

1 HOUSE BILL NO. 33
2 INTRODUCED BY BARDANOUE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5 CLARIFY THE LAWS RELATING TO THE PUBLIC EMPLOYEES'
6 RETIREMENT SYSTEM; AMENDING SECTIONS 68-1602, 68-1604,
7 68-1605, 68-1608, 68-1901, 68-1904, 68-2103, 68-2201,
8 68-2203, 68-2304, 68-2505, 68-2506, AND 68-2511, R.C.M.
9 1947."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 Section 1. Section 68-1602, R.C.M. 1947, is amended to
13 read as follows:

14 "68-1602. Exclusions. The following persons shall may
15 not become members of the retirement system:

16 (1) elective officers who have not filed with the
17 board of ~~administration~~ written requests to become members, ~~+~~
18 ~~provided except~~ that ~~any~~ a person so excluded from
19 membership may later become a member by otherwise becoming
20 an employee or by written request after a subsequent
21 election to office, ~~+~~ and ~~provided further that~~ if he shall
22 affirmatively ~~exercise~~ exercises the option, the
23 contributions of the employer, because of his membership,
24 shall be the same as they would have been had he not been so
25 excluded;

1 (2) inmates of state institutions who are allowed
2 compensation for such service as they are able to perform;

3 (3) persons in state institutions principally for the
4 purpose of training, but who receive compensation;

5 (4) independent contractors, unless there is a written
6 contract which specifies the creation of an
7 employer-employee relationship for purposes of retirement
8 coverage under the Public Employees' Retirement System Act;

9 (5) employees serving in employment which does not
10 exceed the equivalent of ~~sixty~~ (60) working days in any
11 fiscal year;

12 (6) employees in service on July 1, 1945, or prior
13 thereto who filed with the board of ~~administration~~ an
14 ~~election~~ elections not to become members, ~~+~~ provided, any
15 except that a person so excluded from membership ~~by his own~~
16 ~~election~~ may become a member and be eligible thereafter to
17 receive the same benefits that he would have received if he
18 had never filed an election not to be a member by meeting
19 the following requirements: ~~of the balance of this~~
20 ~~subsection. Such a person must file~~

21 (a) filing an election to become a member with the
22 board of ~~administration~~ no later than July 1, 1975, ~~+~~
23 ~~provided, that any such person who is not an employee on~~
24 ~~July 1, 1974, may make such filing as late as one (1)~~
25 ~~year after subsequently becoming an employee. In either~~

1 ~~event, such person must thereupon pay or within one year~~
 2 ~~after becoming an employee, whichever is later; and~~

3 (b) paying to the retirement system the amount which
 4 he and his employer would have contributed had he not been
 5 so excluded plus interest which would have accumulated
 6 thereon; ~~All benefits payable thereafter to such person~~
 7 ~~shall be the same as if such person had never filed an~~
 8 ~~election not to be a member;~~

9 (7) persons directly appointed by the governor, who do
 10 not file with the board of ~~administration~~ an election in
 11 writing to become members;

12 (8) (a) persons who are members of any other
 13 retirement or pension system supported wholly or in part by
 14 funds of the United States government, any state government,
 15 or political subdivision thereof and who are receiving
 16 credit in ~~such the~~ other system for service, it being the
 17 purpose of this ~~section subsection~~ to prevent a person from
 18 receiving credit for the same service in two ~~(2)~~ retirement
 19 systems supported wholly or in part by public funds, except
 20 when ~~such the~~ service qualifies, is applied for, and
 21 purchased pursuant to ~~section 68-1605.1~~; ~~any a~~ member of the
 22 retirement system who, because of his employment by the
 23 state, ~~shall be is~~ required to become a member of any ~~such~~
 24 other ~~systems, system described in this subsection~~ shall be
 25 considered, solely for the purposes of making normal

1 contributions, as permanently separated from service;
 2 ~~exclusion under this subsection (8) (a) is subject to the~~
 3 ~~following exceptions: the accumulated contributions of any~~
 4 ~~member who shall have died after becoming a member of such~~
 5 ~~other system and before receiving said accumulated~~
 6 ~~contributions, shall be paid to the beneficiary nominated by~~
 7 ~~him to receive any death benefit payable under section~~
 8 ~~68-2304; employer contributions on the basis of compensation~~
 9 ~~earned by members after the effective date of termination of~~
 10 ~~membership herein because of the membership in such other~~
 11 ~~system, shall be repaid to the employer; for the purpose of~~
 12 ~~this section, persons receiving pensions, retirement~~
 13 ~~allowances or other payments, from any source, on account of~~
 14 ~~employment other than as an employee as defined in this act,~~
 15 ~~shall not be considered, because of such receipt, members of~~
 16 ~~any other retirement or pension system; provided, however,~~
 17 ~~that where~~

18 (i) when an employer has entered into a collective
 19 bargaining agreement which includes provisions for payments
 20 or contributions by the employer in lieu of wages to a
 21 retirement or pension plan qualified by the Internal Revenue
 22 Service for its employees, ~~such the~~ employees shall remain
 23 eligible, if otherwise qualified, for membership in the
 24 retirement system, and the payments or contributions in lieu
 25 of wages shall ~~may not be deemed considered~~ a part of the

1 ~~employee's~~ employees' compensation for purposes of computing
2 the employer or employee contributions to the retirement
3 system;

4 (ii) for the purpose of subsection (8), persons
5 receiving pensions, retirement allowances, or other payments
6 from any source on account of employment other than as an
7 employee as defined in this act are not considered, because
8 of such receipt, members of any other retirement or pension
9 system;

10 (b) the accumulated contributions of a member who dies
11 after becoming a member of any other system described in
12 subsection (8) and before receiving his accumulated
13 contributions shall be paid to the beneficiary nominated by
14 him to receive any death benefit payable under 68-2301;

15 (c) employer contributions on the basis of
16 compensation earned by members after the effective date of
17 termination of membership because of membership in another
18 system, as provided in subsection (8), shall be repaid to
19 the employer;

20 (9) court commissioners or appointive members of any
21 board or commission who serve the state or any contracting
22 employer intermittently and who are paid on a per diem
23 basis;

24 (10) persons who become employees after they have
25 reached their ~~sixtieth~~ 60th birthday and have no creditable

1 service in this system, and who do not file with the board
2 ~~of administration~~ an election to become members;

3 (11) employees of county hospitals or county rest homes
4 in the sixth and seventh class counties, unless they elect
5 to file with the board ~~of administration~~ an election in
6 writing to become members;

7 (12) persons employed by the legislature during the
8 legislative session, who do not file with the board ~~of~~
9 ~~administration~~ an election in writing to become members."

10 Section 2. Section 68-1604, R.C.M. 1947, is amended to
11 read as follows:

12 "68-1604. Absence not included in time of service.
13 Except as provided in ~~section~~ 68-1605, 68-1605.1, and
14 68-1606, time during which a member is absent from
15 compensated employment with an employer ~~shall~~ may not be
16 allowed in computing service."

17 Section 3. Section 68-1605, R.C.M. 1947, is amended to
18 read as follows:

19 "68-1605. Absence in military service. (1) Any period
20 of absence from compensated employment with an employer for
21 one of the following reasons, occurring either during a war
22 involving the United States as a belligerent or ~~is~~ during
23 any other national emergency, and ~~for ninety (90) days~~
24 thereafter, ~~for one of the following reasons shall be~~ is
25 considered ~~as~~ service, for the purpose of qualification for

1 retirement and death benefits, but not for calculation of
2 retirement benefits:

3 ~~(1)~~ (a) by reason of having been ordered on duty with
4 the armed forces of the United States;

5 ~~(2)~~ (b) by reason of voluntary service in said forces
6 or on ships operated by or for the United States government;
7 or

8 ~~(3)~~ (c) by reason of direct assignment to the
9 department of ~~war or~~ defense for duties pursuant to the
10 national defense efforts where a leave of absence has been
11 granted by the employer.

12 (2) Any member so absent ~~shall have~~ has the right to
13 contribute to the retirement system, either during his
14 period of absence or upon his return to service, at times
15 and in the manner fixed by the board ~~of administration,~~
16 amounts equal to the ~~contributions~~ contributions which would
17 have been made by him to the system on the basis of his
18 compensation at the commencement of his absence. If he does
19 ~~so~~ contribute, he shall receive credit for service for such
20 time in the same manner as if he had not been absent from
21 service. Whenever a member elects to continue his
22 contributions, the employer shall thereupon contribute an
23 amount equal to what its employer contributions would have
24 been had the member not been absent from service.

25 (3) Any member so absent ~~shall lose~~ loses the right to

1 contribute under this section if all of his accumulated
2 normal contributions are refunded pursuant to ~~section~~
3 68-1905."

4 Section 4. Section 68-1608, R.C.M. 1947, is amended to
5 read as follows:

6 "68-1608. Qualification of prior service not
7 previously credited. ~~Credit~~ If a member otherwise has not
8 less than 5 years of creditable service of which not less
9 than 3 years have been as a contributing member of the
10 retirement system, he shall be granted credit for any prior
11 service not previously granted ~~shall be granted to a member~~
12 upon his filing written notice thereof with the board ~~of~~
13 ~~administration~~ no later than July 1, 1975, ~~provided, that~~
14 ~~any such person who is not a member on July 1, 1974, may~~
15 ~~make such filing no later than one (1) year after~~
16 ~~subsequently becoming a member and further provided he~~
17 ~~otherwise has not less than five (5) years of creditable~~
18 ~~service of which not less than three (3) years have been as~~
19 ~~a contributing member of the retirement system, or within 1~~
20 year after becoming an employee, whichever is later. Proper
21 certification of ~~each~~ the prior service must be furnished."

22 Section 5. Section 68-1901, R.C.M. 1947, is amended to
23 read as follows:

24 "68-1901. Management of fund. The retirement fund
25 shall be managed as follows:

1 (1) The board ~~of administration shall have~~ has
2 exclusive control of the administration of the fund except
3 as otherwise provided.

4 (2) The fund shall be invested by the state board of
5 investments as part of the long-term investment fund.

6 (3) The department of administration shall deposit
7 monthly in the state treasury all amounts received by it as
8 provided in this act.

9 (4) The state treasurer ~~shall be~~ is custodian of the
10 retirement fund, subject to the exclusive control of the
11 board ~~of administration~~ as to the administration thereof and
12 the board of investments as to the investment thereof.

13 (5) Interest earned on any cash ~~deposit~~ deposited in a
14 bank by the state treasurer and income on other assets
15 constituting a part of the fund shall be paid into the fund
16 as received. Income, of whatever nature, earned on the
17 retirement fund during any fiscal year, in excess of the
18 interest credited to contributions during that year shall be
19 retained in the fund as a reserve against deficiencies in
20 interest earned in other years, losses under investments,
21 and other contingencies.

22 (6) Except as herein provided, no member and no
23 employee of the department of administration ~~shall~~ may;

24 (a) have any interest, direct, or indirect, in the
25 making of any investment, or in the gains or profits

1 accruing therefrom; ~~and no member or employee of the~~
2 ~~department~~

3 (b) directly or indirectly, for himself or as an agent
4 or partner of others, ~~may~~ borrow any of its funds or
5 deposits; ~~nor shall any member or employee~~

6 (c) in any manner use the same except to make such
7 current and necessary payments as are authorized by the
8 department; ~~or nor shall any member or employee of the~~
9 ~~department~~

10 (d) become an endorser or surety as to or in any
11 manner an obligor for investments for the retirement
12 system."

13 Section 6. Section 68-1904, R.C.M. 1947, is amended to
14 read as follows:

15 "68-1904. Employer contribution to administrative
16 expense. (1) The board ~~of administration~~ may assess, and the
17 department of administration shall collect a fee from each
18 employer for the purpose of defraying the administrative
19 expense of this act, not to exceed ~~three tenths of one~~
20 ~~percent~~ (.3%) of gross compensation.

21 (2) In addition to the contributions elsewhere
22 provided in this act, on July 1 of each year each employer
23 shall contribute on behalf of each member then in its employ
24 a membership fee of ~~one dollar~~ (\$1). These fees together
25 with other moneys appropriated for that purpose shall be

1 used for the purpose of defraying the administrative expense
2 of this act."

3 Section 7. Section 68-2103, R.C.M. 1947, is amended to
4 read as follows:

5 "68-2103. ~~Annual allowance~~ Allowance for duty-related
6 disability ~~reduction for workmen's compensation.~~ The
7 annual amount of retirement allowance payable to a member
8 eligible for disability retirement for duty-related reasons
9 is ~~fifty percent (50%)~~ of his final compensation, ~~provided,~~
10 ~~however that~~ However, the annual amount of retirement
11 allowance ~~shall be~~ is ~~twenty-five percent (25%)~~ of final
12 compensation for any period during which the member has been
13 awarded compensation by the ~~workmen's~~ workers' compensation
14 division, whether ~~or not~~ such compensation is received in
15 periodic payments or in a lump sum, ~~provided further, that~~
16 ~~the~~ The annual amount of retirement allowance ~~shall revert~~
17 reverts to ~~fifty percent (50%)~~ of final compensation at the
18 end of such period."

19 Section 8. Section 68-2201, R.C.M. 1947, is amended to
20 read as follows:

21 "68-2201. Medical examination of disability retiree —
22 cancellation and reinstatement ~~if retiree capable refund of~~
23 ~~contributions.~~ (1) The board may, at its pleasure, require
24 the recipient of a retirement allowance because of
25 disability to undergo medical examination. The examination

1 shall be made by a physician or surgeon appointed by the
2 board, at the place of residence of the recipient or another
3 place mutually agreed upon. Upon the basis of the
4 examination, the board shall determine whether ~~said the~~
5 recipient is unable, by reason of physical or mental
6 incapacity, to perform either the duties of the position
7 held by him when he was retired or the duties proposed to be
8 assigned to him. If the board determines that ~~said the~~
9 recipient is not ~~so~~ incapacitated or if the recipient
10 refuses to submit to medical examination, his retirement
11 allowance shall be canceled.

12 (2) ~~Any~~ A person whose retirement allowance is ~~so~~
13 canceled shall be reinstated to the position held by him
14 immediately before his retirement or to a position in the
15 same classification with duties within his capacity, if he
16 had been an employee of the state or of the university. If
17 he had been an employee of a contracting employer, the board
18 shall notify the proper official of the contracting employer
19 that the retirement allowance has been canceled and that the
20 former employee is eligible for reinstatement to duty. The
21 fact that he was retired for disability ~~shall~~ may not
22 prejudice any right to reinstatement to duty which he may
23 have or claim to have.

24 (3) If ~~any~~ a person whose retirement allowance is ~~so~~
25 canceled is not reemployed in a position subject to the

1 retirement system, his service ~~shall be deemed is~~
 2 considered, for the purposes of 68-1905, to be have been
 3 discontinued coincident with the commencement of his
 4 retirement allowance ~~for the purposes of section 68-1905."~~

5 Section 9. Section 68-2203, R.C.M. 1947, is amended to
 6 read as follows:

7 "68-2203. Optional retirement allowance. (1) The
 8 retirement allowance of a member who so elects shall be
 9 converted, in lieu of all other benefits under this act,
 10 into an optional retirement allowance which is the actuarial
 11 equivalent of ~~such other~~ the regular retirement allowance.
 12 The optional retirement allowance is a reduced amount
 13 payable during the member's lifetime with a subsequent
 14 benefit as follows:

15 (a) ~~Option option~~ 1—a death benefit to the member's
 16 beneficiary equal to the excess, if any, of the member's
 17 accumulated contributions, with regular interest to the day
 18 his retirement allowance commenced, over the total of his
 19 retirement allowance payments;

20 (b) ~~Option option~~ 2—a continuation of the reduced
 21 retirement allowance during the lifetime of his named
 22 contingent annuitant;

23 (c) ~~Option option~~ 3—a continuation of one-half ~~(1/2)~~
 24 of the reduced retirement allowance during the lifetime of
 25 his named contingent annuitant;

1 (d) ~~Option option~~ 4—such other actuarially equivalent
 2 benefit as shall may be approved by the board.

3 (2) Election of ~~any an~~ optional retirement allowance
 4 shall must be by written application filed prior to the
 5 first payment of the regular retirement allowance. ~~The~~
 6 ~~contingent annuitant named by the member must have an~~
 7 ~~insurable interest in the life of the member.~~

8 (3) If either the member or his contingent annuitant
 9 ~~should die~~ dies before the member has received the first
 10 payment under option 2 or 3, the election of ~~such the~~ option
 11 shall is automatically be canceled.

12 (4) If a member dies after retirement and within
 13 ~~thirty (30)~~ days from the date his election or changed
 14 election of an optional retirement allowance is received by
 15 the board, then ~~said the~~ election is void ~~and of no effect,~~
 16 and the death shall ~~be~~ is considered as that of a member
 17 before retirement."

18 Section 10. Section 68-2304, R.C.M. 1947, is amended
 19 to read as follows:

20 "68-2304. Survivorship allowance elected by
 21 beneficiary. A beneficiary eligible to receive a death
 22 benefit may elect, by written application, a survivorship
 23 allowance instead if all of the following conditions are
 24 met:

25 (1) ~~the~~ The member on behalf of whom the death benefit

1 is payable had completed ~~ten~~ {10} years of creditable
2 service.

3 (2) ~~the~~ The beneficiary is a natural person of legal
4 age ~~with an insurable interest in the deceased at the time~~
5 ~~of his death.~~

6 (3) ~~the~~ The beneficiary elects the survivorship
7 allowance within ~~ninety~~ {90} days of receipt of notice from
8 the board that he is eligible to receive the death benefit.
9 ~~Election shall be by written application.~~

10 Section 11. Section 68-2505, R.C.M. 1947, is amended
11 to read as follows:

12 "68-2505. Payment of state contributions — budget and
13 appropriations. (1) No later than the ~~tenth~~ 10th day of each
14 month, each department, board, commission, bureau, or other
15 agency of the state shall certify to the state auditor all
16 contributions required of ~~each~~ the unit and ~~to~~ its employees
17 under this act on the basis of compensation paid during the
18 previous month, including any contributions payable with
19 respect to members absent in the armed forces of the United
20 States. The state auditor shall thereupon draw a warrant
21 upon the state treasurer for ~~each~~ the contributions. The
22 warrant shall be drawn to the credit of the retirement fund
23 on the funds appropriated to ~~that~~ the unit.

24 (2) Every state employer shall include in ~~his~~ its
25 budget and request for legislative appropriations an amount

1 necessary to defray the state's part of the costs of this
2 act for its employees ~~in their respective departments, and~~
3 to the end that the legislature may make definite
4 appropriation for the cost incurred by each employer ~~whose~~
5 the employees of which are within the retirement system
6 created by this act."

7 Section 12. Section 68-2506, R.C.M. 1947, is amended
8 to read as follows:

9 "68-2506. Transfers between funds. Any fund out of
10 which payments are made under the provisions of this act may
11 be reimbursed to the extent of such payments by transfer of
12 a sufficient sum for ~~each~~ the reimbursement from another
13 fund or funds under the control of the ~~same~~ disbursing
14 officer. The disbursing officer shall certify to the state
15 auditor ~~about~~ the amounts to be thus transferred, and
16 ~~the fund or funds from and to which the transfer is to be~~
17 made, and the auditor shall thereupon make the transfer as
18 directed in the certificate."

19 Section 13. Section 68-2511, R.C.M. 1947, is amended
20 to read as follows:

21 "68-2511. Transfer ~~of credits~~ to and from and
22 concurrent membership in teachers' retirement system. (1)
23 For the purpose of this section, "system" means the public
24 employees' retirement system of Montana or the teachers'
25 retirement system of the state of Montana.

1 (2) Upon transfer of a person from being an employee
2 under one system to being an employee in the other, ~~there~~
3 ~~shall be transferred~~ all service credits, both prior and
4 membership, ~~as have not been forfeited by withdrawal, unless~~
5 ~~the forfeited credits shall have been reinstated as provided~~
6 ~~by law shall be transferred, except those that have been~~
7 ~~forfeited by withdrawal and have not been reinstated.~~ The
8 amounts transferred shall be determined by the boards of the
9 systems by mutual agreement and shall be certified by the
10 system from which the employee transfers.

11 (3) Any person who is concurrently employed by
12 employers under both systems ~~shall be~~ is entitled to
13 establish credits or equities in each of the systems in
14 accordance with and to the extent set forth in this act.

15 ~~(3)(3)~~ Eligibility of any such person for a retirement
16 allowance, death benefit, or refund of contributions ~~shall~~
17 be is governed by the provisions of the act creating the
18 system to which the person last made contributions and is
19 based upon the entire length of service for which he ~~shall~~
20 ~~have been~~ has been granted credit under both systems."

-End-

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LC 0027

1977 Legislature
Code Commissioner Bill - Summary

House Bill No. 33

TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO THE
PUBLIC EMPLOYEES' RETIREMENT SYSTEM.

(This summary does not include discussion of routine form
or grammatical changes.)

Section 1. 68-1602. Exclusions. This section, especially
in subsections (6) and (8), has been rewritten for clari-
fication and to aid recodification. In subsection (8),
"section" changed in two places to "subsection" for greater
accuracy.

Section 2. 68-1604. Absence not included in time of
service. Added "68-1605.1" after "68-1605" to correct
apparent error -- 68-1605.1 provides for credit for time spent
in military service and is therefore necessarily an exception
to 68-1604.

Section 3. 68-1605. Absence in military service. In
subsection (3), "department of war or defense" has been changed
to "dept. of defense" to correct an apparent error.

Section 4. 68-1608. Qualification of prior service
not previously credited. The last clause of the first
sentence has been moved to the beginning and "If" has been
added to clarify an ambiguity.

Section 5. 68-1901. Management of fund. In sub-
section (5), "deposit" has been changed to "deposited" to
clarify.

Section 6. 68-1904. Employer contribution to administrative
expense. In subsection (1), "from each employer" has been added
after "fee" to clarify who pays the fee.

Section 7. 68-2103. Allowance for duty-related disability. "Or not" after "whether" deleted to correct grammar.

Section 8. 68-2201. Medical examination of disability retiree - cancellation and reinstatement. In subsection (3), "the commencement of" has been added before "his retirement allowance" to clarify.

Section 9. 68-2203. Optional retirement allowance. In subsection (2), the last sentence has been deleted as meaningless because of the accepted view that an insurable interest is created by the member's designation.

Section 10. 68-2304. Survivorship allowance elected by beneficiary. In subsection (2), the phrase "with an insurable interest ... death" has been deleted for the same reason as under 68-2203.

Section 11. 68-2505. Payment of state contributions -- budget and appropriations. In subsection (1), deleted "to" before "its employees" to clarify.

Section 12. 68-2506. Transfer between funds. Grammar and style only.

Section 13. 68-2511. Transfer to and from and concurrent membership in teachers' retirement system. In subsection (3), "and is" has been added before "based" to clarify.

Approved by Committee
on State Administration

HOUSE BILL NO. 33

INTRODUCED BY BARDANOUVE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AMENDING SECTIONS 68-1602, 68-1604, 68-1605, 68-1608, 68-1901, 68-1904, 68-2103, 68-2201, 68-2203, 68-2304, 68-2505, 68-2506, AND 68-2511, R.C.M. 1947."

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

Section 1. Section 68-1602, R.C.M. 1947, is amended to read as follows:

"68-1602. Exclusions. The following persons ~~shall~~ may not become members of the retirement system:

(1) elective officers who have not filed with the board of ~~administration~~ written requests to become members, ~~+~~ provided ~~except~~ that ~~any~~ a person so excluded from membership may later become a member by otherwise becoming an employee or by written request after a subsequent election to office, ~~+~~ and ~~provided further that~~ if he ~~shall~~ affirmatively ~~exercise~~ exercises the option, the contributions of the employer, because of his membership, shall be the same as they would have been had he not been so excluded;

(2) inmates of state institutions who are allowed compensation for such service as they are able to perform;

(3) persons in state institutions principally for the purpose of training, but who receive compensation;

(4) independent contractors, unless there is a written contract which specifies the creation of an employer-employee relationship for purposes of retirement coverage under the Public Employees' Retirement System Act;

(5) employees serving in employment which does not exceed the equivalent of ~~sixty (60)~~ working days in any fiscal year;

(6) employees in service on July 1, 1945, or prior thereto who filed with the board of ~~administration~~ an ~~election~~ elections not to become members, ~~+~~ provided, any ~~except that a person so excluded from membership by his own election may become a member and be eligible thereafter to receive the same benefits that he would have received if he had never filed an election not to be a member by meeting the following requirements: of the balance of this subsection, such a person must file PRESCRIBED IN 68-1607 AND 68-1608.~~

~~(a) filing an election to become a member with the board of administration no later than July 1, 1975, + provided, that any such person who is not an employee on July 1, 1974, may make such filing no later than one (1)~~

SECOND READING

~~year after subsequently becoming an employee. In either event, such person must thereupon pay or within one year after becoming an employee, whichever is later, and~~

~~(b) paying to the retirement system the amount which he and his employer would have contributed had he not been so excluded plus interest which would have accumulated thereon. All benefits payable thereafter to such person shall be the same as if such person had never filed an election not to be a member.~~

(7) persons directly appointed by the governor, who do not file with the board of administration an election in writing to become members;

(8) (a) persons who are members of any other retirement or pension system supported wholly or in part by funds of the United States government, any state government, or political subdivision thereof and who are receiving credit in such the other system for service, it being the purpose of this section subsection to prevent a person from receiving credit for the same service in two (2) retirement systems supported wholly or in part by public funds, except when such the service qualifies, is applied for, and purchased pursuant to section 68-1605.1; ~~any~~ a member of the retirement system who, because of his employment by the state, shall be is required to become a member of any such other systems, system described in this subsection shall be

considered, solely for the purposes of making normal contributions, as permanently separated from service; ~~exclusion under this subsection (8)(a) is subject to the following exceptions: the accumulated contributions of any member who shall have died after becoming a member of such other system and before receiving said accumulated contributions, shall be paid to the beneficiary nominated by him to receive any death benefit payable under section 68-2301; employer contributions on the basis of compensation earned by members after the effective date of termination of membership herein because of the membership in such other system, shall be repaid to the employer; for the purpose of this section, persons receiving pensions, retirement allowances or other payments, from any source, on account of employment other than as an employee as defined in this act, shall not be considered, because of such receipt, members of any other retirement or pension system; provided, however, that where~~

(i) when an employer has entered into a collective bargaining agreement which includes provisions for payments or contributions by the employer in lieu of wages to a retirement or pension plan qualified by the Internal Revenue Service for its employees, such the employees shall remain eligible, if otherwise qualified, for membership in the retirement system, and the payments or contributions in lieu

1 of wages ~~shall~~ may not be ~~deemed~~ considered a part of the
 2 ~~employee's~~ employees' compensation for purposes of computing
 3 the employer or employee contributions to the retirement
 4 system;

5 (ii) for the purpose of subsection (8), persons
 6 receiving pensions, retirement allowances, or other payments
 7 from any source on account of employment other than as an
 8 employee as defined in this act are not considered, because
 9 of such receipt, members of any other retirement or pension
 10 system;

11 (b) the accumulated contributions of a member who dies
 12 after becoming a member of any other system described in
 13 subsection (8) and before receiving his accumulated
 14 contributions shall be paid to the beneficiary nominated by
 15 him to receive any death benefit payable under 68-2301;

16 (c) employer contributions on the basis of
 17 compensation earned by members after the effective date of
 18 termination of membership because of membership in another
 19 system, as provided in subsection (8), shall be repaid to
 20 the employer;

21 (9) court commissioners or appointive members of any
 22 board or commission who serve the state or any contracting
 23 employer intermittently and who are paid on a per diem
 24 basis;

25 (10) persons who become employees after they have

1 reached their ~~sixtieth~~ 60th birthday and have no creditable
 2 service in this system, and who do not file with the board
 3 ~~of administration~~ an election to become members;

4 (11) employees of county hospitals or county rest homes
 5 in the sixth and seventh class counties, unless they elect
 6 to file with the board ~~of administration~~ an election in
 7 writing to become members;

8 (12) persons employed by the legislature during the
 9 legislative session, who do not file with the board ~~of~~
 10 ~~administration~~ an election in writing to become members."

11 Section 2. Section 68-1604, R.C.M. 1947, is amended to
 12 read as follows:

13 "68-1604. Absence not included in time of service.
 14 Except as provided in ~~section~~ 68-1605, 68-1605.1, and
 15 68-1606, time during which a member is absent from
 16 compensated employment with an employer ~~shall~~ may not be
 17 allowed in computing service."

18 Section 3. Section 68-1605, R.C.M. 1947, is amended to
 19 read as follows:

20 "68-1605. Absence in military service. (1) Any period
 21 of absence from compensated employment with an employer for
 22 one of the following reasons, occurring either during a war
 23 involving the United States as a belligerent or ~~in~~ during
 24 any other national emergency, and ~~for ninety (90) days~~
 25 thereafter, ~~for one of the following reasons shall be~~ is

1 considered as service, for the purpose of qualification for
 2 retirement and death benefits, but not for calculation of
 3 retirement benefits:

4 ~~(1)~~ (a) by reason of having been ordered on duty with
 5 the armed forces of the United States;

6 ~~(2)~~ (b) by reason of voluntary service in said forces
 7 or on ships operated by or for the United States government;
 8 or

9 ~~(3)~~ (c) by reason of direct assignment to the
 10 department of ~~war~~ defense for duties pursuant to the
 11 national defense efforts where a leave of absence has been
 12 granted by the employer.

13 (2) Any member so absent ~~shall have~~ has the right to
 14 contribute to the retirement system, either during his
 15 period of absence or upon his return to service, at times
 16 and in the manner fixed by the board ~~of administration,~~
 17 amounts equal to the ~~contribution~~ contributions which would
 18 have been made by him to the system on the basis of his
 19 compensation at the commencement of his absence. If he does
 20 ~~so~~ contribute, he shall receive credit for service for such
 21 time in the same manner as if he had not been absent from
 22 service. Whenever a member elects to continue his
 23 contributions, the employer shall thereupon contribute an
 24 amount equal to what its employer contributions would have
 25 been had the member not been absent from service.

1 (3) Any member so absent ~~shall lose~~ loses the right to
 2 contribute under this section if all of his accumulated
 3 normal contributions are refunded pursuant to ~~section~~
 4 68-1905."

5 Section 4. Section 68-1608, R.C.M. 1947, is amended to
 6 read as follows:

7 "68-1608. Qualification of prior service not
 8 previously credited. ~~Credit~~ If a member otherwise has not
 9 less than 5 years of creditable service of which not less
 10 than 3 years have been as a contributing member of the
 11 retirement system, he shall be granted credit for any prior
 12 service not previously granted ~~shall be granted to a member~~
 13 upon his filing written notice thereof with the board of
 14 ~~administration~~ no later than July 1, 1975, ~~provided, that~~
 15 ~~any such person who is not a member on July 1, 1974, may~~
 16 ~~make such filing no later than one (1) year after~~
 17 ~~subsequently becoming a member and further provided he~~
 18 ~~otherwise has not less than five (5) years of creditable~~
 19 ~~service of which not less than three (3) years have been as~~
 20 ~~a contributing member of the retirement system, or within 1~~
 21 ~~year after becoming an employee, whichever is later.~~ Proper
 22 certification of ~~such~~ the prior service must be furnished."

23 Section 5. Section 68-1901, R.C.M. 1947, is amended to
 24 read as follows:

25 "68-1901. Management of fund. The retirement fund

1 shall be managed as follows:

2 (1) The board ~~of administration shall have~~ has
3 exclusive control of the administration of the fund except
4 as otherwise provided.

5 (2) The fund shall be invested by the state board of
6 investments as part of the long-term investment fund.

7 (3) The department of administration shall deposit
8 monthly in the state treasury all amounts received by it as
9 provided in this act.

10 (4) The state treasurer ~~shall be~~ is custodian of the
11 retirement fund, subject to the exclusive control of the
12 board ~~of administration~~ as to the administration thereof and
13 the board of investments as to the investment thereof.

14 (5) Interest earned on any cash ~~deposit~~ deposited in a
15 bank by the state treasurer and income on other assets
16 constituting a part of the fund shall be paid into the fund
17 as received. Income, of whatever nature, earned on the
18 retirement fund during any fiscal year, in excess of the
19 interest credited to contributions during that year shall be
20 retained in the fund as a reserve against deficiencies in
21 interest earned in other years, losses under investments,
22 and other contingencies.

23 (6) Except as herein provided, no member and no
24 employee of the department of administration ~~shall pay~~

25 (a) have any interest, direct, or indirect, in the

1 making of any investment, or in the gains or profits
2 accruing therefrom; ~~and no member or employee of the~~
3 ~~department~~

4 (b) directly or indirectly, for himself or as an agent
5 or partner of others, ~~may~~ borrow any of its funds or
6 deposits; ~~nor shall any member or employee~~

7 (c) in any manner use the same except to make such
8 current and necessary payments as are authorized by the
9 department; ~~or nor shall any member or employee of the~~
10 ~~department~~

11 (d) become an endorser or surety as to or in any
12 manner an obligor for investments for the retirement
13 system."

14 Section 6. Section 68-1904, B.C.M. 1947, is amended to
15 read as follows:

16 "68-1904. Employer contribution to administrative
17 expense. (1) The board ~~of administration may~~ assess, and the
18 department of administration shall collect a fee from each
19 employer for the purpose of defraying the administrative
20 expense of this act, not to exceed ~~three tenths of one~~
21 ~~percent~~ {.3%} of gross compensation.

22 (2) In addition to the contributions elsewhere
23 provided in this act, on July 1 of each year each employer
24 shall contribute on behalf of each member then in its employ
25 a membership fee of ~~one dollar~~ {\$1}. These fees together

1 with other moneys appropriated for that purpose shall be
2 used for the purpose of defraying the administrative expense
3 of this act."

4 Section 7. Section 68-2103, R.C.M. 1947, is amended to
5 read as follows:

6 "68-2103. ~~Annual allowance~~ Allowance for duty-related
7 ~~disability reduction for workmen's compensation.~~ The
8 annual amount of retirement allowance payable to a member
9 eligible for disability retirement for duty-related reasons
10 is ~~fifty percent (50%)~~ of his final compensation, ~~provided,~~
11 ~~however that~~ However, the annual amount of retirement
12 allowance ~~shall be~~ is ~~twenty five percent (25%)~~ of final
13 compensation for any period during which the member has been
14 awarded compensation by the ~~workmen's~~ workers' compensation
15 division, whether ~~or not~~ such compensation is received in
16 periodic payments or in a lump sum, ~~provided further, that~~
17 ~~the~~ The annual amount of retirement allowance ~~shall revert~~
18 reverts to ~~fifty percent (50%)~~ of final compensation at the
19 end of such period."

20 Section 8. Section 68-2201, R.C.M. 1947, is amended to
21 read as follows:

22 "68-2201. Medical examination of disability retiree --
23 cancellation and reinstatement ~~if retiree capable refund of~~
24 ~~contributions.~~ (1) The board ~~may~~, at its pleasure, require
25 the recipient of a retirement allowance because of

1 disability to undergo medical examination. The examination
2 shall be made by a physician or surgeon appointed by the
3 board, at the place of residence of the recipient or another
4 place mutually agreed upon. Upon the basis of the
5 examination, the board shall determine whether ~~said the~~ the
6 recipient is unable, by reason of physical or mental
7 incapacity, to perform either the duties of the position
8 held by him when he was retired or the duties proposed to be
9 assigned to him. If the board determines that ~~said the~~ the
10 recipient is not ~~so~~ incapacitated or if the recipient
11 refuses to submit to medical examination, his retirement
12 allowance shall be canceled.

13 (2) ~~Any~~ A person whose retirement allowance is ~~so~~
14 canceled shall be reinstated to the position held by him
15 immediately before his retirement or to a position in the
16 same classification with duties within his capacity, if he
17 had been an employee of the state or of the university. If
18 he had been an employee of a contracting employer, the board
19 shall notify the proper official of the contracting employer
20 that the retirement allowance has been canceled and that the
21 former employee is eligible for reinstatement to duty. The
22 fact that he was retired for disability ~~shall~~ may not
23 prejudice any right to reinstatement to duty which he ~~may~~
24 have or claim to have.

25 (3) If ~~any~~ a person whose retirement allowance is ~~so~~

1 canceled is not reemployed in a position subject to the
 2 retirement system, his service ~~shall be deemed is~~
 3 considered, for the purposes of 68-1905, to be have been
 4 discontinued coincident with the commencement of his
 5 retirement allowance ~~for the purposes of section 68-1905."~~

6 Section 9. Section 68-2203, R.C.M. 1947, is amended to
 7 read as follows:

8 "68-2203. Optional retirement allowance. (1) The
 9 retirement allowance of a member who so elects shall be
 10 converted, in lieu of all other benefits under this act,
 11 into an optional retirement allowance which is the actuarial
 12 equivalent of ~~such other the regular retirement~~ allowance.
 13 The optional retirement allowance is a reduced amount
 14 payable during the member's lifetime with a subsequent
 15 benefit as follows:

16 (a) ~~Option option~~ 1--a death benefit to the member's
 17 beneficiary equal to the excess, if any, of the member's
 18 accumulated contributions, with regular interest to the day
 19 his retirement allowance commenced, over the total of his
 20 retirement allowance payments;

21 (b) ~~Option option~~ 2--a continuation of the reduced
 22 retirement allowance during the lifetime of his named
 23 contingent annuitant;

24 (c) ~~Option option~~ 3--a continuation of one-half ~~(1/2)~~
 25 of the reduced retirement allowance during the lifetime of

1 his named contingent annuitant;

2 (d) ~~Option option~~ 4--such other actuarially equivalent
 3 benefit as ~~shall may~~ be approved by the board.

4 (2) Election of ~~any an~~ optional retirement allowance
 5 shall ~~must~~ be by written application filed prior to the
 6 first payment of the regular retirement allowance. ~~The~~
 7 ~~contingent annuitant named by the member must have an~~
 8 ~~insurable interest in the life of the member.~~

9 (3) If either the member or his contingent annuitant
 10 ~~should die dies~~ before the member has received the first
 11 payment under option 2 or 3, the election of ~~such the~~ option
 12 shall ~~is~~ automatically be canceled.

13 (4) If a member dies after retirement and within
 14 ~~thirty (30)~~ days from the date his election or changed
 15 election of an optional retirement allowance is received by
 16 the board, then ~~said the~~ election is void ~~and of no effect,~~
 17 and the death ~~shall be is~~ considered as that of a member
 18 before retirement."

19 Section 10. Section 68-2304, R.C.M. 1947, is amended
 20 to read as follows:

21 "68-2304. Survivorship allowance elected by
 22 beneficiary. A beneficiary eligible to receive a death
 23 benefit may elect, by written application, a survivorship
 24 allowance instead if all of the following conditions are
 25 met:

1 (1) ~~the~~ The member on behalf of whom the death benefit
2 is payable had completed ~~ten~~ {10} years of creditable
3 service.

4 (2) ~~the~~ The beneficiary is a natural person of legal
5 age ~~with an insurable interest in the deceased at the time~~
6 ~~of his death.~~

7 (3) ~~the~~ The beneficiary elects the survivorship
8 allowance within ~~ninety~~ {90} days of receipt of notice from
9 the board that he is eligible to receive the death benefit.
10 ~~Election shall be by written application.~~

11 Section 11. Section 68-2505, R.C.M. 1947, is amended
12 to read as follows:

13 "68-2505. Payment of state contributions — budget and
14 appropriations. (1) No later than the ~~tenth~~ 10th day of each
15 month, each department, board, commission, bureau, or other
16 agency of the state shall certify to the state auditor all
17 contributions required of ~~such~~ the unit and ~~to~~ its employees
18 under this act on the basis of compensation paid during the
19 previous month, including any contributions payable with
20 respect to members absent in the armed forces of the United
21 States. The state auditor shall thereupon draw a warrant
22 upon the state treasurer for ~~such~~ the contributions. The
23 warrant shall be drawn to the credit of the retirement fund
24 on the funds appropriated to ~~that~~ the unit.

25 (2) Every state employer shall include in ~~his~~ its

1 budget and request for legislative appropriations an amount
2 necessary to defray the state's part of the costs of this
3 act for its employees ~~in their respective departments, and~~
4 to the end that the legislature may make definite
5 appropriation for the cost incurred by each employer ~~whose~~
6 the employees of which are within the retirement system
7 created by this act."

8 Section 12. Section 68-2506, R.C.M. 1947, is amended
9 to read as follows:

10 "68-2506. Transfers between funds. Any fund out of
11 which payments are made under the provisions of this act may
12 be reimbursed to the extent of such payments by transfer of
13 a sufficient sum for ~~such~~ the reimbursement from another
14 fund or funds under the control of the same disbursing
15 officer. The disbursing officer shall certify to the state
16 auditor ~~amount~~ or the amounts to be thus transferred, and
17 ~~the fund~~ or funds from and to which the transfer is to be
18 made, and the auditor shall thereupon make the transfer as
19 directed in the certificate."

20 Section 13. Section 68-2511, R.C.M. 1947, is amended
21 to read as follows:

22 "68-2511. Transfer ~~of credits~~ to and from and
23 concurrent membership in teachers' retirement system. (1)
24 For the purpose of this section, "system" means the public
25 employees' retirement system of Montana or the teachers'

1 retirement system of the state of Montana.

2 (2) Upon transfer of a person from being an employee
3 under one system to being an employee in the other, ~~there~~
4 ~~shall be transferred~~ all service credits, both prior and
5 membership, ~~as have not been forfeited by withdrawal, unless~~
6 ~~the forfeited credits shall have been reinstated as provided~~
7 ~~by law shall be transferred, except those that have been~~
8 forfeited by withdrawal and have not been reinstated. The
9 amounts transferred shall be determined by the boards of the
10 systems by mutual agreement and shall be certified by the
11 system from which the employee transfers.

12 (3) Any person who is concurrently employed by
13 employers under both systems ~~shall be~~ is entitled to
14 establish credits or equities in each of the systems in
15 accordance with and to the extent set forth in this act.

16 ~~(3)(4)~~ Eligibility of any such person for a retirement
17 allowance, death benefit, or refund of contributions ~~shall~~
18 be is governed by the provisions of the act creating the
19 system to which the person last made contributions and is
20 based upon the entire length of service for which he ~~shall~~
21 ~~have been~~ has been granted credit under both systems."

-End-

1 HOUSE BILL NO. 33
 2 INTRODUCED BY BARDANOUVE
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 5 CLARIFY THE LAWS RELATING TO THE PUBLIC EMPLOYEES'
 6 RETIREMENT SYSTEM; AMENDING SECTIONS 68-1602, 68-1604,
 7 68-1605, 68-1608, 68-1901, 68-1904, 68-2103, 68-2201,
 8 68-2203, 68-2304, 68-2505, 68-2506, AND 68-2511, R.C.M.
 9 1947."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 68-1602, R.C.M. 1947, is amended to
13 read as follows:

14 "68-1602. Exclusions. The following persons shall may
15 not become members of the retirement system:

16 (1) elective officers who have not filed with the
 17 board ~~of administration~~ written requests to become members, ~~+~~
 18 ~~provided~~ except that ~~any~~ a person so excluded from
 19 membership may later become a member by otherwise becoming
 20 an employee or by written request after a subsequent
 21 election to officer, ~~+~~ and ~~provided further that~~ if he shall
 22 affirmatively ~~exercise~~ exercises the option, the
 23 contributions of the employer, because of his membership,
 24 shall be the same as they would have been had he not been so
 25 excluded;

There are no changes in HB 33, and due to length will not be rerun. Please refer to yellow copy for complete text.

THIRD READING

1 (2) inmates of state institutions who are allowed
2 compensation for such service as they are able to perform;

3 (3) persons in state institutions principally for the
4 purpose of training, but who receive compensation;

5 (4) independent contractors, unless there is a written
6 contract which specifies the creation of an
7 employer-employee relationship for purposes of retirement
8 coverage under the Public Employees' Retirement System Act;

9 (5) employees serving in employment which does not
10 exceed the equivalent of ~~sixty (60)~~ working days in any
11 fiscal year;

12 (6) employees in service on July 1, 1945, or prior
 13 thereto who filed with the board ~~of administration~~ an
 14 election elections not to become members, ~~+~~ provided, any
 15 except that a person so excluded from membership ~~by his own~~
 16 election may become a member and be eligible thereafter to
 17 receive the same benefits that he would have received if he
 18 had never filed an election not to be a member by meeting
 19 the following requirements ~~of the balance of this~~
 20 subsection. Such a person must file PRESCRIBED IN 68-1607 AND
 21 68-1608.

22 ~~(a) filing an election to become a member with the~~
 23 ~~board of administration no later than July 1, 1975, +~~
 24 ~~provided, that any such person who is not an employee on~~
 25 ~~July 1, 1974, may make such filing no later than one (1)~~

1 ~~year after subsequently becoming an employee, in either~~
 2 ~~event, such person must thereupon pay or, within one year~~
 3 ~~after becoming an employee, whichever is later, and~~

4 ~~(b) paying to the retirement system the amount which~~
 5 ~~he and his employer would have contributed had he not been~~
 6 ~~so excluded plus interest which would have accumulated~~
 7 ~~thereon; All benefits payable thereafter to such person~~
 8 ~~shall be the same as if such person had never filed an~~
 9 ~~election not to be a member;~~

10 (7) persons directly appointed by the governor, who do
 11 not file with the board of administration an election in
 12 writing to become members;

13 (8) ~~(a)~~ persons who are members of any other
 14 retirement or pension system supported wholly or in part by
 15 funds of the United States government, any state government,
 16 or political subdivision thereof and who are receiving
 17 credit in ~~such the~~ other system for service, it being the
 18 purpose of this ~~section subsection~~ to prevent a person from
 19 receiving credit for the same service in two ~~(2)~~ retirement
 20 systems supported wholly or in part by public funds, except
 21 when ~~such the~~ service qualifies, is applied for, and
 22 purchased pursuant to ~~section~~ 68-1605.1; ~~any a~~ member of the
 23 retirement system who, because of his employment by the
 24 state, ~~shall be is~~ required to become a member of any ~~such~~
 25 other ~~systems, system described in this subsection~~ shall be

1 considered, solely for the purposes of making normal
 2 contributions, as permanently separated from service;
 3 ~~exclusion under this subsection (8) (a) is subject to the~~
 4 ~~following exceptions: the accumulated contributions of any~~
 5 ~~member who shall have died after becoming a member of such~~
 6 ~~other system and before receiving said accumulated~~
 7 ~~contributions, shall be paid to the beneficiary nominated by~~
 8 ~~him to receive any death benefit payable under section~~
 9 ~~68-2301; employer contributions on the basis of compensation~~
 10 ~~earned by members after the effective date of termination of~~
 11 ~~membership herein because of the membership in such other~~
 12 ~~system, shall be repaid to the employer; for the purpose of~~
 13 ~~this section, persons receiving pensions, retirement~~
 14 ~~allowances or other payments, from any source, on account of~~
 15 ~~employment other than as an employee as defined in this act,~~
 16 ~~shall not be considered, because of such receipt, members of~~
 17 ~~any other retirement or pension system; provided, however,~~
 18 ~~that where~~

19 ~~(i) when~~ an employer has entered into a collective
 20 bargaining agreement which includes provisions for payments
 21 or contributions by the employer in lieu of wages to a
 22 retirement or pension plan qualified by the Internal Revenue
 23 Service for its employees, ~~such the~~ employees shall remain
 24 eligible, if otherwise qualified, for membership in the
 25 retirement system, and the payments or contributions in lieu

1 HOUSE BILL NO. 33

2 INTRODUCED BY BARDANOUVE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
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7 68-1605, 68-1608, 68-1901, 68-1904, 68-2103, 68-2201,
8 68-2203, 68-2304, 68-2505, 68-2506, AND 68-2511, R.C.M.
9 1947."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12 Section 1. Section 68-1602, R.C.M. 1947, is amended to
13 read as follows:14 "68-1602. Exclusions. The following persons shall ~~may~~
15 not become members of the retirement system:

16 (1) elective officers who have not filed with the
17 board of ~~administration~~ written requests to become members, ~~if~~
18 provided ~~except~~ that any a person so excluded from
19 membership may later become a member by otherwise becoming
20 an employee or by written request after a subsequent
21 election to office, ~~and provided further that~~ if he shall
22 affirmatively ~~exercise~~ exercises the option, the
23 contributions of the employer because of his membership
24 shall be the same as they would have been had he not been so
25 excluded;

1 (2) inmates of state institutions who are allowed
2 compensation for such service as they are able to perform;

3 (3) persons in state institutions principally for the
4 purpose of training, but who receive compensation;

5 (4) independent contractors, unless there is a written
6 contract which specifies the creation of an
7 employer-employee relationship for purposes of retirement
8 coverage under the Public Employees' Retirement System Act;

9 (5) employees serving in employment which does not
10 exceed the equivalent of ~~sixty~~ ~~(60)~~ working days in any
11 fiscal year;

12 (6) employees in service on July 1, 1945, or prior
13 thereto who filed with the board of ~~administration~~ ~~an~~
14 election elections not to become members, ~~provided any~~
15 ~~except that~~ a person so excluded from membership by ~~his own~~
16 election may become a member and be eligible thereafter to
17 receive the same benefits that he would have received if he
18 had never filed an election not to be a member by meeting
19 the following requirements ~~of the balance of this~~
20 ~~subsection. Such a person must file~~ PRESCRIBED IN 68-1607
21 AND 68-1608.

22 ~~it filing an election to become a member with the~~
23 ~~board of administration no later than July 1, 1975,~~
24 ~~provided that any such person who is not an employee on~~
25 ~~July 1, 1974, may make such filing no later than one (1)~~

REFERENCE BILL

1 year--after--subsequently--becoming--an--employee--in--either
2 event; such person must thereupon pay ~~or within one year~~
3 ~~after becoming an employee, whichever is later, and~~

4 ~~(b) paying to the retirement system the amount which~~
5 ~~he and his employer would have contributed had he not been~~
6 ~~so excluded plus interest which would have accumulated~~
7 ~~thereon; All benefits payable thereafter to such person~~
8 ~~shall be the same as if such person had never filed an~~
9 ~~election not to be a member;~~

10 (7) persons directly appointed by the governor, who do
11 not file with the board of ~~administration~~ an election in
12 writing to become members;

13 (8) (a) persons who are members of any other
14 retirement or pension system supported wholly or in part by
15 funds of the United States government, any state government,
16 or political subdivision thereof and who are receiving
17 credit in such ~~the~~ other system for service, it being the
18 purpose of this section subsection to prevent a person from
19 receiving credit for the same service in two ~~two~~ retirement
20 systems supported wholly or in part by public funds, except
21 when such ~~the~~ service qualifies, is applied for, and
22 purchased pursuant to section 68-1605.1; any a member of the
23 retirement system who, because of his employment by the
24 state, ~~shall be~~ is required to become a member of any such
25 other systems, system described in this subsection shall be

1 considered, solely for the purposes of making normal
2 contributions, as permanently separated from service;
3 exclusion under this subsection (8)(a) is subject to the
4 following exceptions: the accumulated contributions of any
5 member who shall have died after becoming a member of such
6 other system and before receiving said accumulated
7 contributions, shall be paid to the beneficiary nominated by
8 him to receive any death benefit payable under section
9 68-230; employer contributions on the basis of compensation
10 earned by members after the effective date of termination of
11 membership herein because of the membership in such other
12 systems, shall be repaid to the employer for the purpose of
13 this section; persons receiving pensions, retirement
14 allowances or other payments, from any source on account of
15 employment other than as an employee as defined in this act,
16 shall not be considered, because of such receipts, members of
17 any other retirement or pension system; provided, however,
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19 (i) when an employer has entered into a collective
20 bargaining agreement which includes provisions for payments
21 or contributions by the employer in lieu of wages to a
22 retirement or pension plan qualified by the Internal Revenue
23 Service for its employees, such ~~the~~ employees shall remain
24 eligible, if otherwise qualified, for membership in the
25 retirement system, and the payments or contributions in lieu

1 of wages shall ~~may~~ not be deemed ~~considered~~ a part of the
2 employee's ~~employees'~~ compensation for purposes of computing
3 the employer or employee contributions to the retirement
4 system;

5 ~~(ii) for the purpose of subsection (8), persons~~
6 ~~receiving pensions, retirement allowances, or other payments~~
7 ~~from any source on account of employment other than as an~~
8 ~~employee as defined in this act are not considered, because~~
9 ~~of such receipt, members of any other retirement or pension~~
10 ~~system;~~

11 ~~(b) the accumulated contributions of a member who dies~~
12 ~~after becoming a member of any other system described in~~
13 ~~subsection (8) and before receiving his accumulated~~
14 ~~contributions shall be paid to the beneficiary nominated by~~
15 ~~him to receive any death benefit payable under 68-2301;~~

16 ~~(c) employer contributions on the basis of~~
17 ~~compensation earned by members after the effective date of~~
18 ~~termination of membership because of membership in another~~
19 ~~system, as provided in subsection (8), shall be repaid to~~
20 ~~the employer;~~

21 (v) court commissioners or appointive members of any
22 board or commission who serve the state or any contracting
23 employer intermittently and who are paid on a per diem
24 basis;

25 (10) persons who become employees after they have

1 reached their ~~sixtieth~~ 60th birthday and have no creditable
2 service in this system and who do not file with the board
3 of ~~administration~~ an election to become members;

4 (11) employees of county hospitals or county rest homes
5 in the sixth and seventh class counties, unless they elect
6 to file with the board of ~~administration~~ an election in
7 writing to become members;

8 (12) persons employed by the legislature during the
9 legislative session, who do not file with the board of
10 ~~administration~~ an election in writing to become members."

11 Section 2. Section 68-1604, R.C.M. 1947, is amended to
12 read as follows:

13 "68-1604. Absence not included in time of service.
14 Except as provided in ~~section 68-1605, 68-1605.1,~~ and
15 68-1606, time during which a member is absent from
16 compensated employment with an employer shall ~~may~~ not be
17 allowed in computing service."

18 Section 3. Section 68-1605, R.C.M. 1947, is amended to
19 read as follows:

20 "68-1605. Absence in military service. (1) Any period
21 of absence from compensated employment with an employer ~~for~~
22 ~~one of the following reasons,~~ occurring either during a war
23 involving the United States as a belligerent or ~~in~~ during
24 any other national emergency, and ~~for ninety (90) days~~
25 thereafter, ~~for one of the following reasons, shall be is~~

1 considered as service, for the purpose of qualification for
2 retirement and death benefits, but not for calculation of
3 retirement benefits:

4 (1)(a) by reason of having been ordered on duty with
5 the armed forces of the United States;

6 (2)(b) by reason of voluntary service in said forces
7 or on ships operated by or for the United States government;
8 or

9 (3)(c) by reason of direct assignment to the
10 department of war or defense for duties pursuant to the
11 national defense efforts where a leave of absence has been
12 granted by the employer.

13 (2) Any member so absent shall have has the right to
14 contribute to the retirement system, either during his
15 period of absence or upon his return to service, at times
16 and in the manner fixed by the board of administration,
17 amounts equal to the contribution contributions which would
18 have been made by him to the system on the basis of his
19 compensation at the commencement of his absence. If he does
20 so contribute, he shall receive credit for service for such
21 time in the same manner as if he had not been absent from
22 service. Whenever a member elects to continue his
23 contributions, the employer shall thereupon contribute an
24 amount equal to what its employer contributions would have
25 been had the member not been absent from service.

1 (3) Any member so absent shall lose loses the right to
2 contribute under this section if all of his accumulated
3 normal contributions are refunded pursuant to section
4 68-1905."

5 Section 4. Section 68-1608, R.C.M. 1947, is amended to
6 read as follows:

7 "68-1608. Qualification of prior service not
8 previously credited. Credit if a member otherwise has not
9 less than 5 years of creditable service of which not less
10 than 3 years have been as a contributing member of the
11 retirement system, he shall be granted credit for any prior
12 service not previously granted ~~shall be granted to a member~~
13 upon his filing written notice thereof with the board of
14 administration no later than July 1, 1975, provided that
15 ~~any such person who is not a member on July 1, 1974, may~~
16 ~~make such filing no later than one (1) year after~~
17 ~~subsequently becoming a member and further provided he~~
18 ~~otherwise has not less than five (5) years of creditable~~
19 ~~service of which not less than three (3) years have been as~~
20 ~~a contributing member of the retirement system or within 1~~
21 year after becoming an employee, whichever is later. Proper
22 certification of such the prior service must be furnished."

23 Section 5. Section 68-1901, R.C.M. 1947, is amended to
24 read as follows:

25 "68-1901. Management of fund. The retirement fund

1 shall be managed as follows:

2 (1) The board ~~of administration shall have~~ has
 3 exclusive control of the administration of the fund except
 4 as otherwise provided.

5 (2) The fund shall be invested by the state board of
 6 investments as part of the long-term investment fund.

7 (3) The department of administration shall deposit
 8 monthly in the state treasury all amounts received by it as
 9 provided in this act.

10 (4) The state treasurer ~~shall be~~ is custodian of the
 11 retirement fund, subject to the exclusive control of the
 12 board ~~of administration~~ as to the administration thereof and
 13 the board of investments as to the investment thereof.

14 (5) Interest earned on any cash ~~deposit deposited~~ in a
 15 bank by the state treasurer and income on other assets
 16 constituting a part of the fund shall be paid into the fund
 17 as received. Income, of whatever nature, earned on the
 18 retirement fund during any fiscal year, in excess of the
 19 interest credited to contributions during that year shall be
 20 retained in the fund as a reserve against deficiencies in
 21 interest earned in other years, losses under investments,
 22 and other contingencies.

23 (6) Except as herein provided, no member and no
 24 employee of the department of administration ~~shall~~ may:

25 (a) have any interest, direct or indirect, in the

1 making of any investment, or in the gains or profits
 2 accruing therefrom; ~~And no member or employee of the~~
 3 ~~department~~

4 (b) directly or indirectly, for himself or as an agent
 5 or partner of others, may borrow any of its funds or
 6 deposits; ~~nor shall any member or employee~~

7 (c) in any manner use the same except to make such
 8 current and necessary payments as are authorized by the
 9 department; ~~or nor shall any member or employee of the~~
 10 ~~department~~

11 (d) become an endorser or surety as to or in any
 12 manner an obligor for investments for the retirement
 13 system."

14 Section 6. Section 68-1904, R.C.M. 1947, is amended to
 15 read as follows:

16 "68-1904. Employer contribution to administrative
 17 expense. (1) The board ~~of administration~~ may assess, and the
 18 department of administration shall collect a fee from each
 19 employer for the purpose of defraying the administrative
 20 expense of this act, not to exceed ~~three-tenths of one~~
 21 ~~percent (.3%)~~ of gross compensation.

22 (2) In addition to the contributions elsewhere
 23 provided in this act, on July 1 of each year each employer
 24 shall contribute on behalf of each member then in its employ
 25 a membership fee of ~~one dollar (\$1)~~. These fees together

1 with other moneys appropriated for that purpose shall be
2 used for the purpose of defraying the administrative expense
3 of this act."

4 Section 7. Section 68-2103, R.C.M. 1947, is amended to
5 read as follows:

6 "68-2103. ~~Annual-allowance~~ Allowance for duty-related
7 disability--~~reduction---for---workmen's--compensation~~. The
8 annual amount of retirement allowance payable to a member
9 eligible for disability retirement for duty-related reasons
10 is ~~fifty-percent-(50%)~~ of his final compensation, ~~provided~~
11 ~~however--that~~ However, the annual amount of retirement
12 allowance ~~shall--be~~ is ~~twenty-five-percent-(25%)~~ of final
13 compensation for any period during which the member has been
14 awarded compensation by the ~~workmen's~~ workers' compensation
15 division, whether ~~or--not~~ such compensation is received in
16 periodic payments or in a lump sum, ~~provided-further--that~~
17 the ~~the~~ annual amount of retirement allowance ~~shall--revert~~
18 reverts to ~~fifty-percent-(50%)~~ of final compensation at the
19 end of such period."

20 Section 8. Section 68-2201, R.C.M. 1947, is amended to
21 read as follows:

22 "68-2201. Medical examination of disability retiree --
23 cancellation and reinstatement ~~if-retiree-capable--refund-of~~
24 ~~contributions~~. (1) The board may, at its pleasure, require
25 the recipient of a retirement allowance because of

1 disability to undergo medical examination. The examination
2 shall be made by a physician or surgeon appointed by the
3 board, at the place of residence of the recipient or another
4 place mutually agreed upon. Upon the basis of the
5 examination, the board shall determine whether ~~said the~~
6 recipient is unable, by reason of physical or mental
7 incapacity, to perform either the duties of the position
8 held by him when he was retired or the duties proposed to be
9 assigned to him. If the board determines that ~~said the~~
10 recipient is not ~~so~~ incapacitated or if the recipient
11 refuses to submit to medical examination, his retirement
12 allowance shall be canceled.

13 (2) Any ~~a~~ person whose retirement allowance is ~~so~~
14 canceled shall be reinstated to the position held by him
15 immediately before his retirement or to a position in the
16 same classification with duties within his capacity, if he
17 had been an employee of the state or of the university. If
18 he had been an employee of a contracting employer, the board
19 shall notify the proper official of the contracting employer
20 that the retirement allowance has been canceled and that the
21 former employee is eligible for reinstatement to duty. The
22 fact that he was retired for disability ~~shall~~ may not
23 prejudice any right to reinstatement to duty which he may
24 have or claim to have.

25 (3) If ~~any a~~ person whose retirement allowance is ~~so~~

1 canceled is not reemployed in a position subject to the
2 retirement system, his service ~~shall be deemed is~~
3 ~~considered, for the purposes of 68-1905,~~ to be ~~have been~~
4 discontinued coincident with ~~the commencement of~~ his
5 retirement allowance ~~for the purposes of section 68-1905."~~

6 Section 9. Section 68-2203, R.C.M. 1947, is amended to
7 read as follows:

8 "68-2203. Optional retirement allowance. (1) The
9 retirement allowance of a member who so elects shall be
10 converted, in lieu of all other benefits under this act,
11 into an optional retirement allowance which is the actuarial
12 equivalent of ~~such other the regular retirement~~ allowance.
13 The optional retirement allowance is a reduced amount
14 payable during the member's lifetime with a subsequent
15 benefit as follows:

16 (a) ~~Option option 1~~--a death benefit to the member's
17 beneficiary equal to the excess, if any, of the member's
18 accumulated contributions, with regular interest to the day
19 his retirement allowance commenced, over the total of his
20 retirement allowance payments;

21 (b) ~~Option option 2~~--a continuation of the reduced
22 retirement allowance during the lifetime of his named
23 contingent annuitant;

24 (c) ~~Option option 3~~--a continuation of one-half ~~(1/2)~~
25 of the reduced retirement allowance during the lifetime of

1 his named contingent annuitant;

2 (d) ~~Option option 4~~--such other actuarially equivalent
3 benefit as ~~shall may~~ be approved by the board.

4 (2) Election of ~~any an~~ optional retirement allowance
5 ~~shall must~~ be by written application filed prior to the
6 first payment of the regular retirement allowance. ~~The~~
7 ~~contingent annuitant named by the member must have an~~
8 ~~insurable interest in the life of the member.~~

9 (3) If either the member or his contingent annuitant
10 ~~should die dies~~ before the member has received the first
11 payment under option 2 or 3, the election of ~~such the~~ option
12 ~~shall is~~ automatically be canceled.

13 (4) If a member dies after retirement and within
14 ~~thirty (30)~~ days from the date his election or changed
15 election of an optional retirement allowance is received by
16 the board, then ~~said the~~ election is void ~~and of no effect,~~
17 and the death ~~shall be is~~ considered as that of a member
18 before retirement."

19 Section 10. Section 68-2304, R.C.M. 1947, is amended
20 to read as follows:

21 "68-2304. Survivorship allowance elected by
22 beneficiary. A beneficiary eligible to receive a death
23 benefit may elect, by written application, a survivorship
24 allowance instead if all of the following conditions are
25 met:

1 (1) the ~~the~~ member on behalf of whom the death benefit
2 is payable had completed ~~ten--(10)~~ years of creditable
3 service;

4 (2) the ~~the~~ beneficiary is a natural person of legal
5 age with ~~an insurable interest in the deceased at the time~~
6 ~~of his death~~;

7 (3) the ~~the~~ beneficiary elects the survivorship
8 allowance within ~~ninety--(90)~~ days of receipt of notice from
9 the board that he is eligible to receive the death benefit.
10 ~~Election shall be by written application.~~

11 Section 11. Section 68-2505, R.C.M. 1947, is amended
12 to read as follows:

13 *68-2505. Payment of state contributions -- budget and
14 appropriations. (1) No later than the ~~tenth 10th~~ day of each
15 month, each department, board, commission, bureau, or other
16 agency of the state shall certify to the state auditor all
17 contributions required of ~~such the~~ unit and to its employees
18 under this act on the basis of compensation paid during the
19 previous month, including any contributions payable with
20 respect to members absent in the armed forces of the United
21 States. The state auditor shall thereupon draw a warrant
22 upon the state treasurer for ~~such the~~ contributions. The
23 warrant shall be drawn to the credit of the retirement fund
24 on the funds appropriated to ~~that the~~ unit.

25 (2) Every state employer shall include in ~~his its~~

1 budget and request for legislative appropriations an amount
2 necessary to defray the state's part of the costs of this
3 act for ~~its~~ employees ~~in their respective departments~~ and
4 to the end that the legislature may make definite
5 appropriation for the cost incurred by each employer whose
6 ~~the~~ employees ~~of which~~ are within the retirement system
7 created by this act."

8 Section 12. Section 68-2506, R.C.M. 1947, is amended
9 to read as follows:

10 *68-2506. Transfers between funds. Any fund out of
11 which payments are made under the provisions of this act may
12 be reimbursed to the extent of such payments by transfer of
13 a sufficient sum for ~~such the~~ reimbursement from another
14 fund or funds under the control of the same disbursing
15 officer. The disbursing officer shall certify to the state
16 auditor ~~amount--or the~~ amounts to be thus transferred, and
17 the ~~fund--or~~ funds from and to which the transfer is to be
18 made, and the auditor shall thereupon make the transfer as
19 directed in the certificate.*

20 Section 13. Section 68-2511, R.C.M. 1947, is amended
21 to read as follows:

22 *68-2511. Transfer ~~of--credits~~ to and from ~~and~~
23 ~~concurrent membership in~~ teachers' retirement system. (1)
24 For the purpose of this section, "system" means the public
25 employees' retirement system of Montana or the teachers'

1 retirement system of the state of Montana.

2 (2) Upon transfer of a person from being an employee
 3 under one system to being an employee in the other, there
 4 ~~shall be transferred~~ all service credits, both prior and
 5 membership, ~~as have not been forfeited by withdrawal, unless~~
 6 ~~the forfeited credits shall have been reinstated as provided~~
 7 ~~by law shall be transferred, except those that have been~~
 8 ~~forfeited by withdrawal and have not been reinstated.~~ The
 9 amounts transferred shall be determined by the boards of the
 10 systems by mutual agreement and shall be certified by the
 11 system from which the employee transfers.

12 (3) Any person who is concurrently employed by
 13 employers under both systems ~~shall be~~ is entitled to
 14 establish credits or equities in each of the systems in
 15 accordance with and to the extent set forth in this act.

16 (3)(4) Eligibility of any such person for a retirement
 17 allowance, death benefit, or refund of contributions ~~shall~~
 18 be is governed by the provisions of the act creating the
 19 system to which the person last made contributions and is
 20 based upon the entire length of service for which he ~~shall~~
 21 ~~have been~~ has been granted credit under both systems."

-End-