

1 House BILL NO. 215  
 2 INTRODUCED BY Baudouin Gule Mark  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A RETIREMENT  
 5 SYSTEM FOR PUBLIC EMPLOYEES IN THE HAZARDOUS OCCUPATIONS OF  
 6 FIRE PROTECTION AND LAW ENFORCEMENT; AND REPEALING SECTIONS  
 7 11-1821, 11-1823 THROUGH 11-1830, 11-1838 THROUGH 11-1850,  
 8 31-201, 31-204 THROUGH 31-211, 31-213 THROUGH 31-230,  
 9 68-1401, 68-1402, 68-1405 THROUGH 68-1429, 68-2601 THROUGH  
 10 68-2629, AND 82A-210.1, R.C.M. 1947."  
 11

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

13 Section 1. Short Title. This act may be cited as  
 14 the "Retirement System for Public Employees in the  
 15 Hazardous Occupations of Fire Protection and Law  
 16 Enforcement Act".

17 Section 2. Definitions. As used in this act, unless  
 18 the context clearly requires otherwise: (1) "Plan" means  
 19 the retirement system for public employees in the hazardous  
 20 occupations of fire protection and law enforcement, as set  
 21 forth herein.

22 (2) "Prior plan" means, as to a member, either the  
 23 firemen's relief association disability and pension system,  
 24 the municipal police officers' retirement system, the  
 highway patrolmen's retirement system, the sheriffs'

1 retirement system, or the game wardens' retirement system.

2 (3) "Employer" means, as applicable, (a), (b), (c), or  
 3 (d) below:

4 (a) the Montana department of justice, highway patrol  
 5 bureau, as to a highway patrolman;

6 (b) the Montana department of fish and game, as to a  
 7 game warden;

8 (c) the various counties of the state of Montana, as  
 9 to a sheriff, under-sheriff, or deputy sheriff;

10 (d) the various cities within the state of Montana  
 11 which have provided for police and/or fire protection, as to  
 12 a police officer or fireman.

13 (4) "City" means an incorporated municipality of the  
 14 first or second class and includes an incorporated or  
 15 unincorporated municipality, other than a city of the first  
 16 or second class, to which the provisions of this act are, or  
 17 upon its election may become, applicable.

18 (5) "Administrator" means the public employees'  
 19 retirement division of the department of administration.

20 (6) "Board" means the administrative retirement board  
 21 established by this act.

22 (7) "Member" means, as to a person whose employment  
 23 commences on or after the effective date of this act, (a),  
 24 (b), (c), (d), or (e) below, as applicable:

25 (a) a highway patrolman, including the supervisor and

1 assistant supervisors;

2 (b) a game warden, including all warden supervisory  
3 personnel whose salary or compensation are paid out of the  
4 Montana fish and game moneys in the earmarked revenue fund;

5 (c) an elected or appointed county sheriff,  
6 undersheriff, or regularly appointed and acting deputy  
7 sheriff;

8 (d) a member of an organized fire department, whether  
9 paid or voluntary, and confirmed as such by the city or town  
10 council or commission;

11 (e) a duly appointed and approved police officer of a  
12 city.

13 However, a person who is a member of a prior plan on the day  
14 preceding the effective date of this act is a member  
15 hereunder.

16 (8) "Employer contributions" means the contributions  
17 of an employer and/or the state of Montana in support of the  
18 plan.

19 (9) "Member contributions" means the aggregate of the  
20 deductions from the compensation of a member, either during  
21 a period of active membership hereunder or as transferred  
22 from a prior plan, and standing to his credit, together with  
23 the interest thereon.

24 (10) "Monthly compensation" means, as to a member as of  
25 any specified date, the amount of his fixed monthly

1 remuneration from his employer, exclusive of overtime, sick  
2 pay, expense reimbursements, travel and maintenance  
3 allowances and other forms of indirect or irregular pay.

4 (11) "Final average compensation" means, as to a member  
5 as of any specified date, the monthly average of his total  
6 monthly compensations received for the three (3) consecutive  
7 years of his employment (or a shorter period of his  
8 employment, if less than three (3) years) which yields the  
9 highest average.

10 (12) "Prior service" means, as to a member, a period of  
11 employment for an employer for which credit was granted to  
12 or on behalf of such member under a prior plan and which  
13 credit has been transferred to this plan on or after the  
14 effective date of this act.

15 (13) "Membership service" means, as to a member, a  
16 period of employment for an employer commencing on or  
17 subsequent to the effective date of this act during which  
18 the required withholdings have been made from his monthly  
19 compensation and credited to his member contributions  
20 account. Pro rata credit shall be granted for employment on  
21 a part-time basis or for less than a complete fiscal year.

22 (14) "Credited service" means, as to a member on any  
23 specified date, the aggregate of his prior service, if any,  
24 and his membership service.

25 (15) "Retirement allowance" means, as to a member as of

1 any specified date, a monthly benefit, comprised of an  
2 employer annuity and a member annuity equal to the sum of  
3 (i) and (ii) below, as applicable:

4 (a) as to a police officer or fireman:

5 (i) two and one-half percent (2 1/2%) of his final  
6 average compensation, multiplied by the number of his years  
7 of credited service not in excess of twenty (20) years, plus

8 (ii) one percent (1%) of his final average  
9 compensation, multiplied by the number of his years of  
10 credited service in excess of twenty (20) years, not to  
11 exceed ten percent (10%);

12 (b) as to a highway patrolman, game warden, or  
13 sheriff:

14 (i) two percent (2%) of his final average  
15 compensation, multiplied by the number of his years of  
16 credited service not in excess of twenty-five (25) years,  
17 plus

18 (ii) one percent (1%) of his final average  
19 compensation, multiplied by the number of his years of  
20 credited service in excess of twenty-five (25) years, not to  
21 exceed ten percent (10%).

22 (c) However, the retirement allowance, as to a member  
23 or his survivors eligible to receive social security  
24 payments in connection with his employment for an employer,  
shall be reduced by fifty percent (50%) of the amount of

1 such social security payment.

2 (d) In no event may a member's retirement allowance  
3 exceed sixty percent (60%) of his final average  
4 compensation, nor may his service retirement allowance be  
5 less than three hundred dollars (\$300) per month. As to a  
6 volunteer fireman there shall be no minimum retirement  
7 allowance and the maximum retirement allowance as to him may  
8 not exceed seventy-five dollars (\$75) per month.

9 (16) "Employer annuity" means that portion of a  
10 member's retirement allowance which, together with his  
11 member annuity, comprises his retirement allowance.

12 (17) "Member annuity" means that portion of a member's  
13 retirement allowance which is the actuarial equivalent of  
14 his member contributions.

15 (18) "Minimum retirement date" means, as to a member,  
16 the first day of the month coinciding with (or immediately  
17 following, if none coincides with) the date on which he  
18 attains both age fifty (50) or older and completes twenty  
19 (20) or more years of credited service.

20 (19) "Normal retirement date" means: (a) as to a  
21 member who is a fireman or police officer, the first day of  
22 the month coinciding with (or immediately following, if none  
23 coincides with) the date on which he attains both age fifty  
24 (50) or older and completes twenty (20) or more years of  
25 credited service,

1 (b) as to all other members, the first day of the  
 2 month coinciding with (or immediately following, if none  
 3 coincides with) the date on which he attains both age  
 4 fifty-five (55) or older and completes twenty-five (25) or  
 5 more years of credited service.

6 (20) "Mandatory retirement date" means, as to a member  
 7 who is not an elected sheriff or appointed undersheriff, the  
 8 first day of the month coinciding with (or immediately  
 9 following, if none coincides with) the date on which he  
 10 attains age sixty-five (65). As to an elected sheriff or  
 11 appointed undersheriff, there shall be no mandatory  
 12 retirement date.

13 (21) "Retirement date" means the date as of which  
 14 retirement, disability, or survivor benefits commence as to  
 15 or on behalf of a member.

16 (22) "Vesting percentage" means, as to a member's  
 17 service retirement allowance, as of any specified date, a  
 18 percentage based on the number of his years of credited  
 19 service determined in accordance with the table below:

20	Complete Years	Vesting
21	<u>of Service</u>	<u>Percentage</u>
22	0-9	0%
23	10	25%
24	11	30%
25	12	35%

1	13	40%
2	14	45%
3	15	50%
4	16	60%
5	17	70%
6	18	80%
7	19	90%
8	20 or more	100%

9 However, an active member's vesting percentage shall be  
 10 one hundred percent (100%) on and subsequent to the earliest  
 11 of (a) his attainment of age 65, (b) the date on which he  
 12 becomes totally and permanently disabled, or (c) the date of  
 13 his death.

14 (23) "Totally and permanently disabled" means, as to a  
 15 member, that the board, upon certification by a duly  
 16 licensed and practicing physician, has determined that his  
 17 disability is of such a nature as to impair permanently his  
 18 ability or capacity to discharge the duties normally  
 19 required of his occupation or position. Such certification  
 20 is a necessary, but not necessarily sufficient, condition  
 21 for a determination of disability by the board.

22 Section 3. Consolidated retirement system established.  
 23 A retirement system is hereby established for public  
 24 employees in the hazardous occupations of fire protection  
 25 and law enforcement.

1 Section 4. Eligibility for active membership. (1) An  
 2 employee of an employer shall become an active member under  
 3 the plan (except as to an employee who declined coverage  
 4 under the prior plan) on the date of his employment by an  
 5 employer or on the effective date of this act if so employed  
 6 on such date. Upon becoming eligible for membership he  
 7 shall complete such forms and furnish such proof as may be  
 8 required by the board.

9 (2) No member is eligible to be covered under any other  
 10 mandatory retirement plan to which an employer is required  
 11 to contribute on his behalf, other than the Federal Social  
 12 Security Act, while he is eligible to be covered hereunder.

13 (3) No duplication of benefits shall occur, as to a  
 14 member, by reason of more than one period as an active  
 15 member.

16 Section 5. Inactive membership. (1) An active member  
 17 shall become an inactive member upon the occurrence of the  
 18 earlier of (a) or (b) below:

19 (a) the date he ceases to be employed by an employer  
 20 and receives entitlement to a retirement allowance;

21 (b) the date of commencement of an approved absence  
 22 from active work for an employer of a substantial duration.

23 (2) An inactive member shall again become an active  
 24 member on the day he returns to active work for an employer.

25 Upon again becoming an active member his retirement

1 allowance, if any, shall cease being paid to him until he  
 2 again becomes an inactive member.

3 Section 6. Cessation of membership. A member shall  
 4 cease to be a member upon the occurrence of the earliest of  
 5 (1), (2), or (3) below:

6 (1) the date of his termination of employment when his  
 7 vesting percentage is zero percent (0%);

8 (2) the date he withdraws his member contributions in  
 9 lieu of all other benefits under the plan;

10 (3) the date of his death.

11 Section 7. Employer contributions and funding sources.

12 (1) Employer contributions shall be paid to the  
 13 administrator (not less often than monthly) who shall, as  
 14 soon as practicable after their receipt, deposit them with  
 15 the state treasurer.

16 (2) The state of Montana shall make its contributions:

17 (a) on behalf of members who are highway patrolmen  
 18 through the highway patrol bureau out of the moneys  
 19 collected as motor vehicle driver's license fees;

20 (b) on behalf of members who are game wardens through  
 21 the fish and game commission out of the Montana fish and  
 22 game moneys in the earmarked revenue fund;

23 (c) on behalf of members who are firemen through the  
 24 state auditor out of license fees on insurance risks as  
 25 enumerated below; and

(d) on behalf of members who are police officers through the state auditor out of the premium tax on insurance risks for motor vehicle physical damage, property damage, or bodily injury. Such payments shall be made from the gross premium tax after deduction for cancellations and returned premiums.

(3) The insurance risk license fees from which contributions from the state of Montana shall be made on behalf of firemen are:

(a) insurance of houses, buildings, and all other kinds of property against loss or damage by fire or other casualty;

(b) all kinds of insurance on goods, merchandise, or other property in the course of transportation, whether on land, or water, or air;

(c) insurance against loss or damage to motor vehicles resulting from accident, collision, or marine and inland navigation and transportation perils;

(d) insurance of growing crops against loss or damage resulting from hail or the elements;

(e) insurance against loss or damage by water to any goods or premises arising from the breakage or leakage of sprinklers, pumps or other apparatus;

(f) insurance against loss or legal liability for loss because of damage to property caused by the use of teams or

vehicles whether by accident or collision or by explosion of any engine or tank or boiler or pipe or tire of any vehicle, and

(g) insurance against theft of the whole or any part of any vehicle.

(4) The various counties of Montana shall make their contribution of behalf of members who are sheriffs, undersheriffs, and deputy sheriffs (heretofore and hereinafter referred to collectively as "sheriffs") through the county treasurer out of the general taxation authority of the county.

(5) The various cities of Montana shall make their contributions on behalf of members who are firemen or police officers through the city treasurer out of the tax levy on taxable property within the limits of said city.

(6) The employer's contribution shall be as specified below:

	Police	Highway	Game		
<u>Contributor</u>	<u>Firemen</u>	<u>Officers</u>	<u>Patrolmen</u>	<u>Sheriffs</u>	<u>Wardens</u>
State of					
Montana	10.00%	10.00%	18.94%	N/A	16.52%
Counties	N/A	N/A	N/A	11.01%	N/A
Cities	*	*	N/A	N/A	N/A

(a) The contribution of a city on behalf of an active member for whom it is required to contribute shall be eleven

1 percent (11%), plus an additional percentage of such active  
 2 member's monthly compensation required to amortize its  
 3 excess liability on the effective date of this act over a  
 4 period of forty (40) years in accordance with the table in  
 5 (b) below.

City	Firemen		Police Officers	
	Excess Liability	Amortization Percentage	Excess Liability	Amortization Percentage
Anaconda	\$235,892	4.68%	\$307,268	8.42%
Baker	N/A	N/A	-0-	-0-
Billings	914,110	3.06%	88,047	2.96%
Bozeman	89,737	1.53%	129,380	2.19%
Butte	915,603	6.91%	998,266	10.24%
Columbia Falls	N/A	N/A	-0-	-0-
Cut Bank	N/A	N/A	-0-	-0-
Dillon	N/A	N/A	55,274	3.38%
Glasgow	N/A	N/A	-0-	-0-
Glendive	131,003	5.03%	-0-	-0-
Great Falls	1,459,933	5.86%	352,396	1.84%
Havre	174,014	4.53%	169,270	4.50%
Helena	275,321	3.45%	599,451	10.04%
Kalispell	265,216	5.18%	117,611	2.36%
Lewistown	75,090	4.31%	-0-	-0-
Livingston	-0-	-0-	113,160	5.38%
Miles City	245,217	7.00%	213,371	6.70%

1 Missoula	547,804	4.24%	790,160	6.18%
2 Red Lodge	N/A	N/A	64,002	9.17%
3 Whitefish	N/A	N/A	-0-	-0-

4 Section 8. Member Contributions. Active members are  
 5 required to contribute seven percent (7%) of their monthly  
 6 compensation. Such contributions shall be made by payroll  
 7 withholding and be transmitted by the employer to the  
 8 administrator (not less often than monthly) who shall, as  
 9 soon as practicable after their receipt, deposit them with  
 10 the state treasurer. A member shall be fully vested in his  
 11 member contributions at all times and may, at his  
 12 discretion, withdraw the full amount of his member  
 13 contributions upon his termination of employment and forfeit  
 14 all rights and interest with respect to any benefits which  
 15 may otherwise become payable under the plan.

16 Section 9. Reinstatement after withdrawal of member  
 17 contributions -- redeposit of amounts withdrawn. (1) A  
 18 member may redeposit in the fund, in one (1) sum or in  
 19 installments (not to exceed twelve (12) monthly or  
 20 twenty-four (24) semi-monthly installments), an amount equal  
 21 to that which was withdrawn as his member contributions,  
 22 plus an amount equal to the interest which would have been  
 23 credited to his account had he not withdrawn his member  
 24 contributions upon his cessation of membership. In the  
 25 event the member makes the redeposit specified above, his

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1 credited service shall be reinstated.

2 (2) If an active member, upon again becoming eligible  
3 to be covered hereunder, does not elect to redeposit the  
4 amount specified above, he shall forfeit his credit for  
5 credited service for the period attributable to his member  
6 contributions withdrawn.

7 Section 10. Other moneys credited as employer  
8 contributions. All gifts, bequests or emoluments paid or  
9 given to an employer or member due to extraordinary service  
10 or otherwise, except when specifically allowed to be  
11 retained by the member by an appropriate authority of his  
12 employer, and all moneys withheld from the monthly  
13 compensation of a member for violation of the rules of his  
14 employer shall be paid to the administrator, who shall  
15 credit them to the fund and, as soon as practicable after  
16 their receipt, deposit them with the state treasurer. Such  
17 amounts are employer contributions, but shall be in addition  
18 to the amounts required by section 7.

19 Section 11. Application for service retirement. On or  
20 after a member's minimum retirement date, but prior to his  
21 mandatory retirement date, he may retire on a service  
22 retirement allowance by making written application to the  
23 board, not less than thirty (30) days, nor more than ninety  
24 (90) days from his elected retirement date. The application  
25 shall state his elected retirement date.

1 Section 12. Application for disability retirement --  
2 amount of disability retirement allowance. (1) In the event  
3 a member is determined by the board to be totally and  
4 permanently disabled, regardless of his length of service,  
5 the member shall be entitled to a disability retirement  
6 allowance commencing as of the first day of the month  
7 coinciding with (or immediately following, if none coincides  
8 with) the date on which he became totally and permanently  
9 disabled. The amount of such disability retirement  
10 allowance shall be equal to the greater of: (a) fifty  
11 percent (50%) of his final average compensation, or (b) his  
12 accrued retirement allowance, reduced by the amount (not to  
13 exceed seventy-five percent (75%) of the allowance prior to  
14 such reduction) by which such inactive member's annual  
15 income from his employment, if any, exceeds the annual  
16 compensation which he would have otherwise been paid had he  
17 remained in the service of the employer at the same  
18 position, had his disability retirement not occurred.

19 (2) The three hundred dollar (\$300) minimum retirement  
20 allowance shall apply only to a disabled member's retirement  
21 allowance prior to its reduction for excessive earned income  
22 prior to his normal retirement date.

23 (3) On and after a disabled members' normal retirement  
24 date the reduction of his disability retirement allowance  
25 due to excessive earned income shall cease to apply and his



1 disability retirement allowance shall be redetermined in  
2 accordance with the preceding provisions of this section.

3 Section 13. Reinstatement upon recovery from total and  
4 permanent disability. If an inactive member is determined  
5 by the board to no longer be totally and permanently  
6 disabled, his disability retirement allowance shall cease as  
7 of such date of determination and the member shall be so  
8 notified by the board. If such inactive member again  
9 becomes an active member by returning to active work for an  
10 employer within thirty (30) days following receipt of such  
11 notice, he shall be considered to have been continuously  
12 employed during the term of his disability. If such  
13 inactive member fails to become an active member by  
14 returning to active work for an employer within thirty (30)  
15 days following receipt of such notice, his termination of  
16 employment shall be considered to have occurred as of his  
17 disability retirement date and the retirement allowance, if  
18 any, to which he may become entitled on his service  
19 retirement shall be redetermined in accordance with the  
20 applicable provisions hereof.

21 Section 14. Termination of employment prior to  
22 retirement. (1) Upon termination of employment of an active  
23 member when his vesting percentage is zero percent (0%), he  
24 shall withdraw the amount of his member contributions  
standing to his credit in lieu of all other benefits under

1 the plan.

2 (2) Upon termination of employment of an active member  
3 prior to his minimum retirement date when his vesting  
4 percentage is greater than zero percent (0%), he shall be  
5 entitled to elect to receive either:

6 (a) the amount of his member contributions standing to  
7 his credit in lieu of all other benefits under the plan, or

8 (b) a benefit, deferred to his normal retirement date  
9 assuming he had remained in service with an employer to  
10 fulfill the service requirement for normal retirement, in an  
11 amount equal to his vested accrued retirement allowance on  
12 the date of his termination of employment.

13 Section 15. Retirement allowances payable monthly. The  
14 retirement allowances granted under the provisions of this  
15 act shall be paid in monthly installments and shall not be  
16 increased nor decreased, except as specifically provided  
17 herein, nor be repealed or revoked unless by an official act  
18 of the legislature of the state of Montana.

19 Section 16. Retirement allowance -- mode of payment. A  
20 member's retirement allowance shall be paid, first to the  
21 member during his lifetime and, upon his death, to his legal  
22 spouse, if living, until the date of her death or  
23 remarriage; then to the legally appointed or acting guardian  
24 of his minor or incompetent child or children, if any, for  
25 their equal benefit, until the date the youngest of such

1 children attains age eighteen (18). Provided, however, that  
 2 if any child or children of a member is mentally or  
 3 physically disabled to the extent he is unable to provide  
 4 for his own welfare, such member's retirement allowance  
 5 shall not be discontinued as to that child or children  
 6 during his lifetime so long as such disability continues to  
 7 so incapacitate the child to such extent.

8 Section 17. Death benefits before retirement.

9 (1) Upon the death of an active member, his survivors (as  
 10 defined in section 16) shall be entitled to a retirement  
 11 allowance equal to the greater of: (a) fifty percent (50%)  
 12 of his final average compensation or (b) his accrued  
 13 retirement allowance as of the date of his death.

14 (2) Upon the death of a vested inactive member prior  
 15 to his retirement date, his survivors (as defined in section  
 16 16) shall be entitled to a retirement allowance, commencing  
 17 on the member's normal retirement date. The amount of  
 18 benefit shall be equal to the member's vested accrued  
 19 retirement allowance.

20 Section 18. Death benefits after retirement. Upon the  
 21 death of a member receiving a retirement allowance, his  
 22 survivors (as defined in section 16) shall be entitled to a  
 23 retirement allowance equal to the retirement allowance the  
 24 member was entitled to receive as of the day preceding the  
 25 date of his death. As to a member who was entitled to a

1 disability retirement allowance on such date, his retirement  
 2 allowance shall be determined without regard to excessive  
 3 earned income, if any.

4 Section 19. Burial benefit. Upon the death of an  
 5 active, retired or disabled member a lump-sum payment in the  
 6 amount of one thousand dollars (\$1,000) shall be paid to the  
 7 member's estate for the purpose of defraying the expenses of  
 8 the member's death.

9 Section 20. Retirement benefits exempt from state or  
 10 municipal tax. Any money received as a retirement allowance  
 11 in accordance with the provisions of this act is exempt from  
 12 any state or municipal tax.

13 Section 21. Rights to benefits unassignable. To the  
 14 extent permitted by law, none of the benefits payable  
 15 hereunder are subject to the claims of any creditor of any  
 16 member, beneficiary or survivor, nor shall the same be  
 17 subject to attachment, garnishment, or other legal or  
 18 equitable process by any creditor of a member, beneficiary,  
 19 or survivor, nor shall any member, beneficiary or survivor  
 20 have any right to alienate, anticipate, commute, pledge,  
 21 encumber, assign or sell any of such benefits.

22 Section 22. Establishment of administrative retirement  
 23 board. (1) An administrative retirement board is hereby  
 24 established to administer, interpret, and enforce the  
 25 provisions of the plan comprising this act. The board

1 shall, from time to time, establish rules for the  
 2 administration, interpretation and enforcement of the plan  
 3 and adopt rules governing its procedures which it may  
 4 consider appropriate and which are not inconsistent  
 5 herewith. Such rules and procedures shall be uniformly  
 6 applicable to all members. Once in each fiscal year the  
 7 board shall establish a rate of interest to be credited to  
 8 each member contribution account.

9 (2) The governor of the state of Montana shall appoint  
 10 five (5) persons to the board. Initial terms of appointment  
 11 shall be for periods of one (1), two (2), three (3), four  
 12 (4), and five (5) years respectively. Subsequent terms of  
 13 appointment shall be made in the same manner as the original  
 14 appointments and shall be for a period of five (5) years.

15 (3) At all times the board shall consist of one (1)  
 16 representative from the membership of the firemen, one (1)  
 17 representative from the membership of the police officers,  
 18 one (1) representative from the combined memberships of the  
 19 game wardens, highway patrolmen and sheriffs, and two (2)  
 20 representatives from the public at large. All  
 21 representatives shall serve until their resignation or the  
 22 expiration of their term in office. In the event a  
 23 representative resigns prior to the expiration of his term,  
 24 a new representative shall be appointed for the balance of  
 such term. Representatives shall be reimbursed for their

1 reasonable expenses incurred as a result of their service on  
 2 the board, plus a per diem allowance of thirty dollars (\$30)  
 3 per day. The board shall meet not less often than once in  
 4 each fiscal quarter.

5 Section 23. Retirement accounts created -- state  
 6 treasurer to be custodian of funds -- administration and  
 7 investment by department of administration. (1) On the  
 8 effective date of this act, the administrator shall create  
 9 an account to be entitled and maintained on behalf of the  
 10 "Retirement system for public employees in the hazardous  
 11 occupations of fire protection and law enforcement", of  
 12 which the state treasurer is to be the custodian. The state  
 13 treasurer shall respond to the exclusive administrative  
 14 control of the board with respect to such account. The  
 15 administrator shall establish and maintain subaccounts  
 16 within this account on behalf of each of the five (5) member  
 17 classifications defined herein; and within each subaccount  
 18 shall be established and maintained an account for each  
 19 member and employer. All monies received under this plan  
 20 shall be credited to the appropriate accounts created  
 21 herein.

22 (2) Except as may be otherwise provided in this act,  
 23 the department of administration, through the administrator  
 24 and the board of investments, shall administer, handle, deal  
 25 with, invest, account for, and treat the funds deposited

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1 through it under this act in accordance with the rules  
 2 dealing with the public employees retirement system, insofar  
 3 as such rules are not inconsistent with those promulgated  
 4 and adopted by the board. The funds of all employers and  
 5 members making contributions through the department of  
 6 administration under this act may be commingled for  
 7 investment purposes.

8 Section 24. Transfers from prior plans. All funds and  
 9 obligations constituting the assets and liabilities of the  
 10 prior plans, regardless of in what form or by whom held,  
 11 shall be transferred to the accounts created by this act.  
 12 The board shall ascertain the amount or amounts to be  
 13 apportioned to each account upon the passage of this act and  
 14 the state treasurer shall transfer such amounts to the  
 15 appropriate accounts on the effective date. The state  
 16 examiner shall audit each such transfer of funds.

17 Section 25. Benefits to members of prior plans.

18 (1) All provisions of this plan shall become effective as  
 19 to a member whose retirement date occurred prior to the  
 20 effective date of this act, except the amount and mode of  
 21 payment of such member's retirement allowance will remain  
 22 unchanged, subject only to the minimum retirement allowance  
 23 of three hundred dollars (\$300).

24 (2) This act may not decrease the benefits of a member  
 25 under a prior plan. All benefits shall be determined by the

1 board.

2 Section 26. Actuarial valuation. The board shall  
 3 engage the services of a qualified actuary to conduct an  
 4 actuarial valuation of the plans in each odd-numbered year.  
 5 Such actuarial valuation shall be completed by October 1 of  
 6 each year, and shall include the actuary's determination of  
 7 the financial condition of the plan and the level annual  
 8 contribution required to maintain the plan on an actuarially  
 9 sound basis. A qualified actuary is one who is a member of  
 10 the American academy of actuaries. In each fiscal year in  
 11 which an actuarial valuation is prepared, the board shall  
 12 submit to the state auditor a request for payment of the  
 13 reasonable charges incurred in securing the valuation and  
 14 the state auditor shall make payment to the actuary  
 15 designated by the request.

16 Section 27. Administrative expenses. The expense of  
 17 administration of this act, exclusive of amounts required to  
 18 be paid as benefits to or on behalf of a member hereunder,  
 19 shall be borne by the state of Montana and shall be in  
 20 addition to the amounts required of it as contributions.

21 Section 28. Legislative review. The legislature shall  
 22 periodically review the costs and benefits under this act to  
 23 assure itself that such costs and benefits are consistent  
 24 with its intent.

25 Section 29. Taxing authority of employers. For the

1 purpose of making contributions required of a city under  
 2 this act and when the demand for deposits of such  
 3 contributions required to be made by it cannot be met within  
 4 the general taxing authority of that city, then the  
 5 appropriate authority of such city may levy any additional  
 6 tax not to exceed four (4) mills until the general taxing  
 7 authority is sufficient to meet the demand.

8 Section 30. Cities under second class may come within  
 9 provisions of act by passing ordinance and making levy.  
 10 Cities other than those in the first and second class may  
 11 come within the provisions of this act by passing an  
 12 ordinance of their desire to come within the provisions of  
 13 the act and making the tax levy herein provided for. Such  
 14 cities who had passed such an ordinance and levied such a  
 15 tax with respect to a prior plan shall be required to  
 16 continue their participation hereunder.

17 Section 31. False statements or falsification of  
 18 records illegal -- penalties. (1) No person may knowingly  
 19 make any false statement or permit to be falsified any  
 20 records of this retirement system in an attempt to defraud  
 21 the system.

22 (2) Should any change in records fraudulently made or  
 23 any mistake in records inadvertently made result in any  
 24 member, survivor, or beneficiary receiving more or less than  
 said person would have been entitled to had the records

1 been correct, then, on the discovery of the error, the board  
 2 shall correct the error and adjust the payments which are  
 3 made to the member, survivor, or beneficiary in an equitable  
 4 manner.

5 (3) Any person violating any of the provisions of  
 6 subsection (1) of this section shall be guilty of a  
 7 misdemeanor, and upon conviction shall be fined not  
 8 exceeding one thousand dollars (\$1,000) or imprisoned in the  
 9 county jail not exceeding one (1) year, or both.

10 Section 32. Board may revoke, refuse, or suspend a  
 11 member's annuity for injury or death due to wrongful  
 12 conduct. Where the illness or injury causing a member to  
 13 retire, or where the death of the member, or a member to be  
 14 retired, is directly and proximately caused by the member's  
 15 immoral or intemperate conduct or gross negligence, the  
 16 board may refuse, revoke, or suspend disbursement of the  
 17 employer annuity.

18 Section 33. Payments are in addition to those provided  
 19 by Workmen's Compensation Act. All payments provided for in  
 20 this act are in addition to any other benefits now or  
 21 hereafter provided for under the Workmen's Compensation Act.

22 Section 34. Rules of transfer of member contributions  
 23 account to employer's account. The board may, in its  
 24 discretion, transfer a member's contributions account to the  
 25 employer's account if the member's contribution account has

1 been dormant for a period of ten (10) years, provided that  
2 no right of the member may be jeopardized by such transfer  
3 and the member's contribution account shall be transferred  
4 to the member's name upon subsequent reentry to membership.

5 Section 35. Applicability of act. Sections 11-1834  
6 through 11-1836, 11-1910 through 11-1916, 11-1919 through  
7 11-1927, 11-1927.1, 11-1928 through 11-1930, R.C.M. 1947, do  
8 not apply to employers covered under the retirement system  
9 for public employees in the hazardous occupations of fire  
10 protection and law enforcement.

11 Section 36. Severability. If a part of this act is  
12 invalid, all valid parts that are severable from the invalid  
13 part remain in effect. If a part of this act is invalid in  
14 one or more of its applications, the part remains in effect  
15 in all valid applications that are severable from the  
16 invalid applications.

17 Section 37. Sections 11-1821, 11-1823 through 11-1830,  
18 11-1838 through 11-1850, 31-201, 31-204 through 31-211,  
19 31-213 through 31-230, 68-1401, 68-1402, 68-1405 through  
20 68-1429, 68-2601 through 68-2629, and 82A-210.1, R.C.M. 1947  
21 are repealed.

-End-