

1 *House* BILL NO. *801*  
 2 INTRODUCED BY *Boutwell*

3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A MUNICIPAL  
 5 POLICE OFFICERS' RETIREMENT SYSTEM AND PROVIDING FOR ITS  
 6 ADMINISTRATION; AMENDING SECTIONS 11-1823, 11-1825, 11-1826,  
 7 11-1834, 11-1836, AND 11-1844, R.C.M. 1947; AND REPEALING  
 8 SECTIONS 11-1821-1, 11-1824, 11-1838, 11-1839, 11-1840,  
 9 11-1841, 11-1842, 11-1848, 11-1850, 82A-222, AND 82A-223,  
 10 R.C.M. 1947."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 13 Section 1. There is a new R.C.M. section that reads as  
 14 follows:

15 Short title. This act may be cited as the "Municipal  
 16 Police Officers' Retirement Act".

17 Section 2. There is a new R.C.M. section that reads as  
 18 follows:

19 Definitions. Unless the context requires otherwise, the  
 20 following definitions apply in this act:

21 (1) "Plan" means the municipal police officers'  
 22 retirement system created by this act.

23 (2) "Prior plan" means the local police reserve or  
 24 retirement fund of a city which elects to join the plan  
 25 under [section 26] or the statewide police reserve fund

1 administered by the department of administration in  
 2 accordance with Chapter 335, Laws of 1974.

3 (3) "Employer" means any city which participated in a  
 4 prior plan or which elects to join this plan under [section  
 5 26].

6 (4) "Administrator" means the public employees  
 7 retirement division of the department of administration.

8 (5) "Board" means the retirement board described in  
 9 82A-210.

10 (6) "Member" means a person who is employed by an  
 11 employer as a police officer or who is entitled to a  
 12 retirement allowance by virtue of his service to an employer  
 13 as a police officer.

14 (7) "Member contributions" means the total of the  
 15 deductions from the compensation of a member, either made  
 16 during a period of active membership hereunder or made under  
 17 a prior plan and transferred to this plan, standing to his  
 18 credit, together with the interest thereon.

19 (8) "Monthly compensation" means the amount of the  
 20 base salary, excluding overtime, holiday payments, shift  
 21 differential payments, compensation time payments, and  
 22 payments in lieu of sick leave and annual leave, a member  
 23 receives as an active police officer.

24 (9) "Final average salary" means the monthly  
 25 compensation of a member, averaged over the last 36 months

1 of his active service or, in the event he has not been a  
2 member that long, over the period of his membership.

3 (10) "Prior service" means a period of employment as a  
4 police officer for which credit was granted to a member  
5 under a prior plan and has been transferred to this plan.

6 (11) "Membership service" means a period of employment  
7 with an employer occurring after June 30, 1977, during which  
8 the withholdings required by this act have been made from a  
9 member's monthly compensation and credited to his member  
10 contributions account. Pro rata credit shall be granted for  
11 employment on a part-time basis or for employment over a  
12 period of less than a complete fiscal year.

13 (12) "Credited service" means the aggregate of a  
14 member's prior service and membership service.

15 (13) "Member's annuity" means monthly payments for life  
16 derived from member contributions.

17 (14) "Employer annuity" means monthly payments for life  
18 derived from employer and state contributions.

19 (15) "Retirement allowance" means the employer annuity  
20 plus the member's annuity.

21 (16) "Minimum retirement date" or "normal retirement  
22 date" means the first day of the month coinciding with or  
23 immediately following, if none coincides, the date on which  
24 a member becomes both age 50 or older and completes 20 or  
25 more years of credited service.

1 (17) "Mandatory retirement date" means the first day of  
2 the month coinciding with or immediately following, if none  
3 coincides, the date on which a member attains age 65.

4 (18) "Retirement date" means the date on which the  
5 first payment of the retirement, disability, or survivor  
6 benefits of a member or a beneficiary is payable.

7 (19) "Totally and permanently disabled" means that the  
8 board, upon certification by a licensed and practicing  
9 physician, has determined that a member's disability is of  
10 such a nature as to permanently impair his ability to  
11 discharge his normal duties as a police officer.

12 (20) "Police officer" means a law enforcement officer  
13 employed by an employer.

14 (21) "Fund" means the agency account in the treasury  
15 system designated for the use of the plan.

16 Section 3. There is a new R.C.M. section that reads as  
17 follows:

18 Municipal police officers' retirement system  
19 established. A municipal police officers' retirement system  
20 is established and shall be governed by the provisions of  
21 this act.

22 Section 4. There is a new R.C.M. section that reads as  
23 follows:

24 Active membership. (1) A police officer becomes an  
25 active member under the plan:

1 (a) on the date his employment by an employer  
2 commences;

3 (b) on July 1, 1977, if he is employed by an employer  
4 on that date; or

5 (c) in the case of an employer which elects to join  
6 the plan as provided in [section 26 of this act], on the  
7 effective date of such election if he is employed by the  
8 employer on that date.

9 (2) Upon becoming eligible for membership, he shall  
10 complete such forms and furnish such proof as may be  
11 required by the board.

12 (3) No member is eligible to be covered under any  
13 other mandatory retirement plan to which an employer is  
14 required to contribute on his behalf, except the Social  
15 Security Act, while he is eligible to be covered by this  
16 plan.

17 (4) A member is entitled to benefits based upon the  
18 entire period of his credited service and final average  
19 salary without regard to the number of employers by whom he  
20 was employed or the number of periods of his employment so  
21 that no duplication of credited service occurs.

22 Section 5. There is a new R.C.M. section that reads as  
23 follows:

24 Inactive membership. (1) An active member becomes an  
25 inactive member upon the occurrence of the earlier of the

1 following:

2 (a) the date he ceases to be employed by an employer  
3 and becomes entitled to a retirement allowance;

4 (b) the date of commencement of an approved absence  
5 from active duty with an employer of a substantial duration.

6 (2) An inactive member becomes an active member on the  
7 day he returns to active duty with an employer. Upon again  
8 becoming an active member, his retirement allowance, if any,  
9 shall cease being paid to him until he again becomes an  
10 inactive member.

11 Section 6. There is a new R.C.M. section that reads as  
12 follows:

13 Cessation of membership. A member shall cease to be a  
14 member upon the occurrence of the earlier of the following:

15 (1) the date he withdraws his member contributions in  
16 lieu of all other benefits under the plan;

17 (2) the date of his death.

18 Section 7. There is a new R.C.M. section that reads as  
19 follows:

20 Employer and state contributions and funding sources.

21 (1) Employer and state contributions shall be paid to the  
22 administrator who shall, as soon as practicable after their  
23 receipt, deposit them with the state treasurer.

24 (2) The state of Montana shall make its contributions  
25 through the state auditor out of the premium tax on motor

1 vehicle property and casualty insurance policies. Such  
 2 payments shall be made annually from the gross premium tax  
 3 after deduction for cancellations and returned premiums. The  
 4 administrator shall notify the auditor of the annual  
 5 compensation paid to all active members during the preceding  
 6 year and the state's contribution shall be 12% of such  
 7 compensation.

8 (3) Each employer shall make its contribution on  
 9 behalf of members through the city treasurer or other  
 10 appropriate official out of moneys available to the city for  
 11 such purpose. The employer's contribution shall be 12% of  
 12 the total monthly compensation paid to all active members  
 13 during the preceding month and shall be payable monthly to  
 14 the administrator.

15 (4) (a) It is found and declared by the legislature  
 16 that many cities operating under prior plans have excess and  
 17 unfunded liabilities under such prior plans, which  
 18 liabilities cannot be amortized by the percentage  
 19 contributions set forth in subsections (2) and (3).

20 (b) The administrator shall, on or before October 1,  
 21 1977, determine the excess and unfunded liability of each  
 22 city which participates in the plan created by this act. The  
 23 determination of the administrator, in the absence of fraud,  
 24 abuse of discretion, or arithmetic error, is final and  
 25 binding on each city. Each city found by the administrator

1 to have an excess and unfunded liability under a prior plan,  
 2 which as of July 1, 1977, is not funded by sums on deposit  
 3 or funds available for deposit with the administrator, shall  
 4 pay an additional sum over a period of time to amortize its  
 5 excess liability as determined by the administrator. If any  
 6 city and the administrator are unable by January 1, 1978, to  
 7 negotiate and reduce to writing the terms of an agreement  
 8 satisfactory to both of them for the city to amortize its  
 9 excess liability, the administrator shall require such city  
 10 to pay an additional sum to amortize its excess liability on  
 11 July 1, 1977 over a period of not more than 40 years.

12 (c) Each city found by the administrator to be paying  
 13 an amount in excess of the amount necessary to amortize its  
 14 liabilities under the prior plan and under this act shall  
 15 receive a credit in the accounts of the administrator for  
 16 any such excess payments.

17 Section 8. There is a new R.C.M. section that reads as  
 18 follows:

19 Member contributions. (1) The treasurer or other  
 20 appropriate official of each employer shall retain from the  
 21 monthly compensation of each active member a sum equal to 6%  
 22 of his monthly compensation for his services as a police  
 23 officer. The monthly deduction from the salaries of police  
 24 officers shall be paid to the administrator for the purpose  
 25 of paying the retirement allowances of retired police

1 officers.

2 (2) A member is fully vested in his member  
3 contributions at all times and may, at his discretion,  
4 withdraw the full amount of his member contributions upon  
5 his termination of employment in accordance with [section  
6 14] and forfeit all rights and interest with respect to any  
7 benefits which would otherwise become payable under the  
8 plan.

9 Section 9. There is a new R.C.M. section that reads as  
10 follows:

11 Reinstatement after withdrawal of member contributions  
12 -- reposit of amounts withdrawn. (1) Upon reinstatement to  
13 active membership, a member may reposit in the fund, in  
14 one lump sum or in installments not to exceed 12 monthly or  
15 24 semimonthly installments, an amount equal to the member  
16 contributions which he withdrew plus an amount equal to the  
17 interest which would have been credited to his account had  
18 he not withdrawn his member contributions. If a member makes  
19 such a reposit, his credited service shall be reinstated.

20 (2) If an active member does not elect to make the  
21 reposit provided for in subsection (1), he forfeits his  
22 credited service for the period attributable to the  
23 withdrawn member contributions.

24 Section 10. There is a new R.C.M. section that reads  
25 as follows:

1 Other moneys credited as employer contributions. All  
2 gifts, bequests, or emoluments given to an employer or  
3 member for the benefit of the plan or because of any  
4 member's service as a police officer, except when  
5 specifically allowed to be retained by the member by his  
6 employer, and all moneys withheld from the monthly  
7 compensation of a member for violation of the rules of his  
8 employer shall be paid to the administrator. The  
9 administrator shall credit them to the fund and, as soon as  
10 practicable after their receipt, deposit them with the state  
11 treasurer. Such amounts are employer contributions but are  
12 in addition to the amounts required by [section 7].

13 Section 11. There is a new R.C.M. section that reads  
14 as follows:

15 Application for service retirement. On or after a  
16 member's minimum retirement date and prior to his mandatory  
17 retirement date, he may retire on a service retirement  
18 allowance by making written application to the employer. The  
19 employer shall forward the application to the board not less  
20 than 30 days or more than 90 days before the elected  
21 retirement date. The application shall state the elected  
22 retirement date.

23 Section 12. There is a new R.C.M. section that reads  
24 as follows:

25 Eligibility for disability retirement. If a member is

1 determined by the board to be totally and permanently  
 2 disabled, he is entitled to a disability retirement  
 3 allowance, regardless of the length of his service,  
 4 commencing as of the first day of the month coinciding with  
 5 or immediately following, if none coincides, the date on  
 6 which he became totally and permanently disabled.

7 Section 13. There is a new R.C.M. section that reads  
 8 as follows:

9 Procedure upon recovery from total and permanent  
 10 disability. (1) If an inactive member is determined by the  
 11 board to be no longer totally and permanently disabled, his  
 12 disability retirement allowance shall cease as of the date  
 13 of such determination and he shall be notified of the  
 14 determination by the board. The board may review the status  
 15 of any inactive member at any time.

16 (2) If the inactive member again becomes an active  
 17 member by returning to active work for an employer within 30  
 18 days following receipt of such notice, he shall be  
 19 considered to have been continuously employed during the  
 20 term of his disability. If the inactive member fails to  
 21 become an active member by returning to active work for an  
 22 employer within 30 days following receipt of such notice,  
 23 his termination of employment shall be considered to have  
 24 occurred as of his disability retirement date and the  
 25 retirement allowance, if any, to which he becomes entitled

1 on his service retirement shall be determined accordingly.

2 Section 14. There is a new R.C.M. section that reads  
 3 as follows:

4 Termination of employment prior to retirement. (1) Upon  
 5 termination of the employment of an active member prior to  
 6 his retirement date, he shall withdraw the amount of his  
 7 member contributions in lieu of all other benefits under the  
 8 plan. If he has 10 years or more of service, the amount paid  
 9 shall include regular interest, at a rate to be determined  
 10 by the board, on such amounts. If he has less than 10 years  
 11 of service, he shall receive only the amount paid through  
 12 salary deductions, without interest. If an active member's  
 13 employment terminates by reason of his death, his  
 14 beneficiaries are entitled to the benefits prescribed in  
 15 [section 16 of this act].

16 Section 15. There is a new R.C.M. section that reads  
 17 as follows:

18 Retirement allowances to be monthly and fixed. The  
 19 retirement allowances granted under the provisions of this  
 20 act shall be paid in monthly installments. They may not be  
 21 increased or decreased, except as specifically provided  
 22 herein, or repealed or revoked except by an act of the  
 23 Montana legislature.

24 Section 16. There is a new R.C.M. section that reads  
 25 as follows:

1           Death benefits. (1) A member's retirement allowance  
2 shall be paid first to the member during his lifetime and,  
3 upon his death, in the manner and to the persons designated  
4 in subsection (2).

5           (2) Upon the death of a police officer before or after  
6 retirement, his surviving spouse, if there is one, shall, as  
7 long as such spouse remains the surviving spouse, be paid  
8 from the fund a sum equal to one-half of the officer's final  
9 average salary. If the officer leaves one or more dependent  
10 minor children, then, upon his death if he leaves no  
11 surviving spouse or upon the death or remarriage of the  
12 surviving spouse, his surviving dependent minor children,  
13 collectively if there is more than one, shall receive the  
14 same monthly payments a surviving spouse would receive,  
15 until they reach the age of 18 years or are married. The  
16 payments shall be made to their duly appointed, qualified,  
17 and acting guardian for their use. If there is more than one  
18 such child, upon each child reaching the age of 18 years or  
19 marrying, the pro rata payments to that child shall cease  
20 and shall be made to the remaining children until all the  
21 children have reached the age of 18 years or are married.

22           Section 17. There is a new R.C.M. section that reads  
23 as follows:

24           Retirement benefits exempt from state or municipal tax.  
25 Any money received as a retirement allowance in accordance

1 with the provisions of this act is exempt from any state or  
2 municipal tax.

3           Section 18. There is a new R.C.M. section that reads  
4 as follows:

5           Rights to benefits unassignable — protection from  
6 legal process. The benefits payable hereunder are not  
7 subject to the claims of any creditor of a member,  
8 beneficiary, or survivor or to attachment, garnishment, or  
9 other legal or equitable process. No member, beneficiary,  
10 or survivor may alienate, anticipate, commute, pledge,  
11 encumber, assign, or sell any of such benefits.

12           Section 19. There is a new R.C.M. section that reads  
13 as follows:

14           Retirement board — powers and duties. (1) The board is  
15 authorized to administer, interpret, and enforce the  
16 provisions of this act.

17           (2) The board shall establish such uniform rules as  
18 are necessary to administer the provisions of this act. The  
19 board is the sole authority under this act as to the  
20 conditions under which persons may become members of and  
21 receive benefits under the retirement system. The board  
22 shall determine and may modify allowances for retirement and  
23 disability under this act.

24           (3) The board shall determine whether a member has  
25 become totally and permanently disabled and whether the

1 disability is duty-related. In the discharge of its duties  
 2 regarding such determination, the board, any member thereof,  
 3 or any duly authorized representative of the board may order  
 4 medical examinations, conduct hearings, administer oaths and  
 5 affirmations, take depositions, certify to official acts,  
 6 and issue subpoenas to compel the attendance of witnesses  
 7 and the production of books, papers, correspondence,  
 8 memoranda, and documents considered necessary as evidence in  
 9 connection with the claim for disability retirement. The  
 10 board shall secure medical service and advice necessary to  
 11 carry out the purposes of this section.

12 (4) Except as otherwise provided in this act, the  
 13 department of administration, through the administrator and  
 14 the board of investments, shall administer, invest, account  
 15 for, and treat the funds deposited with it under this act in  
 16 accordance with the rules dealing with the public employees  
 17 retirement system, insofar as such rules are not  
 18 inconsistent with those promulgated and adopted by the  
 19 board. The contributions of the state, employers, and  
 20 members paid to the administrator under this act may be  
 21 commingled for investment purposes.

22 Section 20. There is a new R.C.M. section that reads  
 23 as follows:

24 Retirement account. On July 1, 1977, there will be an  
 25 account in the agency fund to be maintained on behalf of the

1 plan. The state treasurer is the custodian of the account  
 2 subject to the exclusive administrative control of the  
 3 board.

4 Section 21. There is a new R.C.M. section that reads  
 5 as follows:

6 Transfer of assets and liabilities from prior plans.  
 7 All funds and obligations constituting the assets and  
 8 liabilities of prior plans, regardless of their form or who  
 9 holds them, shall be transferred to the account provided for  
 10 in [section 20 of this act]. The board shall ascertain the  
 11 amounts to be apportioned to each account upon the passage  
 12 of this act, and the state treasurer shall transfer such  
 13 amounts to the appropriate accounts on July 1, 1977.

14 Section 22. There is a new R.C.M. section that reads  
 15 as follows:

16 Benefits to members of prior plans. (1) All provisions  
 17 of this plan are effective as to a member whose retirement  
 18 date occurred prior to July 1, 1977, except the amount and  
 19 mode of payment of such member's retirement allowance will  
 20 remain unchanged.

21 (2) This act may not decrease the benefits of a member  
 22 under a prior plan.

23 Section 23. There is a new R.C.M. section that reads  
 24 as follows:

25 Actuarial valuation. The board shall engage the

1 services of a qualified actuary to conduct an actuarial  
 2 valuation of the plan in each even-numbered year. It shall  
 3 include the actuary's determination of the financial  
 4 condition of the plan, the level of annual contributions  
 5 required to maintain the plan on an actuarially sound basis,  
 6 and, if applicable, the level of annual contributions  
 7 required to amortize the excess and unfunded liabilities  
 8 described in [section 7](4). A qualified actuary is one who  
 9 is a member of the American academy of actuaries or of any  
 10 organization considered by the board to have similar  
 11 standards.

12 Section 24. There is a new R.C.M. section that reads  
 13 as follows:

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

19 Section 25. There is a new R.C.M. section that reads  
 20 as follows:

21 Taxing authority of employers. (1) For the purpose of  
 22 making contributions required of a city under this act, when  
 23 the demand for deposits of such contributions cannot be met  
 24 within the general taxing authority and other revenues  
 25 available to the city for that purpose, the appropriate

1 authority of the city may levy any additional tax authorized  
 2 by law until the general taxing authority and other revenue  
 3 available for that purpose is sufficient to meet the demand.

4 (2) "General taxing authority", as used in this  
 5 section, means that levy which the city can make under the  
 6 all-purpose levy or under multiple-purpose levies, if the  
 7 city is using multiple-purpose levies.

8 (3) No provision of any statute relating to the  
 9 all-purpose levy may be so construed as to limit the  
 10 additional taxing authority created by this section.

11 Section 26. There is a new R.C.M. section that reads  
 12 as follows:

13 Election to join plan -- transfer of assets.

14 (1) Cities other than those participating in the statewide  
 15 police reserve fund administered by the department of  
 16 administration in accordance with Chapter 335, Laws of 1974,  
 17 as of June 30, 1977, may elect to join the plan by passing  
 18 an ordinance stating the election and the consent of the  
 19 city to be bound by the provisions of this act. Upon the  
 20 enactment of such an ordinance, the provisions of this act  
 21 become applicable to the city. Any city enacting such an  
 22 ordinance shall send a certified copy thereof to the board  
 23 and shall, as soon as possible thereafter, deposit with the  
 24 board all cash and securities held by it in its local police  
 25 reserve or retirement fund. The value of the securities

1 shall be determined by the board.

2 (2) The trustees or other administrative head of the  
3 local system as of the effective date of the election shall  
4 certify the proportion, if any, of the funds of the system  
5 that represents the accumulated contributions of the active  
6 members and the relative shares of the members as of that  
7 date. Such shares shall be charged to the employer and  
8 credited to the respective individual accounts of the  
9 members in the plan and administered as if the contributions  
10 had been made during membership in the plan. Any excess of  
11 employer credits over charges under this section will be  
12 offset, with interest, against future required employer  
13 contributions. Any excess of employer charges over credits  
14 under this section are payable by the employer, with  
15 interest, on a basis determined by the procedure described  
16 in subsections (4)(b) and (4)(c) of [section 7 of this act].

17 Section 27. There is a new R.C.M. section that reads  
18 as follows:

19 Penalty for false statements or falsification of  
20 records. (1) No person may knowingly make any false  
21 statement or permit to be falsified any records of the plan  
22 in an attempt to defraud the plan.

23 (2) If any change in records fraudulently made or any  
24 mistake in records inadvertently made results in any member,  
25 survivor, or beneficiary receiving more or less than he was

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

4 (3) A person who violates any of the provisions of  
5 subsection (1) is guilty of a misdemeanor and, upon  
6 conviction, shall be punished by a fine not exceeding \$500  
7 or imprisonment in the county jail for a term not exceeding  
8 6 months, or both.

9 Section 28. There is a new R.C.M. section that reads  
10 as follows:

11 Board's authority to refuse to make payments. The board  
12 may revoke, refuse to grant, or suspend a member's annuity  
13 for disability or death caused by wrongful conduct. If the  
14 disability causing a member to retire or the death of a  
15 member is directly and proximately caused by the member's  
16 immoral or intemperate conduct or gross negligence, the  
17 board may refuse to grant, revoke, or suspend the employer  
18 annuity.

19 Section 29. There is a new R.C.M. section that reads  
20 as follows:

21 Transfer of dormant member contributions to employer's  
22 account. The board may, in its discretion, transfer member  
23 contributions to the employer's account if the member's  
24 contribution account has been dormant for a period of 10  
25 years. No right of the member may be jeopardized by such a

1 transfer, and the member contributions shall be transferred  
 2 back to the member's name upon his subsequent reinstatement  
 3 as a member.

4 Section 30. There is a new R.C.M. section that reads  
 5 as follows:

6 Eligibility for service retirement. (1) Members are  
 7 eligible for retirement and shall retire as provided in this  
 8 section:

9 (a) A member who was employed by an employer as a  
 10 police officer on July 1, 1975, is eligible to receive a  
 11 service retirement allowance when he has completed 20 years  
 12 or more in the aggregate as a probationary officer, a  
 13 regular officer, or a special officer, in any capacity or  
 14 rank. A police officer serving in the United States military  
 15 in time of war or national emergency shall be given credit  
 16 in his police record for such service in the same manner as  
 17 though he were on active police duty.

18 (b) A member who was or is first employed by an  
 19 employer as a police officer after July 1, 1975, is eligible  
 20 to receive a service retirement allowance when he has  
 21 reached the age of 50 and has completed 20 years or more in  
 22 the aggregate as a probationary officer, a regular officer,  
 23 or a special officer, in any capacity or rank. He shall  
 24 receive credit for military service as prescribed in  
 25 subsection (1)(a).

1 (c) Police officers, whether first employed before or  
 2 after July 1, 1975, who reach the age of 65 while in active  
 3 service shall retire.

4 (2) A police officer who is eligible for service  
 5 retirement under subsection (1)(a) or (1)(b) may retire as  
 6 of the time he becomes eligible or may elect to serve an  
 7 additional 1 to 10 years as an active police officer, except  
 8 that he may not elect to serve past his 65th birthday, the  
 9 mandatory retirement date.

10 Section 31. There is a new R.C.M. section that reads  
 11 as follows:

12 Determination of retirement allowance. Retirement  
 13 allowances under this act shall be paid out of the fund and  
 14 shall be determined as follows:

15 (1) A police officer who is eligible under subsection  
 16 (1)(a) or (1)(b) of [section 30 of this act] and does not  
 17 elect to serve any additional years as an active police  
 18 officer or who is retired under [section 30 of this  
 19 act](1)(c) prior to reaching 20 years of service shall  
 20 receive a service retirement allowance equal to one-half his  
 21 final average salary.

22 (2) A police officer who is eligible for service  
 23 retirement after 20 years of service and who elects to serve  
 24 additional years shall receive the allowance provided for in  
 25 subsection (1) plus an additional 1% of such allowance per

1 year of additional service, up to a maximum of 60% of the  
 2 final average salary. A police officer whose eligibility  
 3 depends on [section 30 of this act](1)(b) and who completes  
 4 20 years of service before reaching the age of 50 is  
 5 considered to have elected to serve an additional year for  
 6 each year between the completion of his 20th year of service  
 7 and his 50th birthday and shall be paid the additional 1%  
 8 for each such year.

9 (3) A police officer who is retired under [section 30  
 10 of this act](1)(c) and who was theretofore eligible at his  
 11 option to be retired under subsection (1)(a) or (1)(b) of  
 12 [section 30 of this act] but elected to serve additional  
 13 years shall be paid for the additional years over his  
 14 original eligibility at the rate prescribed in subsection  
 15 (2).

16 (4) A police officer who is eligible under [section 12  
 17 of this act] before completing 20 years of service shall  
 18 receive a disability retirement allowance equal to one-half  
 19 his average final salary.

20 (5) A police officer who is retired under [section 12  
 21 of this act] and who, at the time of his injury or  
 22 disability, was eligible at his option to be retired under  
 23 subsection(1)(a) or (1)(b) of [section 30 of this act] but  
 24 had elected to serve additional years and was then serving  
 25 such additional years shall be paid for the additional years

1 at the rate prescribed in subsection (2).

2 Section 32. There is a new R.C.M. section that reads  
 3 as follows:

4 Department to provide forms — information from  
 5 employers. The department of administration shall prepare  
 6 such forms as it finds necessary for the employers to  
 7 complete to provide all the information necessary to  
 8 administer this act, and the cities shall give the  
 9 department of administration all data necessary to carry out  
 10 the purpose and intent hereof.

11 Section 33. There is a new R.C.M. section that reads  
 12 as follows:

13 Application of reserve and retirement provisions of  
 14 prior law. (1) As cities other than those participating in  
 15 the statewide police reserve fund provided for in Chapter  
 16 335, Laws of 1974, currently have local police reserve  
 17 funds, the legislature finds and declares that the law  
 18 regarding such funds, although in conflict with this act,  
 19 cannot be repealed. It is the express intention of the  
 20 legislature to allow two separate and distinct retirement  
 21 systems to exist. The first, which includes local police  
 22 reserve funds, applies to such cities, other than those of  
 23 the first and second class, which wish to adopt it. The  
 24 second, created by this act, applies to first and second  
 25 class cities, those other cities which wish to adopt it, and

1 any city which has adopted the above-mentioned statewide  
2 police reserve fund.

3 (2) The following sections may not be applied in any  
4 way to a city operating under the plan created by this act:  
5 11-1809, 11-1819, 11-1822, 11-1823, 11-1825, 11-1826,  
6 11-1827, 11-1828, 11-1829, 11-1830, 11-1834, 11-1835,  
7 11-1836, 11-1837, 11-1843, 11-1844, 11-1845, and 11-1847.

8 Section 34. There is a new R.C.M. section numbered  
9 82A-224 that reads as follows:

10 82A-224. Board of trustees abolished functions --  
11 transferred. The board of trustees of the police reserve  
12 fund of a city which elects to participate in the municipal  
13 police officers' retirement system under [section 26 of this  
14 act] is abolished as of the time that the transfer of the  
15 cash and securities and the certification required by that  
16 section is completed. The functions of the board are  
17 transferred as of the date of the election to the department  
18 of administration and the board, as provided in the  
19 Municipal Police Officers Retirement Act.

20 Section 35. Section 11-1823, R.C.M. 1947, is amended  
21 to read as follows:

22 "11-1823. Fund for payment of officers on reserve  
23 lists -- tax levy. ~~For the purpose of paying the salaries of~~  
24 ~~police officers who have been placed upon the reserve list of~~  
25 ~~cities under this act, the city or town council, or~~

1 ~~commissioners, shall deposit in the fund monthly an amount~~  
2 ~~equal to eleven percent (11%) of the total salaries for the~~  
3 ~~preceding month paid to active police officers of that city~~  
4 ~~exclusive of overtime and payments in lieu of sick leave and~~  
5 ~~annual leave. Cities having such police reserve funds, not~~  
6 ~~cities of the first or second class, which did not elect to~~  
7 ~~join the statewide police reserve fund provided for in~~  
8 ~~Chapter 335, Laws of 1974, and which have not elected to~~  
9 ~~participate in the plan under [section 26 of this act] as of~~  
10 ~~the effective date of this act, and not having elected to~~  
11 ~~come within the provisions of this act, shall likewise~~  
12 deposit in the fund of that city monthly an amount equal to  
13 eleven percent (11%) of the total salaries, exclusive of  
14 overtime and payments in lieu of sick leave and annual  
15 leave, for the preceding month, paid to active police  
16 officers of that city. ~~Payments made by cities covered by~~  
17 ~~this act shall be made by the treasurer of that city to the~~  
18 ~~department of administration.~~ In case the demand against the  
19 city for its deposits in such fund shall be such that it  
20 cannot be met within the general taxing authority of that  
21 city, then and in such case an additional levy of not to  
22 exceed three (3) mills may be made until the general taxing  
23 authority be sufficient to meet the demand."

24 Section 36. Section 11-1825, R.C.M. 1947, is amended  
25 to read as follows:

1       "11-1825. Salary deduction for payment of reserve  
 2 officers. The treasurer of any incorporated city which has  
 3 ~~as of the effective date of this act or which hereafter may~~  
 4 create a police reserve fund, shall retain from the monthly  
 5 salary of all police officers upon the active list, a sum  
 6 equal to six percent (6%) of the monthly compensation paid  
 7 each officer for his services as such police officer,  
 8 exclusive of overtime and payments made in lieu of sick  
 9 leave and annual leave, the said monthly deduction from the  
 10 salaries of such police officers, shall be paid into ~~the~~  
 11 ~~police reserve fund in the department of administration, or~~  
 12 ~~to the city's police reserve fund, as the case may be.~~ for  
 13 the purpose of paying the salaries of police officers upon  
 14 the reserve list."

15       Section 37. Section 11-1826, R.C.M. 1947, is amended  
 16 to read as follows:

17       "11-1826. Gifts and moneys to be applied to fund. All  
 18 moneys withheld from salaries of police officers for the  
 19 violation of rules and regulations of such police  
 20 departments, all bequests, gifts or emoluments, paid or  
 21 given on account of any extraordinary service of any member  
 22 of such police department, except when specifically allowed  
 23 to be retained by such officer by the mayor, commissioners  
 24 and chief of police, and all moneys derived from the  
 25 provisions of this act, shall be placed in the police

1 reserve fund, and transmitted promptly ~~to the department of~~  
 2 ~~administration or to the board of trustees, as the case may~~  
 3 ~~be."~~

4       Section 38. Section 11-1834, R.C.M. 1947, is amended  
 5 to read as follows:

6       "11-1834. Annual state payments to municipality with  
 7 police department. At the end of each fiscal year the state  
 8 auditor shall issue and deliver to the treasurer of each  
 9 city and town in Montana, ~~having which has~~ a police  
 10 ~~department and which is not a participant in the municipal~~  
 11 ~~police officers' retirement system~~ his warrant for an amount  
 12 computed in the same manner as the amount paid (or that  
 13 would be paid if an existing relief association met the  
 14 legal requirements for payment) to cities and towns for fire  
 15 department relief associations pursuant to section 11-1919,  
 16 R.C.M. 1947."

17       Section 39. Section 11-1836, R.C.M. 1947, is amended  
 18 to read as follows:

19       "11-1836. Credit of payments to police reserve fund --  
 20 annual report of board. Every city or town, having a police  
 21 reserve fund ~~established under the provisions of the~~  
 22 ~~Metropolitan Police Law~~ shall deposit said payment ~~with the~~  
 23 ~~department of administration or~~ to the credit of the police  
 24 reserve fund of such city or town, ~~as the case may be.~~ The  
 25 board of trustees of each police officer's reserve fund

1 shall on or before the first day of April of each year  
 2 report to the state auditor as to the financial condition of  
 3 their fund. Payments provided for in this section and the  
 4 preceding two (2) sections (11-1834, 11-1835) are in  
 5 addition to those provided for in section 11-1823.\*

6 Section 40. Section 11-1844, R.C.M. 1947, is amended  
 7 to read as follows:

8 "11-1844. Payment of police reserves. (1) Whenever  
 9 any policeman or officer shall become transferred from the  
 10 active list of police officers of any city to the reserve  
 11 list of that city, he shall thereafter be paid in monthly  
 12 payments from the funds ~~in this act provided for city's~~  
 13 police reserve fund, as follows:

14 (a) For a police officer eligible for the reserve list  
 15 after twenty (20) years of service under subsection (1) of  
 16 section 13 [11-1843] of this act, and who does not elect to  
 17 serve any additional years as an active police officer; or  
 18 for a police officer eligible for the reserve list after  
 19 twenty (20) years of service under subsection (2) of section  
 20 13 [11-1843] of this act, who has reached his fiftieth year,  
 21 and who does not elect to serve any additional years as an  
 22 active police officer; or a police officer who becomes  
 23 eligible by reason of injury or disability under subsection  
 24 (4) of section 13 [11-1843] of this act, before reaching  
 25 twenty (20) years of service; or for a police officer placed

1 upon the reserve list by reason of reaching his sixty-fifth  
 2 birthday prior to reaching twenty (20) years of service: a  
 3 sum equal to one-half (1/2) the base salary, excluding  
 4 overtime and payments in lieu of sick leave and annual leave  
 5 he was receiving as an active officer computed on the  
 6 highest salary received in any one month during the last  
 7 year of active service.

8 (b) For a police officer eligible for the reserve list  
 9 after twenty (20) years who elects to serve additional  
 10 years, the payment provided in subsection (a) of subsection  
 11 (1) of this section, to which shall be added an additional  
 12 one percent (1%) of such sum per year of additional service,  
 13 up to a maximum of sixty percent (60%) of the base salary,  
 14 excluding overtime and payment in lieu of sick leave and  
 15 annual leave, he was receiving as an active officer computed  
 16 on the highest salary received in any one (1) month during  
 17 the last year of active service. For the purposes of this  
 18 act, a police officer whose eligibility depends upon  
 19 subsection (2) of section 13 [11-1843] of this act, and who  
 20 completes twenty (20) years of service before reaching the  
 21 age of fifty (50) years, shall be deemed to have elected to  
 22 serve additional years for each year between the completion  
 23 of his twentieth year of service and his fiftieth birthday,  
 24 and he shall be paid the additional one percent (1%) for  
 25 each such year.

1 (c) A policeman who is placed upon the reserve list by  
 2 reason of reaching his sixty-fifth birthday, but who was  
 3 theretofore eligible at his option to be placed upon such  
 4 reserve list under subsections (1) or (2) of section 13  
 5 [11-1843] of this act, but elected to serve additional years  
 6 after such earlier eligibility shall be paid for such  
 7 additional years over his original eligibility at the same  
 8 rate as is provided in subsection (a) of subsection (1) of  
 9 this section.

10 (d) A police officer placed on the reserve list by  
 11 reason of injury or disability under subsection 4 of section  
 12 13 [11-1843] of this act, and who, at the time of such  
 13 injury or disability was eligible at his option to be placed  
 14 on the reserve list under subsections (1) or (2) of section  
 15 13 [11-1843] of this act, but had elected to serve  
 16 additional years, and was then serving such additional years  
 17 shall be paid for such additional years over his original  
 18 eligibility at the same rate as is provided in subsection  
 19 (a) of subsection (1) of this section.

20 (2) Upon the death of any police officer on the active  
 21 list or reserve list of any city, his surviving spouse, if  
 22 there be one, shall, as long as such spouse remains the  
 23 surviving spouse, be paid from the police reserve fund, a  
 24 sum equal to one-half (1/2) the base salary, excluding  
 25 overtime and payments in lieu of sick leave or annual leave

1 he was receiving as an active officer computed on the  
 2 highest salary received in any one (1) month during the last  
 3 year of active service prior to the date of his demise or  
 4 prior to the date he passed to the reserve list. If the  
 5 officer leaves dependent minor child or children, then upon  
 6 his death if he leaves no surviving spouse, or upon the  
 7 death or remarriage of the surviving spouse, then his  
 8 surviving dependent minor child or children, collectively if  
 9 there be more than one (1) dependent minor child surviving,  
 10 shall be paid the same monthly payments as are herein  
 11 provided to be paid to the surviving spouse, until the minor  
 12 child or children reach the age of eighteen (18) years or  
 13 shall have married. Payments to be made to such minor child  
 14 or children shall be paid to the duly appointed, qualified  
 15 and acting guardian of the child or children for the use of  
 16 such minor or minors, until such minor shall have reached  
 17 the age of eighteen (18) years or shall have married and in  
 18 case there is more than one (1) minor child, upon each child  
 19 reaching the age of eighteen (18) years the pro rata  
 20 payments to that child shall cease and shall be made to the  
 21 remaining minor child or children until the youngest child  
 22 reaches the age of eighteen (18) years or is married.■

23 Section 41. Severability. If a part of this act is  
 24 invalid, all valid parts that are severable from the invalid  
 25 part remain in effect. If a part of this act is invalid in

1 one or more of its applications, the part remains in effect  
2 in all valid applications that are severable from the  
3 invalid applications.

4 Section 42. Repealer. Sections 11-1821.1, 11-1824,  
5 11-1838, 11-1839, 11-1840, 11-1841, 11-1842, 11-1848,  
6 11-1850, 82A-222, and 82A-223, R.C.M. 1947, are repealed.

-End-

STATE OF MONTANA

REQUEST NO. 587-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 18, 19 77, there is hereby submitted a Fiscal Note for House Bill 801 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating a municipal police officers' retirement system and providing for its administration.

ASSUMPTIONS:

1. This bill creates a new municipal police officers' system from the former statewide policemen reserve fund which was a conglomerate.
2. The employer contributions by the cities (Section 6(3), page 7) is 1% increase from the 11% of gross compensation under the statewide policemen reserve fund.
3. The employer contributions by the state (Section 6(2), page 6) will not increase as the 12% of gross compensation was based on state contribution for FY 76 which was 12.1% of gross compensation.
4. No salary increases are assumed.

FISCAL IMPACT - STATE:

None.

FISCAL IMPACT - LOCAL:

\$46,537 in FY 78 and \$46,537 in FY 79 additional employers' contributions will have to be paid in total by participating cities.

*Richard L. Denny for*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-23-77

SECOND READING

MISSING

## 1 HOUSE BILL NO. 801

2 INTRODUCED BY BARDANOUVE

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A MUNICIPAL  
5 POLICE OFFICERS' RETIREMENT SYSTEM AND PROVIDING FOR ITS  
6 ADMINISTRATION; AMENDING SECTIONS 11-1823, 11-1825, 11-1826,  
7 11-1834, 11-1836, AND 11-1844, R.C.M. 1947; AND REPEALING  
8 SECTIONS 11-1821.1, 11-1824, 11-1838, 11-1839, 11-1840,  
9 11-1841, 11-1842, 11-1848, 11-1850, 82A-222, AND 82A-223,  
10 R.C.M. 1947."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:13 Section 1. There is a new R.C.M. section that reads as  
14 follows:15 Short title. This act may be cited as the "Municipal  
16 Police Officers' Retirement Act".17 Section 2. There is a new R.C.M. section that reads as  
18 follows:19 Definitions. Unless the context requires otherwise, the  
20 following definitions apply in this act:21 (1) "Plan" means the municipal police officers'  
22 retirement system created by this act.23 (2) "Prior plan" means the local police reserve or  
24 retirement fund of a city which elects to join the plan  
25 under [section 26] or the statewide police reserve fund1 administered by the department of administration in  
2 accordance with Chapter 335, Laws of 1974.3 (3) "Employer" means any city which participated in a  
4 prior plan or which elects to join this plan under [section  
5 26].6 (4) "Administrator" means the public employees  
7 retirement division of the department of administration.8 (5) "Board" means the retirement board described in  
9 82A-210.10 (6) "Member" means a person who is employed by an  
11 employer as a police officer or who is entitled to a  
12 retirement allowance by virtue of his service to an employer  
13 as a police officer.14 (7) "Member contributions" means the total of the  
15 deductions from the compensation of a member, either made  
16 during a period of active membership hereunder or made under  
17 a prior plan and transferred to this plan, standing to his  
18 credit, together with the interest thereon.19 (8) "Monthly compensation" means the--amount--of--the  
20 base--salary WAGE, excluding overtime, holiday payments,  
21 shift differential payments, compensation time payments, and  
22 payments in lieu of sick leave and annual leave, a member  
23 receives as an active police officer.24 (9) "Final average salary" means the monthly  
25 compensation of a member, averaged over the last 36 months

1 of his active service or, in the event he has not been a  
2 member that long, over the period of his membership.

3 (10) "Prior service" means a period of employment as a  
4 police officer for which credit was granted to a member  
5 under a prior plan and has been transferred to this plan.

6 (11) "Membership service" means a period of employment  
7 with an employer occurring after June 30, 1977, during which  
8 the withholdings required by this act have been made from a  
9 member's monthly compensation and credited to his member  
10 contributions account. Pro rata credit shall be granted for  
11 employment on a part-time basis or for employment over a  
12 period of less than a complete fiscal year.

13 (12) "Credited service" means the aggregate of a  
14 member's prior service and membership service.

15 (13) "Member's annuity" means monthly payments for life  
16 derived from member contributions.

17 (14) "Employer annuity" means monthly payments for life  
18 derived from employer and state contributions.

19 (15) "Retirement allowance" means the employer annuity  
20 plus the member's annuity.

21 (16) "Minimum retirement date" or "normal retirement  
22 date" means the first day of the month coinciding with or  
23 immediately following, if none coincides, the date on which  
24 a member becomes both age 50 or older and completes 20 or  
25 more years of credited service.

1 (17) "Mandatory retirement date" means the first day of  
2 the month coinciding with or immediately following, if none  
3 coincides, the date on which a member attains age 65.

4 (18) "Retirement date" means the date on which the  
5 first payment of the retirement, disability, or survivor  
6 benefits of a member or a beneficiary is payable.

7 (19) "Totally and permanently disabled" means that the  
8 board, upon certification by a licensed and practicing  
9 physician, has determined that a member's disability is of  
10 such a nature as to permanently impair his ability to  
11 discharge his normal duties as a police officer.

12 (20) "Police officer" means a law enforcement officer  
13 employed by an employer.

14 (21) "Fund" means the agency account in the treasury  
15 system designated for the use of the plan.

16 Section 3. There is a new R.C.M. section that reads as  
17 follows:

18 Municipal police officers' retirement system  
19 established. A municipal police officers' retirement system  
20 is established and shall be governed by the provisions of  
21 this act.

22 Section 4. There is a new R.C.M. section that reads as  
23 follows:

24 Active membership. (1) A police officer becomes an  
25 active member under the plan:

1 (a) on the date his employment by an employer  
2 commences;

3 (b) on July 1, 1977, if he is employed by an employer  
4 on that date; or

5 (c) in the case of an employer which elects to join  
6 the plan as provided in [section 26 of this act], on the  
7 effective date of such election if he is employed by the  
8 employer on that date.

9 (2) Upon becoming eligible for membership, he shall  
10 complete such forms and furnish such proof as may be  
11 required by the board.

12 (3) No **ACTIVE** member is eligible to be covered under  
13 any other mandatory retirement plan FDR POLICE SERVICE to  
14 which an employer is required to contribute on his behalf,  
15 except the Social Security Act, while he is eligible to be  
16 covered by this plan.

17 (4) A member is entitled to benefits based upon the  
18 entire period of his credited service and final average  
19 salary without regard to the number of employers by whom he  
20 was employed or the number of periods of his employment so  
21 that no duplication of credited service occurs.

22 Section 5. There is a new R.C.M. section that reads as  
23 follows:

24 Inactive membership. (1) An active member becomes an  
25 inactive member upon the occurrence of the earlier of the

1 following:

2 (a) the date he ceases to be employed by an employer  
3 and becomes entitled to a retirement allowance;

4 (b) the date of commencement of an approved absence  
5 from active duty with an employer of a substantial duration.

6 (2) An inactive member becomes an active member on the  
7 day he returns to active duty with an employer. Upon again  
8 becoming an active member, his retirement allowance, if any,  
9 shall cease being paid to him until he again becomes an  
10 inactive member.

11 Section 6. There is a new R.C.M. section that reads as  
12 follows:

13 Cessation of membership. A member shall cease to be a  
14 member upon the occurrence of the earlier of the following:

15 (1) the date he withdraws his member contributions in  
16 lieu of all other benefits under the plan;

17 (2) the date of his death.

18 Section 7. There is a new R.C.M. section that reads as  
19 follows:

20 Employer and state contributions and funding sources.

21 (1) Employer and state contributions shall be paid to the  
22 administrator who shall, as soon as practicable after their  
23 receipt, deposit them with the state treasurer.

24 (2) The state of Montana shall make its contributions  
25 through the state auditor out of the premium tax on motor

1 vehicle property and casualty insurance policies. Such  
 2 payments shall be made annually from the gross premium tax  
 3 after deduction for cancellations and returned premiums. The  
 4 administrator shall notify the auditor of the annual  
 5 compensation paid to all active members during the preceding  
 6 year and the state's contribution shall be 12% of such  
 7 compensation.

8 (3) Each employer shall make its contribution on  
 9 behalf of members through the city treasurer or other  
 10 appropriate official out of moneys available to the city for  
 11 such purpose. The employer's contribution shall be 12% of  
 12 the total monthly compensation paid to all active members  
 13 during the preceding month and shall be payable monthly to  
 14 the administrator.

15 (4) (a) It is found and declared by the legislature  
 16 that many cities operating under prior plans have excess and  
 17 unfunded liabilities under such prior plans, which  
 18 liabilities cannot be amortized by the percentage  
 19 contributions set forth in subsections (2) and (3).

20 (b) The administrator shall, on or before October 1,  
 21 1977, determine the excess and unfunded liability of each  
 22 city which participates in the plan created by this act. The  
 23 determination of the administrator, in the absence of fraud,  
 24 abuse of discretion, or arithmetic error, is final and  
 25 binding on each city. Each city found by the administrator

1 to have an excess and unfunded liability under a prior plan,  
 2 which as of July 1, 1977, is not funded by sums on deposit  
 3 or funds available for deposit with the administrator, shall  
 4 pay an additional sum over a period of time to amortize its  
 5 excess liability as determined by the administrator. If any  
 6 city and the administrator are unable by January 1, 1978, to  
 7 negotiate and reduce to writing the terms of an agreement  
 8 satisfactory to both of them for the city to amortize its  
 9 excess liability, the administrator shall require such city  
 10 to pay an additional sum to amortize its excess liability on  
 11 July 1, 1977 over a period of not more than 40 years.

12 (c) Each city found by the administrator to be paying  
 13 an amount in excess of the amount necessary to amortize its  
 14 liabilities under the prior plan and under this act shall  
 15 receive a credit in the accounts of the administrator for  
 16 any such excess payments.

17 Section 8. There is a new R.C.M. section that reads as  
 18 follows:

19 Member contributions. (1) The treasurer or other  
 20 appropriate official of each employer shall retain from the  
 21 monthly compensation of each active member a sum equal to 6%  
 22 of his monthly compensation for his services as a police  
 23 officer. The monthly deduction from the salaries of police  
 24 officers shall be paid to the administrator for the purpose  
 25 of paying the retirement allowances of retired police

1 officers.

2 (2) A member is ~~AT ALL TIMES~~ fully vested in his  
 3 ~~member-contributions-at-all-times~~ THE DEDUCTIONS MADE FROM  
 4 HIS COMPENSATION AS A MEMBER OR AS A MEMBER OF A PRIOR PLAN  
 5 STANDING TO HIS CREDIT and may, at his discretion, withdraw  
 6 the full amount of ~~his member-contributions~~ THESE DEDUCTIONS  
 7 upon his termination of employment in accordance with  
 8 [section 14] and forfeit all rights and interest with  
 9 respect to any benefits which would otherwise become payable  
 10 under the plan.

11 Section 9. There is a new R.C.M. section that reads as  
 12 follows:

13 Reinstatement after withdrawal of member contributions  
 14 -- re-deposit of amounts withdrawn. (1) Upon reinstatement to  
 15 active membership, a member may re-deposit in the fund, in  
 16 one lump sum or in installments not to exceed 12 monthly or  
 17 24 semi-monthly installments, an amount equal to the member  
 18 contributions which he withdrew plus an amount equal to the  
 19 interest which would have been credited to his account had  
 20 he not withdrawn his member contributions. If a member makes  
 21 such a re-deposit, his credited service shall be reinstated.

22 (2) If an active member does not elect to make the  
 23 re-deposit provided for in subsection (1), he forfeits his  
 24 credited service for the period attributable to the  
 25 withdrawn member contributions.

1 Section 10. There is a new R.C.M. section that reads  
 2 as follows:

3 Other moneys credited as employer contributions. All  
 4 gifts, bequests, or emoluments given to an employer or  
 5 member for the benefit of the plan or because of any  
 6 member's service as a police officer, except when  
 7 specifically allowed to be retained by the member by his  
 8 employer, and all moneys withheld from the monthly  
 9 compensation of a member for violation of the rules of his  
 10 employer shall be paid to the administrator. The  
 11 administrator shall credit them to the fund and, as soon as  
 12 practicable after their receipt, deposit them with the state  
 13 treasurer. Such amounts are employer contributions but are  
 14 in addition to the amounts required by [section 7].

15 Section 11. There is a new R.C.M. section that reads  
 16 as follows:

17 Application for service retirement. On or after a  
 18 member's minimum retirement date and prior to his mandatory  
 19 retirement date, he may retire on a service retirement  
 20 allowance by making written application to the employer. The  
 21 employer shall forward the application to the board not less  
 22 than 30 days or more than 90 days before the elected  
 23 retirement date. The application shall state the elected  
 24 retirement date.

25 Section 12. There is a new R.C.M. section that reads

1 as follows:

2 Eligibility for disability retirement. If a member is  
 3 determined by the board to be totally and permanently  
 4 disabled, he is entitled to a disability retirement  
 5 allowance, regardless of the length of his service,  
 6 commencing as of the first day of the month coinciding with  
 7 or immediately following, if none coincides, the date on  
 8 which he became totally and permanently disabled.

9 Section 13. There is a new R.C.M. section that reads  
 10 as follows:

11 Procedure upon recovery from total and permanent  
 12 disability. (1) If an inactive member is determined by the  
 13 board to be no longer totally and permanently disabled, his  
 14 disability retirement allowance shall cease as of the date  
 15 of such determination and he shall be notified of the  
 16 determination by the board. The board may review the status  
 17 of any inactive member at any time.

18 (2) ANY INACTIVE MEMBER WHOSE DISABILITY RETIREMENT  
 19 ALLOWANCE IS SO CANCELLED SHALL BE REINSTATED TO THE  
 20 POSITION HELD BY HIM IMMEDIATELY BEFORE HIS RETIREMENT OR TO  
 21 A POSITION IN THE SAME CLASSIFICATION WITH DUTIES WITHIN HIS  
 22 CAPACITY. THE BOARD SHALL ADVISE THE EMPLOYER THAT THE  
 23 DISABILITY RETIREMENT ALLOWANCE HAS BEEN CANCELLED AND THAT  
 24 THE INACTIVE MEMBER IS ELIGIBLE FOR REINSTATEMENT TO DUTY.  
 25 THE FACT THAT HE WAS RETIRED FOR DISABILITY MAY NOT

1 PREJUDICE ANY RIGHT TO REINSTATEMENT TO DUTY WHICH THE  
 2 INACTIVE MEMBER MAY HAVE OR CLAIM TO HAVE.

3 ~~(2)(3)~~ If the inactive member again becomes an active  
 4 member by returning to active work for an employer within 30  
 5 days following receipt of such notice HIS RECEIPT OF NOTICE  
 6 UNDER SUBSECTION (1), he shall be considered to have been  
 7 continuously employed during the term of his disability. If  
 8 the inactive member fails to become an active member by  
 9 returning to active work for an employer within 30 days  
 10 following receipt of such notice, his termination of  
 11 employment shall be considered to have occurred as of his  
 12 disability retirement date and the retirement allowance, if  
 13 any, to which he becomes entitled on his service retirement  
 14 shall be determined accordingly.

15 Section 14. There is a new R.C.M. section that reads  
 16 as follows:

17 Termination of employment prior to retirement. (1) Upon  
 18 termination of the employment of an active member prior to  
 19 his retirement date, he shall withdraw the amount of his  
 20 member contributions in lieu of all other benefits under the  
 21 plan. If he has 10 years or more of service, the amount paid  
 22 shall include regular interest, at a rate to be determined  
 23 by the board, on such amounts. If he has less than 10 years  
 24 of service, he shall receive only the amount paid through  
 25 salary deductions, without interest. If an active member's

1 employment terminates by reason of his death, his  
2 beneficiaries are entitled to the benefits prescribed in  
3 [section 16 of this act].

4 Section 15. There is a new R.C.M. section that reads  
5 as follows:

6 Retirement allowances to be monthly and fixed. The  
7 retirement allowances granted under the provisions of this  
8 act shall be paid in monthly installments. They may not be  
9 increased or decreased, except as specifically provided  
10 herein, or repealed or revoked except by an act of the  
11 Montana legislature.

12 Section 16. There is a new R.C.M. section that reads  
13 as follows:

14 Death benefits. (1) A member's retirement allowance  
15 shall be paid first to the member during his lifetime and,  
16 upon his death, in the manner and to the persons designated  
17 in subsection (2).

18 (2) Upon the death of a police officer before or after  
19 retirement, his surviving spouse, if there is one, shall, as  
20 long as such spouse remains the surviving spouse, be paid  
21 from the fund a sum equal to one-half of the officer's final  
22 average salary. If the officer leaves one or more dependent  
23 minor children, then, upon his death if he leaves no  
24 surviving spouse or upon the death or remarriage of the  
25 surviving spouse, his surviving dependent minor children,

1 collectively if there is more than one, shall receive the  
2 same monthly payments a surviving spouse would receive,  
3 until they reach the age of 18 years or are married. The  
4 payments shall be made to their duly appointed, qualified,  
5 and acting guardian for their use. If there is more than one  
6 such child, upon each child reaching the age of 18 years or  
7 marrying, the pro rata payments to that child shall cease  
8 and shall be made to the remaining children until all the  
9 children have reached the age of 18 years or are married.

10 Section 17. There is a new R.C.M. section that reads  
11 as follows:

12 Retirement benefits exempt from state or municipal tax.  
13 Any money received as a retirement allowance in accordance  
14 with the provisions of this act is exempt from any state or  
15 municipal tax.

16 Section 18. There is a new R.C.M. section that reads  
17 as follows:

18 Rights to benefits unassignable -- protection from  
19 legal process. The benefits payable hereunder are not  
20 subject to the claims of any creditor of a member,  
21 beneficiary, or survivor or to attachment, garnishment, or  
22 other legal or equitable process. No member, beneficiary,  
23 or survivor may alienate, anticipate, commute, pledge,  
24 encumber, assign, or sell any of such benefits.

25 Section 19. There is a new R.C.M. section that reads

1 as follows:

2 Retirement board -- powers and duties. (1) The board is  
3 authorized to administer, interpret, and enforce the  
4 provisions of this act.

5 (2) The board shall establish such uniform rules as  
6 are necessary to administer the provisions of this act. The  
7 board is the sole authority under this act as to the  
8 conditions under which persons may become members of and  
9 receive benefits under the retirement system. The board  
10 shall determine and may modify allowances for retirement and  
11 disability under this act.

12 (3) The board shall determine whether a member has  
13 become totally and permanently disabled and whether the  
14 disability is duty-related. In the discharge of its duties  
15 regarding such determination, the board, any member thereof,  
16 or any duly authorized representative of the board may order  
17 medical examinations, conduct hearings, administer oaths and  
18 affirmations, take depositions, certify to official acts,  
19 and issue subpoenas SUBPOENAS to compel the attendance of  
20 witnesses and the production of books, papers,  
21 correspondence, memoranda, and documents considered  
22 necessary as evidence in connection with the claim for  
23 disability retirement. The board shall secure medical  
24 service and advice necessary to carry out the purposes of  
25 this section.

1 (4) Except as otherwise provided in this act, the  
2 department of administration, through the administrator and  
3 the board of investments, shall administer, invest, account  
4 for, and treat the funds deposited with it under this act in  
5 accordance with the rules dealing with the public employees  
6 retirement system, insofar as such rules are not  
7 inconsistent with those promulgated and adopted by the  
8 board. The contributions of the state, employers, and  
9 members paid to the administrator under this act may be  
10 commingled for investment purposes.

11 Section 20. There is a new R.C.M. section that reads  
12 as follows:

13 Retirement account. On July 1, 1977, there will be an  
14 account in the agency fund to be maintained on behalf of the  
15 plan. The state treasurer is the custodian of the account  
16 subject to the exclusive administrative control of the  
17 board.

18 Section 21. There is a new R.C.M. section that reads  
19 as follows:

20 Transfer of assets and liabilities from prior plans.  
21 All funds and obligations constituting the assets and  
22 liabilities of prior plans, regardless of their form or who  
23 holds them, shall be transferred to the account provided for  
24 in [section 20 of this act]. The board shall ascertain the  
25 amounts to be apportioned to each account upon the passage

1 of this act, and the state treasurer shall transfer such  
2 amounts to the appropriate accounts on July 1, 1977.

3 Section 22. There is a new R.C.M. section that reads  
4 as follows:

5 benefits to members of prior plans. (1) All provisions  
6 of this plan are effective as to a member whose retirement  
7 date occurred prior to July 1, 1977, except the amount and  
8 mode of payment of such member's retirement allowance will  
9 remain unchanged.

10 (2) This act may not decrease the benefits of a member  
11 under a prior plan.

12 Section 23. There is a new R.C.M. section that reads  
13 as follows:

14 Actuarial valuation. The board shall engage the  
15 services of a qualified actuary to conduct an actuarial  
16 valuation of the plan in each even-numbered year. It shall  
17 include the actuary's determination of the financial  
18 condition of the plan, the level of annual contributions  
19 required to maintain the plan on an actuarially sound basis,  
20 and, if applicable, the level of annual contributions  
21 required to amortize the excess and unfunded liabilities  
22 described in [section 7](4). A qualified actuary is one who  
23 is a member of the American academy of actuaries or of any  
24 organization considered by the board to have similar  
25 standards.

1 Section 24. There is a new R.C.M. section that reads  
2 as follows:

3 Administrative expenses. The expense of administration  
4 of this act, exclusive of amounts required to be paid as  
5 benefits to or on behalf of a member, shall be borne by the  
6 state and shall be in addition to the amounts required of it  
7 as contributions.

8 Section 25. There is a new R.C.M. section that reads  
9 as follows:

10 Taxing authority of employers. (1) For the purpose of  
11 making contributions required of a city under this act, when  
12 the demand for deposits of such contributions cannot be met  
13 within the general taxing authority and other revenues  
14 available to the city for that purpose, the appropriate  
15 authority of the city may levy any additional tax authorized  
16 by law until the general taxing authority and other revenue  
17 available for that purpose is sufficient to meet the demand.

18 (2) "General taxing authority", as used in this  
19 section, means that levy which the city can MAY make under  
20 the all-purpose levy or under multiple-purpose levies, if  
21 the city is using multiple-purpose levies.

22 (3) No provision of any statute relating to the  
23 all-purpose levy may be so construed as to limit the  
24 additional taxing authority created by this section.

25 Section 26. There is a new R.C.M. section that reads

1 as follows:

2 Election to join plan -- transfer of assets.  
 3 (1) Cities other than those participating in the statewide  
 4 police reserve fund administered by the department of  
 5 administration in accordance with Chapter 335, Laws of 1974,  
 6 as of June 30, 1977, may elect to join the plan by passing  
 7 an ordinance stating the election and the consent of the  
 8 city to be bound by the provisions of this act. Upon the  
 9 enactment of such an ordinance, the provisions of this act  
 10 become applicable to the city. Any city enacting such an  
 11 ordinance shall send a certified copy thereof to the board  
 12 and shall, as soon as possible thereafter, deposit with the  
 13 board all cash and securities held by it in its local police  
 14 reserve or retirement fund. The value of the securities  
 15 shall be determined by the board.

16 (2) The trustees or other administrative head of the  
 17 local system as of the effective date of the election shall  
 18 certify the proportion, if any, of the funds of the system  
 19 that represents the accumulated contributions of the active  
 20 members and the relative shares of the members as of that  
 21 date. Such shares shall be charged to the employer and  
 22 credited to the respective individual accounts of the  
 23 members in the plan and administered as if the contributions  
 24 had been made during membership in the plan. Any excess of  
 25 employer credits over charges under this section will be

1 offset, with interest, against future required employer  
 2 contributions. Any excess of employer charges over credits  
 3 under this section are payable by the employer, with  
 4 interest, on a basis determined by the procedure described  
 5 in subsections (4)(b) and (4)(c) of [section 7 of this act].  
 6 Section 27. There is a new R.C.M. section that reads  
 7 as follows:

8 Penalty for false statements or falsification of  
 9 records. (1) No person may knowingly make any false  
 10 statement or permit to be falsified any records of the plan  
 11 in an attempt to defraud the plan.

12 (2) If any change in records fraudulently made or any  
 13 mistake in records inadvertently made results in any member,  
 14 survivor, or beneficiary receiving more or less than he was  
 15 entitled to, then, on the discovery of the error, the board  
 16 shall correct the error and adjust the payments to the  
 17 member, survivor, or beneficiary in an equitable manner.

18 (3) A person who violates any of the provisions of  
 19 subsection (1) is guilty of a misdemeanor and, upon  
 20 conviction, shall be punished by a fine not exceeding \$500  
 21 or imprisonment in the county jail for a term not exceeding  
 22 6 months, or both.

23 Section 28. There is a new R.C.M. section that reads  
 24 as follows:

25 Board's authority to refuse to make payments. The board

1 may revoke, refuse to grant, or suspend a member's annuity  
 2 for disability or death caused by wrongful conduct. If the  
 3 disability causing a member to retire or the death of a  
 4 member is directly and proximately caused by the member's  
 5 immoral or intemperate conduct or gross negligence, the  
 6 board may refuse to grant, revoke, or suspend the employer  
 7 annuity.

8 Section 29. There is a new R.C.M. section that reads  
 9 as follows:

10 Transfer of dormant member contributions to employer's  
 11 account. The board may, in its discretion, transfer member  
 12 contributions to the employer's account if the member's  
 13 contribution account has been dormant for a period of 10  
 14 years. No right of the member may be jeopardized by such a  
 15 transfer, and the member contributions shall be transferred  
 16 back to the member's name upon his subsequent reinstatement  
 17 as a member.

18 Section 30. There is a new R.C.M. section that reads  
 19 as follows:

20 Eligibility for service retirement. (1) Members are  
 21 eligible for retirement and shall retire as provided in this  
 22 section:

23 (a) A member who was employed by an employer as a  
 24 police officer on July 1, 1975, is eligible to receive a  
 25 service retirement allowance when he has completed 20 years

1 or more in the aggregate as a probationary officer, a  
 2 regular officer, or a special officer, in any capacity or  
 3 rank. A police officer serving in the United States military  
 4 in time of war or national emergency shall be given credit  
 5 in his police record for such service in the same manner as  
 6 though he were on active police duty.

7 (b) A member who was or is first employed by an  
 8 employer as a police officer after July 1, 1975, is eligible  
 9 to receive a service retirement allowance when he has  
 10 reached the age of 50 and has completed 20 years or more in  
 11 the aggregate as a probationary officer, a regular officer,  
 12 or a special officer, in any capacity or rank. He shall  
 13 receive credit for military service as prescribed in  
 14 subsection (1)(a).

15 (c) Police officers, whether first employed before or  
 16 after July 1, 1975, who reach the age of 65 while in active  
 17 service shall retire.

18 (2) A police officer who is eligible for service  
 19 retirement under subsection (1)(a) or (1)(b) may retire as  
 20 of the time he becomes eligible or may elect to serve an  
 21 additional 1 to 10 years as an active police officer, except  
 22 that he may not elect to serve past his 65th birthday, the  
 23 mandatory retirement date.

24 Section 31. There is a new R.C.M. section that reads  
 25 as follows:

1 Determination of retirement allowance. Retirement  
 2 allowances under this act shall be paid out of the fund and  
 3 shall be determined as follows:

4 (1) A police officer who is eligible under subsection  
 5 (1)(a) or (1)(b) of [section 30 of this act] and does not  
 6 elect to serve any additional years as an active police  
 7 officer or who is retired under [section 30 of this  
 8 act](1)(c) prior to reaching 20 years of service shall  
 9 receive a service retirement allowance equal to one-half his  
 10 final average salary.

11 (2) A police officer who is eligible for service  
 12 retirement after 20 years of service and who elects to serve  
 13 additional years shall receive the allowance provided for in  
 14 subsection (1) plus an additional 1% of such allowance per  
 15 year of additional service, up to a maximum of 60% of the  
 16 final average salary. A police officer whose eligibility  
 17 depends on [section 30 of this act](1)(b) and who completes  
 18 20 years of service before reaching the age of 50 is  
 19 considered to have elected to serve an additional year for  
 20 each year between the completion of his 20th year of service  
 21 and his 50th birthday and shall be paid the additional 1%  
 22 for each such year.

23 (3) A police officer who is retired under [section 30  
 24 of this act](1)(c) and who was theretofore eligible at his  
 25 option to be retired under subsection (1)(a) or (1)(b) of

1 [section 30 of this act] but elected to serve additional  
 2 years shall be paid for the additional years over his  
 3 original eligibility at the rate prescribed in subsection  
 4 (2).

5 (4) A police officer who is eligible under [section 12  
 6 of this act] before completing 20 years of service shall  
 7 receive a disability retirement allowance equal to one-half  
 8 his average final salary.

9 (5) A police officer who is retired under [section 12  
 10 of this act] and who, at the time of his injury or  
 11 disability, was eligible at his option to be retired under  
 12 subsection(1)(a) or (1)(b) of [section 30 of this act] but  
 13 had elected to serve additional years and was then serving  
 14 such additional years shall be paid for the additional years  
 15 at the rate prescribed in subsection (2).

16 Section 32. There is a new R.C.M. section that reads  
 17 as follows:

18 Department to provide forms -- information from  
 19 employers. The department of administration shall prepare  
 20 such forms as it finds necessary for the employers to  
 21 complete to provide all the information necessary to  
 22 administer this act, and the cities shall give the  
 23 department of administration all data necessary to carry out  
 24 the purpose and intent hereof.

25 Section 33. There is a new R.C.M. section that reads

1 as follows:

2 Application of reserve and retirement provisions of  
3 prior law. (1) As cities other than those participating in  
4 the statewide police reserve fund provided for in Chapter  
5 335, Laws of 1974, currently have local police reserve  
6 funds, the legislature finds and declares that the law  
7 regarding such funds, although in conflict with this act,  
8 cannot be repealed. It is the express intention of the  
9 legislature to allow two separate and distinct retirement  
10 systems to exist. The first, which includes local police  
11 reserve funds, applies to such cities, other than those of  
12 the first and second class, which wish to adopt it. The  
13 second, created by this act, applies to first and second  
14 class cities, those other cities which wish to adopt it, and  
15 any city which has adopted the above-mentioned statewide  
16 police reserve fund.

17 (2) The following sections may not be applied in any  
18 way to a city operating under the plan created by this act:  
19 11-1809, 11-1819, 11-1822, 11-1823, 11-1825, 11-1826,  
20 11-1827, 11-1828, 11-1829, 11-1830, 11-1834, 11-1835,  
21 11-1836, 11-1837, 11-1843, 11-1844, 11-1845, and 11-1847.

22 Section 34. There is a new R.C.M. section numbered  
23 82A-224 that reads as follows:

24 82A-224. Board of trustees abolished functions---- ==  
25 FUNCTIONS transferred. The board of trustees of the police

1 reserve fund of a city which elects to participate in the  
2 municipal police officers' retirement system under [section  
3 26 of this act] is abolished as of the time that the  
4 transfer of the cash and securities and the certification  
5 required by that section is completed. The functions of the  
6 board are transferred as of the date of the election to the  
7 department of administration and the board, as provided in  
8 the Municipal Police Officers' OFFICERS' Retirement Act.

9 Section 35. Section 11-1823, R.C.M. 1947, is amended  
10 to read as follows:

11 "11-1823. Fund for payment of officers on reserve  
12 lists -- tax levy. ~~For the purpose of paying the salaries of~~  
13 ~~police officers who have been placed upon the reserve list of~~  
14 ~~cities under this act, the city or town council, or~~  
15 ~~commissioners, shall deposit in the fund monthly an amount~~  
16 ~~equal to eleven percent (11%) of the total salaries for the~~  
17 ~~preceding month paid to active police officers of that city,~~  
18 ~~exclusive of overtime and payments in lieu of sick leave and~~  
19 ~~annual leave. Cities having such police reserve funds, not~~  
20 ~~cities of the first or second class, which did not elect to~~  
21 ~~join the statewide police reserve fund provided for in~~  
22 ~~Chapter 335, Laws of 1974, and which have not elected to~~  
23 ~~participate in the plan under [section 26 of this act] as of~~  
24 ~~the effective date of this act, and not having elected to~~  
25 ~~come within the provisions of this act, shall likewise~~

1 deposit in the fund of that city monthly an amount equal to  
 2 eleven percent (11%) of the total salaries, exclusive of  
 3 overtime and payments in lieu of sick leave and annual  
 4 leave, for the preceding month, paid to active police  
 5 officers of that city. ~~Payments made by cities covered by~~  
 6 ~~this act shall be made by the treasurer of that city to the~~  
 7 ~~department of administration.~~ In case the demand against the  
 8 city for its deposits in such fund shall be such that it  
 9 cannot be met within the general taxing authority of that  
 10 city, then and in such case an additional levy of not to  
 11 exceed three (3) mills may be made until the general taxing  
 12 authority be sufficient to meet the demand."

13 Section 36. Section 11-1825, R.C.M. 1947, is amended  
 14 to read as follows:

15 "11-1825. Salary deduction for payment of reserve  
 16 officers. The treasurer of any incorporated city which has  
 17 ~~as of the effective date of this act or which hereafter may~~  
 18 create a police reserve fund, shall retain from the monthly  
 19 salary of all police officers upon the active list, a sum  
 20 equal to six percent (6%) of the monthly compensation paid  
 21 each officer for his services as such police officer,  
 22 exclusive of overtime and payments made in lieu of sick  
 23 leave and annual leave, the said monthly deduction from the  
 24 salaries of such police officers, shall be paid into the  
 25 ~~police reserve fund in the department of administration or~~

1 to the city's police reserve fund, ~~as the case may be~~ for  
 2 the purpose of paying the salaries of police officers upon  
 3 the reserve list."

4 Section 37. Section 11-1826, R.C.M. 1947, is amended  
 5 to read as follows:

6 "11-1826. Gifts and moneys to be applied to fund. All  
 7 moneys withheld from salaries of police officers for the  
 8 violation of rules and regulations of such police  
 9 departments, all bequests, gifts or emoluments, paid or  
 10 given on account of any extraordinary service of any member  
 11 of such police department, except when specifically allowed  
 12 to be retained by such officer by the mayor, commissioners  
 13 and chief of police, and all moneys derived from the  
 14 provisions of this act, shall be placed in the police  
 15 reserve fund, and transmitted promptly ~~to the department of~~  
 16 ~~administration or to the board of trustees, as the case may~~  
 17 be."

18 Section 38. Section 11-1834, R.C.M. 1947, is amended  
 19 to read as follows:

20 "11-1834. Annual state payments to municipality with  
 21 police department. At the end of each fiscal year the state  
 22 auditor shall issue and deliver to the treasurer of each  
 23 city and town in Montana, ~~having which has~~ a police  
 24 department, ~~and which is not a participant in the municipal~~  
 25 police officers' retirement system his warrant for an amount

1 computed in the same manner as the amount paid (or that  
 2 would be paid if an existing relief association met the  
 3 legal requirements for payment) to cities and towns for fire  
 4 department relief associations pursuant to section 11-1919,  
 5 R.C.M. 1947."

6 Section 39. Section 11-1836, R.C.M. 1947, is amended  
 7 to read as follows:

8 "11-1836. Credit of payments to police reserve fund --  
 9 annual report of board. Every city or town, having a police  
 10 reserve fund ~~established under the provisions of the~~  
 11 ~~Metropolitan Police Law~~, shall deposit said payment ~~with the~~  
 12 ~~department of administration or~~ to the credit of the police  
 13 reserve fund of such city or town ~~as the case may be. THE~~  
 14 FUNDS DEPOSITED IN THE POLICE RESERVE FUND OF A CITY OR TOWN  
 15 AFTER JULY 1, 1977, ARE LIMITED TO THE INVESTMENTS IN 73-310  
 16 EXCEPT THAT THE FUNDS MAY NOT BE INVESTED IN COMMON STOCKS.  
 17 HOWEVER, THESE FUNDS MAY BE INVESTED UNDER THE PROVISIONS OF  
 18 79-311. The board of trustees of each police officer's  
 19 reserve fund shall on or before the first day of April of  
 20 each year report to the state auditor as to the financial  
 21 condition of their fund. Payments provided for in this  
 22 section and the preceding two (2) sections (11-1834,  
 23 11-1835) are in addition to those provided for in section  
 24 11-1823."

25 Section 40. Section 11-1844, R.C.M. 1947, is amended

1 to read as follows:

2 "11-1844. Payment of police reserves. (1) Whenever  
 3 any policeman or officer shall become transferred from the  
 4 active list of police officers of any city to the reserve  
 5 list of that city, he shall thereafter be paid in monthly  
 6 payments from the ~~funds in this act provided for~~ city's  
 7 police reserve fund, as follows:

8 (a) For a police officer eligible for the reserve list  
 9 after twenty (20) years of service under subsection (1) of  
 10 section 13 [11-1843] of this act, and who does not elect to  
 11 serve any additional years as an active police officer; or  
 12 for a police officer eligible for the reserve list after  
 13 twenty (20) years of service under subsection (2) of section  
 14 13 [11-1843] of this act, who has reached his fiftieth year,  
 15 and who does not elect to serve any additional years as an  
 16 active police officer; or a police officer who becomes  
 17 eligible by reason of injury or disability under subsection  
 18 (4) of section 13 [11-1843] of this act, before reaching  
 19 twenty (20) years of service; or for a police officer placed  
 20 upon the reserve list by reason of reaching his sixty-fifth  
 21 birthday prior to reaching twenty (20) years of service: a  
 22 sum equal to one-half (1/2) the base salary, excluding  
 23 overtime and payments in lieu of sick leave and annual leave  
 24 he was receiving as an active officer computed on the  
 25 highest salary received in any one month during the last

1 year of active service.

2 (b) For a police officer eligible for the reserve list  
3 after twenty (20) years who elects to serve additional  
4 years, the payment provided in subsection (a) of subsection  
5 (1) of this section, to which shall be added an additional  
6 one percent (1%) of such sum per year of additional service,  
7 up to a maximum of sixty percent (60%) of the base salary,  
8 excluding overtime and payment in lieu of sick leave and  
9 annual leave, he was receiving as an active officer computed  
10 on the highest salary received in any one (1) month during  
11 the last year of active service. For the purposes of this  
12 act, a police officer whose eligibility depends upon  
13 subsection (2) of section 13 [11-1843] of this act, and who  
14 completes twenty (20) years of service before reaching the  
15 age of fifty (50) years, shall be deemed to have elected to  
16 serve additional years for each year between the completion  
17 of his twentieth year of service and his fiftieth birthday,  
18 and he shall be paid the additional one percent (1%) for  
19 each such year.

20 (c) A policeman who is placed upon the reserve list by  
21 reason of reaching his sixty-fifth birthday, but who was  
22 theretofore eligible at his option to be placed upon such  
23 reserve list under subsections (1) or (2) of section 13  
24 [11-1843] of this act, but elected to serve additional years  
25 after such earlier eligibility shall be paid for such

1 additional years over his original eligibility at the same  
2 rate as is provided in subsection (a) of subsection (1) of  
3 this section.

4 (d) A police officer placed on the reserve list by  
5 reason of injury or disability under subsection 4 of section  
6 13 [11-1843] of this act, and who, at the time of such  
7 injury or disability was eligible at his option to be placed  
8 on the reserve list under subsections (1) or (2) of section  
9 13 [11-1843] of this act, but had elected to serve  
10 additional years, and was then serving such additional years  
11 shall be paid for such additional years over his original  
12 eligibility at the same rate as is provided in subsection  
13 (a) of subsection (1) of this section.

14 (2) Upon the death of any police officer on the active  
15 list or reserve list of any city, his surviving spouse, if  
16 there be one, shall, as long as such spouse remains the  
17 surviving spouse, be paid from the police reserve fund, a  
18 sum equal to one-half (1/2) the base salary, excluding  
19 overtime and payments in lieu of sick leave or annual leave  
20 he was receiving as an active officer computed on the  
21 highest salary received in any one (1) month during the last  
22 year of active service prior to the date of his demise or  
23 prior to the date he passed to the reserve list. If the  
24 officer leaves dependent minor child or children, then upon  
25 his death if he leaves no surviving spouse, or upon the

1 death or remarriage of the surviving spouse, then his  
2 surviving dependent minor child or children, collectively if  
3 there be more than one (1) dependent minor child surviving,  
4 shall be paid the same monthly payments as are herein  
5 provided to be paid to the surviving spouse, until the minor  
6 child or children reach the age of eighteen (18) years or  
7 shall have married. Payments to be made to such minor child  
8 or children shall be paid to the duly appointed, qualified  
9 and acting guardian of the child or children for the use of  
10 such minor or minors, until such minor shall have reached  
11 the age of eighteen (18) years or shall have married and in  
12 case there is more than one (1) minor child, upon each child  
13 reaching the age of eighteen (18) years the pro rata  
14 payments to that child shall cease and shall be made to the  
15 remaining minor child or children until the youngest child  
16 reaches the age of eighteen (18) years or is married."

17 Section 41. Severability. If a part of this act is  
18 invalid, all valid parts that are severable from the invalid  
19 part remain in effect. If a part of this act is invalid in  
20 one or more of its applications, the part remains in effect  
21 in all valid applications that are severable from the  
22 invalid applications.

23 Section 42. Repealer. Sections 11-1821.1, 11-1824,  
24 11-1838, 11-1839, 11-1840, 11-1841, 11-1842, 11-1848,  
25 11-1850, 82A-222, and 82A-223, R.C.M. 1947, are repealed.

-End-

SENATE  
STANDING COMMITTEE REPORT  
Committee on Local Government

That House Bill No. 801, third reading, be amended as follows:

1. Amend page 8, section 8, line 22.

Following: "compensation"

Insert: ", excluding overtime, holiday payments, shift differential payments,  
compensation time payments, and payments in lieu of sick leave and annual leave,"

## 1 HOUSE BILL NO. 801

2 INTRODUCED BY BARDANDUVE

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A MUNICIPAL  
5 POLICE OFFICERS' RETIREMENT SYSTEM AND PROVIDING FOR ITS  
6 ADMINISTRATION; AMENDING SECTIONS 11-1823, 11-1825, 11-1826,  
7 11-1834, 11-1836, AND 11-1844, R.C.M. 1947; AND REPEALING  
8 SECTIONS 11-1821.1, 11-1824, 11-1838, 11-1839, 11-1840,  
9 11-1841, 11-1842, 11-1848, 11-1850, 82A-222, AND 82A-223,  
10 R.C.M. 1947."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:13 Section 1. There is a new R.C.M. section that reads as  
14 follows:15 Short title. This act may be cited as the "Municipal  
16 Police Officers' Retirement Act".17 Section 2. There is a new R.C.M. section that reads as  
18 follows:19 Definitions. Unless the context requires otherwise, the  
20 following definitions apply in this act:21 (1) "Plan" means the municipal police officers'  
22 retirement system created by this act.23 (2) "Prior plan" means the local police reserve or  
24 retirement fund of a city which elects to join the plan  
25 under [section 26] or the statewide police reserve fund1 administered by the department of administration in  
2 accordance with Chapter 335, Laws of 1974.3 (3) "Employer" means any city which participated in a  
4 prior plan or which elects to join this plan under [section  
5 26].6 (4) "Administrator" means the public employees  
7 retirement division of the department of administration.8 (5) "Board" means the retirement board described in  
9 82A-210.10 (6) "Member" means a person who is employed by an  
11 employer as a police officer or who is entitled to a  
12 retirement allowance by virtue of his service to an employer  
13 as a police officer.14 (7) "Member contributions" means the total of the  
15 deductions from the compensation of a member, either made  
16 during a period of active membership hereunder or made under  
17 a prior plan and transferred to this plan, standing to his  
18 credit, together with the interest thereon.19 (8) "Monthly compensation" means the--amount--of--the  
20 base--salary WAGE, excluding overtime, holiday payments,  
21 shift differential payments, compensation time payments, and  
22 payments in lieu of sick leave and annual leave, a member  
23 receives as an active police officer.24 (9) "Final average salary" means the monthly  
25 compensation of a member, averaged over the last 36 months

1 of his active service or, in the event he has not been a  
2 member that long, over the period of his membership.

3 (10) "Prior service" means a period of employment as a  
4 police officer for which credit was granted to a member  
5 under a prior plan and has been transferred to this plan.

6 (11) "Membership service" means a period of employment  
7 with an employer occurring after June 30, 1977, during which  
8 the withholdings required by this act have been made from a  
9 member's monthly compensation and credited to his member  
10 contributions account. Pro rata credit shall be granted for  
11 employment on a part-time basis or for employment over a  
12 period of less than a complete fiscal year.

13 (12) "Credited service" means the aggregate of a  
14 member's prior service and membership service.

15 (13) "Member's annuity" means monthly payments for life  
16 derived from member contributions.

17 (14) "Employer annuity" means monthly payments for life  
18 derived from employer and state contributions.

19 (15) "Retirement allowance" means the employer annuity  
20 plus the member's annuity.

21 (16) "Minimum retirement date" or "normal retirement  
22 date" means the first day of the month coinciding with or  
23 immediately following, if none coincides, the date on which  
24 a member becomes both age 50 or older and completes 20 or  
25 more years of credited service.

1 (17) "Mandatory retirement date" means the first day of  
2 the month coinciding with or immediately following, if none  
3 coincides, the date on which a member attains age 65.

4 (18) "Retirement date" means the date on which the  
5 first payment of the retirement, disability, or survivor  
6 benefits of a member or a beneficiary is payable.

7 (19) "Totally and permanently disabled" means that the  
8 board, upon certification by a licensed and practicing  
9 physician, has determined that a member's disability is of  
10 such a nature as to permanently impair his ability to  
11 discharge his normal duties as a police officer.

12 (20) "Police officer" means a law enforcement officer  
13 employed by an employer.

14 (21) "Fund" means the agency account in the treasury  
15 system designated for the use of the plan.

16 Section 3. There is a new R.C.M. section that reads as  
17 follows:

18 Municipal police officers' retirement system  
19 established. A municipal police officers' retirement system  
20 is established and shall be governed by the provisions of  
21 this act.

22 Section 4. There is a new R.C.M. section that reads as  
23 follows:

24 Active membership. (1) A police officer becomes an  
25 active member under the plan:

1 (a) on the date his employment by an employer  
2 commences;

3 (b) on July 1, 1977, if he is employed by an employer  
4 on that date; or

5 (c) in the case of an employer which elects to join  
6 the plan as provided in [section 26 of this act], on the  
7 effective date of such election if he is employed by the  
8 employer on that date.

9 (2) Upon becoming eligible for membership, he shall  
10 complete such forms and furnish such proof as may be  
11 required by the board.

12 (3) No ACTIVE member is eligible to be covered under  
13 any other mandatory retirement plan FOR POLICE SERVICE to  
14 which an employer is required to contribute on his behalf,  
15 except the Social Security Act, while he is eligible to be  
16 covered by this plan.

17 (4) A member is entitled to benefits based upon the  
18 entire period of his credited service and final average  
19 salary without regard to the number of employers by whom he  
20 was employed or the number of periods of his employment so  
21 that no duplication of credited service occurs.

22 Section 5. There is a new R.C.M. section that reads as  
23 follows:

24 Inactive membership. (1) An active member becomes an  
25 inactive member upon the occurrence of the earlier of the

1 following:

2 (a) the date he ceases to be employed by an employer  
3 and becomes entitled to a retirement allowance;

4 (b) the date of commencement of an approved absence  
5 from active duty with an employer of a substantial duration.

6 (2) An inactive member becomes an active member on the  
7 day he returns to active duty with an employer. Upon again  
8 becoming an active member, his retirement allowance, if any,  
9 shall cease being paid to him until he again becomes an  
10 inactive member.

11 Section 6. There is a new R.C.M. section that reads as  
12 follows:

13 Cessation of membership. A member shall cease to be a  
14 member upon the occurrence of the earlier of the following:

15 (1) the date he withdraws his member contributions in  
16 lieu of all other benefits under the plan;

17 (2) the date of his death.

18 Section 7. There is a new R.C.M. section that reads as  
19 follows:

20 Employer and state contributions and funding sources.

21 (1) Employer and state contributions shall be paid to the  
22 administrator who shall, as soon as practicable after their  
23 receipt, deposit them with the state treasurer.

24 (2) The state of Montana shall make its contributions  
25 through the state auditor out of the premium tax on motor

1 vehicle property and casualty insurance policies. Such  
 2 payments shall be made annually from the gross premium tax  
 3 after deduction for cancellations and returned premiums. The  
 4 administrator shall notify the auditor of the annual  
 5 compensation paid to all active members during the preceding  
 6 year and the state's contribution shall be 12% of such  
 7 compensation.

8 (3) Each employer shall make its contribution on  
 9 behalf of members through the city treasurer or other  
 10 appropriate official out of moneys available to the city for  
 11 such purpose. The employer's contribution shall be 12% of  
 12 the total monthly compensation paid to all active members  
 13 during the preceding month and shall be payable monthly to  
 14 the administrator.

15 (4) (a) It is found and declared by the legislature  
 16 that many cities operating under prior plans have excess and  
 17 unfunded liabilities under such prior plans, which  
 18 liabilities cannot be amortized by the percentage  
 19 contributions set forth in subsections (2) and (3).

20 (b) The administrator shall, on or before October 1,  
 21 1977, determine the excess and unfunded liability of each  
 22 city which participates in the plan created by this act. The  
 23 determination of the administrator, in the absence of fraud,  
 24 abuse of discretion, or arithmetic error, is final and  
 25 binding on each city. Each city found by the administrator

1 to have an excess and unfunded liability under a prior plan,  
 2 which as of July 1, 1977, is not funded by sums on deposit  
 3 or funds available for deposit with the administrator, shall  
 4 pay an additional sum over a period of time to amortize its  
 5 excess liability as determined by the administrator. If any  
 6 city and the administrator are unable by January 1, 1978, to  
 7 negotiate and reduce to writing the terms of an agreement  
 8 satisfactory to both of them for the city to amortize its  
 9 excess liability, the administrator shall require such city  
 10 to pay an additional sum to amortize its excess liability on  
 11 Jul, 1, 1977, over a period of not more than 40 years.

12 (c) Each city found by the administrator to be paying  
 13 an amount in excess of the amount necessary to amortize its  
 14 liabilities under the prior plan and under this act shall  
 15 receive a credit in the accounts of the administrator for  
 16 any such excess payments.

17 Section 8. There is a new R.C.M. section that reads as  
 18 follows:

19 Member contributions. (1) The treasurer or other  
 20 appropriate official of each employer shall retain from the  
 21 monthly compensation of each active member a sum equal to 6%  
 22 of his monthly compensation, EXCLUDING OVERTIME, HOLIDAY  
 23 PAYMENTS, SHIFT DIFFERENTIAL PAYMENTS, COMPENSATION TIME  
 24 PAYMENTS, AND PAYMENTS IN LIEU OF SICK LEAVE AND ANNUAL  
 25 LEAVE, for his services as a police officer. The monthly

1 deduction from the salaries of police officers shall be paid  
2 to the administrator for the purpose of paying the  
3 retirement allowances of retired police officers.

4 (2) A member is AT ALL TIMES fully vested in his  
5 ~~member--contributions--at-all-times~~ THE DEDUCTIONS MADE FROM  
6 HIS COMPENSATION AS A MEMBER OR AS A MEMBER OF A PRIOR PLAN  
7 STANDING TO HIS CREDIT and may, at his discretion, withdraw  
8 the full amount of his ~~member-contributions~~ THESE DEDUCTIONS  
9 upon his termination of employment in accordance with  
10 [section 14] and forfeit all rights and interest with  
11 respect to any benefits which would otherwise become payable  
12 under the plan.

13 Section 9. There is a new R.C.M. section that reads as  
14 follows:

15 Reinstatement after withdrawal of member contributions  
16 -- reposit of amounts withdrawn. (1) Upon reinstatement to  
17 active membership, a member may reposit in the fund, in  
18 one lump sum or in installments not to exceed 12 monthly or  
19 24 semimonthly installments, an amount equal to the member  
20 contributions which he withdrew plus an amount equal to the  
21 interest which would have been credited to his account had  
22 he not withdrawn his member contributions. If a member makes  
23 such a reposit, his credited service shall be reinstated.

24 (2) If an active member does not elect to make the  
25 reposit provided for in subsection (1), he forfeits his

1 credited service for the period attributable to the  
2 withdrawn member contributions.

3 Section 10. There is a new R.C.M. section that reads  
4 as follows:

5 Other moneys credited as employer contributions. All  
6 gifts, bequests, or emoluments given to an employer or  
7 member for the benefit of the plan or because of any  
8 member's service as a police officer, except when  
9 specifically allowed to be retained by the member by his  
10 employer, and all moneys withheld from the monthly  
11 compensation of a member for violation of the rules of his  
12 employer shall be paid to the administrator. The  
13 administrator shall credit them to the fund and, as soon as  
14 practicable after their receipt, deposit them with the state  
15 treasurer. Such amounts are employer contributions but are  
16 in addition to the amounts required by [section 7].

17 Section 11. There is a new R.C.M. section that reads  
18 as follows:

19 Application for service retirement. On or after a  
20 member's minimum retirement date and prior to his mandatory  
21 retirement date, he may retire on a service retirement  
22 allowance by making written application to the employer. The  
23 employer shall forward the application to the board not less  
24 than 30 days or more than 90 days before the elected  
25 retirement date. The application shall state the elected

1 retirement date.

2 Section 12. There is a new R.C.M. section that reads  
3 as follows:

4 Eligibility for disability retirement. If a member is  
5 determined by the board to be totally and permanently  
6 disabled, he is entitled to a disability retirement  
7 allowance, regardless of the length of his service,  
8 commencing as of the first day of the month coinciding with  
9 or immediately following, if none coincides, the date on  
10 which he became totally and permanently disabled.

11 Section 13. There is a new R.C.M. section that reads  
12 as follows:

13 Procedure upon recovery from total and permanent  
14 disability. (1) If an inactive member is determined by the  
15 board to be no longer totally and permanently disabled, his  
16 disability retirement allowance shall cease as of the date  
17 of such determination and he shall be notified of the  
18 determination by the board. The board may review the status  
19 of any inactive member at any time.

20 (2) ANY INACTIVE MEMBER WHOSE DISABILITY RETIREMENT  
21 ALLOWANCE IS SO CANCELLED SHALL BE REINSTATED TO THE  
22 POSITION HELD BY HIM IMMEDIATELY BEFORE HIS RETIREMENT OR TO  
23 A POSITION IN THE SAME CLASSIFICATION WITH DUTIES WITHIN HIS  
24 CAPACITY. THE BOARD SHALL ADVISE THE EMPLOYER THAT THE  
25 DISABILITY RETIREMENT ALLOWANCE HAS BEEN CANCELLED AND THAT

1 THE INACTIVE MEMBER IS ELIGIBLE FOR REINSTATEMENT TO DUTY.  
2 THE FACT THAT HE WAS RETIRED FOR DISABILITY MAY NOT  
3 PREJUDICE ANY RIGHT TO REINSTATEMENT TO DUTY WHICH THE  
4 INACTIVE MEMBER MAY HAVE OR CLAIM TO HAVE.

5 ~~(2)(3)~~ If the inactive member again becomes an active  
6 member by returning to active work for an employer within 30  
7 days following receipt of such notice HIS RECEIPT OF NOTICE  
8 UNDER SUBSECTION (1), he shall be considered to have been  
9 continuously employed during the term of his disability. If  
10 the inactive member fails to become an active member by  
11 returning to active work for an employer within 30 days  
12 following receipt of such notice, his termination of  
13 employment shall be considered to have occurred as of his  
14 disability retirement date and the retirement allowance, if  
15 any, to which he becomes entitled on his service retirement  
16 shall be determined accordingly.

17 Section 14. There is a new R.C.M. section that reads  
18 as follows:

19 Termination of employment prior to retirement. (1) Upon  
20 termination of the employment of an active member prior to  
21 his retirement date, he shall withdraw the amount of his  
22 member contributions in lieu of all other benefits under the  
23 plan. If he has 10 years or more of service, the amount paid  
24 shall include regular interest, at a rate to be determined  
25 by the board, on such amounts. If he has less than 10 years

1 of service, he shall receive only the amount paid through  
 2 salary deductions, without interest. If an active member's  
 3 employment terminates by reason of his death, his  
 4 beneficiaries are entitled to the benefits prescribed in  
 5 [section 16 of this act].

6 Section 15. There is a new R.C.M. section that reads  
 7 as follows:

8 Retirement allowances to be monthly and fixed. The  
 9 retirement allowances granted under the provisions of this  
 10 act shall be paid in monthly installments. They may not be  
 11 increased or decreased, except as specifically provided  
 12 herein, or repealed or revoked except by an act of the  
 13 Montana legislature.

14 Section 16. There is a new R.C.M. section that reads  
 15 as follows:

16 Death benefits. (1) A member's retirement allowance  
 17 shall be paid first to the member during his lifetime and,  
 18 upon his death, in the manner and to the persons designated  
 19 in subsection (2).

20 (2) Upon the death of a police officer before or after  
 21 retirement, his surviving spouse, if there is one, shall, as  
 22 long as such spouse remains the surviving spouse, be paid  
 23 from the fund a sum equal to one-half of the officer's final  
 24 average salary. If the officer leaves one or more dependent  
 25 minor children, then, upon his death if he leaves no

1 surviving spouse or upon the death or remarriage of the  
 2 surviving spouse, his surviving dependent minor children,  
 3 collectively if there is more than one, shall receive the  
 4 same monthly payments a surviving spouse would receive,  
 5 until they reach the age of 18 years or are married. The  
 6 payments shall be made to their duly appointed, qualified,  
 7 and acting guardian for their use. If there is more than one  
 8 such child, upon each child reaching the age of 18 years or  
 9 marrying, the pro rata payments to that child shall cease  
 10 and shall be made to the remaining children until all the  
 11 children have reached the age of 18 years or are married.

12 Section 17. There is a new R.C.M. section that reads  
 13 as follows:

14 Retirement benefits exempt from state or municipal tax.  
 15 Any money received as a retirement allowance in accordance  
 16 with the provisions of this act is exempt from any state or  
 17 municipal tax.

18 Section 18. There is a new R.C.M. section that reads  
 19 as follows:

20 Rights to benefits unassignable -- protection from  
 21 legal process. The benefits payable hereunder are not  
 22 subject to the claims of any creditor of a member,  
 23 beneficiary, or survivor or to attachment, garnishment, or  
 24 other legal or equitable process. No member, beneficiary,  
 25 or survivor may alienate, anticipate, commute, pledge,

1 encumber, assign, or sell any of such benefits.

2 Section 19. There is a new R.C.M. section that reads  
3 as follows:

4 Retirement board -- powers and duties. (1) The board is  
5 authorized to administer, interpret, and enforce the  
6 provisions of this act.

7 (2) The board shall establish such uniform rules as  
8 are necessary to administer the provisions of this act. The  
9 board is the sole authority under this act as to the  
10 conditions under which persons may become members of and  
11 receive benefits under the retirement system. The board  
12 shall determine and may modify allowances for retirement and  
13 disability under this act.

14 (3) The board shall determine whether a member has  
15 become totally and permanently disabled and whether the  
16 disability is duty-related. In the discharge of its duties  
17 regarding such determination, the board, any member thereof,  
18 or any duly authorized representative of the board may order  
19 medical examinations, conduct hearings, administer oaths and  
20 affirmations, take depositions, certify to official acts,  
21 and issue subpoenas ~~SUBPOENAS~~ to compel the attendance of  
22 witnesses and the production of books, papers,  
23 correspondence, memoranda, and documents considered  
24 necessary as evidence in connection with the claim for  
25 disability retirement. The board shall secure medical

1 service and advice necessary to carry out the purposes of  
2 this section.

3 (4) Except as otherwise provided in this act, the  
4 department of administration, through the administrator and  
5 the board of investments, shall administer, invest, account  
6 for, and treat the funds deposited with it under this act in  
7 accordance with the rules dealing with the public employees  
8 retirement system, insofar as such rules are not  
9 inconsistent with those promulgated and adopted by the  
10 board. The contributions of the state, employers, and  
11 members paid to the administrator under this act may be  
12 commingled for investment purposes.

13 Section 20. There is a new R.C.M. section that reads  
14 as follows:

15 Retirement account. On July 1, 1977, there will be an  
16 account in the agency fund to be maintained on behalf of the  
17 plan. The state treasurer is the custodian of the account  
18 subject to the exclusive administrative control of the  
19 board.

20 Section 21. There is a new R.C.M. section that reads  
21 as follows:

22 Transfer of assets and liabilities from prior plans.  
23 All funds and obligations constituting the assets and  
24 liabilities of prior plans, regardless of their form or who  
25 holds them, shall be transferred to the account provided for

1 in [section 20 of this act]. The board shall ascertain the  
 2 amounts to be apportioned to each account upon the passage  
 3 of this act, and the state treasurer shall transfer such  
 4 amounts to the appropriate accounts on July 1, 1977.

5 Section 22. There is a new R.C.M. section that reads  
 6 as follows:

7 Benefits to members of prior plans. (1) All provisions  
 8 of this plan are effective as to a member whose retirement  
 9 date occurred prior to July 1, 1977, except the amount and  
 10 mode of payment of such member's retirement allowance will  
 11 remain unchanged.

12 (2) This act may not decrease the benefits of a member  
 13 under a prior plan.

14 Section 23. There is a new R.C.M. section that reads  
 15 as follows:

16 Actuarial valuation. The board shall engage the  
 17 services of a qualified actuary to conduct an actuarial  
 18 valuation of the plan in each even-numbered year. It shall  
 19 include the actuary's determination of the financial  
 20 condition of the plan, the level of annual contributions  
 21 required to maintain the plan on an actuarially sound basis,  
 22 and, if applicable, the level of annual contributions  
 23 required to amortize the excess and unfunded liabilities  
 24 described in [section 7](4). A qualified actuary is one who  
 25 is a member of the American academy of actuaries or of any

1 organization considered by the board to have similar  
 2 standards.

3 Section 24. There is a new R.C.M. section that reads  
 4 as follows:

5 Administrative expenses. The expense of administration  
 6 of this act, exclusive of amounts required to be paid as  
 7 benefits to or on behalf of a member, shall be borne by the  
 8 state and shall be in addition to the amounts required of it  
 9 as contributions.

10 Section 25. There is a new R.C.M. section that reads  
 11 as follows:

12 Taxing authority of employers. (1) For the purpose of  
 13 making contributions required of a city under this act, when  
 14 the demand for deposits of such contributions cannot be met  
 15 within the general taxing authority and other revenues  
 16 available to the city for that purpose, the appropriate  
 17 authority of the city may levy any additional tax authorized  
 18 by law until the general taxing authority and other revenue  
 19 available for that purpose is sufficient to meet the demand.

20 (2) "General taxing authority", as used in this  
 21 section, means that levy which the city can MAY make under  
 22 the all-purpose levy or under multiple-purpose levies, if  
 23 the city is using multiple-purpose levies.

24 (3) No provision of any statute relating to the  
 25 all-purpose levy may be so construed as to limit the

1 additional taxing authority created by this section.

2 Section 26. There is a new R.C.M. section that reads  
3 as follows:

4 Election to join plan -- transfer of assets.

5 (1) Cities other than those participating in the statewide  
6 police reserve fund administered by the department of  
7 administration in accordance with Chapter 335, Laws of 1974,  
8 as of June 30, 1977, may elect to join the plan by passing  
9 an ordinance stating the election and the consent of the  
10 city to be bound by the provisions of this act. Upon the  
11 enactment of such an ordinance, the provisions of this act  
12 become applicable to the city. Any city enacting such an  
13 ordinance shall send a certified copy thereof to the board  
14 and shall, as soon as possible thereafter, deposit with the  
15 board all cash and securities held by it in its local police  
16 reserve or retirement fund. The value of the securities  
17 shall be determined by the board.

18 (2) The trustees or other administrative head of the  
19 local system as of the effective date of the election shall  
20 certify the proportion, if any, of the funds of the system  
21 that represents the accumulated contributions of the active  
22 members and the relative shares of the members as of that  
23 date. Such shares shall be charged to the employer and  
24 credited to the respective individual accounts of the  
25 members in the plan and administered as if the contributions

1 had been made during membership in the plan. Any excess of  
2 employer credits over charges under this section will be  
3 offset, with interest, against future required employer  
4 contributions. Any excess of employer charges over credits  
5 under this section are payable by the employer, with  
6 interest, on a basis determined by the procedure described  
7 in subsections (4)(b) and (4)(c) of [section 7 of this act].

8 Section 27. There is a new R.C.M. section that reads  
9 as follows:

10 Penalty for false statements or falsification of  
11 records. (1) No person may knowingly make any false  
12 statement or permit to be falsified any records of the plan  
13 in an attempt to defraud the plan.

14 (2) If any change in records fraudulently made or any  
15 mistake in records inadvertently made results in any member,  
16 survivor, or beneficiary receiving more or less than he was  
17 entitled to, then, on the discovery of the error, the board  
18 shall correct the error and adjust the payments to the  
19 member, survivor, or beneficiary in an equitable manner.

20 (3) A person who violates any of the provisions of  
21 subsection (1) is guilty of a misdemeanor and, upon  
22 conviction, shall be punished by a fine not exceeding \$500  
23 or imprisonment in the county jail for a term not exceeding  
24 6 months, or both.

25 Section 28. There is a new R.C.M. section that reads

1 as follows:

2 Board's authority to refuse to make payments. The board  
3 may revoke, refuse to grant, or suspend a member's annuity  
4 for disability or death caused by wrongful conduct. If the  
5 disability causing a member to retire or the death of a  
6 member is directly and proximately caused by the member's  
7 immoral or intemperate conduct or gross negligence, the  
8 board may refuse to grant, revoke, or suspend the employer  
9 annuity.

10 Section 29. There is a new R.C.M. section that reads  
11 as follows:

12 Transfer of dormant member contributions to employer's  
13 account. The board may, in its discretion, transfer member  
14 contributions to the employer's account if the member's  
15 contribution account has been dormant for a period of 10  
16 years. No right of the member may be jeopardized by such a  
17 transfer, and the member contributions shall be transferred  
18 back to the member's name upon his subsequent reinstatement  
19 as a member.

20 Section 30. There is a new R.C.M. section that reads  
21 as follows:

22 Eligibility for service retirement. (1) Members are  
23 eligible for retirement and shall retire as provided in this  
24 section:

25 (a) A member who was employed by an employer as a

1 police officer on July 1, 1975, is eligible to receive a  
2 service retirement allowance when he has completed 20 years  
3 or more in the aggregate as a probationary officer, a  
4 regular officer, or a special officer, in any capacity or  
5 rank. A police officer serving in the United States military  
6 in time of war or national emergency shall be given credit  
7 in his police record for such service in the same manner as  
8 though he were on active police duty.

9 (b) A member who was or is first employed by an  
10 employer as a police officer after July 1, 1975, is eligible  
11 to receive a service retirement allowance when he has  
12 reached the age of 50 and has completed 20 years or more in  
13 the aggregate as a probationary officer, a regular officer,  
14 or a special officer, in any capacity or rank. He shall  
15 receive credit for military service as prescribed in  
16 subsection (1)(a).

17 (c) Police officers, whether first employed before or  
18 after July 1, 1975, who reach the age of 65 while in active  
19 service shall retire.

20 (2) A police officer who is eligible for service  
21 retirement under subsection (1)(a) or (1)(b) may retire as  
22 of the time he becomes eligible or may elect to serve an  
23 additional 1 to 10 years as an active police officer, except  
24 that he may not elect to serve past his 65th birthday, the  
25 mandatory retirement date.

1 Section 31. There is a new R.C.M. section that reads  
2 as follows:

3 Determination of retirement allowance. Retirement  
4 allowances under this act shall be paid out of the fund and  
5 shall be determined as follows:

6 (1) A police officer who is eligible under subsection  
7 (1)(a) or (1)(b) of [section 30 of this act] and does not  
8 elect to serve any additional years as an active police  
9 officer or who is retired under [section 30 of this  
10 act](1)(c) prior to reaching 20 years of service shall  
11 receive a service retirement allowance equal to one-half his  
12 final average salary.

13 (2) A police officer who is eligible for service  
14 retirement after 20 years of service and who elects to serve  
15 additional years shall receive the allowance provided for in  
16 subsection (1) plus an additional 1% of such allowance per  
17 year of additional service, up to a maximum of 60% of the  
18 final average salary. A police officer whose eligibility  
19 depends on [section 30 of this act](1)(b) and who completes  
20 20 years of service before reaching the age of 50 is  
21 considered to have elected to serve an additional year for  
22 each year between the completion of his 20th year of service  
23 and his 50th birthday and shall be paid the additional 1%  
24 for each such year.

25 (3) A police officer who is retired under [section 30

1 of this act](1)(c) and who was theretofore eligible at his  
2 option to be retired under subsection (1)(a) or (1)(b) of  
3 [section 30 of this act] but elected to serve additional  
4 years shall be paid for the additional years over his  
5 original eligibility at the rate prescribed in subsection  
6 (2).

7 (4) A police officer who is eligible under [section 12  
8 of this act] before completing 20 years of service shall  
9 receive a disability retirement allowance equal to one-half  
10 his average final salary.

11 (5) A police officer who is retired under [section 12  
12 of this act] and who, at the time of his injury or  
13 disability, was eligible at his option to be retired under  
14 subsection(1)(a) or (1)(b) of [section 30 of this act] but  
15 had elected to serve additional years and was then serving  
16 such additional years shall be paid for the additional years  
17 at the rate prescribed in subsection (2).

18 Section 32. There is a new R.C.M. section that reads  
19 as follows:

20 Department to provide forms -- information from  
21 employers. The department of administration shall prepare  
22 such forms as it finds necessary for the employers to  
23 complete to provide all the information necessary to  
24 administer this act, and the cities shall give the  
25 department of administration all data necessary to carry out

1 the purpose and intent hereof.

2 Section 33. There is a new R.C.M. section that reads  
3 as follows:

4 Application of reserve and retirement provisions of  
5 prior law. (1) As cities other than those participating in  
6 the statewide police reserve fund provided for in Chapter  
7 335, Laws of 1974, currently have local police reserve  
8 funds, the legislature finds and declares that the law  
9 regarding such funds, although in conflict with this act,  
10 cannot be repealed. It is the express intention of the  
11 legislature to allow two separate and distinct retirement  
12 systems to exist. The first, which includes local police  
13 reserve funds, applies to such cities, other than those of  
14 the first and second class, which wish to adopt it. The  
15 second, created by this act, applies to first and second  
16 class cities, those other cities which wish to adopt it, and  
17 any city which has adopted the above-mentioned statewide  
18 police reserve fund.

19 (2) The following sections may not be applied in any  
20 way to a city operating under the plan created by this act:  
21 11-1809, 11-1819, 11-1822, 11-1823, 11-1825, 11-1826,  
22 11-1827, 11-1828, 11-1829, 11-1830, 11-1834, 11-1835,  
23 11-1836, 11-1837, 11-1843, 11-1844, 11-1845, and 11-1847.

24 Section 34. There is a new R.C.M. section numbered  
25 62A-224 that reads as follows:

1 62A-224. Board of trustees abolished functions--- ==  
2 FUNCTIONS transferred. The board of trustees of the police  
3 reserve fund of a city which elects to participate in the  
4 municipal police officers' retirement system under [section  
5 26 of this act] is abolished as of the time that the  
6 transfer of the cash and securities and the certification  
7 required by that section is completed. The functions of the  
8 board are transferred as of the date of the election to the  
9 department of administration and the board, as provided in  
10 the Municipal Police ~~Officers~~ OFFICERS' Retirement Act.

11 Section 35. Section 11-1823, R.C.M. 1947, is amended  
12 to read as follows:

13 "11-1823. Fund for payment of officers on reserve  
14 lists -- tax levy. ~~For the purpose of paying the salaries of~~  
15 ~~police officers who have been placed upon the reserve list of~~  
16 ~~cities under this act, the city or town council, or~~  
17 ~~commissioners, shall deposit in the fund monthly an amount~~  
18 ~~equal to eleven percent (11%) of the total salaries for the~~  
19 ~~preceding month paid to active police officers of that city,~~  
20 ~~exclusive of overtime and payments in lieu of sick leave and~~  
21 ~~annual leave.~~ Cities having such police reserve funds, not  
22 cities of the first or second class, which did not elect to  
23 join the statewide police reserve fund provided for in  
24 Chapter 335, Laws of 1974, and which have not elected to  
25 participate in the plan under [section 26 of this act] as of

1 ~~the effective date of this act and not having elected to~~  
 2 ~~come within the provisions of this act~~, shall likewise  
 3 deposit in the fund of that city monthly an amount equal to  
 4 eleven percent (11%) of the total salaries, exclusive of  
 5 overtime and payments in lieu of sick leave and annual  
 6 leave, for the preceding month, paid to active police  
 7 officers of that city. ~~Payments made by cities covered by~~  
 8 ~~this act shall be made by the treasurer of that city to the~~  
 9 ~~department of administration.~~ In case the demand against the  
 10 city for its deposits in such fund shall be such that it  
 11 cannot be met within the general taxing authority of that  
 12 city, then and in such case an additional levy of not to  
 13 exceed three (3) mills may be made until the general taxing  
 14 authority be sufficient to meet the demand."

15 Section 36. Section 11-1825, R.C.M. 1947, is amended  
 16 to read as follows:

17 "11-1825. Salary deduction for payment of reserve  
 18 officers. The treasurer of any incorporated city which has  
 19 ~~as of the effective date of this act or which hereafter may~~  
 20 create a police reserve fund, shall retain from the monthly  
 21 salary of all police officers upon the active list, a sum  
 22 equal to six percent (6%) of the monthly compensation paid  
 23 each officer for his services as such police officer,  
 24 exclusive of overtime and payments made in lieu of sick  
 25 leave and annual leave, the said monthly deduction from the

1 salaries of such police officers, shall be paid into the  
 2 ~~police reserve fund in the department of administration or~~  
 3 to the city's police reserve fund, ~~as the case may be~~ for  
 4 the purpose of paying the salaries of police officers upon  
 5 the reserve list."

6 Section 37. Section 11-1826, R.C.M. 1947, is amended  
 7 to read as follows:

8 "11-1826. Gifts and moneys to be applied to fund. All  
 9 moneys withheld from salaries of police officers for the  
 10 violation of rules and regulations of such police  
 11 departments, all bequests, gifts or emoluments, paid or  
 12 given on account of any extraordinary service of any member  
 13 of such police department, except when specifically allowed  
 14 to be retained by such officer by the mayor, commissioners  
 15 and chief of police, and all moneys derived from the  
 16 provisions of this act, shall be placed in the police  
 17 reserve fund, and transmitted promptly ~~to the department of~~  
 18 ~~administration or to the board of trustees as the case may~~  
 19 be."

20 Section 38. Section 11-1834, R.C.M. 1947, is amended  
 21 to read as follows:

22 "11-1834. Annual state payments to municipality with  
 23 police department. At the end of each fiscal year the state  
 24 auditor shall issue and deliver to the treasurer of each  
 25 city and town in Montana ~~having~~ which has a police

1 department, and which is not a participant in the municipal  
 2 police officers' retirement system his warrant for an amount  
 3 computed in the same manner as the amount paid (or that  
 4 would be paid if an existing relief association met the  
 5 legal requirements for payment) to cities and towns for fire  
 6 department relief associations pursuant to section 11-1919,  
 7 R.C.M. 1947."

8 Section 39. Section 11-1836, R.C.M. 1947, is amended  
 9 to read as follows:

10 "11-1836. Credit of payments to police reserve fund --  
 11 annual report of board. Every city or town having a police  
 12 reserve fund ~~established under the provisions of the~~  
 13 ~~Metropolitan Police Law~~ shall deposit said payment ~~with the~~  
 14 ~~department of administration or~~ to the credit of the police  
 15 reserve fund of such city or town, ~~as the case may be.~~ THE  
 16 FUNDS DEPOSITED IN THE POLICE RESERVE FUND OF A CITY OR TOWN  
 17 AFTER JULY 1, 1977, ARE LIMITED TO THE INVESTMENTS IN 73-310  
 18 EXCEPT THAT THE FUNDS MAY NOT BE INVESTED IN COMMON STOCKS.  
 19 HOWEVER, THESE FUNDS MAY BE INVESTED UNDER THE PROVISIONS OF  
 20 79-311. The board of trustees of each police officer's  
 21 reserve fund shall on or before the first day of April of  
 22 each year report to the state auditor as to the financial  
 23 condition of their fund. Payments provided for in this  
 24 section and the preceding two (2) sections (11-1834,  
 25 11-1835) are in addition to those provided for in section

1 11-1823."

2 Section 40. Section 11-1844, R.C.M. 1947, is amended  
 3 to read as follows:

4 "11-1844. Payment of police reserves. (1) Whenever  
 5 any policeman or officer shall become transferred from the  
 6 active list of police officers of any city to the reserve  
 7 list of that city, he shall thereafter be paid in monthly  
 8 payments from the funds ~~in this act provided for city's~~  
 9 police reserve fund, as follows:

10 (a) For a police officer eligible for the reserve list  
 11 after twenty (20) years of service under subsection (1) of  
 12 section 13 [11-1843] of this act, and who does not elect to  
 13 serve any additional years as an active police officer; or  
 14 for a police officer eligible for the reserve list after  
 15 twenty (20) years of service under subsection (2) of section  
 16 13 [11-1843] of this act, who has reached his fiftieth year,  
 17 and who does not elect to serve any additional years as an  
 18 active police officer; or a police officer who becomes  
 19 eligible by reason of injury or disability under subsection  
 20 (4) of section 13 [11-1843] of this act, before reaching  
 21 twenty (20) years of service; or for a police officer placed  
 22 upon the reserve list by reason of reaching his sixty-fifth  
 23 birthday prior to reaching twenty (20) years of service: a  
 24 sum equal to one-half (1/2) the base salary, excluding  
 25 overtime and payments in lieu of sick leave and annual leave

1 he was receiving as an active officer computed on the  
2 highest salary received in any one month during the last  
3 year of active service.

4 (b) For a police officer eligible for the reserve list  
5 after twenty (20) years who elects to serve additional  
6 years, the payment provided in subsection (a) of subsection  
7 (1) of this section, to which shall be added an additional  
8 one percent (1%) of such sum per year of additional service,  
9 up to a maximum of sixty percent (60%) of the base salary,  
10 excluding overtime and payment in lieu of sick leave and  
11 annual leave, he was receiving as an active officer computed  
12 on the highest salary received in any one (1) month during  
13 the last year of active service. For the purposes of this  
14 act, a police officer whose eligibility depends upon  
15 subsection (2) of section 13 [11-1843] of this act, and who  
16 completes twenty (20) years of service before reaching the  
17 age of fifty (50) years, shall be deemed to have elected to  
18 serve additional years for each year between the completion  
19 of his twentieth year of service and his fiftieth birthday,  
20 and he shall be paid the additional one percent (1%) for  
21 each such year.

22 (c) A policeman who is placed upon the reserve list by  
23 reason of reaching his sixty-fifth birthday, but who was  
24 theretofore eligible at his option to be placed upon such  
25 reserve list under subsections (1) or (2) of section 13

1 [11-1843] of this act, but elected to serve additional years  
2 after such earlier eligibility shall be paid for such  
3 additional years over his original eligibility at the same  
4 rate as is provided in subsection (a) of subsection (1) of  
5 this section.

6 (d) A police officer placed on the reserve list by  
7 reason of injury or disability under subsection 4 of section  
8 13 [11-1843] of this act, and who, at the time of such  
9 injury or disability was eligible at his option to be placed  
10 on the reserve list under subsections (1) or (2) of section  
11 13 [11-1843] of this act, but had elected to serve  
12 additional years, and was then serving such additional years  
13 shall be paid for such additional years over his original  
14 eligibility at the same rate as is provided in subsection  
15 (a) of subsection (1) of this section.

16 (2) Upon the death of any police officer on the active  
17 list or reserve list of any city, his surviving spouse, if  
18 there be one, shall, as long as such spouse remains the  
19 surviving spouse, be paid from the police reserve fund, a  
20 sum equal to one-half (1/2) the base salary, excluding  
21 overtime and payments in lieu of sick leave or annual leave  
22 he was receiving as an active officer computed on the  
23 highest salary received in any one (1) month during the last  
24 year of active service prior to the date of his demise or  
25 prior to the date he passed to the reserve list. If the

1 officer leaves dependent minor child or children, then upon  
 2 his death if he leaves no surviving spouse, or upon the  
 3 death or remarriage of the surviving spouse, then his  
 4 surviving dependent minor child or children, collectively if  
 5 there be more than one (1) dependent minor child surviving,  
 6 shall be paid the same monthly payments as are herein  
 7 provided to be paid to the surviving spouse, until the minor  
 8 child or children reach the age of eighteen (18) years or  
 9 shall have married. Payments to be made to such minor child  
 10 or children shall be paid to the duly appointed, qualified  
 11 and acting guardian of the child or children for the use of  
 12 such minor or minors, until such minor shall have reached  
 13 the age of eighteen (18) years or shall have married and in  
 14 case there is more than one (1) minor child, upon each child  
 15 reaching the age of eighteen (18) years the pro rata  
 16 payments to that child shall cease and shall be made to the  
 17 remaining minor child or children until the youngest child  
 18 reaches the age of eighteen (18) years or is married."

19 Section 41. Severability. If a part of this act is  
 20 invalid, all valid parts that are severable from the invalid  
 21 part remain in effect. If a part of this act is invalid in  
 22 one or more of its applications, the part remains in effect  
 23 in all valid applications that are severable from the  
 24 invalid applications.

25 Section 42. Repealer. Sections 11-1821.1, 11-1824,

1 11-1838, 11-1839, 11-1840, 11-1841, 11-1842, 11-1848,  
 2 11-1850, 82A-222, and 82A-223, R.C.M. 1947, are repealed.

-End-