of living decreases in a fiscal year, there will be no  
121 increase in allowances for retired members on the following  
122 January first.

123 3. The board of trustees may reduce the amounts which  
124 have been granted as increases to a member pursuant to  
125 subsection 2 of this section if the cost of living, as  
126 determined by the board and as measured by generally  
127 accepted standards, is less than the cost of living was at  
128 the time of the first increase granted to the member;  
129 provided that, the reductions shall not exceed the amount of

130 increases which have been made to the member's allowance  
131 after December 31, 1981.

132 4. (1) In lieu of the retirement allowance provided  
133 in subsection 1 of this section, called option 1, a member  
134 whose creditable service is twenty-five years or more or who  
135 has attained age fifty-five with five or more years of  
136 creditable service may elect, in the application for  
137 retirement, to receive the actuarial equivalent of the  
138 member's retirement allowance in reduced monthly payments  
139 for life during retirement with the provision that:

140 Option 2.

141 Upon the member's death, the reduced retirement  
142 allowance shall be continued throughout the life of and paid  
143 to such person as has an insurable interest in the life of  
144 the member as the member shall have nominated in the  
145 member's election of the option, and provided further that  
146 if the person so nominated dies before the retired member,  
147 the retirement allowance will be increased to the amount the  
148 retired member would be receiving had the member elected  
149 option 1; or

150 Option 3.

151 Upon the death of the member three-fourths of the  
152 reduced retirement allowance shall be continued throughout  
153 the life of and paid to such person as has an insurable  
154 interest in the life of the member and as the member shall  
155 have nominated in an election of the option, and provided  
156 further that if the person so nominated dies before the  
157 retired member, the retirement allowance will be increased  
158 to the amount the retired member would be receiving had the  
159 member elected option 1; or

160 Option 4.



193 the reduced allowance shall be paid to such beneficiary as  
194 the member shall have nominated in the member's election of  
195 the option or in a subsequent nomination. If there is no  
196 beneficiary so nominated who survives the member for the  
197 remainder of the sixty monthly payments, the reserve for the  
198 remainder of such sixty monthly payments shall be paid to  
199 the surviving spouse, surviving children in equal shares,  
200 surviving parents in equal shares, or estate of the last  
201 person, in that order of precedence, to receive a monthly  
202 allowance in a lump sum payment. If the total of the sixty  
203 payments paid to the retired individual and the beneficiary  
204 of the retired individual is less than the total of the  
205 member's accumulated contributions, the difference shall be  
206 paid to the beneficiary in a lump sum; or

207 Option 7.

208 A plan of variable monthly benefit payments which  
209 provides, in conjunction with the member's retirement  
210 benefits under the federal Social Security laws, level or  
211 near-level retirement benefit payments to the member for  
212 life during retirement, and if authorized, to an appropriate  
213 beneficiary designated by the member. Such a plan shall be  
214 actuarially equivalent to the retirement allowance under  
215 option 1 and shall be available for election only if  
216 established by the board of trustees under duly adopted  
217 rules.

218 (2) The election of an option may be made only in the  
219 application for retirement and such application must be  
220 filed prior to the date on which the retirement of the  
221 member is to be effective. If either the member or the  
222 person nominated dies before the effective date of  
223 retirement, the option shall not be effective, provided that:

224           (a) If the member or a person retired on disability  
225 retirement dies after attaining age fifty-five and acquiring  
226 five or more years of creditable service or after acquiring  
227 twenty-five or more years of creditable service and before  
228 retirement, except retirement with disability benefits, and  
229 the person named by the member as the member's beneficiary  
230 has an insurable interest in the life of the deceased  
231 member, the designated beneficiary may elect to receive  
232 either survivorship payments under option 2 or a payment of  
233 the member's accumulated contributions. If survivorship  
234 benefits under option 2 are elected and the member at the  
235 time of death would have been eligible to receive an  
236 actuarial equivalent of the member's retirement allowance,  
237 the designated beneficiary may further elect to defer the  
238 option 2 payments until the date the member would have been  
239 eligible to receive the retirement allowance provided in  
240 subsection 1 of this section.

241           (b) If the member or a person retired on disability  
242 retirement dies before attaining age fifty-five but after  
243 acquiring five but fewer than twenty-five years of  
244 creditable service, and the person named as the beneficiary  
245 has an insurable interest in the life of the deceased member  
246 or disability retiree, the designated beneficiary may elect  
247 to receive either a payment of the person's accumulated  
248 contributions or survivorship benefits under option 2 to  
249 begin on the date the member would first have been eligible  
250 to receive an actuarial equivalent of the person's  
251 retirement allowance, or to begin on the date the member  
252 would first have been eligible to receive the retirement  
253 allowance provided in subsection 1 of this section.

254           5. If the total of the retirement or disability  
255 allowances paid to an individual before the person's death

256 is less than the person's accumulated contributions at the  
257 time of the person's retirement, the difference shall be  
258 paid to the person's beneficiary or, if there is no  
259 beneficiary, to the surviving spouse, surviving children in  
260 equal shares, surviving parents in equal shares, or person's  
261 estate, in that order of precedence; provided, however, that  
262 if an optional benefit, as provided in option 2, 3 or 4 in  
263 subsection 4 of this section, had been elected and the  
264 beneficiary dies after receiving the optional benefit, then,  
265 if the total retirement allowances paid to the retired  
266 individual and the individual's beneficiary are less than  
267 the total of the contributions, the difference shall be paid  
268 to the surviving spouse, surviving children in equal shares,  
269 surviving parents in equal shares, or estate of the  
270 beneficiary, in that order of precedence, unless the retired  
271 individual designates a different recipient with the board  
272 at or after retirement.

273         6. If a member dies and his or her financial  
274 institution is unable to accept the final payment or  
275 payments due to the member, the final payment or payments  
276 shall be paid to the beneficiary of the member or, if there  
277 is no beneficiary, to the surviving spouse, surviving  
278 children in equal shares, surviving parents in equal shares,  
279 or estate of the member, in that order of precedence, unless  
280 otherwise stated. If the beneficiary of a deceased member  
281 dies and his or her financial institution is unable to  
282 accept the final payment or payments, the final payment or  
283 payments shall be paid to the surviving spouse, surviving  
284 children in equal shares, surviving parents in equal shares,  
285 or estate of the member, in that order of precedence, unless  
286 otherwise stated.

287           7. If a member dies before receiving a retirement  
288 allowance, the member's accumulated contributions at the  
289 time of the member's death shall be paid to the member's  
290 beneficiary or, if there is no beneficiary, to the surviving  
291 spouse, surviving children in equal shares, surviving  
292 parents in equal shares, or to the member's estate;  
293 provided, however, that no such payment shall be made if the  
294 beneficiary elects option 2 in subsection 4 of this section,  
295 unless the beneficiary dies before having received benefits  
296 pursuant to that subsection equal to the accumulated  
297 contributions of the member, in which case the amount of  
298 accumulated contributions in excess of the total benefits  
299 paid pursuant to that subsection shall be paid to the  
300 surviving spouse, surviving children in equal shares,  
301 surviving parents in equal shares, or estate of the  
302 beneficiary, in that order of precedence.

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

308           9. Notwithstanding any provisions of sections 169.600  
309 to 169.715 to the contrary, if a member ceases to be an  
310 employee as defined in section 169.600 after acquiring five  
311 or more years of creditable service, the member may, at the  
312 option of the member, leave the member's contributions with  
313 the retirement system and claim a retirement allowance any  
314 time after the member reaches the minimum age for voluntary  
315 retirement. When the member's claim is presented to the  
316 board, the member shall be granted an allowance as provided  
317 in sections 169.600 to 169.715 on the basis of the member's  
318 age and years of service.

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

323           11. Notwithstanding any provisions of sections 169.600  
324 to 169.715 to the contrary, any member who is a member prior  
325 to October 13, 1969, may elect to have the member's  
326 retirement allowance computed in accordance with sections  
327 169.600 to 169.715 as they existed prior to October 13, 1969.

328           12. Any application for retirement shall include a  
329 sworn statement by the member certifying that the spouse of  
330 the member at the time the application was completed was  
331 aware of the application and the plan of retirement elected  
332 in the application.

333           13. Notwithstanding any other provision of law, any  
334 person retired prior to August 14, 1984, who is receiving a  
335 reduced retirement allowance under option 1 or 2 of  
336 subsection 4 of this section, as the option existed prior to  
337 August 14, 1984, and whose beneficiary nominated to receive  
338 continued retirement allowance payments under the elected  
339 option dies or has died, shall upon application to the board  
340 of trustees have the person's retirement allowance increased  
341 to the amount the person would have been receiving had the  
342 person not elected the option actuarially adjusted to  
343 recognize any excessive benefits which would have been paid  
344 to the person up to the time of the application.

345           14. Benefits paid pursuant to the provisions of the  
346 public education employee retirement system of Missouri  
347 shall not exceed the limitations of Section 415 of Title 26  
348 of the United States Code, except as provided under this  
349 subsection. Notwithstanding any other law, the board of  
350 trustees may establish a benefit plan under Section 415(m)

351 of Title 26 of the United States Code. Such plan shall be  
352 credited solely for the purpose described in Section  
353 415(m) (3) (A) of Title 26 of the United States Code. The  
354 board of trustees may promulgate regulations necessary to  
355 implement the provisions of this subsection and to create  
356 and administer such benefit plan.

357 15. Any member who has retired prior to July 1, 1999,  
358 and the designated beneficiary of a deceased retired member  
359 upon request shall be made, constituted, appointed and  
360 employed by the board as a special consultant on the matters  
361 of education, retirement and aging. As compensation for  
362 such duties the person shall receive a payment equivalent to  
363 seven and four-tenths percent of the previous month's  
364 benefit, which shall be added to the member's or  
365 beneficiary's monthly annuity and which shall not be subject  
366 to the provisions of subsections 2 and 3 of this section for  
367 the purposes of the limit on the total amount of increases  
368 which may be received.

369 16. Any member who has retired prior to July 1, 2000,  
370 and the designated beneficiary of a deceased retired member  
371 upon request shall be made, constituted, appointed and  
372 employed by the board as a special consultant on the matters  
373 of education, retirement and aging. As compensation for  
374 such duties the person shall receive a payment equivalent to  
375 three and four-tenths percent of the previous month's  
376 benefit, which shall be added to the member's or  
377 beneficiary's monthly annuity and which shall not be subject  
378 to the provisions of subsections 2 and 3 of this section for  
379 the purposes of the limit on the total amount of increases  
380 which may be received.

381 17. Any member who has retired prior to July 1, 2001,  
382 and the designated beneficiary of a deceased retired member

383 upon request shall be made, constituted, appointed and  
384 employed by the board as a special consultant on the matters  
385 of education, retirement and aging. As compensation for  
386 such duties the person shall receive a payment equivalent to  
387 seven and one-tenth percent of the previous month's benefit,  
388 which shall be added to the member's or beneficiary's  
389 monthly annuity and which shall not be subject to the  
390 provisions of subsections 2 and 3 of this section for the  
391 purposes of the limit on the total amount of increases which  
392 may be received.

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