

1 *Senate* BILL NO. *260*
2 INTRODUCED BY *Dumelle*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A
5 COST-OF-LIVING INCREASE AND TO CHANGE CERTAIN ALLOWANCE
6 PROVISIONS IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM;
7 AMENDING SECTIONS 68-2003, 68-2101, 68-2103, 68-2104,
8 68-2203, AND 68-2304, R.C.M. 1947."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. There is a new R.C.M. section numbered
12 68-2513-1 that reads as follows:

13 68-2513-1. Cost-of-living increase. (1) "Index" for
14 the purpose of this section means, for any calendar year,
15 that year's annual average consumer price index for urban
16 wage earners and clerical workers, all items (1957-59=100)
17 compiled by the bureau of labor statistics, United States
18 department of labor or a successor agency.

19 (2) Effective July 1, 1977, every service or
20 disability retirement allowance then payable to a retired
21 member or to his beneficiary shall be increased by a
22 percentage equal to the lesser of the percentage increase in
23 the index for 1976 from the index for 1974 or the index 1975
24 from the index for the calendar year preceding the effective
25 date of retirement of the member.

1 (3) Effective July 1, 1977, every survivorship
2 allowance then payable to a member's beneficiary shall be
3 increased by a percentage equal to the lesser of the
4 percentage increase in the index for 1976 from the index for
5 the calendar year 1974 or for the index for 1976 from the
6 index for the calendar year preceding the date of death of
7 the deceased member.

8 Section 2. Section 68-2003, R.C.M. 1947, is amended to
9 read as follows:

10 "68-2003. Annual amount of retirement allowance
11 payable. (1) The annual amount of retirement allowance
12 payable to a member following his service retirement is the
13 sum of ~~(1)(a)~~, ~~(2)(b)~~ and ~~(3)(c)~~ as follows:

14 ~~(1)(a)~~ an annuity which is the actuarial equivalent of
15 his accumulated additional contributions on the day his
16 retirement allowance commences;

17 ~~(2)(b)~~ one sixtieth (1/60) of his final compensation
18 multiplied by the number of years of his creditable service;

19 ~~(3)(c)~~ any retirement allowance payable under section
20 68-2004.

21 ~~(2) If a member dies after retirement and has not~~
22 ~~elected an optional retirement allowance prescribed in~~
23 ~~68-2203, his beneficiary will be paid the excess, if any, of~~
24 ~~the member's accumulated contributions on the day his~~
25 ~~retirement allowance commenced over the total of the~~

1 retirement allowance payments made to the retired member."

2 Section 3. Section 68-2101, R.C.M. 1947, is amended to
3 read as follows:

4 "68-2101. Disability retirement eligibility --
5 definitions -- medical examinations -- hearings -- waiver.
6 ~~{1} A member who has not reached seventy {70} years of age~~
7 ~~but has become disabled for duty-related reasons, as defined~~
8 ~~in subsections {3} and {4} of this section, is eligible for~~
9 ~~disability retirement.~~

10 ~~{2}{1}~~ A member who is not eligible for service or
11 early retirement but has completed five {5} years of
12 creditable service and has become disabled while in active
13 service ~~for other than duty-related reasons~~, as defined in
14 ~~subsections {3} and {4}~~ subsection {2} of this section, is
15 eligible for disability retirement.

16 ~~{3}{2}~~ "Disabled" means unable to perform his duties
17 by reason of physical or mental incapacity.

18 ~~{4} "Duty-related" means as a result of an injury or~~
19 ~~disease arising out of or in the course of his employment~~
20 ~~with an employer.~~

21 ~~{5} "Injury" means a tangible happening of a traumatic~~
22 ~~nature from an unexpected cause, or unusual strain~~
23 ~~resulting in either external or internal physical harm, and~~
24 ~~such physical conditions as result therefrom, and excluding~~
25 ~~disease not traceable to injury.~~

1 ~~{6}{3}~~ The board shall determine whether a member has
2 become disabled ~~and whether a disabled member become~~
3 ~~disabled for duty-related reasons~~. In the discharge of its
4 duty regarding such determinations, the board, any member
5 thereof or any duly authorized representative of the board
6 shall have power to order medical examinations, conduct
7 hearings, administer oaths and affirmations, take
8 depositions, certify to official acts and issue subpoenas to
9 compel the attendance of witnesses and the production of
10 books, papers, correspondence, memoranda and other records
11 deemed necessary as evidence in connection with a claim for
12 disability retirement. The board shall secure medical
13 service and advice necessary to carry out the purposes of
14 this section and of sections 68-2201 and 68-2202 and shall
15 pay for those medical services and advice compensation the
16 board deems reasonable.

17 ~~{7}{4}~~ A member eligible for early retirement may
18 conditionally waive such eligibility by written application,
19 such waiver to be effective only upon approval by the board
20 of his application for disability retirement."

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

23 "68-2103. Annual allowance for duty-related disability
24 -- reduction for workmen's compensation. {1} The annual
25 amount of retirement allowance payable to a member eligible

1 for disability retirement for duty-related reasons is fifty
 2 percent (50%) of his final compensation; provided, however,
 3 that the annual amount of retirement allowance shall be
 4 twenty-five percent (25%) of final compensation for any
 5 period during which the member has been awarded compensation
 6 by the workmen's compensation division, whether or not such
 7 compensation is received in periodic payments or in a lump
 8 sum; provided further, that the annual amount of retirement
 9 allowance shall revert to fifty percent (50%) of final
 10 compensation at the end of such period.

11 (2) Any retired member receiving a retirement
 12 allowance on July 1, 1977, who has previously been granted a
 13 duty-related disability under provisions in effect on June
 14 30, 1977, will be subject to the provisions of this act
 15 after July 1, 1977."

16 Section 5. Section 68-2104, R.C.M. 1947, is amended to
 17 read as follows:

18 "68-2104. Annual allowance for nonduty-related
 19 disability -- reduction for misconduct. The annual amount of
 20 retirement allowance payable to a member eligible for
 21 disability retirement for other than duty-related reasons is
 22 the sum of (1), (2) and (3) as follows:

23 (1) an annuity which is the actuarial equivalent of
 24 his accumulated additional contributions on the day his
 25 retirement allowance commences;

1 (2) an annuity which is the actuarial equivalent of
 2 his accumulated normal contributions with normal interest to
 3 the day his retirement allowance commences;

4 (3) if, in the opinion of the board, the disability is
 5 not due to intemperance, willful misconduct or violation of
 6 law on the part of the member, a pension which is the lesser
 7 greater of (a) or (b) as follows:

8 (a) a pension which, together with the annuity
 9 provided under (2), shall make the retirement allowance
 10 equal to ninety percent (90%) of ~~one-sixty-fifth~~ (1/65)
 11 ~~one-sixtieth~~ of his final compensation multiplied by his
 12 years of creditable service;

13 (b) a pension equal to twenty-five percent (25%) of
 14 his final compensation."

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

17 "68-2203. Optional retirement allowance. (1) The
 18 retirement allowance of a member who so elects shall be
 19 converted, in lieu of all other benefits under this act,
 20 into an optional retirement allowance which is the actuarial
 21 equivalent of such other allowance. The optional retirement
 22 allowance is a reduced amount payable during the member's
 23 lifetime with a subsequent benefit as follows:

24 ~~(a) -- Option -- to -- death -- benefit -- to -- the -- member's~~
 25 ~~beneficiary -- equal -- to -- the -- excess, if any, of the member's~~

1 ~~accumulated contributions with regular interest to the day~~
 2 ~~his retirement allowance commenced over the total of his~~
 3 ~~retirement allowance payments.~~

4 ~~(b)(a)~~ Option 2--a continuation of the reduced
 5 retirement allowance during the lifetime of his named
 6 contingent annuitant.

7 ~~(c)(b)~~ Option 3--a continuation of one-half (1/2) of
 8 the reduced retirement allowance during the lifetime of his
 9 named contingent annuitant.

10 ~~(d)(c)~~ Option 4--such other actuarially equivalent
 11 benefit as shall be approved by the board.

12 (2) Election of any optional retirement allowance
 13 shall be by written application filed prior to the first
 14 payment of the regular retirement allowance. The contingent
 15 annuitant named by the member must have an insurable
 16 interest in the life of the member.

17 (3) If either the member or his contingent annuitant
 18 should die before the member has received the first payment
 19 under option 2 or 3, the election of such option shall
 20 automatically be canceled.

21 (4) If a member dies after retirement and within
 22 thirty (30) days from the date his election or changed
 23 election of an optional retirement allowance is received by
 24 the board, then said election is void and of no effect, and
 25 the death shall be considered as that of a member before

1 retirement.*

2 Section 7. Section 68-2304, R.C.M. 1947, is amended to
 3 read as follows:

4 "68-2304. Survivorship allowance elected by
 5 beneficiary. A beneficiary eligible to receive a death
 6 benefit may elect a survivorship allowance instead if all of
 7 the following conditions are met:

8 (1) the member on behalf of whom the death benefit is
 9 payable had completed ten--~~(10)~~ 5 years of creditable
 10 service;

11 (2) the beneficiary is a natural person of legal age
 12 with an insurable interest in the deceased at the time of
 13 his death;

14 (3) the beneficiary elects the survivorship allowance
 15 within ninety (90) days of receipt of notice from the board
 16 that he is eligible to receive the death benefit. Election
 17 shall be by written application.*

-End-

STATE OF MONTANA

REQUEST NO. 208-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 25, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 260 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:

Senate Bill 260 provides a cost-of-living increase and a change in certain allowance provisions (options) in the Public Employees' Retirement System.

ASSUMPTIONS:

1. Assume forty-year funding with assumed interest rate of 5½% and a 3% inflation rate in addition to historic salary data.
2. No additional employee or employer contributions.
3. Percentage increase associated with the respective options selected:
 - Cost of living increase - Section 1
(100% of CPI) - Increase of .31% of gross salary
 - Change of option under regular retirement
Section 2 and Section 4
- Increase of .12% of gross salary
 - Abolishment of duty-related disability and an increase
in ordinary disability - no cost
 - Change of formula from 1/65 to 1/60
- Increase of .08% of gross salary
 - Change in vesting of survivorship option from
10 years to 5 years
- Increase of .08% of gross salary
 - Total Increase - .59% of gross salary
4. The present funding and investment earning structure of the Public Employees' Retirement System will provide funding of .51% of gross salary. Additional funding needed is .08% of gross salary.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Estimated increase in expenditure due to proposed legislation	<u>\$141,467</u>	<u>\$141,467</u>

Richard L. Drayton
 BUDGET DIRECTOR
 Office of Budget and Program Planning
 Date: 2-7-77

Approved by Committee
on State Administration

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2 INTRODUCED BY DUNKLE

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11 Section 1. There is a new R.C.M. section numbered
12 68-2513.1 that reads as follows:

13 68-2513.1. Cost-of-living increase. (1) "Index" for
14 the purpose of this section means, for any calendar year,
15 that year's annual average consumer price index for urban
16 wage earners and clerical workers, all items (1957-59=100)
17 compiled by the bureau of labor statistics, United States
18 department of labor or a successor agency.

19 (2) Effective July 1, 1977, every service or
20 disability retirement allowance then payable to a retired
21 member or to his beneficiary shall be increased by a
22 percentage equal to the lesser of 75% OF the percentage
23 increase in the index for 1976 from the index for 1974 or
24 the index 1976 from the index for the calendar year
25 preceding the effective date of retirement of the member.

1 (3) Effective July 1, 1977, every survivorship
2 allowance then payable to a member's beneficiary shall be
3 increased by a percentage equal to the lesser of 75% OF the
4 percentage increase in the index for 1976 from the index for
5 the calendar year 1974 or for the index for 1976 from the
6 index for the calendar year preceding the date of death of
7 the deceased member.

8 Section 2. Section 68-2003, R.C.M. 1947, is amended to
9 read as follows:

10 "68-2003. Annual amount of retirement allowance
11 payable. (1) The annual amount of retirement allowance
12 payable to a member following his service retirement is the
13 sum of ~~††(a), ††(b) and ††(c)~~ as follows:

14 ~~††(a)~~ an annuity which is the actuarial equivalent of
15 his accumulated additional contributions on the day his
16 retirement allowance commences;

17 ~~††(b)~~ one sixtieth (1/60) of his final compensation
18 multiplied by the number of years of his creditable service;

19 ~~††(c)~~ any retirement allowance payable under section
20 68-2004.

21 ~~(2) If a member dies after retirement and has not~~
22 ~~elected an optional retirement allowance prescribed in~~
23 ~~68-2203, his beneficiary will be paid the excess, if any, of~~
24 ~~the member's accumulated contributions on the day his~~
25 ~~retirement allowance commenced over the total of the~~

SECOND READING

1 retirement allowance payments made to the retired member."

2 Section 3. Section 68-2101, R.C.M. 1947, is amended to
3 read as follows:

4 "68-2101. Disability retirement eligibility --
5 definitions -- medical examinations -- hearings -- waiver.
6 ~~{1}--A--member--who--has--not--reached--seventy--(70)--years--of--age~~
7 ~~but--has--become--disabled--for--duty--related--reasons--as--defined~~
8 ~~in--subsections--(3)--and--(4)--of--this--section--is--eligible--for~~
9 ~~disability--retirement.~~

10 ~~{2}{11}~~ A member who is not eligible for service or
11 early retirement but has completed five (5) years of
12 creditable service and has become disabled while in active
13 service ~~for--other--than--duty--related--reasons~~, as defined in
14 ~~subsections--(3)--and--(4)~~ subsection (2) of this section, is
15 eligible for disability retirement.

16 ~~{3}{21}~~ "Disabled" means unable to perform his duties
17 by reason of physical or mental incapacity.

18 ~~{4}--"Duty-related"--means--as--a--result--of--an--injury--or~~
19 ~~disease--arising--out--of--or--in--the--course--of--his--employment~~
20 ~~with--an--employer.~~

21 ~~{5}--"Injury"--means--a--tangible--happening--of--a--traumatic~~
22 ~~nature--from--an--unexpected--cause--or--unusual--strain~~
23 ~~resulting--in--either--external--or--internal--physical--harm--and~~
24 ~~such--physical--conditions--as--result--therefrom--and--excluding~~
25 ~~disease--not--traceable--to--injury.~~

1 ~~{6}{21}~~ The board shall determine whether a member has
2 become disabled ~~and--whether--a--disabled--member--become~~
3 ~~disabled--for--duty--related--reasons.~~ In the discharge of its
4 duty regarding such determinations, the board, any member
5 thereof or any duly authorized representative of the board
6 shall have power to order medical examinations, conduct
7 hearings, administer oaths and affirmations, take
8 depositions, certify to official acts and issue subpoenas to
9 compel the attendance of witnesses and the production of
10 books, papers, correspondence, memoranda and other records
11 deemed necessary as evidence in connection with a claim for
12 disability retirement. The board shall secure medical
13 service and advice necessary to carry out the purposes of
14 this section and of sections 68-2201 and 68-2202 and shall
15 pay for those medical services and advice compensation the
16 board deems reasonable.

17 ~~{7}{41}~~ A member eligible for early retirement may
18 conditionally waive such eligibility by written application,
19 such waiver to be effective only upon approval by the board
20 of his application for disability retirement."

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

23 "68-2103. Annual allowance for duty-related disability
24 -- reduction for workmen's compensation. (1) The annual
25 amount of retirement allowance payable to a member eligible

1 for disability retirement for duty-related reasons AND
 2 GRANTED PRIOR TO JULY 1, 1977, is fifty percent (50%) of his
 3 final compensation; provided, however, that the annual
 4 amount of retirement allowance shall be twenty-five percent
 5 (25%) of final compensation for any period during which the
 6 member has been awarded compensation by the workmen's
 7 compensation division, whether or not such compensation is
 8 received in periodic payments or in a lump sum; provided
 9 further, that the annual amount of retirement allowance
 10 shall revert to fifty percent (50%) of final compensation at
 11 the end of such period.

12 (2) Any retired member receiving a retirement
 13 allowance on July 1, 1977, who has previously been granted a
 14 duty-related disability under provisions in effect on June
 15 30, 1977, will be subject to the provisions of this act
 16 SECTION after July 1, 1977."

17 Section 5. Section 68-2104, R.C.M. 1947, is amended to
 18 read as follows:

19 "68-2104. Annual allowance for nonduty-related
 20 disability -- reduction for misconduct. The annual amount of
 21 retirement allowance payable to a member eligible for
 22 disability retirement for other than duty-related reasons is
 23 the sum of (1), (2) and (3) as follows:

24 (1) an annuity which is the actuarial equivalent of
 25 his accumulated additional contributions on the day his

1 retirement allowance commences;

2 (2) an annuity which is the actuarial equivalent of
 3 his accumulated normal contributions with normal interest to
 4 the day his retirement allowance commences;

5 (3) if, in the opinion of the board, the disability is
 6 not due to intemperance, willful misconduct or violation of
 7 law on the part of the member, a pension which is the ~~tesser~~
 8 greater of (a) or (b) as follows:

9 (a) a pension which, together with the annuity
 10 provided under (2), shall make the retirement allowance
 11 equal to ninety percent (90%) of ~~one-sixty-fifth (1/65)~~
 12 one-sixtieth of his final compensation multiplied by his
 13 years of creditable service;

14 (b) a pension RETIREMENT ALLOWANCE equal to
 15 twenty-five percent (25%) of his final compensation."

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

18 "68-2203. Optional retirement allowance. (1) The
 19 retirement allowance of a member who so elects shall be
 20 converted, in lieu of all other benefits under this act,
 21 into an optional retirement allowance which is the actuarial
 22 equivalent of such other allowance. The optional retirement
 23 allowance is a reduced amount payable during the member's
 24 lifetime with a subsequent benefit as follows:

25 ~~(a) -- Option -- 1 -- a -- death -- benefit -- to -- the -- member's~~

1 beneficiary equal to the excess, if any, of the member's
 2 accumulated contributions with regular interest to the day
 3 his retirement allowance commenced over the total of his
 4 retirement allowance payments.

5 (b)(a) Option 2--a continuation of the reduced
 6 retirement allowance during the lifetime of his named
 7 contingent annuitant.

8 (c)(b) Option 3--a continuation of one-half (1/2) of
 9 the reduced retirement allowance during the lifetime of his
 10 named contingent annuitant.

11 (d)(c) Option 4--such other actuarially equivalent
 12 benefit as shall be approved by the board.

13 (2) Election of any optional retirement allowance
 14 shall be by written application filed prior to the first
 15 payment of the regular retirement allowance. The contingent
 16 annuitant named by the member must have an insurable
 17 interest in the life of the member.

18 (3) If either the member or his contingent annuitant
 19 should die before the member has received the first payment
 20 under option 2 or 3, the election of such option shall
 21 automatically be canceled.

22 (4) If a member dies after retirement and within
 23 thirty (30) days from the date his election or changed
 24 election of an optional retirement allowance is received by
 25 the board, then said election is void and of no effect, and

1 the death shall be considered as that of a member before
 2 retirement."

3 Section 7. Section 68-2304, R.C.M. 1947, is amended to
 4 read as follows:

5 "68-2304. Survivorship allowance elected by
 6 beneficiary. A beneficiary eligible to receive a death
 7 benefit may elect a survivorship allowance instead if all of
 8 the following conditions are met:

9 (1) the member on behalf of whom the death benefit is
 10 payable had completed ~~ten (10)~~ 5 years of creditable
 11 service;

12 (2) the beneficiary is a natural person of legal age
 13 with an insurable interest in the deceased at the time of
 14 his death;

15 (3) the beneficiary elects the survivorship allowance
 16 within ninety (90) days of receipt of notice from the board
 17 that he is eligible to receive the death benefit. Election
 18 shall be by written application."

-End-

1 SENATE BILL NO. 260

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15 that year's annual average consumer price index for urban
16 wage earners and clerical workers, all items (1957-59=100)
17 compiled by the bureau of labor statistics, United States
18 department of labor or a successor agency.

19 (2) Effective July 1, 1977, every service or
20 disability retirement allowance then payable to a retired
21 member or to his beneficiary shall be increased by a
22 percentage equal to the lesser of 75% OF the percentage
23 increase in the index for 1976 from the index for 1974 or
24 the index 1976 from the index for the calendar year
25 preceding the effective date of retirement of the member.

1 (3) Effective July 1, 1977, every survivorship
2 allowance then payable to a member's beneficiary shall be
3 increased by a percentage equal to the lesser of 75% OF the
4 percentage increase in the index for 1976 from the index for
5 the calendar year 1974 or for the index for 1976 from the
6 index for the calendar year preceding the date of death of
7 the deceased member.

8 Section 2. Section 68-2003, R.C.M. 1947, is amended to
9 read as follows:

10 "68-2003. Annual amount of retirement allowance
11 payable. (1) The annual amount of retirement allowance
12 payable to a member following his service retirement is the
13 sum of ~~f1(a)~~, ~~f2(b)~~ and ~~f3(c)~~ as follows:

14 ~~f1(a)~~ an annuity which is the actuarial equivalent of
15 his accumulated additional contributions on the day his
16 retirement allowance commences;

17 ~~f2(b)~~ one sixtieth (1/60) of his final compensation
18 multiplied by the number of years of his creditable service;

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THIRD READING

1 retirement allowance payments made to the retired member."
 2 Section 3. Section 68-2101, R.C.M. 1947, is amended to
 3 read as follows:
 4 "68-2101. Disability retirement eligibility --
 5 definitions -- medical examinations -- hearings -- waiver.
 6 ~~{1}--A member who has not reached seventy (70) years of age~~
 7 ~~but has become disabled for duty-related reasons, as defined~~
 8 ~~in subsections (3) and (4) of this section, is eligible for~~
 9 ~~disability retirement.~~
 10 ~~{2}(1)~~ A member who is not eligible for service or
 11 early retirement but has completed five (5) years of
 12 creditable service and has become disabled while in active
 13 ~~service for other than duty-related reasons, as defined in~~
 14 ~~subsections (3) and (4) subsection (2)~~ of this section, is
 15 eligible for disability retirement.
 16 ~~{3}(2)~~ "Disabled" means unable to perform his duties
 17 by reason of physical or mental incapacity.
 18 ~~{4}--"Duty-related"--means--as--a--result--of--an--injury--or~~
 19 ~~disease--arising--out--of--or--in--the--course--of--his--employment~~
 20 ~~with--an--employer.~~
 21 ~~{5}--"injury"--means--a--tangible--happening--of--a--traumatic~~
 22 ~~nature--from--an--unexpected--cause--or--unusual--strain~~
 23 ~~resulting--in--either--external--or--internal--physical--harm--and~~
 24 ~~such--physical--conditions--as--result--therefrom--and--excluding~~
 25 ~~disease--not--traceable--to--injury.~~

1 ~~{6}(2)~~ The board shall determine whether a member has
 2 become disabled ~~and--whether--a--disabled--member--become~~
 3 ~~disabled--for--duty--related--reasons.~~ In the discharge of its
 4 duty regarding such determinations, the board, any member
 5 thereof or any duly authorized representative of the board
 6 shall have power to order medical examinations, conduct
 7 hearings, administer oaths and affirmations, take
 8 depositions, certify to official acts and issue subpoenas to
 9 compel the attendance of witnesses and the production of
 10 books, papers, correspondence, memoranda and other records
 11 deemed necessary as evidence in connection with a claim for
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 14 this section and of sections 68-2201 and 68-2202 and shall
 15 pay for those medical services and advice compensation the
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 11 the end of such period.

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 16 SECTION after July 1, 1977."

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 25 his accumulated additional contributions on the day his

1 retirement allowance commences;

2 (2) an annuity which is the actuarial equivalent of
 3 his accumulated normal contributions with normal interest to
 4 the day his retirement allowance commences;

5 (3) if, in the opinion of the board, the disability is
 6 not due to intemperance, willful misconduct or violation of
 7 law on the part of the member, a pension which is the ~~tesser~~
 8 greater of (a) or (b) as follows:

9 (a) a pension which, together with the annuity
 10 provided under (2), shall make the retirement allowance
 11 equal to ninety percent (90%) of ~~one-sixty-fifth-(1/65)~~
 12 ~~one-sixtieth~~ of his final compensation multiplied by his
 13 years of creditable service;

14 (b) a pension RETIREMENT ALLOWANCE equal to
 15 twenty-five percent (25%) of his final compensation."

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

18 "68-2203. Optional retirement allowance. (1) The
 19 retirement allowance of a member who so elects shall be
 20 converted, in lieu of all other benefits under this act,
 21 into an optional retirement allowance which is the actuarial
 22 equivalent of such other allowance. The optional retirement
 23 allowance is a reduced amount payable during the member's
 24 lifetime with a subsequent benefit as follows:

25 ~~(a) -- Option -- i -- a -- death -- benefit -- to -- the -- member's~~

1 beneficiary equal to the excess, if any, of the member's
 2 accumulated contributions with regular interest to the day
 3 his retirement allowance commenced over the total of his
 4 retirement allowance payments.

5 (b)(a) Option 2--a continuation of the reduced
 6 retirement allowance during the lifetime of his named
 7 contingent annuitant.

8 (c)(b) Option 3--a continuation of one-half (1/2) of
 9 the reduced retirement allowance during the lifetime of his
 10 named contingent annuitant.

11 (d)(c) Option 4--such other actuarially equivalent
 12 benefit as shall be approved by the board.

13 (2) Election of any optional retirement allowance
 14 shall be by written application filed prior to the first
 15 payment of the regular retirement allowance. The contingent
 16 annuitant named by the member must have an insurable
 17 interest in the life of the member.

18 (3) If either the member or his contingent annuitant
 19 should die before the member has received the first payment
 20 under option 2 or 3, the election of such option shall
 21 automatically be canceled.

22 (4) If a member dies after retirement and within
 23 thirty (30) days from the date his election or changed
 24 election of an optional retirement allowance is received by
 25 the board, then said election is void and of no effect, and

1 the death shall be considered as that of a member before
 2 retirement."

3 Section 7. Section 68-2304, R.C.M. 1947, is amended to
 4 read as follows:

5 "68-2304. Survivorship allowance elected by
 6 beneficiary. A beneficiary eligible to receive a death
 7 benefit may elect a survivorship allowance instead if all of
 8 the following conditions are met:

9 (1) the member on behalf of whom the death benefit is
 10 payable had completed ~~ten~~ 5 years of creditable
 11 service;

12 (2) the beneficiary is a natural person of legal age
 13 with an insurable interest in the deceased at the time of
 14 his death;

15 (3) the beneficiary elects the survivorship allowance
 16 within ninety (90) days of receipt of notice from the board
 17 that he is eligible to receive the death benefit. Election
 18 shall be by written application."

-End-

1 SENATE BILL NO. 260
 2 INTRODUCED BY DUNKLE
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A
 5 COST-OF-LIVING INCREASE AND TO CHANGE CERTAIN ALLOWANCE
 6 PROVISIONS IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM;
 7 AMENDING SECTIONS 68-2003, 68-2101, 68-2103, 68-2104,
 8 68-2203, AND 68-2304, R.C.M. 1947."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. There is a new R.C.M. section numbered
 12 68-2513.1 that reads as follows:

13 68-2513.1. Cost-of-living increase. (1) "Index" for
 14 the purpose of this section means, for any calendar year,
 15 that year's annual average consumer price index for urban
 16 wage earners and clerical workers, all items (1957-59=100)
 17 compiled by the bureau of labor statistics, United States
 18 department of labor or a successor agency.

19 (2) Effective July 1, 1977, every service or
 20 disability retirement allowance then payable to a retired
 21 member or to his beneficiary shall be increased by a
 22 percentage equal to the lesser of 75% OF the percentage
 23 increase in the index for 1976 from the index for 1974 or
 24 the index 1976 from the index for the calendar year
 25 preceding the effective date of retirement of the member.

1 (3) Effective July 1, 1977, every survivorship
 2 allowance then payable to a member's beneficiary shall be
 3 increased by a percentage equal to the lesser of 75% OF the
 4 percentage increase in the index for 1976 from the index for
 5 the calendar year 1974 or for the index for 1976 from the
 6 index for the calendar year preceding the date of death of
 7 the deceased member.

8 Section 2. Section 68-2003, R.C.M. 1947, is amended to
 9 read as follows:

10 "68-2003. Annual amount of retirement allowance
 11 payable. (1) The annual amount of retirement allowance
 12 payable to a member following his service retirement is the
 13 sum of ~~†††(a)~~, ~~†††(b)~~ and ~~†††(c)~~ as follows:

14 ~~†††(a)~~ an annuity which is the actuarial equivalent of
 15 his accumulated additional contributions on the day his
 16 retirement allowance commences;

17 ~~†††(b)~~ one sixtieth (1/60) of his final compensation
 18 multiplied by the number of years of his creditable service;

19 ~~†††(c)~~ any retirement allowance payable under section
 20 68-2004.

21 ~~(2) If a member dies after retirement and has not~~
 22 ~~electd an optional retirement allowance prescribed in~~
 23 ~~68-2203, his beneficiary will be paid the excess, if any, of~~
 24 ~~the member's accumulated contributions on the day his~~
 25 ~~retirement allowance commenced over the total of the~~

1 retirement allowance payments made to the retired member."

2 Section 3. Section 68-2101, R.C.M. 1947, is amended to
3 read as follows:

4 "68-2101. Disability retirement eligibility --
5 definitions -- medical examinations -- hearings -- waiver.
6 ~~{1}--A--member--who--has--not--reached--seventy--(70)--years--of--age~~
7 ~~but--has--become--disabled--for--duty--related--reasons--as--defined~~
8 ~~in--subsections--(3)--and--(4)--of--this--section--is--eligible--for~~
9 ~~disability--retirement.~~

10 ~~{2}{1}~~ A member who is not eligible for service or
11 early retirement but has completed five (5) years of
12 creditable service and has become disabled while in active
13 service ~~for--other--than--duty--related--reasons~~, as defined in
14 ~~subsections--(3)--and--(4)~~ subsection (2) of this section, is
15 eligible for disability retirement.

16 ~~{3}{2}~~ "Disabled" means unable to perform his duties
17 by reason of physical or mental incapacity.

18 ~~{4}--"Duty--related"--means--as--a--result--of--an--injury--or~~
19 ~~disease--arising--out--of--or--in--the--course--of--his--employment~~
20 ~~with--an--employer.~~

21 ~~{5}--"Injury"--means--a--tangible--happening--of--a--traumatic~~
22 ~~nature--from--an--unexpected--cause--or--unusual--strain~~
23 ~~resulting--in--either--external--or--internal--physical--harm--and~~
24 ~~such--physical--conditions--as--result--therefrom--and--excluding~~
25 ~~disease--not--traceable--to--injury.~~

1 ~~{6}{3}~~ The board shall determine whether a member has
2 become disabled ~~and--whether--a--disabled--member--became~~
3 ~~disabled--for--duty--related--reasons~~. In the discharge of its
4 duty regarding such determinations, the board, any member
5 thereof or any duly authorized representative of the board
6 shall have power to order medical examinations, conduct
7 hearings, administer oaths and affirmations, take
8 depositions, certify to official acts and issue subpoenas to
9 compel the attendance of witnesses and the production of
10 books, papers, correspondence, memoranda and other records
11 deemed necessary as evidence in connection with a claim for
12 disability retirement. The board shall secure medical
13 service and advice necessary to carry out the purposes of
14 this section and of sections 68-2201 and 68-2202 and shall
15 pay for those medical services and advice compensation the
16 board deems reasonable.

17 ~~{7}{4}~~ A member eligible for early retirement may
18 conditionally waive such eligibility by written application,
19 such waiver to be effective only upon approval by the board
20 of his application for disability retirement."

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

23 "68-2103. Annual allowance for duty-related disability
24 -- reduction for workmen's compensation. {1} The annual
25 amount of retirement allowance payable to a member eligible

1 for disability retirement for duty-related reasons AND
 2 GRANTED PRIOR TO JULY 1, 1977, is fifty percent (50%) of his
 3 final compensation; provided, however, that the annual
 4 amount of retirement allowance shall be twenty-five percent
 5 (25%) of final compensation for any period during which the
 6 member has been awarded compensation by the workmen's
 7 compensation division, whether or not such compensation is
 8 received in periodic payments or in a lump sum; provided
 9 further, that the annual amount of retirement allowance
 10 shall revert to fifty percent (50%) of final compensation at
 11 the end of such period.

12 (2) Any retired member receiving a retirement
 13 allowance on July 1, 1977, who has previously been granted a
 14 duty-related disability under provisions in effect on June
 15 30, 1977, will be subject to the provisions of this act
 16 SECTION after July 1, 1977."

17 Section 5. Section 68-2104, R.C.M. 1947, is amended to
 18 read as follows:

19 "68-2104. Annual allowance for nonduty-related
 20 disability -- reduction for misconduct. The annual amount of
 21 retirement allowance payable to a member eligible for
 22 disability retirement for other than duty-related reasons is
 23 the sum of (1), (2) and (3) as follows:

24 (1) an annuity which is the actuarial equivalent of
 25 his accumulated additional contributions on the day his

1 retirement allowance commences;

2 (2) an annuity which is the actuarial equivalent of
 3 his accumulated normal contributions with normal interest to
 4 the day his retirement allowance commences;

5 (3) if, in the opinion of the board, the disability is
 6 not due to intemperance, willful misconduct or violation of
 7 law on the part of the member, a pension which is the lesser
 8 greater of (a) or (b) as follows:

9 (a) a pension which, together with the annuity
 10 provided under (2), shall make the retirement allowance
 11 equal to ninety percent (90%) of ~~one-sixty-fifth (1/65)~~
 12 ~~one-sixtieth~~ of his final compensation multiplied by his
 13 years of creditable service;

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 15 twenty-five percent (25%) of his final compensation."

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 21 into an optional retirement allowance which is the actuarial
 22 equivalent of such other allowance. The optional retirement
 23 allowance is a reduced amount payable during the member's
 24 lifetime with a subsequent benefit as follows:

25 ~~(a) -- Option -- 1 -- a -- death -- benefit -- to -- the -- member's~~

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 2 accumulated contributions with regular interest to the day
 3 his retirement allowance commenced over the total of his
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 7 contingent annuitant.

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 9 the reduced retirement allowance during the lifetime of his
 10 named contingent annuitant.

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 12 benefit as shall be approved by the board.

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 14 shall be by written application filed prior to the first
 15 payment of the regular retirement allowance. The contingent
 16 annuitant named by the member must have an insurable
 17 interest in the life of the member.

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 21 automatically be canceled.

22 (4) If a member dies after retirement and within
 23 thirty (30) days from the date his election or changed
 24 election of an optional retirement allowance is received by
 25 the board, then said election is void and of no effect, and

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 7 benefit may elect a survivorship allowance instead if all of
 8 the following conditions are met:

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 10 payable had completed ~~ten~~ 5 years of creditable
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12 (2) the beneficiary is a natural person of legal age
 13 with an insurable interest in the deceased at the time of
 14 his death;

15 (3) the beneficiary elects the survivorship allowance
 16 within ninety (90) days of receipt of notice from the board
 17 that he is eligible to receive the death benefit. Election
 18 shall be by written application."

-End-