

CHAPTER NO. 114

HOUSE BILL NO. 169

INTRODUCED BY KVAALLEN

BY REQUEST OF THE CODE COMMISSIONER

IN THE HOUSE

January 15, 1979	Introduced and referred to Committee on State Administration.
January 24, 1979	Committee recommend bill do pass. Report adopted.
January 25, 1979	Printed and placed on members' desks.
January 26, 1979	Second reading, do pass.
January 27, 1979	Considered correctly engrossed.
January 29, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

January 30, 1979	Introduced and referred to Committee on State Administration.
March 2, 1979	Committee recommend bill be concurred in. Report adopted.
March 5, 1979	Second reading, concurred in.
March 7, 1979	Third reading, concurred in.

IN THE HOUSE

March 8, 1979	Returned from second house. Concurred in. Sent to enrolling.  Reported correctly enrolled.
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1 HOUSE BILL NO. 169  
2 INTRODUCED BY Kvaal

3 BY REQUEST OF THE CODE COMMISSIONER

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
6 CLARIFY THE LAWS RELATING TO PUBLIC RETIREMENT SYSTEMS."

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 7-3-1344, MCA, is amended to read:

10 "7-3-1344. Prior rights of law enforcement officers.

11 (1) Any police officer employed by any police department or  
12 departments established as required by law in any city or  
13 town of the county prior to the election and qualification  
14 of a commission under this part and part 12 ~~shall have~~ has  
15 the same job tenure rights as though no such election and  
16 qualification had taken place.

17 (2) Any such police officer who has vested rights in  
18 any a police reserve retirement fund shall maintain prior  
19 vested rights in ~~such the~~ fund upon its transfer to a  
20 consolidated county municipality. Any police reserve  
21 retirement fund established as required by law in any city  
22 or town of the county prior to the election and  
23 qualification of a commission under this part and part 12  
24 shall be continued as such for the police department of the  
25 municipality, subject, however, to the prior vested rights

1 of any police officer employed by any police department or  
2 departments established as required by law in any city or  
3 town of the county prior to the election and qualification  
4 of a commission under this part and part 12. The board of  
5 trustees of such police reserve retirement fund shall  
6 consist of the president, the director of finance, the  
7 director of law, and two members of the police department  
8 from the active list of the police officers of ~~said the~~  
9 municipality who shall be selected by a majority vote of the  
10 members of the police department on the active list of ~~said~~  
11 the municipality. ~~Such the~~ selection shall be made between  
12 May 1 and May 10 ~~in~~ each year, and ~~said the~~ active police  
13 officer members of ~~said the~~ board shall serve overlapping  
14 2-year terms. Except as provided in this section, the police  
15 reserve retirement fund shall be continued and administered  
16 in the manner prescribed by law for such funds established  
17 in cities and towns."

18 Section 2. Section 19-1-104, MCA, is amended to read:

19 "19-1-104. Retirement systems to be considered  
20 separate. (1) Pursuant to section 218(d)(6) of the Social  
21 Security Act, the public employees' retirement system of the  
22 state of Montana is, for the purposes of this chapter,  
23 considered a separate retirement system with respect to the  
24 state and a separate retirement system with respect to each  
25 political subdivision having positions covered thereby.

1 (2) Pursuant to section 213(p)(1) of the Social  
 2 Security Act, the highway patrolmen's retirement system of  
 3 the state of Montana, the public employees' retirement  
 4 system of the state of Montana, and each municipal police  
 5 reserve retirement fund and each unit-of city participating  
 6 in the statewide municipal police reserve-fund-of-the-state  
 7 of-Montana officers' retirement system are, for the purposes  
 8 of this chapter, considered separate retirement systems with  
 9 respect to the state and separate retirement systems with  
 10 respect to each political subdivision having positions  
 11 covered thereby."

12 Section 3. Section 19-3-104, MCA, is amended to read:  
 13 "19-3-104. Definitions. Unless the context requires  
 14 otherwise, in this chapter the following definitions apply:

15 (1) "Accumulated additional contributions" means the  
 16 sum of all the additional contributions standing to the  
 17 credit of a member's individual account, together with the  
 18 regular interest thereon.

19 (2) "Accumulated contributions" means the sum of  
 20 accumulated normal contributions and accumulated additional  
 21 contributions.

22 (3) "Accumulated normal contributions" means the sum  
 23 of all the normal contributions standing to the credit of a  
 24 member's individual account without interest.

25 (4) "Actuarial equivalent" means a benefit of equal

1 value when computed upon the basis of the actuarial tables  
 2 in use by the system.

3 (5) "Actuary" means the actuary retained by the board  
 4 in accordance with 19-3-305.

5 (6) "Additional contributions" means contributions by  
 6 members under the provisions of 19-3-702.

7 (7) "Annuity" means payments for life derived from  
 8 contributions made by a member as provided in this chapter.

9 (8) "Beneficiary" means the person so designated  
 10 pursuant to part 13 of this chapter.

11 (9) "Benefit" means the retirement allowance,  
 12 survivorship allowance, death benefit, or refund of  
 13 accumulated contributions provided by this chapter.

14 (10) "Board" means the public employees' retirement  
 15 board provided for in 2-15-1009.

16 (11) "Compensation" means remuneration paid out of  
 17 funds controlled by an employer. The compensation of each  
 18 member of the legislature ~~and the lieutenant-governor-of-the~~  
 19 ~~state~~ of Montana for any year shall be deemed considered to  
 20 be that portion of the product of the daily compensation for  
 21 such position multiplied by 360 upon which such member  
 22 elects to pay normal contributions during the year.

23 (12) "Contracting employer" means any political  
 24 subdivision or governmental entity which has contracted to  
 25 come into the system.

1 (13) "Creditable service" means the aggregate of  
 2 membership service and prior service. A member employed on a  
 3 part-time basis shall receive credit for a year of service  
 4 for each fiscal year during which such member was employed  
 5 throughout the year and was engaged in his duties the full  
 6 amount of time he was required by his employment to be so  
 7 engaged.

8 (14) "Disability" and "incapacity for performance of  
 9 duty", referred to herein as a basis of retirement, mean  
 10 disability of permanent duration or disability of extended  
 11 and uncertain duration, as determined by the board on the  
 12 basis of competent medical opinion.

13 (15) "Employee" means any person who is employed by an  
 14 employer in any capacity whatever and whose salary is paid  
 15 either by warrant of the employer or from the fees or income  
 16 of any department or agency of the employer. "Employee"  
 17 means further any person deemed considered such pursuant to  
 18 19-3-402.

19 (16) "Employer" means the state of Montana, its  
 20 university system or any of the colleges, schools,  
 21 components, or units thereof for the purposes of this  
 22 chapter, or any political subdivision or governmental entity  
 23 which has contracted to come into the system.

24 (17) "Employer contributions" means payments to the  
 25 retirement fund from appropriations of the state of Montana

1 pursuant to 19-3-801 and from contracting employers pursuant  
 2 to the contracts between them and the board.

3 (18) "Final compensation" means a member's highest  
 4 average annual compensation during any 3 consecutive years  
 5 of membership service. Lump-sum payments for sick leave and  
 6 annual leave paid to the employee upon termination of  
 7 employment may be used in the calculation of a retirement  
 8 allowance only to the extent that they are used to replace,  
 9 on a month for month basis, the normal compensation for a  
 10 month or months included in the calculation of the final  
 11 salary. A lump-sum payment may not be added to a single  
 12 month's compensation.

13 (19) "Fiscal year" means any year commencing with July  
 14 1 and ending June 30 next following.

15 (20) "Head of department" means the head of any  
 16 department, institution, or branch of the state service  
 17 which directly pays salaries out of its income or which  
 18 prepares, approves, and submits salary statements of its  
 19 employees to the department of administration, state  
 20 auditor, and state treasurer for payment.

21 (21) "Member" means any person included in the  
 22 membership of the retirement system set forth in 19-3-401  
 23 and not excluded in 19-3-402, 19-3-403, or 19-3-406.

24 (22) "Membership service" means service with respect to  
 25 which normal contributions and employer contributions are

1 paid. A member of the legislature ~~and a lieutenant-governor~~  
2 ~~of the state~~ of Montana shall be credited with membership  
3 service for that portion of each year for which he pays  
4 normal contributions pursuant to subsection (11) of this  
5 section.

6 (23) "Normal contributions" means contributions  
7 required by ~~from~~ members under this chapter and any optional  
8 contributions made under the provisions of 19-3-502 and  
9 19-3-704.

10 (24) "Pension" means payments for life derived from  
11 contributions made from the state controlled funds or, in  
12 the case of members from contracting employers, from the  
13 funds of such contracting employers, as provided in this  
14 chapter.

15 (25) "Prior service" ~~shall mean~~ means all service  
16 rendered as an employee of the state before July 1, 1945,  
17 and all service rendered as an employee of a contracting  
18 employer before July 1, 1947. Prior service includes all  
19 service rendered prior to July 1, 1945, as a member of the  
20 legislative assembly or lieutenant governor ~~of the state~~ of  
21 Montana.

22 (26) "Regular interest" means interest at the rate set  
23 from time to time by the board.

24 (27) "Retirement" means withdrawal from active service  
25 with a retirement allowance granted under the provisions of

1 this chapter.

2 (28) "Retirement allowance" means the periodic benefit  
3 payable following service, early, or disability retirement.

4 (29) "Retirement fund" means the public employees'  
5 retirement account in the agency fund.

6 (30) "Retirement system" means the public employees'  
7 retirement system created by this chapter.

8 (31) "Service" means employment of an employee, except  
9 as provided in 19-3-501 and 19-3-502.

10 (32) "Survivorship allowance" means payments for life  
11 to the beneficiary of a deceased member as provided in part  
12 12 of this chapter.

13 (33) "Written application" means a written instrument  
14 duly executed and filed with the board and containing all  
15 information required by the board, including such proofs of  
16 age as the board ~~shall deem~~ considers necessary."

17 Section 4. Section 19-3-204, MCA, is amended to read:  
18 "19-3-204. Tax levy to meet employer's obligations.

19 (1) If the required contributions to the retirement system  
20 exceed the funds available to a contracting employer from  
21 general revenue sources, the contracting employer ~~shall have~~  
22 ~~authority to~~ may budget, levy, and collect annually a  
23 special tax upon the assessable property of the contracting  
24 employer in the number of cents per \$100 of assessable  
25 property as ~~will be~~ is sufficient to raise the amount

1 estimated by the legislative body to be required to provide  
2 sufficient revenue to meet the obligation of the contracting  
3 employer to the retirement system. The rate of taxation may  
4 be in addition to the annual rate of taxation allowed by law  
5 to be levied by the contracting employer.

6 (2) Any A person who is a member or beneficiary of the  
7 retirement system on account of the participation of the  
8 contracting employer ~~shall~~ has the right to maintain  
9 the appropriate action or proceeding to require performance  
10 ~~of--the-duty-imposed-on-the-legislative-body-by-this-section~~  
11 the contracting employer to budget, levy, and collect the  
12 special tax authorized in subsection (1)."

13 Section 5. Section 19-4-803, MCA, is amended to read:

14 "19-4-803. Mandatory superannuation retirement. (1)  
15 Any A member in service who has attained the age of 70 years  
16 during any school year ~~shall~~ must be retired on September 1  
17 following his 70th birthday. This provision does not apply  
18 to teachers in the Montana university system, who may be  
19 employed beyond the age of 70 upon the recommendation of the  
20 president of the employing unit to the board of regents.

21 (2) Members A member over 70 years of age may not:

22 (a) be allowed creditable service for services  
23 rendered after the end of the school year in which the age  
24 of 70 was attained;

25 (b) contribute to the retirement system after the end

1 of such school year; and

2 (c) have the compensation received after the end of  
3 such school year used in computing his average final salary  
4 compensation."

5 Section 6. Section 19-6-101, MCA, is amended to read:

6 "19-6-101. Definitions. Unless the context requires  
7 otherwise, the following definitions apply in this chapter:

8 (1) "Account" means the Montana highway patrolmen's  
9 retirement account in the agency fund.

10 (2) "Accumulated deductions" means the total of the  
11 amounts deducted from the salary of a contributor member,  
12 paid into the fund account, and standing to his credit in  
13 the fund account, together with the regular interest  
14 thereon.

15 (3) "Actuarial equivalent" means a benefit of equal  
16 value when computed on the basis of the actuarial tables in  
17 use by the system.

18 (4) "Beneficiary" means a person nominated to receive  
19 benefits under this chapter by a member's written  
20 designation, duly acknowledged and filed with the  
21 department.

22 (5) "Board" means the public employees' retirement  
23 Board provided for in 2-15-1009.

24 (6) "Compulsory retirement age" means 60 years of age.

25 ~~{7}--"Contributor"--means--a-person-who-has-accumulated~~

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1 ~~deductions in the fund standing to his credit~~

2 ~~(8)(7)~~ "Department" means the public employees'  
3 retirement division of the department of administration.

4 ~~(9)(8)~~ "Final salary" means the average annual  
5 compensation received by a contributor member, before any  
6 deductions have been made and exclusive of maintenance,  
7 allowances, and expenses, for any 3 years of continuous  
8 service upon which contributions have been made or, in the  
9 event a member has not served 3 years, the total  
10 compensation earned divided by the number of years served.  
11 Lump-sum payments for sick leave and annual leave paid to an  
12 employee upon termination of employment may be used in the  
13 calculation of a retirement allowance only to the extent  
14 that they are used to replace, on a month for month basis,  
15 the normal compensation for a month or months included in  
16 the calculation of the final salary. A lump-sum payment may  
17 not be added to a single month's compensation.

18 ~~(10)(9)~~ "Involuntary retirement" means a retirement not  
19 for cause and before retirement age.

20 ~~(10) "Member" means a person who has accumulated~~  
21 ~~deductions in the account standing to his credit.~~

22 (11) "Member's annuity" means payments for life derived  
23 from contributions made by the contributor member.

24 (12) "Optional retirement age" means the age at which a  
25 contributor member may retire after 20 years' service.

1 (13) "Retired patrolman" means a person in receipt of a  
2 retirement allowance under this chapter.

3 (14) "Retirement age" means the age at which a member  
4 retires after 25 years of creditable service with the  
5 Montana highway patrol.

6 (15) "Retirement allowance" means the state annuity  
7 plus the member's annuity.

8 (16) "State annuity" means payments for life derived  
9 from contributions made by the state of Montana.

10 Section 7. Standardization of terminology. Whenever  
11 the word "contributor" appears in Title 19, chapter 6, MCA,  
12 it shall be changed to "member". Plural and possessive forms  
13 shall be similarly changed.

14 Section 8. Section 19-7-101, MCA, is amended to read:

15 "19-7-101. Definitions. Unless the context requires  
16 otherwise, the following definitions apply in this chapter:

17 (1) "Account" means the Montana sheriffs' retirement  
18 account administered by the sheriffs' retirement board.

19 (2) "Accumulated contributions" or "accumulated  
20 deductions" means the total amount deducted from the salary  
21 of a member during a period of membership service plus the  
22 total amount deducted during a period of prior service and  
23 transferred from the public employees' retirement system  
24 standing to the member's credit in the account, together  
25 with the accrued interest.

1 (3) "Actuarial equivalent" means a benefit of equal  
2 value when computed using upon the basis of the mortality  
3 actuarial tables and--interest-rates-adopted-by-the-board,  
4 compounded-annually in use by the system.

5 (4) "Beneficiary" means a person who is nominated by  
6 the member in an acknowledged document which is filed with  
7 the board.

8 (5) "Board" means the sheriffs' retirement board. The  
9 board shall consist of five persons who shall be the same  
10 persons that comprise the public employees' retirement  
11 board.

12 (6) "Creditable service" means the aggregate of all of  
13 a member's current and prior service.

14 (7) "Final salary" means the average annual salary  
15 received by a member, before any deductions are made and  
16 exclusive of maintenance, allowances, and expenses, for any  
17 3 years of continuous service from which contributions were  
18 deducted or, in the event that a member has not served 3  
19 years, the total salary earned divided by the number of  
20 years served. Lump-sum payments for sick leave and annual  
21 leave paid to an employee upon termination of employment may  
22 be used in the calculation of a retirement allowance only to  
23 the extent that they are used to replace, on a month for  
24 month basis, the normal compensation for a month or months  
25 included in the calculation of the final salary. A lump-sum

1 payment may not be added to a single month's compensation.

2 (8) "Member" means any person who has accumulated  
3 deductions in the account to his credit.

4 (9) "Member's annuity" means payments for life derived  
5 from contributions made by the contributor member while  
6 employed.

7 (10) "Membership service" means service for which an  
8 amount is deducted from the salary of a member and paid into  
9 the account.

10 (11) "Prior service" means service for which credit was  
11 granted by the public employees' retirement system of the  
12 state of Montana.

13 (12) "Retired sheriff" means a person receiving a  
14 retirement allowance under this chapter.

15 (13) "Retirement allowance" means the state annuity  
16 plus the member's annuity.

17 (14) "Service" means employment as a sheriff.

18 (15) "Sheriff" means any elected or appointed county  
19 sheriff, undersheriff, or regularly appointed and acting  
20 deputy sheriff.

21 (16) "State annuity" means payments for life derived  
22 from county contributions into the sheriffs' retirement  
23 account, together with any supplemental legislative  
24 appropriations to the account.

25 (17) "Vested retirement" means a retirement not for



1 cause and before retirement age."

2 Section 9. Section 19-7-502, MCA, is amended to read:

3 "19-7-502. Early retirement option. If a contributor  
4 member has served 20 years of creditable service as a  
5 sheriff and has reached the age of 55 years, he is granted  
6 the option and privilege of retiring, and in such case his  
7 retirement allowance shall be the actuarial equivalent of  
8 his retirement allowance as otherwise accrued, based upon  
9 payment commencing when he would have completed 25 years of  
10 creditable service had he not retired."

11 Section 10. Section 19-7-503, MCA, is amended to read:

12 "19-7-503. Service retirement allowance. (1) The  
13 amount of any member's service retirement allowance shall be  
14 2% of his final salary for each year of creditable service,  
15 up to a maximum of 50% of final salary.

16 (2) The contributor's member's retirement allowance  
17 shall be increased for any member who contributes after 25  
18 years of service by an annuity calculated as twice the  
19 actuarial equivalent of the portion of the member's  
20 accumulated deductions arising from contributions after the  
21 completion of 25 years of service."

22 Section 11. Section 19-9-102, MCA, is amended to read:

23 "19-9-102. Purpose -- application of prior law. (1) As  
24 cities other than those participating in the statewide  
25 police reserve fund provided for in Chapter 335, Laws of

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

13 (2) The following may not be applied in any way to a  
14 city operating under the plan created by this chapter:  
15 7-32-4107, 7-32-4120, 7-32-4131, and chapter 10 of this  
16 title."

17 Section 12. Section 19-9-1006, MCA, is amended to  
18 read:

19 "19-9-1006. Protection from legal process --  
20 ~~nonassignability nonassignability. The Except as provided in~~  
21 this chapter, the benefits payable hereunder are not subject  
22 to the claims of any creditor of a member, beneficiary, or  
23 survivor or to attachment, garnishment, or other legal or  
24 equitable process -- ~~no~~ and no member, beneficiary, or  
25 survivor may alienate, anticipate, commute, pledge,

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

2 Section 13. Section 19-9-1007, MCA, is amended to  
3 read:

4 \*19-9-1007. Supplement to certain pensions. (1) The  
5 payment for each fiscal year ~~commencing with the fiscal~~  
6 ~~year beginning July 1, 1977~~ to the police officers,  
7 spouses, or minor children described in subsections (2)(a)  
8 through (2)(c) may be not less than one-half of the salary  
9 paid in that fiscal year in the appropriate city or town to  
10 newly confirmed police officers.

11 (2) On or before April 1 of each year, the department  
12 of administration shall make a report to the state auditor  
13 including the following information:

14 (a) the names of all police officers who are receiving  
15 payments from the ~~police-reserve-fund-of-the-city-or-town~~  
16 plan as of the date of the report and were receiving ~~such~~  
17 ~~payments prior to from a prior plan before~~ July 1, 1975;

18 (b) the names of all spouses or minor children who are  
19 receiving payments from the ~~police-reserve-fund~~ plan because  
20 of the death of a police officer who was receiving ~~such~~  
21 ~~payments prior to from a prior plan before~~ July 1, 1975;

22 (c) the names of all spouses or minor children who are  
23 receiving payments from the ~~police-reserve-fund~~ plan and who  
24 were receiving ~~such~~ payments prior ~~to from a prior plan~~  
25 ~~before~~ July 1, 1975, or in the case of minor children, whose

1 parent, the spouse of a police officer, was receiving such  
2 payments prior to July 1, 1975;

3 (d) for the purpose of determining the base figure for  
4 the computations set forth in subsection (4), the following  
5 information relating to the base fiscal year commencing July  
6 1, 1976:

7 (i) the amount of the payments made in the base fiscal  
8 year to each police officer described in subsection (2)(a);

9 (ii) the amount of the payments made in the base fiscal  
10 year to each spouse or minor child (or children) described  
11 in subsection (2)(b) or (2)(c);

12 (iii) upon the death after April 18, 1977, of any  
13 police officer on the retired list who was receiving  
14 ~~payments from the police-reserve-fund prior to a prior plan~~  
15 ~~before~~ July 1, 1975, and who is survived by a spouse or  
16 minor children entitled to receive payments therefrom ~~from~~  
17 ~~the plan~~, the amount which would have been paid to an  
18 eligible spouse of such police officer had that spouse been  
19 receiving payments in the base fiscal year.

20 (3) Each fiscal year ~~commencing with the fiscal year~~  
21 ~~beginning duty 1, 1977~~ immediately after the adoption by a  
22 city or town ~~having a police-reserve-fund~~ participating in  
23 the plan of its budget for that fiscal year, each such city  
24 or town shall report to the state auditor the salary for  
25 that fiscal year of a newly confirmed police officer of that

1 city or town.

2 (4) The state auditor shall, upon receipt of the  
3 reports referred to in subsections (2) and (3), compute the  
4 difference between each amount reported under subsections  
5 (2)(d)(i) through (2)(d)(iii) and one-half the salary for  
6 the current fiscal year of a newly confirmed police officer  
7 of the appropriate city or town. The difference shall be  
8 paid by the state auditor out of the premium tax collected  
9 on insurance ~~as provided in 19-10-305(2)~~ paid in this  
10 state to insure against the risks enumerated in 19-11-512(5)  
11 to the ~~treasurer of the appropriate city or town~~  
12 administrator at the same time as and in addition to the  
13 payment to be made by the state auditor under 19-9-702.

14 (5) ~~The treasurer of each city or town receiving funds~~  
15 ~~under subsection (4) shall immediately deposit them with the~~  
16 ~~department of administration.~~ The department administrator  
17 shall use the funds received under subsection (4) to  
18 supplement the monthly payments to persons described in  
19 subsections (2)(a) through (2)(c) so that the requirements  
20 of subsection (1) are met.

21 (6) If more than one minor child is entitled to  
22 supplementary payments under this section by virtue of the  
23 death of a common parent police officer, the minimum payment  
24 to such minor children under this section shall be  
25 determined as if there were one such minor child and the

1 supplementary payment shall be made to the minor children  
2 collectively."

3 NEW SECTION. Section 14. Withholding of group  
4 insurance premium from retirement benefit. A retiree who is  
5 a participant in an employee group insurance plan which  
6 permits participation in the group plan following retirement  
7 may elect to have the monthly premium for such group  
8 insurance withheld by the department of administration and  
9 paid directly by the department to the insurance carrier.  
10 In order to qualify for this withholding, a retiree must be  
11 a participant in a group insurance plan available to the  
12 employees of his former employer. No withholding may be  
13 made for any retiree covered by an individual insurance  
14 policy.

15 Section 15. Section 19-10-201, MCA, is amended to  
16 read:

17 "19-10-201. Local boards of trustees of funds. (1)  
18 Each city or town which has a police reserve retirement fund  
19 must have a board of trustees of such fund, except as  
20 provided in subsection (4).

21 (2) A board of trustees existing under subsection (1)  
22 must consist of the mayor, clerk, and attorney of the city  
23 or town and two members from the active list of police  
24 officers of the city or town.

25 (3) The two trustees who are also police officers

1 shall serve terms of 2 years. They shall be selected by a  
 2 majority vote of the members of the police department on the  
 3 active list of the city or town. One shall be selected each  
 4 year between May 1 and May 10, so that their terms are  
 5 staggered. Immediately after the selection has been made, a  
 6 certificate of election shall ~~must~~ be certified to the city  
 7 clerk by the chairman and secretary of the meeting at which  
 8 the selection was made.

9 (4) The board of trustees of the police reserve  
 10 retirement fund of a city which elects to participate in the  
 11 municipal police officers' retirement system under 19-9-107  
 12 is abolished as of the time that the transfer of the cash  
 13 and securities and the certification required by that  
 14 section is completed. The functions of the board are  
 15 transferred as of the date of the election to the department  
 16 of administration and the board, as provided in the  
 17 Municipal Police Officers' Retirement Act."

18 Section 16. Section 19-10-202, MCA, is amended to  
 19 read:

20 "19-10-202. Limit on use of fund. A police reserve  
 21 retirement fund may not be used for any purpose other than  
 22 to make payments authorized by this chapter to members of  
 23 the police department on the retired list and to make  
 24 authorized investments."

25 Section 17. Section 19-10-203, MCA, is amended to

1 read:

2 "19-10-203. Investment of fund. (1) All moneys ~~money~~  
 3 in said ~~the~~ fund in excess of such an amount as shall--be  
 4 deemed is considered necessary from time to time to meet  
 5 current payments to reserve retired police officers shall be  
 6 invested as hereinafter provided. All interest on ~~any--and~~  
 7 ~~all--~~moneys ~~money~~ belonging to ~~said the~~ fund from whatever  
 8 ~~any source derived--shall--belong~~ belongs to and must be paid  
 9 into ~~said the~~ fund.

10 (2) Whenever the moneys ~~money~~ in the police reserve  
 11 retirement fund exceed ~~exceeds~~ the greater of the following  
 12 amounts, the city treasurer shall remit the excess to the  
 13 state treasurer, who shall invest the remittances under the  
 14 direction of the board of investments as provided in  
 15 17-6-204:

16 (a) 1 1/2 times the monthly benefit paid in the  
 17 preceding month; or

18 (b) \$5,000.

19 ~~(3) After January 1, 1975, all investments of the~~  
 20 ~~police reserve fund shall be transferred as directed by the~~  
 21 ~~board of investments. The board of investments may defer a~~  
 22 ~~transfer to a date later than January 1, 1975, but not later~~  
 23 ~~than the maturity date of the investments. The board of~~  
 24 ~~investments may make rules to implement this section.~~

25 ~~(4) (3)~~ The funds deposited in the police reserve

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1 retirement fund of a city or town after July 1, 1977, are  
 2 limited to the investments in 17-6-211, except that the  
 3 funds may not be invested in common stocks. However, these  
 4 funds may be invested under the provisions of 17-6-204."

5 Section 18. Section 19-10-204, MCA, is amended to  
 6 read:

7 "19-10-204. Trustees' report to state auditor. The  
 8 board of trustees of each police reserve retirement fund  
 9 shall on or before April 1 of each year report to the state  
 10 auditor as to the financial condition of its fund."

11 Section 19. Section 19-10-205, MCA, is amended to  
 12 read:

13 "19-10-205. Actuarial valuation of police reserve  
 14 funds retirement fund. (1) The city treasurer shall submit  
 15 to the department of community affairs before October 1 of  
 16 each odd-numbered year all information requested by the  
 17 department necessary to complete an actuarial valuation of  
 18 the city's police reserve retirement fund. The valuation  
 19 shall consider the actuarial soundness of the police reserve  
 20 retirement fund for the 2 preceding fiscal years.

21 (2) The valuation is to be prepared by a qualified  
 22 actuary selected by the department. A qualified actuary is a  
 23 member of the American academy of actuaries or of any  
 24 organization considered by the department to have similar  
 25 standards.

1 (3) In each fiscal year in which an actuarial  
 2 valuation is prepared, the department shall submit to the  
 3 state auditor a request for payment of the expense incurred  
 4 in securing the actuarial valuation. The expense may not  
 5 exceed \$6,000 in any fiscal year. The state auditor shall  
 6 make payment to the actuary designated in the request."

7 Section 20. Section 19-10-301, MCA, is amended to  
 8 read:

9 "19-10-301. City's contribution to fund. Each city,  
 10 other than one of the first or second class, which has a  
 11 police reserve retirement fund and which did not elect to  
 12 join the statewide police reserve fund provided for in  
 13 Chapter 335, Laws of 1974, and which has not elected to  
 14 participate in the plan under 19-9-107 shall deposit in its  
 15 fund monthly an amount equal to 11% of the total salaries  
 16 for the preceding month paid to active police officers of  
 17 such city, exclusive of overtime and payments in lieu of  
 18 sick leave and annual leave. If the demand against a city  
 19 for deposits in its fund is such that it cannot be met  
 20 within the general taxing authority of the city, an  
 21 additional levy not to exceed 3 mills may be made until the  
 22 general taxing authority is sufficient to meet the demand."

23 Section 21. Section 19-10-302, MCA, is amended to  
 24 read:

25 "19-10-302. Officer's contribution deducted from

1 salary. The treasurer of an incorporated city which has a  
 2 police reserve retirement fund shall retain from the monthly  
 3 salary of each police officer on the active list a sum equal  
 4 to 6% of his monthly compensation for his services as a  
 5 police officer, exclusive of overtime and payments made in  
 6 lieu of sick leave and annual leave. The monthly deduction  
 7 from the salaries of police officers shall must be paid into  
 8 the city's police reserve retirement fund for the purpose of  
 9 paying the salaries of police officers on the retired list."

10 Section 22. Section 19-10-304, MCA, is amended to  
 11 read:

12 "19-10-304. Gifts and moneys money to be applied to  
 13 fund. The following shall be placed in the police reserve  
 14 retirement fund and transmitted promptly to the board of  
 15 trustees:

16 (1) all moneys money withheld from salaries of police  
 17 officers for the violation of rules of such the police  
 18 departments department;

19 (2) all bequests, gifts, or emoluments paid or given  
 20 on account of any extraordinary service of any a member of  
 21 such the police department, except when specifically allowed  
 22 to be retained by such the officer by the mayor,  
 23 commissioners, and chief of police; and

24 (3) all moneys money derived from the provisions of  
 25 this chapter."

1 Section 23. Section 19-10-305, MCA, is amended to  
 2 read:

3 "19-10-305. Annual state payments to municipality with  
 4 police department. (1) At the end of each fiscal year, the  
 5 state auditor shall issue and deliver to the treasurer of  
 6 each city and town in Montana which has a police department  
 7 and which is not a participant in the municipal police  
 8 officers' retirement system his warrant for an amount  
 9 computed in the same manner as the amount paid (or that  
 10 would be paid if an existing relief association met the  
 11 legal requirements for payment) to cities and towns for fire  
 12 department relief associations pursuant to 19-11-512.

13 (2) The payments provided for by 19-10-205 and  
 14 subsection (1) of this section shall be paid from the  
 15 premium tax collected on insurance sold in this state to  
 16 insure against the risks enumerated in 19-11-512. Such  
 17 payments will may only be made after deductions have been  
 18 made from the gross premium tax for cancellations and  
 19 returned premiums.

20 (3) Each city or town which has a police reserve  
 21 retirement fund shall deposit the payment to the credit of  
 22 its police reserve retirement fund.

23 (4) Payments provided for in 19-10-205 and subsection  
 24 (1) of this section are in addition to those provided for in  
 25 19-10-301."

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1 Section 24. Section 19-10-406, MCA, is amended to  
2 read:

3 "19-10-406. Election to qualify previous military  
4 service. (1) A member with 15 years or more of service as a  
5 police officer may, at any time prior to his retirement,  
6 make a written election with the board to qualify all or any  
7 portion of his active service in the armed forces of the  
8 United States for the purpose of calculating retirement  
9 benefits, up to a maximum of 5 years, if he is not otherwise  
10 eligible to receive credit. To qualify this service he must  
11 contribute to the account the actuarial cost of granting the  
12 service to be determined by the board based on his  
13 compensation and normal contribution rate as of his 16th  
14 year and as many succeeding years as are required to qualify  
15 this service, with interest from the date he becomes  
16 eligible for this benefit to the date he contributes. He may  
17 not qualify more of his military service than he has service  
18 as a police officer in excess of 15 years. Military service  
19 purchased under this section may not be used in the  
20 determination of eligibility for a service retirement  
21 requiring a minimum of 20 years service.

22 (2) If a member has retired from active duty in the  
23 armed forces of the United States with normal service  
24 retirement benefits, he may not qualify his military service  
25 under subsection (1). However, a member who is serving or

1 has served in the military reserves with the expectation of  
2 receiving a military service pension may qualify his active  
3 military service under subsection (1) if his active duty in  
4 the armed forces of the United States is not more than 25%  
5 of the total of all his years of military service, including  
6 reserve and active duty time."

7 Section 25. Section 19-10-501, MCA, is amended to  
8 read:

9 "19-10-501. Service retirement allowance. When a  
10 police officer is transferred from the active list to the  
11 retired list of a city, he shall thereafter receive monthly  
12 payments from the city's police reserve retirement fund, as  
13 follows:

14 (1) A police officer who is eligible under  
15 19-10-401(1) or (2) and does not elect to serve any  
16 additional years as an active police officer or who is  
17 placed on the retired list under 19-10-401(3) prior to  
18 reaching 20 years of service shall receive a sum equal to  
19 one-half the base salary, excluding overtime and payments in  
20 lieu of sick leave and annual leave, he was receiving as an  
21 active officer computed on the highest salary received in  
22 any one month during his last year of active service.

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

1 additional 1% of such payment per year of additional  
2 service, up to a maximum of 60% of the base salary,  
3 excluding overtime and ~~payment payments~~ in lieu of sick  
4 leave and annual leave, he was receiving as an active  
5 officer computed on the highest salary received in any one  
6 month during his last year of active service.

7 (3) A police officer who is placed on the retired list  
8 under 19-10-401(3) and who was theretofore eligible at his  
9 option to be placed on the retired list under 19-10-401(1)  
10 or (2) but elected to serve additional years shall be paid  
11 for the additional years over his original eligibility at  
12 the rate prescribed in subsection ~~(1)~~ (2) of this section."

13 Section 26. Section 19-10-502, MCA, is amended to  
14 read:

15 "19-10-502. Disability retirement allowance. When a  
16 police officer is transferred from the active list to the  
17 retired list of a city, he shall thereafter receive monthly  
18 payments from the city's police reserve retirement fund, as  
19 follows:

20 (1) A police officer who is eligible under 19-10-402  
21 before completing 20 years of service shall receive a sum  
22 equal to one-half the base salary, excluding overtime and  
23 payments in lieu of sick leave and annual leave, he was  
24 receiving as an active officer computed on the highest  
25 salary received in any one month during his last year of

1 active service.

2 (2) A police officer who is placed on the retired list  
3 under 19-10-402 and who, at the time of his injury or  
4 disability, was eligible at his option to be placed on the  
5 retired list under 19-10-401(1) or (2) but had elected to  
6 serve additional years and was then serving such additional  
7 years shall be paid for the additional years over his  
8 original eligibility at the rate prescribed in  
9 19-10-501~~(1)~~(2)."

10 Section 27. Section 19-10-503, MCA, is amended to  
11 read:

12 "19-10-503. Death benefits. (1) Upon the death of a  
13 police officer on the active list or retired list of a city,  
14 his surviving spouse, if there be is one, shall, as long as  
15 such spouse remains the surviving spouse, be paid from the  
16 city's police reserve retirement fund a sum equal to  
17 one-half the base salary, excluding overtime and payments in  
18 lieu of sick leave or and annual leave, he was receiving as  
19 an active officer computed on the highest salary received in  
20 any one month during his last year of active service.

21 (2) If the officer leaves one or more dependent minor  
22 children, ~~then~~ upon his death if he leaves no surviving  
23 spouse or upon the death or remarriage of the surviving  
24 spouse, his surviving dependent minor children, collectively  
25 if there is more than one, shall receive the same monthly

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

9 Section 28. Section 19-10-506, MCA, is amended to  
 10 read:

11 "19-10-506. Supplement to certain pensions. (1) The  
 12 payment for each fiscal year ~~commencing with the fiscal~~  
 13 ~~year--beginning--July--1--1977,~~ to the police officers,  
 14 spouses, or minor children described in subsections (2)(a)  
 15 through (2)(c) may be not less than one-half of the salary  
 16 paid in that fiscal year in the appropriate city or town to  
 17 newly confirmed police officers.

18 (2) On or before April 1 of each year, the board of  
 19 trustees shall make a report to the state auditor including  
 20 the following information:

21 (a) the names of all police officers who are receiving  
 22 payments from the police reserve retirement fund of the city  
 23 or town as of the date of the report and were receiving such  
 24 payments prior to July 1, 1975;

25 (b) the names of all spouses or minor children who are

1 receiving payments from the police reserve retirement fund  
 2 because of the death of a police officer who was receiving  
 3 such payments prior to July 1, 1975;

4 (c) the names of all spouses or minor children who are  
 5 receiving payments from the police reserve retirement fund  
 6 and who were receiving such payments prior to July 1, 1975,  
 7 or in the case of minor children, whose parent, the spouse  
 8 of a police officer, was receiving such payments prior to  
 9 July 1, 1975;

10 (d) for the purpose of determining the base figure for  
 11 the computations set forth in subsection (4), the following  
 12 information relating to the base fiscal year commencing July  
 13 1, 1976:

14 (i) the amount of the payments made in the base fiscal  
 15 year to each police officer described in subsection (2)(a);

16 (ii) the amount of the payments made in the base fiscal  
 17 year to each spouse or minor child (or children) described  
 18 in subsection (2)(b) or (2)(c);

19 (iii) upon the death after April 18, 1977, of any  
 20 police officer on the retired list who was receiving  
 21 payments from the police reserve retirement fund prior to  
 22 July 1, 1975, and who is survived by a spouse or minor  
 23 children entitled to receive payments therefrom, the amount  
 24 which would have been paid to an eligible spouse of such  
 25 police officer had that spouse been receiving payments in

1 the base fiscal year.

2 (3) Each fiscal year ~~commencing with the fiscal year~~  
 3 ~~beginning with 1977~~, immediately after the adoption by a  
 4 city or town having a police reserve retirement fund of its  
 5 budget for that fiscal year, each such city or town shall  
 6 report to the state auditor the salary for that fiscal year  
 7 of a newly confirmed police officer of that city or town.

8 (4) The state auditor shall, upon receipt of the  
 9 reports referred to in subsections (2) and (3), compute the  
 10 difference between each amount reported under subsections  
 11 (2)(d)(i) through (2)(d)(iii) and one-half the salary for  
 12 the current fiscal year of a newly confirmed police officer  
 13 of the appropriate city or town. The difference shall be  
 14 paid by the state auditor out of the premium tax collected  
 15 on insurance, as provided in 19-10-305(2), to the treasurer  
 16 of the appropriate city or town at the same time as and in  
 17 addition to the payment to be made by the state auditor  
 18 under 19-10-305(1).

19 (5) The treasurer of each city or town receiving funds  
 20 under subsection (4) shall immediately deposit them to the  
 21 credit of the city or town's police reserve retirement fund.  
 22 The board of trustees of the fund shall use the funds to  
 23 supplement the monthly payments to persons described in  
 24 subsections (2)(a) through (2)(c) so that the requirements  
 25 of subsection (1) are met.

1 (6) If more than one minor child is entitled to  
 2 supplementary payments under this section by virtue of the  
 3 death of a common parent police officer, the minimum payment  
 4 to such minor children under this section shall be  
 5 determined as if there were one such minor child and the  
 6 supplementary payment shall be made to the minor children  
 7 collectively."

8 Section 29. Section 19-11-603, MCA, is amended to  
 9 read:

10 "19-11-603. Partial service pension. (1) A member of a  
 11 fire department relief association is eligible to receive a  
 12 partial service pension if he:

13 (a) has completed at least 10 years of active duty as  
 14 a fully paid member of a fire department but has not both  
 15 completed 20 years of service and attained age 50 as an  
 16 active firefighter;

17 (b) is permanently separated from service on or after  
 18 July 1, 1977;

19 (c) does not qualify for a disability pension under  
 20 19-11-604; and

21 (d) does not receive a refund of his contributions  
 22 under 19-11-502.

23 (2) The right to receive the pension vests upon the  
 24 firefighter's permanent separation from service, but the  
 25 payments may not commence until the date he would have both

1 reached his 50th birthday and completed 20 years of service  
2 as a member of a fire department had his active duty not  
3 been terminated.

4 (3) The pension shall be paid out of the disability  
5 and pension fund and shall consist of monthly payments in an  
6 amount equal to the number of years of the firefighter's  
7 service divided by the number of years of service the  
8 firefighter would have had if he had remained in active duty  
9 as a member of a fire department until the date he would  
10 have both attained age 50 and completed 20 years of service,  
11 multiplied by one-half of the sum last received by the  
12 firefighter as a monthly compensation, excluding overtime  
13 and payments in lieu of sick leave and annual leave, for his  
14 services as an active member of the fire department.

15 (4) If the firefighter dies after he is permanently  
16 separated from service and before he both reaches the age of  
17 50 years and ~~completes~~ would have completed 20 years of  
18 service as an active member of a fire department, the  
19 payments prescribed in subsection (3) shall be made to the  
20 surviving spouse commencing on the date the firefighter  
21 would have both reached his 50th birthday and completed 20  
22 years of service as an active member of a fire department  
23 and terminating upon the surviving spouse's death or  
24 remarriage. If there is no surviving spouse or the surviving  
25 spouse dies or remarries and if the firefighter leaves one

1 or more children who have not reached the age of 18 years,  
2 the children shall receive the payments until the youngest  
3 reaches the age of 18 years.

4 (5) If the firefighter dies after he both reaches the  
5 age of 50 years and ~~completes~~ would have completed 20 years  
6 of service as an active member of a fire department, the  
7 payments shall be made to the surviving spouse or children  
8 as provided in subsection (4).

9 (6) The pension escalation provisions of 19-11-602 do  
10 not apply to pensions received under this section."

11 Section 30. Section 19-11-612, MCA, is amended to  
12 read:

13 "19-11-612. Protection of benefits from legal process  
14 -- nonassignability. Any payments made or to be made under  
15 [this chapter] are not subject to judgments, garnishment,  
16 execution, or other legal process. A person entitled to a  
17 pension may not assign the right, and the association and  
18 trustees may not recognize any assignment or pay over any  
19 sum so assigned."

20 Section 31. Section 19-12-104, MCA, is amended to  
21 read:

22 "19-12-104. Penalty for false statements or claims. A  
23 person required to make a statement or affidavit by this  
24 chapter who willfully falsifies such statement or affidavit  
25 and or a person who files a false claim under this chapter

1 is guilty of a misdemeanor and upon conviction thereof shall  
2 be punished by a fine not exceeding \$500 or imprisonment not  
3 exceeding 6 months, or both."

4 Section 32. Codification. Section 14 of this act is  
5 intended as an addition to Title 19, chapter 9, part 10, and  
6 the code commissioner shall codify it in that part. All  
7 references in MCA to Title 19, chapter 9, part 10, include  
8 section 14.

-End-

Approved by Committee  
on State Administration

House BILL NO. 169

INTRODUCED BY Kraalen

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO PUBLIC RETIREMENT SYSTEMS."

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

Section 1. Section 7-3-1344, MCA, is amended to read:

"7-3-1344. Prior rights of law enforcement officers.

(1) Any police officer employed by any police department or departments established as required by law in any city or town of the county prior to the election and qualification of a commission under this part and part 12 shall have the same job tenure rights as though no such election and qualification had taken place.

(2) Any such police officer who has vested rights in any a police reserve retirement fund shall maintain prior vested rights in such the fund upon its transfer to a consolidated county municipality. Any police reserve retirement fund established as required by law in any city or town of the county prior to the election and qualification of a commission under this part and part 12 shall be continued as such for the police department of the municipality, subject, however, to the prior vested rights

There are no changes in HB 169, & will not be re-run.

Please refer to white copy for complete text.

of any police officer employed by any police department or departments established as required by law in any city or town of the county prior to the election and qualification of a commission under this part and part 12. The board of trustees of such police reserve retirement fund shall consist of the president, the director of finance, the director of law, and two members of the police department from the active list of the police officers of said the municipality who shall be selected by a majority vote of the members of the police department on the active list of said the municipality. Such the selection shall be made between May 1 and May 10 in each year, and said the active police officer members of said the board shall serve overlapping 2-year terms. Except as provided in this section, the police reserve retirement fund shall be continued and administered in the manner prescribed by law for such funds established in cities and towns."

Section 2. Section 19-1-104, MCA, is amended to read:

"19-1-104. Retirement systems to be considered separate. (1) Pursuant to section 218(d)(6) of the Social Security Act, the public employees' retirement system of the state of Montana is, for the purposes of this chapter, considered a separate retirement system with respect to the state and a separate retirement system with respect to each political subdivision having positions covered thereby.

1 (2) Pursuant to section 218(p)(1) of the Social  
 2 Security Act, the highway patrolmen's retirement system of  
 3 the state of Montana, the public employees' retirement  
 4 system of the state of Montana, and each municipal police  
 5 reserve ~~retirement~~ fund and each ~~unit-of-city-participating~~  
 6 ~~in the statewide municipal police reserve-fund-of-the-state~~  
 7 ~~of-Montana officers' retirement system~~ are, for the purposes  
 8 of this chapter, considered separate retirement systems with  
 9 respect to the state and separate retirement systems with  
 10 respect to each political subdivision having positions  
 11 covered thereby."

12 Section 3. Section 19-3-104, MCA, is amended to read:  
 13 "19-3-104. Definitions. Unless the context requires  
 14 otherwise, in this chapter the following definitions apply:

15 (1) "Accumulated additional contributions" means the  
 16 sum of all the additional contributions standing to the  
 17 credit of a member's individual account, together with the  
 18 regular interest thereon.

19 (2) "Accumulated contributions" means the sum of  
 20 accumulated normal contributions and accumulated additional  
 21 contributions.

22 (3) "Accumulated normal contributions" means the sum  
 23 of all the normal contributions standing to the credit of a  
 24 member's individual account without interest.

25 (4) "Actuarial equivalent" means a benefit of equal

1 value when computed upon the basis of the actuarial tables  
 2 in use by the system.

3 (5) "Actuary" means the actuary retained by the board  
 4 in accordance with 19-3-305.

5 (6) "Additional contributions" means contributions by  
 6 members under the provisions of 19-3-702.

7 (7) "Annuity" means payments for life derived from  
 8 contributions made by a member as provided in this chapter.

9 (8) "Beneficiary" means the person so designated  
 10 pursuant to part 13 of this chapter.

11 (9) "Benefit" means the retirement allowance,  
 12 survivorship allowance, death benefit, or refund of  
 13 accumulated contributions provided by this chapter.

14 (10) "Board" means the public employees' retirement  
 15 board provided for in 2-15-1009.

16 (11) "Compensation" means remuneration paid out of  
 17 funds controlled by an employer. The compensation of each  
 18 member of the legislature ~~and-the-lieutenant-governor-of-the~~  
 19 ~~state of Montana~~ for any year shall be deemed considered to  
 20 be that portion of the product of the daily compensation for  
 21 such position multiplied by 360 upon which such member  
 22 elects to pay normal contributions during the year.

23 (12) "Contracting employer" means any political  
 24 subdivision or governmental entity which has contracted to  
 25 come into the system.

1 HOUSE BILL NO. 169  
 2 INTRODUCED BY Kvaal  
 3 BY REQUEST OF THE CODE COMMISSIONER

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 6 CLARIFY THE LAWS RELATING TO PUBLIC RETIREMENT SYSTEMS."

7  
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 7-3-1344, MCA, is amended to read:

10 "7-3-1344. Prior rights of law enforcement officers.

11 (1) Any police officer employed by any police department or  
 12 departments established as required by law in any city or  
 13 town of the county prior to the election and qualification  
 14 of a commission under this part and part 12 ~~shall have~~ has  
 15 the same job tenure rights as though no such election and  
 16 qualification had taken place.

17 (2) Any such police officer who has vested rights in  
 18 any a police reserve ~~retirement~~ fund shall maintain prior  
 19 vested rights in ~~such the~~ fund upon its transfer to a  
 20 consolidated county municipality. Any police reserve  
 21 ~~retirement~~ fund established as required by law in any city  
 22 or town of the county prior to the election and  
 23 qualification of a commission under this part and part 12  
 24 shall be continued as such for the police department of the  
 25 municipality, subject, however, to the prior vested rights

1 of any police officer employed by any police department or  
 2 departments established as required by law in any city or  
 3 town of the county prior to the election and qualification  
 4 of a commission under this part and part 12. The board of  
 5 trustees of such police reserve ~~retirement~~ fund shall  
 6 consist of the president, the director of finance, the  
 7 director of law, and two members of the police department  
 8 from the active list of the police officers of ~~and the~~  
 9 municipality who shall be selected by a majority vote of the  
 10 members of the police department on the active list of ~~and~~  
 11 the municipality. ~~Such the~~ selection shall be made between  
 12 May 1 and May 10 in each year, and ~~and the~~ active police  
 13 officer members of ~~and the~~ board shall serve overlapping  
 14 2-year terms. Except as provided in this section, the police  
 15 reserve ~~retirement~~ fund shall be continued and administered  
 16 in the manner prescribed by law for such funds established  
 17 in cities and towns."

18 Section 2. Section 19-1-104, MCA, is amended to read:

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 22 state of Montana is, for the purposes of this chapter,  
 23 considered a separate retirement system with respect to the  
 24 state and a separate retirement system with respect to each  
 25 political subdivision having positions covered thereby.

1 (2) Pursuant to section 218(p)(1) of the Social  
 2 Security Act, the highway patrolmen's retirement system of  
 3 the state of Montana, the public employees' retirement  
 4 system of the state of Montana, and each municipal police  
 5 reserve ~~retirement~~ fund and each unit of city participating  
 6 in the statewide municipal police reserve fund of the state  
 7 of Montana officers' retirement system are, for the purposes  
 8 of this chapter, considered separate retirement systems with  
 9 respect to the state and separate retirement systems with  
 10 respect to each political subdivision having positions  
 11 covered thereby."

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 16 sum of all the additional contributions standing to the  
 17 credit of a member's individual account, together with the  
 18 regular interest thereon.

19 (2) "Accumulated contributions" means the sum of  
 20 accumulated normal contributions and accumulated additional  
 21 contributions.

22 (3) "Accumulated normal contributions" means the sum  
 23 of all the normal contributions standing to the credit of a  
 24 member's individual account without interest.

25 (4) "Actuarial equivalent" means a benefit of equal

1 value when computed upon the basis of the actuarial tables  
 2 in use by the system.

3 (5) "Actuary" means the actuary retained by the board  
 4 in accordance with 19-3-305.

5 (6) "Additional contributions" means contributions by  
 6 members under the provisions of 19-3-702.

7 (7) "Annuity" means payments for life derived from  
 8 contributions made by a member as provided in this chapter.

9 (8) "Beneficiary" means the person so designated  
 10 pursuant to part 13 of this chapter.

11 (9) "Benefit" means the retirement allowance,  
 12 survivorship allowance, death benefit, or refund of  
 13 accumulated contributions provided by this chapter.

14 (10) "Board" means the public employees' retirement  
 15 board provided for in 2-15-1009.

16 (11) "Compensation" means remuneration paid out of  
 17 funds controlled by an employer. The compensation of each  
 18 member of the legislature ~~and the lieutenant-governor of the~~  
 19 ~~state of Montana~~ for any year shall be deemed considered to  
 20 be that portion of the product of the daily compensation for  
 21 such position multiplied by 360 upon which such member  
 22 elects to pay normal contributions during the year.

23 (12) "Contracting employer" means any political  
 24 subdivision or governmental entity which has contracted to  
 25 come into the system.



1 (13) "Creditable service" means the aggregate of  
 2 membership service and prior service. A member employed on a  
 3 part-time basis shall receive credit for a year of service  
 4 for each fiscal year during which such member was employed  
 5 throughout the year and was engaged in his duties the full  
 6 amount of time he was required by his employment to be so  
 7 engaged.

8 (14) "Disability" and "incapacity for performance of  
 9 duty", referred to herein as a basis of retirement, mean  
 10 disability of permanent duration or disability of extended  
 11 and uncertain duration, as determined by the board on the  
 12 basis of competent medical opinion.

13 (15) "Employee" means any person who is employed by an  
 14 employer in any capacity whatever and whose salary is paid  
 15 either by warrant of the employer or from the fees or income  
 16 of any department or agency of the employer. "Employee"  
 17 means further any person deemed considered such pursuant to  
 18 19-3-402.

19 (16) "Employer" means the state of Montana, its  
 20 university system or any of the colleges, schools,  
 21 components, or units thereof for the purposes of this  
 22 chapter, or any political subdivision or governmental entity  
 23 which has contracted to come into the system.

24 (17) "Employer contributions" means payments to the  
 25 retirement fund from appropriations of the state of Montana

1 pursuant to 19-3-801 and from contracting employers pursuant  
 2 to the contracts between them and the board.

3 (18) "Final compensation" means a member's highest  
 4 average annual compensation during any 3 consecutive years  
 5 of membership service. Lump-sum payments for sick leave and  
 6 annual leave paid to the employee upon termination of  
 7 employment may be used in the calculation of a retirement  
 8 allowance only to the extent that they are used to replace,  
 9 on a month for month basis, the normal compensation for a  
 10 month or months included in the calculation of the final  
 11 salary. A lump-sum payment may not be added to a single  
 12 month's compensation.

13 (19) "Fiscal year" means any year commencing with July  
 14 1 and ending June 30 next following.

15 (20) "Head of department" means the head of any  
 16 department, institution, or branch of the state service  
 17 which directly pays salaries out of its income or which  
 18 prepares, approves, and submits salary statements of its  
 19 employees to the department of administration, state  
 20 auditor, and state treasurer for payment.

21 (21) "Member" means any person included in the  
 22 membership of the retirement system set forth in 19-3-401  
 23 and not excluded in 19-3-402, 19-3-403, or 19-3-406.

24 (22) "Membership service" means service with respect to  
 25 which normal contributions and employer contributions are

1 paid. A member of the legislature ~~and a lieutenant-governor~~  
2 ~~of the state~~ of Montana shall be credited with membership  
3 service for that portion of each year for which he pays  
4 normal contributions pursuant to subsection (11) of this  
5 section.

6 (23) "Normal contributions" means contributions  
7 required by ~~from~~ members under this chapter and any optional  
8 contributions made under the provisions of 19-3-502 and  
9 19-3-704.

10 (24) "Pension" means payments for life derived from  
11 contributions made from the state controlled funds or, in  
12 the case of members from contracting employers, from the  
13 funds of such contracting employers, as provided in this  
14 chapter.

15 (25) "Prior service" ~~shall mean~~ means all service  
16 rendered as an employee of the state before July 1, 1945,  
17 and all service rendered as an employee of a contracting  
18 employer before July 1, 1947. Prior service includes all  
19 service rendered prior to July 1, 1945, as a member of the  
20 legislative assembly or lieutenant governor ~~of the state~~ of  
21 Montana.

22 (26) "Regular interest" means interest at the rate set  
23 from time to time by the board.

24 (27) "Retirement" means withdrawal from active service  
25 with a retirement allowance granted under the provisions of

1 this chapter.

2 (28) "Retirement allowance" means the periodic benefit  
3 payable following service, early, or disability retirement.

4 (29) "Retirement fund" means the public employees'  
5 retirement account in the agency fund.

6 (30) "Retirement system" means the public employees'  
7 retirement system created by this chapter.

8 (31) "Service" means employment of an employee, except  
9 as provided in 19-3-501 and 19-3-502.

10 (32) "Survivorship allowance" means payments for life  
11 to the beneficiary of a deceased member as provided in part  
12 12 of this chapter.

13 (33) "Written application" means a written instrument  
14 duly executed and filed with the board and containing all  
15 information required by the board, including such proofs of  
16 age as the board ~~shall deem~~ considers necessary."

17 Section 4. Section 19-3-204, MCA, is amended to read:  
18 "19-3-204. Tax levy to meet employer's obligations.

19 (1) If the required contributions to the retirement system  
20 exceed the funds available to a contracting employer from  
21 general revenue sources, the contracting employer ~~shall have~~  
22 ~~authority to~~ ~~may~~ budget, levy, and collect annually a  
23 special tax upon the assessable property of the contracting  
24 employer in the number of cents per \$100 of assessable  
25 property as ~~will be~~ is sufficient to raise the amount

1 estimated by the legislative body to be required to provide  
 2 sufficient revenue to meet the obligation of the contracting  
 3 employer to the retirement system. The rate of taxation may  
 4 be in addition to the annual rate of taxation allowed by law  
 5 to be levied by the contracting employer.

6 (2) Any A person who is a member or beneficiary of the  
 7 retirement system on account of the participation of the  
 8 contracting employer ~~shall~~ has the right to maintain  
 9 the appropriate action or proceeding to require performance  
 10 ~~of the duty imposed on the legislative body by this section~~  
 11 ~~the contracting employer to budget, levy, and collect the~~  
 12 ~~special tax authorized in subsection (1)."~~

13 Section 5. Section 19-4-803, MCA, is amended to read:

14 "19-4-803. Mandatory superannuation retirement. (1)

15 Any A member in service who has attained the age of 70 years  
 16 during any school year ~~shall~~ must be retired on September 1  
 17 following his 70th birthday. This provision does not apply  
 18 to teachers in the Montana university system, who may be  
 19 employed beyond the age of 70 upon the recommendation of the  
 20 president of the employing unit to the board of regents.

21 (2) Members A member over 70 years of age may not:

22 (a) be allowed creditable service for services  
 23 rendered after the end of the school year in which the age  
 24 of 70 was attained;

25 (b) contribute to the retirement system after the end

1 of such school year; and

2 (c) have the compensation received after the end of  
 3 such school year used in computing his average final ~~setery~~  
 4 ~~compensation."~~

5 Section 6. Section 19-6-101, MCA, is amended to read:

6 "19-6-101. Definitions. Unless the context requires  
 7 otherwise, the following definitions apply in this chapter:

8 (1) "Account" means the Montana highway patrolmen's  
 9 retirement account in the agency fund.

10 (2) "Accumulated deductions" means the total of the  
 11 amounts deducted from the salary of a contributor member,  
 12 paid into the fund ~~account~~, and standing to his credit in  
 13 the fund ~~account~~, together with the regular interest  
 14 thereon.

15 (3) "Actuarial equivalent" means a benefit of equal  
 16 value when computed on the basis of the actuarial tables in  
 17 use by the system.

18 (4) "Beneficiary" means a person nominated to receive  
 19 benefits under this chapter by a member's written  
 20 designation, duly acknowledged and filed with the  
 21 department.

22 (5) "Board" means the public employees' retirement  
 23 board provided for in 2-15-1009.

24 (6) "Compulsory retirement age" means 60 years of age.

25 ~~(7) "Contributor" means a person who has accumulated~~

1 ~~deductions in the fund standing to his credit~~

2       ~~(8)(7)~~ "Department" means the public employees'

3 retirement division of the department of administration.

4       ~~(9)(8)~~ "Final salary" means the average annual

5 compensation received by a contributor ~~member~~, before any

6 deductions have been made and exclusive of maintenance,

7 allowances, and expenses, for any 3 years of continuous

8 service upon which contributions have been made or, in the

9 event a member has not served 3 years, the total

10 compensation earned divided by the number of years served.

11 Lump-sum payments for sick leave and annual leave paid to an

12 employee upon termination of employment may be used in the

13 calculation of a retirement allowance only to the extent

14 that they are used to replace, on a month for month basis,

15 the normal compensation for a month or months included in

16 the calculation of the final salary. A lump-sum payment may

17 not be added to a single month's compensation.

18       ~~(10)(9)~~ "Involuntary retirement" means a retirement not

19 for cause and before retirement age.

20       (10) "Member" means a person who has accumulated

21 deductions in the account standing to his credit.

22       (11) "Member's annuity" means payments for life derived

23 from contributions made by the contributor ~~member~~.

24       (12) "Optional retirement age" means the age at which a

25 contributor ~~member~~ may retire after 20 years' service.

1       (13) "Retired patrolman" means a person in receipt of a

2 retirement allowance under this chapter.

3       (14) "Retirement age" means the age at which a member

4 retires after 25 years of creditable service with the

5 Montana highway patrol.

6       (15) "Retirement allowance" means the state annuity

7 plus the member's annuity.

8       (16) "State annuity" means payments for life derived

9 from contributions made by the state of Montana."

10       Section 7. Standardization of terminology. Whenever

11 the word "contributor" appears in Title 19, chapter 6, MCA,

12 it shall be changed to "member". Plural and possessive forms

13 shall be similarly changed.

14       Section 8. Section 19-7-101, MCA, is amended to read:

15       "19-7-101. Definitions. Unless the context requires

16 otherwise, the following definitions apply in this chapter:

17       (1) "Account" means the Montana sheriffs' retiremer

18 account administered by the sheriffs' retirement board.

19       (2) "Accumulated contributions" or "accumulated

20 deductions" means the total amount deducted from the salary

21 of a member during a period of membership service plus the

22 total amount deducted during a period of prior service and

23 transferred from the public employees' retirement system

24 standing to the member's credit in the account, together

25 with the accrued interest.

1 (3) "Actuarial equivalent" means a benefit of equal  
2 value when computed using upon the basis of the mortality  
3 actuarial tables and ~~interest rates adopted by the board~~  
4 ~~compounded annually in use by the system.~~

5 (4) "Beneficiary" means a person who is nominated by  
6 the member in an acknowledged document which is filed with  
7 the board.

8 (5) "Board" means the sheriffs' retirement board. The  
9 board shall consist of five persons who shall be the same  
10 persons that comprise the public employees' retirement  
11 board.

12 (6) "Creditable service" means the aggregate of all of  
13 a member's current and prior service.

14 (7) "Final salary" means the average annual salary  
15 received by a member, before any deductions are made and  
16 exclusive of maintenance allowances, and expenses, for any  
17 3 years of continuous service from which contributions were  
18 deducted or, in the event that a member has not served 3  
19 years, the total salary earned divided by the number of  
20 years served. Lump-sum payments for sick leave and annual  
21 leave paid to an employee upon termination of employment may  
22 be used in the calculation of a retirement allowance only to  
23 the extent that they are used to replace, on a month for  
24 month basis, the normal compensation for a month or months  
25 included in the calculation of the final salary. A lump-sum

1 payment may not be added to a single month's compensation.

2 (8) "Member" means any person who has accumulated  
3 deductions in the account to his credit.

4 (9) "Member's annuity" means payments for life derived  
5 from contributions made by the contributor ~~member~~ while  
6 employed.

7 (10) "Membership service" means service for which an  
8 amount is deducted from the salary of a member and paid into  
9 the account.

10 (11) "Prior service" means service for which credit was  
11 granted by the public employees' retirement system of the  
12 state of Montana.

13 (12) "Retired sheriff" means a person receiving a  
14 retirement allowance under this chapter.

15 (13) "Retirement allowance" means the state annuity  
16 plus the member's annuity.

17 (14) "Service" means employment as a sheriff.

18 (15) "Sheriff" means any elected or appointed county  
19 sheriff, undersheriff, or regularly appointed and acting  
20 deputy sheriff.

21 (16) "State annuity" means payments for life derived  
22 from county contributions into the sheriffs' retirement  
23 account, together with any supplemental legislative  
24 appropriations to the account.

25 (17) "Vested retirement" means a retirement not for

1 cause and before retirement age."

2 Section 9. Section 19-7-502, MCA, is amended to read:

3 "19-7-502. Early retirement option. If a contributor  
4 ~~member~~ has served 20 years of creditable service as a  
5 sheriff and has reached the age of 55 years, he is granted  
6 the option and privilege of retiring, and in such case his  
7 retirement allowance shall be the actuarial equivalent of  
8 his retirement allowance as otherwise accrued, based upon  
9 payment commencing when he would have completed 25 years of  
10 creditable service had he not retired."

11 Section 10. Section 19-7-503, MCA, is amended to read:

12 "19-7-503. Service retirement allowance. (1) The  
13 amount of any member's service retirement allowance shall be  
14 2% of his final salary for each year of creditable service,  
15 up to a maximum of 50% of final salary.

16 (2) The contributor's ~~member's~~ retirement allowance  
17 shall be increased for any member who contributes after 25  
18 years of service by an annuity calculated as twice the  
19 actuarial equivalent of the portion of the member's  
20 accumulated deductions arising from contributions after the  
21 completion of 25 years of service."

22 Section 11. Section 19-9-102, MCA, is amended to read:

23 "19-9-102. Purpose -- application of prior law. (1) As  
24 cities other than those participating in the statewide  
25 police reserve fund provided for in Chapter 335, Laws of

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

13 (2) The following may not be applied in any way to a  
14 city operating under the plan created by this chapter:  
15 7-32-4107, 7-32-4120, 7-32-4131, and chapter 10 of this  
16 title."

17 Section 12. Section 19-9-1006, MCA, is amended to  
18 read:

19 "19-9-1006. Protection from legal process --  
20 unassignability nonassignability. The Except as provided in  
21 this chapter, the benefits payable hereunder are not subject  
22 to the claims of any creditor of a member, beneficiary, or  
23 survivor or to attachment, garnishment, or other legal or  
24 equitable process--No and no member, beneficiary, or  
25 survivor may alienate, anticipate, commute, pledge,

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

2 Section 13. Section 19-9-1007, MCA, is amended to  
3 read:

4 "19-9-1007. Supplement to certain pensions. (1) The  
5 payment for each fiscal year ~~commencing with the fiscal~~  
6 ~~year beginning July 1, 1977~~ to the police officers,  
7 spouses, or minor children described in subsections (2)(a)  
8 through (2)(c) may be not less than one-half of the salary  
9 paid in that fiscal year in the appropriate city or town to  
10 newly confirmed police officers.

11 (2) On or before April 1 of each year, the department  
12 of administration shall make a report to the state auditor  
13 including the following information:

14 (a) the names of all police officers who are receiving  
15 payments from the ~~police-reserve-fund-of-the-city-or-town~~  
16 plan as of the date of the report and were receiving such  
17 payments ~~prior to~~ from a prior plan before July 1, 1975;

18 (b) the names of all spouses or minor children who are  
19 receiving payments from the ~~police-reserve-fund~~ plan because  
20 of the death of a police officer who was receiving such  
21 payments ~~prior to~~ from a prior plan before July 1, 1975;

22 (c) the names of all spouses or minor children who are  
23 receiving payments from the ~~police-reserve-fund~~ plan and who  
24 were receiving such payments ~~prior to~~ from a prior plan  
25 before July 1, 1975, or in the case of minor children, whose

1 parent, the spouse of a police officer, was receiving such  
2 payments prior to July 1, 1975;

3 (d) for the purpose of determining the base figure for  
4 the computations set forth in subsection (4), the following  
5 information relating to the base fiscal year commencing July  
6 1, 1976:

7 (i) the amount of the payments made in the base fiscal  
8 year to each police officer described in subsection (2)(a);

9 (ii) the amount of the payments made in the base fiscal  
10 year to each spouse or minor child (or children) described  
11 in subsection (2)(b) or (2)(c);

12 (iii) upon the death after April 18, 1977, of any  
13 police officer on the retired list who was receiving  
14 payments ~~from the police-reserve-fund prior to a prior plan~~  
15 before July 1, 1975, and who is survived by a spouse or  
16 minor children entitled to receive payments ~~therefrom~~ from  
17 the plan, the amount which would have been paid to an  
18 eligible spouse of such police officer had that spouse been  
19 receiving payments in the base fiscal year.

20 (3) Each fiscal year ~~commencing with the fiscal year~~  
21 ~~beginning July 1, 1977~~, immediately after the adoption by a  
22 city or town ~~having a police-reserve-fund~~ participating in  
23 the plan of its budget for that fiscal year, each such city  
24 or town shall report to the state auditor the salary for  
25 that fiscal year of a newly confirmed police officer of that

1 city or town.

2 (4) The state auditor shall, upon receipt of the  
3 reports referred to in subsections (2) and (3), compute the  
4 difference between each amount reported under subsections  
5 (2)(d)(i) through (2)(d)(iii) and one-half the salary for  
6 the current fiscal year of a newly confirmed police officer  
7 of the appropriate city or town. The difference shall be  
8 paid by the state auditor out of the premium tax collected  
9 on ~~insurance as provided in 19-10-305(2)~~ sold in this  
10 state to insure against the risks enumerated in 19-11-512(5)  
11 to the treasurer of the appropriate city or town  
12 administrator at the same time as and in addition to the  
13 payment to be made by the state auditor under 19-9-702.

14 (5) ~~The treasurer of each city or town receiving funds~~  
15 ~~under subsection (4) shall immediately deposit them with the~~  
16 ~~department of administration. The department administrator~~  
17 shall use the funds received under subsection (4) to  
18 supplement the monthly payments to persons described in  
19 subsections (2)(a) through (2)(c) so that the requirements  
20 of subsection (1) are met.

21 (6) If more than one minor child is entitled to  
22 supplementary payments under this section by virtue of the  
23 death of a common parent police officer, the minimum payment  
24 to such minor children under this section shall be  
25 determined as if there were one such minor child and the

1 supplementary payment shall be made to the minor children  
2 collectively.\*

3 NEW SECTION. Section 14. Withholding of group  
4 insurance premium from retirement benefit. A retiree who is  
5 a participant in an employee group insurance plan which  
6 permits participation in the group plan following retirement  
7 may elect to have the monthly premium for such group  
8 insurance withheld by the department of administration and  
9 paid directly by the department to the insurance carrier.  
10 In order to qualify for this withholding, a retiree must be  
11 a participant in a group insurance plan available to the  
12 employees of his former employer. No withholding may be  
13 made for any retiree covered by an individual insurance  
14 policy.

15 Section 15. Section 19-10-201, MCA, is amended to  
16 read:

17 \*19-10-201. Local boards of trustees of funds. (1)  
18 Each city or town which has a police reserve retirement fund  
19 must have a board of trustees of such fund, except as  
20 provided in subsection (4).

21 (2) A board of trustees existing under subsection (1)  
22 must consist of the mayor, clerk, and attorney of the city  
23 or town and two members from the active list of police  
24 officers of the city or town.

25 (3) The two trustees who are also police officers



1 shall serve terms of 2 years. They shall be selected by a  
 2 majority vote of the members of the police department on the  
 3 active list of the city or town. One shall be selected each  
 4 year between May 1 and May 10, so that their terms are  
 5 staggered. Immediately after the selection has been made, a  
 6 certificate of election shall must be certified to the city  
 7 clerk by the chairman and secretary of the meeting at which  
 8 the selection was made.

9 (4) The board of trustees of the police reserve  
 10 retirement fund of a city which elects to participate in the  
 11 municipal police officers' retirement system under 19-9-107  
 12 is abolished as of the time that the transfer of the cash  
 13 and securities and the certification required by that  
 14 section is completed. The functions of the board are  
 15 transferred as of the date of the election to the department  
 16 of administration and the board, as provided in the  
 17 Municipal Police Officers' Retirement Act."

18 Section 16. Section 19-10-202, MCA, is amended to  
 19 read:

20 "19-10-202. Limit on use of fund. A police reserve  
 21 retirement fund may not be used for any purpose other than  
 22 to make payments authorized by this chapter to members of  
 23 the police department on the retired list and to make  
 24 authorized investments."

25 Section 17. Section 19-10-203, MCA, is amended to

1 read:

2 "19-10-203. Investment of fund. (1) All moneys ~~money~~  
 3 in said ~~the~~ fund in excess of such an amount as shall--be  
 4 deemed is considered necessary from time to time to meet  
 5 current payments to reserve retired police officers shall be  
 6 invested as hereinafter provided. All interest on ~~any--and~~  
 7 ~~all--moneys money~~ belonging to said ~~the~~ fund from whatever  
 8 ~~any source derived--shall--belong~~ belongs to and must be paid  
 9 into said ~~the~~ fund.

10 (2) Whenever the moneys ~~money~~ in the police reserve  
 11 retirement fund exceed ~~exceeds~~ the greater of the following  
 12 amounts, the city treasurer shall remit the excess to the  
 13 state treasurer, who shall invest the remittances under the  
 14 direction of the board of investments as provided in  
 15 17-6-204:

16 (a) 1 1/2 times the monthly benefit paid in the  
 17 preceding month; or

18 (b) \$5,000.

19 ~~(3) After January 1, 1975, all investments of the~~  
 20 ~~police reserve fund shall be transferred as directed by the~~  
 21 ~~board of investments. The board of investments may defer to~~  
 22 ~~transfer to a date later than January 1, 1975, but not later~~  
 23 ~~than the maturity date of the investment. The board of~~  
 24 ~~investments may make rules to implement this section.~~

25 ~~(4)~~(3) The funds deposited in the police reserve

1 retirement fund of a city or town after July 1, 1977, are  
 2 limited to the investments in 17-6-211, except that the  
 3 funds may not be invested in common stocks. However, these  
 4 funds may be invested under the provisions of 17-6-204."

5 Section 18. Section 19-10-204, MCA, is amended to  
 6 read:

7 "19-10-204. Trustees' report to state auditor. The  
 8 board of trustees of each police reserve retirement fund  
 9 shall on or before April 1 of each year report to the state  
 10 auditor as to the financial condition of its fund."

11 Section 19. Section 19-10-205, MCA, is amended to  
 12 read:

13 "19-10-205. Actuarial valuation of police reserve  
 14 ~~funds retirement fund.~~ (1) The city treasurer shall submit  
 15 to the department of community affairs before October 1 of  
 16 each odd-numbered year all information requested by the  
 17 department necessary to complete an actuarial valuation of  
 18 the city's police reserve retirement fund. The valuation  
 19 shall consider the actuarial soundness of the police reserve  
 20 retirement fund for the 2 preceding fiscal years.

21 (2) The valuation is to be prepared by a qualified  
 22 actuary selected by the department. A qualified actuary is a  
 23 member of the American academy of actuaries or of any  
 24 organization considered by the department to have similar  
 25 standards.

1 (3) In each fiscal year in which an actuarial  
 2 valuation is prepared, the department shall submit to the  
 3 state auditor a request for payment of the expense incurred  
 4 in securing the actuarial valuation. The expense may not  
 5 exceed \$6,000 in any fiscal year. The state auditor shall  
 6 make payment to the actuary designated in the request."

7 Section 20. Section 19-10-301, MCA, is amended to  
 8 read:

9 "19-10-301. City's contribution to fund. Each city,  
 10 other than one of the first or second class, which has a  
 11 police reserve retirement fund and which did not elect to  
 12 join the statewide police reserve fund provided for in  
 13 Chapter 335, Laws of 1974, and which has not elected to  
 14 participate in the plan under 19-9-107 shall deposit in its  
 15 fund monthly an amount equal to 11% of the total salaries  
 16 for the preceding month paid to active police officers of  
 17 such city, exclusive of overtime and payments in lieu of  
 18 sick leave and annual leave. If the demand against a city  
 19 for deposits in its fund is such that it cannot be met  
 20 within the general taxing authority of the city, an  
 21 additional levy not to exceed 3 mills may be made until the  
 22 general taxing authority is sufficient to meet the demand."

23 Section 21. Section 19-10-302, MCA, is amended to  
 24 read:

25 "19-10-302. Officer's contribution deducted from

1 salary. The treasurer of an incorporated city which has a  
 2 police reserve retirement fund shall retain from the monthly  
 3 salary of each police officer on the active list a sum equal  
 4 to 6% of his monthly compensation for his services as a  
 5 police officer, exclusive of overtime and payments made in  
 6 lieu of sick leave and annual leave. The monthly deduction  
 7 from the salaries of police officers shall must be paid into  
 8 the city's police reserve retirement fund for the purpose of  
 9 paying the salaries of police officers on the retired list."

10 Section 22. Section 19-10-304, MCA, is amended to  
 11 read:

12 "19-10-304. Gifts and moneys money to be applied to  
 13 fund. The following shall be placed in the police reserve  
 14 retirement fund and transmitted promptly to the board of  
 15 trustees:

16 (1) all moneys money withheld from salaries of police  
 17 officers for the violation of rules of such the police  
 18 departments department;

19 (2) all bequests, gifts, or emoluments paid or given  
 20 on account of any extraordinary service of any a member of  
 21 such the police department, except when specifically allowed  
 22 to be retained by such the officer by the mayor,  
 23 commissioners, and chief of police; and

24 (3) all moneys money derived from the provisions of  
 25 this chapter."

1 Section 23. Section 19-10-305, MCA, is amended to  
 2 read:

3 "19-10-305. Annual state payments to municipality with  
 4 police department. (1) At the end of each fiscal year, the  
 5 state auditor shall issue and deliver to the treasurer of  
 6 each city and town in Montana which has a police department  
 7 and which is not a participant in the municipal police  
 8 officers' retirement system his warrant for an amount  
 9 computed in the same manner as the amount paid (or that  
 10 would be paid if an existing relief association met the  
 11 legal requirements for payment) to cities and towns for fire  
 12 department relief associations pursuant to 19-11-512.

13 (2) The payments provided for by 19-10-205 and  
 14 subsection (1) of this section shall be paid from the  
 15 premium tax collected on insurance sold in this state to  
 16 insure against the risks enumerated in 19-11-512. Such  
 17 payments will may only be made after deductions have been  
 18 made from the gross premium tax for cancellations and  
 19 returned premiums.

20 (3) Each city or town which has a police reserve  
 21 retirement fund shall deposit the payment to the credit of  
 22 its police reserve retirement fund.

23 (4) Payments provided for in 19-10-205 and subsection  
 24 (1) of this section are in addition to those provided for in  
 25 19-10-301."

1 Section 24. Section 19-10-406, MCA, is amended to  
2 read:

3 "19-10-406. Election to qualify previous military  
4 service. (1) A member with 15 years or more of service as a  
5 police officer may, at any time prior to his retirement,  
6 make a written election with the board to qualify all or any  
7 portion of his active service in the armed forces of the  
8 United States for the purpose of calculating retirement  
9 benefits, up to a maximum of 5 years, if he is not otherwise  
10 eligible to receive credit. To qualify this service he must  
11 contribute to the account the actuarial cost of granting the  
12 service to be determined by the board based on his  
13 compensation and normal contribution rate as of his 16th  
14 year and as many succeeding years as are required to qualify  
15 this service, with interest from the date he becomes  
16 eligible for this benefit to the date he contributes. He may  
17 not qualify more of his military service than he has service  
18 as a police officer in excess of 15 years. Military service  
19 purchased under this section may not be used in the  
20 determination of eligibility for a service retirement  
21 requiring a minimum of 20 years service.

22 (2) If a member has retired from active duty in the  
23 armed forces of the United States with normal service  
24 retirement benefits, he may not qualify his military service  
25 under subsection (1). However, a member who is serving or

1 has served in the military reserves with the expectation of  
2 receiving a military service pension may qualify his active  
3 military service under subsection (1) if his active duty in  
4 the armed forces of the United States is not more than 25%  
5 of the total of all his years of military service, including  
6 reserve and active duty time."

7 Section 25. Section 19-10-501, MCA, is amended to  
8 read:

9 "19-10-501. Service retirement allowance. When a  
10 police officer is transferred from the active list to the  
11 retired list of a city, he shall thereafter receive monthly  
12 payments from the city's police reserve ~~retirement~~ fund, as  
13 follows:

14 (1) A police officer who is eligible under  
15 19-10-401(1) or (2) and does not elect to serve any  
16 additional years as an active police officer or who is  
17 placed on the retired list under 19-10-401(3) prior to  
18 reaching 20 years of service shall receive a sum equal to  
19 one-half the base salary, excluding overtime and payments in  
20 lieu of sick leave and annual leave, he was receiving as an  
21 active officer computed on the highest salary received in  
22 any one month during his last year of active service.

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

1 additional 1% of such payment per year of additional  
 2 service, up to a maximum of 60% of the base salary,  
 3 excluding overtime and payment ~~payments~~ in lieu of sick  
 4 leave and annual leave, he was receiving as an active  
 5 officer computed on the highest salary received in any one  
 6 month during his last year of active service.

7 (3) A police officer who is placed on the retired list  
 8 under 19-10-401(3) and who was theretofore eligible at his  
 9 option to be placed on the retired list under 19-10-401(1)  
 10 or (2) but elected to serve additional years shall be paid  
 11 for the additional years over his original eligibility at  
 12 the rate prescribed in subsection ~~(1)~~ (2) of this section."

13 Section 26. Section 19-10-502, MCA, is amended to  
 14 read:

15 "19-10-502. Disability retirement allowance. When a  
 16 police officer is transferred from the active list to the  
 17 retired list of a city, he shall thereafter receive monthly  
 18 payments from the city's police reserve retirement fund, as  
 19 follows:

20 (1) A police officer who is eligible under 19-10-402  
 21 before completing 20 years of service shall receive a sum  
 22 equal to one-half the base salary, excluding overtime and  
 23 payments in lieu of sick leave and annual leave, he was  
 24 receiving as an active officer computed on the highest  
 25 salary received in any one month during his last year of

1 active service.

2 (2) A police officer who is placed on the retired list  
 3 under 19-10-402 and who, at the time of his injury or  
 4 disability, was eligible at his option to be placed on the  
 5 retired list under 19-10-401(1) or (2) but had elected to  
 6 serve additional years and was then serving such additional  
 7 years shall be paid for the additional years over his  
 8 original eligibility at the rate prescribed in  
 9 19-10-501~~(1)~~(2)."

10 Section 27. Section 19-10-503, MCA, is amended to  
 11 read:

12 "19-10-503. Death benefits. (1) Upon the death of a  
 13 police officer on the active list or retired list of a city,  
 14 his surviving spouse, if there be is one, shall, as long as  
 15 such spouse remains the surviving spouse, be paid from the  
 16 city's police reserve retirement fund a sum equal to  
 17 one-half the base salary, excluding overtime and payments in  
 18 lieu of sick leave or and annual leave, he was receiving as  
 19 an active officer computed on the highest salary received in  
 20 any one month during his last year of active service.

21 (2) If the officer leaves one or more dependent minor  
 22 children, ~~then~~ upon his death if he leaves no surviving  
 23 spouse or upon the death or remarriage of the surviving  
 24 spouse, his surviving dependent minor children, collectively  
 25 if there is more than one, shall receive the same monthly

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

9 Section 28. Section 19-10-506, MCA, is amended to  
 10 read:

11 "19-10-506. Supplement to certain pensions. (1) The  
 12 payment for each fiscal year, ~~commencing with the fiscal~~  
 13 ~~year beginning July 1, 1977,~~ to the police officers,  
 14 spouses, or minor children described in subsections (2)(a)  
 15 through (2)(c) may be not less than one-half of the salary  
 16 paid in that fiscal year in the appropriate city or town to  
 17 newly confirmed police officers.

18 (2) On or before April 1 of each year, the board of  
 19 trustees shall make a report to the state auditor including  
 20 the following information:

21 (a) the names of all police officers who are receiving  
 22 payments from the police reserve ~~retirement~~ fund of the city  
 23 or town as of the date of the report and were receiving such  
 24 payments prior to July 1, 1975;

25 (b) the names of all spouses or minor children who are

1 receiving payments from the police reserve ~~retirement~~ fund  
 2 because of the death of a police officer who was receiving  
 3 such payments prior to July 1, 1975;

4 (c) the names of all spouses or minor children who are  
 5 receiving payments from the police reserve ~~retirement~~ fund  
 6 and who were receiving such payments prior to July 1, 1975,  
 7 or in the case of minor children, whose parent, the spouse  
 8 of a police officer, was receiving such payments prior to  
 9 July 1, 1975;

10 (d) for the purpose of determining the base figure for  
 11 the computations set forth in subsection (4), the following  
 12 information relating to the base fiscal year commencing July  
 13 1, 1976:

14 (i) the amount of the payments made in the base fiscal  
 15 year to each police officer described in subsection (2)(a);

16 (ii) the amount of the payments made in the base fiscal  
 17 year to each spouse or minor child (or children) described  
 18 in subsection (2)(b) or (2)(c);

19 (iii) upon the death after April 18, 1977, of any  
 20 police officer on the retired list who was receiving  
 21 payments from the police reserve ~~retirement~~ fund prior to  
 22 July 1, 1975, and who is survived by a spouse or minor  
 23 children entitled to receive payments therefrom, the amount  
 24 which would have been paid to an eligible spouse of such  
 25 police officer had that spouse been receiving payments in

1 the base fiscal year.

2 (3) Each fiscal year ~~commencing with the fiscal year~~  
3 ~~beginning July 1, 1977~~, immediately after the adoption by a  
4 city or town having a police reserve retirement fund of its  
5 budget for that fiscal year, each such city or town shall  
6 report to the state auditor the salary for that fiscal year  
7 of a newly confirmed police officer of that city or town.

8 (4) The state auditor shall, upon receipt of the  
9 reports referred to in subsections (2) and (3), compute the  
10 difference between each amount reported under subsections  
11 (2)(d)(i) through (2)(d)(iii) and one-half the salary for  
12 the current fiscal year of a newly confirmed police officer  
13 of the appropriate city or town. The difference shall be  
14 paid by the state auditor out of the premium tax collected  
15 on insurance, as provided in 19-10-305(2), to the treasurer  
16 of the appropriate city or town at the same time as and in  
17 addition to the payment to be made by the state auditor  
18 under 19-10-305(1).

19 (5) The treasurer of each city or town receiving funds  
20 under subsection (4) shall immediately deposit them to the  
21 credit of the city or town's police reserve retirement fund.  
22 The board of trustees of the fund shall use the funds to  
23 supplement the monthly payments to persons described in  
24 subsections (2)(a) through (2)(c) so that the requirements  
25 of subsection (1) are met.

1 (6) If more than one minor child is entitled to  
2 supplementary payments under this section by virtue of the  
3 death of a common parent police officer, the minimum payment  
4 to such minor children under this section shall be  
5 determined as if there were one such minor child and the  
6 supplementary payment shall be made to the minor children  
7 collectively."

8 Section 29. Section 19-11-603, MCA, is amended to  
9 read:

10 "19-11-603. Partial service pension. (1) A member of a  
11 fire department relief association is eligible to receive a  
12 partial service pension if he:

13 (a) has completed at least 10 years of active duty as  
14 a fully paid member of a fire department but has not both  
15 completed 20 years of service and attained age 50 as an  
16 active firefighter;

17 (b) is permanently separated from service on or after  
18 July 1, 1977;

19 (c) does not qualify for a disability pension under  
20 19-11-604; and

21 (d) does not receive a refund of his contributions  
22 under 19-11-502.

23 (2) The right to receive the pension vests upon the  
24 firefighter's permanent separation from service, but the  
25 payments may not commence until the date he would have both

1 reached his 50th birthday and completed 20 years of service  
2 as a member of a fire department had his active duty not  
3 been terminated.

4 (3) The pension shall be paid out of the disability  
5 and pension fund and shall consist of monthly payments in an  
6 amount equal to the number of years of the firefighter's  
7 service divided by the number of years of service the  
8 firefighter would have had if he had remained in active duty  
9 as a member of a fire department until the date he would  
10 have both attained age 50 and completed 20 years of service,  
11 multiplied by one-half of the sum last received by the  
12 firefighter as a monthly compensation, excluding overtime  
13 and payments in lieu of sick leave and annual leave, for his  
14 services as an active member of the fire department.

15 (4) If the firefighter dies after he is permanently  
16 separated from service and before he both reaches the age of  
17 50 years and completes would have completed 20 years of  
18 service as an active member of a fire department, the  
19 payments prescribed in subsection (3) shall be made to the  
20 surviving spouse commencing on the date the firefighter  
21 would have both reached his 50th birthday and completed 20  
22 years of service as an active member of a fire department  
23 and terminating upon the surviving spouse's death or  
24 remarriage. If there is no surviving spouse or the surviving  
25 spouse dies or remarries and if the firefighter leaves one

1 or more children who have not reached the age of 18 years,  
2 the children shall receive the payments until the youngest  
3 reaches the age of 18 years.

4 (5) If the firefighter dies after he both reaches the  
5 age of 50 years and completes would have completed 20 years  
6 of service as an active member of a fire department, the  
7 payments shall be made to the surviving spouse or children  
8 as provided in subsection (4).

9 (6) The pension escalation provisions of 19-11-602 do  
10 not apply to pensions received under this section."

11 Section 30. Section 19-11-612, MCA, is amended to  
12 read:

13 "19-11-612. Protection of benefits from legal process  
14 -- nonassignability. Any payments made or to be made under  
15 [this chapter] are not subject to judgments, garnishment,  
16 execution, or other legal process. A person entitled to a  
17 pension may not assign the right, and the association and  
18 trustees may not recognize any assignment or pay over any  
19 sum so assigned."

20 Section 31. Section 19-12-104, MCA, is amended to  
21 read:

22 "19-12-104. Penalty for false statements or claims. A  
23 person required to make a statement or affidavit by this  
24 chapter who willfully falsifies such statement or affidavit  
25 and or a person who files a false claim under this chapter



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1 is guilty of a misdemeanor and upon conviction thereof shall  
2 be punished by a fine not exceeding \$500 or imprisonment not  
3 exceeding 6 months, or both."

4 Section 32. Codification. Section 14 of this act is  
5 intended as an addition to Title 19, chapter 9, part 10, and  
6 the code commissioner shall codify it in that part. All  
7 references in MCA to Title 19, chapter 9, part 10, include  
8 section 14.

-End-

HB 169

1 HOUSE BILL NO. 169

2 INTRODUCED BY KVAALEN

3 BY REQUEST OF THE CODE COMMISSIONER

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
6 CLARIFY THE LAWS RELATING TO PUBLIC RETIREMENT SYSTEMS."

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 7-3-1344, MCA, is amended to read:

10 "7-3-1344. Prior rights of law enforcement officers.

11 (1) Any police officer employed by any police department or  
12 departments established as required by law in any city or  
13 town of the county prior to the election and qualification  
14 of a commission under this part and part 12 ~~shall have~~ has  
15 the same job tenure rights as though no such election and  
16 qualification had taken place.

17 (2) Any such police officer who has vested rights in  
18 any a police reserve ~~retirement~~ fund shall maintain prior  
19 vested rights in such ~~the~~ fund upon its transfer to a  
20 consolidated county municipality. Any police reserve  
21 ~~retirement~~ fund established as required by law in any city  
22 or town of the county prior to the election and  
23 qualification of a commission under this part and part 12  
24 shall be continued as such for the police department of the  
25 municipality, subject, however, to the prior vested rights

1 of any police officer employed by any police department or  
2 departments established as required by law in any city or  
3 town of the county prior to the election and qualification  
4 of a commission under this part and part 12. The board of  
5 trustees of such police reserve ~~retirement~~ fund shall  
6 consist of the president, the director of finance, the  
7 director of law, and two members of the police department  
8 from the active list of the police officers of ~~said the~~  
9 municipality who shall be selected by a majority vote of the  
10 members of the police department on the active list of ~~said~~  
11 ~~the~~ municipality. Such ~~the~~ selection shall be made between  
12 May 1 and May 10 in each year, and ~~said the~~ active police  
13 officer members of ~~said the~~ board shall serve overlapping  
14 2-year terms. Except as provided in this section, the police  
15 reserve ~~retirement~~ fund shall be continued and administered  
16 in the manner prescribed by law for such funds established  
17 in cities and towns."

18 Section 2. Section 19-1-104, MCA, is amended to read:

19 "19-1-104. Retirement systems to be considered  
20 separate. (1) Pursuant to section 218(d)(6) of the Social  
21 Security Act, the public employees' retirement system of the  
22 state of Montana is, for the purposes of this chapter,  
23 considered a separate retirement system with respect to the  
24 state and a separate retirement system with respect to each  
25 political subdivision having positions covered thereby.

1 (2) Pursuant to section 218(p)(1) of the Social  
 2 Security Act, the highway patrolmen's retirement system of  
 3 the state of Montana, the public employees' retirement  
 4 system of the state of Montana, and each municipal police  
 5 reserve retirement fund and each unit-of city-participating  
 6 in the statewide municipal police reserve-fund-of-the-state  
 7 of-Montana officers' retirement system are, for the purposes  
 8 of this chapter, considered separate retirement systems with  
 9 respect to the state and separate retirement systems with  
 10 respect to each political subdivision having positions  
 11 covered thereby."

12 Section 3. Section 19-3-104, MCA, is amended to read:  
 13 "19-3-104. Definitions. Unless the context requires  
 14 otherwise, in this chapter the following definitions apply:

15 (1) "Accumulated additional contributions" means the  
 16 sum of all the additional contributions standing to the  
 17 credit of a member's individual account, together with the  
 18 regular interest thereon.

19 (2) "Accumulated contributions" means the sum of  
 20 accumulated normal contributions and accumulated additional  
 21 contributions.

22 (3) "Accumulated normal contributions" means the sum  
 23 of all the normal contributions standing to the credit of a  
 24 member's individual account without interest.

25 (4) "Actuarial equivalent" means a benefit of equal

1 value when computed upon the basis of the actuarial tables  
 2 in use by the system.

3 (5) "Actuary" means the actuary retained by the board  
 4 in accordance with 19-3-305.

5 (6) "Additional contributions" means contributions by  
 6 members under the provisions of 19-3-702.

7 (7) "Annuity" means payments for life derived from  
 8 contributions made by a member as provided in this chapter.

9 (8) "Beneficiary" means the person so designated  
 10 pursuant to part 13 of this chapter.

11 (9) "Benefit" means the retirement allowance,  
 12 survivorship allowance, death benefit, or refund of  
 13 accumulated contributions provided by this chapter.

14 (10) "Board" means the public employees' retirement  
 15 board provided for in 2-15-1009.

16 (11) "Compensation" means remuneration paid out of  
 17 funds controlled by an employer. The compensation of each  
 18 member of the legislature and-the-lieutenant-governor-of-the  
 19 state of Montana for any year shall be deemed considered to  
 20 be that portion of the product of the daily compensation for  
 21 such position multiplied by 360 upon which such member  
 22 elects to pay normal contributions during the year.

23 (12) "Contracting employer" means any political  
 24 subdivision or governmental entity which has contracted to  
 25 come into the system.

1 (13) "Creditable service" means the aggregate of  
 2 membership service and prior service. A member employed on a  
 3 part-time basis shall receive credit for a year of service  
 4 for each fiscal year during which such member was employed  
 5 throughout the year and was engaged in his duties the full  
 6 amount of time he was required by his employment to be so  
 7 engaged.

8 (14) "Disability" and "incapacity for performance of  
 9 duty", referred to herein as a basis of retirement, mean  
 10 disability of permanent duration or disability of extended  
 11 and uncertain duration, as determined by the board on the  
 12 basis of competent medical opinion.

13 (15) "Employee" means any person ~~who is~~ employed by an  
 14 employer in any capacity whatever and whose salary is paid  
 15 either by warrant of the employer or from the fees or income  
 16 of any department or agency of the employer. "Employee"  
 17 means further any person deemed ~~considered~~ such pursuant to  
 18 19-3-402.

19 (16) "Employer" means the state of Montana, its  
 20 university system or any of the colleges, schools,  
 21 components, or units thereof for the purposes of this  
 22 chapter, or any political subdivision or governmental entity  
 23 which has contracted to come into the system.

24 (17) "Employer contributions" means payments to the  
 25 retirement fund from appropriations of the state of Montana

1 pursuant to 19-3-801 and from contracting employers pursuant  
 2 to the contracts between them and the board.

3 (18) "Final compensation" means a member's highest  
 4 average annual compensation during any 3 consecutive years  
 5 of membership service. Lump-sum payments for sick leave and  
 6 annual leave paid to the employee upon termination of  
 7 employment may be used in the calculation of a retirement  
 8 allowance only to the extent that they are used to replace,  
 9 on a month for month basis, the normal compensation for a  
 10 month or months included in the calculation of the final  
 11 salary. A lump-sum payment may not be added to a single  
 12 month's compensation.

13 (19) "Fiscal year" means any year commencing with July  
 14 1 and ending June 30 next following.

15 (20) "Head of department" means the head of any  
 16 department, institution, or branch of the state service  
 17 which directly pays salaries out of its income or which  
 18 prepares, approves, and submits salary statements of its  
 19 employees to the department of administration, state  
 20 auditor, and state treasurer for payment.

21 (21) "Member" means any person included in the  
 22 membership of the retirement system set forth in 19-3-401  
 23 and not excluded in 19-3-402, 19-3-403, or 19-3-406.

24 (22) "Membership service" means service with respect to  
 25 which normal contributions and employer contributions are

1 paid. A member of the legislature ~~and a lieutenant-governor~~  
 2 ~~of the state~~ of Montana shall be credited with membership  
 3 service for that portion of each year for which he pays  
 4 normal contributions pursuant to subsection (11) of this  
 5 section.

6 (23) "Normal contributions" means contributions  
 7 required by ~~from~~ members under this chapter and any optional  
 8 contributions made under the provisions of 19-3-502 and  
 9 19-3-704.

10 (24) "Pension" means payments for life derived from  
 11 contributions made from the state controlled funds or, in  
 12 the case of members from contracting employers, from the  
 13 funds of such contracting employers, as provided in this  
 14 chapter.

15 (25) "Prior service" ~~shall mean~~ ~~reads~~ all service  
 16 rendered as an employee of the state before July 1, 1945,  
 17 and all service rendered as an employee of a contracting  
 18 employer before July 1, 1947. Prior service includes all  
 19 service rendered prior to July 1, 1945, as a member of the  
 20 legislative assembly or lieutenant governor ~~of the state~~ of  
 21 Montana.

22 (26) "Regular interest" means interest at the rate set  
 23 from time to time by the board.

24 (27) "Retirement" means withdrawal from active service  
 25 with a retirement allowance granted under the provisions of

1 this chapter.

2 (28) "Retirement allowance" means the periodic benefit  
 3 payable following service, early, or disability retirement.

4 (29) "Retirement fund" means the public employees'  
 5 retirement account in the agency fund.

6 (30) "Retirement system" means the public employees'  
 7 retirement system created by this chapter.

8 (31) "Service" means employment of an employee, except  
 9 as provided in 19-3-501 and 19-3-502.

10 (32) "Survivorship allowance" means payments for life  
 11 to the beneficiary of a deceased member as provided in part  
 12 12 of this chapter.

13 (33) "Written application" means a written instrument  
 14 duly executed and filed with the board and containing all  
 15 information required by the board, including such proofs of  
 16 age as the board ~~shall deem~~ considers necessary."

17 Section 4. Section 19-3-204, MCA, is amended to read:

18 "19-3-204. Tax levy to meet employer's obligations.

19 (1) If the required contributions to the retirement system  
 20 exceed the funds available to a contracting employer from  
 21 general revenue sources, the contracting employer ~~shall have~~  
 22 ~~authority to~~ ~~may~~ budget, levy, and collect annually a  
 23 special tax upon the assessable property of the contracting  
 24 employer in the number of cents per \$100 of assessable  
 25 property as ~~will be~~ is sufficient to raise the amount

1 estimated by the legislative body to be required to provide  
2 sufficient revenue to meet the obligation of the contracting  
3 employer to the retirement system. The rate of taxation may  
4 be in addition to the annual rate of taxation allowed by law  
5 to be levied by the contracting employer.

6 (2) Any A person who is a member or beneficiary of the  
7 retirement system on account of the participation of the  
8 contracting employer ~~shall~~ has the right to maintain  
9 the appropriate action or proceeding to require performance  
10 ~~of the duty imposed on the legislative body by this section~~  
11 the contracting employer to budget, levy, and collect the  
12 special tax authorized in subsection (1).

13 Section 5. Section 19-4-803, MCA, is amended to read:

14 "19-4-803. Mandatory superannuation retirement. (1)  
15 Any A member in service who has attained the age of 70 years  
16 during any school year ~~shall~~ must be retired on September 1  
17 following his 70th birthday. This provision does not apply  
18 to teachers in the Montana university system, who may be  
19 employed beyond the age of 70 upon the recommendation of the  
20 president of the employing unit to the board of regents.

21 (2) Members ~~A member~~ over 70 years of age may not:

22 (a) be allowed creditable service for services  
23 rendered after the end of the school year in which the age  
24 of 70 was attained;

25 (b) contribute to the retirement system after the end

1 of such school year; and

2 (c) have the compensation received after the end of  
3 such school year used in computing his average final ~~salary~~  
4 compensation.

5 Section 6. Section 19-6-101, MCA, is amended to read:

6 "19-6-101. Definitions. Unless the context requires  
7 otherwise, the following definitions apply in this chapter:

8 (1) "Account" means the Montana highway patrolmen's  
9 retirement account in the agency fund.

10 (2) "Accumulated deductions" means the total of the  
11 amounts deducted from the salary of a contributor ~~member,~~  
12 paid into the fund account, and standing to his credit in  
13 the fund account, together with the regular interest  
14 thereon.

15 (3) "Actuarial equivalent" means a benefit of equal  
16 value when computed on the basis of the actuarial tables in  
17 use by the system.

18 (4) "Beneficiary" means a person nominated to receive  
19 benefits under this chapter by a member's written  
20 designation, duly acknowledged and filed with the  
21 department.

22 (5) "Board" means the public employees' retirement  
23 board provided for in 2-15-1009.

24 (6) "Compulsory retirement age" means 60 years of age.  
25 ~~{7} "Contributor" means a person who has accumulated~~

1 ~~deductions-in-the-fund-standing-to-his-credit~~  
 2       ~~(8)(17)~~ "Department" means the public employees'  
 3 retirement division of the department of administration.  
 4       ~~(9)(18)~~ "Final salary" means the average annual  
 5 compensation received by a contributor ~~member~~, before any  
 6 deductions have been made and exclusive of maintenance,  
 7 allowances, and expenses, for any 3 years of continuous  
 8 service upon which contributions have been made or, in the  
 9 event a member has not served 3 years, the total  
 10 compensation earned divided by the number of years served.  
 11 Lump-sum payments for sick leave and annual leave paid to an  
 12 employee upon termination of employment may be used in the  
 13 calculation of a retirement allowance only to the extent  
 14 that they are used to replace, on a month for month basis,  
 15 the normal compensation for a month or months included in  
 16 the calculation of the final salary. A lump-sum payment may  
 17 not be added to a single month's compensation.  
 18       ~~(10)(19)~~ "Involuntary retirement" means a retirement not  
 19 for cause and before retirement age.  
 20       ~~(10)~~ "Member" means a person who has accumulated  
 21 ~~deductions in the account standing to his credit.~~  
 22       (11) "Member's annuity" means payments for life derived  
 23 from contributions made by the contributor ~~member~~.  
 24       (12) "Optional retirement age" means the age at which a  
 25 contributor ~~member~~ may retire after 20 years' service.

1       (13) "Retired patrolman" means a person in receipt of a  
 2 retirement allowance under this chapter.  
 3       (14) "Retirement age" means the age at which a member  
 4 retires after 25 years of creditable service with the  
 5 Montana highway patrol.  
 6       (15) "Retirement allowance" means the state annuity  
 7 plus the member's annuity.  
 8       (16) "State annuity" means payments for life derived  
 9 from contributions made by the state of Montana."  
 10       Section 7. Standardization of terminology. Whenever  
 11 the word "contributor" appears in Title 19, chapter 6, MCA,  
 12 it shall be changed to "member". Plural and possessive forms  
 13 shall be similarly changed.  
 14       Section 8. Section 19-7-101, MCA, is amended to read:  
 15       "19-7-101. Definitions. Unless the context requires  
 16 otherwise, the following definitions apply in this chapter:  
 17       (1) "Account" means the Montana sheriffs' retirement  
 18 account administered by the sheriffs' retirement board.  
 19       (2) "Accumulated contributions" or "accumulated  
 20 deductions" means the total amount deducted from the salary  
 21 of a member during a period of membership service plus the  
 22 total amount deducted during a period of prior service and  
 23 transferred from the public employees' retirement system  
 24 standing to the member's credit in the account, together  
 25 with the accrued interest.

1 (3) "Actuarial equivalent" means a benefit of equal  
2 value when computed using upon the basis of the mortality  
3 actuarial tables and interest rates adopted by the board  
4 compounded annuity in use by the system.

5 (4) "Beneficiary" means a person who is nominated by  
6 the member in an acknowledged document which is filed with  
7 the board.

8 (5) "Board" means the sheriffs' retirement board. The  
9 board shall consist of five persons who shall be the same  
10 persons that comprise the public employees' retirement  
11 board.

12 (6) "Creditable service" means the aggregate of all of  
13 a member's current and prior service.

14 (7) "Final salary" means the average annual salary  
15 received by a member, before any deductions are made and  
16 exclusive of maintenance, allowances, and expenses, for any  
17 3 years of continuous service from which contributions were  
18 deducted or, in the event that a member has not served 3  
19 years, the total salary earned divided by the number of  
20 years served. Lump-sum payments for sick leave and annual  
21 leave paid to an employee upon termination of employment may  
22 be used in the calculation of a retirement allowance only to  
23 the extent that they are used to replace, on a month for  
24 month basis, the normal compensation for a month or months  
25 included in the calculation of the final salary. A lump-sum

1 payment may not be added to a single month's compensation.

2 (8) "Member" means any person who has accumulated  
3 deductions in the account to his credit.

4 (9) "Member's annuity" means payments for life derived  
5 from contributions made by the contributor member while  
6 employed.

7 (10) "Membership service" means service for which an  
8 amount is deducted from the salary of a member and paid into  
9 the account.

10 (11) "Prior service" means service for which credit was  
11 granted by the public employees' retirement system of the  
12 state of Montana.

13 (12) "Retired sheriff" means a person receiving a  
14 retirement allowance under this chapter.

15 (13) "Retirement allowance" means the state annuity  
16 plus the member's annuity.

17 (14) "Service" means employment as a sheriff.

18 (15) "Sheriff" means any elected or appointed county  
19 sheriff, undersheriff, or regularly appointed and acting  
20 deputy sheriff.

21 (16) "State annuity" means payments for life derived  
22 from county contributions into the sheriffs' retirement  
23 account, together with any supplemental legislative  
24 appropriations to the account.

25 (17) "Vested retirement" means a retirement not for



1 cause and before retirement age."

2 Section 9. Section 19-7-502, MCA, is amended to read:

3 "19-7-502. Early retirement option. If a contributor  
4 member has served 20 years of creditable service as a  
5 sheriff and has reached the age of 55 years, he is granted  
6 the option and privilege of retiring, and in such case his  
7 retirement allowance shall be the actuarial equivalent of  
8 his retirement allowance as otherwise accrued, based upon  
9 payment commencing when he would have completed 25 years of  
10 creditable service had he not retired."

11 Section 10. Section 19-7-503, MCA, is amended to read:

12 "19-7-503. Service retirement allowance. (1) The  
13 amount of any member's service retirement allowance shall be  
14 2% of his final salary for each year of creditable service,  
15 up to a maximum of 50% of final salary.

16 (2) The contributor's member's retirement allowance  
17 shall be increased for any member who contributes after 25  
18 years of service by an annuity calculated as twice the  
19 actuarial equivalent of the portion of the member's  
20 accumulated deductions arising from contributions after the  
21 completion of 25 years of service."

22 Section 11. Section 19-9-102, MCA, is amended to read:

23 "19-9-102. Purpose -- application of prior law. (1) As  
24 cities other than those participating in the statewide  
25 police reserve fund provided for in Chapter 335, Laws of

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

13 (2) The following may not be applied in any way to a  
14 city operating under the plan created by this chapter:  
15 7-32-4107, 7-32-4120, 7-32-4131, and chapter 10 of this  
16 title."

17 Section 12. Section 19-9-1006, MCA, is amended to  
18 read:

19 "19-9-1006. Protection from legal process --  
20 unassignability nonassignability. Except as provided in  
21 this chapter, the benefits payable hereunder are not subject  
22 to the claims of any creditor of a member, beneficiary, or  
23 survivor or to attachment, garnishment, or other legal or  
24 equitable process--No and no member, beneficiary, or  
25 survivor may alienate, anticipate, commute, pledge,

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

2 Section 13. Section 19-9-1007, MCA, is amended to  
3 read:

4 "19-9-1007. Supplement to certain pensions. (1) The  
5 payment for each fiscal year, ~~commencing with the fiscal~~  
6 ~~year beginning July 1, 1977~~ to the police officers,  
7 spouses, or minor children described in subsections (2)(a)  
8 through (2)(c) may be not less than one-half of the salary  
9 paid in that fiscal year in the appropriate city or town to  
10 newly confirmed police officers.

11 (2) On or before April 1 of each year, the department  
12 of administration shall make a report to the state auditor  
13 including the following information:

14 (a) the names of all police officers who are receiving  
15 payments from the ~~police-reserve-fund-of-the-city-or-town~~  
16 ~~plan~~ as of the date of the report and were receiving such  
17 payments ~~prior to from a prior plan before~~ July 1, 1975;

18 (b) the names of all spouses or minor children who are  
19 receiving payments from the ~~police-reserve-fund plan~~ because  
20 of the death of a police officer who was receiving such  
21 payments ~~prior to from a prior plan before~~ July 1, 1975;

22 (c) the names of all spouses or minor children who are  
23 receiving payments from the ~~police-reserve-fund plan~~ and who  
24 were receiving such payments ~~prior to from a prior plan~~  
25 ~~before~~ July 1, 1975, or in the case of minor children, whose

1 parent, the spouse of a police officer, was receiving such  
2 payments prior to July 1, 1975;

3 (d) for the purpose of determining the base figure for  
4 the computations set forth in subsection (4), the following  
5 information relating to the base fiscal year commencing July  
6 1, 1976:

7 (i) the amount of the payments made in the base fiscal  
8 year to each police officer described in subsection (2)(a);

9 (ii) the amount of the payments made in the base fiscal  
10 year to each spouse or minor child (or children) described  
11 in subsection (2)(b) or (2)(c);

12 (iii) upon the death after April 18, 1977, of any  
13 police officer on the retired list who was receiving  
14 payments from the ~~police-reserve-fund-prior to a prior plan~~  
15 ~~before~~ July 1, 1975, and who is survived by a spouse or  
16 minor children entitled to receive payments ~~therefrom from~~  
17 ~~the plan~~, the amount which would have been paid to an  
18 eligible spouse of such police officer had that spouse been  
19 receiving payments in the base fiscal year.

20 (3) Each fiscal year, ~~commencing with the fiscal year~~  
21 ~~beginning July 1, 1977~~, immediately after the adoption by a  
22 city or town having a ~~police-reserve-fund~~ participating in  
23 ~~the plan~~ of its budget for that fiscal year, each such city  
24 or town shall report to the state auditor the salary for  
25 that fiscal year of a newly confirmed police officer of that

1 city or town.

2 (4) The state auditor shall, upon receipt of the  
 3 reports referred to in subsections (2) and (3), compute the  
 4 difference between each amount reported under subsections  
 5 (2)(d)(i) through (2)(d)(iii) and one-half the salary for  
 6 the current fiscal year of a newly confirmed police officer  
 7 of the appropriate city or town. The difference shall be  
 8 paid by the state auditor out of the premium tax collected  
 9 on insurance ~~as provided in 19-10-305(2), sold in this~~  
 10 ~~state to insure against the risks enumerated in 19-11-512(5)~~  
 11 ~~to the treasurer of the appropriate city or town~~  
 12 ~~administrator~~ at the same time as and in addition to the  
 13 payment to be made by the state auditor under 19-9-702.

14 (5) ~~The treasurer of each city or town receiving funds~~  
 15 ~~under subsection (4) shall immediately deposit them with the~~  
 16 ~~department of administration. The department administrator~~  
 17 shall use the funds received under subsection (4) to  
 18 supplement the monthly payments to persons described in  
 19 subsections (2)(a) through (2)(c) so that the requirements  
 20 of subsection (1) are met.

21 (6) If more than one minor child is entitled to  
 22 supplementary payments under this section by virtue of the  
 23 death of a common parent police officer, the minimum payment  
 24 to such minor children under this section shall be  
 25 determined as if there were one such minor child and the

1 supplementary payment shall be made to the minor children  
 2 collectively."

3 NEW SECTION. Section 14. Withholding of group  
 4 insurance premium from retirement benefit. A retiree who is  
 5 a participant in an employee group insurance plan which  
 6 permits participation in the group plan following retirement  
 7 may elect to have the monthly premium for such group  
 8 insurance withheld by the department of administration and  
 9 paid directly by the department to the insurance carrier.  
 10 In order to qualify for this withholding, a retiree must be  
 11 a participant in a group insurance plan available to the  
 12 employees of his former employer. No withholding may be  
 13 made for any retiree covered by an individual insurance  
 14 policy.

15 Section 15. Section 19-10-201, MCA, is amended to  
 16 read:

17 "19-10-201. Local boards of trustees of funds. (1)  
 18 Each city or town which has a police reserve retirement fund  
 19 must have a board of trustees of such fund, except as  
 20 provided in subsection (4).

21 (2) A board of trustees existing under subsection (1)  
 22 must consist of the mayor, clerk, and attorney of the city  
 23 or town and two members from the active list of police  
 24 officers of the city or town.

25 (3) The two trustees who are also police officers

1 shall serve terms of 2 years. They shall be selected by a  
 2 majority vote of the members of the police department on the  
 3 active list of the city or town. One shall be selected each  
 4 year between May 1 and May 10, so that their terms are  
 5 staggered. Immediately after the selection has been made, a  
 6 certificate of election shall ~~shall~~ **must** be certified to the city  
 7 clerk by the chairman and secretary of the meeting at which  
 8 the selection was made.

9 (4) The board of trustees of the police ~~reserve~~  
 10 ~~retirement~~ fund of a city which elects to participate in the  
 11 municipal police officers' retirement system under 19-9-107  
 12 is abolished as of the time that the transfer of the cash  
 13 and securities and the certification required by that  
 14 section is completed. The functions of the board are  
 15 transferred as of the date of the election to the department  
 16 of administration and the board, as provided in the  
 17 Municipal Police Officers' Retirement Act."

18 Section 16. Section 19-10-202, MCA, is amended to  
 19 read:

20 "19-10-202. Limit on use of fund. A police reserve  
 21 ~~retirement~~ fund may not be used for any purpose other than  
 22 to make payments authorized by this chapter to members of  
 23 the police department on the retired list and to make  
 24 authorized investments."

25 Section 17. Section 19-10-203, MCA, is amended to

1 read:

2 "19-10-203. Investment of fund. (1) All ~~moneys~~ ~~money~~  
 3 in said ~~the~~ fund in excess of such an amount as shall--be  
 4 deemed ~~is~~ ~~considered~~ necessary from time to time to meet  
 5 current payments to reserve ~~retired~~ police officers shall be  
 6 invested as hereinafter provided. All interest on ~~any--and~~  
 7 ~~all--moneys~~ ~~money~~ belonging to said ~~the~~ fund from whatever  
 8 ~~any~~ source derived ~~shall--belong~~ ~~belongs~~ to and ~~must~~ be paid  
 9 into said ~~the~~ fund.

10 (2) Whenever the ~~moneys~~ ~~money~~ in the police reserve  
 11 ~~retirement~~ fund exceed ~~exceeds~~ the greater of the following  
 12 amounts, the city treasurer shall remit the excess to the  
 13 state treasurer, who shall invest the remittances under the  
 14 direction of the board of investments as provided in  
 15 17-6-204:

16 (a) 1 1/2 times the monthly benefit paid in the  
 17 preceding month; or

18 (b) \$5,000.

19 ~~{3}--After--January--1v--1975v--all--investments--of--the~~  
 20 ~~police--reserve--fund--shall--be--transferred--as--directed--by--the~~  
 21 ~~board--of--investments. The board of investments may defer o~~  
 22 ~~transfer to a date later than January 1v 1975v but not later~~  
 23 ~~than the maturity date of the investments. The board of~~  
 24 ~~investments may make rules to implement this section.~~

25 {4}13 The funds deposited in the police reserve

1 retirement fund of a city or town after July 1, 1977, are  
 2 limited to the investments in 17-6-211, except that the  
 3 funds may not be invested in common stocks. However, these  
 4 funds may be invested under the provisions of 17-6-204."

5 Section 18. Section 19-10-204, MCA, is amended to  
 6 read:

7 "19-10-204. Trustees' report to state auditor. The  
 8 board of trustees of each police reserve retirement fund  
 9 shall on or before April 1 of each year report to the state  
 10 auditor as to the financial condition of its fund."

11 Section 19. Section 19-10-205, MCA, is amended to  
 12 read:

13 "19-10-205. Actuarial valuation of police reserve  
 14 funds retirement\_\_fund. (1) The city treasurer shall submit  
 15 to the department of community affairs before October 1 of  
 16 each odd-numbered year all information requested by the  
 17 department necessary to complete an actuarial valuation of  
 18 the city's police reserve retirement fund. The valuation  
 19 shall consider the actuarial soundness of the police reserve  
 20 retirement fund for the 2 preceding fiscal years.

21 (2) The valuation is to be prepared by a qualified  
 22 actuary selected by the department. A qualified actuary is a  
 23 member of the American academy of actuaries or of any  
 24 organization considered by the department to have similar  
 25 standards.

1 (3) In each fiscal year in which an actuarial  
 2 valuation is prepared, the department shall submit to the  
 3 state auditor a request for payment of the expense incurred  
 4 in securing the actuarial valuation. The expense may not  
 5 exceed \$6,000 in any fiscal year. The state auditor shall  
 6 make payment to the actuary designated in the request."

7 Section 20. Section 19-10-301, MCA, is amended to  
 8 read:

9 "19-10-301. City's contribution to fund. Each city,  
 10 other than one of the first or second class, which has a  
 11 police reserve retirement fund and which did not elect to  
 12 join the statewide police reserve fund provided for in  
 13 Chapter 335, Laws of 1974, and which has not elected to  
 14 participate in the plan under 19-9-107 shall deposit in its  
 15 fund monthly an amount equal to 11% of the total salaries  
 16 for the preceding month paid to active police officers of  
 17 such city, exclusive of overtime and payments in lieu of  
 18 sick leave and annual leave. If the demand against a city  
 19 for deposits in its fund is such that it cannot be met  
 20 within the general taxing authority of the city, an  
 21 additional levy not to exceed 3 mills may be made until the  
 22 general taxing authority is sufficient to meet the demand."

23 Section 21. Section 19-10-302, MCA, is amended to  
 24 read:

25 "19-10-302. Officer's contribution deducted from

1 salary. The treasurer of an incorporated city which has a  
 2 police reserve ~~retirement~~ fund shall retain from the monthly  
 3 salary of each police officer on the active list a sum equal  
 4 to 6% of his monthly compensation for his services as a  
 5 police officer, exclusive of overtime and payments made in  
 6 lieu of sick leave and annual leave. The monthly deduction  
 7 from the salaries of police officers ~~shall~~ **must** be paid into  
 8 the city's police reserve ~~retirement~~ fund for the purpose of  
 9 paying the salaries of police officers on the retired list."

10 Section 22. Section 19-10-304, MCA, is amended to  
 11 read:

12 "19-10-304. Gifts and ~~moneys money~~ to be applied to  
 13 fund. The following shall be placed in the police reserve  
 14 ~~retirement~~ fund and transmitted promptly to the board of  
 15 trustees:

16 (1) all ~~moneys money~~ withheld from salaries of police  
 17 officers for the violation of rules of ~~such the~~ police  
 18 ~~departments department~~;

19 (2) all bequests, gifts, or emoluments paid or given  
 20 on account of any extraordinary service of any ~~a~~ member of  
 21 ~~such the~~ police department, except when specifically allowed  
 22 to be retained by ~~such the~~ officer by the mayor,  
 23 commissioners, and chief of police; and

24 (3) all ~~moneys money~~ derived from the provisions of  
 25 this chapter."

1 Section 23. Section 19-10-305, MCA, is amended to  
 2 read:

3 "19-10-305. Annual state payments to municipality with  
 4 police department. (1) At the end of each fiscal year, the  
 5 state auditor shall issue and deliver to the treasurer of  
 6 each city and town in Montana which has a police department  
 7 and which is not a participant in the municipal police  
 8 officers' retirement system his warrant for an amount  
 9 computed in the same manner as the amount paid (or that  
 10 would be paid if an existing relief association met the  
 11 legal requirements for payment) to cities and towns for fire  
 12 department relief associations pursuant to 19-11-512.

13 (2) The payments provided for by 19-10-205 and  
 14 subsection (1) of this section shall be paid from the  
 15 premium tax collected on insurance sold in this state to  
 16 insure against the risks enumerated in 19-11-512. Such  
 17 payments ~~will~~ **may** only be made after deductions have been  
 18 made from the gross premium tax for cancellations and  
 19 returned premiums.

20 (3) Each city or town which has a police reserve  
 21 ~~retirement~~ fund shall deposit the payment to the credit of  
 22 its police reserve ~~retirement~~ fund.

23 (4) Payments provided for in 19-10-205 and subsection  
 24 (1) of this section are in addition to those provided for in  
 25 19-10-301."

1 Section 24. Section 19-10-406, MCA, is amended to  
2 read:

3 "19-10-406. Election to qualify previous military  
4 service. (1) A member with 15 years or more of service ~~as a~~  
5 ~~police officer~~ may, at any time prior to his retirement,  
6 make a written election with the board to qualify all or any  
7 portion of his active service in the armed forces of the  
8 United States for the purpose of calculating retirement  
9 benefits, up to a maximum of 5 years, if he is not otherwise  
10 eligible to receive credit. To qualify this service he must  
11 contribute to the account the actuarial cost of granting the  
12 service to be determined by the board based on his  
13 compensation and normal contribution rate as of his 16th  
14 year and as many succeeding years as are required to qualify  
15 this service, with interest from the date he becomes  
16 eligible for this benefit to the date he contributes. He may  
17 not qualify more of his military service than he has service  
18 ~~as a police officer~~ in excess of 15 years. Military service  
19 purchased under this section may not be used in the  
20 determination of eligibility for a service retirement  
21 requiring a minimum of 20 years service.

22 (2) If a member has retired from active duty in the  
23 armed forces of the United States with normal service  
24 retirement benefits, he may not qualify his military service  
25 under subsection (1). However, a member who is serving or

1 has served in the military reserves with the expectation of  
2 receiving a military service pension may qualify his active  
3 military service under subsection (1) if his active duty in  
4 the armed forces of the United States is not more than 25%  
5 of the total of all his years of military service, including  
6 reserve and active duty time."

7 Section 25. Section 19-10-501, MCA, is amended to  
8 read:

9 "19-10-501. Service retirement allowance. When a  
10 police officer is transferred from the active list to the  
11 retired list of a city, he shall thereafter receive monthly  
12 payments from the city's police reserve ~~retirement~~ fund, as  
13 follows:

14 (1) A police officer who is eligible under  
15 19-10-401(1) or (2) and does not elect to serve any  
16 additional years as an active police officer or who is  
17 placed on the retired list under 19-10-401(3) prior to  
18 reaching 20 years of service shall receive a sum equal to  
19 one-half the base salary, excluding overtime and payments in  
20 lieu of sick leave and annual leave, he was receiving as an  
21 active officer computed on the highest salary received in  
22 any one month during his last year of active service.

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

1 additional 1% of such payment per year of additional  
 2 service, up to a maximum of 60% of the base salary,  
 3 excluding overtime and payment payments in lieu of sick  
 4 leave and annual leave, he was receiving as an active  
 5 officer computed on the highest salary received in any one  
 6 month during his last year of active service.

7 (3) A police officer who is placed on the retired list  
 8 under 19-10-401(3) and who was theretofore eligible at his  
 9 option to be placed on the retired list under 19-10-401(1)  
 10 or (2) but elected to serve additional years shall be paid  
 11 for the additional years over his original eligibility at  
 12 the rate prescribed in subsection ~~††~~ 121 of this section."

13 Section 26. Section 19-10-502, MCA, is amended to  
 14 read:

15 "19-10-502. Disability retirement allowance. When a  
 16 police officer is transferred from the active list to the  
 17 retired list of a city, he shall thereafter receive monthly  
 18 payments from the city's police reserve retirement fund, as  
 19 follows:

20 (1) A police officer who is eligible under 19-10-402  
 21 before completing 20 years of service shall receive a sum  
 22 equal to one-half the base salary, excluding overtime and  
 23 payments in lieu of sick leave and annual leave, he was  
 24 receiving as an active officer computed on the highest  
 25 salary received in any one month during his last year of

1 active service.

2 (2) A police officer who is placed on the retired list  
 3 under 19-10-402 and who, at the time of his injury or  
 4 disability, was eligible at his option to be placed on the  
 5 retired list under 19-10-401(1) or (2) but had elected to  
 6 serve additional years and was then serving such additional  
 7 years shall be paid for the additional years over his  
 8 original eligibility at the rate prescribed in  
 9 19-10-501~~††~~(2)."

10 Section 27. Section 19-10-503, MCA, is amended to  
 11 read:

12 "19-10-503. Death benefits. (1) Upon the death of a  
 13 police officer on the active list or retired list of a city,  
 14 his surviving spouse, if there be is one, shall, as long as  
 15 such spouse remains the surviving spouse, be paid from the  
 16 city's police reserve retirement fund a sum equal to  
 17 one-half the base salary, excluding overtime and payments in  
 18 lieu of sick leave or ~~and~~ annual leave, he was receiving as  
 19 an active officer computed on the highest salary received in  
 20 any one month during his last year of active service.

21 (2) If the officer leaves one or more dependent minor  
 22 children, ~~then~~ upon his death if he leaves no surviving  
 23 spouse or upon the death or remarriage of the surviving  
 24 spouse, his surviving dependent minor children, collectively  
 25 if there is more than one, shall receive the same monthly



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

9 Section 28. Section 19-10-506, MCA, is amended to  
 10 read:

11 "19-10-506. Supplement to certain pensions. (1) The  
 12 payment for each fiscal year ~~commencing with the fiscal~~  
 13 ~~year--beginning--July--1--1977~~ to the police officers,  
 14 spouses, or minor children described in subsections (2)(a)  
 15 through (2)(c) may be not less than one-half of the salary  
 16 paid in that fiscal year in the appropriate city or town to  
 17 newly confirmed police officers.

18 (2) On or before April 1 of each year, the board of  
 19 trustees shall make a report to the state auditor including  
 20 the following information:

21 (a) the names of all police officers who are receiving  
 22 payments from the police reserve retirement fund of the city  
 23 or town as of the date of the report and were receiving such  
 24 payments prior to July 1, 1975;

25 (b) the names of all spouses or minor children who are

1 receiving payments from the police reserve retirement fund  
 2 because of the death of a police officer who was receiving  
 3 such payments prior to July 1, 1975;

4 (c) the names of all spouses or minor children who are  
 5 receiving payments from the police reserve retirement fund  
 6 and who were receiving such payments prior to July 1, 1975,  
 7 or in the case of minor children, whose parent, the spouse  
 8 of a police officer, was receiving such payments prior to  
 9 July 1, 1975;

10 (d) for the purpose of determining the base figure for  
 11 the computations set forth in subsection (4), the following  
 12 information relating to the base fiscal year commencing July  
 13 1, 1976:

14 (i) the amount of the payments made in the base fiscal  
 15 year to each police officer described in subsection (2)(a);

16 (ii) the amount of the payments made in the base fiscal  
 17 year to each spouse or minor child (or children) described  
 18 in subsection (2)(b) or (2)(c);

19 (iii) upon the death after April 18, 1977, of any  
 20 police officer on the retired list who was receiving  
 21 payments from the police reserve retirement fund prior to  
 22 July 1, 1975, and who is survived by a spouse or minor  
 23 children entitled to receive payments therefrom, the amount  
 24 which would have been paid to an eligible spouse of such  
 25 police officer had that spouse been receiving payments in

1 the base fiscal year.

2 (3) Each fiscal year ~~commencing with the fiscal year~~  
 3 ~~beginning July 1, 1977~~, immediately after the adoption by a  
 4 city or town having a police reserve ~~retirement~~ fund of its  
 5 budget for that fiscal year, each such city or town shall  
 6 report to the state auditor the salary for that fiscal year  
 7 of a newly confirmed police officer of that city or town.

8 (4) The state auditor shall, upon receipt of the  
 9 reports referred to in subsections (2) and (3), compute the  
 10 difference between each amount reported under subsections  
 11 (2)(d)(i) through (2)(d)(iii) and one-half the salary for  
 12 the current fiscal year of a newly confirmed police officer  
 13 of the appropriate city or town. The difference shall be  
 14 paid by the state auditor out of the premium tax collected  
 15 on insurance, as provided in 19-10-305(2), to the treasurer  
 16 of the appropriate city or town at the same time as and in  
 17 addition to the payment to be made by the state auditor  
 18 under 19-10-305(1).

19 (5) The treasurer of each city or town receiving funds  
 20 under subsection (4) shall immediately deposit them to the  
 21 credit of the city or town's police reserve ~~retirement~~ fund.  
 22 The board of trustees of the fund shall use the funds to  
 23 supplement the monthly payments to persons described in  
 24 subsections (2)(a) through (2)(c) so that the requirements  
 25 of subsection (1) are met.

1 (6) If more than one minor child is entitled to  
 2 supplementary payments under this section by virtue of the  
 3 death of a common parent police officer, the minimum payment  
 4 to such minor children under this section shall be  
 5 determined as if there were one such minor child and the  
 6 supplementary payment shall be made to the minor children  
 7 collectively."

8 Section 29. Section 19-11-603, MCA, is amended to  
 9 read:

10 "19-11-603. Partial service pension. (1) A member of a  
 11 fire department relief association is eligible to receive a  
 12 partial service pension if he:

13 (a) has completed at least 10 years of active duty as  
 14 a fully paid member of a fire department but has not both  
 15 completed 20 years of service and attained age 50 as an  
 16 active firefighter;

17 (b) is permanently separated from service on or after  
 18 July 1, 1977;

19 (c) does not qualify for a disability pension under  
 20 19-11-604; and

21 (d) does not receive a refund of his contributions  
 22 under 19-11-502.

23 (2) The right to receive the pension vests upon the  
 24 firefighter's permanent separation from service, but the  
 25 payments may not commence until the date he would have both

1 reached his 50th birthday and completed 20 years of service  
2 as a member of a fire department had his active duty not  
3 been terminated.

4 (3) The pension shall be paid out of the disability  
5 and pension fund and shall consist of monthly payments in an  
6 amount equal to the number of years of the firefighter's  
7 service divided by the number of years of service the  
8 firefighter would have had if he had remained in active duty  
9 as a member of a fire department until the date he would  
10 have both attained age 50 and completed 20 years of service,  
11 multiplied by one-half of the sum last received by the  
12 firefighter as a monthly compensation, excluding overtime  
13 and payments in lieu of sick leave and annual leave, for his  
14 services as an active member of the fire department.

15 (4) If the firefighter dies after he is permanently  
16 separated from service and before he both reaches the age of  
17 50 years and completes would have completed 20 years of  
18 service as an active member of a fire department, the  
19 payments prescribed in subsection (3) shall be made to the  
20 surviving spouse commencing on the date the firefighter  
21 would have both reached his 50th birthday and completed 20  
22 years of service as an active member of a fire department  
23 and terminating upon the surviving spouse's death or  
24 remarriage. If there is no surviving spouse or the surviving  
25 spouse dies or remarries and if the firefighter leaves one

1 or more children who have not reached the age of 18 years,  
2 the children shall receive the payments until the youngest  
3 reaches the age of 18 years.

4 (5) If the firefighter dies after he both reaches the  
5 age of 50 years and completes would have completed 20 years  
6 of service as an active member of a fire department, the  
7 payments shall be made to the surviving spouse or children  
8 as provided in subsection (4).

9 (6) The pension escalation provisions of 19-11-602 do  
10 not apply to pensions received under this section."

11 Section 30. Section 19-11-612, MCA, is amended to  
12 read:

13 "19-11-612. Protection of benefits from legal process  
14 -- nonassignability. Any payments made or to be made under  
15 [this chapter] are not subject to judgments, garnishment,  
16 execution, or other legal process. A person entitled to a  
17 pension may not assign the right, and the association and  
18 trustees may not recognize any assignment or pay over any  
19 sum so assigned."

20 Section 31. Section 19-12-104, MCA, is amended to  
21 read:

22 "19-12-104. Penalty for false statements or claims. A  
23 person required to make a statement or affidavit by this  
24 chapter who willfully falsifies such statement or affidavit  
25 and or a person who files a false claim under this chapter

1 is guilty of a misdemeanor and upon conviction thereof shall  
2 be punished by a fine not exceeding \$500 or imprisonment not  
3 exceeding 6 months, or both."

4 Section 32. Codification. Section 14 of this act is  
5 intended as an addition to Title 19, chapter 9, part 10, and  
6 the code commissioner shall codify it in that part. All  
7 references in MCA to Title 19, chapter 9, part 10, include  
8 section 14.

-End-