

HOUSE BILL NO. 197

INTRODUCED BY DONALDSON

BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

IN THE HOUSE

January 14, 1981	Introduced and referred to Committee on State Administration.
January 26, 1981	Committee recommend bill do pass. Report adopted.
January 27, 1981	Bill printed and placed on members' desks.
January 28, 1981	Second reading, do pass.
January 29, 1981	Considered correctly engrossed.
January 30, 1981	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 31, 1981	Introduced and referred to Committee on State Administration.
March 21, 1981	Committee recommend bill be concurred in as amended. Report adopted.
March 24, 1981	Notion pass consideration.
March 25, 1981	Second reading, concurred in.
March 27, 1981	Third reading, concurred in as amended. Ayes, 48; Noes, 0.

IN THE HOUSE

March 28, 1981	Returned from Senate with amendments.
March 30, 1981	Second reading, amendments concurred in. On motion rules suspended and bill placed on third reading this day.
March 31, 1981	Third reading, amendments concurred in. Ayes, 94; Noes, 2. Sent to enrolling.
April 1, 1981	Correctly enrolled. Signed by Speaker. Signed by President. Delivered to Governor.
April 7, 1981	Returned from Governor with recommended amendments.
April 9, 1981	Second reading, Governor's amendments concurred in. On motion rules suspended and bill placed on third reading this day. Third reading, Governor's amendments concurred in. Ayes, 92; Noes, 0. Transmitted to Senate.

IN THE SENATE

April 10, 1981	Bill received from House.
April 11, 1981	Passed consideration.

April 13, 1981

Second reading, Governor's amendments concurred in.

April 14, 1981

Third reading, Governor's amendments concurred in.
Ayes, 47; Noes, 0.

IN THE HOUSE

April 15, 1981

Returned from Senate. Concurred in. Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 197
 2 INTRODUCED BY Donaldson
 3 BY REQUEST OF THE PUBLIC EMPLOYERS' RETIREMENT BOARD

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY CLARIFY
 6 AND REVISE THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ACT
 7 REGARDING MEMBERSHIP, CONTRIBUTIONS, AND BENEFITS; AMENDING
 8 SECTIONS 19-3-104, 19-3-201, 19-3-605, 19-3-703, 19-3-805,
 9 19-3-906, 19-3-1103, 19-3-1106, 19-3-1301, AND 19-3-1304,
 10 MCA; REPEALING SECTION 19-3-1303, MCA."

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

13 Section 1. Section 19-3-104, MCA, is amended to read:
 14 "19-3-104. Definitions. Unless the context requires
 15 otherwise, in this chapter the following definitions apply:

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

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

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

1 ~~(4) (2)~~ "Actuarial equivalent" means a benefit of equal
 2 value when computed upon the basis of the actuarial tables
 3 in use by the system.

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

6 ~~(6) (4)~~ "Additional contributions" means contributions
 7 by members under the provisions of 19-3-702.

8 ~~(7) (5)~~ "Annuity" means payments for life derived from
 9 contributions made by a member as provided in this chapter.

10 ~~(8) (6)~~ "Beneficiary" means the person so designated
 11 pursuant to part 13 of this chapter.

12 ~~(9) (7)~~ "Benefit" means the retirement allowance,
 13 survivorship allowance, death benefit, or refund of
 14 accumulated contributions provided by this chapter.

15 ~~(10) (8)~~ "Board" means the public employees' retirement
 16 board provided for in 2-15-1009.

17 ~~(11) (9)~~ "Compensation" means remuneration paid out of
 18 funds controlled by an employer. The compensation of each
 19 member of the legislature of Montana for any year shall be
 20 considered to be that portion of the product of the daily
 21 compensation for such position multiplied by 360 upon which
 22 such member elects to pay normal contributions during the
 23 year.

24 ~~(12) (10)~~ "Contracting employer" means any political
 25 subdivision or governmental entity which has contracted to

1 come into the system.

2 ~~(13)(11)~~ "Creditable service" means the aggregate of
3 membership service and prior service. ~~A member employed on a~~
4 ~~part-time basis shall receive credit for a year of service~~
5 ~~for each fiscal year during which such member was employed~~
6 ~~throughout the year and was engaged in his duties the full~~
7 ~~amount of time he was required by his employment to be so~~
8 ~~engaged.~~

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

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

20 ~~(16)(14)~~ "Employer" means the state of Montana, its
21 university system or any of the colleges, schools,
22 components, or units thereof for the purposes of this
23 chapter, or any political subdivision or governmental entity
24 which has contracted to come into the system.

25 ~~(17)(15)~~ "Employer contributions" means payments to the

1 retirement fund from appropriations of the state of Montana
2 pursuant to 19-3-401 and from contracting employers pursuant
3 to the contracts between them and the board.

4 ~~(18)(16)~~ "Final compensation" means a member's highest
5 average annual compensation during any 3 consecutive years
6 of membership service. Lump-sum payments for sick leave and
7 annual leave paid to the employee upon termination of
8 employment may be used in the calculation of a retirement
9 allowance only to the extent that they are used to replace,
10 on a month for month basis, the normal compensation for a
11 month or months included in the calculation of the final
12 salary. A lump-sum payment may not be added to a single
13 month's compensation.

14 ~~(19)(17)~~ "Fiscal year" means any year commencing with
15 July 1 and ending June 30 next following.

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

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

25 ~~(22)(20)~~ "Membership service" means service with

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

6 ~~(23)~~(21) "Normal contributions" means contributions
7 required 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)~~(22) "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)~~(23) "Prior service" means all service rendered as
16 an employee of the state before July 1, 1945, and all
17 service rendered as an employee of a contracting employer
18 before July 1, 1947. Prior service includes all service
19 rendered prior to July 1, 1945, as a member of the
20 legislative assembly or lieutenant governor of Montana.

21 ~~(26)~~(24) "Regular interest" means interest at the rate
22 set from time to time by the board.

23 ~~(27)~~(25) "Retirement" means withdrawal from active
24 service with a retirement allowance granted under the
25 provisions of this chapter.

1 ~~(28)~~(26) "Retirement allowance" means the periodic
2 benefit payable following service, early, or disability
3 retirement.

4 ~~(29)~~(27) "Retirement fund" means the public employees'
5 retirement account in the agency fund.

6 ~~(30)~~(28) "Retirement system" means the public
7 employees' retirement system created by this chapter.

8 ~~(31)~~(29) "Service" means employment of an employee,
9 except as provided in 19-3-501 and 19-3-502.

10 ~~(32)~~(30) "Survivorship allowance" means payments for
11 life to the beneficiary of a deceased member as provided in
12 part 12 of this chapter.

13 ~~(33)~~(31) "Written application" means a written
14 instrument duly executed and filed with the board and
15 containing all information required by the board, including
16 such proofs of age as the board considers necessary."

17 Section 2. Section 19-3-201, MCA, is amended to read:
18 "19-3-201. Contracts with political subdivisions. (1)
19 Any municipal corporation, county, or public agency in the
20 state may become a contracting employer and make all or
21 specified groups of its employees members of the retirement
22 system by a contract entered into between the board and the
23 legislative body of said contracting employer, subject to
24 the provisions of this chapter. The contract may include any
25 provisions which are consistent with this chapter and

1 necessary in the administration of the retirement system as
2 it affects the contracting employer and its employees.

3 (2) The approval ~~and-termination~~ of the contract shall
4 be subject to the following provisions, in addition to the
5 other provisions of this chapter:

6 (a) The legislative body of the contracting employer
7 shall adopt a resolution giving notice of intention to
8 approve the contract and containing a summary of the major
9 provisions of the retirement system. The contract shall not
10 be approved unless the employees proposed to be included in
11 the retirement system adopt the proposal by a majority
12 affirmative vote in a secret ballot. The ballot at such
13 election shall include the summary of the retirement system
14 as set forth in the resolution. The election shall be
15 conducted as prescribed by the legislative body of the
16 contracting employer. Approval of the contract shall be by
17 ordinance adopted by the affirmative vote of two-thirds of
18 the members of the legislative body, not less than 20 days
19 after the adoption of the resolution or by an ordinance
20 adopted by a majority vote of the electorate of the
21 contracting employer voting thereon.

22 (b) The contract shall specify that all employees of
23 the contracting employer or such groups of employees as
24 agreed to between the board and the contracting employer
25 shall become members. The groups of employees to be included

1 shall be by departments, duties, age, or other similar
2 classifications and not by individual employees. The board
3 shall have the right to disapprove any classification into
4 groups if, in its opinion, said classification affects
5 adversely the interest of the retirement system. Membership
6 in the retirement system shall be compulsory for all
7 employees included under the contract.

8 (c) The contract may be amended in the manner
9 prescribed in this section for the original approval of
10 contracts. Groups of excluded employees may be subsequently
11 included by amendment.

12 ~~(3) The termination of the contract shall be subject~~
13 ~~to the following provisions, in addition to the other~~
14 ~~provisions of this chapter:~~

15 ~~(a) The legislative body of a contracting employer~~
16 ~~shall adopt a resolution giving notice to its employees that~~
17 ~~it intends to terminate retirement coverage.~~

18 ~~(b) All employees covered under the retirement system~~
19 ~~shall receive notice of the termination resolution and be~~
20 ~~permitted to vote for or against the resolution by secret~~
21 ~~ballot.~~

22 ~~(c) If a majority of covered employees votes for~~
23 ~~termination, the legislative body, not less than 20 days~~
24 ~~after the approval of the resolution by the employees, may~~
25 ~~adopt by a 2/3 majority a resolution terminating P.F.R.S.~~

1 coverage effective the last day of that month and forward
 2 the resolution and a certified copy of the election results
 3 to the board.

4 (d) Upon receipt of the termination resolution, the
 5 board may request an actuarial valuation of the liabilities
 6 of the terminating agency to the retirement system, and the
 7 board may withhold approval of the termination of contract
 8 until satisfactory arrangements are made to provide funding
 9 for any excess accrued liabilities not previously funded by
 10 the terminating agency."

11 Section 3. Section 19-3-605, MCA, is amended to read:

12 "19-3-605. Transfer between funds. Any fund out of
 13 which payments are made under the provisions of this chapter
 14 may be reimbursed to the extent of such payments by transfer
 15 of a sufficient sum for the reimbursement from another fund
 16 or funds under the control of the same disbursing officer.
 17 The disbursing officer shall certify to the ~~state auditor~~
 18 department of administration the amounts to be thus
 19 transferred and the funds from and to which the transfer is
 20 to be made, and the ~~auditor department~~ shall thereupon make
 21 the transfer as directed in the certificate."

22 Section 4. Section 19-3-703, MCA, is amended to read:

23 "19-3-703. Refund of member's contributions on
 24 termination of service. (1) Except as provided in this
 25 section, any member whose service has been discontinued by

1 other than death or retirement shall be paid ~~such part of~~
 2 his accumulated contributions, ~~including regular interest~~
 3 ~~thereon as he requests. If he has less than 5 years of~~
 4 ~~service and he does not reenter service for a period of 5~~
 5 ~~years after such discontinuance, he shall automatically be~~
 6 ~~paid any portion of his total accumulated contributions not~~
 7 ~~previously withdrawn.~~

8 (2) Upon qualification for any other benefit under
 9 this chapter, a member having any accumulated ~~normal~~
 10 contributions standing to his credit in the retirement fund
 11 shall receive the benefit based upon the creditable service
 12 during which such contributions were made.

13 (3) The board may, in its discretion, withhold, for
 14 not more than 1 year after a member last rendered service,
 15 all or part of his accumulated ~~normal~~ contributions if after
 16 a previous discontinuance of service he withdrew all or part
 17 of his ~~normal~~ contributions and failed to redeposit such
 18 withdrawn amount in the retirement fund as provided in
 19 19-3-704.

20 (4) An employer who has an employment-related claim
 21 against a terminating member may, within 30 days after the
 22 date of termination, submit to the board a written request,
 23 signed by the employer and the member, authorizing the
 24 payment of all or any part of the accumulated contributions
 25 of the member directly to the employer to satisfy the claim

1 in whole or in part. The request, if timely submitted, is
 2 sufficient authority for the department of administration to
 3 make such direct payment to the employer as part of the
 4 member's refund. The total of the payments made to the
 5 employer and those made to the member may not exceed the
 6 member's accumulated contributions."

7 Section 5. Section 19-3-905, MCA, is amended to read:

8 "19-3-905. Employer contribution to administrative
 9 expense. (1) The board may assess and the department of
 10 administration shall collect a fee from each employer for
 11 the purpose of defraying the administrative expense of this
 12 chapter, not to exceed 0.3% of gross compensation.

13 (2) In addition to the contributions elsewhere
 14 provided in this chapter, on ~~July~~ January 1 of each year
 15 each employer shall contribute on behalf of each member then
 16 in its employ a membership fee of \$1. These fees, together
 17 with other moneys appropriated for that purpose, shall be
 18 used for the purpose of defraying the administrative expense
 19 of this chapter."

20 Section 6. Section 19-3-906, MCA, is amended to read:

21 "19-3-906. Early retirement allowance. The annual
 22 amount of retirement allowance payable to a member following
 23 his early retirement is the actuarial equivalent of the
 24 accrued portion of the service retirement allowance which
 25 would have been payable to him commencing at age 60 pursuant

1 to 19-3-904. The actuarial reduction shall be 1/2 of 1% for
 2 each month preceding the member's 60th birthday."

3 Section 7. Section 19-3-1103, MCA, is amended to read:

4 "19-3-1103. Disability allowance reduced by earnings.
 5 ~~(1)~~ Should the recipient of a retirement allowance because
 6 of disability engage in a gainful occupation during any
 7 month other than as an employee as defined in 19-3-104, the
 8 amount of his retirement allowance for that month shall be
 9 reduced to an amount which, when added to the compensation
 10 earned by him in that occupation, shall not exceed the
 11 amount of his monthly compensation at the time of his
 12 retirement.

13 (2) Benefit adjustments granted by the legislature may
 14 not be included in calculations required under this
 15 section."

16 Section 8. Section 19-3-1106, MCA, is amended to read:

17 "19-3-1106. Reduction of retirement allowance upon
 18 limited reemployment. Any person receiving a service
 19 retirement allowance, not as a beneficiary, who is not
 20 eligible for membership may return to covered employment for
 21 a period not to exceed 60 working days in any fiscal year.
 22 The retirement allowance of a retiree so employed will be
 23 reduced by ~~any--earnings-in-excess-of-the-minimum-wage-per~~
 24 month-on-\$1-for-\$1-basis \$1 for each \$2 earned in excess of
 25 \$3,500 for each calendar year."

1 Section 9. Section 19-3-1301, MCA, is amended to read:
 2 "19-3-1301. Designation of beneficiary. The
 3 ~~beneficiary~~ beneficiaries of a member shall be such ~~person~~
 4 ~~persons~~ as the member shall ~~so~~ designate in the appropriate
 5 written application. A member may revoke such designation
 6 and name ~~a~~ different ~~beneficiary~~ beneficiaries by filing ~~a~~
 7 ~~revised written instrument~~ notice with the board."

8 Section 10. Section 19-3-1304, MCA, is amended to
 9 read:

10 "19-3-1304. Payment to custodian of minor beneficiary.
 11 ~~(1) If any benefit from the system not-to-exceed-\$500 is~~
 12 ~~payable to a minor, who-has-no-guardian-of-his--estate, the~~
 13 ~~benefit may~~ must be paid to ~~the-person-entitled-to-the~~
 14 ~~custody-of-a-minor-to-hold-for-the-minor-upon-execution-and~~
 15 ~~filing-with-the-board-of-a-written-statement-by-such--person~~
 16 ~~that-the-total-estate-of-the-minor-does-not-exceed-\$1,000-in~~
 17 ~~value, one of the following:~~

- 18 (a) a surviving parent, if any;
 19 (b) a parent awarded custody of the minor in a divorce
 20 proceeding;
 21 (c) a custodian designated under Title 72, chapter 26,
 22 MCA;
 23 (d) a guardian appointed pursuant to Title 72, chapter
 24 5, part 2, MCA; or
 25 (e) a conservator appointed pursuant to Title 72,

1 chapter 5, part 4, MCA.

2 (2) The payment shall be in full and complete
 3 discharge and acquittance of the board and system on account
 4 of said benefit. The person shall account to the minor for
 5 the money when the minor reaches the age of majority."

6 Section 11. Repealer. Section 19-3-1303, MCA, is
 7 repealed.

-End-

Approved by Committee on State Administration

HOUSE BILL NO. 197

INTRODUCED BY Donaldson BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY CLARIFY AND REVISE THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ACT REGARDING MEMBERSHIP, CONTRIBUTIONS, AND BENEFITS; AMENDING SECTIONS 19-3-104, 19-3-201, 19-3-605, 19-3-703, 19-3-805, 19-3-906, 19-3-1103, 19-3-1106, 19-3-1301, AND 19-3-1304, MCA; REPEALING SECTION 19-3-1303, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 19-3-104, MCA, is amended to read: "19-3-104. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply: (1) "Accumulated additional contributions" means the sum of all the additional contributions standing to the credit of a member's individual account, together with the regular interest thereon.

~~(2) "Accumulated contributions" means the sum of accumulated normal contributions and accumulated additional contributions.~~

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

~~(4)(2)~~ "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables in use by the system.

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

~~(6)(4)~~ "Additional contributions" means contributions by members under the provisions of 19-3-702.

~~(7)(5)~~ "Annuity" means payments for life derived from contributions made by a member as provided in this chapter.

~~(8)(6)~~ "Beneficiary" means the person so designated pursuant to part 13 of this chapter.

~~(9)(7)~~ "Benefit" means the retirement allowance, survivorship allowance, death benefit, or refund of accumulated contributions provided by this chapter.

~~(10)(8)~~ "Board" means the public employees' retirement board provided for in 2-15-1009.

~~(11)(9)~~ "Compensation" means remuneration paid out of funds controlled by an employer. The compensation of each member of the legislature of Montana for any year shall be considered to be that portion of the product of the daily compensation for such position multiplied by 360 upon which such member elects to pay normal contributions during the year.

~~(12)(10)~~ "Contracting employer" means any political subdivision or governmental entity which has contracted to

1 come into the system.

2 ~~{13}{111}~~ "Creditable service" means the aggregate of
3 membership service and prior service. ~~A member employed on a~~
4 ~~part-time basis shall receive credit for a year of service~~
5 ~~for each fiscal year during which such member was employed~~
6 ~~throughout the year and was engaged in his duties the full~~
7 ~~amount of time he was required by his employment to be so~~
8 ~~engaged.~~

9 ~~{14}{112}~~ "Disability" and "incapacity for performance
10 of duty", referred to herein as a basis of retirement, mean
11 disability of permanent duration or disability of extended
12 and uncertain duration, as determined by the board on the
13 basis of competent medical opinion.

14 ~~{15}{113}~~ "Employee" means any person who is employed by
15 an employer in any capacity whatever and whose salary is
16 paid either by warrant of the employer or from the fees or
17 income of any department or agency of the employer.
18 "Employee" means further any person considered such pursuant
19 to 19-3-402.

20 ~~{16}{114}~~ "Employer" means the state of Montana, its
21 university system or any of the colleges, schools,
22 components, or units thereof for the purposes of this
23 chapter, or any political subdivision or governmental entity
24 which has contracted to come into the system.

25 ~~{17}{115}~~ "Employer contributions" means payments to the

1 retirement fund from appropriations of the state of Montana
2 pursuant to 19-3-801 and from contracting employers pursuant
3 to the contracts between them and the board.

4 ~~{18}{116}~~ "Final compensation" means a member's highest
5 average annual compensation during any 3 consecutive years
6 of membership service. Lump-sum payments for sick leave and
7 annual leave paid to the employee upon termination of
8 employment may be used in the calculation of a retirement
9 allowance only to the extent that they are used to replace,
10 on a month for month basis, the normal compensation for a
11 month or months included in the calculation of the final
12 salary. A lump-sum payment may not be added to a single
13 month's compensation.

14 ~~{19}{117}~~ "Fiscal year" means any year commencing with
15 July 1 and ending June 30 next following.

16 ~~{20}{118}~~ "Head of department" means the head of any
17 department, institution, or branch of the state service
18 which directly pays salaries out of its income or which
19 prepares, approves, and submits salary statements of its
20 employees to the department of administration, state
21 auditor, and state treasurer for payment.

22 ~~{21}{119}~~ "Member" means any person included in the
23 membership of the retirement system set forth in 19-3-401
24 and not excluded in 19-3-402, 19-3-403, or 19-3-406.

25 ~~{22}{120}~~ "Membership service" means service with

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

6 ~~(23)~~(21) "Normal contributions" means contributions
7 required 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)~~(22) "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)~~(23) "Prior service" means all service rendered as
16 an employee of the state before July 1, 1945, and all
17 service rendered as an employee of a contracting employer
18 before July 1, 1947. Prior service includes all service
19 rendered prior to July 1, 1945, as a member of the
20 legislative assembly or lieutenant governor of Montana.

21 ~~(26)~~(24) "Regular interest" means interest at the rate
22 set from time to time by the board.

23 ~~(27)~~(25) "Retirement" means withdrawal from active
24 service with a retirement allowance granted under the
25 provisions of this chapter.

1 ~~(28)~~(26) "Retirement allowance" means the periodic
2 benefit payable following service, early, or disability
3 retirement.

4 ~~(29)~~(27) "Retirement fund" means the public employees'
5 retirement account in the agency fund.

6 ~~(30)~~(28) "Retirement system" means the public
7 employees' retirement system created by this chapter.

8 ~~(31)~~(29) "Service" means employment of an employee,
9 except as provided in 19-3-501 and 19-3-502.

10 ~~(32)~~(30) "Survivorship allowance" means payments for
11 life to the beneficiary of a deceased member as provided in
12 part 12 of this chapter.

13 ~~(33)~~(31) "Written application" means a written
14 instrument duly executed and filed with the board and
15 containing all information required by the board, including
16 such proofs of age as the board considers necessary."

17 Section 2. Section 19-3-201, MCA, is amended to read:

18 "19-3-201. Contracts with political subdivisions. (1)
19 Any municipal corporation, county, or public agency in the
20 state may become a contracting employer and make all or
21 specified groups of its employees members of the retirement
22 system by a contract entered into between the board and the
23 legislative body of said contracting employer, subject to
24 the provisions of this chapter. The contract may include any
25 provisions which are consistent with this chapter and

1 necessary in the administration of the retirement system, as
2 it affects the contracting employer and its employees.

3 (2) The approval ~~and-termination~~ of the contract shall
4 be subject to the following provisions, in addition to the
5 other provisions of this chapter:

6 (a) The legislative body of the contracting employer
7 shall adopt a resolution giving notice of intention to
8 approve the contract and containing a summary of the major
9 provisions of the retirement system. The contract shall not
10 be approved unless the employees proposed to be included in
11 the retirement system adopt the proposal by a majority
12 affirmative vote in a secret ballot. The ballot at such
13 election shall include the summary of the retirement system
14 as set forth in the resolution. The election shall be
15 conducted as prescribed by the legislative body of the
16 contracting employer. Approval of the contract shall be by
17 ordinance adopted by the affirmative vote of two-thirds of
18 the members of the legislative body, not less than 20 days
19 after the adoption of the resolution or by an ordinance
20 adopted by a majority vote of the electorate of the
21 contracting employer voting thereon.

22 (b) The contract shall specify that all employees of
23 the contracting employer or such groups of employees as
24 agreed to between the board and the contracting employer
25 shall become members. The groups of employees to be included

1 shall be by departments, duties, age, or other similar
2 classifications and not by individual employees. The board
3 shall have the right to disapprove any classification into
4 groups if, in its opinion, said classification affects
5 adversely the interest of the retirement system. Membership
6 in the retirement system shall be compulsory for all
7 employees included under the contract.

8 (c) The contract may be amended in the manner
9 prescribed in this section for the original approval of
10 contracts. Groups of excluded employees may be subsequently
11 included by amendment.

12 ~~(3) The termination of the contract shall be subject~~
13 ~~to the following provisions, in addition to the other~~
14 ~~provisions of this chapter:~~

15 ~~(a) The legislative body of a contracting employer~~
16 ~~shall adopt a resolution giving notice to its employees that~~
17 ~~it intends to terminate retirement coverage.~~

18 ~~(b) All employees covered under the retirement system~~
19 ~~shall receive notice of the termination resolution and be~~
20 ~~permitted to vote for or against the resolution by secret~~
21 ~~ballot.~~

22 ~~(c) If a majority of covered employees votes for~~
23 ~~termination, the legislative body, not less than 20 days~~
24 ~~after the approval of the resolution by the employees, may~~
25 ~~adopt by a 2/3 majority a resolution terminating P.E.R.S.~~

1 coverage effective the last day of that month and forward
 2 the resolution and a certified copy of the election results
 3 to the board.

4 (d) Upon receipt of the termination resolution, the
 5 board may request an actuarial valuation of the liabilities
 6 of the terminating agency to the retirement system, and the
 7 board may withhold approval of the termination of contract
 8 until satisfactory arrangements are made to provide funding
 9 for any excess accrued liabilities not previously funded by
 10 the terminating agency."

11 Section 3. Section 19-3-605, MCA, is amended to read:

12 "19-3-605. Transfer between funds. Any fund out of
 13 which payments are made under the provisions of this chapter
 14 may be reimbursed to the extent of such payments by transfer
 15 of a sufficient sum for the reimbursement from another fund
 16 or funds under the control of the same disbursing officer.
 17 The disbursing officer shall certify to the ~~state--auditor~~
 18 department of administration the amounts to be thus
 19 transferred and the funds from and to which the transfer is
 20 to be made, and the ~~auditor department~~ shall thereupon make
 21 the transfer as directed in the certificate."

22 Section 4. Section 19-3-703, MCA, is amended to read:

23 "19-3-703. Refund of member's contributions on
 24 termination of service. (1) Except as provided in this
 25 section, any member whose service has been discontinued by

1 other than death or retirement shall be paid ~~such--part--of~~
 2 his accumulated contributions, ~~including regular interest~~
 3 ~~thereon, as he requests. If he has less than 5 years of~~
 4 ~~service and he does not reenter service for a period of 5~~
 5 ~~years after such discontinuance, he shall automatically be~~
 6 ~~paid any portion of his total accumulated contributions not~~
 7 ~~previously withdrawn.~~

8 (2) Upon qualification for any other benefit under
 9 this chapter, a member having any accumulated ~~normal~~
 10 contributions standing to his credit in the retirement fund
 11 shall receive the benefit based upon the creditable service
 12 during which such contributions were made.

13 (3) The board may, in its discretion, withhold, for
 14 not more than 1 year after a member last rendered service,
 15 all or part of his accumulated ~~normal~~ contributions if after
 16 a previous discontinuance of service he withdrew all or part
 17 of his ~~normal~~ contributions and failed to redeposit such
 18 withdrawn amount in the retirement fund as provided in
 19 19-3-704.

20 (4) An employer who has an employment-related claim
 21 against a terminating member may, within 30 days after the
 22 date of termination, submit to the board a written request,
 23 signed by the employer and the member, authorizing the
 24 payment of all or any part of the accumulated contributions
 25 of the member directly to the employer to satisfy the claim

1 in whole or in part. The request, if timely submitted, is
 2 sufficient authority for the department of administration to
 3 make such direct payment to the employer as part of the
 4 member's refund. The total of the payments made to the
 5 employer and those made to the member may not exceed the
 6 member's accumulated contributions."

7 Section 5. Section 19-3-905, MCA, is amended to read:

8 "19-3-905. Employer contribution to administrative
 9 expense. (1) The board may assess and the department of
 10 administration shall collect a fee from each employer for
 11 the purpose of defraying the administrative expense of this
 12 chapter, not to exceed 0.3% of gross compensation.

13 (2) In addition to the contributions elsewhere
 14 provided in this chapter, on ~~July~~ January 1 of each year
 15 each employer shall contribute on behalf of each member then
 16 in its employ a membership fee of \$1. These fees, together
 17 with other moneys appropriated for that purpose, shall be
 18 used for the purpose of defraying the administrative expense
 19 of this chapter."

20 Section 6. Section 19-3-906, MCA, is amended to read:

21 "19-3-906. Early retirement allowance. The annual
 22 amount of retirement allowance payable to a member following
 23 his early retirement is the actuarial equivalent of the
 24 accrued portion of the service retirement allowance which
 25 would have been payable to him commencing at age 60 pursuant

1 to 19-3-904. The actuarial reduction shall be 1/2 of 1% for
 2 each month preceding the member's 60th birthday."

3 Section 7. Section 19-3-1103, MCA, is amended to read:

4 "19-3-1103. Disability allowance reduced by earnings.

5 (1) Should the recipient of a retirement allowance because
 6 of disability engage in a gainful occupation during any
 7 month other than as an employee as defined in 19-3-104, the
 8 amount of his retirement allowance for that month shall be
 9 reduced to an amount which, when added to the compensation
 10 earned by him in that occupation, shall not exceed the
 11 amount of his monthly compensation at the time of his
 12 retirement.

13 (2) Benefit adjustments granted by the legislature may
 14 not be included in calculations required under this
 15 section."

16 Section 8. Section 19-3-1106, MCA, is amended to read:

17 "19-3-1106. Reduction of retirement allowance upon
 18 limited reemployment. Any person receiving a service
 19 retirement allowance, not as a beneficiary, who is not
 20 eligible for membership may return to covered employment for
 21 a period not to exceed 60 working days in any fiscal year.
 22 The retirement allowance of a retiree so employed will be
 23 reduced by ~~any earnings in excess of the minimum wage per~~
 24 month on a \$1-for-\$1 basis \$1 for each \$2 earned in excess of
 25 \$3,500 for each calendar year."

1 Section 9. Section 19-3-1301, MCA, is amended to read:

2 "19-3-1301. Designation of beneficiary. The
3 beneficiary ~~beneficiaries~~ of a member shall be such person
4 ~~persons~~ as the member shall so designate in the appropriate
5 written application. A member may revoke such designation
6 and name a different beneficiary ~~beneficiaries~~ by filing a
7 revised written instrument ~~notice~~ with the board."

8 Section 10. Section 19-3-1304, MCA, is amended to
9 read:

10 "19-3-1304. Payment to custodian of minor beneficiary.

11 ~~(1) If any benefit from the system not-to-exceed-\$500 is~~
12 ~~payable to a minor, who-has-no-guardian-of-his--estate, the~~
13 ~~benefit may~~ must ~~be paid to the-person-entitled-to-the~~
14 ~~custody-of-a-minor-to-hold-for-the-minor-upon-execution-and~~
15 ~~filing-with-the-board-of-a-written-statement-by-such--person~~
16 ~~that-the-total-estate-of-the-minor-does-not-exceed-\$1,000-in~~
17 ~~value, one of the following:~~

18 (a) a surviving parent, if any;

19 (b) a parent awarded custody of the minor in a divorce
20 proceeding;

21 (c) a custodian designated under Title 72, chapter 26,
22 MCA;

23 (d) a guardian appointed pursuant to Title 72, chapter
24 5, part 2, MCA; or

25 (e) a conservator appointed pursuant to Title 72,

1 ~~chapter 5, part 4, MCA.~~

2 (2) The payment shall be in full and complete
3 discharge and acquittance of the board and system on account
4 of said benefit. The person shall account to the minor for
5 the money when the minor reaches the age of majority."

6 Section 11. Repealer. Section 19-3-1303, MCA, is
7 repealed.

-End-

1 HOUSE BILL NO. 197
 2 INTRODUCED BY Donaldson
 3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY CLARIFY
 5 AND REVISE THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ACT
 6 REGARDING MEMBERSHIP, CONTRIBUTIONS, AND BENEFITS; AMENDING
 7 SECTIONS 19-3-104, 19-3-201, 19-3-605, 19-3-703, 19-3-805,
 8 19-3-906, 19-3-1103, 19-3-1106, 19-3-1301, AND 19-3-1304,
 9 MCA; REPEALING SECTION 19-3-1303, MCA."

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

11 Section 1. Section 19-3-104, MCA, is amended to read:
 12 "19-3-104. Definitions. Unless the context requires
 13 otherwise, in this chapter the following definitions apply:

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

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

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

1 ~~(4)(12)~~ "Actuarial equivalent" means a benefit of equal
 2 value when computed upon the basis of the actuarial tables
 3 in use by the system.

4 ~~(5)(13)~~ "Actuary" means the actuary retained by the
 5 board in accordance with 19-3-305.

6 ~~(6)(14)~~ "Additional contributions" means contributions
 7 by members under the provisions of 19-3-702.

8 ~~(7)(15)~~ "Annuity" means payments for life derived from
 9 contributions made by a member as provided in this chapter.

10 ~~(8)(16)~~ "Beneficiary" means the person so designated
 11 pursuant to part 13 of this chapter.

12 ~~(9)(17)~~ "Benefit" means the retirement allowance,
 13 survivorship allowance, death benefit, or refund of
 14 accumulated contributions provided by this chapter.

15 ~~(10)(18)~~ "Board" means the public employees' retirement
 16 board provided for in 2-15-1009.

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

24 ~~(12)(20)~~ "Contracting employer" means any political
 25 subdivision or governmental entity which has contracted to

1 come into the system.

2 ~~(13)(11)~~ "Creditable service" means the aggregate of
3 membership service and prior service. ~~A member employed on a~~
4 ~~part-time basis shall receive credit for a year of service~~
5 ~~for each fiscal year during which such member was employed~~
6 ~~throughout the year and was engaged in his duties the full~~
7 ~~amount of time he was required by his employment to be so~~
8 ~~engaged.~~

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

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

20 ~~(16)(14)~~ "Employer" means the state of Montana, its
21 university system or any of the colleges, schools,
22 components, or units thereof for the purposes of this
23 chapter, or any political subdivision or governmental entity
24 which has contracted to come into the system.

25 ~~(17)(15)~~ "Employer contributions" means payments to the

1 retirement fund from appropriations of the state of Montana
2 pursuant to 19-3-801 and from contracting employers pursuant
3 to the contracts between them and the board.

4 ~~(18)(16)~~ "Final compensation" means a member's highest
5 average annual compensation during any 3 consecutive years
6 of membership service. Lump-sum payments for sick leave and
7 annual leave paid to the employee upon termination of
8 employment may be used in the calculation of a retirement
9 allowance only to the extent that they are used to replace,
10 on a month for month basis, the normal compensation for a
11 month or months included in the calculation of the final
12 salary. A lump-sum payment may not be added to a single
13 month's compensation.

14 ~~(19)(17)~~ "Fiscal year" means any year commencing with
15 July 1 and ending June 30 next following.

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

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

25 ~~(22)(20)~~ "Membership service" means service with

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

6 ~~(23)~~(21) "Normal contributions" means contributions
7 required 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)~~(22) "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)~~(23) "Prior service" means all service rendered as
16 an employee of the state before July 1, 1945, and all
17 service rendered as an employee of a contracting employer
18 before July 1, 1947. Prior service includes all service
19 rendered prior to July 1, 1945, as a member of the
20 legislative assembly or lieutenant governor of Montana.

21 ~~(26)~~(24) "Regular interest" means interest at the rate
22 set from time to time by the board.

23 ~~(27)~~(25) "Retirement" means withdrawal from active
24 service with a retirement allowance granted under the
25 provisions of this chapter.

1 ~~(28)~~(26) "Retirement allowance" means the periodic
2 benefit payable following service, early, or disability
3 retirement.

4 ~~(29)~~(27) "Retirement fund" means the public employees'
5 retirement account in the agency fund.

6 ~~(30)~~(28) "Retirement system" means the public
7 employees' retirement system created by this chapter.

8 ~~(31)~~(29) "Service" means employment of an employee,
9 except as provided in 19-3-501 and 19-3-502.

10 ~~(32)~~(30) "Survivorship allowance" means payments for
11 life to the beneficiary of a deceased member as provided in
12 part 12 of this chapter.

13 ~~(33)~~(31) "Written application" means a written
14 instrument duly executed and filed with the board and
15 containing all information required by the board, including
16 such proofs of age as the board considers necessary."

17 Section 2. Section 19-3-201, MCA, is amended to read:
18 "19-3-201. Contracts with political subdivisions. (1)
19 Any municipal corporation, county, or public agency in the
20 state may become a contracting employer and make all or
21 specified groups of its employees members of the retirement
22 system by a contract entered into between the board and the
23 legislative body of said contracting employer, subject to
24 the provisions of this chapter. The contract may include any
25 provisions which are consistent with this chapter and

1 necessary in the administration of the retirement system as
2 it affects the contracting employer and its employees.

3 (2) The approval ~~and-termination~~ of the contract shall
4 be subject to the following provisions, in addition to the
5 other provisions of this chapter:

6 (a) The legislative body of the contracting employer
7 shall adopt a resolution giving notice of intention to
8 approve the contract and containing a summary of the major
9 provisions of the retirement system. The contract shall not
10 be approved unless the employees proposed to be included in
11 the retirement system adopt the proposal by a majority
12 affirmative vote in a secret ballot. The ballot at such
13 election shall include the summary of the retirement system
14 as set forth in the resolution. The election shall be
15 conducted as prescribed by the legislative body of the
16 contracting employer. Approval of the contract shall be by
17 ordinance adopted by the affirmative vote of two-thirds of
18 the members of the legislative body, not less than 20 days
19 after the adoption of the resolution or by an ordinance
20 adopted by a majority vote of the electorate of the
21 contracting employer voting thereon.

22 (b) The contract shall specify that all employees of
23 the contracting employer or such groups of employees as
24 agreed to between the board and the contracting employer
25 shall become members. The groups of employees to be included

1 shall be by departments, duties, age, or other similar
2 classifications and not by individual employees. The board
3 shall have the right to disapprove any classification into
4 groups if, in its opinion, said classification affects
5 adversely the interest of the retirement system. Membership
6 in the retirement system shall be compulsory for all
7 employees included under the contract.

8 (c) The contract may be amended in the manner
9 prescribed in this section for the original approval of
10 contracts. Groups of excluded employees may be subsequently
11 included by amendment.

12 ~~(3) The termination of the contract shall be subject~~
13 ~~to the following provisions, in addition to the other~~
14 ~~provisions of this chapter:~~

15 ~~(a) The legislative body of a contracting employer~~
16 ~~shall adopt a resolution giving notice to its employees that~~
17 ~~it intends to terminate retirement coverage.~~

18 ~~(b) All employees covered under the retirement system~~
19 ~~shall receive notice of the termination resolution and be~~
20 ~~permitted to vote for or against the resolution by secret~~
21 ~~ballot.~~

22 ~~(c) If a majority of covered employees votes for~~
23 ~~termination, the legislative body, not less than 20 days~~
24 ~~after the approval of the resolution by the employees, may~~
25 ~~adopt by a 2/3 majority a resolution terminating P.F.R.S.~~

1 coverage effective the last day of that month and forward
 2 the resolution and a certified copy of the election results
 3 to the board.

4 (d) Upon receipt of the termination resolution, the
 5 board may request an actuarial valuation of the liabilities
 6 of the terminating agency to the retirement system, and the
 7 board may withhold approval of the termination of contract
 8 until satisfactory arrangements are made to provide funding
 9 for any excess accrued liabilities not previously funded by
 10 the terminating agency."

11 Section 3. Section 19-3-605, MCA, is amended to read:
 12 "19-3-605. Transfer between funds. Any fund out of
 13 which payments are made under the provisions of this chapter
 14 may be reimbursed to the extent of such payments by transfer
 15 of a sufficient sum for the reimbursement from another fund
 16 or funds under the control of the same disbursing officer.
 17 The disbursing officer shall certify to the ~~state--auditor~~
 18 department of administration the amounts to be thus
 19 transferred and the funds from and to which the transfer is
 20 to be made, and the ~~auditor department~~ shall thereupon make
 21 the transfer as directed in the certificate."

22 Section 4. Section 19-3-703, MCA, is amended to read:
 23 "19-3-703. Refund of member's contributions on
 24 termination of service. (1) Except as provided in this
 25 section, any member whose service has been discontinued by

1 other than death or retirement shall be paid ~~such--part--of~~
 2 his accumulated contributions, ~~including regular interest~~
 3 ~~thereon, as he requests. If he has less than 5 years of~~
 4 ~~service and he does not reenter service for a period of 5~~
 5 ~~years after such discontinuance, he shall automatically be~~
 6 ~~paid any portion of his total accumulated contributions not~~
 7 ~~previously withdrawn.~~

8 (2) Upon qualification for any other benefit under
 9 this chapter, a member having any accumulated ~~normal~~
 10 contributions standing to his credit in the retirement fund
 11 shall receive the benefit based upon the creditable service
 12 during which such contributions were made.

13 (3) The board may, in its discretion, withhold, for
 14 not more than 1 year after a member last rendered service,
 15 all or part of his accumulated ~~normal~~ contributions if after
 16 a previous discontinuance of service he withdrew all or part
 17 of his ~~normal~~ contributions and failed to redeposit such
 18 withdrawn amount in the retirement fund as provided in
 19 19-3-704.

20 (4) An employer who has an employment-related claim
 21 against a terminating member may, within 30 days after the
 22 date of termination, submit to the board a written request,
 23 signed by the employer and the member, authorizing the
 24 payment of all or any part of the accumulated contributions
 25 of the member directly to the employer to satisfy the claim

1 in whole or in part. The request, if timely submitted, is
 2 sufficient authority for the department of administration to
 3 make such direct payment to the employer as part of the
 4 member's refund. The total of the payments made to the
 5 employer and those made to the member may not exceed the
 6 member's accumulated contributions."

7 Section 5. Section 19-3-805, MCA, is amended to read:

8 "19-3-805. Employer contribution to administrative
 9 expense. (1) The board may assess and the department of
 10 administration shall collect a fee from each employer for
 11 the purpose of defraying the administrative expense of this
 12 chapter, not to exceed 0.3% of gross compensation.

13 (2) In addition to the contributions elsewhere
 14 provided in this chapter, on ~~July~~ January 1 of each year
 15 each employer shall contribute on behalf of each member then
 16 in its employ a membership fee of \$1. These fees, together
 17 with other moneys appropriated for that purpose, shall be
 18 used for the purpose of defraying the administrative expense
 19 of this chapter."

20 Section 6. Section 19-3-906, MCA, is amended to read:

21 "19-3-906. Early retirement allowance. The annual
 22 amount of retirement allowance payable to a member following
 23 his early retirement is the actuarial equivalent of the
 24 accrued portion of the service retirement allowance which
 25 would have been payable to him commencing at age 60 pursuant

1 to 19-3-904. The actuarial reduction shall be 1/2 of 1% for
 2 each month preceding the member's 60th birthday."

3 Section 7. Section 19-3-1103, MCA, is amended to read:

4 "19-3-1103. Disability allowance reduced by earnings.
 5 (1) Should the recipient of a retirement allowance because
 6 of disability engage in a gainful occupation during any
 7 month other than as an employee as defined in 19-3-104, the
 8 amount of his retirement allowance for that month shall be
 9 reduced to an amount which, when added to the compensation
 10 earned by him in that occupation, shall not exceed the
 11 amount of his monthly compensation at the time of his
 12 retirement.

13 (2) Benefit adjustments granted by the legislature may
 14 not be included in calculations required under this
 15 section."

16 Section 8. Section 19-3-1106, MCA, is amended to read:

17 "19-3-1106. Reduction of retirement allowance upon
 18 limited reemployment. Any person receiving a service
 19 retirement allowance, not as a beneficiary, who is not
 20 eligible for membership may return to covered employment for
 21 a period not to exceed 60 working days in any fiscal year.
 22 The retirement allowance of a retiree so employed will be
 23 reduced by any ~~earnings in excess of the minimum wage per~~
 24 month on \$1 for \$2 basis \$1 for each \$2 earned in excess of
 25 \$3,500 for each calendar year."

1 Section 9. Section 19-3-1301, MCA, is amended to read:

2 "19-3-1301. Designation of beneficiary. The
3 beneficiary ~~beneficiaries~~ of a member shall be such person
4 ~~persons~~ as the member shall so designate in the appropriate
5 written application. A member may revoke such designation
6 and name a different beneficiary ~~beneficiaries~~ by filing a
7 revised written instrument notice with the board."

8 Section 10. Section 19-3-1304, MCA, is amended to
9 read:

10 "19-3-1304. Payment to custodian of minor beneficiary.

11 ~~(1) If any benefit from the system not-to-exceed-\$500 is~~
12 ~~payable to a minor, who-has-no-guardian-of-his--estate, the~~
13 ~~benefit may must be paid to the-person-entitled-to-the~~
14 ~~custody-of-a-minor-to-hold-for-the-minor-upon-execution-and~~
15 ~~filing-with-the-board-of-a-written-statement-by-such--person~~
16 ~~that-the-total-estate-of-the-minor-does-not-exceed-\$1,000-in~~
17 ~~value one of the following:~~

- 18 ~~(a) a surviving parent, if any;~~
- 19 ~~(b) a parent awarded custody of the minor in a divorce~~
20 ~~proceeding;~~
- 21 ~~(c) a custodian designated under Title 72, chapter 26,~~
22 ~~MCA;~~
- 23 ~~(d) a guardian appointed pursuant to Title 72, chapter~~
24 ~~5, part 2, MCA; or~~
- 25 ~~(e) a conservator appointed pursuant to Title 72,~~

1 ~~chapter 5, part 4, MCA.~~

2 ~~(2) The payment shall be in full and complete~~
3 ~~discharge and acquittance of the board and system on account~~
4 ~~of said benefit. The person shall account to the minor for~~
5 ~~the money when the minor reaches the age of majority."~~

6 Section 11. Repealer. Section 19-3-1303, MCA, is
7 repealed.

-End-

HB 197

1 HOUSE BILL NO. 197

2 INTRODUCED BY DONALDSON

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY CLARIFY
6 AND REVISE THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ACT
7 REGARDING MEMBERSHIP, CONTRIBUTIONS, AND BENEFITS; AMENDING
8 SECTIONS 19-3-104, 19-3-201, 19-3-605, 19-3-703, 19-3-805,
9 19-3-902, 19-3-906, 19-3-1103, 19-3-1106, 19-3-1301, AND
10 19-3-1304, MCA; REPEALING SECTION 19-3-1303, MCA; AND
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

14 Section 1. Section 19-3-104, MCA, is amended to read:

15 "19-3-104. Definitions. Unless the context requires
16 otherwise, in this chapter the following definitions apply:

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

21 ~~(2) "Accumulated contributions" means the sum of~~
22 ~~accumulated normal contributions and accumulated additional~~
23 ~~contributions.~~

24 ~~(3) "Accumulated normal contributions" means the sum~~
25 ~~of all the normal contributions standing to the credit of a~~

1 ~~member's individual account without interest.~~

2 ~~(4) (2)~~ "Actuarial equivalent" means a benefit of equal
3 value when computed upon the basis of the actuarial tables
4 in use by the system.

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

7 ~~(6) (4)~~ "Additional contributions" means contributions
8 by members under the provisions of 19-3-702.

9 ~~(7) (5)~~ "Annuity" means payments for life derived from
10 contributions made by a member as provided in this chapter.

11 ~~(8) (6)~~ "Beneficiary" means the person so designated
12 pursuant to part 13 of this chapter.

13 ~~(9) (7)~~ "Benefit" means the retirement allowance,
14 survivorship allowance, death benefit, or refund of
15 accumulated contributions provided by this chapter.

16 ~~(10) (8)~~ "Board" means the public employees' retirement
17 board provided for in 2-15-1009.

18 ~~(11) (9)~~ "Compensation" means remuneration paid out of
19 funds controlled by an employer. The compensation of each
20 member of the legislature of Montana for any year shall be
21 considered to be that portion of the product of the daily
22 compensation for such position multiplied by 360 upon which
23 such member elects to pay normal contributions during the
24 year.

25 ~~(12) (10)~~ "Contracting employer" means any political

1 subdivision or governmental entity which has contracted to
2 come into the system.

3 ~~{13}{11}~~ "Creditable service" means the aggregate of
4 membership service and prior service. ~~A member employed on a~~
5 ~~part-time basis shall receive credit for a year of service~~
6 ~~for each fiscal year during which such member was employed~~
7 ~~throughout the year and was engaged in his duties the full~~
8 ~~amount of time he was required by his employment to be so~~
9 ~~engaged.~~

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

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

21 ~~{16}{14}~~ "Employer" means the state of Montana, its
22 university system or any of the colleges, schools,
23 components, or units thereof for the purposes of this
24 chapter, or any political subdivision or governmental entity
25 which has contracted to come into the system.

1 ~~{17}{15}~~ "Employer contributions" means payments to the
2 retirement fund from appropriations of the state of Montana
3 pursuant to 19-3-801 and from contracting employers pursuant
4 to the contracts between them and the board.

5 ~~{18}{16}~~ "Final compensation" means a member's highest
6 average annual compensation during any 3 consecutive years
7 of membership service. Lump-sum payments for sick leave and
8 annual leave paid to the employee upon termination of
9 employment may be used in the calculation of a retirement
10 allowance only to the extent that they are used to replace,
11 on a month for month basis, the normal compensation for a
12 month or months included in the calculation of the final
13 salary. A lump-sum payment may not be added to a single
14 month's compensation.

15 ~~{19}{17}~~ "Fiscal year" means any year commencing with
16 July 1 and ending June 30 next following.

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

23 ~~{21}{19}~~ "Member" means any person included in the
24 membership of the retirement system set forth in 19-3-401
25 and not excluded in 19-3-402, 19-3-403, or 19-3-406.

1 ~~22~~20 "Membership service" means service with
 2 respect to which normal contributions and employer
 3 contributions are paid. A member of the legislature of
 4 Montana shall be credited with membership service for that
 5 portion of each year for which he pays normal contributions
 6 pursuant to subsection ~~(1)~~ of this section.

7 ~~23~~21 "Normal contributions" means contributions
 8 required from members under this chapter and any optional
 9 contributions made under the provisions of 19-3-502 and
 10 19-3-704.

11 ~~24~~22 "Pension" means payments for life derived from
 12 contributions made from the state controlled funds or, in
 13 the case of members from contracting employers, from the
 14 funds of such contracting employers, as provided in this
 15 chapter.

16 ~~25~~23 "Prior service" means all service rendered as
 17 an employee of the state before July 1, 1945, and all
 18 service rendered as an employee of a contracting employer
 19 before July 1, 1947. Prior service includes all service
 20 rendered prior to July 1, 1945, as a member of the
 21 legislative assembly or lieutenant governor of Montana.

22 ~~26~~24 "Regular interest" means interest at the rate
 23 set from time to time by the board.

24 ~~27~~25 "Retirement" means withdrawal from active
 25 service with a retirement allowance granted under the

1 provisions of this chapter.

2 ~~28~~26 "Retirement allowance" means the periodic
 3 benefit payable following service, early, or disability
 4 retirement.

5 ~~29~~27 "Retirement fund" means the public employees'
 6 retirement account in the agency fund.

7 ~~30~~28 "Retirement system" means the public
 8 employees' retirement system created by this chapter.

9 ~~31~~29 "Service" means employment of an employee,
 10 except as provided in 19-3-501 and 19-3-502.

11 ~~32~~30 "Survivorship allowance" means payments for
 12 life to the beneficiary of a deceased member as provided in
 13 part 12 of this chapter.

14 ~~33~~31 "Written application" means a written
 15 instrument duly executed and filed with the board and
 16 containing all information required by the board, including
 17 such proofs of age as the board considers necessary."

18 Section 2. Section 19-3-201, MCA, is amended to read:
 19 "19-3-201. Contracts with political subdivisions. (1)
 20 Any municipal corporation, county, or public agency in the
 21 state may become a contracting employer and make all or
 22 specified groups of its employees members of the retirement
 23 system by a contract entered into between the board and the
 24 legislative body of said contracting employer, subject to
 25 the provisions of this chapter. The contract may include any

1 provisions which are consistent with this chapter and
2 necessary in the administration of the retirement system as
3 it affects the contracting employer and its employees.

4 (2) The approval ~~and termination~~ of the contract shall
5 be subject to the following provisions, in addition to the
6 other provisions of this chapter:

7 (a) The legislative body of the contracting employer
8 shall adopt a resolution giving notice of intention to
9 approve the contract and containing a summary of the major
10 provisions of the retirement system. The contract shall not
11 be approved unless the employees proposed to be included in
12 the retirement system adopt the proposal by a majority
13 affirmative vote in a secret ballot. The ballot at such
14 election shall include the summary of the retirement system
15 as set forth in the resolution. The election shall be
16 conducted as prescribed by the legislative body of the
17 contracting employer. Approval of the contract shall be by
18 ordinance adopted by the affirmative vote of two-thirds of
19 the members of the legislative body, not less than 20 days
20 after the adoption of the resolution or by an ordinance
21 adopted by a majority vote of the electorate of the
22 contracting employer voting thereon.

23 (b) The contract shall specify that all employees of
24 the contracting employer or such groups of employees as
25 agreed to between the board and the contracting employer

1 shall become members. The groups of employees to be included
2 shall be by departments, duties, age, or other similar
3 classifications and not by individual employees. The board
4 shall have the right to disapprove any classification into
5 groups if, in its opinion, said classification affects
6 adversely the interest of the retirement system. Membership
7 in the retirement system shall be compulsory for all
8 employees included under the contract.

9 (c) The contract may be amended in the manner
10 prescribed in this section for the original approval of
11 contracts. Groups of excluded employees may be subsequently
12 included by amendment.

13 (3) The termination of the contract shall be subject
14 to the following provisions, in addition to the other
15 provisions of this chapter:

16 (a) The legislative body of a contracting employer
17 shall adopt a resolution giving notice to its employees that
18 it intends to terminate retirement coverage.

19 (b) All employees covered under the retirement system
20 shall receive notice of the termination resolution and be
21 permitted to vote for or against the resolution by secret
22 ballot.

23 (c) If a majority of covered employees votes for
24 termination, the legislative body, not less than 20 days
25 after the approval of the resolution by the employees, may

1 adopt by a 2/3 majority a resolution terminating P.E.R.S.
 2 coverage effective the last day of that month and forward
 3 the resolution and a certified copy of the election results
 4 to the board.

5 (d) Upon receipt of the termination resolution, the
 6 board may request an actuarial valuation of the liabilities
 7 of the terminating agency to the retirement system, and the
 8 board may withhold approval of the termination of contract
 9 until satisfactory arrangements are made to provide funding
 10 for any excess accrued liabilities not previously funded by
 11 the terminating agency."

12 Section 3. Section 19-3-605, MCA, is amended to read:

13 "19-3-605. Transfer between funds. Any fund out of
 14 which payments are made under the provisions of this chapter
 15 may be reimbursed to the extent of such payments by transfer
 16 of a sufficient sum for the reimbursement from another fund
 17 or funds under the control of the same disbursing officer.
 18 The disbursing officer shall certify to the ~~state auditor~~
 19 department of administration the amounts to be thus
 20 transferred and the funds from and to which the transfer is
 21 to be made, and the ~~auditor department~~ shall thereupon make
 22 the transfer as directed in the certificate."

23 Section 4. Section 19-3-703, MCA, is amended to read:

24 "19-3-703. Refund of member's contributions on
 25 termination of service. (1) Except as provided in this

1 section, any member whose service has been discontinued by
 2 other than death or retirement shall be paid ~~such part of~~
 3 his accumulated contributions, ~~including regular interest~~
 4 ~~thereon, as he requests. If he has less than 5 years of~~
 5 ~~service and he does not reenter service for a period of 5~~
 6 ~~years after such discontinuance, he shall automatically be~~
 7 ~~paid any portion of his total accumulated contributions not~~
 8 ~~previously withdrawn.~~

9 (2) Upon qualification for any other benefit under
 10 this chapter, a member having any accumulated ~~normal~~
 11 contributions standing to his credit in the retirement fund
 12 shall receive the benefit based upon the creditable service
 13 during which such contributions were made.

14 (3) The board may, in its discretion, withhold, for
 15 not more than 1 year after a member last rendered service,
 16 all or part of his accumulated ~~normal~~ contributions if after
 17 a previous discontinuance of service he withdrew all or part
 18 of his ~~normal~~ contributions and failed to redeposit such
 19 withdrawn amount in the retirement fund as provided in
 20 19-3-704.

21 (4) An employer who has an employment-related claim
 22 against a terminating member may, within 30 days after the
 23 date of termination, submit to the board a written request,
 24 signed by the employer and the member, authorizing the
 25 payment of all or any part of the accumulated contributions

1 of the member directly to the employer to satisfy the claim
 2 in whole or in part. The request, if timely submitted, is
 3 sufficient authority for the department of administration to
 4 make such direct payment to the employer as part of the
 5 member's refund. The total of the payments made to the
 6 employer and those made to the member may not exceed the
 7 member's accumulated contributions."

8 Section 5. Section 19-3-805, MCA, is amended to read:

9 "19-3-805. Employer contribution to administrative
 10 expense. (1) The board may assess and the department of
 11 administration shall collect a fee from each employer for
 12 the purpose of defraying the administrative expense of this
 13 chapter, not to exceed 0.3% of gross compensation.

14 (2) In addition to the contributions elsewhere
 15 provided in this chapter, on ~~July~~ January 1 of each year
 16 each employer shall contribute on behalf of each member then
 17 in its employ a membership fee of \$1. These fees, together
 18 with other moneys appropriated for that purpose, shall be
 19 used for the purpose of defraying the administrative expense
 20 of this chapter."

21 SECTION 6. SECTION 19-3-902, MCA, IS AMENDED TO READ:

22 "19-3-902. Eligibility for early retirement. A member
 23 who is not eligible for service retirement but has attained
 24 age ~~55~~ 50 and completed 5 years of qualified service is
 25 eligible for early retirement. A member who has completed 25

1 years or more of state service is eligible for early
 2 retirement."

3 Section 7. Section 19-3-906, MCA, is amended to read:

4 "19-3-906. Early retirement allowance. (1) The annual
 5 amount of retirement allowance payable to a member following
 6 his early retirement is the actuarial equivalent of the
 7 accrued portion of the service retirement allowance which
 8 would have been payable to him commencing at age 60 OR UPON
 9 COMPLETION OF 30 YEARS OF CREDITABLE SERVICE pursuant to
 10 19-3-904. ~~The actuarial reduction shall be 1/2 of 1% for~~
 11 ~~each month preceding the member's 60th birthday.~~

12 (2) THE EARLY RETIREMENT ALLOWANCE SHALL BE DETERMINED
 13 AS PRESCRIBED IN 19-3-904 WITH THE EXCEPTION THAT THE
 14 ALLOWANCE MUST BE REDUCED AS FOLLOWS:

15 (A) BY 1/2 OF 1% MULTIPLIED BY THE NUMBER OF MONTHS UP
 16 TO A MAXIMUM OF 60 MONTHS BY WHICH THE RETIREMENT DATE
 17 PRECEDES THE DATE ON WHICH HE WOULD HAVE RETIRED HAD HE
 18 ATTAINED 60 YEARS OF AGE OR HAD HE COMPLETED 30 YEARS OF
 19 CREDITABLE SERVICE; AND

20 (B) BY 3/10 OF 1% MULTIPLIED BY THE NUMBER OF MONTHS
 21 IN EXCESS OF THE 60 MONTHS IN SUBSECTION (2)(A) BUT NOT TO
 22 EXCEED 60 ADDITIONAL MONTHS THAT THE RETIREMENT DATE
 23 PRECEDES THE DATE ON WHICH HE WOULD HAVE RETIRED HAD HE
 24 ATTAINED 60 YEARS OF AGE OR HAD COMPLETED 30 YEARS OF
 25 CREDITABLE SERVICE."

1 Section 8. Section 19-3-1103, MCA, is amended to read:

2 "19-3-1103. Disability allowance reduced by earnings.
3 (1) Should the recipient of a retirement allowance because
4 of disability engage in a gainful occupation during any
5 month other than as an employee as defined in 19-3-104, the
6 amount of his retirement allowance for that month shall be
7 reduced to an amount which, when added to the compensation
8 earned by him in that occupation, shall not exceed the
9 amount of his monthly compensation at the time of his
10 retirement.

11 (2) Benefit adjustments granted by the legislature may
12 not be included in calculations required under this
13 section."

14 Section 9. Section 19-3-1106, MCA, is amended to read:

15 "19-3-1106. Reduction of retirement allowance upon
16 limited reemployment. Any person receiving a service
17 retirement allowance, not as a beneficiary, who is not
18 eligible for membership may return to covered employment for
19 a period not to exceed 60 working days in any fiscal year.
20 The retirement allowance of a retiree so employed will be
21 reduced by ~~any earnings in excess of the minimum wage per~~
22 month on \$1 for \$1 basis \$1 for each \$2 earned in excess of
23 \$3,500 for each calendar year."

24 Section 10. Section 19-3-1301, MCA, is amended to
25 read:

1 "19-3-1301. Designation of beneficiary. The
2 beneficiary beneficiaries of a member shall be such person
3 persons as the member shall so designate in the appropriate
4 written application. A member may revoke such designation
5 and name a different beneficiary beneficiaries by filing a
6 revised written instrument notice with the board."

7 Section 11. Section 19-3-1304, MCA, is amended to
8 read:

9 "19-3-1304. Payment to custodian of minor beneficiary.
10 (1) If any benefit from the system not--to--exceed--\$500 is
11 payable to a minor, who has no guardian of his estate, the
12 benefit may must be paid to the--person--entitled--to--the
13 custody of a minor to hold for the minor, upon execution and
14 filing--with--the--board--of--a--written--statement--by--such--person
15 that the total estate of the minor does not exceed \$1,000 in
16 value, one of the following:

- 17 (a) a surviving parent, if any;
18 (b) a parent awarded custody of the minor in a divorce
19 proceeding;
20 (c) a custodian designated under Title 72, chapter 26,
21 MCA;
22 (d) a guardian appointed pursuant to Title 72, chapter
23 5, part 2, MCA; or
24 (e) a conservator appointed pursuant to Title 72,
25 chapter 5, part 4, MCA.

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1 (2) The payment shall be in full and complete
2 discharge and acquittance of the board and system on account
3 of said benefit. The person shall account to the minor for
4 the money when the minor reaches the age of majority."

5 Section 12. Repealer. Section 19-3-1303, MCA, is
6 repealed.

7 SECTION 13. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON
8 PASSAGE AND APPROVAL.

-End-

March 21, 1981

SENATE STANDING COMMITTEE REPORT
(State Administration)

That House Bill No. 197 be amended as follows:

1. Title, line 8.

Following: "19-3-805"

Insert: "19-3-902,"

2. Title, line 10.

Following: "MCA"

Insert: "AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 11, line 20.

Following: line 19

Insert: "Section 6. Section 19-3-902, MCA, is amended to read:

"19-3-902. Eligibility for early retirement. A member who is not eligible for service retirement but has attained age 55 50 and completed 5 years of qualified service is eligible for early retirement. A member who has completed 25 years or more of state service is eligible for early retirement."

Renumber subsequent sections.

4. Page 11, line 21,

Following: "allowance."

Insert: "(1)"

5. Page 11, line 25.

Following: "60"

Insert: "or upon completion of 30 years of creditable service"

6. Page 12, lines 1 and 2.

Following: "19-3-904"

Strike: "The actuarial reduction shall be 1/2 of 1% for each month preceding the member's 60th birthday."

Insert: "(2) The early retirement allowance shall be determined as prescribed in 19-3-904 with the exception that the allowance must be reduced as follows:

(a) by 1/2 of 1% multiplied by the number of months up to a maximum of 60 months by which the retirement date precedes the date on which he would have retired had he attained 60 years of age or had he completed 30 years of creditable service; and

(b) by 3/10 of 1% multiplied by the number of months in excess of the 60 months in subsection (2)(a) but not to exceed 60 additional months that the retirement date precedes the date on which he would have retired had he attained 60 years of age or had completed 30 years of creditable service."

7. Page 14.

Following: line 7

Insert: "Section 13. Effective date. This act is effective on passage and approval."

1 HOUSE BILL NO. 197
 2 INTRODUCED BY DONALDSON
 3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY CLARIFY
 6 AND REVISE THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ACT
 7 REGARDING MEMBERSHIP, CONTRIBUTIONS, AND BENEFITS; AMENDING
 8 SECTIONS 19-3-104, 19-3-201, 19-3-605, 19-3-703, 19-3-805,
 9 19-3-902, 19-3-906, 19-3-1103, 19-3-1106, 19-3-1301, AND
 10 19-3-1304, MCA; REPEALING SECTION 19-3-1303, MCA; AND
 11 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

14 Section 1. Section 19-3-104, MCA, is amended to read:
 15 "19-3-104. Definitions. Unless the context requires
 16 otherwise, in this chapter the following definitions apply:

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

21 ~~(2) "Accumulated contributions" means the sum of~~
 22 ~~accumulated normal contributions and accumulated additional~~
 23 ~~contributions.~~

24 ~~(3) "Accumulated normal contributions" means the sum~~
 25 ~~of all the normal contributions standing to the credit of a~~

1 ~~member's individual account without interest.~~
 2 ~~(4) (2)~~ "Actuarial equivalent" means a benefit of equal
 3 value when computed upon the basis of the actuarial tables
 4 in use by the system.
 5 ~~(5) (3)~~ "Actuary" means the actuary retained by the
 6 board in accordance with 19-3-305.
 7 ~~(6) (4)~~ "Additional contributions" means contributions
 8 by members under the provisions of 19-3-702.
 9 ~~(7) (5)~~ "Annuity" means payments for life derived from
 10 contributions made by a member as provided in this chapter.
 11 ~~(8) (6)~~ "Beneficiary" means the person so designated
 12 pursuant to part 13 of this chapter.
 13 ~~(9) (7)~~ "Benefit" means the retirement allowance,
 14 survivorship allowance, death benefit, or refund of
 15 accumulated contributions provided by this chapter.
 16 ~~(10) (8)~~ "Board" means the public employees' retirement
 17 board provided for in 2-15-1009.
 18 ~~(11) (9)~~ "Compensation" means remuneration paid out of
 19 funds controlled by an employer. The compensation of each
 20 member of the legislature of Montana for any year shall be
 21 considered to be that portion of the product of the daily
 22 compensation for such position multiplied by 360 upon which
 23 such member elects to pay normal contributions during the
 24 year.
 25 ~~(12) (10)~~ "Contracting employer" means any political

1 subdivision or governmental entity which has contracted to
2 come into the system.

3 ~~{13}{11}~~ "Creditable service" means the aggregate of
4 membership service and prior service. ~~A member employed on a~~
5 ~~part-time basis shall receive credit for a year of service~~
6 ~~for each fiscal year during which such member was employed~~
7 ~~throughout the year and was engaged in his duties the full~~
8 ~~amount of time he was required by his employment to be so~~
9 ~~engaged.~~

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

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

21 ~~{16}{14}~~ "Employer" means the state of Montana, its
22 university system or any of the colleges, schools,
23 components, or units thereof for the purposes of this
24 chapter, or any political subdivision or governmental entity
25 which has contracted to come into the system.

1 ~~{17}{15}~~ "Employer contributions" means payments to the
2 retirement fund from appropriations of the state of Montana
3 pursuant to 19-3-801 and from contracting employers pursuant
4 to the contracts between them and the board.

5 ~~{18}{16}~~ "Final compensation" means a member's highest
6 average annual compensation during any 3 consecutive years
7 of membership service. Lump-sum payments for sick leave and
8 annual leave paid to the employee upon termination of
9 employment may be used in the calculation of a retirement
10 allowance only to the extent that they are used to replace,
11 on a month for month basis, the normal compensation for a
12 month or months included in the calculation of the final
13 salary. A lump-sum payment may not be added to a single
14 month's compensation.

15 ~~{19}{17}~~ "Fiscal year" means any year commencing with
16 July 1 and ending June 30 next following.

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

23 ~~{21}{19}~~ "Member" means any person included in the
24 membership of the retirement system set forth in 19-3-401
25 and not excluded in 19-3-402, 19-3-403, or 19-3-406.

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 2 respect to which normal contributions and employer
 3 contributions are paid. A member of the legislature of
 4 Montana shall be credited with membership service for that
 5 portion of each year for which he pays normal contributions
 6 pursuant to subsection (1) of this section.

7 †23†{21} "Normal contributions" means contributions
 8 required from members under this chapter and any optional
 9 contributions made under the provisions of 19-3-502 and
 10 19-3-704.

11 †24†{22} "Pension" means payments for life derived from
 12 contributions made from the state controlled funds or, in
 13 the case of members from contracting employers, from the
 14 funds of such contracting employers, as provided in this
 15 chapter.

16 †25†{23} "Prior service" means all service rendered as
 17 an employee of the state before July 1, 1945, and all
 18 service rendered as an employee of a contracting employer
 19 before July 1, 1947. Prior service includes all service
 20 rendered prior to July 1, 1945, as a member of the
 21 legislative assembly or lieutenant governor of Montana.

22 †26†{24} "Regular interest" means interest at the rate
 23 set from time to time by the board.

24 †27†{25} "Retirement" means withdrawal from active
 25 service with a retirement allowance granted under the

1 provisions of this chapter.

2 †28†{26} "Retirement allowance" means the periodic
 3 benefit payable following service, early, or disability
 4 retirement.

5 †29†{27} "Retirement fund" means the public employees'
 6 retirement account in the agency fund.

7 †30†{28} "Retirement system" means the public
 8 employees' retirement system created by this chapter.

9 †31†{29} "Service" means employment of an employee,
 10 except as provided in 19-3-501 and 19-3-502.

11 †32†{30} "Survivorship allowance" means payments for
 12 life to the beneficiary of a deceased member as provided in
 13 part 12 of this chapter.

14 †33†{31} "Written application" means a written
 15 instrument duly executed and filed with the board and
 16 containing all information required by the board, including
 17 such proofs of age as the board considers necessary."

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 19 "19-3-201. Contracts with political subdivisions. (1)
 20 Any municipal corporation, county, or public agency in the
 21 state may become a contracting employer and make all or
 22 specified groups of its employees members of the retirement
 23 system by a contract entered into between the board and the
 24 legislative body of said contracting employer, subject to
 25 the provisions of this chapter. The contract may include any

1 provisions which are consistent with this chapter and
 2 necessary in the administration of the retirement system as
 3 it affects the contracting employer and its employees.

4 (2) The approval ~~and-termination~~ of the contract shall
 5 be subject to the following provisions, in addition to the
 6 other provisions of this chapter:

7 (a) The legislative body of the contracting employer
 8 shall adopt a resolution giving notice of intention to
 9 approve the contract and containing a summary of the major
 10 provisions of the retirement system. The contract shall not
 11 be approved unless the employees proposed to be included in
 12 the retirement system adopt the proposal by a majority
 13 affirmative vote in a secret ballot. The ballot at such
 14 election shall include the summary of the retirement system
 15 as set forth in the resolution. The election shall be
 16 conducted as prescribed by the legislative body of the
 17 contracting employer. Approval of the contract shall be by
 18 ordinance adopted by the affirmative vote of two-thirds of
 19 the members of the legislative body, not less than 20 days
 20 after the adoption of the resolution or by an ordinance
 21 adopted by a majority vote of the electorate of the
 22 contracting employer voting thereon.

23 (b) The contract shall specify that all employees of
 24 the contracting employer or such groups of employees as
 25 agreed to between the board and the contracting employer

1 shall become members. The groups of employees to be included
 2 shall be by departments, duties, age, or other similar
 3 classifications and not by individual employees. The board
 4 shall have the right to disapprove any classification into
 5 groups if, in its opinion, said classification affects
 6 adversely the interest of the retirement system. Membership
 7 in the retirement system shall be compulsory for all
 8 employees included under the contract.

9 (c) The contract may be amended in the manner
 10 prescribed in this section for the original approval of
 11 contracts. Groups of excluded employees may be subsequently
 12 included by amendment.

13 (3) The termination of the contract shall be subject
 14 to the following provisions, in addition to the other
 15 provisions of this chapter:

16 (a) The legislative body of a contracting employer
 17 shall adopt a resolution giving notice to its employees that
 18 it intends to terminate retirement coverage.

19 (b) All employees covered under the retirement system
 20 shall receive notice of the termination resolution and be
 21 permitted to vote for or against the resolution by secret
 22 ballot.

23 (c) If a majority of covered employees votes for
 24 termination, the legislative body, not less than 20 days
 25 after the approval of the resolution by the employees, may

1 adopt by a 2/3 majority a resolution terminating P.E.R.S.
 2 coverage effective the last day of that month and forward
 3 the resolution and a certified copy of the election results
 4 to the board.

5 (d) Upon receipt of the termination resolution, the
 6 board may request an actuarial valuation of the liabilities
 7 of the terminating agency to the retirement system, and the
 8 board may withhold approval of the termination of contract
 9 until satisfactory arrangements are made to provide funding
 10 for any excess accrued liabilities not previously funded by
 11 the terminating agency."

12 Section 3. Section 19-3-605, MCA, is amended to read:

13 "19-3-605. Transfer between funds. Any fund out of
 14 which payments are made under the provisions of this chapter
 15 may be reimbursed to the extent of such payments by transfer
 16 of a sufficient sum for the reimbursement from another fund
 17 or funds under the control of the same disbursing officer.
 18 The disbursing officer shall certify to the ~~state auditor~~
 19 department of administration the amounts to be thus
 20 transferred and the funds from and to which the transfer is
 21 to be made, and the ~~auditor department~~ shall thereupon make
 22 the transfer as directed in the certificate."

23 Section 4. Section 19-3-703, MCA, is amended to read:

24 "19-3-703. Refund of member's contributions on
 25 termination of service. (1) Except as provided in this

1 section, any member whose service has been discontinued by
 2 other than death or retirement shall be paid ~~such part of~~
 3 his accumulated contributions AT HIS REQUEST, ~~including~~
 4 ~~regular interest thereon, as he requests. if he has less~~
 5 ~~than 5 years of service and he does not reenter service for~~
 6 ~~a period of 5 years after such discontinuance, he shall~~
 7 ~~automatically be paid any portion of his total accumulated~~
 8 ~~contributions not previously withdrawn.~~

9 (2) Upon qualification for any other benefit under
 10 this chapter, a member having any accumulated ~~normal~~
 11 contributions standing to his credit in the retirement fund
 12 shall receive the benefit based upon the creditable service
 13 during which such contributions were made.

14 (3) The board may, in its discretion, withhold, for
 15 not more than 1 year after a member last rendered service,
 16 all or part of his accumulated ~~normal~~ contributions if after
 17 a previous discontinuance of service he withdrew all or part
 18 of his ~~normal~~ contributions and failed to redeposit such
 19 withdrawn amount in the retirement fund as provided in
 20 19-3-704.

21 (4) An employer who has an employment-related claim
 22 against a terminating member may, within 30 days after the
 23 date of termination, submit to the board a written request,
 24 signed by the employer and the member, authorizing the
 25 payment of all or any part of the accumulated contributions

1 of the member directly to the employer to satisfy the claim
 2 in whole or in part. The request, if timely submitted, is
 3 sufficient authority for the department of administration to
 4 make such direct payment to the employer as part of the
 5 member's refund. The total of the payments made to the
 6 employer and those made to the member may not exceed the
 7 member's accumulated contributions."

8 Section 5. Section 19-3-805, MCA, is amended to read:

9 "19-3-805. Employer contribution to administrative
 10 expense. (1) The board may assess and the department of
 11 administration shall collect a fee from each employer for
 12 the purpose of defraying the administrative expense of this
 13 chapter, not to exceed 0.3% of gross compensation.

14 (2) In addition to the contributions elsewhere
 15 provided in this chapter, on ~~July~~ January 1 of each year
 16 each employer shall contribute on behalf of each member then
 17 in its employ a membership fee of \$1. These fees, together
 18 with other moneys appropriated for that purpose, shall be
 19 used for the purpose of defraying the administrative expense
 20 of this chapter."

21 SECTION 6. SECTION 19-3-902, MCA, IS AMENDED TO READ:

22 "19-3-902. Eligibility for early retirement. A member
 23 who is not eligible for service retirement but has attained
 24 age ~~55~~ 50 and completed 5 years of qualified service is
 25 eligible for early retirement. A member who has completed 25

1 years or more of state service is eligible for early
 2 retirement."

3 Section 7. Section 19-3-906, MCA, is amended to read:

4 "19-3-906. Early retirement allowance. (1) The annual
 5 amount of retirement allowance payable to a member following
 6 his early retirement is the actuarial equivalent of the
 7 accrued portion of the service retirement allowance which
 8 would have been payable to him commencing at age 60 OR UPON
 9 COMPLETION OF 30 YEARS OF CREDITABLE SERVICE pursuant to
 10 19-3-904. ~~The actuarial reduction shall be 1/2 of 1% for~~
 11 ~~each month preceding the member's 60th birthday.~~

12 (2) THE EARLY RETIREMENT ALLOWANCE SHALL BE DETERMINED
 13 AS PRESCRIBED IN 19-3-904 WITH THE EXCEPTION THAT THE
 14 ALLOWANCE MUST BE REDUCED AS FOLLOWS:

15 (A) BY 1/2 OF 1% MULTIPLIED BY THE NUMBER OF MONTHS UP
 16 TO A MAXIMUM OF 60 MONTHS BY WHICH THE RETIREMENT DATE
 17 PRECEDES THE DATE ON WHICH HE WOULD HAVE RETIRED HAD HE
 18 ATTAINED 60 YEARS OF AGE OR HAD HE COMPLETED 30 YEARS OF
 19 CREDITABLE SERVICE; AND

20 (B) BY 3/10 OF 1% MULTIPLIED BY THE NUMBER OF MONTHS
 21 IN EXCESS OF THE 60 MONTHS IN SUBSECTION (2)(A) BUT NOT TO
 22 EXCEED 60 ADDITIONAL MONTHS THAT THE RETIREMENT DATE
 23 PRECEDES THE DATE ON WHICH HE WOULD HAVE RETIRED HAD HE
 24 ATTAINED 60 YEARS OF AGE OR HAD COMPLETED 30 YEARS OF
 25 CREDITABLE SERVICE."

1 Section 8. Section 19-3-1103, MCA, is amended to read:
 2 "19-3-1103. Disability allowance reduced by earnings.
 3 (1) Should the recipient of a retirement allowance because
 4 of disability engage in a gainful occupation during any
 5 month other than as an employee as defined in 19-3-104, the
 6 amount of his retirement allowance for that month shall be
 7 reduced to an amount which, when added to the compensation
 8 earned by him in that occupation, shall not exceed the
 9 amount of his monthly compensation at the time of his
 10 retirement.

11 (2) Benefit adjustments granted by the legislature may
 12 not be included in calculations required under this
 13 section."

14 Section 9. Section 19-3-1106, MCA, is amended to read:
 15 "19-3-1106. Reduction of retirement allowance upon
 16 limited reemployment. Any person receiving a service
 17 retirement allowance, not as a beneficiary, who is not
 18 eligible for membership may return to covered employment for
 19 a period not to exceed 60 working days in any fiscal year.
 20 The retirement allowance of a retiree so employed will be
 21 reduced by ~~any earnings in excess of the minimum wage per~~
 22 month on a \$1-for-\$1 basis \$1 for each \$2 earned in excess of
 23 \$3,500 for each calendar year."

24 Section 10. Section 19-3-1301, MCA, is amended to
 25 read:

1 "19-3-1301. Designation of beneficiary. The
 2 beneficiary beneficiaries of a member shall be such person
 3 persons as the member shall so designate in the appropriate
 4 written application. A member may revoke such designation
 5 and name a different beneficiary beneficiaries by filing a
 6 revised written instrument notice with the board."

7 Section 11. Section 19-3-1304, MCA, is amended to
 8 read:

9 "19-3-1304. Payment to custodian of minor beneficiary.
 10 (1) If any benefit from the system ~~not to exceed \$500~~ is
 11 payable to a minor, ~~who has no guardian of his estate,~~ the
 12 benefit ~~may~~ must be paid to ~~the person entitled to the~~
 13 ~~custody of a minor to hold for the minor, upon execution and~~
 14 ~~filing with the board of a written statement by such person~~
 15 ~~that the total estate of the minor does not exceed \$1,000 in~~
 16 ~~value.~~ one of the following:

- 17 (a) a surviving parent, if any;
- 18 (b) a parent awarded custody of the minor in a divorce
 19 proceeding;
- 20 (c) a custodian designated under Title 72, chapter 26,
 21 MCA;
- 22 (d) a guardian appointed pursuant to Title 72, chapter
 23 5, part 2, MCA; or
- 24 (e) a conservator appointed pursuant to Title 72,
 25 chapter 5, part 4, MCA.

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1 (2) The payment shall be in full and complete
2 discharge and acquittance of the board and system on account
3 of said benefit. The person shall account to the minor for
4 the money when the minor reaches the age of majority."

5 Section 12. Repealer. Section 19-3-1303, MCA, is
6 repealed.

7 SECTION 13. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON
8 PASSAGE AND APPROVAL.

-End-

State of Montana
Office of the Governor
Helena 59620

TED SCHWINDEN
GOVERNOR

April 6, 1981

The Honorable Robert L. Marks
Speaker of the House
State Capitol
Helena, Montana 59620

The Honorable Jean Turnage
President of the Senate
State Capitol
Helena, Montana 59620

Dear Representative Marks and Senator Turnage:

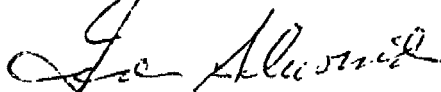
In accordance with the power vested in me as Governor by the Constitution and laws of the State of Montana, I hereby return House Bill No. 197, "AN ACT TO GENERALLY CLARIFY AND REVISE THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM ACT REGARDING MEMBERSHIP, CONTRIBUTIONS, AND BENEFITS; AMENDING SECTIONS 19-3-104, 19-3-201, 19-3-605, 19-3-703, 19-3-805, 19-3-902, 19-3-906, 19-3-1103, 19-3-1106, 19-3-1301, AND 19-3-1304, MCA; REPEALING SECTION 19-3-1303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE," without my signature and recommend the attached amendment for the following reasons.

Section 4 amends Section 19-3-703 in such a way as to require that the accumulated contributions of an employee whose service is discontinued by other than death or retirement be refunded. The effect of this change is to eliminate the option, on the part of an employee who has five or more years of service and who terminates before retirement age, to leave his contributions in the system and draw a retirement allowance upon reaching retirement age.

I am proposing an amendment to insert language to allow a choice on the part of the terminating employee to leave his accumulated contributions in the system.

I urge your concurrence in this amendment.

Sincerely,



TED SCHWINDEN
Governor



April 6, 1981

GOVERNOR'S PROPOSED AMENDMENTS TO HOUSE BILL NO. 197;
REFERENCE COPY, AS FOLLOWS:

1. Page 10, line 3
Following: "contributions"
Insert: "at his request."