

SECOND REGULAR SESSION

# HOUSE BILL NO. 1298

## 100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE DINKINS.

3402H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 169.070, RSMo, and to enact in lieu thereof one new section relating to school employee retirement, with an emergency clause.

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

Section A. Section 169.070, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 169.070, to read as follows:

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

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

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

29 (8) ~~[Between July 1, 2001, and July 1, 2014,]~~ Two and fifty-five hundredths percent of  
30 the member's final average salary for each year of membership service, if the member's creditable  
31 service is thirty-one years or more regardless of age.

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

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

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

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

41 3. (1) In lieu of the retirement allowance provided either in subsection 1 or 2 of this  
42 section, collectively called "option 1", a member whose creditable service is twenty-five years  
43 or more or who has attained the age of fifty-five with five or more years of creditable service may  
44 elect in the member's application for retirement to receive the actuarial equivalent of the  
45 member's retirement allowance in reduced monthly payments for life during retirement with the  
46 provision that:

47 Option 2. Upon the member's death the reduced retirement allowance shall be continued  
48 throughout the life of and paid to such person as has an insurable interest in the life of the  
49 member as the member shall have nominated in the member's election of the option, and  
50 provided further that if the person so nominated dies before the retired member, the retirement  
51 allowance will be increased to the amount the retired member would be receiving had the retired  
52 member elected option 1;

53 OR

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

60 OR

61 Option 4. Upon the death of the member one-half of the reduced retirement allowance  
62 shall be continued throughout the life of, and paid to, such person as has an insurable interest in  
63 the life of the member and as the member shall have nominated in an election of the option, and  
64 provided further that if the person so nominated dies before the retired member, the retirement  
65 allowance shall be increased to the amount the retired member would be receiving had the  
66 member elected option 1;

67 OR

68 Option 5. Upon the death of the member prior to the member having received one  
69 hundred twenty monthly payments of the member's reduced allowance, the remainder of the one  
70 hundred twenty monthly payments of the reduced allowance shall be paid to such beneficiary as  
71 the member shall have nominated in the member's election of the option or in a subsequent  
72 nomination. If there is no beneficiary so nominated who survives the member for the remainder  
73 of the one hundred twenty monthly payments, the total of the remainder of such one hundred  
74 twenty monthly payments shall be paid to the surviving spouse, surviving children in equal  
75 shares, surviving parents in equal shares, or estate of the last person, in that order of precedence,  
76 to receive a monthly allowance in a lump sum payment. If the total of the one hundred twenty  
77 payments paid to the retired individual and the beneficiary of the retired individual is less than  
78 the total of the member's accumulated contributions, the difference shall be paid to the  
79 beneficiary in a lump sum;

80 OR

81 Option 6. Upon the death of the member prior to the member having received sixty  
82 monthly payments of the member's reduced allowance, the remainder of the sixty monthly  
83 payments of the reduced allowance shall be paid to such beneficiary as the member shall have  
84 nominated in the member's election of the option or in a subsequent nomination. If there is no  
85 beneficiary so nominated who survives the member for the remainder of the sixty monthly  
86 payments, the total of the remainder of such sixty monthly payments shall be paid to the  
87 surviving spouse, surviving children in equal shares, surviving parents in equal shares, or estate  
88 of the last person, in that order of precedence, to receive a monthly allowance in a lump sum

89 payment. If the total of the sixty payments paid to the retired individual and the beneficiary of  
90 the retired individual is less than the total of the member's accumulated contributions, the  
91 difference shall be paid to the beneficiary in a lump sum.

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

96 (a) If the member or a person retired on disability retirement dies after acquiring  
97 twenty-five or more years of creditable service or after attaining the age of fifty-five years and  
98 acquiring five or more years of creditable service and before retirement, except retirement with  
99 disability benefits, and the person named by the member as the member's beneficiary has an  
100 insurable interest in the life of the deceased member, the designated beneficiary may elect to  
101 receive either survivorship benefits under option 2 or a payment of the accumulated contributions  
102 of the member. If survivorship benefits under option 2 are elected and the member at the time  
103 of death would have been eligible to receive an actuarial equivalent of the member's retirement  
104 allowance, the designated beneficiary may further elect to defer the option 2 payments until the  
105 date the member would have been eligible to receive the retirement allowance provided in  
106 subsection 1 or 2 of this section;

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

115 4. If the total of the retirement or disability allowance paid to an individual before the  
116 death of the individual is less than the accumulated contributions at the time of retirement, the  
117 difference shall be paid to the beneficiary of the individual, or to the surviving spouse, surviving  
118 children in equal shares, surviving parents in equal shares, or estate of the individual in that order  
119 of precedence. If an optional benefit as provided in option 2, 3 or 4 in subsection 3 of this  
120 section had been elected, and the beneficiary dies after receiving the optional benefit, and if the  
121 total retirement allowance paid to the retired individual and the beneficiary of the retired  
122 individual is less than the total of the contributions, the difference shall be paid to the surviving  
123 spouse, surviving children in equal shares, surviving parents in equal shares, or estate of the

124 beneficiary, in that order of precedence, unless the retired individual designates a different  
125 recipient with the board at or after retirement.

126         5. If a member dies and his or her financial institution is unable to accept the final  
127 payment or payments due to the member, the final payment or payments shall be paid to the  
128 beneficiary of the member or, if there is no beneficiary, to the surviving spouse, surviving  
129 children in equal shares, surviving parents in equal shares, or estate of the member, in that order  
130 of precedence, unless otherwise stated. If the beneficiary of a deceased member dies and his or  
131 her financial institution is unable to accept the final payment or payments, the final payment or  
132 payments shall be paid to the surviving spouse, surviving children in equal shares, surviving  
133 parents in equal shares, or estate of the member, in that order of precedence, unless otherwise  
134 stated.

135         6. If a member dies before receiving a retirement allowance, the member's accumulated  
136 contributions at the time of the death of the member shall be paid to the beneficiary of the  
137 member or, if there is no beneficiary, to the surviving spouse, surviving children in equal shares,  
138 surviving parents in equal shares, or to the estate of the member, in that order of precedence;  
139 except that, no such payment shall be made if the beneficiary elects option 2 in subsection 3 of  
140 this section, unless the beneficiary dies before having received benefits pursuant to that  
141 subsection equal to the accumulated contributions of the member, in which case the amount of  
142 accumulated contributions in excess of the total benefits paid pursuant to that subsection shall  
143 be paid to the surviving spouse, surviving children in equal shares, surviving parents in equal  
144 shares, or estate of the beneficiary, in that order of precedence.

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

149         8. Notwithstanding any provisions of sections 169.010 to 169.141 to the contrary, if a  
150 member ceases to be a public school employee after acquiring five or more years of membership  
151 service in Missouri, the member may at the option of the member leave the member's  
152 contributions with the retirement system and claim a retirement allowance any time after  
153 reaching the minimum age for voluntary retirement. When the member's claim is presented to  
154 the board, the member shall be granted an allowance as provided in sections 169.010 to 169.141  
155 on the basis of the member's age, years of service, and the provisions of the law in effect at the  
156 time the member requests the member's retirement to become effective.

157         9. The retirement allowance of a member retired because of disability shall be  
158 nine-tenths of the allowance to which the member's creditable service would entitle the member  
159 if the member's age were sixty, or fifty percent of one-twelfth of the annual salary rate used in

determining the member's contributions during the last school year for which the member received a year of creditable service immediately prior to the member's disability, whichever is greater, except that no such allowance shall exceed the retirement allowance to which the member would have been entitled upon retirement at age sixty if the member had continued to teach from the date of disability until age sixty at the same salary rate.

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

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

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

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

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

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

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

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

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

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

13. If the board of trustees determines that the cost of living, as measured by generally accepted standards, increases two percent or more in the preceding fiscal year, the board shall increase the retirement allowances which the retired members or beneficiaries are receiving by two percent of the amount being received by the retired member or the beneficiary at the time the annual increase is granted by the board with the provision that the increases provided for in this subsection shall not become effective until the fourth January first following the member's retirement or January 1, 1977, whichever later occurs, or in the case of any member retiring on or after July 1, 2000, the increase provided for in this subsection shall not become effective until the third January first following the member's retirement, or in the case of any member retiring on or after July 1, 2001, the increase provided for in this subsection shall not become effective until the second January first following the member's retirement. Commencing with January 1, 1992, if the board of trustees determines that the cost of living has increased five percent or more in the preceding fiscal year, the board shall increase the retirement allowances by five percent. The total of the increases granted to a retired member or the beneficiary after December 31, 1976, may not exceed eighty percent of the retirement allowance established at retirement or as previously adjusted by other subsections. If the cost of living increases less than five percent, the board of trustees may determine the percentage of increase to be made in retirement allowances, but at no time can the increase exceed five percent per year. If the cost of living decreases in a fiscal year, there will be no increase in allowances for retired members on the following January first.

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

231           15. Any application for retirement shall include a sworn statement by the member  
232 certifying that the spouse of the member at the time the application was completed was aware  
233 of the application and the plan of retirement elected in the application.

234           16. Notwithstanding any other provision of law, any person retired prior to September  
235 28, 1983, who is receiving a reduced retirement allowance under option 1 or option 2 of  
236 subsection 3 of this section, as such option existed prior to September 28, 1983, and whose  
237 beneficiary nominated to receive continued retirement allowance payments under the elected  
238 option dies or has died, shall upon application to the board of trustees have his or her retirement  
239 allowance increased to the amount he or she would have been receiving had the option not been  
240 elected, actuarially adjusted to recognize any excessive benefits which would have been paid to  
241 him or her up to the time of application.

242           17. Benefits paid pursuant to the provisions of the public school retirement system of  
243 Missouri shall not exceed the limitations of Section 415 of Title 26 of the United States Code  
244 except as provided pursuant to this subsection. Notwithstanding any other law to the contrary,  
245 the board of trustees may establish a benefit plan pursuant to Section 415(m) of Title 26 of the  
246 United States Code. Such plan shall be created solely for the purpose described in Section  
247 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees may promulgate  
248 regulations necessary to implement the provisions of this subsection and to create and administer  
249 such benefit plan.

250           18. Notwithstanding any other provision of law to the contrary, any person retired before,  
251 on, or after May 26, 1994, shall be made, constituted, appointed and employed by the board as  
252 a special consultant on the matters of education, retirement and aging, and upon request shall  
253 give written or oral opinions to the board in response to such requests. As compensation for such  
254 duties the person shall receive an amount based on the person's years of service so that the total  
255 amount received pursuant to sections 169.010 to 169.141 shall be at least the minimum amounts  
256 specified in subdivisions (1) to (4) of this subsection. In determining the minimum amount to  
257 be received, the amounts in subdivisions (3) and (4) of this subsection shall be adjusted in  
258 accordance with the actuarial adjustment, if any, that was applied to the person's retirement  
259 allowance. In determining the minimum amount to be received, beginning September 1, 1996,  
260 the amounts in subdivisions (1) and (2) of this subsection shall be adjusted in accordance with  
261 the actuarial adjustment, if any, that was applied to the person's retirement allowance due to  
262 election of an optional form of retirement having a continued monthly payment after the person's  
263 death. Notwithstanding any other provision of law to the contrary, no person retired before, on,  
264 or after May 26, 1994, and no beneficiary of such a person, shall receive a retirement benefit  
265 pursuant to sections 169.010 to 169.141 based on the person's years of service less than the  
266 following amounts:



- 267 (1) Thirty or more years of service, one thousand two hundred dollars;  
268 (2) At least twenty-five years but less than thirty years, one thousand dollars;  
269 (3) At least twenty years but less than twenty-five years, eight hundred dollars;  
270 (4) At least fifteen years but less than twenty years, six hundred dollars.

271 19. Notwithstanding any other provisions of law to the contrary, any person retired prior  
272 to May 26, 1994, and any designated beneficiary of such a retired member who was deceased  
273 prior to July 1, 1999, shall be made, constituted, appointed and employed by the board as a  
274 special consultant on the matters of education, retirement or aging and upon request shall give  
275 written or oral opinions to the board in response to such requests. Beginning September 1, 1996,  
276 as compensation for such service, the member shall have added, pursuant to this subsection, to  
277 the member's monthly annuity as provided by this section a dollar amount equal to the lesser of  
278 sixty dollars or the product of two dollars multiplied by the member's number of years of  
279 creditable service. Beginning September 1, 1999, the designated beneficiary of the deceased  
280 member shall as compensation for such service have added, pursuant to this subsection, to the  
281 monthly annuity as provided by this section a dollar amount equal to the lesser of sixty dollars  
282 or the product of two dollars multiplied by the member's number of years of creditable service.  
283 The total compensation provided by this section including the compensation provided by this  
284 subsection shall be used in calculating any future cost-of-living adjustments provided by  
285 subsection 13 of this section.

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

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

301 22. Any member who has retired prior to July 1, 1999, and the designated beneficiary  
302 of a retired member who was deceased prior to July 1, 1999, shall be made, constituted,

303 appointed and employed by the board as a special consultant on the matters of education,  
304 retirement and aging, and upon request shall give written or oral opinions to the board in  
305 response to such requests. As compensation for such duties, the person shall have added,  
306 pursuant to this subsection, to the monthly annuity as provided by this section a dollar amount  
307 equal to five dollars times the member's number of years of creditable service.

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

316       24. Any member who has retired prior to July 1, 2001, and the designated beneficiary  
317 of a deceased retired member shall be made, constituted, appointed and employed by the board  
318 as a special consultant on the matters of education, retirement and aging, and upon request shall  
319 give written or oral opinions to the board in response to such requests. As compensation for such  
320 duties, the person shall receive a dollar amount equal to three dollars times the member's number  
321 of years of creditable service, which shall be added to the member's or beneficiary's monthly  
322 annuity and which shall not be subject to the provisions of subsections 13 and 14 of this section  
323 for the purposes of the limit on the total amount of increases which may be received.

Section B. Because of the importance of providing an additional retirement allowance  
2 option to Missouri teachers, the repeal and reenactment of section 169.070 of this act is deemed  
3 necessary for the immediate preservation of the public health, welfare, peace, and safety, and is  
4 hereby declared to be an emergency act within the meaning of the constitution, and the repeal  
5 and reenactment of section 169.070 of this act shall be in full force and effect upon its passage  
6 and approval.

✓